

AMENDED IN SENATE JUNE 15, 2015

AMENDED IN ASSEMBLY APRIL 16, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1114

Introduced by Assembly Member Bonilla

February 27, 2015

An act to amend Section 15926 of the Welfare and Institutions Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1114, as amended, Bonilla. Health care: eligibility and enrollment.

Existing law establishes for various programs to provide health care coverage to persons with limited financial resources, including the Medi-Cal program and the State's Children's Health Insurance Program. Existing law establishes the California Health Benefit Exchange (Exchange), pursuant to the federal Patient Protection and Affordable Care Act (PPACA), and specifies the duties and powers of the board governing the Exchange relative to determining eligibility for enrollment in the Exchange and arranging for coverage under qualified health plans, and facilitating the purchase of qualified health plans through the Exchange. Existing law, the Health Care Reform Eligibility, Enrollment, and Retention Planning Act, operative as provided, requires the California Health and Human Services Agency, in consultation with specified entities, to establish standardized single, accessible, application forms and related renewal procedures for state health subsidy programs, as defined, in accordance with specified requirements relating to the forms and notices developed for these purposes.

This bill would ~~revise these provisions to include letters, as well as forms and notices developed for purposes of creating the standardized application and renewal process, and would also specifically define the nature of these forms, letters, and notices.~~ *define the terms “forms” and “notices” for these purposes as application, renewal, and other forms and letters needed to obtain or retain eligibility, benefits, or services from an insurance affordability program, and all notices affecting the legal rights of applicants, beneficiaries, and enrollees.*

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

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

1 SECTION 1. Section 15926 of the Welfare and Institutions
 2 Code is amended to read:
 3 15926. (a) The following definitions apply for purposes of
 4 this part:
 5 (1) “Accessible” means in compliance with Section 11135 of
 6 the Government Code, Section 1557 of the PPACA, and regulations
 7 or guidance adopted pursuant to these statutes.
 8 (2) ~~“Forms, letters,”~~ “Forms and notices” means application,
 9 renewal, and other forms and letters needed to obtain or retain
 10 eligibility, benefits, or services from an insurance affordability
 11 program, and all notices affecting the legal rights of applicants,
 12 beneficiaries, and enrollees.
 13 (3) “Limited-English-proficient” means not speaking English
 14 as one’s primary language and having a limited ability to read,
 15 speak, write, or understand English.
 16 (4) “Insurance affordability program” means a program that is
 17 one of the following:
 18 (A) The Medi-Cal program under Title XIX of the federal Social
 19 Security Act (42 U.S.C. Sec. 1396 et seq.).
 20 (B) The state’s children’s health insurance program (CHIP)
 21 under Title XXI of the federal Social Security Act (42 U.S.C. Sec.
 22 1397aa et seq.).
 23 (C) A program that makes available to qualified individuals
 24 coverage in a qualified health plan through the California Health
 25 Benefit Exchange established pursuant to Title 22 (commencing
 26 with Section 100500) of the Government Code with advance

1 payment of the premium tax credit established under Section 36B
2 of the Internal Revenue Code.

3 (D) A program that makes available coverage in a qualified
4 health plan through the California Health Benefit Exchange
5 established pursuant to Title 22 (commencing with Section 100500)
6 of the Government Code with cost-sharing reductions established
7 under Section 1402 of PPACA and any subsequent amendments
8 to that act.

9 (b) An individual shall have the option to apply for insurance
10 affordability programs in person, by mail, online, by telephone,
11 or by other commonly available electronic means.

12 (c) (1) A single, accessible, standardized paper, electronic, and
13 telephone application for insurance affordability programs shall
14 be developed by the department in consultation with MRMIB and
15 the board governing the Exchange as part of the stakeholder process
16 described in subdivision (b) of Section 15925. The application
17 shall be used by all entities authorized to make an eligibility
18 determination for any of the insurance affordability programs and
19 by their agents.

20 (2) The department may develop and require the use of
21 supplemental forms to collect additional information needed to
22 determine eligibility on a basis other than the financial
23 methodologies described in Section 1396a(e)(14) of Title 42 of
24 the United States Code, as added by the federal Patient Protection
25 and Affordable Care Act (Public Law 111-148), and as amended
26 by the federal Health Care and Education Reconciliation Act of
27 2010 (Public Law 111-152) and any subsequent amendments, as
28 provided under Section 435.907(c) of Title 42 of the Code of
29 Federal Regulations.

30 (3) The application shall be tested and operational by the date
31 as required by the federal Secretary of Health and Human Services.

