
THIRD READING

Bill No: AB 2538
Author: Macedo (R), et al.
Amended: 6/29/26 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 11-0, 6/24/26

AYES: Weber Pierson, Valladares, Caballero, Durazo, Gonzalez, Grove,
Menjivar, Padilla, Pérez, Rubio, Smallwood-Cuevas

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 5/14/26 (Consent) - See last page for vote

SUBJECT: Medi-Cal: hospice providers: forms

SOURCE: Author

DIGEST: This bill codifies current Department of Health Care Services (DHCS) requirements for hospice providers to notify DHCS when a Medi-Cal fee-for-service recipient elects hospice services prior to seeking reimbursement for services.

ANALYSIS:

Existing law:

- 1) Establishes the Medi-Cal program, which is administered by the Department of Health Care Services (DHCS), and under which qualified low-income individuals receive health care services. Establishes a schedule of benefits under the Medi-Cal program, which includes hospice benefits in accordance with Medicare requirements, subject to utilization controls. [Welfare and Institutions Code (WIC) §14000, et seq. and §14132]
- 2) Authorizes DHCS to take a variety of anti-fraud measures, including limiting codes for which any provider may bill if DHCS determines excessive services

or billings or abuse has occurred; suspend payment to providers for all services upon receipt of a credible fraud allegation; automatically suspend or refuse to enroll providers who have been revoked or suspended from a federal, California or another state's licensing, certification, or approval authority or convicted of any fraud or abuse in any government program; issue Medi-Cal cards to Medi-Cal fraud investigators for purposes of investigating Medi-Cal fraud; seek confirmation from Medi-Cal recipients that covered services were actually received; and, adopt, repeal, or amend additional measures to prevent or curtail fraud and abuse via emergency regulations or guidance in specified cases. [WIC §14044, §14107.11, §14043.6, §14043.36, §14026.5, §14107.13, and §14043.75]

- 3) Establishes the Hospice Licensure Act of 1990 (Act) which provides the California Department of Public Health (CDPH) with the authority to license and regulate hospice agencies. [Health and Safety Code (HSC) §1745, et seq.]
- 4) Defines “hospice” as a specialized form of interdisciplinary health care that is designed to provide palliative care, alleviate the physical, emotional, social, and spiritual discomforts of an individual who is experiencing the last phases of life due to the existence of a terminal disease, and provide supportive care to the primary caregiver and the family of the hospice patient, and that meets specified criteria. [HSC §1746]
- 5) Imposes a moratorium on new hospice licensure until January 1, 2027, or one year after the date emergency regulations are adopted, as specified. [HSC §1751.70, et seq.]

This bill:

- 1) Requires DHCS to develop an online-only form for hospice providers to use to notify DHCS when a Medi-Cal fee-for-service member elects to receive hospice services. Authorizes DHCS to designate the existing Medi-Cal Hospice Program Attestation Form, its successor, or a different form, as this form.
- 2) Requires a hospice provider to submit the online form within five calendar days after the Medi-Cal fee-for-service member's election to receive hospice services, in conjunction with counseling the Medi-Cal member, obtaining informed consent, and completing and obtaining a signature on the Medi-Cal Hospice Program Election Notice Form (DHCS 8052) or its successor.

- 3) Requires the provider to maintain the election notice form in the Medi-Cal member's medical records and make the election notice form available to DHCS upon request or in the event of a state or federal audit.
- 4) Requires submission of the online form for reimbursement eligibility, but specifies that the submission itself does not guarantee that reimbursement.
- 5) Requires a reimbursement claim by a hospice provider to be processed only after DHCS validates the information and applies relevant hospice billing codes.
- 6) Specifies that this bill applies only to the Medi-Cal fee-for-service delivery system. Clarifies that in the case of Medi-Cal managed care, a hospice provider must instead follow its assigned Medi-Cal managed care plan's submission requirements, including, but not limited to, the submission of a Medi-Cal hospice program election notice as set forth in All Plan Letter 25-008 or its successor.
- 7) Specifies that this bill does not limit DHCS's authority to implement any additional fraud-prevention measures as authorized or required by state or federal law

Background

According to the author of this bill:

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.

Background on hospice. At the center of hospice care is the belief that individuals have the right to die pain-free and with dignity, and that families will receive necessary support. Hospice care is available to patients who no longer wish treatment directed at curing their disease. Patients are usually referred to hospice by their personal physician, although they can be referred by their families or even by themselves. Initially, a physician certifies that the patient has a life expectancy of six months or less if the disease follows its normal course. Hospice usually

begins within 48 hours after a referral, but can begin sooner based on the circumstances. A hospice nurse evaluates what the person and family needs and develops a plan of care. The plan addresses the entire family's needs: medical; emotional; psychological; spiritual; and, support services. The nurse then coordinates the care with a physician and the full team of health professionals.

