

## **County Emergency Medical Services Funds:**

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



March 2004  
2003-101

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# CALIFORNIA STATE AUDITOR

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March 18, 2004

2003-101

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 counties' administration of their Emergency Medical Services (EMS) Funds. This report concludes that although the counties we reviewed are making an effort to administer their EMS Funds properly, some of their practices do not comply with state laws or could benefit from better controls over disbursements. Over half of the counties affected by a statutory requirement that limits the growth of certain revenues for their EMS Funds are not aware of the limitation. Counties generally comply with other statutory requirements for EMS Fund revenues, but they either did not have all the necessary or reasonable controls in place for disbursement from their EMS Funds or made certain unallowable or questionable payments from their physician, hospital, or discretionary accounts. In addition, some counties reported significant balances remaining in the revenue derived from penalty assessments collected by the courts as of June 30, 2002, raising questions about whether physicians and hospitals are receiving all the reimbursement possible. However, recent legislation will now require counties with surplus funds to proportionally reimburse additional amounts to qualifying physician claims. Finally, we found few counties report that their EMS Funds were audited for any purpose.

Respectfully submitted,

ELAINE M. HOWLE  
State Auditor

# CONTENTS

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<i>Summary</i>	1
<i>Introduction</i>	5
<i>Audit Results</i>	
With One Possible Exception, the Courts and Counties Complied With Statutory Requirements for EMS Fund Revenues	13
Some Counties Have Not Always Properly Spent EMS Fund Money	16
Some Counties Reported Substantial Carryover Balances in the Maddy Revenues Portion of Their EMS Funds, but Recent Legislation Requires Counties to Limit Fund Balances	23
Most Counties' EMS Funds Are Not Audited	26
Recommendations	27
<i>Appendix</i>	
Maddy Revenue Balances	31
<i>Responses to the Audit</i>	
Los Angeles County Emergency Medical Services Agency	37
<i>California State Auditor's Comments on the Response From the Los Angeles County Emergency Medical Services Agency</i>	41
Marin County Department of Health and Human Services	43
<i>California State Auditor's Comment on the Response From the Marin County Department of Health and Human Services</i>	45

San Mateo County Health Services Agency	47
<b><i>California State Auditor's Comments on the Response From the San Mateo County Health Services Agency</i></b>	<b>51</b>
Health and Human Services Agency, Department of Health Services, Emergency Medical Services Authority	53
<b><i>California State Auditor's Comment on the Response From the Emergency Medical Services Authority</i></b>	<b>57</b>
Judicial Council of California, Administrative Office of the Courts	59
Los Angeles Superior Court	61
<b><i>California State Auditor's Comment on the Response From the Los Angeles Superior Court</i></b>	<b>63</b>

# SUMMARY

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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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## **RESULTS IN BRIEF**

**T**o compensate health care providers for emergency services for people who do not have health insurance and cannot afford to pay for emergency care and to ensure that this population has continued access to emergency care, the Legislature has enacted laws allowing each county to establish, finance, and administer an Emergency Medical Services Fund (EMS Fund). Although counties we reviewed are making an effort to administer their EMS Funds properly, some of their practices do not comply with state laws or could benefit from better controls over receipts and disbursements.

As of November 2003, 49 counties had established EMS Funds. Counties finance these funds through several revenue sources: (1) penalty assessments on certain criminal and traffic violations, known as Maddy revenues; (2) a portion of the fees from people attending traffic violator schools; (3) revenues from taxes on tobacco products deposited in the State's Cigarette and Tobacco Products Surtax Fund; and (4) redirected money from the State's Cigarette and Tobacco Products Surtax Fund through an annual Emergency Medical Services Appropriation (EMS Appropriation).

Statute requires a county to allocate specified percentages of Maddy revenues for particular EMS purposes (reimbursements to physicians and hospitals and allocations for administration and "other," or discretionary, costs) from the county's share of penalty assessments. The four counties we reviewed for fiscal year 2000–01 and fiscal year 2001–02 allocated appropriate amounts for these specific purposes.

Of the 49 counties with EMS Funds, 40 established the funds before June 1, 1991. More than half of the counties responding to our survey about their EMS Fund practices, including the four counties we visited, were unaware of a limitation the law places on the growth of Maddy revenues for funds established by June 1, 1991. As a result, these four counties and potentially others did not track the information required to calculate the limitation. It is possible that some counties deposited more revenues than allowed into their EMS Funds, but due to the lack of clarity in the law and the lack of all necessary information in county records, we could not quantify the impact of this issue.

Some counties we reviewed either did not have all the necessary or reasonable controls in place for disbursements or made unallowable payments from their EMS Funds. Three of the four counties we visited, as well as counties that responded to our survey, believe they can use the discretionary account in their EMS Funds for costs that we believe are questionable, including administrative charges such as salaries and supplies for their emergency medical services. If the Legislature does not intend such costs to be charged to the discretionary account, it may choose to amend the law. We also found a variety of practices counties use to reimburse claims from emergency physicians that did not comply with the law or could be improved. Additionally, for three of the four counties we visited, controls over payments from the hospital portion of their EMS Funds should be improved.

The counties we reviewed that administered their own tobacco tax revenues and EMS Appropriations generally spent these funds for the purposes required by law. Further, for fiscal year 2000–01 and fiscal year 2001–02, these counties did not have any unspent tobacco tax revenues or EMS Appropriations, which they otherwise would have to return to the State, as required by law.

Some counties reported significant balances remaining in the Maddy revenues portion of their EMS Funds as of June 30, 2002. The explanations they offered for the balances included lack of a substantial uninsured population unable to pay for their medical services and a limited demand from medical providers requesting these funds. In addition, we noted inconsistencies in the data counties report. Many counties report inconsistent carryover balances between fiscal years without explaining the differences, and many do not include the effect of costs they have incurred but not paid. Including these incurred costs would reduce the reported balances, in some cases significantly. Legislation effective in January 2004 requires counties with surplus balances (after accounting for an allowable reserve) to use this money to proportionally pay an additional amount to physicians who submitted qualifying claims during the year.

Finally, although the law does not specifically require that counties audit their EMS Funds, the Legislature asked us to determine whether counties or other entities are conducting audits. We found few counties report that their EMS Funds were audited for any purpose.

## RECOMMENDATIONS

To clarify the law governing deposits of Maddy revenues in counties' EMS Funds, the Legislature should 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 for the activity since June 1, 1991.

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

To provide greater consistency in the annual EMS Fund report that counties submit to the Legislature, the Legislature should consider directing the Emergency Medical Services Authority to revise the report format to instruct counties 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.

To strengthen controls over disbursements from their EMS Funds, the counties should do the following:

- Periodically review selected physicians' records that support claims requesting reimbursement from EMS Funds to ensure the information is accurate and the claim is appropriate for reimbursement.
- 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.
- Comply with the law that requires each county to establish a fee schedule to uniformly reimburse its physicians from EMS Funds.



## **AGENCY COMMENTS**

The Department of Health Services, the Emergency Medical Services Authority (authority), the Administrative Office of the Courts, and Los Angeles Superior Court generally concurred with our findings and, except for one issue, three of the counties we reviewed (Los Angeles, Marin, and San Mateo) did as well. Los Angeles and San Mateo counties expressed concern with our interpretation of the law that governs how counties can use EMS discretionary money and all three counties believe they used this money for EMS purposes in a manner consistent with the law. The authority expressed concern that our recommendation to the Legislature will lead to increased expectation for services the authority does not feel it can provide. The three remaining courts we reviewed and Colusa County did not respond to our report. ■

# INTRODUCTION

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## BACKGROUND

In 1987, the Legislature concluded that emergency medical service providers bore higher costs for their services than did providers of other medical services but often received only partial or no payment from patients. To address this concern, the State enacted a series of laws providing revenues to compensate physicians and surgeons (physicians) and medical facilities for emergency services provided to patients who do not have health insurance and cannot pay for their medical care. The first of these laws, Chapter 1240, Statutes of 1987, authored by Senator Ken Maddy, allows counties to establish Emergency Medical Services Funds (EMS Funds). Although counties are not required to establish EMS Funds, as of November 2003, 49 counties had done so.

The Legislature intended EMS Funds to have a simple, cost-efficient system of administration so counties can use the maximum amount of funds to reimburse physicians, hospitals, and other providers of emergency medical services. However, in administering their EMS Funds, counties must navigate an array of rules in more than four separate sections of state law, including the Health and Safety Code, the Government Code, the Vehicle Code, and the Welfare and Institutions Code. Once they set up EMS Funds, counties must allocate the revenues for specific uses established in law, maintaining separate accounts in their EMS Funds for administration, physician services, hospital services, and other emergency medical purposes (discretionary purposes).

## SOURCES OF COUNTIES' EMERGENCY MEDICAL SERVICES FUNDS

Counties have several sources of revenue for their EMS Funds: Maddy revenues, derived from county penalty assessments on various criminal offenses

### Laws Governing County Administration of EMS Funds

#### Health and Safety Code:

- Allows counties to establish an EMS Fund.
- Specifies how Maddy revenues are to be allocated for physicians, hospitals, administration, and discretionary accounts.
- Requires participating counties to annually report to the Legislature on the implementation and status of their EMS Funds.

#### Government Code:

- Allows counties to assess additional charges on fines, penalties, and forfeitures collected by courts for certain criminal and vehicle code violations to provide Maddy revenues.
- Establishes a limit on the amount that Maddy revenues can increase annually if the county's EMS Fund was established by June 1, 1991.

#### Vehicle Code:

- Provides revenues from the traffic violator school fees to the EMS Fund.

#### Welfare and Institutions Code:

- Specifies how counties should distribute EMS Funds from Proposition 99 (tobacco tax revenues).

#### EMS Appropriation:

- Appropriates a portion of revenues from tobacco taxes to EMS Funds specifically for reimbursing physicians who provide emergency medical services to uninsured patients unable to pay for their care.

