

ITEM 4
TEST CLAIM
FINAL STAFF ANALYSIS
AND
PROPOSED STATEMENT OF DECISION

Welfare and Institutions Code section 14029.5

Statutes 2006, Chapter 657

Medi-Cal Eligibility of Juvenile Offenders

08-TC-04

County of Alameda, Claimant

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Assembly Committee on Health, Analysis of SB 1469 (2005-2006 Reg. Sess.) amended
June 15, 2006, page 4.

Department of Health Care Services, Memo to County Welfare Directors, "Medi-Cal Pre-Release Application Process for Wards in County Juvenile Facilities Re: Senate Bill (SB) 1469, Chapter 657, Statutes of 2006, Welfare and Institutions (W&I) Code section 14029.5." January 2, 2008.

Department of Health Care Services, Memo to County Welfare Directors, "Suspension of Medi-Cal Benefits for Incarcerated Juveniles." March 23, 2010.

Department of Health Care Services, "Medi-Cal Eligibility Procedures Manual." Page 6A-1

Senate Committee on Health, Analysis of SB 1469 (2005-2006 Reg. Sess.) amended March 30, 2006, page 4.

Senate Rules Committee, Office of Senate Floor Analyses, Analysis of SB 1147 (2007-2008 Reg. Sess.) as amended August 8, 2008.

California Code of Regulations, title 22, sections 50189, 50197, 50273, 50658, 50741, 50742, 50743.

1. TEST CLAIM TITLE

Medi-Cal Eligibility of Juvenile Offenders

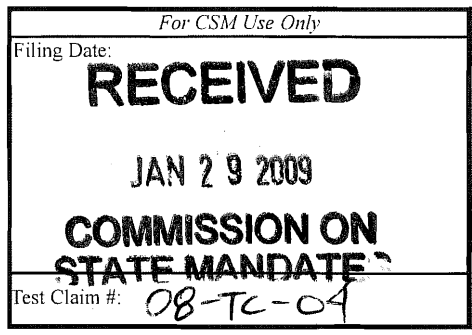
2. CLAIMANT INFORMATION

ALAMEDA COUNTY
Name of Local Agency or School District
LOUIE MARTIREZ
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ADMINISTRATIVE ANALYST
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Telephone Number
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E-Mail Address

3. CLAIMANT REPRESENTATIVE INFORMATION

Claimant designates the following person to act as its sole representative in this test claim. All correspondence and communications regarding this claim shall be forwarded to this representative. Any change in representation must be authorized by the claimant in writing, and sent to the Commission on State Mandates.

ALLAN BURDICK
Claimant Representative Name
EXECUTIVE DIRECTOR
Title
MAXIMUS, INC.
Organization
3130 KILGORE ROAD, STE. 400
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City, State, Zip
(916) 471-5538
Telephone Number
(916) 366-4838
Fax Number
allanburdick@maximus.com
E-Mail Address



4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED

Please identify all code sections, statutes, bill numbers, regulations, and/or executive orders that impose the alleged mandate (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]). When alleging regulations or executive orders, please include the effective date of each one.

Welfare and Institutions Code section 14029.5, Statutes 2006, chapter 657 [SB 1469]

Copies of all statutes and executive orders cited are attached.

Sections 5, 6, and 7 are attached as follows:
5. Written Narrative: pages 1 to 6 .
6. Declarations: pages 7 to 10 .
7. Documentation: pages 11 to 13 .

SECTION 5: WRITTEN NARRATIVE

INTRODUCTION

Overview

In 2006, Senate Bill 1469 (which adds section 14029.5 to the Welfare and Institutions Code, relating to Medi-Cal eligibility) was passed and commencing January 1, 2008, requires a county juvenile detention facility to provide specified information relating to a ward of the county who is scheduled to be released to the appropriate county welfare department, and further requires the county to initiate an application and determine the individual's eligibility for the Medi-Cal program. This bill also requires the county, if the ward is a minor, to give a parent or guardian the opportunity to opt out of this eligibility determination. This bill requires a county welfare department to provide sufficient documentation to enable the ward to receive medical care upon his or her release from custody.

SECTION 14029.5

The legislation added section 14029.5 to the Welfare and Institutions Code, which currently reads:

(a)(1) Commencing January 1, 2008, immediately following the issuance of an order of the juvenile court, pertaining to the disposition of a ward of the county, committing that ward to a juvenile hall, camp, or ranch for 30 days or longer, the county juvenile detention facility shall provide the appropriate county welfare department with the ward's name, his or her scheduled or actual release date, any known information regarding the ward's Medi-Cal status prior to disposition, and sufficient information, when available, for the county welfare department to begin the process of determining the ward's eligibility for benefits under this chapter, including, if the ward is a minor, contact information for the ward's parent or guardian, if available.

(2) If the ward is a minor, prior to providing information to the county welfare department pursuant to paragraph (1), the county juvenile detention facility shall notify the parent or guardian, in writing, of its intention to submit the information required by that paragraph to the county welfare department. The parent or guardian shall be given a reasonable time to opt out of the Medi-Cal eligibility determination provided for under this section, in which case the county juvenile detention facility shall not comply with paragraph (1).

(3) For purposes of this section, "ward" means a person in the custody of a county juvenile detention facility.

Medi-Cal Eligibility of Juvenile Offenders
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(b)(1) Upon receipt of the information described in paragraph (1) of subdivision (a), and pursuant to the protocols and procedures developed pursuant to subdivision (c) the county welfare department shall initiate an application and determine the individual's eligibility for benefits under the Medi-Cal program. If the ward is a minor, the county welfare department shall promptly contact the parent or guardian to arrange for completion of the application. The county shall expedite the application of a ward who, according to the information provided pursuant to paragraph (1) of subdivision (a), is scheduled to be released in fewer than 45 days.

(2) If the county welfare department determines that the ward does not meet the eligibility requirements for the Medi-Cal program, the county welfare department, with the consent of the ward's parent or guardian, if the ward is a minor, shall forward the ward's information to the appropriate entity to determine eligibility for the Healthy Families Program, or other appropriate health coverage program, as determined by the department.

(3) If the county welfare department determines that a ward meets eligibility requirements for the Medi-Cal program, the county shall provide sufficient documentation to enable the ward to obtain necessary medical care upon his or her release from custody.

(c) By June 1, 2007, the department, in consultation with the Chief Probation Officers of California and the County Welfare Directors Association, shall establish the protocols and procedures necessary to implement this section.

(d) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall implement this section by means of all-county letters or similar instructions, without taking any further regulatory action. Thereafter, the department shall adopt regulations, as necessary, to implement this section in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(e) The department shall seek any federal waivers necessary for the implementation of this section.

Application of Mandate Law

The mandate created by these statutes clearly meets both tests that the Supreme Court in the *County of Los Angeles v. State of California* (1987) created for determining what constitutes a reimbursable state mandated local program. Those two tests, which the Commission on State Mandates relies upon to determine if a reimbursable mandate exists, are the "unique to government" and the "carry out a state policy" tests. Their application to this test claim is discussed below.

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The mandate is unique to local government: This bill requires a county juvenile detention facility to provide specified information to the appropriate county welfare department relating to a ward of the county who is scheduled to be released. This function is required only of counties and is therefore unique to government.

The mandate carries out a state policy: From the legislation, it is clear that the Legislature wishes to ensure that a ward has some form of health care insurance upon his or her release from custody.

Finally, there are seven disclaimers specified in Government Code section 17556 which could serve to bar recovery of “costs mandated by the State”, as defined in that section. Test claimant asserts that none of the seven disclaimers apply to this test claim:

1. The claim is submitted by a local agency or school district which requests legislative authority for that local agency or school district to implement the program specified in the statutes, and that statute imposes costs upon the local agency or school district requesting the legislative authority.
2. The statute or executive order affirmed for the State that which had been declared existing law or regulation by action of the courts.
3. The statute or executive order implemented a federal law or regulation and resulted in costs mandated by the federal government regardless of whether the federal law or regulation was enacted or adopted prior to or after the date on which the state statute or executive order was enacted or issued, unless the statute or executive order mandates costs which exceed the mandate in that federal law or regulation.
4. The local agency or school district has the authority to levy service charges, fees or assessments sufficient to pay for the mandated program or increased level of service.
5. The statute or executive order provides for offsetting savings to local agencies or school districts which result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate.
6. The statute or executive order imposes duties that are necessary to implement, reasonably within the scope of, or expressly included in a ballot measure approved by the voters in a statewide or local election regardless of whether the statute or executive order was enacted or adopted before or after the date on which the ballot measure was approved by the voters.

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7. The statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction.

A. MANDATE SUMMARY

As explained above, the new activities in Section 14029.5 are the drafting and adoption of new written policies require a county juvenile detention facility to provide specified information relating to a ward of the county who is scheduled to be released to the appropriate county welfare department, and require the county to initiate an application and determine the individual's eligibility for the Medi-Cal program. The bill requires the county, if the ward is a minor, to give a parent or guardian the opportunity to opt out of this eligibility determination. The bill also requires a county welfare department to provide sufficient documentation to enable the ward to receive medical care upon his or her release from custody.

As explained above, the new activities in Section 14029.5 include, but are not limited to, identification of the ward, coordination and management of wards identified by Alameda County Probation Department (Probation) and screening for Medi-Cal eligibility by Alameda County Social Services Agency (SSA), maintenance of records regarding the wards identified by Probation after seeking approval from parent or guardian and coordination with SSA for Medi-Cal screening, provision of a temporary Medi-Cal card and finally determination of eligibility.

B. MODIFIED ACTIVITIES

Since the legislation added new sections, there are clearly modified activities for both SSA and Probation to comply with the bill. Specifically, the requirements of Section 14029.5 — that the county juvenile detention facility shall provide the appropriate county welfare department with the ward's name, his or her scheduled or actual release date, any known information regarding the ward's Medi-Cal status prior to disposition, and sufficient information, when available, for SSA to begin the process of determining the ward's eligibility for benefits under this chapter, including, if the ward is a minor, contact information for the ward's parent or guardian. Lastly, providing prior to discharge from Probation coordination of the Medi-Cal temporary card and tracking the outcome of the review conducted by SSA.

C. ACTUAL COSTS

The costs incurred by the Alameda County as a result of the statutes upon which this test claim is based are 1,274.68 to date. Alameda County did not incur costs until after January 30, 2008.

Medi-Cal Eligibility of Juvenile Offenders
Alameda County
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These costs are all reimbursable costs as such costs are “costs mandated by the State” under Article XIII B, section 6 of the California Constitution, and Government Code §17500 *et seq.* Section 17514 of the Government Code defines “costs mandated by the state”, and specifies the following three requirements:

1. There are “increased costs which a local agency is required to incur after July 1, 1980.”
2. The costs are incurred “as a result of any statute enacted on or after January 1, 1975 or any executive order implementing any statute enacted on or after January 1, 1975.”
3. The costs are the result of “a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

All three of the above requirements for finding costs mandated by the State are met as described previously herein.

D. COST ESTIMATES

Test Claimant notes that the cost of discharging this program is includes but is not limited to training, implementation and other expenses excluding annual operation cost. Therefore, Test Claimant’s estimate of \$14,948.41 for Probation annually is the best projection currently available and may not reflect actual costs claimed. The projected annual cost to Social Services Agency remains unknown at this time but Alameda County reserves the right to augment the record as to these costs.

E. STATEWIDE COST ESTIMATES

As noted above, Test Claimant and others similarly situated have incurred costs for the implementation of this program and on-going costs. Implementation costs are estimated at \$427,500 statewide. On-going costs are expected to be \$1,178,926 statewide annually.

Test Claimant believes that this program, when found to be a reimbursable state mandate is a good candidate for a per-capita or other such reasonable reimbursement methodology¹ and requests same to be considered as part of the adoption of parameters and guidelines.

F. FUNDING SOURCES

Test claimant is unaware of any funding sources for these new activities.

¹ Pursuant to Government Code section 17557.

Medi-Cal Eligibility of Juvenile Offenders
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G. PRIOR MANDATE DETERMINATIONS

Test claimant is unaware of any prior mandate determinations that bear upon the issues presented within.

CONCLUSION

The enactment of Senate Bill 1469 imposed a new state mandated program and cost on the Alameda County. The mandated program meets all of the criteria and tests for the Commission on State Mandates to find a reimbursable state-mandated program.

