

CALIFORNIA CODES  
WELFARE AND INSTITUTIONS CODE  
SECTION 16809

**16809.** (a) (1) The board of supervisors of a county that contracted with the department pursuant to Section 16709 during the 1990-91 fiscal year and any county with a population under 300,000, as determined in accordance with the 1990 decennial census, by adopting a resolution to that effect, may elect to participate in the County Medical Services Program. The governing board shall have responsibilities for specified health services to county residents certified eligible for those services by the county.

(2) The board of supervisors of a county that has contracted with the governing board pursuant to paragraph (1) may also contract with the governing board for the delivery of health care and health-related services to county residents other than under the County Medical Services Program by adopting a resolution to that effect. The governing board shall have responsibilities for the delivery of specified health services to county residents as agreed upon by the governing board and the county. Participation by a county pursuant to this paragraph shall be voluntary, and funds shall be provided solely by the county.

(b) The governing board may contract with the department or any other person or entity to administer the County Medical Services Program.

(1) If the governing board contracts with the department to administer the County Medical Services Program, that contract shall include, but need not be limited to, all of the following:

(A) Provisions for the payment to participating counties for making eligibility determinations as determined by the governing board.

(B) Provisions for payment of expenses of the governing board.

(C) Provisions relating to the flow of funds from counties' vehicle license fees, sales taxes, and participation fees and the procedures to be followed if a county does not pay those funds to the program.

(D) Those provisions, as applicable, contained in the 1993-94 fiscal year contract with counties under the County Medical Services Program.

(E) Provisions for the department to administer the County Medical Services Program pursuant to regulations adopted by the governing board or as otherwise determined by the governing board.

(F) Provisions requiring that the governing board reimburse the state costs of providing administrative support to the County Medical Services Program in accordance with amounts determined between the governing board and the department.

(2) If the governing board does not contract with the department for administration of the County Medical Services Program, the governing board may contract with the department for specified services to assist in the administration of that program. Any contract with the department under this paragraph shall require that the governing board reimburse the state costs of providing administrative support.

(3) The department shall not be liable for any costs related to decisions of the governing board that are in excess of those set forth in the contract between the department and the governing board.

(c) Each county intending to participate in the County Medical Services Program pursuant to this section shall submit to the governing board a notice of intent to contract adopted by the board of supervisors no later than April 1 of the fiscal year preceding the fiscal year in which the county will participate in the County Medical Services Program.

(d) A county participating in the County Medical Services Program pursuant to this section, or a county contracting with the governing board pursuant to paragraph (2) or (3) of subdivision (a), or participating in a pilot project or contracting with the governing board for an alternative product pursuant to Section 16809.4, shall not be relieved of its indigent health care obligation under Section 17000.

(e) (1) The County Medical Services Program Account is established in the County Health Services Fund. The County Medical Services Program Account is continuously appropriated, notwithstanding Section 13340 of the Government **Code**, without regard to fiscal years. The following amounts may be deposited in the account:

(A) Any interest earned upon money deposited in the account.

(B) Moneys provided by participating counties or appropriated by the Legislature to the account.

(C) Moneys loaned pursuant to subdivision (n).

(2) The methods and procedures used to deposit funds into the account shall be consistent with the methods used by the program during the 1993-94 fiscal year, unless otherwise determined by the governing board.

(f) Moneys in the program account shall be used by the governing board, or by the department if the department contracts with the governing board for this purpose, to pay for health care services provided to the persons meeting the eligibility criteria established pursuant to subdivision (j) and to pay the governing board expenses and program administrative costs. In addition, moneys in this account may be used to reimburse the department for state costs pursuant to subparagraph (F) of paragraph (1) of subdivision (b).

(g) (1) Moneys in this account shall be administered on an accrual basis and notwithstanding any other provision of law, except as provided in this section, shall not be transferred to any other fund or account in the State Treasury except for purposes of investment as provided in Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government **Code**.

(2) (A) All interest or other increment resulting from the investment shall be deposited in the program account, notwithstanding Section 16305.7 of the Government **Code**.

(B) All interest deposited pursuant to subparagraph (A) shall be available to reimburse program-covered services, governing board expenses, and program administrative costs.

(h) The governing board shall establish a reserve account for the purpose of depositing funds for the payment of claims and unexpected contingencies. Funds in the reserve account in excess of the amounts the governing board determines necessary for these purposes shall be available for expenditures in years when program expenditures exceed program funds, and to augment the rates, benefits, or eligibility criteria under the program.