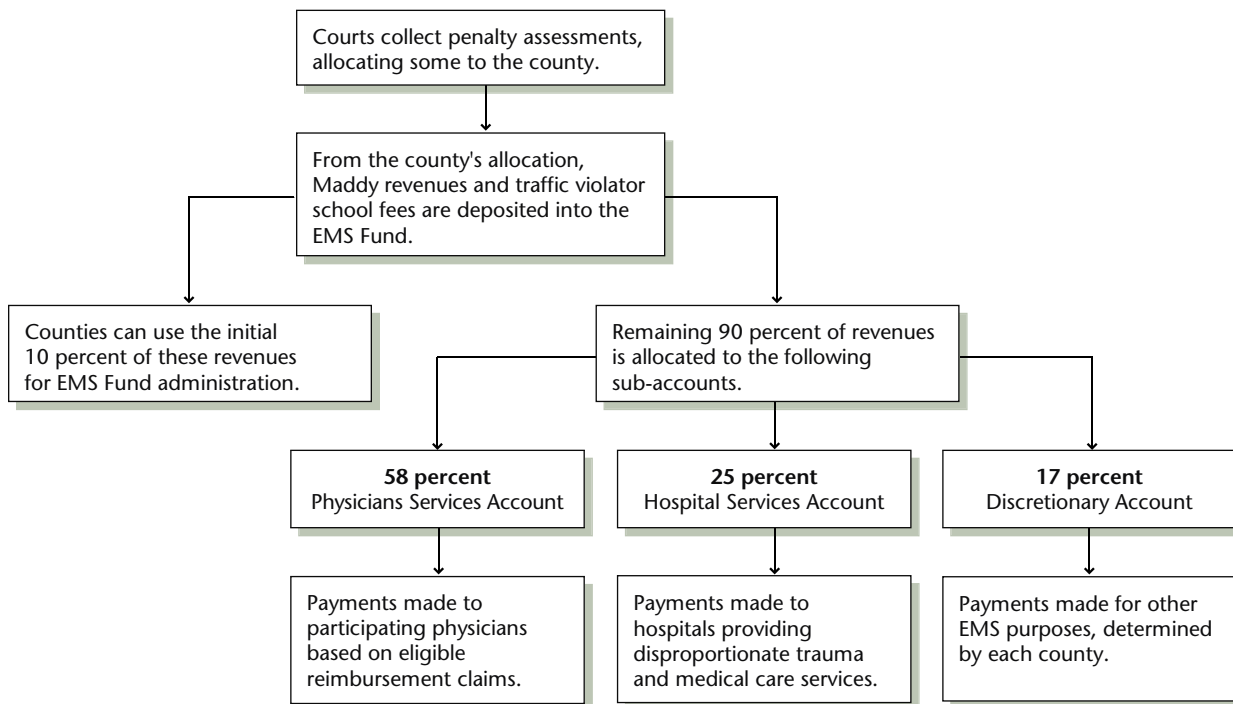
and motor vehicle violations; traffic violator school fees; and revenues from taxes on tobacco products deposited in the State's Cigarette and Tobacco Products Surtax Fund, including the Emergency Medical Services Appropriation (EMS Appropriation).

### Maddy Revenues and Traffic Violator School Fees

The 1987 law also defined one source of revenue for EMS Funds: additional charges counties can assess on fines, penalties, and forfeitures that their courts collect for certain criminal offenses and motor vehicle violations (penalty assessments). Known as Maddy revenues, these penalty assessments provide a substantial share of the resources in counties' EMS Funds. Legislation enacted in 1999 requires a portion of fees collected from people attending traffic violator schools to be allocated to EMS Funds unless counties already committed the funds to finance debt service related to capital projects before January 1, 2000. Counties include those fees with Maddy revenues. Figure 1 below outlines the flow of both revenue sources through an EMS Fund.

**FIGURE 1**

#### Maddy Revenue Allocation to a County's EMS Fund



Counties must use Maddy revenues and traffic violator school fees for purposes established in statute. As Figure 1 shows, a county can use 10 percent of Maddy revenues for administration. Of the remaining funds, 58 percent is allocated to an account for physicians who provide emergency medical services and are not employed in county hospitals, 25 percent to an account for hospitals that provide for a larger<sup>1</sup> share of a county's trauma and emergency care services, and 17 percent to an account for discretionary emergency medical services, as determined by the county. Physicians can receive reimbursement for up to 50 percent of their claims, whereas hospital and discretionary costs can be reimbursed up to 100 percent. (Legislation effective in January 2004 modifies the 50 percent maximum for physicians' claims under certain circumstances.)

For EMS Funds established before June 1, 1991, the law specifies a limit on the amount of Maddy revenues that counties can deposit in their funds. This limitation restricts the annual increase in Maddy revenues to no more than 10 percent and is tied to the annual growth, if any, in the county's total penalty assessments. The law allows counties that had not established an EMS Fund before July 1, 1991, to receive Maddy revenues from county penalty assessments without limitations on annual growth.

### **Tobacco Tax Revenues and Emergency Medical Services Appropriation**

Other laws provide additional revenue sources for counties' EMS Funds. The voters passed the Tobacco Tax and Health Protection Act of 1988 (Proposition 99), which imposes taxes on the distribution of cigarettes and other tobacco products. The State collects these taxes for deposit in the State's Cigarette and Tobacco Products Surtax Fund to fund a variety of programs, including the California Healthcare for Indigents Program (CHIP) and Rural Health Services (RHS) program, which allocate funds to counties for indigent care. Since 2000, the Legislature has appropriated money from CHIP and RHS funds to provide counties revenues which are restricted to reimbursement of uncompensated emergency room care by private physicians. This annual appropriation is referred to as the EMS Appropriation. An additional portion of the CHIP and RHS funds remaining after the EMS Appropriation is also specifically dedicated for deposit in the physicians services account in counties' EMS Funds.

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<sup>1</sup> The law states that hospitals that provide a disproportionate share of the emergency medical services are to receive the hospital portion of EMS Funds. For our report, we are using the term "larger" to indicate this disproportionate share.

Finally, counties may use additional CHIP and RHS funds for emergency costs for hospitals and discretionary purposes. They must use the money from the EMS Appropriation and any additional EMS amounts from CHIP and RHS for the fiscal year they are allocated or return unused funds to the Department of Health Services (Health Services), which oversees these programs. Many rural counties choose to have Health Services administer their tobacco tax revenues and/or their EMS Appropriations, in which case Health Services uses these revenues to reimburse providers of emergency medical services in certain counties. Although the EMS Appropriation to the counties has remained the same since its inception (\$24.8 million annually), the Legislature did not appropriate any funds for deposit to CHIP or the RHS program for physicians services accounts for fiscal year 2002–03 and fiscal year 2003–04.

### **The Effects of New Legislation on Counties' EMS Funds**

Legislation effective in January 2004 makes some changes in the administration of EMS Funds, clarifying that counties using the discretionary portion (17 percent) of their funds for purchasing equipment or capital projects can do so as long as they are consistent with the purposes of the EMS Fund. Further, the new legislation permits each county to maintain a reserve of up to 15 percent of the annual receipts in the portions of its EMS Fund that reimburse physicians and hospitals and reserves of any amount in the discretionary portion of the EMS Fund. Specifically, when balances in the physicians and hospital accounts exceed the permitted reserve, a county must proportionally distribute the excess to physicians submitting claims during the year. Additionally, the new legislation requires counties to solicit input from physicians and hospitals to review payment distribution methods and ensure fair and timely payments. Counties can and may meet this requirement by establishing an advisory committee or requesting input from a preexisting entity.

### **ROLES OF VARIOUS ENTITIES IN ADMINISTERING EMS FUNDS**

The administration of counties' EMS Funds is also made complex by the number of entities having a role in collecting and allocating the revenues or paying the providers of emergency medical services. The courts, Health Services, and the Emergency

Medical Services Authority (EMS Authority) have been involved along with the counties, although the EMS Authority does not have a mandated role and neither state department oversees the counties' administration of the Maddy revenue portion of their EMS Funds. The entities' roles are as follows.

The courts in each county collect and total penalty assessments and traffic violator school fees that make up the Maddy revenues and notify the county's accounting administrator of the amounts available. The accounting administrator then transfers the courts' collections into the county's EMS Fund, designating the amounts for administration, physicians, hospitals, and discretionary purposes and making the revenue available for reimbursing the costs of emergency medical services.

In addition to allocating and disbursing tobacco tax revenues and the EMS Appropriation, Health Services is responsible for monitoring how the counties use the money, as well as ensuring that counties meet the necessary requirements to receive these funds. According to the chief of its county health services unit, Health Services does this by performing desk audits and/or reviewing various reports and supporting documentation submitted by the counties. In addition, Health Services has agreements with many rural counties that choose not to receive the tobacco tax revenues and/or EMS Appropriations, retaining the revenue these counties would have received and using it to pay providers applying directly to Health Services for reimbursement.

The EMS Authority is responsible for statewide coordination and leadership for the planning, development, and implementation of local emergency medical services systems. Although the EMS Authority does not have any statutory responsibility related to the counties' EMS Funds, it had provided some guidance to counties and had compiled and forwarded to the Legislature counties' responses for their annual reports on Maddy revenues and payments. According to the chief deputy director of the EMS Authority, for fiscal year 2003–04 the EMS Authority does not plan to provide guidance or compile the information in the counties' annual reports because it does not have funding to cover the costs. The annual EMS reports include, among other information, the total amount of Maddy revenues collected, the amount of funds paid out and the amount remaining, the number of claims received and paid, and the percentage paid on the claims. The Appendix summarizes the Maddy revenue balances counties reported for fiscal year 2000–01 and fiscal year 2001–02.

## SCOPE AND METHODOLOGY

The Joint Legislative Audit Committee (audit committee) requested that we review the administration of EMS Funds to ensure that counties comply with the laws governing their use. Specifically, the audit committee asked us to do the following: identify the sources of EMS Funds; evaluate the policies and procedures counties use to collect, maintain, and disburse EMS Funds to emergency medical care providers; determine whether counties comply with statutory requirements to collect and disburse EMS Funds to providers of emergency medical services; and determine whether the allocation and use of EMS Funds within each county is periodically subject to an audit. The audit committee was concerned that counties are not using EMS Funds for their intended purposes.

To identify revenue sources for EMS Funds and to understand the process of administering them, we reviewed the relevant state laws, county boards of supervisors' resolutions for those counties we visited, and various county policy and procedure manuals. We also interviewed representatives from Health Services; the EMS Authority; the State Controller's Office; and officials from county departments of health services, emergency medical services agencies, county accounting administrators, courts, and a county manager.

To select counties operating EMS Funds, we obtained the report summarizing the information contained in each county's annual EMS Fund report to the Legislature from the EMS Authority and selected four of the 49 counties that maintain EMS Funds: Colusa, Los Angeles, Marin, and San Mateo. For additional information on how counties administer and use their EMS Funds, we surveyed the 49 counties, including the four we visited, that maintain funds; we present pertinent information from the survey in the report.

We reviewed court penalty assessments and EMS Fund allocations for the four counties from fiscal year 2000–01 through fiscal year 2001–02. To determine the amount of annual court penalty assessments, we used records provided by the superior courts and probation departments, county accounting administrators, and a county manager. To ensure that the courts computed the penalty assessments correctly, we reviewed selected motor vehicle and criminal citations to determine whether 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 propriety of the penalty assessments the counties allocated to their EMS Funds.

