

AMENDED IN SENATE AUGUST 18, 2009
AMENDED IN ASSEMBLY MARCH 26, 2009
CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 839

Introduced by Assembly Member Emmerson

February 26, 2009

An act to amend Sections 14043.28 and 14104.5 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 839, as amended, Emmerson. Medi-Cal: providers: remedies.

(1) Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which basic health care services are provided to qualified low-income persons.

Existing law requires that health care providers apply to, and be certified by, the department prior to their participation in the Medi-Cal program.

Existing law allows the department, if specified conditions are met, to grant provisional provider status or preferred provisional provider status to an applicant or provider, and requires the department to terminate that status if any of specified grounds exist.

Existing law provides that, if an application for provisional provider status or preferred provisional provider status is denied under specified provisions, or that status is terminated under the provisions described above, the applicant or provider is prohibited from reapplying for enrollment or continued enrollment in the Medi-Cal program or for participation in any health care program administered by the department for a period of 3 years from the date the application package is denied

or the provisional provider status is terminated, or from the date of the final decision following an appeal from that denial or termination, except as specified.

Existing law provides that, if an application for provisional provider status or preferred provisional provider status is denied based upon a conviction for specified offenses or acts, the applicant or provider is prohibited from reapplying for enrollment or continued enrollment in the Medi-Cal program or for participation in any health care program administered by the department for a period of 10 years from the date the application package is denied or the provisional provider status or preferred provisional provider status is terminated, or from the date of the final decision following an appeal from that denial or termination.

This bill would delete the provisions that provide that the 3-year and 10-year prohibitions may begin from the date of the final decision following an appeal from that denial or termination.

(2) Existing law requires the Director of Health Care Services to adopt procedures for the review of grievances or complaints filed by Medi-Cal service providers concerning the processing or payment of money that the provider alleges is payable under the Medi-Cal program. A provider who complies with these procedures and is not satisfied with the director’s decision regarding that claim may seek appropriate judicial remedies within a specified time period.

This bill would, instead, specify that the provider who has complied with these procedures may, within the time period prescribed in existing law, seek a writ of mandate.

(3) This bill would incorporate additional changes in Section 14043.28 of the Welfare and Institutions Code proposed by AB 1540, that would become operative only if AB 1540 and this bill are both chaptered and become effective on or before January 1, 2010, and this bill is chaptered last.

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 14043.28 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 14043.28. (a) (1) If an application package is denied under
- 4 Section 14043.26 or provisional provider status or preferred
- 5 provisional provider status is terminated under Section 14043.27,

1 the applicant or provider shall be prohibited from reapplying for
2 enrollment or continued enrollment in the Medi-Cal program or
3 for participation in any health care program administered by the
4 department or its agents or contractors for a period of three years
5 from the date the application package is denied or the provisional
6 provider status is terminated, except as provided otherwise in
7 paragraph (2) of subdivision (e), or paragraph (2) of subdivision
8 (f), of Section 14043.26 and as set forth in this section.

9 (2) If the application is denied under paragraph (2) of
10 subdivision (e) of Section 14043.26 because the applicant failed
11 to resubmit an incomplete application package or is denied under
12 paragraph (2) of subdivision (f) of Section 14043.26 because the
13 applicant failed to remediate discrepancies, the applicant may
14 resubmit an application in accordance with paragraph (2) of
15 subdivision (d) or paragraph (2) of subdivision (f), respectively.

16 (3) If the denial of the application package is based upon a
17 conviction for any offense or for any act included in Section
18 14043.36 or termination of the provisional provider status or
19 preferred provisional provider status is based upon a conviction
20 for any offense or for any act included in paragraph (1) of
21 subdivision (c) of Section 14043.27, the applicant or provider shall
22 be prohibited from reapplying for enrollment or continued
23 enrollment in the Medi-Cal program or for participation in any
24 health care program administered by the department or its agents
25 or contractors for a period of 10 years from the date the application
26 package is denied or the provisional provider status or preferred
27 provisional provider status is terminated.

28 (4) If the denial of the application package is based upon two
29 or more convictions for any offense or for any two or more acts
30 included in Section 14043.36 or termination of the provisional
31 provider status or preferred provisional provider status is based
32 upon two or more convictions for any offense or for any two acts
33 included in paragraph (1) of subdivision (c) of Section 14043.27,
34 the applicant or provider shall be permanently barred from
35 enrollment or continued enrollment in the Medi-Cal program or
36 for participation in any health care program administered by the
37 department or its agents or contractors.

