

Date of Hearing: May 12, 2021

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Lorena Gonzalez, Chair

AB 1214 (Waldron) – As Amended April 29, 2021

Policy Committee: Health

Vote: 14 - 0

Urgency: No

State Mandated Local Program: Yes

Reimbursable: No

SUMMARY:

This bill deems an individual who is incarcerated in a state prison or county jail (correctional facility) is eligible for the Medi-Cal program for 30 days prior to the date they are released from a correctional facility.

It authorizes the Department of Health Care Services (DHCS) to implement this bill through non-regulatory means, requires DHCS to seek federal approval, including a waiver, if applicable, and conditions implementation on federal approval and the availability of federal financial participation.

FISCAL EFFECT:

- 1) Unknown, likely minor administrative costs to DHCS to issue regulations and seek federal approval for the eligibility change (General Fund and federal funds).
- 2) Cost pressure, likely in excess of \$200,000 annually for Medi-Cal benefits for individuals being released from state prison and county jails (General Fund and federal funds), offset to some extent by reduced GF health care spending within California Department of Corrections and Rehabilitation (CDCR).

COMMENTS:

- 1) **Purpose.** According to the author, by providing Medi-Cal in the 30-day period immediately prior to release of an incarcerated individual from a correctional facility, this bill will provide uninterrupted health coverage to ensure the high-need, justice-involved population will receive much-needed care as they transition back to their communities.
- 2) **Background.** According to the federal Centers for Medicare and Medicaid Services (CMS), incarceration does not preclude an individual from being determined Medicaid-eligible. Although federal law allows inmates to maintain eligibility for Medicaid, it does not allow Medicaid reimbursement for medical services delivered to inmates (except for inpatient services provided outside the prison).
- 3) **Proposed CalAIM Trailer Bill Language (TBL).** As part of the California Advancing and Innovating Medi-Cal (CalAIM) proposal in the 2021-22 Governor's Budget, the administration acknowledges proper coordination is needed upon an individual's release from jail or county juvenile facilities to ensure the medical and behavioral health needs of the individual continue to be met and critical non-clinical needs, such as housing, transportation, and overall integration back into the community are also met. To ensure all county inmates receive timely access to Medi-Cal services upon release from incarceration, DHCS proposes

TBL requiring counties to implement a Medi-Cal application assistance process by January 2023. DHCS also proposes mandating a process by which jail or county juvenile facilities coordinate with Medi-Cal behavioral health delivery systems to facilitate an individual's continued behavioral health treatment in the community upon release. The California Department of Corrections and Rehabilitation already provides such application assistance.

- 4) **Potential Federal Action.** Pursuant to the 2018 HR 6 (Public Law 115-271), known as the "Substance Use-Disorder Prevention that Promotes Opioid Recovery (SUPPORT) and Treatment for Patients and Communities Act," the secretary of federal Health and Human Services Agency is required to work with states on innovative strategies to help individuals who are inmates of public institutions, and otherwise eligible for Medicaid, transition seamlessly to the community. The SUPPORT Act requires the administrator of Centers for Medicaid and Medi-Cal Services (CMS) to issue a State Medicaid Director letter with best practices to improve care transitions for certain individuals who are soon-to-be former inmates of a public institution and who are otherwise Medicaid eligible. There is also pending federal legislation that would authorize Medicaid reimbursement for services furnished to an incarcerated individual during the 30-day period prior to the individual's release, as this bill envisions.

- 5) **Related Legislation.** AB 112 (Holden), pending in this committee, extends the duration during which Medi-Cal benefits are suspended when an individual becomes an inmate of a public institution.

AB 875 (Wood), contains provisions similar to the CalAIM TBL mentioned above that requires counties to implement a Medi-Cal application assistance process upon an inmate's release.

- 6) **Prior Legislation.** AB 1994 (Holden) and AB 914 (Holden), both of the 2019-20 Legislative Session, as well as SB 222 (Hernández), of the 2017-18 Legislative Session, were all similar to this bill. AB 1994 was referred to and never heard in the Senate Health Committee and SB 222 was held on the Suspense File of the Senate Appropriations Committee. AB 914 was vetoed on concerns an indefinite suspension of Medi-Cal eligibility during a period of incarceration for non-juveniles would violate federal requirements.
- 7) **Technical Amendment Needed.** This bill needs a technical amendment to clarify it establishes eligibility only for an individual who otherwise meets Medi-Cal eligibility criteria but for their commitment in a correctional institution (that is, the bill should be clarified so it does not establish eligibility for inmates who don't otherwise meet income and other requirements for Medi-Cal eligibility).

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