
SENATE COMMITTEE ON HEALTH

Senator Dr. Richard Pan, Chair

BILL NO: AB 1900
AUTHOR: Arambula
VERSION: February 9, 2022
HEARING DATE: June 15, 2022
CONSULTANT: Jen Flory

SUBJECT: Medi-Cal: income level for maintenance

SUMMARY: Increases the amount of income a Medi-Cal beneficiary who is required to pay a share of cost for their health care services can retain, from \$600 a month to an amount equal to 138% of the federal poverty level, so long as federal authorization is obtained.

Existing law:

- 1) Establishes the Medi-Cal program, administered by the Department of Health Care Services (DHCS), under which low-income individuals, including individuals who meet the “medically needy” criteria, are eligible for medical coverage. [WIC §14000, et seq., 14005.7]
- 2) Requires DHCS to establish a maintenance need level (MNL) of income at the lowest level that reasonably permits a person qualifying for Medi-Cal under the medically needy criteria to meet their basic needs for food, clothing, and shelter, and for which federal financial participation (FFP) will still be provided. States that it is the intent of the Legislature that the MNL for medically needy aged, blind, and disabled adults, in particular, shall be based upon amounts that adequately reflect their needs. [WIC §14005.12]
- 3) Requires an individual qualifying for Medi-Cal on the basis of the medically needy criteria to pay a share of cost (SOC) prior to using Medi-Cal services. The SOC is calculated as the difference between their monthly income and the MNL. [WIC §14005.7]
- 4) Requires DHCS, to the extent federal financial participation is available, to exercise the federal option to implement a program for individuals who are 65 years of age or older or are disabled, without a SOC, if they meet certain financial eligibility criteria, including not exceeding 138% of the federal poverty level (FPL) in their countable income. [WIC §14005.40]

This bill:

- 1) Increases the MNL for individuals who qualify on the basis of the medically needy criteria to the maximum amount of income permitted for the Medi-Cal program without a SOC for individuals who are 65 years of age or older or are disabled, effectively increasing the MNL to 138% FPL.
- 2) Makes technical changes to remove statutory language on calculating SOC that would become obsolete with this change.

FISCAL EFFECT: According to the Assembly Appropriations Committee, in response to a request from the author, the Legislative Analyst’s Office estimated increased annual costs of \$53 million to \$151 million in total funds, of which half would be General Fund (GF) and half would be federal funds, from:

- Increases in Medi-Cal payments for health care expenditures of enrollees who already reach the existing SOC requirements, because Medi-Cal would be paying a portion of the SOC these enrollees currently pay.
- New Medi-Cal payments for health expenditures for enrollees who do not currently reach the existing SOC requirements but would reach the lower SOC requirements under the provisions of this bill.

Some of the costs could be offset to the extent that some Medi-Cal beneficiaries stay in skilled nursing facilities when they become ill because they are unable to maintain their homes in the community with the current MNL, and subsequently lose their homes. In May 2021, DHCS estimated the average monthly cost in a skilled nursing facility was \$10,736. Advocates contend that people could return to the community with Medi-Cal services and supports, but cannot survive on the current MNL of \$600 per month for an individual.

The Legislature included a reduction of SOC in their proposed 2022-2023 state budget at the cost of \$31 million GF in 22-23 and \$18.9 million on going, which is on the lower end of the Legislative Analyst's estimate.

PRIOR VOTES:

Assembly Floor:	74 - 0
Assembly Appropriations Committee:	15 - 0
Assembly Health Committee:	12 - 0

COMMENTS:

- 1) *Author's statement.* According to the author, this bill will allow Californians who are older or disabled to keep more of their monthly income to pay for necessities like food, clothes, and shelter while still qualifying for Medi-Cal. Despite our high cost of living, California trails behind several states in how much people in certain Medi-Cal programs must pay for their own health care before Medi-Cal kicks in. Today, older adults and people with disabilities who are just \$1 over the free Medi-Cal limit are forced to survive on just \$600 to pay for rent, food, utilities, and all other expenses. The program hasn't been updated since 1989 and older adults and people with disabilities are paying the price. This is simply a matter of fairness for Californians who are struggling to make ends meet and need access to health care. By making this much-needed adjustment with this bill, we can help ease their financial burdens, so that people are not choosing between the need for medical attention and the need to pay rent and buy food. It's time to ditch the deductible and make California a leader in Medi-Cal affordability for seniors and people with disabilities.
- 2) *SOC Medi-Cal programs.* Under California's "medically needy" program, persons 65 and older or who are disabled, and low-income families with income over the Medi-Cal limits for free care can obtain Medi-Cal coverage in a given month by paying a SOC. SOC is similar to a private health insurance deductible but the SOC occurs monthly rather than annually. An individual's SOC is calculated by subtracting the MNL from the individual's monthly income. The individual must then pay this amount before the Medi-Cal program will start covering their health care expenses. The MNL has been set at \$600 since 1989 and is intended to be the budget allocation for that individual to pay for basic needs, such as living expenses for food, housing, and clothing each month.

