

AMENDED IN SENATE SEPTEMBER 4, 2009

AMENDED IN SENATE JULY 15, 2009

AMENDED IN ASSEMBLY JUNE 2, 2009

AMENDED IN ASSEMBLY APRIL 15, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 359

Introduced by Assembly Member Nava
(Coauthor: Assembly Member Blakeslee)
(Coauthors: Senators Maldonado and Strickland)

February 23, 2009

~~An act to amend Section 104150 of the Health and Safety Code, and to amend Section 14105.18 of the Welfare and Institutions Code, relating to cancer.~~ *An act to amend Section 30461.6 of the Revenue and Taxation Code, relating to cancer.*

LEGISLATIVE COUNSEL'S DIGEST

AB 359, as amended, Nava. Breast and cervical cancer: early detection screening: digital mammography: reimbursement rates.

Existing law provides for the Medi-Cal program, administered by the State Department of Health Care Services, under which qualified low-income persons are provided with health care services, including breast and cervical cancer services.

Under existing law, the State Department of Public Health participates in a grant program through the federal Centers for Disease Control and Prevention to provide breast and cervical cancer early detection screening. Providers participating in the grant program may only provide screening services to individuals whose family income does not exceed

200% of the federal poverty level, and provider rates are required to be identical to the rates under the Medi-Cal program.

This bill would, until January 1, 2014, ~~require~~ *authorize, to the extent permitted by federal law,* digital mammography screening to be covered when *film or* analog mammography services are not available from the provider, to be reimbursed at the Medi-Cal *film or analog rate,* ~~and would make conforming changes.~~

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. Section 30461.6 of the Revenue and Taxation
2 Code is amended to read:
3 30461.6. (a) Notwithstanding Section 30461, the board shall
4 transmit the revenue derived from the increase in the cigarette tax
5 rate of one mill (\$0.001) per cigarette imposed by Section 30101
6 on and after January 1, 1994, to the Treasurer to be deposited in
7 the State Treasury to the credit of the Breast Cancer Fund, which
8 fund is hereby created. The Breast Cancer Fund shall consist of
9 two accounts: the Breast Cancer Research Account and the Breast
10 Cancer Control Account. The revenues deposited in the fund shall
11 be divided equally between the two accounts.
12 (b) The moneys in the accounts within the Breast Cancer Fund
13 shall, upon appropriation by the Legislature, be allocated as
14 follows:
15 (1) The moneys in the Breast Cancer Research Account shall
16 be allocated for research with respect to the cause, cure, treatment,
17 earlier detection, and prevention of breast cancer as follows:
18 (A) Ten percent to the Cancer Surveillance Section of the State
19 Department of ~~Public Health Services~~ for the collection of breast
20 cancer-related data and the conduct of breast cancer-related
21 epidemiological research by the state cancer registry established
22 pursuant to Section 103885 of the Health and Safety Code.
23 (B) Ninety percent to the Breast Cancer Research Program, that
24 is hereby created at the University of California, for the awarding
25 of grants and contracts to researchers for research with respect to
26 the cause, cure, treatment, prevention, and earlier detection of
27 breast cancer and with respect to the cultural barriers to accessing

1 the health care system for early detection and treatment of breast
2 cancer.

3 (2) The moneys in the Breast Cancer Control Account shall be
4 allocated to the Breast Cancer Control Program, that is hereby
5 created for the provision of early breast cancer detection services
6 for uninsured and underinsured women. The Breast Cancer Control
7 Program shall be established in the State Department of *Public*
8 ~~Health Services~~ and shall be administered in coordination with the
9 breast and cervical cancer control program established pursuant
10 to Public Law 101-354.

11 (c) The early breast cancer detection services provided by the
12 Breast Cancer Control Program shall include all of the following:

13 (1) Screening, including mammography, of women for breast
14 cancer as an early detection health care measure.

15 (2) After screening, medical referral of screened women and
16 services necessary for definitive diagnosis, including
17 nonradiological techniques or biopsy.

18 (3) If a positive diagnosis is made, then assistance and advocacy
19 shall be provided to help the person obtain necessary treatment.

