

ASSEMBLY BILL

No. 763

Introduced by Assembly Members Burke and Bonilla

February 25, 2015

An act to amend Section 14005.40 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 763, as introduced, Burke. Medi-Cal: program for aged and disabled persons.

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 requires the department to exercise its option under federal law to implement a program for aged and disabled persons, as described. Existing law requires an individual under these provisions to satisfy certain financial eligibility requirements, including, among other things, that his or her countable income does not exceed an income standard equal to 100% of the applicable federal poverty level, plus an income disregard of \$230 for an individual, or \$310 in the case of a couple, except that the income standard determined may not be less than the SSI/SSP payment level for a disabled individual or couple, as applicable.

This bill would increase those income disregard amounts to \$369 for an individual, or \$498 in the case of a couple, and require that the income disregards be adjusted annually. The bill would provide, however, that the income standard determined may not be less than the

SSI/SSP payment level the individual or couple, as applicable, receives or would receive as a disabled or blind individual or couple.

Because counties are required to make Medi-Cal eligibility determinations and this bill would expand Medi-Cal eligibility, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

1 SECTION 1. Section 14005.40 of the Welfare and Institutions
2 Code is amended to read:
3 14005.40. (a) To the extent federal financial participation is
4 available, the department shall exercise its option under Section
5 1902(a)(10)(A)(ii)(X) of the federal Social Security Act (42 U.S.C.
6 Sec. 1396a(a)(10)(A)(ii)(X), to implement a program for aged and
7 disabled persons as described in Section 1902(m) of the federal
8 Social Security Act (42 U.S.C. Sec. 1396a(m)(1)).
9 (b) To the extent federal financial participation is available, the
10 blind shall be included within the definition of disabled for the
11 purposes of the program established in this section.
12 (c) An individual shall satisfy the financial eligibility
13 requirement of this program if all of the following conditions are
14 met:
15 (1) Countable income, as determined in accordance with Section
16 1902(m) of the federal Social Security Act (42 U.S.C. Sec.
17 1396a(m)), does not exceed an income standard equal to 100
18 percent of the applicable federal poverty level, plus ~~two hundred~~
19 ~~thirty dollars (\$230)~~ *an income disregard of three hundred*
20 *sixty-nine dollars (\$369)* for an individual or, in the case of a
21 couple, ~~three hundred ten dollars (\$310), provided four hundred~~
22 *ninety-eight dollars (\$498)*, except that the income standard so
23 determined shall not be less than the SSI/SSP payment level for a

1 ~~disabled~~ the individual receives or would receive as a disabled or
2 blind individual or, in the case of a couple, the SSI/SSP payment
3 level ~~for a disabled~~ the couple receives or would receive as a
4 disabled or blind couple.

5 (2) The income disregard amounts in paragraph (1) are based
6 on the 2014 federal poverty levels, so that the income standard
7 plus the income disregard totals 138 percent of the federal poverty
8 level. The income disregard amounts shall be adjusted annually
9 and applied when the federal poverty levels take effect in order to
10 maintain the income standard at 138 percent of the federal poverty
11 level, except that the income standard shall not be less than the
12 SSI/SSP payment level the individual receives or would receive as
13 a disabled or blind individual, or in the case of a couple, the
14 SSI/SSP payment level the couple receives or would receive as a
15 disabled or blind couple.

16 ~~(2)~~

17 (3) (A) For the purposes of calculating countable income under
18 this section, an income exemption shall be applied as necessary
19 to adjust the SSI/SSP payment level as used in this section so that
20 it is the same as the SSI/SSP payment level that was in place on
21 May 1, 2009.

22 (B) This additional income exemption shall cease to be
23 implemented when the SSI/SSP payment levels increase beyond
24 those in effect on May 1, 2009.

25 (C) Notwithstanding Chapter 3.5 (commencing with Section
26 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
27 the department shall implement this paragraph by means of an
28 all-county letter or similar instruction without taking regulatory
29 action.