32 (4) The application form shall, to the extent not inconsistent
33 with federal statutes, regulations, and guidance, satisfy all of the
34 following criteria:

35 (A) The form shall include simple, user-friendly language and
36 instructions.

37 (B) The form may not ask for information related to a
38 nonapplicant that is not necessary to determine eligibility in the
39 applicant's particular circumstances.

1 (C) The form may require only information necessary to support
2 the eligibility and enrollment processes for insurance affordability
3 programs.

4 (D) The form may be used for, but shall not be limited to,
5 screening.

6 (E) The form may ask, or be used otherwise to identify, if the
7 mother of an infant applicant under one year of age had coverage
8 through an insurance affordability program for the infant's birth,
9 for the purpose of automatically enrolling the infant into the
10 applicable program without the family having to complete the
11 application process for the infant.

12 (F) The form may include questions that are voluntary for
13 applicants to answer regarding demographic data categories,
14 including race, ethnicity, primary language, disability status, and
15 other categories recognized by the federal Secretary of Health and
16 Human Services under Section 4302 of the PPACA.

17 (G) Until January 1, 2016, the department shall instruct counties
18 to not reject an application that was in existence prior to January
19 1, 2014, but to accept the application and request any additional
20 information needed from the applicant in order to complete the
21 eligibility determination process. The department shall work with
22 counties and consumer advocates to develop the supplemental
23 questions.

24 (d) ~~Nothing in this section shall~~ *This section does not* preclude
25 the use of a provider-based application form or enrollment
26 procedures for insurance affordability programs or other health
27 programs that differs from the application form described in
28 subdivision (c), and related enrollment procedures. ~~Nothing in this~~
29 ~~section shall~~ *This section does not* preclude the use of a joint
30 application, developed by the department and the State Department
31 of Social Services, that allows for an application to be made for
32 multiple programs, including, but not limited to, CalWORKs,
33 CalFresh, and insurance affordability programs.

34 (e) The entity making the eligibility determination shall grant
35 eligibility immediately whenever possible and with the consent of
36 the applicant in accordance with the state and federal rules
37 governing insurance affordability programs.

38 (f) (1) If the eligibility, enrollment, and retention system has
39 the ability to prepopulate an application form for insurance
40 affordability programs with personal information from available

1 electronic databases, an applicant shall be given the option, with
2 his or her informed consent, to have the application form
3 prepopulated. Before a prepopulated application is submitted to
4 the entity authorized to make eligibility determinations, the
5 individual shall be given the opportunity to provide additional
6 eligibility information and to correct any information retrieved
7 from a database.

8 (2) ~~All~~ An insurance affordability ~~programs~~ program may accept
9 self-attestation, instead of requiring an individual to produce a
10 document, for age, date of birth, family size, household income,
11 state residence, pregnancy, and any other applicable criteria needed
12 to determine the eligibility of an applicant or recipient, to the extent
13 permitted by state and federal law.

14 (3) An applicant or recipient shall have his or her information
15 electronically verified in the manner required by the PPACA and
16 implementing federal regulations and guidance and state law.

17 (4) Before an eligibility determination is made, the individual
18 shall be given the opportunity to provide additional eligibility
19 information and to correct information.

20 (5) The eligibility of an applicant shall not be delayed beyond
21 the timeliness standards as provided in Section 435.912 of Title
22 42 of the Code of Federal Regulations or denied for any insurance
23 affordability program unless the applicant is given a reasonable
24 opportunity, of at least the kind provided for under the Medi-Cal
25 program pursuant to Section 14007.5 and paragraph (7) of
26 subdivision (e) of Section 14011.2, to resolve discrepancies
27 concerning any information provided by a verifying entity.

28 (6) To the extent federal financial participation is available, an
29 applicant shall be provided benefits in accordance with the rules
30 of the insurance affordability program, as implemented in federal
31 regulations and guidance, for which he or she otherwise qualifies
32 until a determination is made that he or she is not eligible and all
33 applicable notices have been provided. ~~Nothing in this section~~
34 ~~shall~~ *This section shall not* be interpreted to grant presumptive
35 eligibility if it is not otherwise required by state law, and, if so
36 required, then only to the extent permitted by federal law.

37 (g) The eligibility, enrollment, and retention system shall offer
38 an applicant and recipient assistance with his or her application or
39 renewal for an insurance affordability program in person, over the
40 telephone, by mail, online, or through other commonly available

1 electronic means and in a manner that is accessible to individuals
2 with disabilities and those who are limited-English proficient.

