

AMENDED IN ASSEMBLY APRIL 16, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1553

Introduced by Assembly Member Monning

January 26, 2012

An act to add Section 14103.9 to the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 1553, as amended, Monning. Medi-Cal: managed care: exemption from plan enrollment.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. One of the methods by which these services are provided is pursuant to contracts with various types of managed care plans.

This bill would establish a process that would permit an eligible Medi-Cal beneficiary to receive fee-for-service Medi-Cal, if available, as an alternative to plan enrollment if the beneficiary meets specified criteria. *This bill would provide that these provisions shall not apply to a beneficiary who is enrolled in a county organized health system. This bill would require the department to develop a process to track a beneficiary who has been denied a request for exemption from plan enrollment and to notify the plan, if applicable, of the denial, including information identifying the provider.*

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 14103.9 is added to the Welfare and
2 Institutions Code, to read:

3 14103.9. (a) An eligible Medi-Cal beneficiary who satisfies
4 the requirements in paragraph (1) or (2) may request fee-for-service
5 Medi-Cal, if available, as an alternative to plan enrollment by
6 submitting a request for exemption from plan enrollment to the
7 Health Care Options Program as specified in subdivision (c).

8 (1) The eligible beneficiary is an American Indian, a member
9 of an American Indian household, or chooses to receive health
10 care services through an Indian Health Service facility and has
11 written acceptance from an Indian Health Service facility for care
12 on a fee-for-service basis.

13 (2) An eligible beneficiary who is receiving fee-for-service
14 Medi-Cal treatment or services for a complex medical condition,
15 from a physician, a certified ~~nurse-midwife~~ *nurse-midwife*, or a
16 licensed midwife who is participating in the Medi-Cal program
17 but is not a contracting provider of ~~either~~ *a* plan in the eligible
18 beneficiary's county of residence, may request a medical exemption
19 to continue fee-for-service Medi-Cal for purposes of continuity of
20 care.

21 (A) For purposes of this section, conditions meeting the criteria
22 for a complex medical condition include, and are similar to, the
23 following:

24 (i) An eligible beneficiary is pregnant.

25 (ii) An eligible beneficiary is under evaluation for the need for
26 an organ transplant, has been approved for and is awaiting an organ
27 transplant, ~~or~~ has received a transplant and is currently either
28 immediately postoperative or exhibiting significant medical
29 problems related to the transplant, *or has received a second or*
30 *third transplant and is receiving ongoing medical supervision.*
31 Beneficiaries who are medically stable on posttransplant therapy
32 are not eligible for exemption under this section.

33 (iii) An eligible beneficiary is receiving chronic renal dialysis
34 treatment.

35 (iv) An eligible beneficiary has tested positive for human
36 immunodeficiency virus (HIV) or has received a diagnosis of
37 acquired immune deficiency syndrome (AIDS).

1 (v) An eligible beneficiary has been diagnosed with cancer and
2 is currently receiving chemotherapy or radiation therapy or another
3 course of accepted therapy for cancer that will continue for up to
4 12 months or *more* or has been approved for the therapy, *or has*
5 *been diagnosed with stage IV cancer and is receiving ongoing*
6 *medical supervision.*

7 (vi) An eligible beneficiary has been approved for a major
8 surgical procedure by the Medi-Cal fee-for-service program and
9 is awaiting surgery or is immediately postoperative.

10 (vii) An eligible beneficiary ~~has~~ *is receiving medical treatment,*
11 *the interruption of which would put the beneficiary at risk for*
12 *deleterious medical effects because of a complex neurological*
13 *disorder, such as multiple sclerosis, a complex hematological*
14 *disorder, such as hemophilia or a sickle cell disease, or a complex*
15 *or progressive disorder not covered in clauses (i) through to (vi),*
16 *inclusive, such as cardiomyopathy or amyotrophic lateral sclerosis,*
17 ~~which~~ *or a disease or condition that affects more than one organ*
18 *system, or requires coordinated care from more than one specialist,*
19 *unless all of the specialists providing care to the beneficiary are*
20 *contracting providers in one of the plans in the beneficiary's county*
21 *of residence, and the beneficiary requires ongoing medical*
22 *supervision, or has been approved for or is receiving complex*
23 *medical treatment for the disorder, the administration of which*
24 ~~cannot be interrupted.~~

25 (viii) An eligible beneficiary is enrolled in a Medi-Cal waiver
26 program that allows the individual to receive subacute, acute,
27 intermediate, or skilled nursing care at home rather than in a
28 subacute care facility, an acute care hospital, an intermediate care
29 facility, or a skilled nursing facility, *or an eligible beneficiary is*
30 *under 21 years of age and is receiving nursing services in the home*
31 *instead of in a subacute care facility, an acute care facility, an*
32 *intermediate care facility, an intermediate care facility for the*
33 *developmentally disabled, a skilled nursing facility, or any other*
34 *licensed facility providing medical care or treatment at the same*
35 *or a higher level of care.*

36 (ix) An eligible beneficiary is receiving treatment services that
37 are not available in the beneficiary's home county.

38 (x) An eligible beneficiary is receiving treatment or palliative
39 services for a disease or condition that is expected to result in
40 death within the next 24 months.

1 ~~(ix)~~
 2 (xi) An eligible beneficiary is participating in a pilot project
 3 organized and operated pursuant to Section 14087.3, 14094.3, or
 4 14490.

