

Date of Hearing: April 21, 2020

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Lorena Gonzalez, Chair

AB 112 (Holden) – As Amended March 25, 2021

Policy Committee: Health

Vote: 15-0

Urgency: No

State Mandated Local Program: No

Reimbursable: No

SUMMARY:

This bill extends, from one year to three years, the duration during which Medi-Cal benefits are suspended when an adult becomes an inmate of a public institution.

It also modifies the suspension of Medi-Cal benefits for juveniles, ending a suspension when a juvenile is no longer an incarcerated or three years after they are no longer an eligible juvenile, whichever is sooner.

FISCAL EFFECT:

- 1) One-time costs of \$3.9 million total (\$1.5 million GF) to make necessary system changes to the Statewide Automated Welfare System (SAWS) and California Healthcare Eligibility, Enrollment and Retention System (CalHEERS).

One-time costs are estimated at \$2.7 million total (\$1.3 million GF) for SAWS and \$1.2 million total (\$120,000 GF) for CalHEERS. DHCS assumes 50 percent federal financial participation (FFP) for SAWS and 90 percent FFP for CalHEERS.

- 2) Minor administrative staff costs to DHCS to add adult inmate eligibility to the work of an existing stakeholder group.
- 3) Projected annual cost pressure of \$2.1 million total (\$1.4 million GF) to perform additional annual redeterminations that would otherwise not occur. Under the bill, counties would continue to perform annual redeterminations for adult inmates for a period of three years (rather than disenrolling them after one year) and juvenile inmates until three years after they are no longer considered juveniles. According to DHCS, fewer than 20% of inmates enter as Medi-Cal eligible.
- 4) The California Department of Corrections and Rehabilitation (CDCR) may experience a minor reduction in workload ongoing for assisting inmates to re-enroll in Medi-Cal upon release, as this bill would facilitate re-enrollment upon release without filing a new application.
- 5) Minor potential increased Medi-Cal costs due to higher and more immediate Medi-Cal enrollment under the bill than would otherwise occur (shared GF/federal).

COMMENTS:

- 1) **Purpose.** According to the author, inmates are more likely than others to have chronic physical and mental conditions. The author contends the lengthy process of terminating and

reapplying for Medi-Cal leads to poorer health. This bill suspends but preserves Medi-Cal eligibility so individuals need not reapply for coverage upon leaving a facility.

- 2) **Background.** The federal Centers for Medicare and Medicaid Services (CMS) published a letter of guidance in 2016 stating 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). To promote continuity of care, CMS encouraged states to place an inmate in suspended eligibility status during the period of incarceration or to implement a claims processing provision to ensure services are limited to only inpatient services. Health and inmate advocacy groups have also supported this approach to ensure continuity of care.
- 3) **Eligibility for Incarcerated Juveniles.** A 2018 federal law prohibits imposing a time-limited suspension of Medicaid on juveniles who are inmates of public institutions, effective November 2020. Juveniles are defined as individuals under age 21, or individuals under age 26 who were in foster care.

AB 80 (Committee on Budget), Chapter 12, Statutes of 2020, the 2020 health-related trailer bill, conformed the suspension of benefits for juveniles with the 2018 federal law. Pursuant to AB 80, the suspension ends in accordance with federal law or one year from the date the individual became incarcerated, whichever is later.

- 4) **Eligibility for Incarcerated Adults.** Current state law suspends Medi-Cal eligibility for incarcerated adults, with the suspension ending on the date they are no longer incarcerated or one year from the incarceration date, whichever is sooner.
- 5) **This Bill.** This bill would extend the current one-year suspension for adult populations to a period of three years. For juveniles, with one exception, it would simply end the suspension on the date the juvenile is no longer incarcerated. An exception is made if a juvenile becomes an adult while incarcerated, in which case a three-year suspension would apply. This suspension of up to three years would also terminate on the date the individual is no longer incarcerated.

AB 80 required the department, in consultation with stakeholders, to develop and implement a redetermination of eligibility for juveniles whose eligibility is suspended. This bill adds redetermination of eligibility for adults to the department's charge.

- 6) **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.

- 7) **Staff Comments.** Suspending, instead of terminating, eligibility for a longer period of time may allow an individual to establish eligibility and receive health care sooner upon leaving a facility. This is balanced by the administrative expense and burden of performing additional eligibility determinations at least annually while an individual is incarcerated.

DHCS's proposed TBL addresses the same goal of ensuring continuity of care upon release by ensuring individuals receive assistance applying to Medi-Cal as they leave a local institution (CDCR already has a similar process in place). Even if AB 112 bill was law and Medi-Cal eligibility was suspended instead of terminated, application assistance is important to ensuring continuity of care because the majority of individuals do not enter the institution as Medi-Cal eligible and would presumably not leave as Medi-Cal eligible unless they receive such assistance.

- 8) **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 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.

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