

AMENDED IN SENATE APRIL 20, 2006

AMENDED IN SENATE APRIL 6, 2006

**SENATE BILL**

**No. 1755**

---

---

**Introduced by Senator Chesbro**

February 24, 2006

---

---

~~An act to amend Sections 1572 and 1576.2 of, and to repeal Sections 1575.45 and 1575.5 of, the Health and Safety Code, and to amend Sections 14043.46, 14105.395, 14520, and 14573 of, and to repeal and add Sections 14521 and 14525 of, the *An act to add Sections 14550.5 and 14550.6 to, and to repeal and add Section 14525 of, the* Welfare and Institutions Code, relating to Medi-Cal.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1755, as amended, Chesbro. Medi-Cal: adult day health care services.

The California Adult Day Health Care Act provides for the licensure and regulation of adult day health centers, with administrative responsibility for this program shared between the State Department of Health Services and the California Department of Aging pursuant to an interagency agreement.

~~Existing law requires the interagency agreement between the State Department of Health Services and the California Department of Aging to delegate to the California Department of Aging the responsibility of performing financial reviews, to the extent resources are budgeted for that purpose, and the resolution of audit appeals. Existing law requires the Director of the California Department of Aging to make recommendations regarding licensure to the licensing and certification division in the State Department of Health Services based on specified criteria.~~

~~This bill would eliminate the requirement that the interagency agreement delegate the performance of financial reviews and the resolution of audit appeals to the California Department of Aging. The bill would also eliminate the requirement that the California Department of Aging make the recommendations regarding licensure.~~

~~Existing law authorizes the State Department of Health Services to immediately take any of specified actions if the department determines that an adult day health care center operating under a provisional license has serious deficiencies that pose a risk to the health and safety of the participants.~~

~~This bill would repeal this provision.~~

~~Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services and under which qualified low-income persons receive health care benefits, including adult day health care services.~~

~~Existing law, except in certain circumstances, requires an applicant for initial licensure as an adult day health care center, concurrently with the submission of the application, to apply to the State Department of Health Services for eligibility certification as a provider of adult day health care services reimbursable under the Medi-Cal Act. Existing law prohibits the issuance or renewal of a license for an adult day health care center that is not approved as a Medi-Cal provider of adult day health care services.~~

~~This bill would repeal this provision.~~

~~Existing law requires the license of an applicant that has had its Medi-Cal certification for adult day health care revoked to be rescinded.~~

~~This bill, instead, would authorize, rather than require, the rescission of the adult day health care license under this circumstance.~~

~~Existing law authorizes the State Department of Health Services to implement a one-year moratorium on the certification and enrollment into the Medi-Cal program of new adult day health care centers on a statewide basis or within a geographic area. Existing law authorizes the director to extend this moratorium, if necessary, to coincide with the implementation date of an adult day health care waiver.~~

~~This bill would also authorize the director to extend the moratorium, if necessary, to coincide with the implementation date of an adult day health care state plan amendment.~~

~~Existing law authorizes the State Department of Health Services to implement utilization controls under the Medi-Cal program through~~

~~the establishment of guidelines, protocols, algorithms, or criteria for drugs, medical supplies, durable medical equipment, and enteral formulae, and to publish them in the pharmacy and medical provider manuals. Existing law requires the department to issue providers written notice of changes under this provision at least 30 days prior to implementation.~~

~~This bill would require, instead, that the department issue providers written notice of changes under this provision at least 90 days prior to implementation.~~

~~This bill would also authorize the department to implement utilization controls and certification requirements through the establishment of guidelines, protocols, or criteria for the Adult Day Health Care program, and to publish them in the inpatient/outpatient provider manual.~~

The Adult Day Health Medi-Cal Law establishes adult day health care services as a Medi-Cal benefit for Medi-Cal beneficiaries who meet certain criteria.

~~This bill would change the name of the Adult Day Health Medi-Cal Law to the Adult Day Health Care Medi-Cal Law.~~

~~This bill would require the department to take all appropriate action to obtain approval for a state plan amendment that would conform the Adult Day Health Care (ADHC) program to requirements of federal law, and to include specific program requirements in the state plan amendment. The bill would provide that no single provision of the ADHC state plan amendment shall be implemented unless and until the department has obtained full approval for that amendment from the federal Centers for Medicare and Medicaid Services, and the plan can be implemented by the department.~~

The

*This* bill would revise the eligibility criteria for adult day health care services.

