

# COUNTY EMERGENCY MEDICAL SERVICES FUNDS

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## ***Despite Their Efforts to Properly Administer the Funds, Some Counties Have Yet to Reach Full Compliance With State Laws***

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### *Audit Highlights . . .*

*Our review of how counties administer their Emergency Medical Services Funds (EMS Funds) disclosed the following:*

- Over half the counties affected by a statutory requirement that limits the growth of certain revenues for their EMS Funds were not aware of the limitation.*
  - The four counties we reviewed either did not have all the necessary or reasonable controls over EMS Fund disbursements or made certain unallowable or questionable payments.*
  - Some counties we surveyed reported significant balances remaining in the revenue derived from penalty assessments collected by the courts as of June 30, 2002.*
  - Few counties we surveyed reported that their EMS Funds were audited for any purpose.*
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Colusa County, Los Angeles County, Marin County, and San Mateo County responses as of November 2004

The Joint Legislative Audit Committee (audit committee) requested that we review counties' administration of Emergency Medical Services Funds (EMS Funds) to ensure that they comply with the laws governing their use. The audit committee was concerned that counties are not using EMS Funds for their intended purposes. We found that, with one possible exception, the courts and counties generally complied with statutory requirements for EMS Fund revenues. EMS Funds receive revenue from a portion of additional penalties for certain criminal offenses and motor vehicle violations, known as Maddy revenues; from a state Emergency Medical Services appropriation; and, until recently, from tobacco tax revenues. Specifically, we found:

### **Finding #1: Some counties may not be complying with the statutory limit on the growth of Maddy revenues.**

Statute requires most counties to comply with an annual limitation on the growth of Maddy revenues. However, because some counties were unaware of the limitation, they have not monitored their Maddy revenues to ensure compliance with the law. Calculating and enforcing the limitation can be difficult for a variety of reasons. The law is unclear about what revenues counties should include when calculating the growth limit of Maddy revenues. One particular area of confusion is the effect of traffic violator school fees, a new revenue source for EMS Funds allowed after the growth limit on Maddy revenues was established. For example, counties unaware of the growth limit on Maddy revenues may not always have separately tracked revenues from traffic violator school fees that could

affect the calculation of the growth limit. Further, we expect that compiling data to determine the base year and from all subsequent years for the calculation of the limit would be difficult for many counties. We attempted to determine whether the Maddy revenues deposited each year into the counties' EMS Funds complied with the statutory limitation in the counties we reviewed, but were unable to do so because the counties did not have all the necessary information and the law itself does not clearly define how to calculate the limitation.

For EMS Funds established after July 1, 1991, counties can deposit whatever the courts collect as Maddy revenues. According to the results of our survey, nine counties established their EMS Funds after this date and therefore are not subject to any limitation on the amounts of Maddy revenue deposited in their EMS Funds.

To clarify the law governing deposits of Maddy revenues in counties' EMS Funds, we recommended that the Legislature consider taking one of the following actions:

- Change the current statute to require counties to use the same standards for the amount of Maddy revenues counties can deposit in their EMS Funds, regardless of when the funds were established.
- Specify how to calculate the allowable amount of growth in Maddy revenues from year to year, including which revenue sources to include and how to account for incomplete data from the years since June 1, 1991.

***Legislative Action: Unknown.***

We are unaware of any legislative action implementing this recommendation.

**Finding #2: It is unclear whether counties used the discretionary portion of their EMS Funds in compliance with the law.**

Three counties we visited have indicated that they believe administrative costs are an appropriate use of discretionary funds, an interpretation that may be inconsistent with the goal of the law, which is to provide funding to pay for the provision of emergency medical services. In addition, about half of the 49 counties we surveyed explicitly reported that they used the discretionary accounts in their EMS Funds at least in part for administrative costs. The law requires that, after allocating

10 percent of Maddy revenues for administration of their EMS Funds, the counties must allocate 58 percent of remaining funds to reimburse physicians providing unreimbursed emergency medical services, 25 percent to reimburse hospitals, and 17 percent for discretionary emergency medical services purposes.

Our legal counsel has advised us that certain uses of discretionary funds—such as costs for salaries, budgeting activities, and supplies—that three counties we visited believe are acceptable uses may not be consistent with the goal of the law. However, San Mateo County and the county counsel for Los Angeles County disagree with our interpretation of the law, subscribing to a broader interpretation that allows the use of the discretionary portion of the Maddy revenues to pay for administrative costs and any other needs of the counties' emergency medical services programs.

To ensure that counties' use of EMS Funds is consistent with legislative intent, we recommended that the Legislature clarify whether counties may use the discretionary portion of their EMS Fund to pay for administrative costs.

***Legislative Action: Unknown.***

We are unaware of any legislative action implementing this recommendation.

**Finding #3: Some counties did not consistently pay physicians' claims in compliance with certain provisions in the law.**

The law requires counties to reimburse physicians a percentage, not to exceed 50 percent, of amounts they claim. The law also requires counties to establish a uniform, reasonable level of reimbursement. The law, however, is not clear as to whether physicians should be reimbursed at 50 percent of the fee schedule allowance when the claim amount is lower—essentially disregarding the physicians' claims—or at 50 percent of the lower of the claim amount or the fee schedule allowance.

