
SENATE COMMITTEE ON HEALTH

Senator Caroline Menjivar, Chair

BILL NO: SB 528
AUTHOR: Weber Pierson
VERSION: March 25, 2025
HEARING DATE: April 30, 2025
CONSULTANT: Jen Flory

SUBJECT: Health care: maintenance and expansion

SUMMARY: Requires the California Health and Human Services Agency to develop a program, or expand an existing program, to continue providing services or benefits that are otherwise covered under Medi-Cal should federal financial participation for these services or benefits be eliminated, reduced, or otherwise limited, subject to an appropriation by the Legislature.

Existing law:

- 1) Establishes the California Health and Human Services Agency (CHHS), which consists of the following departments and offices (hereinafter “departments”): Aging, Child Support Services, Community Services and Development, Developmental Services, Health Care Access and Information, Health Care Services (DHCS), Managed Health Care, Public Health, Rehabilitation, Social Services, State Hospitals, the Center for Data Insights and Innovation, the Emergency Medical Services Authority, the Office of Technology and Solutions Integration, the Office of Law Enforcement Support, the Office of the Surgeon General, the Office of Youth and Community Restoration, and the State Council on Developmental Disabilities. [GOV §12803 and §12806]
- 2) Establishes the Medi-Cal program, which is administered by DHCS, and under which qualified low-income individuals receive health care services. [WIC §14000, et seq.]
- 3) Prohibits individuals without a qualified immigration status from being eligible for any state or local public benefits (including Medicaid), except for assistance for health care items and services that are necessary for the treatment of an emergency medical condition, public health assistance for immunizations, and for testing and treatment of symptoms of communicable disease. [8 USC §1621]
- 4) Establishes Medi-Cal eligibility for individuals without satisfactory immigration status using state funds and directs DHCS to maximize federal financial participation in implementing this section to the extent allowable. [WIC §14007.8]
- 5) Establishes a schedule of benefits under the Medi-Cal program, which includes benefits required under federal law and benefits provided at the state’s option, both of which are funded with federal and state dollars. The schedule of benefits includes inpatient hospital services and outpatient services, subject to utilization controls. [WIC §14132]
- 6) Establishes that a health care service is medically necessary when it is reasonable and necessary to protect life, prevent significant illness or significant disability, or to alleviate severe pain, as well as all services covered under the federal early and periodic screening, diagnosis, and treatment for individuals under 21 years of age. [WIC §14059.5]

- 7) Requires Medi-Cal managed care plans to require staff who are in direct contact with Medi-Cal recipients in the delivery of care or services to complete evidence-based cultural competency training for the purpose of providing trans-inclusive health care for individual who identify as transgender, gender diverse, or intersex (TGI). [WIC §14197.09]
- 8) Establishes the State-Only Family Planning Program (known as Family PACT), administered by DHCS, to provide family planning services for men and women, including emergency and complication services directly related to the contraceptive method and follow-up, consultation, and referral services. [WIC §24007]

This bill:

- 1) Requires CHHS to develop a new program or expand an existing state program, including Family PACT, to provide services or benefits that are otherwise covered under Medi-Cal should federal financial participation to the Medi-Cal program be eliminated, reduced or otherwise limited.
- 2) Specifies that such services or benefits include, but are not limited to, abortion, family planning, and gender affirming care.
- 3) Specifies that target populations include individuals without satisfactory immigration status, as well as other individuals, regardless of whether or not they are Medi-Cal recipients.
- 4) Requires CHHS to determine which services should be included in the program dependent on the needs of the target populations and the extent that federal financial participation to the Medi-Cal program is eliminated, reduced, or otherwise limited.
- 5) Permits CHHS to enter into contract with service providers, third-party administrators, or other vendors to implement this program.
- 6) Creates the Health Care Maintenance and Expansion Fund, administered by CHHS, to provide the services and benefits, and authorizes CHHS to receive and deposit into the fund private donations.
- 7) Conditions implementation of the program and the creation of the fund upon an appropriation by the Legislature.
- 8) Requires DHCS to expand any existing state-only-funded health programs, including Family PACT, to provide Medi-Cal recipients services or benefits otherwise covered under the Medi-Cal program, including abortion or gender-affirming care, should federal financial participation be eliminated, reduced, or otherwise limited. Requires DHCS to determine which services or benefits to include. Conditions the implementation of this expansion upon an appropriation by the Legislature for this purpose.
- 9) Makes legislative findings that roughly 40% of the state's population was enrolled in Medi-Cal in 2022, financing for Medi-Cal is shared by the state and federal government with some services and recipients receiving a 50% federal match, some receiving a 90% federal match, and some receiving no federal funds. Makes additional findings that recent federal executive orders have directed federal agencies to ensure that federal funds are not spent on abortion care or gender affirming services and that Congress is considering proposals that would further reduce federal funding to the Medi-Cal program.

