

AMENDED IN ASSEMBLY SEPTEMBER 9, 2015

AMENDED IN ASSEMBLY JULY 7, 2015

AMENDED IN SENATE JUNE 2, 2015

**SENATE BILL**

**No. 10**

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**Introduced by Senator Lara**

December 1, 2014

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An act to add *Section 100522 to the Government Code, and to add Section 14102.1 to the Welfare and Institutions Code, relating to health care coverage.*

LEGISLATIVE COUNSEL'S DIGEST

SB 10, as amended, Lara. Health care coverage: immigration status.

*Existing law, the federal Patient Protection and Affordable Care Act (PPACA), requires each state to establish an American Health Benefit Exchange that facilitates the purchase of qualified health plans by qualified individuals and qualified small employers, and meets certain other requirements. PPACA specifies that an individual who is not a citizen or national of the United States or an alien lawfully present in the United States shall not be treated as a qualified individual and may not be covered under a qualified health plan offered through an exchange. Existing law creates the California Health Benefit Exchange for the purpose of facilitating the enrollment of qualified individuals and qualified small employers in qualified health plans as required under PPACA.*

*This bill would require the Secretary of California Health and Human Services to apply to the United States Department of Health and Human Services for a waiver to allow individuals who are not eligible to obtain health coverage because of their immigration status to obtain coverage*

*from the Exchange. The bill would require, after that waiver has been granted, the Exchange to offer California qualified health benefit plans, as specified, to these individuals. The bill would require that individuals eligible to purchase California qualified health plans pay the cost of coverage without federal assistance.*

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. The federal Medicaid Program provisions prohibit payment to a state for medical assistance furnished to an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law.

This bill would extend eligibility for full-scope Medi-Cal benefits to individuals 19 years of age and older who are otherwise eligible for those benefits but for their immigration status if the department determines that sufficient funding is available, or for limited scope Medi-Cal benefits if funding for full-scope benefits is not available. The bill would require these individuals to enroll into Medi-Cal managed care health plans, and to pay copayments and premium contributions, to the extent required of otherwise eligible Medi-Cal recipients who are similarly situated. The bill would require that benefits for those services be provided with state-only funds only if federal financial participation is not available. 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. (a) The Legislature finds and declares all of the  
2 following:

1 (1) The Legislature and the Governor, through the enactment  
2 of the Budget Act of 2015 (Chapter 11 of the Statutes of 2015),  
3 expanded Medi-Cal eligibility for children to ensure that no child  
4 in California who is income eligible will be denied access to health  
5 care coverage on the basis of immigration status.

6 (2) Expanding access and increasing enrollment in  
7 comprehensive health care coverage is of benefit to the health and  
8 welfare of all Californians.

9 (3) Longstanding California law provides full-scope Medi-Cal  
10 benefits to United States citizens, lawful permanent residents, and  
11 individuals permanently residing in the United States under color  
12 of law, including those granted deferred action.

13 (b) It is the intent of the Legislature in enacting this act to  
14 increase opportunities for enrollment in comprehensive health care  
15 coverage for adults, regardless of immigration status.

16 (c) It is further the intent of the Legislature that all Californians  
17 who are otherwise eligible for Medi-Cal, a qualified health plan  
18 offered through the California Health Benefit Exchange, or  
19 affordable employer-based health coverage, enroll in that coverage,  
20 and obtain the care that they need.

21 *SEC. 2. Section 100522 is added to the Government Code, to*  
22 *read:*

23 *100522. (a) The Secretary of California Health and Human*  
24 *Services shall apply to the United States Department of Health*  
25 *and Human Services for a waiver authorized under Section 1332*  
26 *of the federal act as defined in subdivision (e) of Section 100501*  
27 *in order to allow persons otherwise not able to obtain coverage*  
28 *by reason of immigration status through the Exchange to obtain*  
29 *coverage from the Exchange by waiving the requirement that the*  
30 *Exchange offer only qualified health plans solely for the purpose*  
31 *of offering coverage to persons otherwise not able to obtain*  
32 *coverage by reason of immigration status.*

33 *(b) The Exchange shall offer California qualified health plans*  
34 *that shall be subject to the requirements of this title, including all*  
35 *of those requirements applicable to qualified health plans. In*  
36 *addition, California qualified health plans shall be subject to the*  
37 *requirements of Section 1366.6 of the Health and Safety Code and*  
38 *Section 10112.3 of the Insurance Code in the same manner as*  
39 *qualified health plans.*

1 (c) Persons eligible to purchase California qualified health  
2 plans shall pay the cost of coverage without federal advanced  
3 premium tax credit, federal cost-sharing reduction, or any other  
4 federal assistance.

