

# California State Auditor

B U R E A U O F S T A T E A U D I T S

## County Emergency Medical Services Funds:

*Although Counties Properly Allocate  
Money to Their EMS Funds, County  
Policies and Legislative Requirements  
Unnecessarily Limit Reimbursements to  
Emergency Medical Care Providers*

January 1999  
98109

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# CALIFORNIA STATE AUDITOR

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January 21, 1999

98109

The Governor of California  
President pro Tempore of the Senate  
Speaker of the Assembly  
State Capitol  
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As requested by the Joint Legislative Audit Committee, the Bureau of State Audits presents its audit report concerning various counties' administration of their Emergency Medical Services (EMS) funds. This report concludes that while the six counties we reviewed appropriately allocate money to their EMS funds, legislation enacted after fiscal year 1990-91 has effectively reduced available funding for emergency medical services. Moreover, because of their own policies and legislative constraints, counties are not fully utilizing available EMS funds to reimburse emergency medical care providers.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kurt Sjoberg".

KURT R. SJOBERG  
State Auditor

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# SUMMARY

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## Audit Highlights . . .

*Our review of the administration of Emergency Medical Services (EMS) funds at six counties disclosed:*

- ✓ *Legislative requirements and declining tobacco tax revenues have reduced available EMS funding.*
- ✓ *County policies and legislative restrictions have prevented full utilization of available EMS funds.*
- ✓ *Two counties may be violating the intent of EMS laws by either failing to establish a process to distribute their funds or properly depositing interest earnings.*

*Finally, we noted weaknesses in the counties' management of EMS administrative funds.*

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## RESULTS IN BRIEF

To compensate health care providers for emergency services for the uninsured and medically indigent and to ensure this population has continued access to emergency care, the Legislature enacted Chapter 1240, Statutes of 1987, allowing counties to establish an Emergency Medical Services (EMS) fund. Through EMS funds, counties can reimburse these providers for up to 50 percent of their losses. To date, 43 counties have established EMS funds, which they finance through penalties assessed on certain criminal and motor vehicle fines and forfeitures.

We reviewed the administration of EMS funding and the counties' compliance with laws governing the use of the funding, focusing on a sample of six counties of varying sizes—Humboldt, Los Angeles, Sacramento, San Bernardino, San Francisco, and San Joaquin. While the six counties appropriately allocate penalty assessments to their EMS funds, annual deposits into their funds have decreased significantly since fiscal year 1990-91. This downward trend is primarily due to the adverse effects of legislation that diverted money from the EMS funds. EMS fund deposits from state tobacco tax revenues have also declined because of a decrease in cigarette and tobacco purchases.

Additionally, although the counties ensure that reimbursements to EMS providers are consistent with state law, the financial support providers receive is often less than it could be. Because of their own policies and legislative constraints, counties are not fully utilizing EMS funds to reimburse providers. Consequently, the six counties we reviewed have accumulated balances totaling \$30.3 million in their EMS funds. As a result, the counties may deprive health care providers of cost reimbursement when providing emergency medical care.

Finally, we noted weaknesses in the counties' management of EMS fund administrative costs. Although the six counties we visited routinely allocate 10 percent of their EMS revenue for administrative costs, two of the counties could not fully substantiate their administrative charges. Moreover, some counties did not spend the entire amount allocated for administration.

Rather, they retained the excess funds in a sub-account to reimburse subsequent years' administrative costs instead of reallocating the funds to other EMS program accounts. The law states that counties can use up to 10 percent of the EMS funds for administration; however, it does not allow counties to carry over the entire amount of unspent administrative funds to cover administrative costs in subsequent periods. As a result, these counties are violating the law's intent by not reallocating the unused administrative funds to all EMS accounts. Further, because they do not reallocate unused administrative funds, counties are not maximizing the benefit to EMS providers by increasing the reimbursement rate for unpaid provider costs.

## RECOMMENDATIONS

To maximize financial support for emergency medical service providers and better achieve the objectives of the EMS statutes, we recommend the following actions:

- San Bernardino and Los Angeles counties should consider increasing their existing reimbursement rates in order to fully utilize their growing EMS fund balances. Moreover, all counties with EMS funds should periodically review the status of their EMS fund reserve and adjust reimbursement rates accordingly.
- The Legislature should consider revising the current statute to allow counties the flexibility to exceed the 50 percent maximum reimbursement rate for EMS providers when counties accumulate increasingly large EMS fund balances. Moreover, the Legislature should consider expanding the type of medical services allowed under the current law to enable counties to provide financial relief to other medical service providers incurring unreimbursed costs.
- San Joaquin County should initiate disbursements of the EMS revenues accumulated from court penalty assessments. Additionally, San Joaquin County should make the disbursements on at least an annual basis.

- All counties should use EMS administrative funds solely for EMS program expenses and maintain these funds in separate accounts. They should also reallocate unused administrative funds in a given fiscal year to all EMS accounts based on the percentages described in the Health and Safety Code.
- San Bernardino County should begin depositing interest earned on EMS fund balances from court penalty assessments back into the EMS fund. Moreover, the county should calculate the unpaid interest earned on such EMS balances since January 1, 1992, and deposit those funds into the EMS fund.

## AGENCY COMMENTS

We received comments from five of the six counties we reviewed. Humboldt County chose not to provide written comments to the report. In general, the counties agreed with our conclusions and recommendations. However, Los Angeles and San Francisco counties disagreed with our conclusion regarding increasing emergency medical service provider reimbursement rates when available resources exist. San Francisco County also disagreed with our conclusion that the law does not allow counties to carry over unspent administrative funds solely to cover administrative costs in subsequent periods. We provide our comments to these and other concerns raised by the counties after their respective responses. ■

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# INTRODUCTION

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## BACKGROUND

In 1987, the Legislature concluded that emergency medical service providers bore a higher cost for their services than providers of other medical services while often receiving no, or only partial, reimbursement from many of their patients. To address this concern, the Legislature and governor enacted Chapter 1240, Statutes of 1987, allowing counties to establish an Emergency Medical Services (EMS) fund. The legislation's purpose was to compensate physicians and medical facilities for emergency services for patients without health insurance who cannot pay for their care. Specifically, counties can use their EMS funds to reimburse these providers for up to 50 percent of their losses.

Counties can voluntarily establish an EMS fund; however, once the fund is established, the counties must allocate the majority of their revenues to physicians and hospitals for providing emergency services, while up to 10 percent can be used to administer the program. Currently, 43 counties have established an EMS fund.

To support their EMS funds, counties assess additional penalties on fines and bail forfeitures that their courts collect for certain criminal offenses and motor vehicle violations. A fixed portion of the penalty assessments is then deposited in the EMS fund. The California Government Code, Section 76104, states that, for counties with EMS funds established prior to June 1, 1991, the amount deposited in the fund shall be at, and shall not exceed, the corresponding amount for fiscal year 1990-91, plus a percentage representing the growth, if any, in fines and forfeitures, not to exceed 10 percent per fiscal year.

Because of confusion within the medical community and some counties over the intent of this section, we requested a legal opinion from the Office of Legislative Counsel (legislative counsel). Specifically, we asked the legislative counsel whether counties with declining penalty assessment revenues after fiscal year 1990-91 are required to maintain EMS funding levels equal to the funding during fiscal year 1990-91. In its opinion, the legislative counsel concluded that the Legislature intended penalty assessments on motor vehicle and criminal fines and

forfeitures to be the source of funding for the counties' EMS funds. In this way, the segment of the population with some responsibility in creating emergencies bears a degree of the costs of emergency medical services. Therefore, the counties should base the deposit of penalty assessment revenues on the amount actually collected in any fiscal year.