5 (B) A request for exemption from plan enrollment based on a
 6 complex medical-~~conditions~~ *condition* shall not be approved for
 7 an eligible beneficiary to whom any of the following apply:

8 (i) He or she has been a member of any plan on a combined
 9 basis for more than 90 calendar days *and has received services for*
 10 *which the plan is financially responsible.*

11 ~~(ii) He or she has a current Medi-Cal provider who is contracting~~
 12 ~~with a plan.~~

13 ~~(iii)~~
 14 (ii) He or she ~~is~~ *has* begun or ~~has~~ *is* scheduled to begin treatment
 15 after the date of plan enrollment.

16 (b) Except for pregnancy, an eligible beneficiary granted a
 17 medical exemption from plan enrollment shall remain ~~with the~~ *in*
 18 fee-for-service ~~provider~~ *Medi-Cal* only until the medical condition
 19 has stabilized to a level that would enable him or her to change
 20 physicians and begin receiving care from a plan provider without
 21 *the risk of* deleterious medical effects, as determined by the
 22 beneficiary’s treating physician in the Medi-Cal fee-for-service
 23 program. A beneficiary granted a medical exemption due to
 24 pregnancy may remain with the fee-for-service Medi-Cal provider
 25 through delivery and the end of the month in which 90 days
 26 postpartum occurs.

27 (c) Exemption from plan enrollment due to a complex medical
 28 condition *or conditions*, as specified in clauses (i) to (vii), inclusive,
 29 ~~and clause~~ *clauses* (ix) to (xi), *inclusive*, of subparagraph (A) of
 30 paragraph (2) of subdivision (a), shall be requested on a request
 31 for medical exemption from plan enrollment form approved by
 32 the department. Exemption from plan enrollment due to a
 33 beneficiary’s enrollment in a Medi-Cal waiver program, *or if the*
 34 *beneficiary is under 21 years of age and receiving nursing services*
 35 *in the home*, as specified in clause (viii) of subparagraph (A) of
 36 paragraph (2) of subdivision (a), or a beneficiary’s acceptance for
 37 care at an Indian Health Service facility, as specified in paragraph
 38 (1) of subdivision (a), shall be requested on a request for
 39 ~~non-medical~~ *nonmedical* exemption from plan enrollment form.
 40 The completed request for exemption shall be submitted to the

1 Health Care Options Program by the Medi-Cal fee-for-service
2 provider *or providers* or the Indian Health Service facility treating
3 the beneficiary and shall be submitted by mail or facsimile. A
4 request for exemption from plan enrollment shall not be submitted
5 by the plan.

6 (d) The Health Care Options Program, as authorized by the
7 department, shall approve each request for exemption from plan
8 enrollment that meets the requirements of this section. At any time,
9 the department may, at its discretion, verify the complexity,
10 validity, and status of the medical condition and treatment plan
11 and verify that the provider is not contracted or otherwise affiliated
12 with a plan. *Verification may include documentation from more
13 than one provider if the treatment plan includes multiple specialists
14 or other providers.* The Health Care Options Program, as
15 authorized by the department, or the department may deny a request
16 for exemption from plan enrollment or revoke an approved request
17 for exemption if a provider fails to fully cooperate with verification
18 by the department. *This subdivision shall not be construed as
19 authorizing the Health Care Options Program or the department
20 to overrule a treating physician's determination pursuant to
21 subdivision (b).*

22 (e) Approval of requests for exemption from plan enrollment
23 shall be subject to the same processing times and effective dates
24 for the processing of enrollment and disenrollment requests.

25 (f) (1) *The department shall provide written notice to the
26 beneficiary and the requesting provider if a request for exemption
27 from plan enrollment is denied. The notice shall set out with
28 specificity the reasons for the denial or failure to unconditionally
29 approve the request for exemption from plan enrollment. The notice
30 shall inform the beneficiary and the provider of the right to appeal
31 the decision, how to appeal the decision, and if the decision is not
32 appealed, that the beneficiary shall enroll in a Medi-Cal plan and
33 how that enrollment shall occur. The beneficiary shall also be
34 informed of the possibility of continued access to an out-of-network
35 provider pursuant to paragraph (13) of subdivision (b) of Section
36 14182. A beneficiary who has not been enrolled in a plan shall
37 remain in fee-for-service Medi-Cal if a request for an exemption
38 from plan enrollment or appeal is submitted, until the final
39 resolution.*

- 1 (2) *The department shall develop a process to track a beneficiary*
2 *who has been denied a request for exemption from plan enrollment*
3 *and to notify the plan, if applicable, of the denial, including*
4 *information identifying the provider.*
5 (f)
6 (g) The Health Care Options Program, as authorized by the
7 department, or the department may revoke an approved request
8 for exemption from plan enrollment at any time if the department
9 determines that the approval was based on false or misleading
10 information, ~~the medical condition was not complex,~~ treatment
11 has been completed, or the requesting provider is not or has not
12 been providing services to the beneficiary. The department shall
13 provide written notice to the beneficiary that the approved request
14 for exemption from plan enrollment has been revoked and shall
15 advise the beneficiary that he or she shall enroll in a Medi-Cal
16 plan and how that enrollment shall occur. The revocation of an
17 approved request for exemption from plan enrollment shall not
18 otherwise affect an eligible beneficiary's eligibility or ability to
19 receive covered services as a plan member.
20 (h) *This section shall not apply to a beneficiary who is enrolled*
21 *in a county organized health system.*