

**COUNTY MEDICAL SERVICES PROGRAM GOVERNING BOARD
REGULATIONS**

**Amendments Adopted by the
County Medical Services Program Governing Board
on October 24, 2013**

Effective October 24, 2013 Unless Specified Below

(Last amended October 24, 2013)

Section 1. County Medical Services Program

(a) The County Medical Services Program and its authority are established in California Welfare and Institutions Code Sections 16809 et seq. The statute permits counties with populations under 300,000, as determined in accordance with the 1990 decennial census, and county boards of supervisors that contracted with the State of California Department of Health Care Services (Department) during the 1990–91 fiscal year, to elect to participate in the County Medical Services Program. The County Medical Services Program operates in accordance with Welfare and Institutions Code Sections 16809 et seq. The County Medical Services Program has responsibilities for specified health services to county residents certified eligible for those services by the participating county.

(b) The County Medical Services Program Governing Board (Governing Board) may administer a program to provide health care services specified by the Governing Board to eligible residents of counties that elect to contract with the Governing Board for the administration of such a program. The Governing Board shall administer the County Medical Services Program in accordance with Welfare and Institutions Code Sections 16809 et seq. These regulations are adopted pursuant to the authority set forth in California Welfare and Institutions Code Sections 16809 and 16809.4.

(c) The Program shall be called the County Medical Services Program.

(d) The County Medical Services Program is a county program. Each county electing to participate in the County Medical Services Program shall confer on the Governing Board the authority to act as the agent of the county in administering the County Medical Services Program in compliance with applicable statutes, regulations and the County Medical Services Program Contract specified in Section 4.

(e) Each county electing to participate in the County Medical Services Program shall pay to the Governing Board participation fees and such other fees as determined by the Governing Board as a condition for each county's participation in the County Medical Services Program.

(f) Each county electing to participate in the County Medical Services Program shall certify the eligibility of county residents for County Medical Services Program covered health care services pursuant to Section 17000 of the Welfare and Institutions Code unless the Governing Board determines an alternative certification process.

(g) Except as established for pilot projects as provided in Sections 1(i) and 11, and as further provided for alternative products in Section 12, the County Medical Services Program shall consist of a uniform package of health care benefits, uniform eligibility standards, and various payment rates and methods of payment that may be non-uniform, all as determined by the Governing Board. These benefits, eligibility standards and payment rates and methods may change from time to time as determined by the Governing Board and as the Governing Board may deem necessary and appropriate due to costs, utilization projections, operating efficiencies, alternative methods for delivery of care or available funds.

(h) Benefits received by beneficiaries under the County Medical Services Program are in excess of and secondary to any other form of health care benefits coverage. The County Medical Services Program is the payer of last resort. A beneficiary with other health care coverage is not entitled to receive health care benefits and services under the County Medical Services Program until all other health care coverage available has been exhausted or denied.

(1) Beneficiaries who are or who become eligible for Medi-Cal, Medicare, coverage available under Covered California with public subsidies or other public or private coverage shall not be eligible or continue to be eligible for benefits provided by the County Medical Services Program, except for beneficiaries who are dually eligible for the County Medical Services Program and Medi-Cal coverage of skilled nursing services.

(2) As a condition for eligibility for the County Medical Services Program, beneficiaries shall apply for, pursue and retain eligibility for Medi-Cal, Medicare, coverage available under Covered California with public subsidies or other available public health care benefits coverage. Beneficiaries shall report to the county any entitlement to other health care coverage at the time of application, reapplication or redetermination, and report any change in entitlement no later than 10 calendar days from the date the beneficiary was notified of the change. The report shall include name of carrier, policy and group numbers, and termination date, if available. Beneficiaries shall also report services received as the result of an accident or injury. Beneficiaries shall provide the Governing Board with evidence that they have been determined ineligible for other publicly funded health care benefits coverage to be eligible for benefits under the County Medical Services Program. The beneficiary may authorize the Governing Board, counties or any of their authorized agents to apply for, pursue and retain other health care benefits coverage on such beneficiary's behalf.