Test Claim Name: SB1469 Medi-Cal Eligibility of Juvenile Offenders
Claimant: Alameda County
Section 6: Declarations

DECLARATION OF PATRICIA L. FAIR

I, Patricia L. Fair, declare:

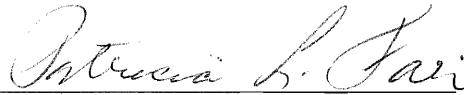
1. I am employed by the Alameda County Probation Department as the Deputy Chief Probation Officer for Juvenile Facilities. I have been a Division Director/Deputy Chief for over eight years. My duties and responsibilities include overseeing the county's juvenile hall and its camp. I have personal knowledge of the matters stated in this declaration and I could and would testify competently to them if called upon to do so.
2. In response to the addition of Section 14029.5 to the California Welfare and Institutions Code, effective January 1, 2008, Probation Department management staff met internally and then externally with representatives of the Alameda County Social Services Agency (the welfare department) in order to determine how and what steps would be required to fully execute Section 14029.5. The first of such meetings took place on or about January 30, 2008, I am informed and believe. This is when the County of Alameda first began incurring expenses in order to implement Section 14029.5. Three members of the Probation Department participated in those first discussions, Wilma Robinson, Ronald Johnson and Deborah Swanson. The cost of their time for those initial meetings was approximately \$1,274.68. Additional costs have been incurred by the Social Services Agency and by both agencies in connection with the development of a policy to implement Section 14029.5.
3. Section 14029.5 requires the Probation Department to take specified steps to facilitate establishing medi-cal eligibility and enrollment for juveniles upon release from confinement. This is a new activity that previously had not been imposed upon the Probation Department. The costs indicated in the previous paragraph were one-time costs. On an ongoing annual basis the Probation Department has determined that the estimated costs of fully implementing Section 14029.5 will be \$14,984~~8~~.41. This represents the increased secretarial services that will be necessary approximately 3.25 hours per work to prepare and process notices and other paperwork, and Deputy Probation Officer III services for 2.5 hours per week, both on an ongoing basis.
4. In order to implement the provisions of Section 14029.5 various new activities are imposed upon the Probation Department. Those activities include: issuing written notices to parents advising that Probation will be forwarding information about the minor to the Social Services Agency; tracking of various benchmark dates prior to the release date for each juvenile to insure that the notices are sent within the timelines specified in Section 14029.5; tracking and logging whether any response has been received from parents to notices; tracking and logging of nature of response if one is received; sending notice to Social Services Agency advising of need to initiate medi-cal eligibility application; ascertaining from record review and coordination with parents the specific data that Social Services may need to initiate the application, including any known information regarding the ward's Medi-Cal status prior to disposition; logging of data confirming that referral to Social Services has been made. Finally, Probation will be

Test Claim Name: SBI Medi-Cal Eligibility of Juvenile Offenders
Claimant: Alameda County
Section 6: Declarations

required to maintain records of all such activities and where a temporary card issued provide the temporary Medic-Cal card to the minor.

5. New activities also include the drafting and adoption of new written policies and procedures detailing how the agencies will implement Section 14029.5.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this was executed on January 28, 2009, at Oakland, California.



Patricia L. Fair

Test Claim Name: SB1469 Medi-Cal Eligibility of Juvenile Offenders
Claimant: Alameda County
Section 6: Declarations

DECLARATION OF ALLAN P. BURDICK


I, Allan P. Burdick, declare:

1. I am currently employed by MAXIMUS, Inc. and have worked with California's state mandate cost local program since 1978 as an employee of MAXIMUS or the California State Association of Counties. I have personal knowledge of the matters stated in this declaration and I could and would testify competently to them if called upon to do so.
2. The California Corrections Standards Authority (CSA) is the state agency to which counties report their juvenile detention facilities information. To develop the statewide cost estimate, I used the data from the CSA's Fourth Quarter Report, 2007, Camp Data. Based on that report, the annual number of juvenile inmates held in all counties was 35,089. The percentage of juvenile felons held in the camp was seventy percent (70%) or 24,562 juveniles. Based on my discussions with probation department representatives, I estimated that it takes a minimum of thirty (30) minutes of a probation officer's time and thirty minutes (30) of clerical time per juvenile to carry out the probation department's AB 1489 mandate duties. The average productive hourly rate, including all compensation and related indirect costs, is approximately seventy dollars (\$70) for a probation officer and twenty six dollars (\$26) an hour for a clerical employee, or a blended rate of forty-eight dollars (\$48) an hour. Therefore the average statewide monthly cost is \$98,248 or \$1,178,926 annually.
3. Based on my discussions with probation department representatives, in the 2008 fiscal year, most counties created joint probation department and social services department committees or task forces to develop the policies and procedures or protocols for implementing the mandated requirements of AB 1469. The time varied from a few meetings or conference calls and subsequent staff hours to nearly monthly meetings and several staff days of staff work between each meeting. For purposes of developing the implementation costs, I am using the Alameda County cost of approximately \$15,000 as the average cost for the 12 largest or urban counties; half of that amount or \$7,500 for the next 20 or suburban counties; and one-quarter of that amount or \$3,750 for the 26 smallest or rural counties. Based on those assumptions, the cost to implement the provisions of the mandate was \$427,500 statewide.
4. Based on the above, it is estimated that for the calendar year of 2008, the statewide cost was \$427,500 for implementation over an estimated 6 months and \$589,488 for the remaining six months of on-going costs. The estimated costs for the current 2009 year are based on \$101,195 a month (includes a 3% cost of living adjustment) or \$1,214,345.

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Test Claim Name: SB1469 Medi-Cal Eligibility of Juvenile Offenders
Claimant: Alameda County
Section 6: Declarations

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this was executed on January 28, 2009, at Rancho Cordova, California.

A handwritten signature in black ink, appearing to read "Allan P. Burdick", written over a horizontal line.

Allan P. Burdick

Test Claim Name: Medi-Cal Eligibility of Juvenile Offenders
Claimant: Alameda County
Section 7: Documentation
Senate Bill No. 1469

CHAPTER 657

An act to add Section 14029.5 to the Welfare and Institutions Code, relating to Medi-Cal eligibility.

[Approved by Governor September 29, 2006. Filed with
Secretary of State September 29, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1469, Cedillo. Medi-Cal: eligibility: juvenile offenders.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services, and under which qualified low-income persons receive health care benefits. The Medi-Cal program is governed, in part, by federal Medicaid provisions.

Existing law places specified juvenile offenders in county juvenile detention facilities.

This bill, commencing January 1, 2008, would require a county juvenile detention facility to provide specified information relating to a ward of the county who is scheduled to be released to the appropriate county welfare department, and would require the county to initiate an application and determine the individual's eligibility for the Medi-Cal program, as specified. The bill would require the county, if the ward is a minor, to give a parent or guardian the opportunity to opt out of this eligibility determination. The bill would require a county welfare department to provide sufficient documentation to enable the ward to receive medical care upon his or her release from custody, as specified.

This bill would require the department, by June 1, 2007, in consultation with designated entities, to establish the protocols and procedures necessary to implement the bill. The bill would require the department to implement its provisions by means of all-county letters or similar instructions, and thereafter to adopt implementing regulations, as necessary. The bill would require the department to seek any federal waivers necessary for its implementation.

By increasing the duties of counties administering the Medi-Cal program and of county juvenile detention facilities, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Test Claim Name: Medi-Cal Eligibility of Juvenile Offenders
Claimant: Alameda County
Section 7: Documentation
The people of the State of California do enact as follows:

SECTION 1. Section 14029.5 is added to the Welfare and Institutions Code, to read:

14029.5. (a) (1) Commencing January 1, 2008, immediately following the issuance of an order of the juvenile court, pertaining to the disposition of a ward of the county, committing that ward to a juvenile hall, camp, or ranch for 30 days or longer, the county juvenile detention facility shall provide the appropriate county welfare department with the ward's name, his or her scheduled or actual release date, any known information regarding the ward's Medi-Cal status prior to disposition, and sufficient information, when available, for the county welfare department to begin the process of determining the ward's eligibility for benefits under this chapter, including, if the ward is a minor, contact information for the ward's parent or guardian, if available.

(2) If the ward is a minor, prior to providing information to the county welfare department pursuant to paragraph (1), the county juvenile detention facility shall notify the parent or guardian, in writing, of its intention to submit the information required by that paragraph to the county welfare department. The parent or guardian shall be given a reasonable time to opt out of the Medi-Cal eligibility determination provided for under this section, in which case the county juvenile detention facility shall not comply with paragraph (1).

(3) For purposes of this section, "ward" means a person in the custody of a county juvenile detention facility.

(b) (1) Upon receipt of the information described in paragraph (1) of subdivision (a), and pursuant to the protocols and procedures developed pursuant to subdivision (c) the county welfare department shall initiate an application and determine the individual's eligibility for benefits under the Medi-Cal program. If the ward is a minor, the county welfare department shall promptly contact the parent or guardian to arrange for completion of the application. The county shall expedite the application of a ward who, according to the information provided pursuant to paragraph (1) of subdivision (a), is scheduled to be released in fewer than 45 days.

(2) If the county welfare department determines that the ward does not meet the eligibility requirements for the Medi-Cal program, the county welfare department, with the consent of the ward's parent or guardian, if the ward is a minor, shall forward the ward's information to the appropriate entity to determine eligibility for the Healthy Families Program, or other appropriate health coverage program, as determined by the department.

(3) If the county welfare department determines that a ward meets eligibility requirements for the Medi-Cal program, the county shall provide sufficient documentation to enable the ward to obtain necessary medical care upon his or her release from custody.

(c) By June 1, 2007, the department, in consultation with the Chief Probation Officers of California and the County Welfare Directors

Test Claim Name: Medi-Cal Eligibility of Juvenile Offenders
Claimant: Alameda County Ch. 657

Section 7: Documentation

Association, shall establish the protocols and procedures necessary to implement this section.

(d) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall implement this section by means of all-county letters or similar instructions, without taking any further regulatory action. Thereafter, the department shall adopt regulations, as necessary, to implement this section in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(e) The department shall seek any federal waivers necessary for the implementation of this section.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

O

8. CLAIM CERTIFICATION

*Read, sign, and date this section and insert at the end of the test claim submission.**

This test claim alleges the existence of a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this test claim submission is true and complete to the best of my own knowledge or information or belief.

SUSAN S. MURANISHI

Print or Type Name of Authorized Local Agency
or School District Official

COUNTY ADMINISTRATOR

Print or Type Title



Signature of Authorized Local Agency or
School District Official



Date

** If the declarant for this Claim Certification is different from the Claimant contact identified in section 2 of the test claim form, please provide the declarant's address, telephone number, fax number, and e-mail address below.*

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DAVID MAXWELL-JOLLY
Director

State of California—Health and Human Services Agency
Department of Health Care Services



ARNOLD SCHWARZENEGGER
Governor

June 11, 2009

VIA FACSIMILE AND U.S. MAIL



Ms. Paula Higashi
Executive Director
Commission on State Mandates
800 Ninth Street, Suite 300
Sacramento, California 95814

**Re: Department of Health Care Services' Comment on Test Claim 08-TC-04
Medi-Cal Eligibility of Juvenile Offenders**

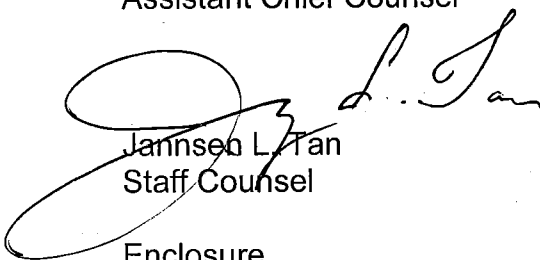
Dear Ms. Higashi:

The Department of Health Care Services (Department) respectfully submits its comments to the Alameda test claim cited above.

If you have any questions concerning this submission, please contact Mr. Jannsen Tan at (916) 440-7715 or via email at jtan@dhs.ca.gov.

Sincerely,

Michael E. Kilpatrick
Assistant Chief Counsel


Jannsen L. Tan
Staff Counsel

Enclosure

cc: See attached mailing list

Commission on State Mandates

Original List Date:

Mailing Information: Completeness Determination

Last Updated:

Mailing List

List Print Date: 02/09/2009

Claim Number: 08-tc-04

Issue: Medi Cal Eligibility of Juvenile Offenders

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

Ms. Annette Chinn

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Ms. Ginny Brummels

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Mr. David Wellhouse

David Wellhouse & Associates, Inc.

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RECEIVED

FEB 11 2009

BY: _____

DECLARATION OF JOHN ZAPATA

1
2 I, John Zapata, declare that I am over the age of eighteen and am not a party to this
3 action. If called to testify, I would and could testify competently from my own personal
4 knowledge, as follows:

5
6 I
7 I am a Unit Chief in the California Department of Health Care Services, Medi-
8 Cal Eligibility Division. I have held this position since 2005. My unit is
9 responsible for implementation of Eligibility requirements related to the
10 institutional status of Medi-Cal applicants and beneficiaries, including, but not
11 limited to the eligibility of incarcerated individuals and individuals in institutions
12 for Mental Disease. I first joined the Medi-Cal Eligibility Division as an analyst
13 in 1989. I received a Bachelors Degree in Urban Studies and Planning from the
14 University of California, San Diego. I received a Masters Degree in Public
15 Affairs from the University of Texas at Austin.

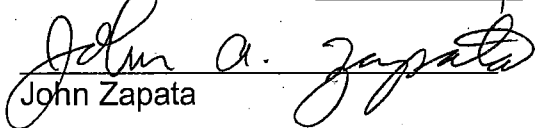
16
17 II
18 Medi-Cal is California's version of the federal Medicaid program. The Medicaid
19 program is funded with State and federal funds. In California, the Department
20 of Health Care Services has delegated the function of establishing and
21 terminating Medi-Cal eligibility to the 58 County Welfare Departments under
22 Welfare and Institutions Code Section 14016 and California Code of
23 Regulations title 22, section 50101 (a) (1). As a result, Counties receive
24 reimbursement from both state and federal funding for making eligibility
25 determinations for juvenile detainees who want Medi-Cal upon release. Under
26 current Medi-Cal rules, incarcerated individuals are not eligible for Medi-Cal
27 benefits.

