AMENDED IN ASSEMBLY JUNE 22, 2010

SENATE BILL No. 208

Introduced by Senators Steinberg and Alquist
~~(Coauthor: Assembly Member Bass)~~
(Principal coauthor: Assembly Member John A. Pérez)

February 23, 2009

~~An act to add Article 5.4 (commencing with Section 14180) to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code,~~ *An act to amend Section 15908 of, to add Sections 14132.275, 14183, 14183.1, 14183.5, 14184 to, and to add Part 3.6 (commencing with Section 15909) to Division 9 of, the Welfare and Institutions Code,* relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 208, as amended, Steinberg. Medi-Cal: demonstration project ~~waiver.~~ *waivers.*

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income persons receive health care benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions.

~~This bill would require the department to submit an application to the federal Centers for Medicare and Medicaid Services for a waiver to implement a demonstration project that improves health care, as specified. The bill would require the department to submit the waiver application by a date that shall ensure that the waiver is approved by the federal Centers for Medicare and Medicaid Services by September~~

~~1, 2010. The bill would condition implementation of the waiver upon the enactment of subsequent statutory authorization.~~

Existing federal law provides for the federal Medicare Program, which is a public health insurance program for persons 65 years of age and older and specified persons with disabilities who are under 65 years of age.

This bill would, to the extent that federal financial participation is available, and pursuant to a demonstration project or waiver of federal law, require the department to establish pilot projects in up to 4 counties, as specified, to develop effective health care models to provide services to persons who are dually eligible under both the Medi-Cal and Medicare programs. This bill would require the department to, no later than January 1, 2012, identify health care models that may be included in a pilot project and to develop a timeline and process for selecting, financing, monitoring, and evaluating the pilot projects.

Existing law requires the department to seek a demonstration project or federal waiver of Medicaid law to implement specified objectives, which may include better care coordination for seniors and persons with disabilities and children with special health care needs.

This bill would, in furtherance of the demonstration project and to the extent that federal financial participation is available, permit the department to develop a pilot project that would require seniors and persons with disabilities to be assigned as mandatory enrollees into new and existing managed care health plans or county alternative models of care, as specified. This bill would provide that enrollment of seniors and persons with disabilities shall be accomplished using a phased-in process and shall not commence until necessary federal approvals have been acquired, or until February 1, 2011, whichever is later. The bill would impose various requirements upon managed care health plans and county alternative models of care participating in the demonstration program.

This bill would, commencing January 1, 2011, require all Medi-Cal managed care health plans and other managed care arrangements, as specified, to submit data, including encounter data and financial data, for the development of rates, monitoring performance, and ensuring quality.

This bill would require the department, in conjunction with the implementation of the pilot project, to work with counties to develop a method to be used in determining the appropriate contribution to cover

the nonfederal share of inpatient hospital expenses for seniors and persons with disabilities in the Medi-Cal program.

Existing law, the Robert W. Crown California Children's Services Act, requires the department and each county to administer the California Children Services (CCS) program for treatment services for persons under 21 years of age diagnosed with severe chronic disease or severe physical limitations, as specified.

This bill also would, in furtherance of the demonstration project, require the Director of Health Care Services to establish, by January 1, 2012, models of organized health care delivery systems, as specified, for children eligible for services under the CCS program. This bill would provide that, to the extent permitted by federal law, the department may require eligible individuals to enroll in these models. This bill would also permit the Managed Risk Medical Insurance Board to elect, with the consent of the director, to permit children enrolled in the Healthy Families Program who are eligible for CCS services to enroll in these organized health care delivery models.

Existing law provides for the Health Care Coverage Initiative, which is a federal waiver demonstration project established to expand health care coverage to low-income uninsured individuals who are not currently eligible for the Medi-Cal program, the Healthy Families Program, or the Access for Infants and Mothers program.

Existing law provides for the repeal of this authority upon the execution of a declaration by the Director of Health Care Services specifying that the demonstration project has been terminated.

This bill would, alternatively, authorize the director to execute a declaration continuing the demonstration project to the extent authorized by a successor federal waiver or demonstration project.

This bill would, in this regard, to the extent that federal financial participation is available, require the department to, on or after September 1, 2010, but no later than January 1, 2011, or 180 days after federal approval is obtained, seek a successor demonstration project or federal waiver of Medicaid law to establish Coverage Expansion and Enrollment Demonstration (CEED) projects, as specified, to provide scheduled health care benefits for uninsured adults 19 to 64, inclusive, years of age with incomes up to 200% of the federal poverty level who are not otherwise eligible for Medi-Cal or Medicare. This bill would require CEED projects to be designed and implemented with the systems and program elements necessary to facilitate the transition of those eligible individuals to the Medi-Cal program, or alternatively, to

coverage through the state health insurance exchange, by 2014, pursuant to the provisions of federal and state law, and the terms and conditions of specified successor federal waivers or demonstrations projects.

