

Introduced by Committee on Health (Senators Hernandez (Chair), Hall, Mitchell, Monning, Nguyen, Nielsen, Pan, Roth, and Wolk)

March 9, 2016

An act to amend Section 100500 of the Government Code, and to amend Sections 101319, 123870, 123900, 123929, 123940, and 123955 of the Health and Safety Code, relating to health.

LEGISLATIVE COUNSEL'S DIGEST

SB 1477, as introduced, Committee on Health. Health.

(1) Existing federal law, the federal Patient Protection and Affordable Care Act (PPACA), enacts various health care coverage market reforms that took effect January 1, 2014. Among other things, PPACA requires each state, by January 1, 2014, to establish an American Health Benefit Exchange that facilitates the purchase of qualified health plans by qualified individuals and qualified small employers. Existing state law establishes the California Health Benefit Exchange (the Exchange) within state government, specifies the powers and duties of the board governing the Exchange, and requires the board to facilitate the purchase of qualified health plans by qualified individuals and qualified small employers.

This bill would state that the California Health Benefit Exchange is also known as Covered California and would deem any reference to the California Health Benefit Exchange or the Exchange to refer to Covered California.

(2) Under existing law, the Robert W. Crown California Children's Services Act, the State Department of Health Care Services and each county administers the California Children's Services Program (CCS program) for treatment services for physically defective or handicapped persons under 21 years of age, as specified. Existing law authorizes, if

a person is enrolled in the Health Families Program or the AIM-Linked Infants Program, the financial documentation required to establish eligibility for those programs to be used to establish financial eligibility for treatment services under the CCS program. Existing law transitions enrollees of the Healthy Families Program to the Medi-Cal program and renamed the AIM-Linked Infants Program as the Medi-Cal Access Program.

This bill would change references to the Healthy Families Program to the Medi-Cal program, and the AIM-Linked Infants Program to the Medi-Cal Access Program. The bill would also make other technical, nonsubstantive changes.

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

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

1 SECTION 1. Section 100500 of the Government Code is
2 amended to read:
3 100500. (a) There is in state government the California Health
4 Benefit Exchange, an independent public entity not affiliated with
5 an agency or department, which shall *also* be known as ~~the~~
6 ~~Exchange. The Exchange~~ *Covered California. Covered California*
7 shall be governed by an executive board consisting of five members
8 who are residents of California. Of the members of the board, two
9 shall be appointed by the Governor, one shall be appointed by the
10 Senate Committee on Rules, and one shall be appointed by the
11 Speaker of the Assembly. The Secretary of California Health and
12 Human Services or his or her designee shall serve as a voting, ex
13 officio member of the board.
14 (b) Members of the board, other than an ex officio member,
15 shall be appointed for a term of four years, except that the initial
16 appointment by the Senate Committee on Rules shall be for a term
17 of five years, and the initial appointment by the Speaker of the
18 Assembly shall be for a term of two years. Appointments by the
19 Governor made after January 2, 2011, shall be subject to
20 confirmation by the Senate. A member of the board may continue
21 to serve until the appointment and qualification of his or her
22 successor. Vacancies shall be filled by appointment for the
23 unexpired term. The board shall elect a chairperson on an annual
24 basis.

1 (c) (1) Each person appointed to the board shall have
2 demonstrated and acknowledged expertise in at least two of the
3 following areas:

- 4 (A) Individual health care coverage.
- 5 (B) Small employer health care coverage.
- 6 (C) Health benefits plan administration.
- 7 (D) Health care finance.
- 8 (E) Administering a public or private health care delivery
9 system.
- 10 (F) Purchasing health plan coverage.
- 11 (G) Marketing of health insurance products.
- 12 (H) Information technology system management.
- 13 (I) Management information systems.
- 14 (J) Enrollment counseling assistance, with priority to cultural
15 and linguistic competency.

16 (2) Appointing authorities shall consider the expertise of the
17 other members of the board and attempt to make appointments so
18 that the board's composition reflects a diversity of expertise.