(3) Beneficiaries shall reasonably cooperate with counties, providers and the Governing Board and its agents to apply for, pursue and retain eligibility for Medi-Cal, Medicare, coverage available under Covered California with public subsidies or other available coverage to be eligible for benefits under the County Medical Services Program. A beneficiary who does not reasonably cooperate with the Governing Board, counties or their authorized agents in applying for, pursuing and retaining such beneficiary's eligibility for other publicly funded health care benefits or who does not provide evidence that such beneficiary has been determined ineligible for other publicly funded health care benefits shall not be eligible for benefits under the County Medical Services Program.

(i) The Governing Board may establish and maintain pilot projects to identify or test alternative approaches for determining eligibility or providing or paying for services as the Governing Board deems necessary or appropriate and as further provided in Section 11.

Section 2. Declaration of Intent to Contract for Counties Not Currently Contracting with the Governing Board

(a) A county that is not currently contracting with the Governing Board for participation in the County Medical Services Program and that seeks to contract with the Governing Board for participation in the County Medical Services Program as specified in Section 1 shall submit to the Governing Board, by April 1 of the fiscal year preceding the fiscal year for which the contract will be in effect, a Declaration of Intent to Contract that has been adopted by that county's Board of Supervisors. The declaration shall be a standard form specified by the Governing Board and that shall include but not be limited to

(1) An agreement that the county, upon adoption and submission of the declaration, will contract with the Governing Board for participation in the County Medical Services Program beginning on the first day of the following fiscal year.

(2) An agreement that the declaration shall be a legally binding commitment to contract for the fiscal year for which it is submitted.

(3) A commitment that the county's health care standards of aid and care shall be consistent with or exceed the requirements of Section 17000 of the Welfare and Institutions Code.

(b) A county shall follow the procedures set forth in Welfare and Institutions Code Section 16809 et seq. to participate in the County Medical Services Program.

(c) At least 30 days in advance of the due date, the Governing Board shall send the Declaration of Intent to Contract standard form to all eligible counties that request this form from the Governing Board in writing at least 60 days in advance of the due date.

(d) If a county does not participate in the County Medical Services Program after the Declaration of Intent to Contract becomes binding, the county shall reimburse the Governing Board for the cost of those administrative activities that are necessary to provide for a county's participation in the County Medical Services Program and are performed after the date that the Declaration of Intent to Contract becomes binding.

(e) The county submitting a Declaration of Intent to Contract shall be obligated to take all necessary actions required to participate in the County Medical Services Program.

(f) The County Medical Services Program Contract specified in Section 4 that is signed by the Governing Board and a county shall supersede the Declaration of Intent to Contract for the fiscal year or contract period covered.

(g) A county may terminate participation in the County Medical Services Program pursuant to the provisions of the County Medical Services Program Contract. Procedures for termination during the contract period are specified in Section 4.

(h) The Governing Board shall determine the participation fees and such other fees and terms of the county's participation in the County Medical Services Program.

Section 3. Counties Under Contract with the Governing Board

(a) A county contracting with the Governing Board may continue to participate in the County Medical Services Program pursuant to the terms of the County Medical Services Program Contract between such county and the Governing Board, as amended from time to time, and policies adopted by the Governing Board. A county shall follow the procedures set forth in Welfare and Institutions Code Sections 16809 et seq. to participate in the County Medical Services Program.

Section 4. County Medical Services Program Contract

(a) The terms of the contract between the Governing Board and counties that elect to participate in the County Medical Services Program shall be in accordance with the provisions of Section 1 and shall include but not be limited to

(1) An acknowledgement that the contract does not relieve a county of its indigent health care obligation under Section 17000 of the Welfare and Institutions Code and that the contract shall not be construed to establish standards for such health services.

(2) Express recognition that the Governing Board has discretion to revise the eligibility standards, benefits, payment rates or provider payment methods during the contract term to ensure that expenditures do not exceed the funds available to provide health services to County Medical Services Program beneficiaries. Uniform eligibility criteria and benefits established by the Governing Board, as amended from time to time, shall be binding upon the county for the duration of the contract, except as provided in Sections 1(i), 11 and 12.

(3) Agreement that the Governing Board may evaluate methods and implement strategies to contain costs, deliver care, increase County Medical Services Program recoveries and take other administrative actions necessary to govern or administer the County Medical Services Program or remain within available funds with appropriate reserves.