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

Vote: ⅔. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

SECTION 1. Section 14132.275 is added to the Welfare and Institutions Code, to read:

14132.275. (a) The department shall seek federal approval to establish pilot projects described in this section pursuant to a Medicare or a Medicaid demonstration project or waiver, or a combination thereof. Under a Medicare demonstration, the department may operate the Medicare component of a pilot project as a delegated Medicare benefit administrator, and may enter into financing arrangements with the federal Centers for Medicare and Medicaid Services to share in any Medicare program savings generated by the operation of any pilot project.

(b) After federal approval is obtained, the department shall establish pilot projects that enable dual eligibles to receive a continuum of services, and that maximize the coordination of benefits between the Medi-Cal and Medicare programs and access to the continuum of services needed. The purpose of the pilot projects is to develop effective health care models that integrate services authorized under the federal Medicaid Program (Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.)) and the federal Medicare Program (Title XVIII of the federal Social Security Act (42 U.S.C. Sec. 1395 et seq.)). These pilot projects may also include additional services as approved through a demonstration project or waiver, or a combination thereof.

(c) No later than January 1, 2012, the department shall identify health care models that may be included in a pilot project, and shall develop a timeline and process for selecting, financing, monitoring, and evaluating these pilot projects.

(d) Goals for the pilot projects shall include all of the following:

(1) Coordinating Medi-Cal and Medicare benefits across health care settings and improving continuity of acute care, long-term care, and home- and community-based services.

(2) Coordinating access to acute and long-term care services for dual eligibles.

(3) Maximizing the ability of dual eligibles to remain in their homes and communities with appropriate services and supports in lieu of institutional care.

(4) Increasing the availability of and access to home- and community-based alternatives.

(e) Pilot projects shall be established in up to four counties, and shall include at least one county that provides Medi-Cal services via a two plan model pursuant to Article 2.7 (commencing with Section 14087.3) and one county that provides Medi-Cal services under a county organized health system pursuant to Article 2.8 (commencing with Section 14087.5). In determining the counties in which to establish a pilot project, the director shall consider the following:

(1) Local support for integrating medical care, long-term care, and home- and community-based services networks.

(2) A local stakeholder process that includes health plans, providers, community programs, consumers, and other interested stakeholders in the development, implementation, and continued operation of the pilot project.

(f) The director may enter into exclusive or nonexclusive contracts on a bid or negotiated basis and may amend existing managed care contracts to provide or arrange for services provided under this section. Contracts entered into or amended pursuant to this section shall be exempt from the provisions of Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code and Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of the Government Code.

(g) Notwithstanding any other provision of state law, the department may require that dual eligibles be assigned as mandatory enrollees into managed care plans established or expanded as part of a pilot project. To the extent that mandatory enrollment is required, except for subdivision (f) of Section 14183, any requirement of the department and the health plans, and any requirement of continuity of care protections for enrollees, as specified in Section 14183, shall be applicable to this section. Dual

eligibles shall have the option to forgo receiving Medicare benefits under a pilot project.

(h) For purposes of this section, a "dual eligible" means an individual who is simultaneously eligible for full scope benefits under Medi-Cal and the federal Medicare program.

(i) Persons meeting requirements for Program of All-Inclusive Care for the Elderly (PACE) pursuant to Chapter 8.75 (commencing with Section 14590), may select a PACE plan if one is available in that county.

(j) The department shall conduct an evaluation to assess outcomes and the experience of dual eligibles in these pilot projects and shall provide a report to the Legislature after the first full year of pilot operation, and annually thereafter.

(k) This section shall be implemented only if and to the extent that federal financial participation or funding is available to establish these pilot projects.

(l) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section and any applicable federal waivers and state plan amendments by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions, without taking regulatory action.

SEC. 2. Section 14183 is added to the Welfare and Institutions Code, to read:

14183. (a) In furtherance of the demonstration project developed pursuant to Section 14180, the department may require seniors and persons with disabilities to be assigned as mandatory enrollees into new or existing managed care health plans, or county alternative models of care as described in subdivision (f). To the extent that enrollment is required by the department, an enrollee's access to fee-for-service Medi-Cal shall not be terminated until the enrollee has been assigned to a managed care provider or county alternative model of care.

(b) In exercising its authority pursuant to subdivision (a), the department shall do all of the following:

(1) Assess and ensure the readiness of the managed care health plans or county alternative models of care to address the unique needs of seniors or persons with disabilities pursuant to the applicable readiness evaluation criteria and requirements set for

in paragraphs (1) to (8), inclusive, of subdivision (b) of Section 14087.48.

(2) Ensure the managed care health plans or county alternative models of care comply with applicable state and federal laws, including, but not limited to, physical accessibility and the provision of health plan information in alternative formats.

(3) Develop and implement an outreach and education program for seniors and persons with disabilities, not currently enrolled in Medi-Cal managed care, to inform them of their enrollment options and rights under the demonstration project. Contingent upon available private or public dollars other than moneys from the General Fund, the department or its designated agent for enrollment and outreach may partner or contract with community-based, nonprofit consumer or health insurance assistance organizations with expertise and experience in assisting seniors and persons with disabilities in understanding their health care coverage options. Contracts entered into or amended pursuant to this paragraph shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code and any implementing regulations or policy directives.