30 ~~(3)~~

31 (4) Countable resources, as determined in accordance with
32 Section 1902(m) of the federal Social Security Act (42 U.S.C. Sec.
33 1396a(m)), do not exceed the maximum levels established in that
34 section.

35 (d) The financial eligibility requirements provided in subdivision
36 (c) may be adjusted upwards to reflect the cost of living in
37 California, contingent upon appropriation in the annual Budget
38 Act.

39 (e) Notwithstanding Chapter 3.5 (commencing with Section
40 11340) of Part 1 of Division 3 of Title 2 of the Government Code,

1 the department shall implement this section by means of all-county
2 letters or similar instructions, and without taking regulatory action.
3 Thereafter, the department shall adopt regulations in accordance
4 with the requirements of Chapter 3.5 (commencing with Section
5 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

6 (f) For purposes of calculating income under this section during
7 any calendar year, increases in social security benefit payments
8 under Title II of the federal Social Security Act (42 U.S.C. Sec.
9 401 et seq.) arising from cost-of-living adjustments shall be
10 disregarded commencing in the month that these social security
11 benefit payments are increased by the cost-of-living adjustment
12 through the month before the month in which a change in the
13 federal poverty level requires the department to modify the income
14 standard described in subdivision (c).

15 (g) (1) For purposes of this section the following definitions
16 apply:

17 (A) “SSI” means the federal Supplemental Security Income
18 program established under Title XVI of the federal Social Security
19 Act.

20 (B) “Income standard” means the applicable income standard
21 ~~including the augmentations specified in paragraph (1) of~~
22 ~~subdivision (e) specified in subdivision (c), including the~~
23 ~~augmentations specified in paragraphs (1) and (2) of that~~
24 ~~subdivision.~~

25 (C) The board and care “personal care services” or “PCS”
26 deduction refers to an income disregard that is applied to a resident
27 in a licensed community care facility in lieu of the board and care
28 deduction (equal to the amount by which the basic board and care
29 rate exceeds the income standard in subparagraph (B), of paragraph
30 ~~(1) of subdivision (g)) (B))~~ when the PCS deduction is greater than
31 the board and care deduction.

32 (2) (A) For purposes of this section, the SSI recipient retention
33 amount is the amount by which the SSI maximum payment amount
34 to an individual residing in a licensed community care facility
35 exceeds the maximum amount that the state allows community
36 care facilities to charge a resident who is an SSI recipient.

37 (B) For the purposes of this section, the personal and incidental
38 needs deduction for an individual residing in a licensed community
39 care facility is either of the following:

(i) If the board and care deduction is applicable to the individual, the amount, not to exceed the amount by which the SSI recipient retention amount exceeds twenty dollars (\$20), nor to be less than zero, by which the sum of the amount which the individual pays to his or her licensed community care facility and the SSI recipient retention amount exceed the sum of the individual's income standard, the individual's board and care deduction, and twenty dollars (\$20).

(ii) If the PCS deduction specified in paragraph (1) of subdivision (g) is applicable to the individual, an amount, not to exceed the amount by which the SSI recipient retention amount exceeds twenty dollars (\$20), nor to be less than zero, by which the sum of the amount which the individual pays to his or her community care facility and the SSI recipient retention amount exceed the sum of the individual's income standard, the individual's PCS ~~deduction~~ deduction, and twenty dollars (\$20).

(3) In determining the countable income under this section of an individual residing in a licensed community care facility, the individual shall have deducted from his or her income the amount specified in subparagraph (B) of paragraph (2).

(h) No later than one month after the effective date of subdivision (g), the department shall submit to the federal ~~medicaid~~ *Medicaid* administrator a state plan amendment seeking approval of the income deduction specified in paragraph (3) of subdivision (g), and of federal financial participation for the costs resulting from that income deduction.

(i) The deduction prescribed by paragraph (3) of subdivision (g) shall be applied no later than the first day of the fourth month after the month in which the department receives approval for the federal financial participation specified in subdivision (h). Until approval for federal financial participation is received, there shall be no deduction under paragraph (3) of subdivision (g).

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.