AMENDED IN ASSEMBLY APRIL 24, 2000

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

An act to amend 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 establish certain income deductions for 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:

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

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

(2) (A) Reductions in the maximum aid payment levels set forth in subdivision (a) of Section 11450 in the 1991–92 fiscal year, and thereafter, shall not result in a

reduction in the income levels for maintenance under this section.

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

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

(D) Any medically needy person who was eligible for benefits under this chapter as categorically needy for the calendar month immediately preceding the effective date of the reductions in the minimum basic standards of adequate care for the Aid to Families with Dependent Children program as set forth in Section 11452.018 made in the 1995–96 Regular Session of the Legislature shall not be responsible for paying his or her share of cost if all of the following apply:

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

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

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

(3) The income levels for maintenance under this section in effect August 22, 1996, shall be increased on January 1, 2001, by a percentage equal to the intervening consumer price index increases ~~but not more than 10 percent~~ *or 20 percent, whatever is greater, except that implementation of this paragraph shall be subject to federal financial participation*. On January 1 of each subsequent year, the income levels for maintenance under this section shall be increased by a percentage equal to the Consumer Price Index. By March 1, 2001, and each March 1 thereafter, the department shall seek any

approvals, including state plan amendments, necessary to receive federal financial participation for medical and remedial services payable by reason of the increases in the income levels for maintenance under this section. If this approval is not granted by the federal government, the Attorney General may file all administrative and judicial proceedings available under the law to obtain the approval. *The state shall be under no obligation to use state-only funds to pay for the implementation of this paragraph.*

(b) Except as provided for in paragraphs (2) and (3) of subdivision (a), in the case of a single individual, the amount of the income level for maintenance per month shall be 80 percent of the highest amount that would ordinarily be paid to a family of two persons, without any income or resources, under subdivision (a) of Section 11450, multiplied by the federal financial participation rate.

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

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

(1) Personal and incidental needs in the amount of not less than thirty-five dollars ($35) per month while a patient. The department may, by regulation, increase this

amount as necessitated by increasing costs of personal and incidental needs. A long-term health care facility shall not charge an individual for the laundry services or periodic hair care specified in Section 14110.4.

(2) The upkeep and maintenance of the home.

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

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

(5) The community spouse monthly income allowance shall be established at the maximum amount permitted in accordance with Section 1924(d)(1)(B) of Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396r-5(d)(1)(B)).

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

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

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

(g) The ''federal financial participation rate,'' as used in this section, shall mean $133^{1}/_{3}$ percent, or such other rate set forth in Section 1903 of the federal Social Security Act (42 U.S.C. Sec. 1396(b)), or its successor provisions.

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

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

(j) The income levels for maintenance per month established pursuant to subdivisions (b) to (i), inclusive, shall be calculated on an annual basis, rounded to the next higher multiple of one hundred dollars ($100), and then prorated.

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

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

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

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

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

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

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

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

(c) Medi-Cal benefits provided pursuant to this section shall be available in the same amount, duration, and scope as those benefits are available for persons eligible as categorically needy persons, except that benefits provided under this section shall be governed by Section 14007.5.

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

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

(2) Notwithstanding any other provision of law, benefits shall be provided pursuant to this section only if, and to the extent that, the department determines that federal financial participation is available pursuant to

Title XIX of the federal Social Security Act (42 U.S.C. Section 1396 and following).

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

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

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