(4) At least three months prior to enrollment, inform beneficiaries who are seniors or persons with disabilities, through a notice written at no more than a sixth grade reading level, about the forthcoming changes to their delivery of care, including, at a minimum, how their system of care will change, when the changes will occur, and who they can contact for assistance with choosing a delivery system or with problems they encounter. In developing this notice, the department shall consult with consumer representatives and other stakeholders.

(5) Implement an appropriate awareness and sensitivity training program regarding serving seniors and persons with disabilities for managed care health plans and county alternative models of care, and plan providers and staff in the Medi-Cal Managed Care Division of the department.

(6) Coordinate with the managed care health plans and county alternative models of care, in consultation with stakeholders and consumers, to develop and implement a mechanism or algorithm to identify, within the earliest possible timeframe, persons with the highest risk and most complex health care needs.

(7) Provide managed care health plans and county alternative models of care with historical utilization data for beneficiaries upon enrollment in a managed care health plan or county alternative model of care so that the plans participating in the demonstration project are better able to assist beneficiaries and prioritize assessment and care planning.

(8) Develop and provide managed care health plans and county alternative models of care participating in the demonstration project with an enhanced facility site review tool for use in assessing the physical accessibility of providers, including specialists and ancillary service providers, at a clinic or provider site, in order to ensure that there are sufficient physically accessible providers.

(9) Develop a process to enforce legal sanctions, including, but not limited to, financial penalties, withholding of Medi-Cal payments, enrollment termination, and contract termination, in order to sanction any managed care health plan or county alternative models of care in the demonstration project that consistently or repeatedly fails to meet performance standards.

(10) Ensure that managed care health plans and county alternative models of care provide a mechanism for enrollees to request a specialist or clinic as a primary care provider.

(11) Ensure that managed care health plans and county alternative models of care participating in the demonstration project are able to provide communication access to seniors and persons with disabilities in alternative formats or through other methods that ensure communication, including assistive listening systems, sign language interpreters, captioning, pad and pencil, plain language or written translations and oral interpreters, including for those who are limited English-proficient, or non-English speaking, and that all managed care health plans and county alternative models are in compliance with applicable cultural and linguistic requirements.

(12) Ensure that managed care health plans and county alternative models participating in the demonstration project provide access to out-of-network providers for new individual members enrolled under this section who have an ongoing relationship with a provider if the provider will accept the health plan or the county alternative model of care's rate for the service offered, or the applicable Medi-Cal fee-for-service rate, whichever

is higher, and the health plan or county alternative model of care determines that the provider meets applicable professional standards and has no disqualifying quality of care issues.

(13) Ensure that managed care health plans and county alternative models of care participating in the demonstration project comply with continuity of care requirements in Section 1373.96 of the Health and Safety Code.

(14) Ensure that the medical exemption criteria applied in counties operating under Chapter 4.1 (commencing with Section 53800) or Chapter 4.5 (commencing with Section 53900) of Subdivision 1 of Division 3 of Title 22 of the California Code of Regulations are applied to seniors and persons with disabilities served under this section.

(c) Prior to exercising its authority under this section and Section 14180, the department shall ensure that each managed care health plan or county alternative model of care participating in the demonstration project is able to do all of the following:

(1) Comply with the applicable readiness evaluation criteria and requirements set forth in paragraphs (1) to (8), inclusive of subdivision (b) of Section 14087.48. The assessment of network adequacy shall be determined in collaboration with the Department of Managed Health Care.

(2) Ensure and monitor an appropriate provider network, including primary care physicians, specialists, professional, allied, and medical supportive personnel, and an adequate number of accessible facilities within each service area. Health plans and county alternative models shall maintain an updated, accurate, and accessible listing of a provider's ability to accept new patients and made available to enrollees, at a minimum, by phone, written material, or Internet Web site.

(3) Assess the health care needs of beneficiaries who are seniors or persons with disabilities and coordinate their care across all settings, including coordination of necessary services within and, where necessary, outside of the plan's provider network.

(4) Ensure that the provider network and informational materials meet the linguistic and other special needs of seniors and persons with disabilities, including providing information in an understandable manner in plain language, maintaining toll-free telephone lines, and offering member or ombudsperson services.

(5) Provide clear, timely, and fair processes for accepting and acting upon complaints, grievances, and disenrollment requests, including procedures for appealing decisions regarding coverage or benefits. Each plan participating in the demonstration project shall have a grievance process that complies with Sections 1368 and 1368.01 of the Health and Safety Code.

(6) Solicit stakeholder and member participation in advisory groups for the planning and development activities related to the provision of services for seniors and persons with disabilities.

(7) Contract with safety net and traditional providers as defined in subdivisions (hh) and (jj) of Section 53810, of Title 22 of the California Code of Regulations, to ensure access to care and services. The managed care health plan or county alternative model of care shall establish participation standards to ensure participation and broad representation of traditional and safety net providers within a service area.