38 (5) The prohibition in paragraph (1) against reapplying for three
39 years shall not apply if the denial of the application or termination

1 of provisional provider status or preferred provisional provider
2 status is based upon any of the following:

3 (A) The grounds provided for in paragraph (4), or subparagraph
4 (B) of paragraph (7), of subdivision (c) of Section 14043.27.

5 (B) The grounds provided for in subdivision (d) of Section
6 14043.27, if the investigation is closed without any adverse action
7 being taken.

8 (C) The grounds provided for in paragraph (6) of subdivision
9 (c) of Section 14043.27. However, the department may deny
10 reimbursement for claims submitted while the provider was
11 noncompliant with CLIA.

12 (b) (1) If an application package is denied under subparagraph
13 (A), (B), or (D) of paragraph (4) of subdivision (d) of Section
14 14043.26, or with respect to a provider described in subparagraph
15 (B) of paragraph (2) of subdivision (e), or subparagraph (B) of
16 paragraph (2) of subdivision (f), of Section 14043.26, or provisional
17 provider status or preferred provisional provider status is terminated
18 based upon any of the grounds stated in subparagraph (A) of
19 paragraph (7), or paragraphs (1), (2), (3), (5), and (8) to (12),
20 inclusive, of subdivision (c) of Section 14043.27, all business
21 addresses of the applicant or provider shall be deactivated and the
22 applicant or provider shall be removed from enrollment in the
23 Medi-Cal program by operation of law.

24 (2) If the termination of provisional provider status is based
25 upon the grounds stated in subdivision (d) of Section 14043.27
26 and the investigation is closed without any adverse action being
27 taken, or is based upon the grounds in subparagraph (B) of
28 paragraph (7) of subdivision (c) of Section 14043.27 and the
29 applicant or provider obtains the appropriate license, permits, or
30 approvals covering the period of provisional provider status, the
31 termination taken pursuant to subdivision (c) of Section 14043.27
32 shall be rescinded, the previously deactivated provider numbers
33 shall be reactivated, and the provider shall be reenrolled in the
34 Medi-Cal program, unless there are other grounds for taking these
35 actions.

36 (c) Claims that are submitted or caused to be submitted by an
37 applicant or provider who has been suspended from the Medi-Cal
38 program for any reason or who has had its provisional provider
39 status terminated or had its application package for enrollment or
40 continued enrollment denied and all business addresses deactivated

1 may not be paid for services, goods, merchandise, or supplies
2 rendered to Medi-Cal beneficiaries during the period of suspension
3 or termination or after the date all business addresses are
4 deactivated.

5 *SEC. 1.5. Section 14043.28 of the Welfare and Institutions*
6 *Code is amended to read:*

7 14043.28. (a) (1) If an application package is denied under
8 Section 14043.26 or provisional provider status or preferred
9 provisional provider status is terminated under Section 14043.27,
10 the applicant or provider ~~may not reapply~~ *shall be prohibited from*
11 *reapplying* for enrollment or continued enrollment in the Medi-Cal
12 program or for participation in any health care program
13 administered by the department or its agents or contractors for a
14 period of three years from the date the application package is
15 denied or the provisional provider status is terminated, ~~or from the~~
16 ~~date of the final decision following an appeal from that denial or~~
17 ~~termination~~, except as provided otherwise in paragraph (2) of
18 subdivision ~~(e)~~ (h), or paragraph (2) of subdivision ~~(f)~~ (i), of
19 Section 14043.26 and as set forth in this section.

20 (2) If the application is denied under paragraph (2) of
21 subdivision ~~(e)~~ (h) of Section 14043.26 because the applicant failed
22 to resubmit an incomplete application package or is denied under
23 paragraph (2) of subdivision ~~(f)~~ (i) of Section 14043.26 because
24 the applicant failed to remediate discrepancies, the applicant may
25 resubmit an application in accordance with paragraph (2) of
26 subdivision ~~(d)~~ (h) or paragraph (2) of subdivision ~~(f)~~ (i),
27 respectively.

28 (3) If the denial of the application package is based upon a
29 conviction for any offense or for any act included in Section
30 14043.36 or termination of the provisional provider status or
31 preferred provisional provider status is based upon a conviction
32 for any offense or for any act included in paragraph (1) of
33 subdivision (c) of Section 14043.27, the applicant or provider ~~may~~
34 ~~not reapply~~ *shall be prohibited from reapplying* for enrollment or
35 continued enrollment in the Medi-Cal program or for participation
36 in any health care program administered by the department or its
37 agents or contractors for a period of 10 years from the date the
38 application package is denied or the provisional provider status or
39 preferred provisional provider status is terminated ~~or from the date~~

1 of the final decision following an appeal from that denial or
 2 termination.