18
19 III
20 Welfare and Institutions Code section 14029.5 requires the County Probation
21 department to forward available information about specified incarcerated
22 juveniles to the County Welfare Department. To the extent that county juvenile
23 facilities are responsible for providing necessary health care to juveniles who
24 need care immediately upon release, the savings that result to the county when
25 Medi-cal eligibility is established immediately upon release should more than
26 offset the cost of transmitting information about the juvenile to another county
27 agency.

23
24 IV
25 Under current Medi-Cal rules, counties have 45 days to determine Medi-Cal
26 eligibility for non-disabled individuals and up to 90 days if the individual is
27 disabled. Historically, this has led to delays in obtaining Medi-cal benefits for
incarcerated individuals who need health care immediately upon release. If a
county releases an incarcerated juvenile before Medi-Cal eligibility is
established, it is reasonable to assume that some, if not all of the juvenile's
health care will be covered by county programs or the correctional facility. Any

services provided by non-Medi-Cal providers during this time would not be reimbursed to the county even after Medi-Cal eligibility is established. The process required by Welfare and Institutions Code section 14029.5 will facilitate the establishment of Medi-Cal Eligibility effective immediately upon release and therefore should reduce county funded health care costs for eligible juveniles.

I declare under penalty of perjury that the foregoing is true and correct, and that this Declaration is signed in Sacramento, California on June 11, 2009.


John Zapata

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Introduction

The current test claim of Alameda County regarding alleged increased costs to county probation and county welfare departments does not meet the standards for a state mandate and should be denied. The requirements of SB1469 do not impose a new program or higher level of service because under existing laws, counties already are required to assist all applicants and beneficiaries and provide care for all juvenile detainees.

Statement of the Law

“Medi-Cal” is the name given to California’s system for administering the federal government’s Medicaid program which provides financial assistance to states so that they may furnish health care to qualified indigent persons¹. The Department of Health Care Services (DHCS) is the state agency charged with administering the Medi-Cal program. As the single state Medicaid agency, DHCS is responsible for beneficiary eligibility determinations. DHCS has delegated the function of establishing and terminating eligibility to the County Welfare Department (CWD) under Welfare and Institutions Code section 14016 and California Code of Regulations, title 22, section 50101 (a) (1). As a result, Counties receive funding from both state and federal funding for making eligibility determinations and redeterminations of juvenile detainees upon release.² Pursuant to Welfare and Institutions Code section 14012, California Code of Regulations, title 22, section 50189, 42 Code of Federal Regulations section 435.945(d), the CWD has an obligation to conduct eligibility screening of all applicants and to perform redeterminations of individuals whenever there is a change of circumstances or at least every twelve months.

Under Welfare and Institutions Code section 14053, and California Code of Regulations, title 22, section 50273, individuals who are inmates of public institutions are not eligible for Medi-Cal. These include minors in juvenile detention facilities, minors in correction facilities, minors on juvenile intensive probation in a juvenile detention center, and minors in a secure treatment facility that is part of the criminal justice system. In other words, any juvenile taken into custody loses Medi-Cal eligibility when he or she is booked into a correctional facility. This is in compliance with federal law that provides that Medicaid [Medi-Cal] benefits generally cannot be paid for incarcerated individuals, although, federal law allows incarcerated individuals to retain eligibility.

¹ Welfare and Institutions Code section 1400 et seq.; 42 United States Code section 1396 et seq.

² 42 Code of Federal Regulations section 431.11(d) “If eligibility is determined by State agencies other than the Medicaid agency or by local agencies under the supervision of other State agencies, the plan must include a description of the staff ...and the functions they perform.” California Code of Regulations, title 22, sections 50023, 50101 and 50141; 42 United States Code Annotated section 1396a(a)(5); 42 Code of Federal Regulations section 431.11(d) [the single state agency may delegate the eligibility determination to local agencies]

SB 1469, which enacted Welfare and Institutions Code section 14029.5, requires the County Juvenile Detention (County Probation Department) facility to provide specified information relating to a ward of the county who is scheduled to be released to the appropriate CWD. It also requires the county to initiate an application and determine the individual's eligibility for the Medi-Cal program³. SB 1469 specifically requires the County Probation Department to notify the CWD when a juvenile is ordered incarcerated for 30 days or longer so the CWD can determine if the juvenile will be eligible for Medi-Cal or the Healthy Families Program once he or she is released.

According to the Alameda County Probation Department website, "Deputy Probation Officers fulfill the roles of Peace Officer, Case Manager, and Advocate for youths involved in delinquent behaviour. Probation Officers serve in various functions, including Intake, Investigations, Supervision of High Risk Youths and Gender Specific Girl's Caseloads, Community Probation Program, Out-of-Home Placement, Family Preservation Program, Home Supervision and Court Officers."⁴ Counties are responsible for the case management of juveniles who have been incarcerated in the juvenile justice system⁵. Senate Bill 81 (2007) section 25 which codified Welfare and Institutions Code section 1766 states that if a person has been committed to the Department of Corrections and Rehabilitations, Division of Juvenile Facilities, the county of commitment shall supervise the parole and within 60 days of intake, the Division of Juvenile Facilities shall provide the County Probation Department with a treatment plan for the ward. Additionally, SB 81 (2007) section 31 also clearly provides that it is the intent of the Legislature that the authority for counties to receive wards who otherwise would be committed to the custody and supervision of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, shall not constitute a higher level of service or new program in excess of the programmatic funding included under SB 81. It also adds that it is the intent of the Legislature that the state has provided funding from an adequate level of care for youthful offenders received by the county pursuant to SB 81 and that each county shall be limited in its expenditures to funds specifically made available for such purposes.

For indigents, counties are required under Welfare and Institutions Code section 17000 *et seq.*, to provide for necessary medical services to indigents not covered by any other program. Funding for medical services of indigent youth must come from the County.

Welfare and Institutions Code section 14029.5 merely requires the County Probation Department to forward the incarcerated juvenile's information to the CWD in order to reestablish previous Medi-Cal eligibility. The present test claim states that it takes a half hour per inmate, but it appears that the Country Probation Department just

³ SB 1469

⁴ www.co.alameda.ca.us/probation/jfs.htm

⁵ Welfare and Institutions Code section 650 *et seq.*, 850 *et seq.*, and 207.1 (e) (1).

needs to forward a printout of its monthly report to the CWD with the release dates of all juvenile detainees.

I. **Does Welfare and Institutions Code section 14029.5 impose a new program or higher level of service within an existing program upon local entities?**

Response: Welfare and Institutions Code section 14029.5 does not impose a new program or higher level of service in an existing program upon local entities because Counties are required to assist all applicants and beneficiaries with establishing eligibility to provide comprehensive health benefits to low income persons. Welfare and Institutions Code section 14029.5 merely clarifies the responsibility of the County Probation Department to report the release date and any information in its possession for each juvenile detainee to the CWD. Welfare and Institutions Code section 14029.5 provides:

Welfare and Institutions Code section 14029.5:

- i. the county juvenile detention facility shall provide the appropriate county welfare department with the ward's name, his or her scheduled or actual release date, any known information regarding the ward's Medi-Cal status prior to disposition, and sufficient information, when available, for the county welfare department to begin the process of determining the ward's eligibility for benefits under this chapter, including, if the ward is a minor, contact information for the ward's parent or guardian, if available.
- ii. the county welfare department shall initiate an application for any ward not already enrolled in the Medi-Cal program, and determine the individual's eligibility for benefits under the Medi-Cal program.

Pursuant to Welfare and Institutions Code section 14012; California Code of Regulations, title 22, section 50189, and 42 Code of Federal Regulations section 435.945(d), the CWD has an obligation to conduct eligibility screening of all applicants and to perform redeterminations of individuals whenever there is a change of circumstances or at least every twelve months. This requirement has been codified since the late 1970's.

Welfare and Institutions Code section 14029.5 does not add any function to what the CWD already is doing. Counties already receive sufficient funding from state and the federal government to conduct eligibility determinations.

The notice provided by the County Probation Department to the CWD entail at most, a *de minimis* reallocation of resources that would not result to a reimbursable state mandate.

The County Probation Department is already being compensated for their Case Management activities which include intake, investigations and coordination of services for the juvenile (*see supra*). The ministerial act of providing information which they already possess to the CWD requires no training nor additional costs. The CWD is also already compensated for the redeterminations.

a) **No shifting of financial responsibility to local agencies.**

The California Constitution article XIII B, section 6(a), provides, in relevant part: "Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service...." The purpose of this provision "is to preclude *the state from shifting financial responsibility for carrying out governmental functions to local agencies*, which are 'ill equipped' to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose. [Citations.]" (*County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81, 61 Cal.Rptr.2d 134, 931 P.2d 312.)

SB 1469 enacting Welfare and Institutions Code section 14029.5 is not a new program nor does it require a higher level of service because it does not shift the financial responsibility of carrying out governmental functions to local agencies.

The county responsibility for eligibility determinations for all potential applicants and beneficiaries has been in place since at least March 23, 1979, the effective date of 42 Code of Federal Regulations sections 431.11 and 431.10 [both predate the enactment of Government Code section 17514.] Counties and county welfare departments already are being reimbursed for their duties to determine eligibility of all potential applicants or beneficiaries and redetermine eligibility at the time of any change of circumstances, irrespective of the status of the applicant or beneficiary as an inmate, under Welfare and Institutions Codes section 14005.37⁶, California Code of Regulations, title 22, section 50120, 50141⁷ or redetermination, section 50189.

SB 1469, enacting Welfare and Institutions Code section 14029.5 is simply clarifying that the eligibility determination or redetermination can commence when the County Probation Department learns of the disposition of the juvenile applicant or beneficiary and notifies the CWD.

⁶ Welfare and Institutions Code section 14005.37 (a)...whenever a county receives information about changes in a beneficiary's circumstances that may affect eligibility for Medi-Cal benefits, the county shall promptly redetermine eligibility c) For purposes of acquiring information necessary to conduct the eligibility determination d)...a count shall make every reasonable effort to gather information available to the county that is relevant to the beneficiary's Medi-Cal eligibility prior to contacting the beneficiary

⁷ California Code of Regulations, title 22, section 50141 The county department shall receive and act upon all applications, reapplications, requests for restoration and redetermination without delay and in accordance with the provisions of this article.

The test case alleges new costs to the County Probation Department by the requirement of reporting "sufficient" information to the CWD. However, any additional cost, if any to the County Probation Department, are minimal and are not "costs" for purposes of California Constitution article XIII B, section 6. Not every increase in a locality's budget resulting from compliance with a new state directive is a reimbursable state mandate. Rather, in order for a reimbursable state mandate to be found, the state must be attempting to divest itself of its responsibility to provide fiscal support for a program, or forcing a new program on a locality for which it is ill-equipped to allocate funding⁸. This is not the case with SB 1469, since the CWDs are already reimbursed for the eligibility determinations and any cost attributed to notice to the County's Probation Department is but a facet of the its case management duties.

In *City of San Jose v. State of California*, (45 Cal.App.4th 1802, 53 Cal.Rptr.2d 521), Government Code section 29550 authorized counties to charge cities and other local entities for costs of booking into county jails persons who had been arrested by employees of the cities and other entities. (45 Cal.App.4th at p. 1806; 53 Cal.Rptr.2d 521.) The State argued the measure merely reallocated booking costs, and that there was no shifting of cost from state to local entities, therefore it did not fall within article XIII B, section 6. (45 Cal.App.4th at p. 1806; 53 Cal.Rptr.2d 521.) The city contended counties function as agents of the state, charged with enforcement of state's criminal laws; and that detaining and booking are an integral part of this process. (*Id.* at p. 1808; 53 Cal.Rptr.2d 521.) The City of San Jose claims that at the time of trial it had incurred expenses of over \$10 million as a result of costs imposed pursuant to Government Code section 29550.

The courts agreed with the State and held that "nothing in article XIII B prohibits the shifting of costs between local governmental entities." Furthermore, the courts agreed with the finding of the Commission of State Mandates that found maintenance of jails and detention of prisoners, had always been a local matter, and cities and counties were both forms of local government; therefore, there was no shift in costs between state and local entities.

Applying the above rationale to the present case, it is clear that the costs of providing notice to the CWD by the County Probation Department, does not entail a finding of a reimbursable state mandate. First, case management of juveniles is a county matter, and providing notice to the parents of minors and the CWD, is part and parcel of its duties as Intake and Case Management (*see supra*). Second, similar to the *San Jose* case, the present test case does not involve a shift in costs between state and local entities. In fact, the statute can be easily complied with a minimum reallocation of resources, if at all, between 2 units in a single local entity.

⁸ *County of Los Angeles v. Commission on State Mandates* 110 Cal.App.4th 1176, 1194, 2 Cal.Rptr.3d 419, 435 (Cal.App. 2 Dist.,2003))

b) No state mandate if the *de minimis* cost can be complied with a minimum reallocation of resources.

Every increase in cost that results from a new state directive does not automatically result in a valid subvention claim where, as here, the directive can be complied with by a minimal reallocation of resources within the entity seeking reimbursement⁹.

Counties are responsible for the case management of juveniles who have been incarcerated in the juvenile justice system. Deputy Probation Officers fulfill the roles of Peace Officer, Case Manager, and Advocate for youths involved in delinquent behaviour; while Probation Officers serve in various functions, including Intake, Investigations, Supervision of High Risk Youths and Gender Specific Girl's Caseloads, Community Probation Program, etc.