(8) Inform seniors and persons with disabilities of procedures for obtaining transportation services to service sites that are offered by the plan or are available through the Medi-Cal program.

(9) Monitor the quality and appropriateness of care for children with special health care needs, including children eligible for, or enrolled in, the California Children Services Program, and seniors and persons with disabilities.

(10) Maintain a dedicated liaison to coordinate with each regional center operating within the plan's service area to assist members with developmental disabilities in understanding and accessing services and act as a central point of contact for questions, access and care concerns, and problem resolution.

(11) Stratify incoming beneficiaries with aide codes applicable to seniors and persons with disabilities of high or low risk by applying a risk stratification algorithm approved by the department to member specific fee-for-service claims data provided to the managed care health plan or county alternative model of care at the time of enrollment of the beneficiary.

(12) (A) Administer a risk assessment survey tool approved by the department to determine risk level of enrollees, which shall be utilized by managed care health plans and county alternative models of care participating under the demonstration project. Managed care health plans and county alternative models of care shall perform a telephonic assessment of newly enrolled

beneficiaries based on their risk as determined by the risk stratification algorithm specified in paragraph (11) within the following timeframes:

(i) Within 45 days of plan enrollment for higher risk beneficiaries.

(ii) Within 105 days of plan enrollment for lower risk beneficiaries.

(B) Based on the results of the telephonic health risk assessment, managed care health plans and county alternative models of care shall develop individual care plans for higher risk beneficiaries that shall include the following minimum components:

(i) Redetermination of risk level if indicated.

(ii) Identification of medical care needs, including primary care, specialty care, durable medical equipment, medications, and other needs with a plan for care coordination as needed.

(iii) Identification of needs and referral to appropriate community resources and other agencies as needed for services outside the scope of responsibility of the managed care health plan or county alternative model of care.

(iv) Appropriate involvement of caregivers.

(v) Determination of timeframes for recontact or reassessment.

(13) Establish medical homes to which enrollees are assigned that include at a minimum all of the following elements:

(A) The primary care physician who is the primary clinician for the beneficiary and who provides core clinical management functions.

(B) Care management and care coordination for the beneficiary across the health care system including transitions among levels of care.

(C) Identification of the beneficiary's needs and referral to community resources and other agencies for services or items outside the scope of responsibility of the managed care health plan or county alternative model of care.

(D) Use of clinical data to identify beneficiaries at the care site with chronic illness or other significant health issues.

(E) Ensuring appropriate timeframes at the site and alternatives for the beneficiary's access to care for preventive, acute or chronic illness treatment as needed.

(F) Use of clinical guidelines or other evidence based medicine when applicable for treatment of beneficiaries' health care issues or timing of clinical preventive services.

(14) Perform, at a minimum, the following care management and care coordination functions and activities for enrollees who are seniors or persons with disabilities:

(A) Assessment of the new enrollees risk level and health needs through a standardized, telephonic health risk assessment to determine risk level.

(B) Facilitation of timely access to primary care, specialty care, durable medical equipment, medications, and other health services needed by the enrollee, including referrals for any physical or cognitive barriers to access.

(C) Active referral to community resources or other agencies for needed services or items outside the managed care health plans and county alternative models of care responsibilities.

(D) Facilitating communication among the beneficiaries' health care providers, including mental health and substance abuse providers when appropriate.

(E) Other activities or services needed to assist beneficiaries in optimizing their health status, including assisting with self management skills or techniques, health education, and other modalities to improve health status.

(d) Beneficiaries enrolled in managed care health plans or county alternative models of care pursuant to this section shall have the choice to continue an established patient-provider relationship in a managed care health plan or county alternative model of care participating in the demonstration project if his or her treating provider is a primary care provider or clinic contracting with the managed care health plan or county alternative model of care and agrees to continue to treat that beneficiary.

(e) The department, or as applicable, the California Medical Assistance Commission, may contract with existing managed care health plans operating under the demonstration project to provide or arrange for services under this section. Notwithstanding any other provision of law, the department, or as applicable, the commission, may enter into the contract without the need for a competitive bid process or other contract proposal process, provided the managed care health plan provides written

documentation that it meets all qualifications and requirements of this section. Alternatively, and notwithstanding any provision of law to the contrary, the department, or as applicable, the commission, may seek applications and thereafter contract with any qualified individual, entity, or organization to provide or arrange for services under this section.

(f) (1) Except for counties operating under the county organized health systems model, and notwithstanding any requirements specified in Article 2.7 (commencing with Section 14087.3) and Article 2.91 (commencing with Section 14089), a county shall have the option, subject to approval by the department, to develop an alternative model of care consistent with the terms of the demonstration project to provide health care services within the scope of the county's contract with the department to beneficiaries categorized as seniors or persons with disabilities under the demonstration project. The county alternative model of care may be managed by county staff and shall not be required to obtain licensure under the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code), unless the model is a capitated model that assumes full risk for its beneficiaries.

