

Date of Hearing: May 18, 2022

ASSEMBLY COMMITTEE ON APPROPRIATIONS  
Chris Holden, Chair  
AB 2134 (Akilah Weber) – As Amended April 28, 2022

Policy Committee: Health

Vote: 10 - 3

Urgency: No

State Mandated Local Program: Yes

Reimbursable: No

**SUMMARY:**

This bill establishes the California Abortion and Reproductive Equity (CARE) Act, and the California Reproductive Health Equity Program (Program) within the Department of Health Care Access and Information (HCAI), to ensure abortion and contraception services are affordable and accessible to all patients. Specifically, this bill:

- 1) Allows a Medi-Cal enrolled provider to apply for a grant for financial support to provide contraception and abortion services, as specified.
- 2) Requires a health care service plan (health plan) or health insurer that provides health coverage that does not include coverage and benefits for both abortion and contraception to provide an enrollee or insured with written information that abortion and contraception benefits and services may be available at no cost through the Program.
- 3) Requires an employer that provides employer-sponsored health coverage or otherwise provides hospital, surgical, or major medical benefits to its employees that does not include coverage or benefits for abortion and contraception to annually provide the information in 1), above, to its employees.
- 4) Requires the Department of Industrial Relations (DIR) to impose an annual fee (\$1) on those employers, excluding religious employers, and to deposit revenues annually into the California Reproductive Health Equity Fund (Fund).

**FISCAL EFFECT:**

The author and co-sponsors of this bill are requesting \$21 million over three years through the state budget process for the purposes of this bill.

Costs to the Department of Managed Health Care to implement this bill are unknown but potentially in the low hundreds of thousands of dollars in the first fiscal year, and approximately \$100,000 per year thereafter (Managed Care Fund).

Costs to the Department of Insurance are unknown but anticipated to be minor and absorbable (Insurance Fund).

Unknown costs to HCAI to administer the grant program; the funds could be collected pursuant to the provisions of this bill. HCAI is also allowed to seek and accept private funding for this bill.

**COMMENTS:**

According to the author:

The CARE Act continues California's commitment to being a Reproductive Freedom State and a national leader in safeguarding and advancing reproductive freedom. This bill is essential for ensuring that all people in California can access abortion care regardless of their insurance type, and providers are...supported. With the U.S. Supreme Court set to decide a case that could overturn *Roe v. Wade* later this year, it is critical that California has policy in place to meet this moment.

According to the California Health Benefits Review Program, under the Reproductive Privacy Act, California law prohibits the state from denying or interfering with a woman's right to choose or obtain an abortion prior to fetal viability, or when medically necessary. The state defines viability as the point in a pregnancy when, in the good faith medical judgment of a physician, there is a reasonable likelihood that a fetus will survive outside the uterus without "extraordinary medical measures." Abortion is considered a basic health care service in California and, therefore, is required to be covered by commercial health insurance plans and policies and CalPERS. Medically necessary follow-up services to abortions that constitute basic health care services must also be covered.

The state does not mandate which types of abortion methods (i.e., procedural or medication) must be covered, nor does it mandate cost-sharing requirements specific to these services. California's Medi-Cal program is one of 16 state Medicaid programs that use their own funds to cover abortion services and follow-up services for beneficiaries. The Medi-Cal program covers abortions as a physician service without cost sharing for all enrollees. California law prohibits family planning grants distributed by DHCS from funding abortions or associated services, including postabortion examinations.

Under federal law, since 1976, Congress has included a provision, known as the Hyde Amendment, in the annual appropriations legislation for the Departments of Labor, Health and Human Services and Education, prohibiting the use of federal funds for most abortions. The only exceptions to this prohibition are in cases of rape, incest or if a woman suffers from a life-threatening physical injury or illness that would place her in danger of death unless an abortion is performed. Medicaid is a jointly funded program by the federal and state governments. States may choose to pay for abortion services for additional circumstances; however, they must use nonfederal funds to pay for the service. Sixteen states currently have policies that allow for Medicaid funds to be used to pay for abortions that exceed Hyde limitations, including Alaska, California, Connecticut, Hawaii, Illinois, Oregon, Maine, Maryland, Massachusetts, Minnesota, Montana, New Jersey, New Mexico, New York, Washington and Vermont.

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