

AMENDED IN ASSEMBLY JULY 7, 2015

AMENDED IN SENATE JUNE 1, 2015

AMENDED IN SENATE APRIL 28, 2015

AMENDED IN SENATE APRIL 6, 2015

**SENATE BILL**

**No. 4**

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**Introduced by Senator Lara**

(Principal coauthor: Assembly Member Bonta)

**(Coauthors: Senators Hall, Hancock, Hernandez, Hill, Hueso,  
Mitchell, Monning, Pan, and Wolk)**

(Coauthors: Assembly Members Alejo, *Chiu*, Levine, Lopez, and  
Thurmond)

December 1, 2014

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An act to add Section 100522 to the Government Code, and to ~~add Sections 14102.1 and 14102.2 to~~ *amend Section 14007.8* of the Welfare and Institutions Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 4, as amended, Lara. Health care coverage: immigration status.

Existing law, the federal Patient Protection and Affordable Care Act (PPACA), requires each state to establish an American Health Benefit Exchange that facilitates the purchase of qualified health plans by qualified individuals and qualified small employers, and meets certain other requirements. PPACA specifies that an individual who is not a citizen or national of the United States or an alien lawfully present in the United States shall not be treated as a qualified individual and may not be covered under a qualified health plan offered through an exchange. Existing law creates the California Health Benefit Exchange for the purpose of facilitating the enrollment of qualified individuals

and qualified small employers in qualified health plans as required under PPACA.

~~Existing law governs health care service plans and insurers. A willful violation of the provisions governing health care service plans is a crime.~~

This bill would require the Secretary of *the California Health and Human Services Agency* to apply to the United States Department of Health and Human Services for a waiver to allow individuals who are not eligible to obtain health coverage because of their immigration status to obtain coverage from the California Health Benefit Exchange. The bill would require, *after that waiver has been granted*, the California Health Benefit Exchange to offer *California* qualified health benefit plans, as specified, to these individuals. The bill would require that individuals eligible to purchase California qualified health plans pay the cost of coverage without federal assistance. ~~These requirements would become operative when federal approval of the waiver is granted.~~

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. ~~The federal Medicaid Program provisions prohibit payment to a state for medical assistance furnished to an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law. Existing law extends eligibility for full-scope Medi-Cal benefits to individuals under 19 years of age who do not have, or are unable to establish, satisfactory immigration status, commencing after the Director of Health Care Services determines that systems have been programmed for implementation of this extension, but in no case sooner than May 1, 2016. Existing law requires these individuals to enroll in a Medi-Cal managed care health plan in those counties in which a Medi-Cal managed care health plan is available.~~

~~This bill would extend eligibility for full-scope Medi-Cal benefits to individuals under 19 years of age who are otherwise eligible for those benefits but for their immigration status. The bill would also extend eligibility for either limited scope Medi-Cal benefits or full-scope Medi-Cal benefits to individuals 19 years of age and older who are otherwise eligible for those benefits but for their immigration status if the department determines that sufficient funding is available. The bill would require these individuals to enroll into Medi-Cal managed care~~

~~health plans, and to pay copayments and premium contributions, to the extent required of otherwise eligible Medi-Cal recipients who are similarly situated. The bill would require that benefits for those services be provided with state-only funds only if federal financial participation is not available. Because counties are required to make Medi-Cal eligibility determinations and this bill would expand Medi-Cal eligibility, the bill would impose a state-mandated local program.~~

~~This bill would require the State Department of Health Care Services to develop a transition plan for individuals under 19 years of age who are enrolled in restricted-scope Medi-Cal as of the effective date of the bill, and who are otherwise eligible for full-scope Medi-Cal coverage but for their immigration status, to transition directly to full-scope Medi-Cal coverage. The bill would require the department to notify these individuals, as specified.~~

~~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 with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

~~*This bill would require individuals enrolled in restricted-scope Medi-Cal at the time the director makes the above-described determination to be transitioned to full-scope Medi-Cal within 30 days of that determination. The bill would also require that an individual who is eligible pursuant to these provisions enroll in a Medi-Cal managed care health plan if the individual would otherwise have been required to enroll in that plan.*~~

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

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

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) No child in California should endure suffering and pain due
- 4 to a lack of access to health care services.

