

AMENDED IN SENATE MARCH 29, 2016

**SENATE BILL**

**No. 1384**

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**Introduced by Senator Liu**

February 19, 2016

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An act to amend, repeal, and add Section 8231 of the Education Code, relating to child care; amend Sections 22002, 22003, 22004, 22005, 22005.1, 22005.2, 22006, 22009, and 22010 of the Welfare and Institutions Code, relating to long-term care.

LEGISLATIVE COUNSEL'S DIGEST

SB 1384, as amended, Liu. ~~Child care and development services: children of migrant agricultural worker families. California Partnership for Long-Term Care Program.~~

Existing law establishes the California Partnership for Long-Term Care Program administered by the State Department of Health Care Services. The purpose of the program is to link private long-term care insurance and health care service plan contracts that cover long-term care with the In-Home Supportive Services program and Medi-Cal and to provide Medi-Cal benefits to certain individuals who have income and resources above the eligibility levels for receipt of medical assistance, but who have purchased certified private long-term care insurance policies. Existing law provides criteria for certification of a long-term care insurance policy, including a requirement that it provide protection against loss of benefits due to inflation.

This bill would shift administrative responsibilities for the program to the California Department of Aging, and would require the department to adopt regulations requiring that a long-term care insurance policy or health care service plan contract that includes long-term care services include nursing and residential care facility

*coverage only, home care and community-based care coverage only, or comprehensive coverage. The bill would also require that a long-term care insurance policy, as a condition of certification, include specified protections against loss of benefits due to inflation.*

~~Existing law, for purposes of migrant child care and development programs, defines a migrant agricultural worker family as a family that has earned at least 50 percent of its total gross income from employment in fishing, agriculture, or agriculturally related work during the 12-month period immediately preceding the date of application for child care and development services. Existing law requires the children of these families to be enrolled in child development programs on the basis of specified priorities, including priority to children whose family moves from place to place.~~

~~This bill, beginning July 1, 2017, would instead define “migrant agricultural worker family” as a family with at least one parent who has earned at least 50 percent of his or her income from employment in fishing, agriculture, or agriculturally related work during the 12-month period immediately preceding the date of application for child care and development services. The bill would require the children of these families to be given priority for enrollment in migrant child care and development programs a specified priority order, with first priority going to those children in families that move from place to place.~~

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

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

1     *SECTION 1. Section 22002 of the Welfare and Institutions*  
2     *Code is amended to read:*

3     22002. The State Department of Health *Care* Services shall  
4     seek any federal waivers and approvals necessary to accomplish  
5     the purposes of this division.

6     *SEC. 2. Section 22003 of the Welfare and Institutions Code is*  
7     *amended to read:*

8     22003. (a) Individuals who participate in the program and  
9     have resources above the eligibility levels for receipt of medical  
10    assistance under Title XIX of the Social Security Act (Subchapter  
11    XIX (commencing with Section 1396) of Chapter 7 of Title 42 of  
12    the United States Code) shall be eligible to receive those in-home  
13    supportive services benefits specified by the State Department of

1 Social Services, and those Medi-Cal benefits specified by the State  
2 Department of Health *Care* Services, for which they would  
3 otherwise be eligible, if, prior to becoming eligible for benefits,  
4 they have purchased a long-term care insurance policy or a health  
5 care service plan contract covering long-term care that has been  
6 certified by the ~~State Department of Health Services~~ *California*  
7 *Department of Aging* pursuant to this division.

8 (b) Individuals may purchase approved and certified long-term  
9 care insurance policies or health care service plan contracts which  
10 cover long-term care services in amounts equal to the resources  
11 they wish to protect, so long as the amount of insurance purchased  
12 exceeds the minimum level set by the ~~State Department of Health~~  
13 ~~Services~~ *California Department of Aging* pursuant to Section  
14 22009.

15 (c) The resource protection provided by this division shall be  
16 effective only for long-term care policies, and health care service  
17 plan contracts that cover long-term care services, when the policy  
18 or contract is delivered, issued for delivery, or renewed on July 1,  
19 1993 and thereafter.

