An act to amend, add, and repeal Section 76000.10 of the Government Code, to add Section 1371.6 to the Health and Safety Code, to add Section 10126.65 to the Insurance Code, and to add Section 14124.15 to the Welfare and Institutions Code, relating to air ambulance services.

LEGISLATIVE COUNSEL’S DIGEST

AB 651, as introduced, Grayson. Air ambulance services.
(1) Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law requires that health care service plans and health insurance policies, as specified, provide coverage for certain services and treatments, including emergency medical transportation services.

This bill would require a health care service plan contract or a health insurance policy issued, amended, or renewed on or after January 1, 2020, to provide that if an enrollee, insured, or subscriber, as applicable, receives covered services from a noncontracting air ambulance provider, the enrollee, insured, or subscriber shall pay no more than the same cost sharing that the enrollee, insured, or subscriber would pay for the same covered services received from a contracting air ambulance provider, referred to as the in-network cost-sharing amount. The bill would specify that an enrollee, subscriber, or insured would not owe the noncontracting provider more than the in-network cost-sharing
amount for services subject to the bill, as specified. The bill would allow a noncontracting provider to advance to collections only the in-network cost-sharing amount, as determined by the health care service plan or insurer, that the enrollee, insured, or subscriber has failed to pay. The bill would authorize a health care service plan, health insurer, or provider to seek relief in any court for the purpose of resolving a payment dispute, and would not prohibit a provider from using a health care service plan’s or health insurer’s existing dispute resolution processes. Because a willful violation of the bill’s requirements relative to health care service plans would be a crime, the bill would impose a state-mandated local program.

(2) Existing law establishes the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income individuals receive healthcare services. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Existing law provides for the federal Medicare Program, which is a public health insurance program for persons 65 years of age and older and specified persons with disabilities who are under 65 years of age.

This bill would, commencing July 1, 2020, require the department to set and maintain the Medi-Cal fee rate for air ambulance services provided by either fixed or rotary wing aircraft that is equal to a percentage of the rural Medicare rates for those services, as described, and to the extent federal financial participation is available and necessary federal approvals have been obtained. The bill would specify that, commencing July 1, 2020, the amounts a noncontract emergency medical transport provider could collect if the beneficiary received medical assistance other than through enrollment in a Medi-Cal managed care health plan pursuant to a specified federal law would be the resulting fee-for-service payment schedule amounts after the application of the rate established pursuant to the bill.

(3) Existing law, the Emergency Medical Air Transportation Act, effective until January 1, 2022, imposes a penalty of $4 until January 1, 2020, upon every conviction for a violation of the Vehicle Code or a local ordinance adopted pursuant to the Vehicle Code, other than a parking offense. The act requires the county or the court that imposed the fine to transfer the moneys collected pursuant to that act to the Treasurer for deposit into the Emergency Medical Air Transportation and Children’s Coverage Fund.
Under the act, moneys in the fund are made available, upon appropriation by the Legislature, to the State Department of Health Care Services for children’s healthcare coverage and administrative costs relating to emergency medical air transportation provider payments, with the appropriated moneys remaining after payment of the administrative costs to be used as follows: (A) 20% of the amount for offsetting the state portion of the Medi-Cal reimbursement rate for emergency medical air transportation services, and (B) 80% of the amount for augmenting emergency medical air transportation reimbursement payments made through the Medi-Cal program.

This bill, if the rate change to the Medi-Cal fee rate for air ambulance services is implemented pursuant to paragraph (2), would delete the authorization to use the moneys appropriated from the fund for augmenting Medi-Cal emergency medical air transportation reimbursement payments, while maintaining the authorization to use the moneys for offsetting the state portion of the Medi-Cal reimbursement rate for those services. The bill would preserve the authorization to use the moneys for augmentation of payments for purposes of emergency medical air transportation that was provided before July 1, 2020, as specified. The bill would make conforming changes by deleting or amending related provisions. The bill would repeal these provisions on January 1, 2023.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that no reimbursement is required by this act for a specified reason.


