

AMENDED IN ASSEMBLY APRIL 21, 2014

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1814

Introduced by Assembly Member Waldron

February 18, 2014

An act to add Section 14133.06 to the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 1814, as amended, Waldron. Prescriber Prevails Act.

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 specifies the benefits provided pursuant to the program, including the purchase of prescribed drugs which are covered subject to utilization controls. Utilization controls include a requirement that the treatment provider obtain prior authorization for providing medical treatment, as specified.

This bill would, to the extent permitted by federal law, provide that drugs in specified therapeutic drug classes that are prescribed by a Medi-Cal beneficiary's treating provider are covered Medi-Cal benefits. The bill would require, except as specified, that a Medi-Cal managed care plan cover the drug upon demonstration by the provider that the drug is medically necessary and consistent with federal rules and regulations for labeling and use, as specified.

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. This act shall be known, and may be cited as, the
2 Prescriber Prevails Act.

3 SEC. 2. Section 14133.06 is added to the Welfare and
4 Institutions Code, to read:

5 14133.06. (a) It is the intent of the Legislature in enacting this
6 section that a prescriber’s reasonable, professional judgment
7 prevails for the therapeutic drug classes specified in subdivision
8 (b) that are not on managed care plan formularies or have prior
9 authorization requirements.

10 (b) To the extent permitted by federal law, if a drug in any of
11 the following therapeutic drug classes is prescribed by a Medi-Cal
12 beneficiary’s treating provider, that drug shall be covered under
13 the Medi-Cal program:

14 (1) Antiretroviral drugs for HIV/AIDS.
15 (2) Drugs used to treat hepatitis C.
16 (3) Antipsychotics.
17 (4) Antirejection drugs.
18 (5) Drugs used to treat seizures or epilepsy.

19 (c) Except as provided in subdivision (d), and notwithstanding
20 the establishment of a statewide outpatient drug formulary, a
21 Medi-Cal managed care plan shall cover a drug specified in
22 subdivision (b), regardless of whether the drug is on the plan’s
23 formulary, if, upon demonstration by the provider that the drug,
24 in his or her reasonable, professional judgment, is medically
25 necessary and consistent with the federal Food and Drug
26 Administration’s labeling and use rules and regulations, as
27 supported in at least one of the official compendia, as defined in
28 Section 1927(g)(1)(B)(i) of the federal Social Security Act (42
29 U.S.C. Sec. 1396r-8(g)(1)(B)(i)).

30 ~~(1) Medi-Cal managed care plans shall continue to develop~~
31 ~~formularies and may also administer prior authorization programs~~
32 ~~for the drugs specified in subdivision (b). Providers prescribing~~
33 ~~those drugs may be required to provide the plans with requested~~
34 ~~information or clinical documentation to support prior authorization~~

1 requests. The plans may continue to provide a temporary three-day
2 supply of medication when medically necessary.

3 ~~(2) Consistent with federal law, if a Medi-Cal managed care~~
4 ~~plan is unable to complete a prior authorization due to missing~~
5 ~~information or because the prescriber's reasonable, professional~~
6 ~~judgment has not been adequately demonstrated, as required under~~
7 ~~this subdivision, the plan shall issue a notice of action to the~~
8 ~~provider and the beneficiary. The plan shall include in the notice~~
9 ~~of action a description of the information that is required from the~~
10 ~~provider or the beneficiary in order for the plan to complete the~~
11 ~~authorization, and the beneficiary's rights regarding appeal and~~
12 ~~fair hearing options.~~

13 (d) (1) If a Medi-Cal managed care plan chooses not to cover
14 the drugs described in subdivision (b), the drugs shall be carved
15 out of that plan and covered on a fee-for-service basis.

16 (2) If a drug is carved out of a Medi-Cal managed care plan as
17 described in paragraph (1), the plan's contracted rate shall be
18 reduced accordingly.