20 *SEC. 3. Section 22004 of the Welfare and Institutions Code is*  
21 *amended to read:*

22 22004. Notwithstanding other provisions of law, the resources,  
23 to the extent described in subdivision (c), of an individual who  
24 purchases an approved and certified long-term care insurance  
25 policy or health care service plan contract which covers long-term  
26 care services shall not be considered by:

27 (a) The State Department of Health *Care* Services in  
28 determining:

- 29 (1) Medi-Cal eligibility.
- 30 (2) The amount of any Medi-Cal payment.
- 31 (3) The amount of any subsequent recovery by the state of  
32 payments made for medical services.

33 (b) The State Department of Social Services in determining:

- 34 (1) Eligibility for in-home supportive services provided pursuant  
35 to Article 7 (commencing with Section 12300) of Chapter 3 of  
36 Division 9.

37 (2) The amount of any payment for in-home supportive services.

38 (c) The resources not to be considered as provided by this  
39 section shall be equal to, or in some proportion set by the State  
40 Department of Health *Care* Services or State Department of Social

1 Services that is less than equal to, the amount of long-term care  
2 insurance payments or benefits made as described in Section 22006.

3 *SEC. 4. Section 22005 of the Welfare and Institutions Code is*  
4 *amended to read:*

5 22005. The ~~State Department of Health Services~~ *California*  
6 *Department of Aging* shall only certify a long-term care insurance  
7 policy or a health care service plan contract that meets the Medi-Cal  
8 asset protection requirements.

9 *SEC. 5. Section 22005.1 of the Welfare and Institutions Code*  
10 *is amended to read:*

11 22005.1. (a) The ~~State Department of Health Care Services~~  
12 *California Department of Aging* shall only certify a long-term care  
13 insurance policy that substantially meets the requirements of  
14 Chapter 2.6 (commencing with Section 10230) of Part 2 of Division  
15 2 of the Insurance Code, except the requirements of Sections  
16 10232.1, 10232.2, 10232.8, 10232.9, and 10232.92 of the Insurance  
17 Code, and that provides all of the items specified in subdivision  
18 (b). The ~~State Department of Health Care Services~~ *California*  
19 *Department of Aging* shall only certify a health care service plan  
20 contract that has been approved by the Department of Managed  
21 Health Care pursuant to Chapter 2.2 (commencing with Section  
22 1340) of Division 2 of the Health and Safety Code as providing  
23 substantially equivalent coverage to that required by Chapter 2.6  
24 (commencing with Section 10230) of Part 2 of Division 2 of the  
25 Insurance Code, and that provides all of the items specified in  
26 subdivision (b). Policies issued by organizations subject to the  
27 Insurance Code and regulated by the Department of Insurance  
28 shall also be approved by the Department of Insurance.

29 (b) Only policies and contracts that provide all of the following  
30 items shall be certified by the department:

31 (1) Individual assessment and case management by a  
32 coordinating entity designated and approved by the department.

33 (2) Levels and durations of benefits that meet minimum  
34 standards set by the ~~State Department of Health Care Services~~  
35 *California Department of Aging* pursuant to Section 22009.

36 (3) (A) Protection against loss of benefits due to ~~inflation~~.  
37 *inflation, which shall include both of the following:*

38 (i) *One option no less favorable than that required by Section*  
39 *10237.1 of the Insurance Code.*

1 (ii) One lower cost option, consistent with the requirements of  
2 the federal Deficit Reduction Act of 2005 (Public Law 109-171).

3 (B) The insurer or producer shall, at the time of application,  
4 provide to the consumer an illustration comparing the premium  
5 rate and benefits of each option over time.

6 (4) A periodic record issued to the insured including an  
7 explanation of insurance payments or benefits paid that count  
8 toward Medi-Cal asset protection under this division.

9 (5) Compliance with any other requirements imposed by  
10 regulations adopted by the State Department of Health Care  
11 ~~Services or Services~~, the California Department of Aging, or the  
12 State Department of Social Services and consistent with the  
13 purposes of this division.

14 *SEC. 6. Section 22005.2 of the Welfare and Institutions Code*  
15 *is amended to read:*

16 22005.2. Each organization issuing policies certified by the  
17 ~~State Department of Health Services~~ California Department of  
18 Aging under this division shall each year contribute to a fund to  
19 be used for common educational and marketing expenses for  
20 reaching the target population designated by the California  
21 Partnership for Long-Term Care. The amount of each participating  
22 issuer's required annual contribution shall be determined by the  
23 department and shall not be less than twenty thousand dollars  
24 (\$20,000).

