

ASSEMBLY BILL

No. 2791

Introduced by Assembly Member Berg

February 20, 2004

An act to amend Section 14132 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 2791, as introduced, Berg. Medi-Cal.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services, pursuant to which medical benefits are provided to public assistance recipients and other low-income persons. Existing law contains a schedule of covered Medi-Cal benefits.

This bill would make a technical, nonsubstantive change to that provision.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

- 1 SECTION 1. Section 14132 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 14132. The following is the schedule of benefits under this
- 4 chapter:
- 5 (a) Outpatient services are covered as follows:
- 6 Physician, hospital or clinic outpatient, surgical center,
- 7 respiratory care, optometric, chiropractic, psychology, podiatric,
- 8 occupational therapy, physical therapy, speech therapy, audiology,

1 acupuncture to the extent federal matching funds are provided for
2 acupuncture, and services of persons rendering treatment by
3 prayer or healing by spiritual means in the practice of any church
4 or religious denomination insofar as these can be encompassed by
5 federal participation under an approved plan, subject to utilization
6 controls.

7 (b) Inpatient hospital services, including, but not limited to,
8 physician and podiatric services, physical therapy and
9 occupational therapy, are covered subject to utilization controls.

10 (c) Nursing facility services, subacute care services, and
11 services provided by any category of intermediate care facility for
12 the developmentally disabled, including podiatry, physician, nurse
13 practitioner services, and prescribed drugs, as described in
14 subdivision (d), are covered subject to utilization controls.
15 Respiratory care, physical therapy, occupational therapy, speech
16 therapy, and audiology services for patients in nursing facilities
17 and any category of intermediate care facility for the
18 developmentally disabled are covered subject to utilization
19 controls.

20 (d) Purchase of prescribed drugs is covered subject to the
21 Medi-Cal List of Contract Drugs and utilization controls.

22 (e) Outpatient dialysis services and home hemodialysis
23 services, including physician services, medical supplies, drugs and
24 equipment required for dialysis, are covered, subject to utilization
25 controls.

26 (f) Anesthesiologist services when provided as part of an
27 outpatient medical procedure, nurse anesthetist services when
28 rendered in an inpatient or outpatient setting under conditions set
29 forth by the director, outpatient laboratory services, and X-ray
30 services are covered, subject to utilization controls. Nothing in this
31 subdivision shall be construed to require prior authorization for
32 anesthesiologist services provided as part of an outpatient medical
33 procedure or for portable X-ray services in a nursing facility or any
34 category of intermediate care facility for the developmentally
35 disabled.

36 (g) Blood and blood derivatives are covered.

37 (h) (1) Emergency and essential diagnostic and restorative
38 dental services, except for orthodontic, fixed bridgework, and
39 partial dentures that are not necessary for balance of a complete
40 artificial denture, are covered, subject to utilization controls. The



1 utilization controls shall allow emergency and essential diagnostic
2 and restorative dental services and prostheses that are necessary to
3 prevent a significant disability or to replace previously furnished
4 prostheses which are lost or destroyed due to circumstances
5 beyond the beneficiary's control. Notwithstanding the foregoing,
6 the director may by regulation provide for certain fixed artificial
7 dentures necessary for obtaining employment or for medical
8 conditions that preclude the use of removable dental prostheses,
9 and for orthodontic services in cleft palate deformities
10 administered by the department's California Children Services
11 Program.

12 (2) For persons 21 years of age or older, the services specified
13 in paragraph (1) shall be provided subject to the following
14 conditions:

15 (A) Periodontal treatment is not a benefit.

16 (B) Endodontic therapy is not a benefit except for vital
17 pulpotomy.

18 (C) Laboratory processed crowns are not a benefit.

19 (D) Removable prosthetics shall be a benefit only for patients
20 as a requirement for employment.

21 (E) The director may, by regulation, provide for the provision
22 of fixed artificial dentures that are necessary for medical
23 conditions that preclude the use of removable dental prostheses.

24 (F) Notwithstanding the conditions specified in subparagraphs
25 (A) to (E), inclusive, the department may approve services for
26 persons with special medical disorders subject to utilization
27 review.

