

Date of Hearing: June 22, 2021

ASSEMBLY COMMITTEE ON HEALTH
Jim Wood, Chair
SB 56 (Durazo) – As Amended June 14, 2021

SENATE VOTE: 29-7

SUBJECT: Medi-Cal: eligibility.

SUMMARY: Extends eligibility for full-scope Medi-Cal benefits to undocumented adults age 60 and older who are otherwise eligible for those benefits but for their immigration status, effective July 1, 2022, contingent upon an appropriation in the annual Budget Act. Specifically, **this bill:**

- 1) Makes undocumented individuals age 60 and older who do not have satisfactory immigrant status or are unable to establish satisfactory immigration status eligible for the full scope of Medi-Cal benefits, if they are otherwise eligible for Medi-Cal benefits.
- 2) Makes implementation of the full-scope benefit expansion subject to an appropriation in the annual Budget Act or any other act approved by the Legislature for this express purpose.
- 3) Requires undocumented individuals ages 60 and above, who are already enrolled in limited scope Medi-Cal, to be enrolled in full-scope Medi-Cal without filing a new Medi-Cal application, pursuant to an eligibility and enrollment plan that includes outreach strategies developed by the Department of Health Care Services (DHCS) in consultation with interested stakeholders, including, but not limited to, counties, health care service plans, health care providers, consumer advocates, and the Legislature.
- 4) Requires, to the extent permitted by state and federal law, an individual eligible for full-scope Medi-Cal coverage under this bill, to be required to enroll in a Medi-Cal managed care plan.
- 5) Requires DHCS to provide monthly updates to the appropriate policy and fiscal committees of the Legislature on the status of the implementation of this bill.
- 6) Requires DHCS to seek any necessary federal approvals to obtain federal financial participation (FFP) in implementing this bill. Requires benefits for services under this bill to be provided with state-only funds only if FFP is not available for those services.
- 7) Narrows the scope of the condition that the Department of Finance (DOF), in determining the projected budget condition for the upcoming fiscal year, project a positive ending balance in the Special Fund for Economic Uncertainties for the upcoming fiscal year and each of the ensuing three fiscal years that exceeds the cost of providing individuals who are 60 years of age or older (instead of 65 years of age or older in existing law), and who do not have satisfactory immigration statuses or are unable to establish satisfactory immigration statuses for full scope of Medi-Cal benefits, benefits to such individuals to be prioritized for inclusion in the budget for the upcoming fiscal year.
- 8) Sunsets existing contracting exemptions for DHCS from specified provisions of the Public Contract Code, the Government Code, and the review or approval from the Department of

General Services in existing law, for purposes of the undocumented benefit expansion in existing law and this bill, effective January 1, 2022.

EXISTING LAW:

- 1) Prohibits, under federal law, undocumented individuals from being eligible for any state or local public benefits (including Medicaid), except for assistance for health care items and services that are necessary for the treatment of an emergency medical condition, public health assistance for immunizations, and for testing and treatment of symptoms of communicable disease.
- 2) Permits, under federal law, a state to make an undocumented immigrant eligible for any state or local public benefit for which such an individual would otherwise be ineligible only through the enactment of a state law after August 22, 1996, which affirmatively provides for such eligibility.
- 3) Establishes the Medi-Cal program, administered by DHCS, under which low income individuals are eligible for medical coverage.
- 4) Makes adults and parents with incomes up to 138% of the federal poverty level (FPL) eligible for Medi-Cal, and makes children with incomes up to 266% of the FPL eligible for Medi-Cal, including providing full-scope Medi-Cal benefits to undocumented children and adults through age 25.
- 5) Makes undocumented individuals ages 26 and above, who are otherwise eligible for Medi-Cal services, eligible only for care and services that are necessary for the treatment of an emergency medical condition and medical care directly related to the emergency, as defined in federal law.
- 6) Makes low-income undocumented individuals eligible for Medi-Cal for pregnancy coverage, breast and cervical cancer-related treatment services, family planning services, and long-term care services.
- 7) Defines, under state law, an “emergency medical condition” as a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:
 - a) Placing the patient’s health in serious jeopardy;
 - b) Serious impairment to bodily functions; or,
 - c) Serious dysfunction of any bodily organ or part.

