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## SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair  
2015 - 2016 Regular

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**Bill No:** SB 123  
**Author:** Liu  
**Version:** April 6, 2015  
**Urgency:** No  
**Consultant:** Lynn Lorber  
**Hearing Date:** April 22, 2015  
**Fiscal:** Yes

**Subject:** Superintendent of Public Instruction: report: School-Based Medi-Cal Administrative Activities program

**NOTE:** This bill has been referred to the Committees on Education and Health. A "do pass" motion should include referral to the Committee on Health.

### SUMMARY

This bill requires the Superintendent of Public Instruction to review and prepare recommendations relative to the administration and oversight of the School-Based Medi-Cal Administrative Activities program.

### BACKGROUND

The School-Based Medi-Cal Administrative Activities (SMAA) program provides federal reimbursements to local educational agencies for the federal share (50%) of certain costs for administering the Medi-Cal program. Those activities include: outreach and referral, facilitating the Medi-Cal application, arranging non-emergency/non-medical transportation, program planning and policy development, and Medi-Cal administrative activities claims coordination.

The federal Centers for Medicare and Medicaid Services administers the SMAA program at the federal level, and the California Department of Health Care Services (DHCS) administers the SMAA program for the State.

Current law:

1. Authorizes DHCS to contract with each participating local governmental agency (LGA) or each local educational consortium (LEC) to assist with the performance of administrative activities.
2. Requires DHCS to deny the claim if it determines that the certification is not adequately supported, or does not otherwise comply with federal requirements.
3. Authorizes each participating LGA or LEC to subcontract with private or public entities to assist with the performance of administrative activities.  
(Welfare and Institutions Code § 14132.47)

**ANALYSIS**

This bill requires the Superintendent of Public Instruction (SPI) to review and prepare specific recommendations relative to the administration and oversight of the School-Based Medi-Cal Administrative Activities program. Specifically, this bill:

1. Requires the SPI to review and prepare specific recommendations relative to the administration and oversight of the School-Based Medi-Cal Administrative Activities (SMAA) program.
2. Requires a report containing the recommendations to be submitted to the Legislature and the Governor by July 1, 2016.
3. Requires the SPI's report to consider the report that is expected to be issued by the State Auditor in 2015, and requires the report to include but not be limited to, an evaluation of all of the following:
  - A. The appropriate state agency or agencies to administer the SMAA program.
  - B. Oversight of the administration of the program, including oversight of the state agency, local governmental agencies, and local educational consortia.
  - C. The structure of the SMAA program and the role of each entity, including the local governmental agencies and local educational consortia, how the structures and roles vary across the state, and the efficiency of those structures and roles in providing funds to local educational agencies.
  - D. The relationships, interactions, and communications state agencies have with the federal Centers for Medicare and Medicaid Services (CMS), and the process used to disseminate information from the CMS to local educational agencies.
  - E. The process for reimbursing claims submitted by local educational agencies, including the amount reimbursed compared to the amount claimed, the time between submission of a claim and the reimbursement of that claim, and how the claim and reimbursement process varies across the state.
  - F. The purposes for which local educational agencies use SMAA program funds.
  - G. The relationship between local governmental agencies (LGAs) or local educational consortia (LECs) and the private or public entities that have been subcontracted to assist with the performance of administrative activities.

- H. The rates charged by the local governmental agency (LGA) and local educational consortium (LEC), how those rates vary across the state, and how rates are determined.
  - I. The ability of a local educational agency to contract with a LGA or a LEC of its choosing.
  - J. The feasibility of convening a local educational agency advisory body for the purposes of providing technical assistance to local educational agencies and communicating with the administering state agency.
  - K. The extent to which the state is maximizing federal funds available for the SMAA program.
  - L. How capacity to operate the SMAA program can be built within local educational agencies.
4. Requires the Department of Health Care Services to annually post on its website the administrative fee percentage charged by each LGA or LEC.
5. Uses existing definitions of “local governmental agency,” “local educational agency,” and “local educational consortia” in Welfare and Institutions Code provisions relative to the School-Based Medi-Cal Administrative Activities (SMAA) program, as follows:
- A. “Local educational agency” as the governing body of any school district or community college district, the county office of education, a state special school, a California State University campus, or a University of California campus, that participates under the Administrative Claiming process as a subcontractor to the local educational consortium in its service region.
  - B. “Local educational consortium” means a local agency that is one of the service regions of the California County Superintendent Educational Services Association.
  - C. “Local governmental agency” as a county, chartered city, Native American Indian tribe, tribal organization, or subgroup of a Native American Indian tribe or tribal organization, under contract with the department

## STAFF COMMENTS

1. ***Need for the bill.*** According to the author, “The federal Centers for Medicare and Medicaid Services (CMS) conducted audits of California’s School-Based Medi-Cal Administrative Activities (SMAA) program in recent years. Two of the three local educational agencies audited were found out of compliance, yet lax oversight and guidance by the Department of Health Care Services (DHCS) seem to have led to the school district level issues. A letter from CMS to DHCS dated June 2012 and a CMS Financial Management Report dated April 2013 found the DHCS and the local educational consortia and the local governmental agencies had not provided appropriate SMAA program oversight and had

inadequate internal controls. As a result, Centers for Medicare and Medicaid Services (CMS) began deferring payments in 2012 for nearly all local educational agencies. Currently over 800 local educational agencies are owed hundreds of millions of dollars on unpaid invoices going back as far as 2009.”