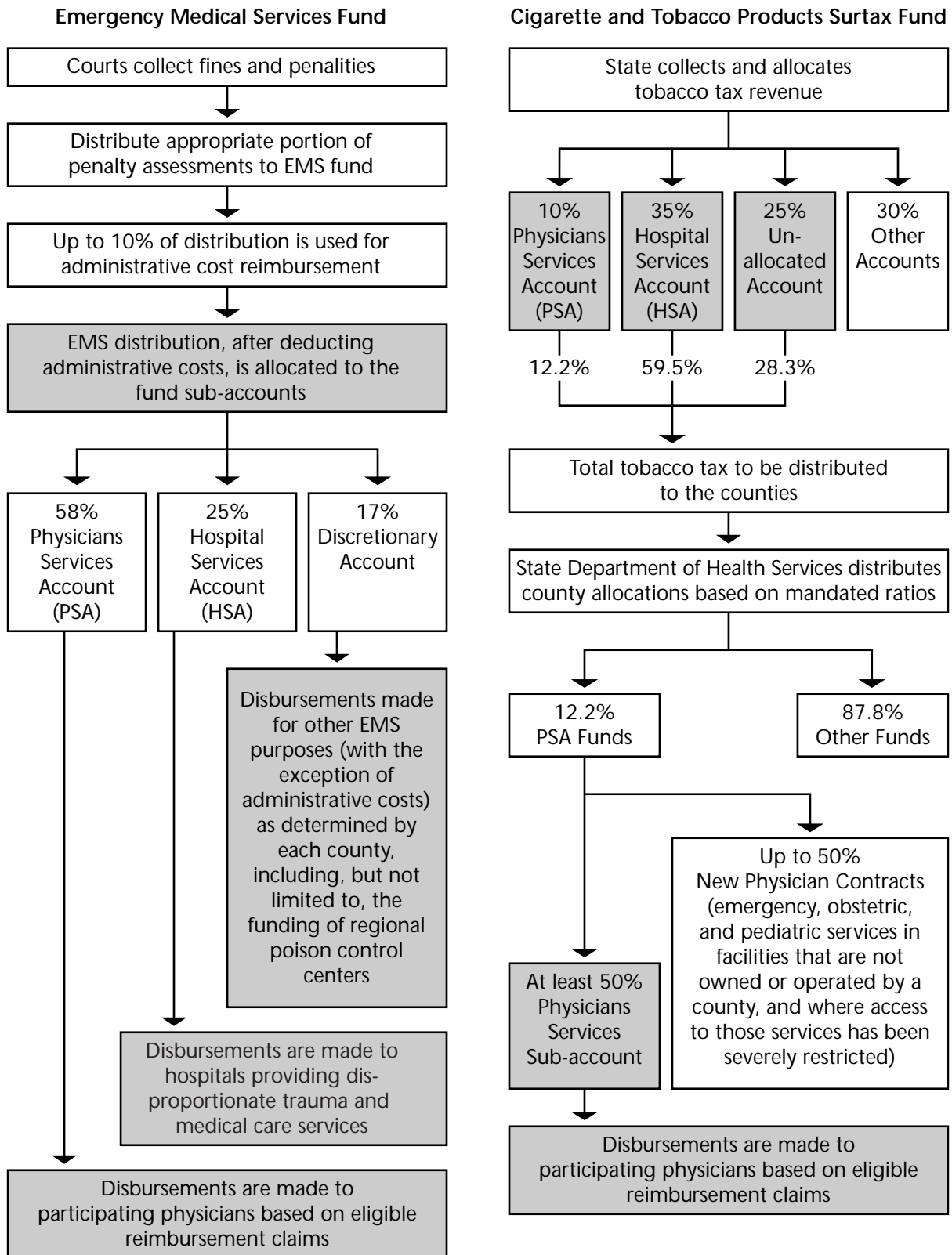
The California Health and Safety Code, Section 1797.98a, allows counties to use up to 10 percent of the EMS funds to administer the fund. The section also requires counties to distribute 58 percent of the remaining balance to physicians and surgeons for emergency services, 25 percent to hospitals providing disproportionate trauma and emergency care services, and 17 percent for other emergency medical services, as determined by the counties. Figure 1 on the following page illustrates the funding mechanism and allowable uses for the EMS fund.

Counties gained additional funding for emergency service providers with the passage of Proposition 99. Effective January 1, 1989, Proposition 99 established a surtax on cigarette and tobacco products, a portion of which goes to EMS funds. Counties must use at least 50 percent of the funds deposited in the physicians services account (PSA) to reimburse physicians for patients who do not have private insurance, are unable to pay, and are not covered by any federal program. However, the counties cannot use these funds to reimburse the cost of physicians who are employed by county hospitals.

Counties can use the remaining PSA funds to pay for new contracts, with an effective date no earlier than July 1989, with private physicians providing emergency, obstetric, and pediatric services where access to these services is severely limited. In addition, the county cannot own or operate the facility. Figure 1 shows the allowable uses for tobacco tax funds.

FIGURE 1

EMS Revenue Sources and Allowable Uses of Funds



## SCOPE AND METHODOLOGY

The Joint Legislative Audit Committee requested that we review the administration of the EMS funds to ensure that counties comply with the laws governing their use. The committee was concerned that penalty assessment allocations to counties' EMS funds decreased while the related penalty assessments paid to the State increased. The committee also requested that we determine the amount of Proposition 99 revenues deposited in the counties' EMS funds.

To understand the EMS funding process, we reviewed the relevant state laws, county boards of supervisors' resolutions, and various county policy and procedure manuals. We also interviewed representatives from the California Department of Health Services; California Emergency Medical Services Authority; State Controller's Office; and officials from the counties' departments of health services, auditor controllers, EMS agencies, and courts.

Because the establishment of an EMS fund is voluntary, to select counties operating one, we obtained county reports submitted to the State's Emergency Medical Services Authority and reviewed 6 of the 43 counties that maintain an EMS fund: Humboldt, Los Angeles, Sacramento, San Bernardino, San Francisco, and San Joaquin. This sample represents a cross-section of small, medium, and large counties located throughout California.

We reviewed court fines and forfeitures, penalty assessments, and EMS fund allocations for the six counties during fiscal years 1990-91 through 1996-97. To determine the amount of annual court fines and forfeitures and the resulting penalty assessments, we relied on records provided by the counties' municipal, superior, and juvenile courts and the county auditor controllers. To assure that the courts computed the penalty assessments correctly, we reviewed a sample of motor vehicle citations and verified that the penalty assessment amounts complied with state laws as well as with the resolutions of each county's board of supervisors. We also assessed the reasonableness of the penalty assessments the counties allocated to the EMS fund.

To ensure the counties spent the EMS funds according to statutory requirements, we evaluated each county's process for ensuring compliance with the EMS funding requirements and approving claims for payment. We also reviewed a sample of expenditures paid from the EMS funds. Specifically, we reviewed

the appropriateness of payments to private physicians and hospitals and costs incurred for administering the program. Moreover, we reviewed a sample of provider claims to ensure that each county only reimbursed eligible providers with EMS funds.

Finally, we reviewed the allocation of Proposition 99 funds to the counties and determined whether the counties used the funds according to statutory requirements. Specifically, we determined whether counties are depositing the money appropriately. We also reviewed a sample of physician claims to ensure that counties reimburse physicians for allowable services only. ■

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# CHAPTER 1

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## *Counties Properly Deposit EMS Funds; However, Revenue Streams Have Been Reduced*

### CHAPTER SUMMARY

Counties appropriately allocate to their respective Emergency Medical Services (EMS) funds a portion of the penalty assessments from certain criminal and motor vehicle fines and forfeitures, as well as the tobacco taxes they receive from the State; however, despite the counties' general adherence to funding requirements, EMS fund deposits have declined since fiscal year 1990-91. This trend is primarily due to legislation that has diverted money from the counties' EMS funds as well as to declining tobacco tax revenue resulting from decreases in cigarette and tobacco sales.

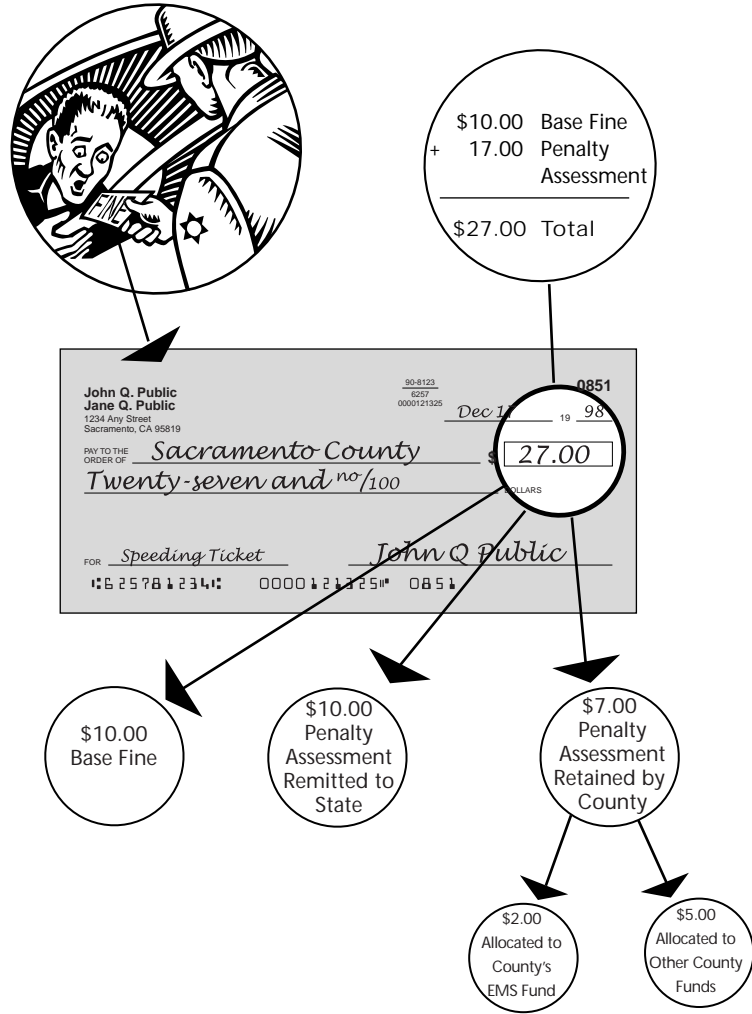
### COUNTY COURTS HAVE APPROPRIATELY ALLOCATED PENALTY ASSESSMENTS TO THE EMS FUNDS

