

AMENDED IN ASSEMBLY JUNE 25, 2015

AMENDED IN ASSEMBLY MAY 27, 2015

SENATE BILL

No. 260

Introduced by Senator Monning

February 18, 2015

An act to amend Section 10820 of the Corporations Code, to amend Sections 1343 and 101750.5 of the Health and Safety Code, and to amend Section 14499.5 of, and to repeal and add Section 14087.95 of, the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 260, as amended, Monning. Medi-Cal: county organized health systems: *pilot programs*.

Existing law provides for 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. One method by which these services are provided is pursuant to contracts with various types of managed care health plans, including through a county organized health system.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene), provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime.

Existing law provides the California Medical Assistance Commission with the authority to negotiate exclusive contracts with county organized health systems to provide health care services under the Medi-Cal program. Under existing law, the contracting counties are exempt from Knox-Keene for purposes of carrying out those contracts.

This bill would repeal that exemption ~~and would~~ *and deleted related exemptions*, deem a county contracting with the department under the provisions described above to be a health care service plan, ~~and would~~ subject contracting counties to the act for purposes of carrying out those contracts, unless the act expressly provides otherwise. *The bill would make conforming changes.*

Because a willful violation of Knox-Keene is a crime, this 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.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 10820 of the Corporations Code is
 2 amended to read:

3 10820. (a) “Health care service plan,” as used in this section
 4 means a corporation ~~which~~ *that* is a health care service plan defined
 5 in the Knox-Keene Health Care Service Plan Act of 1975 (Chapter
 6 2.2 (commencing with Section 1340) of Division 2 of the Health
 7 and Safety Code), other than a corporation ~~which~~ *that* is exempted
 8 from that act by subdivision ~~(d)~~ *(c)* of Section 1343 of the Health
 9 and Safety Code.

10 (b) A health care service plan may be formed under or subject
 11 to Part 2 (commencing with Section 5110) of this division or Part
 12 3 (commencing with Section 7110) of this division.

13 SEC. 2. Section 1343 of the Health and Safety Code is amended
 14 to read:

15 1343. (a) This chapter shall apply to health care service plans
 16 and specialized health care service plan contracts as defined in
 17 subdivisions (f) and (o) of Section 1345.

18 (b) The director may by the adoption of rules or the issuance of
 19 orders deemed necessary and appropriate, either unconditionally
 20 or upon specified terms and conditions or for specified periods,
 21 exempt from this chapter any class of persons or plan contracts if
 22 the director finds the action to be in the public interest and not

1 detrimental to the protection of subscribers, enrollees, or persons
2 regulated under this chapter, and that the regulation of the persons
3 or plan contracts is not essential to the purposes of this chapter.

4 ~~(e) The director, upon request of the Director of Health Care
5 Services, shall exempt from this chapter any county-operated pilot
6 program contracting with the State Department of Health Care
7 Services pursuant to Article 7 (commencing with Section 14490)
8 of Chapter 8 of Part 3 of Division 9 of the Welfare and Institutions
9 Code. The director may exempt noncounty-operated pilot programs
10 upon request of the Director of Health Care Services. Those
11 exemptions may be subject to conditions the Director of Health
12 Care Services deems appropriate.~~

13 ~~(d)~~

14 (c) Upon the request of the Director of Health Care Services,
15 the director may exempt from this chapter any mental health plan
16 contractor or any capitated rate contract under Chapter 8.9
17 (commencing with Section 14700) of Part 3 of Division 9 of the
18 Welfare and Institutions Code. Those exemptions may be subject
19 to conditions the Director of Health Care Services deems
20 appropriate.

21 (e)

22 (d) This chapter shall not apply to:

23 (1) A person organized and operating pursuant to a certificate
24 issued by the Insurance Commissioner unless the entity is directly
25 providing the health care service through those entity-owned or
26 contracting health facilities and providers, in which case this
27 chapter shall apply to the insurer's plan and to the insurer.