~~Existing law requires that the initial Medi-Cal certification for adult day health care providers expire 12 months from the date of issuance. Existing law authorizes the director to specify any date as the expiration date of a renewal of certification based on certain considerations, not to exceed 24 months from the date of issuance of Medi-Cal certification, and authorizes the director to extend certification for periods of not more than 60 days.~~

This bill would eliminate the authority of the director to specify any date as the expiration date of a renewal of certification. The bill would

~~provide instead that subsequent certification periods shall expire not more than 24 months from the date of issuance, subject to an evaluation by the director prior to the expiration of the 24-month certification.~~

*Existing law requires adult day health centers to offer, and provide directly on the premises, specified services.*

*This bill would require adult day health centers to offer, and provide directly on the premises, in accordance with the participant’s individual plan of care, and subject to authorization, specified core services to each participant during each day of the participant’s attendance at the center, including nursing services, personal care or social services, therapeutic activities, and one meal.*

*The bill would allow an adult day health care center to provide one or more of the specified core services at an enhanced level if any of certain conditions occurs.*

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

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

- 1     ~~SECTION 1. It is the intent of the Legislature that this act do~~
- 2     ~~all of the following:~~
- 3     ~~(a) Permit the adult day health care program to continue to~~
- 4     ~~operate as an optional Medi-Cal benefit, subject to the approval~~
- 5     ~~by the federal Centers for Medicare and Medicaid Services of a~~
- 6     ~~state plan amendment, while preserving the integrity of the adult~~
- 7     ~~day health care model as it evolves to an enhanced program of~~
- 8     ~~services emphasizing quality, access, and disease management.~~
- 9     ~~(b) Establish delivery of appropriate services and levels of~~
- 10    ~~care under a state plan amendment for the adult day health care~~
- 11    ~~program in a cost-effective manner, encouraging participant~~
- 12    ~~independence and supporting caregiver well-being as~~
- 13    ~~components of an integrated long-term care model consistent~~
- 14    ~~with the principles of the decision of the United States Supreme~~
- 15    ~~Court in Olmstead v. L.C. by Zimring (1999) 527 U.S. 581.~~
- 16    ~~(c) Modify state law to reflect the intent to conform adult day~~
- 17    ~~health care program elements to the requirements of the federal~~
- 18    ~~Centers for Medicare and Medicaid Services in a manner that~~
- 19    ~~will permit the program to continue to be eligible for federal~~
- 20    ~~financial participation.~~

1     ~~SEC. 2. Section 1572 of the Health and Safety Code is~~  
2     ~~amended to read:~~

3     ~~1572. (a) The functions and duties of the State Department of~~  
4     ~~Health Services provided for under this chapter shall be~~  
5     ~~performed by the California Department of Aging commencing~~  
6     ~~on the date those functions are transferred from the State~~  
7     ~~Department of Health Services to the California Department of~~  
8     ~~Aging. The authority, functions, and responsibility for the~~  
9     ~~administration of the adult day health care program by the~~  
10    ~~California Department of Aging and the State Department of~~  
11    ~~Health Services shall be defined in an interagency agreement~~  
12    ~~between the two departments that specifies how the departments~~  
13    ~~will work together.~~

14    ~~(b) The interagency agreement shall specify that the California~~  
15    ~~Department of Aging is designated by the department as the~~  
16    ~~agency responsible for community long-term care programs. At a~~  
17    ~~minimum, the interagency agreement shall clarify each~~  
18    ~~department's responsibilities on issues involving licensure and~~  
19    ~~certification of adult day health care providers, payment of adult~~  
20    ~~day health care claims, prior authorization of services,~~  
21    ~~promulgation of regulations, and development of adult day health~~  
22    ~~care Medi-Cal rates. In addition, this agreement shall specify that~~  
23    ~~the California Department of Aging is responsible for making~~  
24    ~~recommendations to the department regarding licensure as~~  
25    ~~specified in subdivision (c). This agreement shall also include~~  
26    ~~provisions whereby the department and the California~~  
27    ~~Department of Aging shall collaborate in the development and~~  
28    ~~implementation of health programs and services for older persons~~  
29    ~~and functionally impaired adults.~~

30    ~~SEC. 3. Section 1575.45 of the Health and Safety Code is~~  
31    ~~repealed.~~

32    ~~SEC. 4. Section 1575.5 of the Health and Safety Code is~~  
33    ~~repealed.~~

34    ~~SEC. 5. Section 1576.2 of the Health and Safety Code is~~  
35    ~~amended to read:~~

36    ~~1576.2. (a) A license issued or renewed pursuant to this~~  
37    ~~chapter shall not be transferable, and the initial license shall~~  
38    ~~expire 12 months from the date of its issuance. The director shall~~  
39    ~~be given the discretion to approve applications for relicensure for~~  
40    ~~a period of up to 24 months. Application for annual renewal of a~~

1 license, accompanied by the required fee, shall be filed with the  
2 department not less than 30 days prior to the expiration date.  
3 Failure to submit a renewal application prior to that date shall  
4 result in expiration of the license.

5 (b) A license may be rescinded for an applicant that has had its  
6 Medi-Cal certification for adult day health care revoked.

7 SEC. 6. Section 14043.46 of the Welfare and Institutions  
8 Code is amended to read:

9 14043.46. (a) Notwithstanding any other provision of law, on  
10 the effective date of the act adding this section, the department  
11 may implement a one-year moratorium on the certification and  
12 enrollment into the Medi-Cal program of new adult day health  
13 care centers on a statewide basis or within a geographic area.

