

AMENDED IN SENATE APRIL 29, 2014

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.~~ *additional mental health and substance*  
17 *use disorder services.*

18 (3) ~~It is estimated that 250,000 Californians newly eligible for~~  
19 ~~Medi-Cal are in need of, or are seeking, substance use disorder~~  
20 ~~treatment.~~ *An estimated 1.2 million people enrolled in the Medi-Cal*  
21 *program have substance use treatment needs.*

22 (4) Substance use disorder treatment often requires medical  
23 detoxification and residential treatment services, services that have  
24 ~~been approved under~~ *included in* California's Medi-Cal expansion  
25 under PPACA.

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

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

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

37 (8)

1 (7) According to a letter from the Director of Health Care  
2 Services to the federal Centers for Medicare and Medicaid Services,  
3 only 21 percent of California’s beds are in facilities with a capacity  
4 of 16 and under. Furthermore, other than 11 perinatal programs,  
5 there are no Drug Medi-Cal licensed residential substance use  
6 disorder facilities in California. Therefore, California is severely  
7 limited in providing the expanded substance use disorder residential  
8 treatment benefits as provided for by the Medi-Cal expansion.

9 ~~(9)~~

10 (8) The Commonwealth of Massachusetts successfully included  
11 IMD expenditure authority in its Section 1115 waiver. California  
12 has a similar need for IMD expenditure authority.

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

16 (b) It is the intent of the Legislature to expeditiously expand  
17 statewide capacity for mental health and substance use disorder  
18 treatment services for all Californians ~~newly~~ eligible for health  
19 care services under ~~the expansion of Medi-Cal eligibility~~ who are  
20 in need of or currently seeking treatment.

21 SEC. 2. Section 14124.27 is added to the Welfare and  
22 Institutions Code, immediately following Section 14124.26, to  
23 read:

24 14124.27. (a) The department shall seek a waiver of federal  
25 law under Section 1115 of the federal Social Security Act (42  
26 U.S.C. Sec. 1315) to receive federal financial participation under  
27 the Drug Medi-Cal program in accordance with this section.

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

36 (c) This section shall be implemented only to the extent federal  
37 approval is obtained and to the extent that federal financial  
38 participation is available.

O