28 (3) Paragraph (2) shall become inoperative July 1, 1995.

29 (i) Medical transportation is covered, subject to utilization
30 controls.

31 (j) Home health care services are covered, subject to utilization
32 controls.

33 (k) Prosthetic and orthotic devices and eyeglasses are covered,
34 subject to utilization controls. Utilization controls shall allow
35 replacement of prosthetic and orthotic devices and eyeglasses
36 necessary because of loss or destruction due to circumstances
37 beyond the beneficiary's control. Frame styles for eyeglasses
38 replaced pursuant to this subdivision shall not change more than
39 once every two years, unless the department so directs.



1 Orthopedic and conventional shoes are covered when provided
2 by a prosthetic and orthotic supplier on the prescription of a
3 physician and when at least one of the shoes will be attached to a
4 prosthesis or brace, subject to utilization controls. Modification of
5 stock conventional or orthopedic shoes when medically indicated,
6 is covered subject to utilization controls. When there is a clearly
7 established medical need that cannot be satisfied by the
8 modification of stock conventional or orthopedic shoes,
9 custom-made orthopedic shoes are covered, subject to utilization
10 controls.

11 (l) Hearing aids are covered, subject to utilization controls.
12 Utilization controls shall allow replacement of hearing aids
13 necessary because of loss or destruction due to circumstances
14 beyond the beneficiary's control.

15 (m) Durable medical equipment and medical supplies are
16 covered, subject to utilization controls. The utilization controls
17 shall allow the replacement of durable medical equipment and
18 medical supplies when necessary because of loss or destruction
19 due to circumstances beyond the beneficiary's control. The
20 utilization controls shall allow authorization of durable medical
21 equipment needed to assist a disabled beneficiary in caring for a
22 child for whom the disabled beneficiary is a parent, stepparent,
23 foster parent, or legal guardian, subject to the availability of
24 federal financial participation. The department shall adopt
25 emergency regulations to define and establish criteria for assistive
26 durable medical equipment in accordance with the rulemaking
27 provisions of the Administrative Procedure Act (Chapter 3.5
28 (commencing with Section 11340) of Part 1 of Division 3 of Title
29 2 of the Government Code).

30 (n) Family planning services are covered, subject to utilization
31 controls.

32 (o) Inpatient intensive rehabilitation hospital services,
33 including respiratory rehabilitation services, in a general acute
34 care hospital are covered, subject to utilization controls, when
35 either of the following criteria are met:

36 (1) A patient with a permanent disability or severe impairment
37 requires an inpatient intensive rehabilitation hospital program as
38 described in Section 14064 to develop function beyond the limited
39 amount that would occur in the normal course of recovery.



1 (2) A patient with a chronic or progressive disease requires an
2 inpatient intensive rehabilitation hospital program as described in
3 Section 14064 to maintain the patient’s present functional level as
4 long as possible.

5 (p) Adult day health care is covered in accordance with Chapter
6 8.7 (commencing with Section 14520).

7 (q) (1) Application of fluoride, or other appropriate fluoride
8 treatment as defined by the department, other prophylaxis
9 treatment for children 17 years of age and under, are covered.

10 (2) All dental hygiene services provided by a registered dental
11 hygienist in alternative practice pursuant to Sections 1768 and
12 1770 of the Business and Professions Code may be covered as long
13 as they are within the scope of Denti-Cal benefits and they are
14 necessary services provided by a registered dental hygienist in
15 alternative practice.

16 (r) (1) Paramedic services performed by a city, county, or
17 special district, or pursuant to a contract with a city, county, or
18 special district, and pursuant to a program established under
19 Article 3 (commencing with Section 1480) of Chapter 2.5 of
20 Division 2 of the Health and Safety Code by a paramedic certified
21 pursuant to that article, and consisting of defibrillation and those
22 services specified in subdivision (3) of Section 1482 of the article.

23 (2) All providers enrolled under this subdivision shall satisfy
24 all applicable statutory and regulatory requirements for becoming
25 a Medi-Cal provider.

26 (3) This subdivision shall be implemented only to the extent
27 funding is available under Section 14106.6.