19 (d) Each member of the board shall have the responsibility and
20 duty to meet the requirements of this title, the federal act, and all
21 applicable state and federal laws and regulations, to serve the public
22 interest of the individuals and small businesses seeking health care
23 coverage through the Exchange, and to ensure the operational
24 well-being and fiscal solvency of the Exchange.

25 (e) In making appointments to the board, the appointing
26 authorities shall take into consideration the cultural, ethnic, and
27 geographical diversity of the state so that the board's composition
28 reflects the communities of California.

29 (f) (1) A member of the board or of the staff of the Exchange
30 shall not be employed by, a consultant to, a member of the board
31 of directors of, affiliated with, or otherwise a representative of, a
32 carrier or other insurer, an agent or broker, a health care provider,
33 or a health care facility or health clinic while serving on the board
34 or on the staff of the Exchange. A member of the board or of the
35 staff of the Exchange shall not be a member, a board member, or
36 an employee of a trade association of carriers, health facilities,
37 health clinics, or health care providers while serving on the board
38 or on the staff of the Exchange. A member of the board or of the
39 staff of the Exchange shall not be a health care provider unless he
40 or she receives no compensation for rendering services as a health

1 care provider and does not have an ownership interest in a
2 professional health care practice.

3 (2) A board member shall not receive compensation for his or
4 her service on the board, but may receive a per diem and
5 reimbursement for travel and other necessary expenses, as provided
6 in Section 103 of the Business and Professions Code, while
7 engaged in the performance of official duties of the board.

8 (3) For purposes of this subdivision, “health care provider”
9 means a person licensed or certified pursuant to Division 2
10 (commencing with Section 500) of the Business and Professions
11 Code, or licensed pursuant to the Osteopathic Act or the
12 Chiropractic Act.

13 (g) A member of the board shall not make, participate in
14 making, or in any way attempt to use his or her official position
15 to influence the making of a decision that he or she knows or has
16 reason to know will have a reasonably foreseeable material
17 financial effect, distinguishable from its effect on the public
18 generally, on him or her or a member of his or her immediate
19 family, or on either of the following:

20 (1) Any source of income, other than gifts and other than loans
21 by a commercial lending institution in the regular course of
22 business on terms available to the public without regard to official
23 status aggregating two hundred fifty dollars (\$250) or more in
24 value provided to, received by, or promised to the member within
25 12 months prior to the time when the decision is made.

26 (2) Any business entity in which the member is a director,
27 officer, partner, trustee, employee, or holds any position of
28 management.

29 (h) There shall not be liability in a private capacity on the part
30 of the board or a member of the board, or an officer or employee
31 of the board, for or on account of an act performed or obligation
32 entered into in an official capacity, when done in good faith,
33 without intent to defraud, and in connection with the
34 administration, management, or conduct of this title or affairs
35 related to this title.

36 (i) The board shall hire an executive director to organize,
37 administer, and manage the operations of the Exchange. The
38 executive director shall be exempt from civil service and shall
39 serve at the pleasure of the board.

1 (j) The board shall be subject to the Bagley-Keene Open Meeting
2 Act (Article 9 (commencing with Section 11120) of Chapter 1 of
3 Part 1 of Division 3 of Title 2), except that the board may hold
4 closed sessions when considering matters related to litigation,
5 personnel, contracting, and rates.

6 (k) (1) The board shall apply for planning and establishment
7 grants made available to the Exchange pursuant to Section 1311
8 of the federal act. If an executive director has not been hired under
9 subdivision (i) when the United States Secretary of Health and
10 Human Services makes the planning and establishment grants
11 available, the California Health and Human Services Agency shall,
12 upon request of the board, submit the initial application for
13 planning and establishment grants to the United States Secretary
14 of Health and Human Services.

15 (2) If a majority of the board has not been appointed when the
16 United States Secretary of Health and Human Services makes the
17 planning and establishment grants available, the California Health
18 and Human Services Agency shall submit the initial application
19 for planning and establishment grants to the United States Secretary
20 of Health and Human Services. Any subsequent applications shall
21 be made as described in paragraph (1) once a majority of the
22 members have been appointed to the board.

