

AMENDED IN SENATE MARCH 28, 2014

SENATE BILL

No. 1002

Introduced by Senator De León
(Coauthor: Senator Anderson)

February 13, 2014

An act to amend Section 14005.37 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 1002, as amended, De León. Medi-Cal: redetermination.

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 generally requires a county to redetermine a Medi-Cal beneficiary's eligibility to receive Medi-Cal benefits every 12 months and whenever the county receives information about changes in a beneficiary's circumstances that may affect his or her eligibility for Medi-Cal benefits. Under existing law, when a redetermination is performed due to a change in circumstances, if a county determines that the beneficiary remains eligible for Medi-Cal benefits, the county must begin a new 12-month eligibility period.

This bill would require a county, when a redetermination is performed due to a change in circumstances, and the county received *or gathered* the information about the change in circumstance ~~in during~~ a CalFresh application, ~~or gathered the information about the change in circumstances during a CalFresh redetermination,~~ *application or recertification*, and the beneficiary is determined eligible to receive

CalFresh benefits, to begin the new 12-month *Medi-Cal* eligibility period on a date that would align the beneficiary's *Medi-Cal* eligibility period with his or her household CalFresh certification period. The bill would also require ~~the~~ a county, in certain circumstances, to begin a new 12-month *Medi-Cal* eligibility period that would align a beneficiary's *Medi-Cal* eligibility period with his or her CalFresh household certification period. The bill would provide that these provisions only be implemented to the extent permitted by federal law and to the extent that they do not violate federal *Medicaid* maintenance of effort rules. By imposing additional duties on counties, this bill would impose a state-mandated local program.

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. This act shall be known, and may be cited, as
2 The Aligning Opportunities for Health Act of 2014.
3 SEC. 2. Section 14005.37 of the Welfare and Institutions Code
4 is amended to read:
5 14005.37. (a) Except as provided in subdivision (n) and in
6 Section 14005.39, a county shall perform redeterminations of
7 eligibility for *Medi-Cal* beneficiaries every 12 months and shall
8 promptly redetermine eligibility whenever the county receives
9 information about changes in a beneficiary's circumstances that
10 may affect eligibility for *Medi-Cal* benefits. The procedures for
11 redetermining *Medi-Cal* eligibility described in this section shall
12 apply to all *Medi-Cal* beneficiaries.
13 (b) Loss of eligibility for cash aid under CalWORKs shall not
14 result in a redetermination under this section unless the reason for
15 the loss of eligibility is one that would result in the need for a
16 redetermination for a person whose eligibility for *Medi-Cal* under
17 Section 14005.30 was determined without a concurrent

1 determination of eligibility for cash aid under the CalWORKs
2 program.

3 (c) A loss of contact, as evidenced by the return of mail marked
4 in such a way as to indicate that it could not be delivered to the
5 intended recipient or that there was no forwarding address, shall
6 require a prompt redetermination according to the procedures set
7 forth in this section.

8 (d) Except as otherwise provided in this section, Medi-Cal
9 eligibility shall continue during the redetermination process
10 described in this section and a beneficiary's Medi-Cal eligibility
11 shall not be terminated under this section until the county makes
12 a specific determination based on facts clearly demonstrating that
13 the beneficiary is no longer eligible for Medi-Cal benefits under
14 any basis and due process rights guaranteed under this division
15 have been met. For the purposes of this subdivision, for a
16 beneficiary who is subject to the use of MAGI-based financial
17 methods, the determination of whether the beneficiary is eligible
18 for Medi-Cal benefits under any basis shall include, but is not
19 limited to, a determination of eligibility for Medi-Cal benefits on
20 a basis that is exempt from the use of MAGI-based financial
21 methods only if either of the following occurs:

22 (A) The county assesses the beneficiary as being potentially
23 eligible under a program that is exempt from the use of
24 MAGI-based financial methods, including, but not limited to, on
25 the basis of age, blindness, disability, or the need for long-term
26 care services and supports.

27 (B) The beneficiary requests that the county determine whether
28 he or she is eligible for Medi-Cal benefits on a basis that is exempt
29 from the use of MAGI-based financial methods.

30 (e) (1) For purposes of acquiring information necessary to
31 conduct the eligibility redeterminations described in this section,
32 a county shall gather information available to the county that is
33 relevant to the beneficiary's Medi-Cal eligibility prior to contacting
34 the beneficiary. Sources for these efforts shall include information
35 contained in the beneficiary's file or other information, including
36 more recent information available to the county, including, but not
37 limited to, Medi-Cal, CalWORKs, and CalFresh case files of the
38 beneficiary or of any of his or her immediate family members,
39 which are open, or were closed within the last 90 days, information
40 accessed through any databases accessed under Sections 435.948,

1 435.949, and 435.956 of Title 42 of the Code of Federal
2 Regulations, and wherever feasible, other sources of relevant
3 information reasonably available to the county or to the county
4 via the department.