(4) Agreement that the Governing Board has discretion to establish such policies and procedures within its discretion to govern and administer the County Medical Services Program, including but not limited to policies concerning risk allocation amongst the counties that participate in the County Medical Services Program if expenditures exceed funds available under the County Medical Services Program.

(b) The term of the County Medical Services Program Contract shall be set forth in the contract. The county shall not terminate the contract before the expiration date unless the Governing Board agrees to termination, or the contract is terminated pursuant to its provisions.

(c) The County Medical Services Program Contract shall be signed by the appropriate authorized county officials or representatives and submitted to the Governing Board within 30 calendar days after the receipt of that contract by the county.

(1) A county's failure to submit a signed County Medical Services Program Contract within 30 calendar days after receipt of that contract shall result in termination of the county's

participation in the County Medical Services Program, unless the Governing Board, or its Administrative Officer or other authorized representative, grants an extension for good cause.

(2) A county that is terminated from participation pursuant to (1) shall be liable to the Governing Board for any Governing Board administrative and service costs incurred and any other liability resulting from failure to contract.

(d) A county shall be liable for any claims submitted after termination of the County Medical Services Program Contract for services provided to certified eligible beneficiaries after the effective date of termination of that contract.

Section 5. Eligibility

(a) The Governing Board shall establish County Medical Services Program eligibility standards, procedures and methods that may be amended by the Governing Board.

(b) The eligibility standards shall be uniform among all counties participating in the County Medical Services Program to facilitate the administration of the County Medical Services Program, except as provided in Sections 1(i), 11 and 12.

(c) The eligibility procedures and methods may vary based upon the Governing Board's discretion, and the Governing Board may identify and apply alternative procedures and methods to contain County Medical Services Program administrative and other costs.

(d) The uniform eligibility standards, procedures and methods shall be specified in an eligibility manual for the County Medical Services Program (CMSP Eligibility Manual) that shall be maintained, updated and amended periodically by the Governing Board.

(e) A county may receive from the Governing Board funding from the County Medical Services Program Account to defray the cost incurred by the county of determining County Medical Services Program eligibility.

(1) A county's allocation for County Medical Services Program eligibility determinations and funding, if any, shall be as determined by the Governing Board.

(2) Each county participating in the County Medical Services Program shall report to the Governing Board or its designee the county's administrative costs to determine eligibility on a fiscal year basis in accordance with the policies of the Governing Board. Each county shall also report such other information related to eligibility determination as may be reasonably requested by the Governing Board.

(f) Each county shall return to the Governing Board any funds not expended for the purpose of determining eligibility and any funds expended in excess of allowable costs as defined in the County Medical Services Program Contract or Governing Board policy. The Governing Board may reallocate these funds to the County Medical Services Program or a county or counties whose eligibility determination costs exceeded the amount originally allocated for this purpose. Any funds remaining after reallocation will be deposited in the County Medical Services Program Account.

(g) Notwithstanding the provisions of subdivision (f), each county shall be responsible for any eligibility determination costs that exceed its final allocation.

(h) The county shall adopt, by appropriate means, the CMSP Eligibility Manual, as amended from time to time.

(1) Each county participating in the County Medical Services Program shall utilize and adhere to the CMSP Eligibility Manual, as amended, upon its effective date.

(2) The Governing Board or its designee shall send notices and other necessary materials and instructions concerning changes in the CMSP Eligibility Manual to counties participating in the County Medical Services Program.

(i) Due process for persons appealing a county decision concerning County Medical Services Program eligibility shall be provided by each participating county.

(j) Provisions for monitoring county performance and sanctions for eligibility errors caused by a county's failure to determine eligibility in accordance with established standard procedures shall be determined by Governing Board policy.

Section 6. Benefits

(a) The Governing Board shall establish the scope of benefits to be provided through the County Medical Services Program, which may be amended by the Governing Board.

(b) The scope of benefits to be provided by the County Medical Services Program shall be uniform among all counties participating in the County Medical Services Program to facilitate the administration of the County Medical Services Program, except as may be provided in Sections 1(i), 11 and 12.

