

Introduced by Senator Hall**(Principal coauthor: Senator Beall)**

(Coauthors: Assembly Members Bonilla, Lackey, Rodriguez, and Waldron)

February 10, 2015

An act to amend Section 12300 of the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

SB 199, as introduced, Hall. In-home supportive services: reading services for blind and visually impaired recipients.

Existing law provides for 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.

Existing law provides for the county-administered In-Home Supportive Services (IHSS) program, under which, either through employment by the recipient, or by or through contract by the county, qualified aged, blind, and disabled persons receive services enabling them to remain in their own homes. Existing law requires the provision of personal care services under the Medi-Cal program to eligible IHSS recipients. Under existing law, county welfare departments are required to provide visually impaired applicants and recipients with information on, and referral services to, entities that provide reading services to visually impaired persons. Existing law defines "supportive services" for purposes of the IHSS program.

This bill would, commencing January 1, 2017, include within the definition of supportive services assistance in reading and completing

financial and other documents for a recipient of services under the IHSS program who is blind. By expanding the scope of available services under the IHSS program, this bill would impose a state-mandated local program. The bill would also require the Director of Health Care Services to seek any federal approvals necessary to ensure that Medicaid funds may be used in implementing this provision. The bill would authorize the department to implement the provision through all-county letters or similar instructions from the director until emergency regulations are filed, and would require the adoption of emergency regulations by January 1, 2018, and final regulations by January 1, 2019, to implement this provision, as specified.

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 12300 of the Welfare and Institutions
 2 Code is amended to read:
 3 12300. (a) The purpose of this article is to provide in every
 4 county in a manner consistent with this chapter and the annual
 5 Budget Act those supportive services identified in this section to
 6 aged, blind, or disabled persons, as defined under this chapter,
 7 who are unable to perform the services themselves and who cannot
 8 safely remain in their homes or abodes of their own choosing unless
 9 these services are provided.
 10 (b) Supportive services shall include domestic services and
 11 services related to domestic services, heavy cleaning, personal
 12 care services, accompaniment by a provider when needed during
 13 necessary travel to health-related appointments or to alternative
 14 resource sites, yard hazard abatement, protective supervision,
 15 teaching and demonstration directed at reducing the need for other
 16 supportive services, ~~and paramedical services which~~ *that* make it
 17 possible for the recipient to establish and maintain an independent

1 living arrangement, *and assistance in reading and completing*
2 *financial and other documents, for up to two hours per month, for*
3 *a recipient who is blind, when that assistance is necessary for the*
4 *recipient to remain in his or her home, or abode of his or her own*
5 *choosing, as defined by the department.*

6 (c) Personal care services shall mean all of the following:

7 (1) Assistance with ambulation.

8 (2) Bathing, oral hygiene, and grooming.

9 (3) Dressing.

10 (4) Care and assistance with prosthetic devices.

11 (5) Bowel, bladder, and menstrual care.

12 (6) Repositioning, skin care, range of motion exercises, and
13 transfers.

14 (7) Feeding and assurance of adequate fluid intake.

15 (8) Respiration.

16 (9) Assistance with self-administration of medications.

17 (d) Personal care services are available if these services are
18 provided in the beneficiary's home and other locations as may be
19 authorized by the director. Among the locations that may be
20 authorized by the director under this ~~paragraph~~ *subdivision* is the
21 recipient's place of employment if all of the following conditions
22 are met:

23 (1) The personal care services are limited to those that are
24 currently authorized for a recipient in the recipient's home and
25 those services are to be utilized by the recipient at the recipient's
26 place of employment to enable the recipient to obtain, retain, or
27 return to work. Authorized services utilized by the recipient at the
28 recipient's place of employment shall be services that are relevant
29 and necessary in supporting and maintaining employment.
30 However, workplace services shall not be used to supplant any
31 reasonable accommodations required of an employer by the
32 Americans with Disabilities Act (42 U.S.C. Sec. 12101 et seq.;
33 ADA) or other legal entitlements or third-party obligations.

34 (2) The provision of personal care services at the recipient's
35 place of employment shall be authorized only to the extent that
36 the total hours utilized at the workplace are within the total personal
37 care services hours authorized for the recipient in the home.
38 Additional personal care services hours may not be authorized in
39 connection with a recipient's employment.

1 (e) ~~Where~~ *When* supportive services are provided by a person
 2 ~~having~~ *who has* the legal duty pursuant to the Family Code to
 3 provide for the care of his or her child who is the recipient, the
 4 provider of supportive services shall receive remuneration for the
 5 services only when the provider leaves full-time employment or
 6 is prevented from obtaining full-time employment because no
 7 other suitable provider is available and ~~where~~ *when* the inability
 8 of the provider to provide supportive services may result in
 9 inappropriate placement or inadequate care.

