

Date of Hearing: April 6, 2021

ASSEMBLY COMMITTEE ON HEALTH
Jim Wood, Chair
AB 882 (Gray) – As Amended March 22, 2021

SUBJECT: Proposition 56 Medi-Cal Physicians and Dentists Loan Repayment Act Program.

SUMMARY: Conditions loan assistance payments under the Proposition 56 Medi-Cal Physicians and Dentists Loan Repayment Act Program (Loan Repayment Program) on physicians and dentists practicing in health professional shortage areas (HPSA), as determined by the federal Health Resources and Services Administration (HRSA), and who maintain a patient caseload composed of a minimum of 30% Medi-Cal beneficiaries, commencing January 1, 2022 and subject to an appropriation in the annual Budget Act. Repeals the January 1, 2026 sunset date of the Loan Repayment Program. Specifically, **this bill:**

- 1) Conditions eligibility for the Department of Health Care Service (DHCS) loan assistance payments under the Loan Repayment Program on individuals practicing in a HPSA, as determined by the HRSA, and who maintain a patient caseload composed of a minimum of 30% Medi-Cal beneficiaries, effective January 1, 2022 and subject to funding in the annual Budget Act.
- 2) Requires DHCS to annually verify that these providers continue to practice in those designated areas.
- 3) Repeals the funding limitation specific to the Budget Act of 2018, and instead requires the program to be funded using money appropriated in the annual Budget Act.
- 4) Requires the DHCS-developed eligibility criteria to be used to evaluate physician and dentist participation in the Loan Repayment Program to be consistent with a specified provision on the use of Proposition 56 contained in the initiative.
- 5) Repeals the January 1, 2026 sunset date of the Loan Repayment Program.

EXISTING LAW:

- 1) Requires DHCS to develop and administer the Loan Repayment Program to provide loan assistance payments to qualifying, recent graduate physicians and dentists that serve beneficiaries of the Medi-Cal program.
- 2) Requires DHCS to consult with other state entities, including the Office of Statewide Health Planning and Development (OSHPD), and with affected stakeholders.
- 3) Requires the Loan Repayment Program to be funded using moneys appropriated to DHCS for this purpose in the Budget Act of 2018 from the Healthcare Treatment Fund established pursuant Proposition 56.
- 4) Requires DHCS to administer two separate payment pools for participating physicians and dentists, respectively, consistent with the allocations provided for in the Budget Act of 2018.

- 5) Requires DHCS to develop the eligibility criteria to be used to evaluate physician and dentist participation in the Loan Repayment Program. Requires DHCS, in developing this criteria, DHCS to prioritize ensuring timely access, limiting geographic shortages of services, and ensuring quality care in the Medi-Cal program.
- 6) Requires DHCS to develop separate criteria for distribution of payments from the physician and dentist payment pools. Requires DHCS, at a minimum, to establish the maximum number of years a physician or dentist may be in practice to qualify for payments, and the minimum number of years a participating physician or dentist receiving payments must agree to participate as an enrolled provider in the Medi-Cal program.
- 7) Requires the selection of physicians and dentists for participation in the Loan Repayment Program and the amount of loan repayment assistance awarded to a participating physician or dentist to be at the discretion of DHCS and any entity contracted with DHCS, and to be based on the criteria developed.
- 8) Permits DHCS, to implement the above-described requirements, to enter into exclusive or nonexclusive contracts, or amend existing contracts, on a bid or negotiated basis, and exempts these contracts from specified Government Code and Public Contract Code provisions, and the review or approval of a division of the Department of General Services.
- 9) Implements the above requirements only to the extent that DHCS determines that federal financial participation (FFP) under the Medi-Cal program is not jeopardized, and permits DHCS to seek federal approval necessary to obtain FFP if DHCS determines there is a reasonable likelihood that federal financial participation is available for expenditures.
- 10) Sunsets and repeals the above provisions January 1, 2026.

FISCAL EFFECT: Unknown. This bill has not been analyzed by a fiscal committee.

