

AMENDED IN SENATE APRIL 10, 2014

AMENDED IN SENATE APRIL 2, 2014

SENATE BILL

No. 1161

Introduced by Senator Beall

February 20, 2014

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1161, as amended, Beall. Drug Medi-Cal.

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 patients in an institution for mental diseases (IMD). 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 for Medi-Cal recipients, or is required to directly arrange for these services if a county elects not to do so.

This bill would require the department to seek a specified waiver of the IMD exclusion under Drug Medi-Cal to provide short-term residential treatment in facilities with a bed capacity in excess of 16 beds and short-term inpatient medical detoxification in a hospital setting.

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 (PPACA) (Public Law 111-148), as amended by the federal Health
5 Care and Education Reconciliation Act of 2010 (Public Law
6 111-152), offers previously uninsured Californians unprecedented
7 access to health services, including mental health and substance
8 use disorder services.

9 (2) In 2013, the Legislature passed Assembly Bill 1 and Senate
10 Bill 1 in the 2013–14 First Extraordinary Session, which expanded
11 Medi-Cal coverage to low-income adults with incomes at or below
12 138 percent of the federal poverty level who were not previously
13 eligible, established the Medi-Cal benefit package for this
14 expansion population, and required the Medi-Cal program to cover
15 essential health benefits contained in PPACA, which are now
16 included in the state plan.

17 (3) It is estimated that 250,000 Californians newly eligible for
18 Medi-Cal are in need of, or are seeking, substance use disorder
19 treatment.

20 (4) Substance use disorder treatment often requires medical
21 detoxification and residential treatment services, services that have
22 been approved under California's Medi-Cal expansion under
23 PPACA.

24 (5) The federal exclusion for institutions for mental diseases
25 (IMD) only permits residential care for substance use disorder in
26 facilities with 16 beds or fewer and medical detoxification only in
27 a general acute hospital, making both services inaccessible to
28 Medi-Cal and Drug Medi-Cal beneficiaries.

29 (6) Capacity for both medical detoxification and residential
30 treatment is severely limited in California in settings in compliance
31 with the federal exclusion for IMD.

32 (7) Medical detoxification in a general acute care hospital is,
33 by far, the most expensive method to provide detoxification
34 treatment.

35 (8) According to a letter from the Director of Health Care
36 Services to the federal Centers for Medicare and Medicaid Services,
37 only 21 percent of California's beds are in facilities with a capacity
38 of 16 and under. Furthermore, other than 11 perinatal programs,

1 there are no Drug Medi-Cal licensed residential substance use
2 disorder facilities in California. Therefore, California is severely
3 limited in providing the expanded substance use disorder residential
4 treatment benefits as provided for by the Medi-Cal expansion.

5 (9) The Commonwealth of Massachusetts successfully included
6 IMD expenditure authority in its Section 1115 waiver. California
7 has a similar need for IMD expenditure authority.

8 (10) The State Department of Health Care Services has the
9 authority, subject to federal approval, to seek a Section 1115
10 waiver.

11 (b) It is the intent of the Legislature to expeditiously expand
12 statewide capacity for mental health and substance use disorder
13 treatment services for all Californians newly eligible for health
14 care services under the expansion of Medi-Cal eligibility who are
15 in need of or currently seeking treatment.

16 SEC. 2. Section 14124.27 is added to the Welfare and
17 Institutions Code, immediately following Section 14124.26, to
18 read:

19 14124.27. (a) The department shall seek a waiver of federal
20 law under Section 1115 of the federal Social Security Act (42
21 U.S.C. Sec. 1315) to receive—~~enhanced~~ federal financial
22 participation under the Drug Medi-Cal program in accordance with
23 this section.

24 (b) The department shall seek a waiver of the institution for
25 mental diseases (IMD) exclusion in Section 1396d(a)(29)(B) of
26 Title 42 of the United States Code to provide short-term residential
27 treatment in facilities with bed capacities in excess of 16 beds, 30
28 to 90 days maximum, with an average length of stay of 60 days,
29 and short-term inpatient medical detoxification in a hospital setting,
30 including, but not limited to, free-standing *acute* psychiatric and
31 chemical dependency recovery hospitals, ~~for three to seven days~~
32 ~~maximum, with an average length of stay of five days.~~

33 (c) This section shall be implemented only to the extent federal
34 approval is obtained and to the extent that federal financial
35 participation is available.

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