

ITEM 5
PROPOSED DECISION
AND

AMENDMENT TO PARAMETERS AND GUIDELINES

Education Code Section 48216 and Health and Safety Code Sections 120325, 120335, 120340, and 120375 as amended by Statutes 1978, Chapter 325; Statutes 1979, Chapter 435; Statutes 1982, Chapter 472; Statutes 1991, Chapter 984; Statutes 1992, Chapter 1300; Statutes 1994, Chapter 1172; Statutes 1995, Chapters 291 and 415; Statutes 1996, Chapter 1023; and Statutes 1997, Chapters 855 and 882;

California Code of Regulations, Title 17, Sections 6020, 6035, 6040, 6055, 6065, 6070, and 6075 (Register 90, No. 35; Register 80, Nos. 16, 34, 40; Register 86, No. 6; Register 96, No. 13; Register 97, Nos. 21, 37, 39)

As Modified by:
Statutes 2010, Chapter 434 (AB 354)

Immunization Records – Mumps, Rubella, and¹ Hepatitis B
98-TC-05 (14-MR-04)

Department of Finance, Requester

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¹ The title of this mandate has been renamed to add mumps and rubella, which have always been a part of the reimbursable program under *Immunization Records: Hepatitis B*, 98-TC-05 mandate.

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE MANDATE REDETERMINATION:
FIRST HEARING: ADEQUATE SHOWING
ON:

Education Code Section 48216 and
Health and Safety Code Sections
120325, 120335, 120340, and 120375;
as amended by Statutes 1978, Chapter
325; Statutes 1979, Chapter 435;
Statutes 1982, Chapter 472; Statutes
1991, Chapter 984; Statutes 1992,
Chapter 1300; Statutes 1994, Chapter
1172; Statutes 1995, Chapters 291 and
415; Statutes 1996, Chapter 1023; and
Statutes 1997, Chapters 855 and 882

California Code of Regulations, Title
17, Sections 6020, 6035, 6040, 6055,
6065, 6070, and 6075; as amended by
Register 90, No. 35; Register 80, Nos.
16, 34, and 40; Register 86, No. 6;
Register 96, No. 13; and Register 97,
Nos. 21, 37, and 39

As Alleged to be Modified by:

Statutes 2010, Chapter 434 (AB 354)

Filed on June 29, 2015

By the Department of Finance, Requester

Case No.: 14-MR-04

*Immunization Records – Hepatitis B
(98-TC-05)*

DECISION PURSUANT TO
GOVERNMENT CODE SECTION
17500, ET SEQ.; CALIFORNIA CODE
OF REGULATIONS, TITLE 2,
DIVISION 2, CHAPTER 2.5,
ARTICLE 7.

(Adopted January 22, 2016)

(Served January 26, 2016)

DECISION

The Commission on State Mandates (Commission) heard and decided this mandate redetermination during a regularly scheduled hearing on January 22, 2016. Rebecca Hamilton appeared on behalf of the Department of Finance (Finance).

Government Code section 17570 and section 1190 et seq. of the Commission’s regulations establish the mandate redetermination process. The law applicable to the Commission’s determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code section 17500 et seq., title 2, California Code of Regulations 1181 et seq., and related case law.

The Commission adopted the proposed decision by a vote of 6 to 0, and directed staff to notice a second hearing to determine whether to adopt a new test claim decision to supersede the previously adopted test claim decision as follows:

Member	Vote
Ken Alex, Director of the Office of Planning and Research	Yes
Richard Chivaro, Representative of the State Controller, Vice Chairperson	Yes
Mark Hariri, Representative of the State Treasurer	Yes
Sarah Olsen, Public Member	Yes
Eraina Ortega, Representative of the Director of the Department of Finance, Chairperson	Yes
Carmen Ramirez, City Council Member	Yes
Don Saylor, County Supervisor	Absent

Summary of Findings

The Commission finds that the Department of Finance (Finance) has made an adequate showing that the state’s liability pursuant to article XIII B, section 6(a) of the California Constitution, for the *Immunization Records – Hepatitis B*, 98-TC-05 mandate may be modified based on a subsequent change in law, such that Finance has a substantial probability of prevailing at the second hearing. Specifically, Health and Safety Code section 120335 has been amended by Statutes 2010, chapter 434 (AB 354) to remove the hepatitis B immunization as a condition by which a school district admits or advances a pupil to the seventh grade, effective July 1, 2011. This change in law appears to have removed the requirement to perform activities related to the conditional admission of seventh graders since, based on the plain language of the statute, admission is no longer conditional on proof of hepatitis B immunization. Pursuant to Government Code section 17570(b)(d)(4), the Commission will hold a second hearing to determine if a new test claim decision shall be adopted to supersede the previously adopted test claim decision.

COMMISSION FINDINGS

I. Chronology

- 08/24/2000 The Commission adopted the test claim statement of decision.¹
- 07/31/2003 The Commission adopted the parameters and guidelines.²
- 09/29/2010 Statutes 2010, chapter 434 was enacted and became effective January 1, 2011.

¹ Exhibit B, Test Claim Statement of Decision, 98-TC-05.

² Exhibit C, Parameters and Guidelines, 98-TC-05.

- 07/01/2011 Section 2 of Statutes 2010, chapter 434, which amends Health and Safety Code section 120335 by adding subdivision (c), became operative.
- 06/29/2015 Finance filed a request for redetermination on *Immunization Records – Hepatitis B*, 98-TC-05.³
- 08/04/2015 The State Controller’s Office (Controller) submitted written comments on the redetermination request.⁴
- 10/19/2015 Commission staff issued the draft proposed decision for the first hearing.⁵
- 10/29/2015 The Controller submitted written comments on the draft proposed decision for the first hearing, recommending no changes.⁶

II. Background

On August 24, 2000, the Commission adopted the Statement of Decision for the *Immunization Records - Hepatitis B* test claim, finding that the test claim statutes and regulations imposed a new program or higher level of service upon school districts within the meaning of article XIII B, section 6 of the California Constitution and costs mandated by the state pursuant to Government Code section 17514. The test claim statutes and regulations added mumps, rubella, and hepatitis B to the list of diseases an entering pupil must be immunized against, or show proof of a lawful exemption, prior to the pupil’s first admission into a school. Hepatitis B immunizations, or proof of a lawful exemption, were also required by the test claim statute for students entering the seventh grade on or after July 1, 1999. Section IV of the parameters and guidelines identifies the following reimbursable activities:

A. Proof of Immunizations for New Entrants: Kindergarteners and/or Out-of-State Transfers
(*Reimbursement period begins: July 1, 1997.*)

1. Request and review lawful exemption from, or proof of, immunization against mumps and rubella from each pupil seeking admission to school in the state for the first time. (Health & Saf. Code, §§ 120325, 120335(b), 120375(a); Cal. Code Regs., tit. 17, §§ 6020, 6065(b).)
2. Request and review lawful exemption from, or proof of, immunization against hepatitis B from each pupil entering specified institutions in the state for the first time at the kindergarten level after August 1, 1997. (Health & Saf. Code, §§ 120325, 120335(b), 120375(a); Cal. Code Regs., tit. 17, §§ 6020, 6065(b).)

B. Proof of Hepatitis B Immunizations for Students Entering Seventh Grade on or after July 1, 1999 (*Reimbursement Period begins: July 1, 1999.*)

³ Exhibit A, Request for Mandate Redetermination.

⁴ Exhibit D, Controller’s Comments on Request for Mandate Redetermination.

⁵ Exhibit E, Draft Proposed Decision, First Hearing.

⁶ Exhibit F, Controller’s Comments on Draft Proposed Decision, First Hearing.

1. Request and review lawful exemption from, or proof of, immunization against hepatitis B from each pupil advancing to the seventh grade on or after July 1, 1999. (Health & Saf. Code, §§ 120325, 120335(c); Cal. Code Regs., tit. 17, §§ 6020, 6065(b).)

C. Conditional Admission of Pupils and Parent Notification Requirements

(Reimbursement Period begins: July 1, 1997.)

1. Conditionally admit any pupil who has not been fully immunized for mumps, rubella, and hepatitis B by notifying parents or guardians of the date by which the pupil must complete the required immunizations. (Health & Saf. Code, §§ 120325, 120340; Cal. Code Regs., tit. 17, § 6035.)
2. Review the immunization record of each pupil admitted conditionally every thirty days until the pupil has been fully immunized. (Health & Saf. Code, §§ 120325, 120375(a); Cal. Code Regs., tit. 17, § 6070(e).)

D. Mandatory Pupil Exclusion and Parent Notification Requirements

(Reimbursement Period begins: July 1, 1998.)

1. Notify parents or guardians of the requirement to exclude the pupil from school if written evidence either that the pupil has been properly immunized or qualified for an exemption is not presented within 10 school days after notification. (Ed. Code, § 48216(b); Health & Saf. Code, § 120325; Cal. Code Regs., tit. 17, § 6040.)
2. Refer the parents or guardians to a physician, nurse, or county health department for review of immunization records and provision of required immunizations, or notify them that the immunizations will be administered at a school of the district. (Ed. Code, § 48216(c); Health & Saf. Code, § 120325; Cal. Code Regs., tit. 17, § 6065(c).)
3. Exclude pupils from school attendance when written evidence of additional doses is not presented within ten days of parental notification. (Ed. Code, § 48216(a); Health & Saf. Code, §§ 120325, 120375(b); Cal. Code Regs., tit. 17, § 6055.)

E. Documentation and Reporting Requirements for Immunizations

(Reimbursement Period begins: July 1, 1997.)

1. Record each pupil's immunization for, or exemption from mumps, rubella, and hepatitis B on an immunization record and maintain the document in each pupil's permanent record. (Health & Saf. Code, §§ 120325, 120335(b), 120375(a); Cal. Code Regs., tit. 17, § 6070.)
2. Document additional vaccine doses on the pupil's immunization record as they are administered.⁷ (Health & Saf. Code, §§ 120325, 120375(a); Cal. Code Regs., tit. 17, § 6070.)
3. Collect data and prepare reports annually on immunization status for the Department of Health Services. (Health & Saf. Code, §§ 120325, 120375(c); Cal. Code Regs., tit. 17, § 6075.)

⁷ This activity is only for *documenting* additional vaccine doses on the pupil's immunization record. The test claim legislation does not mandate school districts to administer vaccines.

4. Prepare follow-up or additional reports upon request by county health departments and the state. (Health & Saf. Code, §§ 120325, 120375(c); Cal. Code Regs., tit. 17, § 6075.)

In lieu of claiming reimbursement based on actual costs incurred, Section V of the parameters and guidelines contains a base uniform cost allowance to reimburse school districts for all reimbursable activities required for new pupil entrants at \$2.12 per pupil, and a separate base uniform cost allowance to reimburse school districts for all reimbursable activities related to the hepatitis B immunization for 7th grade pupils at \$3.23 per pupil, adjusted for inflation. Section V(B) of the parameters and guidelines further states that the “[a]ctivities that are reimbursable under the uniform cost allowance for ‘Seventh Grade Pupils’ are as follows: Section IV. B, C, D, and E – new activities for the hepatitis B immunization.” The uniform cost allowance for the hepatitis B immunization for 7th grade pupils therefore pays for the following activities:

- Section IV. B - Request and review lawful exemption from, or proof of, immunization against . . . hepatitis B from each pupil advancing to the seventh grade on or after July 1, 1999. (Health & Saf. Code, §§ 120325, 120335(c); Cal. Code Regs., tit. 17, §§ 6020, 6065(b).)
- Section IV. C -Conditionally admit any pupil who has not been fully immunized for hepatitis B by notifying parents or guardians of the date by which the pupil must complete the required immunizations. (Health & Saf. Code, §§ 120325, 120340; Cal. Code Regs., tit. 17, § 6035.)
- Section IV. C - Review the immunization record of each pupil admitted conditionally every thirty days until the pupil has been fully immunized. (Health & Saf. Code, §§ 120325, 120375(a); Cal. Code Regs., tit. 17, § 6070(e).)
- Section IV. D - Notify parents or guardians of the requirement to exclude the pupil from school if written evidence either that the pupil has been properly immunized or qualified for an exemption is not presented within 10 school days after notification. (Ed. Code, § 48216(b); Health & Saf. Code, § 120325; Cal. Code Regs., tit. 17, § 6040.)
- Section IV. D - Refer the parents or guardians to a physician, nurse, or county health department for review of immunization records and provision of required immunizations, or notify them that the immunizations will be administered at a school of the district. (Ed. Code, § 48216(c); Health & Saf. Code, § 120325; Cal. Code Regs., tit. 17, § 6065(c).)
- Section IV. D - Exclude pupils from school attendance when written evidence of additional doses is not presented within ten days of parental notification. (Ed. Code, § 48216(a); Health & Saf. Code, §§ 120325, 120375(b); Cal. Code Regs., tit. 17, § 6055.)
- Section IV. E - Record each pupil’s immunization for, or exemption from . . . hepatitis B on an immunization record and maintain the document in each pupil’s permanent record. (Health & Saf. Code, §§ 120325, 120335(b), 120375(a); Cal. Code Regs., tit. 17, § 6070.)
- Section IV. E - Document additional vaccine doses on the pupil’s immunization record as they are administered. (Health & Saf. Code, §§ 120325, 120375(a); Cal. Code Regs., tit. 17, § 6070.)

