

**State of California**

**WELFARE AND INSTITUTIONS CODE**

**Section 14053.8**

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14053.8. (a) Notwithstanding any other law, the department shall develop a process to allow counties to receive any available federal financial participation for acute inpatient hospital services and inpatient psychiatric services provided to juvenile inmates who are admitted as inpatients in a medical institution off the grounds of the correctional facility, and who, but for their institutional status as inmates, are otherwise eligible for Medi-Cal benefits pursuant to this chapter. This process shall be coordinated, to the extent possible, with the processes and procedures established pursuant to Section 14053.7 of this code and Section 5072 of the Penal Code. This section shall not be construed to alter or abrogate any obligation of the state pursuant to an administrative action or a court order that is final and no longer subject to appeal to reimburse counties for any acute inpatient hospital services or inpatient psychiatric services provided to a juvenile inmate.

(b) A juvenile inmate who is an inpatient in a medical institution off the grounds of the correctional facility shall not be denied eligibility for Medi-Cal benefits under this section because of his or her institutional status as an inmate of a public institution.

(c) The department shall consult with counties in the development of the process pursuant to this section.

(d) This section shall not be construed to limit the department's authority to suspend or terminate Medi-Cal eligibility pursuant to Section 14011.10, except during such times that the juvenile inmate is receiving acute inpatient hospital services or inpatient psychiatric services pursuant to subdivision (b).

(e) This section shall be implemented only if and to the extent that existing levels of federal financial participation are not otherwise jeopardized. To the extent that the department determines that existing levels of federal financial participation are jeopardized, this section shall no longer be implemented.

(f) The department shall seek any federal approvals necessary to implement the process developed pursuant to this section. This section shall be implemented only if and to the extent that any necessary federal approvals have been obtained, and only to the extent that federal financial participation is available.

(g) Notwithstanding any other law, as part of the process developed pursuant to this section, the department may exempt juvenile inmates from enrollment into new or existing managed care health plans.

(h) The process developed pursuant to this section shall be implemented in only those counties that elect to provide the county's pro rata portion of the nonfederal share of the state's administrative costs associated with implementation of this section and the nonfederal share of expenditures for acute inpatient hospital services and

inpatient psychiatric services provided to eligible juvenile inmates described in subdivision (a).

(i) (1) The federal financial participation received pursuant to the process implemented under this section shall be paid to the participating counties for services rendered to the juvenile inmates. If a federal audit disallowance and interest results from claims made under the process created pursuant to this section, the department shall recoup from the county that received the disallowed funds the amount of the disallowance and any applicable interest.

(2) It is the intent of the Legislature that implementation of this section will result in no increased cost to the state General Fund.

(j) (1) If there is a final judicial determination made by any state or federal court that is not appealed, or by a court of appellate jurisdiction that is not further appealed, in any action by any party, or a final determination by the administrator of the federal Centers for Medicare and Medicaid Services (CMS), that disallows, defers, or alters the implementation of this section or, to the extent applicable, Section 14053.7 of this code or Section 5072 of the Penal Code, including the rate methodology or payment process established by the department that limits or affects the department's authority to select the facilities used to provide acute inpatient hospital services and inpatient psychiatric services to juvenile inmates, then any provision of this section that is inconsistent with the final judicial or CMS determination shall have no force or effect.

(2) In addition, the department may, at its discretion, cease to implement any other part of this section that is implicated by the final judicial or CMS determination.

(k) For the purposes of Medi-Cal eligibility pursuant to this section, "juvenile inmate" means an individual under 21 years of age who is involuntarily residing in a public institution, including state and local institutions.

(l) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may, without taking any further regulatory action, implement this section by means of all-county letters or similar instructions.

(Amended by Stats. 2014, Ch. 836, Sec. 1. (SB 1089) Effective January 1, 2015.)

**State of California**

**WELFARE AND INSTITUTIONS CODE**

**Section 14053.7**

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14053.7. (a) Notwithstanding any other provision of law, and only to the extent that federal financial participation is available, the department may provide Medi-Cal eligibility and reimbursement for acute inpatient hospital services available under this chapter in accordance with Section 5072 of the Penal Code.

