

AMENDED IN ASSEMBLY MAY 25, 2012

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 *for a prescribed period of time* 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, or a licensed midwife
16 who is participating in the Medi-Cal program but is not a
17 contracting provider of a plan in the eligible beneficiary's county
18 of residence, may request a medical exemption to continue
19 fee-for-service Medi-Cal for purposes of continuity of care.

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

23 (i) An eligible beneficiary is pregnant.

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

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

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

4 (v) An eligible beneficiary has been diagnosed with cancer and
5 is currently receiving chemotherapy or radiation therapy or another
6 course of accepted therapy for cancer that will continue for up to
7 12 months or more or has been approved for the therapy, or has
8 been diagnosed with stage IV cancer and is receiving ongoing
9 medical supervision.

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

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

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

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

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

4 (xi) An eligible beneficiary is participating in a pilot project
5 organized and operated pursuant to Section 14087.3, 14094.3, or
6 14490.

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

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

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

15 (b) (1) Except for pregnancy, an eligible beneficiary granted a
16 medical exemption from plan enrollment shall remain in
17 fee-for-service Medi-Cal only until the medical condition has
18 stabilized to a level that would enable him or her to change
19 physicians and begin receiving care from a plan provider without
20 the risk of deleterious medical effects, as determined by the
21 beneficiary's treating physician in the Medi-Cal fee-for-service
22 program. ~~A~~

23 (2) A beneficiary granted a medical exemption due to pregnancy
24 may remain with the fee-for-service Medi-Cal provider through
25 delivery and the end of the month in which 90 days postpartum
26 occurs.

27 (3) *Unless otherwise requested by the provider and approved*
28 *based on the supporting documentation, and except as specified*
29 *in paragraph (2) for a beneficiary granted a medical exemption*
30 *due to pregnancy, a medical exemption from plan enrollment shall*
31 *expire at the end of 12 months from the date of approval. The*
32 *Health Care Options Program shall notify the beneficiary 45 days*
33 *before the expiration date of the approved medical exemption and*
34 *shall inform the beneficiary of how to request an extension. An*
35 *extension of the 12-month medical exemption shall be requested*
36 *through the Health Care Options Program no earlier than 11*
37 *months after the starting date of the exemption in effect at that*
38 *time. An extension of the medical exemption may be requested and*
39 *shall be approved if the eligible beneficiary continues to meet the*
40 *requirements of paragraph (2) of subdivision (a).*

1 (c) Exemption from plan enrollment due to a complex medical
2 condition or conditions, as specified in clauses (i) to (vii), inclusive,
3 and clauses (ix) to (xi), inclusive, of subparagraph (A) of paragraph
4 (2) of subdivision (a), shall be requested on a request for medical
5 exemption from plan enrollment form approved by the department.
6 Exemption from plan enrollment due to a beneficiary's enrollment
7 in a Medi-Cal waiver program, or if the beneficiary is under 21
8 years of age and receiving nursing services in the home, as
9 specified in clause (viii) of subparagraph (A) of paragraph (2) of
10 subdivision (a), or a beneficiary's acceptance for care at an Indian
11 Health Service facility, as specified in paragraph (1) of subdivision
12 (a), shall be requested on a request for nonmedical exemption from
13 plan enrollment form. The completed request for exemption shall
14 be submitted to the Health Care Options Program by the Medi-Cal
15 fee-for-service provider or providers or the Indian Health Service
16 facility treating the beneficiary and shall be submitted by mail or
17 facsimile. A request for exemption from plan enrollment shall not
18 be submitted by the plan.

19 (d) The Health Care Options Program, as authorized by the
20 department, shall approve each request for exemption from plan
21 enrollment that meets the requirements of this section. At any time,
22 the department may, at its discretion, verify the complexity,
23 validity, and status of the medical condition and treatment plan
24 and verify that the provider is not contracted or otherwise affiliated
25 with a plan. Verification may include documentation from more
26 than one provider if the treatment plan includes multiple specialists
27 or other providers. The Health Care Options Program, as authorized
28 by the department, or the department may deny a request for
29 exemption from plan enrollment or revoke an approved request
30 for exemption if a provider fails to fully cooperate with verification
31 by the department. This subdivision shall not be construed as
32 authorizing the Health Care Options Program or the department
33 to overrule a treating physician's determination pursuant to
34 subdivision (b).

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

38 (f) (1) The department shall provide written notice to the
39 beneficiary and the requesting provider if a request for exemption
40 from plan enrollment is denied. The notice shall set out with

1 specificity the reasons for the denial or failure to unconditionally
2 approve the request for exemption from plan enrollment. The notice
3 shall inform the beneficiary and the provider of the right to appeal
4 the decision, how to appeal the decision, and if the decision is not
5 appealed, that the beneficiary shall enroll in a Medi-Cal plan and
6 how that enrollment shall occur. The beneficiary shall also be
7 informed of the possibility of continued access to an out-of-network
8 provider pursuant to paragraph (13) of subdivision (b) of Section
9 14182. A beneficiary who has not been enrolled in a plan shall
10 remain in fee-for-service Medi-Cal if a request for an exemption
11 from plan enrollment or appeal is submitted, until the final
12 resolution.

13 (2) The department shall develop a process to track a beneficiary
14 who has been denied a request for exemption from plan enrollment
15 and to notify the plan, if applicable, of the denial, including
16 information identifying the provider.

17 (g) The Health Care Options Program, as authorized by the
18 department, or the department may revoke an approved request
19 for exemption from plan enrollment at any time if the department
20 determines that the approval was based on false or misleading
21 information, treatment has been completed, or the requesting
22 provider is not or has not been providing services to the beneficiary.
23 The department shall provide written notice to the beneficiary that
24 the approved request for exemption from plan enrollment has been
25 revoked and shall advise the beneficiary that he or she shall enroll
26 in a Medi-Cal plan and how that enrollment shall occur. The
27 revocation of an approved request for exemption from plan
28 enrollment shall not otherwise affect an eligible beneficiary's
29 eligibility or ability to receive covered services as a plan member.

30 (h) This section shall not apply to a beneficiary who is enrolled
31 in a county organized health system.

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