14 (b) The moratorium shall not apply to the following:

15 (1) Programs of All-Inclusive Care for the Elderly (PACE)  
16 established pursuant to Chapter 8.75 (commencing with Section  
17 14590).

18 (2) An organization that currently holds a designation as a  
19 federally qualified health center as defined in Section 1396d(l)(2)  
20 of Title 42 of the United States Code.

21 (3) An organization that currently holds a designation as a  
22 federally qualified rural health clinic, as defined in Section  
23 1396d(l)(1) of Title 42 of the United States Code.

24 (4) An applicant with the physical location of the center in an  
25 unserved area, which is defined as a county having no licensed  
26 and certified adult day health care center within its geographic  
27 boundary.

28 (5) An applicant for licensure and certification that has been  
29 designated by a city and county that, pursuant to a court order, is  
30 discharging persons currently residing in a city and county  
31 nursing facility to community housing, provided that all  
32 participants enrolled in the applicant's center are former residents  
33 of the city and county nursing facility.

34 (6) An applicant that is requesting expansion or relocation, or  
35 both, that has been Medi-Cal certified as an adult day health care  
36 center for at least four years, that is expanding or relocating  
37 within the same county, and that meets one of the following  
38 population-based criteria:

1 ~~(A) The county is ranked number one or two for having the~~  
2 ~~highest ratio of persons over 65 years of age receiving Medi-Cal~~  
3 ~~benefits.~~

4 ~~(B) The county is ranked number one or two for having the~~  
5 ~~highest ratio of persons over 85 years of age residing in the~~  
6 ~~county.~~

7 ~~(C) The county is ranked number one or two for having the~~  
8 ~~greatest ratio of persons over 65 years of age living in poverty.~~

9 ~~(7) An applicant for certification that is currently licensed and~~  
10 ~~located in a county with a population that exceeds 9,000,000 and~~  
11 ~~meets the following criteria:~~

12 ~~(A) The applicant has identified a special population of~~  
13 ~~regional center consumers whose individual program plan calls~~  
14 ~~for the specialized health and social services that are uniquely~~  
15 ~~provided within the adult day health care center, in order to~~  
16 ~~prevent deterioration of the special population's health status.~~

17 ~~(B) The referring regional center submits a letter to the~~  
18 ~~Director of Health Services supporting the applicant for~~  
19 ~~certification as an adult day health care provider for this special~~  
20 ~~population.~~

21 ~~(C) The applicant is currently providing services to the special~~  
22 ~~population as a vendor of the referring regional center.~~

23 ~~(D) The participants in the center are clients of the referring~~  
24 ~~regional center and are not residing in a health facility licensed~~  
25 ~~pursuant to subdivision (c), (d), (g), (h), or (k) of Section 1250 of~~  
26 ~~the Health and Safety Code.~~

27 ~~(e) The moratorium shall not prohibit the department from~~  
28 ~~approving a change of ownership, relocation, or increase in~~  
29 ~~capacity for an adult day health care center if the following~~  
30 ~~conditions are met:~~

31 ~~(1) For an application to change ownership, the adult day~~  
32 ~~health care center meets all of the following conditions:~~

33 ~~(A) Has been licensed and certified prior to the effective date~~  
34 ~~of this section.~~

35 ~~(B) Has a license in good standing.~~

36 ~~(C) Has a record of substantial compliance with certification~~  
37 ~~laws and regulations.~~

38 ~~(D) Has met all requirements for the change application.~~

1     ~~(2) For an application to relocate an existing facility, the~~  
2     ~~relocation center must meet all of the conditions of paragraph (1)~~  
3     ~~and both of the following conditions:~~

4     ~~(A) Must be located in the same county as the existing~~  
5     ~~licensed center.~~

6     ~~(B) Must be licensed for the same capacity as the existing~~  
7     ~~licensed center, unless the relocation center is located in an~~  
8     ~~underserved area, which is defined as a county having 2 percent~~  
9     ~~or fewer Medi-Cal beneficiaries over the age of 65 years using~~  
10    ~~adult day health care services, based on 2002 calendar year~~  
11    ~~Medi-Cal utilization data.~~

12    ~~(3) For an application to increase the capacity of an existing~~  
13    ~~facility, the center must meet all of the conditions of paragraph~~  
14    ~~(1) and must be located in an underserved area, which is defined~~  
15    ~~as a county having 2 percent or fewer Medi-Cal beneficiaries~~  
16    ~~over the age of 65 years using adult day health care services,~~  
17    ~~based on 2002 calendar year Medi-Cal utilization data.~~

18    ~~(d) Following the first 180 days of the moratorium period, the~~  
19    ~~department may make exceptions to the moratorium for new~~  
20    ~~adult day health care centers that are located in underserved areas~~  
21    ~~if the center's application was on file with the department on or~~  
22    ~~before the effective date of the act adding this section. In order to~~  
23    ~~apply for this exemption, an applicant or licensee must meet all~~  
24    ~~of the following criteria:~~