(b) The department may disenroll inmates made eligible for services under this section or in accordance with Section 5072 of the Penal Code from Medi-Cal managed care health plans, and may exempt inmates from enrollment into new or existing plans.

(c) Except as provided for in paragraph (2) of subdivision (e), the Department of Corrections and Rehabilitation shall be responsible for the nonfederal share of any reimbursement made for the provision of acute inpatient hospital services rendered to inmates who are eligible for and enrolled in a LIHP and receive services pursuant to this section and Section 5072 of the Penal Code.

(d) (1) Notwithstanding any other provision of law, including Section 11050, the department, as the single state agency, may make eligibility determinations and redeterminations for inmates in accord with this section and Section 5072 of the Penal Code.

(2) The department may enroll and disenroll inmates eligible for acute inpatient hospital services under this section or in accord with Section 5072 of the Penal Code in Medi-Cal or in the LIHP in which the inmate's county of last legal residence participates.

(e) (1) In accordance with the requirements and conditions set forth under this section and Section 5072 of the Penal Code, the county may seek from the Medi-Cal program or from the responsible LIHP in which the county participates, reimbursement for the provision of inpatient hospital services to adults involuntarily detained or incarcerated in county facilities.

(2) (A) To the extent that a county seeks reimbursement for the provision of acute inpatient hospital services to adults who are involuntarily detained or incarcerated in county facilities and who are otherwise eligible for Medi-Cal pursuant to Chapter 7 (commencing with Section 14000) of Part 3 of Division 9, the county shall be responsible for the nonfederal share of the reimbursement.

(B) To the extent that a county seeks reimbursement for the provision of acute inpatient hospital services to adults who are involuntarily detained or incarcerated in county facilities and who are otherwise eligible for and enrolled in the LIHP in which the county participates, the LIHP shall be responsible for the nonfederal share of the reimbursement.

(f) Reimbursement pursuant to this section shall be limited to only those services for which federal financial participation pursuant to Title XIX of the federal Social Security Act is allowed.

(g) This section shall be implemented only if and to the extent that existing levels of federal financial participation are not otherwise jeopardized. To the extent that the department determines that existing levels of federal financial participation are jeopardized, this section shall no longer be implemented.

(h) The department shall seek any necessary federal approvals for the implementation of this section. This section shall be implemented only if and to the extent that any necessary federal approvals are obtained.

(i) This section shall have no force or effect if there is a final judicial determination made by any state or federal court that is not appealed, or by a court of appellate jurisdiction that is not further appealed, in any action by any party, or a final determination by the administrator of the federal Centers for Medicare and Medicaid Services, that disallows, defers, or alters the implementation of this section or in accord with Section 5072 of the Penal Code, including the rate methodology or payment process established by the department that limits or affects the department's authority to select the hospitals used to provide acute inpatient hospital services to inmates.

(j) It is the intent of the Legislature that the implementation of this section will result in state General Fund savings for the funding of acute inpatient hospital services provided to inmates and any related administrative costs.

(k) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may, without taking any further regulatory action, implement this section by means of all-county letters or similar instructions.

(l) For purposes of this section, the following terms have the following meanings:

(1) The term "county of last legal residence" means the county in which the inmate resided at the time of arrest that resulted in conviction and incarceration in a state prison facility.

(2) The term "inmate" means an adult who is involuntarily residing in a state prison facility operated, administered or regulated, directly or indirectly, by the Department of Corrections and Rehabilitation.

(Amended by Stats. 2011, Ch. 36, Sec. 82. (SB 92) Effective June 30, 2011.)

**State of California**

**GOVERNMENT CODE**

**Section 26605.6**

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26605.6. (a) The sheriff, or his or her designee, has the authority, after conferring with a physician who has oversight for providing medical care at a county jail, or that physician's designee, to release from a county correctional facility, a prisoner sentenced to a county jail if the sheriff determines that the prisoner would not reasonably pose a threat to public safety and the prisoner, upon diagnosis by the examining physician, is deemed to have a life expectancy of six months or less.