COMMENTS:

- 1) **PURPOSE OF THIS BILL.** According to the author, more than 7 million Californians live in designated HPSAs where the lack of access to physicians, dentists, and other health care providers is a major impediment to improving health care outcomes. These communities suffer from socioeconomic disparities including elevated rates of poverty, unemployment, and reduced life expectancy. The provider shortage is only expected to worsen as physician retirement rates and the population continues to increase. California's existing incentives to attract doctors to these areas are already insufficient to reverse these trends. DHCS' decision to ignore clear legislative intent and provide incentives to doctors not practicing in these shortage areas makes scarce resources even scarcer. The author concludes this bill ensures we are incentivizing doctors to practice in the areas of the state with the greatest need.
- 2) **LOAN REPAYMENT PROGRAM.** The Loan Repayment Program was established pursuant to SB 849 (Committee on Budget and Fiscal Review), Chapter 47, Statutes of 2018, a health budget trailer bill. Named the CalHealthCares program, DHCS contracts with Physicians for a Healthy California (PHC) to administer the program. Funding for the program comes from Proposition 56, the California Healthcare, Research and Prevention Tobacco Tax Act of 2016, which appeared on the November 2016 ballot. Proposition 56

increased the tax on a package of 20 cigarettes by \$2 per pack (for a total tax of \$2.87 per pack), effective April 1, 2017, with equivalent increases on other tobacco products and electronic cigarettes containing nicotine. Funding for the Loan Repayment Program from Proposition 56 funds consists of \$220 million in 2018-19, and an additional \$120 million in the 2019-20 budget. Of the initial \$220 million, budget bill language in SB 56 (Committee on Budget and Fiscal Review), Chapter 30, Statutes of 2018 permitted \$190 million to be allocated for recent graduate physicians and \$30 million for recent graduate dentists. Of the \$120 million in 2019-20, AB 74 (Ting), Chapter 23, Statutes of 2019, authorized \$100 million to be allocated for recent graduate physicians, and \$20 million for recent graduate dentists.

PHC establishes criteria for applicants, maximum loan repayment amounts, and duration of service requirements for Loan Repayment Program recipients (this bill proposes obligations on recipients of Loan Repayment Program funds). To be eligible to apply to CalHealthCares, PHC indicates applicants must:

- a) Maintain a patient caseload comprised of a minimum of 30% Medi-Cal beneficiaries and within 10% of the Medi-Cal patient caseload proposed in their application;
- b) Have graduated within the last five years (January 1, 2016 for Cohort 3) or will be graduating and moving towards employment no later than June 30, 2021 (date for Cohort 3). For dentist applying to the Practice Support Grant must have graduated from dental school or residency program within the last fifteen years (January 1, 2006 for Cohort 3);
- c) Not participating in another disqualifying loan repayment program or practice support grant as of June 30, 2021 (date for Cohort 3);
- d) Have an unrestricted license and be in good standing with their licensing board;
- e) Be an active enrolled Medi-Cal provider without existing suspensions, disbarments or revocations or have submitted their application to DHCS to become a Medi-Cal provider;
- f) Have existing educational loan debt incurred while pursuing a medical or dental degree, or have an existing dental practice and willing to relocate, expand or establish a new practice to a target county; and,
- g) Practice in California.

Eligible physicians can apply for up to \$300,000 in loan repayment in exchange for a five-year service obligation. Eligible dentists can apply for a loan repayment up to \$300,000 in exchange for a five-year service obligation or a practice support grant up to \$300,000 in exchange for a 10 year service obligation.

To date, CalHealthCares has awarded over \$133 million to 506 physicians and 79 dentists in 47 counties in over 450 practice sites. For Cohort 1, \$66.1 million was awarded to 234 physicians (from 1,035 physician applicants) and 38 dentists (from 241 dentist applicants). For Cohort 2, \$67.7 million was awarded to 272 physicians and 41 dentists. The application cycle recently closed for Cohort 3, and CalHealthCares is still processing applications, so awards have not been determined for this cycle for the 2020-21 fiscal year.

Per the Budget Act of 2018, \$190 million may be allocated to physicians and \$30 million may be allocated to dentists. Per the May Revise of 2019, \$100 million may be allocated to physicians and \$20 million may be allocated to dentists. Of the total \$290 million allocated to physicians, PHC indicates CalHealthCares split the funding equally between primary and specialty physicians for the past two cohorts.

3) CURRENT SCORING CRITERIA FOR LOAN REPAYMENT PROGRAM. Unlike existing OSHPD-administered physician scholarship program, SB 849 granted broad authority to DHCS to determine eligibility for loan repayment. Existing law requires DHCS to develop the eligibility criteria to be used to evaluate physician and dentist participation in the Loan Repayment Program, and requires DHCS (in developing this criteria) to prioritize ensuring timely access, limiting geographic shortages of services, and ensuring quality care in the Medi-Cal program. The CalHealthCares advisory council uses a scoring matrix to develop funding recommendations. PHC indicates the advisory council, on an annual basis, refines the scoring criteria to be responsive to changing health care needs. PHC has developed a six page table that provides applicants with information regarding the application scoring process for the CalHealthCares program. The scoring matrix total up to 50 points, and includes points for:

