

AMENDED IN ASSEMBLY MARCH 23, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 574

Introduced by Assembly Member Bonnie Lowenthal

February 16, 2011

An act to ~~amend Section 14598~~ add Chapter 8.75 (commencing with Section 14591) to, and to repeal Chapter 8.75 (commencing with Section 14590) of, Part 3 of Division 9 of the Welfare and Institutions Code, relating to the elderly.

LEGISLATIVE COUNSEL'S DIGEST

AB 574, as amended, Bonnie Lowenthal. Program of All-Inclusive Care for the Elderly.

Existing law establishes the federal Medicaid ~~program~~ *Program*, administered by each state, California's version of which is the Medi-Cal program. The Medi-Cal program, which is administered by the State Department of Health Care Services under the direction of the Director of Health Care Services, provides qualified low-income persons with health care services. Existing federal law establishes the Program of All-Inclusive Care for the Elderly (PACE), which provides specified services for older individuals so that they may continue living in the community. Federal law authorizes states to implement the PACE program as a Medicaid state option.

Existing state law authorizes the director to establish the California Program of All-Inclusive Care for the Elderly and *contract with up to 10 demonstration projects to develop risk-based, long-term care pilot programs*. Existing law also establishes PACE program services as a covered benefit of the Medi-Cal program. Existing law authorizes the department to enter into specified contracts for implementation of the

PACE program, and also enter into separate contracts with certain PACE organizations, to fully implement the single state agency responsibilities assumed by the department, as specified. Existing law authorizes the department to enter into separate contracts with up to 10 PACE organizations, but prohibits certain contracts unless a Medicaid state plan amendment, electing PACE as a state Medicaid option, has been approved by the federal Centers for Medicare and Medicaid Services.

~~This bill would increase to 20 the number of authorized separate contracts.~~

This bill would, instead, require the department to establish the California Program of All-Inclusive Care for the Elderly and would delete the pilot program and demonstration project requirements in these provisions. This bill would also increase to 20 the number of separate contracts the department may enter into with PACE organizations, as defined.

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

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

1 *SECTION 1. Chapter 8.75 (commencing with Section 14590)*
2 *of Part 3 of Division 9 of the Welfare and Institutions Code is*
3 *repealed.*

4 *SEC. 2. Chapter 8.75 (commencing with Section 14591) is*
5 *added to Part 3 of Division 9 of the Welfare and Institutions Code,*
6 *to read:*

7
8 *CHAPTER 8.75. PROGRAM OF ALL-INCLUSIVE CARE FOR THE*
9 *ELDERLY*

10
11 *14591. The Legislature finds and declares all of the following:*

12 *(a) Community-based services to the frail elderly are often*
13 *uncoordinated, fragmented, inappropriate, or insufficient to meet*
14 *the needs of frail elderly who are at risk of institutionalization,*
15 *often resulting in unnecessary placement in nursing homes.*

16 *(b) Steadily increasing health care costs for the frail elderly*
17 *provide incentive to develop programs providing quality services*
18 *at reasonable costs.*

19 *(c) Capitated "risk-based" financing provides an alternative*
20 *to the traditional fee-for-service payment system by providing a*

1 *fixed, per capita monthly payment for a package of health care*
2 *services and requiring the provider to assume financial*
3 *responsibility for cost overruns.*

4 *(d) On Lok Senior Health Services began as a federal and state*
5 *demonstration program in 1973 to test whether comprehensive*
6 *community-based services could be provided to the frail elderly*
7 *at no greater cost than nursing home care.*

8 *(e) Since 1983, On Lok Senior Health Services of San Francisco*
9 *has successfully provided a comprehensive package of services*
10 *and operated within a cost-effective, capitated risk-based financing*
11 *system.*

12 *(f) Recognizing On Lok's success, Congress passed legislation*
13 *in 1986 and 1987 encouraging the expansion of capitated*
14 *long-term care programs by permitting federal Medicare and*
15 *Medicaid waivers to be granted indefinitely to On Lok and*
16 *authorizing the federal Centers for Medicare and Medicaid*
17 *Services (CMS) to grant waivers in up to 10 new sites throughout*
18 *the nation in order to replicate the On Lok model.*