Counties generally comply with EMS funding requirements. At the six counties in our sample—Humboldt, Los Angeles, Sacramento, San Bernardino, San Francisco, and San Joaquin—we reviewed EMS penalty assessments on individual motor vehicle violations and found that these counties properly assessed penalties on motor vehicle violations and deposited them into their EMS funds for fiscal years 1990-91 through 1996-97. State law requires counties to assess a \$17 penalty for every \$10, or portion thereof, in individual fines and to distribute those assessments to various state and county funds. For example, for a base fine of \$10, the county will assess an additional penalty of \$17, bringing the total amount the violator pays to \$27. The county allocates the base fine to various county funds and retains \$7 of the penalty assessment as well. The State receives the remaining \$10 of the penalty assessment. Counties with an established EMS fund are generally required to deposit in these funds \$2 of the \$7 penalty assessment they retain. Figure 2

illustrates the calculation of county and state penalty assessments and the allocation of the total fine to county and state funds.

FIGURE 2

Calculation and Distribution of Penalty Assessments



**SUBSEQUENT LEGAL REQUIREMENTS IMPOSED ON COUNTIES HAVE REDUCED AVAILABLE EMS FUNDING**

Although counties properly allocate money to their EMS funds, several recent laws have reduced their available funding. Table 1 indicates that EMS fund deposits for fiscal years 1991-92



TABLE 1

**County EMS Deposits From Penalty Assessment Collections  
Have Declined Since Fiscal Year 1990-91**

Fiscal Year	Humboldt	Los Angeles	Sacramento	San		
				Bernardino	San Francisco	San Joaquin <sup>a</sup>
1990-91	\$187,078	\$11,429,173	\$1,380,682	\$ 2,146,824	\$ 482,481	\$ 0
1991-92	169,657	10,627,720	1,193,790	1,877,808	352,758	155,787
1992-93	160,939	9,667,348	1,035,583	1,652,685	360,632	297,893
1993-94	141,745	10,105,270	1,021,097	1,827,510	377,286	320,118
1994-95	137,316	10,045,480	962,843	1,734,895	409,223	316,339
1995-96	111,098	10,203,123	884,788	1,547,195	444,672	313,276
1996-97	88,816	10,772,631	956,098	1,614,011	422,542	316,502
<b>Total</b>	<b>\$996,649</b>	<b>\$72,850,745</b>	<b>\$7,434,881</b>	<b>\$12,400,928</b>	<b>\$2,849,594</b>	<b>\$1,719,915</b>

<sup>a</sup>San Joaquin did not experience a corresponding decrease because it did not establish a fund until September 1991.

through 1996-97 were significantly lower than fiscal year 1990-91 deposits for five of the six counties in our sample. Legislation enacted subsequent to fiscal year 1990-91, which effectively diverted potential EMS fund revenue to other programs, caused the decline. This legislation is described below.

**Several Legislative Requirements Have Diverted Potential EMS Fund Revenues to Other Programs**

Legislation effective June 30, 1991, specified that a failure to attend traffic school for certain offenses could raise a violator's automobile insurance rates. As a result, many violators opt to attend traffic school, for which they pay a fee. However, the traffic school fee, which includes all court fines and assessments, is not distributed to the counties' EMS funds. As of June 30, 1991, the fees are instead allocated between the county's general fund and the State. For example, San Joaquin County's EMS fund did not receive \$323,836 (18 percent of its total deposits) during the five-year period from fiscal year 1992-93 to 1996-97 because many violators chose to attend traffic school. As this example illustrates, legislation has significantly reduced funding available for the EMS program.

Similarly, legislation enacted in June 1991 authorizing a 2 percent court automation fee also reduced allocations to the EMS fund. The counties first deduct the fee for supporting automating municipal and justice court record keeping for criminal and traffic cases directly from gross court collections. They then allocate any money to their funds, thus reducing the overall amount available for all funds, including the EMS funds. In Los Angeles County, for example, assessing the 2 percent court automation fee reduced allocations to its EMS fund from fiscal year 1991-92 to 1996-97 by \$1.2 million.

Finally, in September 1992, as a result of additional legislation, counties operating a collection program for outstanding fines of more than 60 days could recover their costs when they collected the revenues. The courts could deduct their collection costs before the counties distributed money to the EMS funds. For instance, Sacramento County recovered \$128,579 for collection costs from fiscal year 1992-93 through 1996-97. While not all counties deduct court collection costs, these costs have contributed to an overall decline in support for the EMS fund. This legislation, however, was repealed effective June 30, 1997. Beginning July 1, 1997, counties could no longer deduct collection costs from court fine revenues.

The overall effect of the traffic school and 2 percent court automation fees on EMS deposits, as illustrated in Table 2, resulted in the diversion of approximately \$20.3 million from the EMS funds in the six counties we visited over a six-year period.

**TABLE 2**

**Total Money Legislation Has Diverted From EMS Funds  
During Fiscal Years 1991-92 Through 1996-97**

County	Traffic School Fees	2% Court Automation Fees	Potential Additional Funding	Percent of Total EMS Fund Deposits
Humboldt	\$ 67,155	\$ 16,522	\$ 83,677	9%
Los Angeles	15,925,205	1,253,501	17,178,706	28
Sacramento	656,689	123,650	780,339	13
San Bernardino	1,012,923	97,210	1,110,133	17
San Francisco	780,941	48,411	829,352	35
San Joaquin	323,836	32,190	356,026	23
<b>Totals</b>	<b>\$18,766,749</b>	<b>\$1,571,484</b>	<b>\$20,338,233</b>	

### Legislation Increasing the State's Penalty Assessment Resulted in Higher Collections for the State

The aforementioned legislative requirements also reduced the amount collected for state penalty assessments. However, further legislation increased the state penalty assessment rate from \$7 to \$10 for every \$10 in base fines beginning in fiscal year 1991-92. This amount represents a 43 percent increase in the state penalty assessment rate. Table 3 below illustrates how state penalty assessments climbed dramatically from fiscal year 1990-91 to 1991-92.

**TABLE 3**

#### Higher State Penalty Assessment Rate Caused a Significant Increase In the Amounts Collected From Fiscal Year 1990-91 to 1991-92

