

Assembly Bill No. 515

Passed the Assembly May 23, 2019

Chief Clerk of the Assembly

Passed the Senate August 30, 2020

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2020, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 14171 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 515, Mathis. Medi-Cal: unrecovered payments: interest rate.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions.

Existing law requires the Director of Health Care Services to establish administrative appeal processes to review grievances or complaints arising from the findings of an audit or examination. Under existing law, if recovery of a disallowed payment has been made by the department, a provider who prevails in an appeal of that payment is entitled to interest at the rate equal to the monthly average received on investments in the Surplus Money Investment Fund, or simple interest at the rate of 7% per annum, whichever is higher. Under existing law, with exceptions, interest at that same rate is assessed against any unrecovered overpayment due to the department.

In the case of an assessment against any unrecovered overpayment due to the department, this bill would authorize the department to reduce the interest rate as part of a repayment agreement entered into with the provider, after taking into account specified factors, including the importance of the provider to the health care safety net in the community and the impact of the repayment amounts on the fiscal solvency of the provider.

The people of the State of California do enact as follows:

SECTION 1. Section 14171 of the Welfare and Institutions Code is amended to read:

14171. (a) The director shall establish administrative appeal processes to review grievances or complaints arising from the findings of an audit or examination made pursuant to Sections

10722 and 14170 and for final settlements, including, in the case of hospitals, the application of Sections 51536, 51537, and 51539 of Title 22 of the California Code of Regulations. All these processes shall be established by regulation, pursuant to, and consistent with, Section 100171 of the Health and Safety Code.

(b) Different administrative appeal processes may be established by the director for grievances or complaints arising from the determinations of a tentative or final settlement based on audit or examination findings made by or on behalf of the department pursuant to Sections 10722 and 14170. However, consistent with existing practice, no administrative appeal shall be available for tentative settlement of cost reports.

(c) The administrative appeal process established by the director for tentative settlements, including, in the case of hospitals, the application of Sections 51536, 51537, and 51539 of Title 22 of the California Code of Regulations, shall be an informal process that, however, guarantees a provider the right to present any grievance or complaint to the department in writing. Any subsequent hearings shall be conducted in an informal manner and shall be held at the discretion of the department.

(d) The time limitations in subdivisions (e) and (f) for the impartial hearing and the final decisions are mandatory. If the department fails to conduct the hearing or to adopt a final decision thereon within the time limitations provided in subdivisions (e) and (f), the amount of any overpayment that is ultimately determined by the department to be due shall be reduced by 10 percent for each 30-day period, or portion thereof, that the hearing or the decision, or both, are delayed beyond the time limitations provided in subdivisions (e) and (f). However, the time period shall be extended by either of the following:

(1) Delay caused by a provider.

(2) Extensions of time granted a provider at its sole request or at the joint request of the provider and the department.

(e) (1) The administrative appeal process established by the director shall commence with an informal conference with the provider, a representative of the department, and the administrative law judge. The informal conference shall be conducted no later than 90 days after the filing of a timely and specific statement of disputed issues by the provider. The administrative law judge, when appropriate, may assign the administrative appeal to an

informal level of review where efforts could be made to resolve facts and issues in dispute in a fair and equitable manner, subject to the requirements of state and federal law. The review conducted at this informal level shall be completed no later than 180 days after the filing of a timely and specific statement of disputed issues by the provider.

(2) Nothing in this subdivision shall prohibit the provider from presenting any unresolved grievances or complaints at an impartial hearing pursuant to subdivision (a). The impartial hearing shall be conducted no later than 300 days after the filing of a timely and specific statement of disputed issues by the provider.

(3) (A) Subject to subdivision (f), a final decision in a noninstitutional provider appeal shall be adopted within 180 days after the closure of the record of the impartial hearing, and a final decision in an institutional provider appeal shall be adopted within 300 days after the closure of the record of the impartial hearing.

(B) The department shall mail a copy of the adopted decision to all parties within 30 days of the date of adoption of the decision.

(f) If the director intends to modify a proposed decision, on or before the 180th day following the closure of the record of the hearing for noninstitutional providers or the 300th day following the closure of the record of the hearing for institutional providers, the director shall provide written notice of the director's intention to the parties and shall afford the parties an opportunity to present written argument. Following this notice, on or before the 240th day following the closure of the record of the hearing for noninstitutional providers or the 420th day following closure of the record of the hearing for institutional providers, or within that additional time period as is granted pursuant to the sole request of a provider or at the joint request of the provider and the department, the director shall issue a final decision.

(g) If recovery of a disallowed payment has been made by the department, a provider who prevails in an appeal of a disallowed payment shall be entitled to interest at the rate equal to the monthly average received on investments in the Surplus Money Investment Fund, or simple interest at the rate of 7 percent per annum, whichever is higher, commencing on the date the appeal is formally accepted by the department or the date payment is received by the department, whichever is later.

(h) (1) Except as provided in subdivision (i) and paragraph (2), commencing 60 days after issuance of the first statement of account status or demand for repayment resulting from an audit or examination made pursuant to Sections 10722 and 14170, interest at the rate equal to the monthly average received on investments in the Surplus Money Investment Fund during the month the first statement of account status or demand for repayment was issued, or simple interest at the rate of 7 percent per annum, whichever is higher, shall be assessed against any unrecovered overpayment due to the department.

(2) The department may reduce the interest rate determined pursuant to paragraph (1) as part of a repayment agreement entered into with the provider, after taking into account the following factors:

(A) The importance of the provider to the health care safety net in the community in which the provider provides services to patients.

(B) The impact of the repayment amounts on the fiscal solvency of the provider.

(C) The ability of the provider to repay the overpayment amounts.

(D) The impact of the interest rate repayment amount on the finances of the provider.

(i) (1) Commencing on the day following the last day of the period covered by an audit or examination made pursuant to Sections 10722 and 14170, interest at the rate established under former Section 19269 of the Revenue and Taxation Code that is in effect on the date of the commencement of that interest shall be assessed against any unrecovered overpayment due to the department by providers of durable medical equipment or incontinence supplies.

(2) Interest that accrues under this subdivision for recoupment of an overpayment based on the lack of medical necessity for a previously approved claim shall commence to accrue on the date of written demand by the department.

(j) The final decision of the director shall be reviewable in accordance with Section 1094.5 of the Code of Civil Procedure within six months of the issuance of the director's final decision.

Approved _____, 2020

Governor