Counties are responsible for the case management of juveniles who have been incarcerated in the juvenile justice system¹⁰. Senate Bill 81 (2007) section 25 which codified Welfare and Institutions Code section 1766 states that if a person has been committed to the Department of Corrections and Rehabilitations, Division of Juvenile Facilities, the county of commitment shall supervise the parole and within 60 days of intake, the Division of Juvenile Facilities shall provide the County Probation Department with a treatment plan for the ward. Additionally, SB 81 (2007) section 31 also clearly provides that it is the intent of the Legislature that the authority for counties to receive wards who otherwise would be committed to the custody and supervision of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, shall not constitute a higher level of service or new program in excess of the programmatic funding included under SB 81. It also adds that it is the intent of the Legislature that the state has provided funding for an adequate level of care for youthful offenders received by the county pursuant to SB 81 and that each county shall be limited in its expenditures to funds specifically made available for such purposes.

Welfare and Institutions Code section 14029.5 merely requires the County Probation Department to forward the specific information to the CWD in order to reestablish previous Medi-Cal eligibility for released inmates. The specific information needed by the CWD is limited to the name and release date of the juvenile. Such information is readily available to the County Probation Department as part of its Case Management and Intake responsibilities. The present test claim states that the notification process takes a half hour per inmate, but it appears compliance can be achieved simply by forwarding a printout to the CED with the release dates. Ultimately, the case management of juveniles is a local matter and within the ambit of the counties responsibilities. Therefore, the cost, if any, is minimal and only requires the notice from one unit of the county to the other.

⁹ *County of Los Angeles v. Commission on State Mandates*, 110 Cal.App.4th 1176, 1195, 2 Cal.Rptr.3d 419, 436 (Cal.App. 2 Dist., 2003)

¹⁰ Welfare and Institutions Code section 650 et seq., 850 et seq., and 207.1 (e) (1).

In the case of *County of Los Angeles v. Commission on State Mandates* (2003) 110 Cal.App.4th 1176, 1194-1195, the courts held:

“While we are mindful that legislative disclaimers, findings and budget control language are not determinative to a finding of a state-mandated reimbursable program (*Carmel Valley Fire Protection District v. State of California* (1987) 190 Cal.App.3d 521, 541, 234 Cal.Rptr. 795), our interpretation is supported by the hortatory statutory language that, “The instruction required pursuant to this subdivision shall be funded from existing resources available for the training required pursuant to this section. It is the intent of the Legislature not to increase the annual training costs of local government entities.” (§ 13519.) Thus, while the County may lose some flexibility in tailoring its training programs, such loss of flexibility does not rise to the level of a state-mandated reimbursable program because the loss of flexibility is incidental to the greater goal of providing domestic violence training. Every increase in cost that results from a new state directive does not automatically result in a valid subvention claim where, as here, the directive can be complied with by a minimal reallocation of resources within the entity seeking reimbursement. Thus, while there may be a mandate, there are no increased costs mandated by section 13519.”

c) SB 1147, enacting Welfare and Institutions Code section 14011.10 effective January 2010 amends and supplements SB 1469.

SB 1469 which enacted Welfare and Institutions Code section 14029.5 was amended by SB 1147 in 2008. Welfare and Institutions Code section 14029.5 must be read in concert with Welfare and Institutions Code section 14011.10, which provides for the suspension rather than termination of eligibility for juvenile inmates and specifically states that no state general fund program shall be created¹¹.

Welfare and Institutions Code Section 14011.10 (d) states that “Nothing in this section shall create a state-funded benefit or program...”

In guiding the Commission of Mandates in determining whether a state mandate exists, Government Code section 17556 provides that:

“The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds any one of the following:

¹¹ See Welfare and Institutions Code section 14011.10, section (d) as enacted by SB 1147

"xxx-xxx-xxx

"(e) The statute, executive order, or an appropriation in a Budget Act or other bill provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate."

In this case, SB 1147 provides for cost savings and amends 14029.5 to work in conjunction with Welfare and Institutions Code section 14011.10. With the passage of Welfare and Institutions Code section 14011.10 any juvenile already on Medi-Cal prior to incarceration is automatically reinstated as eligible for Medi-Cal on the date of release. This would result in lower costs by the County in the re-determination of the juvenile eligibility for Medi-Cal, since the juvenile's eligibility is merely suspended during the incarceration. This cost savings was not factored in by the County Welfare Department. Cost savings by the County Welfare department would naturally result from the new requirements of 14011.10 since work hours by the County Welfare department would be minimized since the re-determination of eligibility will be less work intensive. The notice by the County Probation Department would automatically suspend eligibility as opposed to terminating eligibility.

II Does Government Code section 17556 preclude the Commission from finding that any of the test claim provisions impose cost mandated by the state?

Response: Yes, the Government Code section 17556 does preclude the Commission from finding that the test claim of Alameda County imposes costs mandated by the State.

The Government Code provides for two exceptions that are relevant in these instances: (1) local agency exception and (2) federal mandate exception. In these instances, this county and other urban counties who are members of the Urban Counties Caucus as well as local counties alcohol and drug program administrators supported this legislation¹²

a) County Stakeholders Supported SB 1469.

Government Code section 17556 subdivision (a) provide: "The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim

¹² At page 6, Senate Bill Analysis SB 1469, August 23, 2006. "The County Alcohol and Drug Program Administrators Association of California strongly support the bill. They believe that this bill will provide Medi-Cal and other health benefits for eligible adolescents immediately upon their release from juvenile detention facilities.

submitted by a local agency or school district, if, after a hearing, the commission finds..." "The claim is submitted by a local agency...that requested legislative authority for that ... local agency ... to implement the program specified in the statute."

A review of the legislative analyst notes on SB 1469 reveal that Local County advocates¹³ supported SB 1469, codified as Welfare and Institutions Code section 14029.5. Supporters of the bill include The County Alcohol and Drug Program Administrators Association of California, California Mental Health Directors Association, Chief Probation Officers of California, City of Los Angeles, City of Santa Monica, County Alcohol and Drug Program Administrators Association, Urban Counties Caucus, and the National Association of Social Workers.

b) There is no state reimbursable mandate if the costs are de minimis and incidental to a federal mandate.

Under the federal mandate exception of Government Code section 17556, the commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds any one of the following:

"xxx-xxx-xxx

"(c) The statute or executive order imposes a requirement that is mandated by a federal law or regulation and results in costs mandated by the federal government, unless the statute or executive order mandates costs that exceed the mandate in that federal law or regulation. This subdivision applies regardless of whether the federal law or regulation was enacted or adopted prior to or after the date on which the state statute or executive order was enacted or issued.

xxx-xxx-xxx

The requirements of this statute come within the federal requirement to redetermine eligibility whenever there is a change in circumstances. Federal law requires states to redetermine eligibility every 12 months or *whenever the agency is informed* of a change in circumstances. This duty is concomitant to the eligibility determinations that are already delegated to the CWD. The CWD is already paid to perform eligibility determinations and redeterminations and naturally, the guidelines in performing such determinations must be followed by the CWD. Part and parcel of its delegated and already paid for duties include "procedures designed to ensure that

¹³ At p. 6. *Bill Analysis*, SB 1469, Aug.23, 2006 Senate Rules Committee, Support. "California Mental Health Directors Association, Chief Probation Officers of California, city of Los Angeles, City of Santa Monica, County Alcohol and Drug Program Administrators Association, Urban Counties Caucus."

recipients make timely reports of any changes in circumstances that may affect their eligibility.” Hence, the notice provided to the CWD is incidental to its duty.

42 Code of Federal Regulations section 435.916 Periodic redeterminations of Medicaid eligibility:

“(a) The agency must redetermine the eligibility of Medicaid recipients, with respect to circumstances that may change, at least every 12 months, however--

“(1) The agency may consider blindness as continuing until the review physician under § 435.531 determines that a recipient's vision has improved beyond the definition of blindness contained in the plan; and

“(2) The agency may consider disability as continuing until the review team under § 435.541 determines that a recipient's disability no longer meets the definition of disability contained in the plan.

“(b) Procedures for reporting changes. The agency must have procedures designed to ensure that recipients make timely and accurate reports of any change in circumstances that may affect their eligibility.

“(c) CWD or Local Agency action on information about changes.

“(1) The agency must promptly redetermine eligibility when it receives information about changes in a recipient's circumstances that may affect his eligibility.

“(2) If the agency has information about anticipated changes in a recipient's circumstances, it must redetermine eligibility at the appropriate time based on those changes.”

Based on the above federal duty of the CWD to redetermine eligibility based on information on any anticipated changes in a recipients circumstance, there is no state mandate where the costs to WDs are ‘*de minimis*’. In the recent case of *California School Board Assn. v. State of California*¹⁴

“...the Supreme Court specified what costs associated with expulsion of a student from a public school were reimbursable as state mandates. The court determined that although some costs were reimbursable as state mandates, **others were not because they were incidental to federal mandates and were *de minimis***

¹⁴ (March 9, 2009 3rdDCA) 2009 WL 581162 at page 18

[at 33 Cal.4th at p. 889-890 Emphasis added]....The claimant realized that it was not entitled to state reimbursement for costs that were federally mandated, but asserted a claim for those costs that resulted from state mandates that exceeded the federal due process requirement." [at 33 Cal.4th at p. 885]

The ruling of the court in this case corresponds to the holding of the court in the *San Diego Unified School District v. Commission on State Mandates*¹⁵

"Incidental and *de minimis* costs interpreting Gov. Code section 17556 subdivision (c)..."the Legislature, in adopting specific statutory procedures to comply with the general federal mandate, reasonably articulated various incidental procedural protections...[the statutes]viewed singly or cumulatively, did not significantly increase the cost of compliance with the federal mandate...for purposes of ruling upon a request for reimbursement, challenged state rules or procedures that re intended to implement an applicable federal law—and whose costs are, in context, *de minimis*—should be treated as part and parcel of the underlying federal mandate."

Applying the holding of the court above to the present case, it is clear that the *de minimis* cost, if any of notifying the CWD, is incidental to the federal mandate delegated to the county of determining and redetermining eligibility. Federal law prohibits Medicaid coverage during incarceration but allows eligibility to be maintained during the interim of incarceration. Welfare and Institutions Code section 14029.5 addresses this federal requirement and makes sure that the juveniles' eligibility is on-line as soon as the juvenile is released. Nothing in Welfare and Institutions Code 14029.5 exceeds the requirements of federal law.

c) *De minimis* cost, if any are offset by savings as a result of the lessened work hours by virtue of the early eligibility of the juvenile under Welfare and Institutions Code Section 14029.5.

Under Government Code section 17553, (2) (B) the test claim must identify: "Declarations identifying all local, state, or federal funds, or fee authority that may be used to offset the increased costs that will be incurred by the claimant to implement the alleged mandate, including direct and indirect costs;

Neither the County of Alameda in the Declaration of Patricia Fair or the declaration of Allan Burdick provides anything but estimates in support of the request to confirm that SB 1469 constitutes a state mandate. The estimates of approximately 7.5 hours of work per juvenile for the potential 70,000 juvenile detainees¹⁶ as described by

¹⁵ (2004) 33Cal.4th859, 889.

¹⁶ At page 3, Bill Analysis, Senate Third Reading SB 1469.

the Senate Bill Analysis for SB 1469 and the projection of statewide probation costs of \$1,178,926 for Probation Officer services for 24,562 inmates are unsupported by actual data to show both costs and savings.

For an undetermined time period, Alameda County reports actual costs of \$1,274.68 for meetings with the state¹⁷ and with its probation department. Alameda County projects annual costs of \$14,948.41¹⁸ for the Alameda County Probation Department to send to the Alameda County Welfare Department the names and release dates of juvenile detainees. Alameda County however does not report the value of increased Medi-Cal reimbursement for eligibility of formerly ineligible beneficiaries who required county care under Welfare and Institutions Code section 17000.

Ms. Fair, states that the \$1,274.68 was the cost of time for initial meetings to discuss implementation of the statute.¹⁹ Further she estimates that it will take 3.25 hours per "work" plus "2.5" hours per week to process notices, [5.75 hours per week for each individual, i.e., to obtain the name and date of release of each juvenile, send it to the Alameda CWD and issue a Medi-Cal card]. The declaration does not document any time study or task delineation as the basis for these numbers. Furthermore, the activities cited by Ms. Fair associated with those hours involve giving notice to the Social Services Agency, or the CWD. As noted above, such notice can be easily performed with much less work by simply forwarding a computer printout of the information to the CWD. The notices to the parents are also merely incidental to the functions of the county juvenile system. The other activities cited by Ms. Fair, are already being performed by the CWD, which is already being compensated for making eligibility determinations.

In the declaration of Mr. Allan P. Burdick, referring to AB 1489 (sic), he states that the cost per inmate is 30 minutes of a probation officers time (\$70 an hour) plus clerical time (\$26 per hour) for a blended rate of \$48 per hour per juvenile. Total cost \$1,178,926 for 24,562 juveniles. It is unclear how Mr. Burdick arrived at his estimated costs since the sole requirement under SB 1469 is to send the name, date of release and other available information to the CWD. The information sought is already in their possession as an incident to their case management and intake duties. All they have to do is pass on information they already possess to the CWD. As part of their case management duties, they are already tasked in coordinating the juvenile's information to the court and other beneficial parties to benefit the juvenile ward.