- Section IV. E - Collect data and prepare reports annually on immunization status for the Department of Health Services. (Health & Saf. Code, §§ 120325, 120375(c); Cal. Code Regs., tit. 17, § 6075.)

The Alleged Subsequent Change in Law

Statutes 2010, chapter 434, amended Health and Safety Code section 120335(c), operative July 1, 2011 and inoperative July 1, 2012, to read:

Commencing July 1, 2011, notwithstanding subdivision (b), full immunization against hepatitis B shall not be a condition by which the governing authority admits or advances any pupil to the 7th grade level of any private or public elementary or secondary school.⁸

Section 3 of Statutes 2010, chapter 434 then added a new section 120335(c), operative July 1, 2012. Section 120335(c) again stated:

Notwithstanding subdivision (b), full immunization against hepatitis B shall not be a condition by which the governing authority shall admit or advance any pupil to the 7th grade level of any private or public elementary or secondary school.⁹

Finance alleges that Statutes 2010, chapter 434, is a subsequent change in law that modifies the state's liability by eliminating the condition that schools require proof of immunization against hepatitis B as a condition of a pupil advancing or being admitted to the seventh grade.

Mandate Redetermination Process under Section 17570

Government Code section 17570 provides a process whereby a test claim decision may be redetermined and superseded by a new test claim decision, if a subsequent change in law, as defined, has altered the state's liability for reimbursement. The redetermination process calls for a two hearing process. At the first hearing, the requester must make "an adequate showing which identifies a subsequent change in law as defined by Government Code section 17570, material to the prior the claim decision, that may modify the state's liability pursuant to Article XIII B, section 6(a) of the California Constitution."¹⁰ A subsequent change in law is defined in section 17570 as follows:

[A] change in law that requires a finding that an incurred cost is a cost mandated by the state, as defined by Section 17514, or is not a cost mandated by the state pursuant to Section 17556, or a change in mandates law, except that a "subsequent change in law" does not include the amendments to Section 6 of Article XIII B of the California Constitution that were approved by the voters on November 2, 2004. A "subsequent change in law" also does not include a change

⁸ Health and Safety Code section 120335(c), Statutes 2010, chapter 434 (AB 354), section 2.

⁹ Health and Safety Code section 120335(c), Statutes. 2010, chapter 434 (AB 354, §§ 2 and 3).

¹⁰ California Code of Regulations, title 2, section 1190.5(a)(1) (Register 2014, No. 21).

in the statutes or executive orders that impose new state-mandated activities and require a finding pursuant to subdivision (a) of Section 17551.¹¹

An “adequate showing” is determined in the Commission’s regulations as follows:

The Commission shall find that the requester has made an adequate showing if it finds that the request, when considered in light of all of the written comments and supporting documentation in the record of this request, has a substantial possibility of prevailing at the second hearing.¹²

If the Commission finds, at the first hearing, that:

The requester has made an adequate showing, when considered in light of all of the written comments, rebuttals and supporting documentation in the record and testimony at the hearing, the Commission shall publish a decision finding that an adequate showing has been made and setting the second hearing on whether the Commission shall adopt a new test claim decision to supersede the previously adopted test claim decision.¹³

III. Positions of the Parties, Interested Parties, and Interested Persons

A. Department of Finance, Requester

Finance asserts that the enactment of Health and Safety Code section 120335(c), as amended, is a subsequent change in law that eliminates the condition that schools require proof of immunization against hepatitis B as a condition of a student advancing or being admitted to the seventh grade. Finance states that “since the statute has been amended, no reimbursement for the specified activity is required pursuant to Article XIII B, section 6 of the California Constitution and Government Code section 17514 as of July 1, 2013.”¹⁴

B. State Controller

The Controller states that it “concur[s] with the Department of Finance's request to adopt a new test claim decision and to amend the parameters and guidelines for the Immunization Records: Hepatitis B program.”¹⁵ The Controller filed comments on the Draft Proposed Decision for the first hearing, recommending no changes.¹⁶

IV. Discussion

Under Government Code section 17570, upon request, the Commission may consider the adoption of a new test claim decision to supersede a prior test claim decision based on a subsequent change in law which modifies the states liability.

¹¹ Government Code section 17570, as added by Statutes 2010, chapter 719 (SB 856).

¹² California Code of Regulations, title 2, section 1190.5(a)(1) (Register 2014, No. 21).

¹³ California Code of Regulations, title 2, section 1190.5(a)(5)(B) (Register 2014, No. 21).

¹⁴ Exhibit A, Request for Mandate Redetermination, page 5.

¹⁵ Exhibit D, Controller’s Comments on Request for Mandate Redetermination, page 1.

¹⁶ Exhibit F, Controller’s Comments on Draft Proposed Decision, First Hearing.

The first hearing in the mandate redetermination process is to determine, pursuant to the Government Code and the Commission's regulations, only whether the requester has made an adequate showing that the state's liability has been modified based on a subsequent change in law, as defined. Therefore, the analysis will be limited to whether the request, when considered in light of all of the written comments and supporting documentation in the records of this request, has a substantial possibility of prevailing at the second hearing.¹⁷ A thorough mandates analysis to determine whether and to what extent the state's liability has been modified, considering the applicable law, the arguments put forth by the parties and interested parties, and the facts in the record, will be prepared for the second hearing on this matter.

Finance Has Made an Adequate Showing That Statutes 2010, Chapter 434, Which Amended Health and Safety Code Section 120335(c), Constitutes a Subsequent Change in Law, Within the Meaning of Government Code Section 17570 That May Modify the State's Liability For the *Immunization Records – Hepatitis B Program*.

Government Code section 17570(b) states that the Commission may adopt a new test claim decision to supersede a previously adopted test claim decision only upon a showing that, pursuant to article XIII B section 6, the state's liability has been modified based on a subsequent change in law. A subsequent change in law is defined in Government Code section 17570(a)(2) as:

A change in law that requires a finding that an incurred cost is a cost mandated by the state, as defined by Section 17514, or is not a cost mandated by the state pursuant to Section 17556, or a change in mandates law, except that a "subsequent change in law" does not include the amendments to Section 6 of Article XIII B of the California Constitution that were approved by the voters on November 2, 2004. A "subsequent change in law" also does not include a change in the statutes or executive orders that impose new state-mandated activities and require a finding pursuant to subdivision (a) of Section 17551.¹⁸

The test claim statement of decision and parameters and guidelines for *Immunization Records – Hepatitis B*, 98-TC-05, found reimbursable activities resulting from "amendments to Health and Safety Code section 120335 which establishes a list of diseases which an entering student must

¹⁷ California Code of Regulations, Title 2, section 1190.5 (Register 2014, No. 21). This regulation describes the standard for the first hearing as follows:

The first hearing shall be limited to the issue of whether the requester has made an adequate showing which identifies a subsequent change in law as defined by Government Code section 17570, material to the prior test claim decision, that may modify the state's liability pursuant to Article XIII B, section 6(a) of the California Constitution. The Commission shall find that the requester has made an adequate showing if it finds that the request, when considered in light of all of the written comments and supporting documentation in the record of this request, has a substantial possibility of prevailing at the second hearing.

¹⁸ Government Code section 17570(a)(2).

be immunized against prior to the first admission into the school.”¹⁹ More specifically, Statutes 1997, chapter 882 required that “on and after July 1, 1999, the governing authority [of a school district] shall not unconditionally admit any pupil to the seventh grade level, nor unconditionally advance any pupil to the seventh grade level, ...unless the pupil has been fully immunized against hepatitis B.”

The Commission found activities related to this requirement, as well as numerous other requirements as specified in the Background, above, to be reimbursable and included those activities in the parameters and guidelines adopted July 31, 2003.

Finance alleges that Health and Safety Code section 120335(c) as amended by Statutes 2010, chapter 434, requires a new finding that the costs relating to the hepatitis B immunization for seventh graders are not costs mandated by the state. Health and Safety Code section 120335(c) as amended in Section 2 of the bill provides:

Commencing July 1, 2011, notwithstanding subdivision (b), full immunization against hepatitis B shall not be a condition by which the governing authority admits or advances any pupil to the 7th grade level of any private or public elementary or secondary school.²⁰

Section 120335(c) is “a change in mandates law,” as defined in Government Code section 17570, since it amends section 120335(c) to remove the requirement for immunization prior to admitting or advancing a student to the seventh grade level. This appears to make the activities related to the conditional admission pending hepatitis B immunization no longer required. Therefore, the state’s liability for some of the activities approved in the test claim may be modified.

At this hearing the Commission is required only to determine whether “the request, when considered in light of all of the written comments and supporting documentation in the record of this request, has a substantial possibility of prevailing at the second hearing.”²¹ Based upon the amendment to section 120335(c) which is a subsequent change in law, the Commission finds that there is a substantial possibility that the request for a new test claim decision will prevail at the second hearing on this matter.

V. Conclusion

Based on the foregoing, the Commission finds that the requester has made an adequate showing that the state’s liability for the *Immunization Records – Hepatitis B*, 98-TC-05, mandate may be modified based on a subsequent change in law and that Finance has a substantial probability of prevailing at the second hearing. The Commission hereby directs Commission staff to notice the

¹⁹ Exhibit B, Test Claim Statement of Decision 98-TC-05, page 3.

²⁰ Section 3 of Statutes 2010, chapter 434, then, repeals and replaces section 120335(c), operative July 1, 2012, to delete the July 1, 2011 operative date language. Section 120335(c) now states:

Notwithstanding subdivision (b), full immunization against hepatitis B shall not be a condition by which the governing authority shall admit or advance any pupil to the 7th grade level of any private or public elementary or secondary school.

²¹ California Code of Regulations, title 2, section 1190.5 (Register 2014, No. 21).

second hearing to determine whether to adopt a new test claim decision to supersede the Commission's previously adopted test claim decision on *Immunization Records – Hepatitis B*, 98-TC-05.

COMMISSION ON STATE MANDATES

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**RE: Decision**

Mandate Redetermination Request, 14-MR-04

First Hearing: Adequate Showing

Immunization Records: Hepatitis B (98-TC-05)

Education Code Section 48216 et al.

As Alleged to be Modified by Statutes 2010, Chapter 434 (AB 354)

Department of Finance, Requester

On January 22, 2016, the foregoing decision of the Commission on State Mandates was adopted on the above-entitled matter.

A handwritten signature in black ink, appearing to read "Heather Halsey".