10 These providers shall be paid only for the following:

- 11 (1) Services related to domestic services.
- 12 (2) Personal care services.
- 13 (3) Accompaniment by a provider when needed during necessary
 14 travel to health-related appointments or to alternative resource
 15 sites.
- 16 (4) Protective supervision only as needed because of the
 17 functional limitations of the child.
- 18 (5) Paramedical services.

19 (f) To encourage maximum voluntary services, so as to reduce
 20 governmental costs, respite care shall also be provided. Respite
 21 care is temporary or periodic service for eligible recipients to
 22 relieve persons who are providing care without compensation.

23 (g) A person who is eligible to receive a service or services
 24 under an approved federal waiver authorized pursuant to Section
 25 14132.951, or a person who is eligible to receive a service or
 26 services authorized pursuant to Section 14132.95, shall not be
 27 eligible to receive the same service or services pursuant to this
 28 article. In the event that the waiver authorized pursuant to Section
 29 14132.951, as approved by the federal government, does not extend
 30 eligibility to all persons otherwise eligible for services under this
 31 article, or does not cover a service or particular services, or does
 32 not cover the scope of a service that a person would otherwise be
 33 eligible to receive under this article, those persons who are not
 34 eligible for services, or for a particular service under the waiver
 35 or Section 14132.95 shall be eligible for services under this article.

36 (h) (1) All services provided pursuant to this article shall be
 37 equal in amount, scope, and duration to the same services provided
 38 pursuant to Section 14132.95, including any adjustments that may
 39 be made to those services pursuant to subdivision (e) of Section
 40 14132.95.

1 (2) Notwithstanding any other provision of this article, the rate
2 of reimbursement for in-home supportive services provided through
3 any mode of service shall not exceed the rate of reimbursement
4 established under subdivision (j) of Section 14132.95 for the same
5 mode of service unless otherwise provided in the annual Budget
6 Act.

7 (3) The maximum number of hours available under Section
8 14132.95, Section 14132.951, and this section, combined, shall
9 be 283 hours per month. Any recipient of services under this article
10 shall receive no more than the applicable maximum specified in
11 Section 12303.4.

12 (i) *The Director of Health Care Services shall, by January 1,*
13 *2017, seek all federal approvals necessary to ensure that Medicaid*
14 *funds may be used in implementing the amendments to this section*
15 *made by the act that added this subdivision during the 2015–16*
16 *Regular Session of the Legislature. These amendments include*
17 *assistance in reading and completing financial and other*
18 *documents for a recipient who is blind.*

19 (j) *The authorization to provide the service added by the*
20 *amendments to this section made by the act that added this*
21 *subdivision during the 2015–16 Regular Session of the Legislature*
22 *shall become operative on January 1, 2017. Provision of the service*
23 *shall be implemented only if, and to the extent that, federal*
24 *financial participation is available, and any necessary federal*
25 *approvals have been obtained.*

26 (k) *The state and counties shall be immune from any liability,*
27 *including negligence or intentional torts of providers, associated*
28 *with the delivery of the service specified in subdivision (b) that*
29 *includes assistance in reading and completing financial documents*
30 *for recipients who are blind.*

31 (l) (1) *Notwithstanding the rulemaking provisions of the*
32 *Administrative Procedure Act (Chapter 3.5 (commencing with*
33 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
34 *Code), until emergency regulations are filed with the Secretary of*
35 *State, the department may implement the amendments made to this*
36 *section by the act that added this subdivision during the 2015–16*
37 *Regular Session of the Legislature through all-county letters or*
38 *similar instructions from the director.*

39 (2) *On or before January 1, 2018, the department shall adopt*
40 *regulations to implement the amendments to this section made by*

1 *the act that added this subdivision during the 2015–16 Regular*
2 *Session of the Legislature. The initial adoption, amendment, or*
3 *repeal of a regulation authorized by this subdivision is deemed to*
4 *address an emergency, for purposes of Sections 11346.1 and*
5 *11349.6 of the Government Code, and the department is hereby*
6 *exempted for that purpose from the requirements of subdivision*
7 *(b) of Section 11346.1 of the Government Code. After the initial*
8 *adoption, amendment, or repeal of an emergency regulation*
9 *pursuant to this section, the department may twice request approval*
10 *from the Office of Administrative Law to readopt the regulation*
11 *as an emergency regulation pursuant to Section 11346.1 of the*
12 *Government Code. The department shall adopt final regulations*
13 *on or before January 1, 2019.*

14 SEC. 2. If the Commission on State Mandates determines that
15 this act contains costs mandated by the state, reimbursement to
16 local agencies and school districts for those costs shall be made
17 pursuant to Part 7 (commencing with Section 17500) of Division
18 4 of Title 2 of the Government Code.