(i) (1) Counties shall pay participation fees as established by the governing board and their jurisdictional risk amount in a method that is consistent with that established in the 1993-94 fiscal year.

(2) A county may request, due to financial hardship, the payments under paragraph (1) be delayed. The request shall be subject to approval by the governing board.

(3) Payments made pursuant to this subdivision shall be deposited in the program account, unless otherwise directed by the governing board.

(4) Payments may be made as part of the deposits authorized by the county pursuant to Sections 17603.05 and 17604.05.

(j) (1) (A) Beginning in the 1992-93 fiscal year and for each fiscal year thereafter, counties and the state shall share the risk for cost increases of the County Medical Services Program not funded through other sources. The state shall be at risk for any cost that exceeds the cumulative annual growth in dedicated sales tax and vehicle license fee revenue, up to the amount of twenty million two hundred thirty-seven thousand four hundred sixty dollars (\$20,237,460) per fiscal year, except for the 1999-2000, 2000-01, 2001-02, 2002-03, 2003-04, 2004-05, 2005-06, and 2006-07 fiscal years. Counties shall be at risk up to the cumulative annual growth in the Local Revenue Fund created by Section 17600, according to the table specified in paragraph (2), to the County Medical Services Program, plus the additional cost increases in excess of twenty million two hundred thirty-seven thousand four hundred sixty dollars (\$20,237,460) per fiscal year, except for the 1999-2000, 2000-01, 2001-02, 2002-03, 2003-04, 2004-05, 2005-06, and 2006-07 fiscal years.

(B) For the 1999-2000, 2000-01, 2001-02, 2002-03, 2003-04, 2004-05, 2005-06, and 2006-07 fiscal years, the state shall not be at risk for any cost that exceeds the cumulative annual growth in dedicated sales tax and vehicle license fee revenue. Counties shall be at risk up to the cumulative annual growth in the Local Revenue Fund created by Section 17600, according to the table specified in paragraph (2), to the County Medical Services Program, plus any additional cost increases for the 1999-2000, 2000-01, 2001-02, 2002-03, 2003-04, 2004 -05, 2005-06, and 2006-07 fiscal years.

(C) (i) The governing board shall establish uniform eligibility criteria and benefits among all counties participating in the County Medical Services Program listed in paragraph (2). For counties that are not listed in paragraph (2) and that elect to participate pursuant to paragraph (1) of subdivision (a), the eligibility criteria and benefit structure may vary from those of counties participating pursuant to paragraph (2) of subdivision (a).

(ii) Notwithstanding clause (i), the governing board may establish and maintain pilot projects to identify or test alternative approaches for determining eligibility or for providing or paying for benefits under the County Medical Services Program, and may develop and implement alternative products with varying levels of eligibility criteria and benefits outside of the County Medical Services Program.

(2) For the 1991-92 fiscal year, and each year thereafter, jurisdictional risk limitations shall be as follows:

Jurisdiction	Amount
Alpine.....	\$ 13,150
Amador.....	620,264
Butte.....	5,950,593
Calaveras.....	913,959

Colusa.....	799,988
Del Norte.....	781,358
El Dorado.....	3,535,288
Glenn.....	787,933
Humboldt.....	6,883,182
Imperial.....	6,394,422
Inyo.....	1,100,257
Kings.....	2,832,833
Lake.....	1,022,963
Lassen.....	687,113
Madera.....	2,882,147
Marin.....	7,725,909
Mariposa.....	435,062
Mendocino.....	1,654,999
Modoc.....	469,034
Mono.....	369,309
Napa.....	3,062,967
Nevada.....	1,860,793
Plumas.....	905,192
San Benito.....	1,086,011
Shasta.....	5,361,013
Sierra.....	135,888
Siskiyou.....	1,372,034
Solano.....	6,871,127
Sonoma.....	13,183,359
Sutter.....	2,996,118
Tehama.....	1,912,299
Trinity.....	611,497
Tuolumne.....	1,455,320
Yuba.....	2,395,580

(3) Beginning in the 1991-92 fiscal year and in subsequent fiscal years, the jurisdictional risk limitation for the counties that did not contract with the department pursuant to Section 16709 during the 1990-91 fiscal year shall be the amount specified in subparagraph (A) plus the amount determined pursuant to subparagraph (B), minus the amount specified by the governing board as participation fees.