Heather Halsey, Executive Director

Dated: January 26, 2016

ITEM __
MANDATE REDETERMINATION
SECOND HEARING: NEW TEST CLAIM DECISION
DRAFT PROPOSED DECISION

Education Code Section 48216 and Health and Safety Code Sections 120325,
120335, 120340, and 120375

As Amended by Statutes 1978, Chapter 325; Statutes 1979, Chapter 435; Statutes
1982, Chapter 472; Statutes 1991, Chapter 984; Statutes 1992, Chapter 1300;
Statutes 1994, Chapter 1172; Statutes 1995, Chapters 291 and 415; Statutes 1996,
Chapter 1023; and Statutes 1997, Chapters 855 and 882;

California Code of Regulations, Title 17, Sections 6020, 6035, 6040, 6055, 6065,
6070, and 6075 (Register 90, No. 35; Register 80, Nos. 16, 34, 40; Register 86,
No. 6; Register 96, No. 13; Register 97, Nos. 21, 37, 39)

As Alleged to be Modified by:
Statutes 2010, Chapters 434 (AB 354)

Immunization Records – Hepatitis B (98-TC-05)

14-MR-04

Department of Finance, Requester

EXECUTIVE SUMMARY

Overview

On August 24, 2000, the Commission on State Mandates (Commission) adopted the Statement of Decision for the *Immunization Records: Hepatitis B*, 98-TC-05 test claim. The Commission found that the test claim statutes and regulations imposed various requirements on school districts relating to immunizations for mumps, rubella, and hepatitis B for pupils entering or advancing in school. The Commission found that the test claim statutes and regulations imposed a reimbursable state-mandated program on school districts within the meaning of article XIII B, section 6 of the California Constitution for the following activities:

- Request and review lawful exemption or proof of immunization against mumps, rubella, and hepatitis B for each pupil seeking admission to school in the state for the first time.
- Record each pupil’s immunization for, or exemption from, mumps, rubella, and hepatitis B on an immunization record and maintain the form in the pupil’s permanent record.
- Request and review lawful exemption or proof of immunization against hepatitis B from each pupil advancing to the seventh grade.

- Conditionally admit any pupil who has not been fully immunized as required by law; notify the parents or guardians of the deadline to complete the required immunizations; and review the immunization record of each pupil admitted conditionally every thirty days until the pupil has been fully immunized.
- Notify parents or guardians of the requirement to exclude a pupil from school if proof of required immunization or lawful exemption is not timely received after notification, and exclude if required; refer parents or guardians to medical professionals for provision of the immunizations, or notify them that the immunizations will be administered at a school of the district.
- Record and maintain documents of each pupil's immunization record or lawful exemption, and maintain the documents in each pupil's permanent record; collect data and prepare reports for the DPH and county health departments.

This mandate finding was based, in part, on Health and Safety Code section 120335(c) which, as added by Statutes 1997, chapter 882 provided:

On and after July 1, 1999, the governing authority shall not unconditionally admit any pupil to the 7th grade level, nor unconditionally advance any pupil to the 7th grade level, . . . unless the pupil has been fully immunized against hepatitis B.

The Department of Finance (Finance) alleges that Statutes 2010, chapter 434, constitutes a subsequent change in the law that modifies the state's liability for the *Immunization Records – Hepatitis B*, 98-TC-05 program. Statutes 2010, chapter 434, section 2, amended Health and Safety Code section 120335(c) to provide as follows:

Commencing July 1, 2011, notwithstanding subdivision (b), full immunization against hepatitis B shall not be a condition by which the governing authority shall admit or advance any pupil to the seventh grade level of any private or public elementary or secondary school.

The 2010 statute did not change the requirements relating to the immunizations for mumps, rubella, and hepatitis B for pupils seeking admission into school for the first time.

Procedural History

On June 29, 2015, Finance filed a request for redetermination of *Immunization Records: Hepatitis B*, 98-TC-05, establishing the potential period of reimbursement for a new test claim decision beginning July 1, 2013.¹ On January 22, 2016, the Commission adopted the first hearing decision on this mandate redetermination, finding that Finance made an adequate showing that the request identified a subsequent change in law, as defined, that may modify the state's liability for this program such that Finance had a substantial possibility of prevailing at this second hearing. On January 26, 2016, Commission staff issued the draft proposed decision for the second hearing and the draft amendment to parameters and guidelines.

¹ Government Code section 17570(f).

Commission Responsibilities

Government Code section 17570 provides a process whereby a previously determined mandate finding can be redetermined by the Commission based on a subsequent change in law. The redetermination process provides for two hearings. With regard to the second hearing, the Commission's regulations state:

If the Commission proceeds to the second hearing, it shall consider whether the state's liability pursuant to article XIII B, section 6(a) of the California Constitution has been modified based on the subsequent change in law alleged by the requester, thus requiring adoption of a new test claim decision to supersede the previously adopted test claim decision.²

Therefore, the issue before the Commission at this second hearing is whether the state's liability has been modified based on a subsequent change in law, as defined in section 17570, thus requiring adoption of a new test claim decision to supersede the previously adopted test claim decision, reflecting the state's modified liability.

Staff Analysis

Statutes 2010, Chapter 434, a Subsequent Change in Law, Has Modified the State's Liability for the *Immunization Records-Hepatitis B* Program.

Statutes 2010, chapter 434 amended Health and Safety Code section 120335(c), to provide that the full immunization against hepatitis B shall *not* be a condition by which a school district shall admit or advance any pupil to the seventh grade. Statutes 2010, chapter 434, therefore eliminates the prior condition that pupils be fully immunized against hepatitis B before a school district can admit or advance a pupil into the seventh grade.

Although Statutes 2010, chapter 434, does not expressly amend the other statutes and regulations approved by the Commission in *Immunization Records – Hepatitis B*, 98-TC-05, that actually mandate the requirements to implement the program with respect to all required immunizations, including proof of full hepatitis B immunization (i.e., three shots) for students entering the seventh grade, these statutes and regulations are affected by this subsequent statute and must be read consistent with the 2010 change in law. Under the rules of statutory construction, Health and Safety Code section 120335, as amended by Statutes 2010, chapter 434, must be construed in context, keeping in mind the nature and obvious purpose of the statute so as to make sense of the entire statutory and regulatory scheme.³

As construed in context and analyzed more specifically herein, staff finds that the 2010 statute constitutes a subsequent change in law that modifies the state's liability for this program, requiring the Commission to adopt a new test claim decision to supersede the previously adopted test claim decision, reflecting the state's modified liability for this program. As a result of the 2010 statute, and except for the mandated activity defined in Section IV.E.1 of the parameters and guidelines, school districts no longer incur increased costs mandated by the state within the meaning of article XIII B, section 6 of the California Constitution and Government

² Register 2014, No. 21.

³ *Molenda v. Department of Motor Vehicles* (2009) 172 Cal.App.4th 974, 992.

Code section 17514 to perform the activity identified in section IV. B. In addition, the activities identified in sections C through E of the parameters and guidelines *as they relate to the hepatitis B immunization for pupils advancing to the seventh grade only are no longer mandated by the state.*

However, the activity identified in Section IV.E.1 of the parameters and guidelines is mandated by Health and Safety Code section 120375(a), which requires school districts to *maintain in each pupil's permanent record* a copy of the document verifying the immunization or exemption for the hepatitis B immunization formerly required by section 120335 for pupils advancing into the seventh grade. Section 437(b) of the California Department of Education's (CDE's) Title 5 regulations defines "mandatory permanent pupil records" as those records required to "be preserved in perpetuity by all California schools." Thus, the requirement in Health and Safety Code section 120375(a) to maintain the records in each pupil's permanent record is still mandated by the state and has not been changed by the 2010 subsequent change in law. Therefore, continuing costs incurred to maintain the records already received under former Health and Safety Code section 120335 for the hepatitis B booster are still mandated by the state and remain eligible for reimbursement.

In addition, the 2010 statute did not modify the immunization requirements for mumps, rubella, and hepatitis B for pupils seeking admission into school for the first time and these immunizations continue to be listed in the table of required immunizations in section 6020 of the Title 17 regulations. Thus, all reimbursable activities identified in Section IV.A, and C through E of the parameters and guidelines as they relate to the immunization requirements for mumps, rubella, and hepatitis B for pupils seeking admission into school for the first time, continue to impose costs mandated by the state within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 and, thus, remain eligible for reimbursement.

Accordingly, staff finds that the following activities do not impose costs mandated by the state within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514, and are no longer eligible for reimbursement beginning July 1, 2013:

- The activity identified in Section IV.B of the parameters and guidelines for *Immunization Records – Hepatitis B*, 98-TC-05, to request and review lawful exemption from, or proof of, immunization against hepatitis B from each pupil advancing to the seventh grade on or after July 1, 1999. (Health & Saf. Code, §§ 120325, 120335(c); Cal. Code Regs., tit. 17, §§ 6020, 6065(b).)
- The following activities identified in Section IV. C through E of the parameters and guidelines for *Immunization Records – Hepatitis B*, 98-TC-05, as they relate to the hepatitis B immunization for pupils advancing into the seventh grade:
 - Conditionally admit any pupil who has not been fully immunized by notifying parents or guardians of the date by which the pupil must complete the required immunizations. (Health & Saf. Code, §§ 120325, 120340; Cal. Code Regs., tit. 17, § 6035.)

- Review the immunization record of each pupil admitted conditionally every thirty days until the pupil has been fully immunized. (Health & Saf. Code, §§ 120325, 120375(a); Cal. Code Regs., tit. 17, § 6070(e).)
- Notify parents or guardians of the requirement to exclude the pupil from school if written evidence either that the pupil has been properly immunized or qualified for an exemption is not presented within 10 school days after notification. (Ed. Code, § 48216(b); Health & Saf. Code, § 120325; Cal. Code Regs., tit. 17, § 6040.)
- Refer the parents or guardians to a physician, nurse, or county health department for review of immunization records and provision of required immunizations, or notify them that the immunizations will be administered at a school of the district. (Ed. Code, § 48216(c); Health & Saf. Code, § 120325; Cal. Code Regs., tit. 17, § 6065(c).)
- Exclude pupils from school attendance when written evidence of additional doses is not presented within ten days of parental notification. (Ed. Code, § 48216(a); Health & Saf. Code, §§ 120325, 120375(b); Cal. Code Regs., tit. 17, § 6055.)
- Record each pupil's immunization for, or exemption on an immunization record. (Health & Saf. Code, §§ 120325, 120335(b), 120375(a); Cal. Code Regs., tit. 17, § 6070.)
- Document additional vaccine doses on the pupil's immunization record as they are administered. (Health & Saf. Code, §§ 120325, 120375(a); Cal. Code Regs., tit. 17, § 6070.)
- Collect data and prepare reports annually on immunization status for the Department of Health Services. (Health & Saf. Code, §§ 120325, 120375(c); Cal. Code Regs., tit. 17, § 6075.)
- Prepare follow-up or additional reports upon request by county health departments and the state. (Health & Saf. Code, §§ 120325, 120375(c); Cal. Code Regs., tit. 17, § 6075.)

Staff further finds that the following activities have not been modified by Statutes 2010, chapter 434, continue to impose costs mandated by the state, and remain reimbursable:

- The activity identified in Section IV.E.1 of the parameters and guidelines for *Immunization Records – Hepatitis B*, 98-TC-05, to *maintain in each pupil's permanent record* a copy of the document verifying the immunization or exemption from the hepatitis B immunization formerly required by section 120335 for pupil's advancing into the seventh grade.
- The reimbursable activity identified in Section IV.A, and all reimbursable activities identified in Sections C through E of the parameters and guidelines for *Immunization Records – Hepatitis B*, 98-TC-05 as they relate to the immunizations requirements for mumps, rubella, and hepatitis B for pupils seeking admission into school for the first time.

Staff Recommendation

Staff recommends that the Commission adopt this proposed decision as its new test claim decision, modifying reimbursable activities for costs incurred beginning July 1, 2013.

Staff further recommends that the Commission authorize staff to make any non-substantive, technical changes to the proposed new test claim decision following the hearing.

