

AMENDED IN ASSEMBLY JUNE 1, 2015
AMENDED IN ASSEMBLY APRIL 30, 2015
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 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.

This bill, which would be known as the Patient Access to Prescribed Epilepsy Treatments Act, would ~~require, subject~~, 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,~~ *the denial of coverage by a Medi-Cal managed care plan of any drug in the seizure or epilepsy therapeutic drug class prescribed by a Medi-Cal beneficiary's treating provider to an automatic urgent appeal*

process, as specified, if the treating provider demonstrates that in his or her reasonable, professional judgment, the drug is medically necessary, necessary and consistent with specified federal rules and regulations, and the drug is not on the Medi-Cal managed care plan formulary, and consistent with specified federal rules and regulations, under which circumstances the beneficiary would be entitled to an automatic urgent appeal, as defined: formulary.

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. 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 Medi-Cal beneficiary shall have prompt access to
 7 medically necessary drugs for use in the treatment of seizures and
 8 epilepsy that have been approved by the federal Food and Drug
 9 Administration for use in the treatment of seizures or epilepsy,
 10 including drugs that are not on the formulary of a Medi-Cal
 11 managed care plan or that are subject to prior authorization.
 12 (b) To the extent permitted by federal law, if any drug used in
 13 the treatment of seizures and epilepsy as 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.~~ *provider*
 16 *for the treatment of seizures and epilepsy, and coverage for that*
 17 *prescribed drug is denied by a Medi-Cal managed care plan in*
 18 *which the beneficiary is enrolled, that denial shall be reviewed in*
 19 *accordance with this section.*
 20 (c) (1) ~~A drug is covered pursuant to this section.~~ *The denial by*
 21 *a Medi-Cal managed care plan of a drug prescribed for the*
 22 *treatment of seizures and epilepsy and approved by the federal*
 23 *Food and Drug Administration for the use in the treatment of*
 24 *seizures and epilepsy is subject to the automatic urgent appeal*
 25 *process described in paragraph (2), if the treating provider*
 26 *demonstrates, consistent with federal law, that in his or her*
 27 *reasonable, professional judgment, the drug is medically necessary*
 28 *and consistent with the federal Food and Drug Administration’s*

1 labeling and use rules and regulations, as supported in at least one
2 of the official compendia identified in Section 1927(g)(1)(B)(i) of
3 the federal Social Security Act (42 U.S.C. Sec.
4 1396r-8(g)(1)(B)(i)), and the drug is not on the formulary for the
5 Medi-Cal managed care plan.

6 (2) In a case in which a plan denies coverage for a drug
7 prescribed ~~under this section~~, *for the treatment of seizures and*
8 *epilepsy and approved by the federal Food and Drug*
9 *Administration for the use in the treatment of seizures and epilepsy*,
10 the beneficiary shall be entitled to an automatic urgent appeal. For
11 purposes of this ~~paragraph~~, *section*, “automatic urgent appeal”
12 means an appeal in which the plan immediately notifies the
13 department of the denial of coverage, and the beneficiary is not
14 required to take any further action. An automatic urgent appeal
15 shall be resolved within 48 hours after denial by the plan. The
16 48-hour period specified in this paragraph shall be in addition to
17 any time prescribed by federal law.