

Date of Hearing: May 6, 2026

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Buffy Wicks, Chair

AB 2538 (Macedo) – As Amended March 16, 2026

Policy Committee: Health

Vote: 16 - 0

Urgency: No

State Mandated Local Program: No

Reimbursable: No

SUMMARY:

This bill codifies current Department of Health Care Services (DHCS) requirements related to online forms to notify DHCS when a Medi-Cal fee-for-service member elects to receive hospice services.

FISCAL EFFECT:

No state costs.

COMMENTS:

1) **Purpose.** According to the author:

[This bill] helps protect some of the most vulnerable Medi-Cal patients by making sure hospices are actually providing the services they are claiming. Most people have never had to choose hospice before; they do not know what questions to ask, what warning signs to look for, or who to trust. That is why state oversight matters, and right now the system is broken. This bill codifies a commonsense accountability measure already being used by DHCS and helps ensure the hospice benefit is used appropriately and transparently.

2) **Background. Hospice.** Hospice is a specialized form of interdisciplinary health care primarily designed to provide palliative care and alleviate the physical, emotional, social, and spiritual discomforts of a person who is experiencing the last phases of life because of a terminal disease. Palliative care optimizes the quality of life of a patient with a terminal illness by anticipating, preventing, and treating suffering. Individuals who receive hospice care are commonly facing terminal cancer, heart disease, or neurological diagnoses, such as Alzheimer's disease. Hospice patients rely heavily on caregivers and are one of the state's most vulnerable populations.

Medi-Cal coverage mirrors the Medicare hospice benefit, which began in the 1980s. Any Medi-Cal recipient certified by a physician as having a life expectancy of six months or less can elect to receive hospice care in lieu of normal Medi-Cal coverage for services related to the terminal condition. To begin hospice care, a patient or their representative must file an election statement with a hospice provider. This statement acknowledges that the patient understands that the hospice care relating to the illness is intended to alleviate pain and

suffering rather than to cure the illness, and that certain Medi-Cal benefits are waived by the election of hospice.

Hospice Fraud. In December of 2020, The Los Angeles Times published an investigative series on the hospice industry, focused on the rapid growth in the number of agencies in southern California. In March 2022, the California State Auditor (CSA) released an audit report that noted that the number of hospice agencies in Los Angeles County had outpaced the need for hospice services in the preceding 10 years. The report found numerous indicators to suggest that many of these hospice agencies had been created to fraudulently bill Medicare and Medi-Cal for services rendered to ineligible patients, or services not provided at all. The audit found that the California Department of Public Health (CDPH), the agency primarily responsible for the licensing and oversight of hospice agencies, had failed to take adequate action in the face of widespread problems. The CSA report also found that DHCS and the California Department of Justice (DOJ) had not sufficiently coordinated their efforts with CDPH.

DHCS Forms Related to Hospice Election. As one of the many responses to the CSA audit, DHCS updated its hospice claims systems and managed care requirements to block hospice payments unless a valid provider/enrollee authorization form is verified, ensuring members have elected hospice care and preventing unauthorized billing. DHCS maintains two forms related to hospice election: the Notice of Election (NOE) form and the recently released Online Medi-Cal Hospice Program Attestation Form. According to DHCS, the two forms serve different but related purposes in the Medi-Cal hospice election process. The Hospice Notice of Election (NOE) Form documents a Medi-Cal fee-for-service member's election of hospice services and captures their informed consent and original signature, or that of their legal guardian or authorized representative. It must be completed by qualified hospice personnel after counseling the member and must be retained in the member's medical record, but is not submitted to DHCS.

The Medi-Cal Hospice Program Attestation Form serves as the official notification to DHCS that the member has elected hospice services. It must be completed online by the hospice provider within five calendar days of the election date. The provider must attest that all requirements were met, including obtaining informed consent using the DHCS NOE form.

This bill codifies the above requirements related to submission of the Attestation Form and the Hospice NOE form that documents the patient's consent.

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