To illustrate, a senior earning less than \$1,564 a month would qualify for free Medi-Cal and not have a SOC. If that same person earned \$1,565, they would have a SOC of \$965 a month. Thus, in order for Medi-Cal to pay for their healthcare expenses, they would need to first spend \$965 of their own money on health care expenses, leaving them with \$600 for the month to cover other necessary expenses like food and rent.

The majority of the people in SOC programs are seniors and persons with disabilities. However, children and their caretaker relatives can also qualify under the Aid for Families with Dependent Children Medically Needy program. In January of 2022, there were just over 54,000 seniors and persons with disabilities in a SOC program and just over 31,000 low-income families in a SOC program. Only 7% of seniors and persons with disabilities and 1% of low-income families had met their SOC for the month of January, meaning they were either not using or going without health care, or they had used less health care than their entire SOC. In both categories, many of the people in the SOC program have another form of health insurance, typically Medicare for seniors and persons with disabilities or commercial insurance for low-income families. However, those with another form of coverage often enroll in a Medi-Cal SOC program because they need benefits their other health insurance does not provide. This is particularly true for seniors and persons with disabilities with serious illness or needs who may need in-home supportive services (IHSS). In both categories, there is also a smaller number of people whose only source of coverage is Medi-Cal because they do not qualify for Medicare (due to lack of qualifying quarters or immigration status) or do not have other affordable commercial insurance available.

As of 2019, nine states had higher MNLs than California with three states, Illinois, Michigan, and Utah, tying the MNL to 100% FPL, and Vermont with a MNL of 110% FPL in its urban area. While this bill would raise the MNL to 138% FPL, it is worth noting that none of these states with higher MNLs had an income cut-off for free care at 138% FPL in 2019. Those that tied their MNL to 100% FPL, for example, also had income cut-offs for free care at 100% FPL. This bill would function the same way – the MNL would be set to the cut-off for free care, thus the SOC would be any income in excess of that amount.

- 3) *Related legislation.* AB 1995 (Arambula) would eliminate premiums for children on Medi-Cal in higher income programs, pregnant people using the Medi-Cal access program, and children receiving services through County Health Initiative Matching Fund programs. It would also prohibit co-payments. *AB 1995 is set for hearing on June 15, 2022 in this Committee.*

AB 2077 (Calderon) would increase the personal needs allowance from a statutory minimum of \$35 per month to \$80 per month for Medi-Cal beneficiaries residing in medical institutions, LTC facilities, or receiving services from PACE. *AB 2077 passed the Senate Health Committee by a vote of 9-0 on June 8, 2022*

AB 2823 (Levine) establishes eligibility and other requirements for providing the home upkeep allowance and a transitional needs allowance to Medi-Cal patients residing in a long-term care facility who intend to leave the facility and return to an existing home or to establish a new home. *AB 2823 passed the Senate Health Committee by a vote of 9-0 on June 8, 2022.*

- 4) *Prior legislation.* AB 969 (Chan of 2001) would have changed the MNL for the medically needy program. For an aged, blind, or disabled person and a child in foster care or receiving adoption assistance, the MNL would have been set at 120% of the FPL. For a medically needy family person that includes a parent or caretaker relative who meets the deprivation requirement, the MNL would have been set at 100% of the FPL. *AB 969 was held on the Senate Appropriations Committee suspense file.*

AB 1863 (Gallegos of 2000) would have increased the MNL for medically needy persons, and have increased the MNL by the consumer price index (CPI), or 10%, for three consecutive years beginning January 1, 2001. *AB 1863 was held on the Senate Appropriations Committee suspense file.*

AB 2500 (Ashburn of 2000) would have increased the MNL for medically needy persons by a percentage equal to 20% or the increase in the California CPI between August 22, 1996 and January 1, 2001, whichever was greater. *AB 2500 was held in the Assembly Health Committee.*

- 5) *Support.* This bill is sponsored by Bet Tzedek, California Advocates for Nursing Home Reform (CANHR), Disability Rights California, Justice in Aging, Senior and Disability Action San Francisco, and Western Center on Law & Poverty, and is supported by a number of health, disability, and senior advocates, as well as a number of counties, county associations, provider associations, and unions. CANHR writes that CANHR staff regularly provides counseling to people in need of Medi-Cal in order to access home and community based services to help them remain independent in the community. On a weekly basis their staff talk to individuals who make \$1,700 or \$2,000 a month, and who must make the choice between vital health and care services they need to stay at home, or pay for their living expenses. Many times, these low-income individuals choose instead to go without services, or are forced into permanent institutionalization in a nursing home because they cannot afford to pay rent and pay the SOC.