- a) Languages spoken at work in addition to English (up to 5 points);
- b) Hours providing direct patient care per week (up to 5 points);
- c) HPSA or Dental Health Professional Shortage Area (up to 5 points);
- d) Current patient caseload (current percentage by payor source [up to 5 points]);
- e) Proposed patient caseload (proposed percentage by payor source [up to 5 points]);
- f) All providers with a current Medi-Cal patient caseload of 0-10%, increasing to at least a 30% Medi-Cal patient caseload (up to 5 points);
- g) A description of how the provider calculated their Medi-Cal patient caseload (up to 2 points);
- h) A description of how the provider and their employer will meet their proposed patient caseload (3 points);
- i) A personal statement describing the provider's experience working with underserved communities, especially Medi-Cal and the provider's commitment to Medi-Cal beneficiaries (3 points);
- j) A description of the need for the provider's specialty in the provider's geographic area (up to 4 points);
- k) A description of how the provider will improve the health outcomes of underserved communities, especially Medi-Cal (up to 4 points); and,
- l) A description of how the provider will improve timely access to care for Medi-Cal patients (up to 4 points).

4) CALIFORNIA STATE AUDITOR REPORT ON PROPOSITION 56 TOBACCO TAX. In January 2021, the California State Auditor (CSA) issued a report entitled "Proposition 56 Tobacco Tax – State Agencies' Weak Administration Reduced Revenues by Millions of Dollars and Led to the Improper Use and Inadequate Disclosure of Funds." Related to this bill, CSA made two recommendations regarding the location of providers receiving loan repayment agreements, and verification of caseload.

With regard to location of loan repayment recipients, CSA stated DHCS' process for selecting grantees for this program did not require them to be located in areas with a shortage of health care providers, and it consequently awarded tens of millions of dollars to physicians and dentists who practice in areas that do not have shortages. CSA stated that, although DHCS application review process for the program assigned a certain number of points to applicants located in HPSAs, it assigned twice as many points to a review of the applicants' personal statements.

CSA stated that DHCS' failure to require that grantees be located in geographic shortage areas undermined one of the priorities that state law establishes for the use of these funds. As a result, many of the primary care physicians and dentists that DHCS selected for the program are not located in areas that the federal government defines as HPSAs. The CSA states that, according to data that DHCS provided, 79 of the 117 primary care physicians DHCS selected for participation in the loan repayment program during fiscal year 2018-19 were not located in HPSAs. In total, DHCS agreed to repay \$18.5 million in loans for these 79 primary care physicians. Consequently, CSA states, DHCS spent fewer funds to support health care providers in health professional shortage areas.

CSA states the lack of health care professionals in these areas has a significant impact on Medi-Cal beneficiaries, citing its prior work that Medi-Cal beneficiaries do not have adequate access to the providers they need in many parts of California. By prioritizing program applicants in these health professional shortage areas, CSA states DHCS could have better addressed this need. In fiscal year 2018-19, DHCS denied the applications of 104 primary care physicians located in such areas, while granting funds to the 79 who were not in a shortage area. CSA recommended DHCS, in order to ensure that it awards funds to applicants who address the need for providers in health professional shortage areas, should amend its application selection process to require by June 2021 that all participants practice in geographic areas that have shortages of such health professionals, and annually verify that participants continue to practice in such areas.

DHCS declined to implement the HPSA CSA recommendation. In its written response, DHCS stated, as written, the statute requires only that DHCS prioritize, among other things, limiting geographic shortages of services. The current methods employed by DHCS accomplish this goal, and elevating the priority of a consideration for geographic shortage areas may eliminate awards to qualified providers outside a geographic shortage area who, for example, significantly increase their caseload or speak another language which ensures more timely access or a heightened quality of care for certain beneficiaries. As such, DHCS disagrees with the recommendation to further emphasize or make limiting geographic shortages a program requirement. Furthermore, when available, DHCS incorporates an applicant's HPSA score which assigns additional points to physicians/dentists who practice in identified areas with a shortage. Unfortunately, HPSA has not developed a scoring criteria for specialists, which may account for a portion of the disparities identified in the report. Perhaps most notably, an overwhelming majority of Medi-Cal beneficiaries are enrolled in a Medi-Cal managed care (MCMC) plan. As such, DHCS states the program's award process was amended during Cohort 2 (not reviewed during this audit) to include consideration for the approved alternative access standards applied to MCMC plans.