FISCAL EFFECT: According to the Senate Appropriations Committee, estimates unknown, significant ongoing costs (low hundreds of millions General Fund (GF)) to Medi-Cal and the In-Home Supportive Services (IHSS) Program. Prior to the March 4, 2020 State of Emergency declaration and Executive Order N-33-20 due to the COVID-19 pandemic, the Governor’s 2020 Budget included a substantively similar proposal to this bill, with projected full-year implementation costs of approximately \$350 million (\$320 million GF). The assumption included that persons who would qualify for this expansion would already be receiving federally

required coverage for emergency care. The Administration withdrew its proposal during the May Revision 2020. In addition, based on the latest DOF August 2020 analysis for a similar bill (SB 29 (Durazo) of 2020), estimated costs were \$163 million (\$153 million GF) and \$255 million (\$245 million GF), plus growth in the out-years, to Medi-Cal and IHSS programs. Amendments taken in the Senate Appropriations Committee will further increase Medi-Cal costs to at least \$858 million annually GF.

COMMENTS:

- 1) **PURPOSE OF THIS BILL.** According to the author, no Californian should be forced to face worse health outcomes simply because of where they were born. In response to the ongoing COVID-19 pandemic's disproportionate impacting on communities of color, including our immigrant communities, now more than ever California must demonstrate its commitment to healthcare coverage as a basic human right by providing equitable access to care for all of its residents. Undocumented Californians pay an estimated \$3 billion every year in state and local taxes and make up one-tenth of the state's workforce. They pick the fruits and vegetables for our families and sew the clothes we wear. They drive the trucks that put food on the shelves of our grocery stores. Despite contributing significantly to California's economic vitality, they are unjustly excluded from the economic prosperity they have helped to generate. Treatment for common conditions, such as asthma and diabetes, is out of reach for many undocumented residents and treatable illnesses often result in permanent disability or death, devastating results that have been exacerbated by the COVID-19 pandemic. Covering undocumented Californians, who are our family members, students, and colleagues, is vital this year.
- 2) **CURRENT SCOPE OF MEDI-CAL COVERAGE FOR IMMIGRANTS.** In order to be Medi-Cal eligible, an individual must be a state resident and generally must be low-income. Recent legal immigrants and undocumented immigrants who meet income and residency requirements are Medi-Cal eligible, but the scope of that coverage depends on the immigration status and the age of the individual. Undocumented immigrants age 26 years and above are not eligible for full scope services, and are instead eligible for "limited scope" Medi-Cal benefits. Limited scope services are long-term care, pregnancy-related benefits, and emergency services. Medi-Cal also provides coverage for undocumented individuals needing breast and cervical cancer treatment, family planning services through Family Planning, Access, Care, and Treatment program, and through temporary presumptive eligibility programs.

In 2015, undocumented children were made eligible for full-scope Medi-Cal services pursuant to SB 75 (Committee on Budget and Fiscal Review), Chapter 18, Statutes of 2016, the health budget trailer bill. Since then, over 250,000 undocumented children have been enrolled in full-scope Medi-Cal. The 2019-20 state Budget extended full-scope Medi-Cal coverage to eligible young adults aged 19 through 25 years regardless of immigration status, effective January 1, 2020. Governor Newsom's 2021-22 May Budget Revision proposes to expand full scope Medi-Cal coverage for adults 60 years and over regardless of immigration status, after the DHCS Director determines that systems have been programmed for implementation, but no sooner than May 1, 2022. The May Revision DHCS budget includes costs of \$68 million total funds (\$50 million GF). DHCS has proposed trailer bill language as part of the May Revision related to the expansion of Medi-Cal to older undocumented adults

age 60 and above.

3) THE PATIENT PROTECTION AND AFFORDABLE CARE ACT AND THE REMAINING UNINSURED. According to data from the US Census Bureau, since the implementation of the federal Patient Protection and Affordable Care Act (ACA) in 2014, the rate of Californians without health insurance declined from 17.2% in 2013 to 7.2% in 2018. The Legislative Analyst's Office (LAO's) "The 2020-21 Budget: Analysis of the Medi-Cal Budget," stated that recent estimates indicate that there are likely more than 1.5 million uninsured undocumented immigrants in the state, which represents as much as 50% of the state's remaining uninsured. The LAO estimated there are 890,000 undocumented immigrants ages 25-64, and 27,000 age 65 years and over.

4) SOURCES OF HEALTH CARE COVERAGE FOR UNDOCUMENTED IMMIGRANTS. According to the Pew Research Center, California is home to approximately 2.2 million undocumented immigrants. Undocumented immigrants may purchase health insurance directly from insurers or may receive health care benefits through an employer. However, federal law prohibits undocumented individuals from purchasing health insurance through Covered California (CC) and prohibits individuals from receiving any federal premium or cost-sharing subsidies through exchanges. Moreover, according to the UC Berkeley Labor Center, because undocumented immigrants are more likely to work in industries and occupations that do not offer health insurance, they are far less likely than citizens or green card holders to receive health coverage through employer-sponsored insurance.