25    ~~(1) The applicant has control of a facility, either by ownership~~  
26    ~~or lease agreement, that will house the adult day health care~~  
27    ~~center, has provided to the department all necessary documents~~  
28    ~~and fees, and has completed and submitted all required~~  
29    ~~fingerprinting forms to the department.~~

30    ~~(2) The physical location of the applicant's or licensee's adult~~  
31    ~~day health care center is in an underserved area, which is defined~~  
32    ~~as a county having 2 percent or fewer Medi-Cal beneficiaries~~  
33    ~~over the age of 65 years using adult day health care services,~~  
34    ~~based on 2002 calendar year Medi-Cal utilization data.~~

35    ~~(e) During the period of the moratorium, a licensee or~~  
36    ~~applicant that meets the criteria for an exemption as defined in~~  
37    ~~subdivision (d) may submit a written request for an exemption to~~  
38    ~~the director.~~

39    ~~(f) If the director determines that a new adult day health care~~  
40    ~~licensee or applicant meets the exemption criteria, the director~~

1 may certify the licensee or applicant, once licensed, for  
2 participation in the Medi-Cal program.

3 (g) The director may extend this moratorium, if necessary, to  
4 coincide with the implementation date of the adult day health  
5 care waiver or an adult day health care state plan amendment.

6 (h) The authority granted in this section shall not be  
7 interpreted as a limitation on the authority granted to the  
8 department in any other section.

9 SEC. 7. Section 14105.395 of the Welfare and Institutions  
10 Code is amended to read:

11 14105.395. (a) The department may implement utilization  
12 controls through the establishment of guidelines, protocols,  
13 algorithms, or criteria for drugs, medical supplies, durable  
14 medical equipment, or enteral formulae. The department shall  
15 publish the guidelines, protocols, algorithms, or criteria in the  
16 pharmacy and medical provider manuals.

17 (b) The department may implement utilization controls and  
18 certification requirements through the establishment of  
19 guidelines, protocols, or criteria for the adult day health care  
20 program. The department shall publish the guidelines, protocols,  
21 or criteria in the inpatient/outpatient provider manual.

22 (c) The department shall issue providers written notice of  
23 changes pursuant to subdivision (a) at least 90 days prior to  
24 implementation.

25 -

26 (d) Changes made pursuant to this section are exempt from the  
27 requirements of the Administrative Procedure Act (Chapter 3.5  
28 (commencing with Section 11340), Chapter 4 (commencing with  
29 Section 11370), and Chapter 5 (commencing with Section 11500)  
30 of Part 1 of Division 3 of Title 2 of the Government Code), and  
31 shall not be subject to the review and approval of the Office of  
32 Administrative Law. The department shall consult with interested  
33 parties and appropriate stakeholders in implementing this section  
34 with respect to all of the following:

35 (1) Notifying the provider representatives of the proposed  
36 change.

37 (2) Scheduling meetings to discuss the change.

38 (3) Allowing for written input regarding the change.

39 (4) Providing advance notice on the implementation and  
40 effective date of the change.

1     ~~SEC. 8.— Section 14520 of the Welfare and Institutions Code is~~  
2     ~~amended to read:~~

3     ~~14520. This chapter shall be known and may be cited as the~~  
4     ~~Adult Day Health Care Medi-Cal Law.~~

5     ~~SEC. 9.— Section 14521 of the Welfare and Institutions Code is~~  
6     ~~repealed.~~

7     ~~SEC. 10.— Section 14521 is added to the Welfare and~~  
8     ~~Institutions Code, to read:~~

9     ~~14521. (a) For the purposes of this chapter, the following~~  
10    ~~definitions shall apply:~~

11    ~~(1) “ADHC” means adult day health care under the Medi-Cal~~  
12    ~~program.~~

13    ~~(2) “ADHC services” means those health and social services~~  
14    ~~provided by the Adult Day Health Care program.~~

15    ~~(3) “CMS” means the federal Centers for Medicare and~~  
16    ~~Medicaid Services.~~

17    ~~(4) “Individual plan of care” or “IPC” means the plan of care~~  
18    ~~developed by the adult day health care center’s multidisciplinary~~  
19    ~~team that specifies the individual adult day health care services~~  
20    ~~needed by the participant.~~

21    ~~(5) “Participant” means a Medi-Cal beneficiary who is~~  
22    ~~receiving adult day health care services.~~

23    ~~(b) The department shall take all appropriate action, as~~  
24    ~~required by CMS, to obtain approval for a state plan amendment~~  
25    ~~for the ADHC program option. The approval shall include~~  
26    ~~assurances to CMS that the state shall amend provisions of~~  
27    ~~existing law and the state plan that address the ADHC program to~~  
28    ~~conform to CMS requirements. Program requirements under the~~  
29    ~~amendment shall be consistent with CMS requirements, and shall~~  
30    ~~include, but not be limited to, all of the following:~~