(c) The uniform scope of benefits provided by the County Medical Services Program shall be referenced in the County Medical Services Program Contract and in a listing of benefits for the County Medical Services Program, as amended from time to time.

(d) During the term of any contract for the Department to administer the County Medical Services Program and unless otherwise determined by the Governing Board, the scope and duration of benefits provided through the County Medical Services Program shall generally be the same as the scope and duration of covered benefits under the Medi-Cal program, to the extent such benefits are determined by the Governing Board to be covered by the County Medical Services Program.

(e) Any benefits that are not included in the scope of benefits as determined by the Governing Board shall not be the obligation the County Medical Services Program or the Governing Board.

(f) The Governing Board may establish procedures for the provision of alternative methods for delivery of benefits.

(g) The Governing Board may establish procedures for the coordination of benefits, including procedures requiring application for and pursuit of any other form of health benefits coverage.

Section 7. Administration of Program

(a) The Governing Board may contract with the Department or any other person or entity to administer the County Medical Services Program. The contract between the Department or other person or entity to administer the County Medical Services Program shall set forth the duties of the contracting party in administration of the County Medical Services Program, including but not limited to the processes to be utilized for eligibility and the provision of and payment for benefits. Any contract for the Department to administer the County Medical Services Program shall be in accordance with Welfare and Institutions Code Section 16809(b). During the term of any contract for the Department to administer the County Medical Services Program, the Department shall utilize the processes for eligibility and the provision of and payment for benefits set forth under the Medi-Cal program, unless otherwise determined by the Governing Board.

(b) During the term of any contract for the Department to administer the County Medical Services Program, the Department may act as fiscal intermediary on behalf of the Governing Board and, if so, shall establish administrative controls and procedures to administer the County Medical Services Program Account and any reserve account.

Section 8. Fiscal

(a) The County Medical Services Program Account is established in the County Health Services Fund in accordance with Welfare and Institutions Code Section 16809 and may be administered by the Department pursuant to a contract with the Department for the administration of the County Medical Services Program.

(b) Realignment funds received by counties that elect to participate in the County Medical Services Program and that are required for participation in the County Medical Services Program shall be deposited in the County Medical Services Program Account on a monthly basis on or about the fifteenth of each month during the period that a county contracts with the Governing Board, unless otherwise directed by the Governing Board. Such counties shall authorize direct deposit of such funds. If there is any delay in the payment of such funds to the counties, then the counties shall authorize such payment at the earliest possible opportunity upon crediting of such funds to the counties. The above paragraph in this Section 8(b) shall be effective until December 31, 2013.

(b) Realignment funds allocated to the County Medical Services Program and participation fees paid by counties for participation in the County Medical Services Program pursuant to Welfare and Institutions Code Section 16809 (i) shall be deposited in the County Medical Services Program Account, unless otherwise directed by the Governing Board. The above paragraph in this Section 8(b) shall be effective January 1, 2014.

(c) The Governing Board may charge and collect a reasonable interest rate for any payments under Section 8(b) or the County Medical Services Program Contract not made within the time

period required. Unless otherwise provided by the Governing Board, the interest rate shall be the rate of return received by public entities investing in the Local Agency Investment Fund. The above paragraph in this Section 8(c) shall be effective until December 31, 2013.

(c) The Governing Board may charge and collect a reasonable interest rate for any payments under the County Medical Services Program Contract not made within the time period required. Unless otherwise provided by the Governing Board, the interest rate shall be the rate of return received by public entities investing in the Local Agency Investment Fund. The above paragraph in this Section 8(c) shall be effective January 1, 2014.

(d) Monies in the County Medical Services Program Account shall be used by the Governing Board for the County Medical Services Program in accordance with Sections 16809 et seq. to

(1) Pay for health care services provided to persons certified as eligible for the County Medical Services Program.

(2) Defray the Governing Board's administrative and other costs incurred in governing, administering and operating the County Medical Services Program.

(3) Defray participating county and Governing Board costs of determining County Medical Services Program eligibility.

(e) The Governing Board shall establish County Medical Services Program rates of payment for services provided.

(1) These rates of payment shall constitute payment in full to providers serving County Medical Services Program beneficiaries.