28 (2) A plan directly operated by a bona fide public or private
29 institution of higher learning which directly provides health care
30 services only to its students, faculty, staff, administration, and their
31 respective dependents.

32 (3) A person who does all of the following:

33 (A) Promises to provide care for life or for more than one year
34 in return for a transfer of consideration from, or on behalf of, a
35 person 60 years of age or older.

36 (B) Has obtained a written license pursuant to Chapter 2
37 (commencing with Section 1250) or Chapter 3.2 (commencing
38 with Section 1569).

39 (C) Has obtained a certificate of authority from the State
40 Department of Social Services.

1 (4) The Major Risk Medical Insurance Board when engaging
2 in activities under Chapter 8 (commencing with Section 10700)
3 of Part 2 of Division 2 of the Insurance Code, Part 6.3
4 (commencing with Section 12695) of Division 2 of the Insurance
5 Code, and Part 6.5 (commencing with Section 12700) of Division
6 2 of the Insurance Code.

7 (5) The California Small Group Reinsurance Fund.

8 *SEC. 3. Section 101750.5 of the Health and Safety Code is*
9 *amended to read:*

10 101750.5. ~~Notwithstanding subdivision (f) of Section 14499.5~~
11 ~~of the Welfare and Institutions Code, for~~ *For* the purposes of
12 Division 3.6 (commencing with Section 810) of Title 1 of the
13 Government Code, the authority shall be considered a public entity
14 separate from the county or counties and shall file the statement
15 required by Section 53051 of the Government Code.

16 ~~SECTION 4.~~

17 *SEC. 4.* Section 14087.95 of the Welfare and Institutions Code
18 is repealed.

19 ~~SEC. 2.~~

20 *SEC. 5.* Section 14087.95 is added to the Welfare and
21 Institutions Code, to read:

22 14087.95. A county contracting with the department pursuant
23 to this article shall be deemed to be a health care service plan, as
24 defined in Section 1345 of the Health and Safety Code, and shall
25 be subject to the Knox-Keene Health Care Service Plan Act of
26 1975 (Chapter 2.2 (commencing with Section 1340) of Division
27 2 of the Health and Safety Code) for the purpose of carrying out
28 those contracts, unless the act expressly provides otherwise.

29 *SEC. 6. Section 14499.5 of the Welfare and Institutions Code*
30 *is amended to read:*

31 14499.5. (a) (1) In carrying out the intent of this article, the
32 director shall contract for the operation of one local pilot program.
33 Special consideration shall be given to approving a program
34 contracted through county government in Santa Barbara County.

35 (2) Notwithstanding the limitations contained in Section 14490,
36 the director may enter into, or extend, contracts with the local pilot
37 program in Santa Barbara County pursuant to paragraph (1) for
38 periods that do not exceed three years.

1 (b) The establishment of a pilot program pursuant to this section
2 shall be contingent upon the availability of state and federal
3 funding. The program shall include the following components:

4 (1) Local authority for administration, fiscal management, and
5 delivery of services, but not including eligibility determination.

6 (2) Physician case management.

7 (3) Cost containment through provider incentives and other
8 means.

9 (c) The program for the pilot project shall include a plan and
10 budget for delivery of services, administration, and evaluation.
11 During the first year of the pilot program, the amount of the state
12 contract shall equal 95 percent of total projected Medi-Cal
13 expenditures for delivery of services and for administration based
14 on fee-for-service conditions in the program county. During the
15 remaining years of the pilot project Medi-Cal expenditures in the
16 program county shall be no more than 100 percent of total projected
17 expenditures for delivery of services and for administration based
18 on any combination of the following paragraphs:

19 (1) Relevant prior fee-for-service Medi-Cal experience in the
20 program county.

21 (2) The fee-for-service Medi-Cal experience in comparable
22 counties or groups of counties.