19 *(g) In response, the Legislature authorized the State Department*
20 *of Health Care Services to seek a waiver to contract with up to 10*
21 *demonstration projects to develop risk-based, long-term care pilot*
22 *programs modeled upon On Lok Senior Health Services.*

23 *(h) The demonstration projects authorized by the Legislature*
24 *proved to be successful at providing comprehensive,*
25 *community-based services to frail elderly individuals at no greater*
26 *cost than providing nursing home care.*

27 *(i) In 1997, Congress passed the Balanced Budget Act of 1997*
28 *(Public Law 105-33) authorizing states to offer PACE program*
29 *services as optional services under the state's Medicaid state plan.*

30 *(j) Based upon the success of the demonstration projects in*
31 *California, the state is now providing community-based, risk-based,*
32 *and capitated long-term care services under the PACE program*
33 *as optional services under California's Medi-Cal State Plan.*

34 *14592. (a) For purposes of this chapter, "PACE organization"*
35 *means an entity as defined in Section 460.6 of Title 42 of the Code*
36 *of Federal Regulations.*

37 *(b) The Director of Health Care Services shall establish the*
38 *California Program of All-Inclusive Care for the Elderly, to*
39 *provide community-based, risk-based, and capitated long-term*
40 *care services as optional services under the state's Medi-Cal State*

1 *Plan and under contracts entered into between the federal Centers*
2 *for Medicare and Medicaid Services, the department, and PACE*
3 *organizations, meeting the requirements of the Balanced Budget*
4 *Act of 1997 (Public Law 105-33) and Part 460 (commencing with*
5 *Section 460.2) of Title 42 of the Code of Federal Regulations.*

6 14593. (a) (1) *The department may enter into contracts for*
7 *implementation of the PACE program, and also may enter into*
8 *separate contracts with PACE organizations, to fully implement*
9 *the single state agency responsibilities assumed by the department*
10 *in those contracts, Section 14132.94, and any other state*
11 *requirement found necessary by the department to provide*
12 *comprehensive community-based, risk-based, and capitated*
13 *long-term care services to California's frail elderly.*

14 (2) *The department may enter into separate contracts as*
15 *specified in subdivision (a) with up to 20 PACE organizations.*

16 (b) *The requirements of the PACE model, as provided for*
17 *pursuant to Section 1894 (42 U.S.C. Sec. 1395eee) and Section*
18 *1934 (42 U.S.C. Sec. 1396u-4) of the federal Social Security Act,*
19 *shall not be waived or modified. The requirements that shall not*
20 *be waived or modified include all of the following:*

21 (1) *The focus on frail elderly qualifying individuals who require*
22 *the level of care provided in a nursing facility.*

23 (2) *The delivery of comprehensive, integrated acute and*
24 *long-term care services.*

25 (3) *The interdisciplinary team approach to care management*
26 *and service delivery.*

27 (4) *Capitated, integrated financing that allows the provider to*
28 *pool payments received from public and private programs and*
29 *individuals.*

30 (5) *The assumption by the provider of full financial risk.*

31 (6) *The provision of a PACE benefit package for all participants,*
32 *regardless of source of payment, that shall include all of the*
33 *following:*

34 (A) *All Medicare-covered items and services.*

35 (B) *All Medicaid-covered items and services, as specified in the*
36 *state's Medicaid plan.*

37 (C) *Other services determined necessary by the interdisciplinary*
38 *team to improve and maintain the participant's overall health*
39 *status.*

1 (c) Sections 14002, 14005.12, 14005.17, and 14006 shall apply
2 when determining the eligibility for Medi-Cal of a person receiving
3 the services from an organization providing services under this
4 chapter.

5 (d) Provisions governing the treatment of income and resources
6 of a married couple, for the purposes of determining the eligibility
7 of a nursing-facility certifiable or institutionalized spouse, shall
8 be established so as to qualify for federal financial participation.

9 (e) (1) The department shall establish capitation rates paid to
10 each PACE organization at no less than 90 percent of the
11 fee-for-service equivalent cost, including the department's cost of
12 administration, that the department estimates would be payable
13 for all services covered under the PACE organization contract if
14 all those services were to be furnished to Medi-Cal beneficiaries
15 under the fee-for-service Medi-Cal program provided for pursuant
16 to Chapter 7 (commencing with Section 14000).