Finally, to determine whether counties spent their EMS Funds according to statutory requirements, we evaluated the process for ensuring compliance with EMS Fund requirements and approving claims for payment at each of the four counties we visited. We also reviewed a sample of expenditures paid from EMS Funds. Specifically, we reviewed the appropriateness of payments to private physicians and hospitals and costs counties incurred in discretionary and administrative accounts. To determine whether counties' EMS Funds are subject to periodic audits, we interviewed representatives from the counties' accounting administrators and external auditors and summarized responses to the county surveys. ■



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# AUDIT RESULTS

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## **WITH ONE POSSIBLE EXCEPTION, THE COURTS AND COUNTIES COMPLIED WITH STATUTORY REQUIREMENTS FOR EMS FUND REVENUES**

Courts in the counties we visited appropriately assessed and allocated Maddy revenues, which are the portion of additional penalties for certain criminal offenses and motor vehicle violations collected for deposit in county Emergency Medical Services Funds (EMS Funds). In addition, counties we reviewed generally complied with statutory requirements related to each of the sources of revenue in their EMS Funds. However, many counties responding to our survey, including the four we visited, did not realize their EMS Funds were subject to a statutory limitation on deposits of Maddy revenues and therefore may not have complied with that limitation.

### **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. 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.

The Government Code states that a county with an EMS Fund established before June 1, 1991, must limit the annual growth in deposits to the EMS Fund from Maddy revenues to no more than 10 percent, based on the amount of growth in the county's share of penalty assessments collected by the court. For example, if a county's Maddy revenues were \$100,000 in fiscal year 2000-01 and the amount collected for Maddy revenues totaled \$150,000 in fiscal year 2001-02, the county would be limited to depositing no more than \$110,000 in its EMS Fund, a 10 percent increase over the prior year. However, for EMS Funds established after July 1, 1991, counties can deposit whatever the courts collect

as Maddy revenues. Thus, if the county in our example had established its fund on July 1, 1991, or later, it would be able to deposit the entire \$150,000 from Maddy revenues in the EMS Fund. We were unable to determine the rationale for the two different requirements for funds established at different times.

All four counties we reviewed—Colusa, Los Angeles, Marin, and San Mateo—established their EMS Funds before June 1, 1991, making them subject to the 10 percent limitation on the growth of Maddy revenues. However, representatives of each of the four counties indicated they were unaware of the requirement. According to the results of our survey on counties' administration of their EMS Funds, 40 of 49 counties that have EMS Funds must comply with the 10 percent limitation on Maddy revenues, but only 12 of the 40 counties stated they were aware of the limitation. Nine counties established their EMS Funds after July 1, 1991, and are not subject to the limitation.

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 10 percent growth limit on Maddy revenues was established. Legislation enacted in 1999 contained a provision to collect Maddy revenues from traffic violator school fees, increasing the counties' Maddy revenues. However, the legislation did not address how the traffic violator school fees affect the calculation of the limitation on Maddy revenues, if at all. In addition, 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 10 percent growth limit. Further, we expect that compiling data from fiscal year 1990–91 to determine the base year and from all subsequent years for the calculation of the limit would be difficult for many counties, as it was for the counties we visited. Although they made an effort to provide us with as much information as they had available, the data were incomplete.

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*The law is unclear about how counties should calculate the amount they can deposit in their EMS Funds.*

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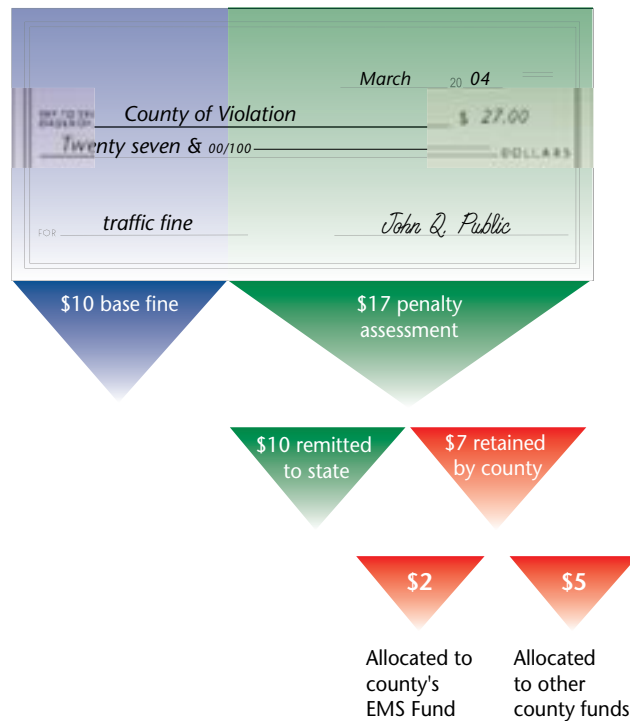
### **Courts Have Appropriately Allocated Penalty Assessments to the EMS Funds**

Courts in the four counties we reviewed generally complied with requirements for assessing and allocating Maddy revenues. State law requires counties to assess an additional \$17 for every \$10, or portion thereof, of specified fines, penalties, and forfeitures

(base fines), and to distribute that penalty assessment to various state and county funds. For example, as shown in Figure 2, for a base fine of \$10, the county assesses an additional charge of \$17, bringing the total amount the violator pays to \$27. The county allocates the base fine to various funds and retains \$7 of the penalty assessment. The State receives the remaining \$10 of the penalty assessment. A county with an established EMS Fund can deposit up to \$2 of the \$7 penalty assessment in that fund, subject to the limitation previously described. When a fine is paid, the courts allocate Maddy revenues from the county's share of the payment.

**FIGURE 2**

**Calculation and Distribution of Penalty Assessments**



**Counties Generally Complied With Requirements for Tobacco Tax Revenues and the Emergency Medical Services Appropriation**

The State's Department of Health Services (Health Services) allocates revenues received from taxes on tobacco products (tobacco tax revenues) and the Emergency Medical Services Appropriation (EMS Appropriation) to each county that administers them. Two counties we reviewed, Los Angeles and San Mateo, administer both their tobacco tax revenues

and EMS Appropriations themselves, and they deposit the amounts in their EMS Funds. Colusa County administers its EMS Appropriation only. EMS Appropriations are specifically earmarked for payments to physicians, and the three counties deposited their EMS Appropriations in the physicians services account in their EMS Funds. Counties administering their own tobacco tax revenues and/or EMS Appropriations must spend them for the fiscal year they are allocated and return any unspent amounts to Health Services. The participating counties we reviewed complied with this requirement, spending all their tobacco tax and/or EMS Appropriations for fiscal year 2000–01 and fiscal year 2001–02.

Marin County chose not to administer either its tobacco tax revenues or its EMS Appropriation and Colusa County does not administer its tobacco tax revenues. When rural counties choose not to administer their tobacco tax revenues and/or EMS Appropriations, Health Services puts this money into a general pool; providers of emergency medical services in these counties submit claims to Health Services to receive partial reimbursement from the pooled funds.

### **SOME COUNTIES HAVE NOT ALWAYS PROPERLY SPENT EMS FUND MONEY**

Some counties either did not have all the necessary or reasonable controls in place for disbursements from their EMS Funds or made certain unallowable payments from their physician, hospital, or discretionary accounts. Our primary concern is with the use of these accounts, especially the discretionary account, to pay for administrative costs.

#### **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.

***Three counties we visited believe administrative costs are an appropriate use of discretionary funds, an interpretation that may be inconsistent with the law's goal of providing funding for emergency medical services.***

The law distinguishes between the 10 percent of Maddy revenues allowed for the cost of administering the EMS Fund and the allowable uses for the remaining balance in the fund, using the phrase “after costs of administration” when allocating for those allowable uses.<sup>2</sup> In particular, the discretionary portion of the EMS Fund is for “other emergency medical services purposes as determined by each county.” The law further defines emergency medical services as those “services utilized in responding to a medical emergency.” 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.

San Mateo County’s EMS administrator has indicated to us that the county believes it can use its discretionary account to fund a variety of activities, although in any given year it may not have charged all these costs to its discretionary account. These activities range from certification for paramedics or emergency medical technicians and maintaining a communications system among dispatch, first responders, ambulances, and hospital emergency departments—all of which we agree are appropriate charges to the discretionary account—to collecting and analyzing patient data and conducting continuous quality improvement activities, tasks that we believe are less clearly acceptable charges. Similarly, Los Angeles County’s acting EMS director told us that the county believes it is allowable to fund activities ranging from those we agree are clearly within the statutory intention for the discretionary account—the ambulance program and the Medical Alert Center, which serves as the EMS agency’s control point for two emergency communication systems—to salaries for its emergency services information technology system staff, costs we believe are more questionable.<sup>3</sup> Marin County uses its discretionary

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<sup>2</sup> Legislation effective in January 2004 modifies this statutory language but retains the original meaning: “The amount in the fund, reduced by the amount for administration...shall be utilized to reimburse physicians...and hospitals for patients who do not make payment for emergency medical services and for other emergency medical services purposes as determined by each county...”.

<sup>3</sup> Additional activities Los Angeles County considers appropriate charges include salaries and service costs for disaster management and its trauma and emergency medicine information system database, which monitors, evaluates, and coordinates the emergency medical services system.

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*Given the wide range of costs funded from the discretionary account and varying interpretations of allowable charges to it, additional clarification of the law's intent may be warranted.*

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funds primarily for salaries for its emergency medical services administrator and technology support staff. In contrast, several other counties responding to our survey reported using their discretionary funds for expenses that we believe are clearly allowable under the law, such as subsidizing their physician and hospital services portions of their EMS Funds or augmenting ambulance services. Given the wide range of costs funded from the discretionary account and the varying interpretations of allowable charges to it, we believe additional clarification of the law's intent may be warranted.

San Mateo County has also recently discovered a significant over-allocation of Maddy revenues to its administrative account and has taken steps to reimburse the physician and hospital accounts in its EMS Fund. Between fiscal year 1991–92 and fiscal year 2000–01, San Mateo County used substantially more Maddy revenues for administrative expenditures than the 10 percent of annual revenues allowed by statute. The current county health services finance director has indicated that shortly after she assumed her position in 2001, she directed her staff to conduct an analysis of the EMS Fund for fiscal year 1991–92 through fiscal year 2000–01, resulting in the discovery of this inappropriate use of approximately \$754,000 in Maddy revenues under the tenure of one of her predecessors. The study concluded that the administrative account had received more money than the combined amount allowed for the administrative and discretionary accounts. The county health services finance director believes that the types of expenditures funded with the over-allocation were similar to those that it currently funds from the county's administrative and discretionary accounts. However, complete records of the actual expenditures do not exist, although the county did provide estimates of these expenditures.

The current county health services finance director is not able to provide us with any justification for her predecessor's allocation decisions. In fiscal year 2001–02, the county began repaying this money, ultimately using approximately \$323,000 in county general fund money and \$431,000 in available cash in the EMS Fund's discretionary account. The county health services finance director believes that, as of June 30, 2003, the amounts were fully reimbursed. Further, according to the EMS fiscal officer, all legitimate physician claims were paid at the maximum rate, 50 percent, during this period. Because the county does not have records of all the expenditures from the administrative account for the period of the study, we cannot determine with precision

the actual amount, if any, of inappropriate expenditures for administrative purposes. In addition, the appropriateness of some of the costs could be subject to any clarification of the law the Legislature may wish to make.

