

AMENDED IN ASSEMBLY JUNE 14, 2016

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, and to add ~~Section~~ *Sections* 22005.3 and 22011 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. *The bill would also require the formation of an executive and legislative task force to provide advice and assistance in implementing reforms to the California Partnership for Long-Term Care Program and to consider other means to assist consumers in paying for long-term care services and supports, as specified. The task force would be composed of representatives of various state agencies and departments, including the State Department of Health Care Services, the State Department of Social Services, and the California Department of Aging.*

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~~ *State Department*
- 20 *of Health Care Services* pursuant to this division.

1 (b) Individuals may purchase approved and certified long-term
2 care insurance policies or health care service plan contracts which
3 cover long-term care services in amounts equal to the resources
4 they wish to protect, so long as the amount of insurance purchased
5 exceeds the minimum level set by the ~~California Department of~~
6 ~~Aging~~ *State Department of Health Care Services* pursuant to
7 Section 22009.

8 (c) The resource protection provided by this division shall be
9 effective only for long-term care policies, and health care service
10 plan contracts that cover long-term care services, when the policy
11 or contract is delivered, issued for delivery, or renewed on July 1,
12 1993, and thereafter.

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

15 22004. Notwithstanding other provisions of law, the resources,
16 to the extent described in subdivision (c), of an individual who
17 purchases an approved and certified long-term care insurance
18 policy or health care service plan contract which covers long-term
19 care services shall not be considered by:

20 (a) The State Department of Health Care Services in
21 determining:

22 (1) Medi-Cal eligibility.

23 (2) The amount of any Medi-Cal payment.

24 (3) The amount of any subsequent recovery by the state of
25 payments made for medical services.

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

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

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

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

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

38 22005. ~~The California Department of Aging~~ *State Department*
39 *of Health Care Services* shall only certify a long-term care

1 insurance policy or a health care service plan contract that meets
2 the Medi-Cal asset protection requirements.

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

5 22005.1. (a) ~~The California Department of Aging State~~
6 ~~Department of Health Care Services~~ shall only certify a long-term
7 care insurance policy that substantially meets the requirements of
8 Chapter 2.6 (commencing with Section 10230) of Part 2 of Division
9 2 of the Insurance Code, except the requirements of Sections
10 10232.1, 10232.2, 10232.8, 10232.9, and 10232.92 of the Insurance
11 Code, and that provides all of the items specified in subdivision
12 (b). ~~The California Department of Aging State Department of~~
13 ~~Health Care Services~~ shall only certify a health care service plan
14 contract that has been approved by the Department of Managed
15 Health Care pursuant to Chapter 2.2 (commencing with Section
16 1340) of Division 2 of the Health and Safety Code as providing
17 substantially equivalent coverage to that required by Chapter 2.6
18 (commencing with Section 10230) of Part 2 of Division 2 of the
19 Insurance Code, and that provides all of the items specified in
20 subdivision (b). Policies issued by organizations subject to the
21 Insurance Code and regulated by the Department of Insurance
22 shall also be approved by the Department of Insurance.

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

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

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

30 (3) Protection against loss of benefits due to inflation. An
31 applicant shall be offered, at the time of purchase, the following
32 options:

33 ~~(A) One option no less favorable than that required by Sections~~
34 ~~58050 and 58059 of Title 22 of the California Code of Regulations,~~
35 ~~as those sections existed on January 1, 2015.~~

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

38 (A) *One option that provides, at a minimum, protection against*
39 *an inflation rate of 5 percent or more, up to an age specified by*
40 *the program.*

1 (B) *At least one lower cost option.*

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

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

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

12 22005.2. Each organization issuing policies certified by the
13 ~~California Department of Aging~~ *State Department of Health Care*
14 *Services* under this division shall each year contribute to a fund to
15 be used for common educational and marketing expenses for
16 reaching the target population designated by the California
17 Partnership for Long-Term ~~Care~~. *Care Program*. The amount of
18 each participating issuer's required annual contribution shall be
19 determined by the department and shall not be less than twenty
20 thousand dollars (\$20,000).

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

23 22005.3. The insurer or producer shall, at the time of
24 application, provide to the individual a graph that illustrates the
25 difference in premium rates and policy benefits payable in
26 accordance with the inflation protection provisions described in
27 Section 22005.1.

28 SEC. 8. Section 22006 of the Welfare and Institutions Code is
29 amended to read:

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

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

1 that Medi-Cal provides as specified in regulations adopted by the
2 State Department of Health Care Services pursuant to Section
3 22009.

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

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

12 SEC. 9. Section 22009 of the Welfare and Institutions Code is
13 amended to read:

14 22009. (a) The ~~California Department of Aging~~ *State*
15 *Department of Health Care Services* shall adopt regulations to
16 implement this division, including, but not limited to, regulations
17 that establish:

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

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

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

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

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

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

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

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

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

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

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

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

27 (2) Notwithstanding Chapter 3.5 (commencing with Section
28 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
29 emergency regulations adopted pursuant to this section shall not
30 be subject to the review and approval of the Office of
31 Administrative Law. The regulations shall become effective
32 immediately upon filing with the Secretary of State. The regulations
33 shall not remain in effect more than 120 days unless the adopting
34 agency complies with all of the provisions of Chapter 3.5
35 (commencing with Section 11340) as required by subdivision (c)
36 of Section 11346.1 of the Government Code.

37 SEC. 10. Section 22010 of the Welfare and Institutions Code
38 is amended to read:

39 22010. (a) In implementing this division, the ~~California~~
40 ~~Department of Aging~~ *State Department of Health Care Services*

1 may contract, on a bid or nonbid basis, with any qualified
2 individual, organization, or entity for services needed to implement
3 the project, and may negotiate contracts, on a nonbid basis, with
4 long-term care insurers, health care service plans, or both, for the
5 provision of coverage for long-term care services that will meet
6 the certification requirements set forth in Section 22005.1 and the
7 other requirements of this division.

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

15 *SEC. 11. Section 22011 is added to the Welfare and Institutions*
16 *Code, to read:*

17 *22011. (a) An executive and legislative task force shall be*
18 *formed to provide advice and assistance in implementing reforms*
19 *to the California Partnership for Long-Term Care Program and*
20 *to consider other means to assist consumers in paying for long-term*
21 *care services and supports.*

22 *(b) The task force formed pursuant to subdivision (a) shall be*
23 *composed of representatives designated by each of the following:*

24 *(1) The State Department of Health Care Services.*

25 *(2) The State Department of Social Services.*

26 *(3) The California Department of Aging.*

27 *(4) The Department of Insurance.*

28 *(5) The Department of Managed Health Care.*

29 *(6) The Senate Committee on Rules.*

30 *(7) The Speaker of the Assembly.*

31 *(c) The task force shall consult with persons knowledgeable of*
32 *and concerned with long-term care, including, but not limited to,*
33 *the following:*

34 *(1) Consumers.*

35 *(2) Health care providers.*

36 *(3) Representatives of long-term care insurance companies and*
37 *administrators of health care service plans which cover long-term*
38 *care.*

39 *(4) Private employers.*

40 *(5) Academic specialists in long-term care and aging.*

- 1 (6) *Representatives of the Public Employees' Retirement System*
- 2 *and the State Teachers' Retirement System.*

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