

AMENDED IN SENATE SEPTEMBER 3, 2013

AMENDED IN SENATE JULY 9, 2013

AMENDED IN SENATE JUNE 24, 2013

AMENDED IN ASSEMBLY MAY 24, 2013

AMENDED IN ASSEMBLY APRIL 11, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 720

Introduced by Assembly Member Skinner
(Coauthor: Senator Beall)

February 21, 2013

An act to add Section 4011.11 to the Penal Code, *and to amend Section 14011.10 of the Welfare and Institutions Code*, relating to inmates.

LEGISLATIVE COUNSEL'S DIGEST

AB 720, as amended, Skinner. Inmates: health care 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. Existing federal law prohibits federal financial participation for medical care provided to inmates of a public institution, except when the inmate is a patient in a medical institution.

Commencing January 1, 2014, the federal Patient Protection and Affordable Care Act expands eligibility under the Medicaid Program for certain groups and enacts various other health care coverage market

reforms that take effect on that date. Existing federal law requires the Secretary of Health and Human Services to develop and provide to each state a single, streamlined form that may be used to apply for all state health subsidy programs, as defined, within the state.

This bill would ~~require~~ *authorize* the board of supervisors in each county, *in consultation with the county sheriff*, to designate an entity to assist certain jail inmates to apply for a health insurance affordability program, as defined. The bill would provide that county jail inmates who are currently enrolled in the Medi-Cal program *shall remain eligible for, and* shall not be terminated from, the program due to their detention, unless required by federal law or they become otherwise ~~ineligible, as specified~~ *ineligible*. The bill would require the State Department of Health Care Services to establish, subject to federal law, a process to enable counties to obtain *the maximum available* federal financial participation for *the services they provide pursuant to* these provisions. *The bill would also authorize an adult who has been involuntarily detained or incarcerated in a county facility to refuse assistance from the designated entity, as specified. The bill would provide that the fact that an applicant is an inmate shall not, in and of itself, preclude a county human services agency from processing an application submitted to it by, or on behalf of, that inmate.*

~~By imposing additional duties on local governments, this bill would impose a state-mandated local program.~~

Existing law also provides for the suspension of Medi-Cal benefits to an inmate of a public institution who is under 21 years of age. Existing law requires county welfare departments to notify the department within 10 days of receiving information that an individual under 21 years of age who is receiving Medi-Cal is or will be an inmate of a public institution.

This bill would instead make these provisions applicable without regard to the age of the individual, provided that federal financial participation would not be jeopardized. By expanding the duties of county agencies, this bill would impose a state-mandated local program.

The bill would also include a statement of legislative intent.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. *It is the intent of the Legislature in enacting this*
2 *act to, among other things, ensure that county human services*
3 *agencies recognize that (a) federal law generally does not*
4 *authorize federal financial participation for Medi-Cal when a*
5 *person is an inmate of a public institution as defined in federal*
6 *law, unless the inmate is admitted as an inpatient to a*
7 *noncorrectional health care facility, and (b) federal financial*
8 *participation is available after an inmate is released from a county*
9 *jail.*

10 SECTION 1.

11 SEC. 2. Section 4011.11 is added to the Penal Code, to read:

12 4011.11. (a) (1) The board of supervisors in each county ~~shall~~
13 *in consultation with the county sheriff, may* designate an entity to
14 assist county jail inmates described in subdivision (c) with
15 submitting an application for a health insurance affordability
16 program consistent with federal requirements.

17 (2) The board of supervisors shall not designate the county
18 sheriff as the entity to assist with submitting an application for a
19 health insurance affordability program for county jail inmates
20 described in subdivision (c) unless the county sheriff agrees to
21 perform this function.

22 (3) If the board of supervisors designates a community-based
23 organization as the entity to assist with submitting an application
24 for a health insurance affordability program for county jail inmates
25 described in subdivision (c), the designation shall be subject to
26 approval by the jail administrator, or his or her designee.

27 (b) The jail administrator, or his or her designee, ~~shall~~ *may*
28 coordinate with the entity designated pursuant to subdivision (a).

29 (c) The entity designated pursuant to subdivision (a) ~~shall~~ *may*
30 assist ~~a county jail inmates inmate~~ with submitting an application
31 for a health insurance affordability program if all of the following
32 conditions are met:

- 1 (1) The inmate has been in detention for at least 72 hours
 2 following remand into custody by a court or magistrate.
- 3 (2) The inmate appears potentially eligible to be enrolled in the
 4 health insurance affordability program upon release.
- 5 (3) The inmate does not currently have health care coverage.
- 6 (d) Consistent with federal ~~regulations, law,~~ county jail inmates
 7 who are currently enrolled in the Medi-Cal program *shall remain*
 8 *eligible for, and shall not be terminated from from,* the program
 9 due to their detention unless required by federal law, or they
 10 become otherwise ineligible.
- 11 (e) Notwithstanding any other provision of law, and only to the
 12 extent that federal law allows, the State Department of Health Care
 13 Services shall establish a process to enable counties to obtain the
 14 maximum available federal financial participation for
 15 ~~administrative activities~~ *services they provide* related to this
 16 section.
- 17 (f) Notwithstanding any other *state law, and only to the extent*
 18 *federal law allows and, for purposes of the Medi-Cal program,*
 19 *federal financial participation is available,* the entity designated
 20 pursuant to subdivision (a) is authorized to act on behalf of a county
 21 jail inmate *who meets all of the conditions described in paragraphs*
 22 *(1) to (3), inclusive of subdivision (c), for purposes the limited*
 23 *purpose of applying for or a determination of eligibility for a health*
 24 *insurance affordability program, including, but not limited to, the*
 25 *Medi-Cal program. The entity shall not determine Medi-Cal*
 26 *eligibility or redetermine Medi-Cal eligibility, unless the entity is*
 27 *the county human services agency. The fact that an applicant is*
 28 *an inmate shall not, in and of itself, preclude a county human*
 29 *services agency from processing an application submitted to it by,*
 30 *or on behalf of, that inmate.*
- 31 (g) *An adult who has been involuntarily detained or incarcerated*
 32 *in a county facility may refuse in writing to authorize the entity*
 33 *designated pursuant to subdivision (a) to act on his or her behalf*
 34 *for purposes of applying for or determining eligibility for a health*
 35 *insurance affordability program, in which case the entity shall not*
 36 *act on that person’s behalf. That person shall be informed of, and*
 37 *given the opportunity to exercise, this right before the entity*
 38 *submits an application on his or her behalf.*
- 39 ~~(g)~~