### **Some Counties Did Not Consistently Pay Physicians' Claims in Compliance With Certain Provisions in the Law**

In our on-site reviews of four counties' practices related to payments of physicians' claims for reimbursement and in counties' responses to our survey, we found a variety of practices that do not fully comply with statutory requirements or that could be improved. One county we reviewed did not recover refunds, and others appeared to misunderstand two separate provisions of the law that affect how much physicians will be reimbursed. Finally, we believe electronic reimbursement of physicians' claims can be improved in one county that recently implemented the process.

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*The physicians' billing agent in Colusa County did not reimburse the county's EMS Fund for payments it received from patients as required by law.*

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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's business manager told us, in response to our inquiry, that she 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.

Some counties appear to have a misunderstanding about the relationship between two provisions of law affecting payments to physicians, and many do not use a fee schedule as required. Since 1990, the law has required counties to reimburse physicians



a percentage, not to exceed 50 percent, of amounts they claim. (Current legislation modifies this requirement in certain circumstances.) Before January 2003, the law allowed counties to use a fee schedule that established a uniform, reasonable level of reimbursement; since January 2003, the law requires counties to adopt such a fee schedule. The provisions of law requiring the use of fee schedules and limiting the percentage of physicians' claims covered are not mutually exclusive, but it appears some counties incorrectly interpret the law to allow them to apply one or the other but not both.

For example, in response to our question about whether they use fee schedules, some counties indicated they pay a set reimbursement rate on each physician's claim they receive. It appears that, for these counties, one physician may submit a claim of \$1,000 for performing an appendectomy and a second physician may submit a claim of \$2,500 for the same treatment of another patient. Both physicians would receive the same percentage—for example, 50 percent—of the claims, but the first physician would receive \$500 and the second physician would receive \$1,250 for the same treatment. Thus, even though these counties indicated they comply with the 50 percent requirement, they do not have a fee schedule that establishes a uniform method of reimbursement, as required by law. Having a set reimbursement rate per claim submitted differs from having a fee schedule that establishes how much can be claimed. In this example, the fee schedule would establish a standard charge for an appendectomy—for example, \$1,000—and both physicians would be paid the same reimbursement rate (50 percent), \$500. 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.

For example, San Mateo County, which used a fee schedule before the law required it to do so, applied the 50 percent maximum against the fee schedule, rather than physicians' claims, when reimbursing physicians. As a result, for the three physicians' claims we reviewed for the period January through June 2002, the county reimbursed physicians at more than 50 percent of the amounts they claimed although not more than 50 percent of the county's fee schedule.

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*Although the law requires them to do so, less than one-third of the counties we surveyed that reimburse physicians reported they use a fee schedule to calculate the amount to reimburse physicians.*

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Only 13 of the 45 counties that we surveyed in 2003 and that reimbursed physicians, including three of the four we visited (Colusa, Los Angeles, and San Mateo) reported that they used some type of fee schedule when calculating how much to reimburse physicians. Of the four counties we reviewed for fiscal year 2000–01 and fiscal year 2001–02, Marin County did not use a fee schedule to ensure that every claim for the same procedure or service was reimbursed the same amount. Marin County confirmed that until October 1, 2003, it did not use a fee schedule when calculating how much to reimburse physician claims. One additional county responding to our survey reported that it did not begin using a fee schedule until fiscal year 2003–04. Counties should ensure they have adopted a fee schedule, as required by law.

The two counties we visited that process at least some physicians' claims electronically, Los Angeles and San Mateo, do not require physicians to submit supporting documentation with the electronic claims, as they do for the hard-copy claims submitted and processed manually. Instead, we would expect automated or other controls to take their place. We believe San Mateo County could improve some of its automated controls over the claims. Although its automated system has controls that screen claims to determine if medical services rendered are allowable and if the claims are mathematically correct and complete, according to the San Mateo County EMS fiscal officer, the automated system does not have such controls as a review for the eligibility of the physician to claim reimbursement, nor does it require evidence that the patient is not eligible for a third-party source of payment. As more counties move toward processing physician claims electronically, they should ensure basic controls such as these are included in their automated systems.

Counties should also consider ensuring that at least a sample of detailed physician records that support their claims for reimbursement is reviewed periodically. The law requires physicians to maintain supporting records for three years for each claim they submit to the county EMS Fund for reimbursement. The law further states that submitting a false claim is civil fraud. However, although the law grants counties access to inspect physicians' supporting records, only one of four counties we visited, Los Angeles, contacts physicians to inspect patient records, physician billing records, and collection agency reports to determine whether the physician can support claims submitted for reimbursement. Colusa and San Mateo counties indicated that they are considering beginning similar inspections.

Although reviewing supporting records for every claim submitted would be an unnecessary burden on county resources, we think it is reasonable for counties to periodically sample physicians' records to ensure that claims and information submitted are accurate and appropriate. Without some sort of scrutiny, physicians have less incentive to ensure that they submit only eligible claims.

### **Control Over EMS Reimbursements to Hospitals Has Been Inadequate in Some Counties**

Controls over payments from hospital accounts should also be improved at three counties we reviewed. 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 the expenditures support the provision of emergency medical services and are consistent with the intent of the chapter of 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. Like Colusa and San Mateo counties, 13 other counties responding to our survey indicated they pay their hospitals a flat allocation for emergency medical service expenditures. For those counties that make set payments, we believe it is reasonable to expect them to establish procedures that ensure the hospitals actually incur the costs and are not reimbursed from other sources. For example, we reviewed the Colusa County hospital's summary of its actual expenditures, finding them far in excess of the EMS Fund reimbursements, and

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***Colusa and San Mateo counties pay their hospitals a flat amount but do not employ procedures to ensure the hospitals incur expenditures at least equal to their EMS Fund reimbursement.***

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we believe this would be a reasonable procedure for some counties making set payments to hospitals to follow annually. However, it may be difficult for some counties to conduct periodic reviews to determine that hospitals' incurred costs are at least equal to their EMS Fund reimbursements. For example, San Mateo County uses EMS Funds to reimburse three hospitals, two of which provide San Mateo County residents with emergency trauma care but are outside the county and receive EMS Funds from other sources. In this case, San Mateo County would have to determine whether the two hospitals incurred emergency medical service costs at least equal to all EMS Fund money they receive.

Nevertheless, the Legislature intended counties to use EMS Funds to reimburse hospitals providing emergency medical services to patients who are uninsured and cannot otherwise pay for such services. We therefore believe it is reasonable for counties to expect hospitals to demonstrate that they have incurred costs at least equal to their EMS Fund reimbursements.

The law allows counties to reimburse up to 100 percent of each hospital claim. However, in response to our survey, three counties that pay hospital claims reported that they believe the law limits the amount counties can reimburse hospital claims to 50 percent or less of the claim amount. This confusion may result in some counties not paying the maximum amount available for their hospital claims, leaving hospitals without reimbursements to which they are entitled.

### **SOME COUNTIES REPORTED SUBSTANTIAL CARRYOVER BALANCES IN THE MADDY REVENUES PORTION OF THEIR EMS FUNDS, BUT RECENT LEGISLATION REQUIRES COUNTIES TO LIMIT FUND BALANCES**

Some counties reported substantial balances in their Maddy revenues as of June 30, 2002, raising questions about whether physicians and hospitals are receiving all the reimbursement possible from Maddy revenues. Of the 49 counties reporting to the Legislature, 30 indicated that, for a variety of reasons, they had at least 50 percent of their annual Maddy revenues remaining and most of these exceeded 100 percent because they included carryover balances from the prior year. In the Appendix, we present the balances each county reported in its Maddy revenue accounts for physicians, hospitals, and discretionary purposes as of June 30, 2001 and June 30, 2002. For the two fiscal years, counties reported balances as high

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*As of June 30, 2002, 30 of the 49 counties reporting to the Legislature had at least half of their annual Maddy revenues remaining.*

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as \$25.4 million and \$16.2 million, respectively. However, reported amounts may be misleading because not all counties reported amounts they were committed to pay but had not yet paid from the Maddy revenue accounts for physicians and hospitals. Although statute requires counties to submit these reports to the Legislature, it does not specify how counties should calculate the balances they report.

### **Too Few Providers Seeking EMS Fund Reimbursements Contributed to Some Counties Reporting Surplus Balances in Their Maddy Revenues**

Counties we surveyed stated various reasons why their Maddy revenues had carryover balances. Of the 49 responding to our survey, 16 counties reported a low demand for reimbursements from physicians or hospitals. Additionally, eight counties reported their indigent populations are small and primarily consist of people covered by Medi-Cal or other insurance; services for these patients are ineligible for reimbursement from EMS Funds. Some counties reported that they did not spend the discretionary portion of their Maddy revenues, resulting in a surplus in that account. Three counties stated that, in an effort to avoid returning tobacco tax revenues to the State, they spend that money before Maddy revenues; if there is not enough demand to use up all the Maddy revenues, a surplus may result. Legislation effective in January 2004 requires counties with surplus balances (after accounting for an allowable reserve) to use that money to proportionally reimburse an additional amount to physicians who submitted qualifying claims during the year. Three rural counties expressed a desire for more flexibility in the use of their EMS Fund accounts so they could transfer money between accounts. Each of these counties reported substantially larger balances in their physician accounts than in their hospital accounts as of June 30, 2002.

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*Sixteen of the 49 counties responding to our survey reported a low demand for reimbursements from physicians or hospitals; another eight cited small indigent populations primarily covered by Medi-Cal or other insurance.*

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According to the survey we conducted in the summer of 2003, nine out of 49 counties do not perform any outreach to physicians, and some of these had surplus balances that might be reduced by active outreach. All four counties we visited have indicated they perform some outreach, which may include the use of meetings with physicians and hospitals, Web sites, and articles in appropriate magazines and newsletters. Since January 2003, the law has required counties to make reasonable efforts to notify physicians about the EMS Fund and how to submit a claim for reimbursement. We believe a reasonable effort can consist of various practices that

some counties responding to our survey employ, similar to those practices the counties we visited indicated they use, as well as providing information to the local medical associations.

### **Counties Do Not Report Consistent Information to the Legislature**

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*Counties reporting on a cash basis include only those claims they have already paid, while counties reporting on an accrual basis also report claims they are committed to pay but have not yet paid.*

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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.<sup>4</sup> Counties reporting on an accrual basis take into account claims they are committed to pay but have not yet paid, whereas counties reporting on a cash basis do not. Based on our survey, 44 of 49 counties with EMS Funds report on a cash basis, four counties report on an accrual basis, and one county reports estimates rather than actual amounts. Counties reporting on a cash basis may not be providing a full picture of their Maddy revenues' obligations and therefore may be overstating the amounts available. At least one county responding to our survey reports on a calendar year; the law now requires counties to report on the preceding fiscal year.