28 (s) In-home medical care services are covered when medically
29 appropriate and subject to utilization controls, for beneficiaries
30 who would otherwise require care for an extended period of time
31 in an acute care hospital at a cost higher than in-home medical care
32 services. The director shall have the authority under this section to
33 contract with organizations qualified to provide in-home medical
34 care services to those persons. These services may be provided to
35 patients placed in shared or congregate living arrangements, if a
36 home setting is not medically appropriate or available to the
37 beneficiary. As used in this section, “in-home medical care
38 service” includes utility bills directly attributable to continuous,
39 24-hour operation of life-sustaining medical equipment, to the
40 extent that federal financial participation is available.



- 1 As used in this subdivision, in-home medical care services,
2 include, but are not limited to:
- 3 (1) Level of care and cost of care evaluations.
 - 4 (2) Expenses, directly attributable to home care activities, for
5 materials.
 - 6 (3) Physician fees for home visits.
 - 7 (4) Expenses directly attributable to home care activities for
8 shelter and modification to shelter.
 - 9 (5) Expenses directly attributable to additional costs of special
10 diets, including tube feeding.
 - 11 (6) Medically related personal services.
 - 12 (7) Home nursing education.
 - 13 (8) Emergency maintenance repair.
 - 14 (9) Home health agency personnel benefits which permit
15 coverage of care during periods when regular personnel are on
16 vacation or using sick leave.
 - 17 (10) All services needed to maintain antiseptic conditions at
18 stoma or shunt sites on the body.
 - 19 (11) Emergency and nonemergency medical transportation.
 - 20 (12) Medical supplies.
 - 21 (13) Medical equipment, including, but not limited to, scales,
22 gurneys, and equipment racks suitable for paralyzed patients.
 - 23 (14) Utility use directly attributable to the requirements of
24 home care activities which are in addition to normal utility use.
 - 25 (15) Special drugs and medications.
 - 26 (16) Home health agency supervision of visiting staff which is
27 medically necessary, but not included in the home health agency
28 rate.
 - 29 (17) Therapy services.
 - 30 (18) Household appliances and household utensil costs directly
31 attributable to home care activities.
 - 32 (19) Modification of medical equipment for home use.
 - 33 (20) Training and orientation for use of life-support systems,
34 including, but not limited to, support of respiratory functions.
 - 35 (21) Respiratory care practitioner services as defined in
36 Sections 3702 and 3703 of the Business and Professions Code,
37 subject to prescription by a physician and surgeon.
 - 38 Beneficiaries receiving in-home medical care services are
39 entitled to the full range of services within the Medi-Cal scope of
40 benefits as defined by this section, subject to medical necessity and



1 applicable utilization control. Services provided pursuant to this
2 subdivision, which are not otherwise included in the Medi-Cal
3 schedule of benefits, shall be available only to the extent that
4 federal financial participation for these services is available in
5 accordance with a home- and community-based services waiver.

6 (t) Home- and community-based services approved by the
7 United States Department of Health and Human Services may be
8 covered to the extent that federal financial participation is
9 available for those services under waivers granted in accordance
10 with Section 1396n of Title 42 of the United States Code. The
11 director may seek waivers for any or all home- and
12 community-based services approvable under Section 1396n of
13 Title 42 of the United States Code. Coverage for those services
14 shall be limited by the terms, conditions, and duration of the
15 federal waivers.

16 (u) Comprehensive perinatal services, as provided through an
17 agreement with a health care provider designated in Section
18 14134.5 and meeting the standards developed by the department
19 pursuant to Section 14134.5, subject to utilization controls.

20 The department shall seek any federal waivers necessary to
21 implement the provisions of this subdivision. The provisions for
22 which appropriate federal waivers cannot be obtained shall not be
23 implemented. Provisions for which waivers are obtained or for
24 which waivers are not required shall be implemented
25 notwithstanding any inability to obtain federal waivers for the
26 other provisions. No provision of this subdivision shall be
27 implemented unless matching funds from Subchapter XIX
28 (commencing with Section 1396) of Chapter 7 of Title 42 of the
29 United States Code are available.

