

ASSEMBLY THIRD READING

AB 1214 (Waldron)

As Amended May 24, 2021

Majority vote

SUMMARY

Requires an individual who otherwise meets Medi-Cal eligibility but for their commitment in a in a state prison or county jail (correctional facility) to be eligible for the Medi-Cal program for 30 days prior to the date they are released from a correctional facility.

Major Provisions

- 1) Requires the Department of Health Care Services (DHCS) to annually report on information related to this policy change, such as number of inmates served, cost of the program and effectiveness, such as reduction in emergency department and inpatient utilization, and a reduction in overdose rates and death.
- 2) Permits DHCS to initially implement this bill through non-regulatory guidance, and requires the adoption of a regulation as necessary pursuant to the Administrative Procedure Act by January 1, 2026.
- 3) Requires DHCS to seek any federal approvals, including, but not limited to, amendments or waivers to the state plan, necessary to implement this bill.
- 4) Implements this bill only if DHCS obtains necessary federal approvals, and to the extent that federal matching funds are obtained.

COMMENTS

Existing federal law prevents Medicaid benefits from being paid for incarcerated individuals except when the inmate is a patient in a medical institution. While incarceration generally excludes inmates from Medicaid payments (except for inpatient services provided outside the prison), federal law does not make them ineligible for Medicaid. The Centers for Medicare and Medicaid Services (CMS) published guidance in 2016 stating that incarceration does not preclude an inmate from being determined Medicaid eligible. In addition, to promote continuity of care, CMS encouraged states to place the inmate in suspended eligibility status during the period of incarceration, or to implement a claims processing provision to ensure that services are limited to only inpatient services. State and federal law contain time-limited suspension of Medi-Cal eligibility requirements when a person is incarcerated.

Suspension of Medi-Cal coverage is effective the date an individual becomes an inmate of a public institution, allowing an inmate to retain Medi-Cal eligibility, but prohibiting receipt of benefits during incarceration. Termination removes an individual from the state's Medi-Cal database and requires submission of a new application after release from jail or prison. Under current state law, Medi-Cal beneficiaries under age 26 who become incarcerated have their benefits suspended for one year or until they are released, whichever comes first. For those incarcerated for less than one year, coverage is reinstated by DHCS upon release. Anyone over the age of 26 who is incarcerated for longer than one year has their Medi-Cal coverage terminated. Due to recent changes in federal law made in 2018 by HR 6 (Public Law 115-271), known as the "Substance Use-Disorder Prevention that Promotes Opioid Recovery and

Treatment for Patients and Communities Act," (SUPPORT Act) juveniles who are inmates of public institutions can no longer have a time-limited suspension of Medicaid as their Medicaid eligibility is prohibited from being terminated. HR 6 defined "juveniles" as individuals under to age 21 and former foster youth up to age 26. This federal changes meant the one year state law limit for Medi-Cal benefit suspension had to be conformed to federal law. The federal change was effective November 2020, and the health budget trailer bill of last year, AB 75 (Budget Committee), Chapter 9, Statutes of 2020.

In addition to the suspension change, the SUPPORT Act required, not later than six months after the date of the enactment of this Act, the Secretary of Health and Human Services (HHS) is required to convene a stakeholder group to develop best practices (and submit to the HHS Secretary and Congress a report on such best practices) for states to a) to ease the health care-related transition of an individual who is an inmate of a public institution from the public institution to the community, including best practices for ensuring continuity of health insurance coverage or coverage under Medicaid, as applicable, and relevant social services; and, b) to carry out, with respect to such an individual, such health care-related transition not later than 30 days after such individual is released from the public institution.

