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AMENDED IN ASSEMBLY JANUARY 28, 1998
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AMENDED IN ASSEMBLY JANUARY 6, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 668

**Introduced by Assembly Members Aroner and Shelley
(Principal coauthor: Assembly Member Villaraigosa)**

February 26, 1997

An act to add Section 14132.97 to the Welfare and Institutions Code, relating to human services.

LEGISLATIVE COUNSEL'S DIGEST

AB 668, as amended, Aroner. In-home supportive services: personal care services funding.

Existing law provides for the In-Home Supportive Services (IHSS) program, under which, either through employment by the recipient, or by or through contract by the county, qualified aged, blind, and disabled persons receive services enabling them to remain in their own homes. Counties are responsible for the administration of the IHSS program.

Existing law authorizes the provision of personal care services under the IHSS program and specifies that those personal care services provided to a recipient who is eligible for those same services under the Medi-Cal program shall receive those services under the Medi-Cal program.

~~This bill would require the Director of Health Services to seek amendments to the existing nursing facility and nursing facility model waivers of federal medicaid program requirements to provide personal care services to expand the class of persons who would be eligible to receive those services, and to report to the appropriate committees of the Legislature. The bill would prohibit the department from implementing these provisions unless the department determines, on a case-by-case basis, that General Fund savings will result, subject to the receipt of any necessary federal waivers and the execution of any necessary amendments to the state medicaid plan, require the provision of waiver personal care services, as defined, under the Medi-Cal program to persons meeting specified requirements.~~

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. The Legislature finds and declares all of
- 2 the following:
- 3 (a) Under the federal Omnibus Budget Reconciliation
- 4 Act of 1981 (Public Law 97-35), states may apply for
- 5 waiver under Section 1915(c) of the federal Social
- 6 Security Act (42 U.S.C. Sec. 1396n(c)) to make
- 7 individuals eligible for Supplemental Security Income
- 8 (SSI) and medicaid benefits when medical, remedial, and
- 9 social services provided in the home can be shown to be
- 10 less costly than services provided in an institution.
- 11 (b) Whenever possible, medical, remedial, and social
- 12 services should be provided in the least restrictive setting
- 13 at the lowest cost to programs involved.
- 14 (c) To the extent possible, and consistent with client
- 15 preference, necessary medical and remedial services in
- 16 the home can be provided through personal care services
- 17 beyond those currently available under Section 14132.95
- 18 of the Welfare and Institutions Code.
- 19 SEC. 2. Section 14132.97 is added to the Welfare and
- 20 Institutions Code, to read:



1 14132.97. (a) The director shall apply for
2 amendments to the existing nursing facility and nursing
3 facility model waivers for up to 200 persons under the
4 existing nursing facility waiver and up to 50 persons
5 under the existing nursing facility model waiver who
6 would otherwise require care in a nursing facility, to
7 provide for the following:

8 (1) For adults who qualify under the nursing facility
9 model waiver, personal care services under Section
10 14132.95, subject to approval of the department. For
11 individuals approved for personal care services under this
12 provision, the department shall establish limits on the
13 number of monthly service hours an individual may
14 receive, and may establish a beneficiary share of cost.

15 (2) Payment of an amount to be determined by the
16 department to defray the cost of rent attributable to an
17 unrelated personal caregiver residing in the same
18 household as the waiver participant.

19 (3) For attendants who are oncall on a 24-hour basis
20 and who are not being paid pursuant to paragraph (2) or
21 (4), a flat fee payment for the oncall availability.

22 (4) Payment to attendants to provide care because of
23 the client's mental or physical impairment or
24 impairments, in lieu of a portion of nursing care
25 authorized under the existing waivers, if the department
26 determines that personal care services would be
27 medically appropriate and cost effective. The amount of
28 personal care service hours authorized under this
29 paragraph shall be determined by the department.