30 (v) Early and periodic screening, diagnosis, and treatment for
31 any individual under 21 years of age is covered, consistent with the
32 requirements of Subchapter XIX (commencing with Section
33 1396) of Chapter 7 of Title 42 of the United States Code.

34 (w) ~~Hospice service which is~~ Medicare-certified hospice
35 service is covered, subject to utilization controls. Coverage shall
36 be available only to the extent that no additional net program costs
37 are incurred.

38 (x) When a claim for treatment provided to a beneficiary
39 includes both services ~~which~~ that are authorized and reimbursable
40 under this chapter, and services ~~which~~ that are not reimbursable



1 under this chapter, that portion of the claim for the treatment and
2 services authorized and reimbursable under this chapter shall be
3 payable.

4 (y) Home- and community-based services approved by the
5 United States Department of Health and Human Services for
6 beneficiaries with a diagnosis of AIDS or ARC, who require
7 intermediate care or a higher level of care.

8 Services provided pursuant to a waiver obtained from the
9 Secretary of the United States Department of Health and Human
10 Services pursuant to this subdivision, and which are not otherwise
11 included in the Medi-Cal schedule of benefits, shall be available
12 only to the extent that federal financial participation for these
13 services is available in accordance with the waiver, and subject to
14 the terms, conditions, and duration of the waiver. These services
15 shall be provided to individual beneficiaries in accordance with the
16 client's needs as identified in the plan of care, and subject to
17 medical necessity and applicable utilization control.

18 The director may under this section contract with organizations
19 qualified to provide, directly or by subcontract, services provided
20 for in this subdivision to eligible beneficiaries. Contracts or
21 agreements entered into pursuant to this division shall not be
22 subject to the Public Contract Code.

23 (z) Respiratory care when provided in organized health care
24 systems as defined in Section 3701 of the Business and Professions
25 Code, and as an in-home medical service as outlined in subdivision
26 (s).

27 (aa) (1) There is hereby established in the department, a
28 program to provide comprehensive clinical family planning
29 services to any person who has a family income at or below 200
30 percent of the federal poverty level, as revised annually, and who
31 is eligible to receive these services pursuant to the waiver
32 identified in paragraph (2). This program shall be known as the
33 Family Planning, Access, Care, and Treatment (Family PACT)
34 Waiver Program.

35 (2) The department shall seek a waiver for a program to provide
36 comprehensive clinical family planning services as described in
37 paragraph (8). The program shall be operated only in accordance
38 with the waiver and the statutes and regulations in paragraph (4)
39 and subject to the terms, conditions, and duration of the waiver.
40 The services shall be provided under the program only if the



1 waiver is approved by the federal Centers for Medicare and
2 Medicaid Services in accordance with Section 1396n of Title 42
3 of the United States Code and only to the extent that federal
4 financial participation is available for the services.

5 (3) Solely for the purposes of the waiver and notwithstanding
6 any other provision of law, the collection and use of an individual's
7 social security number shall be necessary only to the extent
8 required by federal law.

9 (4) Sections 14105.3 to 14105.39, inclusive, 14107.11, 24005,
10 and 24013, and any regulations adopted under these statutes shall
11 apply to the program provided for under this subdivision. No other
12 provision of law under the Medi-Cal program or the State-Only
13 Family Planning Program shall apply to the program provided for
14 under this subdivision.

15 (5) Notwithstanding Chapter 3.5 (commencing with Section
16 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
17 the department may implement, without taking regulatory action,
18 the provisions of the waiver after its approval by the federal Health
19 Care Financing Administration and the provisions of this section
20 by means of an all-county letter or similar instruction to providers.
21 Thereafter, the department shall adopt regulations to implement
22 this section and the approved waiver in accordance with the
23 requirements of Chapter 3.5 (commencing with Section 11340) of
24 Part 1 of Division 3 of Title 2 of the Government Code. Beginning
25 six months after the effective date of the act adding this
26 subdivision, the department shall provide a status report to the
27 Legislature on a semiannual basis until regulations have been
28 adopted.