5 (2) In the case of an annual redetermination, if, based upon
6 information obtained pursuant to paragraph (1), the county is able
7 to make a determination of continued eligibility, the county shall
8 notify the beneficiary of both of the following:

9 (A) The eligibility determination and the information it is based
10 on.

11 (B) That the beneficiary is required to inform the county via the
12 Internet, by telephone, by mail, in person, or through other
13 commonly available electronic means, in counties where such
14 electronic communication is available, if any information contained
15 in the notice is inaccurate but that the beneficiary is not required
16 to sign and return the notice if all information provided on the
17 notice is accurate.

18 (3) The county shall make all reasonable efforts not to send
19 multiple notices during the same time period about eligibility. The
20 notice of eligibility renewal shall contain other related information
21 such as if the beneficiary is in a new Medi-Cal program.

22 (4) In the case of a redetermination due to a change in
23 circumstances, if a county determines that the change in
24 circumstances does not affect the beneficiary's eligibility status,
25 the county shall not send the beneficiary a notice unless required
26 to do so by federal law.

27 (f) (1) In the case of an annual eligibility redetermination, if
28 the county is unable to determine continued eligibility based on
29 the information obtained pursuant to paragraph (1) of subdivision
30 (e), the beneficiary shall be so informed and shall be provided with
31 an annual renewal form, at least 60 days before the beneficiary's
32 annual redetermination date, that is prepopulated with information
33 that the county has obtained and that identifies any additional
34 information needed by the county to determine eligibility. The
35 form shall include all of the following:

36 (A) The requirement that he or she provide any necessary
37 information to the county within 60 days of the date that the form
38 is sent to the beneficiary.

39 (B) That the beneficiary may respond to the county via the
40 Internet, by mail, by telephone, in person, or through other

1 commonly available electronic means if those means are available
2 in that county.

3 (C) That if the beneficiary chooses to return the form to the
4 county in person or via mail, the beneficiary shall sign the form
5 in order for it to be considered complete.

6 (D) The telephone number to call in order to obtain more
7 information.

8 (2) The county shall attempt to contact the beneficiary via the
9 Internet, by telephone, or through other commonly available
10 electronic means, if those means are available in that county, during
11 the 60-day period after the prepopulated form is mailed to the
12 beneficiary to collect the necessary information if the beneficiary
13 has not responded to the request for additional information or has
14 provided an incomplete response.

15 (3) If the beneficiary has not provided any response to the
16 written request for information sent pursuant to paragraph (1)
17 within 60 days from the date the form is sent, the county shall
18 terminate his or her eligibility for Medi-Cal benefits following the
19 provision of timely notice.

20 (4) If the beneficiary responds to the written request for
21 information during the 60-day period pursuant to paragraph (1)
22 but the information provided is not complete, the county shall
23 follow the procedures set forth in paragraph (3) of subdivision (g)
24 to work with the beneficiary to complete the information.

25 (5) (A) The form required by this subdivision shall be developed
26 by the department in consultation with the counties and
27 representatives of eligibility workers and consumers.

28 (B) For beneficiaries whose eligibility is not determined using
29 MAGI-based financial methods, the county may use existing
30 renewal forms until the state develops prepopulated renewal forms
31 to provide to beneficiaries. The department shall develop
32 prepopulated renewal forms for use with beneficiaries whose
33 eligibility is not determined using MAGI-based financial methods
34 by January 1, 2015.

35 (g) (1) In the case of a redetermination due to change in
36 circumstances, if a county cannot obtain sufficient information to
37 redetermine eligibility pursuant to subdivision (e), the county shall
38 send to the beneficiary a form that is prepopulated with the
39 information that the county has obtained and that states the
40 information needed to renew eligibility. The county shall only

1 request information related to the change in circumstances. The
2 county shall not request information or documentation that has
3 been previously provided by the beneficiary, that is not absolutely
4 necessary to complete the eligibility determination, or that is not
5 subject to change. The county shall only request information for
6 nonapplicants necessary to make an eligibility determination or
7 for a purpose directly related to the administration of the state
8 Medicaid plan. The form shall advise the individual to provide
9 any necessary information to the county via the Internet, by
10 telephone, by mail, in person, or through other commonly available
11 electronic means and, if the individual will provide the form by
12 mail or in person, to sign the form. The form shall include a
13 telephone number to call in order to obtain more information. The
14 form shall be developed by the department in consultation with
15 the counties, representatives of consumers, and eligibility workers.
16 A Medi-Cal beneficiary shall have 30 days from the date the form
17 is mailed pursuant to this subdivision to respond. Except as
18 provided in paragraph (2), failure to respond prior to the end of
19 this 30-day period shall not impact his or her Medi-Cal eligibility.