31    ~~(1) Certification as a provider in the Medi-Cal program shall~~  
32    ~~be a requirement for an ADHC center to participate in the~~  
33    ~~Medi-Cal ADHC program. Certification requirements shall be~~  
34    ~~established by the terms of the state plan amendment and all~~  
35    ~~subsequent documents developed for the purpose of~~  
36    ~~implementing the state plan amendment. Certification shall~~  
37    ~~require prior licensing of the ADHC center.~~

38    ~~(2) Licensing of ADHC centers shall be consistent with state~~  
39    ~~licensing laws and regulations and shall be considered separate~~  
40    ~~and apart from the certification of ADHC centers. Licensing of~~

1 ~~an ADHC center shall be a requirement for certification and~~  
2 ~~participation in the Medi-Cal program as an ADHC provider.~~

3 ~~(3) Itemization of the current all-inclusive per diem procedure~~  
4 ~~code into its component services, resulting in individual~~  
5 ~~reimbursement rates for individual skilled ADHC services that~~  
6 ~~meet all of the following requirements:~~

7 ~~(A) Prior authorization may be granted as a single procedure~~  
8 ~~code for the days of attendance, with individual skilled ADHC~~  
9 ~~services as specified on the participant's individual plan of care~~  
10 ~~billed to the Medi-Cal program as separate services without prior~~  
11 ~~authorization. These separately billed ADHC services shall be~~  
12 ~~associated with approved days of attendance.~~

13 ~~(B) (i) Reimbursement, including payment for individual~~  
14 ~~skilled ADHC services, shall not exceed the maximum daily~~  
15 ~~ADHC reimbursement per participant. Claims for ADHC~~  
16 ~~services that exceed the maximum daily ADHC reimbursement~~  
17 ~~per participant shall be denied.~~

18 ~~(ii) The implementation of the reimbursement methodology~~  
19 ~~may provide for flexible billing processes, provided that~~  
20 ~~payments for ADHC services shall not exceed the maximum~~  
21 ~~daily ADHC reimbursement per participant when averaged over~~  
22 ~~a calendar month.~~

23 ~~(C) The reimbursement for ADHC services, including rate~~  
24 ~~increases, shall be consistent with similar Medi-Cal services~~  
25 ~~reimbursement.~~

26 ~~(D) The department shall conduct regular audits of ADHC~~  
27 ~~centers to ensure that only services that are actually provided and~~  
28 ~~that are medically necessary are reimbursed.~~

29 ~~(4) Claims for individual skilled ADHC services that are not~~  
30 ~~associated with an approved day of attendance shall be denied.~~

31 ~~(5) (A) ADHC services under the state plan amendment shall~~  
32 ~~include all ADHC services included in the all-inclusive per diem~~  
33 ~~Medi-Cal reimbursement rate as of the date that the act adding~~  
34 ~~this section is enacted, to the extent possible. These services shall~~  
35 ~~be specified and defined in the state plan amendment as required~~  
36 ~~by CMS. The department may amend the definitions at any time.~~  
37 ~~The following services shall be defined:~~

38 ~~(i) Unskilled services:~~

39 ~~(ii) Skilled services:~~

~~(iii) Assessment and transitional services, which shall be available, without prior authorization, for the purpose of providing assessment services prior to initial enrollment in an ADHC center, and to assist individuals transitioning out of an institutional setting. Assessment and transitional services provided by any ADHC provider shall be limited to a maximum of three days per 12 months per participant.~~

~~(B) The department shall develop specific medical necessity criteria for the authorization of ADHC services. These criteria shall be specified in the state plan amendment and in any subsequent implementation documents, and shall limit the provision of ADHC services to those Medi-Cal beneficiaries who require medical or remedial services to improve, restore, or maintain the participant's level of physical, mental, or physical and mental functioning.~~

~~(6) The department may enter into interagency agreements with the California Department of Aging to administer the ADHC program under the state plan amendment required under this section. Any interagency agreement entered into shall comply with Section 14000.03.~~

~~(7) All of the following shall be defined, described, or established in the state plan amendment or in any subsequent implementation document.~~

~~(A) The plan, procedures, standards, and protocols for certification, oversight, and monitoring of ADHC centers, which shall include, at a minimum, requirements for the organization and administration of ADHC centers, ADHC center program plans, ADHC center staffing, ADHC center subcontracts and subcontractors, ADHC center program hours, the provision of emergency services at ADHC centers, ADHC center policies and procedures, ADHC center financial reporting and other reporting to the state, ADHC center participant health records, civil rights, confidentiality, and documentation for services provided, and the medical necessity for those services.~~

~~(B) The qualification requirements for all individual persons providing direct services at the ADHC center.~~

~~(C) Procedures and standards for participant assessment and determination of eligibility for ADHC services. This shall include, but not be limited to, freedom of choice and fair hearing rights.~~

1 ~~(D) Procedures, standards, and format for the individual plan~~  
2 ~~of care.~~