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE MANDATE REDETERMINATION:
SECOND HEARING: NEW TEST CLAIM
DECISION FOR:

Education Code Section 48216, Health
and Safety Code Sections 120325,
120335, 120340, and 120375;

As amended by Statutes 1978, Chapter
325; Statutes 1979, Chapter 435;
Statutes 1982, Chapter 472; Statutes
1991, Chapter 984; Statutes 1992,
Chapter 1300; Statutes 1994, Chapter
1172; Statutes 1995, Chapters 291 and
415; Statutes 1996, Chapter 1023; and
Statutes 1997, Chapters 855 and 882;

California Code of Regulations,
Title 17, Sections 6020, 6035, 6040,
6055, 6065, 6070, and 6075 (Register
90, No. 35; Register 80, Nos. 16, 34,
40; Register 86, No. 6; Register 96,
No. 13; Register 97, Nos. 21, 37, 39);

As Alleged to be Modified By:
Statutes 2010, Chapter 434 (AB 354);

Filed on June 29, 2015,

By the Department of Finance, Requester

Case No.: 14-MR-04

*Immunization Records – Hepatitis B
(98-TC-05)*

DECISION PURSUANT TO
GOVERNMENT CODE SECTION
17500, ET SEQ.; CALIFORNIA CODE
OF REGULATIONS, TITLE 2,
DIVISION 2, CHAPTER 2.5,
ARTICLE 7.

(Adopted March 25, 2016)

DECISION

The Commission on State Mandates (Commission) heard and decided this mandate redetermination during a regularly scheduled hearing on March 25, 2016. [Witness list will be included in the adopted decision.]

Government Code section 17570 and section 1190 et seq. of the Commission’s regulations establish the mandate redetermination process. The law applicable to the Commission’s determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code section 17500 et seq., title 2, California Code of Regulations 1181.1 et seq., and related case law.

The Commission [adopted/modified] the proposed decision as its new test claim decision to supersede the previous test claim decision by a vote of [vote count will be included in the final decision] as follows:

Member	Vote
Ken Alex, Director of the Office of Planning and Research	
Richard Chivaro, Representative of the State Controller, Vice Chairperson	
Mark Hariri, Representative of the State Treasurer	
Sarah Olsen, Public Member	
Eraina Ortega, Representative of the Director of the Department of Finance, Chairperson	
Carmen Ramirez, City Council Member	
Don Saylor, County Supervisor	

Summary of Findings

The Commission finds that the state’s liability pursuant to article XIII B, section 6(a) of the California Constitution, for proof of immunization against hepatitis B for students entering into the seventh grade under the *Immunization Records – Hepatitis B*, 98-TC-05 mandate has been modified based on a subsequent change in law, and that a new test claim decision must be adopted to supersede the previously adopted test claim decision. Specifically, Statutes 2010, chapter 434 amended Health and Safety Code section 120335(c) to eliminate the condition that pupils be fully immunized against hepatitis B before a school district can advance a pupil into the seventh grade.

Based on the analysis herein, the Commission concludes that the following activities do not impose costs mandated by the state within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514, and are no longer eligible for reimbursement beginning July 1, 2013:

- The activity identified in Section IV.B of the parameters and guidelines for *Immunization Records – Hepatitis B*, 98-TC-05, to request and review lawful exemption from, or proof of, immunization against hepatitis B from each pupil advancing to the seventh grade on or after July 1, 1999. (Health & Saf. Code, §§ 120325, 120335(c); Cal. Code Regs., tit. 17, §§ 6020, 6065(b).)
- The following activities identified in Section IV. C through E of the parameters and guidelines for *Immunization Records – Hepatitis B*, 98-TC-05 as they relate to the hepatitis B immunization for pupils advancing into the seventh grade:
 - Conditionally admit any pupil who has not been fully immunized by notifying parents or guardians of the date by which the pupil must complete the required immunizations. (Health & Saf. Code, §§ 120325, 120340; Cal. Code Regs., tit. 17, § 6035.)

- Review the immunization record of each pupil admitted conditionally every thirty days until the pupil has been fully immunized. (Health & Saf. Code, §§ 120325, 120375(a); Cal. Code Regs., tit. 17, § 6070(e).)
- Notify parents or guardians of the requirement to exclude the pupil from school if written evidence either that the pupil has been properly immunized or qualified for an exemption is not presented within 10 school days after notification. (Ed. Code, § 48216(b); Health & Saf. Code, § 120325; Cal. Code Regs., tit. 17, § 6040.)
- Refer the parents or guardians to a physician, nurse, or county health department for review of immunization records and provision of required immunizations, or notify them that the immunizations will be administered at a school of the district. (Ed. Code, § 48216(c); Health & Saf. Code, § 120325; Cal. Code Regs., tit. 17, § 6065(c).)
- Exclude pupils from school attendance when written evidence of additional doses is not presented within ten days of parental notification. (Ed. Code, § 48216(a); Health & Saf. Code, §§ 120325, 120375(b); Cal. Code Regs., tit. 17, § 6055.)
- Record each pupil's immunization for, or exemption on an immunization record. (Health & Saf. Code, §§ 120325, 120335(b), 120375(a); Cal. Code Regs., tit. 17, § 6070.)
- Document additional vaccine doses on the pupil's immunization record as they are administered. (Health & Saf. Code, §§ 120325, 120375(a); Cal. Code Regs., tit. 17, § 6070.)
- Collect data and prepare reports annually on immunization status for the Department of Health Services. (Health & Saf. Code, §§ 120325, 120375(c); Cal. Code Regs., tit. 17, § 6075.)
- Prepare follow-up or additional reports upon request by county health departments and the state. (Health & Saf. Code, §§ 120325, 120375(c); Cal. Code Regs., tit. 17, § 6075.)

The Commission further finds that the following activities have not been modified by Statutes 2010, chapter 434, continue to impose costs mandated by the state, and remain reimbursable:

- The activity identified in Section IV.E.1 of the parameters and guidelines for *Immunization Records – Hepatitis B*, 98-TC-05, to *maintain in each pupil's permanent record* a copy of the document verifying the immunization or exemption from the hepatitis B immunization formerly required by section 120335 for pupil's advancing into the seventh grade.
- The reimbursable activity identified in Section IV.A, and all reimbursable activities identified in Sections C through E of the parameters and guidelines for *Immunization Records – Hepatitis B*, 98-TC-05 as they relate to the immunizations requirements for mumps, rubella, and hepatitis B for pupils seeking admission into school for the first time.

COMMISSION FINDINGS

I. Chronology

- 08/24/1998 The Commission adopted the test claim statement of decision.⁴
- 07/31/2003 The Commission adopted the parameters and guidelines.⁵
- 07/01/2011 Statutes 2010, chapter 434 became operative and effective.
- 06/29/2015 The Department of Finance (Finance) filed a request for redetermination on *Immunization Records – Hepatitis B*, 98-TC-05.⁶
- 08/04/2015 The State Controller’s Office (Controller) submitted written comments on the request for redetermination.⁷
- 01/22/2016 The Commission adopted the decision for the first hearing, finding that Finance made an adequate showing that the state’s liability may be modified by a subsequent change in law, and directed staff to set the matter for the second hearing.
- 01/26/2016 Commission staff issued the draft proposed decision for the second hearing and the draft amendment to parameters and guidelines.

II. Background

On August 24, 2000, the Commission adopted the Statement of Decision for the *Immunization Records: Hepatitis B*, 98-TC-05 test claim. The test claim involved various requirements imposed on school districts relating to the immunization requirements for mumps, rubella, and hepatitis B for pupils entering or advancing in school. On July 31, 2003, the Commission adopted parameters and guidelines, which specifically identify the activities mandated by the state that were eligible for reimbursement for all required immunizations. The Commission found that Education Code section 48216 and Health and Safety Code sections 120325, 120335, 120340, and 120375, as amended by the test claim statutes, and California Code of Regulations, Title 17, sections 6020 through 6075 (Register 90, No. 35; Register 80, Nos. 16, 34, 40; Register 86, No. 6; Register 96, No. 13; and Register 97, Nos. 21, 37, 39), imposed a reimbursable state-mandated program on school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for the following activities:

- A. Proof of Immunizations for New Entrants: Kindergarteners and/or Out-of-State Transfers
(*Reimbursement period begins: July 1, 1997.*)
1. Request and review lawful exemption from, or proof of, immunization against mumps and rubella from each pupil seeking admission to school in the state for the first time.

⁴ Exhibit B, Test Claim Decision, *Immunization Records – Hepatitis B*, 98-TC-05.

⁵ Exhibit C, Parameters and Guidelines, *Immunization Records – Hepatitis B*, 98-TC-05.

⁶ Exhibit A, Request for Redetermination.

⁷ Exhibit D, Controller’s Comments on Request for Redetermination.

(Health & Saf. Code, §§ 120325, 120335(b), 120375(a); Cal. Code Regs., tit. 17, §§ 6020, 6065(b).)

2. Request and review lawful exemption from, or proof of, immunization against hepatitis B from each pupil entering specified institutions in the state for the first time at the kindergarten level after August 1, 1997. (Health & Saf. Code, §§ 120325, 120335(b), 120375(a); Cal. Code Regs., tit. 17, §§ 6020, 6065(b).)

B. Proof of Hepatitis B Immunizations for Students Entering Seventh Grade on or after July 1, 1999 (*Reimbursement Period begins: July 1, 1999.*)

1. Request and review lawful exemption from, or proof of, immunization against hepatitis B from each pupil advancing to the seventh grade on or after July 1, 1999. (Health & Saf. Code, §§ 120325, 120335(c); Cal. Code Regs., tit. 17, §§ 6020, 6065(b).)

C. Conditional Admission of Pupils and Parent Notification Requirements (*Reimbursement Period begins: July 1, 1997.*)

1. Conditionally admit any pupil who has not been fully immunized for mumps, rubella, and hepatitis B by notifying parents or guardians of the date by which the pupil must complete the required immunizations. (Health & Saf. Code, §§ 120325, 120340; Cal. Code Regs., tit. 17, § 6035.)
2. Review the immunization record of each pupil admitted conditionally every thirty days until the pupil has been fully immunized. (Health & Saf. Code, §§ 120325, 120375(a); Cal. Code Regs., tit. 17, § 6070(e).)

D. Mandatory Pupil Exclusion and Parent Notification Requirements (*Reimbursement Period begins: July 1, 1998.*)

1. Notify parents or guardians of the requirement to exclude the pupil from school if written evidence either that the pupil has been properly immunized or qualified for an exemption is not presented within 10 school days after notification. (Ed. Code, § 48216(b); Health & Saf. Code, § 120325; Cal. Code Regs., tit. 17, § 6040.)
2. Refer the parents or guardians to a physician, nurse, or county health department for review of immunization records and provision of required immunizations, or notify them that the immunizations will be administered at a school of the district. (Ed. Code, § 48216(c); Health & Saf. Code, § 120325; Cal. Code Regs., tit. 17, § 6065(c).)
3. Exclude pupils from school attendance when written evidence of additional doses is not presented within ten days of parental notification. (Ed. Code, § 48216(a); Health & Saf. Code, §§ 120325, 120375(b); Cal. Code Regs., tit. 17, § 6055.)

E. Documentation and Reporting Requirements for Immunizations (*Reimbursement Period begins: July 1, 1997.*)

1. Record each pupil's immunization for, or exemption from mumps, rubella, and hepatitis B on an immunization record and maintain the document in each pupil's permanent record. (Health & Saf. Code, §§ 120325, 120335(b), 120375(a); Cal. Code Regs., tit. 17, § 6070.)