1 (2) No individual in California should be excluded from  
2 obtaining coverage through the California Health Benefit Exchange  
3 by reason of immigration status.

4 (3) Expanding access and increasing enrollment in  
5 comprehensive health care coverage benefits the health and welfare  
6 of all Californians.

7 ~~(4) Longstanding California law provides full-scope Medi-Cal  
8 to United States citizens, lawful permanent residents, and  
9 individuals permanently residing in the United States under color  
10 of law, including those granted deferred action.~~

11 ~~(b) It is the intent of the Legislature in enacting this act to extend  
12 full-scope Medi-Cal eligibility to every child in California who is  
13 currently ineligible for Medi-Cal due to his or her immigration  
14 status, as long as he or she meets the other requirements of the  
15 Medi-Cal program.~~

16 ~~(e)~~

17 ~~(b) It is further the intent of the Legislature to ensure that all  
18 Californians are eligible to obtain health care coverage through  
19 the exchange. Exchange.~~

20 ~~(d)~~

21 ~~(c) It is further the intent of the Legislature to increase  
22 opportunities for enrollment in comprehensive coverage for adults,  
23 regardless of immigration status, through the enactment of this  
24 bill.~~

25 ~~(e)~~

26 ~~(d) It is further the intent of the Legislature that all Californians  
27 who are otherwise eligible for Medi-Cal, a qualified health plan  
28 offered through the California Health Benefit Exchange, or  
29 affordable employer-based health coverage, enroll in that coverage,  
30 and obtain the care that they need.~~

31 SEC. 2. Section 100522 is added to the Government Code, to  
32 read:

33 100522. (a) The Secretary of California Health and Human  
34 Services shall apply to the United States Department of Health  
35 and Human Services for a waiver authorized under Section 1332  
36 of the federal act as defined in subdivision (e) of Section 100501  
37 in order to allow persons otherwise not able to obtain coverage by  
38 reason of immigration status through the Exchange to obtain  
39 coverage from the Exchange by waiving the requirement that the  
40 Exchange offer only qualified health plans *solely for the purpose*

1 *of offering coverage to persons otherwise not able to obtain*  
2 *coverage by reason of immigration status.*

3 (b) The Exchange shall offer *California* qualified health benefit  
4 plans that shall be subject to the requirements of this title, including  
5 all of those requirements applicable to qualified health plans. In  
6 addition, California qualified health plans shall be subject to the  
7 requirements of Section 1366.6 of the Health and Safety Code and  
8 Section 10112.3 of the Insurance Code in the same manner as  
9 qualified health plans.

10 (c) Persons eligible to purchase California qualified health plans  
11 shall pay the cost of coverage without federal advanced premium  
12 tax credit, federal cost-sharing reduction, or any other federal  
13 assistance.

14 (d) Subdivisions (b) and (c) of this section shall become  
15 operative upon federal approval of the waiver pursuant to  
16 subdivision (a).

17 (e) For purposes of this section, a “California qualified health  
18 plan” means a product offered to those not otherwise eligible to  
19 purchase coverage from the Exchange by reason of immigration  
20 status and that comply with each of the requirements of state law  
21 and the Exchange for a qualified health plan.

22 ~~SEC. 3. Section 14102.1 is added to the Welfare and~~  
23 ~~Institutions Code, to read:~~

24 ~~14102.1. (a) (1) Notwithstanding any other law, an individual~~  
25 ~~under 19 years of age who meets all of the eligibility requirements~~  
26 ~~for full-scope Medi-Cal benefits under this chapter, but for his or~~  
27 ~~her immigration status, shall be eligible for full-scope Medi-Cal~~  
28 ~~benefits.~~

29 ~~(2) Notwithstanding any other law, an individual 19 years of~~  
30 ~~age or older who meets all of the eligibility requirements for~~  
31 ~~full-scope Medi-Cal benefits under this chapter, but for his or her~~  
32 ~~immigration status, may be enrolled for full-scope Medi-Cal~~  
33 ~~benefits, pursuant to paragraph (3).~~

34 ~~(3) When a county completes the Medi-Cal eligibility~~  
35 ~~determination process for an individual 19 years of age or older~~  
36 ~~who meets all of the eligibility requirements for full-scope~~  
37 ~~Medi-Cal benefits under this chapter, but for his or her immigration~~  
38 ~~status, the county shall transmit this information to the department~~  
39 ~~to determine if sufficient funding is available for this individual~~  
40 ~~to receive full-scope Medi-Cal benefits. If sufficient funding is~~

1 available, the individual shall be eligible for full-scope benefits.  
2 If sufficient funding is not available, the individual shall be eligible  
3 for limited scope Medi-Cal benefits.

