

AMENDED IN SENATE APRIL 26, 2016  
AMENDED IN SENATE MARCH 29, 2016

**SENATE BILL**

**No. 1384**

---

---

**Introduced by Senator Liu**

February 19, 2016

---

---

An act to amend Sections 22002, 22003, 22004, 22005, 22005.1, 22005.2, 22006, 22009, and 22010 ~~of of~~, and to add Section 22005.3 to, the Welfare and Institutions Code, relating to long-term care.

LEGISLATIVE COUNSEL'S DIGEST

SB 1384, as amended, Liu. 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 *health care service plan contract* or long-term care insurance policy, as a condition of certification, include specified protections against loss of benefits due to inflation.

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
- 14 Social Services, and those Medi-Cal benefits specified by the State
- 15 Department of Health Care Services, for which they would
- 16 otherwise be eligible, if, prior to becoming eligible for benefits,
- 17 they have purchased a long-term care insurance policy or a health
- 18 care service plan contract covering long-term care that has been
- 19 certified by the California Department of Aging pursuant to this
- 20 division.
- 21 (b) Individuals may purchase approved and certified long-term
- 22 care insurance policies or health care service plan contracts which
- 23 cover long-term care services in amounts equal to the resources
- 24 they wish to protect, so long as the amount of insurance purchased
- 25 exceeds the minimum level set by the California Department of
- 26 Aging pursuant to Section 22009.
- 27 (c) The resource protection provided by this division shall be
- 28 effective only for long-term care policies, and health care service
- 29 plan contracts that cover long-term care services, when the policy
- 30 or contract is delivered, issued for delivery, or renewed on July 1,
- 31 1993, and thereafter.

1 SEC. 3. Section 22004 of the Welfare and Institutions Code is  
2 amended to read:

3 22004. Notwithstanding other provisions of law, the resources,  
4 to the extent described in subdivision (c), of an individual who  
5 purchases an approved and certified long-term care insurance  
6 policy or health care service plan contract which covers long-term  
7 care services shall not be considered by:

8 (a) The State Department of Health Care Services in  
9 determining:

- 10 (1) Medi-Cal eligibility.  
11 (2) The amount of any Medi-Cal payment.  
12 (3) The amount of any subsequent recovery by the state of  
13 payments made for medical services.

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

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

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

19 (c) The resources not to be considered as provided by this  
20 section shall be equal to, or in some proportion set by the State  
21 Department of Health Care Services or State Department of Social  
22 Services that is less than equal to, the amount of long-term care  
23 insurance payments or benefits made as described in Section 22006.

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

26 22005. The California Department of Aging shall only certify  
27 a long-term care insurance policy or a health care service plan  
28 contract that meets the Medi-Cal asset protection requirements.

29 SEC. 5. Section 22005.1 of the Welfare and Institutions Code  
30 is amended to read:

31 22005.1. (a) The California Department of Aging shall only  
32 certify a long-term care insurance policy that substantially meets  
33 the requirements of Chapter 2.6 (commencing with Section 10230)  
34 of Part 2 of Division 2 of the Insurance Code, except the  
35 requirements of Sections 10232.1, 10232.2, 10232.8, 10232.9, and  
36 10232.92 of the Insurance Code, and that provides all of the items  
37 specified in subdivision (b). The California Department of Aging  
38 shall only certify a health care service plan contract that has been  
39 approved by the Department of Managed Health Care pursuant to  
40 Chapter 2.2 (commencing with Section 1340) of Division 2 of the

1 Health and Safety Code as providing substantially equivalent  
 2 coverage to that required by Chapter 2.6 (commencing with Section  
 3 10230) of Part 2 of Division 2 of the Insurance Code, and that  
 4 provides all of the items specified in subdivision (b). Policies issued  
 5 by organizations subject to the Insurance Code and regulated by  
 6 the Department of Insurance shall also be approved by the  
 7 Department of Insurance.

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

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

12 (2) Levels and durations of benefits that meet minimum  
 13 standards set by the California Department of Aging pursuant to  
 14 Section 22009.

15 (3) ~~(A) Protection against loss of benefits due to inflation, which~~  
 16 ~~shall include both of the following: inflation. An applicant shall~~  
 17 ~~be offered, at the time of purchase, the following options:~~

18 ~~(i) One option no less favorable than that required by Section~~  
 19 ~~10237.1 of the Insurance Code.~~

20 ~~(A) One option no less favorable than that required by Sections~~  
 21 ~~58050 and 58059 of Title 22 of the California Code of Regulations,~~  
 22 ~~as those sections existed on January 1, 2015.~~

23 ~~(ii)~~

24 ~~(B) One lower cost option, consistent with the requirements of~~  
 25 ~~the federal Deficit Reduction Act of 2005 (Public Law 109-171).~~

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

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

32 (5) Compliance with any other requirements imposed by  
 33 regulations adopted by the State Department of Health Care  
 34 Services, the California Department of Aging, or the State  
 35 Department of Social Services and consistent with the purposes  
 36 of this division.