20 (2) If the purpose for a redetermination under this section is a
21 loss of contact with the Medi-Cal beneficiary, as evidenced by the
22 return of mail marked in such a way as to indicate that it could not
23 be delivered to the intended recipient or that there was no
24 forwarding address, a return of the form described in this
25 subdivision marked as undeliverable shall result in an immediate
26 notice of action terminating Medi-Cal eligibility.

27 (3) During the 30-day period after the date of mailing of a form
28 to the Medi-Cal beneficiary pursuant to this subdivision, the county
29 shall attempt to contact the beneficiary by telephone, in writing,
30 or other commonly available electronic means, in counties where
31 such electronic communication is available, to request the
32 necessary information if the beneficiary has not responded to the
33 request for additional information or has provided an incomplete
34 response. If the beneficiary does not supply the necessary
35 information to the county within the 30-day limit, a 10-day notice
36 of termination of Medi-Cal eligibility shall be sent.

37 (h) Beneficiaries shall be required to report any change in
38 circumstances that may affect their eligibility within 10 calendar
39 days following the date the change occurred.

1 (i) If within 90 days of termination of a Medi-Cal beneficiary's
2 eligibility or a change in eligibility status pursuant to this section,
3 the beneficiary submits to the county a signed and completed form
4 or otherwise provides the needed information to the county,
5 eligibility shall be redetermined by the county and if the beneficiary
6 is found eligible, or the beneficiary's eligibility status has not
7 changed, whichever applies, the termination shall be rescinded as
8 though the form were submitted in a timely manner.

9 (j) If the information available to the county pursuant to the
10 redetermination procedures of this section does not indicate a basis
11 of eligibility, Medi-Cal benefits may be terminated so long as due
12 process requirements have otherwise been met.

13 (k) The department shall, with the counties and representatives
14 of consumers, including those with disabilities, and Medi-Cal
15 eligibility workers, develop a timeframe for redetermination of
16 Medi-Cal eligibility based upon disability, including ex parte
17 review, the redetermination forms described in subdivisions (f)
18 and (g), timeframes for responding to county or state requests for
19 additional information, and the forms and procedures to be used.
20 The forms and procedures shall be as consumer friendly as possible
21 for people with disabilities. The timeframe shall provide a
22 reasonable and adequate opportunity for the Medi-Cal beneficiary
23 to obtain and submit medical records and other information needed
24 to establish eligibility for Medi-Cal based upon disability.

25 (l) The county shall consider blindness as continuing until the
26 reviewing physician determines that a beneficiary's vision has
27 improved beyond the applicable definition of blindness contained
28 in the plan.

29 (m) The county shall consider disability as continuing until the
30 review team determines that a beneficiary's disability no longer
31 meets the applicable definition of disability contained in the plan.

32 (n) (1) In the case of a redetermination due to a change in
33 circumstances, if a county determines that the beneficiary remains
34 eligible for Medi-Cal benefits, the county shall begin a new
35 12-month eligibility period. If the county received *or gathered* the
36 information about the change in circumstances ~~in~~ *during* a CalFresh
37 application or ~~gathered the information about the change in~~
38 ~~circumstances during a CalFresh~~ recertification, and the beneficiary
39 is determined eligible to receive CalFresh benefits, then the county
40 shall begin the new 12-month *Medi-Cal* eligibility period on a date

1 that aligns the beneficiary's eligibility period with his or her
2 household CalFresh certification period.