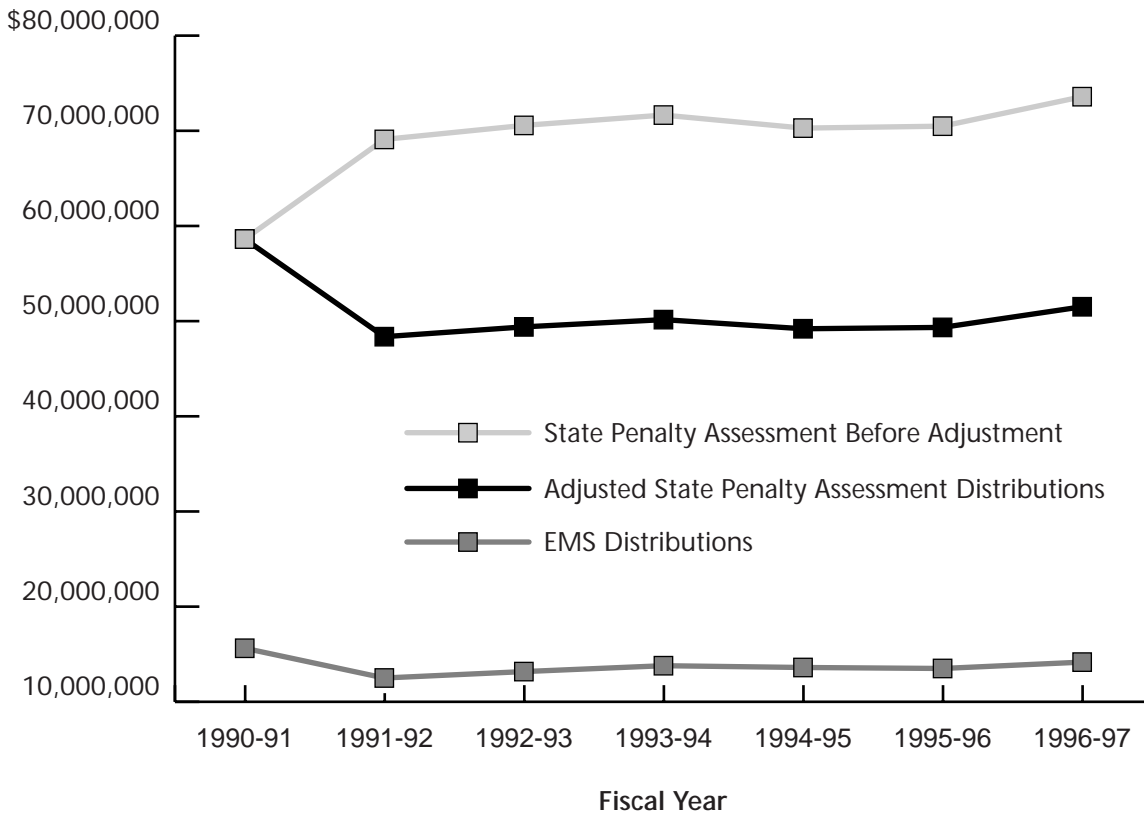
County	Fiscal Year 1990-91	Fiscal Year 1991-92	Increase/ (Decrease)	Percentage of Change
Humboldt	\$ 838,428	\$ 876,470	\$ 38,042	4.5%
Los Angeles	42,389,251	50,010,844	7,621,593	18.0
Sacramento	7,025,901	7,597,193	571,292	8.1
San Bernardino	7,323,613	8,616,690	1,293,077	17.7
San Francisco	1,683,869	1,993,126	309,257	18.4
San Joaquin	Not Available	Not Available		
<b>Total</b>	<b>\$59,261,052</b>	<b>\$69,094,323</b>	<b>\$9,833,261</b>	<b>16.6%</b>

Because counties use the same motor vehicle and criminal fines to calculate penalty assessments for both the county and State, if there was an increase in state penalty collections, one would expect a corresponding increase in county penalty assessments. However, unlike the state penalty assessment, the county assessment remained at \$7 for every \$10 in base fines. To determine whether the growth in state collections was largely caused by the \$3 increase in the assessment rate, we compared county and state penalty assessments over the seven-year period we reviewed. See Figure 3 on the following page for the comparison.

To equitably compare state penalty assessments to county penalty assessments, we removed the effects of the State’s increase—a difference of \$3 for each penalty assessment—for fiscal years 1991-92 through 1996-97. Once adjusted, we found the State’s penalty assessment trend is similar to the trend for the counties in that the six counties experienced a decrease for both assessments in fiscal year 1991-92 and then remained relatively constant.

**FIGURE 3**

**Comparable Decline in State (Adjusted) and EMS Penalty Assessment Distributions**



**TOBACCO TAX REVENUES FOR THE EMS FUNDS HAVE SIMILARLY DECLINED**

State tobacco tax deposits into the counties’ EMS funds have also declined since fiscal year 1990-91 as a result of reductions in the use of cigarette and tobacco products. As Table 4 shows,

tobacco tax allocations for each of the six counties we reviewed have declined significantly since fiscal year 1990-91. In addition, the recent passage of Proposition 10, which increases the tax on cigarettes by 50 cents a pack, may also depress sales of tobacco products, further reducing available funding to the counties.

We reviewed the distribution of state tobacco tax receipts at five of the six counties we visited and found that each participating county deposited the required tobacco tax revenue into its EMS fund. Humboldt County elects not to receive its allocation of tobacco tax revenue, but contracts with the State to administer its allocation.

**TABLE 4**

**County Allocations of State  
Tobacco Tax Receipts Have Declined**

County	1990-91	1991-92	1992-93	1993-94	1994-95	1995-96	1996-97
Humboldt	\$ 312,577	\$ 212,943	\$ 162,784	\$ 162,224	\$ 138,883	\$ 143,355	\$ 162,870
Los Angeles	138,362,054	100,989,859	87,419,093	85,730,825	72,351,941	72,802,059	72,886,173
Sacramento	10,398,543	7,104,791	5,933,913	5,900,381	5,077,721	5,000,890	4,957,648
San Bernardino	11,993,608	8,700,636	7,558,189	7,399,079	6,275,247	6,305,142	6,315,197
San Francisco	17,023,898	12,414,697	10,782,910	10,648,564	8,971,844	9,017,274	9,079,584
San Joaquin	5,499,965	4,048,982	3,509,684	3,443,973	2,898,428	2,904,185	2,905,637

For each county, the State calculates the allocation to the Physician Services Account (PSA), the Hospital Services Account (HSA), and other accounts. As with court penalty assessments, the counties primarily use tobacco tax receipts in the PSA to reimburse physicians and surgeons for uncompensated services. (Refer to Figure 1 on page 7 in the Introduction for the allowable uses of PSA funds.) Our review found counties appropriately deposit state tobacco tax receipts into county EMS funds. Moreover, each county generally used all of the tobacco tax revenue deposited in its PSA during the period we reviewed.

## CONCLUSION

Counties appropriately allocate penalty assessments and tobacco tax receipts to EMS funds. Nevertheless, EMS fund deposits have declined since fiscal year 1990-91 primarily because of subsequent legislation that diverts money from the counties' EMS funds. Further, tobacco tax funding has declined as a result of decreased cigarette and tobacco purchases. The decline in these revenue streams resulted in a corresponding reduction in county EMS deposits. ■

# CHAPTER 2

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## ***Counties Do Not Fully Utilize Available EMS Funds to Reimburse Emergency Care Providers***

### CHAPTER SUMMARY

**B**ecause of their own policies and legislative constraints, counties are not fully utilizing Emergency Medical Services (EMS) funds to reimburse emergency care providers. State law allows counties to use their EMS funds to reimburse physicians and surgeons for up to 50 percent of their losses for providing emergency care to uninsured or medically indigent patients. However, two of the six counties we reviewed elected to reimburse physicians and surgeons at lower rates. While this practice does not violate the law, those two counties have accumulated significant reserves in their EMS funds. In addition, two other counties have also accumulated a fund balance even though they reimburse providers at the maximum 50 percent rate. Consequently, providers in these and other counties suffer unnecessary losses while available funds remain idle.

In addition, although San Joaquin County has deposited more than \$1.9 million of court penalty assessments into its EMS fund since it established the fund in fiscal year 1991-92, the county has not used any of the money to reimburse providers. The San Joaquin County board of supervisors adopted a resolution authorizing deposits of court penalty assessments into the fund; however, the county has yet to agree on how it should use the money. As a result, San Joaquin County appears to be violating the law's intent by failing to establish a process for distributing those funds to emergency care service providers.

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*Two of the six counties reimburse providers at a rate lower than the maximum allowed.*

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### CERTAIN COUNTY POLICIES ADVERSELY AFFECT PROVIDER REIMBURSEMENTS

Despite accumulating large EMS fund reserves, two of the six counties we reviewed—San Bernardino and Los Angeles—reimburse providers at a rate lower than the maximum allowable rate. Although this practice does not violate the law,

it is inconsistent with the program's stated goal of providing relief for up to 50 percent of unpaid claims for physicians and surgeons providing emergency medical services. Moreover, it denies physicians and surgeons the opportunity to recover more of their costs and, therefore, may affect their willingness to serve the medically indigent.

In determining the proper reimbursement for individual claims, some counties routinely apply standard or accepted costs for each medical procedure to equitably reimburse every provider in the county based on the same fee for the same service. However, this process also results in payments to physicians that are substantially less than the amount allowed by law. If the amount of available funding exceeds adjusted claims, counties could pay in excess of 50 percent of the standardized claims as long as the reimbursements do not exceed 50 percent of the providers' losses. Conversely, if reimbursement claims exceed available funding, the counties should prorate the standardized claims to utilize all available funding.

San Bernardino is one county that allocates its reimbursements at rates below the maximum, despite the fact that its EMS fund surplus is steadily increasing. Specifically, San Bernardino County restricts its reimbursement rate for physicians and surgeons at 40 percent for standardized trauma medical service claims and 30 percent for standardized non-trauma claims, although it has accumulated a reserve in its Physician Services Account (PSA) of more than \$1.7 million. This reserve represents 142 percent of San Bernardino County's total EMS expenditures for fiscal year 1996-97. Moreover, the county has taken no steps to adjust its reimbursement rates to levels that would better meet the needs of participating EMS providers. Although we noted some year-end surpluses have also occurred in the county's Hospital Service Account (HSA), we did not note a trend of increasing HSA balances.