Furthermore, the test claim fails to take into consideration numerous offsets that could offset the minimal work hours allegedly required in notifying the CWD. Specifically, the county failed to factor in potential savings that could offset the work hours as a result of Medi-Cal starting coverage immediately upon release of the juvenile. Under the old rules (before the effective date of Welf. & Inst. Code §14029.5), the County was responsible for the health care of the juvenile 60-90 days from release

¹⁷ See In Re Test Claim by Alameda County Section 5, page 4.

¹⁸ *Id* at page 5.

¹⁹ *Id* at page 7.

from incarceration. During the 45-90 day period, the juvenile was still not covered by Medi-Cal, hence, the County would expend work hours to determine and direct the health care needs of the juvenile. Once approved under Medi-Cal, Medi-Cal would retroactively cover the 45-90 day period. Under Welfare and Institutions Code section 14029.5, Medi-Cal would be on-line immediately and the County would not have to expend work hours managing the transition, directing the health care of the juvenile. Consequently, the counties will realize a savings from Welfare and Institutions Code section 14029.5 since they will not expend any work hours directing the juvenile's health care needs during those 60-90 days since Medi-Cal would be immediately online.

Furthermore, any services provided by non-Medi-Cal providers during the 45-90 day period would not be reimbursed to the county even after Medi-Cal eligibility is established. The process under Welfare and Institutions Code section 14029.5 will cancel out the 45-90 day period, and hence would not subject the county to potential services that are not reimbursable thereby resulting in savings to the County.

Lastly, the county failed to take into consideration any potential savings mentioned in the SB 1469's analysis regarding lower costs to counties because lower recidivism will lower rates of incarceration since the juvenile inmates will receive mental health and alcohol and drug treatment upon release²⁰.

III. Have funds been appropriated for this program (e.g. state budget) or are there other sources of funding available? If so, what is the source?

No appropriation has been identified by the test claim and no funds have been appropriated for this program.

No funds have been appropriated for this program by either the state or federal government. Although the federal government pays a portion of the county services related to administration including the eligibility determination process at the county level. This federal participation however does not extend to administrative activities done by probation officers.

Only CWD expenditures for determinations of eligibility for Medi-Cal are eligible for reimbursement by the state. Under 42 Code of Federal Regulations section 433.51, certified public expenditures eligible for Federal Financial Participation (FFP) include local city and county expenditures to cover administrative costs of eligibility determinations. The only costs not covered are the costs of probation officers and correctional staff for sending the names and release dates to CWDs. The State of California had previously sought to obtain FFP for the work of probation officers,

²⁰ At pages 2,3 Assembly Analysis Aug. 22, 2006. "There are huge rates of recidivism among the juvenile population. Often, the reason for a ward's return to custody is the result of his or her failure to receive treatment for a mental health or substance abuse disorder. The author reports that a recent study conducted at the University of California, Irvine found that harmful alcohol and drug use by adolescents in juvenile detention facilities is at a 70% level, or roughly 70,000 of the 100,000 admissions to juvenile halls across California counties in 2004.

however, in 1995 the department received a disallowance of similar claims: “[Item no.](7) FFP for activities of probation or correctional officers in penal institutions was improperly attributed to Medi-Cal”; *HCFA Letter to California Department of Health Services*, from Nancy Dapper, Acting Regional Administrator, Re: CA-95-001-ADM Mar. 1, 1995.

Activities being performed by probation or correctional officers in various juvenile or adult detention facilities were being coded as allowable Medi-Cal Administrative Claiming activities. However, such detention facilities are public penal institutions, and any medical services or administrative activities provided to the inmates in such public institutions are not allowable Federal Medicaid expenditures.

With regard to the lack of appropriation in the DHCS budget, the courts in the case of *County of San Diego v. State*²¹, summarized the State's defense to a test case as follows:

“[The State] generally put on witnesses from various state agencies who testified the specific items in their budgets had historically never been used to fund local mandates. Rather, they were used to fund salaries, expenditures and programs of the state agency. Several of the agencies also could not guarantee funds would be available at the end of the fiscal year. They also indicated state law precluded agencies from functioning with a deficit.” The court noted the parties had stipulated that the specific potential funding sources the Counties had identified through Hamm's testimony “ ‘have historically not been used to provide reimbursement to local agencies for the State mandated costs at issue in this lawsuit...’ ”

The court held:

“We are sympathetic to the financial burden placed on the Counties by the State's failure to meet its reimbursement requirements under article XIII B, section 6. Civil Code section 3523 provides that “[f]or every wrong there is a remedy.” However, this statute does not permit a remedy through the courts when the remedy is with the Legislature. (*Tulare County v. Kings County* (1897) 117 Cal. 195, 202-203, 49 P. 8.) This case is more about legislative *inaction*-i.e., the Legislature's failure to appropriate money it was constitutionally required to appropriate-than the failure of state officials to carry out ministerial duties. As the California Supreme Court stated in *Myers v. English* (1858) 9 Cal. 341: “It is within the legitimate power of the judiciary, to

²¹ 164 Cal.App.4th 580, 591, 79 Cal.Rptr.3d 489, 498 (Cal.App. 4 Dist.,2008)

declare the *action* of the Legislature unconstitutional, where that action exceeds the limits of the supreme law; but the Courts have no means, and no power, to avoid the effects of *non-action*. The Legislature being the creative element in the system, its action cannot be quickened by the other departments. Therefore, when the Legislature fails to make an appropriation, we cannot remedy that evil. It is a discretion specially confided by the Constitution to the body possessing the power of taxation.

Lastly, the Legislature in subsequent legislation, SB 1147, amending SB 1469, specifically stated that suspension and restoration of eligibility during incarceration shall not create a state funding benefit or program. Welfare and Institutions Code section 14011.10 provides:

Welfare and Institutions Code section 14011.10

“(a) Benefits provided under this chapter to an individual under 21 years of age who is an inmate of a public institution shall be suspended in accordance with Section 1396d(a)(28)(A) of Title 42 of the United States Code as provided in subdivision (c).

“(b) County welfare departments shall be required to notify the department within 10 days of receiving information that an individual under 21 years of age on Medi-Cal in the county is or will be an inmate of a public institution.

“(c) If an individual under 21 years of age is a Medi-Cal beneficiary on the date he or she becomes an inmate of a public institution, his or her benefits under this chapter and under Chapter 8 (commencing with Section 14200) shall be suspended effective the date he or she becomes an inmate of a public institution. The suspension will end on the date he or she is no longer an inmate of a public institution or one year from the date he or she becomes an inmate of a public institution, whichever is sooner.

“(d) Nothing in this section shall create a state-funded benefit or program. Health care services under this chapter and Chapter 8 (commencing with Section 14200) shall not be available to inmates of public institutions whose Medi-Cal benefits have been suspended under this section.”

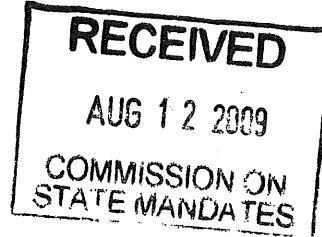
As no funds have been identified nor appropriated, the County has no remedy before the Commission.

Conclusion

For all of the reasons stated herein: counties are already responsible for determining and redetermining eligibility for all persons including juvenile detainees; they already receive federal funding for all determinations and redeterminations they do; counties are responsible for health care for juvenile detainees. Nothing in the evidence presented by Alameda County demonstrates that the requirements of SB1469 impose a new program or higher level of service in an existing program upon local entities. Therefore, the Commission on State Mandates should deny the test claim of Alameda and make a finding that the legislature did not create a new state mandate under SB 1469



August 10, 2009



Ms. Paula Higashi
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Dear Ms. Higashi:

The Department of Finance (Finance) has reviewed the test claim submitted by Alameda County (claimant) for Claim No. 08-TC-04, "Medi-Cal Eligibility of Juvenile Offenders." Commencing on page 4 of the test claim, the claimant has identified the following as new reimbursable state mandates activities:

County Probation Department Juvenile Detention Facility

1. Provide specified information to the County Welfare Department (CWD) relating to a ward of the county who is scheduled to be released.
2. Contact the parent or guardian (if minor), to provide an opportunity to opt out of the eligibility determination.
3. Maintain records regarding the wards.
4. Coordinate with the Social Service Agency for Medi-Cal Screening.

County Welfare Department

1. Draft and adopt new written policies.
2. Initiate an application and determine Medi-Cal eligibility.
3. Provide sufficient documentation to enable the ward to receive medical care upon release.

Prior laws required counties to determine Medi-Cal eligibility. The following are submitted for your review:

- 1) Federal law requires the designation of an administrator for the Medicaid program. The Department of Health Care Services (DHCS) has been appointed to administer the California plan known as "Medi-Cal." Through this program, the DHCS distributes federal and state funding to counties for providing administrative services and health care to qualified persons. The Code of Federal Regulations also requires agencies to redetermine eligibility, with respect to circumstances that may change, at least every 12 months.
- 2) The California Code of Regulations delegates determination of eligibility to counties and, like the federal law, requires agencies to determine continuing eligibility every 12 months. A funding mechanism exists to compensate counties for determining initial and continuing Medi-Cal eligibility for all applicants.

Ms. Paula Higashi
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Page 2

State funds are appropriated to the DHCS in the annual Budget Act under Item 4260-101-0001, Schedule (1) Eligibility (County Administration), based on projected amounts. Providers submit expenditures through the Electronic Data Systems, the fiscal intermediary for the Medi-Cal Fee for Service System that pays providers. The DHCS receives monthly expenditure reports from counties and other state agencies, then reimburses for the cost of approved services. Eligibility determinations are reimbursed for all applicants even if subsequently found to be ineligible.

Federal funds are appropriated in Item 4260-101-0890. The DHCS combines the reports on the CMS-64 certification of public expenditures quarterly. An estimated claim is then submitted to draw down federal financial participation funds from the Center for Medicare & Medicaid Services, Department of Health and Human Services, a federal agency. Payment is based on the Federal Medical Assistance Percentage, which ranges between 50 and 85 cents reimbursement for every dollar.

In cases where a deficiency may occur, the DHCS may request approval from Finance to transfer funds between schedules or from other specified items within the Budget. The authority for transfers is in the annual Budget Act as provisional language under Item 4260-101-0001.

As a result of our review, Finance believes partial approval of the test claim may be appropriate for the sole requirement on the County Probation Department to provide specified information of a ward to the CWD, if additional costs have been incurred. Finance also believes that counties are fully reimbursed through state and federal funding for all costs related to eligibility determination for the Medi-Cal program.

As required by the Commission's regulations, a "Proof of Service" has been enclosed indicating that the parties included on the mailing list which accompanied your February 9, 2009 letter have been provided with copies of this letter via either United States Mail or, in the case of other state agencies, Interagency Mail Service.

If you have any questions regarding this letter, please contact Carla Castañeda, Principal Program Budget Analyst at (916) 445-3274.

Sincerely,



Diana L. Ducay
Program Budget Manager

Enclosures

Enclosure A

DECLARATION OF CARLA CASTAÑEDA
DEPARTMENT OF FINANCE
CLAIM NO. CSM-08-TC-04

1. I am currently employed by the State of California, Department of Finance (Finance), am familiar with the duties of Finance, and am authorized to make this declaration on behalf of Finance.
2. We concur that the sections relevant to this claim are accurately quoted in the test claim submitted by claimants and, therefore, we do not restate them in this declaration.

I certify under penalty of perjury that the facts set forth in the foregoing are true and correct of my own knowledge except as to the matters therein stated as information or belief and, as to those matters, I believe them to be true. As to the attachments included with this filing, I certify they are authentic copies downloaded from the websites of the California Office of Administrative law (www.westlaw.com), Official California Legislative Information (www.leginfo.ca.gov), and Electronic Code of Federal Regulations (www.ecfr.gpoaccess.gov).

August 10, 2009
at Sacramento, CA

Carla Castañeda
Carla Castañeda

PROOF OF SERVICE

Test Claim Name: Medi-Cal Eligibility of Juvenile Offenders

Test Claim Number: CSM-08-TC-04

I, the undersigned, declare as follows:

I am employed in the County of Sacramento, State of California, I am 18 years of age or older and not a party to the within entitled cause; my business address is 915 L Street, Floor, Sacramento, CA 95814.

On 8-10-2009, I served the attached recommendation of the Department of Finance in said cause, by facsimile to the Commission on State Mandates and by placing a true copy thereof: (1) to claimants and nonstate agencies enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail at Sacramento, California; and (2) to state agencies in the normal pickup location at 915 L Street, Floor, for Interagency Mail Service, addressed as follows:

A-16
Ms. Paula Higashi, Executive Director
Commission on State Mandates
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Sacramento, CA 95814
Facsimile No. 445-0278

Ms. Annette Chinn
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Ms. Harmeet Barkschat
Mandate Resource Services, LLC
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Sacramento, CA 95842

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Ms. Ginny Brummels
State Controller's Office
Division of Accounting & Reporting
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Sacramento, CA 95816

A-15
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Department of Finance
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Sacramento, CA 95814

Mr. J. Bradley Burgess
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Rancho Cordova, CA 95670

Mr. Glen Everroad
City of Newport Beach
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Newport Beach, CA 92659-1768

Mr. Leonard Kaye
County of Los Angeles
Auditor-Controller's Office
500 W. Temple Street, Room 603
Los Angeles, CA 90012

Proof of Service
August 10, 2009
Page 2

A-15
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915 L Street, 12th Floor
Sacramento, CA 95814

Ms. Sharon K. Joyce
Department of Corrections
Legal Affairs Division
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Sacramento, CA 95283-0001

Mr. Louie Martinez
Alameda County
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Oakland, CA 94612

Ms. Bonnie Ter Keurst
County of San Bernardino
Office of the Auditor/Controller-Recorder
222 West Hospitality Lane
San Bernardino, CA 92415-0018

Ms. Lisa Velasquez
Department of Health Care Services
1501 Capitol Avenue, MS 0010
P.O. Box 997413
Sacramento, CA 95814

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on 8-10-2009 at Sacramento, California.

