

AMENDED IN ASSEMBLY MARCH 30, 2000

AMENDED IN ASSEMBLY MARCH 16, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1863**

**Introduced by Assembly Member Gallegos**

February 10, 2000

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An act to amend ~~Sections 14005.7 and~~ *Section* 14005.12 of, *and to add Section 14005.32 to*, the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 1863, as amended, Gallegos. Medi-Cal: eligibility.

Existing law provides for the Medi-Cal program, administered by the State Department of Health Services, under which qualified low-income persons are provided with health care services. Existing law establishes income eligibility levels for those persons not automatically eligible for Medi-Cal by virtue of eligibility for certain public assistance programs.

~~This bill would, on January 1, 2001, and on each January 1 thereafter, increase these levels in a specified manner.~~

This bill would ~~also~~ establish certain income deductions for ~~needy families and~~ aged, blind, and disabled persons qualifying for Medi-Cal eligibility benefits as medically needy recipients.

*The bill would also require the department to implement an option provided for under federal law modifying Medi-Cal benefit income requirements for aged and disabled persons.*

This bill would make implementation of its provisions subject to the availability of federal financial participation, and would require the department to seek any federal approvals necessary for its implementation. If this federal approval is not obtained, it would permit the Attorney General to file judicial proceedings.

Because each county is required to determine Medi-Cal eligibility, and because the bill would expand Medi-Cal eligibility, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

1    ~~SECTION 1. Section 14005.7 of the Welfare and~~  
2    ~~Institutions Code is amended to read:~~  
3    ~~14005.7. (a) Medically needy persons and medically~~  
4    ~~needy family persons are entitled to health care services~~  
5    ~~under Section 14005 providing all eligibility criteria~~  
6    ~~established pursuant to this chapter are met.~~  
7    ~~(b) Except as otherwise provided in this chapter or in~~  
8    ~~Title XIX of the federal Social Security Act, no medically~~  
9    ~~needy family person, medically needy person or~~  
10   ~~state-only Medi-Cal persons shall be entitled to receive~~  
11   ~~health care services pursuant to Section 14005 during any~~  
12   ~~month in which his or her share of cost has not been met.~~  
13   ~~(c) (1) In the case of a medically needy person,~~  
14   ~~monthly income, as determined, defined, counted, and~~



1 valued, in accordance with Title XIX of the federal Social  
2 Security Act, in excess of the amount required for  
3 maintenance established pursuant to Section 14005.12,  
4 exclusive of any amounts considered exempt as income  
5 under Chapter 3 (commencing with Section 12000), less  
6 amounts paid for Medicare and other health insurance  
7 premiums shall be the share of cost to be met under  
8 Section 14005.9.

9 (2) Individuals or couples qualifying for benefits  
10 under this chapter as medically needy persons on the  
11 basis of age, blindness, or disability shall additionally  
12 deduct as a special income deduction an amount equal to  
13 the difference between the income level for  
14 maintenance need for an individual or couple as set forth  
15 in subdivisions (a), (b), and (c) of Section 14005.12 and  
16 the amount of SSI/SSP the individual or couple would be  
17 entitled to receive under Chapter 3 (commencing with  
18 Section 1300) if the individual or couple had no income  
19 other than SSI/SSP.

20 (3) By March 1, 2001, the department shall seek any  
21 approvals, including state plan amendments, necessary to  
22 receive federal financial participation for medical and  
23 remedial services payable by reason of the special income  
24 deduction provided for in paragraph (2). If this approval  
25 is not granted by the federal government, the Attorney  
26 General may file all administrative and judicial  
27 proceedings available under the law to obtain the  
28 approval. The income methodology change provided for  
29 in paragraph (2) shall be implemented only to the extent  
30 federal financial participation is available for health care  
31 benefits provided after the special income deduction  
32 authorized in that paragraph.