(A)

Jurisdiction	Amount
Merced.....	2,033,729
Placer.....	1,338,330
San Luis Obispo.....	2,000,491
Santa Cruz.....	3,037,783
Yolo.....	1,475,620

(B) The amount of funds necessary to fully fund the anticipated costs for the county shall be determined by the governing board before a county is permitted to participate in the County Medical Services Program.

(4) The specific amounts and method of apportioning risk to each participating county may be adjusted by the governing board.

(k) The Legislature hereby determines that an expedited contract process for contracts under this section is necessary. Contracts under this section shall be exempt from Part 2 (commencing with

Section 10100) of Division 2 of the Public Contract **Code**. Contracts of the department pursuant to this section shall have no force or effect unless they are approved by the Department of Finance.

(l) The state shall not incur any liability except as specified in this section.

(m) Third-party recoveries for services provided under this section may be pursued.

(n) The Department of Finance may authorize a loan of up to thirty million dollars (\$30,000,000) for deposit into the program account to ensure that there are sufficient funds available to reimburse providers and counties pursuant to this section.

(o) Moneys appropriated from the General Fund to meet the state risk, as set forth in subparagraph (A) of paragraph (1) of subdivision (j), shall not be available for those counties electing to disenroll from the County Medical Services Program.

**16809.3.** (a) Beginning in the 1991-92 fiscal year, and in subsequent fiscal years, a county shall pay the amount listed below or as established by the governing board pursuant to subparagraph (B) of paragraph (1) of subdivision (e) of Section **16809.4**, to the governing board as a condition of participation in the County Medical Services Program administered pursuant to Section **16809**:

Jurisdiction	Amount
Alpine.....	\$ 661
Amador.....	17,107
Butte.....	459,610
Calaveras.....	30,401
Colusa.....	28,997
Del Norte.....	39,424
El Dorado.....	233,492
Glenn.....	33,989
Humboldt.....	430,851
Imperial.....	249,786
Inyo.....	18,950
Kings.....	195,053
Lake.....	150,278
Lassen.....	17,206
Madera.....	151,434
Marin.....	576,233
Mariposa.....	5,649
Mendocino.....	247,578
Modoc.....	9,688
Mono.....	25,469
Napa.....	142,767
Nevada.....	42,051
Plumas.....	23,796
San Benito.....	37,018
Shasta.....	294,369
Sierra.....	6,183
Siskiyou.....	48,956
Solano.....	809,548
Sonoma.....	718,947
Sutter.....	188,781

Tehama.....	79,950
Trinity.....	8,319
Tuolumne.....	34,947
Yuba.....	101,907

(b) Beginning in the 1991-92 fiscal year and in subsequent fiscal years, counties that did not contract with the department pursuant to Section 16709 during the 1990-91 fiscal year shall pay the following amount listed below or as established by the governing board pursuant to subparagraph (B) of paragraph (1) of subdivision (e) of Section **16809.4**, to the governing board as a condition of participation in the County Medical Services Program, administered pursuant to Section **16809**:

Jurisdiction	Amount
Merced.....	488,954
Placer.....	247,193
San Luis Obispo.....	358,571
Santa Cruz.....	678,868
Yolo.....	532,510

(c) (1) County amounts specified in subdivisions (a) and (b) shall be paid to the governing board in 12 equal monthly payments or as otherwise specified by the governing board. Subject to paragraphs (2) and (3), a county that does not pay the amounts specified in subdivision (a) or (b) may be terminated from participation in the program.

(2) A county may request, due to financial hardship, that payments specified under subdivisions (a) and (b) be delayed. The request shall be subject to the approval of the governing board.

(3) For the 1991-92 fiscal year and subsequent fiscal years, counties that enter the County Medical Services Program shall pay the amount specified in subdivision (a) or (b), as applicable, on a prorated basis, for the number of contracted months of participation in the County Medical Services Program.

(d) The payments required by subdivision (c) shall not be paid for with funds from the health account of the local health and welfare trust fund established pursuant to Section 17600.10.

**16809.4.** (a) Counties voluntarily participating in the County Medical Services Program pursuant to Section **16809** may establish the County Medical Services Program Governing Board pursuant to procedures contained in this section. The governing board shall govern the County Medical Services Program.

(b) The membership of the governing board shall be comprised of all of the following:

(1) Three members who shall each be a member of a county board of supervisors.

(2) Three members who shall be county administrative officers.