Depending on the county in which they reside, an undocumented individual may receive health care benefits through the county indigent health program. The types of services covered and access to providers vary by each county program. For instance, in Los Angeles County, its county indigent health program, My Health LA, has elected to extend services to low-income undocumented individuals and uses the Global Payment Program (GPP) to offer more comprehensive coverage and patient management within the primary care setting by assigning patients to a primary care provider. The GPP is a statewide pool of funding for the remaining uninsured established through the Medi-Cal 2020 section 1115 waiver. It seeks to improve the health of the uninsured through care coordination by encouraging designated public hospitals to provide greater primary and preventive services. In counties where undocumented individuals have been deemed ineligible for county indigent health programs, low-income undocumented individuals often seek care through other safety net providers, such as community clinics, or may seek care through hospital emergency departments.

5) SUPPORT. This bill is jointly sponsored by Health Access California (Health Access) and the California Immigrant Policy Center (CIPC) and is supported by individuals, low-income, labor, consumer, health care providers, immigrant, religious, and community groups. The sponsors and supporters write that public programs should not exclude any group of people from primary and preventive care, especially when responding to a public health emergency. The COVID-19 pandemic makes starkly clear that the health of each one of us is deeply interconnected with that of every Californian. This expansion is essential to California's recovery, and the supporters argue we must recognize our shared humanity and care for each other, our neighbors, and those most vulnerable to falling through the gaps of our social safety net. It is high time that our state moves toward parity in our Medi-Cal program for all who call California home. Undocumented Californians were already bearing the brunt of

racial and ethnic health disparities, which have been greatly exacerbated by the COVID-19 pandemic. Older adults are at a higher risk of getting sick from this illness. Low-income undocumented seniors are especially vulnerable. They are more medically fragile and face barriers that make it harder for them to access care during times of social distancing. While the state has set up temporary programs for the uninsured to access COVID-related care, these barely scratch the surface of the health needs of our immigrant communities. Undocumented elders who have gone years without so much as a check-up may have unknown chronic conditions and need preventive care and treatment for all of their health concerns, not just COVID-19. There is no moral justification for leaving our undocumented seniors out of comprehensive health care 10 months into this crisis. Undocumented Californians are deeply rooted in our state and provide significant economic, familial, and cultural contributions to our communities. In 2018, undocumented Californians contributed \$3.7 billion in state and local taxes, \$7 billion in federal taxes, and over \$40 billion in spending power to our economy. They are overrepresented in jobs deemed “essential” during the pandemic, yet they are excluded from federal stimulus payments, unemployment insurance, and safety net programs for health care and food assistance. Despite their vital place in California’s social and economic fabric, undocumented and uninsured Californians live sicker, die younger, and are one emergency away from financial ruin because they are locked out of comprehensive health care.

6) **RELATED LEGISLATION.** AB 4 (Arambula) of 2021 extends eligibility for full-scope Medi-Cal to undocumented individuals age 26 and over. **AB 4 was heard in the Senate Health Committee on June 16, 2021.**

7) **PREVIOUS LEGISLATION.** AB 4 (Arambula) of 2019 would have extended eligibility for full-scope Medi-Cal benefits to undocumented adults age 19 and above who are otherwise eligible for those benefits but for their immigration status. Would have implemented AB 4 only to the extent there is an appropriation in the annual Budget Act or another statute. AB 4 was referred to but never heard in the Senate Health Committee.

SB 29 would have extended eligibility for full scope Medi-Cal benefits for individuals 65 years of age or older who do not have satisfactory immigration status, effective July 1, 2020 if the individual is otherwise eligible for Medi-Cal benefits. Would have made implementation of the expansion of full scope benefits in this bill subject to an appropriation in the annual Budget Act or any other act approved by the Legislature. SB 29 died on the Assembly Floor inactive file.

SB 974 (Lara) of 2018 would have extended full scope coverage to undocumented adults age 65 years and over. SB 974 was held on the Assembly Appropriations Committee suspense file.

AB 2965 (Arambula and Thurmond) of 2018 would have extended eligibility for full-scope Medi-Cal benefits to undocumented adults ages 19 to 25 who are otherwise eligible for those benefits but for their immigration status. AB 2965 was held on the Senate Appropriations Committee suspense file.