4 ~~(b) This section shall not apply to individuals eligible for~~  
5 ~~coverage pursuant to Section 14102.~~

6 ~~(c) Individuals who are eligible under subdivision (a) shall be~~  
7 ~~required to enroll into Medi-Cal managed care health plans to the~~  
8 ~~extent required of otherwise eligible Medi-Cal recipients who are~~  
9 ~~similarly situated.~~

10 ~~(d) Individuals who are eligible under subdivision (a) shall pay~~  
11 ~~copayments and premium contributions to the extent required of~~  
12 ~~otherwise eligible Medi-Cal recipients who are similarly situated.~~

13 ~~(e) Benefits for services under this section shall be provided~~  
14 ~~with state-only funds only if federal financial participation is not~~  
15 ~~available for those services. The department shall maximize federal~~  
16 ~~financial participation in implementing this section to the extent~~  
17 ~~allowable.~~

18 ~~(f) Eligibility for full-scope benefits for an individual 19 years~~  
19 ~~of age or older pursuant to subdivision (a) shall not be an~~  
20 ~~entitlement. The department shall have the authority to determine~~  
21 ~~eligibility, determine the number of individuals who may be~~  
22 ~~enrolled, establish limits on the number enrolled, and establish~~  
23 ~~processes for waiting lists needed to maintain program expenditures~~  
24 ~~within available funds.~~

25 ~~(g) Notwithstanding Chapter 3.5 (commencing with Section~~  
26 ~~11340) of Part 1 of Division 3 of Title 2 of the Government Code,~~  
27 ~~the department, without taking any further regulatory action, shall~~  
28 ~~implement, interpret, or make specific this section by means of~~  
29 ~~all-county letters, plan letters, plan or provider bulletins, or similar~~  
30 ~~instructions until the time regulations are adopted. The department~~  
31 ~~shall adopt regulations by July 1, 2018, in accordance with the~~  
32 ~~requirements of Chapter 3.5 (commencing with Section 11340) of~~  
33 ~~Part 1 of Division 3 of Title 2 of the Government Code.~~  
34 ~~Commencing July 1, 2016, and notwithstanding Section 10231.5~~  
35 ~~of the Government Code, the department shall provide a status~~  
36 ~~report to the Legislature on a semiannual basis, in compliance with~~  
37 ~~Section 9795 of the Government Code, until regulations have been~~  
38 ~~adopted pursuant to Section 14102.2.~~

39 SEC. 4. Section 14102.2 is added to the Welfare and  
40 Institutions Code, to read:

1 ~~14102.2.—(a) (1) Except as provided in subdivision (c),~~  
2 ~~individuals under 19 years of age who are enrolled in restricted~~  
3 ~~scope Medi-Cal as of December 31, 2015, and who are eligible~~  
4 ~~under Section 14102.1, shall be transitioned directly to full-scope~~  
5 ~~coverage under the Medi-Cal program in accordance with the~~  
6 ~~requirements of this section. The department shall develop a~~  
7 ~~transition plan for those individuals under 19 years of age who are~~  
8 ~~enrolled in restricted scope Medi-Cal as of the effective date of~~  
9 ~~the act adding this section.~~

10 ~~(2) For purposes of this section, an “emergency care provider”~~  
11 ~~is defined as a hospital in the county of the individual’s residence~~  
12 ~~where he or she received emergency care, if any.~~

13 ~~(b) Except as provided in subdivision (c), with respect to~~  
14 ~~managed care health plan enrollment, a restricted-scope enrollee~~  
15 ~~who is under 19 years of age and who applies and is determined~~  
16 ~~eligible before October 1, 2015, shall be notified by the department~~  
17 ~~at least 60 days before January 1, 2016, in accordance with the~~  
18 ~~department’s transition plan of all of the following:~~

