

Senate Bill No. 2194

CHAPTER 435

An act to amend Section 14015 of the Welfare and Institutions Code, relating to health.

[Approved by Governor September 12, 2000. Filed with Secretary of State September 14, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

SB 2194, Soto. Medi-Cal: eligibility.

Existing law provides for the Medi-Cal program, administered by the State Department of Health Services, under which qualified low-income persons are provided with health care services.

Under existing law the providing of Medi-Cal benefits does not impose any limitation or restriction upon a person's right to sell, exchange, or change the form of property holdings, nor do these benefits constitute any encumbrance upon these holdings.

Existing law further provides, however, that the transfer or gift of assets, including income and resources, for less than fair market value shall, to the extent and under the circumstances provided for under federal medicaid provisions, result in a period of ineligibility for Medi-Cal benefits.

This bill would provide that assets transferred exclusively for a purpose other than to qualify for medical assistance shall not result in ineligibility for Medi-Cal benefits.

Because each county is required to make eligibility determinations under the Medi-Cal program, and because this bill would affect eligibility determinations under that program, the bill would create 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

SECTION 1. Section 14015 of the Welfare and Institutions Code is amended to read:

14015. (a) The providing of health care under this chapter shall not impose any limitation or restriction upon the person's right to sell, exchange or change the form of property holdings nor shall the care provided constitute any encumbrance on the holdings. However, the transfer or gift of assets, including income and resources, for less than fair market value shall, to the extent and under the circumstances set forth in Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.) result in a period of ineligibility for aid.

(b) Pursuant to Section 1917 (c)(2)(C)(ii) of the federal Social Security Act (42 U.S.C. Sec. 1396p(c)(2)(C)(ii)), a satisfactory showing that assets transferred exclusively for a purpose other than to qualify for medical assistance shall not result in ineligibility for Medi-Cal and shall include, but not be limited to, the following:

(1) The property that would have been considered exempt for purposes of establishing eligibility pursuant to federal or state laws at the time of transfer.

(2) Property with a net market value that, when the property is transferred, if included in the property reserve, would not result in ineligibility.

(3) Property for which adequate consideration is received.

(4) Property upon which foreclosure or repossession was imminent at the time of transfer, provided there is no evidence of collusion.

(5) Assets transferred in return for an enforceable contract for life care that does not include complete medical care.

(6) Assets transferred without adequate consideration, provided that the applicant or beneficiary provides convincing evidence to overcome the presumption that the transfer was for the purpose of establishing eligibility or reducing the share of cost.

(c) In administering this section, it shall be presumed that property transferred by the applicant or beneficiary prior to the look back period established by the department preceding the date of initial application was not transferred to establish eligibility or reduce the share of cost. This property shall not be considered in determining eligibility.

(d) Any item of durable medical equipment which is purchased for a recipient pursuant to this chapter exclusively with Medi-Cal program funds shall be returned to the department when the department determines that the item is no longer medically necessary for the recipient. Items of durable medical equipment shall include, but are not limited to, wheelchairs and special hospital beds.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act



contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