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

1 SECTION 1. Section 76000.10 of the Government Code is amended to read:
2 76000.10. (a) This section shall be known, and may be cited, as the Emergency Medical Air Transportation Act.
3 (b) For purposes of this section:
4 (1) “Department” means the State Department of Health Care Services.
5 (2) “Director” means the Director of Health Care Services.
(3) “Provider” means a provider of emergency medical air transportation services.

(4) “Rotary wing” means a type of aircraft, commonly referred to as a helicopter, that generates lift through the use of wings, known as rotor blades, that revolve around a mast.

(5) “Fixed wing” means a type of aircraft, commonly referred to as an airplane, that generates lift through the use of the forward motion of the aircraft and wings that do not revolve around a mast but are fixed in relation to the fuselage of the aircraft.

(6) “Air mileage rate” means the per-mileage reimbursement rate paid for services rendered by rotary-wing and fixed-wing providers.

(c) (1) For purposes of implementing this section, a penalty of four dollars ($4) shall be imposed upon every conviction for a violation of the Vehicle Code or a local ordinance adopted pursuant to the Vehicle Code, except parking offenses subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

(2) The penalty described in this subdivision is in addition to the state penalty assessed pursuant to Section 1464 of the Penal Code. However, this penalty shall not be included in the base fine used to calculate the state penalty assessment pursuant to subdivision (a) of Section 1464 of the Penal Code, the state surcharge levied pursuant to Section 1465.7 of the Penal Code, and the state court construction penalty pursuant to Section 70372 of this code, and to calculate the other additional penalties levied pursuant to this chapter.

(d) The county or the court that imposed the fine shall, in accordance with the procedures set out in Section 68101, transfer moneys collected pursuant to this section to the Treasurer for deposit into the Emergency Medical Air Transportation and Children’s Coverage Fund, which is hereby established in the State Treasury. Notwithstanding Section 16305.7, the Emergency Medical Air Transportation and Children’s Coverage Fund shall include interest and dividends earned on money in the fund. Any law that references the Emergency Medical Air Transportation Act Fund, as previously established by this subdivision, shall be construed to reference the Emergency Medical Air Transportation and Children’s Coverage Fund, effective January 1, 2018.
The Emergency Medical Air Transportation and Children’s Coverage Fund shall be administered by the State Department of Health Care Services. Moneys in the Emergency Medical Air Transportation and Children’s Coverage Fund shall be made available, upon appropriation by the Legislature, to the department for any of the following purposes:

(A) For children’s health care coverage.

(B) For emergency medical air transportation provider payments, as follows:

(i) For payment of the administrative costs of the department in administering emergency medical air transportation provider payments.

(ii) Twenty percent of the appropriated money remaining after payment of administrative costs pursuant to clause (i) shall be used to offset the state portion of the Medi-Cal reimbursement rate for emergency medical air transportation services.

(iii) Eighty percent of the appropriated money remaining after payment of administrative costs pursuant to clause (i) shall be used to augment emergency medical air transportation reimbursement payments made through the Medi-Cal program, as set forth in paragraphs (2) and (3).

(2) If money in the Emergency Medical Air Transportation and Children’s Coverage Fund is made available to the department for the purpose described in subparagraph (B) of paragraph (1), both of the following shall occur:

(A) The department shall seek to obtain federal matching funds by using the moneys in the Emergency Medical Air Transportation and Children’s Coverage Fund for the purpose of augmenting Medi-Cal reimbursement paid to emergency medical air transportation providers.

(B) The director shall augment emergency medical air transportation provider payments in accordance with a federally approved reimbursement methodology. The director may seek federal approvals or waivers as may be necessary to implement this section and to obtain federal financial participation to the maximum extent possible for the payments under this section.

(3) (A) Upon appropriation by the Legislature, the department shall use moneys in the Emergency Medical Air Transportation and Children’s Coverage Fund and any federal matching funds to do any of the following:
(i) Fund children’s health care coverage.
(ii) Increase the Medi-Cal reimbursement for emergency medical air transportation services in an amount not to exceed normal and customary charges charged by the providers.

