

## Assembly Bill No. 59

### CHAPTER 894

An act to amend Sections 49075, 49557, and 49558 of, and to add Section 49557.2 to, the Education Code, and to add Sections 10618.5 and 14005.41 to, the Welfare and Institutions Code, relating to human services.

[Approved by Governor October 14, 2001. Filed  
with Secretary of State October 14, 2001.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 59, Cedillo. Health programs: eligibility.

Existing law provides for the federal medicaid program, administered by each state, California's version of which is the Medi-Cal program. The Medi-Cal program, which is administered by the State Department of Health Services, provides qualified low-income persons with health care services.

The bill would provide that any child enrolled in specified programs shall be deemed to have met the income eligibility requirements for the Medi-Cal program.

Existing law requires each school district and county superintendent of schools maintaining kindergarten or any of grades 1 to 12, inclusive, to provide for each needy pupil one nutritionally adequate, free or reduced-price meal during each schoolday, and requires applications for participation in that free or reduced-price meal program to be made available to pupils at all times during each regular schoolday. The National School Lunch Program provides to eligible students lunches reimbursable pursuant to the National School Lunch Act.

To the extent permitted by federal law, this bill would also make certain persons who are eligible for free school lunches under the federal program also eligible for the Medi-Cal program.

Existing law requires school districts and county superintendents of schools to provide various notifications to parents and guardians.

This bill would authorize school districts and county superintendents of schools to provide specified information regarding the Medi-Cal program to applicants for the National School Lunch Program or with the notification regarding eligibility for the Medi-Cal program. This bill would provide for the sharing of information from applications for the School Lunch Program with specified local health agencies and would make provision for the confidentiality of that shared information.

This bill would require each county to participate in a pilot program to determine eligibility of certain children for, and enroll them in, the Medi-Cal program.

Because each county is responsible for Medi-Cal eligibility determinations, and because this bill would expand Medi-Cal eligibility, the bill would impose a state-mandated local program.

This bill would also require the department, in consultation with various agencies and representatives to develop policies and procedures to implement the provisions of this bill.

This bill would also prescribe various reporting requirements and provisions for expediting application processes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares all of the following:

(a) Hundreds of thousands of low-income children in California lack health insurance, despite the fact that they are eligible for publicly funded health insurance programs.

(b) Lack of health insurance frequently results in health problems.

(c) Health problems often interfere with a child's ability to learn.

(d) Despite substantial outreach efforts, many eligible children have not enrolled in current publicly funded health insurance programs.

(e) Many uninsured, low-income children receive free lunch through the National School Lunch Program, pursuant to the National School Lunch Act (42 U.S.C. Sec. 1751 et seq.).

(f) Schools are uniquely positioned to promote student enrollment in health insurance because of their relationship of trust with children and their parents.

(g) Facilitating the participation in health insurance programs of students eligible to receive free lunch at school will maximize federal funds available to currently uninsured children, and thereby enhance the ability of those children to succeed in the classroom.

SEC. 2. Section 49075 of the Education Code is amended to read:



49075. (a) A school district may permit access to pupil records to any person for whom a parent of the pupil has executed written consent specifying the records to be released and identifying the party or class of parties to whom the records may be released. The recipient must be notified that the transmission of the information to others without the written consent of the parent is prohibited. The consent notice shall be permanently kept with the record file.

(b) Notwithstanding subdivision (a), school lunch applications and information shared pursuant to Section 49557.2 shall be retained by any school district in the manner most useful to the administration of the school lunch program.

SEC. 3. Section 49557 of the Education Code is amended to read:

49557. (a) The governing board of a school district and the county superintendent of schools shall make applications for free or reduced price meals available to students at all times during each regular schoolday. The application shall contain, in at least 8-point boldface type, each of the following statements:

(1) Applications for free and reduced price meals may be submitted at any time during a schoolday.

(2) Children participating in the National School Lunch Program will not be overtly identified by the use of special tokens, special tickets, special serving lines, separate entrances, separate dining areas, or by any other means.

A school district and the county superintendent of schools shall use all other applications it has for free or reduced price meals before utilizing the applications pursuant to this subdivision.

(b) The governing board of each school district and each county superintendent of schools shall formulate a plan, which shall be mailed to the State Department of Education for its approval, that will ensure that children eligible to receive free or reduced priced meals and milk shall not be treated differently from other children. These plans shall ensure each of the following:

(1) Unless otherwise specified, the names of the children shall not be published, posted, or announced in any manner, or used for any other purpose other than the National School Lunch Program.

