

AMENDED IN SENATE SEPTEMBER 6, 2013

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 authorize the board of supervisors in each county, in consultation with the county sheriff, to designate an entity *or entities* to assist ~~certain county~~ jail inmates to apply for a health insurance affordability program, as defined. *The bill would authorize the entity, to the extent authorized by federal law and federal financial participation is available, to act on behalf of a county jail inmate for the purpose of applying for, or determinations of, Medi-Cal eligibility for acute inpatient hospital services, as specified.* 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, or the suspension of their benefits has ended.~~ ~~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 *for the Medi-Cal program* submitted to it by, or on behalf of, that inmate.

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 authorize
4 federal financial participation for Medi-Cal when a person is an
5 inmate of a public institution, as defined in federal law, unless the
6 inmate is admitted as an inpatient to a noncorrectional health care
7 facility, ~~and~~ (b) federal financial participation is available after an
8 inmate is released from a county jail, *and (c) the fact that an*
9 *applicant is currently an inmate does not, in and of itself, preclude*
10 *the county human services agency from processing the application*
11 *submitted to it by, or on behalf of, that inmate.*

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

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

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

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

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

~~(e) The entity designated pursuant to subdivision (a) may assist a county jail inmate with submitting an application for a health insurance affordability program if all of the following conditions are met:~~

~~(1) The inmate has been in detention for at least 72 hours following remand into custody by a court or magistrate.~~

~~(2) The inmate appears potentially eligible to be enrolled in the health insurance affordability program upon release.~~

~~(3) The inmate does not currently have health care coverage.~~

~~(d)~~

(c) Consistent with federal law, *a* county jail ~~inmates~~ *inmate* who ~~are~~ *is* currently enrolled in the Medi-Cal program shall remain eligible for, and shall not be terminated from, the program due to ~~their~~ *his or her* detention unless required by federal law, ~~or they become he or she becomes~~ otherwise ineligible, *or the inmate's suspension of benefits has ended pursuant to Section 14011.10 of the Welfare and Institutions Code.*

~~(e) Notwithstanding any other provision of law, and only to the extent that federal law allows, the State Department of Health Care Services shall establish a process to enable counties to obtain the maximum available federal financial participation for services they provide related to this section.~~

~~(f)~~

(d) Notwithstanding any other state law, and only to the extent federal law allows ~~and, for purposes of the Medi-Cal program, and~~ federal financial participation is available, ~~the~~ *an* entity designated pursuant to subdivision (a) is authorized to act on behalf of a county jail inmate ~~who meets all of the conditions described in paragraphs (1) to (3), inclusive of subdivision (e), for the limited purpose of applying for or a determination of for, or determinations of, Medi-Cal eligibility for a health insurance affordability program, including, but not limited to, the Medi-Cal program acute inpatient hospital services authorized by Section 14053.7 of the Welfare and Institutions Code.~~ *The* *An* entity designated pursuant to subdivision (a) shall not determine Medi-Cal eligibility or redetermine Medi-Cal eligibility, unless the entity is the county human services agency. ~~The~~

1 (e) The fact that an applicant is an inmate shall not, in and of
2 itself, preclude a county human services agency from processing
3 an application *for the Medi-Cal program* submitted to it by, or on
4 behalf of, that inmate.

5 ~~(g) An adult who has been involuntarily detained or incarcerated~~
6 ~~in a county facility may refuse in writing to authorize the entity~~
7 ~~designated pursuant to subdivision (a) to act on his or her behalf~~
8 ~~for purposes of applying for or determining eligibility for a health~~
9 ~~insurance affordability program, in which case the entity shall not~~
10 ~~act on that person's behalf. That person shall be informed of, and~~
11 ~~given the opportunity to exercise, this right before the entity~~
12 ~~submits an application on his or her behalf.~~

13 ~~(h)~~

14 (f) For purposes of this section, “health insurance affordability
15 program” means a program that is one of the following:

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

18 (2) The state’s children’s health insurance program (CHIP)
19 under ~~title~~ *Title* XXI of the federal Social Security Act.

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

25 (4) A program that makes available coverage in a qualified
26 health plan through the California Health Benefit Exchange
27 established pursuant to Section 100500 of the Government Code
28 with cost-sharing reductions established under Section 1402 of the
29 federal Patient Protection and Affordable Care Act (Public Law
30 111-148) and any subsequent amendments to that act.

31 ~~(i)~~

32 (g) Notwithstanding Chapter 3.5 (commencing with Section
33 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
34 the department may implement this section by means of all-county
35 letters or similar instructions, without taking regulatory action.

36 SEC. 3. Section 14011.10 of the Welfare and Institutions Code
37 is amended to read:

38 14011.10. (a) Except as provided in ~~Section~~ *Sections* 14011.11,
39 *14053.7, and 14053.8*, benefits provided under this chapter to an
40 individual who is an inmate of a public institution shall be

1 suspended in accordance with Section 1396d(a)(29)(A) of Title
2 42 of the United States Code as provided in subdivision (c).

3 (b) County welfare departments shall notify the department
4 within 10 days of receiving information that an individual on
5 Medi-Cal in the county is or will be an inmate of a public
6 institution.

7 (c) If an individual is a Medi-Cal beneficiary on the date he or
8 she becomes an inmate of a public institution, his or her benefits
9 under this chapter and under Chapter 8 (commencing with Section
10 14200) shall be suspended effective the date he or she becomes
11 an inmate of a public institution. The suspension shall end on the
12 date he or she is no longer an inmate of a public institution or one
13 year from the date he or she becomes an inmate of a public
14 institution, whichever is sooner.

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

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

24 (f) If any part of this section is in conflict with or does not
25 comply with federal law, this entire section shall be inoperative.

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

29 (h) By January 1, 2010, or the date when all necessary federal
30 approvals are obtained, whichever is later, the department, in
31 consultation with the Chief Probation Officers of California and
32 the County Welfare Directors Association, shall establish the
33 protocols and procedures necessary to implement this section,
34 including any needed changes to the protocols and procedures
35 previously established to implement Section 14029.5.

36 (i) The department shall determine whether federal financial
37 participation will be jeopardized by implementing the amendments
38 ~~to this section made by the act adding this subdivision~~ and shall
39 ~~implement those provisions~~ *this section* only if and to the extent
40 that federal financial participation is not jeopardized.

1 (j) Notwithstanding Chapter 3.5 (commencing with Section
2 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
3 the department shall implement this section by means of all-county
4 letters or similar instructions without taking regulatory action.
5 Thereafter, the department shall adopt regulations in accordance
6 with the requirements of Chapter 3.5 (commencing with Section
7 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

8 SEC. 4. If the Commission on State Mandates determines that
9 this act contains costs mandated by the state, reimbursement to
10 local agencies and school districts for those costs shall be made
11 pursuant to Part 7 (commencing with Section 17500) of Division
12 4 of Title 2 of the Government Code.