The difference between accrual and cash reporting can be significant. For example, as of June 30, 2001, Los Angeles County reported its total Maddy revenue balance as \$25.4 million on a cash basis. However, one of Los Angeles County's senior fiscal analysts told us that if it had reported its total on the accrual basis, as it did for June 30, 2002, Los Angeles County would have reported its total surplus Maddy revenue balance at June 30, 2001, as \$20.5 million, almost \$5 million less. Los Angeles County identified the change in its reporting basis in its fiscal year 2001–02 report, although counties are not required to do so. We believe the counties' annual reports on Maddy revenues that they send to the Legislature should require counties to report their Maddy revenue balances on the same basis, preferably the accrual basis, enabling the Legislature to have a clearer picture of how counties are using their EMS Funds.

Many counties' reports are also inconsistent between the two fiscal years included in the Appendix. Of the 49 counties with EMS Funds, 30 reported remaining balances at the end of fiscal

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<sup>4</sup> Counties that have an EMS Fund are required to report annually to the Legislature on the implementation and status of their EMS Funds. The Emergency Medical Services Authority, although not mandated to do so by law, created the report format counties are using to report the information required by the Legislature.

year 2000–01 that differed from the beginning balances they reported for fiscal year 2001–02. For example, one county—San Joaquin—reported almost \$1.2 million in funds remaining as of June 30, 2001, the end of its 2000–01 fiscal year, but reported no prior year carryover funds as of July 1, 2001, the beginning of its 2001–02 fiscal year. When we asked the county why no carryover funds had been reported, its EMS director stated that the amount was omitted from the report in error. Although differences from one reporting period to the next may be legitimate—that is, the counties may be revising earlier reports because of additional information that affects the accounting records—the fact that so many counties have differences raises questions about the accuracy of the data they report. The reporting format the counties use does not require them to explain, or even point out, the differences. Because of these inconsistencies and potential inaccuracies, data reported to the Legislature may have limited value.

### **MOST COUNTIES’ EMS FUNDS ARE NOT AUDITED**

Although the law does not stipulate that county EMS Funds be specifically audited, the Legislature asked us to determine whether counties or others are conducting audits. Few counties report that their EMS Funds are audited for any purpose. Of the 49 counties responding to our survey, 12 reported their EMS Funds were audited in fiscal year 2000–01 and/or fiscal year 2001–02. However, seven of the 12 counties indicated their EMS Funds were audited as part of much broader audits of county finances rather than in separate audits of the EMS Funds. An additional two counties referred exclusively to our audit. The remaining 37 counties reported their EMS Funds were not audited.

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*Of the 49 counties responding to our survey, 37 reported their EMS Funds were not audited.*

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Three of the four counties we visited do not routinely audit or review their EMS Funds. Only Los Angeles County routinely audits selected physician claims as previously discussed and hospital claims by visiting hospitals to inspect hospital records to ensure that the claims were in compliance with the law and county policies and procedures. Colusa, Marin, and San Mateo counties do not specifically audit or review their EMS Funds, although each county’s financial audit may include EMS Fund transactions. However, San Mateo County’s EMS fiscal officer told us that if staff notice an elevated error rate in physician claims submitted when processing those claims, they will investigate and resolve any problems. For example, in

fiscal year 2001–02, San Mateo County’s EMS fiscal officer noted a large number of duplicate physician claims submitted from one source. Her review of a sample of these claims determined that only 24 percent met the requirements for reimbursement. Based on her review, the county reimbursed all of the claims submitted from this source at only 24 percent of the amount allowable according to the county’s fee schedule.

## RECOMMENDATIONS

To clarify the law governing deposits of Maddy revenues in counties’ EMS Funds, the Legislature should 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.

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

To ensure that counties are reimbursing physician claims in accordance with legislative intent, the Legislature may wish to consider clarifying whether physician claims should be reimbursed at 50 percent of a 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.

To provide greater consistency in the annual EMS Fund report that counties submit to the Legislature, the Legislature should 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.



To strengthen controls over disbursements from their EMS Funds, counties should do the following:

- Periodically review selected physicians' records that support claims requesting reimbursement from EMS Funds to ensure the information is accurate and the claim is appropriate for reimbursement.
- 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.
- Ensure that controls over electronic claim processing, at a minimum, match the controls used for manually processed physician claims.
- Comply with the law that requires each county to establish a fee schedule to uniformly reimburse its physicians from EMS Funds.
- Perform outreach as required by law to ensure that its physicians who provide emergency medical services are aware of the EMS Fund.

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

To ensure that the maximum amount of EMS Funds is available to provide emergency medical services, Marin County should 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.

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 government auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,

A handwritten signature in black ink that reads "Elaine M. Howle". The signature is written in a cursive, flowing style.

ELAINE M. HOWLE  
State Auditor

Date: March 18, 2004

Staff: Lois Benson, CPA, Audit Principal  
Susie Lackie, CPA  
LeAnn G. Fong-Batkin  
Adam K. Ludvigson

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# APPENDIX

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## ***Maddy Revenue Balances***

The following table, based on the reports of the Emergency Medical Services Authority (EMS Authority) to the Legislature, shows the Maddy revenue balances each county reported for its physician, hospital, and discretionary accounts for fiscal year 2000–01 and fiscal year 2001–02. Remaining balances, if any, in the administration account are not included in this table because counties are not required to report this information. To provide perspective on the amount of remaining balances, we report these balances as a percentage of Maddy revenues collected in the fiscal year reported. In many cases, counties had at least 50 percent of their current revenues remaining, and most of these exceeded 100 percent because they included carryover balances from the prior year.

For fiscal year 2000–01, Trinity and Tuolumne counties' data were not included in the EMS Authority's report to the Legislature, and Fresno County's data were not included for fiscal year 2001–02. We have added that information, based on reports these counties provided to us. The following nine counties have not established an EMS Fund: Calaveras, Imperial, King, Lassen, Modoc, Santa Barbara, Shasta, Sierra, and Tehama.

We discuss our concerns with the accuracy and consistency of the data counties report on pages 25-26.

**TABLE**

**Maddy Revenue Balances by Account and County for  
Fiscal Year 2000–01 and Fiscal Year 2001–02**

County/ Fiscal Year	Maddy Revenues Collected	Maddy Revenues Remaining			Total Remaining*	Remaining Funds as a Percentage of Assessments Collected†
		Physician Account	Hospital Account	Discretionary Account		
<b>Alameda</b>						
2000–01	\$1,826,554	\$ 731,126	\$438,490	\$524,919	\$1,694,535	93%
2001–02	1,855,332	1,509,309	794,646	957,956	3,261,911	176%
<b>Alpine</b>						
2000–01	34,907	0	0	15,119	15,119	43%
2001–02	46,686	0	0	19,630	19,630	42%
<b>Amador</b>						
2000–01	51,252	215,279	77,735	20,162	313,176	611%
2001–02	98,518	272,881	27,163	25,084	325,128	330%
<b>Butte</b>						
2000–01	210,888	37,966	(37,966)	0	0	0%
2001–02	213,446	0	0	0	0	0%
<b>Colusa</b>						
2000–01	98,184	440,967	1	45,145	486,113	495%
2001–02	81,295	467,028	(11,897)	60,075	515,206	634%
<b>Contra Costa</b>						
2000–01	857,194	76,958	16,467	11,198	104,623	12%
2001–02	741,684	50,161	0	0	50,161	7%
<b>Del Norte</b>						
2000–01	57,990	134,521	57,816	3,962	196,299	339%
2001–02	61,026	169,917	73,073	1,814	244,804	401%
<b>El Dorado</b>						
2000–01	151,950	(4,477)	16,428	(5,494)	6,457	4%
2001–02	198,306	0	4,201	18	4,219	2%
<b>Fresno</b>						
2000–01	1,106,594	44,450	1,760	368,535	414,745	37%
2001–02	1,416,005	0	0	0	0	0%
<b>Glenn</b>						
2000–01	32,895	58,211	0	0	58,211	177%
2001–02	39,516	80,510	0	0	80,510	204%
<b>Humboldt</b>						
2000–01	185,382	243,294	11,493	6,714	261,501	141%
2001–02	188,379	277,725	11,555	6,757	296,037	157%
<b>Inyo</b>						
2000–01	101,119	297,894	128,403	87,314	513,610	508%
2001–02	96,473	343,375	127,550	51,686	522,611	542%

County/ Fiscal Year	Maddy Revenues Collected	Maddy Revenues Remaining			Total Remaining*	Remaining Funds as a Percentage of Assessments Collected†
		Physician Account	Hospital Account	Discretionary Account		
<b>Kern</b>						
2000-01	\$ 1,125,960	\$ 652,018	\$ 341,546	\$ 88,837	\$ 1,082,401	96%
2001-02	1,357,087	484,536	208,717	3,477	696,730	51%
<b>Lake</b>						
2000-01	111,979	60,861	68,195	11,837	140,893	126%
2001-02	143,286	37,969	79,301	12,360	129,631	90%
<b>Los Angeles</b>						
2000-01	19,930,242	14,070,594	11,354,319	0	25,424,913	128%
2001-02	18,032,103	12,786,532	3,495,744	0	16,282,276	90%
<b>Madera</b>						
2000-01	164,658	104,028	38,802	171,231	314,061	191%
2001-02	164,212	77,933	33,589	168,177	279,699	170%
<b>Marin</b>						
2000-01	417,196	513,967	320,876	15,548	850,391	204%
2001-02	382,803	531,333	270,689	23,908	825,930	216%
<b>Mariposa</b>						
2000-01	6,751	51,887	625	11,416	63,928	947%
2001-02	6,362	55,208	1	12,389	67,598	1,063%
<b>Mendocino</b>						
2000-01	74,702	113,668	27,158	25,881	166,707	223%
2001-02	107,657	163,740	46,377	35,788	245,904	228%
<b>Merced</b>						
2000-01	366,239	73,286	82,404	16,554	172,243	47%
2001-02	628,769	187,957	21,152	19,709	228,818	36%
<b>Mono</b>						
2000-01	49,920	150,313	67,945	23,705	241,963	485%
2001-02	63,541	166,880	75,570	41,470	283,920	447%
<b>Monterey</b>						
2000-01	950,610	117	(3,601)	(4,557)	(8,041)	0%
2001-02	1,145,778	0	0	30,207	30,207	3%
<b>Napa</b>						
2000-01	308,544	195,556	91,733	214,044	501,333	162%
2001-02	238,132	310,245	218,175	144,811	673,230	283%
<b>Nevada</b>						
2000-01	215,772	0	141,454	0	141,454	66%
2001-02	194,134	0	0	0	0	0%
<b>Orange</b>						
2000-01	4,336,495	3,526,975	1,171,064	1,200,695	5,898,734	136%
2001-02	7,946,277	1,376,273	1,138,275	1,312,640	3,827,188	48%
<b>Placer</b>						
2000-01	260,502	79,427	34,236	23,280	136,943	53%
2001-02	253,469	75,425	32,511	22,107	130,043	51%