33 (d) In the case of a medically needy family person or  
34 state-only Medi-Cal person, monthly income, as  
35 determined, defined, counted, and valued, in accordance  
36 with Title XIX of the federal Social Security Act, in excess  
37 of the amount required for maintenance established  
38 pursuant to Section 14005.12, exclusive of any amounts  
39 considered exempt as income under Chapter 2  
40 (commencing with Section 11200), less amounts paid for



1 ~~Medicare and other health insurance premiums shall be~~  
2 ~~the share of cost to be met under Section 14005.9.~~

3 ~~(e) In determining the income of a medically needy~~  
4 ~~person residing in a licensed community care facility,~~  
5 ~~income shall be determined, defined, counted, and~~  
6 ~~valued, in accordance with Title XIX of the federal Social~~  
7 ~~Security Act, any amount paid to the facility for~~  
8 ~~residential care and support that exceeds the amount~~  
9 ~~needed for maintenance shall be deemed unavailable for~~  
10 ~~the purposes of this chapter.~~

11 ~~SEC. 2.~~

12 *SECTION 1.* Section 14005.12 of the Welfare and  
13 Institutions Code is amended to read:

14 14005.12. (a) (1) For the purposes of Sections  
15 14005.4 and 14005.7, the department shall establish the  
16 income levels for maintenance need at the levels that  
17 reasonably permit medically needy persons to meet their  
18 basic needs for food, clothing, and shelter, and for which  
19 federal financial participation will be maximized under  
20 Title XIX of the federal Social Security Act. It is the intent  
21 of the Legislature that the income levels for maintenance  
22 need for medically needy aged, blind, and disabled adults,  
23 in particular, shall be based upon amounts that  
24 adequately reflect their needs.

25 (2) (A) Reductions in the maximum aid payment  
26 levels set forth in subdivision (a) of Section 11450 in the  
27 1991–92 fiscal year, and thereafter, shall not result in a  
28 reduction in the income levels for maintenance under  
29 this section.

30 (B) The department shall seek any necessary federal  
31 authorization for maintaining the income levels for  
32 maintenance at the levels in effect June 30, 1991.

33 (C) If federal authorization is not obtained, medically  
34 needy persons shall not be required to pay the difference  
35 between the share of cost as determined based on the  
36 payment levels in effect on June 30, 1991, under Section  
37 11450, and the share of cost as determined based on the  
38 payment levels in effect on July 1, 1991, and thereafter.

39 (D) Any medically needy person who was eligible for  
40 benefits under this chapter as categorically needy for the



1 calendar month immediately preceding the effective  
2 date of the reductions in the minimum basic standards of  
3 adequate care for the Aid to Families with Dependent  
4 Children program as set forth in Section 11452.018 made  
5 in the 1995–96 Regular Session of the Legislature shall not  
6 be responsible for paying his or her share of cost if all of  
7 the following apply:

8 (i) He or she had eligibility as categorically needy  
9 terminated by the reductions in the minimum basic  
10 standards of adequate care.

11 (ii) He or she, but for the reductions, would be eligible  
12 to continue receiving benefits under this chapter as  
13 categorically needy.

14 (iii) He or she is not eligible to receive benefits  
15 without a share of cost as a medically needy person  
16 pursuant to subparagraph (A) or (B).

17 (3) The income levels for maintenance under this  
18 section in effect August 22, 1996, shall be increased on  
19 January 1, 2001, by a percentage equal to the intervening  
20 consumer price index increases but not more than 10  
21 percent. On January 1 of each subsequent year, the  
22 income levels for maintenance under this section shall be  
23 increased by a percentage equal to the Consumer Price  
24 Index. By March 1, 2001, and each March 1 thereafter, the  
25 department shall seek any approvals, including state plan  
26 amendments, necessary to receive federal financial  
27 participation for medical and remedial services payable  
28 by reason of the increases in the income levels for  
29 maintenance under this section. If this approval is not  
30 granted by the federal government, the Attorney  
31 General may file all administrative and judicial  
32 proceedings available under the law to obtain the  
33 approval.

34 (b) Except as provided for in paragraphs (2) and (3)  
35 of subdivision (a), in the case of a single individual, the  
36 amount of the income level for maintenance per month  
37 shall be 80 percent of the highest amount that would  
38 ordinarily be paid to a family of two persons, without any  
39 income or resources, under subdivision (a) of Section



1 11450, multiplied by the federal financial participation  
2 rate.