2. Document additional vaccine doses on the pupil's immunization record as they are administered. (Health & Saf. Code, §§ 120325, 120375(a); Cal. Code Regs., tit. 17, § 6070.)
3. Collect data and prepare reports annually on immunization status for the Department of Health Services. (Health & Saf. Code, §§ 120325, 120375(c); Cal. Code Regs., tit. 17, § 6075.)
4. Prepare follow-up or additional reports upon request by county health departments and the state. (Health & Saf. Code, §§ 120325, 120375(c); Cal. Code Regs., tit. 17, § 6075.)⁸

III. Positions of the Parties, Interested Parties, and Interested Persons

A. Department of Finance, Requester

Finance asserts that the enactment of Statutes 2010, chapter 434, constitutes a subsequent change in law that modifies the state's liability for the *Immunization Records – Hepatitis B* program, 98-TC-05 as follows:

Effective July 1, 2011, Chapter 434, Statutes 2010 (AB 354) (as attached), amended Health and Safety Code section 120335 by eliminating the condition that schools could not admit or advance a student to the seventh grade unless the student had been fully immunized against hepatitis B. Since the statute has been amended, no reimbursement for the specified activity is required pursuant to Article XIII B, section 6 of the California Constitution and Government Code section 17514 as of July 1, 2013.⁹

B. State Controller

The Controller states that it “concur[s] with the Department of Finance's request to adopt a new test claim decision and to amend the parameters and guidelines for the *Immunization Records: Hepatitis B* program.”¹⁰

IV. Discussion

Under Government Code section 17570, upon request, the Commission may consider the adoption of a new test claim decision to supersede a prior test claim decision based on a subsequent change in law which modifies the state's liability. California Code of Regulations, title 2, section 1190.5(b)(1) provides that “[i]f the Commission proceeds to the second hearing, it shall consider whether the state's liability pursuant to article XIII B, section 6(a) of the California Constitution has been modified based on the subsequent change in law alleged by the requester, thus requiring adoption of a new test claim decision to supersede the previously adopted test claim decision.”¹¹

⁸ Exhibits B and C, Test Claim Decision and Parameters and Guidelines, *Immunization Records – Hepatitis B*, 98-TC-05.

⁹ Exhibit A, Request for Redetermination, page 1.

¹⁰ Exhibit D, Controller's Comments on Request for Redetermination, page 1.

¹¹ Register 2014, No. 21.

Therefore, the issue before the Commission at this second hearing is whether the state's liability has been modified based on a subsequent change in law and, if so, whether to adopt a new test claim decision to supersede the previously adopted test claim decision, reflecting the state's modified liability.

A. Statutes 2010, Chapter 434 Constitutes a Subsequent Change in Law Within the Meaning of Government Code Section 17570 That Modifies the State's Liability for the *Immunization Records – Hepatitis B* program, Resulting in No Costs Mandated by the State for Many Activities Relating to the Hepatitis B Immunization for Pupils Advancing to the Seventh Grade.

Government Code section 17570 provides a process whereby a test claim decision may be redetermined and superseded by a new test claim decision if a subsequent change in law, as defined, has modified the state's liability for reimbursement. Pursuant to section 17570, a subsequent change in law is one that (1) requires a finding of a new cost mandated by the state under section 17514; (2) requires a new finding that a cost is not a cost mandated by the state pursuant to section 17556; or (3) is another change in mandates law.

The subsequent change in law alleged here is Statutes 2010, chapter 434. The statute amended Health and Safety Code section 120335(c) to eliminate the condition that pupils be fully immunized against hepatitis B before a school district can advance a pupil into the seventh grade. As described below, the Commission finds that Statutes 2010, chapter 434 constitutes a subsequent change in law within the meaning of Government Code section 17570 that modifies the state's liability for the *Immunization Records – Hepatitis B* program, resulting in no costs mandated by the state within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for many activities formerly mandated for the hepatitis B immunization for pupils advancing to the seventh grade.

1. Statutes 2010, chapter 434 constitutes a subsequent change in the law that modifies the state's liability with respect to the hepatitis B immunization for pupils advancing to the seventh grade, requiring the adoption of a new test claim decision to supersede the previously adopted test claim decision.

Before the enactment of Statutes 2010, chapter 434, Health and Safety Code section 120335(c), as last amended by Statutes 1997, chapter 882, provided that:

On and after July 1, 1999, the governing authority shall not unconditionally admit any pupil to the seventh grade level, nor unconditionally advance any pupil to the seventh grade level, of any of the institutions listed in subdivision (b) unless the pupil has been fully immunized against hepatitis B.

The Commission determined in *Immunization Records – Hepatitis B*, 98-TC-05, that Health and Safety Code section 120335(c), as amended by the 1997 statute, generally required "school districts to perform immunization record reviews for all incoming seventh graders for hepatitis B, including all students whose immunization records were checked upon entry to school, [which] increases the paperwork and staff time beyond what was required under prior immunization record requirements and thus constitute[s] a reimbursable state mandate." The Commission further determined that Health and Safety Code section 120375 refers back to the list of immunizations in section 120335, requiring school districts to perform the following

activities for each immunization required, including the hepatitis B immunization for incoming seventh graders:

- Maintain documentary proof of pupil's immunization status in the student's permanent record information, including adding subsequent immunizations to the file;
- File reports on state forms regarding the immunization status of entering students; and
- Prohibit further school attendance of conditionally admitted students who either fail to get their immunizations completed or fail to receive an appropriate exemption from immunizations for health or religious reasons.¹²

The Commission found that Education Code section 48216 requires school districts to perform the following activities for each immunization required:

- Excluding a pupil whose immunizations are not up to date;
- Notifying the parent or guardian of the pupil that they have two weeks to supply evidence either that the pupil has been properly immunized or qualifies for an exemption; and
- Referring the parents to a source of medical care to obtain the immunizations.¹³

The Commission also approved for reimbursement, the regulations in California Code of Regulations, title 17, sections 6020 et seq., which required school districts to perform activities relating to record keeping, reporting, conditionally admitting pupils who have not completed their immunizations, and excluding pupils if the immunization requirements had not been met.¹⁴

Consistent with the decision on the test claim, the parameters and guidelines adopted by the Commission authorize reimbursement for the following activities as they relate to the hepatitis B booster required for pupils advancing to the seventh grade:

B. Proof of Hepatitis B Immunizations for Students Entering Seventh Grade on or after July 1, 1999 (Reimbursement Period begins: July 1, 1999.)

1. Request and review lawful exemption from, or proof of, immunization against hepatitis B from each pupil advancing to the seventh grade on or after July 1, 1999. (Health & Saf. Code, §§ 120325, 120335(c); Cal. Code Regs., tit. 17, §§ 6020, 6065(b).)

C. Conditional Admission of Pupils and Parent Notification Requirements (Reimbursement Period begins: July 1, 1997.)

1. Conditionally admit any pupil who has not been fully immunized for mumps, rubella, and hepatitis B by notifying parents or guardians of the date by which the pupil must complete the required immunizations. (Health & Saf. Code, §§ 120325, 120340; Cal. Code Regs., tit. 17, § 6035.)

¹² Exhibit B, Test claim decision, *Immunization Records – Hepatitis B*, 98-TC-05, page 4.

¹³ Exhibit B, Test claim decision, *Immunization Records – Hepatitis B*, 98-TC-05, page 5.

¹⁴ Exhibit B, Test claim decision, *Immunization Records – Hepatitis B*, 98-TC-05, page 6.

2. Review the immunization record of each pupil admitted conditionally every thirty days until the pupil has been fully immunized. (Health & Saf. Code, §§ 120325, 120375(a); Cal. Code Regs., tit. 17, § 6070(e).)

D. Mandatory Pupil Exclusion and Parent Notification Requirements
(*Reimbursement Period begins: July 1, 1998.*)

1. Notify parents or guardians of the requirement to exclude the pupil from school if written evidence either that the pupil has been properly immunized or qualified for an exemption is not presented within 10 school days after notification. (Ed. Code, § 48216(b); Health & Saf. Code, § 120325; Cal. Code Regs., tit. 17, § 6040.)
2. Refer the parents or guardians to a physician, nurse, or county health department for review of immunization records and provision of required immunizations, or notify them that the immunizations will be administered at a school of the district. (Ed. Code, § 48216(c); Health & Saf. Code, § 120325; Cal. Code Regs., tit. 17, § 6065(c).)
3. Exclude pupils from school attendance when written evidence of additional doses is not presented within ten days of parental notification. (Ed. Code, § 48216(a); Health & Saf. Code, §§ 120325, 120375(b); Cal. Code Regs., tit. 17, § 6055.)

E. Documentation and Reporting Requirements for Immunizations
(*Reimbursement Period begins: July 1, 1997.*)

1. Record each pupil's immunization for, or exemption from mumps, rubella, and hepatitis B on an immunization record and maintain the document in each pupil's permanent record. (Health & Saf. Code, §§ 120325, 120335(b), 120375(a); Cal. Code Regs., tit. 17, § 6070.)
2. Document additional vaccine doses on the pupil's immunization record as they are administered. (Health & Saf. Code, §§ 120325, 120375(a); Cal. Code Regs., tit. 17, § 6070.)
3. Collect data and prepare reports annually on immunization status for the Department of Health Services. (Health & Saf. Code, §§ 120325, 120375(c); Cal. Code Regs., tit. 17, § 6075.)
4. Prepare follow-up or additional reports upon request by county health departments and the state. (Health & Saf. Code, §§ 120325, 120375(c); Cal. Code Regs., tit. 17, § 6075.)

Operative July 1, 2011, Statutes 2010, chapter 434 amended Health and Safety Code section 120335(c), to provide that the full immunization against hepatitis B shall *not* be a condition by which a school district shall admit or advance any pupil to the seventh grade. Statutes 2010, chapter 434, therefore eliminates or removes the condition that pupils be fully immunized against hepatitis B before a school district can admit or advance a pupil into the seventh grade.

Although Statutes 2010, chapter 434, does not expressly amend the other statutes and regulations approved by the Commission in *Immunization Records – Hepatitis B*, 98-TC-05 that actually

mandate the requirements to implement the program with respect to all required immunizations, including the former required hepatitis B booster, these statutes and regulations are affected by this subsequent statute and must be read consistent with the 2010 change in law. Under the rules of statutory construction, Health and Safety Code section 120335, as amended by Statutes 2010, chapter 434, must be construed in context, keeping in mind the nature and obvious purpose of the statute so as to make sense of the entire statutory and regulatory scheme.¹⁵

As construed in context and analyzed more specifically below, the Commission finds that the 2010 statute constitutes a subsequent change in law that modifies the state's liability for this program, requiring the Commission to adopt a new test claim decision to supersede the previously adopted test claim decision, reflecting the state's modified liability for this program. As a result of the 2010 statute, school districts no longer incur increased costs mandated by the state within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 to perform most of the activities identified in sections IV. B through E of the parameters and guidelines, as they relate to the hepatitis B immunization for pupils advancing to the seventh grade.

2. With the 2010 subsequent change in law, there are no costs mandated by the state to perform the mandated activities identified in Section IV. B, C, and D of the parameters and guidelines as they relate to the hepatitis B immunization for pupils advancing to the seventh grade.

Health and Safety Code section 120335 and section 6020 of the Title 17 regulations list the all the required immunizations for admission and attendance at school, which govern the scope of the mandated program and trigger the remaining requirements in the statutory and regulatory scheme that are imposed on school districts.

Health and Safety Code section 120325 contains the Legislature's statement of intent regarding Health and Safety Code sections 120325 through 120375 for all required immunizations for admission and attendance at school. Section 120325 states that these statutes were enacted to provide "[a] means for the eventual achievement of total immunization of appropriate age groups against the following childhood diseases: [diphtheria, hepatitis B, haemophilus influenza type b, measles, mumps, pertussis (whooping cough), poliomyelitis, rubella, tetanus, and varicella (chickenpox)]." The Legislature also intended the law to provide that:

- Persons required to be immunized be allowed to obtain immunization from whatever medical source they desire, subject only to the condition that the immunization be performed in accordance with the regulations of DPH and that a record of the immunization is made in accordance with the regulations;
- Exemptions from immunization be available for medical reasons or because of personal beliefs; and that
- Adequate records of immunization be kept so that health departments, schools, and other institutions, parents and guardians, and the persons immunized will be able to ascertain

¹⁵ *Molenda v. Department of Motor Vehicles* (2009) 172 Cal.App.4th 974, 992.

that a child is fully or only partially immunized, and that appropriate public agencies will be able to ascertain the immunization needs of groups of children in schools.¹⁶

The Legislature enacted Health and Safety Code section 120330 to direct DPH, in consultation with the California Department of Education (CDE) to adopt and enforce regulations necessary to carry out the statutory scheme on immunizations. Section 6065(a) of the Title 17 regulations provides that there shall be a written record given to the pupil immunized or to his or her parent or guardian by the physician or agency performing the immunization. Section 6065(b) further requires the parent or guardian to show the written record to the school “at the time of the pupil’s admission and at subsequent times when required by the governing authority to determine the pupil’s immunization status.”