- 10) States that it is the intent of the Legislature to maximize federal financial participation for the Medi-Cal program to ensure Californians have ongoing access to all covered services, or for the state to otherwise maintain those Medi-Cal or other health care services through state-only programs based on any lack of, elimination of, reduction in, or limitation on federal financial participation.

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

COMMENTS:

- 1) *Author's statement.* According to the author, President Trump's recent actions, including cutting crucial Title X family planning funds and signing an executive order targeting transgender individuals, are deeply troubling. These measures represent a direct assault on vulnerable communities, particularly women and LGBTQ+ people. The ongoing attacks on reproductive health, including programs for family planning, will have devastating consequences for marginalized groups. Access to vital services like STI testing, birth control, and basic reproductive health counseling is being restricted, prioritizing a harmful political agenda over public health. This erosion of healthcare services is not just a health issue but also a direct threat to the values of equality, justice, and inclusivity. In response to these federal threats, California must ensure there is no gap in care for those relying on Medi-Cal. This bill will safeguard reproductive health services and ensure that Californians can access the care they need despite federal cuts. This bill protects the rights of all individuals to receive reproductive and gender-affirming health care, regardless of income or background. If the federal government refuses to prioritize the needs of its citizens, we will take action at the state level to protect access to reproductive healthcare because it is vital that every person has the right to make their own healthcare decisions, free from political interference.
- 2) *Existing Medicaid restrictions on abortion.* According to the Congressional Research Service, the Hyde Amendment, named after its original congressional sponsor, Representative Henry J. Hyde, refers to funding restrictions that Congress has included in the annual appropriations acts since 1979 for the Departments of Labor, Health and Human Services, and Education, and related agencies. The most recent enacted versions of the Hyde Amendment prohibits covered funds to be expended for any abortion or to provide health benefits coverage that includes abortion. This restriction, however, does not apply to abortions of pregnancies that are the result of rape or incest ("rape or incest exception"), or where a woman would be in danger of death if an abortion is not performed ("life-saving exception"). As a statutory provision included in annual appropriations acts, Congress can modify, and has modified, the Hyde Amendment's scope over the years, both as to the types of abortions and the sources of funding subject to this restriction. Because the Hyde Amendment is a limitation on particular sources of funds, it does not apply to other sources of funds that may be available to a federal program. Some states, such as California, cover abortions beyond the Hyde restrictions under their Medicaid programs using exclusively state funds.
- 3) *Medi-Cal coverage of abortion.* Despite the Hyde Amendment and similar cuts to abortion coverage for Medi-Cal in California following its passage, the Medi-Cal program has covered abortion services using state-only funds since 1981 when the California Supreme Court found that failing to cover abortion services while covering childbirth services violated the California constitution's right of privacy in *Committee to Defend Reproductive Rights v. Myers* (1981). The Court stated that there is no greater power than power of the purse and the

government cannot nullify constitutional rights by conditioning benefits upon the sacrifice of such rights. Once the state opted to furnish medical care, it cannot withdraw part of the care solely because a woman exercises her constitutional right to have an abortion. The court also stated that doing so was particularly invidious because the practical effect is to deny poor women the right of choice guaranteed to the rich. Thus regardless of the status of federal funding for Medicaid, California must cover abortions as long as it covers childbirth services under its own constitution.

- 4) *Medi-Cal coverage of gender-affirming care.* According to the Medi-Cal provider manual, gender-affirming care is a covered Medi-Cal benefit when medically necessary and refers to treatment provided to address incongruence between a person's gender assigned at birth and their gender identity. The manual states that requests for gender-affirming care should be from specialists experienced in providing culturally competent care to transgender and gender diverse individuals, and should use nationally recognized guidelines. It further states that nationally recognized medical experts in the field of transgender health care have identified the following core services in providing gender affirming care: mental and behavioral health services, hormone therapy, and a variety of surgical procedures that bring primary and secondary gender characteristics into conformity with the individual's identified gender, including ancillary services, such as hair removal, incident to those services.
- 5) *Medi-Cal coverage of immigrants not eligible for federal Medicaid.* Federal law limits eligibility for Medicaid services to citizens or immigrants with a qualified immigration status, except for specific restricted scope services, which have been interpreted to include emergency and pregnancy-related services, as well as certain other public health services. California has long covered services for additional immigrant populations who do not meet the strict definition of a qualified immigrant, such as for newer immigrants or immigrants in specific categories not mentioned in federal law. Beginning in 2015, California also began expanding Medi-Cal eligibility to immigrants, starting with children, regardless of immigration status. As of January 1, 2024, the Medi-Cal program no longer considers immigration status for purposes of eligibility for individuals of any age, so long as the individual would otherwise be eligible for the program as a low-income resident of California. Individuals not eligible for federal Medicaid funding receive Medi-Cal services through state funding.
- 6) *Family PACT.* Family PACT was created in 1996, is administered by DHCS' Office of Family Planning, and provides comprehensive family planning services to women and men, including all FDA-approved forms of contraception, emergency contraception, pregnancy testing with counseling, preconception counseling, male and female sterilization, limited infertility services, sexually transmitted infection (STI) testing and treatment, cancer screening, and HIV screening. The program was named the State-Only Family Planning Program in statute because it was originally funded by the state. However, given changes to federal funding opportunities, the family planning and STI testing services are now funded through 90% federal funds and 10% state funds. STI treatment services and other family planning related services receive a 50% federal match. The program is included in California's Medicaid state plan even though it functions as a separate program. Provider reimbursement is generally consistent with California's Medi-Cal fee-for-service rates.