17 (2) This subdivision shall be implemented only to the extent
18 that federal financial participation is available.

19 (f) Contracts under this chapter may be on a nonbid basis and
20 shall be exempt from Chapter 2 (commencing with Section 10290)
21 of Part 2 of Division 2 of the Public Contract Code.

22 SECTION 1. Section 14598 of the Welfare and Institutions
23 Code is amended to read:

24 14598. (a) The Legislature finds and declares both of the
25 following:

26 (1) The demonstration projects authorized by this article have
27 proven to be successful at providing comprehensive,
28 community-based services to frail elderly individuals at no greater
29 cost than for providing nursing home care.

30 (2) Based upon that success, California now desires to provide
31 community-based, risk-based, and capitated long-term care services
32 under the Programs of All-Inclusive Care for the Elderly (PACE)
33 as optional services under California's Medicaid state plan and
34 under contracts, entered into between the federal Centers for
35 Medicare and Medicaid Services, the department, as the single
36 state medicaid agency, and PACE organizations, meeting the
37 requirements of the Balanced Budget Act of 1997 (P.L. 105-33)
38 and Part 460 (commencing with Section 460.2) of Subchapter E
39 of Chapter IV of Title 42 of the Code of Federal Regulations.

1 ~~(b) The department may enter into the contracts specified in~~
2 ~~subdivision (a) for implementation of the PACE program, and also~~
3 ~~may enter into separate contracts with the PACE organizations~~
4 ~~contracting under subdivision (a), to fully implement the single~~
5 ~~state agency responsibilities assumed by the department in those~~
6 ~~contracts, Section 14132.94, and any other state requirement found~~
7 ~~necessary by the department to provide comprehensive~~
8 ~~community-based, risk-based, and capitated long-term care services~~
9 ~~to California's frail elderly. The department may enter into separate~~
10 ~~contracts specified in subdivision (a) with up to 20 PACE~~
11 ~~organizations. The department may not enter into any contracts~~
12 ~~specified in subdivision (a) unless a Medicaid state plan~~
13 ~~amendment, electing PACE as a state Medicaid option as provided~~
14 ~~for in Section 14132.94, has been approved by the federal Centers~~
15 ~~for Medicare and Medicaid Services.~~

16 ~~(e) Notwithstanding subdivisions (a) and (b), any demonstration~~
17 ~~project contract entered into under this article prior to January 1,~~
18 ~~2004, shall remain in full force and effect under its own terms, but~~
19 ~~shall not be renewed or amended beyond the termination date in~~
20 ~~effect on that date.~~

21 ~~(d) The requirements of the PACE model, as provided for~~
22 ~~pursuant to Section 1894 (42 U.S.C. Sec. 1395ccc) and Section~~
23 ~~1934 (42 U.S.C. Sec. 1396u-4) of the federal Social Security Act,~~
24 ~~shall not be waived or modified. The requirements that shall not~~
25 ~~be waived or modified include all of the following:~~

26 ~~(1) The focus on frail elderly qualifying individuals who require~~
27 ~~the level of care provided in a nursing facility.~~

28 ~~(2) The delivery of comprehensive, integrated acute and~~
29 ~~long-term care services.~~

30 ~~(3) The interdisciplinary team approach to care management~~
31 ~~and service delivery.~~

32 ~~(4) Capitated, integrated financing that allows the provider to~~
33 ~~pool payments received from public and private programs and~~
34 ~~individuals.~~

35 ~~(5) The assumption by the provider of full financial risk.~~

36 ~~(6) The provision of a PACE benefit package for all participants,~~
37 ~~regardless of source of payment, that shall include all of the~~
38 ~~following:~~

39 ~~(A) All Medicare-covered items and services.~~

1 ~~(B) All Medicaid-covered items and services, as specified in~~
2 ~~the state's Medicaid plan.~~

3 ~~(C) Other services determined necessary by the interdisciplinary~~
4 ~~team to improve and maintain the participant's overall health status.~~

5 ~~(e) For purposes of this section, "PACE organizations" means~~
6 ~~those entities as defined in Section 460.6 of Title 42 of the Code~~
7 ~~of Federal Regulations.~~

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