29 (6) In the event that the Department of Finance determines that
30 the program operated under the authority of the waiver described
31 in paragraph (2) is no longer cost-effective, this subdivision shall
32 become inoperative on the first day of the first month following the
33 issuance of a 30-day notification of that determination in writing
34 by the Department of Finance to the chairperson in each house that
35 considers appropriations, the chairpersons of the committees, and
36 the appropriate subcommittees in each house that considers the
37 State Budget, and the Chairperson of the Joint Legislative Budget
38 Committee.

39 (7) If this subdivision ceases to be operative, all persons who
40 have received or are eligible to receive comprehensive clinical



1 family planning services pursuant to the waiver described in
2 paragraph (2) shall receive family planning services under the
3 Medi-Cal program pursuant to subdivision (n) if they are
4 otherwise eligible for Medi-Cal with no share of cost, or shall
5 receive comprehensive clinical family planning services under the
6 program established in Division 24 (commencing with Section
7 24000) either if they are eligible for Medi-Cal with a share of cost
8 or if they are otherwise eligible under Section 24003.

9 (8) For purposes of this subdivision, “comprehensive clinical
10 family planning services” means the process of establishing
11 objectives for the number and spacing of children, and selecting
12 the means by which those objectives may be achieved. These
13 means include a broad range of acceptable and effective methods
14 and services to limit or enhance fertility, including contraceptive
15 methods, federal Food and Drug Administration approved
16 contraceptive drugs, devices, and supplies, natural family
17 planning, abstinence methods, and basic, limited fertility
18 management. Comprehensive clinical family planning services
19 include, but are not limited to, preconception counseling, maternal
20 and fetal health counseling, general reproductive health care,
21 including diagnosis and treatment of infections and conditions,
22 including cancer, that threaten reproductive capability, medical
23 family planning treatment and procedures, including supplies and
24 followup, and informational, counseling, and educational
25 services. Comprehensive clinical family planning services shall
26 not include abortion, pregnancy testing solely for the purposes of
27 referral for abortion or services ancillary to abortions, or
28 pregnancy care that is not incident to the diagnosis of pregnancy.
29 Comprehensive clinical family planning services shall be subject
30 to utilization control and include all of the following:

31 (A) Family planning related services and male and female
32 sterilization. Family planning services for men and women shall
33 include emergency services and services for complications
34 directly related to the contraceptive method, federal Food and
35 Drug Administration approved contraceptive drugs, devices, and
36 supplies, and followup, consultation, and referral services, as
37 indicated, which may require treatment authorization requests.

38 (B) All United States Department of Agriculture, federal Food
39 and Drug Administration approved contraceptive drugs, devices,



1 and supplies that are in keeping with current standards of practice
2 and from which the individual may choose.

3 (C) Culturally and linguistically appropriate health education
4 and counseling services, including informed consent, that include
5 all of the following:

6 (i) Psychosocial and medical aspects of contraception.

7 (ii) Sexuality.

8 (iii) Fertility.

9 (iv) Pregnancy.

10 (v) Parenthood.

11 (vi) Infertility.

12 (vii) Reproductive health care.

13 (viii) Preconception and nutrition counseling.

14 (ix) Prevention and treatment of sexually transmitted infection.

15 (x) Use of contraceptive methods, federal Food and Drug
16 Administration approved contraceptive drugs, devices, and
17 supplies.

18 (xi) Possible contraceptive consequences and followup.

19 (xii) Interpersonal communication and negotiation of
20 relationships to assist individuals and couples in effective
21 contraceptive method use and planning families.

22 (D) A comprehensive health history, updated at next periodic
23 visit (between 11 and 24 months after initial examination) that
24 includes a complete obstetrical history, gynecological history,
25 contraceptive history, personal medical history, health risk factors,
26 and family health history, including genetic or hereditary
27 conditions.

28 (E) A complete physical examination on initial and subsequent
29 periodic visits.

30 (ab) Purchase of prescribed enteral formulae is covered,
31 subject to the Medi-Cal list of enteral formulae and utilization
32 controls.

33 (ac) Diabetic testing supplies are covered when provided by a
34 pharmacy, subject to utilization controls.