SB 10 (Lara), Chapter 22, Statutes of 2016, required CC to apply to the federal Department of Health and Human Services for a Section 1332 waiver to allow persons who are not otherwise able to obtain coverage through CC by reason of immigration status to obtain

coverage from CC by waiving the requirement that CC offer only qualified health plans. SB 4 (Lara), Chapter 709, Statutes of 2015, required undocumented individuals under 19 years of age enrolled in Medi-Cal at the time the Director of DHCS makes the determination to be enrolled in full scope of Medi-Cal benefits, if otherwise eligible, pursuant to an eligibility and enrollment plan.

SB 97 (Budget and Fiscal Review Committee), Chapter 11, Statutes of 2015, expanded eligibility for full-scope Medi-Cal benefits for undocumented children under the age of 19, regardless of immigration status.

SB 1005 (Lara) of 2014 would have extended Medi-Cal eligibility to individuals who would otherwise be eligible, except for their immigration status, and would have created a new health benefit exchange, to provide subsidized health care coverage to individuals who cannot purchase health care coverage through CC due to their immigration status. SB 1005 was held on the Senate Appropriations suspense file.

AB X1 1 (John A. Perez), Chapter 3, Statutes of 2013-14 First Extraordinary Session, implemented specified Medicaid provisions of the ACA, including the expansion of federal Medicaid coverage to low-income adults with incomes between 0-138% of the FPL. AB X1 1 also implemented a number of the Medicaid ACA provisions to simplify the eligibility, enrollment and renewal processes for Medi-Cal.

REGISTERED SUPPORT / OPPOSITION:

Support

California Immigrant Policy Center (co-sponsor)
 Health Access California (co-sponsor)
 AFSCME, AFL-CIO
 AIDS Healthcare Foundation
 Alliance of Californians for Community Empowerment (ACCE) Action
 Alliance San Diego
 American Academy of Pediatrics, California
 American Civil Liberties Union/northern California/southern California/San Diego and Imperial Counties
 American Lung Association in California
 APLA Health
 Association of California Healthcare Districts
 Bienestar Human Services
 Blue Shield of California
 California Association of Health Plans
 California Association of Public Hospitals & Health Systems
 California Commission on The Status of Women and Girls
 California Department of Insurance
 California Hospital Association/California Association of Hospitals and Health Systems
 California Immigrant Policy Center
 California Labor Federation, AFL-CIO
 California Latinas for Reproductive Justice
 California Medical Association

California Nurses Association
California Pan - Ethnic Health Network
California Physicians Alliance
California Public Defenders Association
California Religious Action Center of Reform Judaism
California Rural Legal Assistance Foundation, INC.
California Senior Legislature
California State Council of Service Employees International Union
California Teachers Association
California Teamsters Public Affairs Council
CaliforniaHealth+ Advocates
California Advocates for Nursing Home Reform
Central California Alliance for Health
Central City Neighborhood Partners
Central Valley Immigrant Integration Collaborative
Children's Hospital Los Angeles
Christie's Place
Clinica Monseñor Oscar A. Romero
Coalition for Humane Immigrant Rights
Coalition of Orange County Community Health Centers
Community Clinic Association of Los Angeles County
Contra Costa County Advisory Council on Aging
County Behavioral Health Directors Association of California
County Health Executives Association of California
County Welfare Directors Association of California
Courage California
Democratic Party of The San Fernando Valley
Desert Aids Project D/b/a Dap Health
Empowering Pacific Islander Communities
Estrategia LLC
Fresno Metro Black Chamber of Commerce
Friends Committee on Legislation of California
Indivisible CA: Statestrong
Inland Coalition for Immigrant Justice
Kaiser Permanente
Korean American Family Services, Inc.
Korean American Federation of Los Angeles
LA Care Health Plan
League of Women Voters of California
League of Women Voters of San Diego
Little Tokyo Service Center
Local Health Plans of California
Los Angeles LGBT Center
Mi Familia Vota
Multi-faith Action Coalition
National Association of Social Workers, California Chapter
National Health Law Program
Nextgen California
Nourish California

PRC

Queenscare Health Centers
San Diego Immigrant Rights Consortium
San Diego County
San Francisco AIDS Foundation
San Mateo County Board of Supervisors
Southeast Asia Resource Action Center
St. John's Well Child and Family Center
The Children's Partnership
The Los Angeles Trust for Children's Health
Unite Here International Union, AFL-CIO
Western Center on Law & Poverty, Inc.
Women's Foundation California

Opposition

None on file.

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