(2) For purposes of this subdivision, county alternative models of care may include, at the discretion of the department, administrative services organizations, primary care case management plan, outpatient managed care models, and other models the department determines acceptable.

(3) A county shall be required to select the county alternative model of care option prior to commencement of mandatory enrollment of seniors or persons with disabilities in a county pursuant to subdivision (a), but no later than January 1, 2012.

(4) The department shall determine an actuarially sound rate for the county alternative models of care that is adequate and sufficient to ensure access to services, and that is budget neutral to the state.

(g) This section shall be implemented only to the extent that federal financial participation is available.

(h) The development and negotiation of capitation rates for managed care health plan contracts shall include the analysis of data specific to the seniors and persons with disabilities population. For the purposes of developing or negotiating capitation rates for

payments to managed care health plans, the director may require managed care health plans, including existing managed health care plans, to submit financial and utilization data in a form, time, and substance as deemed necessary by the department.

(i) Persons meeting participation requirements for the Program of All-Inclusive Care for the Elderly (PACE) pursuant to Chapter 8.75 (commencing with Section 14590), may select a PACE plan if one is available in that county.

(j) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section and any applicable federal waivers and state plan amendments by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions, without taking regulatory action.

(k) Consistent with state law that exempts Medi-Cal managed care contracts from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code, and in order to achieve maximum cost savings, the Legislature hereby determines that an expedited contract process is necessary for managed care health plan contracts entered into or amended pursuant to this section. The contracts and amendments entered into or amended pursuant to this section shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code and the requirements of State Administrative Management Manual Memo 03-10. The department shall make the terms of a contract available to the public within 30 days of the contract's effective date.

(l) In the event of a conflict between the terms and conditions of the approved demonstration project, including any attachment thereto, and any provision of this part, the terms and conditions shall control.

(m) In the event of a conflict between the provisions of this article and any other provision of this part, the provisions of this article shall control.

(n) Any otherwise applicable provisions of this chapter, Chapter 8 (commencing with Section 14200), or Chapter 8.75 (commencing with Section 14500) not in conflict with this article or with the terms and conditions of the demonstration project shall apply to this section.

(o) To the extent that the director utilizes state plan amendments or waivers to accomplish the purposes of this article in addition to waivers granted under the demonstration project, the terms of the state plan amendments or waivers shall control in the event of a conflict with any provision of this part.

(p) Enrollment of seniors and persons with disabilities into a managed care health plan or county alternative model of care under this section shall be accomplished using a phased-in process to be determined by the department and shall not commence until necessary federal approvals have been acquired or until February 1, 2011, whichever is later.

(q) A managed care health plan or county alternative model of care established pursuant to this section, or under the terms and conditions of the demonstration project pursuant to Section 14180, shall be subject to, and comply with, the requirement for submission of encounter data specified in Section 14183.1.

(r) Commencing January 1, 2011, and until January 1, 2014, the department shall provide the fiscal and policy committees of the Legislature with semiannual updates regarding core activities for the enrollment of seniors and persons with disabilities into managed care health plans or county alternative models of care pursuant to the pilot program. The semiannual updates shall include key milestones, progress towards the objectives of the pilot program, relevant or necessary changes to the program, submittal of state plan amendments to the federal Centers for Medicare and Medicaid Services, submittal of any federal waiver documents, and other key activities related to the mandatory enrollment of seniors and persons with disabilities into managed care health plans or county alternative models of care. The department may also include updates on the transition of individuals into managed care health plans and county alternative models of care, the health outcomes of enrollees, the care management and coordination process, and other information concerning the success or overall status of the pilot program.

(s) The department, in collaboration with the State Department of Social Services and county welfare departments, shall monitor the utilization and caseload of the In-Home Supportive Services (IHSS) program before and during the implementation of the pilot program. This information shall be monitored in order to identify

the impact of the pilot program on the IHSS program for the affected population.

(t) The department, in cooperation with the Department of Managed Health Care, shall, at a minimum, monitor on a quarterly basis the adequacy of provider networks of the managed care health plans or county alternative models of care.

(u) The department shall suspend new enrollment of seniors and persons with disabilities into a managed care health plan or county alternative care model if it determines that the managed care health plan or county alternative care model does not have sufficient primary or specialty providers to meet the needs of their enrollees.

SEC. 3. Section 14183.1 is added to the Welfare and Institutions Code, to read:

14183.1. (a) Commencing January 1, 2011, all managed care health plans and other managed care arrangements, including county alternative models of care developed pursuant to Section 14183, as the department shall specify, shall be required to submit data, including, but not limited to, encounter data and financial data, in the form of and to the specifications prescribed by the department for the development of rates, monitoring plan performance, and ensuring quality.

(b) Failure of a managed care health plan or other managed care arrangement to comply with the requirements established by the department under this section shall result in a penalty, imposed by the department monthly, of 2 percent of the total monthly capitation rate for that plan or arrangement per month until the plan or arrangement has fully complied with the requirements.