Since former Health and Safety Code section 120335(c), required proof of *full* hepatitis B immunization (i.e. three shots) as a condition for advancing into the seventh grade, the Commission determined that school districts are mandated by these statutes and regulations to “request and review lawful exemption from, or proof of, immunization against hepatitis B from each pupil advancing to the seventh grade on or after July 1, 1999.”¹⁷ This activity is included in Section IV. B of the parameters and guidelines for *Immunization Records – Hepatitis B*, 98-TC-05.

Operative July 1, 2011, Statutes 2010, chapter 434 amended Health and Safety Code section 120335(c) to eliminate the condition that pupils be fully immunized against hepatitis B before a school district can admit or advance a pupil into the seventh grade. To implement this change, DPH adopted emergency regulations to amend section 6020 of the regulations, which also removes hepatitis B for pupils advancing to the seventh grade from the table of required immunizations.¹⁸ Although Finance did not plead the changes in regulation which were adopted as emergency regulations, those regulations may be properly considered as DPH’s interpretation of what is required by section 120335(c) as that statute was amended in 2010. An agency’s interpretation of the meaning and legal effect of a statute it is required to implement is entitled to consideration and respect by the courts.¹⁹

With this subsequent change in law, the requirement to “request and review lawful exemption from, or proof of, immunization against hepatitis B from each pupil advancing to the seventh grade on or after July 1, 1999,” school districts no longer incur costs mandated by the state for this activity.

The same analysis applies to the reimbursable activities identified in Section IV. C of the parameters and guidelines for *Immunization Records – Hepatitis B*, 98-TC-05, which authorize reimbursement for the following activities that govern the conditional admission of a pupil who has not been fully immunized, and the related parent notification requirements of the date by which a pupil must complete all required immunizations:

¹⁶ Health and Safety Code section 120325(b)(c)(d).

¹⁷ Exhibit C.

¹⁸ Register 2011, No. 26, effective June 30, 2011.

¹⁹ *Yamaha Corp. of America v. State Bd. of Equalization* (1998) 19 Cal.4th 1, 7; *Carson Citizens for Reform v. Kawagoe* (2009) 178 Cal.App.4th 357, 368-369.

- Conditionally admit any pupil who has not been fully immunized for mumps, rubella, and hepatitis B by notifying parents or guardians of the date by which the pupil must complete the required immunizations. (Health & Saf. Code, §§ 120325, 120340; Cal. Code Regs., tit. 17, § 6035.)
- Review the immunization record of each pupil admitted conditionally every thirty days until the pupil has been fully immunized. (Health & Saf. Code, §§ 120325, 120375(a); Cal. Code Regs., tit. 17, § 6070(e).)

The Commission determined that these activities were mandated by Health and Safety Code section 120340 for all required immunizations, which provides that “a person who has not been fully immunized against one or more of the diseases listed in Section 120335 may be admitted by the governing authority on condition that within time periods designated by regulation of the department he or she presents evidence that he or she has been fully immunized against all of these diseases. Section 6035 of the regulations then addresses the conditional admission of a pupil. That section states in relevant part that “any pupil seeking admission to a given public . . . elementary or secondary school, . . . who lacks documentation of having received all the required vaccine doses . . . as specified in Table 1, Section 6020, and has not obtained a permanent medical exemption or a personal beliefs exemption to immunization in accordance with Section 6051, may be admitted conditionally” under specified circumstances. Section 6035 further requires the school to notify “the pupil’s parent or guardian . . . of the date by which the pupil must complete all the required immunizations.” Health and Safety Code section 120375(a) and section 6070(e) of the regulations then require the school to review the immunization record of each pupil admitted conditionally every thirty days until that pupil has received all the immunizations required by Health and Safety Code section 120355. With the 2010 subsequent change in law amending Health and Safety Code section 120355(c) to remove the condition that pupils advancing into seventh grade provide proof of full immunization against hepatitis B (i.e. all three shots), school districts will no longer incur costs mandated by the state for the activities required by sections 120340 and 120375 of the Health and Safety Code and sections 6035 and 6070(e) of the regulations with regard to Hepatitis B for pupils advancing to seventh grade.

Similarly, Section IV. D of the parameters and guidelines *Immunization Records – Hepatitis B*, 98-TC-05 lists the following mandated activities relating to mandatory pupil exclusions and parent notification requirements:

- Notify parents or guardians of the requirement to exclude the pupil from school if written evidence either that the pupil has been properly immunized or qualified for an exemption is not presented within 10 school days after notification. (Ed. Code, § 48216(b); Health & Saf. Code, § 120325; Cal. Code Regs., tit. 17, § 6040.)
- Refer the parents or guardians to a physician, nurse, or county health department for review of immunization records and provision of required immunizations, or notify them that the immunizations will be administered at a school of the district. (Ed. Code, § 48216(c); Health & Saf. Code, § 120325; Cal. Code Regs., tit. 17, § 6065(c).)
- Exclude pupils from school attendance when written evidence of additional doses is not presented within ten days of parental notification. (Ed. Code, §

48216(a); Health & Saf. Code, §§ 120325, 120375(b); Cal. Code Regs., tit. 17, § 6055.)

Education Code section 48216, cited in the bulleted activities above, governs the process to exclude pupils from school who have not been fully immunized and, as determined by the Commission, mandates school districts to perform the following activities for all required immunizations:

- (a) The county office of education or the governing board of the school district of attendance shall exclude any pupil who has not been immunized properly pursuant to Chapter 1 (commencing with Section 120325) of Part 2 of Division 105 of the Health and Safety Code.
- (b) The governing board of the district shall notify the parent or guardian of the pupil that they have two weeks to supply evidence either that the pupil has been properly immunized, or that the pupil is exempted from the immunization requirement pursuant to Section 120365 or 120370 of the Health and Safety Code.
- (c) The governing board of the district, in the notice, shall refer the parent or guardian of the pupil to the pupil's usual source of medical care to obtain the immunization, or if no usual source exists, either refer the parent or guardian to the county health department, or notify the parent or guardian that the immunizations will be administered at a school of the district.

Health and Safety Code section 120375(b) and sections 6040 and 6055 of the regulations also require a school district to prohibit from further attendance any pupil admitted conditionally who fails to timely obtain the required immunizations required by section 120335. Section 6065(c) then states that “when such written records [of immunization] are not available, the pupil shall not be admitted and the parent or guardian shall be referred to a physician or nurse for review of his or her immunization history and provision of immunizations as needed.”

With the 2010 subsequent change in law amending Health and Safety Code section 120355(c) to remove the condition that pupils advancing into seventh grade be immunized with a hepatitis B booster, school districts will no longer incur costs mandated by the state for the activities required by Education Code section 48216, Health and Safety Code section 120375, and sections 6040, 6055, and 6065 of the regulations for this particular immunization as a condition of advancement to the seventh grade.

Accordingly, the Commission finds that with the 2010 subsequent change in law, there are no costs mandated by the state within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 to perform the mandated activities identified in Section IV. B, C, and D of the parameters and guidelines as they relate to the hepatitis B immunization *for pupils advancing to the seventh grade only*.

3. With the 2010 subsequent change in law, there are no costs mandated by the state to perform the activities required to document and report each pupil’s immunization identified in Section IV. E of the parameters and guidelines as they relate to the hepatitis B immunization for pupils advancing to the seventh grade. However, costs incurred to maintain records, which have already been received, of the hepatitis B

immunization for pupils advancing into seventh grade in each pupil's permanent file continue to be mandated by the state and have not been modified by the 2010 statute.

Section IV. E of the parameters and guidelines for *Immunization Records – Hepatitis B*, 98-TC-05 identifies the following mandated activities for all required immunizations:

- Record each pupil's immunization for, or exemption from mumps, rubella, and hepatitis B on an immunization record and maintain the document in each pupil's permanent record. (Health & Saf. Code, §§ 120325, 120335(b), 120375(a); Cal. Code Regs., tit. 17, § 6070.)
- Document additional vaccine doses on the pupil's immunization record as they are administered. (Health & Saf. Code, §§ 120325, 120375(a); Cal. Code Regs., tit. 17, § 6070.)
- Collect data and prepare reports annually on immunization status for the Department of Health Services. (Health & Saf. Code, §§ 120325, 120375(c); Cal. Code Regs., tit. 17, § 6075.)
- Prepare follow-up or additional reports upon request by county health departments and the state. (Health & Saf. Code, §§ 120325, 120375(c); Cal. Code Regs., tit. 17, § 6075.)

These bulleted activities are mandated by Health and Safety Code sections 120325(d) and 120375(a), which requires school districts to record all immunizations required by section 120335 for each pupil in the pupil's permanent enrollment and scholarship record. Section 120375(c) and section 6075 of the regulations further require school districts to file written reports to DPH on the immunization status of pupils on an annual basis or as needed during an epidemic.

With the 2010 subsequent change in law amending Health and Safety Code section 120355(c) to remove the condition that pupils advancing into seventh grade be immunized with a hepatitis B booster, school districts will no longer incur costs mandated by the state to record and file reports on this immunization.

However, the activity identified in Section IV.E.1 of the parameters and guidelines, to *maintain in each pupil's permanent record* a copy of the document verifying the immunization or exemption for the hepatitis B immunization formerly required by section 120335 for pupil's advancing into the seventh grade, is still mandated by the state and has not been changed by the 2010 subsequent change in law. Section 437(b) of CDE's Title 5 regulations defines "mandatory permanent pupil records" as those records required to be "preserved in perpetuity by all California schools." Thus, the costs incurred to maintain the records already received under former Health and Safety Code section 120335 are still mandated by the state and eligible for reimbursement.

4. All reimbursable activities identified in the parameters and guidelines for *Immunization Records – Hepatitis B*, 98-TC-05 as they relate to the required immunizations for mumps, rubella, and hepatitis B for pupils seeking admission into school for the first time have *not* been modified by Statutes 2010, chapter 434, and, thus, remain eligible for reimbursement.

The 2010 statute did not modify the immunization requirements for mumps, rubella, and hepatitis B for pupils seeking admission into school for the first time and these immunizations continue to be listed in the table of required immunizations in section 6020 of the Title 17 regulations. Thus, all reimbursable activities identified in Section IV.A, C through E of the parameters and guidelines for *Immunization Records – Hepatitis B*, 98-TC-05, as they relate to the immunization requirements for mumps, rubella, and hepatitis B for pupils seeking admission into school for the first time, continue to impose costs mandated by the state within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 and, thus, remain eligible for reimbursement.

B. The Period of Reimbursement for the Loss of Reimbursement Begins July 1, 2013.

According to Government Code section 17570, a redetermination request “shall be filed on or before June 30 following a fiscal year in order to establish eligibility for reimbursement or loss of reimbursement for that fiscal year.” This redetermination request was filed on June 29, 2015, establishing the loss of reimbursement as described above beginning July 1, 2013.

V. Conclusion

Based on the foregoing, the Commission partially approves the request for redetermination and concludes that the following activities do not impose costs mandated by the state within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514, and are no longer eligible for reimbursement beginning July 1, 2013:

- The activity identified in Section IV.B of the parameters and guidelines for *Immunization Records – Hepatitis B*, 98-TC-05, to request and review lawful exemption from, or proof of, immunization against hepatitis B from each pupil advancing to the seventh grade on or after July 1, 1999. (Health & Saf. Code, §§ 120325, 120335(c); Cal. Code Regs., tit. 17, §§ 6020, 6065(b).)
- The following activities identified in Section IV. C through E of the parameters and guidelines for *Immunization Records – Hepatitis B*, 98-TC-05 as they relate to the hepatitis B immunization for pupils advancing into the seventh grade:
 - Conditionally admit any pupil who has not been fully immunized by notifying parents or guardians of the date by which the pupil must complete the required immunizations. (Health & Saf. Code, §§ 120325, 120340; Cal. Code Regs., tit. 17, § 6035.)
 - Review the immunization record of each pupil admitted conditionally every thirty days until the pupil has been fully immunized. (Health & Saf. Code, §§ 120325, 120375(a); Cal. Code Regs., tit. 17, § 6070(e).)
 - Notify parents or guardians of the requirement to exclude the pupil from school if written evidence either that the pupil has been properly immunized or qualified for an exemption is not presented within 10 school days after notification. (Ed. Code, § 48216(b); Health & Saf. Code, § 120325; Cal. Code Regs., tit. 17, § 6040.)
 - Refer the parents or guardians to a physician, nurse, or county health department for review of immunization records and provision of required

immunizations, or notify them that the immunizations will be administered at a school of the district. (Ed. Code, § 48216(c); Health & Saf. Code, § 120325; Cal. Code Regs., tit. 17, § 6065(c).)

