

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 68

Introduced by Assembly Member Waldron

December 18, 2014

An act to ~~amend Section 14000 of~~ *add Section 14133.06* to the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 68, as amended, Waldron. Medi-Cal.

Existing law establishes the Medi-Cal program, which is administered by the State Department of Health Care Services, and 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. *Covered benefits under the Medi-Cal program include the purchase of prescribed drugs, subject to the Medi-Cal List of Contract Drugs and utilization controls.* ~~Existing law provides that it is the intent of the Legislature to provide, to the extent practicable, for health care for those aged and other persons who lack sufficient annual income to meet the costs of health care, and whose other assets are so limited that their application toward the costs of care would jeopardize the person's or family's future minimum self-maintenance and security.~~

This bill, which would be known as the Patient Access to Prescribed Epilepsy Treatments Act, would require, to the extent permitted by federal law, that any drug in the seizure or epilepsy therapeutic drug class would be a covered benefit under the Medi-Cal program. The bill would require a Medi-Cal managed care plan to provide coverage for these drugs, regardless of whether the drug is on the plan's formulary,

if the treating provider demonstrates that, in his or her reasonable, professional judgment, the drug is medically necessary and consistent with specified federal rules and regulations. If the managed care plan elects not to cover a drug described in the bill, the drug would be deemed a noncapitated benefit not reimbursed by the managed care plan, which would be available on a fee-for-service basis, and the plan's contracted rate would be reduced to reflect the cost to the state of providing the benefit to the patient, as specified. This bill would declare the intent of the Legislature that a prescriber's reasonable, professional judgment prevail in prescribing the drugs described in the bill to Medi-Cal patients.

~~This bill would make technical, nonsubstantive changes to those provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. *This act shall be known, and may be cited, as the*
- 2 *Patient Access to Prescribed Epilepsy Treatments Act.*
- 3 SEC. 2. *Section 14133.06 is added to the Welfare and*
- 4 *Institutions Code, to read:*
- 5 14133.06. (a) *It is the intent of the Legislature in enacting this*
- 6 *section that a prescriber's reasonable, professional judgment*
- 7 *prevail in prescribing to Medi-Cal patients any drug in the*
- 8 *therapeutic drug class that includes drugs approved by the federal*
- 9 *Food and Drug Administration for use in the treatment of seizures*
- 10 *or epilepsy, but are not on Medi-Cal managed care plan*
- 11 *formularies, or are subject to prior authorization requirements.*
- 12 (b) *To the extent permitted by federal law, if any drug in the*
- 13 *seizure or epilepsy therapeutic drug class described in subdivision*
- 14 *(a) is prescribed by a Medi-Cal beneficiary's treating provider,*
- 15 *that drug shall be a covered benefit under this chapter.*
- 16 (c) *Except as provided in subdivision (d), and notwithstanding*
- 17 *the establishment of a statewide outpatient drug formulary, a*
- 18 *Medi-Cal managed care plan shall provide coverage for a drug*
- 19 *in the seizures and epilepsy therapeutic class, as described in*
- 20 *subdivision (a), regardless of whether the drug is on the plan's*
- 21 *formulary, if the treating provider demonstrates, consistent with*
- 22 *federal law that, in his or her reasonable, professional judgment,*

1 *the drug is medically necessary and consistent with the federal*
2 *Food and Drug Administration’s labeling and use rules and*
3 *regulations, as supported in at least one of the official compendia*
4 *identified in Section 1927(g)(1)(B)(i) of the federal Social Security*
5 *Act (42 U.S.C. Sec. 1396r-8(g)(1)(B)(i)).*

6 *(d) (1) If a Medi-Cal managed care plan elects not to cover a*
7 *seizure or epilepsy drug described in subdivision (b), the drug*
8 *shall be deemed a noncapitated benefit not reimbursed by the*
9 *managed care plan, and shall be available on a fee-for-service*
10 *basis. The treating provider shall follow fee-for-service billing*
11 *instructions for reimbursement under these circumstances.*

12 *(2) If a drug is deemed a noncapitated benefit not reimbursed*
13 *by a Medi-Cal managed care plan, as described in paragraph (1),*
14 *the plan’s contracted rate shall be reduced to reflect the cost of*
15 *providing the benefit to the patient on a fee-for-service basis.*

16 ~~SECTION 1. Section 14000 of the Welfare and Institutions~~
17 ~~Code is amended to read:~~

18 ~~14000. The purpose of this chapter is to afford to qualifying~~
19 ~~individuals health care and related remedial or preventive services,~~
20 ~~including related social services that are necessary for those~~
21 ~~receiving health care under this chapter.~~

22 ~~The intent of the Legislature is to provide, to the extent~~
23 ~~practicable, through the provisions of this chapter, for health care~~
24 ~~for those aged and other individuals, including family members,~~
25 ~~who lack sufficient annual income to meet the costs of health care~~
26 ~~and whose other assets are so limited that their application toward~~
27 ~~the costs of that care would jeopardize the individual’s or family’s~~
28 ~~future minimum self-maintenance and security. It is intended that~~
29 ~~whenever possible and feasible:~~

30 ~~(a) The means employed shall allow, to the extent practicable,~~
31 ~~an eligible individual to secure health care in the same manner~~
32 ~~employed by the public generally, and without discrimination or~~
33 ~~segregation based purely on his or her economic disability. The~~
34 ~~means employed shall include an emphasis on efforts to arrange~~
35 ~~and encourage access to health care through enrollment in~~
36 ~~organized, managed care plans of the type available to the general~~
37 ~~public.~~

38 ~~(b) The benefits available under this chapter shall not duplicate~~
39 ~~those provided under other federal or state laws or under other~~

1 contractual or legal entitlements of the individual or individuals
2 receiving them.
3 (e) ~~In the administration of this chapter and in establishing the~~
4 ~~means to be used to provide access to health care to individuals~~
5 ~~eligible under this chapter, the department shall emphasize and~~
6 ~~take advantage of both the efficient organization and ready~~
7 ~~accessibility and availability of health care facilities and resources~~
8 ~~through enrollment in managed health care plans and new and~~
9 ~~innovative fee-for-service managed health care plan approaches~~
10 ~~to the delivery of health care services.~~