Los Angeles County also reimburses below the maximum rate allowed by law despite accumulating EMS reserves of \$25.7 million as of June 30, 1997—320 percent more than its EMS expenditures for fiscal year 1996-97. This amount comprises \$10.7 million in the PSA and \$15 million in the HSA. Similar to other counties we reviewed, Los Angeles County reimburses providers at 50 percent of the standard rate for each medical procedure. In one case, a provider submitted a claim for a loss of \$1,010. The county adjusted that claim to the standard rate of \$432 and then reimbursed the provider \$216, only



21.4 percent of the claimed loss. Because the law allows counties to reimburse up to 50 percent of the claimant's loss, the county could have reimbursed the provider the entire \$432.

Rather than limit reimbursements to 50 percent of the standard amount, we believe that counties with sufficient resources could reimburse providers up to 100 percent of the standardized claim, providing that the reimbursement amount does not exceed 50 percent of the original claim. Other counties use this approach when they have sufficient revenue available. For instance, Sacramento County adjusted a claim for \$3,835 to \$1,045. However, since the county had sufficient revenue during this particular quarter, it paid \$917, or 87.8 percent of the standard cost. If the county had reimbursed only 50 percent of the standardized claim, the physician would have only received \$522, or 13.6 percent of the incurred loss. At this higher reimbursement rate, the county's reimbursement was still only 23.9 percent of the original claim, but by reimbursing at the higher rate, Sacramento County maximized the amount this provider was able to recover.

#### LEGISLATIVE RESTRICTIONS PREVENT SOME COUNTIES FROM USING ALL AVAILABLE EMS FUNDS

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*Counties with available reserves should be allowed to reimburse providers at rates above the 50 percent level.*

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In contrast to counties that have accumulated reserves because of their reimbursement policies, two counties, Humboldt and San Francisco, are accumulating EMS fund reserves because, as previously mentioned, legislation precludes any county from reimbursing providers more than 50 percent of their losses for providing emergency medical services. As a result, counties continue to accumulate EMS fund reserves while providers may suffer unnecessary losses despite availability of EMS funds.

For the fiscal year ending June 30, 1997, Humboldt County had a reserve of \$221,000, equivalent to approximately 156 percent of all claims it paid in fiscal year 1996-97. The county indicated that limited participation by physicians, coupled with the cap on allowable reimbursement rates, has resulted in a surplus. Like Humboldt County, San Francisco County also generally reimburses providers at the maximum allowable rate but continues to maintain a large reserve in its EMS fund. As of June 30, 1997, San Francisco County had a reserve of \$763,000.

Because of the current legislative restrictions, some counties will continue to accumulate large fund reserves despite reimbursing providers at the maximum allowable rate. We believe if counties were allowed to prudently spend available resources to promote the program's purpose, it would better serve communities. Giving counties the flexibility to reimburse providers at rates exceeding 50 percent when they have accumulated reserves may better achieve the Legislature's intent to partially compensate providers for unpaid emergency medical service claims.

### **SAN JOAQUIN COUNTY COLLECTS PENALTY ASSESSMENTS FOR EMS BUT HAS NOT USED THE FUNDS TO REIMBURSE HEALTH CARE PROVIDERS**

San Joaquin County has yet to institute a program to reimburse providers and hospitals from court penalty assessments deposited into its EMS fund. The county's board of supervisors resolved to establish the EMS fund in May 1992, after which the county made efforts to bring together an operational system, but to no avail. As of June 30, 1997, the county's EMS fund had accumulated a balance of \$1.9 million.

The county's goal is to use EMS funding to establish a trauma care system based on input from the San Joaquin Emergency Medical Services Agency, which held discussions with various health care providers. Because projections of total EMS fund collections were below \$500,000 per year, the health care community concluded that these limited funds should be used to help establish the trauma system, rather than be allocated to only a few EMS providers or hospitals.

San Joaquin County currently uses only tobacco tax receipts to reimburse EMS providers. As illustrated in Figure 1 on page 7 of the Introduction, after the State allocates tobacco tax funds to each county's PSA, the counties can use the funds to pay a percentage of EMS provider claims. Although the county currently exhausts all of the revenue it receives from tobacco taxes, it could provide additional reimbursements to health care providers if it instituted a program to use penalty assessment collections. Instead, the county limits reimbursements for each claimant. Specifically, using only tobacco tax receipts, the reimbursement rate has ranged from 7.6 percent to 26.5 percent of adjusted billings during fiscal years 1992-93 through 1996-97, well below the allowable rate of 50 percent of unpaid losses.

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*San Joaquin County's failure to disburse money from court assessments violates the Health and Safety Code.*

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Moreover, according to our legal counsel, because San Joaquin County has not disbursed any of the money from court assessments, it is violating the Health and Safety Code, Section 1797.98e. Specifically, Subdivision (a) of Section 1797.98e states that an administering agency for the EMS fund shall select an administering officer and shall establish procedures and time schedules for the submission and processing of proposed reimbursement requests submitted by physicians and surgeons. The code also states that the schedule for reimbursement shall provide for disbursements of money in the EMS fund “at least on an annual basis” to applicants who have submitted data for payment by a date to be established by the administering agency. Despite collecting \$1.9 million in penalty assessments for EMS programs, San Joaquin County has not established a process for distributing those funds to emergency care providers.

#### **SACRAMENTO COUNTY ALLOCATES ALL AVAILABLE EMS REVENUE TO SUPPORT PROGRAM PURPOSES**

Unlike other counties in our sample, Sacramento County distributes essentially all of its available EMS funding from both tobacco tax receipts and court penalty assessments. Nevertheless, its reimbursement rate is still below 50 percent of claimed losses. Sacramento County determines quarterly the amount of EMS funds available for reimbursing provider claims based on court revenues as well as interest earned on fund balances during the prior period. In addition, any existing balances that may have resulted from account adjustments or refunds are also rolled forward for distribution. By comparing the available funds to the outstanding claims each quarter, the county’s Department of Medical Systems calculates the maximum reimbursement rate payable during the current quarter. Although the county does not reimburse providers for 50 percent of their respective losses, it does provide the maximum available financial assistance to health care providers given the limited resources available.

#### **IMPROPER USE OF ADMINISTRATIVE ALLOWANCES REDUCES FUNDING AVAILABLE TO REIMBURSE PROVIDERS**

In addition to varying reimbursement rates, there are weaknesses in the counties’ management of administrative costs and EMS fund interest. As a result, counties cannot ensure that they use EMS administrative funds solely for the costs of

administering EMS programs. We also noted that San Bernardino County is not depositing interest earned on EMS balances from court penalty assessments back into the EMS fund, as legally required.

Although all the counties we visited routinely allocate 10 percent of annual EMS revenue for administrative costs, because of inadequate accounting records, two of the six counties could not fully substantiate their claims for administrative costs. Moreover, the Health and Safety Code, Section 1797.98a, limits reimbursements of administrative costs up to 10 percent of the fund. Because of this limitation, the counties must return any unspent portion of the 10 percent allocation to the EMS fund. However, rather than using the entire unspent portion for future administrative costs, counties must reallocate the excess administrative funds to all EMS accounts based on the percentages described in the statute. This restriction should maximize the benefit to EMS providers by allowing counties to increase the reimbursement rate for unpaid claims of EMS providers. However, in some cases, the counties did not spend the entire amount allocated for administration and carried the funds remaining in the administrative sub-account to the next year. For example, at the end of fiscal year 1996-97, San Francisco County had excess funds totaling \$78,000 in its administrative sub-account yet, rather than reallocating the money to EMS program accounts, the county carried the funds forward to pay for future years' administrative costs.

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*Neither San Bernardino nor San Francisco counties could document thousands of dollars in administrative costs.*

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As with all counties we visited, San Bernardino allocates 10 percent of annual revenues from the EMS fund for administrative expenses. During fiscal years 1994-95 through 1996-97, fees paid to the county's contractor for processing EMS claims averaged \$30,000 per year. However, during those same years, the county deposited between \$155,000 and \$173,000 into its County Medical Center (CMC) administrative account for EMS administrative costs. As a result, the county denied emergency care providers the opportunity to receive additional reimbursements of approximately \$125,000 to \$143,000. Moreover, because the county deposited the administrative funds into its CMC administrative account, the funds were not restricted to EMS programs, as required. In response to our request for substantiation of EMS administrative costs, the county provided documentation for only \$30,000 of annual administrative costs paid to its contractor, significantly less than the amount it allocated for administrative costs.

