

AMENDED IN ASSEMBLY MARCH 8, 2010
AMENDED IN SENATE JANUARY 20, 2010
AMENDED IN SENATE JANUARY 5, 2010
AMENDED IN SENATE DECEMBER 17, 2009
AMENDED IN SENATE MARCH 31, 2009

SENATE BILL

No. 732

Introduced by Senator Alquist

February 27, 2009

An act to amend Section 1324.23 of the Health and Safety Code, relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 732, as amended, Alquist. Medi-Cal: skilled nursing facilities: quality assurance fees.

Existing law provides for the licensure and regulation by the State Department of Public Health of long-term health care facilities, including skilled nursing facilities. Existing law requires the department to impose a uniform quality assurance fee on each skilled nursing facility, with certain exceptions, in accordance with a prescribed formula. The formula is based on the determination of the projected net revenues of skilled nursing facilities. The fee will cease to be assessed and collected on and after July 31, 2011.

Existing law provides for the Medi-Cal program, administered by the State Department of Health Care Services, under which health care services, including nursing facility services, are provided to qualified low-income persons.

Existing law authorizes the director to adopt regulations as are necessary to implement the above-described quality assurance fee. Existing law authorizes the director, as an alternative to adopting regulations, to implement the above-described provisions, in whole or in part, by means of a provider bulletin, or other similar instructions, without taking regulatory action, provided that neither the bulletin nor the other similar instructions remain in effect after July 31, 2010.

This bill would permit provider bulletins or similar instructions related to exemptions from the quality assurance fee for ~~continuing care retirement communities or multilevel retirement facilities~~ *providers of a continuum of services, including independent living services, assisted living services, and skilled nursing care on a single campus that have not received a Letter of Exemption from the State Department of Social Services, as specified*, issued prior to July 31, 2010, to remain in effect after July 31, 2010. It would also authorize the director to issue new provider bulletins or similar instructions, after July 31, 2010, related to exemptions from the quality assurance fee for ~~continuing care retirement communities or multilevel retirement facilities~~ *providers of a continuum of services, including independent living services, assisted living services, and skilled nursing care on a single campus that have not received a Letter of Exemption from the State Department of Social Services, as specified*.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. 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 1324.23 of the Health and Safety Code
- 2 is amended to read:
- 3 1324.23. (a) The Director of Health Care Services, or his or
- 4 her designee, shall administer this article.
- 5 (b) The director may adopt regulations as are necessary to
- 6 implement this article. These regulations may be adopted as
- 7 emergency regulations in accordance with the rulemaking
- 8 provisions of the Administrative Procedure Act (Chapter 3.5
- 9 (commencing with Section 11340) of Part 1 of Division 3 of Title
- 10 2 of the Government Code). For purposes of this article, the
- 11 adoption of regulations shall be deemed an emergency and

1 necessary for the immediate preservation of the public peace, health
2 and safety, or general welfare. The regulations shall include, but
3 need not be limited to, any regulations necessary for any of the
4 following purposes:

5 (1) The administration of this article, including the proper
6 imposition and collection of the quality assurance fee not to exceed
7 amounts reasonably necessary for purposes of this article.

8 (2) The development of any forms necessary to obtain required
9 information from facilities subject to the quality assurance fee.

10 (3) To provide details, definitions, formulas, and other
11 requirements.

12 (c) (1) As an alternative to subdivision (b), and notwithstanding
13 the rulemaking provisions of Chapter 3.5 (commencing with
14 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
15 Code, the director may implement this article, in whole or in part,
16 by means of a provider bulletin, or other similar instructions,
17 without taking regulatory action, provided that no such bulletin or
18 other similar instructions shall remain in effect after July 31, 2010,
19 except as provided in paragraph (2).

20 (2) As an alternative to the adoption of regulations pursuant to
21 subdivision (b), and notwithstanding the rulemaking provisions
22 of Chapter 3.5 (commencing with Section 11340) of Part 1 of
23 Division 3 of Title 2 of the Government Code:

24 (A) Provider bulletins or similar instructions related to
25 exemptions from the quality assurance fee for ~~continuing care~~
26 ~~retirement communities or multilevel retirement facilities,~~
27 *providers of a continuum of services, including independent living*
28 *services, assisted living services, and skilled nursing care on a*
29 *single campus that have not received a Letter of Exemption*
30 *pursuant to subdivision (b) of Section 1771.3* issued prior to July
31 31, 2010, may remain in effect after July 31, 2010.

32 (B) The director may, after July 31, 2010, issue new provider
33 bulletins or similar instructions related to exemptions from the
34 quality assurance fee for ~~continuing care retirement communities~~
35 ~~or multilevel retirement facilities~~ *providers of a continuum of*
36 *services, including independent living services, assisted living*
37 *services, and skilled nursing care on a single campus that have*
38 *not received a Letter of Exemption pursuant to subdivision (b) of*
39 *Section 1771.3.*

1 (3) It is the intent of the Legislature that the regulations adopted
2 pursuant to subdivision (b) shall be adopted on or before July 31,
3 2010.

4 SEC. 2. This act is an urgency statute necessary for the
5 immediate preservation of the public peace, health, or safety within
6 the meaning of Article IV of the Constitution and shall go into
7 immediate effect. The facts constituting the necessity are:

8 In order to make the necessary statutory changes to authorize
9 the continued and uninterrupted use of provider bulletins or similar
10 instructions by the State Department of Health Care Services
11 related to exemptions from the quality assurance fee, it is necessary
12 that this act take effect immediately.