2. ***The rules keep changing.*** The audit of three local educational agencies conducted by CMS determined that the entire State’s School-Based Medi-Cal Administrative Activities (SMAA) claims did not comply with the claiming plan approved by CMS. CMS deferred California’s SMAA claims until additional documentation was provided, including the requirement that local educational agencies provide certification of activities performed to support submitted invoices. In addition, CMS required Department of Health Care Services (DHCS) to submit a revised time study methodology and statewide claiming plan.  
[http://www.medicaidforeducation.org/filelibrary-name/webcommittee/PDF/SMAA\\_Ltr\\_to\\_CA\\_Final.pdf](http://www.medicaidforeducation.org/filelibrary-name/webcommittee/PDF/SMAA_Ltr_to_CA_Final.pdf)
  - A. Accounting methodologies were subsequently implemented as follows:  
A new Reasonableness Test Criteria was instituted by DHCS in October 2013.
  - B. A new settlement and Random Moment in Time Survey was offered by CMS October 7, 2014.  
[http://www.dhcs.ca.gov/provgovpart/Documents/ACLSS/SMAA/SMAA\\_Deferred\\_Resolution\\_CMS.pdf](http://www.dhcs.ca.gov/provgovpart/Documents/ACLSS/SMAA/SMAA_Deferred_Resolution_CMS.pdf)
  - C. The DHCS agreed to the settlement on October 14, 2014.  
[http://www.dhcs.ca.gov/provgovpart/Documents/ACLSS/SMAA/SMAA\\_SettlementProposal.pdf](http://www.dhcs.ca.gov/provgovpart/Documents/ACLSS/SMAA/SMAA_SettlementProposal.pdf)
  - D. Revisions resulting in a February 20 settlement proposal.  
[http://www.dhcs.ca.gov/provgovpart/Documents/ACLSS/SMAA/CMCS\\_letter\\_to\\_California\\_0315\\_2.pdf](http://www.dhcs.ca.gov/provgovpart/Documents/ACLSS/SMAA/CMCS_letter_to_California_0315_2.pdf)
3. ***Current status.*** Beginning April 1, 2015, the structure of reimbursing claims is as follows:
  - A. Claims under \$25,000 will be reimbursed at 90% of the invoice.
  - B. Claims between \$25,001-\$50,000, a choice of:
    - (1) Accepting reimbursement at 75% of the claimed amount with backcasting, or:
    - (2) Accepting reimbursement of either 75% of the claimed amount or a flat \$25,000, whichever is higher.
  - C. Claims over \$50,000 will be reimbursed at 40% of the claimed amount with backcasting.

Backcasting involves the application of the current reimbursement structure to prior claims that were submitted using a different reimbursement structure.

4. ***Audit request.*** The author requested an audit of the School-Based Medi-Cal Administrative Activities (SMAA) program, which was approved by the Joint Legislative Audit Committee in August 2014. This bill requires an evaluation of additional and current information; there is marginal overlap between the scope of the audit and the evaluation required by this bill. For example, the audit requested information relative to how other states administer this program and information specific to the accounting methodology that is no longer utilized, as well as information specific to the local educational agency Medi-Cal billing option. This bill seeks an evaluation of the local governmental agency (LGA) and local educational consortium (LEC) structure, addressing concerns of local educational agencies regarding the ability for LGAs and LECs to change accounting codes and claim amounts, and deny claims, submitted by local educational agencies, the lack of a prohibition against individuals serving on an LGA or LEC and being employed by the subcontractor hired by the LGA or LEC, and the lack of clear rationale for administrative rates charged by LGAs and LECs.
5. ***Related and prior legislation.***

#### *PRIOR LEGISLATION*

AB 1955 (Pan, 2014), among other things, required DHCS and the California Department of Education (CDE) to cooperate and coordinate efforts in order to maximize receipt of federal financial participation under the Administrative Claiming process, and required DHCS, through an interagency agreement with the CDE, to provide technical advice and consultation to local educational agencies participating in a demonstration project established by the bill, in order to meet requirements to certify and bill valid claims for allowable activities under the Administrative Claiming process. AB 1955 was held on the Assembly Appropriations Committee's suspense file.

#### **SUPPORT**

California School-Based Health Alliance  
National Association of Social Workers, California Chapter  
Riverside County Superintendent of Schools

#### **OPPOSITION**

None received.

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