

total amount of bad debt cost plus the total county indigent program effort cost reported in final form to the Department by all eligible hospitals for the same calendar year.

(s) “Percentage of hospital emergency care” means an eligible hospital's total emergency department encounters for the most recent calendar year for which such data has been reported to the Department in final form, as a percentage of all emergency department encounters reported in final form by all eligible hospitals for the same calendar year. In the case of a children’s hospital which does not operate an emergency department and provides emergency treatment to a patient under eighteen years of age under arrangements with an emergency department of a hospital that is: (1) located within one thousand (1,000) yards of the children’s hospital, and (2) is either (a) under common ownership or control with the children’s hospital or, (b) has contracted with the children’s hospital to provide emergency services to its patients under eighteen years of age, the children’s hospital providing emergency services to such patient shall receive credit for the emergency department encounter, and not the hospital operating the emergency department.

(t) “Joint Commission on Accreditation of Healthcare Organizations” means that certain independent, nonprofit organization that evaluates and accredits nearly 18,000 health care organizations and programs in the United States, including hospitals, home care agencies, nursing facilities, ambulatory care facilities, clinical laboratories, behavioral health care organizations, HMOs, and PPOs.

(u) “American Osteopathic Association” means that certain nonprofit national association representing osteopathic physicians which accredits hospitals, and whose accreditation of hospitals is accepted for participation in the federal Medicare program.

§ 1797.99i (a) The Department shall calculate each eligible hospital’s funding percentage to be used for the next calendar year and notify each eligible hospital of its proposed funding percentage and that for all hospitals by no later than September 30 of each year.

(b) The Department shall receive and review the accuracy and completeness of information submitted by eligible hospitals pursuant to Section 1797.99j. The Department shall develop a standard form to be utilized for reporting such information by eligible hospitals, but shall accept information from eligible hospitals which is not reported on such standard form.

(c) The Department shall notify each hospital submitting the information specified under section 1797.99j(a) in writing through a communication delivered by no later than April 30 of each year confirming the information it has from such hospital and of any apparent discrepancies in the accuracy, completeness, or legibility of information submitted by such eligible hospital pursuant to Section 1797.99j. Unless such written notice is timely delivered to an eligible hospital, the information it reports pursuant to Section 1797.99j shall be deemed to be complete and accurate, but it shall be subject to audit under subdivision (f)

(d) A hospital which receives notice from the Department that the information it reported was not accurate, complete, or legible shall have thirty (30) days from the date notice is received to provide the Department with corrected, completed, and legible information. Such corrected or

supplemental information shall be used by the Department to make the calculation required by subdivision (a) of this section, but shall be subject to audit under subdivision (f). A hospital that does not provide sufficient legible information to establish that it qualifies as an eligible hospital or to allow the Commission to make the calculation required under subdivision (a) of this section shall be deemed to not be an eligible hospital.

(e) The Department may enter into an agreement with the Office of Statewide Health Planning and Development or another state agency or private party to assist it in analyzing information reported by eligible hospitals and making the hospital funding allocation computations as provided under this chapter.

(f) The Department may conduct audits of the use by eligible hospitals of any funds received pursuant to Section 1797.991, and the accuracy of emergency department patient encounters and other information reported by eligible hospitals. If the Department determines upon audit that any funds received were improperly used, or that inaccurate data reported by the eligible hospital resulted in an allocation of excess funds to the eligible hospital, it shall recover any excess amounts allocated to, or any funds improperly used by, an eligible hospital. The Department may impose a fine of not more than twenty-five percent (25%) of any funds received by the eligible hospital that were improperly used, or the Department may impose a fine of not more than two (2) times any amounts improperly used or received by an eligible hospital if it finds such amounts were the result of gross negligence or intentional misconduct in reporting data or improperly using allocated funds under this chapter on the part of the hospital subject to determination of a court of final jurisdiction. In no event shall a hospital be subject to multiple penalties for both improperly using and receiving the same funds.

(g)(1) A licensed hospital owner shall have the right to appeal the imposition of any fine by the Department, or a determination by the Department that its hospital is not an eligible hospital, for any reason, or an alleged computational or typographical error by the Department resulting in an incorrect allocation of funds to its hospital under Section 1797.991. A hospital shall not be entitled to be reclassified as an eligible hospital or to have an increase in funds received under this chapter based upon subsequent corrections to its own final reporting of incorrect data used to determine funding allocations under this chapter.

(2) Any such appeal shall be before an administrative law judge employed by the Office of Administrative Hearings. The hearing shall be held in accordance with Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The decision of the administrative law judge shall be in writing; shall include findings of fact and conclusions of law; and shall be final. The decision of the administrative law judge shall be made within 60 days after the conclusion of the hearing and shall be effective upon filing and service upon the petitioner.

(3) The appeal rights of hospitals under this subdivision (g) shall not be interpreted to preclude any other legal or equitable relief that may be available.

(h) Any fines collected by the Department shall be deposited in the Hospital Account within the 911 Fund for allocation to eligible hospitals in accordance with the provisions of Section 1797.991. Such funds shall not be used for administrative costs, and shall be supplemental to, and shall not supplant, any other funds available to be allocated from such account to eligible hospitals.

(i) In the event it is determined upon a final adjudicatory decision that is no longer subject to appeal that a hospital has been incorrectly determined to not qualify as an eligible hospital, or was allocated an amount less than the amount to which it is entitled under Section 1797.991, the Department shall, from the next allocation of funds to hospitals under Section 1797.991, allocate to such hospital the additional amount to which it is entitled, and reduce the allocation to all other eligible hospitals pro rata.

§ 1797.99j(a) Each hospital seeking designation as an eligible hospital shall submit the following information to the Department by no later than March 15 of each year, commencing the first March 15 following the operative date of this Act:

- (1) The number of emergency department encounters taking place in its emergency department for the preceding calendar year;
- (2) The total amount of charity care costs of the hospital for the preceding calendar year;
- (3) The total amount of bad debt costs for the hospital for the preceding calendar year;
- (4) The total amount of county indigent program effort cost for the hospital for the prior calendar year;
- (5) A photocopy of its operating license from the state Department of Health Services or equivalent documentation establishing that it operates a licensed emergency department;
- (6) A declaration of commitment to provide emergency services as required by Section 1797.99k(a)(2).

(b) Both pediatric and adult patients shall be included in the data submitted. The accuracy of the data shall be attested to in writing by an authorized senior hospital official. No other data or information, other than identifying information, shall be required by the Department to be reported by eligible hospitals.

(c) Each hospital which receives a preponderance of its revenue from a single associated comprehensive group practice prepayment health care service plan shall report information required by this section for all patients, and not just for patients who are not enrolled in an associated health care service plan.

§ 1797.99k. An eligible hospital shall do all of the following throughout each calendar quarter in which it receives an allocation pursuant to Section 1797.991:

- (1) Maintain an operational emergency department available within its capabilities and licensure to provide emergency care and treatment, as required by law, to any pediatric or adult member of the public who has an emergency medical condition;