continued on next page

County/ Fiscal Year	Maddy Revenues Collected	Maddy Revenues Remaining			Total Remaining*	Remaining Funds as a Percentage of Assessments Collected†
		Physician Account	Hospital Account	Discretionary Account		
<b>Plumas</b>						
2000-01	\$ 52,367	\$ 27,493	\$ (27,493)	\$ 0	\$ 0	0%
2001-02	48,207	25,723	(25,723)	0	0	0%
<b>Riverside</b>						
2000-01	3,695,145	1,385,497	(54,404)	43,094	1,374,187	37%
2001-02	2,376,490	1,512,173	385,507	99,461	1,997,141	84%
<b>Sacramento</b>						
2000-01	1,388,007	0	0	0	0	0%
2001-02	1,862,274	145,368	0	0	145,368	8%
<b>San Benito</b>						
2000-01	77,646	40,531	0	0	40,531	52%
2001-02	92,383	83,111	14,931	0	98,042	106%
<b>San Bernardino</b>						
2000-01	1,670,327	0	0	0	0	0%
2001-02	1,804,652	0	0	0	0	0%
<b>San Diego</b>						
2000-01	3,128,950	0	308,008	121,623	429,631	14%
2001-02	3,626,499	0	357,366	351,092	708,458	20%
<b>San Francisco</b>						
2000-01	798,796	586,208	310,102	(5,855)	890,455	111%
2001-02	715,890	716,325	143,718	53,597	913,640	128%
<b>San Joaquin</b>						
2000-01	410,625	747,971	259,323	159,513	1,166,807	284%
2001-02	513,681	0	0	0	0	0%
<b>San Luis Obispo</b>						
2000-01	372,213	55,549	0	0	55,549	15%
2001-02	389,990	69,445	676	19,720	89,841	23%
<b>San Mateo</b>						
2000-01	1,179,229	201,500	31,606	1,602,877	1,835,982	156%
2001-02	1,079,125	877,641	(194,764)	1,617,051	2,299,928	213%
<b>Santa Clara</b>						
2000-01	1,910,172	0	0	903,316	903,316	47%
2001-02	4,273,722	0	0	1,288,330	1,288,330	30%
<b>Santa Cruz</b>						
2000-01	592,806	190,426	147,658	225,822	563,906	95%
2001-02	320,237	124,566	74,334	313,457	512,357‡	160%
<b>Siskiyou</b>						
2000-01	198,848	488,626	0	0	488,626	246%
2001-02	231,217	611,779	13,310	4,013	629,102	272%
<b>Solano</b>						
2000-01	451,946	0	181,037	0	181,037	40%
2001-02	466,777	276	100,093	0	100,370	22%

County/ Fiscal Year	Maddy Revenues Collected	Maddy Revenues Remaining			Total Remaining*	Remaining Funds as a Percentage of Assessments Collected†
		Physician Account	Hospital Account	Discretionary Account		
<b>Sonoma</b>						
2000-01	\$ 323,076	\$ 99,988	\$ 346,938	\$ 494	\$ 447,420	138%
2001-02	598,870	118,736	491,652	35,296	645,685	108%
<b>Stanislaus</b>						
2000-01	504,200	102,439	484,040	167,013	753,492	149%
2001-02	502,713	108,080	557,365	57,225	722,670	144%
<b>Sutter</b>						
2000-01	133,300	289,099	37,697	60,459	387,255	291%
2001-02	143,372	371,816	33,852	66,000	471,668	329%
<b>Trinity</b>						
2000-01	22,790	33,201	3,278	5,639	42,118	185%
2001-02	21,109	31,203	5,448	10,270	46,921	222%
<b>Tulare§</b>						
2000-01	N/A	N/A	N/A	N/A	N/A	N/A
2001-02	76,083	39,153	(5,674)	11,821	45,299	60%
<b>Tuolumne</b>						
2000-01	105,959	2	0	0	2	0%
2001-02	106,018	52,704	0	0	52,704	50%
<b>Ventura</b>						
2000-01	1,404,491	1,003,105	100,550	(22,825)	1,080,831	77%
2001-02	1,360,489	501,541	98,750	20,785	621,076	46%
<b>Yolo</b>						
2000-01	369,665	26,776	60,564	17,863	105,204	28%
2001-02	354,710	35,891	49,420	13,196	98,507	28%
<b>Yuba</b>						
2000-01	49,581	38,242	31,257	0	69,499	140%
2001-02	54,636	54,628	43,550	0	98,178	180%
<b>Totals</b>						
<b>2000-01*</b>	<b>\$51,874,619</b>	<b>\$27,185,540</b>	<b>\$16,667,543</b>	<b>\$6,155,076</b>	<b>\$50,008,160</b>	<b>96%</b>
<b>2001-02*</b>	<b>\$56,719,421</b>	<b>\$24,905,096</b>	<b>\$ 8,790,203</b>	<b>\$6,911,376</b>	<b>\$40,606,674</b>	<b>72%</b>

Source: The Emergency Medical Services Authority's reports to the Legislature, which are based on data in county reports for fiscal year 2000-01 and 2001-02. For fiscal year 2000-01, Trinity and Tuolumne counties' data were not included in the Emergency Medical Services Authority's report to the Legislature, and Fresno county's data were not included for fiscal year 2001-02. We have added that information, based on reports these counties provided to us. We calculated the "Remaining Funds as a Percentage of Assessments Collected."

\* May not foot or crossfoot due to rounding.

† The percentage can be greater than 100 percent of revenues collected for the year because the remaining balances the counties reported included carryover balances from the prior year. We discuss differences between remaining balances some counties report at the end of one fiscal year and the beginning balances they report for the next fiscal year on pages 25-26.

‡ Incorrectly reported to the Legislature as \$3,641. We corrected this amount to reflect what Santa Cruz County reported for fiscal year 2001-02, \$512,357.

§ Tulare county established its EMS Fund in October 2001 and therefore did not submit a report for fiscal year 2000-01.



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*Agency's comments provided as text only.*

County of Los Angeles  
Department of Health Services  
Emergency Medical Services Agency  
Carol Gunter, Acting Director  
5555 Ferguson Drive, Suite 220  
Commerce, CA 90022

March 3, 2004

Elaine M. Howle, State Auditor\*  
California State Auditor  
Bureau of State Audits  
555 Capitol Mall, Suite 300  
Sacramento, California 95814

Dear Ms. Howle:

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

On July 8, 2003, the California State Auditor commenced an audit of the administration by the County of Los Angeles of monies received and disbursed under the Emergency Medical Services Fund. Thank you for the opportunity to comment on the draft version of this audit.

The following is our response to the four major sections of the Audit Results:

**XX WITH ONE POSSIBLE EXCEPTION, THE COUNTIES COMPLIED WITH STATUTORY REQUIREMENTS FOR EMS REVENUES**

No comment.

**XX COUNTIES HAVE NOT ALWAYS PROPERLY SPENT EMS FUND MONEYS**

**xx Counties May Not Have Used Discretionary Portion of Their EMS Funds in Compliance With the Law**

The Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act (EMS Act) is the primary state statute governing the provision of emergency medical services (EMS) in California. While the State, under the EMS Authority, is responsible for coordinating EMS activities throughout the State among different counties, it the responsibility of each county for local administration of EMS

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\* California State Auditor's comments appear on page 41.

within its jurisdiction. This permits each jurisdiction to design, operate and fund EMS resources specific to the challenges faced by each county. For example, Los Angeles County is one of the nation's largest counties with 4,084 square miles, which varies from 1,875 square miles of mountains to 131 square miles of islands. The population is in excess of 10 million, distributed in rural areas as well as among 88 incorporated cities. These factors would understandably require different EMS resources and configurations than some of the more geographically homogeneous, smaller or less populated counties within the state

This recognition of each county's unique needs is replete within the EMS Act. For example, in Chapter 2, which includes the operative provisions of the Maddy Emergency Services Funds, section 1797.98a provides that a discrete portion of the Maddy monies shall be used "for other emergency medical services purposes as determined by each county". In affording this discretion to each county, flexibility was thereby provided to take account of the unique challenges facing each county. However, the audit report curiously seeks to limit this discretion expressly provided to the counties. Specifically, the report states that legal counsel for the California State Auditor has determined that Maddy expenditures for salaries and budgeting activities may not be consistent with section 1797.98a. However, it is the County's belief that such a de facto restriction on county discretion violates the plain meaning of the statute and impairs proper EMS administration within the County.

For example, in Los Angeles County, the County EMS Agency has purchased and operates a ReddiNet computerized communications system. This system is utilized on an ongoing basis by the EMS Agency to monitor the diversion status of emergency departments of 81 hospitals in Los Angeles County (e.g. if no more patients can be accepted because all beds are occupied) so that a determination can be made of the most appropriate facility for transporting 9-1-1 ambulance patients. With the use of the ReddiNet system, base hospital staff, which are responsible for directing 9-1-1 traffic, are provided with real time data to safely and most effectively direct ambulances, which are dispatched to the scene of an emergency, to the best receiving 9-1-1 facility. As part of the ReddiNet system, information technology system staff at the EMS Agency are responsible for maintaining and repairing the ReddiNet system at the critical central point in the EMS Agency to ensure its continued operation. The County believes that the use, and axiomatically the maintenance, of the ReddiNet system is an essential component of emergency medical services operations in Los Angeles County. As such, the use of Maddy funds for the ReddiNet system, including information technology staff and software which are indispensable components, is without a doubt an "emergency medical services purpose" and an appropriate Maddy expenditure.<sup>1</sup>

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<sup>1</sup> This rationale also applies for other similar technical systems such as the trauma and emergency system database referenced in the audit report. Again, these software systems are critical to the safe and appropriate allocation and delivery of ambulance, paramedic and other EMS resources within Los Angeles County.

Distinguishing the ReddiNet system from ambulance vehicles operating within the 9-1-1 system, as does the audit report in singling out the former as an inappropriate expenditure in contrast to the latter as permissible within the Maddy statutory scheme, is, in the opinion of the County, erroneous. Such a distinction overlooks the integrated and complex nature of emergency medical services – where EMS operations not only involve ambulances and paramedics, but include and, in fact, require technical infrastructure, system oversight and planning.

Similarly, the report seems to suggest that disaster management operations are not “emergency medical services purposes” appropriate for the use of Maddy monies. This, again, belies a fundamental misunderstanding of the complex EMS system in Los Angeles County. In this jurisdiction, the EMS Agency operates the Emergency Operations Center (EOC), which is a central command post activated when a protracted response to a medical and health emergency/disaster is anticipated. In fact, the EOC was a critical component in EMS operations when activated in response to the 1994 Northridge earthquake. More recently, the EOC has been integrated into the County’s Homeland Security Operations such that EOC operations are now designed and stand ready to take full command of EMS operations should the Department of Homeland Security raise the nation’s threat level to red. It is the position of the County that the use of Maddy monies to ensure that the EOC is properly staffed, equipped and ready to direct ambulances, paramedic staff and other EMS resources in the event of a countywide disaster is clearly an “emergency medical services purpose” subject to Maddy funding.