3 (c) Except as provided for in paragraphs (2) and (3)  
4 of subdivision (a), in the case of a family of two adults, the  
5 income level for maintenance per month shall be the  
6 highest amount that would ordinarily be paid to a family  
7 of three persons without income or resources under  
8 subdivision (a) of Section 11450, multiplied by the federal  
9 financial participation rate.

10 (d) For the purposes of Sections 14005.4 and 14005.7,  
11 for a person in a medical institution or nursing facility, or  
12 for a person receiving institutional or noninstitutional  
13 services from an organization with a frail elderly  
14 demonstration project waiver pursuant to Chapter 8.75  
15 (commencing with Section 14590), the amount  
16 considered as required for maintenance per month shall  
17 be computed in accordance with Title XIX of the federal  
18 Social Security Act, and regulations adopted pursuant  
19 thereto. Those amounts shall be computed pursuant to  
20 regulations which include providing for the following  
21 purposes:

22 (1) Personal and incidental needs in the amount of not  
23 less than thirty-five dollars (\$35) per month while a  
24 patient. The department may, by regulation, increase this  
25 amount as necessitated by increasing costs of personal  
26 and incidental needs. A long-term health care facility  
27 shall not charge an individual for the laundry services or  
28 periodic hair care specified in Section 14110.4.

29 (2) The upkeep and maintenance of the home.

30 (3) The support and care of his or her minor children,  
31 or any disabled relative for whose support he or she has  
32 contributed regularly, if there is no community spouse.

33 (4) If the person is an institutionalized spouse, for the  
34 support and care of his or her community spouse, minor  
35 or dependent children, dependent parents, or dependent  
36 siblings of either spouse, provided the individuals are  
37 residing with the community spouse.

38 (5) The community spouse monthly income allowance  
39 shall be established at the maximum amount permitted  
40 in accordance with Section 1924(d)(1)(B) of Title XIX of



1 the federal Social Security Act (42 U.S.C. Sec.  
2 1396r-5(d)(1)(B)).

3 (6) The family allowance for each family member  
4 residing with the community spouse shall be computed in  
5 accordance with the formula established in Section  
6 1924(d)(1)(C) of Title XIX of the federal Social Security  
7 Act (42 U.S.C. Sec. 1396r-5(d)(1)(C)).

8 (e) For the purposes of Sections 14005.4 and 14005.7,  
9 with regard to a person in a licensed community care  
10 facility, the amount considered as required for  
11 maintenance per month shall be computed pursuant to  
12 regulations adopted by the department which provide  
13 for the support and care of his or her spouse, minor  
14 children, or any disabled relative for whose support he or  
15 she has contributed regularly.

16 (f) Except as provided for in paragraphs (2) and (3)  
17 of subdivision (a), the income levels for maintenance per  
18 month, except as specified in subdivisions (b) to (d),  
19 inclusive, shall be equal to the highest amounts that  
20 would ordinarily be paid to a family of the same size  
21 without any income or resources under subdivision (a) of  
22 Section 11450, multiplied by the federal financial  
23 participation rate.

24 (g) The “federal financial participation rate,” as used  
25 in this section, shall mean  $133\frac{1}{3}$  percent, or such other  
26 rate set forth in Section 1903 of the federal Social Security  
27 Act (42 U.S.C. Sec. 1396(b)), or its successor provisions.

28 (h) The income levels for maintenance per month  
29 shall not be decreased to reflect the presence in the  
30 household of persons receiving forms of aid other than  
31 Medi-Cal.

32 (i) When family members maintain separate  
33 residences, but eligibility is determined as a single unit  
34 under Section 14008, the income levels for maintenance  
35 per month shall be established for each household in  
36 accordance with subdivisions (b) to (h), inclusive. The  
37 total of these levels shall be the level for the single  
38 eligibility unit.

39 (j) The income levels for maintenance per month  
40 established pursuant to subdivisions (b) to (i), inclusive,



1 shall be calculated on an annual basis, rounded to the next  
2 higher multiple of one hundred dollars (\$100), and then  
3 prorated.