20 (4) Outreach and health education activities to ensure that
21 uninsured and underinsured women are aware of and appropriately
22 utilize the services provided by the Breast Cancer Control Program.

23 (d) (1) Any entity funded by the Breast Cancer Control Program
24 shall coordinate with other local providers of breast cancer
25 screening, diagnostic, followup, education, and advocacy services
26 to avoid duplication of effort. Any entity funded by the program
27 shall comply with any applicable state and federal standards
28 regarding mammography quality assurance.

29 (2) *To the extent required or permitted by federal law, a provider*
30 *of breast cancer screening or diagnostic services may employ*
31 *digital mammography technology for the purposes of*
32 *mammography screening and diagnostic procedures that are*
33 *conducted prior to January 1, 2014, when film, otherwise known*
34 *as analog, mammography technology is unavailable. To the extent*
35 *required or permitted by federal law and notwithstanding*
36 *paragraph (3) of subdivision (a) of Section 14105.18 of the Welfare*
37 *and Institutions Code, the payment rate for all mammography*
38 *screening that is conducted prior to January 1, 2014, shall be*
39 *limited to the Medi-Cal payment rate for film mammography*
40 *screening.*

1 (e) (1) *The State Department of Public Health shall provide*
2 *for breast cancer screening services at the level of funding*
3 *budgeted from state and other resources during the fiscal year in*
4 *which the Legislature has appropriated funds to the department*
5 *for this purpose.*

6 ~~(e)~~

7 (2) Administrative costs of the State Department of *Public*
8 ~~Health Services~~ shall not exceed 10 percent of the funds allocated
9 to the Breast Cancer Control Program created pursuant to paragraph
10 (2) of subdivision (b). Indirect costs of the entities funded by this
11 program shall not exceed 12 percent. The department shall define
12 “indirect costs” in accordance with applicable state and federal
13 law.

14 (f) Any entity funded by the Breast Cancer Control Program
15 shall collect data and maintain records that are determined by the
16 State Department of *Public Health Services* to be necessary to
17 facilitate the state department’s ability to monitor and evaluate the
18 effectiveness of the entities and the program. Commencing with
19 the program’s second year of operation, the State Department of
20 *Public Health Services* shall submit an annual report to the
21 Legislature and any other appropriate entity. The costs associated
22 with this report shall be paid from the allocation made pursuant
23 to paragraph (2) of subdivision (b). The report shall describe the
24 activities and effectiveness of the program and shall include, but
25 not be limited to, the following types of information regarding
26 those served by the program:

27 (1) The number.

28 (2) The ethnic, geographic, and age breakdown.

29 (3) The stages of presentation.

30 (4) The diagnostic and treatment status.

31 (g) The Breast Cancer Control Program shall be conducted in
32 consultation with the Breast Cancer Research Program created
33 pursuant to subparagraph (B) of paragraph (1) of subdivision (b).

34 (h) In implementing the Breast Cancer Control Program, the
35 State Department of *Public Health Services* may appoint and
36 consult with an advisory panel appointed by the ~~State Director of~~
37 ~~Health Services~~ *Public Health Officer* and consisting of one ex
38 officio, nonvoting member from the Breast Cancer Research
39 Program, breast cancer researchers, and representatives from
40 voluntary, nonprofit health organizations, health care professional

1 organizations, breast cancer survivor groups, and breast cancer
2 and health care-related advocacy groups. It is the intent of the
3 Legislature that breast cancer-related survivors and advocates and
4 health advocates for low-income women compose at least one-third
5 of the advisory panel. It is also the intent of the Legislature that
6 the State Department of *Public Health Services* collaborate closely
7 with the panel.

8 (i) It is the intent of the Legislature in enacting the Breast Cancer
9 Control Program to decrease cancer mortality rates attributable to
10 breast cancer among uninsured and underinsured women, with
11 special emphasis on low-income, Native American, and minority
12 women. It is also the intent of the Legislature that the communities
13 served by the Breast Cancer Control Program reflect the ethnic,
14 racial, cultural, and geographic diversity of the state and that the
15 Breast Cancer Control Program fund entities where uninsured and
16 underinsured women are most likely to seek their health care.