3 (h) (1) During the processing of an application, renewal, or a
4 transition due to a change in circumstances, an entity making
5 eligibility determinations for an insurance affordability program
6 shall ensure that an eligible applicant and recipient of insurance
7 affordability programs that meets all program eligibility
8 requirements and complies with all necessary requests for
9 information moves between programs without any breaks in
10 coverage and without being required to provide any forms,
11 documents, or other information or undergo verification that is
12 duplicative or otherwise unnecessary. The individual shall be
13 informed about how to obtain information about the status of his
14 or her application, renewal, or transfer to another program at any
15 time, and the information shall be promptly provided when
16 requested.

17 (2) The application or case of an individual screened as not
18 eligible for Medi-Cal on the basis of Modified Adjusted Gross
19 Income (MAGI) household income but who may be eligible on
20 the basis of being 65 years of age or older, or on the basis of
21 blindness or disability, shall be forwarded to the Medi-Cal program
22 for an eligibility determination. During the period this application
23 or case is processed for a non-MAGI Medi-Cal eligibility
24 determination, if the applicant or recipient is otherwise eligible
25 for an insurance affordability program, he or she shall be
26 determined eligible for that program.

27 (3) Renewal procedures shall include all available methods for
28 reporting renewal information, including, but not limited to,
29 face-to-face, telephone, mail, and online renewal or renewal
30 through other commonly available electronic means.

31 (4) An applicant who is not eligible for an insurance affordability
32 program for a reason other than income eligibility, or for any reason
33 in the case of applicants and recipients residing in a county that
34 offers a health coverage program for individuals with income above
35 the maximum allowed for the Exchange premium tax credits, shall
36 be referred to the county health coverage program in his or her
37 county of residence.

38 (i) Notwithstanding subdivisions (e), (f), and (j), before an online
39 applicant who appears to be eligible for the Exchange with a

1 premium tax credit or reduction in cost sharing, or both, may be
2 enrolled in the Exchange, both of the following shall occur:

3 (1) The applicant shall be informed of the overpayment penalties
4 under the federal Comprehensive 1099 Taxpayer Protection and
5 Repayment of Exchange Subsidy Overpayments Act of 2011
6 (Public Law 112-9), if the individual's annual family income
7 increases by a specified amount or more, calculated on the basis
8 of the individual's current family size and current income, and that
9 penalties are avoided by prompt reporting of income increases
10 throughout the year.

11 (2) The applicant shall be informed of the penalty for failure to
12 have minimum essential health coverage.

13 (j) ~~The department shall,~~ *department,* in coordination with
14 MRMIB and the Exchange board, *shall* streamline and coordinate
15 all eligibility rules and requirements among insurance affordability
16 programs using the least restrictive rules and requirements
17 permitted by federal and state law. This process shall include the
18 consideration of methodologies for determining income levels,
19 assets, rules for household size, citizenship and immigration status,
20 and self-attestation and verification requirements.

21 (k) (1) ~~Forms, letters,~~ *Forms* and notices developed pursuant
22 to this section shall be accessible and standardized, as appropriate,
23 and shall comply with federal and state laws, regulations, and
24 guidance prohibiting discrimination.

25 (2) ~~Forms, letters,~~ *Forms* and notices developed pursuant to this
26 section shall be developed using plain language and shall be
27 provided in a manner that affords meaningful access to
28 limited-English-proficient individuals, in accordance with
29 applicable state and federal law, and at a minimum, provided in
30 the same threshold languages as required for Medi-Cal managed
31 care plans.

32 (l) The department, the California Health and Human Services
33 Agency, MRMIB, and the Exchange board shall establish a process
34 for receiving and acting on stakeholder suggestions regarding the
35 functionality of the eligibility systems supporting the Exchange,
36 including the activities of all entities providing eligibility screening
37 to ensure the correct eligibility rules and requirements are being
38 used. This process shall include consumers and their advocates,
39 be conducted no less than quarterly, and include the recording,
40 review, and analysis of potential defects or enhancements of the

1 eligibility systems. The process shall also include regular updates
2 on the work to analyze, prioritize, and implement corrections to
3 confirmed defects and proposed enhancements, and to monitor
4 screening.

5 (m) In designing and implementing the eligibility, enrollment,
6 and retention system, the department, MRMIB, and the Exchange
7 board shall ensure that all privacy and confidentiality rights under
8 the PPACA and other federal and state laws are incorporated and
9 followed, including responses to security breaches.

10 (n) Except as otherwise specified, this section shall be operative
11 on January 1, 2014.

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