(B) Notwithstanding any other law, and pursuant to this section, if money in the Emergency Medical Air Transportation and Children’s Coverage Fund is made available to the department for the purpose described in subparagraph (B) of paragraph (1), the department shall increase the Medi-Cal reimbursement for emergency medical air transportation services if both of the following conditions are met:

(i) Moneys in the Emergency Medical Air Transportation and Children’s Coverage Fund will cover the cost of increased payments pursuant to clause (iii) of subparagraph (B) of paragraph (1).
(ii) The state does not incur any General Fund expense to pay for the Medi-Cal emergency medical air transportation services increase.

(f) The assessment of penalties pursuant to this section shall terminate on January 1, 2020. Penalties assessed before January 1, 2020, shall continue to be collected, administered, and distributed pursuant to this section until exhausted or until June 30, 2021, whichever occurs first. On June 30, 2021, moneys remaining unexpended and unencumbered in the Emergency Medical Air Transportation and Children’s Coverage Fund shall be transferred to the General Fund, to be available, upon appropriation by the Legislature, for the purposes of augmenting Medi-Cal reimbursement for emergency medical air transportation and related costs, generally, or funding children’s health care coverage.

(g) Notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2, the department may implement, interpret, or make specific this section and any applicable federal waivers and state plan amendments by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions without taking regulatory action.

(h) This section shall remain in effect only until January 1, 2022, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2022, deletes or extends that date.
(h) This section shall remain in effect only until the earlier of either of the following:

1. The date on which the rate change to the Medi-Cal fee rate for air ambulance service is implemented pursuant to Section 14124.15 of the Welfare and Institutions Code, and as of that date is repealed.

2. January 1, 2022, and as of that date is repealed.

SEC. 2. Section 76000.10 is added to the Government Code, to read:

76000.10. (a) This section shall be known, and may be cited, as the Emergency Medical Air Transportation Act.

(b) For purposes of this section:

1. “Department” means the State Department of Health Care Services.

2. “Director” means the Director of Health Care Services.

3. “Provider” means a provider of emergency medical air transportation services.

4. “Rotary wing” means a type of aircraft, commonly referred to as a helicopter, that generates lift through the use of wings, known as rotor blades, that revolve around a mast.

5. “Fixed wing” means a type of aircraft, commonly referred to as an airplane, that generates lift through the use of the forward motion of the aircraft and wings that do not revolve around a mast but are fixed in relation to the fuselage of the aircraft.

6. “Air mileage rate” means the per-mileage reimbursement rate paid for services rendered by rotary-wing and fixed-wing providers.

(c) (1) For purposes of implementing this section, a penalty of four dollars ($4) shall be imposed upon every conviction for a violation of the Vehicle Code or a local ordinance adopted pursuant to the Vehicle Code, except parking offenses subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