San Francisco County also could not fully support its administrative charges. Similar to San Bernardino County, San Francisco County uses a contractor to process its EMS claims. During fiscal years 1994-95 through 1996-97, fees paid to the county's contractor totaled \$131,000 while, based on county accounting records, it spent \$148,000 for administrative costs. Other than payments to its contractor, the county was not able to document the remaining \$17,000 in administrative charges.

### San Bernardino County Did Not Deposit Interest on EMS Balances

San Bernardino County did not deposit interest earned on designated balances from court penalty assessments into the EMS fund. Prior to January 1992, counties were not required to deposit this interest into the EMS fund. However, Chapter 1169, Statutes of 1991, revised the laws to require that counties deposit these moneys into the fund for disbursement. San Bernardino did not, however, revise its process or begin depositing interest into the EMS fund. Based on year-end balances for the EMS fund derived from court penalty assessments, we estimated that San Bernardino County's EMS fund did not receive interest payments totaling more than \$150,000 during fiscal years 1992-93 through 1996-97. After reviewing the revised statutes, the county's auditor/controller-recorder's office has requested the county treasurer to begin calculating and depositing interest into the EMS fund.

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*Over four years, San Bernardino County's EMS fund was short a total of \$150,000 in interest earnings.*

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## CONCLUSION

Counties are ensuring that reimbursements to EMS providers are appropriate and properly documented. However, because of the policy decisions of some counties, the financial support emergency care providers receive is often below what is available. Specifically, the six counties we reviewed have accumulated balances totaling \$30.3 million in their EMS funds. These counties' failure to distribute the funds deprives health care providers of significant reimbursement of costs. Furthermore, the statutory maximum reimbursement rate of 50 percent of provider losses and the decisions of several counties to artificially restrict reimbursement rates even lower have precluded providers from receiving all available support. In addition, we noted weaknesses in the counties' management of EMS fund administrative costs.

Specifically, two counties were either unable to substantiate costs they claimed, or were retaining unspent administrative funds instead of distributing them to EMS providers.

## RECOMMENDATIONS

To maximize financial support for emergency medical service providers and better achieve the objectives of the EMS statutes, we recommend the following actions:

- San Bernardino and Los Angeles counties should consider increasing their existing reimbursement rates to fully utilize their growing EMS fund balances. Moreover, all counties with EMS funds should periodically review the status of their EMS fund reserves and adjust reimbursement rates accordingly.
- San Joaquin County should initiate disbursements of the EMS revenues accumulated from court penalty assessments. Additionally, counties should make these disbursements on at least an annual basis.
- The Legislature should consider revising the current statute to allow counties the flexibility to exceed the 50 percent maximum reimbursement rate for EMS providers when counties accumulate large EMS fund balances. The Legislature should also consider expanding the scope of emergency medical services allowed under the current law to enable counties to provide financial relief to other medical service providers incurring unreimbursed costs.
- All counties should use EMS administrative funds solely for EMS program expenses and maintain these funds in separate accounts. They should reallocate any administrative funds not used in a given fiscal year to the EMS program accounts for distribution to EMS providers.
- San Bernardino County should begin depositing interest earned on EMS fund balances from court penalty assessments back into the EMS fund. Moreover, the county should calculate the unpaid interest earned on such EMS balances since January 1, 1992, and deposit those funds into the EMS fund.

We conducted this review under the authority vested in the California State Auditor by Section 8543 et seq. of the California Government Code and according to generally accepted governmental auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,



KURT R. SJOBERG  
State Auditor

Date: January 21, 1999

Staff: Elaine M. Howle, CPA, Audit Principal  
Stephen Cummins, CPA  
Art Monroe, CPA  
Jennifer Rarick

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Agency's response to the report provided as text only:

**MARK FINUCANE**, Director

COUNTY OF LOS ANGELES  
DEPARTMENT OF LOS ANGELES  
313 N. Figueroa, Los Angeles, CA 90012

(213) 240-8101

January 12, 1999

Mr. Kurt R. Sjoberg, State Auditor  
Bureau of State Audits  
555 Capital Mall, Suite 300  
Sacramento, California 95814

Dear Mr. Sjoberg:

**SUBJECT: RESPONSE TO COUNTY EMS FUNDS AUDIT**

Thank you for the opportunity to comment on the draft version of the County of Los Angeles, Department of Health Services (DHS), County EMS Funds audit that your office conducted.

The following are our response to recommendations as listed in Chapter 2 - Counties Do Not Fully Utilize EMS Funds To Reimburse Emergency Care Providers.

### **Recommendation 1**

Los Angeles County should consider increasing its reimbursement rates to reduce or eliminate their growing EMS fund balances. Moreover, all counties with EMS funds should periodically review the status of their EMS fund reserve and adjust reimbursement rates accordingly.

### **Response**

DHS disagrees. Due to the reasons described in this report, both Penalty Assessment Collections and Tobacco Tax Allocations have decreased or stabilized since the inception of the programs in the early 1990's. Over the past several years, increases in the surplus accounts are primarily due to interest revenues. In fact, in FY 1996-97, all revenues received were paid out and in FY 1997-98 (not reflected in this audit), a portion of the surplus was used to make physician payments. The County maintains this surplus in an effort to ensure that funds for physicians are available as long as possible, knowing that decreases in collections and allocations are inevitable based on history of past program years.

①\*

②

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\*California State Auditor's comments on this response begin on page R-5.

### **BOARD OF SUPERVISORS**

**Gloria Molina**  
First District

**Yvonne Brathwaite Burton**  
Second District

**Zev Yaroslavsky**  
Third District

**Dan Knabe**  
Fourth District

**Michael D. Antonovitch**  
Fifth District

3

In Los Angeles County, all physician policies and procedures are reviewed by a Physician Reimbursement Advisory Committee which advises and facilitates the proper utilization of the Physician Services Account. In addition, the County's reimbursement rates are, on an average, paid at or near Medi-Cal reimbursement rates. The County uses an Official County Fee Schedule to determine reimbursement rates for eligible physician claims. This practice is consistent with standards of other State and Federal programs as well as the insurance industry. The practice suggested by the auditors would make this "fund of last resort" compensate physicians a rate higher than other State and Federal programs thereby reducing incentives to ensure that all other sources of funding are exhausted. In addition, the suggested practice of paying physicians at various rates for the same procedure based on charges is inequitable and in direct conflict with recent CAL/ACEP recommendations to all county Board of Supervisors and would penalize physicians that have relatively low fee schedules. The County of Los Angeles, Department of Health Services, as it has in the past, will review the status of EMS fund reserve and consider adjusting the Official County Fee Schedule, when appropriate.

### **Recommendation 2**

The Legislature should consider revising the current statute to allow counties to exceed the 50 percent maximum reimbursement rate for EMS providers when counties accumulate increasingly large EMS fund balances despite reimbursing allowable claims at 50 percent. Moreover, the Legislature should consider expanding the type of medical services allowed under the current law to enable counties to provide financial relief to other medical service providers incurring unreimbursed cost.

### **Response**

DHS concurs. DHS supports the legislature effort in allowing counties to expand programs, and consideration in revising current legislative restriction limiting reimbursement of claims to 50 percent of the providers' losses. Such legislation will give counties more flexibility in utilizing these funds.

### **Recommendation 3**

All counties should use EMS administrative funds solely for EMS program expenses and maintain these funds in separate accounts. Any unused administrative funds in a given fiscal year should be reallocated to the EMS program accounts for distribution to EMS providers.

Mr. Kurt R. Sjoberg  
January 12, 1999  
Page 3

**Response**

DHS concurs. DHS uses all EMS administrative funds solely for EMS program expenses and expends all funds in any given fiscal year.

Once again, we appreciate this opportunity to review and comment on your draft report.

Very truly yours,

*Signed by: Fred Lee, Chief of Staff*

Mark Finucane

MF:jc

c: Each Supervisor  
County Counsel  
Chief Administrative Office  
Auditor-Controller

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# COMMENTS

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## ***California State Auditor's Comments on the Response from Los Angeles County***

**T**o provide clarity and perspective, we are commenting on Los Angeles County's (county) response to our audit report. The numbers correspond with the numbers we have placed in the response.

- ① Los Angeles County's refusal to increase its reimbursement rates is contrary to the intent of the program, which is to maximize reimbursements to emergency service providers using currently available resources. In addition, we believe the county's contention that increases in the surplus accounts are primarily due to interest revenues is irrelevant. The interest was earned on Emergency Medical Services (EMS) penalty assessments because funds were not distributed to emergency medical service providers in prior years. Furthermore, the Health and Safety Code requires counties to deposit all interest the EMS fund earns back into the fund so that it can be used for the purposes of the fund.