17 (j) The State Department of *Public Health Services* or any entity
18 funded by the Breast Cancer Control Program shall collect personal
19 and medical information necessary to administer this program
20 from any individual applying for services under the program. The
21 information shall be confidential and shall not be disclosed other
22 than for purposes directly connected with the administration of
23 this program or except as otherwise provided by law or pursuant
24 to prior written consent of the subject of the information.

25 The State Department of *Public Health Services* or any entity
26 funded by the Breast Cancer Control Program may disclose the
27 confidential information to medical personnel and fiscal
28 intermediaries of the state to the extent necessary to administer
29 this program, and to other state public health agencies or medical
30 researchers when the confidential information is necessary to carry
31 out the duties of those agencies or researchers in the investigation,
32 control, or surveillance of breast cancer.

33 (k) The State Department of *Public Health Services* shall adopt
34 regulations to implement this act in accordance with the
35 Administrative Procedure Act (Chapter 3.5 (commencing with
36 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
37 Code). The initial adoption of implementing regulations shall be
38 deemed an emergency and shall be considered as necessary for
39 the immediate preservation of the public peace, health and safety,
40 or general welfare, within the meaning of Section 11346.1.

1 Emergency regulations adopted pursuant to this section shall
2 remain in effect for no more than 180 days.

3 (l) It is the intent of the Legislature in enacting this section that
4 this section supersede and be operative in place of Section 30461.6
5 of the Revenue and Taxation Code as added by Assembly Bill 478
6 of the 1993–94 Regular Session.

7 (m) To implement the Breast Cancer Control Program, the State
8 Department of *Public Health Services* may contract, to the extent
9 permitted by Section 19130 of the Government Code, with public
10 and private entities, or utilize existing health care service provider
11 enrollment and payment mechanisms, including the Medi-Cal
12 program’s fiscal intermediary. However, the Medi-Cal program’s
13 fiscal intermediary shall only be utilized if services provided under
14 the program are specifically identified and reimbursed in a manner
15 that does not claim federal financial reimbursement. Any contracts
16 with, and the utilization of, the Medi-Cal program’s fiscal
17 intermediary shall not be subject to Chapter 3 (commencing with
18 Section 12100) of Part 2 of Division 2 of the Public Contract Code.
19 Contracts to implement the Breast Cancer Control Program entered
20 into by the State Department of *Public Health Services* with entities
21 other than the Medi-Cal program’s fiscal intermediary shall not
22 be subject to Part 2 (commencing with Section 10100) of Division
23 2 of the Public Contract Code.

24 ~~SECTION 1. Section 104150 of the Health and Safety Code~~
25 ~~is amended to read:~~

26 ~~104150. (a) A provider or entity that participates in the grant~~
27 ~~made to the department by the federal Centers for Disease Control~~
28 ~~and Prevention breast and cervical cancer early detection program~~
29 ~~established under Title XV of the Public Health Service Act (42~~
30 ~~U.S.C. Sec. 300k et seq.) in accordance with requirements of~~
31 ~~Section 1504 of that act (42 U.S.C. Sec. 300n) may only render~~
32 ~~screening services under the grant to an individual if the provider~~
33 ~~or entity determines that the individual’s family income does not~~
34 ~~exceed 200 percent of the federal poverty level.~~

35 ~~(b) (1) The department shall provide for breast cancer and~~
36 ~~cervical cancer screening services under the grant at the level of~~
37 ~~funding budgeted from state and other resources during the fiscal~~
38 ~~year in which the Legislature has appropriated funds to the~~
39 ~~department for this purpose. These screening services shall not be~~
40 ~~deemed to be an entitlement.~~

1 ~~(2) For all mammography screening procedures conducted prior~~
2 ~~to January 1, 2014, the following provisions apply:~~

3 ~~(A) A provider may employ digital mammography technology~~
4 ~~for the purposes of this section when analog mammography~~
5 ~~technology is not available.~~