(c) The requirements for reporting data, pursuant to subdivision (a), shall apply to all services provided to members under this chapter, Chapter 8 (commencing with Section 14200), and Chapter 8.75 (commencing with Section 14500), regardless of whether or not the member is a senior or a person with a disability or disabilities.

(d) Failure of a provider or subcontractor to submit data to a managed care health plan or arrangement shall not relieve the plan or arrangement from its responsibilities under this section and shall not affect imposition of the penalty as described in subdivision (b).

(e) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions, without taking regulatory action. If the department elects to adopt regulations, the adoption of regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

SEC. 4. Section 14183.5 is added to the Welfare and Institutions Code, to read:

14183.5. In conjunction with the implementation of Section 14183, the department shall work with counties to develop a method to be used in determining the appropriate contribution to cover the nonfederal share of inpatient hospital expenses for seniors and persons with disabilities in the Medi-Cal program.

SEC. 5. Section 14184 is added to the Welfare and Institutions Code, to read:

14184. (a) Notwithstanding Section 14094.3, in furtherance of the demonstration project developed pursuant to Section 14180, the director shall establish, by January 1, 2012, organized health care delivery models for children eligible for California Children Services (CCS) under Article 5 (commencing with Section 123800) of Chapter 3 of Part 2 of Division 106 of the Health and Safety Code. These models shall include at least one of the following:

(1) An enhanced primary care case management program.

(2) A provider-based accountable care organization.

(3) A specialty health care plan.

(4) A Medi-Cal managed care plan that includes payment and coverage for CCS-eligible conditions.

(b) Each model shall do all of the following:

(1) Establish clear standards and criteria for participation, exemption, enrollment, and disenrollment.

(2) Provide care coordination that links children and youth with special health care needs with appropriate services and resources in a coordinated manner to achieve optimum health.

(3) Establish networks that include CCS-approved providers and maintain the current system of regionalized pediatric specialty and subspecialty services to ensure that children and youth have timely access to appropriate and qualified providers.

(4) Coordinate out-of-network access if appropriate and qualified providers are not part of the network or in the region.

(5) Ensure that children enrolled in the model receive care for their CCS-eligible medical conditions from CCS-approved providers consistent with the CCS standards of care.

(6) Participate in a statewide quality improvement collaborative that includes stakeholders.

(7) Establish and support medical homes, incorporating all of the following principles:

(A) Each child has a personal physician.

(B) The medical home is a physician-directed medical practice.

(C) The medical home utilizes a whole child orientation.

(D) Care is coordinated or integrated across all of the elements of the health care system and the family and child's community.

(E) Information, education, and support to consumers and families in the program is provided in a culturally competent manner.

(F) Quality and safety practices and measures.

(G) Provides enhanced access to care, including access to after-hours care.

(H) Payment is structured appropriately to recognized the added value provided to children and their families.

(8) Provide the department with data for quality monitoring and improvement measures, as determined necessary by the department. The department shall institute quality monitoring and improvement measures that are appropriate for children and youth with special health care needs.

(c) The services provided under these models shall not be limited to medically necessary services required to treat the CCS-eligible medical condition.

(d) Notwithstanding any other provision of law, and to the extent permitted by federal law, the department may require eligible individuals to enroll in these models.

(e) At the election of the Managed Risk Medical Insurance Board, and with the consent of the director, children enrolled in the Healthy Families Program pursuant to Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code, who are eligible for CCS under Article 5 (commencing with Section 123800) of Chapter 3 of Part 2 of Division 106 of the Health and Safety

Code, may enroll in the organized health care delivery models established under this section.

(f) For the purposes of implementing this section, the department shall seek proposals to establish and test these models of organized health care delivery systems, may enter into exclusive or nonexclusive contracts on a bid or negotiated basis, and may amend existing managed care contracts to provide or arrange for services under this section. Contracts may be statewide or on a more limited geographic basis. Contracts entered into or amended under this section shall be exempt from the provisions of Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code and Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of the Government Code.

(g) (1) Entities contracting with the department under this section shall report expenditures for the services provided under the contract.

(2) If a contractor is paid according to a capitated or risk-based payment methodology, the rates shall be actuarially sound and take into account care coordination activities.

(h) (1) The department shall conduct an evaluation to assess the effectiveness of each model in improving the delivery of health care services for children who are eligible for CCS. The department shall consult with stakeholders in developing an evaluation for the models being tested.

(2) The evaluation process shall begin simultaneously with the development and implementation of the model delivery systems to compare the care provided to, and outcomes of, children enrolled in the models with those not enrolled in the models. The evaluation shall include, at a minimum, an assessment of all of the following:

(A) The types of services and expenditures for services.

(B) Improvement in the coordination of care for children.

(C) Improvement in the quality of care.

(D) Improvement in the value of care provided.

(E) The rate of growth of expenditures.

(F) Parent satisfaction.

(i) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section and any applicable federal waivers and state plan amendments by means of all-county letters, plan letters, plan or

provider bulletins, or similar instructions, without taking regulatory action.