(2) The penalty described in this subdivision is in addition to the state penalty assessed pursuant to Section 1464 of the Penal Code. However, this penalty shall not be included in the base fine used to calculate the state penalty assessment pursuant to subdivision (a) of Section 1464 of the Penal Code, the state surcharge levied pursuant to Section 1465.7 of the Penal Code, and the state court construction penalty pursuant to Section 70372.
of this code, and to calculate the other additional penalties levied
pursuant to this chapter.
(d) The county or the court that imposed the fine shall, in
accordance with the procedures set out in Section 68101, transfer
moneys collected pursuant to this section to the Treasurer for
deposit into the Emergency Medical Air Transportation and
Children’s Coverage Fund, which is hereby established in the State
Treasury. Notwithstanding Section 16305.7, the Emergency
Medical Air Transportation and Children’s Coverage Fund shall
include interest and dividends earned on money in the fund. Any
law that references the Emergency Medical Air Transportation
Act Fund, as previously established by this subdivision, shall be
construed to reference the Emergency Medical Air Transportation
and Children’s Coverage Fund, effective January 1, 2018.
(e) The Emergency Medical Air Transportation and Children’s
Coverage Fund shall be administered by the State Department of
Health Care Services. Moneys in the Emergency Medical Air
Transportation and Children’s Coverage Fund shall be made
available, upon appropriation by the Legislature, to the department
for any of the following purposes:
   (1) For children’s healthcare coverage.
   (2) For emergency medical air transportation provider payments,
as follows:
       (A) For payment of the administrative costs of the department
           in administering emergency medical air transportation provider
           payments.
       (B) The appropriated money remaining after payment of
           administrative costs pursuant to subparagraph (A) shall be used
           to offset the state portion of the Medi-Cal reimbursement rate for
           emergency medical air transportation services.
(f) The assessment of penalties pursuant to this section shall
terminate on January 1, 2020. Penalties assessed before January
1, 2020, shall continue to be collected, administered, and
distributed pursuant to this section until exhausted or until June
30, 2021, whichever occurs first. On June 30, 2021, moneys
remaining unexpended and unencumbered in the Emergency
Medical Air Transportation and Children’s Coverage Fund shall
be transferred to the General Fund, to be available, upon
appropriation by the Legislature, for the purposes of offsetting the
state portion of the Medi-Cal reimbursement rate for emergency
medical air transportation and related costs, generally, or funding children’s healthcare coverage.

(g) Notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2, the department may implement, interpret, or make specific this section and any applicable federal waivers and state plan amendments by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions without taking regulatory action.

(h) (1) This section shall become operative only if, and on the date upon which, the rate change to the Medi-Cal fee rate for air ambulance services is implemented pursuant to Section 14124.15 of the Welfare and Institutions Code.

(2) (A) Except as described in subdivision (f), moneys in the Emergency Medical Air Transportation and Children’s Coverage Fund shall remain available, upon appropriation by the Legislature, to be used to augment emergency medical air transportation reimbursement payments made through the Medi-Cal program for purposes of emergency medical air transportation that was provided before July 1, 2020, and that is therefore not eligible for the Medi-Cal rate change made pursuant to Section 14124.15 of the Welfare and Institutions Code. The emergency medical air transportation reimbursement payments may be augmented pursuant to this subparagraph using moneys deposited in the fund within 90 calendar days following July 1, 2020.

(B) Moneys in the Emergency Medical Air Transportation and Children’s Coverage Fund shall not be available to be used to augment emergency medical air transportation reimbursement payments made through the Medi-Cal program for purposes of emergency medical air transportation that is provided on or after July 1, 2020, and that is therefore eligible for the Medi-Cal rate change made pursuant to Section 14124.15 of the Welfare and Institutions Code.

(i) This section shall remain in effect only until January 1, 2023, and as of that date is repealed.

SEC. 3. Section 1371.6 is added to the Health and Safety Code, to read:

1371.6. (a) (1) Notwithstanding Section 1367.11, a health care service plan contract issued, amended, or renewed on or after January 1, 2020, shall provide that if an enrollee receives covered
services from a noncontracting air ambulance provider, the enrollee shall pay no more than the same cost sharing that the enrollee would pay for the same covered services received from a contracting air ambulance provider. This amount shall be referred to as the “in-network cost-sharing amount.”

(2) An enrollee shall not owe the noncontracting provider more than the in-network cost-sharing amount for services subject to this section. At the time of payment by the plan to the noncontracting provider, the plan shall inform the enrollee and the noncontracting provider of the in-network cost-sharing amount owed by the enrollee.

(b) The following shall apply for purposes of this section:

(1) Any cost sharing paid by the enrollee for the services subject to this section shall count toward the limit on annual out-of-pocket expenses established under Section 1367.006.

(2) Cost sharing arising from services subject to this section shall be counted toward any deductible in the same manner as cost sharing would be attributed to a contracting provider.

(3) The cost sharing paid by the enrollee pursuant to this section shall satisfy the enrollee’s obligation to pay cost sharing for the health service.