State Audit. California State Auditor Report 2021-123 on California Hospice Licensure and Oversight was published on March 29, 2022, and found multiple indicators of fraud and abuse, in particular in Los Angeles County: a rapid increase in the number of hospice agencies with no clear correlation to increased need; excessive geographic clustering of hospices with sometimes dozens of separately licensed agencies located in the same building; unusually long durations of hospice services provided to individual patients; abnormally high rates of still-living patients discharged from hospice care; and, hospice agencies using possibly stolen identities of medical personnel. The state audit found that the state agencies responsible for overseeing hospice care in California have failed to take adequate measures to prevent such fraudulent billing of Medicare or Medi-Cal or to protect patients from unqualified and unscrupulous providers. The report focused primarily on CDPH's weak licensing and investigative procedures, but also pointed to the need for coordination with DHCS, as the provider of Medi-Cal hospice services with its own investigative authority, and the Department of Justice (DOJ).

Recent state actions. Prior to the release of the report, the Legislature passed SB 664 (Allen, Chapter 494, Statutes of 2021) to instill a moratorium on new hospice licenses. AB 2673 (Irwin, Chapter 797, Statutes of 2022) extended the moratorium, added a new moratorium on license transfers (which remains in place), and required CDPH to conduct surveys of accredited hospices and adopt emergency regulations, along with other oversight requirements. According to the Governor's office, the state has revoked the licenses of more than 280 hospices over the past two years and is evaluating an additional 300 hospices. The state has also created a multi-agency Hospice Fraud Task Force coordinated by CDPH, that also includes DHCS, the California Health and Human Services Agency, and the DOJ. In April 2026 the Attorney General and DHCS announced charges filed against 21 suspects and the arrest of five people in a hospice fraud scheme that defrauded California of \$267 million. Finally, CDPH just released proposed emergency regulations that would establish a comprehensive licensing framework for hospice agencies on June 1, 2026.

Trump administration focus on fraud in Medicaid. The Trump Administration has begun intensely focusing on fraud in the Medicaid program. On January 27, 2026,

the Center for Medicare & Medicaid Services (CMS) Director Mehmet Oz posted a video on social media highlighting hospice fraud in Los Angeles. However, in a January 27, 2026 letter from CMS to Governor Newsom, CMS identified 14 services as “high-risk” services that were the focus of fraud investigations in Minnesota and questioned what activities California has undertaken related to these services. Hospice services were not mentioned in this letter. Nonetheless, in DHCS’ response to this letter, it highlighted its efforts to combat fraud, waste, and abuse. DHCS stated that the largest number of credible allegations of fraud that it has investigated involve hospice providers, with allegations including billing for services not rendered, medically unnecessary services, and upcoding. In the past two years, DHCS’s fraud unit had 48 hospice-related credible fraud referrals involving 189 subjects.

The President also formed a fraud task force via executive order on March 16, 2026, chaired by the Vice President, to look at fraud across the federal government. Most recently, on May 13, 2026, CMS announced a six-month moratorium on new Medicare enrollment for hospices; and in the press release, pointed to heightened oversight of newly enrolled Medicare hospice providers in states with elevated fraud risk, including California. CMS also stated that it was conducting nationwide hospice site visits, proposing new regulations involving a new public hospice scoring system, and suspending payments to hundreds of hospice providers in Los Angeles.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

SUPPORT: (Verified 8/3/26)

The California Baptist Capitol Ministry

OPPOSITION: (Verified 8/3/26)

None received

ARGUMENTS IN SUPPORT: The California Baptist Capitol Ministry, representing 11 California Baptist Churches, writes in support stating that this bill is a commitment to caring for the most vulnerable among us. They state that the bible requires extending proper care and accountability for those in their final days.

ASSEMBLY FLOOR: 77-0, 5/14/26

AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Castillo, Chen, Connolly, Davies, DeMaio, Dixon, Elhawary, Ellis, Fong,

Gabriel, Gallagher, Garcia, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Johnson, Kalra, Krell, Lackey, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Tangipa, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas

NO VOTE RECORDED: Arambula, Flora, Celeste Rodriguez

Prepared by: Jen Flory / HEALTH / (916) 651-4111
8/5/26 15:12:49

**** END ****