1 (h) For purposes of this section, “health insurance affordability
2 program” means a program that is one of the following:

3 (1) The state’s Medi-Cal program under Title XIX of the federal
4 Social Security Act.

5 (2) The state’s children’s health insurance program (CHIP)
6 under title XXI of the federal Social Security Act.

7 (3) A program that makes coverage in a qualified health plan
8 through the California Health Benefit Exchange established
9 pursuant to Section 100500 of the Government Code with advance
10 payment of the premium tax credit established under Section 36B
11 of the Internal Revenue Code available to qualified individuals.

12 (4) A program that makes available coverage in a qualified
13 health plan through the California Health Benefit Exchange
14 established pursuant to Section 100500 of the Government Code
15 with cost-sharing reductions established under Section 1402 of the
16 federal Patient Protection and Affordable Care Act (Public Law
17 111-148) and any subsequent amendments to that act.

18 ~~(h)~~

19 (i) Notwithstanding Chapter 3.5 (commencing with Section
20 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
21 the department may implement this section by means of all-county
22 letters or similar instructions, without taking regulatory action.

23 *SEC. 3. Section 14011.10 of the Welfare and Institutions Code*
24 *is amended to read:*

25 14011.10. (a) Except as provided in Section 14011.11, benefits
26 provided under this chapter to an individual ~~under 21 years of age~~
27 who is an inmate of a public institution shall be suspended in
28 accordance with Section ~~1396d(a)(28)(A)~~ 1396d(a)(29)(A) of Title
29 42 of the United States Code as provided in subdivision (c).

30 (b) County welfare departments shall notify the department
31 within 10 days of receiving information that an individual ~~under~~
32 ~~21 years of age~~ on Medi-Cal in the county is or will be an inmate
33 of a public institution.

34 (c) If an individual ~~under 21 years of age~~ is a Medi-Cal
35 beneficiary on the date he or she becomes an inmate of a public
36 institution, his or her benefits under this chapter and under Chapter
37 8 (commencing with Section 14200) shall be suspended effective
38 the date he or she becomes an inmate of a public institution. The
39 suspension shall end on the date he or she is no longer an inmate

1 of a public institution or one year from the date he or she becomes
 2 an inmate of a public institution, whichever is sooner.

3 (d) Nothing in this section shall create a state-funded benefit or
 4 program. Health care services under this chapter and Chapter 8
 5 (commencing with Section 14200) shall not be available to inmates
 6 of public institutions whose Medi-Cal benefits have been suspended
 7 under this section.

8 (e) This section shall be implemented only if and to the extent
 9 allowed by federal law. This section shall be implemented only to
 10 the extent that any necessary federal approval of state plan
 11 amendments or other federal approvals are obtained.

12 (f) If any part of this section is in conflict with or does not
 13 comply with federal law, this entire section shall be ~~inoperable~~
 14 *inoperative*.

15 (g) This section shall be implemented on January 1, 2010, or
 16 the date when all necessary federal approvals are obtained,
 17 whichever is later.

18 (h) By January 1, 2010, or the date when all necessary federal
 19 approvals are obtained, whichever is later, the department, in
 20 consultation with the Chief Probation Officers of California and
 21 the County Welfare Directors Association, shall establish the
 22 protocols and procedures necessary to implement this section,
 23 including any needed changes to the protocols and procedures
 24 previously established to implement Section 14029.5.

25 (i) *The department shall determine whether federal financial*
 26 *participation will be jeopardized by implementing the amendments*
 27 *to this section made by the act adding this subdivision and shall*
 28 *implement those provisions only if and to the extent that federal*
 29 *financial participation is not jeopardized.*

30 (i)

31 (j) Notwithstanding Chapter 3.5 (commencing with Section
 32 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
 33 the department shall implement this section by means of all-county
 34 letters or similar instructions without taking regulatory action.
 35 Thereafter, the department shall adopt regulations in accordance
 36 with the requirements of Chapter 3.5 (commencing with Section
 37 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

38 ~~SEC. 2.~~

39 *SEC. 4.* If the Commission on State Mandates determines that
 40 this act contains costs mandated by the state, reimbursement to

1 local agencies and school districts for those costs shall be made
2 pursuant to Part 7 (commencing with Section 17500) of Division
3 4 of Title 2 of the Government Code.

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