According to the most recent program report, in fiscal year 2019-20 Family PACT served 660,000 women and men through 2,092 clinical providers. Family PACT clients are female and male residents of California with a family income at or below 200% FPL with no other

source of family planning coverage. Individuals with a medical necessity for family planning services who do not have Medi-Cal and do not have access to health insurance are eligible for Family PACT. Medi-Cal clients with an unmet share of cost may also be eligible.

- 7) *Recent federal actions restricting gender-affirming care, reproductive health services, and services to immigrants.* Since starting his second term in January, President Trump has signed executive orders strengthening the application of the Hyde amendment by revoking previous Biden executive orders intended to protect access to reproductive services after the Supreme Court overruled *Roe v. Wade* in 2022 (EO 14182); declaring that only two biological sexes are recognized in the U.S. (EO 14168); prohibiting the U.S. government from funding or supporting gender-affirming care for people under the age of 19, which included instructions to review the legality of section 1557 of the Affordable Care Act, which contains anti-discrimination in health care requirements (EO 14187); and, attempting to further limit immigrant access to programs that receive federal funding (EO 14218). The orders regarding gender are subject to multiple, ongoing lawsuits and have been stayed in part.

The Trump administration sent notices on March 31 to nearly 20% of the Title X grantees, including the remaining grantees in California, that their federal funding grant for comprehensive family planning services to low-income and uninsured individuals would be frozen. Additionally, on April 11, the Centers for Medicare and Medicaid Services issued a State Medicaid Director letter stating reasons that gender-affirming hormonal treatments and surgeries for minors would not be Medicaid covered services.

Meanwhile, both houses of Congress have passed budget resolutions that would necessitate massive cuts to the Medicaid program, though details on such cuts remain to be determined. Various plans have been rumored that would include cuts to states' federal matching percentage for the program entirely or subsets of the program, block grants that would cap the total Medicaid dollars going to states, reductions in eligible populations or services, and the elimination of various provider taxes that states use to fund the program.

- 8) *Related legislation.* AB 1012 (Essayli) repeals the expansion of Medi-Cal to individuals regardless of immigration status and creates a fund to pay Medicare Part B premiums to eligible individuals. *AB 1012 is pending in the Assembly Rules Committee.*
- 9) *Prior legislation.* A number of bills attempted to or did expand access to Medi-Cal or Covered California for immigrants regardless of immigration status:
- a. SB 184 (Committee on Budget and Fiscal Review, Chapter 47, Statutes of 2022) extended eligibility for full-scope Medi-Cal benefits to adults 26 to 49 years of age, regardless of immigration status.
 - b. AB 4 (Arambula, et al. of 2022) would have extended eligibility for full scope Medi-Cal benefits to anyone regardless of age, and who is otherwise eligible for those benefits but for their immigration status. *AB 4 was incorporated into SB 184.*
 - c. SB 56 (Durazo of 2021) would have extended eligibility for full-scope Medi-Cal benefits to adults age 60 and above who are otherwise eligible for those benefits but for their immigration status, subject to an appropriation of funds in the annual Budget Act or another statute. *SB 56 was incorporated into AB 133.*