23 (3) Medi-Cal experience of the pilot project in the program
24 county if, as determined by the department, the scope, level, and
25 duration of, and expenditures for, any services used in setting the
26 rates under this paragraph would be comparable to fee-for-service
27 conditions were they to exist in the program county and would be
28 more actuarially reliable for use in ratesetting than data available
29 for use in applying paragraph (1) or (2).

30 The projected total expenditure shall be determined annually
31 according to an acceptable actuarial process. The data elements
32 used by the department shall be shared with the proposed
33 contractor.

34 (d) The director shall accept or reject the proposal within 30
35 days after the date of receipt. If a decision is made to reject the
36 proposal, the director shall set forth the reasons for this decision
37 in writing. Upon approval of the proposal, a contract shall be
38 written within 60 days. After signature by the local contractor, the
39 State Department of Health Care Services and the Department of
40 General Services shall execute the contract within 60 days.

1 (e) The director shall seek the necessary state and federal
2 waivers to enable operation of the program. If the federal waivers
3 for delivery of services under this plan are not granted, the
4 department is under no obligation to contract for implementation
5 of the program.

6 ~~(f) For purposes of Section 1343 of the Health and Safety Code,~~
7 ~~the Santa Barbara Regional Health Authority shall be considered~~
8 ~~to be a county-operated pilot program contracting with the State~~
9 ~~Department of Health Care Services pursuant to this article, and~~
10 ~~notwithstanding any other provision of law, during the period that~~
11 ~~this contract is in effect, the contractor shall be exempt from the~~
12 ~~provisions of the Knox-Keene Health Care Service Plan Act of~~
13 ~~1975, Chapter 2.2 (commencing with Section 1340) of Division~~
14 ~~2 of the Health and Safety Code, relative to the services provided~~
15 ~~to Medi-Cal beneficiaries under the terms and provisions of the~~
16 ~~pilot program.~~

17 ~~(g)~~

18 (f) Dental services may be included within the services provided
19 in this pilot program.

20 ~~(h)~~

21 (g) Any federal demonstration funding for this pilot program
22 shall be made available to the county within 60 days upon
23 notification of the award without the state retaining any portion
24 not previously specified in the grant application as submitted.

25 ~~(i)~~

26 (h) (1) (A) The department may negotiate exclusive contracts
27 and rates with the Santa Barbara Regional Health Authority in the
28 implementation of this section.

29 (B) Contracts entered into under this article may be on a
30 noncompetitive bid basis and shall be exempt from Chapter 2
31 (commencing with Section 10290) of Part 2 of Division 2 of the
32 Public Contract Code.

33 (C) The department shall enter into contracts pursuant to this
34 article, and shall be bound by the terms and conditions related to
35 the rates negotiated by the negotiator.

36 (2) The department shall implement this subdivision to the extent
37 that the following apply:

38 (A) Its implementation does not revise the status of the pilot
39 program as a federal demonstration project.

1 (B) Existing federal waivers apply to the pilot program as
2 revised by this subdivision, or the federal government extends the
3 applicability of the existing federal waivers or authorizes additional
4 federal waivers for the implementation of the program.

5 (3) The implementation of this subdivision shall not affect the
6 pilot program's having met any of the requirements of Part 3.5
7 (commencing with Section 1175) of Division 1 of the Health and
8 Safety Code and this division applicable to the pilot program with
9 respect to the negotiations of contracts and rates by the department.

10 ~~SEC. 3.~~

11 *SEC. 7.* No reimbursement is required by this act pursuant to
12 Section 6 of Article XIII B of the California Constitution because
13 the only costs that may be incurred by a local agency or school
14 district will be incurred because this act creates a new crime or
15 infraction, eliminates a crime or infraction, or changes the penalty
16 for a crime or infraction, within the meaning of Section 17556 of
17 the Government Code, or changes the definition of a crime within
18 the meaning of Section 6 of Article XIII B of the California
19 Constitution.