Regardless of what generated the surplus, the fact remains the county has accumulated a \$25.7 million reserve in its physicians and hospital services accounts. Therefore, as we state in the report, the county is not fully utilizing its available resources to reimburse emergency care providers.

- ② Los Angeles County's policy of maintaining a surplus to ensure the future availability of funds because decreases in collections are inevitable does not reflect recent history of its fund. As shown on page 13, the county's EMS deposits from penalty assessments have exceeded \$10 million for the past four fiscal years. Furthermore, its deposits have steadily increased since fiscal year 1992-93. Since the program is largely funded by penalty assessments on criminal offenses and motor vehicle violations, money will continue to be available for the EMS fund. For example, as discussed on page 23 of the report, each year Sacramento County distributes all of its available EMS revenues to emergency medical service providers and, as a result, has not accumulated an EMS fund reserve. Finally, despite some

reduction in a few sources of EMS revenue, funding levels remain sufficient to continue to reimburse providers for emergency medical services.

- ③ The county incorrectly implies that our report suggests paying physicians based on charges rather than standard costs. As stated on page 20 of the report, applying standard or accepted costs allows counties to equitably reimburse every provider based on the same fee for the same service. The county states that it uses its Official County Fee Schedule to determine the standard cost for a particular service, a practice we support. However, we assert that rather than reimburse physicians and surgeons 50 percent of the standard cost, counties with excessive fund balances, including Los Angeles County, could pay a higher percentage of the standard costs while still complying with the provisions of the Health and Safety Code. Moreover, since Los Angeles County has established standard costs that it believes are appropriate for various medical services, we see no reason why the county resists paying 100 percent of the standard costs provided they do not exceed 50 percent of the losses claimed by the physician.

The county also states the practice we suggest would compensate physicians at a rate higher than other state and federal programs. While it is possible that emergency medical service providers may be reimbursed at a proportionately higher rate in the short term, this will not continue on an ongoing basis once the county eliminates its EMS reserve and adjusts its reimbursement rates accordingly. Moreover, the statute allowing counties to establish an EMS fund does not prevent counties from reimbursing providers in excess of other state and federal programs. Rather, it merely limits reimbursements to 50 percent of the unpaid losses.

Finally, the county contends that increasing reimbursement rates would reduce physicians' incentives to ensure that all other sources of reimbursement are exhausted. We believe Los Angeles County's perspective is short-sighted. The Health and Safety Code, Section 1797.98c, states that reimbursement from the EMS fund shall be limited to services for patients who cannot afford to pay for those services, and for whom payment will not be made through private coverage or by any program funded in whole or in part by the federal government. Furthermore, the Health and Safety Code requires providers to seek other forms of payment before submitting claims to the county's EMS fund.

Moreover, the county's Department of Health Services currently reviews claims to determine if the physician or surgeon has requested reimbursement from other sources.

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*Agency's response to the report provided as text only:*

County of Sacramento  
Department of Finance  
Auditor-Controller  
700 H Street, Room 4650, Sacramento, California 95814  
Telephone: (916) 874-7422 Facsimile: (916) 874-6454

**JOHN DARK**  
Director of Finance

**MARK NORRIS**  
Chief Deputy Auditor-Controller

January 8, 1999

Kurt Sjoberg, State Auditor  
California State Auditor, Bureau of State Audits  
555 Capitol Mall, Suite 300  
Sacramento, CA 95814

Dear Mr. Sjoberg:

We have received and reviewed your draft audit report on "County EMS Funds: Although Counties Properly Allocate Money to Their EMS Funds, County Policies and Legislative Requirements Unnecessarily Limit Reimbursements to Emergency Care Providers". We are in agreement with your report as it relates to Sacramento County and believe we are in compliance the codes that govern the Emergency Medical Services Fund.

Should you have any additional requests or questions related to this audit, please do not hesitate to contact Julie Valverde, Chief of Audits at 874-7248.

Sincerely,

*Signed by: John Dark*

**JOHN DARK**  
Director of Finance

Cc: Penelope Clark, Administrator, Public Protection and Human Assistance Agency  
Dr. Joseph Sanchez, Director, Medical Systems  
Robert T. Smith, Assistant Director, Medical Systems  
Melvory Brown, Manager, Accounting/Fiscal Services, Medical Systems  
Bruce Wagner, Chief, EMS Division, Medical Systems

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Agency's response to the report provided as text only:

**AUDITOR/CONTROLLER-RECORDER**

**COUNTY OF SAN BERNARDINO**

**AUDITOR/CONTROLLER** \* 222 West Hospitality Lane, Fourth Floor  
San Bernardino, CA 92415-0018 \* (909) 387-8322

**LARRY WALKER**  
Auditor/Controller-Recorder

**RECORDER** \* 222 West Hospitality lane, First Floor  
San Bernardino, CA 92415-0022 \* (909) 387-8306

**ELIZABETH A. STARBUCK**  
Assistant Auditor/Controller-Recorder

January 8, 1999

Bureau of State Audits  
**Attn: Kurt R. Sjoberg**  
555 Capitol Mall, Suite 300  
Sacramento, CA 95814

**SUBJECT: COUNTY EMS FUNDS**

Following are the County's responses to the recommendations of the draft copy of your audit report dated January 6, 1999 on the EMS Funds.

If you have any questions or comments, please contact Aly Saleh, Ph.D., Chief Deputy Auditor at (909) 386-8821,

**Recommendation:**

San Bernardino County should increase the existing reimbursement rates to reduce and/or eliminate their growing EMS fund balances.

**Response:**

The County will be working with the Medical Society to adjust the reimbursement rates to ensure that EMS funds are fully and appropriately spent for emergency services.

**Recommendation:**

All counties should use EMS administrative funds solely for EMS program expenses and maintain these funds in separate accounts. Any administrative funds not used in a given fiscal year should be reallocated to the EMS program accounts for distribution to EMS providers.

Board of Supervisors  
KATHY A. DAVIS..... First District      DENNIS HANSBERGER..... Third District  
JON D. MIKELS.....Second District      FRED AGUIAR.....Fourth District  
JERRY EAVES.....Fifth District

Kurt R. Sjoberg  
January 8, 1999  
Page -2-

**Response:**

The EMS fund will only reimburse the San Bernardino County Medical Center for actual costs associated with administrating the EMS fund, instead of allocating a flat 10% to administer the program. The difference between what is spent on administration and the 10% allowable will be used to pay claims to EMS providers. In addition, Arrowhead Health Administrators, the claim processor under contract with the County, has in place a cost accounting program, which allows it to track its expenses by specific program. This approach gives Arrowhead Health Administrators the capability of substantiating its expenses incurred in the administration of the EMS program.

**Recommendation:**

San Bernardino County should initiate depositing interest earned on EMS fund balances from court penalty assessments back into the EMS fund. Moreover, the County should calculate the unpaid interest earned on such EMS balances since January 1, 1992, and deposit those funds into the EMS fund.

**Response:**

The Auditor/Controller-Recorder notified the County Administrative Office to direct the Treasurer-Tax Collector's Office to start crediting EMS funds with interest, and to authorize the transfer of back interest to EMS funds when calculated.

Sincerely,

*Signed by LARRY WALKER*

LARRY WALKER  
Auditor/Controller-Recorder

LDW:AS:vlg

(ias\aly\Sjoberg)

*Agency's response to the report provided as text only:*

CITY AND COUNTY OF SAN FRANCISCO

LOUISE H. RENNE  
City Attorney

OFFICE OF THE CITY ATTORNEY

JEAN S. FRASER  
Deputy City Attorney

DIRECT DIAL: (415) 554-9177  
E-Mail: jean\_fraser@ci.sf.ca.us

January 12, 1999

Kurt R. Sjoberg  
State Auditor  
Bureau of State Audits  
555 Capitol Mall, Suite 300  
Sacramento, California 95814

Re: San Francisco Response to Draft County EMS Funds Audit

Dear Mr. Sjoberg:

Thank you for sending a draft of your County EMS Funds Audit to the City and County of San Francisco. This letter constitutes the City's response.

Counties Have The Power To Carry Over Unspent Administrative Funds

On page 2 of the draft report, you state that the law "does not allow counties to carry over unspent administrative funds to cover administrative costs in subsequent periods." San Francisco disagrees with this statement. ①\*

We are unaware of any express prohibition, nor do you cite any statute, which prohibits the rollover of unspent administrative funds from one fiscal year to another. Instead, you have opined that counties that rollover unspent administrative funds "are violating the law's intent."