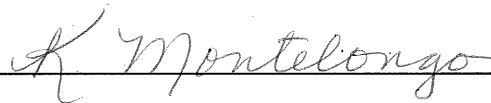




Exhibit D

January 6, 2010

Ms. Paula Higashi
Executive Director
Commission on State Mandates
800 Ninth Street, Suite 300
Sacramento, CA 95814

**Re: Department of Health Care Service Comment on Test Claim 08-TC-04
Medi-Cal Eligibility of Juvenile Offenders**

Dear Ms. Higashi:

The Department of Health Care Services (DHCS) has reviewed the comments filed by the Department of Finance (Finance) and would like to clarify some statements made therein.

DHCS disagrees with Finance with regard to paragraphs 4 to 6 (p. 2) of its letter which reads:

"Federal funds are appropriated in Item 4260-101-0890. The DHCS combines the reports on the CMS-64 certification of public expenditures quarterly. An estimated claim is then submitted to draw down federal financial participation funds from the Center for Medicare & Medicaid Services, Department of Health and Human Services, a federal agency. Payment is based on the Federal Medical Assistance Percentage, which ranges between 50 and 85 cents reimbursement for every dollar.

"In cases where a deficiency may occur, the DHCS may request approval from Finance to transfer funds between schedules or from other specified items within the Budget. The authority for transfers is in the annual Budget Act as provisional language under Item 4260-101-0001.

"As a result of our review, Finance believes partial approval of the test claim may be appropriate for the sole requirement

Ms. Paula Higashi
Page 2
January 6, 2010

on the County Probation Department to provide specified information of a ward to the CWD, if additional costs have been incurred....”

Activities by County Probation Officers Do Not Draw Down Federal Financial Participation (FFP) Funds.

Contrary to the above paragraph, DHCS cannot draw down FFP funds from the federal government for services provided by County Probation Officers.

In a letter of disallowance from the federal Health Care Finance Administration (HCFA), California was denied FFP funds for Medi-Cal Administrative Claiming (MAC) System. The letter disallowed FFP funds for activities of probation or correctional officers in penal institutions. The letter states that such activities cannot be attributed to Medi-Cal (See p. 1, 1st par. of the letter.) The letter specifically states that:

“Activities being performed by probation or correctional officers in various juvenile or adult detention facilities were being coded as allowable MAC activities. However, such detention facilities are public penal institutions, and any medical services or MAC administrative activities provided to the inmates of such institutions are not allowable Federal Medicaid expenditures.”

As discussed extensively in DHCS initial comment to this test case, activities by County Probation Officers are not state reimbursable mandates under SB 1469. The implication of the above MAC federal disallowance is that contrary to the assessment of Finance, DHCS cannot draw down FFP funds in the amount of “50 to 85 cents reimbursement fore every dollar”. Consequently, should the activities of the County Probation Department be found to be a reimbursable state mandate, there are no funds allocated for its reimbursement.

The County Probation Department Is Already Reimbursed Under Existing Law for All Its Intake and Investigation Activities and Other Case Management Activities Related to Juvenile Incarceration.

Finance in their comment believes that “partial approval of the test claim may be appropriate for the sole requirement on the County Probation Department to provide specified information of a ward to the CWD, if additional costs have been incurred...”

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Page 3
January 6, 2010

DHCS restates its position that no additional costs will be incurred by the County Probation Department. Counties are already being reimbursed for their intake, investigation, and other services incidental to juvenile incarceration. Counties are responsible for the case management of juveniles who have been incarcerated in the juvenile justice system. According to the Alameda County Probation Department website,

“Deputy Probation Officers fulfill the roles of Peace Officer, Case Manager, and Advocate for youths involved in delinquent behavior. Probation Officers serve in various functions, including Intake, Investigations, Supervision of High Risk Youths and Gender Specific Girl’s Caseloads, Community Probation Program, Out-of-Home Placement, Family Preservation Program, Home Supervision and Court Officers.” (See www.co.alameda.ca.us/probation/jfs.htm)

Counties are responsible for the case management of juveniles who have been incarcerated in the juvenile justice system (See Welf. & Inst. Code, § 650 et seq., 850 et seq., and 207.1 (e) (1).) Senate Bill 81 (2007) section 25 which codified Welfare and Institutions Code section 1766 states that if a person has been committed to the Department of Corrections and Rehabilitations, Division of Juvenile Facilities, the county of commitment shall supervise the parole and within 60 days of intake, the Division of Juvenile Facilities shall provide the County Probation Department with a treatment plan for the ward. Additionally, SB 81 (2007) section 31 also clearly provides that it is the intent of the Legislature that the authority for counties to receive wards who otherwise would be committed to the custody and supervision of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, shall not constitute a higher level of service or new program in excess of the programmatic funding included under SB 81. It also adds that it is the intent of the Legislature that the state has provided funding from an adequate level of care for youthful offenders received by the county pursuant to SB 81 and that each county shall be limited in its expenditures to funds specifically made available for such purposes.

Given the above statutes, it can be clearly seen that no finding of a reimbursable mandate can be found in the present test case since any reimbursement would be duplicative.

The purpose of SB 1469 is merely to enable the County Probation Officer to share the information with the County Welfare Department, who would in turn determine eligibility. The confidentiality of records of juveniles is paramount and protected by statute (See

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January 6, 2010

West's Ann.; Cal.Welf. & Inst.Code, § 204) and SB 1469 merely creates and allows the sharing of the data with the County Welfare Department strictly for eligibility screenings.

Welfare and Institutions Code section 204 states:

“204. Information available for juvenile court proceedings regarding best interest of child; confidentiality.

“Notwithstanding any other provision of law, except provisions of law governing the retention and storage of data, a family law court and a court hearing a probate guardianship matter shall, upon request from the juvenile court in any county, provide to the court all available information the court deems necessary to make a determination regarding the best interest of a child, as described in Section 202, who is the subject of a proceeding before the juvenile court pursuant to this division. The information shall also be released to a child protective services worker or juvenile probation officer acting within the scope of his or her duties in that proceeding. Any information released pursuant to this section that is confidential pursuant to any other provision of law shall remain confidential and may not be released, except to the extent necessary to comply with this section. No records shared pursuant to this section may be disclosed to any party in a case unless the party requests the agency or court that originates the record to release these records and the request is granted. In counties that provide confidential family law mediation, or confidential dependency mediation, those mediations are not covered by this section.”

SB 1469 taken together with existing statutes sought to clearly and expressly enable the County Probation Officers to share information that they already have to the County Welfare Department to for the purpose of Medi-Cal eligibility determination. It is not the intention of the Legislature to create a reimbursable state mandate.

SB 1147, Enacting Welfare and Institutions Code Section 14011.10 Effective January 2010 Amends and Supplements SB 1469.

SB 1469 which enacted Welfare and Institutions Code section 14029.5 was amended by SB 1147 in 2008. Welfare and Institutions Code section 14029.5 must be read in concert with Welfare and Institutions Code section 14011.10, which provides for the suspension rather than termination of eligibility for juvenile inmates and specifically states that no state general fund program shall be created.

Welfare and Institutions Code section 14011.10 (d) states that “Nothing in this section shall create a state-funded benefit or program...”

Ms. Paula Higashi
Page 5
January 6, 2010

In guiding the Commission of Mandates in determining whether a state mandate exists, Government Code section 17556 provides that:

“The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds any one of the following:

“xxx-xxx-xxx

“(e) The statute, executive order, or an appropriation in a Budget Act or other bill provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate.”

In this case, SB 1147 provides for cost savings and amends Welfare and Institutions Code section 14029.5 to work in conjunction with Welfare and Institutions Code section 14011.10. In the case of *LifeCare v. CalOptima*, the court held:

“The passage of section 14081.5 demonstrates the Legislature's disapproval of judicial efforts to circumvent management controls on Medi-Cal reimbursement.” (See *LifeCare v. CalOptima* at p. 1181, 133 Cal.App. 4th 1169.)

With the passage of Welfare and Institutions Code section 14011.10 any juvenile already on Medi-Cal prior to incarceration is automatically reinstated as eligible for Medi-Cal on the date of release. Hence, with the passage of SB1147, the present test claim becomes moot (for claims after Jan. 2010). Since the juvenile's eligibility is automatically reinstated as eligible, there will be no need for re-determinations by the County Welfare Department. Any re-determination at most will be minimal and would only entail asking when the juvenile's incarceration ends.

Received
October 27, 2010
Commission on
State Mandates

Ms. Paula Higashi
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January 6, 2010

If you have any questions concerning this submission, please contact Mr. Janssen Tan at (916) 440-7715 or via email at jtans@dhcs.ca.gov.

Sincerely,

Michael E. Kilpatrick
Assistant Chief Counsel



Janssen L. Tan
Staff Counsel

cc: See attached mailing list

Received
October 27, 2010
Commission on
State Mandates

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Sacramento, CA 95826

Hearing Date: September 27, 2013

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ITEM _
TEST CLAIM
DRAFT STAFF ANALYSIS

AND

PROPOSED STATEMENT OF DECISION

Welfare and Institutions Code section 14029.5, Statutes 2006, Chapter 657

Medi-Cal Eligibility of Juvenile Offenders

08-TC-04

County of Alameda, Claimant

EXECUTIVE SUMMARY

Attached is the draft proposed statement of decision for this matter. This Executive Summary and the draft proposed statement of decision also function as the draft staff analysis, as required by section 1183.07 of the Commission on State Mandates' (Commission) regulations.

Overview

This test claim seeks reimbursement for counties to help wards who are incarcerated in a juvenile detention facility for 30 days or more, and whose Medi-Cal coverage is terminated as a result of the incarceration, to obtain Medi-Cal or other health coverage immediately upon release from custody.

Medi-Cal is California's version of the federal Medicaid program, which provides financial assistance to states to furnish health care to low-income persons based on a cost sharing formula with the states. States that participate in the Medicaid program are required to comply with certain requirements, including having procedures designed to ensure that recipients make timely and accurate reports of any change in circumstances that may affect their eligibility. Federal law also requires that if the agency has information about anticipated changes in a recipient's circumstances, the agency must re-determine eligibility at the appropriate time based on those changes. Otherwise, re-determination of eligibility is required every 12 months.

Generally, Medicaid benefits are not paid for health care services for incarcerated individuals, and incarceration is considered a change in circumstances that affects eligibility. No federal matching funds are provided to the state during the recipient's incarceration. Federal law does not require states to terminate eligibility for aid during incarceration, but allows suspension of eligibility during incarceration.

California participates in the federal Medicaid program through the California Medical Assistance Program, or Medi-Cal, enacted in Welfare and Institutions Code section 14000, *et seq.* Under Medi-Cal, anyone serving a sentence in a facility that is part of the criminal justice system is ineligible for aid until permanent release, bail, probation, or parole.

Before the 2006 test claim statute, minors in juvenile detention facilities who received Medi-Cal before incarceration had their eligibility terminated at the time of custody. Under prior state law,

the juvenile's eligibility for Medi-Cal had to then be re-determined with a new application filed by the juvenile, or the juvenile's parents or guardians, following release from custody. This left a gap in time after incarceration until the new Medi-Cal application was approved, often leaving the juvenile with no Medi-Cal or other health care benefits necessary for mental health or substance abuse issues following incarceration.

The test claim statute, Welfare and Institutions Code section 14029.5, was enacted in 2006 to ensure that the Medi-Cal application process is initiated before juvenile wards are released from incarceration so that eligibility can be established immediately upon the ward's release. Beginning January 1, 2008, the statute requires county juvenile detention facilities, immediately following the issuance of an order of the juvenile court committing that ward to a juvenile hall, camp, or ranch for 30 days or longer, to notify the county welfare department (CWD) when a juvenile is incarcerated so that the CWD can determine before the ward is released from custody if the juvenile will be eligible for Medi-Cal, the Healthy Families Program or other appropriate health coverage for the juvenile with the cooperation of the juvenile's parent or guardian. The test claim statute also requires the CWD to initiate an application for Medi-Cal or forward the ward's information to the appropriate entity to determine eligibility for the Healthy Families Program or other health care program.

Procedural History

The test claim was filed on January 29, 2009 by the County of Alameda, establishing a potential period of reimbursement beginning on January 1, 2008 (the effective date of the test claim statute). The Department of Health Care Services (DHCS) filed a request for extension to file comments on March 11, 2009, and filed comments on June 11, 2009. The Department of Finance filed comments on August 12, 2009. DHCS filed rebuttal comments on October 27, 2010.

