

Date of Hearing: March 23, 2021

ASSEMBLY COMMITTEE ON HEALTH
Jim Wood, Chair
AB 112 (Holden) – As Introduced December 17, 2020

SUBJECT: Medi-Cal eligibility.

SUMMARY: Extends the duration during which Medi-Cal benefits are suspended when an individual is an inmate of a public institution to three years or until the individual is no longer an inmate, whichever occurs sooner, instead of the shorter time-limited suspension of one year or until the individual is no longer an inmate. Specifically, **this bill:**

- 1) Requires, if an individual is a Medi-Cal beneficiary on the date they become an inmate of a public institution, their Medi-Cal benefits to be suspended effective the date they become an inmate of a public institution. Requires the suspension to end according to the following:
 - a) For an individual who is defined as a juvenile under age 21, or under age 26 and who was in foster care, on the date the individual is no longer an inmate of a public institution or three years (instead of one year in existing law) after the date the individual is no longer an eligible juvenile under federal Medicaid law, whichever is sooner.
 - b) For an individual who is age 21 and older, or who is age 26 and older who was in foster care, on the date that the individual is no longer an inmate of a public institution or three years (instead of one year in existing law) from the date the individual becomes an inmate of a public institution, whichever is sooner.

EXISTING LAW:

- 1) Requires, if an individual is a Medi-Cal beneficiary on the date they become an inmate of a public institution, their Medi-Cal benefits to be suspended effective the date they become an inmate of a public institution.
- 2) Requires the suspension of Medi-Cal to end according to the following:
 - a) For an individual who is not defined as a juvenile under federal law, the suspension is required to end on the date the individual is no longer an inmate of a public institution or one year from the date the individual becomes an inmate of a public institution, whichever is sooner; or,
 - b) For an individual who is defined as a juvenile under federal law, the suspension to end in accordance with federal law (which extends benefits to age 26) or one year from the date the individual became an inmate of a public institution, whichever is later.

FISCAL EFFECT: Unknown. This bill has not been analyzed by a fiscal committee.

COMMENTS:

- 1) **PURPOSE OF THIS BILL.** According to the author, continuity of care is vital in reducing recidivism, promoting positive health outcomes, and ensuring the successful reintegration of

young people into their communities. Suspending Medi-Cal benefits instead of terminating them will ensure that once someone is released from prison they have access to life saving medications and treatments. Increased access to preventative care will help manage chronic conditions from worsening and becoming complicated by COVID-19. As the pandemic rages on and noting that it disproportionately affects low-income and communities of color, it is imperative that Californians have uninterrupted to health care services.

- 2) **BACKGROUND.** 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.
- 3) **HR 6 AND MEDI-CAL FOR INCARCERATED PERSONS.** 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 the Department of Health Care Services (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,” 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 (Committee on Budget), Chapter, Statutes of 2020
- 4) **CALIFORNIA ADVANCING AND INNOVATING MEDI-CAL PROPOSAL.** DHCS’ California Advancing and Innovating Medi-Cal (CalAIM) proposal contained 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.
- 5) **CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION PROCESS.** Individuals who lose coverage due to longer-term incarceration need to reapply for coverage. 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).

- 6) **SUSPENSION VERSUS TERMINATION.** 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. According to the National Association of Counties, terminating benefits prior to release, rather than leaving individuals in a suspended status, increases the gap in health care services, which are critical in the first weeks and months post-incarceration. The Kaiser Family Foundation released a report stating that improved access to services and better management of health conditions immediately after release from jail or prison has shown to reduce rates of recidivism, particularly among individuals with mental health and substance abuse disorders. Studies published by the American Psychiatric Association show that inmates who were enrolled in Medicaid at the time of release had 16% fewer incidents of recidivism compared to those not enrolled at the time of release.
- 7) **SUPPORT.** The California State Sheriffs Association writes in support that, although local and state institutions have made great strides in assisting inmates reapply for Medi-Cal benefits upon release, there are instances in which inmates, including some who have severe health conditions, experience a gap between their release and the time they can begin receiving their Medi-Cal benefits again because they were incarcerated for more than one year. This bill ends the suspension of specified inmates' Medi-Cal benefits at the time they are released or three years from the date they become an inmate of a public institution. This proposal will ensure that inmates can begin receiving medical treatment and services sooner upon their release, which reduces one's chance of recidivating.

Western Center on Law & Poverty (WCLP) writes in support that, when justice-involved individuals are released from incarceration, they face significant barriers to sustaining themselves, such as employer and housing discrimination, and often have ongoing health needs. Eliminating their Medi-Cal benefits adds an additional and unnecessary barrier to a successful re-entry and perpetuates the link between poverty and encounters with the criminal justice system. WCLP writes that studies of suspension of Medicaid coverage for justice involved individuals implemented in Florida and Washington found those enrolled in Medicaid at the time of release had 16% fewer incidents of recidivism compared to those not enrolled at the time of release. WCLP writes that, although the CDCR is currently required to submit a pre-release Medi-Cal application, even when an application can be timely processed, the individual would need to select a health plan and understand their provider network. WCLP concludes that not terminating Medi-Cal in the first place would mean the individual's Medi-Cal is ready to go and the individual can more easily access services on the outside when they are released.

