

File No. 091358

Committee Item No. _____

Board Item No. 45

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Board of Supervisors Meeting

Date December 8, 2009

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | x | Resolution |
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| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form (for hearings) |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
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| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
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OTHER (Use back side if additional space is needed)

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Completed by: Annette Lonich Date December 2, 2009

Completed by: _____ Date _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document is in the file.



1 [Urging the San Francisco State Lobbyists to Facilitate the Implementation of AB1383]

2
3 **Resolution urging City of San Francisco Lobbyists to facilitate the implementation of**
4 **AB 1383, and establishing a general framework of the quality assurance fee and**
5 **increased Medi-Cal payments to hospitals.**

6
7 WHEREAS, The Department of Public Health serves some of San Francisco's most
8 vulnerable populations through programs like Healthy San Francisco ; and

9 WHEREAS, The Department of Public Health is deskilling and or laying off certified
10 nursing assistants and clerical workers to solve budget shortfalls; and,

11 WHEREAS, AB 1383 increases Medi-Cal payments for in and outpatient services to
12 public hospitals.

13 FURTHER RESOLVED, The Board of Supervisors urges the City of San Francisco
14 Lobbyists to facilitate the implementation of AB 1383.

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BILL ANALYSIS

AB 1383
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Date of Hearing: May 20, 2009

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Kevin De Leon, Chair

AB 1383 (Jones) - As Amended: May 14, 2009

Policy Committee: Health Vote:15-0

Urgency: Yes State Mandated Local Program:
Yes Reimbursable: No

SUMMARY

This bill establishes a coverage dividend (quality assurance fee, QAF) on California hospitals through December 31, 2010 to leverage federal financial participation (FFP) and to increase Medi-Cal payments to hospitals while enhanced FFP (62% instead of 50% of total Medi-Cal costs) is available under the American Recovery and Reinvestment Act (ARRA). Specifically, this bill:

- 1) Establishes a general framework for the QAF and increased Medi-Cal payments to hospitals, but does not establish the specific methodologies of collection or allocation. When specifics are established, this bill will require the Department of Health Care Services (DHCS) to calculate the amount of the fee for each hospital, place revenue from the fee in a special fund, and only allow the funding to be used only to increase Medi-Cal payments and to expand coverage to uninsured children.
- 2) Establishes a QAF on hospitals statewide (except UC medical centers and county hospitals) to increase payments pursuant to this bill.
- 3) Requires DHCS to seek federal approval or waivers to maximize FFP pursuant to this bill.
- 4) Requires implementation only if these conditions are met:
 - a) The fee established is consistent with this bill.
 - b) The fee is deposited in a segregated fund, apart from the General Fund (GF).
 - c) The proceeds of the fee are only used for the purposes set forth in this bill.

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- 5) Contains additional requirements, authorizations, prohibitions, and poison pills to provide uniform implementation, flexibility, and maximum funding effect.

FISCAL EFFECT

- 1) A one-time increase of \$4 billion (38% hospital QAF/62% federal) to \$5 billion (38% hospital QAF/62% federal) paid to hospitals through December 2010 in the form of increased Medi-Cal payments for in-patient and outpatient services. This estimate assumes hospitals subject to the QAF will contribute \$1.8 billion (100% hospital QAF) to be matched with FFP at the enhanced ARRA rate of 62%, for a total Medi-Cal payment increase of \$4.7 billion (50% QAF/50% federal) through December 2010.
- 2) A drafting error contained in this bill mismatches the timeline for assessing the QAF on hospitals and the increased payment of Medi-Cal FFP. The QAF is established through December 2010, but several provisions of the bill could remain in effect until the end of 2012. Therefore major GF pressures of up to \$10 billion, combined, are created for calendar years 2011 and 2012.
- 3) In addition to GF pressures created by mismatched timelines between QAF and Medi-Cal payment increases in this bill, the creation of a major new funding mechanism to draw down billions in FFP creates major GF pressure when the QAF sunsets. GF pressure is created to continue Medi-Cal increases and to continue coverage expansions for children initially funded by the QAF.
- 4) One-time increase of \$300 million (38% hospital QAF/62% federal) to expand coverage to 300,000 uninsured children.
- 5) One-time staffing costs of \$200,000 (50% GF) to DHCS for the duration of the QAF established by this bill.

COMMENTS

- 1) Rationale . This bill is co-sponsored by the California

Hospital Association (CHA), the California Children's Hospital Association (CCHA) and the Daughters of Charity health system. This bill establishes a framework for providing several

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billion dollars in increased Medi-Cal payments to hospitals until the end of 2010. Payments to hospitals account for 20% of total Medi-Cal spending under current law. According to the author, this bill maximizes funding opportunities generally available via federal Medicaid QAF and while funding enhancement is available under the American Recovery and Reinvestment Act (ARRA). Under the ARRA, California receives 62% FFP through 2010 instead of the typical 50% FFP. This bill, by establishing a QAF during the enhanced FMAP period, increases Medi-Cal payments to hospitals and provides additional coverage to uninsured children.