3 (2) (A) ~~If Except as provided in subparagraph (B), if a county~~
4 ~~receives recertifies eligibility for, or approves an application for~~
5 ~~for, CalFresh benefits from a Medi-Cal beneficiary who is not~~
6 ~~receiving CalWORKs benefits, or redetermines or recertifies~~
7 ~~eligibility for CalFresh benefits for a Medi-Cal beneficiary who~~
8 ~~is not receiving CalWORKs benefits, and no information contained~~
9 ~~in the CalFresh application, or no information gathered during the~~
10 ~~CalFresh redetermination or recertification process, requires the~~
11 ~~county to redetermine the beneficiary's eligibility for Medi-Cal~~
12 ~~pursuant to this section, and the beneficiary is determined eligible~~
13 ~~to receive CalFresh benefits, and who is not subject to a~~
14 ~~redetermination as described in paragraph (1), the county shall~~
15 ~~begin a new 12-month Medi-Cal eligibility period that aligns the~~
16 ~~beneficiary's eligibility period with his or her CalFresh household~~
17 ~~certification period, unless doing period.~~

18 (B) *A county shall not take the action described in subparagraph*
19 *(A) if doing so would increase the beneficiary's share of cost or*
20 *reduce Medi-Cal benefits for any member of the beneficiary's*
21 *CalFresh family budget unit, in which case the beneficiary's*
22 *Medi-Cal eligibility period and CalFresh certification period shall*
23 *remain unaligned.*

24 ~~(B)~~
25 (C) This paragraph shall not be construed to permit a CalFresh
26 recipient who is otherwise ineligible for Medi-Cal benefits to
27 receive Medi-Cal benefits.

28 (3) ~~This subdivision~~ *The changes made to this subdivision by*
29 *the act that added this paragraph shall be implemented to the*
30 *extent permitted by federal law and to the extent that this action*
31 *does not violate federal Medicaid maintenance of effort rules.*

32 (o) For individuals determined ineligible for Medi-Cal by a
33 county following the redetermination procedures set forth in this
34 section, the county shall determine eligibility for other insurance
35 affordability programs and if the individual is found to be eligible,
36 the county shall, as appropriate, transfer the individual's electronic
37 account to other insurance affordability programs via a secure
38 electronic interface.

1 (p) Any renewal form or notice shall be accessible to persons
2 who are limited English proficient and persons with disabilities
3 consistent with all federal and state requirements.

4 (q) The requirements to provide information in subdivisions (e)
5 and (g), and to report changes in circumstances in subdivision (h),
6 may be provided through any of the modes of submission allowed
7 in Section 435.907(a) of Title 42 of the Code of Federal
8 Regulations, including an Internet Web site identified by the
9 department, telephone, mail, in person, and other commonly
10 available electronic means as authorized by the department.

11 (r) Forms required to be signed by a beneficiary pursuant to this
12 section shall be signed under penalty of perjury. Electronic
13 signatures, telephonic signatures, and handwritten signatures
14 transmitted by electronic transmission shall be accepted.

15 (s) For purposes of this section, “MAGI-based financial
16 methods” means income calculated using the financial
17 methodologies described in Section 1396a(e)(14) of Title 42 of
18 the United States Code, and as added by the federal Patient
19 Protection and Affordable Care Act (Public Law 111-148), as
20 amended by the federal Health Care and Education Reconciliation
21 Act of 2010 (Public Law 111-152), and any subsequent
22 amendments.

23 (t) When contacting a beneficiary under paragraphs (2) and (4)
24 of subdivision (f), and paragraph (3) of subdivision (g), a county
25 shall first attempt to use the method of contact identified by the
26 beneficiary as the preferred method of contact, if a method has
27 been identified.

28 (u) The department shall seek federal approval to extend the
29 annual redetermination date under this section for a three-month
30 period for those Medi-Cal beneficiaries whose annual
31 redeterminations are scheduled to occur between January 1, 2014,
32 and March 31, 2014.

33 (v) Notwithstanding Chapter 3.5 (commencing with Section
34 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
35 the department, without taking any further regulatory action, shall
36 implement, interpret, or make specific this section by means of
37 all-county letters, plan letters, plan or provider bulletins, or similar
38 instructions until the time regulations are adopted. The department
39 shall adopt regulations by July 1, 2017, in accordance with the
40 requirements of Chapter 3.5 (commencing with Section 11340) of

1 Part 1 of Division 3 of Title 2 of the Government Code. Beginning
2 six months after the effective date of this section, and
3 notwithstanding Section 10231.5 of the Government Code, the
4 department shall provide a status report to the Legislature on a
5 semiannual basis, in compliance with Section 9795 of the
6 Government Code, until regulations have been adopted.

7 (w) This section shall be implemented only if and to the extent
8 that federal financial participation is available and any necessary
9 federal approvals have been obtained.

10 (x) This section shall become operative on January 1, 2014.

11 SEC. 3. If the Commission on State Mandates determines that
12 this act contains costs mandated by the state, reimbursement to
13 local agencies and school districts for those costs shall be made
14 pursuant to Part 7 (commencing with Section 17500) of Division
15 4 of Title 2 of the Government Code.