25 *SEC. 7. Section 22006 of the Welfare and Institutions Code is*  
26 *amended to read:*

27 22006. The State Department of Health Care Services, in  
28 determining eligibility for Medi-Cal, and the State Department of  
29 Social Services, in determining eligibility for in-home supportive  
30 services, shall exclude resources up to, or equal to, the amount of  
31 insurance payments or benefits paid by approved and certified  
32 long-term care insurance policies or health care service plan  
33 contracts which cover long-term care services to the extent that  
34 the benefits paid are for all of the following:

35 (a) In-home supportive services benefits specified in regulations  
36 adopted by the State Department of Social Services pursuant to  
37 Section 22009, or those services that Medi-Cal approves or benefits  
38 that Medi-Cal provides as specified in regulations adopted by the  
39 State Department of Health Care Services pursuant to Section  
40 22009.

1 (b) Services delivered to insured individuals *at home or* in a  
 2 community setting as part of an individual assessment and case  
 3 management program provided by coordinating entities designated  
 4 and approved by the ~~State Department of Health Services.~~  
 5 *California Department of Aging.*

6 (c) Services the insured individual receives after meeting the  
 7 disability criteria for eligibility for long-term care benefits  
 8 established by the State Department of Health *Care Services.*

9 *SEC. 8. Section 22009 of the Welfare and Institutions Code is*  
 10 *amended to read:*

11 22009. (a) ~~The State Department of Health Services~~ *California*  
 12 *Department of Aging* shall adopt regulations to implement this  
 13 division, including, but not limited to, regulations ~~which that~~  
 14 establish:

15 (1) The population and age groups that are eligible to participate  
 16 in the program.

17 (2) The minimum level of long-term care insurance or long-term  
 18 care coverage included in health care service plan contracts that  
 19 must be purchased to meet the requirement of subdivision (b) of  
 20 Section 22003.

21 (3) (A) The amount and types of services that a long-term care  
 22 insurance policy or health care service plan contract ~~which that~~  
 23 includes long-term care services must cover to meet the  
 24 requirements of this division. *The types of policies or plans shall*  
 25 *include nursing and residential care facility coverage only, home*  
 26 *care and community-based care coverage only, and comprehensive*  
 27 *coverage.*

28 (B) *Policies that provide only home care benefits shall include*  
 29 *coverage for electronic or other devices intended to assist in*  
 30 *monitoring the health and safety of an insured.*

31 (4) Which coordinating entities are designated and approved to  
 32 deliver individual assessment and case management services to  
 33 individuals *at home or* in a community setting, as required by  
 34 subdivision (b) of Section 22006.

35 (b) *The State Department of Health Care Services shall also*  
 36 *adopt regulations to implement this division, including, but not*  
 37 *limited to, regulations that establish:*

38 ~~(5)~~

39 (1) The disability criteria for eligibility for long-term care  
 40 benefits as required by subdivision (c) of Section 22006.

1     ~~(6)~~  
2     (2) The specific eligibility requirements for receipt of the  
3 Medi-Cal benefits provided for by the program, and those Medi-Cal  
4 benefits for which participants in the program shall be eligible.

5     ~~(b)~~  
6     (c) The State Department of Social Services shall also adopt  
7 regulations to implement this division, including, but not limited  
8 to, regulations that establish:

9         (1) The specific eligibility requirements for in-home supportive  
10 services benefits.

11         (2) Those in-home supportive services benefits for which  
12 participants in the program shall be eligible.

13     ~~(e)~~  
14     (d) The State Department of Health *Care* Services and the State  
15 Department of Social Services shall also jointly adopt regulations  
16 that provide for the following:

17         (1) Continuation of benefits pursuant to Section 22008.5.

18         (2) The protection of a participant's resources pursuant to  
19 Section 22004, and the ratio of resources to long-term care benefit  
20 payments as described in subdivision (c) of Section 22004.

21     ~~(f)~~  
22     (e) (1) The departments shall adopt emergency regulations  
23 pursuant to Chapter 3.5 (commencing with Section 11340) of Part  
24 1 of Division 3 of Title 2 of the Government Code to implement  
25 this division. The adoption of regulations pursuant to this section  
26 in order to implement this division shall be deemed to be an  
27 emergency and necessary for the immediate preservation of the  
28 public peace, health, or safety.