23 (3) The board shall be responsible for using the funds awarded
24 by the United States Secretary of Health and Human Services for
25 the planning and establishment of the Exchange, consistent with
26 subdivision (b) of Section 1311 of the federal act.

27 (l) *Any reference to the California Health Benefit Exchange or*
28 *the Exchange is deemed to refer to Covered California.*

29 SEC. 2. Section 101319 of the Health and Safety Code is
30 amended to read:

31 101319. Due to the need to rapidly implement, and to provide
32 local health jurisdictions, hospitals, long-term health care facilities,
33 clinics, emergency medical systems, and poison control centers,
34 *or their trade associations*, with timely funding for the purposes
35 of, this article, funds appropriated in the annual Budget Act or
36 some other act for purposes of this article for the 2002–03 fiscal
37 year and subsequent fiscal years shall be allocated through the use
38 of agreements, which shall not be subject to Part 2 (commencing
39 with Section 10100) of Division 2 of the Public Contract Code.

1 SEC. 3. Section 123870 of the Health and Safety Code is
2 amended to read:

3 123870. (a) The department shall establish standards of
4 financial eligibility for treatment services under the California
5 Children's Services Program (CCS program).

6 (1) Financial eligibility for treatment services under this program
7 shall be limited to persons in families with an adjusted gross
8 income of forty thousand dollars (\$40,000) or less in the most
9 recent tax year, as calculated for California state income tax
10 purposes. ~~If a person is enrolled in the Healthy Families Program~~
11 ~~(Part 6.2 (commencing with Section 12693) of Division 2 of the~~
12 ~~Insurance Code), the financial documentation required for that~~
13 ~~program in Section 2699.6600 of Title 10 of the California Code~~
14 ~~of Regulations may be used instead of the person's California state~~
15 ~~income tax return.~~ If a person is enrolled in the Medi-Cal program
16 pursuant to Section 14005.26 of the Welfare and Institutions Code,
17 or enrolled in the ~~AIM-Linked Infants Medi-Cal Access Program~~
18 ~~pursuant to Chapter 2 (commencing with Section 15850) 15810)~~
19 of Part 3.3 of Division 9 of the Welfare and Institutions Code, the
20 financial documentation required to establish eligibility for the
21 respective programs may be used instead of the person's California
22 state income tax return. However, the director may authorize
23 treatment services for persons in families with higher incomes if
24 the estimated cost of care to the family in one year is expected to
25 exceed 20 percent of the family's adjusted gross income.

26 (2) Children enrolled in ~~the Healthy Families Program,~~ the
27 Medi-Cal program pursuant to Section 14005.26 of the Welfare
28 and Institutions ~~Code,~~ *Code* or the ~~AIM-Linked Infants Medi-Cal~~
29 ~~Access Program pursuant to Chapter 2 (commencing with Section~~
30 ~~15850) 15810)~~ of Part 3.3 of Division 9 of the Welfare and
31 Institutions Code, who have a CCS program eligible medical
32 condition under Section 123830, and whose families do not meet
33 the financial eligibility requirements of paragraph (1), shall be
34 deemed financially eligible for CCS program benefits.

35 (b) Necessary medical therapy treatment services under the
36 California Children's Services Program rendered in the public
37 schools shall be exempt from financial eligibility standards and
38 enrollment fee requirements for the services when rendered to any
39 handicapped child whose educational or physical development
40 would be impeded without the services.

1 (c) All counties shall use the uniform standards for financial
2 eligibility and enrollment fees established by the department. All
3 enrollment fees shall be used in support of the California Children’s
4 Services Program.

5 (d) Annually, every family with a child eligible to receive
6 services under this article shall pay a fee of twenty dollars (\$20),
7 that shall be in addition to any other program fees for which the
8 family is liable. This assessment shall not apply to any child who
9 is eligible for full scope Medi-Cal benefits without a share of cost,
10 for children receiving therapy through the California Children’s
11 Services Program as a related service in their individualized
12 education plans, for children from families having incomes of less
13 than 100 percent of the federal poverty level, or for children
14 covered under the ~~Healthy Families Program~~ *Medi-Cal program*
15 *pursuant to Section 14005.26 of the Welfare and Institutions Code*
16 *or the AIM-Linked Infants Medi-Cal Access Program.*

17 SEC. 4. Section 123900 of the Health and Safety Code is
18 amended to read:

19 123900. (a) Beginning September 1, 1991, in addition to any
20 other standards of eligibility pursuant to this article, each family
21 with a child otherwise eligible to receive services under this article
22 shall pay an annual enrollment fee as a requirement for eligibility
23 for services, except as specified in subdivision (f).

