

AMENDED IN ASSEMBLY AUGUST 18, 2014

AMENDED IN SENATE APRIL 29, 2014

AMENDED IN SENATE APRIL 10, 2014

AMENDED IN SENATE APRIL 2, 2014

**SENATE BILL**

**No. 1161**

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**Introduced by Senator Beall**

*(Coauthor: Assembly Member Dababneh)*

February 20, 2014

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An act to add Section ~~14124.27~~ 14124.29 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.~~

*This bill would authorize the department to seek federal approval to obtain federal financial participation for services provided by IMDs, which are otherwise excluded from federal financial participation under federal law.*

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 additional mental health and substance use disorder services.
- 16 (3) An estimated 1.2 million people enrolled in the Medi-Cal  
 17 program have substance use treatment needs.
- 18 (4) Substance use disorder treatment often requires medical  
 19 detoxification and residential treatment services, services that have  
 20 been included in California’s Medi-Cal expansion under PPACA.
- 21 (5) The federal exclusion for institutions for mental diseases  
 22 (IMD) only permits residential care for substance use disorder in  
 23 facilities with 16 beds or fewer and medical detoxification only in  
 24 a general acute *care* hospital, making both services inaccessible  
 25 to Medi-Cal and Drug Medi-Cal beneficiaries.
- 26 (6) Capacity for both medical detoxification and residential  
 27 treatment is severely limited in California in settings in compliance  
 28 with the federal exclusion for IMD.
- 29 (7) According to a letter from the Director of Health Care  
 30 Services to the federal Centers for Medicare and Medicaid Services,  
 31 only 21 percent of California’s beds are in facilities with a capacity

1 of 16 and under. Furthermore, other than 11 perinatal programs,  
2 there are no Drug Medi-Cal licensed residential substance use  
3 disorder facilities in California. Therefore, California is severely  
4 limited in providing the expanded substance use disorder residential  
5 treatment benefits as provided for by the Medi-Cal expansion.

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

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

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

17 ~~14124.27. (a) The department shall seek a waiver of federal~~  
18 ~~law under Section 1115 of the federal Social Security Act (42~~  
19 ~~U.S.C. Sec. 1315) to receive federal financial participation under~~  
20 ~~the Drug Medi-Cal program in accordance with this section.~~

21 ~~(b) The department shall seek a waiver of the institution for~~  
22 ~~mental diseases (IMD) exclusion in Section 1396d(a)(29)(B) of~~  
23 ~~Title 42 of the United States Code to provide short-term residential~~  
24 ~~treatment in facilities with bed capacities in excess of 16 beds and~~  
25 ~~short-term inpatient medical detoxification in a hospital setting,~~  
26 ~~including, but not limited to, free-standing acute psychiatric and~~  
27 ~~chemical dependency recovery hospitals.~~

28 ~~(c) This section shall be implemented only to the extent federal~~  
29 ~~approval is obtained and to the extent that federal financial~~  
30 ~~participation is available.~~

31 *SEC. 2. Section 14124.29 is added to the Welfare and*  
32 *Institutions Code, to read:*

33 *14124.29. (a) The department may seek federal approval to*  
34 *obtain federal financial participation for services provided by*  
35 *institutions for mental diseases (IMDs), which are otherwise*  
36 *excluded from federal financial participation by Section*  
37 *1396d(a)(29)(B) of Title 42 of the United States Code.*

38 *(b) In enacting this section, the Legislature intends to improve*  
39 *access to short-term residential treatment in facilities with bed*  
40 *capacities in excess of 16 beds and short-term inpatient medical*

- 1 *detoxification in a hospital setting, including, but not limited to,*
- 2 *free-standing acute psychiatric and chemical dependency recovery*
- 3 *hospitals.*