8) PREVIOUS LEGISLATION.

- a) AB 1994 (Holden) of 2020 would extend the suspension of Medi-Cal benefits to incarcerated eligible individuals from 1 year to 3 years and for eligible juveniles the three years begins on the day they age out. AB 1994 was never heard in Senate Health Committee.
- b) AB 914 (Holden) of 2019 would have, commencing October 1, 2020, required an indefinite suspension of Medi-Cal benefits for incarcerated individuals under 26 years of age to either end on the date of release from incarceration or when the individuals are no longer otherwise eligible for Medi-Cal benefits, whichever is sooner. Governor Newsom vetoed AB 914. In his veto message, the Governor stated AB 914 “has different age thresholds for indefinite suspension of benefits from those in federal law, resulting in violation of federal comparability requirements that would result in significant General Fund costs.”
- c) SB 222 (Hernandez) of 2017 would have required the suspension of Medi-Cal benefits to end on the date he or she is no longer an inmate of a public institution or is no longer otherwise eligible for benefits under the Medi-Cal program, instead of existing law, which requires the suspension to end on the date that the individual is no longer an inmate of a public institution or one year from the date he or she becomes an inmate of a public institution, whichever is sooner. SB 222 was held on the Senate Appropriations Committee suspense file.
- d) SB 1147 (Calderon), Chapter 546, Statutes of 2008, requires DHCS to develop procedures to ensure that the Medi-Cal eligibility of minors is not terminated when they are incarcerated. Requires Medi-Cal benefits provided to an individual under 21 years of age who is an inmate of a public institution (a state or federal prison, correctional facility, county/city jail, or detention center) to be suspended in accordance with provisions of federal law.
- e) AB 720 (Skinner), Chapter 646, Statutes of 2013, requires the board of supervisors in each county to designate an entity to assist certain jail inmates to apply for a health insurance affordability program, as defined. Prohibits county jail inmates who are currently enrolled in the Medi-Cal from being terminated from the program due to their detention, unless required by federal law or they become otherwise ineligible, as specified. Deletes the age restriction relating to Medi-Cal benefits provided to inmates of the public institution.
- f) SB 480 (Yee) of 2014, would have required DHCS to suspend Medi-Cal benefits for inmates over the age of twenty one for the duration of his or her stay in a public institution or one year, whichever is less. SB 480 died in Senate Committee on Human Services.

- 9) POLICY ISSUE:** CDCR currently assists people in applying for enrollment in Medi-Cal upon release. The Administration’s CalAIM proposal is requiring counties (instead of authorizing in existing law) to assist with applying for insurance affordability programs prior to release. If the state suspends Medi-Cal for a three year duration of an adult’s prison sentence, federal law still continues to require annual Medi-Cal eligibility determinations.

Because the state pays counties to administer eligibility determinations for Medi-Cal, those costs would ultimately be borne by the state and federal government under Medi-Cal, as compared to the state (or state mandated) costs borne by the correctional institution upon an individual leaving such a facility. The advantage of suspending coverage is it ensures there is no gap in coverage in situations where counties are not currently assisting inmates upon re-entry, or if the person is released early (such as during a public health emergency) that may preclude advance planning for enrollment in Medi-Cal upon release. The disadvantage of exclusively relying on a suspension approach is individuals may not have been Medi-Cal eligible upon entry into a correctional setting.

The fiscal and policy issues posed by this bill is whether increasing the duration of the suspension of Medi-Cal coverage (versus requiring correctional institutions to assist people in applying prior to release) is a more effective approach at ensuring health coverage post-release, and/or whether suspension should be done in conjunction with a pre-release application process. Related to this policy question is whether the state and federal cost of requiring counties to perform annual redeterminations of Medi-Cal eligibility for incarcerated individuals is worth incurring as compared to the one-time state cost of correctional institutions assisting with the completion of a new Medi-Cal application as part of a larger effort to enroll individuals into benefits upon release.

10) RECOMMENDED AMENDMENT. Existing law requires DHCS, in consultation with stakeholders, including the County Welfare Directors Association of California and advocates, to develop and implement a redetermination of eligibility, to the extent required by federal law, for juvenile inmates whose eligibility is suspended. Because this bill extends the adult duration of suspension of Medi-Cal benefits, this existing law requirement for DHCS should also apply to adults whose suspension is now suspended for up to three years, during which Medi-Cal redeterminations would be required to occur.

REGISTERED SUPPORT / OPPOSITION:

Support

American College of Obstetricians and Gynecologists, District IX
California State Sheriffs' Association
County Behavioral Health Directors Association of California
Health Access California
Western Center on Law & Poverty, Inc.

Opposition

None on file.

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