

AMENDED IN SENATE JULY 7, 2015
AMENDED IN ASSEMBLY JUNE 1, 2015
AMENDED IN ASSEMBLY APRIL 23, 2015
AMENDED IN ASSEMBLY MARCH 26, 2015
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1235

Introduced by Assembly Member Gipson

February 27, 2015

An act to add Section 14005.125 to the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 1235, as amended, Gipson. Medi-Cal: beneficiary maintenance needs: home upkeep ~~allowances and~~ *allowances*: transitional personal needs funds.

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 provisions. Qualified individuals under the Medi-Cal program include medically needy persons and medically needy family persons who meet the required eligibility criteria, including applicable income requirements.

Existing law requires the department to establish income levels for maintenance need at the lowest levels that reasonably permit a medically needy individual to meet his or her basic needs for food, clothing, and shelter, and for which federal financial participation will still be provided

under applicable federal law. In calculating the income of a medically needy individual in a medical institution or nursing facility, or a person receiving institutional or noninstitutional services from a Program of All-Inclusive Care for the Elderly organization, the required monthly maintenance amount includes, among other things, an amount providing for the upkeep and maintenance of the individual's home. This amount is also referred to as the home upkeep allowance.

Existing law requires that the maintenance of need amount provide for personal and incidental needs in an amount not less than \$35 for a person in a medical institution or nursing facility, or for a person receiving institutional or noninstitutional services from a Program of All-Inclusive Care for the Elderly organization.

Existing law authorizes the Director of Health Care Services to adopt, amend, or repeal reasonable rules and regulations to carry out the purposes and intent of the Medi-Cal program, that are not inconsistent with any state statute. The department has adopted regulatory requirements relating to the determination of the home upkeep allowance described above.

This bill would establish eligibility and other requirements for providing the home upkeep allowance or transitional personal needs fund, to Medi-Cal patients residing in a long-term care facility, as specified. The bill would prescribe general requirements as well as specific requirements both for facility residents who intend to leave the facility and return to an existing home, who would receive the home upkeep allowance, and residents who intend to leave the facility and establish a new home, who would establish a transitional personal needs fund, as part of the personal needs allowance provided to the resident. The bill would require the department to adopt implementing regulations, and to advise appropriate long-term care facility residents and other specified personnel and health care facilities of the existence and availability of the home upkeep allowance and transitional personal needs fund. *The bill would require the department, on or before July 1, 2016, to seek federal approval to implement these provisions, and would require these provisions to be implemented only if, and to the extent that, federal financial participation is available and any necessary federal approvals have been obtained.* Because counties are required to make Medi-Cal eligibility determinations and this bill would impose new eligibility requirements for purposes of ~~the home upkeep allowance~~, *these allowances*, this 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 14005.125 is added to the Welfare and
2 Institutions Code, to read:

3 14005.125. (a) (1) For purposes of this section, “home upkeep
4 allowance” means the “allowance for home maintenance” described
5 in Section 435.725 (d) of Title 42 of the Code of Federal
6 Regulations and the amount for the “upkeep and maintenance of
7 the home,” described in paragraph (2) of subdivision (d) of Section
8 14005.12.

9 (1)

10 (2) The home upkeep allowance shall be available to long-term
11 care recipients who are Medi-Cal recipients and meet the
12 requirements of this section.

13 ~~(2) In accordance with Section 435.725 (c)(1) of Title 42 of the~~
14 ~~Code of Federal Regulations and paragraph (1) of subdivision (d)~~
15 ~~of Section 14005.12, a transitional personal needs fund shall be~~
16 ~~available to long-term care recipients described in this section.~~

17 (b)

18 (3) A long-term care facility resident who intends to leave the
19 facility and return to his or her existing home shall be provided
20 with a home upkeep allowance as follows:

21 (1)

22 (A) The allowance shall be set aside from the income that
23 otherwise would be applied toward the resident’s Medi-Cal share
24 of cost for residing in the facility.

25 (2)

26 (B) The allowance shall be based on the actual minimum cost
27 of maintaining the resident’s home, including, but not limited to,
28 mortgage or rent, property taxes, and required insurance.

