

AMENDED IN ASSEMBLY APRIL 27, 2010

AMENDED IN ASSEMBLY MARCH 22, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2590**

---

---

**Introduced by Assembly Member Bonnie Lowenthal**

February 19, 2010

---

---

An act to add Section 14132.31 to the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 2590, as amended, Bonnie Lowenthal. Medi-Cal: disease management programs: HIV/AIDS: disclosure of ~~data~~*information*: contractors.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income persons receive health care services. Existing law requires the department to apply for a waiver of federal law to test the efficacy of providing a disease management benefit, as described, to specified beneficiaries under the Medi-Cal program.

This bill would authorize the department to, in accordance with federal law, provide to an entity that contracts with the state to provide disease management services to persons with the human immunodeficiency virus (HIV) or acquired immunodeficiency syndrome (AIDS) ~~all data~~ *certain information* in the department's possession that is necessary to identify and enroll persons who are eligible for the disease management program, *provided that the department possesses a signed informed consent form, as described, from each person whose information is disclosed*. This bill would impose certain requirements on the

above-described contractors to protect the confidentiality of the data provided to the contractor by the department.

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 14132.31 is added to the Welfare and
- 2 Institutions Code, to read:
- 3 14132.31. (a) (1) Notwithstanding any other provision of state
- 4 law, the department may, in accordance with federal law, provide
- 5 to an entity that contracts with the state to provide disease
- 6 management services to persons with the human immunodeficiency
- 7 virus (HIV) or acquired immunodeficiency syndrome (AIDS) ~~all~~
- 8 ~~data~~ *the following information* in the department’s possession that
- 9 is necessary to identify and enroll persons who are eligible for the
- 10 disease management program, *provided that the department*
- 11 *possesses a signed informed consent form described in subdivision*
- 12 *(d) for each person whose information is disclosed pursuant to*
- 13 *this section:*
- 14 (A) *Contact information of Medi-Cal enrollees who are eligible*
- 15 *for the disease management program.*
- 16 (B) *The name and contact information of the Medi-Cal*
- 17 *enrollees’ Medi-Cal-contracted health care providers.*
- 18 (C) *The number of visits by the Medi-Cal enrollees to each of*
- 19 *the Medi-Cal-contracted health care providers in the past 18*
- 20 *months.*
- 21 (2) *The information provided pursuant to paragraph (1) shall*
- 22 *not include treatment information, billing codes, or other*
- 23 *information that is unique to the patient and protected by the*
- 24 *confidential relationship between the provider and the patient.*
- 25 (3) *For purposes of this section, “health care provider” shall*
- 26 *include hospitals, pharmacies, and physicians.*
- 27 (b) (1) The contractor described in subdivision (a) shall do all
- 28 of the following:
- 29 (A) Use only materials that are approved by the department for
- 30 outreach to potential enrollees in the disease management program.
- 31 (B) Implement and maintain procedures that are approved by
- 32 the department that guard against disclosure of confidential

1 information to unauthorized persons, *including compliance with*  
2 *Section 120980 of the Health and Safety Code.*

3 (C) Inform each enrollee in the disease management program  
4 of his or her right to confidentiality and obtain the enrollee's  
5 consent prior to release of confidential information, unless prior  
6 consent is specifically not required.

7 (2) The contractor shall not disclose protected health information  
8 supplied by the department to subcontractors for outreach and  
9 enrollment purposes.

10 (3) (A) *The contractor shall not use outreach activities to*  
11 *potential enrollees or enrollees in its disease management program*  
12 *to market other services that the contractor is authorized to*  
13 *provide.*

14 (B) *This paragraph shall not be construed to prohibit an enrollee*  
15 *in the disease management program from using other services*  
16 *provided by the contractor.*

17 (c) Nothing in this section shall be construed to allow the  
18 department to access the data reported and collected pursuant to  
19 Section 121022 of the Health and Safety Code.

20 (d) (1) *A person with HIV or AIDS who enrolls or reenrolls in*  
21 *the Medi-Cal program shall be offered an opportunity to provide*  
22 *his or her informed consent to having the information described*  
23 *in subdivision (a) shared with an entity that contracts with the*  
24 *state to provide disease management services to persons with HIV*  
25 *or AIDS.*

26 (2) (A) *If the enrollee chooses to provide informed consent, he*  
27 *or she shall provide that consent by signing an informed consent*  
28 *form.*

29 (B) *The informed consent form shall provide notice to the*  
30 *enrollee of all of the following:*

31 (i) *Providing informed consent is voluntary.*

32 (ii) *The enrollee does not need to provide informed consent for*  
33 *purposes of being eligible for any medical services or treatment,*  
34 *including, but not limited to, services or treatment provided under*  
35 *the Medi-Cal program.*

36 (iii) *The name of the entity that contracts with the state to*  
37 *provide disease management services to persons with HIV or AIDS.*

38 (iv) *Only the information described in subdivision (a) shall be*  
39 *shared with the entity identified pursuant to clause (iii).*

- 1     (v) *The methods that the entity identified pursuant to clause (iii)*
- 2 *may use to contact the enrollee.*
- 3     (vi) *Any contact of the enrollee by the entity identified pursuant*
- 4 *to clause (iii) shall occur within one year from the date the enrollee*
- 5 *signs the informed consent form.*
- 6     (C) *The informed consent form shall be written in a language*
- 7 *in which the enrollee is fluent.*
- 8     (D) *Any informed consent form shall be subject to approval by*
- 9 *the department.*
- 10    (3) *An enrollee may revoke his or her consent for release of*
- 11 *information at any time. Facilities that have informed consent*
- 12 *forms available for enrollees to sign shall also make revocation*
- 13 *of informed consent forms available to enrollees upon the request*
- 14 *of the enrollee.*
- 15     (e) *This section shall not apply to any disclosures made by the*
- 16 *department prior to the date this section becomes effective.*