The CSA's second recommendation involves DHCS verification of caseload information Loan Repayment Program applicants provides. CSA stated DHCS has not yet formalized a

process to verify the caseload information the participants provide. CSA states that, if participants' caseloads fall below 10% of their proposed Medi-Cal caseloads for two consecutive years, the contract allows DHCS to cease making loan payments. However, without a process in place to verify this information, participants have little motivation to accurately report if their Medi-Cal caseloads drop below the required percentage. Without assurance that the information that participants report is accurate, DHCS may have made payments toward the student loans of participants who are not serving Medi-Cal patients or are serving fewer such patients than agreed. In its audit response, DHCS stated it agreed with this recommendation, and estimated it would implement the change by June 30, 2021. This bill codifies this CSA recommendation.

5) **HPSAs.** The federal Public Health Service Act defines a HPSA as:

- a) An area in an urban or rural area (which need not conform to the geographic boundaries of a political subdivision and which is a rational area for the delivery of health services) which the federal Secretary determines has a health manpower shortage and which is not reasonably accessible to an adequately served area;
- b) A population group which the Secretary determines has such a shortage, or,
- c) A public or nonprofit private medical facility or other public facility which the Secretary determines has such a shortage (all Federally qualified health centers and rural health clinics that meet specified requirements are automatically designated as having such a shortage).

The HRSA identifies several different types of HPSAs, including geographic areas that have a shortage of primary care, dental, or mental health care providers either for the entire population within that area or for a specific group within that area, such as individuals with low income.

OSHPD indicates the number of people in a HPSA and the geographic coverage is calculated by dividing the state into sub-county service areas known as Medical Service Study Areas (MSSA) that HRSA recognizes as the unit of geography for designating HPSAs. There are 542 MSSAs covering the geography of the entire state. All population numbers are based on the 2018 American Community Survey (ACS) 5-Year Estimates which are the basis for the current HPSA designations.

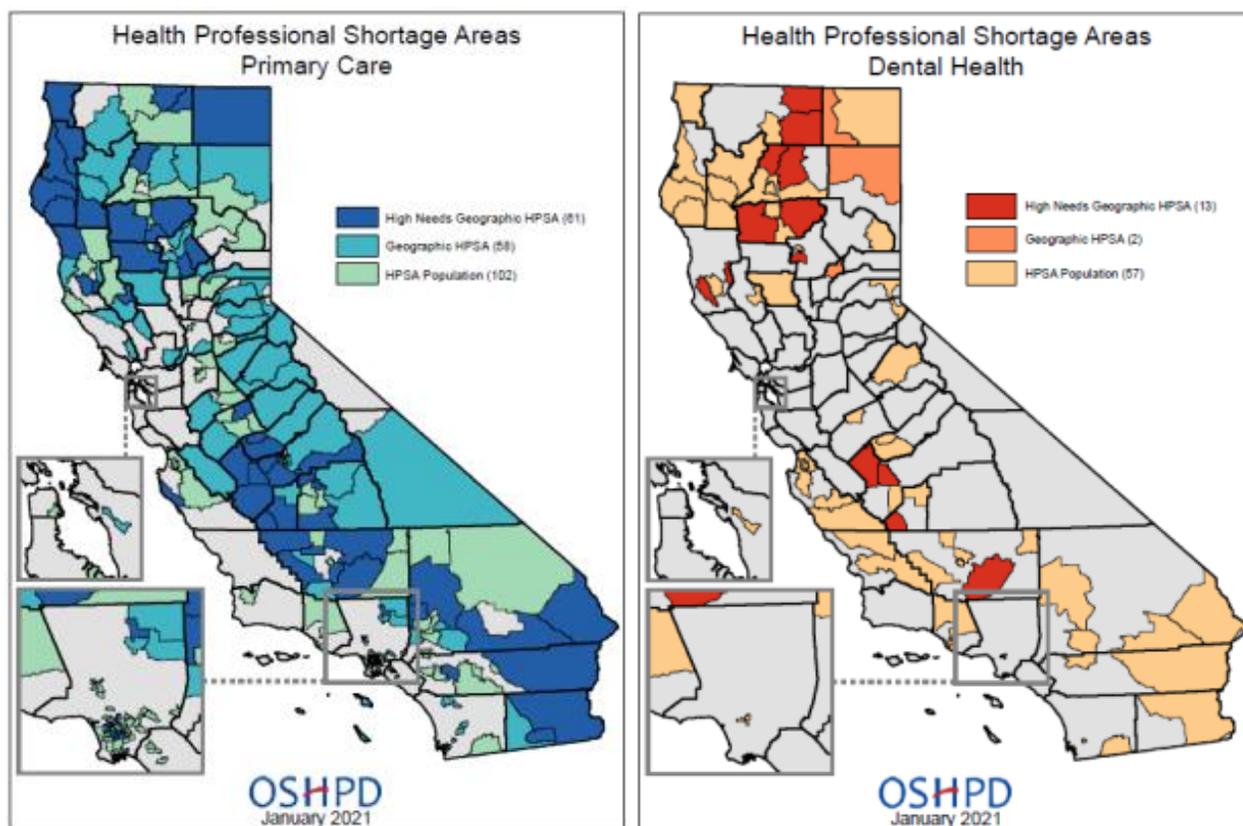
Total California Population 2018 5-Year ACS – 38,407,403.