(b) Before the release of any prisoner pursuant to this section, the sheriff shall notify the presiding judge of the superior court of his or her intention to release the prisoner. This notification shall include:

- (1) The prisoner's name.
- (2) The offense or offenses for which the prisoner was incarcerated, if applicable, and the pending charges, if applicable.
- (3) The date of sentence, if applicable.
- (4) The physician's diagnosis of the prisoner's condition.
- (5) The physician's prognosis for the prisoner's recovery.
- (6) The prisoner's address after release.

(c) (1) This section shall be implemented only to the extent that a county that releases a prisoner pursuant to this section does both of the following:

(A) Sends a letter to the State Department of Health Care Services agreeing to do both of the following:

(i) Notify the State Department of Health Care Services, in writing, when a prisoner released pursuant to this section has applied for Medi-Cal.

(ii) Notify the State Department of Health Care Services, in writing, if a prisoner released pursuant to this section, who is Medi-Cal eligible, is returned to the custody of the sheriff.

(B) For the period of time that the offender would otherwise have been incarcerated:

(i) Reimburses the State Department of Health Care Services for the nonfederal share of the Medi-Cal costs and any medical costs paid by the State Department of Health Care Services that are not reimbursable pursuant to Title XIX or XXI of the federal Social Security Act, for an offender released pursuant to this section.

(ii) Provides to the State Department of Health Care Services the nonfederal share of the state's administrative costs associated with this section.

(2) It is the intent of the Legislature that the implementation of this section shall not result in increased costs to the General Fund.

(3) Participation in the program under this section is voluntary for purposes of all applicable federal law. This section shall be implemented only to the extent that federal financial participation for the Medi-Cal program is not jeopardized.

(d) Before a prisoner's compassionate release from a county jail pursuant to this section, the sheriff, or his or her designee, shall secure a placement option for the prisoner in the community and, in consultation with the county welfare department or another applicable county agency, examine the prisoner's eligibility for federal Medicaid benefits or other medical coverage that might assist in funding the prisoner's medical treatment while in the community.

(e) (1) For any prisoner released pursuant to this section who is eligible for Medi-Cal, the county shall continue to pay the nonfederal share of the prisoner's Medi-Cal costs for the period of time that the offender would have otherwise been incarcerated.

(2) For any prisoner granted compassionate release pursuant to this section who is ineligible for Medi-Cal, the county shall consider whether the prisoner has private medical insurance or sufficient income or assets to provide for his or her own medical care. If the county determines that the prisoner can provide for his or her own medical care, the county shall not be required to provide the prisoner with medical care.

(f) This section shall not be construed as authorizing the sheriff to refuse to receive and incarcerate a defendant or sentenced individual who is not in need of immediate medical care or who has a terminal medical condition.

(g) Notwithstanding any other law, the State Department of Health Care Services may exempt individuals released pursuant to this section from mandatory enrollment in managed health care, including county-organized health plans and, as deemed necessary by the State Department of Health Care Services, may determine the proper prior authorization process for individuals who have been released pursuant to this section.

(h) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2, the State Department of Health Care Services, without taking any further regulatory action, shall implement, interpret, and make specific this section by means of provider bulletins, all-county letters, manuals, or similar instructions until the time that regulations are adopted. Thereafter, the department shall adopt regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2. Six months after the effective date of the act that added this subdivision, the department shall provide a status update to the Legislature on its efforts to adopt the regulations. Thereafter, notwithstanding Section 10231.5, the department shall report on the status of this effort to the Legislature on an annual basis, until the regulations have been adopted.

(Amended by Stats. 2013, Ch. 23, Sec. 3. (AB 82) Effective June 27, 2013.)

**State of California**

**GOVERNMENT CODE**

**Section 26605.7**

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26605.7. (a) The sheriff, or his or her designee, after conferring with the physician who has oversight for providing medical care, or the physician's designee, may request the court to grant medical probation or to resentence a prisoner to medical probation in lieu of jail time for any prisoner sentenced to a county jail under either of the following circumstances:

(1) The prisoner is physically incapacitated with a medical condition that renders the prisoner permanently unable to perform activities of basic daily living, which has resulted in the prisoner requiring 24-hour care, if that incapacitation did not exist at the time of sentencing.

