

AMENDED IN ASSEMBLY AUGUST 18, 2014

AMENDED IN SENATE MAY 5, 2014

**SENATE BILL**

**No. 1004**

---

**Introduced by Senator Hernandez  
(Coauthor: Senator Wolk)**

February 13, 2014

---

An act to add Section 14132.75 to the Welfare and Institutions Code, relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

SB 1004, as amended, Hernandez. Health care: palliative care.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income persons receive health care benefits, including hospice benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions.

Existing law requires the department to develop, as a pilot project, a pediatric palliative care benefit to evaluate whether, and to what extent, such a benefit should be offered under the Medi-Cal program. Existing law requires that the pilot project be implemented only to the extent that federal financial participation is available, and requires the department to submit a waiver application for federal approval.

Existing law requires that beneficiaries eligible to receive the pediatric palliative care benefit be under 21 years of age, and allows the department to further limit the population served by the project to make the above evaluation. Existing law requires that the services available under the project include those types of services that are available through the Medi-Cal hospice benefit, and certain other services.

This bill would require the department to ~~develop, as a pilot project, a similar palliative care benefit for beneficiaries who are 21 years of age or older, and to evaluate whether, and to what extent, that benefit should be offered~~ *develop a palliative care benefit* under the Medi-Cal program. ~~The bill would require that the pilot project be implemented only to the extent that federal financial participation is available, and would require the department to submit a waiver application for federal approval.~~ The bill would require that authorized providers ~~under the pilot program~~ include licensed hospice agencies and home health agencies licensed to provide hospice care, subject to criteria developed by the department for provider participation. *This bill would require the department, to the extent practicable, to structure the delivery of the palliative care benefit in a manner that is projected to be cost neutral to the General Fund on an ongoing basis. The bill would also require the department, before implementing the benefit, to provide the fiscal and appropriate policy committees of the Legislature with estimates of costs and projected savings associated with providing the benefit.*

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. Section 14132.75 is added to the Welfare and  
2 Institutions Code, to read:  
3 14132.75. (a) In enacting this section, it is the intent of the  
4 Legislature that ~~the palliative care pilot project developed pursuant~~  
5 ~~to this section~~ include, but not be limited to, all of the following:  
6 (1) Specialized medical care and emotional and spiritual support  
7 for people with serious advanced illnesses.  
8 (2) Relief of symptoms, pain, and stress of serious illness.  
9 (3) Improvement of quality of life for both the patient and  
10 family.  
11 (4) Appropriate care for any age and for any stage of serious  
12 illness, along with curative treatment.  
13 (b) ~~The department, in consultation with interested stakeholders,~~  
14 ~~shall develop, as a pilot project, a palliative care benefit to evaluate~~  
15 ~~whether, and to what extent, that benefit should be offered under~~  
16 ~~the Medi-Cal program. The pilot project shall be implemented~~  
17 ~~only to the extent that federal financial participation is available.~~  
18 *develop a palliative care benefit under the Medi-Cal program.*

1 ~~(e) Beneficiaries eligible to receive the palliative care benefit~~  
2 ~~shall be 21 years of age or older. The department may further limit~~  
3 ~~the population served by the pilot project to a size deemed~~  
4 ~~sufficient to make the evaluation required pursuant to subdivision~~  
5 ~~(b):~~

6 ~~(d)~~

7 (c) Services covered under the palliative care benefit shall  
8 include, *but are not limited to*, those types of services that are  
9 available through the Medi-Cal hospice benefit. The benefit shall  
10 also include the following services, regardless of whether those  
11 services are covered under the Medi-Cal hospice benefit:

12 (1) Hospice services that are provided at the same time that  
13 curative treatment is available, to the extent that the services are  
14 not duplicative.

15 (2) Hospice services provided to individuals whose conditions  
16 may result in death, regardless of the estimated length of the  
17 individual's remaining period of life.

18 (3) Any other services that the department determines to be  
19 appropriate.

20 (e)

21 (d) The department, in consultation with interested stakeholders,  
22 shall determine the medical conditions and prognoses that render  
23 a beneficiary eligible for the benefit.

24 (f)

25 (e) Providers authorized to provide services ~~under the pilot~~  
26 ~~program~~ shall include licensed hospice agencies and home health  
27 agencies licensed to provide hospice care, subject to criteria  
28 developed by the department for provider participation.

29 ~~(g) (1) The department shall submit any necessary application~~  
30 ~~to the federal Centers for Medicare and Medicaid Services for a~~  
31 ~~waiver to implement the pilot project described in this section.~~  
32 ~~The department shall determine the form of waiver most~~  
33 ~~appropriate to achieve the purposes of this section. The waiver~~  
34 ~~request shall be included in any waiver application submitted~~  
35 ~~within 12 months after the effective date of this section, or shall~~  
36 ~~be submitted as an independent application within that time period.~~  
37 ~~After federal approval is secured, the department shall implement~~  
38 ~~the waiver within 12 months of the date of approval.~~

39 ~~(2) The waiver shall be designed to cover a period of time~~  
40 ~~necessary to evaluate the medical necessity for, and~~

1 ~~cost-effectiveness of, a palliative care benefit. The results of the~~  
2 ~~pilot project shall be made available to the Legislature and~~  
3 ~~appropriate policy and fiscal committees to determine the~~  
4 ~~effectiveness of the benefit.~~

5 (f) *The department shall, to the extent practicable, structure the*  
6 *delivery of the palliative care benefit in a manner that is projected*  
7 *to be cost neutral to the General Fund on an ongoing basis. Before*  
8 *implementing the palliative care benefit developed pursuant to*  
9 *this section, the department shall provide the fiscal and appropriate*  
10 *policy committees of the Legislature with estimates of costs and*  
11 *projected savings associated with providing the benefit.*

12 ~~(h)~~

13 (g) Notwithstanding Chapter 3.5 (commencing with Section  
14 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
15 the department may implement the provisions of this section by  
16 means of provider bulletins or similar instructions, without the  
17 adoption of regulations. The department shall notify *stakeholders*  
18 *and* the fiscal and appropriate policy committees of the Legislature  
19 of its intent to issue a provider bulletin or other similar instruction  
20 at least five days prior to issuance.

21 ~~(i)~~

22 (h) (1) Nothing in this section shall result in the elimination or  
23 reduction of any covered benefits or services under the Medi-Cal  
24 program.

25 (2) This section shall not affect an individual's eligibility to  
26 receive, concurrently with the benefit provided for in this section,  
27 any services, including home health services, for which the  
28 individual would have been eligible in the absence of this section.