- Exclude pupils from school attendance when written evidence of additional doses is not presented within ten days of parental notification. (Ed. Code, § 48216(a); Health & Saf. Code, §§ 120325, 120375(b); Cal. Code Regs., tit. 17, § 6055.)
- Record each pupil's immunization for, or exemption on an immunization record. (Health & Saf. Code, §§ 120325, 120335(b), 120375(a); Cal. Code Regs., tit. 17, § 6070.)
- Document additional vaccine doses on the pupil's immunization record as they are administered. (Health & Saf. Code, §§ 120325, 120375(a); Cal. Code Regs., tit. 17, § 6070.)
- Collect data and prepare reports annually on immunization status for the Department of Health Services. (Health & Saf. Code, §§ 120325, 120375(c); Cal. Code Regs., tit. 17, § 6075.)
- Prepare follow-up or additional reports upon request by county health departments and the state. (Health & Saf. Code, §§ 120325, 120375(c); Cal. Code Regs., tit. 17, § 6075.)

The Commission further finds that the following activities have not been modified by Statutes 2010, chapter 434, continue to impose costs mandated by the state, and remain reimbursable:

- The activity identified in Section IV.E.1 of the parameters and guidelines for *Immunization Records – Hepatitis B*, 98-TC-05, to *maintain in each pupil's permanent record* a copy of the document verifying the immunization or exemption for the hepatitis B immunization formerly required by section 120335 for pupil's advancing into the seventh grade.
- The reimbursable activity identified in Section IV.A, and all reimbursable activities identified in Sections C through E of the parameters and guidelines for *Immunization Records – Hepatitis B*, 98-TC-05 as they relate to the immunizations requirements for mumps, rubella, and hepatitis B for pupils seeking admission into school for the first time.

Amended: March 25, 2016

Adopted: July 31, 2003

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DRAFT EXPEDITED AMENDMENT TO
PARAMETERS AND GUIDELINES

Education Code Section 48216
Health and Safety Code Sections 120325, 120335, 120340, and 120375

Statutes 1978, Chapter 325; Statutes 1979, Chapter 435; Statutes 1982, Chapter 472;
Statutes 1991, Chapter 984; Statutes 1992, Chapter 1300; Statutes 1994, Chapter 1172;
Statutes 1995, Chapters 291 and 415; Statutes 1996, Chapter 1023;
Statutes 1997, Chapters 855 and 882;

California Code of Regulations, Title 17, Sections 6020, 6035, 6040, 6055, 6065, 6070, and 6075
(Register 90, No. 35; Register 80, Nos. 16, 34, 40; Register 86, No. 6; Register 96, No. 13;
Register 97, Nos. 21, 37, 39);

Immunization Records – Mumps, Rubella and¹ Hepatitis B
98-TC-05 (14-MR-04)

As Modified by: Statutes 2010, Chapter 434 (AB 354)

This amendment is effective beginning July 1, 2013

I. SUMMARY OF THE MANDATE

~~Statutes 1977, chapter 1176, required persons under 18 years of age to be immunized against poliomyelitis (polio); measles; and diphtheria, pertussis, and tetanus (DPT) prior to unconditional first admission to a public or private elementary or secondary school, child care center, day nursery, nursery school, or development center. The law required school districts to maintain records of immunization of all school age children and report periodically to the state on the immunization status of all new entrants into the schools. On June 20, 1979, the Board of Control (predecessor to the Commission) adopted the Statement of Decision for the *Immunization Records* test claim, finding that Statutes 1977, chapter 1176 imposed a reimbursable state mandated program. On July 28, 1988, the Commission determined that costs incurred for compliance with Statutes 1977, chapter 1176 would be reimbursed through the State Mandates Apportionment System (SMAS), which was enacted by the Legislature to allow certain ongoing state mandated programs to be funded automatically through the State Budget process, without the need for local governments to file annual claims for those costs with the State Controller.~~

¹ The title of this mandate has been renamed to add mumps and rubella, which have always been a part of the reimbursable program under Immunization Records: *Hepatitis B*, 98-TC-05 mandate.

On August 24, 2000, the Commission on State Mandates (Commission) adopted the Statement of Decision for the *Immunization Records: Hepatitis B* test claim, finding that the test claim statutes and regulations Statutes 1978, chapter 325; Statutes 1979, chapter 435; Statutes 1982, chapter 472; Statutes 1991, chapter 984; Statutes 1992, chapter 1300; Statutes 1994, chapter 1172; Statutes 1995, chapters 291 and 415; Statutes 1996, chapter 1023; Statutes 1997, chapters 855 and 882; and California Code of Regulations, title 17, sections 6020, 6035, 6040, 6055, 6065, 6070, and 6075, imposed a new program or higher level of service within an existing program upon school districts within the meaning of article XIII B, section 6 of the California Constitution and costs mandated by the state pursuant to Government Code section 17514 for the following activities:

- Request and review lawful exemption or proof of immunization against mumps, rubella and hepatitis B from each pupil seeking admission to school in the state for the first time.
- Record each pupil’s immunization for, or exemption from, mumps, rubella, and hepatitis B on an immunization record and maintain the form in the pupil’s permanent record.
- Request and review lawful exemption or proof of immunization against hepatitis B from each pupil advancing to the seventh grade.
- Conditionally admit any pupil who has not been fully immunized for mumps, rubella and hepatitis B.
- Periodically review the pupil’s immunization record until the pupil is fully immunized.
- Document vaccine doses on the pupil’s immunization record as they are administered.
- Notify parents or guardians of the requirement to exclude the pupil from school if written evidence of the required immunizations are not timely presented.
- Refer the parents or guardians to a physician, nurse, or county health department for review of immunization records and provision of required immunizations.
- Exclude pupils from school attendance when written evidence of additional doses is not presented within ten days of parental notification.
- Collect data and prepare reports annually on immunization status for the Department of Health Services, and prepare follow-up or additional reports upon request by county health departments and the state.

On June 29, 2015, the Department of Finance (Finance) filed a request for redetermination of the test claim decision pursuant to Government Code section 17570. On March 25, 2016, the Commission adopted a new test claim decision, finding that Statutes 2010, chapter 434 amended Health and Safety Code section 120335(c) to eliminate the condition that pupils be fully immunized against hepatitis B before a school district can advance a pupil into the seventh grade. These parameters and guidelines have been amended in accordance with that decision.

II. ELIGIBLE CLAIMANTS

Any school district, as defined in Government Code section 17519, except for community colleges, that incurs increased costs as a result of this mandate is eligible to claim reimbursement.

III. PERIOD OF REIMBURSEMENT

Government Code section 17570(f) provides that a request for adoption of a new test claim decision (mandate redetermination) shall be filed on or before June 30 following a fiscal year in order to establish eligibility for reimbursement or loss of reimbursement for that fiscal year. The request for mandate redetermination was filed on June 29, 2015, establishing eligibility for reimbursement or loss of reimbursement based on a new test claim decision on or after July 1, 2013.

Reimbursement for state-mandated costs may be claimed as follows:

1. Reimbursement based on the uniform cost allowance provided for in these parameters and guidelines applies to costs incurred for all activities identified in Section IV., except the activity in Section IV.D.2.
2. Reimbursement for the activity identified in Section IV.D.2. shall be claimed based on actual costs incurred for one fiscal year.
3. Pursuant to Government Code section 17561(d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller within 120 days of the issuance date for the claiming instructions.
4. Pursuant to Government Code section 17560(a), a school district may, by February 15 following the fiscal year in which costs were incurred, file an annual reimbursement claim that details the costs incurred for that fiscal year.
5. If revised claiming instructions are issued by the State Controller pursuant to Government Code section 17558(c), between November 15 and February 15, a local agency filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim. (Gov. Code §17560(b).)
6. If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed except as otherwise allowed by Government Code section 17564(a).
7. There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

~~Government Code section 17557, prior to its amendment by Statutes 1998, chapter 681 (effective September 22, 1998), provided that a test claim must be submitted on or before December 31 following a given fiscal year to establish eligibility for that fiscal year.~~

~~The test claim for *Immunization Records: Hepatitis B* was submitted on August 17, 1998. Therefore all mandated costs incurred on or after July 1, 1997 for compliance with Statutes 1978, chapter 325, Statutes 1979, chapter 435, Statutes 1982, chapter 472, Statutes 1991, chapter 984, Statutes 1992, chapter 1300, Statutes 1994, chapter 1172, Statutes 1995, chapters 291 and 415, and Statutes 1996, chapter 1023 are eligible for reimbursement.~~

~~Statutes 1997, chapter 855 had a delayed operative date of July 1, 1998. Therefore, costs incurred on or after July 1, 1998, for compliance with Statutes 1997, chapter 855, are eligible for reimbursement.~~

~~Statutes 1997, chapter 882 was operative January 1, 1998. However, no activity was required until on or after July 1, 1999. Therefore, costs incurred on or after July 1, 1999, for compliance with Statutes 1997, chapter 882, are eligible for reimbursement.~~

~~Actual costs for one fiscal year shall be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to Government Code section 17561, subdivision (d)(1), all claims for reimbursement of initial years' costs shall be submitted within 120 days of the issuance of the State Controller's claiming instructions.~~

~~If the total costs for a given fiscal year do not exceed \$1000, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.~~

IV. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities and shall be claimed in accordance with Section V. Claim Preparation and Submission. ~~and shall be claimed based on the uniform cost allowance adopted by the Commission.~~ Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, district attendance and enrollment data.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), and declarations. Declarations must include a certification or declaration stating, "I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant, the following activities are eligible for reimbursement:

A. Proof of Immunizations for New Entrants: Kindergarteners and/or Out-of-State Transfers
(Reimbursement period begins: July 1, 1997.)

1. Request and review lawful exemption from, or proof of, immunization against mumps and rubella from each pupil seeking admission to school in the state for the first time.

(Health & Saf. Code, §§ 120325, 120335, ~~subd. (b)~~, 120375, ~~subd. (a)~~; Cal. Code Regs., tit. 17, §§ 6020, 6065, ~~subd. (b)~~.)²

2. Request and review lawful exemption from, or proof of, immunization against hepatitis B from each pupil entering specified institutions in the state for the first time at the kindergarten level after August 1, 1997. (Health & Saf. Code, §§ 120325, 120335; ~~subd. (b)~~, 120375, ~~subd. (a)~~; Cal. Code Regs., tit. 17, §§ 6020, 6065, ~~subd. (b)~~.)

~~B. Proof of Hepatitis B Immunizations for Students Entering Seventh Grade on or after July 1, 1999 (Reimbursement Period begins: July 1, 1999.)~~

- ~~1. Request and review lawful exemption from, or proof of, immunization against hepatitis B from each pupil advancing to the seventh grade on or after July 1, 1999. (Health & Saf. Code, §§ 120325, 120335, ~~subd. (c)~~; Cal. Code Regs., tit. 17, §§ 6020, 6065, ~~subd. (b)~~.)~~

~~CB. Conditional Admission of Pupils and Parent Notification Requirements (Reimbursement Period begins: July 1, 1997.)~~

1. Conditionally admit any pupil seeking admission to school in the state for the first time who has not been fully immunized for mumps, rubella, and hepatitis B by notifying parents or guardians of the date by which the pupil must complete the required immunizations. (Health & Saf. Code, §§ 120325, 120340; Cal. Code Regs., tit. 17, § 6035.)
2. Review the immunization record of each pupil admitted conditionally every thirty days until the pupil has been fully immunized. (Health & Saf. Code, §§ 120325, 120375; ~~subd. (a)~~; Cal. Code Regs., tit. 17, § 6070, ~~subd. (e)~~.)