Commission Responsibilities

Under article XIII B, section 6 of the California Constitution, local agencies and school districts are entitled to reimbursement for the costs of state-mandated new programs or higher levels of service. In order for local government to be eligible for reimbursement, one or more similarly situated local agencies or school districts must file a test claim with the Commission. "Test claim" means the first claim filed with the Commission alleging that a particular statute or executive order imposes costs mandated by the state. Test claims function similarly to class actions and all members of the class have the opportunity to participate in the test claim process and all are bound by the final decision of the Commission for purposes of that test claim. The Commission is the quasi-judicial body vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6. In making its decisions, the Commission cannot apply article XIII B as an equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.¹

¹ *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802.

Claims

<u>Subject</u>	<u>Description</u>	<u>Staff Recommendation</u>
<p>Welfare and Institutions Code section 14029.5, Statutes 2006, chapter 657.</p>	<p>Beginning January 1, 2008, the statute requires county juvenile detention facilities, immediately following the issuance of an order of the juvenile court committing that ward to a juvenile hall, camp, or ranch for 30 days or longer, to notify the county welfare department (CWD) when a juvenile is incarcerated so that the CWD can determine before the ward is released from custody if the juvenile will be eligible for Medi-Cal, the Healthy Families Program or other appropriate health coverage for the juvenile with the cooperation of the juvenile's parent or guardian. The test claim statute also requires the CWD to initiate an application for Medi-Cal or forward the ward's information to the appropriate entity to determine eligibility for the Healthy Families Program or other health care program.</p>	<p><i>Partially Approve</i> –The test claim statute imposes state-mandated activities on county detention facilities and CWDs for the activities identified in the analysis below. These activities are mandated by state law and not federal law. Federal law authorizes states to suspend Medi-Cal eligibility for incarcerated individuals and not terminate their benefits during incarceration. Thus, the federal law did not force the state to enact Welfare and Institutions Code section 14029.5 to establish a process to reinstate benefits that were terminated under state law. Moreover, the intent of section 14029.5 was not to implement a federal requirement, but to carry out the state's policy of addressing recidivism in the juvenile population. All required activities, except for the requirement to re-determine Medi-Cal eligibility, are new and provide a service to the public, thus imposing a new program or higher level of service. In addition, the statute results in costs mandated by the state.</p>

Analysis

A. The Test Claim Statute Imposes A State-Mandated New Program Or Higher Level Of Service On Counties.

1. The test claim statute requires counties to perform new activities.

The plain language of Welfare and Institutions Code section 14029.5, as added by the 2006 test claim statute, requires county detention facilities to perform the following activities beginning January 1, 2008:

1. Subject to the provisions in 2. below, immediately following the issuance of an order of the juvenile court committing the ward to a juvenile hall, camp, or ranch for 30 days or longer, provide the appropriate CWD with the following information: the ward's name, scheduled or actual release date, any known information regarding the ward's Medi-Cal status prior to disposition, and sufficient information when available for the CWD to begin the process of determining the ward's eligibility for the Medi-Cal program, including available contact information for the ward's parent or guardian if the ward is a minor.
2. If the ward is a minor and before providing information to the CWD, notify the parent or guardian in writing of the intention to submit the information to the CWD. The parent or guardian shall be given a reasonable time to opt out of the Medi-Cal eligibility determination. If the parent or guardian opts out of the Medi-Cal eligibility determination, the county detention facility shall not provide information to the CWD.

The CWD is then required to perform the following activities:

1. From January 1, 2008, until December 31, 2008, upon receipt of the information from the county detention facility, and pursuant to the protocols and procedures developed by DHCS, initiate an application *and determine the eligibility* for benefits under the Medi-Cal program for all juvenile wards.

Beginning January 1, 2009, upon receipt of the information from the county detention facility, and pursuant to the protocols and procedures developed by DHCS, initiate an application *and determine the eligibility* for benefits under the Medi-Cal program only for wards not already enrolled in the Medi-Cal program.²
2. If the ward is a minor, promptly contact the parent or guardian to arrange for completion of the application. Applications shall be expedited for those wards scheduled to be released in fewer than 45 days.
3. If the ward does not meet the eligibility requirements for the Medi-Cal program, forward the ward's information to the appropriate entity to determine eligibility for the Healthy

² Welfare and Institutions Code section 14029.5 as amended by Statutes 2008, chapter 546 (SB 1147).

Families Program, or other appropriate health coverage program, with the consent of the ward's parents or guardian if the ward is a minor.

4. If the ward meets eligibility requirements for the Medi-Cal program, provide sufficient documentation to enable the ward to obtain necessary medical care upon release from custody.³

The italicized activity required by section 14029.5 of CWDs to “determine the individual’s eligibility for benefits under the Medi-Cal program” is not new. Under prior law, CWDs were already required to perform annual eligibility determinations whenever the county received information about changes in a beneficiary’s circumstances that could affect eligibility for the Medi-Cal program, or at least every 12 months.⁴ Since incarceration is a circumstance that changes a beneficiary’s Medi-Cal eligibility, prior law required CWDs to re-determine eligibility (from eligible to ineligible) for incarcerated Medi-Cal recipients, and then another determination of eligibility was required once the ward filed a new application following release from custody.

All other activities, however, are newly required of counties. CWDs were not required under preexisting law to initiate a Medi-Cal application, to contact a minor’s parent or guardian for completion of the Medi-Cal application, or forward a ward’s information to the appropriate entity to determine eligibility for the Healthy Families Program or other appropriate health coverage program if not eligible for Medi-Cal. The activity to provide documentation to enable the ward to obtain medical care if eligible for Medi-Cal is also new. Preexisting law requires CWDs to issue temporary Medi-Cal cards in limited circumstances, such as to those who have an immediate need for medical services prior to the normal anticipated receipt of a state-issued Medi-Cal card.⁵ Preexisting law did not require the CWD to provide sufficient documentation to enable wards to obtain necessary medical care upon release from custody, so this is a new and additional requirement. Moreover, all activities required by section 14029.5 of county detention facilities are new.

2. The new requirements are mandated by the state law and not by federal law.

The key in determining whether the required activities are mandated by federal law turns on how the costs of complying with the new requirements in Welfare and Institutions Code section 14029.5 came to be imposed on the counties. “If the state freely chose to impose those costs upon the local agency as a means of implementing a federal program then the costs are the result of a reimbursable state mandate regardless whether the costs were imposed upon the state by the

³ According to a DHCS memo, this means that the “county must issue an immediate need paper Medi-Cal card for the juvenile as soon as eligibility is established.” DHCS memo to County Welfare Directors “Medi-Cal Pre-Release Application Process for Wards in County Juvenile Facilities Re: Senate Bill (SB) 1469, Chapter 657, Statutes of 2006, Welfare and Institutions (W&I) Code section 14029.5” January 2, 2008, page 2.

⁴ Welfare and Institutions Code sections 14012 and 14005.37. California Code of Regulations, title 22, section 50189.

⁵ California Code of Regulations, title 22, section 50658(d).

federal government.”⁶ In this case, the state freely chose to impose the costs of terminating Medi-Cal benefits of incarcerated juveniles and establishing a process to determine eligibility before the juvenile was released.

As DHCS points out, federal law requires states to have procedures to determine or re-determine Medicaid eligibility for applicants and recipients, but California already had these procedures in place before the test claim statute was enacted. Preexisting law required counties to conduct eligibility screening of Medi-Cal applicants and perform re-determinations whenever there is a change of circumstances or at least every 12 months. The test claim statute was not necessary for California to comply with federal law. In addition, the federal government encouraged states to suspend benefits, instead of terminate benefits, upon incarceration. Thus, the federal Medicaid program did not force the state to enact Welfare and Institutions Code section 14029.5.

Moreover, the intent of section 14029.5 was not to implement a federal requirement. The intent of the statute was to carry out the state’s policy of addressing the huge rates of recidivism among the juvenile population, which was thought to be at least partially caused by the termination of benefits upon incarceration and the lack of benefits immediately upon release that were needed for the care of mental health and substance abuse issues. The central purpose article XIII B, section 6 is to prevent the state from shifting to local government the fiscal responsibility for providing services which the state believed should be extended to the public.⁷ Here it is state law, not federal law that requires counties to incur the costs of complying with section 14029.5.

3. The new mandated activities impose a new program or higher level of service on counties.

Staff finds that the newly-mandated activities impose a new program or higher level of service. The activities mandated by Welfare and Institutions Code are uniquely required of counties and implement the state’s policy of ensuring medical coverage through Medi-Cal, the Healthy Families program, or other health program for incarcerated juveniles immediately upon release. As indicated in the legislative history of the test claim statute, the purpose of the bill was to reduce recidivism and, thus, the activities provide a service to the public.

Moreover, DHCS’ reliance on *County of Los Angeles v. Commission on State Mandates* (2003) 110 Cal.App.4th 1176, is misplaced. In *County of Los Angeles*, the test claim statute required local law enforcement officers to participate in two hours of domestic violence training every two years. There was a preexisting requirement for officers to spend 24 hours in continuing education training every two years, of which the two hours of domestic violence training could be part. The court found that the statute did not mandate a higher level of service because the training requirement remained at 24 hours before and after enactment of the test claim statute, so there were no increased training hours and costs associated with the domestic violence training course.

⁶ *Hayes v. Commission on State Mandates* (1992) 11 Cal.App.4th 1564, 1592-1593.

⁷ *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.

Unlike the statute in the *County of Los Angeles* case, the test claim statute in this case imposes a new process on counties that does not fit within an existing framework of minimum program requirements. Accordingly, staff finds that the new requirements imposed by Welfare and Institutions Code section 14029.5 mandate a new program or higher level of service.

B. The Test Claim Statute Imposes Costs Mandated by the State Within the Meaning of Government Code Section 17514.

Staff also finds that the test claim statute results in costs mandated by the state within the meaning of Government Code section 17514. The County of Alameda estimates \$14,948.41 in annual costs to implement the test claim statute. The county's costs for the mandated program may be somewhat less than this estimate because staff finds that the claimed requirement to determine eligibility is not new and therefore does not impose a reimbursable new program or higher level of service.

Moreover, the exceptions to reimbursement in Government Code section 17556(a) and (e), which were raised as issues by the state agencies, do not apply in this case. The legislative history of the bill enacting the test claim statute indicates that it was supported by associations representing local agencies, but there is no evidence of a resolution or letter from a governing body of a county that indicates a county requested the authority to implement the test claim statute. Thus, section 17556(a) does not apply.

In addition, there is no evidence the Legislature has appropriated additional revenue in a Budget Act or other bill "specifically intended" to fund the cost of the new activities mandated by section 14029.5, nor is there any evidence in the record to support the argument that counties will realize decreased costs as a result of the test claim statute. Thus, section 17556(e) does not apply to deny reimbursement.

Conclusion

Staff finds that Welfare and Institutions Code section 14029.5 (Stats. 2006, ch. 657) imposes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution as specified on pages 28-29 of the proposed statement of decision.

Staff Recommendation

Staff recommends that the Commission partially approve the test claim.

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM ON: Welfare and
Institutions Code section 14029.5
Statutes 2006, chapter 657

Filed on January 29, 2009, by
County of Alameda, claimant

Case Nos.: 08-TC-04

Medi-Cal Eligibility of Juvenile Offenders

STATEMENT OF DECISION PURSUANT
TO GOVERNMENT CODE SECTION
17500 ET SEQ.; CALIFORNIA CODE OF
REGULATIONS, TITLE 2, DIVISION 2,
CHAPTER 2.5, ARTICLE 7.

(Adopted September 27, 2013)

PROPOSED STATEMENT OF DECISION

The Commission on State Mandates (Commission) heard and decided this test claim during a regularly scheduled hearing on September 27, 2013. [Witness list will be included in the final statement of decision.]

The law applicable to the Commission's determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code sections 17500 et seq., and related case law.

The Commission [adopted/modified] the proposed statement of decision to [approve/deny] the test claim at the hearing by a vote of [vote count] will be included in the final statement of decision].

Summary of the Findings

This test claim seeks reimbursement for counties to help wards who are incarcerated in a juvenile detention facility for 30 days or more and whose Medi-Cal coverage is terminated as a result of the incarceration to obtain Medi-Cal or other health coverage immediately upon release from custody.

The Commission finds that Welfare and Institutions Code section 14029.5 (Stats. 2006, ch. 657) constitutes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and requires county detention facilities to provide specified information regarding Medi-Cal eligibility to the county welfare department (CWD) and, if the ward is a minor, providing notice to the parent or guardian of the ward beginning January 1, 2008:

The CWD is then required to perform specified mandated activities relating to the initiation of application for Medi-Cal benefits for the ward. The CWD is also required to determine the

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ward's Medi-Cal eligibility; however, this requirement does not impose a reimbursable mandate since it is not new.

COMMISSION FINDINGS

I. Chronology

01/29/2009	Claimant, County of Alameda, filed the test claim with the Commission.
03/11/2009	Department of Health Care Services (DHCS) filed a request for extension of time to file comments on the test claim
06/11/2009	DHCS filed comments on the test claim
08/12/2009	Department of Finance (Finance) filed comments on the test claim.
10/27/2010	DHCS filed rebuttal comments.

II. Background

This test claim seeks reimbursement for counties to help wards who are incarcerated in a juvenile detention facility for 30 days or more and whose Medi-Cal coverage is terminated as a result of the incarceration, to obtain Medi-Cal or other health coverage immediately upon release from custody.

