

AMENDED IN SENATE JUNE 27, 2011

AMENDED IN ASSEMBLY APRIL 28, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 62**

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**Introduced by Assembly Member Monning**

December 7, 2010

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An act to amend Section 14132.275 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 62, as amended, Monning. Medi-Cal: dual eligibles: pilot projects. 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 benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions. Existing federal law provides for the federal Medicare Program, which is a public health insurance program for persons 65 years of age and older and specified persons with disabilities who are under 65 years of age. Existing law, to the extent that federal financial participation is available, and pursuant to a demonstration project or waiver of federal law, requires the department to establish pilot projects in up to 4 counties, to develop effective health care models to provide services to persons who are dually eligible under both the Medi-Cal and Medicare programs. Existing law requires the department to, not sooner than March 1, 2011, identify health care models that may be included in a pilot project, develop a timeline and process for selecting, financing, monitoring, and evaluating the pilot projects, and provide this timeline and process to certain committees of the Legislature.

This bill would ~~provide that, in relation to the requirement that the department seek federal approval to establish the pilot projects, the department may seek federal approval pursuant to a response~~ *authorize the department to also establish these pilot projects pursuant to a request for proposal from the federal Centers for Medicare and Medicaid Services. This bill would require the department to consult with stakeholders, including, among others, representatives of advocacy organizations, persons with disabilities, seniors, and representatives of legal services agencies that serve dual eligibles, on a regular basis throughout the development and implementation of the pilot projects.*

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 14132.275 of the Welfare and Institutions  
2 Code is amended to read:  
3 14132.275. (a) The department shall seek federal approval to  
4 establish pilot projects described in this section pursuant to a  
5 Medicare or a Medicaid demonstration project or waiver, *or a*  
6 *combination thereof, or in response to a request for proposal from*  
7 ~~the federal Centers for Medicare and Medicaid Services.~~ Under a  
8 Medicare demonstration, the department may operate the Medicare  
9 component of a pilot project as a delegated Medicare benefit  
10 administrator, and may enter into financing arrangements with the  
11 federal Centers for Medicare and Medicaid Services to share in  
12 any Medicare program savings generated by the operation of any  
13 pilot project. *The department may also establish pilot projects*  
14 *described in this section pursuant to a request for proposal from*  
15 *the federal Centers for Medicare and Medicaid Services.*  
16 (b) After federal approval is obtained, the department shall  
17 establish pilot projects that enable dual eligibles to receive a  
18 continuum of services, and that maximize the coordination of  
19 benefits between the Medi-Cal and Medicare programs and access  
20 to the continuum of services needed. The purpose of the pilot  
21 projects is to develop effective health care models that integrate  
22 services authorized under the federal Medicaid Program (Title  
23 XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et  
24 seq.)) and the federal Medicare Program (Title XVIII of the federal  
25 Social Security Act (42 U.S.C. Sec. 1395 et seq.)). These pilot

1 projects may also include additional services as approved through  
2 a demonstration project or waiver, or a combination thereof.

3 (c) Not sooner than March 1, 2011, the department shall identify  
4 health care models that may be included in a pilot project, shall  
5 develop a timeline and process for selecting, financing, monitoring,  
6 and evaluating these pilot projects, and shall provide this timeline  
7 and process to the appropriate fiscal and policy committees of the  
8 Legislature. The department may implement these pilot projects  
9 in phases.

10 (d) Goals for the pilot projects shall include all of the following:

11 (1) Coordinating Medi-Cal benefits, Medicare benefits, or both,  
12 across health care settings and improving continuity of acute care,  
13 long-term care, and home- and community-based services.

14 (2) Coordinating access to acute and long-term care services  
15 for dual eligibles.

16 (3) Maximizing the ability of dual eligibles to remain in their  
17 homes and communities with appropriate services and supports in  
18 lieu of institutional care.

19 (4) Increasing the availability of and access to home- and  
20 community-based alternatives.

21 (e) Pilot projects shall be established in up to four counties, and  
22 shall include at least one county that provides Medi-Cal services  
23 via a two-plan model pursuant to Article 2.7 (commencing with  
24 Section 14087.3) and at least one county that provides Medi-Cal  
25 services under a county organized health system pursuant to Article  
26 2.8 (commencing with Section 14087.5). In determining the  
27 counties in which to establish a pilot project, the director shall  
28 consider the following:

29 (1) Local support for integrating medical care, long-term care,  
30 and home- and community-based services networks.