(2) Payments to providers shall be based on the reimbursement rate effective on the date-of-service provided to County Medical Services Program beneficiaries and not on the date the claim is submitted to the County Medical Services Program.

(3) The Governing Board may negotiate or set varying rates or methods of payment on a provider-by-provider basis. These rates or methods of payment may be alternative to rates or methods used by the Department.

(4) The Governing Board shall have no obligation to pay a provider for services provided to County Medical Services Program beneficiaries if such provider is not a party to a contract to provide services to such beneficiaries, except for specified emergency services provided by hospital, clinic or other providers as determined by the Governing Board and located in California as set forth in Sections 8(e)(5) and (6).

(5) A hospital provider located in California and not a party to a contract to provide services to County Medical Services Program beneficiaries may receive, at a maximum, reimbursement for specified emergency services provided to stabilize and transfer such beneficiaries to a hospital or alternative provider, as appropriate, that is a party to a contract to provide such services. Such reimbursement shall be at a rate of payment established by the Governing Board, unless otherwise negotiated by the Governing Board and such non-contract

hospital provider. Such payment shall constitute payment in full to such provider serving County Medical Service Program beneficiaries.

(6) A clinic or other provider as determined by the Governing Board and located in California and not a party to a contract to provide services to County Medical Services Program beneficiaries may receive, at a maximum, reimbursement for specified emergency services provided to stabilize and transfer such beneficiaries to an alternative provider that is a party to a contract to provide such services. Such reimbursement shall be at a rate of payment established by the Governing Board, unless otherwise negotiated by the Governing Board and such non-contract provider. Such payment shall constitute payment in full to such provider serving County Medical Service Program beneficiaries.

(f) Any interest earned on monies deposited in the County Medical Services Program Account shall be deposited in the account and may be used for any purpose specified in (d).

(g) At any time, the Governing Board may change or adjust benefits, eligibility, and rates of payment for services provided.

(1) The Governing Board may perform periodic actuarial projections of the County Medical Services Program Account during the term of the contract to determine if monies in that account are sufficient to meet costs and fund appropriate reserves.

(2) If the Governing Board determines that a reduction in eligibility criteria or benefits is needed, the Governing Board shall notify certified eligible beneficiaries of such reduction or adjustments prior to its effective date. Such notification may be made in writing to the address of record for a beneficiary and by posting on the Governing Board's website notice of such reduction and its effective date prior to its effective date. In addition, the Governing Board shall comply with the public hearing requirements set forth in Welfare and Institutions Code Section 16809.4(h).

(3) If the Governing Board determines that a reduction in eligibility criteria, benefits or rates of payment is needed, the Governing Board shall notify participating counties and current County Medical Services Program providers of such reduction prior to its effective date. Such notification may be made in writing to relevant provider associations and by posting on the Governing Board's website notice of such reduction and its effective date prior to its effective date.

(h) Commencing April 1, 1995, and for each subsequent fiscal year thereafter unless modified by statute, all counties that participate in the County Medical Services Program shall be at risk for any amount over and above the amount deposited in the County Medical Services Program Account. The Governing Board and the counties that participate in the County Medical Services Program shall work collectively to ensure expenditures do not exceed funds available in the County Medical Services Program Account by executing the provisions specified in Section 8(g). Counties that participate in the County Medical Services Program are liable for any liabilities of the County Medical Services Program in excess of those amounts in the County Medical Services Program Account.

(i) A beneficiary shall reimburse the Governing Board for the cost of any health care services received by beneficiary that were paid for by the Governing Board if the payment received by

the beneficiary is made (1) by a federal or state program, including but not limited to Medi-Cal, Medicare or coverage available under Covered California , or (2) pursuant to a legal or contractual entitlement.

(j) A beneficiary who receives health care services as a result of an accident or injury caused by some other person's action or failure to act shall furnish the Governing Board with an assignment of rights to receive payment for all services billed to the County Medical Services Program. If the beneficiary is unable to make the assignment, the beneficiary's guardian, attorney or the person acting on the beneficiary's behalf shall do so. The Governing Board may file a lien against the property of a beneficiary if the beneficiary fails to comply with the requirement in this Section 8(j). The beneficiary, guardian, or other person acting on behalf of the beneficiary shall cooperate with the Governing Board in its pursuit of payment under this provision.