Justice in Aging states that the negative impact of this outdated program on older adults, people with disabilities, and their families is significant. For those who cannot meet their SOC, many are forgoing care, risking their health and increasing the likelihood for hospitalization or institutionalization. Many others are relying on their families—disproportionately women and women of color—to provide the care unpaid, placing their families at risk for both short and long-term economic insecurity. Those who meet their SOC are forced to make impossible decisions between paying for basic needs like housing and placing them at risk for homelessness or paying for care and risking their health. This outdated program also forces people to continue living in institutions because they cannot possibly move back into the community with just \$600 a month to live on.

Western Center on Law & Poverty writes that this level of cost sharing is irreconcilable with other efforts in California to make health care affordable, including efforts to lower the cost of Covered California plans. For example, an individual earning \$1500 a month on Covered California would be paying \$1 a month in premium and have a one-time (not monthly) deductible of \$75, with the maximum out-of-pocket cost per year at \$1000, rather than the \$10,800 per year that the person could end up paying with a Medi-Cal SOC. Unlike in Covered California, individuals with SOC Medi-Cal are expected to pay over 60% of their income to access Medi-Cal services.

Bet Tzekek and Legal Aid Society of San Mateo County also include examples in their support letters of family members whose income was destabilized due to a relative's high SOC. One family member had to retire early to stay and care for her spouse because the SOC prevented the spouse from accessing home care, and a daughter caring for her parent struggled in her own right when the parent's SOC was deducted from her IHSS paycheck meaning both the parent and the daughter were impoverished due to the parent's health care needs.

- 6) *Amendments.* The author requests the committee approve amendments requested by DHCS to delay the implementation of this for one year and allow for implementation via guidance prior to the issuing of regulations.

SUPPORT AND OPPOSITION:

Support: Bet Tzedek (co-sponsor)
 California Advocates for Nursing Home Reform (co-sponsor)
 Disability Rights California (co-sponsor)
 Justice in Aging (co-sponsor)
 Senior and Disability Action SF (co-sponsor)
 Western Center on Law & Poverty (co-sponsor)
 AARP
 Alameda County Board of Supervisors
 Alameda County Homeless Action Center
 Alzheimer's Los Angeles
 Asian Law Alliance
 Association of California Healthcare Districts
 Association of Regional Center Agencies
 Bay Area Legal Aid
 Bet Tzedek Legal Services
 California Academy of Family Physicians
 California Advocates for Nursing Home Reform
 California Association of Area Agencies on Aging
 California Association of Health Facilities
 California Association of Public Administrators, Public Guardians and Public Conservators
 California Association of Public Authorities for IHSS
 California Association of Public Hospitals & Health Systems
 California Commission on Aging
 California Council of the Blind
 California Dental Association
 California Disability Services Association
 California Health Advocates
 California PACE Association
 California Pan-Ethnic Health Network
 California Physicians Alliance
 California Retired Teachers Association
 California School Employees Association
 California Senior Legislature
 Central California Alliance for Health
 Coalition of California Welfare Rights Organizations
 County Behavioral Health Directors Association

County of San Diego
County of Santa Clara
County Welfare Directors Association of California
Desert AIDS Project
Disability Rights Education and Defense Fund
Friends Committee on Legislation of California
Health Access California
Huntington Senior Care Network
Jewish Family Service of Los Angeles
LeadingAge California
Legal Aid Foundation of Los Angeles
Legal Aid Society of San Mateo County
Local Health Plans of California
Marin Center for Independent Living
Maternal and Child Health Access
Meals on Wheels Orange County
National Association of Social Workers, California Chapter
National Health Law Program
National Multiple Sclerosis Society
Public Law Center
SEIU California
Senior Advocates of the Desert
Senior Services Coalition of Alameda County
UDW/AFSCME Local 3930
Urban Counties of California

Oppose: None received

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