

AMENDED IN ASSEMBLY JUNE 1, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 369

Introduced by Assembly Member Yamada
(Coauthor: Assembly Member Jones)
(Coauthor: Senator Denham)

February 23, 2009

An act to amend Section 14043.46 of the Welfare and Institutions Code, relating to adult day health care centers.

LEGISLATIVE COUNSEL'S DIGEST

AB 369, as amended, Yamada. Adult day health care centers.

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

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. Under existing law, participation in an adult day health care program requires prior authorization by the State Department of Health Care Services.

Existing law authorizes the State Department of Health Care Services to implement a 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, subject to certain limitations. Existing law provides that the moratorium shall not apply to certain applicants.

This bill would add a state-owned and operated ~~property~~, *property* for which facility planning began during or before ~~2002~~, *2002* that was funded by state bonds and federal grants to serve veterans who reside in California, to the list of applicants that are not subject to the moratorium.

This bill would also make technical, nonsubstantive changes to these provisions.

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 14043.46 of the Welfare and Institutions
2 Code is amended to read:

3 14043.46. (a) Notwithstanding any other provision of law, on
4 the effective date of the act adding this section, the department
5 may implement a one-year moratorium on the certification and
6 enrollment into the Medi-Cal program of new adult day health
7 care centers on a statewide basis or within a geographic area.

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

9 (1) Programs of All-Inclusive Care for the Elderly (PACE)
10 established pursuant to Chapter 8.75 (commencing with Section
11 14590).

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

15 (3) An organization that currently holds a designation as a
16 federally qualified rural health clinic as defined in Section
17 1396d(l)(1) of Title 42 of the United States Code.

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

22 (5) Commencing May 1, 2006, an applicant for certification
23 that meets all of the following:

24 (A) Is serving persons discharged into community housing from
25 a nursing facility operated by the City and County of San Francisco.

1 (B) Has submitted, after December 31, 2005, but prior to
2 February 1, 2006, an application for certification that has not been
3 denied.

4 (C) Meets all criteria for certification imposed under this article
5 and is licensed as an adult day health care center pursuant to
6 Chapter 3.3 (commencing with Section 1570) of Division 2 of the
7 Health and Safety Code.

8 (6) An applicant that is requesting expansion or relocation, or
9 both, that has been Medi-Cal certified as an adult day health care
10 center for at least four years, is expanding or relocating within the
11 same county, and that meets one of the following population-based
12 criteria as reported in the California Long Term Care County Data
13 Book, 2002:

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

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

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

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

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

29 (B) The referring regional center submits a letter to the Director
30 of Health Care Services supporting the applicant for certification
31 as an adult day health care provider for this special population.

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

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

38 (8) A state-owned and operated property; for which facility
39 planning began during or before 2002; that was funded by state
40 bonds and federal grants to serve veterans who reside in California.

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

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

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

(B) Has a license in good standing.

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

(D) Has met all requirements for the change *of ownership* application.

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

(A) Be located in the same county as the existing licensed center.

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

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

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

(1) The applicant has control of a facility, either by ownership or lease agreement, that will house the adult day health care center, has provided to the department all necessary documents and fees,

1 and has completed and submitted all required fingerprinting forms
2 to the department.

3 (2) The physical location of the applicant's or licensee's adult
4 day health care center is in an underserved area, which is defined
5 as a county having 2 percent or fewer Medi-Cal beneficiaries over
6 the age of 65 years using adult day health care services, based on
7 2002 calendar year Medi-Cal utilization data.

8 (e) During the period of the moratorium, a licensee or applicant
9 that meets the criteria for an exemption as defined in subdivision
10 (d) may submit a written request for an exemption to the director.

11 (f) If the director determines that a new adult day health care
12 licensee or applicant meets the exemption criteria, the director
13 may certify the licensee or applicant, once licensed, for
14 participation in the Medi-Cal program.

15 (g) The director may extend this moratorium, if necessary, to
16 coincide with the implementation date of the adult day health care
17 waiver.

18 (h) The authority granted in this section shall not be interpreted
19 as a limitation on the authority granted to the department in any
20 other section.