(3) Two members who shall be county welfare directors.

(4) Two members who shall be county health officials.

(5) One member who shall be the Secretary of the Health and Welfare Agency, or his or her designee, and who shall serve as an ex

officio, nonvoting member.

(c) The governing board may establish its own bylaws and operating procedures.

(d) The voting membership of the governing board shall meet all of the following requirements:

(1) All of the members shall hold office or employment in counties that participate in the County Medical Services Program.

(A) The three county supervisor members shall be elected by the boards of supervisors of the CMSP counties, with each county having one vote and convened at the call of the chair of the governing board.

(B) The three county administrative officers shall be elected by the administrative officers of the CMSP counties convened at the call of the chair of the governing board.

(C) The two county health officials shall be selected by the health officials of the CMSP counties convened at the call of the chair of the governing board.

(D) The two county welfare directors shall be elected by the welfare directors of the CMSP counties convened at the call of the chair of the governing board.

(2) Governing board members shall serve three-year terms.

(3) No two persons from the same county may serve as members of the governing board at the same time.

(4) The governing board may elect a permanent chair.

(e) (1) The governing board is hereby established with the following powers:

(A) Determine program eligibility and benefit levels.

(B) Establish reserves and participation fees.

(C) Establish procedures for the entry into, and disenrollment of counties from the County Medical Services Program. Disenrollment procedures shall be fair and equitable.

(D) Establish cost containment and case management procedures, including, but not limited to, alternative methods for delivery of care and alternative methods and rates from those used by the department.

(E) Sue and be sued in the name of the governing board.

(F) Apportion jurisdictional risk to each county.

(G) Utilize procurement policies and procedures of any of the participating counties as selected by the governing board.

(H) Make rules and regulations.

(I) Make and enter into contracts or stipulations of any nature with a public agency or person for the purposes of governing or administering the County Medical Services Program.

(J) Purchase supplies, equipment, materials, property, or services.

(K) Appoint and employ staff to assist the governing board.

(L) Establish rules for its proceedings.

(M) Accept gifts, contributions, grants, or loans from any public agency or person for the purposes of this program.

(N) Negotiate and set rates, charges, or fees with service providers, including alternative methods of payment to those used by the department.

(O) Establish methods of payment that are compatible with the administrative requirements of the department's fiscal intermediary during the term of any contract with the department for the administration of the County Medical Services Program.

(P) Use generally accepted accounting procedures.

(Q) Develop and implement procedures and processes to monitor and enforce the appropriate billing and payment of rates, charges, and fees.

(R) Investigate and pursue repayment of fees billed and paid through improper means, including, but not limited to, fraudulent billing and collection practices by providers.

(S) Pursue third-party recoveries and estate recoveries for services provided under the County Medical Services Program, including the filing and perfecting of liens to secure reimbursement for the reasonable value of benefits provided.

(T) Establish and maintain pilot projects to identify or test alternative approaches for determining eligibility or for providing or paying for services.

(U) Establish provisions for payment to participating counties for making eligibility determinations, as determined by the governing board.

(V) Develop and implement alternative products with varying levels of eligibility criteria and benefits outside of the County Medical Services Program for counties contracting with the 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.

(2) The Legislature finds and declares that the amendment of subparagraph (N) of paragraph (1) in 1995, and the addition of subparagraphs (Q), (R), (S), (T), and (U) in 2006, are declaratory of existing law.

(f) (1) The governing board shall be considered a "public entity" for purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government **Code**, and a "local public entity" for purposes of Part 3 (commencing with Section 900) of Division 3.6 of Title 1 of the Government **Code**, but shall not be considered a "state agency" for purposes of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government **Code** and shall be exempt from that chapter. No participating county shall have any liability for civil judgments awarded against the County Medical Services Program or the governing board. Nothing in this paragraph shall be construed to expand the liability of the state with respect to the County Medical Services Program beyond that set forth in Section **16809**. Nothing in this paragraph shall be construed to relieve any county of the obligation to provide health care to indigent persons pursuant to Section 17000, or the obligation of any county to pay its participation fees and share of apportioned and allocated risk.