24 (b) The department shall determine the annual enrollment fee,
25 ~~that~~ *which* shall be a sliding fee scale based upon family size and
26 income, and shall be adjusted by the department to reflect changes
27 in the federal poverty level.

28 (c) “Family size” shall include the child, his or her natural or
29 adoptive parents, siblings, and other family members who live
30 together and whose expenses are dependent upon the family
31 income.

32 (d) “Family income” for purposes of this article, shall include
33 the total gross income, or their equivalents, of the child and his or
34 her natural or adoptive parents.

35 (e) Payment of the enrollment fee is a condition of program
36 participation. The enrollment fee is independent of any other
37 financial obligation to the program.

38 (f) The enrollment fee shall not be charged in any of the
39 following cases:

1 (1) The only services required are for diagnosis to determine
2 eligibility for services, or are for medically necessary therapy
3 pursuant to Section 123875.

4 (2) The child is otherwise eligible to receive services and is
5 eligible for full Medi-Cal benefits at the time of application or
6 reapplication.

7 (3) The family of the child otherwise eligible to receive services
8 under this article has a gross annual income of less than 200 percent
9 of the federal poverty level.

10 (4) The family of a child otherwise eligible to receive services
11 under this article who is enrolled in the ~~Healthy Families Program~~
12 ~~(Part 6.2 (commencing with Section 12693) of Division 2 of the~~
13 ~~Insurance Code)~~. *Medi-Cal program pursuant to Section 14005.26*
14 *of the Welfare and Institutions Code.*

15 (g) Failure to pay or to arrange for payment of the enrollment
16 fee within 60 days of the due date shall result in disenrollment and
17 ineligibility for coverage of treatment services 60 days after the
18 due date of the required payment.

19 (h) The county shall apply the enrollment fee scale established
20 by the department and shall collect the enrollment fee. The county
21 may arrange with the family for periodic payment during the year
22 if a lump-sum payment will be a hardship for the family. The
23 agency director of California Children's Services may, on a
24 case-by-case basis, waive or reduce the amount of a family's
25 enrollment fee if, in the director's judgment, payment of the fee
26 will result in undue hardship.

27 (i) By thirty days after the effective date of this section or
28 August 1, 1991, whichever is later, the department shall advance
29 to each county, as a one-time startup amount, five dollars and fifty
30 cents (\$5.50) for each county child who was receiving services
31 under this article on June 30, 1990, and who was not a Medi-Cal
32 beneficiary. This one-time payment shall be in addition to the 4.1
33 percent of the gross total expenditures for diagnoses, treatment,
34 and therapy by counties allowed under ~~subdivision (e)~~ of Section
35 123955.

36 (j) Each county shall submit to the state, as part of its quarterly
37 claim for reimbursement, an accounting of all revenues due and
38 revenues collected as enrollment fees.

39 SEC. 5. Section 123929 of the Health and Safety Code is
40 amended to read:

1 123929. (a) Except as otherwise provided in this section and
2 Section 14133.05 of the Welfare and Institutions Code, California
3 Children’s Services program services provided pursuant to this
4 article require prior authorization by the department or its designee.
5 Prior authorization is contingent on determination by the
6 department or its designee of all of the following:

7 (1) The child receiving the services is confirmed to be medically
8 eligible for the CCS program.

9 (2) The provider of the services is approved in accordance with
10 the standards of the CCS program.

11 (3) The services authorized are medically necessary to treat the
12 child’s CCS-eligible medical condition.