Reimbursement is not required for these activities as they relate to the formerly required hepatitis B immunization for pupils advancing to the seventh grade. (Health & Saf. Code, § 120335(c), as amended by Stats. 2010, chapter 434.)

~~DC. Mandatory Pupil Exclusion and Parent Notification Requirements (Reimbursement Period begins: July 1, 1998.)~~

1. Notify parents or guardians of the requirement to exclude the pupil from school if written evidence either that the pupil has been properly immunized or qualified for an exemption is not presented within 10 school days after notification. (Ed. Code, § 48216, ~~subd. (b)~~; Health & Saf. Code, § 120325; Cal. Code Regs., tit. 17, § 6040.)
2. Refer the parents or guardians to a physician, nurse, or county health department for review of immunization records and provision of required immunizations, or notify them that the immunizations will be administered at a school of the district. (Ed. Code,

² The addition of mumps and rubella to the list of diseases an entering student must be immunized against prior to first admission into a school should create *no incremental workload*, since in California, one vaccine is given for measles, mumps, and rubella (MMR), and measles is part of the original *Immunization Records Parameters and Guidelines*.

§ 48216, ~~subd.~~ (c); Health & Saf. Code, § 120325; Cal. Code Regs., tit. 17, § 6065; ~~subd.~~ (c).)

3. Exclude pupils from school attendance when written evidence of additional doses is not presented within ten days of parental notification. (Ed. Code, § 48216, ~~subd.~~ (a); Health & Saf. Code, §§ 120325, 120375, ~~subd.~~ (b); Cal. Code Regs., tit. 17, § 6055.)

Reimbursement is not required for these activities as they relate to the formerly required hepatitis B immunization for pupils advancing to the seventh grade. (Health & Saf. Code, § 120335(c), as amended by Stats. 2010, chapter 434.)

ED. Documentation and Reporting Requirements for Immunizations
(Reimbursement Period begins: July 1, 1997.)

1. For pupils seeking admission to school in the state for the first time, Record each pupil's immunization for, or exemption from mumps, rubella, and hepatitis B on an immunization record and maintain the document in each pupil's permanent record. (Health & Saf. Code, §§ 120325, 120335, ~~subd.~~ (b), 120375, ~~subd.~~ (a); Health & Saf. Code, § 120335(c), as amended by Stats. 2010, chapter 434; Cal. Code Regs., tit. 17, § 6070.)
2. Maintain records, which have already been received, relating to the hepatitis B immunization or lawful exemption for pupils advancing into seventh grade, formerly required by Health and Safety Code section 120335(c), in each pupil's permanent file. (Health & Saf. Code, §§ 120335(c), as amended by Stats. 2010, ch. 434, and 120375(a).)
3. Document additional vaccine doses on the pupil's immunization record as they are administered.³ *Reimbursement is not required for this activity as it relates to the formerly required hepatitis B immunization for pupils advancing to the seventh grade. (Health & Saf. Code, §§ 120325, 120375, ~~subd.~~ (a); Health & Saf. Code, § 120335(c), as amended by Stats. 2010, chapter 434; Cal. Code Regs., tit. 17, § 6070.)*
4. Collect data and prepare reports annually on immunization status for the Department of Health Services. *Reimbursement is not required for these activities as they relate to the formerly required hepatitis B immunization for pupils advancing to the seventh grade. (Health & Saf. Code, §§ 120325, 120375, ~~subd.~~ (c); Health & Saf. Code, § 120335(c), as amended by Stats. 2010, chapter 434; Cal. Code Regs., tit. 17, § 6075.)*
5. Prepare follow-up or additional reports upon request by county health departments and the state. *Reimbursement is not required for this activity as it relates to the formerly required hepatitis B immunization for pupils advancing to the seventh grade (Health & Saf. Code, §§ 120325, 120375, ~~subd.~~ (c); Health & Saf. Code, § 120335(c), as amended by Stats. 2010, chapter 434; Cal. Code Regs., tit. 17, § 6075.)*

³ This activity is only for *documenting* additional vaccine doses on the pupil's immunization record. The test claim legislation does not mandate school districts to administer vaccines.

V. CLAIM PREPARATION AND SUBMISSION

Actual costs shall be claimed based on the uniform cost allowances adopted by the Commission pursuant to Government Code section 17557. The uniform cost allowances shall be adjusted each subsequent year by the Implicit Price Deflator referenced in Government Code section 17523.

The uniform cost allowances cover all the direct and indirect costs of performing the activities described in section IV. Direct costs are those costs incurred specifically for the reimbursable activities. Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both (1) overhead costs of the unit performing the mandate; and (2) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

A. 1. Uniform Cost Allowance for All Activities Identified in Section IV. for New Entrants, Except for the Activity Identified in Section IV.D.2.

Actual costs for performing the activities described in Section IV for “new entrants” shall be claimed based on the uniform cost allowance adopted by the Commission pursuant to Government Code section 17557. The uniform cost allowance shall be adjusted each subsequent year by the Implicit Price Deflator referenced in Government Code section 17523.

The uniform cost allowance covers all the direct and indirect costs of performing the activities described in section IV for “new entrants.” Direct costs are those costs incurred specifically for the reimbursable activities. Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both (1) overhead costs of the unit performing the mandate; and (2) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

<u>Fiscal Year</u>	<u>Uniform Cost Allowance</u>
1997-1998	\$ 2.12
1998-1999	5.87
1999-2000	6.14
2000-2001	6.38
2001-2002	6.48
2002-2003 (estimated)	6.59

~~Activities that are reimbursable under t~~The uniform cost allowance for “New Entrants” provides reimbursement for all activities in Section IV., except for the activity identified in Section IV.D.2. are as follows:

- ~~• Section IV. A, C, and E—new activities for the hepatitis B immunization.~~
- Section IV. D—new activities for the DPT, polio, MMR, and hepatitis B immunizations.

Reimbursement is determined by multiplying the uniform cost allowance for the appropriate fiscal year by the number of “New Entrants.” A “New Entrant” includes kindergarteners and out-of-state transfers.

2. Actual Cost Claiming Applicable to the Reimbursable Activity in Section IV.D.2.

Reimbursement to maintain records, which have already been received, relating to the hepatitis B immunization or lawful exemption for pupils advancing into seventh grade, formerly required by Health and Safety Code section 120335(c), in each pupil’s permanent file, as provided in Section IV.D.2. of these parameters and guidelines shall be claimed as follows:

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the services that were performed during the period covered by the reimbursement claim. If the contract services are also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and attorney invoices with the claim and a description of the contract scope of services.

4. Fixed Assets

Report the purchase price paid for fixed assets (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1., Salaries and Benefits, for each applicable reimbursable activity.

B. Indirect Cost Rates

Indirect costs are costs that are incurred for a common or joint purpose, benefiting program, and are not directly assignable to a particular department or program without efforts disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs may include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs; and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

Claimants must use the CDE approved indirect cost rate for the year that funds are expended.

B. Uniform Cost Allowance for Seventh Grade Pupils (for Fiscal Year 1999-2000 through 2003-2004):

Fiscal Year	Uniform Cost Allowance
1999-2000	\$ 3.23
2000-2001	3.36
2001-2002	3.41
2002-2003 (estimated)	3.47

Activities that are reimbursable under the uniform cost allowance for “Seventh Grade Pupils” are as follows:

- Section IV. B, C, D, and E — new activities for the hepatitis B immunization.

Reimbursement is determined by multiplying the uniform cost allowance for the appropriate fiscal year by the number of “Seventh Grade Pupils.” A “Seventh Grade Pupil” is any pupil advancing to the seventh grade, other than “New Entrants.”

Note: Beginning with the 2004-2005 school year, the uniform cost allowance should be calculated as follows:

Uniform Cost Allowance = [cost per activity per immunization] x 5,
where the “cost per activity per immunization” is calculated as
[the current fiscal year SMAS Rate for *Immunization Records*] ÷ 15,
and 5 equals the number of activities required for seventh grade
pupils.⁴

~~The Commission has not identified any circumstances that would cause an eligible claimant to incur additional costs to perform the reimbursable activities listed in section IV. of these parameters and guidelines, which have not already been incorporated in the uniform allowance. Eligible claimants incurring any such costs within the scope of the reimbursable activities may submit a request to amend the parameters and guidelines to the Commission for such costs to be approved for reimbursement, subject to the provisions of California Code of Regulations, title 2, section 1183.2.~~

VI. RECORD RETENTION

~~Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter⁵ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.~~

VII. OFFSETTING SAVINGS AND REIMBURSEMENTS

Any offsetting savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, including but not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim.

VIII. STATE CONTROLLER’S CLAIMING INSTRUCTIONS

~~⁴Kindergarteners beginning in the 1997-1998 school year will become seventh graders by the 2004-2005 school year and their immunization records would have already been reviewed for hepatitis B.~~

~~⁵ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.~~

Pursuant to Government Code section 17558, ~~subdivision (b)~~, the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than ~~60~~ 90 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the statute or executive order creating the mandate and the parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, ~~subdivision (d)(1)~~, issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, ~~subdivision (a)~~, and California Code of Regulations, title 2, section 1183.172.

X. INCLUSION IN STATE MANDATES APPORTIONMENT SYSTEM

~~The Department of Finance, the State Controller, local agencies, or school districts may request that the Commission review any mandated cost programs, for which appropriations have been made by the State to local agencies and school districts for any three consecutive years, to determine if those programs are eligible for inclusion in SMAS. The requesting agency is required to file a “request for inclusion” with the Commission. When considering the request for inclusion, the Commission must determine if the program has a history of stable costs for most claimants, if the program has been recently modified, and if inclusion would accurately reflect the costs of the program⁶.~~

XI. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The decisions adopted for the test claim, parameters and guidelines and amendments thereto, and the mandate redetermination are legally binding on all parties and provide the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record. The administrative record is on file with the Commission.

⁶ See Government Code section 17615 et seq. and California Code of Regulations, title 2, section ~~1184.5~~ 1186.1 et seq.



Exhibit D

RECEIVED
February 11, 2016
Commission on
State Mandates

BETTY T. YEE
California State Controller
Division of Accounting and Reporting

February 11, 2016

Ms. Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Re: First Hearing Decision, Second Hearing Draft Proposed Decision, Draft Expedited Amendment to Parameters and Guidelines, and Notice of Hearing Mandate Redetermination Request, 14-MR-04
First Hearing: Adequate Showing
Immunization Records: Hepatitis B (98-TC-05)
Education Code Section 48216 et al.
As Alleged to be Modified by Statutes 2010, Chapter 434 (AB 354)
Department of Finance, Requester

Dear Ms. Halsey:

The State Controller's Office reviewed both the second hearing draft proposed decision and the draft expedited amendment to parameters and guidelines for the Immunization Records: Hepatitis B program and recommends no changes.

If you have any questions regarding the above, please contact Lacey Baysinger by telephone at (916) 324-7876, or by email at LBaysinger@sco.ca.gov.

Sincerely,

JAY LAL, Manager
Local Reimbursements Section

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On February 16, 2016, I served the:

SCO Comments on Second Hearing Draft Proposed Decision, and Draft Expedited Amendment to Parameters and Guidelines

Mandate Redetermination Request, 14-MR-04

First Hearing: Adequate Showing

Immunization Records: Hepatitis B (98-TC-05)

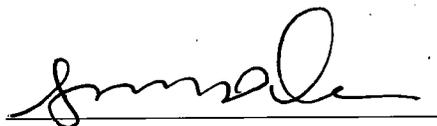
Education Code Section 48216 et al.

As Alleged to be modified by Statutes 2010, Chapter 434 (AB 354)

Department of Finance, Requester

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on February 16, 2016 at Sacramento, California.



Lorenzo Duran
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 1/27/16

Claim Number: 14-MR-04

Matter: Immunization Records: Hepatitis B (98-TC-05)

Requester: Department of Finance

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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