3 (4) If the denial of the application package is based upon two
 4 or more convictions for any offense or for any two or more acts
 5 included in Section 14043.36 or termination of the provisional
 6 provider status or preferred provisional provider status is based
 7 upon two or more convictions for any offense or for any two acts
 8 included in paragraph (1) of subdivision (c) of Section 14043.27,
 9 the applicant or provider shall be permanently barred from
 10 enrollment or continued enrollment in the Medi-Cal program or
 11 for participation in any health care program administered by the
 12 department or its agents or contractors.

13 (5) The prohibition in paragraph (1) against reapplying for three
 14 years shall not apply if the denial of the application or termination
 15 of provisional provider status or preferred provisional provider
 16 status is based upon any of the following:

17 (A) The grounds provided for in paragraph (4), or subparagraph
 18 (B) of paragraph (7), of subdivision (c) of Section 14043.27.

19 (B) The grounds provided for in subdivision (d) of Section
 20 14043.27, if the investigation is closed without any adverse action
 21 being taken.

22 (C) The grounds provided for in paragraph (6) of subdivision
 23 (c) of Section 14043.27. However, the department may deny
 24 reimbursement for claims submitted while the provider was
 25 noncompliant with CLIA.

26 (b) (1) If an application package is denied under subparagraph
 27 (A), (B), or (D) of paragraph (4) of subdivision ~~(d)~~ (f) of Section
 28 14043.26, or with respect to a provider described in subparagraph
 29 (B) of paragraph (2) of subdivision ~~(e)~~ (h), or subparagraph (B)
 30 of paragraph (2) of subdivision ~~(f)~~ (i), of Section 14043.26, or
 31 provisional provider status or preferred provisional provider status
 32 is terminated based upon any of the grounds stated in subparagraph
 33 (A) of paragraph (7), or paragraphs (1), (2), (3), (5), and (8) to
 34 (12), inclusive, of subdivision (c) of Section 14043.27, all business
 35 addresses of the applicant or provider shall be deactivated and the
 36 applicant or provider shall be removed from enrollment in the
 37 Medi-Cal program by operation of law.

38 (2) If the termination of provisional provider status is based
 39 upon the grounds stated in subdivision (d) of Section 14043.27
 40 and the investigation is closed without any adverse action being

1 taken, or is based upon the grounds in subparagraph (B) of
2 paragraph (7) of subdivision (c) of Section 14043.27 and the
3 applicant or provider obtains the appropriate license, permits, or
4 approvals covering the period of provisional provider status, the
5 termination taken pursuant to subdivision (c) of Section 14043.27
6 shall be rescinded, the previously deactivated provider numbers
7 shall be reactivated, and the provider shall be reenrolled in the
8 Medi-Cal program, unless there are other grounds for taking these
9 actions.

10 (c) Claims that are submitted or caused to be submitted by an
11 applicant or provider who has been suspended from the Medi-Cal
12 program for any reason or who has had its provisional provider
13 status terminated or had its application package for enrollment or
14 continued enrollment denied and all business addresses deactivated
15 may not be paid for services, goods, merchandise, or supplies
16 rendered to Medi-Cal beneficiaries during the period of suspension
17 or termination or after the date all business addresses are
18 deactivated.

19 SEC. 2. Section 14104.5 of the Welfare and Institutions Code
20 is amended to read:

21 14104.5. Notwithstanding any other provision of law, the
22 director shall by regulation adopt such procedures as are necessary
23 for the review of a grievance or complaint concerning the
24 processing or payment of money alleged by a provider of services
25 to be payable by reason of any of the provisions of this chapter.
26 After complying with these procedures, if the provider is not
27 satisfied with the director's decision on his or her claim, he or she
28 may not later than one year after receiving notice of the decision,
29 file a petition for writ of mandate pursuant to Section 1085 of the
30 Code of Civil Procedure in the superior court. This section shall
31 be the exclusive remedy available to the provider of services for
32 moneys alleged to be payable by reason of this chapter.

33 This section shall not apply to those grievances or complaints
34 arising from the findings of an audit or examination made by or
35 on behalf of the director pursuant to Sections 10722 and 14170.
36 Article 5.3 (commencing with Section 14170) shall govern the
37 grievances or complaints.

38 *SEC. 3. Section 1.5 of this bill incorporates amendments to*
39 *Section 14043.28 of the Welfare and Institutions Code proposed*
40 *by both this bill and AB 1540. It shall only become operative if (1)*

- 1 *both bills are enacted and become effective on or before January*
- 2 *1, 2010, (2) each bill amends Section 14043.28 of the Welfare and*
- 3 *Institutions Code, and (3) this bill is enacted after AB 1540, in*
- 4 *which case Section 1 of this bill shall not become operative.*

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