3 ~~(E) The prior authorization process, including, but not limited~~  
4 ~~to, medical necessity criteria, procedure codes, and~~  
5 ~~reimbursement rates for all ADHC services.~~

6 ~~(F) Any other provisions needed to secure CMS approval of~~  
7 ~~the ADHC state plan amendment required under this section.~~

8 ~~(e) Upon the implementation of the ADHC program as~~  
9 ~~provided for in this section, the terms and conditions of the~~  
10 ~~ADHC state plan amendment and all subsequent implementation~~  
11 ~~documents shall control the operation of the ADHC program~~  
12 ~~under the Medi-Cal program. In the event of a conflict between~~  
13 ~~the terms and conditions of the ADHC state plan amendment and~~  
14 ~~any provision of this chapter or any other state law or regulation,~~  
15 ~~the terms and conditions of the ADHC state plan amendment~~  
16 ~~shall control.~~

17 ~~(d) The ADHC state plan amendment shall be implemented~~  
18 ~~only to the extent that it is approved by CMS and only to the~~  
19 ~~extent that federal financial participation is available for all~~  
20 ~~specified ADHC services.~~

21 ~~(e) No single provision of the ADHC state plan amendment~~  
22 ~~shall be implemented unless and until the department has~~  
23 ~~obtained full approval for that amendment from CMS, and the~~  
24 ~~plan can be implemented by the department.~~

25 ~~(f) To implement this section, the department may contract~~  
26 ~~with public or private entities or utilize existing health care~~  
27 ~~services provider enrollment and payment mechanisms, including~~  
28 ~~the Medi-Cal program's fiscal intermediary, only if services~~  
29 ~~provided under this chapter or Chapter 8 (commencing with~~  
30 ~~Section 14200) are specifically identified and reimbursed in a~~  
31 ~~manner that appropriately claims federal financial participation.~~

32 ~~(g) In order to achieve maximum cost savings, the Legislature~~  
33 ~~hereby determines that an expedited contract process for all~~  
34 ~~contracts under this section is necessary. Therefore, all contracts~~  
35 ~~entered into under this section may be on a competitive or~~  
36 ~~noncompetitive bid basis and shall be exempt from Chapter 2~~  
37 ~~(commencing with Section 10290) of Part 2 of Division 2 of the~~  
38 ~~Public Contract Code.~~

1 ~~(h) Contracts under this section shall be exempt from the~~  
2 ~~requirements of Article 4 (commencing with Section 19130) of~~  
3 ~~Chapter 5 of Part 2 of Division 5 of the Government Code.~~

4 ~~(i) The ADHC services specified in the state plan amendment~~  
5 ~~shall be available only for those Medi-Cal beneficiaries~~  
6 ~~authorized according to the eligibility and medical necessity~~  
7 ~~standards approved by CMS. The department shall make all~~  
8 ~~reasonable efforts to continue ADHC services for those~~  
9 ~~participants receiving ADHC services as of the effective date of~~  
10 ~~the act adding this section. The failure of a participant receiving~~  
11 ~~ADHC services as of that date to meet the eligibility and medical~~  
12 ~~necessity standards under the ADHC state plan amendment shall~~  
13 ~~be subject to the same fair hearing process granted to Medi-Cal~~  
14 ~~beneficiaries for the discontinuance or denial of other Medi-Cal~~  
15 ~~covered services. However, it does not create any obligation on~~  
16 ~~the department to continue providing ADHC services if federal~~  
17 ~~financial participation is not available.~~

18 ~~(j) (1) The department may adopt or modify any regulations~~  
19 ~~that are necessary to implement this section, including licensing~~  
20 ~~regulations governing ADHC centers, as found in Section 78001~~  
21 ~~and following of Title 22 of the California Code of Regulations.~~  
22 ~~The department shall adopt any regulations that are necessary to~~  
23 ~~conform ADHC licensing standards and requirements to the~~  
24 ~~certification standards and requirements approved by CMS for~~  
25 ~~the ADHC state plan amendment.~~

26 ~~(2) The adoption, amendment, repeal, or readoption of a~~  
27 ~~regulation authorized by this section is deemed to be necessary~~  
28 ~~for the immediate preservation of the public peace, health and~~  
29 ~~safety, or general welfare, for purposes of Sections 11346.1 and~~  
30 ~~11349.6 of the Government Code, and the department is hereby~~  
31 ~~exempted from the requirement that it describe specific facts~~  
32 ~~showing the need for immediate action. For purposes of~~  
33 ~~subdivision (e) of Section 11346.1 of the Government Code, the~~  
34 ~~120-day period, as applicable to the effective period of an~~  
35 ~~emergency regulatory action and submission of specified~~  
36 ~~materials to the Office of Administrative Law, is hereby~~  
37 ~~extended to 180 days.~~

38 ~~(3) Prior to filing any emergency regulations with respect to~~  
39 ~~ADHC services, the department shall seek input from all~~

1 interested stakeholders, including, but not limited to, ADHC  
2 providers and the California Association of Adult Day Services.

