

AMENDED IN SENATE JULY 3, 2012

AMENDED IN SENATE JUNE 12, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2206**

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**Introduced by Assembly Member Atkins**

February 23, 2012

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An act to amend Section 14132.275 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 2206, as amended, Atkins. Medi-Cal: dual eligibles: pilot projects. Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income persons receive health care benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions. Existing federal law provides for the federal Medicare Program, which is a public health insurance program for persons 65 years of age and older and specified persons with disabilities who are under 65 years of age. Existing law, to the extent that federal financial participation is available, and pursuant to a demonstration project or waiver of federal law, requires the department to establish pilot projects in up to 4 counties, to develop effective health care models to provide services to persons who are dually eligible under both the Medi-Cal and Medicare programs. Under existing law, the department may require persons who are dually eligible to enroll in a Medi-Cal managed care plan that is established or expanded as part of a pilot project. Existing law also provides that a person who is eligible for the California Program of All-Inclusive Care for the Elderly (PACE), which provides specified

long-term care services to qualified older individuals, may select a PACE plan if one is available in that county.

This bill would require, if a PACE plan is available, that the plan be presented as an enrollment option in the same manner as managed care health plans participating in the demonstration project, included in enrollment materials, enrollment assistance programs, and outreach programs related to the pilot project, and made available to Medi-Cal beneficiaries whenever enrollment choices and options are presented. This bill would authorize persons who are enrolled in a PACE plan to continue to receive their Medi-Cal and Medicare benefits through the PACE plan without having to reselect the plan, and authorize persons who are eligible for ~~the PACE program~~ to disenroll from a managed care health plan and enroll in a PACE plan at any time to receive their benefits. This bill would require managed care health plans to identify, in their assessments of enrollees, and notify, certain beneficiaries of their potential eligibility for ~~the PACE program~~. ~~This bill would require the department to seek flexibility for PACE plans to facilitate the growth of the PACE program.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
 State-mandated local program: no.

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

- 1 SECTION 1. Section 14132.275 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 14132.275. (a) The department shall seek federal approval to
- 4 establish pilot projects described in this section pursuant to a
- 5 Medicare or a Medicaid demonstration project or waiver, or a
- 6 combination thereof. Under a Medicare demonstration, the
- 7 department may operate the Medicare component of a pilot project
- 8 as a delegated Medicare benefit administrator, and may enter into
- 9 financing arrangements with the federal Centers for Medicare and
- 10 Medicaid Services to share in any Medicare program savings
- 11 generated by the operation of any pilot project.
- 12 (b) After federal approval is obtained, the department shall
- 13 establish pilot projects that enable dual eligibles to receive a
- 14 continuum of services, and that maximize the coordination of
- 15 benefits between the Medi-Cal and Medicare programs and access
- 16 to the continuum of services needed. The purpose of the pilot
- 17 projects is to develop effective health care models that integrate

1 services authorized under the federal Medicaid Program (Title  
2 XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et  
3 seq.)) and the federal Medicare Program (Title XVIII of the federal  
4 Social Security Act (42 U.S.C. Sec. 1395 et seq.)). These pilot  
5 projects may also include additional services as approved through  
6 a demonstration project or waiver, or a combination thereof.

7 (c) The department shall identify health care models that may  
8 be included in a pilot project, shall develop a timeline and process  
9 for selecting, financing, monitoring, and evaluating these pilot  
10 projects, and shall provide this timeline and process to the  
11 appropriate fiscal and policy committees of the Legislature. The  
12 department may implement these pilot projects in phases.

13 (d) Goals for the pilot projects shall include all of the following:

14 (1) Coordinating Medi-Cal benefits, Medicare benefits, or both,  
15 across health care settings and improving continuity of acute care,  
16 long-term care, and home- and community-based services.

17 (2) Coordinating access to acute and long-term care services  
18 for dual eligibles.

19 (3) Maximizing the ability of dual eligibles to remain in their  
20 homes and communities with appropriate services and supports in  
21 lieu of institutional care.

22 (4) Increasing the availability of and access to home- and  
23 community-based alternatives.

24 (e) Pilot projects shall be established in up to four counties, and  
25 shall include at least one county that provides Medi-Cal services  
26 via a two-plan model pursuant to Article 2.7 (commencing with  
27 Section 14087.3) and at least one county that provides Medi-Cal  
28 services under a county organized health system pursuant to Article  
29 2.8 (commencing with Section 14087.5). In determining the  
30 counties in which to establish a pilot project, the director shall  
31 consider the following:

32 (1) Local support for integrating medical care, long-term care,  
33 and home- and community-based services networks.

34 (2) A local stakeholder process that includes health plans,  
35 providers, community programs, consumers, and other interested  
36 stakeholders in the development, implementation, and continued  
37 operation of the pilot project.

38 (f) The director may enter into exclusive or nonexclusive  
39 contracts on a bid or negotiated basis and may amend existing  
40 managed care contracts to provide or arrange for services provided

1 under this section. Contracts entered into or amended pursuant to  
2 this section shall be exempt from the provisions of Chapter 2  
3 (commencing with Section 10290) of Part 2 of Division 2 of the  
4 Public Contract Code and Chapter 6 (commencing with Section  
5 14825) of Part 5.5 of Division 3 of Title 2 of the Government  
6 Code.