19 ~~(1) Which Medi-Cal managed care health plan or plans contain~~  
20 ~~his or her existing emergency care provider, if the department has~~  
21 ~~this information and the emergency care provider is contracted~~  
22 ~~with a Medi-Cal managed care health plan.~~

23 ~~(2) That the restricted scope enrollee who is under 19 years of~~  
24 ~~age, subject to his or her ability to change as described in paragraph~~  
25 ~~(3), will be assigned to a health plan that includes his or her~~  
26 ~~emergency care provider and enrolled effective January 1, 2014.~~  
27 ~~If the enrollee who is under 19 years of age wants to keep his or~~  
28 ~~her emergency care provider, no additional action shall be required~~  
29 ~~if the emergency care provider is contracted with a Medi-Cal~~  
30 ~~managed care health plan.~~

31 ~~(3) That the restricted scope enrollee who is under 19 years of~~  
32 ~~age may choose any available Medi-Cal managed care health plan~~  
33 ~~and primary care provider in his or her county of residence before~~  
34 ~~January 1, 2016, if more than one such plan is available in the~~  
35 ~~county where he or she resides, and he or she will receive all~~  
36 ~~provider and health plan information required to be sent to new~~  
37 ~~enrollees and instructions on how to choose or change his or her~~  
38 ~~health plan and primary care provider.~~

39 ~~(4) That in counties with more than one Medi-Cal managed care~~  
40 ~~health plan, if the restricted scope enrollee who is under 19 years~~

1 of age does not affirmatively choose a plan within 30 days of  
 2 receipt of the notice, he or she shall be enrolled into the Medi-Cal  
 3 managed care health plan that contains his or her emergency care  
 4 provider as part of the Medi-Cal managed care contracted network,  
 5 if the department has this information about the emergency care  
 6 provider, and the emergency care provider is contracted with a  
 7 Medi-Cal managed care health plan. If the emergency care provider  
 8 is contracted with more than one Medi-Cal managed care health  
 9 plan, then the restricted scope enrollee who is under 19 years of  
 10 age shall be assigned to one of the health plans containing his or  
 11 her emergency care provider in accordance with an assignment  
 12 process established to ensure the linkage.

13 (5) That the enrollee who is under 19 years of age shall receive  
 14 all provider and health plan information required to be sent to new  
 15 enrollees. If the restricted scope enrollee who is under 19 years of  
 16 age is not assigned to two Medi-Cal managed care health plans  
 17 pursuant to paragraph (2), and does not affirmatively select one  
 18 of the available Medi-Cal managed care health plans within 30  
 19 days of receipt of the notice, he or she shall automatically be  
 20 assigned a plan through the department-prescribed auto-assignment  
 21 process.

22 (6) That the restricted scope enrollee who is under 19 years of  
 23 age does not need to take any action to be transitioned to full-scope  
 24 Medi-Cal or to retain his or her emergency care provider, if the  
 25 emergency care provider is available pursuant to paragraph (2).

26 (7) That the restricted scope enrollee who is under 19 years of  
 27 age may choose not to transition to the full-scope Medi-Cal  
 28 program, and what this choice will mean for his or her health care  
 29 coverage and access to health care services.

30 (e) Individuals who are under 19 years of age, who qualify under  
 31 subdivision (a), and who apply and are determined eligible for  
 32 restricted scope after the date identified by the department, which  
 33 is not later than October 1, 2015, shall be considered late enrollees.  
 34 Late enrollees shall be notified in accordance with subdivision (b),  
 35 except according to a different timeframe, but will transition to  
 36 full-scope Medi-Cal coverage on January 1, 2016. Late enrollees  
 37 after the date identified in this subdivision shall be transitioned  
 38 pursuant to the department's restricted scope transition plan  
 39 process.



