

AMENDED IN SENATE JANUARY 4, 2012

**SENATE BILL**

**No. 7**

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**Introduced by Senator Steinberg**

December 6, 2010

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~~An act relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately to amend Section 14132.275 of the Welfare and Institutions Code, relating to Medi-Cal.~~

LEGISLATIVE COUNSEL'S DIGEST

~~SB 7, as amended, Steinberg. Medi-Cal: hospitals: quality assurance fee: dual eligibles: pilot projects.~~

~~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. 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. Existing law, to the extent that federal financial participation is available, and pursuant to a demonstration project or waiver of federal law, requires the department to establish pilot projects in up to 4 counties, 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 authorize the department to establish pilot projects in up to 10 counties.~~

~~Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which basic health care services are provided to qualified low-income persons. The~~

Medi-Cal program is, in part, governed and funded by federal Medicaid provisions:

~~Existing law, subject to federal approval, imposes a quality assurance fee, as specified, on certain general acute care hospitals through and including December 31, 2010. Existing law creates the Hospital Quality Assurance Revenue Fund in the State Treasury and requires that the money collected from the quality assurance fee be deposited into the fund.~~

~~Existing law, subject to federal approval, requires the department to make supplemental payments for certain services, as specified, to private hospitals, nondesignated public hospitals, and designated public hospitals, as defined, for subject fiscal years, as defined. Existing law provides that the moneys in the Hospital Quality Assurance Revenue Fund shall, upon appropriation by the Legislature, be available only for certain purposes, including providing the above-described supplemental payments to hospitals.~~

~~This bill would provide that it is the intent of the Legislature to enact legislation that would impose a quality assurance fee to be paid by hospitals, which would be used to increase federal financial participation in order to make supplemental Medi-Cal payments to hospitals through June 30, 2011. This bill would provide that it is the intent of the Legislature that the quality assurance fee be implemented only if specified conditions are met.~~

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

~~Vote:  $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: no.~~

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

- 1     SECTION 1. Section 14132.275 of the Welfare and Institutions
- 2     Code is amended to read:
- 3     14132.275. (a) The department shall seek federal approval to
- 4     establish pilot projects described in this section pursuant to a
- 5     Medicare or a Medicaid demonstration project or waiver, or a
- 6     combination thereof. Under a Medicare demonstration, the
- 7     department may operate the Medicare component of a pilot project
- 8     as a delegated Medicare benefit administrator, and may enter into
- 9     financing arrangements with the federal Centers for Medicare and

1 Medicaid Services to share in any Medicare program savings  
2 generated by the operation of any pilot project.

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

15 (c) Not sooner than March 1, 2011, the department shall identify  
16 health care models that may be included in a pilot project, shall  
17 develop a timeline and process for selecting, financing, monitoring,  
18 and evaluating these pilot projects, and shall provide this timeline  
19 and process to the appropriate fiscal and policy committees of the  
20 Legislature. The department may implement these pilot projects  
21 in phases.

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

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

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

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

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

33 (e) Pilot projects shall be established in up to ~~four~~ 10 counties,  
34 and shall include at least one county that provides Medi-Cal  
35 services via a two-plan model pursuant to Article 2.7 (commencing  
36 with Section 14087.3) and at least one county that provides  
37 Medi-Cal services under a county organized health system pursuant  
38 to Article 2.8 (commencing with Section 14087.5). In determining  
39 the counties in which to establish a pilot project, the director shall  
40 consider the following:

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

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

7 (f) The director may enter into exclusive or nonexclusive  
8 contracts on a bid or negotiated basis and may amend existing  
9 managed care contracts to provide or arrange for services provided  
10 under this section. Contracts entered into or amended pursuant to  
11 this section shall be exempt from the provisions of Chapter 2  
12 (commencing with Section 10290) of Part 2 of Division 2 of the  
13 Public Contract Code and Chapter 6 (commencing with Section  
14 14825) of Part 5.5 of Division 3 of Title 2 of the Government  
15 Code.

16 (g) Services under Section 14132.95 or 14132.952, or Article  
17 7 (commencing with Section 12300) of Chapter 3, that are provided  
18 under the pilot projects established by this section shall be provided  
19 through direct hiring of personnel, contract, or establishment of a  
20 public authority or nonprofit consortium, in accordance with, and  
21 subject to, Section 12302 or 12301.6, as applicable.

22 (h) Notwithstanding any other provision of state law, the  
23 department may require that dual eligibles be assigned as  
24 mandatory enrollees into managed care plans established or  
25 expanded as part of a pilot project established under this section.  
26 Mandatory enrollment in managed care for dual eligibles shall be  
27 applicable to the beneficiary's Medi-Cal benefits only. Dual  
28 eligibles shall have the option to enroll in a Medicare Advantage  
29 special needs plan (SNP) offered by the managed care plan  
30 established or expanded as part of a pilot project established  
31 pursuant to subdivision (e). To the extent that mandatory  
32 enrollment is required, any requirement of the department and the  
33 health plans, and any requirement of continuity of care protections  
34 for enrollees, as specified in Section 14182, shall be applicable to  
35 this section. Dual eligibles shall have the option to forgo receiving  
36 Medicare benefits under a pilot project. Nothing in this section  
37 shall be interpreted to reduce benefits otherwise available under  
38 the Medi-Cal program or the Medicare Program.