13 (b) The department or its designee may approve a request for a
14 treatment authorization that is otherwise in conformance with
15 subdivision (a) for services for a child participating in the ~~Healthy~~
16 ~~Families Program~~ *Medi-Cal program pursuant to Section 14005.26*
17 *of the Welfare and Institutions Code* or the ~~AIM-Linked Infants~~
18 *Medi-Cal Access Program pursuant to clause (ii) of subparagraph*
19 ~~(A) of paragraph (6) of subdivision (a) of Section 12693.70 of the~~
20 ~~Insurance Code~~ or Chapter 2 (commencing with Section 15810)
21 of Part 3.3 of Division 9 of the Welfare and Institutions Code,
22 received by the department or its designee after the requested
23 treatment has been provided to the child.

24 (c) If a provider of services who meets the requirements of
25 paragraph (2) of subdivision (a) incurs costs for services described
26 in paragraph (3) of subdivision (a) to treat a child described in
27 subdivision (b) who is subsequently determined to be medically
28 eligible for the CCS ~~program~~ *program*, as determined by the
29 department or its designee, the department may reimburse the
30 provider for those costs. Reimbursement under this section shall
31 conform to the requirements of Section 14105.18 of the Welfare
32 and Institutions Code.

33 (d) (1) By July 1, 2016, or a subsequent date determined by the
34 department, requests for authorization of services, excluding
35 requests for authorization of services submitted by dental providers
36 enrolled in the Medi-Cal Dental program, shall be submitted in an
37 electronic format determined by the department and shall be
38 submitted via the department’s Internet Web site or other electronic
39 means designated by the department. The department may
40 implement this requirement in phases.

1 (2) The department shall designate an alternate format for
2 submitting requests for authorization of services when the
3 department's Internet Web site or other electronic means designated
4 in paragraph (1) are unavailable due to a system disruption.

5 (3) Notwithstanding Chapter 3.5 (commencing with Section
6 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
7 the department may, without taking regulatory action, implement,
8 interpret, or make specific this subdivision and any applicable
9 waivers and state plan amendments by means of all-county letters,
10 plan letters, plan or provider bulletins, or similar instructions.
11 Thereafter, the department shall adopt regulations by July 1, 2017,
12 in accordance with the requirements of Chapter 3.5 (commencing
13 with Section 11340) of Part 1 of Division 3 of Title 2 of the
14 Government Code. The department shall consult with interested
15 parties and appropriate stakeholders in implementing this
16 subdivision.

17 SEC. 6. Section 123940 of the Health and Safety Code is
18 amended to read:

19 123940. (a) (1) Annually, the board of supervisors shall
20 appropriate a sum of money for services for handicapped children
21 of the county, including diagnosis, treatment, and therapy services
22 for physically handicapped children in public schools, equal to 25
23 percent of the actual expenditures for the county program under
24 this article for the 1990–91 fiscal year, except as specified in
25 paragraph (2).

26 (2) If the state certifies that a smaller amount is needed in order
27 for the county to pay 25 percent of costs of the county's program
28 from this source. The smaller amount certified by the state shall
29 be the amount that the county shall appropriate.

30 (b) In addition to the amount required by subdivision (a), the
31 county shall allocate an amount equal to the amount determined
32 pursuant to subdivision (a) for purposes of this article from
33 revenues allocated to the county pursuant to Chapter 6
34 (commencing with Section 17600) of Part 5 of Division 9 of the
35 Welfare and Institutions Code.

36 (c) (1) The state shall match county expenditures for this article
37 from funding provided pursuant to subdivisions (a) and (b).

38 (2) County expenditures shall be waived for payment of services
39 for children who are eligible pursuant to paragraph (2) of
40 subdivision (a) of Section 123870.

1 (d) The county may appropriate and expend moneys in addition
2 to those set forth in subdivision (a) and (b) and the state shall match
3 the expenditures, on a dollar-for-dollar basis, to the extent that
4 state funds are available for this article.