1 ~~(d) Emergency care providers that receive reimbursement for~~  
2 ~~restricted scope coverage shall work with the department and its~~  
3 ~~designees during the 2015 and 2016 calendar years to facilitate~~  
4 ~~enrollment and data sharing for the purposes of delivering~~  
5 ~~Medi-Cal services in the 2016 calendar year.~~

6 ~~SEC. 5. No reimbursement is required by this act pursuant to~~  
7 ~~Section 6 of Article XIII B of the California Constitution for certain~~  
8 ~~costs that may be incurred by a local agency or school district~~  
9 ~~because, in that regard, this act creates a new crime or infraction,~~  
10 ~~eliminates a crime or infraction, or changes the penalty for a crime~~  
11 ~~or infraction, within the meaning of Section 17556 of the~~  
12 ~~Government Code, or changes the definition of a crime within the~~  
13 ~~meaning of Section 6 of Article XIII B of the California~~  
14 ~~Constitution.~~

15 ~~However, if the Commission on State Mandates determines that~~  
16 ~~this act contains other costs mandated by the state, reimbursement~~  
17 ~~to local agencies and school districts for those costs shall be made~~  
18 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~  
19 ~~4 of Title 2 of the Government Code.~~

20 *SEC. 3. Section 14007.8 of the Welfare and Institutions Code*  
21 *is amended to read:*

22 14007.8. (a) (1) After the director determines, and  
23 communicates that determination in writing to the Department of  
24 Finance, that systems have been programmed for implementation  
25 of this section, but no sooner than May 1, 2016, an individual who  
26 is under 19 years of age and who does not have satisfactory  
27 immigration status or is unable to establish satisfactory immigration  
28 status as required by Section 14011.2 shall be eligible for the full  
29 scope of Medi-Cal benefits, if he or she is otherwise eligible for  
30 benefits under this chapter.

31 (2) *Individuals enrolled in restricted-scope Medi-Cal at the time*  
32 *the director makes the determination described in paragraph (1)*  
33 *shall be transitioned to full-scope Medi-Cal within 30 days of the*  
34 *director's determination.*

35 (b) To the extent permitted by state and federal law, an  
36 individual eligible under this section shall be required to enroll in  
37 a Medi-Cal managed care health plan ~~in those counties in which~~  
38 ~~a Medi-Cal managed care health plan is available.~~ *if the individual*  
39 *would otherwise have been required to enroll in the plan.*

1 (c) The department shall seek any necessary federal approvals  
 2 to obtain federal financial participation in implementing this  
 3 section. Benefits for services under this section shall be provided  
 4 with state-only funds only if federal financial participation is not  
 5 available for those services.

6 (d) The department shall maximize federal financial participation  
 7 in implementing this section to the extent allowable.

8 (e) This section shall be implemented only to the extent it is in  
 9 compliance with Section 1621(d) of Title 8 of the United States  
 10 Code.

11 (f) (1) Notwithstanding Chapter 3.5 (commencing with Section  
 12 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
 13 the department, without taking any further regulatory action, shall  
 14 implement, interpret, or make specific this section by means of  
 15 all-county letters, plan letters, plan or provider bulletins, or similar  
 16 instructions until the time any necessary regulations are adopted.  
 17 Thereafter, the department shall adopt regulations in accordance  
 18 with the requirements of Chapter 3.5 (commencing with Section  
 19 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

20 (2) Commencing six months after the effective date of this  
 21 section, and notwithstanding Section 10231.5 of the Government  
 22 Code, the department shall provide a status report to the Legislature  
 23 on a semiannual basis, in compliance with Section 9795 of the  
 24 Government Code, until regulations have been adopted.

25 (g) In implementing this section, the department may contract,  
 26 as necessary, on a bid or nonbid basis. This subdivision establishes  
 27 an accelerated process for issuing contracts pursuant to this section.  
 28 Those contracts, and any other contracts entered into pursuant to  
 29 this subdivision, may be on a noncompetitive bid basis and shall  
 30 be exempt from the following:

31 (1) Part 2 (commencing with Section 10100) of Division 2 of  
 32 the Public Contract Code and any policies, procedures or  
 33 regulations authorized by that part.

34 (2) Article 4 (commencing with Section 19130) of Chapter 5  
 35 of Part 2 of Division 5 of Title 2 of the Government Code.

36 (3) Review or approval of contracts by the Department of  
 37 General Services.

O