

ASSEMBLY BILL

No. 1803

Introduced by Assembly Member Mitchell

February 21, 2012

An act to amend Section 14134 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 1803, as introduced, Mitchell. Medi-Cal: copayments.

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. Existing law requires Medi-Cal beneficiaries to make set copayments for specified services and, upon federal approval, existing law revises these copayment rates and makes other related changes, as specified.

This bill would make technical, nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 14134 of the Welfare and Institutions
- 2 Code, as amended by Chapter 3 of the Statutes of 2011, is amended
- 3 to read:
- 4 14134. (a) Except for any prescription, refill, visit, service,
- 5 device, or item for which the program's payment is ten dollars

1 (\$10) or less, in which case no copayment shall be required, a
2 recipient of services under this chapter shall be required to make
3 copayments not to exceed the maximum permitted under federal
4 regulations or federal waivers as follows:
5 (1) Copayment of five dollars (\$5) shall be made for
6 nonemergency services received in an emergency room. For the
7 purposes of this section, “nonemergency services” means any
8 services not required for the alleviation of severe pain or the
9 immediate diagnosis and treatment of severe medical conditions
10 which, if not immediately diagnosed and treated, would lead to
11 disability or death.
12 (2) Copayment of one dollar (\$1) shall be made for each drug
13 prescription or refill.
14 (3) Copayment of one dollar (\$1) shall be made for each visit
15 for services under subdivisions (a) and (h) of Section 14132.
16 (4) The copayment amounts set forth in paragraphs (1), (2), and
17 (3) may be collected and retained or waived by the provider.
18 (5) The department shall not reduce the reimbursement otherwise
19 due to providers as a result of the copayment. The copayment
20 amounts shall be in addition to any reimbursement otherwise due
21 the provider for services rendered under this program.
22 (6) This section does not apply to emergency services, family
23 planning services, or to any services received by:
24 (A) Any child in AFDC-Foster Care, as defined in Section
25 11400.
26 (B) Any person who is an inpatient in a health facility, as defined
27 in Section 1250 of the Health and Safety Code.
28 (C) Any person 18 years of age or under.
29 (D) Any woman receiving perinatal care.
30 (7) Paragraph (2) does not apply to any person 65 years of age
31 or over.
32 (8) A provider of service shall not deny care or services to an
33 individual solely because of that person’s inability to copay under
34 this section. An individual shall, however, remain liable to the
35 provider for any copayment amount owed.
36 (9) The department shall seek any federal waivers necessary to
37 implement this section. The provisions for which appropriate
38 federal waivers cannot be obtained shall not be implemented, but
39 provisions for which waivers are either obtained or found to be

1 unnecessary shall be unaffected by the inability to obtain federal
2 waivers for the other provisions.

3 (10) The director shall adopt any regulations necessary to
4 implement this section as emergency regulations in accordance
5 with Chapter 3.5 (commencing with Section 11340) of Part 1 of
6 Division 3 of Title 2 of the Government Code. The adoption of
7 the regulations shall be deemed to be an emergency and necessary
8 for the immediate preservation of the public peace, health and
9 safety, or general welfare. The director shall transmit these
10 emergency regulations directly to the Secretary of State for filing
11 and the regulations shall become effective immediately upon filing.
12 Upon completion of the formal regulation adoption process and
13 prior to the expiration of the 120 day duration period of emergency
14 regulations, the director shall transmit directly to the Secretary of
15 State for filing the adopted regulations, the rulemaking file, and
16 the certification of compliance as required by subdivision (e) of
17 Section 11346.1 of the Government Code.

18 (b) This section shall become inoperative on the implementation
19 date for copayments stated in the declaration executed by the
20 director pursuant to Section 14134, as added by Section 101.5 of
21 the act that added this subdivision, and is repealed on January 1
22 of the following year.

23 SEC. 2. Section 14134 of the Welfare and Institutions Code,
24 as added by Chapter 3 of the Statutes of 2011, is amended to read:

25 14134. (a) The Legislature finds and declares all of the
26 following:

27 (1) Costs within the Medi-Cal program continue to grow due
28 to the rising cost of providing health care throughout the state and
29 also due to increases in enrollment, which are more pronounced
30 during difficult economic times.

31 (2) In order to minimize the need for drastically cutting
32 enrollment standards or benefits or imposing further reductions
33 on Medi-Cal providers during times of economic crisis, it is crucial
34 to find areas within the program where beneficiaries can share
35 responsibility for utilization of health care, whether they are
36 participating in the fee-for-service or the managed care model of
37 service delivery.

38 (3) The establishment of cost-sharing obligations within the
39 Medi-Cal program is complex and is subject to close supervision
40 by the United States Department of Health and Human Services.

1 (4) As the single state agency for Medicaid in California, the
2 State Department of Health Care Services has unique expertise
3 that can inform decisions that set or adjust cost-sharing
4 responsibilities for Medi-Cal beneficiaries receiving health care
5 services.

6 (b) Therefore, it is the intent of the Legislature for the
7 department to obtain federal approval to implement cost-sharing
8 for Medi-Cal beneficiaries and permit providers to require that
9 individuals meet their cost-sharing obligation prior to receiving
10 care or services.