The intent of the law is to allow a county sufficient funds to administer the account efficiently. The largest cost of administering the account is in evaluating claims and distributing the money, i.e. in spending the money. Thus, a county should be able to spend money from the administrative fund in the same year it distributes the funds.

As you are aware, the EMS county funds are not always able to distribute all of the funds each fiscal year. Thus, you acknowledge that it is legitimate for counties to rollover unspent funds in the physician and hospital accounts from year to year. Counties must have money to pay to distribute that money in future years. Thus, it is entirely sensible, and consistent with the intent of the law, for counties to rollover unspent administrative funds along with the unspent physician and hospital funds.

An example might help illustrate this point. Assume that in Year 1, a county receives \$1000 into its EMS fund. Because of delays in the submission of claims, the county is only able to distribute \$500. If we assume that the cost of evaluating the claims and paying them is \$1 for every \$10 in claims, the county paid \$50 to distribute those funds. Applying your interpretation

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FOX PLAZA . 1390 MARKET STREET, SUITE 1008 . SAN FRANCISCO, CALIFORNIA 94102-5408  
RECEPTION: (415) 554-9246 . FACSIMILE: (415) 557-6747

\*California State Auditor's comments on this response begin on page R-17.

Letter to Kurt R. Sjoberg  
Page 2  
January 12, 1999

of the intent of the statute, at the end of Year 1 the county would have a balance in the physician and hospital accounts of \$450 with a balance of \$0 in the administrative account.

In Year 2, the county receives another \$1000 and places \$100 in its administrative account. More claims come in this year, justifying a distribution of the entire \$1350 in the physician and hospital accounts. However, under your rule, the county only has enough money in its administrative account to distribute \$1000. The county then either has the choice of only distributing \$1000, or funding the administration of the fund from its own resources. Neither result is consistent with the intent of the legislation, which was to distribute the most money possible to physicians and hospitals at no direct cost to the counties.

- ① In short, San Francisco believes that your interpretation runs counter to the spirit of the statute. We would, therefore, prefer that you omit from the report any references to the rolling over of unspent administrative funds as violating the law. In addition, we request that you eliminate your third recommendation (on page 3 of the draft report).

To the extent you choose to keep your interpretation of the law in the report, we request that you note San Francisco's disagreement with your conclusion.

Counties Must Have The Power To Adjust Claims To Ensure Equity Among Physicians And Hospitals And To Ensure That Physicians and Hospitals Do Not Have An Incentive To Seek Payment From the EMS Fund In Lieu of Collecting From Other Payors

- ② On pages 20-22 of the draft report, you discuss the fact that some counties review and adjust the charges submitted by physicians and hospitals. You imply that these adjustments are unreasonable.

To San Francisco's knowledge, there are no federal, California, or private health care payors, including Medicare and Medi-Cal, that pay the charges submitted by physicians and hospitals without reviewing those bills to determine whether they exceed the usual and customary charges of other similar providers. Reviewing charges, and setting an upper limit to the price of a particular service, is the only mechanism by which a payor can ensure equity among physicians and hospitals. San Francisco can conceive of no reason why one physician or hospital should be reimbursed more by an EMS fund for performing the exact same service as another physician or hospital.

Reviewing charges and setting an upper limit on the charge for each service is also consistent with the statutory scheme of requiring providers to attempt to collect the bill from other sources before applying to the fund. As noted above, no payors of which we are aware simply pay the bills of doctors and hospitals without ensuring that the charges are within the usual and customary charges of other physicians and hospitals. If the EMS fund paid more than the usual and customary charge, physicians and doctors would have a financial incentive to skip trying to collect from other payors, and apply directly to the fund. Again, this is inconsistent with the intent of the statute.

Letter to Kurt R. Sjoberg  
Page 3  
January 12, 1999

We request, therefore, that you delete pages 20 through the top of page 22, and omit any references to this in your introduction and conclusion.

Once again, we appreciate the opportunity to review and comment upon this audit in a draft stage. Please feel free to contact me or Ann Carey, the Director of Analysis and Budget at the San Francisco Controller's Office at 415-554-4809, if you have any questions.

Very truly yours,

LOUISE H. RENNE  
City Attorney

*Signed by: Jean S. Fraser*

JEAN S. FRASER  
Deputy City Attorney

cc: Ann Carey  
Fusako Hara  
Mark Forrette

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# COMMENTS

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## *California State Auditor's Comments on the Response from San Francisco County*

**T**o provide clarity and perspective, we are commenting on San Francisco County's response to our audit report. The numbers correspond with the numbers we have placed in the response.

- ① Contrary to San Francisco County's statement, the law does not allow counties to carry over unspent administrative funds to be used solely for reimbursing future years' administrative costs. As indicated on page 24 of the report, the Health and Safety Code, Section 1797.98a, allows counties to use **up to** 10 percent of the Emergency Medical Services (EMS) money to administer the fund. This section also requires counties to distribute the balance that remains after deducting the cost of administering the fund as follows: 58 percent to physicians and surgeons, 25 percent to hospitals, and 17 percent for other emergency medical services. According to our legal counsel, because the statute allows for reimbursement of administrative costs up to 10 percent of the amount of the fund and distribution of all remaining funds to EMS program accounts, the counties must disburse any funds remaining after reimbursing administration costs as provided in the statute. This is not the case in San Francisco County. Moreover, the only instance where counties can carry funds over into the next period occurs when they have too few claims to exhaust the monies to be used for reimbursement of emergency medical service providers. We have modified the text on page 24 of our report to clarify our discussion of this process.
- ② San Francisco County is mistaken. Our audit report does not imply that using standard cost rates to reimburse physicians and surgeons is unreasonable. As we point out on page 20 of the report, using standard or accepted costs allows counties to equitably reimburse every provider based on the same fee for the same service. Moreover, as indicated in our report, we do not believe that counties should pay providers in excess of standard or accepted costs. We merely point out that counties with excessive fund balances could pay a higher percentage of the standard costs while still complying with the provisions of the

Health and Safety Code. Furthermore, we believe our recommendation bolsters the counties' ability to meet the intent of the legislation, which is to maximize the reimbursements to EMS providers using available resources.

*Agency's response to the report provided as text only:*

**ADRIAN J. VAN HOUTEN, CPA  
AUDITOR-CONTROLLER  
SAN JOAQUIN COUNTY**

**DIVISION CHIEFS**

Angela Hou, CPA - Auditing  
Christine M. Babb - Property Taxes  
Margaret Miller - Accounting

24 South Hunter Street, Suite 103  
Stockton, California 95202  
Phone: 209/468-3925  
Fax: 209/468-3681

January 12, 1999

Mr. Kurt R. Sjoberg, State Auditor  
Bureau of State Audits  
555 Capitol Mall, Suite 300  
Sacramento, CA 95814

Re: County EMS Funds

Dear Mr. Sjoberg:

We received the draft audit report on January 7, 1999 (Thursday) and the deadline for our response is January 12, 1999 (Tuesday). This timeline is very unreasonable! Nevertheless, our response is attached.

Please call Ms. Angela Hou at 209-468-3925 if you have any questions.

Sincerely,

*Signed by: Adrian J. Van Houten*

Adrian J. Van Houten  
Auditor-Controller

## RESPONSE TO CALIFORNIA STATE AUDITOR REPORT

San Joaquin County

January 12, 1999

The Auditor's Report described the current status of the EMS Fund in San Joaquin County; however, several items should be added to the report to complete the picture. It is true that when the EMS Fund was established by the Board of Supervisors in San Joaquin County, the County intended to implement a trauma care system. This approach was developed and determined by the medical community based on their assessment that this County needed a trauma care system, and based on their conclusion that trauma care would be a better use of the limited penalty assessment funds.

Although this approach and plan was not formally presented to the Board of Supervisors, it had the consensus of the medical community. It was clear that for a trauma care system to be implemented, there would be specific start up costs required, pursuant to State trauma regulations. The medical community felt that the EMS Fund could be used to offset these start up costs and provide some funding for the trauma system's continued maintenance. The medical community recognized that it would take several years for the balance for the EMS Fund to be of sufficient size to fund the initial effort to establish a trauma system.

The Hospital intends to present to the Board of Supervisors a plan for a trauma system designation when the fund balance is sufficient for the initial start up expenses.

The 10% administrative fee collected from the EMS Fund since its inception will be recognized by the County this year as the documentation of the expenses related to trauma care management and tracking of the EMS Fund are available to substantiate that these expenses have exceeded the 10% administrative fee collected. The use of this administrative fee collected is consistent with the approach adopted for the EMS Fund.

*Signed by: Adrian J. Van Houten*

Adrian J. Van Houten  
Auditor-Controller