

California Penal Code Section 5023.5

5023.5. (a) Notwithstanding any other law, the Department of Corrections and Rehabilitation may contract with providers of health care services and health care network providers, including, but not limited to, health plans, preferred provider organizations, and other health care network managers. Hospitals that do not contract with the department for emergency health care services shall provide these services to the department on the same basis as they are required to provide these services pursuant to Section 489.24 of Title 42 of the Code of Federal Regulations. The department may only reimburse a noncontract provider of hospital or physician services at a rate equal to or less than the amount payable under the Medicare Fee Schedule, regardless of whether the hospital is located within or outside of California.

(b) An entity that provides ambulance or any other emergency or nonemergency response service to the department, and that does not contract with the department for that service, shall be reimbursed for the service at the rate payable under the Medicare Fee Schedule, regardless of whether the provider is located within or outside of California.

(c) Until regulations or emergency regulations are adopted in accordance with subdivision (g), the department shall not reimburse a contract provider of hospital services at a rate that exceeds 130 percent of the amount payable under the Medicare Fee Schedule, a contract provider of physician services at a rate that exceeds 110 percent of the amount payable under the Medicare Fee Schedule, or a contract provider of ambulance services at a rate that exceeds 120 percent of the amount payable under the Medicare Fee Schedule. The maximum rates established by this subdivision shall not apply to reimbursement for administrative days, transplant services, services provided pursuant to competitively bid contracts, or services provided pursuant to a contract executed prior to September 1, 2009.

(d) The maximum rates set forth in this section shall not apply to contracts entered into through the department's designated health care network provider, if

any. The rates for those contracts shall be negotiated at the lowest rate possible under the circumstances.

(e) The department and its designated health care network provider may enter into exclusive or nonexclusive contracts on a bid or negotiated basis for hospital, physician, and ambulance services contracts.

(f) The Secretary of the Department of Corrections and Rehabilitation may adopt regulations to implement this section. During the existence of the receivership established in United States District Court for the Northern District of California, Case No. C01-1351 TEH, Plata v. Schwarzenegger, the adoption, amendment, or repeal of a regulation authorized by this section is hereby exempted from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(g) The secretary may change the maximum rates set forth in this section by regulation or emergency regulation, adopted in accordance with the Administrative Procedure Act, but no sooner than 30 days after notification to the Joint Legislative Budget Committee. Those changes may include, but are not limited to, increasing or decreasing rates, or adding location-based differentials such as those provided to small and rural hospitals as defined in Section 124840 of the Health and Safety Code. The adoption, amendment, repeal, or readoption of a regulation authorized by this section is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the secretary is hereby exempted for this purpose from the requirements of subdivision (b) of Section 11346.1 of the Government Code.

(h) During the existence of the receivership established in United States District Court for the Northern District of California, Case No. C01-1351 TEH, Plata v. Schwarzenegger, references in this section to the "secretary" shall mean the receiver appointed in that action.