4 *SEC. 2. Section 14005.32 is added to the Welfare and  
5 Institutions Code, to read:*

6 *14005.32. (a) The department shall adopt the option  
7 made available pursuant to Sections 1902(m) and  
8 1902(a)(10)(A)(ii)(X) of the federal Social Security Act  
9 (42 U.S.C. Sections 1396a(m) and  
10 1396a(a)(10)(A)(ii)(X). In order to be eligible for  
11 benefits under this section, an individual shall be required  
12 to meet all of the following requirements:*

13 *(1) His or her net income shall not exceed 100 percent  
14 of the federal poverty level.*

15 *(2) He or she is 65 years of age or older or is disabled  
16 as determined under Section 1614(a)(3) of the federal  
17 Social Security Act (42 U.S.C. Section 1382c(a)(3)).*

18 *(3) His or her net nonexempt resources, as  
19 determined under Section 1613 of the federal Social  
20 Security Act (42 U.S.C. 1382b), do not exceed the  
21 maximum amount allowable under Title XVI of the  
22 federal Social Security Act (42 U.S.C. Section 1381 and  
23 following).*

24 *(b) For purposes of determining income eligibility  
25 pursuant to paragraph (1) of subdivision (a), net  
26 countable income shall be determined in accordance  
27 with both of the following:*

28 *(1) Earned and unearned income shall be reduced by  
29 the deductions, exemptions, and disregards provided  
30 under Section 1612 of the federal Social Security Act (42  
31 U.S.C. Section 1382a).*

32 *(2) As authorized under Section 1902(r)(2) of the  
33 federal Social Security Act (42 U.S.C. Section  
34 1396a(r)(2), income shall be further reduced by special  
35 income deductions of two hundred dollars (\$200) for  
36 eligible individuals and four hundred dollars (\$400) for  
37 eligible couples.*

38 *(c) Medi-Cal benefits provided pursuant to this  
39 section shall be available in the same amount, duration,  
40 and scope as those benefits are available for persons*



1 *eligible as categorically needy persons, except that*  
2 *benefits provided under this section shall be governed by*  
3 *Section 14007.5.*

4 *(d) Subject to subdivision (e), benefits shall be*  
5 *provided pursuant to this section commencing April 1,*  
6 *2001.*

7 *(e) (1) The department shall immediately seek any*  
8 *federal approvals, including state plan amendments,*  
9 *necessary to receive federal financial participation for*  
10 *medical and remedial services to be provided due to*  
11 *coverage of individuals authorized by Section 1902(m) of*  
12 *the federal Social Security Act (42 U.S.C. Section*  
13 *1396a(m)) and by the use of the income methodology set*  
14 *forth in paragraph (2) of subdivision (b). If either or both*  
15 *of these federal approvals are not obtained, the Attorney*  
16 *General may file all administrative and judicial*  
17 *proceedings available under the law in order to obtain*  
18 *these approvals.*

19 *(2) Notwithstanding any other provision of law,*  
20 *benefits shall be provided pursuant to this section only if,*  
21 *and to the extent that, the department determines that*  
22 *federal financial participation is available pursuant to*  
23 *Title XIX of the federal Social Security Act (42 U.S.C.*  
24 *Section 1396 and following).*

25 *(f) Notwithstanding Chapter 3.5 (commencing with*  
26 *Section 11340) of Part 1 of Division 3 of Title 2 of the*  
27 *Government Code, the department shall implement,*  
28 *without taking any regulatory action, this section by*  
29 *means of an all-county letter or similar instruction.*  
30 *Thereafter, the department shall adopt regulations in*  
31 *accordance with Chapter 3.5 (commencing with Section*  
32 *11340) of Part 1 of Division 3 of Title 2 of the Government*  
33 *Code.*

34 SEC. 3. Notwithstanding Section 17610 of the  
35 Government Code, if the Commission on State Mandates  
36 determines that this act contains costs mandated by the  
37 state, reimbursement to local agencies and school  
38 districts for those costs shall be made pursuant to Part 7  
39 (commencing with Section 17500) of Division 4 of Title  
40 2 of the Government Code. If the statewide cost of the



1 claim for reimbursement does not exceed one million  
2 dollars (\$1,000,000), reimbursement shall be made from  
3 the State Mandates Claims Fund.

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