1 ~~(3)~~
 2 (C) The allowance shall be an exempt resource for purposes of
 3 determining eligibility for the Medi-Cal program.

4 ~~(4)~~
 5 (D) The allowance shall be available only if a physician has
 6 certified that the resident is likely to return to his or *her* home
 7 within six months.

8 ~~(e) If~~
 9 (4) *On or before July 1, 2016, the department shall seek federal*
 10 *approval to implement the requirements of this subdivision. This*
 11 *subdivision shall be implemented only if, and to the extent that,*
 12 *federal financial participation is available and any necessary*
 13 *federal approvals have been obtained.*

14 (b) (1) *In accordance with Section 435.725 (c)(1) of Title 42*
 15 *of the Code of Federal Regulations and paragraph (1) of*
 16 *subdivision (d) of Section 14005.12, a transitional personal needs*
 17 *fund shall be available to long-term care recipients described in*
 18 *this section.*

19 (2) *If a long-term care facility resident does not have a home,*
 20 *but intends to leave the facility and establish a home in the*
 21 *community, the transitional costs of establishing a home shall be*
 22 *included in his or her personal needs allowance. The resident may*
 23 *establish a transitional personal needs fund for this purpose, as*
 24 *follows:*

25 ~~(1)~~
 26 (A) The fund shall be set aside from the income that otherwise
 27 would be applied toward the resident’s Medi-Cal share of cost for
 28 residing in the facility.

29 ~~(2)~~
 30 (B) The total amount of the fund shall not exceed seven thousand
 31 five hundred dollars (\$7,500).

32 ~~(3)~~
 33 (C) The fund shall be an exempt resource for purposes of
 34 determining eligibility for the Medi-Cal program.

35 ~~(4)~~
 36 (D) The fund shall be used to cover the costs of securing a home
 37 for the individual, including, but not limited to, rent, security and
 38 utility deposits, accessibility modifications necessary to meet the
 39 needs of the individual, and essential furnishings, including, but
 40 not limited to, stoves, refrigerators, beds, towels, and bed linens.

1 ~~(5)~~

2 (E) If the resident is unable to secure a home within four months
3 after the transitional personal needs fund has reached the maximum
4 amount specified in this subdivision, the fund shall revert to the
5 state to defray the costs of the resident’s care in the facility.

6 ~~(d) In~~

7 (3) *On or before July 1, 2016, the department shall seek federal*
8 *approval to implement the requirements of this subdivision. This*
9 *subdivision shall be implemented only if, and to the extent that,*
10 *federal financial participation is available and any necessary*
11 *federal approvals have been obtained.*

12 (c) In implementing this section, the department shall undertake
13 all of the following information and outreach activities:

14 (1) Inform residents in all Medi-Cal funded long-term care
15 facilities of the existence and availability of the home upkeep
16 allowance and the transitional needs personal needs fund.

17 (2) Include information on the existence and availability of the
18 home upkeep allowance and the transitional personal needs fund
19 in the “Notice Regarding Standards for Medi-Cal Eligibility”
20 provided for in Section 14006.4.

21 (3) Notify all Medi-Cal branches, eligibility workers, long-term
22 care facilities, hospital discharge planners, and organizations
23 receiving state funds to assist nursing home residents of the
24 existence and availability of the home upkeep allowance and the
25 transitional personal needs fund.

26 ~~(e)~~

27 (d) The department shall adopt, revise, or repeal regulations as
28 necessary to implement this section, including, but not limited to,
29 Section 50605 of Title 22 of the California Code of Regulations.
30 To the extent Section 50605 of Title 22 of the California Code of
31 Regulations is inconsistent with this section, those regulations
32 shall be inoperative until the department makes the regulatory
33 changes required by this subdivision.

34 SEC. 2. If the Commission on State Mandates determines that
35 this act contains costs mandated by the state, reimbursement to
36 local agencies and school districts for those costs shall be made
37 pursuant to Part 7 (commencing with Section 17500) of Division
38 4 of Title 2 of the Government Code.

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