SEC. 6. Section 15908 of the Welfare and Institutions Code is amended to read:

15908. *(a)* This part shall become inoperative on the date that the director executes a declaration, which shall be retained by the director and provided to the fiscal and appropriate policy committees of the Legislature, stating that the federal demonstration project provided for in this part has been terminated by the federal Centers for Medicare and Medicaid Services, and shall, six months after the date the declaration is executed, be repealed.

(b) Notwithstanding subdivision (a), the director may alternatively execute a declaration continuing the projects established in this part, to the extent the projects are authorized and consistent with the terms and conditions of a successor federal waiver or demonstration project secured pursuant to Section 14180.

(c) Notwithstanding subdivision (a), the director may continue and administer any extensions, modifications, or continuation of the projects under this part approved by the federal Centers for Medicare and Medicaid Services.

SEC. 7. Part 3.6 (commencing with Section 15909) is added to Division 9 of the Welfare and Institutions Code, to read:

PART 3.6. COVERAGE EXPANSION AND ENROLLMENT DEMONSTRATION PROJECTS

15909. The Legislature finds and declares all of the following:

(a) Pursuant to Section 14180, the Legislature directed the department to apply for a successor federal waiver or demonstration project, in part, to coincide with the end of the waiver described in relevant part in subdivision (b) of Section 15900 to, among other requirements, optimize opportunities to increase federal financial participation and maximize financial resources to address uncompensated care.

(b) Passage of federal health care reform, pursuant to the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Reconciliation Act (Public Law 111-152), presents new options

of federal support for coverage of low-income individuals and significant expansion of state coverage programs in 2014. Through the success of the Health Care Coverage Initiatives established pursuant to Part 3.5 (commencing with Section 15900), and with implementation of a successor federal Medicaid waiver or demonstration project, California is well positioned to develop enrollment and coverage expansion models that will lead the way to full implementation of comprehensive health care reforms in 2014.

15910. (a) Subject to federal approval of a successor Section 1115 Medicaid waiver or demonstration project effective on or after September 1, 2010, the department shall, by no later than January 1, 2011, or alternatively, 180 days after federal approval of the successor federal waiver or demonstration project, whichever occurs later, develop local Coverage Expansion and Enrollment Demonstration (CEED) projects to provide scheduled health care benefits for uninsured adults 19 to 64, inclusive, years of age, with incomes up to 200 percent of the federal poverty level and who are not otherwise eligible for Medicare or Medi-Cal, consistent with the terms and conditions of the successor federal waiver or demonstration project.

(b) Counties, consistent with the terms and conditions of the successor federal waiver or demonstration project, may perform outreach and enrollment activities to target populations, including, but not limited to, the homeless, individuals who frequently use hospital inpatient or emergency department services for avoidable reasons, or people with mental health treatment needs.

(c) CEED projects shall be designed and implemented with the systems and program elements necessary to facilitate the transition of those eligible individuals to Medi-Cal coverage, or alternatively, to coverage through the state health insurance exchange, by 2014, pursuant to state and federal law, and the terms and conditions of the successor federal waiver or demonstration project.

(d) The department shall develop projects that meet the requirements and desired outcomes set forth in this part and the terms and conditions of the successor federal waiver or demonstration project.

(e) The projects shall include the following elements, subject to the terms and conditions of the successor federal waiver or demonstration project:

(1) Development of standardized eligibility and enrollment procedures that interface with Medi-Cal processes according to the milestones developed in consultation with the counties, county health departments, public hospitals, and county human service departments. Coverage initiatives shall migrate to the standardized procedures in accordance with the terms and conditions of the successor federal waiver or demonstration project.

(2) (A) Designation of a medical home and assignment of eligible individuals to a primary care provider. For purposes of this paragraph, "medical home" means a single provider or facility that maintains all of an individual's medical information and, at a minimum, coordinates health and medical care services for enrolled individuals.

(B) Provision of an enhanced medical home, to be specifically defined by the terms and conditions of the successor federal waiver or demonstration project, that targets those enrollees who are frequent users of public inpatient hospital services or have been diagnosed with chronic medical or mental health conditions. The enhanced medical home may include case management services.

(3) Provision of the scheduled benefit package of services required under the terms and conditions of the successor federal waiver or demonstration project described in subdivision (a).

(4) A provider network and service delivery system that includes participation by public and private providers in order to provide the scheduled services in the project, and to ensure the capacity to transition those eligible individuals to the applicable Medi-Cal coverage, or alternatively, to coverage through the state health insurance exchange, in 2014.

(5) Development of an outreach and enrollment plan that does both of the following:

(A) Reaches potential project enrollees.

(B) Includes the public and private providers necessary to serve those eligible individuals in Medi-Cal coverage, or alternatively, in coverage through the state health insurance exchange, beginning in 2014.

(6) A quality measurement and quality monitoring system.

(7) Data tracking systems to provide the department with required data for quality monitoring, quality improvement, and evaluation.

(8) The ability to demonstrate how the CEED projects will promote the viability of the existing safety net health care system.

(9) Demonstration of how the CEED projects will provide consumer assistance to individuals applying for, participating in, or accessing, services in the projects.