Some jails, and all state prisons, provide varying degrees of assistance to help individuals apply for Medi-Cal prior to release. The California Department of Corrections and Rehabilitation (CDCR) assists individuals with Medi-Cal applications prior to release. CDCR's Division of Adult Parole Operations has a contract with the University of California San Diego to provide Transitional Case Management Program (TCMP) benefits assistance to inmates who will be released to parole or post-release community supervision (PRCS) within 120 days. TCMP provides inmates with pre-release Medi-Cal, Social Security Administration (SSA), and Veterans Administration (VA) benefit application assistance. TCMP also provides community referral to long term community case manager/health care providers for inmates diagnosed with HIV/AIDS. CDCR has an agreement with the SSA, DHCS and the VA to provide pre-release benefit assistance to all eligible inmates releasing to PRCS. According to the CDCR, it screened nearly 100% of incarcerated persons for benefit eligibility. In 2019-20, 24,030 applications for Medi-Cal were approved (80.5%) upon release, 19.2% were pending, and 90 (0.3% were denied).

DHCS' California Advancing and Innovating Medi-Cal (CalAIM) proposal contains multiple components. One of the provisions requires each county board of supervisors, notwithstanding any other law, commencing January 1, 2023, to designate an entity or entities to assist county jail inmates and juvenile inmates in county juvenile facilities with submitting an application for, or otherwise facilitating their enrollment in, a health insurance affordability program (such as Medi-Cal and Covered California) consistent with federal requirements. Current law authorizes such counties to perform this activity. The DHCS CalAIM proposal is proposed as trailer bill language.

In addition to its proposed Trailer Bill Language, DHCS released draft Section 1115 waiver proposal in April 2021 for public comment. DHCS included an additional provision seeking demonstration authority to provide targeted Medi-Cal services to eligible justice-involved populations 30 days pre-release from incarceration. DHCS indicates this request is designed to ensure continuity of health coverage and care for justice-involved populations who experience disproportionately higher rates of physical and behavioral health diagnoses. These Medi-Cal services include enhanced care management and limited community-based clinical consultation

services provided via telehealth or e-consultation, and a 30-day supply of medication for use post-release into the community.

In Congress this year, HR 955, the Medicaid Reentry Act of 2021 and a companion measure in the Senate (S. 285), authorizes Medicaid reimbursement for services furnished to an incarcerated individual during the 30-day period prior to the individual's release.

According to the Author

National data has shown that the justice-involved population contains a disproportionate number of persons with behavioral health conditions and other chronic diseases. Nationally, an estimated 80% of individuals released from prison in the United States each year have a substance use disorder (SUD) or chronic medical or psychiatric condition. Individuals who are struggling with SUDs are at high risk of fatal drug overdoses in the period after release from custody (a three to eightfold increased risk of drug related deaths within the first two weeks of release from prison). 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-risk, high-need justice involved population will receive much needed care as they transition back to their communities.

Arguments in Support

The Depression and Bipolar Support Alliance (DBSA), which describes itself as the leading peer-directed national organization focusing on the two most prevalent mental health conditions, depression, and bipolar disorder, writes that this bill would make an individual incarcerated in the state prison or a county jail eligible for the Medi-Cal program for 30 days prior to the date they are released from that correctional facility if they have a chronic physical or behavioral health condition, a mental illness, or SUD. DBSA writes that individuals being released from prison or jail are not just at risk for recidivism, but also are extremely vulnerable to health issues, especially mental health. In some cases, behavioral health was a factor in their behavior which ultimately resulted in their imprisonment. DBSA concludes this bill will hopefully ensure a continuum of care much more than the simple intent of a "warm hand-off".

Arguments in Opposition

There is no known opposition.

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

- 1) Unknown, likely minor administrative costs to DHCS to issue regulations and seek federal approval for the eligibility change (General Fund (GF) 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 (GF and federal funds), offset to some extent by reduced GF health care spending within CDCR.

VOTES

ASM HEALTH: 14-0-1

YES: Wood, Mayes, Aguiar-Curry, Burke, Carrillo, Flora, Maienschein, McCarty, Nazarian, Luz Rivas, Rodriguez, Santiago, Waldron, Calderon

ABS, ABST OR NV: Bigelow

ASM APPROPRIATIONS: 16-0-0

YES: Lorena Gonzalez, Bigelow, Calderon, Carrillo, Chau, Megan Dahle, Davies, Fong, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, Holden, Luz Rivas

UPDATED

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