(k) A beneficiary shall reimburse the Governing Board for any payment made by the Governing Board for health care benefits or services provided to such beneficiary as a result of beneficiary's provision of inaccurate or incomplete information, or failure to provide information, that would have affected such beneficiary's eligibility for services under the County Medical Services Program. Fraud occurs if such overpayment is due to the beneficiary's willful failure to report such information with the intent of deceiving the Governing Board, the county or its agents, for the purpose of obtaining County Medical Services Program benefits to which the beneficiary was not entitled. The Governing Board or its agent may take collection actions against the income or resources of the beneficiary or the income and resources of any person who is financially responsible for the cost of the beneficiary's health care, including the filing of a lien against the property of the beneficiary or the person who is financially responsible.

(l) Benefits received by beneficiaries under the County Medical Services Program are in excess of and secondary to any form of health care coverage,, In pursuit of cost containment measures and to ensure monies are available to meet Program costs and fund appropriate reserves, the Governing Board shall take action to recover from certain third parties the reasonable value of benefits where appropriate as follows:

(1) As used in this Section 8(l):

(A) "Carrier" includes any insurer (i) as defined in Section 23 of the California Insurance Code authorized to insure persons against liability or injuries caused to another or (ii) providing benefits under a policy of bodily injury liability insurance covering liability arising out of the ownership, maintenance or use of a motor vehicle which provides uninsured motorist endorsement or coverage pursuant to Section 11580.2 of the Insurance Code.

(B) "Beneficiary" means any person who has received benefits or will be provided benefits under the County Medical Services Program because of an injury for which another person or party may be liable. The term "beneficiary" includes such beneficiary's guardian, conservator, other personal representative, estate, dependents, survivors or trustees of any trust in which the recipient is or was the settlor.

(C) "Reasonable value of benefits" means the County Medical Services Program rate of payment for the services rendered attributable to the date such services were rendered.

(2) When benefits are provided or will be provided to a beneficiary because of an injury for which another person is liable, or for which a carrier is liable in accordance with the provisions of any policy of insurance issued pursuant to Insurance Code Section 11580.2 or similar law, the Governing Board shall have a right to recover from such person or carrier the reasonable value of benefits so provided. The Governing Board may, to enforce such right, institute and prosecute legal proceedings against any third person or carrier that may be liable for the injury in an appropriate court, either in the name of the Governing Board or in the name of the injured person or beneficiary, to perfect a lien to secure reimbursement for the reasonable value of benefits so provided.

(A) No action taken on behalf of the Governing Board pursuant to this Section or any judgment rendered in such action shall be a bar to any action upon the claim or cause of action of the beneficiary or operate to deny to the beneficiary the recovery for that portion of any damages not covered hereunder.

(B) Where an action is brought by the Governing Board pursuant to this Section 8(l), it shall be commenced within the period prescribed by law. The death of the beneficiary does not abate any right of action established by this Section 8(l).

(C) When an action or claim is brought by persons entitled to bring such actions or assert such claims against a third party who may be liable for causing the death of a beneficiary, any settlement, judgment or award obtained is subject to the Governing Board's right to recover from that party the reasonable value of the benefits provided to the beneficiary under the County Medical Services Program, as provided in Section 8(l)(2)(E).

(3) If an action or claim against a liable third person or carrier is filed:

(A) If either the beneficiary or the Governing Board sues a third person or carrier the beneficiary or the Governing Board shall within 30 days of filing the action give to the other written notice by personal service or registered mail of the suit and a copy of the pleading. Proof of notice shall be filed in such action or claim. If the Governing Board or the beneficiary sues, the other may, at any time before trial on the facts, become a party to, or consolidate the action or claim with that of the other if brought independently.

(B) If the Governing Board sues pursuant to Section 8(l), it shall give written notice to the beneficiaries to advise them of their right to intervene in the proceeding, their right to obtain a private attorney of their choice, and the Governing Board's right to recover the reasonable value of the benefits provided.

(C) If the beneficiary sues the third person who may be liable for the injury, notice of institution of legal proceedings, notice of settlement and all other notices required by this Section shall be given to the Governing Board. All such notices shall also be given by carriers having liability for the beneficiary's claim, and by the attorney retained to assert the beneficiary's claim, or by the injured party..