- d. AB 133 (Committee on Budget, Chapter 43, Statutes of 2021) extended eligibility for full-scope Medi-Cal benefits to adults 50 years and older, regardless of immigration status.
 - e. AB 80 (Committee on Budget, Chapter 12, Statutes of 2020) extended eligibility for full-scope Medi-Cal benefits to adults 65 years and older, regardless of immigration status.
 - f. SB 29 (Durazo of 2019) was substantially similar to AB 80. *SB 29 died on the Assembly floor.*
 - g. SB 104 (Committee on Budget and Fiscal Review, Chapter 67, Statutes of 2019) requires full-scope Medi-Cal eligibility to be extended to income eligible adults ages 19 to 25, regardless of immigration status.
 - h. AB 4 (Arambula, et al. of 2019) would have extended eligibility for full-scope Medi-Cal benefits to adults 19 years and older, regardless of immigration status. Subjected the expansion of eligibility to an appropriation of funds in the annual Budget Act or another statute. *AB 4 was not heard in the Senate Health Committee.*
 - i. SB 974 (Lara of 2018) would have required full scope Medi-Cal eligibility, subject to an appropriation, to be expanded to individuals 65 years of or older, regardless of immigration status. *SB 974 was held on the Assembly Appropriations suspense file.*
 - j. AB 2965 (Arambula and Thurmond of 2018) would have required full scope Medi-Cal eligibility to be extended to individuals under 26 years of age, regardless of immigration status. *AB 2965 was held on the Senate Appropriations suspense file.*
 - k. SB 10 (Lara, Chapter 22, Statutes of 2016) requires Covered California to apply to the federal Department of Health and Human Services for a Section 1332 waiver to allow persons who are not otherwise able to obtain coverage through by reason of immigration status to obtain coverage by waiving the requirement that Covered California offer only qualified health plans.
 - l. SB 75 (Committee on Budget and Fiscal Review, Chapter 18, Statutes of 2015) requires full-scope Medi-Cal eligibility to be extended to income eligible children under the age of 19, regardless of immigration status.
 - m. SB 1005 (Lara of 2014) would have required full scope Medi-Cal eligibility to be extended to individuals who would otherwise be eligible, except for their immigration status, and would have created a new health benefit exchange, to provide subsidized health care coverage to individuals who cannot purchase health care coverage through Covered California due to their immigration status. *SB 1005 was held on the Senate Appropriations suspense file.*
- 10) *Support.* Sponsors Planned Parent Affiliates of California writes that this bill proactively provides the state with options to respond to federal actions that will eliminate or reduce federal matching dollars for sexual and reproductive health care, including through expanding existing state-only programs or establishing a new program that will support providers who choose to continue to provide essential health care that is legal in this state. They write that this bill shows Californians that the State will have their backs regardless of federal threats to essential health care; and, that in California their rights remain protected in the face of uncertainty.
- 11) *Opposition.* Opponents Our Duty, a non-partisan national group of parents, women, and those harmed by gender ideology write that California should not continue to fund gender transition services for minors. They state that California is an outlier in providing these services and that given the current fiscal crisis for the Medi-Cal program, an untold amount of money should not be spent on these services. They also point to four lawsuits that have

been filed in California by individuals who received gender-affirming hormonal treatment and surgeries as minors.

12) *Policy comments.*

- a) This bill authorizes the expansion of Family PACT, stating that it is a state-only-funded health program, to provide services in the event that the Medi-Cal program could no longer provide those services. However, as described above, despite its original name in statute, the Family PACT program is no longer funded through only state funds and is now part of California's Medicaid state plan.
- b) This bill also gives very loose parameters in terms of what programs, services, or populations would be included in the new program and gives CHHS and/or DHCS broad authority to determine those specifics, subject to an appropriation by the Legislature. Given the uncertainty as to what exactly will happen with federal funding as well as what sort of timeframe the state would have to act, an expedited implementation might not be unfounded. However, the Legislature may wish consider their ongoing role in program design, particularly should the funding appropriated and available not be sufficient to cover all services or populations that are jeopardized. In all likelihood, this would be done through budget trailer bill language.

- 13) *Amendments.* The author and committee have agreed to the following amendments that would 1) remove the reference to Family PACT as a state-only program, 2) give DHCS the same flexibility as CHHS in program design, and 3) allow for the possibility that Family PACT be modified to operate as a separate expanded program as follows:

Sec. 3

(a) Subject to an appropriation made by the Legislature for this purpose, the department *shall develop a new program, or* shall expand any existing state-only-funded health programs, ~~including, but not limited to, the State-Only Family Planning Program described in Division 24 (commencing with Section 24000)~~, to provide to Medi-Cal beneficiaries certain services or benefits that are otherwise covered under the Medi-Cal program but for any lack of, elimination of, reduction in, or limitation on, federal financial participation.

Sec. 4

Subject to an appropriation made by the Legislature for this purpose, the State-Only Family Planning Program may be *modified and* expanded to facilitate implementation of Section 14042.5 of this code or Division 123 (commencing with Section 152500) of the Health and Safety Code, depending on the determinations made by the State Department of Health Care Services or the California Health and Human Services Agency under those respective provisions.

SUPPORT AND OPPOSITION:

Support: Planned Parenthood Affiliates of California (sponsor)
 American College of Gynecologists – District IX
 Community Clinic Association of Los Angeles County
 North East Medical Services

Oppose: Our Duty
 One individual

-- END --