31 (2) A local stakeholder process that includes health plans,  
32 providers, community programs, consumers, and other interested  
33 stakeholders in the development, implementation, and continued  
34 operation of the pilot project.

35 (f) The director may enter into exclusive or nonexclusive  
36 contracts on a bid or negotiated basis and may amend existing  
37 managed care contracts to provide or arrange for services provided  
38 under this section. Contracts entered into or amended pursuant to  
39 this section shall be exempt from the provisions of Chapter 2  
40 (commencing with Section 10290) of Part 2 of Division 2 of the

1 Public Contract Code and Chapter 6 (commencing with Section  
2 14825) of Part 5.5 of Division 3 of Title 2 of the Government  
3 Code.

4 (g) Services under Section 14132.95 or 14132.952, or Article  
5 7 (commencing with Section 12300) of Chapter 3 that are provided  
6 under the pilot projects established by this section shall be provided  
7 through direct hiring of personnel, contract, or establishment of a  
8 public authority or nonprofit consortium, in accordance with, and  
9 subject to, the requirements of Section 12302 or 12301.6, as  
10 applicable.

11 (h) Notwithstanding any other provision of state law, the  
12 department may require that dual eligibles be assigned as  
13 mandatory enrollees into managed care plans established or  
14 expanded as part of a pilot project established under this section.  
15 Mandatory enrollment in managed care for dual eligibles shall be  
16 applicable to the beneficiary's Medi-Cal benefits only. Dual  
17 eligibles shall have the option to enroll in a Medicare Advantage  
18 special needs plan (SNP) offered by the managed care plan  
19 established or expanded as part of a pilot project established  
20 pursuant to subdivision (e). To the extent that mandatory  
21 enrollment is required, any requirement of the department and the  
22 health plans, and any requirement of continuity of care protections  
23 for enrollees, as specified in Section 14182, shall be applicable to  
24 this section. Dual eligibles shall have the option to forgo receiving  
25 Medicare benefits under a pilot project. Nothing in this section  
26 shall be interpreted to reduce benefits otherwise available under  
27 the Medi-Cal program or the Medicare Program.

28 (i) For purposes of this section, a "dual eligible" means an  
29 individual who is simultaneously eligible for full scope benefits  
30 under Medi-Cal and the federal Medicare Program.

31 (j) Persons meeting requirements for the Program of  
32 All-Inclusive Care for the Elderly (PACE) pursuant to Chapter  
33 8.75 (commencing with Section 14590), may select a PACE plan  
34 if one is available in that county.

35 (k) Notwithstanding Section 10231.5 of the Government Code,  
36 the department shall conduct an evaluation to assess outcomes and  
37 the experience of dual eligibles in these pilot projects and shall  
38 provide a report to the Legislature after the first full year of pilot  
39 operation, and annually thereafter. A report submitted to the  
40 Legislature pursuant to this subdivision shall be submitted in

1 compliance with Section 9795 of the Government Code. The  
2 department shall consult with stakeholders regarding the scope  
3 and structure of the evaluation.

4 (l) This section shall be implemented only if and to the extent  
5 that federal financial participation or funding is available to  
6 establish these pilot projects.

7 (m) The department shall consult with stakeholders, including,  
8 but not limited to, representatives of advocacy organizations,  
9 persons with disabilities, seniors, representatives of legal services  
10 agencies that serve dual eligibles, specialty care providers, provider  
11 associations, labor, health plans, county government, and the  
12 Legislature, on a regular basis throughout the development and  
13 implementation of the pilot projects.

14 (n) Notwithstanding Chapter 3.5 (commencing with Section  
15 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
16 the department may implement, interpret, or make specific this  
17 section and any applicable federal waivers and state plan  
18 amendments by means of all-county letters, plan letters, plan or  
19 provider bulletins, or similar instructions, without taking regulatory  
20 action. Prior to issuing any letter or similar instrument authorized  
21 pursuant to this section, the department shall notify and consult  
22 with stakeholders, including advocates, providers, and  
23 beneficiaries. The department shall notify the appropriate policy  
24 and fiscal committees of the Legislature of its intent to issue  
25 instructions under this section at least five days in advance of the  
26 issuance.