

AMENDED IN ASSEMBLY MARCH 16, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 73

Introduced by Assembly Member Waldron

December 18, 2014

An act to add Section 14133.06 to the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 73, as amended, Waldron. ~~Medi-Cal benefits; prescription drugs; Prescriber Prevails Act.~~

Existing law ~~provides for~~ *establishes* the Medi-Cal program, ~~which~~ is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing law specifies the benefits provided pursuant to the program, including the purchase of prescribed drugs that are covered subject to utilization controls. Utilization controls include a requirement that the treatment provider obtain prior authorization for providing medical treatment, as specified.

~~This bill would declare the intent of the Legislature to enact legislation to include specified therapeutic drug classes, as prescribed by a licensed prescriber in his or her reasonable, professional judgment, as a covered Medi-Cal benefit, to the extent permitted by federal law.~~

This bill would, to the extent permitted by federal law, provide that drugs in specified therapeutic drug classes that are prescribed by a Medi-Cal beneficiary's treating provider are covered Medi-Cal benefits. The bill would require, except as specified, that a Medi-Cal managed care plan cover the drug upon demonstration by the provider that the

drug is medically necessary and consistent with federal rules and regulations for labeling and use, as specified.

Vote: 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. This act shall be known, and may be cited as, the*
2 *Prescriber Prevails Act.*
3 *SEC. 2. Section 14133.06 is added to the Welfare and*
4 *Institutions Code, to read:*
5 *14133.06. (a) It is the intent of the Legislature in enacting this*
6 *section that a prescriber's reasonable, professional judgment*
7 *prevails for the therapeutic drug classes specified in subdivision*
8 *(b) that are not on managed care plan formularies or have prior*
9 *authorization requirements.*
10 *(b) To the extent permitted by federal law, if a drug in any of*
11 *the following therapeutic drug classes is prescribed by a Medi-Cal*
12 *beneficiary's treating provider, that drug shall be covered under*
13 *the Medi-Cal program:*
14 *(1) Antiretroviral drugs for HIV/AIDS.*
15 *(2) Antipsychotics.*
16 *(3) Antirejection drugs.*
17 *(4) Drugs used to treat seizures or epilepsy.*
18 *(c) Except as provided in subdivision (d), and notwithstanding*
19 *the establishment of a statewide outpatient drug formulary, a*
20 *Medi-Cal managed care plan shall cover a drug specified in*
21 *subdivision (b), regardless of whether the drug is on the plan's*
22 *formulary, if, upon demonstration consistent with federal law by*
23 *the provider that the drug, in his or her reasonable, professional*
24 *judgment, is medically necessary and consistent with the federal*
25 *Food and Drug Administration's labeling and use rules and*
26 *regulations, as supported in at least one of the official compendia,*
27 *as defined in Section 1927(g)(1)(B)(i) of the federal Social Security*
28 *Act (42 U.S.C. Sec. 1396r-8(g)(1)(B)(i)).*
29 *(1) Medi-Cal managed care plans shall continue to develop*
30 *formularies and may also administer prior authorization programs*
31 *for the drugs specified in subdivision (b). Providers prescribing*
32 *those drugs may be required to provide the plans with requested*
33 *information or clinical documentation to support prior*

1 authorization requests. The plans may continue to provide a
2 temporary three-day supply of medication when medically
3 necessary.

4 (2) Consistent with federal law, if a Medi-Cal managed care
5 plan is unable to complete a prior authorization due to missing
6 information or because the prescriber's reasonable, professional
7 judgment has not been adequately demonstrated, as required under
8 this subdivision, the plan shall issue a notice of action to the
9 provider and the beneficiary. The plan shall include in the notice
10 of action a description of the information that is required from the
11 provider or the beneficiary in order for the plan to complete the
12 authorization, and the beneficiary's rights regarding appeal and
13 fair hearing options.

14 (d) (1) If a Medi-Cal managed care plan chooses not to cover
15 the drugs specified in subdivision (b), the drugs shall be carved
16 out of that plan and covered on a fee-for-service basis.

17 (2) If a drug is carved out of a Medi-Cal managed care plan as
18 described in paragraph (1), the plan's contracted rate shall be
19 reduced accordingly.

20 ~~SECTION 1. Section 14133.06 is added to the Welfare and~~
21 ~~Institutions Code, to read:~~

22 ~~14133.06. It is the intent of the Legislature to enact legislation~~
23 ~~to include specified therapeutic drug classes, as prescribed by a~~
24 ~~licensed prescriber in his or her reasonable, professional judgment,~~
25 ~~as a covered benefit under this chapter, to the extent permitted by~~
26 ~~federal law.~~