3 ~~(k) The state plan amendment developed under this section  
4 shall be submitted to the Legislature prior to or in conjunction  
5 with submission to CMS.~~

6 ~~SEC. 11.~~

7 *SECTION 1.* Section 14525 of the Welfare and Institutions  
8 Code is repealed.

9 ~~SEC. 12.~~

10 *SEC. 2.* Section 14525 is added to the Welfare and  
11 Institutions Code, to read:

12 14525. Any adult eligible for benefits under Chapter 7  
13 (commencing with Section 14000) shall be eligible for adult day  
14 health care services if that person meets all of the following  
15 criteria:

16 ~~(a) The person is 18 years of age or older.~~

17 ~~(b) The person has one or more chronic or postacute medical,  
18 cognitive, or mental health conditions.~~

19 ~~(c) A physician, nurse practitioner, or other health care  
20 provider has, within the scope of his or her practice, requested  
21 adult day health care services for the person.~~

22 ~~(d) The person has impairments in two or more activities of  
23 daily living, including at least one impairment in an instrumental  
24 activity of daily living, and requires assistance or supervision in  
25 performing these activities.~~

26 *(a) The person is 18 years of age or older and has one or more  
27 chronic or postacute medical, cognitive, or mental health  
28 conditions, and a physician, nurse practitioner, or other health  
29 care provider has, within his or her scope of practice, requested  
30 adult day health care services for the person.*

31 *(b) The person has functional impairments in two or more  
32 activities of daily living, instrumental activities of daily living, or  
33 a combination of both, and requires assistance or supervision in  
34 performing these activities.*

35 ~~(e)~~

36 *(c) The person requires ongoing or intermittent protective  
37 supervision, skilled observation, assessment, or intervention by a  
38 skilled health or mental health professional to improve, stabilize,  
39 maintain, or minimize deterioration of the medical, cognitive, or  
40 mental health condition.*

1     ~~(f)~~  
2     ~~(d)~~ The person requires adult day health care services, as  
3 defined in Section 14550, that are individualized and planned,  
4 including, when necessary, the coordination of formal and  
5 informal services outside of the adult day health care program to  
6 support the individual and his or her family or caregiver in the  
7 living arrangement of his or her choice and to avoid or delay the  
8 use of institutional services, including, but not limited to, hospital  
9 emergency department services, inpatient acute care hospital  
10 services, inpatient mental health services, or placement in a  
11 nursing facility or an intermediate care facility for the  
12 developmentally disabled.

13     ~~SEC. 13.—Section 14573 of the Welfare and Institutions Code~~  
14 ~~is amended to read:~~

15     ~~14573. (a) Initial Medi-Cal certification for adult day health~~  
16 ~~care centers shall expire 12 months from the date of issuance.~~  
17 ~~Subsequent certification periods shall expire not more than 24~~  
18 ~~months from the date of issuance, except as specified in~~  
19 ~~subdivision (b).~~

20     ~~(b) Prior to the expiration of an adult day health care center’s~~  
21 ~~24-month certification, the director shall evaluate whether the~~  
22 ~~center meets the criteria specified in this subdivision. The~~  
23 ~~director may approve a 12-month extension to the existing~~  
24 ~~24-month certification if the total certification period does not~~  
25 ~~exceed 36 months and the adult day health center meets all of the~~  
26 ~~following criteria:~~

27     ~~(1) The center has been in operation a minimum of five years,~~  
28 ~~with two consecutive 24-month certification periods within the~~  
29 ~~most recent certification periods.~~

30     ~~(2) The center had no significant health and safety deficiencies~~  
31 ~~identified during the two most recent certification inspections.~~

32     ~~(3) The center provided and implemented an approved plan of~~  
33 ~~correction to remedy any deficiencies cited during the most~~  
34 ~~recent certification inspection.~~

35     ~~(4) The center had no repeat significant deficiencies identified~~  
36 ~~during the most recent certification inspection.~~

37     ~~(5) The center had no complaints substantiated by the~~  
38 ~~department during the most recent certification period.~~

39     ~~(e) Nothing in subdivision (a) or (b) shall be construed to~~  
40 ~~restrict the right of the department to extend the certification of~~

1 ~~an adult day health care center for periods of not more than 60~~  
2 ~~days if the department determines it to be necessary.~~

3 ~~(d) Before certification renewal, the adult day health care~~  
4 ~~center shall submit with the application a report according to~~  
5 ~~department specifications that includes services provided,~~  
6 ~~participant statistics, and a statement of adherence to the adult~~  
7 ~~day health care center's policies and procedures.~~

8 ~~(e) Prior to approving renewal of Medi-Cal certification, the~~  
9 ~~California Department of Aging, as specified in the interagency~~  
10 ~~agreement required pursuant to Section 1572 of the Health and~~  
11 ~~Safety Code, shall conduct onsite medical and management~~  
12 ~~reviews. The reviews shall be conducted by a team of persons~~  
13 ~~with appropriate technical skills.~~