7 (g) Services under Section 14132.95 or 14132.952, or Article  
8 7 (commencing with Section 12300) of Chapter 3, that are provided  
9 under the pilot projects established by this section shall be provided  
10 through direct hiring of personnel, contract, or establishment of a  
11 public authority or nonprofit consortium, in accordance with, and  
12 subject to, Section 12301.6 or 12302, as applicable.

13 (h) Notwithstanding any other provision of state law, the  
14 department may require that dual eligibles be assigned as  
15 mandatory enrollees into managed care plans established or  
16 expanded as part of a pilot project established under this section.  
17 Mandatory enrollment in managed care for dual eligibles shall be  
18 applicable to the beneficiary’s Medi-Cal benefits only. Dual  
19 eligibles shall have the option to enroll in a Medicare Advantage  
20 special needs plan (SNP) offered by the managed care plan  
21 established or expanded as part of a pilot project established  
22 pursuant to subdivision (e). To the extent that mandatory  
23 enrollment is required, any requirement of the department and the  
24 health plans, and any requirement of continuity of care protections  
25 for enrollees, as specified in Section 14182, shall be applicable to  
26 this section. Dual eligibles shall have the option to forgo receiving  
27 Medicare benefits under a pilot project. Nothing in this section  
28 shall be interpreted to reduce benefits otherwise available under  
29 the Medi-Cal program or the Medicare Program.

30 (i) For purposes of this section, a “dual eligible” means an  
31 individual who is simultaneously eligible for full-scope benefits  
32 under Medi-Cal and the federal Medicare Program.

33 (j) (1) Persons meeting requirements for the Program of  
34 All-Inclusive Care for the Elderly (PACE) pursuant to Chapter  
35 8.75 (commencing with Section 14590), may select a PACE plan  
36 if one is available in that county. In areas where a PACE plan is  
37 available, the PACE plan shall be presented as an enrollment option  
38 in the same manner as managed care health plans participating in  
39 the demonstration project, and shall be included in all enrollment  
40 materials, enrollment assistance programs, and outreach programs

1 related to the pilot project, and shall be made available to  
2 beneficiaries whenever enrollment choices and options are  
3 presented. Persons who choose a PACE plan shall remain in  
4 fee-for-service Medi-Cal and Medicare and shall not be assigned  
5 to a managed care health plan until they are assessed for eligibility  
6 and determined not to be eligible for the PACE plan. Persons  
7 enrolled in a PACE plan shall receive all Medi-Cal and Medicare  
8 services from the PACE plan.

9 (2) Persons who are already enrolled in a PACE plan at the time  
10 of the enrollment period for the demonstration project shall remain  
11 in and continue to receive their Medi-Cal and Medicare benefits  
12 through the PACE plan, and shall not be provided with enrollment  
13 materials or required to select the PACE plan to remain in the plan.

14 (3) Notwithstanding any enrollment lock-in that may apply to  
15 the demonstration project for receipt of Medi-Cal or Medicare  
16 benefits, persons who become eligible for the PACE program and  
17 are enrolled in a managed care plan are authorized to disenroll  
18 from the plan and enroll in a PACE plan at any time to receive  
19 their Medi-Cal and Medicare benefits.

20 (4) Managed care health plans shall identify in their assessments  
21 of enrollees that occur during the transition to managed care and  
22 at regularly scheduled intervals beneficiaries who are 55 years of  
23 age and older who are at risk of being placed in a nursing home.  
24 Managed care health plans shall notify these beneficiaries of their  
25 potential eligibility for the PACE program.

26 ~~(5) The department shall seek, through waivers or other means,~~  
27 ~~flexibility for PACE plans to facilitate the growth of the PACE~~  
28 ~~program, including, but not limited to, the ability to use alternative~~  
29 ~~care settings and community-based physicians to provide services,~~  
30 ~~interdisciplinary teams that are based on the needs of each~~  
31 ~~beneficiary, and marketing materials and enrollment brokers in a~~  
32 ~~simplified manner to create awareness in the community of~~  
33 ~~available PACE plans.~~

34 (k) Notwithstanding Section 10231.5 of the Government Code,  
35 the department shall conduct an evaluation to assess outcomes and  
36 the experience of dual eligibles in these pilot projects and shall  
37 provide a report to the Legislature after the first full year of pilot  
38 operation, and annually thereafter. A report submitted to the  
39 Legislature pursuant to this subdivision shall be submitted in  
40 compliance with Section 9795 of the Government Code. The

1 department shall consult with stakeholders regarding the scope  
2 and structure of the evaluation.

3 (l) This section shall be implemented only if and to the extent  
4 that federal financial participation or funding is available to  
5 establish these pilot projects.

6 (m) Notwithstanding Chapter 3.5 (commencing with Section  
7 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
8 the department may implement, interpret, or make specific this  
9 section and any applicable federal waivers and state plan  
10 amendments by means of all-county letters, plan letters, plan or  
11 provider bulletins, or similar instructions, without taking regulatory  
12 action. Prior to issuing any letter or similar instrument authorized  
13 pursuant to this section, the department shall notify and consult  
14 with stakeholders, including advocates, providers, and  
15 beneficiaries. The department shall notify the appropriate policy  
16 and fiscal committees of the Legislature of its intent to issue  
17 instructions under this section at least five days in advance of the  
18 issuance.