a) Primary Care HPSAs:

- i) 11,152,788 people live in a Primary Care HPSA (29% of Californians).
- ii) 56,511 square miles of California are covered by a Primary Care HPSA (34.5% of California).

b) Dental HPSA:

- i) 3,050,377 people live in a Dental HPSA (7.9% of Californians).
- ii) 26,116 square miles of California are covered by a Dental HPSA (15.9% of California).



- 6) **SUPPORT.** The Association of California Health Care Districts (ACHCD) writes in support that in 2019, the California Future Health Care Work Force Commission estimated the state will face a shortfall of 4,100 primary care clinicians by 2030. For healthcare districts located in rural and remote areas of the state recruiting and retaining health professionals, particularly physicians, to their areas is extremely difficult. Loan repayment programs, especially those funded through Proposition 56 revenue, are essential to incentivizing physicians to practice in designated shortage areas throughout California. Earlier this year the California State Auditor released an audit on the collection and administration of the Proposition 56 revenue. The audit found that state agencies failed to implement adequate safeguards to ensure Proposition 56 funds were properly awarded, and physicians and dentists located in areas of the state without health care provider shortages had been awarded significant portions of this funding. ACHCD concludes the Medi-Cal caseload minimum and safeguards established in this bill will assist in ensuring awards are truly incentivizing and directing health care professionals to the areas that need it the most.
- 7) **OPPOSITION.** This bill is opposed by the California Dental Association (CDA), which writes that, although it is clear that the author's goal of improving the Loan Repayment Program and access to care, the restriction in the bill would actually have the opposite effect of this laudable intention. CDA argues that, with the passage of Proposition 56, the voters of California specifically intended for the tobacco tax revenues to be used to improve access to care for Medi-Cal beneficiaries. As such, the explicit legislative mandate of the Loan Repayment Program is to recruit providers who are committed to serving and improving access to care in the Medi-Cal program. In California, CDA states that dental HPSAs alone do not accurately capture the regions in which the Denti-Cal Program has severe deficiencies

in the number of enrolled dental providers, citing specific counties with few dental HPSAs but high beneficiary to provider ratios. CDA writes that it believes that the restrictions in the bill unintentionally undermine the efforts to address the provider shortage in Denti-Cal and limit the ability of DHCS to place dentist awardees where they are most needed.

- 8) **OPPOSE UNLESS AMENDED.** The County Behavioral Health Directors Association (CBHDA) writes it is opposed to this bill unless it is amended. CBHDA writes, that while newly graduated psychiatrists dedicated to public service can access Proposition 56 funded loan repayment if they work for county Medi-Cal behavioral health plans now, under this bill, if the provider works for a county plan that does not have a HPSA designation, this provider will be ineligible for loan assistance while serving only Medi-Cal beneficiaries and the uninsured. CBHDA recommends amendments to allow the county behavioral health agency workforce to be eligible for loan assistance whether in a HPSA or not because this workforce serves Medi-Cal beneficiaries, the uninsured and other vulnerable populations – the exact populations Proposition 56 loan assistance resources are intended to reach.
- 9) **AMENDMENT DISCUSSIONS ON-GOING.** There are on-going discussions regarding the conditioning of loan assistance payments under the Loan Repayment Program on physicians and dentists practicing in HPSA, and broadening that eligibility to also include the use of other additional criteria for Health Repayment Program eligibility. Areas being discussed include broadening eligibility to include areas where there is Medi-Cal managed care plan alternative access requests, wait times for appointments for Medi-Cal beneficiaries, and Medi-Cal provider to beneficiary ratios in the county.

REGISTERED SUPPORT / OPPOSITION:

Support

Association of California Health Care Districts

Opposition

California Dental Association

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