29     ~~Notwithstanding~~  
30     (2) *Notwithstanding* Chapter 3.5 (commencing with Section  
31 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
32 emergency regulations adopted pursuant to this section shall not  
33 be subject to the review and approval of the Office of  
34 Administrative Law. The regulations shall become effective  
35 immediately upon filing with the Secretary of State. The regulations  
36 shall not remain in effect more than 120 days unless the adopting  
37 agency complies with all of the provisions of Chapter 3.5  
38 (commencing with Section 11340) as required by subdivision (c)  
39 of Section 11346.1 of the Government Code.

1     SEC. 9. Section 22010 of the Welfare and Institutions Code is  
2 amended to read:

3     22010. (a) In implementing this division, the ~~State Department~~  
4 ~~of Health Services California Department of Aging~~ may contract,  
5 on a bid or nonbid basis, with any qualified individual,  
6 organization, or entity for services needed to implement the project,  
7 and may negotiate contracts, on a nonbid basis, with long-term  
8 care insurers, health care service plans, or both, for the provision  
9 of coverage for long-term care services that will meet the  
10 certification requirements set forth in Section 22005.1 and the  
11 other requirements of this division.

12     (b) In order to achieve maximum cost savings, the Legislature  
13 declares that an expedited process for issuing contracts pursuant  
14 to this division is necessary. Therefore, contracts entered into on  
15 a nonbid basis pursuant to this section shall be exempt from the  
16 requirements of Chapter 1 (commencing with Section 10100) and  
17 Chapter 2 (commencing with Section 10290) of Part 2 of Division  
18 2 of the Public Contract Code.

19     ~~SECTION 1. Section 8231 of the Education Code is amended~~  
20 ~~to read:~~

21     ~~8231. (a) For the purpose of this article, a “migrant agricultural~~  
22 ~~worker family” means a family that has earned at least 50 percent~~  
23 ~~of its total gross income from employment in fishing, agriculture,~~  
24 ~~or agriculturally related work during the 12-month period~~  
25 ~~immediately preceding the date of application for child care and~~  
26 ~~development services.~~

27     ~~(b) (1) Children of migrant agricultural worker families shall~~  
28 ~~be enrolled in child development programs on the basis of the~~  
29 ~~following priorities:~~

30     ~~(A) The family moves from place to place.~~

31     ~~(B) The family has qualified under subparagraph (A) within the~~  
32 ~~past five years and is currently dependent for its income on~~  
33 ~~agricultural employment, but is currently settled near agricultural~~  
34 ~~areas.~~

35     ~~(C) The family resides in a rural agricultural area and is~~  
36 ~~dependent upon seasonal agricultural work.~~

37     ~~(2) Eligibility and priority for services for the federally funded~~  
38 ~~Migrant Child Development Program shall be in accordance with~~  
39 ~~the applicable federal regulations.~~



1 ~~(e) This section shall remain in effect only until July 1, 2017,~~  
2 ~~and as of that date is repealed, unless a later enacted statute, that~~  
3 ~~is enacted before July 1, 2017, deletes or extends that date.~~

4 ~~SEC. 2. Section 8231 is added to the Education Code, to read:~~

5 ~~8231. (a) For the purpose of this chapter, a “migrant~~  
6 ~~agricultural worker family” means a family with at least one parent~~  
7 ~~who has earned at least 50 percent of his or her income from~~  
8 ~~employment in fishing, agriculture, or agriculturally related work~~  
9 ~~during the 12-month period immediately preceding the date of~~  
10 ~~application for child care and development services.~~

11 ~~(b) (1) For purposes of this article, priority for enrollment shall~~  
12 ~~be given to children of migrant agricultural worker families in the~~  
13 ~~following priority order:~~

14 ~~(A) The family moves from place to place.~~

15 ~~(B) The family has qualified under subparagraph (A) within the~~  
16 ~~past five years and is currently dependent for its income on~~  
17 ~~agricultural employment, but is currently settled near agricultural~~  
18 ~~areas.~~

19 ~~(C) The family resides in a rural agricultural area and is~~  
20 ~~dependent upon seasonal agricultural work.~~

21 ~~(2) Eligibility and priority for services for the federally funded~~  
22 ~~migrant child care and development program shall be in accordance~~  
23 ~~with the applicable federal regulations.~~

24 ~~(e) This section is operative on July 1, 2017.~~