(2) Before initiating any proceeding to challenge rates of payment, charges, or fees set by the governing board, to seek reimbursement or release of any funds from the County Medical Services Program, or to challenge any other action by the governing board, any prospective claimant shall first notify the governing board, in writing, of the nature and basis of the challenge and the amount claimed. The governing board shall consider the matter within 60 days after receiving the notice and shall promptly thereafter provide written notice of the governing board's decision. If the governing board contracts with the department for administration of the program in accordance with Section **16809**, this paragraph shall have no application to provider audit appeals conducted pursuant to Article 1.5 (commencing with Section 51016) of Chapter 3 of Division 3 of Title 22 of the California **Code** of Regulations and shall apply to all claims not reviewed pursuant to Section 51003 or 51015 of

Title 22 of the California **Code** of Regulations.

(3) All regulations adopted by the governing board shall clearly specify by reference the statute, court decision, or other provision of law that the governing board is seeking to implement, interpret, or make specific by adopting, amending, or repealing the regulation.

(4) No regulation adopted by the governing board is valid and effective unless the regulation meets the standards of necessity, authority, clarity, consistency, and nonduplication, as defined in paragraph (5).

(5) The following definitions govern the interpretation of this subdivision:

(A) "Necessity" means the record of the regulatory proceeding that demonstrates by substantial evidence the need for the regulation. For purposes of this standard, evidence includes, but is not limited to, facts, studies, and expert opinion.

(B) "Authority" means the provision of law that permits or obligates the CMSP Governing Board to adopt, amend, or repeal a regulation.

(C) "Clarity" means that the regulation is written or displayed so that the meaning of the regulation can be easily understood by those persons directly affected by it.

(D) "Consistency" means being in harmony with, and not in conflict with, or contradictory to, existing statutes, court decisions, or other provisions of law.

(E) "Nonduplication" means that a regulation does not serve the same purpose as a state or federal statute or another regulation. This standard requires that the governing board identify any state or federal statute or regulation that is overlapped or duplicated by the proposed regulation and justify any overlap or duplication. This standard is not intended to prohibit the governing board from printing relevant portions of enabling legislation in regulations when the duplication is necessary to satisfy the clarity standard in subparagraph (C). This standard is intended to prevent the indiscriminate incorporation of statutory language in a regulation.

(g) The requirements of the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government **Code**) shall apply to the meetings of the governing board, including meetings held pursuant to subdivision (i), except the board may meet in closed session to consider and take action on matters pertaining to contracts and contract negotiations with providers of health care services.

(h) (1) The governing board shall comply with the following procedures for public meetings held to eliminate or reduce the level of services, restrict eligibility for services, or adopt regulations:

(A) Provide prior public notice of those meetings.

(B) Provide that notice not less than 30 days prior to those meetings.

(C) Publish that notice in a newspaper of general circulation in each participating CMSP county.

(D) Include in the notice, at a minimum, the amount and type of each proposed change, the expected savings, and the number of persons affected.

(E) Either hold those meetings in the county seats of at least four regionally distributed CMSP participating counties, or, alternatively, hold two meetings in Sacramento County.

(2) For meetings held outside Sacramento County, the requirements for public meetings pursuant to this subdivision to eliminate or reduce the level of services, or to restrict the eligibility for services or hear testimony regarding regulations to implement any of these service charges, are satisfied if at least three voting members of the governing board hold the meetings as required and report the testimony from those meetings to the full governing board at its next regular meeting. No action shall be taken at any meeting held outside Sacramento County pursuant to this paragraph.

(i) Records of the County Medical Services Program and of the governing board that relate to rates of payment or to the board's negotiations with providers of health care services or to the governing board's deliberative processes regarding either shall not be subject to disclosure pursuant to the Public Records Act (Chapter 5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(j) The following definitions shall govern the construction of this part, unless the context requires otherwise:

(1) "CMSP" or "program" means the County Medical Services Program, which is the program by which health care services are provided to eligible persons in those counties electing to participate in the CMSP pursuant to Section 16809.

(2) "CMSP county" means a county that has elected to participate pursuant to Section 16809 in the CMSP.

(3) "Governing Board" means the County Medical Services Program Governing Board established pursuant to this section.

**16809.5.** (a) Funds appropriated for the purposes of this section shall be allocated on a monthly basis.

(b) Money allocated for the purposes of this section may be used to expand the scope of benefits, to fund special projects which alleviate problems of access to health and dental care under the County Medical Services Program and to compensate hospitals and other emergency health service providers for emergency treatment of out-of-county indigent patients and shall not be used to fund existing levels of service.

(c) Funds available from appropriations for the purposes of this chapter may be utilized to fund increased program costs due to caseload increases and provider rate increases.