37 SEC. 6. Section 22005.2 of the Welfare and Institutions Code  
 38 is amended to read:

39 22005.2. Each organization issuing policies certified by the  
 40 California Department of Aging under this division shall each year

1 contribute to a fund to be used for common educational and  
2 marketing expenses for reaching the target population designated  
3 by the California Partnership for Long-Term Care. The amount of  
4 each participating issuer's required annual contribution shall be  
5 determined by the department and shall not be less than twenty  
6 thousand dollars (\$20,000).

7 *SEC. 7. Section 22005.3 is added to the Welfare and Institutions*  
8 *Code, to read:*

9 *22005.3. The insurer or producer shall, at the time of*  
10 *application, provide to the individual a graph that illustrates the*  
11 *difference in premium rates and policy benefits payable in*  
12 *accordance with the inflation protection provisions described in*  
13 *Section 22005.1.*

14 ~~SEC. 7:~~

15 *SEC. 8. Section 22006 of the Welfare and Institutions Code is*  
16 *amended to read:*

17 22006. The State Department of Health Care Services, in  
18 determining eligibility for Medi-Cal, and the State Department of  
19 Social Services, in determining eligibility for in-home supportive  
20 services, shall exclude resources up to, or equal to, the amount of  
21 insurance payments or benefits paid by approved and certified  
22 long-term care insurance policies or health care service plan  
23 contracts which cover long-term care services to the extent that  
24 the benefits paid are for all of the following:

25 (a) In-home supportive services benefits specified in regulations  
26 adopted by the State Department of Social Services pursuant to  
27 Section 22009, or those services that Medi-Cal approves or benefits  
28 that Medi-Cal provides as specified in regulations adopted by the  
29 State Department of Health Care Services pursuant to Section  
30 22009.

31 (b) Services delivered to insured individuals at home or in a  
32 community setting as part of an individual assessment and case  
33 management program provided by coordinating entities designated  
34 and approved by the California Department of Aging.

35 (c) Services the insured individual receives after meeting the  
36 disability criteria for eligibility for long-term care benefits  
37 established by the State Department of Health Care Services.

38 ~~SEC. 8:~~

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

1 22009. (a) The California Department of Aging shall adopt  
2 regulations to implement this division, including, but not limited  
3 to, regulations that establish:

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

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

10 (3) (A) The amount and types of services that a long-term care  
11 insurance policy or health care service plan contract that includes  
12 long-term care services must cover to meet the requirements of  
13 this division. The types of policies or plans shall include nursing  
14 and residential care facility coverage only, home care and  
15 community-based care coverage only, and comprehensive  
16 coverage.

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

20 (4) Which coordinating entities are designated and approved to  
21 deliver individual assessment and case management services to  
22 individuals at home or in a community setting, as required by  
23 subdivision (b) of Section 22006.

24 (b) The State Department of Health Care Services shall also  
25 adopt regulations to implement this division, including, but not  
26 limited to, regulations that establish:

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

29 (2) The specific eligibility requirements for receipt of the  
30 Medi-Cal benefits provided for by the program, and those Medi-Cal  
31 benefits for which participants in the program shall be eligible.

32 (c) The State Department of Social Services shall also adopt  
33 regulations to implement this division, including, but not limited  
34 to, regulations that establish:

35 (1) The specific eligibility requirements for in-home supportive  
36 services benefits.

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

1 (d) The State Department of Health Care Services and the State  
2 Department of Social Services shall also jointly adopt regulations  
3 that provide for the following:

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

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

8 (e) (1) The departments shall adopt emergency regulations  
9 pursuant to Chapter 3.5 (commencing with Section 11340) of Part  
10 1 of Division 3 of Title 2 of the Government Code to implement  
11 this division. The adoption of regulations pursuant to this section  
12 in order to implement this division shall be deemed to be an  
13 emergency and necessary for the immediate preservation of the  
14 public peace, health, or safety.

15 (2) Notwithstanding Chapter 3.5 (commencing with Section  
16 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
17 emergency regulations adopted pursuant to this section shall not  
18 be subject to the review and approval of the Office of  
19 Administrative Law. The regulations shall become effective  
20 immediately upon filing with the Secretary of State. The regulations  
21 shall not remain in effect more than 120 days unless the adopting  
22 agency complies with all of the provisions of Chapter 3.5  
23 (commencing with Section 11340) as required by subdivision (c)  
24 of Section 11346.1 of the Government Code.

25 ~~SEC. 9.~~

26 *SEC. 10.* Section 22010 of the Welfare and Institutions Code  
27 is amended to read:

28 22010. (a) In implementing this division, the California  
29 Department of Aging may contract, on a bid or nonbid basis, with  
30 any qualified individual, organization, or entity for services needed  
31 to implement the project, and may negotiate contracts, on a nonbid  
32 basis, with long-term care insurers, health care service plans, or  
33 both, for the provision of coverage for long-term care services that  
34 will meet the certification requirements set forth in Section 22005.1  
35 and the other requirements of this division.

36 (b) In order to achieve maximum cost savings, the Legislature  
37 declares that an expedited process for issuing contracts pursuant  
38 to this division is necessary. Therefore, contracts entered into on  
39 a nonbid basis pursuant to this section shall be exempt from the  
40 requirements of Chapter 1 (commencing with Section 10100) and

- 1 Chapter 2 (commencing with Section 10290) of Part 2 of Division
- 2 2 of the Public Contract Code.

O