

Introduced by Senator Hernandez

February 19, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1300, as introduced, Hernandez. Health care: eligibility and enrollment.

Existing law establishes 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, requires the State Department of Social Services in consultation with specified entities, to establish standardized single, accessible, application forms and related renewal procedures for insurance affordability programs, as defined, in accordance with specified requirements relating to the forms and notices developed for these purposes.

This bill would make technical, nonsubstantive changes to those provisions.

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

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

SECTION 1. Section 15926 of the Welfare and Institutions Code is amended to read:

15926. (a) The following definitions apply for purposes of this part:

(1) “Accessible” means in compliance with Section 11135 of the Government Code, Section 1557 of the PPACA, and regulations or guidance adopted pursuant to these statutes.

(2) “Limited-English-proficient” means not speaking English as one’s primary language and having a limited ability to read, speak, write, or understand English.

(3) “Insurance affordability program” means a program that is one of the following:

(A) The Medi-Cal program under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.).

(B) The state’s children’s health insurance program (CHIP) under Title XXI of the federal Social Security Act (42 U.S.C. Sec. 1397aa et seq.).

(C) A program that makes available to qualified individuals coverage in a qualified health plan through the California Health Benefit Exchange established pursuant to Title 22 (commencing with Section 100500) of the Government Code with advance payment of the premium tax credit established under Section 36B of the Internal Revenue Code.

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

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

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

1 determination for any of the insurance affordability programs and
2 by their agents.

3 (2) The department may develop and require the use of
4 supplemental forms to collect additional information needed to
5 determine eligibility on a basis other than the financial
6 methodologies described in Section 1396a(e)(14) of Title 42 of
7 the United States Code, as added by the federal Patient Protection
8 and Affordable Care Act (Public Law 111-148), and as amended
9 by the federal Health Care and Education Reconciliation Act of
10 2010 (Public Law 111-152) and any subsequent amendments, as
11 provided under Section 435.907(c) of Title 42 of the Code of
12 Federal Regulations.

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

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

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

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

23 (C) The form may require only information necessary to support
24 the eligibility and enrollment processes for insurance affordability
25 programs.

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

28 (E) The form may ask, or be used otherwise to identify, if the
29 mother of an infant applicant under one year of age had coverage
30 through an insurance affordability program for the infant's birth,
31 for the purpose of automatically enrolling the infant into the
32 applicable program without the family having to complete the
33 application process for the infant.

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

39 (G) Until January 1, 2016, the department shall instruct counties
40 to not reject an application that was in existence prior to January

1 1, 2014, but to accept the application and request any additional
2 information needed from the applicant in order to complete the
3 eligibility determination process. The department shall work with
4 counties and consumer advocates to develop the supplemental
5 questions.

6 (d) Nothing in this section shall preclude the use of a
7 provider-based application form or enrollment procedures for
8 insurance affordability programs or other health programs that
9 differs from the application form described in subdivision (c), and
10 related enrollment procedures. Nothing in this section shall
11 preclude the use of a joint application, developed by the department
12 and the State Department of Social Services, that allows for an
13 application to be made for multiple programs, including, but not
14 limited to, CalWORKs, CalFresh, and insurance affordability
15 programs.

16 (e) The entity making the eligibility determination shall grant
17 eligibility immediately whenever possible and with the consent of
18 the applicant in accordance with the state and federal rules
19 governing insurance affordability programs.

20 (f) (1) If the eligibility, enrollment, and retention system has
21 the ability to prepopulate an application form for insurance
22 affordability programs with personal information from available
23 electronic databases, an applicant shall be given the option, with
24 his or her informed consent, to have the application form
25 prepopulated. Before a prepopulated application is submitted to
26 the entity authorized to make eligibility determinations, the
27 individual shall be given the opportunity to provide additional
28 eligibility information and to correct any information retrieved
29 from a database.

30 (2) All insurance affordability programs may accept
31 self-attestation, instead of requiring an individual to produce a
32 document, for age, date of birth, family size, household income,
33 state residence, pregnancy, and any other applicable criteria needed
34 to determine the eligibility of an applicant or recipient, to the extent
35 permitted by state and federal law.