6 ~~(B) The mammography screening reimbursement rate under~~
7 ~~this section shall be limited to the Medi-Cal reimbursement rate~~
8 ~~for analog mammography screening.~~

9 ~~(C) For purposes of this section, digital mammography screening~~
10 ~~may be reimbursed, pursuant to Section 14132.16, only at the~~
11 ~~analog rate and only if the provider agrees to receive~~
12 ~~reimbursement in full at the analog rate.~~

13 ~~(e) To implement the federal breast and cervical cancer early~~
14 ~~detection program specified in this section, the department may~~
15 ~~contract, to the extent permitted by Section 19130 of the~~
16 ~~Government Code, with public and private entities, or utilize~~
17 ~~existing health care service provider enrollment and payment~~
18 ~~mechanisms, including the Medi-Cal program's fiscal intermediary.~~
19 ~~However, the Medi-Cal program's fiscal intermediary shall only~~
20 ~~be used if services provided under the program are specifically~~
21 ~~identified and reimbursed in a manner that does not claim federal~~
22 ~~financial reimbursement. Any contracts with, and the utilization~~
23 ~~of, the Medi-Cal program's fiscal intermediary shall not be subject~~
24 ~~to Chapter 3 (commencing with Section 12100) of Part 2 of~~
25 ~~Division 2 of the Public Contract Code. Contracts to implement~~
26 ~~the federal breast and cervical cancer early detection program~~
27 ~~entered into by the department with entities other than the Medi-Cal~~
28 ~~program's fiscal intermediary shall not be subject to Part 2~~
29 ~~(commencing with Section 10100) of Division 2 of the Public~~
30 ~~Contract Code.~~

31 ~~SEC. 2. Section 14105.18 of the Welfare and Institutions Code,~~
32 ~~as added by Section 2 of Chapter 496 of the Statutes of 2008, is~~
33 ~~amended to read:~~

34 ~~14105.18. (a) Notwithstanding any other provision of law,~~
35 ~~provider rates of payment for services rendered in all of the~~
36 ~~following programs shall be identical to the rates of payment for~~
37 ~~the same service performed by the same provider type pursuant to~~
38 ~~the Medi-Cal program.~~

- 1 ~~(1) The California Children’s Services Program established~~
2 ~~pursuant to Article 5 (commencing with Section 123800) of~~
3 ~~Chapter 3 of Part 2 of Division 106 of the Health and Safety Code.~~
- 4 ~~(2) The Genetically Handicapped Person’s Program established~~
5 ~~pursuant to Article 1 (commencing with Section 125125) of~~
6 ~~Chapter 2 of Part 5 of Division 106 of the Health and Safety Code.~~
- 7 ~~(3) Except as specified in subdivision (b) of Section 104150 of~~
8 ~~the Health and Safety Code, the Breast and Cervical Cancer Early~~
9 ~~Detection Program established pursuant to Article 1.5 (commencing~~
10 ~~with Section 104150) of Chapter 2 of Part 1 of Division 103 of~~
11 ~~the Health and Safety Code and the breast cancer programs~~
12 ~~specified in Section 30461.6 of the Revenue and Taxation Code.~~
- 13 ~~(4) The State-Only Family Planning Program established~~
14 ~~pursuant to Division 24 (commencing with Section 24000).~~
- 15 ~~(5) The Family Planning, Access, Care, and Treatment (Family~~
16 ~~PACT) Waiver Program established pursuant to subdivision (aa)~~
17 ~~of Section 14132.~~
- 18 ~~(b) The director may identify in regulations other programs not~~
19 ~~listed in subdivision (a) in which providers shall be paid rates of~~
20 ~~payment that are identical to the rates of payments in the Medi-Cal~~
21 ~~program pursuant to subdivision (a).~~
- 22 ~~(c) Notwithstanding subdivision (a), services provided under~~
23 ~~the programs described in subdivisions (a) and (b) may be~~
24 ~~reimbursed at rates greater than the Medi-Cal rate that would~~
25 ~~otherwise be applicable if those rates are adopted by the director~~
26 ~~in regulations.~~
- 27 ~~(d) This section shall become operative on January 1, 2010.~~