Finally, it should be noted that the County considers EMS Agency operations as essential within its jurisdiction. This is evidenced by the fact that other resources and monies have been identified and allocated such that Maddy monies account for approximately 60% of the Agency’s budget. If the State deems necessary, County Department of Health Services staff can reassign Maddy monies to other cost centers designated by the State Auditor as appropriate so that this matter may be resolved without needless disruption of the Agency’s operations and without adversely impacting patient care.

**XX COUNTIES REPORTED SUBSTANTIAL CARRYOVER BALANCES IN THE MADDY REVENUES PORTION OF THEIR EMS FUNDS, BUT RECENT LEGISLATION NOW REQUIRES COUNTIES TO LIMIT FUND BALANCES**

**xx Counties Do Not Report Consistent Information to the Legislature**

Los Angeles County has revised its process for preparing the requisite Maddy reports to submit to the State so that all reports will be on an accrual basis, as recommended by the

Elaine M. Howle  
March 3, 2004  
Page 4

audit. Without proper statutory direction, the County previously provided reports on a “cash” basis, which failed to reflect a large percentage of the expenditures for a given year. Los Angeles County’s Maddy revenue balances include carryover balances from prior years. These balances are decreasing each year, due to an increase in the County’s fee schedule and an escalating volume of claims.

**XX COUNTIES’ EMS FUNDS ARE NOT AUDITED**

No comment.

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

Very truly yours,

*(Signed by: Carol Gunter)*

Carol Gunter  
Acting Director

# COMMENTS

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## ***California State Auditor's Comments on the Response From the Los Angeles County Emergency Medical Services Agency***

To provide clarity and perspective, we are commenting on the Los Angeles County's Emergency Medical Services Agency's (Los Angeles County) response to our audit report. The numbers below correspond to the numbers we placed in the margin of Los Angeles County's response.

- Los Angeles is mistaken when it states that our report seeks to limit the discretion expressly provided the counties. On the contrary, our report highlights the ambiguity in the law and recommends that the Legislature clarify its intent.
- We agree that the Emergency Operations Center provides an important service. The issue, however, is whether the funding of the central command center for disaster response is an appropriate charge to the discretionary account of the county's Emergency Medical Services Fund (EMS Fund), a subject on which we do not offer a conclusion. Instead, on page 17, we indicate that the county counsel for Los Angeles subscribes to a broad interpretation of the law that would allow the use of the discretionary portion of the Maddy revenues to pay for administrative costs and any other needs of the county's emergency medical services programs. Thus, we are concerned about the wide range of costs Los Angeles County believes it could charge to the discretionary account, should it choose to do so. We deliberately provided a variety of examples of how Los Angeles County is using the discretionary portion of its EMS Fund on page 17, some of which we believe are within the intent of the law and some of which we believe are more questionable, and we appreciate Los Angeles County's perspective on these uses. We noted Los Angeles County's disagreement with our interpretation of the law, as well as the fact that some counties do not use the discretionary portion of their Maddy revenues for administrative costs. Because of the differing interpretations of the law that governs how counties can use this discretionary money, we continue to believe that asking the Legislature to consider clarifying whether the uses we report are consistent with legislative intent is appropriate.

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*Agency's comments provided as text only.*

County of Marin  
Department of Health and Human Services  
Larry Meredith, Director  
20 North San Pedro Road, Suite 2028  
San Rafael, CA 94903

March 3, 2004

Elaine Howle, State Auditor\*  
California State Auditor  
Bureau of State Audits  
555 Capitol Mall, Suite 300  
Sacramento, CA 95814

Dear Ms. Howle,

We have reviewed the draft Audit Report titled "County Emergency Services Funds: Despite Their Efforts to Properly Administer the Funds, Some Counties Have Yet to Reach Full Compliance with State Laws" dated March 2004. The following are our responses to specific findings.

**Use of Trauma System Funds:**

Header: "xx Counties May Not Have Used the Discretionary Portion of Their EMS Funds in Compliance with the Law"<sup>†</sup>

Finding: "Marin County uses its discretionary funds primarily for salaries for its emergency medical services administrator and technology support staff....Given the wide range of costs funded from the discretionary account and the varying interpretations of allowable charges to the discretionary account, we believe additional clarification of the law's intent may be warranted."

Response: The law governing the discretionary portion of EMS funds states that these funds "shall be distributed for other emergency medical services purposes as determined by each county [emphasis added]." Marin County used the funds solely for emergency medical services purposes, in a manner that we believe is consistent with the law. Marin County discretionary funds were used for medical/health disaster planning activities; for the development, implementation and oversight of the Trauma System Plan; for monitoring and enforcement of the Marin County Ambulance Ordinance, and related expenditures.

**Use of Hospital Funds:**

Header: Control Over EMS Reimbursement to Hospitals Has Been Inadequate in xx Counties"

Finding: "Marin County used its hospital account to fund some potentially non-eligible 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,

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\* California State Auditor's comment appears on page 45.

<sup>†</sup> We subsequently changed the heading to "It Is Unclear Whether Counties Used the Discretionary Portion of Their EMS Funds in Compliance With the Law."



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 the expenditures support the provision of emergency services and are consistent with the intent of the chapter of law creating the EMS fund.”

● Response: The administrative charges to the hospital fund were minimal; \$704 in FY 02/03; \$168 in FY 01/02; and \$536 in FY 00/01. In addition, \$930 was used to purchase computers for hospital-related services. We determined these to be accounting errors, and have taken corrective action to ensure that they do not occur in the future.

Sincerely,

*(Signed by: Margaret Kisliuk)*

Margaret Kisliuk  
Chief Operating Officer

# COMMENT

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## ***California State Auditor's Comment on the Response From the Marin County Department of Health and Human Services***

To provide clarity and perspective, we are commenting on the Marin County Department of Health and Human Service's (Marin County) response to our audit report. The number below corresponds to the number we placed in the margin of Marin County's response.

- We understand that Marin County believes the administrative charges to its hospital account are minimal. However, Marin County did not address the \$44,000 study that was also paid from the hospital account, an amount we believe may be more appropriately charged to the discretionary account.

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*Agency's comments provided as text only.*

County of San Mateo  
Health Services Agency  
Margaret Taylor, Health Services Director  
225 37th Avenue  
San Mateo, CA 94403

March 3, 2004

Ms. Elaine M. Howle\*  
State Auditor  
Bureau of State Audits  
555 Capitol Mall, Suite 300  
Sacramento, CA 95814

Dear Ms. Howle:

Thank you for the opportunity comment on the draft version of the county EMS Funds audit conducted by your office.

The following is San Mateo County's response to issues discussed in the draft audit report. We also provide responses to the individual recommendations offered in the report.

### **Discretionary Portion of EMS Funds**

The State Auditor has concluded that some counties may not have used the discretionary portion of their EMS Funds in compliance with Health and Safety Code section 1797.98a . This conclusion is based upon the auditor's position that counties may only use 10% of the EMS Fund for "administrative" purposes and that the 17% "discretionary portion" of the fund can be used only for actual provision of emergency services. San Mateo County respectfully disagrees with this statutory interpretation.

Health and Safety Code section 1797.98a (B)(2) provides that: "Costs of administering the fund shall be reimbursed by the fund, up to 10 percent of the amount of the fund." This section clearly provides that the county may use up to 10% of the EMS fund for the "costs of administering the fund" and only for the administration of the fund, not for the administration of the EMS Agency program in general. "Administering the fund" includes, for example, the costs of implementing and maintaining the EMS fund claiming system, reviewing the individual claims from physicians and hospitals, authorizing the appropriate level of payments, and making payments from the fund. The costs incurred for these types of activities alone can total more than 10% of the fund. "Administering the fund" would not include administration of the EMS Agency, such as processing EMT certifications.

Health and Safety Code section 1797.98a(C) provides that: "Seventeen percent of the fund shall be distributed for other emergency medical services purposes as determined by each county, including, but not limited to, the funding of regional poison control centers." This section clearly provides that 17% of the fund shall be used for other emergency medical services purposes as determined by the county. It is

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\* California State Auditor's comments appear on page 51.

not limited to the actual “services utilized in responding to a medical emergency” as represented by the auditor.<sup>1</sup> The auditor’s limiting interpretation ignores the words “other” and “purposes” that are contained in the statute. Examples of “other” emergency medical “purposes” include statutorily mandated EMS Agency activities such as the collection and analysis of pre-hospital patient data; measurement of emergency ambulance response time compliance; clinical performance; personnel standards; promulgation of medical treatment protocols for pre-hospital personnel; certification of emergency medical technicians; and accreditation of paramedics. The auditor states it is “less clearly acceptable” to use discretionary funds for “collecting and analyzing patient data and conducting continuous quality improvement activities”. The auditor’s legal counsel advises that salary costs for the persons providing these oversight services may not be consistent with the law. However, the Health and Safety Code and CCR Title 22 mandate both activities. By mandating the EMS Agency to perform these functions, the Legislature and the State Emergency Medical Services Authority have already determined that they are “other emergency medical service purposes.” The county’s determination merely reflects legislative mandates.

These legislative and EMS Authority mandates result from the recognition that a paramedic’s provision of emergency medical services does not occur in a vacuum, just as a physician does not provide medical care in a vacuum without quality assurance or oversight. In implementing emergency medical services, county EMS Agencies need to determine how fast and how well services should be provided. This involves emergency care and trauma system planning, monitoring of ambulance response times, and assessments of service quality. All of these activities require the collection and analysis of patient and other system data. All are necessary to the provision of emergency medical services. As such, these activities undoubtedly meet the definition of “other emergency medical service purposes.” In sum, if the Legislature had intended to limit the use of the 17% to the “services utilized in responding to a medical emergency,” as contended by the auditor, the words “other” and “purposes” would not have been included in section 1797.98a(C).

As noted by the auditor, in 2001 San Mateo County discovered a significant over-allocation of Maddy revenues to the administrative account, an over-allocation that accumulated between FY 1991-92 through FY 2000-01. Also as noted by the auditor, the County began repayment in FY 2001-02. Repayment was completed by June 30, 2003, before the Bureau of State Auditors informed the County of its audit. Despite this problem, all legitimate physician claims were paid at the 50% maximum rate during this entire period, FY 1991-92 through 2000-01. Hospitals were also reimbursed the maximum amount during this period. The San Mateo County hospital and physician accounts are fully funded at the level required by law.

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<sup>1</sup> See H&S 1797.72

The auditor states that the “county does not have records of all the actual expenditures from the administrative account for the period of the study,” i.e., from 1990-91 through 2000-01. Therefore, the auditor concludes, “we cannot determine with precision the actual amount, if any, of inappropriate expenditures for administrative purposes.” San Mateo County notes that we do maintain records of all actual expenditures. However, we do not maintain a job ledger system in the EMS program, i.e., a system that matches specific expenditures to specific revenue sources, nor do we require EMS staff to perform time studies to match expenditures with revenues. Therefore, we provided the auditor with time estimates for allocating staff resources to administrative and discretionary activities for the audit period, a reasonable methodology.