(c) A noncontracting provider may advance to collections only the in-network cost-sharing amount, as determined by the plan pursuant to subdivision (a), that the enrollee has failed to pay.

(d) A health care service plan or a provider may seek relief in any court for the purpose of resolving a payment dispute. A provider is not prohibited from using a health care service plan’s existing dispute resolution processes.

(e) Air ambulance service providers remain subject to the balance billing protections for Medi-Cal beneficiaries under Section 14019.4 of the Welfare and Institutions Code.

SEC. 4. Section 10126.65 is added to the Insurance Code, to read:

10126.65. (a) (1) Notwithstanding Section 10352, a health insurance policy issued, amended, or renewed on or after January 1, 2020, shall provide that if an insured or subscriber receives covered services from a noncontracting air ambulance provider, the insured or subscriber shall pay no more than the same cost sharing that the insured or subscriber would pay for the same covered services received from a contracting air ambulance provider.
provider. This amount shall be referred to as the “in-network cost-sharing amount.”

(2) A subscriber or insured shall not owe the noncontracting provider more than the in-network cost-sharing amount for services subject to this section. At the time of payment by the insurer to the noncontracting provider, the insurer shall inform the insured or subscriber and the noncontracting provider of the in-network cost-sharing amount owed by the insured or subscriber.

(b) The following shall apply for purposes of this section:

(1) Any cost sharing paid by the insured or subscriber for the services subject to this section shall count toward the limit on annual out-of-pocket expenses established under Section 10112.28.

(2) Cost sharing arising from services subject to this section shall be counted toward any deductible in the same manner as cost sharing would be attributed to a contracting provider.

(3) The cost sharing paid by the insured or subscriber pursuant to this section shall satisfy the insured’s or subscriber’s obligation to pay cost sharing for the health service.

(c) A noncontracting provider may advance to collections only the in-network cost-sharing amount, as determined by the insurer pursuant to subdivision (a), that the insured or subscriber has failed to pay.

(d) A health insurer or a provider may seek relief in any court for the purpose of resolving a payment dispute. A provider is not prohibited from using a health insurer’s existing dispute resolution processes.

SEC. 5. Section 14124.15 is added to the Welfare and Institutions Code, to read:

14124.15. (a) The department shall set and maintain the Medi-Cal fee rate for air ambulance services provided by either fixed or rotary wing aircraft that is equal to a percentage, as specified in subdivision (b), of the rural Medicare rates for those services.

(b) The final rate shall either meet or exceed the sum of the air ambulance service rate as provided in the Medi-Cal program on December 31, 2017, and the supplemental payment offered in the year 2017 pursuant to Section 76000.10 of the Government Code.

(c) Each applicable Medi-Cal managed care health plan shall satisfy its obligation under Section 438.114(c) of Title 42 of the Code of Federal Regulations for emergency medical transports.
and shall provide payment to noncontract emergency medical
transport providers consistent with Section 1396u-2(b)(2)(D) of
Title 42 of the United States Code. Commencing July 1, 2020, and
for each state fiscal year thereafter for which this chapter is
operative, the amounts a noncontract emergency medical transport
provider could collect if the beneficiary received medical assistance
other than through enrollment in a Medi-Cal managed care health
plan pursuant to Section 1396u-2(b)(2)(D) of Title 42 of the United
States Code shall be the resulting fee-for-service payment schedule
amounts after the application of this section.

(d) This section shall become operative July 1, 2020, and shall
be implemented only to the extent federal financial participation
is available and only if necessary federal approvals have been
obtained.

SEC. 6. No reimbursement is required by this act pursuant to
Section 6 of Article XIII B of the California Constitution because
the only costs that may be incurred by a local agency or school
district will be incurred because this act creates a new crime or
infraction, eliminates a crime or infraction, or changes the penalty
for a crime or infraction, within the meaning of Section 17556 of
the Government Code, or changes the definition of a crime within
the meaning of Section 6 of Article XIII B of the California
Constitution.