(10) Ability to meet program requirements, standards, and performance measurements developed by the department, in consultation with participating counties, for the CEED projects.

(f) A CEED project provider network and service delivery system may include contracts or subcontracts with primary care clinics licensed under subdivision (a) of Section 1204 of the Health and Safety Code.

(g) Services provided pursuant to this part shall be available to those eligible uninsured individuals enrolled in the applicable CEED project. Notwithstanding any other provision of law, nothing in this part shall be construed to create an entitlement program of any kind.

(h) CEED projects shall be established and implemented only to the extent that federal financial participation is available.

15911. (a) A county, city and county, consortium of counties serving a region consisting of more than one county, or health authority shall be eligible to apply for a CEED project federal fund allocation.

(b) The department shall develop methodologies for distributing available federal funds for the projects established by this part and for determining the amount of federal funding available, consistent with the terms and conditions of the successor federal waiver or demonstration project.

(c) The department shall seek to balance the allocations throughout geographic areas of the state, consistent with the terms and conditions of the successor federal waiver or demonstration project.

(d) Each county, city and county, consortium of counties, or health authority that chooses to administer a CEED project and receive federal funding shall provide the necessary local funds for the nonfederal share of the certified public expenditures, or intergovernmental transfers to the extent allowable under the successor federal waiver or demonstration project, required to claim the federal funds made available from the federal allotment. The certified public expenditures or intergovernmental transfers,

to the extent allowable under the successor federal waiver or demonstration project, shall meet the requirements of the terms and conditions of the successor federal waiver or demonstration project referenced in subdivision (a) of Section 15910. Nothing in this part shall be construed to require a political subdivision of the state to participate in the CEED project, and those local funds expended for the nonfederal share of CEED project services under this part shall be considered voluntary contributions for purposes of the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Reconciliation Act (Public Law 111-152), and the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5), as amended by the Patient Protection and Affordable Care Act.

(e) Selected projects shall expend the funds according to an expenditure schedule determined by the department consistent with the terms and conditions of the successor federal waiver or demonstration project described in subdivision (a) of Section 15910.

(f) Except as otherwise provided in the annual Budget Act, no state General Fund moneys shall be used to fund CEED project services, nor to fund any related administrative costs provided to counties or any other political subdivision of the state.

(g) The department may reallocate the available federal funds among selected projects, if necessary, to maximize receipt of federal funds or meet federal requirements regarding the timing of expenditures. Selected projects receiving reallocated funds must have the ability to make the certified public expenditures necessary to claim the applicable reallocated federal funds.

15912. (a) The department shall ensure that the CEED projects established under this part are evaluated to determine to what extent the projects have met the requirements of the successor federal waiver or demonstration project referenced in this part and successfully developed the necessary systems and program elements required to transition those eligible persons to Medi-Cal coverage, or alternatively, to coverage through the state health insurance exchange, in 2014.

(b) The department may seek federal or private funds or enter into partnership with an independent, nonprofit group or foundation, an academic institution, or a governmental entity

providing grants for health-related activities, to evaluate the programs funded under this part.

15913. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this part, and the terms and conditions of the successor federal waiver or demonstration project secured pursuant to subdivision (a) of Section 15910, by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions.

15914. This part shall not be subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

15915. In the event of a conflict between a provision of this part and a term or condition of the successor federal waiver or demonstration project pursuant to subdivision (a) of Section 15910, the terms and conditions of the successor federal waiver or demonstration project shall control.

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

In order to make changes to state funded health care programs at the earliest possible time, it is necessary that this act take effect immediately.

~~SECTION 1. Article 5.4 (commencing with Section 14180) is added to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:~~

~~Article 5.4. Health Care Improvement Waiver~~

~~14180. (a) The department shall submit an application to the federal Centers for Medicare and Medicaid Services for a waiver to implement a demonstration project that does all of the following:~~

~~(1) Strengthens California's health care safety net, which includes disproportionate share hospitals, for low-income and vulnerable Californians.~~

~~(2) Maximizes opportunities to expand coverage to eligible, but uninsured populations.~~

~~(3) Optimizes opportunities to increase federal financial participation and maximizes financial resources to address uncompensated care.~~

~~(4) Promotes long-term, efficient, and effective use of state and local funds.~~

~~(5) Improves health care outcomes.~~

~~(b) In developing the waiver application, the department shall consult with interested stakeholders and the Legislature.~~

~~(c) The department shall determine the form of waiver most appropriate to achieve the purposes listed in subdivision (a).~~

~~(d) The department shall submit the waiver application to the federal Centers for Medicare and Medicaid Services by a date that shall ensure that the waiver is approved by September 1, 2010.~~

~~(e) If the federal Centers for Medicare and Medicaid Services approves the waiver, the department shall only implement the demonstration project upon enactment of subsequent statutory authorization.~~

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

~~In order to ensure that health care for Californians is improved at the earliest possible time, it is necessary for this act to take effect immediately as an urgency statute.~~

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