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

1 (4) Before an eligibility determination is made, the individual
2 shall be given the opportunity to provide additional eligibility
3 information and to correct information.

4 (5) The eligibility of an applicant shall not be delayed beyond
5 the timeliness standards as provided in Section 435.912 of Title
6 42 of the Code of Federal Regulations or denied for any insurance
7 affordability program unless the applicant is given a reasonable
8 opportunity, of at least the kind provided for under the Medi-Cal
9 program pursuant to Section 14007.5 and paragraph (7) of
10 subdivision (e) of Section 14011.2, to resolve discrepancies
11 concerning any information provided by a verifying entity.

12 (6) To the extent federal financial participation is available, an
13 applicant shall be provided benefits in accordance with the rules
14 of the insurance affordability program, as implemented in federal
15 regulations and guidance, for which he or she otherwise qualifies
16 until a determination is made that he or she is not eligible and all
17 applicable notices have been provided. Nothing in this section
18 shall be interpreted to grant presumptive eligibility if it is not
19 otherwise required by state law, and, if so required, then only to
20 the extent permitted by federal law.

21 (g) The eligibility, enrollment, and retention system shall offer
22 an applicant and recipient assistance with his or her application or
23 renewal for an insurance affordability program in person, over the
24 telephone, by mail, online, or through other commonly available
25 electronic means and in a manner that is accessible to individuals
26 with disabilities and those who are limited-English proficient.

27 (h) (1) During the processing of an application, renewal, or a
28 transition due to a change in circumstances, an entity making
29 eligibility determinations for an insurance affordability program
30 shall ensure that an eligible applicant and recipient of insurance
31 affordability programs that meets all *of the* program eligibility
32 requirements and complies with all *of the* necessary requests for
33 information moves between programs without any breaks in
34 coverage and without being required to provide any forms,
35 documents, or other information or undergo verification that is
36 duplicative or otherwise unnecessary. The individual shall be
37 informed about how to obtain information about the status of his
38 or her application, renewal, or transfer to another program at any
39 time, and the information shall be promptly provided when
40 requested.

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

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

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

(i) Notwithstanding subdivisions (e), (f), and (j), before an online applicant who appears to be eligible for the Exchange with a premium tax credit or reduction in cost sharing, or both, may be enrolled in the Exchange, both of the following shall occur:

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

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

(j) The department shall, in coordination with MRMIB and the Exchange board, streamline and coordinate all eligibility rules and requirements among insurance affordability programs using the least restrictive rules and requirements permitted by federal and state law. This process shall include the consideration of

1 methodologies for determining income levels, assets, rules for
2 household size, citizenship and immigration status, and
3 self-attestation and verification requirements.

4 (k) (1) Forms and notices developed pursuant to this section
5 shall be accessible and standardized, as appropriate, and shall
6 comply with federal and state laws, regulations, and guidance
7 prohibiting discrimination.

8 (2) Forms and notices developed pursuant to this section shall
9 be developed using plain language and shall be provided in a
10 manner that affords meaningful access to limited-English-proficient
11 individuals, in accordance with applicable state and federal law,
12 and at a minimum, provided in the same threshold languages as
13 required for Medi-Cal managed care plans.

14 (l) The department, the California Health and Human Services
15 Agency, MRMIB, and the Exchange board shall establish a process
16 for receiving and acting on stakeholder suggestions regarding the
17 functionality of the eligibility systems supporting the Exchange,
18 including the activities of all entities providing eligibility screening
19 to ensure the correct eligibility rules and requirements are being
20 used. This process shall include consumers and their advocates,
21 be conducted no less than quarterly, and include the recording,
22 review, and analysis of potential defects or enhancements of the
23 eligibility systems. The process shall also include regular updates
24 on the work to analyze, prioritize, and implement corrections to
25 confirmed defects and proposed enhancements, and to monitor
26 screening.

27 (m) In designing and implementing the eligibility, enrollment,
28 and retention system, the department, MRMIB, and the Exchange
29 board shall ensure that all privacy and confidentiality rights under
30 the PPACA and other federal and state laws are incorporated and
31 followed, including responses to security breaches.

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