14 ~~(f) Where the director determines that the public interests~~  
15 ~~would be served thereby, a public hearing may be held on any~~  
16 ~~renewal application subject to this section. The findings of the~~  
17 ~~departmental program and licensing reviews and the provider's~~  
18 ~~annual evaluation report shall be presented at the hearing.~~

19 ~~SEC. 14. Notwithstanding the rulemaking provisions of~~  
20 ~~Chapter 3.5 (commencing with Section 11340) of Part 1 of~~  
21 ~~Division 3 of Title 2 of the Government Code, the Director of~~  
22 ~~Health Services may implement all or part of this act by means of~~  
23 ~~provider bulletins or provider manual replacement pages, all~~  
24 ~~facilities letters, or other similar instructions, without taking~~  
25 ~~further regulatory action. Prior to the publication of any~~  
26 ~~document implementing all or part of this act, the Director of~~  
27 ~~Health Services shall seek input from all interested stakeholders,~~  
28 ~~including, but not limited to, ADHC providers and the California~~  
29 ~~Association for Adult Day Services. Actions taken pursuant to~~  
30 ~~this section to implement, interpret, or make specific this act~~  
31 ~~shall not be subject to the Administrative Procedure Act (Chapter~~  
32 ~~3.5 (commencing with Section 11340) of Part 1 of Division 3 of~~  
33 ~~Title 2 of the Government Code or to the review and approval of~~  
34 ~~the Office of Administrative Law.~~

35 ~~SEC. 3. Section 14550.5 is added to the Welfare and~~  
36 ~~Institutions Code, to read:~~

37 ~~14550.5. Adult day health centers shall offer, and provide~~  
38 ~~directly on the premises, in accordance with the participant's~~  
39 ~~individual plan of care, and subject to authorization pursuant to~~

- 1 *Section 14526, the following core services to each participant*  
2 *during each day of the participant's attendance at the center:*
- 3 *(a) One or more of the following core nursing services:*
- 4 *(1) Observation, assessment, and monitoring of the*  
5 *participant's health status and changes in his or her condition*  
6 *and risk factors.*
- 7 *(2) Management of chronic conditions using standard*  
8 *monitoring procedures at defined intervals and as necessary due*  
9 *to any change in the participant's condition.*
- 10 *(3) Monitoring of the participant's medication regimen, and*  
11 *the administration and recording of the participant's prescribed*  
12 *medications.*
- 13 *(4) Oral or written communication with the participant's*  
14 *personal physician, or the participant's family or other*  
15 *caregiver, regarding changes in the participant's condition,*  
16 *signs, or symptoms.*
- 17 *(5) Supervision of the provision of personal care services for*  
18 *the participant.*
- 19 *(b) One or more of the following core personal care services*  
20 *or social services:*
- 21 *(1) One or both of the following personal care services:*
- 22 *(A) Supervision of, or standby assistance with, activities of*  
23 *daily living or instrumental activities of daily living.*
- 24 *(B) Protective group supervision and interventions to assure*  
25 *participant safety and to minimize the risk of injury, accident,*  
26 *inappropriate behavior, or wandering.*
- 27 *(2) One or more of the following social services:*
- 28 *(A) Observation, assessment, and monitoring of the*  
29 *participant's psychosocial status.*
- 30 *(B) Group work to address psychosocial issues.*
- 31 *(C) Care coordination.*
- 32 *(c) At least one of the following therapeutic activities:*
- 33 *(1) Group or individual activities to enhance the social,*  
34 *physical, or cognitive functioning of the participant.*
- 35 *(2) Facilitated participation in scheduled group or individual*  
36 *activities for those participants whose frailty or cognitive*  
37 *functioning level precludes them from active participation.*
- 38 *(d) One meal per day of attendance, with the provision of a*  
39 *special or therapeutic diet as needed.*

1 SEC. 4. Section 14550.6 is added to the Welfare and  
2 Institutions Code, to read:

3 14550.6. The adult day health care center may provide one or  
4 more of the core services, as described in Section 14550.5, at an  
5 enhanced level if any of the following conditions occurs:

6 (a) An expected condition, event, symptom, or group of  
7 symptoms that reaches a level of acuity, based on an assessment  
8 of the participant, requiring intervention by a member of the  
9 multidisciplinary team on a one-to-one basis or within a small  
10 group treatment setting.

11 (b) An expected condition, event, symptom, or group of  
12 symptoms that reaches a level of acuity, based on an assessment  
13 of the participant, requiring intervention or assistance by one or  
14 more trained adult day health care personnel.

15 (c) An unexpected condition, event, or symptom, or group of  
16 symptoms, that reaches a documented level of acuity requiring  
17 intervention by a member of the multi-disciplinary team on a  
18 one-to-one basis or within a small group setting.

19 (d) An unexpected condition, event, symptom, or group of  
20 symptoms that reaches a documented level of acuity requiring  
21 intervention or assistance by one or more trained adult day  
22 health care personnel.