5 (d) Subdivisions (b) and (c) shall become operative upon federal  
6 approval of the waiver pursuant to subdivision (a).

7 (e) For purposes of this section, a “California qualified health  
8 plan” means a product offered to persons not otherwise eligible  
9 to purchase coverage from the Exchange by reason of immigration  
10 status and that comply with each of the requirements of state law  
11 and the Exchange for a qualified health plan.

12 ~~SEC. 2.~~

13 SEC. 3. Section 14102.1 is added to the Welfare and Institutions  
14 Code, to read:

15 14102.1. (a) (1) Notwithstanding any other law, an individual  
16 19 years of age or older who meets all of the eligibility  
17 requirements for full-scope Medi-Cal benefits under this chapter,  
18 but for his or her immigration status, may be enrolled for full-scope  
19 Medi-Cal benefits, pursuant to paragraph (2).

20 (2) When a county completes the Medi-Cal eligibility  
21 determination process for an individual 19 years of age or older  
22 who meets all of the eligibility requirements for full-scope  
23 Medi-Cal benefits under this chapter, but for his or her immigration  
24 status, the county shall transmit this information to the department  
25 to determine if sufficient funding is available for this individual  
26 to receive full-scope Medi-Cal benefits. If sufficient funding is  
27 available, the individual shall be eligible for full-scope benefits.  
28 If sufficient funding is not available, the individual shall be eligible  
29 for limited scope Medi-Cal benefits.

30 (b) This section shall not apply to individuals eligible for  
31 coverage pursuant to Section 14102.

32 (c) An individual who is eligible for coverage under subdivision  
33 (a) shall be required to enroll into Medi-Cal managed care health  
34 plans to the extent required of otherwise eligible Medi-Cal  
35 recipients who are similarly situated.

36 (d) An individual who is eligible for coverage under subdivision  
37 (a) shall pay copayments and premium contributions to the extent  
38 required of otherwise eligible Medi-Cal recipients who are similarly  
39 situated.

1 (e) Benefits for services under this section shall be provided  
2 with state-only funds only if federal financial participation is not  
3 available for those services. The department shall maximize federal  
4 financial participation in implementing this section to the extent  
5 allowable.

6 (f) Eligibility for full-scope Medi-Cal benefits for an individual  
7 19 years of age or older pursuant to subdivision (a) shall not be an  
8 entitlement. The department shall have the authority to determine  
9 eligibility, determine the number of individuals who may be  
10 enrolled, establish limits on the number enrolled, and establish  
11 processes for waiting lists needed to maintain program expenditures  
12 within available funds.

13 (g) Notwithstanding Chapter 3.5 (commencing with Section  
14 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
15 the department, without taking any further regulatory action, shall  
16 implement, interpret, or make specific this section by means of  
17 all-county letters, plan letters, plan or provider bulletins, or similar  
18 instructions until the time regulations are adopted. The department  
19 shall adopt regulations by July 1, 2018, in accordance with the  
20 requirements of Chapter 3.5 (commencing with Section 11340) of  
21 Part 1 of Division 3 of Title 2 of the Government Code.  
22 Commencing July 1, 2016, and notwithstanding Section 10231.5  
23 of the Government Code, the department shall provide a status  
24 report to the Legislature on a semiannual basis, in compliance with  
25 Section 9795 of the Government Code, until regulations have been  
26 adopted.

27 ~~SEC. 3.~~

28 *SEC. 4.* If the Commission on State Mandates determines that  
29 this act contains costs mandated by the state, reimbursement to  
30 local agencies and school districts for those costs shall be made  
31 pursuant to Part 7 (commencing with Section 17500) of Division  
32 4 of Title 2 of the Government Code.