11 (c) A Medi-Cal beneficiary shall be required to make
12 copayments as described in this section. These copayments
13 represent a contribution toward the rate of payment made to
14 providers of Medi-Cal services and shall be as follows:

15 (1) Copayment of up to fifty dollars (\$50) shall be made for
16 nonemergency services received in an emergency room. For the
17 purposes of this section, “nonemergency services” means services
18 not required for the alleviation of severe pain or the immediate
19 diagnosis and treatment of unforeseen medical conditions that, if
20 not immediately diagnosed and treated, would lead to disability
21 or death.

22 (2) Copayment of up to fifty dollars (\$50) shall be made for
23 emergency services received in an emergency room. For purposes
24 of this section, “emergency services” means services required for
25 the alleviation of severe pain or the immediate diagnosis and
26 treatment of unforeseen medical conditions that, if not immediately
27 diagnosed and treated, would lead to disability or death.

28 (3) Copayment of up to one hundred dollars (\$100) shall be
29 made for each hospital inpatient day, up to a maximum of two
30 hundred dollars (\$200) per admission.

31 (4) Copayment of up to three dollars (\$3) shall be made for each
32 preferred drug prescription or refill. A copayment of up to five
33 dollars (\$5) shall be made for each nonpreferred drug prescription
34 or refill. Except as provided in subdivision (g), “preferred drug”
35 shall have the same meaning as in Section 1916A of the Social
36 Security Act (42 U.S.C. Sec. 1396o-1).

37 (5) Copayment of up to five dollars (\$5) shall be made for each
38 visit for services under subdivision (a) of Section 14132 and for
39 dental services received on an outpatient basis provided as a

1 Medi-Cal benefit pursuant to this chapter or Chapter 8
2 (commencing with Section 14200), as applicable.

3 (6) This section does not apply to services provided pursuant
4 to subdivision (aa) of Section 14132.

5 (d) The copayments established pursuant to subdivision (c) shall
6 be set by the department, at the maximum amount provided for in
7 the applicable paragraph, except that each copayment amount shall
8 not exceed the maximum amount allowable pursuant to the state
9 plan amendments or other federal approvals.

10 (e) The copayment amounts set forth in subdivision (c) may be
11 collected and retained or waived by the provider. The department
12 shall deduct the amount of the copayment from the payment the
13 department makes to the provider whether retained, waived, or not
14 collected by the provider.

15 (f) Notwithstanding any other ~~provision of~~ law, and only to the
16 extent allowed pursuant to federal law, a provider of service has
17 no obligation to provide services to a Medi-Cal beneficiary who
18 does not, at the point of service, pay the copayment assessed
19 pursuant to this section. If the provider provides services without
20 collecting the copayment, and has not waived the copayment, the
21 provider may hold the beneficiary liable for the copayment amount
22 owed.

23 (g) (1) Notwithstanding any other ~~provision of~~ law, except as
24 described in paragraph (2), this section shall apply to Medi-Cal
25 beneficiaries enrolled in a health plan contracting with the
26 department pursuant to this chapter or Chapter 8 (commencing
27 with Section 14200), except for Senior Care Action Network or
28 AIDS Healthcare Foundation. To the extent permitted by federal
29 law and pursuant to any federal waivers or state plan adjustments
30 obtained, a managed care health plan may establish a lower
31 copayment or no copayment.

32 (2) For the purpose of paragraph (4) of subdivision (c),
33 copayments assessed against a beneficiary who receives Medi-Cal
34 services through a health plan described in paragraph (1) shall be
35 based on the plan's designation of a drug as preferred or
36 nonpreferred.

37 (3) To the extent provided by federal law, capitation payments
38 shall be calculated on an actuarial basis as if copayments described
39 in this section were collected.

1 (h) This section shall be implemented only to the extent that
2 federal financial participation is available. The department shall
3 seek and obtain any federal waivers or state plan amendments
4 necessary to implement this section. The provisions for which
5 appropriate federal waivers or state plan amendments cannot be
6 obtained shall not be implemented, but provisions for which
7 waivers or state plan amendments are either obtained or found to
8 be unnecessary shall be unaffected by the inability to obtain federal
9 waivers or state plan amendments for the other provisions.

10 (i) Notwithstanding Chapter 3.5 (commencing with Section
11 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
12 the department may implement, interpret, or make specific this
13 section by means of all-county letters, all-plan letters, provider
14 bulletins, or similar instructions, without taking further regulatory
15 actions.

16 (j) (1) This section shall become operative on the date that the
17 act adding this section is effective, but shall not be implemented
18 until the date in the declaration executed by the director pursuant
19 to paragraph (2). In no event shall the director set an
20 implementation date prior to the date federal approval is received.

21 (2) The director shall execute a declaration that states the date
22 that implementation of the copayments described in this section
23 will commence and shall post the declaration on the department's
24 Internet Web site and provide a copy of the declaration to the Chair
25 of the Joint Legislative Budget Committee, the Chief Clerk of the
26 Assembly, the Secretary of the Senate, the Office of the Legislative
27 Counsel, and the Secretary of State.