5 (e) County appropriations under subdivisions (a) and (b) shall
6 include county financial participation in the nonfederal share of
7 expenditures for services for children who are enrolled in the
8 Medi-Cal program pursuant to Section 14005.26 of the Welfare
9 and Institutions Code, or the ~~AIM-Linked Infants~~ *Medi-Cal Access*
10 *Program* pursuant to Chapter 2 (commencing with Section ~~15850~~
11 *15810*) of Part 3.3 of Division 9 of the Welfare and Institutions
12 Code, and who are eligible for services under this article pursuant
13 to paragraph (1) of subdivision (a) of Section 123870, to the extent
14 that federal financial participation is available at the enhanced
15 federal reimbursement rate under Title XXI of the federal Social
16 Security Act (42 U.S.C. Sec. 1397aa et seq.) and funds are
17 appropriated for the California Children’s Services Program in the
18 State Budget.

19 (f) ~~Nothing in this~~ *This* section shall *not* require the county to
20 expend more than the amount set forth in subdivision (a) plus the
21 amount set forth in subdivision ~~(b)~~ *(b)*, nor shall it require the state
22 to expend more than the amount of the match set forth in
23 subdivision (c).

24 (g) Notwithstanding Chapter 3.5 (commencing with Section
25 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
26 the department, without taking further regulatory action, shall
27 implement this section by means of California Children’s Services
28 numbered letters.

29 SEC. 7. Section 123955 of the Health and Safety Code is
30 amended to read:

31 123955. (a) The state and the counties shall share in the cost
32 of administration of the California Children’s Services Program
33 at the local level.

34 (b) (1) The director shall adopt regulations establishing
35 minimum standards for the administration, staffing, and local
36 implementation of this article subject to reimbursement by the
37 state.

38 (2) The standards shall allow necessary flexibility in the
39 administration of county programs, taking into account the

1 variability of county needs and resources, and shall be developed
2 and revised jointly with state and county representatives.

3 (c) The director shall establish minimum standards for
4 administration, staffing and local operation of the program subject
5 to reimbursement by the state.

6 (d) Until July 1, 1992, reimbursable administrative costs, to be
7 paid by the state to counties, shall not exceed 4.1 percent of the
8 gross total expenditures for diagnosis, treatment and therapy by
9 counties as specified in Section 123940.

10 (e) Beginning July 1, 1992, this subdivision shall apply with
11 respect to all of the following:

12 (1) Counties shall be reimbursed by the state for 50 percent of
13 the amount required to meet state administrative standards for that
14 portion of the county caseload under this article that is ineligible
15 for Medi-Cal to the extent funds are available in the State Budget
16 for the California Children's Services Program.

17 (2) Counties shall be reimbursed by the state for 50 percent of
18 the nonfederal share of the amount required to meet state
19 administrative standards for that portion of the county caseload
20 under this article that is enrolled in the Medi-Cal program pursuant
21 to Section 14005.26 of the Welfare and Institutions Code or the
22 ~~AIM-Linked Infants~~ *Medi-Cal Access* Program pursuant to Chapter
23 2 (commencing with Section ~~15850~~ 15810) of Part 3.3 of Division
24 9 of the Welfare and Institutions Code, and who are eligible for
25 services under this article pursuant to subdivision (a) of Section
26 123870, to the extent that federal financial participation is available
27 at the enhanced federal reimbursement rate under Title XXI of the
28 federal Social Security Act (42 U.S.C. Sec. 1397aa et seq.) and
29 funds are appropriated for the California Children's Services
30 Program in the State Budget.

31 (3) On or before September 15 of each year, each county
32 program implementing this article shall submit an application for
33 the subsequent fiscal year that provides information as required
34 by the state to determine if the county administrative staff and
35 budget meet state standards.

36 (4) The state shall determine the maximum amount of state
37 funds available for each county from state funds appropriated for
38 CCS county administration. If the amount appropriated for any
39 fiscal year in the Budget Act for county administration under this
40 article differs from the amounts approved by the department, each

1 county shall submit a revised application in a form and at the time
2 specified by the department.

3 (f) The department and counties shall maximize the use of
4 federal funds for administration of the programs implemented
5 pursuant to this article, including using state and county funds to
6 match funds claimable under Title XIX or Title XXI of the federal
7 Social Security Act (42 U.S.C. Sec. 1396 et seq.; 42 U.S.C. Sec.
8 1397aa et seq.).

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