

**Senate Bill No. 1339**

**CHAPTER 488**

An act to amend Section 14043.38 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 19, 2014. Filed with  
Secretary of State September 19, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1339, Cannella. Medi-Cal: Drug Medi-Cal Treatment Program providers.

Existing law provides for the Drug Medi-Cal (DMC) Treatment Program, under which counties enter into contracts with the State Department of Health Care Services for the provision of various drug treatment services to Medi-Cal recipients, or the department directly arranges for the provision of these services if a county elects not to do so.

Existing law requires the State Department of Health Care Services to screen Medi-Cal providers and designate each provider or applicant as "limited," "moderate," or "high" categorical risk. Existing law requires a provider or applicant designated as a "high" categorical risk, and a person with a 5% or greater direct or indirect ownership interest in the provider, to submit to the Department of Justice fingerprint images and related information for the purpose of obtaining information as to the existence of past criminal conduct, as specified. Existing law requires the Department of Justice to charge a fee, to be paid by the applicant or provider, sufficient to cover the cost of processing the criminal background check request.

This bill would provide that if the department designates a nonprofit Drug Medi-Cal provider or applicant as a "high" categorical risk, the criminal background check and the requirement to submit fingerprint images and related information would apply to the officers and executive director of the nonprofit provider or applicant.

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

SECTION 1. Section 14043.38 of the Welfare and Institutions Code is amended to read:

14043.38. (a) Provider types are designated as "limited," "moderate," or "high" categorical risk by the federal government in Section 424.518 of Title 42 of the Code of Federal Regulations. The department shall, at minimum, utilize the federal regulations in determining a provider's or applicant's categorical risk.

(b) In accordance with Section 455.450 of Title 42 of the Code of Federal Regulations, the department shall designate a provider or applicant as a “high” categorical risk if any of the following occur:

(1) The department imposes a payment suspension based on a credible allegation of fraud, waste, or abuse.

(2) The provider or applicant has an existing Medicaid overpayment based on fraud, waste, or abuse.

(3) The provider or applicant has been excluded by the federal Office of the Inspector General or another state’s Medicaid program within the previous 10 years.

(4) The federal Centers for Medicare and Medicaid Services lifted a temporary moratorium within the previous six months for the particular provider type submitting the application, the applicant would have been prevented from enrolling based on that previous moratorium, and the applicant applies for enrollment as a provider at any time within six months from the date the moratorium was lifted.

(c) If the department designates a provider or applicant as a “high” categorical risk, the department or its designee shall do both of the following:

(1) Conduct a criminal background check of the following persons:

(A) The provider or applicant. If the provider or applicant is a nonprofit Drug Medi-Cal provider or applicant, the officers and executive director of the provider or applicant.

(B) Any person with a 5-percent or greater direct or indirect ownership interest in the provider or applicant.

(2) Require the following persons to submit a set of fingerprints within 30 days of the department’s request, in a manner determined by the department:

(A) The provider or applicant. If the provider or applicant is a nonprofit Drug Medi-Cal provider or applicant, the officers and executive director of the provider or applicant.

(B) Any person with a 5-percent or greater direct or indirect ownership interest in the provider or applicant.

(d) (1) The department shall submit to the Department of Justice fingerprint images and related information required by the Department of Justice of Medi-Cal providers or applicants determined to be a “high” categorical risk pursuant to subdivision (a), and any person with a 5-percent or greater direct or indirect ownership interest in those providers and applicants, for the purposes of obtaining information as to the existence and content of a record of state or federal convictions and state or federal arrests and also information as to the existence and content of a record of state or federal arrests for which the Department of Justice establishes that the person is free on bail or on his or her recognizance pending trial or appeal.

(2) When received, the Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate a response to the department.

(3) The Department of Justice shall provide a state or federal level response to the department pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(4) The department shall request from the Department of Justice subsequent notification service, as provided pursuant to Section 11105.2 of the Penal Code, for persons described in paragraph (1).

(5) The Department of Justice shall charge a fee sufficient to cover the cost of processing the request described in this section. That fee shall be paid by the subject of the criminal background check.

(e) For persons subject to the requirements of subdivision (a) of Section 15660, the procedure for obtaining and submitting fingerprints and notification by the Department of Justice of criminal record information set forth in subdivision (c) of Section 15660 shall apply instead of the procedure set forth in subdivision (d).