(D) When the Governing Board has or may have an interest, no judgment, award, or settlement in any action or claim by a beneficiary to recover damages for injuries shall be satisfied without first giving the Governing Board notice and a reasonable opportunity to perfect and satisfy its lien.

(E) When the Governing Board has perfected a lien upon a judgment or award in favor of a beneficiary against any third party for an injury for which the beneficiary has received benefits under the County Medical Services Program, the Governing Board shall be entitled to a writ of execution as lien claimant to enforce payment of the lien against with interest and other costs as in the case of other executions. If the amount of such judgment or award so recovered has been paid to the beneficiary, the Governing Board shall be entitled to a writ of execution against such beneficiary to the extent of the Governing Board's lien, with interest and other accruing costs as in the case of other executions.

(m) Benefits received by beneficiaries under the County Medical Services Program are in excess of and secondary to any other form of health care benefits coverage. In pursuit of cost containment measures and to ensure monies are available to meet Program costs and fund appropriate reserves, the Governing Board shall take action to recover from the estate of a deceased beneficiary or any recipient of such beneficiary's property by distribution or survival the reasonable value of benefits where appropriate as follows:

(1) The Governing Board shall have a right to recover and may claim against the estate of a deceased beneficiary, or against any recipient of such beneficiary's property by distribution or survival, or by the terms of a trust, an amount equal to the payments for services provided to the deceased beneficiary under the County Medical Services Program. The Governing Board may, to enforce such right, institute and prosecute legal proceedings against the estate of a deceased beneficiary or any recipient of such beneficiary's property by distribution or survival, or by the terms of a trust, and file and perfect a lien to secure reimbursement for the services so provided.

(2) The Governing Board may, within its sole discretion, compromise, settle or release any such claim or waive any such claim, in whole or in part, for the convenience of the Governing Board, or if the Governing Board determines that collection would result in undue hardship upon the deceased's surviving spouse or heirs.

(3) Within ninety (90) days of the date of death of a beneficiary who received or may have received County Medical Services Program benefits, the attorney for the estate, or if there is no attorney, the personal representative, the person in possession of property of the decedent, the decedent's surviving spouse, devisees, heirs, or the trustee of any trust in which the recipient is the settlor, shall give notice to the Governing Board of the decedent's death. The notice shall include a copy of the decedent's death certificate.

(4) The Governing Board shall provide written notice informing the person who provided the notice in Section 8(m)(3) of the right to apply for a waiver due to undue hardship or to contest the Governing Board's claim against the estate of the decedent.

(5) An applicant must file its application for a waiver or to contest the Governing Board's claim within sixty (60) days from the date stated on the Governing Board's notice to submit an application.

(6) No estate shall be settled where the Governing Board has an interest without first giving the Governing Board notice and a reasonable opportunity to perfect and satisfy its lien. When the Governing Board has perfected a lien upon an estate of a beneficiary who received benefits under the County Medical Services Program, the Governing Board shall be entitled to a writ of execution as lien claimant to enforce payment of said lien with interest and other costs as in the case of other executions. If estate assets have been distributed, the Governing Board shall be entitled to a writ of execution against the recipients of such distribution to the extent of the Governing Board's lien, with interest and other costs as in the case of other executions.

Section 9. Liabilities

(a) A participating county shall be liable for eligibility errors caused through its failure to determine eligibility in accordance with the criteria and procedures established in the County Medical Services Program Contract and CMSP Eligibility Manual, as amended from time to time.

(b) If errors as specified in (a) result in the placement of otherwise ineligible persons in the County Medical Services Program or reporting of ineligible persons as eligible, the county shall reimburse the Governing Board for the resulting funds expended by the Governing Board for the provision of health services. The Governing Board shall deposit any repaid funds in the County Medical Services Program Account.

(c) The Governing Board and each county participating in the County Medical Services Program, and any contracting party during the term of any contract with the Governing Board for the administration of the County Medical Services Program, shall be individually responsible for fees and costs resulting from court suits and proceedings involving the County Medical Services Program. Liability for fees and costs resulting from legal action and legal proceedings involving the County Medical Services Program shall be consistent with Welfare and Institutions Code Section 16809.4.