(2) There shall be no overt identification of any of the children by the use of special tokens or tickets or by any other means.

(3) The children shall not be required to work for their meals or milk.

(4) The children shall not be required to use a separate dining area, go through a separate serving line, enter the dining area through a separate entrance, or consume their meals or milk at a different time.

(c) When more than one lunch or breakfast or type of milk is offered pursuant to this article, the children shall have the same choice of meals



or milk that is available to those children who pay the full price for their meal or milk.

SEC. 4. Section 49557.2 is added to the Education Code, to read:

49557.2. (a) (1) Effective July 1, 2002, at the option of the school district or county superintendent, and to the extent necessary to implement Section 14005.41 of the Welfare and Institutions Code, the following information may be incorporated into the School Lunch Program application packet or notification of eligibility for the School Lunch Program using simple and culturally appropriate language:

(A) A notification that if a child qualifies for free school lunches, then the child may qualify for free or reduced-cost health insurance coverage.

(B) A request for the applicant's consent for the child to participate in the Medi-Cal program, if eligible for free school lunches, and to have the information on the school lunch application shared with the local agency that determines eligibility under the Medi-Cal program.

(C) A notification that the school district will not forward the school lunch application to the local agency that determines eligibility under the Medi-Cal program, without the consent of the child's parent or guardian.

(D) A notification that the school lunch application is confidential and, with the exception of forwarding the information for use in health program enrollment upon the consent of the child's parent or guardian, the school district will not share the information with any other governmental agency, including the federal Immigration and Naturalization Service and the Social Security Administration, for any purpose other than administration of the Medi-Cal program.

(E) A notification that the school lunch application information will only be used by the state and local agencies that administer the Medi-Cal program for purposes directly related to the administration of the program and will not be shared with other government agencies, including the Immigration and Naturalization Service and the Social Security Administration, except as necessary to verify information provided by the applicant.

(F) Information regarding the Medi-Cal program, including available services, program requirements, rights and responsibilities, and privacy and confidentiality requirements.

(2) The State Department of Education, in consultation with school districts, county superintendents of schools, consumer advocates, counties, the State Department of Health Services, and other stakeholders, shall make recommendations regarding the School Lunch Program application, on or before February 1, 2002. The recommendations shall include specific changes to the School Lunch Program application materials as necessary to implement Section 14005.41 of the Welfare and Institutions Code, information for staff as



to how to implement the changes, and a description of the process by which information on the School Lunch Program application will be shared with the county, as the local agency that determines eligibility under the Medi-Cal program.

(b) (1) Effective July 1, 2002, school districts and county superintendents of schools may implement a process to share information provided on the School Lunch Program application with the local agency that determines eligibility under the Medi-Cal program, and shall share this information with that agency, if the applicant consents to that sharing of information. This information may be shared electronically, physically, or through whatever method is determined appropriate.

(2) Each school district or county superintendent that chooses to share information pursuant to this subdivision shall enter into a memorandum of understanding with the local agency that determines eligibility under the Medi-Cal program, that sets forth the roles and responsibilities of each agency and the process to be used in sharing the information.

(3) The local agency that determines eligibility under the Medi-Cal program shall only use information provided by applicants on the school lunch application for purposes directly related to the administration of the Medi-Cal program.

(4) After school districts share information regarding the school lunch application with the local agency that determines eligibility under the Medi-Cal program, for the purpose of determining Medi-Cal program eligibility, the local agency and the school district shall not share information about school lunch participation or the Medi-Cal program eligibility information with each other unless specifically authorized under other provisions of law.

SEC. 5. Section 49558 of the Education Code is amended to read:

49558. (a) All applications and records concerning any individual made or kept by any public officer or agency in connection with the administration of any provision of this code relating to free or reduced-price meal eligibility shall be confidential, and shall not be open to examination for any purpose not directly connected with the administration of any free or reduced-price meal program, or any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of any free or reduced-price meal program.

(b) Notwithstanding subdivision (a), a public officer or agency may allow the use by school district employees, who are authorized by the governing board of the school district, of individual records pertaining to pupil participation in any free or reduced-price meal program solely



for the purpose of disaggregation of academic achievement data if the public agency ensures the following:

(1) The public agency has adopted a policy that allows for the use of individual records for these purposes.

(2) No individual indicators of participation in any free or reduced-price meal program are maintained in the permanent record of any pupil if not otherwise allowed by law.