(2) The prisoner would require acute long-term inpatient rehabilitation services.

(b) Before a prisoner's release to medical probation, the sheriff, or his or her designee, shall secure a placement option for the prisoner in the community and, in consultation with the county welfare department or another applicable county agency, examine the prisoner's eligibility for federal Medicaid benefits or other medical coverage that might assist in funding the prisoner's medical treatment while in the community.

(c) During the time on probation pursuant to this section, the probation officer or court may, at any time, request a medical reexamination of the probationer by a physician who has oversight for providing medical care to prisoners in a county jail, or the physician's designee. If the court determines, based on that medical examination, that the probationer's medical condition has improved to the extent that the probationer no longer qualifies for medical probation, the court may return the probationer to the custody of the sheriff.

(d) (1) For any probationer granted medical probation pursuant to this section who is eligible for Medi-Cal, the county shall continue to pay the nonfederal share of the probationer's Medi-Cal costs. After a probationer is released from medical probation, the county shall no longer be required to pay the nonfederal share of the Medi-Cal costs.

(2) For any probationer granted medical probation pursuant to this section who is ineligible for Medi-Cal, the county shall consider whether the probationer has private medical insurance or sufficient income or assets to provide for his or her own medical care. If the county determines that the probationer can provide for his or her own medical care, the county shall not be required to provide the probationer with medical care.

(e) (1) This section shall be implemented only to the extent that a court sentences a person to medical probation pursuant to this section and the sheriff does both of the following:

(A) Sends a letter to the State Department of Health Care Services agreeing to do both of the following:

(i) Notify the State Department of Health Care Services, in writing, when a probationer released pursuant to this section has applied for Medi-Cal.

(ii) Notify the State Department of Health Care Services, in writing, if a probationer released pursuant to this section, who is Medi-Cal eligible, is returned to the custody of the sheriff. The chief probation officer shall notify the State Department of Health Care Services, in writing, when a Medi-Cal eligible probationer's term of medical probation ends.

(B) For the period of time the offender is on medical probation:

(i) Reimburses the State Department of Health Care Services for the nonfederal share of the Medi-Cal costs and any medical costs paid by the State Department of Health Care Services that are not reimbursable pursuant to Title XIX or XXI of the federal Social Security Act, for an offender released pursuant to this section.

(ii) Provides to the State Department of Health Care Services the nonfederal share of the state's administrative costs associated with this section.

(2) It is the intent of the Legislature that the implementation of this section shall not result in increased costs to the General Fund.

(3) Participation in the program under this section is voluntary for purposes of all applicable federal law. This section shall be implemented only to the extent that federal financial participation for the Medi-Cal program is not jeopardized.

(f) Notwithstanding any other law, the State Department of Health Care Services may exempt individuals released pursuant to this section from mandatory enrollment in managed health care, including county-organized health plans and, as deemed necessary by the State Department of Health Care Services, may determine the proper prior authorization process for individuals who have been released pursuant to this section.

(g) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2, the State Department of Health Care Services, without taking any further regulatory action, may implement, interpret, and make specific this section by means of provider bulletins, all-county letters, manuals, or similar instructions until the time that regulations are adopted. Thereafter, the department shall adopt regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2. Six months after the effective date of the act that added this subdivision, the department shall provide a status update to the Legislature on its efforts to adopt the regulations. Thereafter, notwithstanding Section 10231.5, the department shall report on the status of this effort to the Legislature on an annual basis, until the regulations have been adopted.

(Amended by Stats. 2013, Ch. 23, Sec. 4. (AB 82) Effective June 27, 2013.)





**State of California**

**GOVERNMENT CODE**

**Section 26605.8**

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26605.8. Before implementing Sections 26605.6 and 26605.7, the county board of supervisors shall adopt a process to fund the nonfederal share of Medi-Cal costs for the period of time that a prisoner would have otherwise been incarcerated or for the period of time that a probationer is on medical probation. The county board of supervisors shall provide the State Department of Health Care Services with written notification of the process.

(Amended by Stats. 2013, Ch. 23, Sec. 5. (AB 82) Effective June 27, 2013.)