Section 10. Reporting

(a) The Governing Board and counties participating in the County Medical Services Program, and any contracting party during the term of any contract with the Governing Board for the administration of the County Medical Services Program, shall establish and maintain systems to collect data and report information on the administration and eligibility determinations of the County Medical Services Program.

(1) The Governing Board will issue periodic reports to each participating county.

(2) Each county shall report to the Governing Board all eligibility determinations in accordance with procedures in the CMSP Eligibility Manual specified in Section 5(d).

(3) Each county shall maintain and retain eligibility records for a period of four years of all eligibility determinations that result in residents' eligibility certification for services in the County Medical Services Program.

(b) A county participating in the County Medical Services Program may request special reports containing data the Governing Board collects and maintains pertaining to the County Medical Services Program. The county shall pay for any costs incurred by the Governing Board in producing such reports.

Section 11. Pilot Projects Generally

(a) Governing Board has the discretion to establish and maintain pilot projects to identify or test alternative approaches to the delivery of health care services and to evaluate methods and implement strategies to contain costs and maximize resources. Such alternative approaches may include various levels and models of eligibility, benefits, manner of and payment for services, delivery of health care services, administration of County Medical Services Program or other programs and products, and efforts to explore and implement efficiencies and maximize resources. Pilot projects are an important method to assist Governing Board in its efforts to reduce expenditures and remain within available funds to ensure the continued operation and effectiveness of Governing Board's programs.

(b) Governing Board shall have the discretion to establish and maintain pilot projects that do not have uniform eligibility criteria and benefits.

(c) In the development, implementation and conduct of pilot projects, Governing Board shall have all the powers and authorities provided to Governing Board in its administration of County Medical Services Program pursuant to Welfare and Institutions Code Sections 16809 et seq. and these regulations.

(d) Pilot projects shall be limited in time, geography, characteristics of beneficiaries, and other respects as determined in the discretion of the Governing Board. Any change in County Medical Services Program eligibility criteria, benefits or payment rates or provider payment methods pertaining to the pilot project shall be temporary for the duration of the pilot project and limited to the scope and geographic area of the pilot project. Eligibility criteria shall revert to the County Medical Services Program eligibility criteria, benefits or payment rates or provider payment methods in effect at the time of termination of any pilot project.

(e) Governing Board has the discretion to use funds in the County Medical Services Program Account to fund pilot projects, pay for health care services provided to the persons meeting the eligibility criteria established by Governing Board for pilot projects and to pay Governing Board expenses and program administrative costs attributable to pilot projects.

Section 12. Alternative Products

(a) Governing Board has the discretion to develop and implement alternative products outside of the County Medical Services Program for counties contracting with Governing Board for those products, provided that any such products shall be funded separately from the County

Medical Services Program and shall not impair the financial stability of that Program. Governing Board has the discretion to develop and implement various programs and services for the benefit of such contracting county and Governing Board that include the delivery of health care or health care related services or any other similar services within the capacity of Governing Board.

(b) Governing Board has the discretion to establish and maintain alternative products that do not have uniform eligibility criteria and benefits.

(c) In the development, implementation and conduct of alternative products, Governing Board shall have all the powers and authorities provided to Governing Board in its administration of County Medical Services Program pursuant to Welfare and Institutions Code Sections 16809 et seq. and these regulations.

(d) Public meetings as provided by Welfare and Institutions Code Section 16809.4(h) shall not be required with regard to the Governing Board's development, implementation or termination of alternative products or under any circumstances pertaining to alternative products.

(e) Governing Board shall have the discretion to enter into a contract with a county or counties to provide specified alternative products and administer such alternative products pursuant to such contract and Governing Board policies established to address such alternative products.

Section 13. Regulations Generally

(a) The County Medical Services Program Governing Board regulations include citations to the most relevant statutory and other references that the Governing Board is implementing, interpreting or making specific. The Governing Board does not limit itself to these citations as the sole sources for these Regulations and reserves the right to identify other relevant statutes and authorities.

NOTE

Principal authorities cited for County Medical Services Program Regulation:
Sections 16809 and 16809.4 of the California Welfare and Institutions Code.