

AMENDED IN SENATE JUNE 8, 2011
AMENDED IN SENATE APRIL 6, 2011
AMENDED IN SENATE MARCH 14, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 96

Introduced by Assembly Member Blumenfeld Committee on Budget

January 10, 2011

An act to add Chapter 8.6 (commencing with Section 14515) to Part 3 of Division 9 of the Welfare and Institutions Code, relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately, ~~and Institutions Code, relating to Medi-Cal, making an appropriation therefor, to take effect immediately, bill related to the budget.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 96, as amended, ~~Blumenfeld Committee on Budget. Adult day health care.~~ *Keeping Adults Free from Institutions program.*

Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which health care services are provided to qualified, low-income persons. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing law provides, to the extent permitted by federal law, that adult day health care (ADHC) be excluded from coverage under the Medi-Cal program.

This bill would provide that it is the intent of the Legislature to create the Keeping Adults Free from Institutions (KAFI) program, which shall be a new program to provide services in the community that are designed to prevent institutionalization, and that the KAFI program be established as quickly as possible to minimize any disruption in services

resulting from the elimination of ADHC as a Medi-Cal benefit. This bill would prohibit the KAFI program from being implemented until federal approval is obtained, and provide that the KAFI program is to be implemented only to the extent that federal financial participation is available. This bill would require the department to submit, on or before September 1, 2011, an application to the federal Centers for Medicare and Medicaid Services (CMS) to implement the KAFI program. This bill would require the KAFI program to utilize licensed adult day health centers to provide a well-defined scope of specified services for Medi-Cal beneficiaries who have been assessed to be at significant risk of institutionalization. This bill would require the department to consult with interested stakeholders and the Legislature in developing the application to CMS and would authorize the department to implement these provisions by means of a state plan amendment or federal waiver, or combination thereof.

This bill would appropriate \$1,000 to the department for administration.

This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

~~Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which health care services are provided to qualified, low-income persons. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing law, the Adult Day Health Medi-Cal Law, establishes adult day health care (ADHC) services as a Medi-Cal benefit for Medi-Cal beneficiaries who meet certain criteria.~~

~~This bill would provide that it is the intent of the Legislature to provide for an orderly conversion of ADHC from a Medi-Cal benefit to a program operating under a specified waiver. This bill would require the department to establish the Keeping Adults Free from Institutions (KAFI) program for the purposes of transitioning individuals from the ADHC program to a program under a waiver or to any other supportive services, if appropriate. The bill would require the department to take all appropriate action to obtain expedited approval from the federal Centers for Medicare and Medicaid Services to convert the ADHC program to a federal waiver.~~

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

~~Vote: $\frac{2}{3}$ -majority. Appropriation: ~~no~~-yes. Fiscal committee: yes. State-mandated local program: no.~~

The people of the State of California do enact as follows:

1 *SECTION 1. Chapter 8.6 (commencing with Section 14515)*
2 *is added to Part 3 of Division 9 of the Welfare and Institutions*
3 *Code, to read:*

4
5 *CHAPTER 8.6. KEEPING ADULTS FREE FROM INSTITUTIONS*
6

7 14515. (a) *It is the intent of the Legislature to create the*
8 *Keeping Adults Free from Institutions (KAFI) program, which*
9 *shall be a new program to provide services in the community that*
10 *are designed to prevent institutionalization.*

11 (b) *It is the intent of the Legislature that the KAFI program*
12 *allow recipients of adult day health care pursuant to Chapter 8.7*
13 *(commencing with Section 14520), who are at the greatest risk of*
14 *institutionalization, to be given immediate priority to transition to*
15 *the new program.*

16 (c) *It is the intent of the Legislature that the KAFI program be*
17 *established as quickly as possible to minimize any disruption in*
18 *services resulting from the elimination of adult day health care as*
19 *a Medi-Cal optional benefit.*

20 14516. (a) *On or before September 1, 2011, the department*
21 *shall submit an application to the federal Centers for Medicare*
22 *and Medicaid Services (CMS) to implement the Keeping Adults*
23 *Free from Institutions (KAFI) program. This program shall utilize*
24 *licensed adult day health centers, as defined in subdivision (b) of*
25 *Section 1570.7 of the Health and Safety Code, to provide a*
26 *well-defined scope of medical, behavioral health, and social*
27 *services for Medi-Cal beneficiaries who have been assessed using*
28 *evidence-based risk factors to be at significant risk of*
29 *institutionalization, including admission or readmission to an*
30 *institutional setting in the absence of community-based services.*
31 *The KAFI program shall achieve all of the following:*

32 (1) *Promote person-centered care planning.*

33 (2) *Work in coordination with existing state programs, including*
34 *other federal waivers and pilot projects that have, as one of their*
35 *goals, to delay or prevent inappropriate or personally undesirable*
36 *institutionalization.*

37 (3) *Emphasize partnership between the participant, the*
38 *participant's family, the personal health care provider, and other*