To ensure that counties are reimbursing physician claims in accordance with legislative intent, we recommended that the Legislature consider clarifying whether physician claims should be reimbursed at 50 percent of county's fee schedule allowance when the claimed amount is lower or at 50 percent of the lower of the physicians' claims or the fee schedule allowance.

***Legislative Action: Unknown.***

We are unaware of any legislative action implementing this recommendation.

**Finding #4: Counties do not report consistent information to the Legislature.**

State law does not require counties to identify the basis for the calculations they used in reporting Maddy revenue balances to the Legislature. Further, counties are not required to explain any differences in these balances from one fiscal year to the next. The Emergency Medical Services Authority created the report format counties are using to report the information required by the Legislature. However, the reporting format counties use does not require them to identify the basis they use for reporting Maddy revenue balances or address differences in their revenue balances from one year to the next. Because of these inconsistencies and potential inaccuracies, data reported to the Legislature may have limited value.

To provide greater consistency in the annual EMS Fund report that counties submit to the Legislature, we recommended that the Legislature consider directing the Emergency Medical Services Authority to revise the report format to specify the basis—preferably the accrual basis—they must use to report their fund balances. In addition, the revised format should include a requirement that counties explain any differences between the remaining balance of the prior year and the beginning balance of the year being reported.

***Legislative Action: Unknown.***

We are unaware of any legislative action implementing this recommendation.

**Finding #5: Colusa County did not recover EMS Funds for subsequent payments made by patients on claims for which it had already reimbursed physicians.**

In the past, physicians in Colusa County used a billing agent to process and submit their claims to the county for EMS Fund reimbursements. Colusa County relied on the physicians' billing agent to comply with the law when it submitted physicians' claims to the county for payment. One requirement specified in law is that a physician (or the physician's billing agent) must

notify the county of any subsequent payments made by patients or third-party insurance companies on claims already reimbursed by the county's EMS Fund. When notified, the county should either reduce future reimbursements to the physician from EMS Funds or be reimbursed by the physician for the payments received. However, the billing agent did not tell the county it had received such payments, stating that the payments were rare and that the small amounts received would be immaterial to the EMS Fund. Nevertheless, Colusa County needs to work with the billing agent to recover these payments to reimburse the EMS Fund and ensure that the county receives future reimbursement of claims already paid.

To ensure that its EMS Fund is appropriately refunded, we recommended that Colusa County should work with its physicians' former billing agent to recoup money that agent received from the EMS Fund, as required by law.

***Colusa County Action: Partial corrective action taken.***

Colusa County reports that it has contacted the Colusa Regional Medical Center to determine the amount to be reimbursed to the county's EMS Fund. The Colusa Regional Medical Center has been unable to provide the information due to a rainstorm that caused facility damage. As of October 25, 2004, Colusa County's EMS Fund has not been reimbursed.

**Finding #6: Control over EMS reimbursements to hospitals has been inadequate in some counties.**

The law indicates that the hospital account should be used to reimburse certain hospitals for the costs of emergency medical services provided to patients who do not pay.

Marin County used its hospital account to fund some potentially ineligible activities and services. For example, payments for copying charges, overhead allocations, and computer equipment appear to be more appropriately charged to the administrative account. In fiscal year 2000–01, Marin County also charged the total costs of a \$44,000 study for a new trauma center to its hospital account. We recognize that the study related to facilities that could provide emergency medical services to patients unable to pay, but we believe the costs of such a study are more appropriate for the discretionary account, which current law

allows to pay for capital projects to the extent that expenditures support the provision of emergency medical services and are consistent with the intent of the law creating the EMS Fund.

Two other counties we reviewed, Colusa and San Mateo, do not require hospitals to document their need for the EMS Fund money they receive or employ alternative procedures themselves to ensure hospitals incur expenditures at least equal to their EMS Fund reimbursement. Both of these counties pay flat amounts to participating hospitals rather than paying individual claims submitted.

To ensure that the maximum amount of EMS Funds is available to provide emergency medical services, we recommended that Marin County use its hospital money only for the costs of emergency medical services provided to patients who do not pay, rather than for administrative or discretionary costs.

To ensure controls over disbursements from their EMS Funds, counties should determine that hospitals' expenditures at least equal the payments they receive from EMS Funds either by asking them to provide support for EMS expenditures or by establishing procedures to review hospital costs.

***Marin County Action: Corrective action taken.***

Marin County stated that it has taken corrective action to ensure that costs are charged to the appropriate accounts. Accounting records are reviewed closely to ensure that administrative costs are charged to the administration fund. Hospital funds are used exclusively to reimburse for uncompensated emergency services claimed by local hospitals in Marin County.

***San Mateo County Action: Partial corrective action taken.***

San Mateo county stated that it will be asking hospitals that receive Maddy funds to provide support for EMS expenditures prior to paying these hospitals in fiscal year 2004–05.

***Colusa County Action: Partial corrective action taken.***

Colusa County stated that it is working with the regional medical center to develop procedures to accurately identify and report emergency room costs that are uncompensated.