

Introduced by Senator CorbettFebruary 18, 2011

An act to amend Section 14132.25 of the Welfare and Institutions Code, relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 804, as introduced, Corbett. Medi-Cal: subacute care program: congregate living health facilities.

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 the department to establish a subacute care program in health facilities in order to more effectively use limited Medi-Cal dollars while ensuring needed services for patients who meet subacute care criteria, as established by the department. Existing law provides that, for the purposes of this program, subacute care may be provided by any facility designated by the Director of Health Care Services as meeting subacute care criteria and that has an approved provider participation agreement with the department.

This bill would require the department to allow congregate living health facilities, as defined, that solely provide pediatric subacute care services and do not provide Medicare services to participate in the subacute care program. This bill would provide that these type of facilities shall not be required to be Medicare certified to participate in the subacute care program. The bill would require the department to seek all necessary federal approvals for the implementation of these provisions.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) George Mark Children’s House is the only comprehensive
4 pediatric palliative care organization in California licensed as a
5 congregate living health facility (CLHF). As allowed by its CLHF
6 license, George Mark Children’s House provides a broad scope
7 of pediatric palliative care services to children enrolled in the
8 Medi-Cal program, including pediatric subacute care services. The
9 cost of its services is substantially less than the cost of providing
10 pediatric subacute care in a hospital setting.

11 (b) Under federal law, pediatric patients are not Medicare
12 eligible and given that George Mark Children’s House exclusively
13 serves pediatric patients, the facility does not serve Medicare
14 beneficiaries. Existing regulations of the State Department of
15 Health Care Services require a CLHF, in order to be reimbursed
16 for providing pediatric subacute services to Medi-Cal beneficiaries,
17 to be Medicare certified.

18 (c) There is no mechanism under current law by which a CLHF
19 can become Medicare certified because Medicare does not currently
20 recognize the CLHF designation. Even so, the state allows CLHFs
21 to provide pediatric subacute care services within the scope of
22 their license with the state’s full knowledge that these barriers to
23 Medi-Cal reimbursement exist.

24 (d) Because palliative care services for children provided in a
25 CLHF setting are important to children, their families, and the
26 state, it is necessary to amend existing law to allow CLHFs that
27 exclusively serve a pediatric patient population to be reimbursed
28 for providing pediatric subacute care services to Medi-Cal
29 beneficiaries without requiring those CLHFs to be Medicare
30 certified.

31 SEC. 2. Section 14132.25 of the Welfare and Institutions Code
32 is amended to read:

1 14132.25. (a) On or before July 1, 1983, the State Department
2 of Health Services department shall establish a subacute care
3 program in health facilities in order to more effectively use the
4 limited Medi-Cal dollars available while, at the same time, ensuring
5 needed services for these patients. The subacute care program shall
6 be available to patients in facilities who meet subacute care criteria.
7 Subacute care may be provided by any facility designated by the
8 director as meeting the subacute care criteria, ~~and which~~ and that
9 has an approved provider participation agreement with the State
10 Department of Health Services department.

11 ~~The State Department of Health Services~~
12 (b) The department shall develop a rate of reimbursement for
13 this subacute care program. Reimbursement rates ~~will~~ shall be
14 determined in accordance with methodology developed by the
15 State Department of Health Services department, specified in
16 regulation, and may include the following:

- 17 (1) ~~All-inclusive~~ All-inclusive per diem rates.
- 18 (2) Individual ~~patient-specific~~ patient-specific rates according
19 to the needs of the individual subacute care patient.
- 20 (3) Other rates subject to negotiation with the health facility.

21 However, reimbursement at subacute care rates shall only be
22 implemented ~~when if~~ funds are available for this purpose pursuant
23 to the annual Budget Act.

24 ~~The~~
25 (c) The department may negotiate and execute an agreement
26 with any health facility ~~which~~ that meets the standards for
27 providing subacute care. An agreement may be negotiated or
28 established between the health facility and the department for
29 subacute care based on individual patient assessment. The
30 department shall establish level of care criteria and appropriate
31 utilization controls for patients eligible for the subacute care
32 program.

33 ~~For~~
34 (d) For the purposes of this section, subacute patient care shall
35 be defined by the state department based on the results of its study
36 pursuant to Chapter 1211 of the Statutes of 1980.

37 (e) (1) Notwithstanding any other provision of state law, and
38 to the extent permitted by federal law, the department shall allow
39 congregate living health facilities, as defined in subdivision (i) of
40 Section 1250 of the Health and Safety Code, that solely provide

1 *pediatric subacute care services and do not provide Medicare*
2 *services to participate in the subacute care program.*

3 *(2) Congregate living health facilities described in paragraph*
4 *(1) shall not be required to be Medicare certified to participate in*
5 *the subacute care program.*

6 *(f) The department shall seek all necessary federal approvals*
7 *for the implementation of this section.*

8 SEC. 3. This act is an urgency statute necessary for the
9 immediate preservation of the public peace, health, or safety within
10 the meaning of Article IV of the Constitution and shall go into
11 immediate effect. The facts constituting the necessity are:

12 In order to enable statutory changes to be made to the Medi-Cal
13 program at the earliest possible time, it is necessary that this act
14 take effect immediately.