

AMENDED IN ASSEMBLY MAY 5, 2014
AMENDED IN ASSEMBLY MARCH 28, 2014
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2612

Introduced by Assembly Member Dababneh

February 21, 2014

An act to add Sections 14124.27, 14124.28, and 14129 to the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 2612, as amended, Dababneh. Medi-Cal: substance use disorder treatment.

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 care or services provided to inmates of a public institution and care or services provided to patients in an institution for mental diseases. Existing law establishes the Drug Medi-Cal Treatment Program (Drug Medi-Cal) under which the department is authorized to enter into contracts with counties for various drug treatment services to Medi-Cal recipients, or is required to directly arrange for these services if a county elects not to do so.

~~This bill would provide that eligible individuals who are not inmates of a public institution may access medically necessary Drug Medi-Cal benefits. The bill would also authorize the department to establish a 10-year~~ 5-year pilot project with 6 counties to develop models for

housing individuals with substance use disorders to provide substance use disorder treatment to those individuals who do not fall within the institution for mental diseases exclusion. The bill would provide that these provisions shall only be implemented if and to the extent that federal financial participation is not jeopardized. The bill would also require the department, ~~in completing a specified application for a wavier of federal law, to request approval to create a process by which counties may receive to submit an application for a specified waiver or waiver amendment necessary to create a process by which federal financial participation under the Drug Medi-Cal program for stays of 90 days may be claimed for stays of 120 days or less in an institution for mental diseases for beneficiaries with a substance use disorder diagnosis.~~

Existing law authorizes the department, subject to federal approval, to create a health home program for enrollees with chronic conditions, as prescribed.

This bill would require the department, in implementing that program, to request a waiver of federal law to authorize ~~counties to designate a provider of behavioral health services, including a nonhospital facility that would otherwise be designated as an institution for mental diseases, as a health home.~~ *the state to claim federal financial participation for health home services provided to individuals, who are otherwise eligible under the health home program and who are state or county inmates in their last 30 days in custody, by a provider or team of providers, as specified, to ensure coordination of care and reduce gaps in care.*

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. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) The federal Patient Protection and Affordable Care Act,
- 4 also known as health care reform, is designed to ensure every
- 5 American has access to health care. Eligibility for the federal
- 6 low-income health insurance program, which is Medi-Cal in
- 7 California, was expanded to include childless adults earning less
- 8 than 138 percent of the federal poverty level.
- 9 (2) The cost of the Medi-Cal expansion will be fully paid by the
- 10 federal government until 2017, when the federal government

1 contribution will decline gradually to 90 percent, where it will
2 remain in 2020 and each year thereafter.

3 (3) According to research done by the National Health Law
4 Program, a large percentage of individuals in county jails, and
5 those being released, are uninsured and may be eligible for
6 Medi-Cal.

7 (4) According to a study published in the American Journal of
8 Public Health, many individuals in county jails, and those being
9 released, have untreated substance use disorders.

10 (5) In implementing health care reform, California expanded
11 insurance benefits for substance use disorder treatment for new
12 and existing Medi-Cal beneficiaries.

13 (6) Placement in residential programs can treat issues
14 associated with substance use disorders and thereby reduce costs
15 and recidivism associated with individuals in county jails.

16 (b) Therefore, it is the intent of the Legislature to encourage
17 the use of appropriate residential substance use disorder treatment
18 programs for individuals in the criminal justice system.

19 (c) It is further the intent of the Legislature, in order to increase
20 access to primary care, mental health treatment, and substance
21 use disorder treatment for individuals in the criminal justice
22 system, that individuals who are otherwise eligible for Medi-Cal
23 and who are not inmates of a public institution shall be eligible
24 for Medi-Cal benefits. This includes, but is not limited to,
25 individuals in formal or informal diversion or deferred entry of
26 judgment programs; individuals on probation, as defined in Section
27 1203 of the Penal Code; individuals on parole, as described in
28 Section 3000 of the Penal Code; individuals on postrelease
29 community supervision, as described in Section 3451 of the Penal
30 Code; and individuals on mandatory supervision as defined in
31 clause (ii) of subparagraph (B) of paragraph (5) of subdivision
32 (h) of Section 1170 of the Penal Code.

33 **SECTION 1.**

34 SEC. 2. Section 14124.27 is added to the Welfare and
35 Institutions Code, immediately following Section 14124.26, to
36 read:

37 ~~14124.27. (a) In order to increase access to substance use~~
38 ~~disorder treatment for individuals in the criminal justice system,~~
39 ~~eligible individuals who are not inmates of a public institution may~~

1 access medically necessary Drug Medi-Cal benefits as provided
2 in this article.

3 (b)

4 14124.27. (a) The department may establish a ~~10-year~~ five-year
5 pilot program with six counties, *which shall include three urban*
6 *counties and three rural counties*, to develop models for housing
7 individuals with substance use disorders to provide substance use
8 disorder treatment to those individuals who do not fall within the
9 institution for mental diseases exclusion in federal law, thereby
10 maximizing federal financial participation.

11 (e)

12 (b) This section shall not create a state-only funded benefit or
13 program. The department shall implement this section only if and
14 to the extent that federal financial participation is not jeopardized.

15 ~~SEC. 2.~~

16 *SEC. 3.* Section 14124.28 is added to the Welfare and
17 Institutions Code, to read:

18 14124.28. (a) ~~The department shall, in completing its~~
19 ~~application for a waiver under Section 1115 of the federal Social~~
20 ~~Security Act (42 U.S.C. Sec. 1315), include a request for approval~~
21 ~~to create a process by which counties may receive~~ *submit an*
22 *application for any Section 1115 waiver or waiver amendment*
23 *necessary to create a process by which federal financial*
24 *participation may be claimed for stays of 90 120 days or less in an*
25 *institution for mental diseases, as defined in Section 1396d(i) of*
26 *Title 42 of the United States Code, for beneficiaries with a*
27 *substance use disorder diagnosis for purposes of treating the*
28 *individual's medically necessary diagnosed substance use disorder.*

29 (b) ~~This section shall be implemented only if the department~~
30 ~~obtains federal approval for the Section 1115 waiver.~~

31 ~~SEC. 3.~~

32 *SEC. 4.* Section 14129 is added to the Welfare and Institutions
33 Code, immediately following Section 14128, to read:

34 14129. (a) ~~The department shall, in implementing this article,~~
35 ~~request a waiver of federal law to authorize counties to designate~~
36 ~~a provider of behavioral health services, including a nonhospital~~
37 ~~facility that would otherwise be designated as an institution for~~
38 ~~mental diseases as defined in Section 1396d(i) of Title 42 of the~~
39 ~~United States Code, as a health home.~~ *the state to claim federal*
40 *financial participation for health home services provided to*

1 *individuals, who are otherwise eligible to receive health home*
2 *services under this article and who are state or county inmates in*
3 *their last 30 days in custody, by a provider or team of providers,*
4 *as described in subdivision (c) of Section 14127, to ensure*
5 *coordination of care and reduce gaps in care. Prerelease health*
6 *home services shall be limited to services described in Section*
7 *14127.2 and shall not include health care services.*

8 ~~(b) The department shall implement this section only if the~~
9 ~~waiver of federal law is obtained.~~