1 (i) For purposes of this section, a “dual eligible” means an  
2 individual who is simultaneously eligible for full scope benefits  
3 under Medi-Cal and the federal Medicare Program.

4 (j) Persons meeting requirements for the Program of  
5 All-Inclusive Care for the Elderly (PACE) pursuant to Chapter  
6 8.75 (commencing with Section 14590), may select a PACE plan  
7 if one is available in that county.

8 (k) Notwithstanding Section 10231.5 of the Government Code,  
9 the department shall conduct an evaluation to assess outcomes and  
10 the experience of dual eligibles in these pilot projects and shall  
11 provide a report to the Legislature after the first full year of pilot  
12 operation, and annually thereafter. A report submitted to the  
13 Legislature pursuant to this subdivision shall be submitted in  
14 compliance with Section 9795 of the Government Code. The  
15 department shall consult with stakeholders regarding the scope  
16 and structure of the evaluation.

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

20 (m) Notwithstanding Chapter 3.5 (commencing with Section  
21 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
22 the department may implement, interpret, or make specific this  
23 section and any applicable federal waivers and state plan  
24 amendments by means of all-county letters, plan letters, plan or  
25 provider bulletins, or similar instructions, without taking regulatory  
26 action. Prior to issuing any letter or similar instrument authorized  
27 pursuant to this section, the department shall notify and consult  
28 with stakeholders, including advocates, providers, and  
29 beneficiaries. The department shall notify the appropriate policy  
30 and fiscal committees of the Legislature of its intent to issue  
31 instructions under this section at least five days in advance of the  
32 issuance.

33 ~~SECTION 1. The Legislature finds and declares both of the~~  
34 ~~following:~~

35 ~~(a) The Legislature continues to recognize the essential role that~~  
36 ~~hospitals play in serving the state’s Medi-Cal beneficiaries. To~~  
37 ~~that end, it has been, and remains, the intent of the Legislature to~~  
38 ~~preserve funding for hospitals and to obtain all available federal~~  
39 ~~funds to make supplemental Medi-Cal payments to hospitals.~~

1 ~~(b) It is the intent of the Legislature that funding provided to~~  
2 ~~hospitals through a hospital quality assurance fee be implemented~~  
3 ~~with the goal of increasing access to care and stabilizing hospital~~  
4 ~~rates through supplemental Medi-Cal payments to hospitals.~~

5 ~~SEC. 2. (a) It is the intent of the Legislature to enact legislation~~  
6 ~~that would impose a quality assurance fee to be paid by hospitals,~~  
7 ~~which would be used to increase federal financial participation in~~  
8 ~~order to make supplemental Medi-Cal payments to hospitals~~  
9 ~~through June 30, 2011.~~

10 ~~(b) It is the intent of the Legislature to enact legislation that~~  
11 ~~would require the State Department of Health Care Services to~~  
12 ~~obtain the necessary federal approvals to implement the quality~~  
13 ~~assurance fee described in subdivision (a) in order to make~~  
14 ~~supplemental Medi-Cal payments to hospitals for the period~~  
15 ~~January 1, 2011, through June 30, 2011.~~

16 ~~(c) It is the intent of the Legislature to enact legislation that~~  
17 ~~would require the quality assurance fee be implemented only if all~~  
18 ~~of the following conditions are met:~~

19 ~~(1) The quality assurance fee is established in consultation with~~  
20 ~~the hospital community.~~

21 ~~(2) The quality assurance fee, including any interest earned after~~  
22 ~~collection by the department, is deposited in a segregated fund~~  
23 ~~apart from the General Fund.~~

24 ~~(3) No hospital shall be required to pay the quality assurance~~  
25 ~~fee to the department unless and until the state receives and~~  
26 ~~maintains federal approval of the quality assurance fee and related~~  
27 ~~supplemental payments to hospitals.~~

28 ~~(4) The full amount of the quality assurance fee assessed and~~  
29 ~~collected remains available only for the purposes specified by the~~  
30 ~~Legislature.~~

31 ~~SEC. 3. This act is an urgency statute necessary for the~~  
32 ~~immediate preservation of the public peace, health, or safety within~~  
33 ~~the meaning of Article IV of the Constitution and shall go into~~  
34 ~~immediate effect. The facts constituting the necessity are:~~

35 ~~In order to make the necessary statutory changes to increase~~  
36 ~~Medi-Cal payments to hospitals and improve access at the earliest~~  
37 ~~possible time, so as to allow this act to be operative as soon as~~  
38 ~~approval from the federal Centers for Medicare and Medicaid~~

- 1 ~~Services is obtained by the State Department of Health Care~~
- 2 ~~Services, it is necessary that this act take effect immediately.~~

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