(3) No public release of information regarding individual pupil participation in any free or reduced-price meal program is permitted.

(4) All other confidentiality provisions required by law are met.

(c) Notwithstanding subdivision (a), the school districts and county superintendents of schools may release information on the School Lunch Program application only to the local agency that determines eligibility under the Medi-Cal program, if the child is approved for free meals and if the applicant consents to the sharing of information pursuant to Section 49557.2.

SEC. 6. Section 10618.5 is added to the Welfare and Institutions Code, to read:

10618.5. (a) The county welfare department shall send any food stamp applicant who is determined to be eligible for food stamps and who does not indicate on his or her application an interest in enrolling in the Medi-Cal program a copy of the notice developed pursuant to subdivision (b).

(b) (1) Each county welfare department shall develop a notice informing individuals identified pursuant to subdivision (a) that they may be entitled to receive Medi-Cal benefits and requesting their permission to use the information in the food stamp recipient's case file to make a determination of eligibility for the Medi-Cal program.

(2) The notice shall also include a request for permission to forward the information in the food stamp recipient's case file to the Healthy Families Program administrator for eligibility determination if the individual is determined to be eligible to participate in the Medi-Cal program with a share of cost, or is determined to be ineligible for Medi-Cal.

(3) To apply for medical assistance under the Medi-Cal program, the food stamp recipient shall sign, date, and return the notice requesting that an eligibility determination be made.

(4) Upon receipt of the notice, the county welfare department shall make an eligibility determination by utilizing the information in the food stamp recipient's case file or paper application. The Medi-Cal application date shall be the date the notice is received by the county welfare department.



(5) If the food stamp case file does not include sufficient information to establish Medi-Cal program eligibility, the county welfare department shall request, either orally or in writing, additional information from the food stamp recipient.

(6) The notice shall be written in culturally and linguistically appropriate language and at an appropriate literacy level. The notice shall include information on the Medi-Cal program and the Healthy Families Program, a telephone number that food stamp recipients may call for additional information, and a prepaid means of returning the notice to the county welfare department to begin the eligibility determination process.

(c) If an individual identified in subdivision (a) or (b) is determined to be eligible to participate in the Medi-Cal program with a share of cost, or is determined to be ineligible for Medi-Cal, information pertinent to the food stamp recipient's eligibility for the Healthy Families Program shall be forwarded by the county welfare department to the Healthy Families Program statewide administrator for immediate processing. If there is insufficient information to establish Healthy Families Program eligibility, the administrator shall request, either orally or in writing, additional information from the food stamp recipient.

(d) Counties shall include the cost of implementing this section in their annual administrative budget requests to the State Department of Health Services.

SEC. 7. Section 14005.41 is added to the Welfare and Institutions Code, to read:

14005.41. (a) Notwithstanding any other provision of law, the department shall deem to have met the income eligibility requirements for participation in the Medi-Cal program, without a share of cost, any child who is less than six years of age and who has been determined to be eligible for free meals under the National School Lunch Program provided for pursuant to Chapter 13 (commencing with Section 1751) of Title 42 of the United States Code.

(b) Notwithstanding any other provision of law, with regard to any child who is enrolled in and attending public school in the State of California, the department shall accept documentation of enrollment for free meals under the National School Lunch Program as sufficient documentation of California residency for that child for the purposes of the Medi-Cal program.

(c) (1) (A) Effective July 1, 2002, notwithstanding any other provision of law, each county shall participate in a statewide pilot project to grant Medi-Cal program eligibility to, and shall enroll in the Medi-Cal program, any child under six years of age and currently enrolled in school in the State of California who is eligible for free meals under the



National School Lunch Program upon receipt of proof of participation in the National School Lunch Program and a signed Medi-Cal application as described in subdivision (i). Counties shall notify the parent or guardian that the child has been found eligible for the Medi-Cal program.

(B) Effective July 1, 2002, notwithstanding any other provision of law, each county shall participate in a statewide pilot project to use the procedure described in this subdivision to determine Medi-Cal eligibility without a share of cost, and, if eligible, shall enroll in the Medi-Cal program, any child six years of age or older currently enrolled in school in the State of California who is eligible for free meals under the National School Lunch Program, upon receipt of proof of participation in the National School Lunch Program and a signed Medi-Cal application as described in subdivision (i). If the county determines from the application as described in subdivision (i) that the child meets the income eligibility requirements for participation in the Medi-Cal program, the county shall notify the parent or guardian that the child has been found eligible for the Medi-Cal program. If the county is unable to determine from the information on the application as described in subdivision (i) whether the family is income eligible, the county shall contact the family to seek any additional information regarding income, household composition, or deductions that the department, in consultation with the county welfare departments, may determine to be necessary to complete the Medi-Cal application. If the county determines that the child does not meet the income eligibility requirements for participation in the Medi-Cal program, the county shall notify the parent or guardian of the determination and shall send the parent or guardian an application for the Healthy Families Program.