2)Medi-Cal Quality Assurance Fees . Federal law authorizes states to fund a portion of Medicaid through provider fees that meet federal requirements and are matched with FFP to pay providers without state funds. State QAF must be broad-based, uniform, and cannot hold a group of providers harmless with respect to fees levied. California currently has several QAF established via budget committee action and legislation. These QAF generate revenues for Medi-Cal managed care plans, skilled nursing facilities (SNF, nursing homes), and intermediate care facilities for the developmentally disabled (ICF-DD). Combined, these current law QAF generate an additional \$450 million per year.

3)Court Injunction Holds Hospitals Harmless . Following recently enacted Medi-Cal budget reductions in 2008 and 2009, several lawsuits by providers and stakeholders have been filed. In early April 2009, the California Hospital Association's request to be added to a current preliminary injunction was granted by the Ninth Circuit Court of Appeals. The injunction applies to four rate reductions: (a) inpatient services for non-contract hospitals, (b) outpatient services, (c) distinct part nursing facilities, and (d) subacute facilities. The injunction on rate issues to which hospitals have now been added has been in place for several months. The injunction is likely to remain in place for several more months.

4)Hospital Finance Landscape . Medi-Cal payment to hospitals depends on whether a hospital contracts with DHCS through the California Medical Assistance Commission (CMAC), if they qualify as a disproportionate share hospital (DSH), and whether they are a designated public hospital, a private hospital, or a district hospital. Fee-for-service Medi-Cal outpatient hospital rates are established in a DHCS fee

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schedule. The CMAC negotiates contracts with hospitals on behalf of DHCS for in-patient services under the Medi-Cal program. The CMAC selectively contracts on a competitive basis with hospitals for inpatient services provided to beneficiaries in the fee-for-service Medi-Cal program via the Selective Provider Contracting Program (SPCP). CMAC contracts with about 200 general acute care hospitals. Those hospitals that do not contract with CMAC, are non-contract hospitals.

5)Waiver Renewal in 2010 . California is approaching renewal of a five-year waiver with the federal government with respect to how Medi-Cal hospital payments are made. In 2005, a California waiver agreement with the federal government restructured the way Medi-Cal funding is used to fund in-patient hospital services. SB 1100 (Perata), Chapter 560, Statutes of 2005 implemented the related state law changes to increase overall funding levels while ensuring that no hospital lost funding as a result of the waiver. The waiver also sought to greatly reduce the use of intergovernmental transfers (IGTs), which resulted in "recycling", or establishing IGTs for the purposes of reducing or eliminating state or local contributions used to draw down federal funding. Annual funding to approximately 100 private not-for-profit hospitals participating in the waiver and caring for low-income and indigent patients is approximately \$2 billion. Annual funding to 22 public hospitals statewide under the waiver totals \$2.3 billion.

6)Details of Fee and Payouts Pending . This bill establishes a general framework for establishing the QAF, increasing Medi-Cal payments to hospitals, and expanding coverage for uninsured children. However, numerous details are to be determined on how the fee would be imposed (e.g.: per day, per visit, capped, aggregate revenues, by payer type) and the payment allocation methodology (e.g., facility level, patient level, aggregate payment, capped, donors, contributors).

In addition, there are numerous and complex interactions possible with respect to recent budget actions, judicial determinations about current litigation, and the pending waiver negotiations for 2010-2015 federal payments. Also the May Revision proposes to reduce the Healthy Families Program (HFP) family income eligibility from 250% federal poverty level (FPL) to 200% FPL, eliminating coverage for 225,000 children currently covered. Therefore, AB 1383, if enacted, may simply backfill HFP coverage for recently uninsured

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children, rather than actually expanding coverage.

7)Related Legislation . AB 511 (De La Torre), also being heard in this committee today, establishes a 5.5% quality assurance fee (QAF) on ambulance transportation services providers until 2015-16 to increase transportation rates paid on behalf of Medi-Cal patients.

AB 342 (Bass), pending on the Assembly Floor, requires DHCS to establish a new Medi-Cal hospital financing waiver, under Section 1115 of the federal Social Security Act replace hospital financing provisions established by SB 1100 (Perata), Chapter 560, Statutes of 2005.

Analysis Prepared by : Mary Ader / APPR. / (916) 319-2081

INTRODUCTION FORM

By a member of the Board of Supervisors or the Mayor

Time Stamp or
Meeting Date

I hereby submit the following item for introduction:

- 1. For reference to Committee:
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee
- 3. Request for Committee hearing on a subject matter.
- 4. Request for letter beginning "Supervisor _____ inquires..."
- 5. City Attorney request.
- 6. Call file from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File Nos.
- 9. Request for Closed Session
- 10. Board to Sit as A Committee of the Whole

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Ethics Commission
- Building Inspection Commission
- Youth Commission
- Planning Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a different form.]

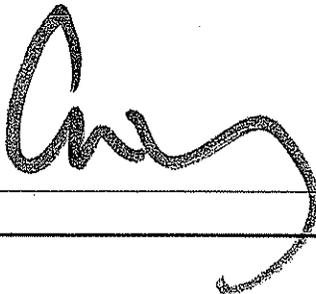
Sponsor(s): Supervisor Chris Daly

SUBJECT: Resolution Directing City of San Francisco lobbyists to facilitate the implementation of AB-1382, establishing a general framework for the quality assurance fee and increase Medi-Cal payments to hospitals

1383

The text is attached.

Signature of Sponsoring Supervisor: _____



For Clerk's Use Only:

- 1358