30 (b) The director shall report to the appropriate
31 committees of the Legislature by January 1, 1999,
32 regarding the actions taken to apply for the amendment
33 of existing waivers to provide expanded personal care
34 services as an option for persons who would otherwise
35 require care in a nursing facility.

36 (e) To the extent the waiver amendments obtained
37 pursuant to subdivision (a) result in replacing hours of
38 protective supervision under the In-Home Supportive
39 Services program with hours of personal care services,
40 the county shall be responsible for the nonfederal share



1 of cost at the same rate as under the In-Home Supportive
2 Services program.

3 (d) To the extent the waiver amendments obtained
4 pursuant to subdivision (a) result in personal care
5 services beyond those provided pursuant to Section
6 14132.95, the county shall have no share of cost.

7 (e) The department shall implement this section only
8 in the event that the department determines, on a
9 case-by-case basis, that General Fund savings will result.

10 14132.97. (a) For purposes of this section, "waiver
11 personal care services" means personal care services
12 authorized by the department for persons who qualify for
13 personal care services under either the nursing facility or
14 the model nursing facility waiver, and that exceed in
15 hours of service or scope of service, personal care services
16 authorized under Section 14132.95. Waiver personal care
17 services may supplement or replace services authorized
18 under Article 7 (commencing with Section 12300) of
19 Chapter 3.

20 (b) An individual may receive waiver personal care
21 services if all of the following conditions are met:

22 (1) The individual has been approved by the
23 department to receive services in accordance with a
24 waiver approved under Section 1915(c) of the federal
25 Social Security Act (42 U.S.C. Sec. 1396n(c)) for persons
26 who would otherwise require care in a nursing facility.

27 (2) The individual has doctors orders that specify that
28 he or she requires less than 16 hours of nursing care daily.

29 (3) The individual chooses to receive waiver personal
30 care services.

31 (4) The waiver personal care services for the
32 individual do not result in costs that exceed the fiscal limit
33 established under the waiver.

34 (c) The department shall notify the administrator of
35 the in-home supportive services program in the county of
36 residence of any individual who is qualified to receive
37 waiver personal care services pursuant to subdivision (b).
38 The county of residence shall then do both of the
39 following:



1 (1) Approve services for the individual, based on the
2 determination of need and authorization for services
3 under Article 7 (commencing with Section 12300) of
4 Chapter 3 and subdivision (i) of Section 14132.95,
5 including approval for services to meet any unmet need
6 found in the assessment for services performed under
7 those provisions.

8 (2) Notify the department of the hours of service for
9 which the individual has been approved by the county
10 pursuant to paragraph (1) and the hours of service for
11 which the individual has been approved pursuant to
12 Article 7 (commencing with Section 12300) of Chapter 3.

13 (d) To the extent waiver personal care services
14 authorized under this section result in replacing hours of
15 protective supervision or other services authorized under
16 Article 7 (commencing with Section 12300) of Chapter 3
17 with hours of personal care services, the county shall be
18 responsible for the nonfederal share of costs at the same
19 rate required under Article 7 (commencing with Section
20 12300) of Chapter 3.

21 (e) Except as specified in subdivision (c), to the extent
22 services obtained under this section result in waiver
23 personal care services beyond those personal care
24 services authorized pursuant to subdivision (i) of Section
25 14132.95, the county shall have no share of cost, and the
26 cost shall be covered by the department under the
27 provisions of the waivers.

28 (f) This section shall not be implemented until the
29 department has obtained federal approval of any
30 necessary amendments to the existing nursing facility and
31 model nursing facility waivers and the state plan under
32 Title 19 of the federal Social Security Act (42 U.S.C. Sec.
33 1396 et seq.). Any amendments to the existing nursing
34 facility and model nursing facility waivers and the state
35 plan which are deemed to be necessary by the director
36 shall be submitted to the federal Health Care Financing
37 Administration by April 1, 1999.



1 (g) *The department shall implement this section only*
2 *to the extent that its implementation results in fiscal*
3 *neutrality, as required under the terms of the waivers.*

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