### **Payment of Physician Claims**

San Mateo County did pay some physicians at more than 50% of their claims during the audited period. However, we did not pay more than 50% of our uniform fee schedule. There was no detrimental effect to any party due to our interpretation of the allowable amounts for physician claims. We treated all physician claims equally using a standardized uniform fee schedule as required by law. The fund was never depleted and we were able to pay all physicians at the full 50% of our fee schedule.

### **Response to Audit Recommendations**

#### **Recommendation:**

Counties should periodically review selected physicians’ records that support claims requesting reimbursement from EMS Funds to ensure that the information is accurate and the claim appropriate for reimbursement.

#### **Response:**

San Mateo County concurs. We plan to implement such reviews.

#### **Recommendation:**

Counties should determine that hospitals’ expenditures at least equal the payments they received from EMS Funds either by asking hospitals to provide support for EMS expenditures or by establishing procedures to review hospital costs.

**Response:**

San Mateo County concurs. We will request support for EMS Fund expenditures from hospitals receiving funds.

**Recommendation:**

Counties should ensure that controls over electronic claim processing should, at a minimum, match the controls used for manually processed physician claims.

**Response:**

San Mateo County concurs. We recently began processing claims electronically and will ensure proper controls are implemented.

**Recommendation:**

San Mateo County should ensure that its initial reimbursement of physician claims does not exceed the 50 percent maximum required by law.

**Response:**

We believe that the law should be clarified permitting physicians to be reimbursed at up to 50% of the county's uniform fee schedule rather than 50% of the physician's claim. AB 1833 passed in 2002 requires each county to adopt a fee schedule and reimbursement methodology to establish a uniform reasonable level of reimbursement from the county's emergency medical services fund for reimbursable services. Since physicians may charge different amounts for performing the same treatment, we believe that the 50% limit should apply to the county fee schedule, not to the physician's claimed amount.

Once again, we appreciate the opportunity to review and comment on the draft audit report. Please contact me or my staff at (650) 573-2582 if you have any questions.

Sincerely,

*(Signed by: Margaret Taylor)*

Margaret Taylor, Director  
Health Services

# COMMENTS

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## ***California State Auditor's Comments on the Response From the San Mateo County Health Services Agency***

To provide clarity and perspective, we are commenting on the response of the San Mateo County Health Services Agency (San Mateo County) to our audit report. The numbers below correspond to the numbers we placed in the margin of San Mateo County's response.

- On page 17, we indicate that San Mateo County subscribes to a broad interpretation of the law that would allow the use of the discretionary portion of the Maddy revenues to pay for administrative costs and any other needs of the county's emergency medical services programs. Thus, we are concerned about the wide range of costs San Mateo County believes it could charge to the discretionary account, should it choose to do so. We also provide a variety of examples of how San Mateo County is using the discretionary portion of its EMS Fund on page 17, some of which we believe are within the intent of the law and some of which we believe are more questionable, and we appreciate San Mateo County's perspective on these uses. We noted San Mateo County's disagreement with our interpretation of the law, as well as the fact that some counties do not use the discretionary portion of their Maddy revenues for administrative costs. Because of the differing interpretations of the law that governs how counties can use this discretionary money, we continue to believe that asking the Legislature to consider clarifying whether the uses we report are consistent with legislative intent is appropriate.
- We concur with San Mateo County that the law is not entirely clear. The provisions of current law on payments to physicians indicate that a physician is to be reimbursed based on the physician's claims. Current law also requires the use of the fee schedule. Thus, we agree that the Legislature should consider clarifying the law, specifying whether physicians should be initially reimbursed at 50 percent of the fee schedule allowance when the claim is lower—essentially disregarding the physicians' reported claims—or at 50 percent of the lower of the claimed amount or the fee schedule allowance. We have accordingly modified the recommendation and related text on page 20.



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*Agency's comments provided as text only.*

Health and Human Services Agency  
S. Kimberly Belshé, Secretary  
1600 Ninth Street, Room 460  
Sacramento, CA 95814

March 3, 2004

Elaine M. Howle, State Auditor\*  
Bureau of State Audits  
555 Capitol Mall, Suite 300  
Sacramento, CA 95814

Dear Ms. Howle:

Thank you for forwarding a draft copy of the Bureau of State Audits' (BSA) report titled, "County Emergency Medical Services Funds: Despite Their Efforts to Properly Administer the Funds, Some Counties Have Yet to Reach Full Compliance with State Laws." Enclosed is the Emergency Medical Services Authority (EMSA) and the Department of Health Services (DHS) responses to the review findings.

We appreciate the work and recommendations provided by the BSA to improve reporting and administration of county medical services funds. If you have any questions regarding EMSA's response, please have your staff contact Mr. Dan Smiley, Chief Deputy Director, EMSA, at 322-4336.

Sincerely,

*(Signed by: Kimberly Belshé)*

KIMBERLY BELSHÉ  
Secretary

Enclosure

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\* California State Auditor's comment appears on page 57.

OFFICE OF THE CALIFORNIA STATE AUDITOR  
Department of Health Services



OFFICE OF THE STATE AUDITOR  
Sacramento

MAR 3 2004

Ms. Kimberly Belshé, Secretary  
California Health and Human Services Agency  
1600 Ninth Street, Room 460  
Sacramento, CA 95814

Dear Secretary Belshé:

The California Department of Health Services (CDHS) appreciates the opportunity to respond to the Bureau of State Audits' (BSA) draft report entitled, "County Emergency Medical Services (EMS) Funds: Despite Their Efforts to Properly Administer the Funds, Some Counties Have Yet to Reach Full Compliance with State Laws" (Report number 2003-101) issued March 26, 2004. This review was at the request of the Legislature to ensure counties comply with the laws governing the administration of EMS funds.

CDHS also acknowledges that BSA reported no findings in this draft report. Even so, CDHS has thoroughly reviewed the draft's content as it relates to CDHS' participation in the EMS process and agrees with BSA's description of CDHS involvement.

Once again, we appreciate the opportunity to respond to the BSA draft report. If you have any questions, please call me at 440-7400.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard R. Bayquen", written over a printed name and title.

Richard R. Bayquen  
Chief Deputy Director

cc: See next page



**EMERGENCY MEDICAL SERVICES AUTHORITY**1150 9<sup>TH</sup> STREET

SACRAMENTO, CA 95814-1012

PHONE: 916-445-3355 FAX: 916-445-3373

**Emergency Medical Services Authority (EMSA)  
Response to Draft Audit Report**

The draft report is generally consistent with existing law and accurately represents the previous activity EMSA had on the preparation and submittal of the EMS Fund Report.

**Audit Result #1: XXX Requirements for Tobacco Tax Revenues  
and EMS Appropriations.**

No comment.

**Audit Result #2: Counties Do Not Report Consistent Information to the Legislature.** The BSA recommends that EMSA "revise the report format to instruct counties to specify the basis - preferably the accrual basis - counties must use to report their fund balances."

**Response:** Although EMSA does not have statutory authority, the agency is concerned that the modifying the report format may lead to the expectation that EMSA compile the report, or specify that EMSA be required to provide technical support to the local EMS agencies. Further, modifying the report format could imply expertise on the accrual accounting reporting method. At present, the EMSA contracts with the Department of General Services' Contract and Fiscal Services for accounting services. No existing EMSA staff have the expertise to advise local EMS agencies on the accrual accounting method.

# COMMENT

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## ***California State Auditor's Comment on the Response From the Emergency Medical Services Authority***

**T**o provide clarity and perspective, we are commenting on the Emergency Medical Services Authority's (authority) response to our audit report. The number below corresponds to the number we placed in the margin of the authority's response.

- We do not anticipate that the recommendation to have the authority revise the format of the report counties submit to the Legislature will require it to provide additional assistance to the counties. We believe that county accounting administrators should understand the direction to prepare their reports on an accrual basis.

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*Agency's comments provided as text only.*

Judicial Council of California  
Administrative Office of the Courts  
455 Golden Gate Avenue  
San Francisco, California 94102-3688

March 1, 2004

Ms. Elaine M. Howle, State Auditor  
Bureau of State Audits  
555 Capitol Mall, Suite 300  
Sacramento, California 95814

Dear Ms. Howle:

I have received your audit report titled "County Emergency Medical Services Funds: Despite Their Efforts to Properly Administer the Funds, Some Counties Have Yet to Reach Full Compliance with State Laws." We are pleased to note that your report noted that the "courts appropriately assessed and allocated Maddy revenues, ... collected for deposit in county Emergency Medical Services Funds."

The report's audit results indicate that the courts in the four counties that were reviewed generally complied with the requirements for assessing and allocating Maddy revenues. Your report does not identify any corrective measures required of the courts and therefore no detailed response is required.

The Judicial Council always appreciates the efforts and suggestions made by the Bureau of State Audits when performed audits that affect the courts.

Sincerely,

*(Signed by: William C. Vickrey)*

William C. Vickrey  
Administrative Director of the Courts



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Agency's comments provided as text only.

## The Superior Court

JOHN A. CLARKE  
EXECUTIVE OFFICER

111 NORTH HILL STREET ■ LOS ANGELES ■ CALIFORNIA 90012

March 1, 2004

Elaine M. Howle, State Auditor\*  
Bureau of State Audits  
555 Capitol Mall, Suite 300  
Sacramento, CA 95814

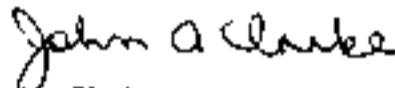
Dear Ms. Howle:

We have reviewed the redacted draft copy of the "County Emergency Medical Services Funds" audit report dated March 2004. We are in agreement with all comments related to the Court appropriately assessing and allocating Maddy revenues.

The only correction we suggest is under Scope and Methodology, page 5, last paragraph. The statement should read as follows: "To determine the amount of annual court penalty assessments, we used records provided by the superior courts and probation, county accounting administrators, and a county manager." The original statement had the word "court" after probation, and in Los Angeles, "probation" is not a court.

We would like to acknowledge the professionalism and courtesy of your auditors, Susie Lackie and Lee Ann Fong-Batkin, who were a pleasure to work with.

Sincerely,



John Clarke  
Executive Officer

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\* California State Auditor's comment appears on page 63.

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# COMMENT

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## ***California State Auditor's Comment on the Response From the Los Angeles Superior Court***

To provide clarity and perspective, we are commenting on the Los Angeles Superior Court's response to our audit report. The number below corresponds to the number we placed in the margin of the court's response.

- We have revised the text on page 10 to state, ". . . we used records provided by the superior courts and probation departments."

cc: Members of the Legislature  
Office of the Lieutenant Governor  
Milton Marks Commission on California State  
Government Organization and Economy  
Department of Finance  
Attorney General  
State Controller  
State Treasurer  
Legislative Analyst  
Senate Office of Research  
California Research Bureau  
Capitol Press