

AMENDED IN SENATE APRIL 3, 2014

SENATE BILL

No. 1315

Introduced by Senator Monning

February 21, 2014

An act to ~~add Section 1327.5 to the Unemployment Insurance Code, relating to unemployment insurance.~~ amend Section 14043.7 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 1315, as amended, Monning. ~~Unemployment insurance benefits: overpayment. Medi-Cal: providers.~~

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 permits the department to make unannounced visits to an applicant or to a provider for the purpose of determining whether enrollment, continued enrollment, or certification as a provider is warranted, or as necessary for the administration of the Medi-Cal program. Existing law further requires that a provider be subject to temporary suspension from the Medi-Cal program, which includes temporary deactivation of the provider's number, for failure to remediate significant discrepancies in information that he or she provided to the department or for failure to remediate significant discrepancies that are discovered as a result of an announced or unannounced visit to a provider, as specified. Existing law requires the provider to be notified, in writing, of the temporary suspension and deactivation of providers number.

This bill would require that notice of temporary suspension to contain a list of discrepancies to be remediated and the timeframe in which the provider needs to remediate those discrepancies. The bill would require the department to lift a temporary suspension and notify a provider that the temporary suspension has been lifted and that he or she is eligible to receive reimbursement for Medi-Cal services provided after the date the temporary suspension was lifted if the provider has demonstrated that the identified discrepancies have been remediated within the applicable timeframe. A provider who fails to remediate the identified discrepancies would be removed from enrollment as a provider in the Medi-Cal program by operation of law.

~~Existing law requires the Employment Development Department to pay unemployment compensation benefits to eligible claimants, makes any person who is overpaid any amount as benefits liable for the amount overpaid, and requires the department to issue a notice of overpayment. Existing regulations adopted by the department require the department to notify the claimant when the department determines that an overpayment of benefits is probable, and to assist the claimant in furnishing necessary information to the department regarding the claimant's eligibility for benefits, as specified.~~

~~This bill would place in statute the requirement that the department issue a notice of probable overpayment of benefits and provide related assistance, and would require that the claimant be given a minimum of 20 days in which to respond to the notice.~~

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 14043.7 of the Welfare and Institutions
2 Code is amended to read:
3 14043.7. (a) The department may make unannounced visits
4 to an applicant or to a provider for the purpose of determining
5 whether enrollment, continued enrollment, or certification is
6 warranted, or as necessary for the administration of the Medi-Cal
7 program. If an unannounced site visit is conducted by the
8 department for any enrolled provider, the provider shall permit
9 access to any and all of their provider locations. If a provider fails
10 to permit access for any site visit, the application shall be denied
11 and the provider shall be subject to deactivation. At the time of

1 the visit, the applicant or provider shall be required to demonstrate
2 an established place of business appropriate and adequate for the
3 services billed or claimed to the Medi-Cal program, as relevant to
4 his or her scope of practice, as indicated by, but not limited to, the
5 following:

- 6 (1) Being open and available to the general public.
- 7 (2) Having regularly established and posted business hours.
- 8 (3) Having adequate supplies in stock on the premises.
- 9 (4) Meeting all local laws and ordinances regarding business
10 licensing and operations.
- 11 (5) Having the necessary equipment and facilities to carry out
12 day-to-day business for his or her practice.

13 (b) An unannounced visit pursuant to subdivision (a) shall be
14 prohibited with respect to clinics licensed under Section 1204 of
15 the Health and Safety Code, clinics exempt from licensure under
16 Section 1206 of the Health and Safety Code, health facilities
17 licensed under Chapter 2 (commencing with Section 1250) of
18 Division 2 of the Health and Safety Code, and natural persons
19 licensed or certified under Division 2 (commencing with Section
20 500) of the Business and Professions Code, the Osteopathic
21 Initiative Act, or the Chiropractic Initiative Act, unless the
22 department has reason to believe that the provider will defraud or
23 abuse the Medi-Cal program or lacks the organizational or
24 administrative capacity to provide services under the program.

25 (c) (1) Failure to remediate significant discrepancies in
26 information provided to the department by the provider or
27 significant discrepancies that are discovered as a result of an
28 announced or unannounced visit to a provider, for purposes of
29 enrollment, continued enrollment, or certification pursuant to
30 subdivision (a) shall make the provider subject to temporary
31 suspension from the Medi-Cal program, which shall include
32 temporary deactivation of the provider's number, including all
33 business addresses used by the provider to obtain reimbursement
34 from the Medi-Cal program. The director shall notify in writing
35 the provider of the temporary suspension and deactivation of
36 provider numbers, which shall take effect 15 days from the date
37 of the notification. Notwithstanding Section 100171 of the Health
38 and Safety Code, proceedings after the imposition of sanctions in
39 this subdivision shall be in accordance with Section 14043.65.

1 (2) A notice of temporary suspension issued pursuant to
 2 paragraph (1) shall include the following:

3 (A) A list of discrepancies required to be remediated.

4 (B) The timeframe in which a provider may demonstrate to the
 5 department that the discrepancies identified pursuant to
 6 subparagraph (A) have been remediated.

7 (3) If a provider who has received a notice of temporary
 8 suspension pursuant to paragraph (1) demonstrates to the
 9 department that the discrepancies identified pursuant to
 10 subparagraph (A) of paragraph (2) have been remediated and
 11 meets the standards of participation within the timeframe specified
 12 in subparagraph (B) of paragraph (2), the department shall lift
 13 the temporary suspension and shall notify the provider that the
 14 temporary suspension has been lifted and that he or she is eligible
 15 to receive Medi-Cal reimbursement for services provided after the
 16 date the temporary suspension was lifted.

17 (4) If a provider who has received a notice of temporary
 18 suspension pursuant to paragraph (1) fails to remediate the
 19 discrepancies identified pursuant to subparagraph (A) of
 20 paragraph (2) within the timeframe specified in subparagraph (B)
 21 of paragraph (2), the provider shall be removed from enrollment
 22 as a provider in the Medi-Cal program by operation of law.

23 (d) (1) This section shall become operative on the effective
 24 date of the state plan amendment necessary to implement this
 25 section, as stated in the declaration executed by the director
 26 pursuant to paragraph (2).

27 (2) Upon approval of the state plan amendment necessary to
 28 implement this section under Section 455.416 of Title 42 of the
 29 Code of Federal Regulations, the director shall execute a
 30 declaration, to be retained by the director and posted on the
 31 department’s Internet Web site, that states that this approval has
 32 been obtained and the effective date of the state plan amendment.
 33 The department shall transmit a copy of the declaration to the
 34 Legislature.

35 ~~SECTION 1. Section 1327.5 is added to the Unemployment~~
 36 ~~Insurance Code, to read:~~

37 ~~1327.5. (a) Whenever the department determines that an~~
 38 ~~overpayment is probable, it shall promptly notify the claimant of~~
 39 ~~the probable overpayment, the claimant’s right to request that the~~
 40 ~~department waive the overpayment, and the standards to obtain a~~

1 ~~waiver of the overpayment. The claimant shall be provided no~~
2 ~~fewer than 20 days from the mailing or personal service of the~~
3 ~~notice to respond before the department issues a decision of~~
4 ~~overpayment. The department shall assist and advise the claimant~~
5 ~~in meeting his or her obligation to furnish the department with all~~
6 ~~information necessary for the department to determine whether~~
7 ~~there is an overpayment and whether the claimant is entitled to~~
8 ~~waiver of an overpayment, and for establishing a repayment~~
9 ~~schedule.~~
10 (b) ~~This section shall not be interpreted to modify Section 1328~~
11 ~~or Section 1334.~~

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