1 *community care providers in working toward maintaining personal*
2 *independence.*

3 *(4) Facilitate the beneficiary's choice to the extent feasible.*

4 *(b) The department may implement this chapter by means of a*
5 *state plan amendment or federal waiver, or a combination thereof,*
6 *as necessary to accomplish the intent of this chapter. The*
7 *department shall seek to maximize the availability of federal*
8 *financial participation for implementation of this chapter under*
9 *the terms of any existing waivers or state plan provisions, through*
10 *amendment of any existing waivers or state plan provisions, or by*
11 *means of a new waiver or state plan amendment, or any*
12 *combination thereof.*

13 *(c) In developing the application to CMS pursuant to this*
14 *section, the department shall consult with interested stakeholders*
15 *and the Legislature.*

16 *(d) Notwithstanding the Administrative Procedure Act (Chapter*
17 *3.5 (commencing with Section 11340) of Part 1 of Division 3 of*
18 *Title 2 of the Government Code), the department may implement*
19 *this chapter through all-county letters or similar instructions,*
20 *without taking regulatory action. Prior to issuing any letter or*
21 *similar instruction authorized pursuant to this subdivision, the*
22 *department shall notify and consult with stakeholders, including*
23 *advocates, providers, and beneficiaries, in implementing,*
24 *interpreting, or making specific this chapter.*

25 *14516.5. (a) The director shall seek any necessary federal*
26 *approvals for the implementation of the KAFI program. The KAFI*
27 *program shall not be implemented until federal approval is*
28 *obtained and shall be implemented only to the extent that federal*
29 *financial participation is available.*

30 *(b) Implementation of the KAFI program is subject to an*
31 *appropriation in the annual Budget Act.*

32 *SEC. 2. The sum of one thousand dollars (\$1,000) is hereby*
33 *appropriated from the General Fund to the State Department of*
34 *Health Care Services for administration.*

35 *SEC. 3. This act is a bill providing for appropriations related*
36 *to the Budget Bill within the meaning of subdivision (e) of Section*
37 *12 of Article IV of the California Constitution, has been identified*
38 *as related to the budget in the Budget Bill, and shall take effect*
39 *immediately.*

1 SECTION 1. ~~Chapter 8.6 (commencing with Section 14515)~~
2 ~~is added to Part 3 of Division 9 of the Welfare and Institutions~~
3 ~~Code, to read:~~

4
5 ~~CHAPTER 8.6. KEEPING ADULTS FREE FROM INSTITUTIONS~~
6

7 14515. ~~(a) It is the intent of the Legislature in enacting this~~
8 ~~chapter to provide for an orderly conversion of adult day health~~
9 ~~care (ADHC) from a Medi-Cal benefit under Chapter 7~~
10 ~~(commencing with Section 14000) of this part, to a program~~
11 ~~operating under a Section 1915(c) waiver under the federal Social~~
12 ~~Security Act (42 U.S.C. 1396n(e)), so that approval by the federal~~
13 ~~Centers for Medicare and Medicaid Services (CMS) to eliminate~~
14 ~~ADHC as a state plan benefit is concurrent with CMS approval of~~
15 ~~the waiver. It is the intent of the Legislature to establish and~~
16 ~~continue a community-based system of quality adult day health~~
17 ~~care services that will accomplish all of the following:~~

18 ~~(1) Ensure that elderly persons and adults with disabilities will~~
19 ~~not be institutionalized prematurely and inappropriately.~~

20 ~~(2) Provide appropriate health and social services designed to~~
21 ~~maintain elderly persons in their own communities.~~

22 ~~(3) Establish adult day health care centers in locations easily~~
23 ~~accessible to persons who are economically disadvantaged.~~

24 ~~(4) Encourage the establishment of rural alternative adult day~~
25 ~~health care centers that are designed to make adult day health care~~
26 ~~accessible to elderly persons and adults with disabilities living in~~
27 ~~rural areas.~~

28 ~~(b) The department shall establish the Keeping Adults Free from~~
29 ~~Institutions (KAFI) program for the purposes of transitioning~~
30 ~~individuals from the ADHC program to a program under a Section~~
31 ~~1915(c) waiver or to any other supportive services, if appropriate.~~

32 ~~(c) The department shall take all appropriate action to obtain~~
33 ~~expedited approval by CMS to convert the ADHC program to a~~
34 ~~Section 1915(c) waiver.~~

35 ~~SEC. 2. This act is an urgency statute necessary for the~~
36 ~~immediate preservation of the public peace, health, or safety within~~
37 ~~the meaning of Article IV of the Constitution and shall go into~~
38 ~~immediate effect. The facts constituting the necessity are:~~

39 ~~In order for the provisions of this act to be implemented at the~~
40 ~~earliest possible time and thereby avoid a gap in services to~~

- 1 beneficiaries of adult day health care, it is necessary that this act
- 2 take effect immediately.

O