(2) Each county shall ask the parent or guardian of each child identified in subparagraph (A) of paragraph (1) and the parent or guardian of each child whom the county determines to meet the income eligibility requirements for participation in the Medi-Cal program under subparagraph (B) of paragraph (1) to provide additional documentation as required by current law necessary for retention of eligibility in the Medi-Cal program. If a parent or guardian does not provide the documentation required for retention of full-scope Medi-Cal program eligibility, the county shall continue the child's enrollment in the Medi-Cal program, but only for the limited scope of Medi-Cal program benefits as described in Section 14007.5.

(d) Nothing in this section shall be construed as preventing the department from verifying eligibility through the Income Eligibility Verification System match mandated by Section 1137 of the federal



Social Security Act (42 U.S.C. Sec. 1320b-7) or from requesting additional documentation required by federal law.

(e) Each county shall include its cost of implementing this section in its annual Medi-Cal administrative budget requests submitted to the department.

(f) For purposes of this section, the Medi-Cal program application date shall be the date on which the school lunch application information is received by the local agency determining eligibility under the Medi-Cal program.

(g) (1) This section shall be implemented on July 1, 2002, only if, and to the extent that, federal financial participation is available for the services provided and only for the period of time the free National School Lunch Program utilizes a gross income standard at or below 133 percent of the federal poverty level. This section shall be implemented in a manner consistent with any federal approval.

(2) Notwithstanding paragraph (1), if the department determines that one or more state plan amendments are necessary to ensure full federal financial participation in the provisions of this section, the department shall prepare and submit requests for the state plan amendments to the federal government, after which this section shall not be implemented until the later of the date the department receives approval of all necessary state plan amendments, or July 1, 2002.

(h) (1) Not later than March 1, 2002, the department, in consultation with the State Department of Education and representatives of the school districts, county superintendents of schools, local agencies that administer the Medi-Cal program, consumer advocates, and other stakeholders, shall develop and distribute the policies and procedures, including any all-county letters, necessary to implement Section 49557.2 of the Education Code and this chapter.

(2) The policies and procedures required to be developed and distributed pursuant to subdivision (a) shall include, at a minimum, both of the following:

(A) Processes for the school districts, county superintendents of schools, and local agencies that administer the Medi-Cal program to use in forwarding and processing free school lunch application information pursuant to Section 49557.2 of the Education Code, and in following up with the applicants to obtain any necessary documentation required by federal law.

(B) Instructions for implementing the eligibility provisions of this chapter.

(3) The policies and procedures required to be developed pursuant to subdivision (a) shall specify all of the following:



(A) The information on the school lunch application may be used to initiate a Medi-Cal program application only when the applicant has provided his or her consent pursuant to Section 49557.2 of the Education Code.

(B) The date of the Medi-Cal program application shall be the date on which the school lunch application was received by the local agency that determines eligibility under the Medi-Cal program.

(C) The county, in determining eligibility for the Medi-Cal program, shall request additional documentation only as required by federal law, and shall enroll any child whose parent or guardian does not provide the necessary documentation for full-scope benefits under the Medi-Cal program in the Medi-Cal program with limited scope benefits, as described in Section 14007.5.

(i) To the extent federal financial participation is available, and to the extent administratively feasible, the department shall utilize the free National School Lunch Application developed under Section 49557.2 of the Education Code, supplemented as needed by disclosures including Medi-Cal rights and responsibility notices and privacy notices, as a Medi-Cal application for children described in this section.

(j) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall implement this section by means of all-county letters or similar instructions without taking regulatory action. Thereafter, the department shall adopt regulations in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(k) The department shall review the effectiveness of the statewide pilot project and make recommendations regarding appropriate ways to expand the use of the approaches contained in this section.

SEC. 8. It is the intent of the Legislature to enact legislation that provides that the General Fund costs of the implementation of the statewide pilot project shall be supported by the Tobacco Settlement Fund.

SEC. 9. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