A. Preexisting Law

Medi-Cal is the state's system for administering the federal government's Medicaid program.⁸ The Medicaid program provides financial assistance to states to furnish health care to low-income persons based on a cost sharing formula with the states. States that participate in the Medicaid program are required to comply with certain requirements, including having procedures designed to ensure that recipients make timely and accurate reports of any change in circumstances that may affect their eligibility.⁹ Federal law also requires that if the agency has information about anticipated changes in a recipient's circumstances, the agency must re-determine eligibility at the appropriate time based on those changes.¹⁰ Otherwise, re-determination of eligibility is required every 12 months.

Generally, Medicaid benefits are not paid for health care services for incarcerated individuals. Incarceration is considered a change in circumstances that affects eligibility. No federal matching funds are provided to the state during the recipient's incarceration. Federal law does

⁸ Medi-Cal family income eligibility for children ages 0 to 1 extends up to 200% of the federal poverty level (FPL), children ages 1 to 5 with family incomes up to 133% FPL, and children ages 6 to 19 with family incomes up to 100% FPL.

⁹ Under federal law, the state may delegate the authority to determine eligibility for the program to local agencies. (42 USC § 1396a (a)(5), 42 CFR § 431.11(d).)

¹⁰ 42 CFR section 435.916.

not require states to terminate eligibility for aid during incarceration, but allows states to suspend their eligibility during incarceration.¹¹

California participates in the federal Medicaid program through the California Medical Assistance Program, or Medi-Cal, enacted in Welfare and Institutions Code section 14000, et seq. Under the Medi-Cal program, anyone serving a sentence in a facility that is part of the criminal justice system is ineligible for aid until permanent release, bail, probation, or parole.¹²

Before the enactment of the test claim statute in 2006, inmates of public institutions, including minors in juvenile detention facilities, who received Medi-Cal before incarceration had their eligibility terminated at the time of custody.¹³ Under prior state law, the juvenile's eligibility for Medi-Cal had to then be re-determined with a new application filed by the juvenile, or the juvenile's parents or guardians, following release from custody. This left a gap in time after incarceration until the new Medi-Cal application was approved and often leaving the juvenile with no Medi-Cal or other health care benefits necessary for mental health or substance abuse issues following incarceration. As stated in the Assembly Health Committee's analysis of the bill that enacted the test claim statute,

There are huge rates of recidivism among the juvenile population. Often, the reason for a ward's return to custody is the result of his or her failure to receive treatment for a mental health or substance abuse disorder. The author reports that a recent study conducted at the University of California, Irvine found that harmful alcohol and drug use by adolescents in juvenile detention facilities is at a 70% level, or roughly 70,000 of the 100,000 admissions to juvenile halls across California counties in 2004.¹⁴

B. The Test Claim Statute

The test claim statute enacted Welfare and Institutions Code section 14029.5 in 2006 to ensure that the Medi-Cal application process is initiated before juvenile wards are released from incarceration so that eligibility can be established immediately upon the ward's release.¹⁵ Beginning January 1, 2008, the statute requires county juvenile detention facilities, immediately following the issuance of an order of the juvenile court committing that ward to a juvenile hall, camp, or ranch for 30 days or longer, to notify CWDs when a juvenile is incarcerated so that the CWD can determine before the ward is released from custody if the juvenile will be eligible for

¹¹ States must "continue to furnish Medicaid regularly to all eligible individuals until they are found to be ineligible." (42 CFR § 435.930(b).)

¹² Department of Health Care Services, "Medi-Cal Eligibility Procedures Manual." Page 6A-1.

¹³ Welfare and Institutions Code, section 14053(b). California Code of Regulations, title 22, section 50273.

¹⁴ Assembly Committee on Health, Analysis of SB 1469 (2005-2006 Reg. Sess.) amended June 15, 2006, page 4.

¹⁵ *Ibid.*

Medi-Cal, the Healthy Families Program or other appropriate health coverage .¹⁶ The test claim statute also requires the CWD to initiate an application for Medi-Cal or Healthy Families for the juvenile with the cooperation of the juvenile's parent or guardian. Specifically, the test claim statute requires the county juvenile detention facility to:

- Provide the CWD with the ward's name, scheduled or actual release date, any known information regarding the ward's Medi-Cal status prior to disposition, and sufficient information, when available, for the CWD to begin the process of determining the ward's eligibility for benefits including, if the ward is a minor,¹⁷ contact information for the ward's parent or guardian, if available.
- If the ward is a minor, before providing the information in the paragraph above to the CWD, notify the parent or guardian, in writing, of its intention to submit the information listed above to the CWD.

The CWD is required, upon receipt of the ward's information, to:

- Initiate an application and determine the individual's eligibility for benefits under the Medi-Cal program.
- If the ward is a minor, promptly contact the parent or guardian to arrange for completion of the application.
- Expedite the application of a ward who is scheduled to be released in fewer than 45 days.
- If the CWD determines that the ward is not eligible for Medi-Cal, it shall, with the consent of the parent or guardian if the ward is a minor, forward the ward's information to the appropriate entity to determine eligibility for the Healthy Families Program or other appropriate health coverage as determined by the CWD.
- If the CWD determines that the ward is eligible for Medi-Cal, it shall provide sufficient documentation to enable the ward to obtain necessary medical care upon his or her release from custody.

The test claim statute also requires the Department of Health Care Services (DHCS) to establish protocols and procedures necessary to implement section 14029.5. On January 2, 2008, the DHCS issued an all county letter describing the activities required to comply with the test claim statute.¹⁸

¹⁶ The Healthy Families Program (California's version of the federal Children's Health Insurance Program) is administered by Managed Risk Medical Insurance Board and provides low-cost, subsidized health, vision and dental insurance to uninsured children, with family incomes up to 250% of federal poverty level, who are not eligible for no-cost Medi-Cal.

¹⁷ The juvenile justice system has jurisdiction over persons up to 21 years of age, or in certain instances up to 25 years of age. (Welf. & Inst. Code, § 607).

¹⁸ Exhibit ___.

The Senate Health Committee described the legal background of the test claim statute as follows:

Under [federal] Medicaid law, states do not receive federal matching funds for services provided to individuals in jail. However, federal law does not require states to terminate inmates' eligibility. Inmates may remain enrolled in Medicaid even though services received while in jail are not covered. Accordingly, someone who had a Medicaid card when jailed may be able to use it to obtain needed services and medication immediately after release.

Under federal rules, Medicaid eligibility should be reinstated upon release unless the person is no longer eligible. Before ending eligibility, states must determine the potential for qualifying under all the state's eligibility categories. Regrettably, this re-determination often does not occur.

Even inmates who keep their Medicaid eligibility may lose Medicaid coverage unnecessarily because of procedures in correctional facilities. Many individuals will be incarcerated for so long that they will lose their Medicaid benefits after the state's customary re-determination of eligibility is conducted (annually for California). Something as simple as the loss of a Medicaid card following arrest can make it impossible to obtain mental health services from Medicaid providers upon release. Cards are often lost because jails take possession of all personal property when booking a person. In many jurisdictions, this property is destroyed if it is not claimed within a certain time. Inmates cannot claim the property themselves and if they have no one to do it for them, their Medicaid card is destroyed.¹⁹

C. Subsequent Amendments to Welfare and Institutions Code section 14029.5 (SB 1147, Stats. 2008, ch. 546)

On October 16, 2007, the City and County of San Francisco and the County of Santa Clara filed a lawsuit against the state and DHCS requesting that the court issue a peremptory writ of mandate to end the state's policy of terminating Medi-Cal eligibility for juveniles in custody and failing to restore enrollment immediately upon release.²⁰

¹⁹ Senate Health Committee, Analysis of SB 1469 (2005-2006 Reg. Sess.) amended March 30, 2006, page 4. Exhibit _.

²⁰ *City and County of San Francisco, et al. v. State of California, et al.*, Superior Court of the County of San Francisco, Case No. 468-241. The petitioners also requested a writ requiring the state to provide Medi-Cal coverage for inpatient psychiatric hospital services provided to juveniles under the age of 21 and in custody, consistent with federal law. On this point, petitioners recognized that federal Medicaid law contains an exclusion generally barring the availability of federal financial participation for medical services provided to inmates of a public institution (42 U.S.C. § 1396(a)(A)). But they argued that the exclusion was subject to an exception for inpatient psychiatric hospital services provided under paragraph 16 of 42 U.S.C. § 1396(a)(A). The court agreed and issued a peremptory writ of mandate against the state.

While the case was pending, the Legislature enacted Senate Bill 1147 in 2008, which ended the policy of terminating Medi-Cal eligibility for incarcerated juveniles under the age of 21, and instead required that eligibility for juveniles who are Medi-Cal beneficiaries at the time they become inmates of a public institution to be suspended during incarceration. To implement the process for suspending benefits, the bill added Welfare and Institutions Code section 14011.10, which became operative on January 1, 2010, or at such time the federal government approved the state's amended plan. Section 14011.10 provides in relevant part the following:

- (a) Benefits provided under this chapter to an individual under 21 years of age who is an inmate of a public institution shall be suspended in accordance with Section 1396d(a)(28)(A) of Title 42 of the United States Code as provided in subdivision (c).
- (b) County welfare departments shall be required to notify the department [of Health Care Services] within 10 days of receiving information that an individual; under 21 years of age on Medi-Cal in the county is or will be an inmate of a public institution.
- (c) If an individual under 21 years of age is a Medi-Cal beneficiary on the date he or she becomes an inmate of a public institution, his or her benefits under this chapter and under Chapter 8 (commencing with Section 14200) shall be suspended effective the date he or she becomes an inmate of a public institution. The suspension will end on the date he or she is no longer an inmate of a public institution or one year from the date he or she becomes an inmate of a public institution, whichever is sooner.
- (d) Nothing in this section shall create a state-funded benefit or program. Health care services under this chapter and Chapter 8 (commencing with Section 14200) shall not be available to inmates of public institutions whose Medi-Cal benefits have been suspended under this section.
- (e) This section shall be implemented only if and to the extent allowed by federal law. This section shall be implemented only to the extent that any necessary federal approval of state plan amendments or other federal approvals are obtained.
- (f) If any part of this section is in conflict with or does not comply with federal law, this entire section shall be inoperable.
- (g) This section shall be implemented on January 1, 2010, or the date when all necessary federal approvals are obtained, which is later.

In addition, Statutes 2008, chapter 546, effective January 1, 2009, limited the requirement that CWDs initiate a Medi-Cal application for all juvenile wards following receipt of the information

(Order Granting in Part and Denying in Part Petitioner's Motion for Peremptory Writ, filed April 5, 2010.)

from the county detention facility, to only those wards *not already enrolled* in the Medi-Cal program. The 2008 statute added the following underlined text to section 14029.5:

(b) (1) Upon receipt of the information described in paragraph (1) of subdivision (a), and pursuant to the protocols and procedures developed pursuant to subdivision (c) the county welfare department shall initiate an application for any ward not already enrolled in the Medi-Cal program, and determine the individual's eligibility for benefits under the Medi-Cal program. If the ward is a minor, the county welfare department shall promptly contact the parent or guardian to arrange for completion of the application. If the cooperation of the minor's parent or guardian is necessary to complete the application, but the parent or guardian fails to cooperate in completing the application, the county welfare department shall deny the application in accordance with due process requirements. The county shall expedite the application of a ward who, according to the information provided pursuant to paragraph (1) of subdivision (a), is scheduled to be released in fewer than 45 days.

The legislative history of the 2008 bill recognized the pending lawsuit filed by the City and County of San Francisco, and further recognized that the federal Center for Medicare and Medicaid Services encouraged states to suspend, rather than terminate, Medicaid benefits while a person is incarcerated as part of a federal effort to reduce homelessness.²¹

On March 23, 2010, DHCS issued an all county letter (Letter No. 10-06) informing counties of the implementation requirements of SB 1147. As summarized in the letter, the 2006 and 2008 legislation impose two processes: one for those wards who are Medi-Cal beneficiaries at the time they become inmates and whose benefits are suspended during incarceration; and one for those wards who are not enrolled in the Medi-Cal program at the time of incarceration, requiring the CWD to determine eligibility when warranted and to start the application process for Medi-Cal or other health program.²² A test claim has not been filed on SB 1147 and, thus, no analysis or findings are provided in this statement of decision on the requirements for suspending Medi-Cal benefits for juvenile wards pursuant to Welfare and Institutions Code section 14011.10, or on the new language in section 14029.5(b)(1) requiring the CWD to deny the application for Medi-Cal benefits in accordance with due process requirements when the parent or guardian fails to cooperate with the county to complete the application for benefits. However, SB 1147 does limit the duties of the CWD that were imposed by the test claim statute to initiate an application for Medi-Cal benefits and, thus, SB 1147 will be analyzed for that purpose below.

On April 15, 2010, the Superior Court in the City and County of San Francisco case denied the petition for writ of mandate with respect to the challenge by local government regarding the

²¹ Senate Rules Committee, Office of Senate Floor Analyses, Analysis of SB 1147 (2007-2008 Reg. Sess.) as amended August 8, 2008. Exhibit _.

²² Exhibit _.

termination of Medi-Cal benefits, on the ground that the issue was moot with the passage of SB 1147.

III. Positions of the Parties

A. Claimant's Position

The claimant alleges that the test claim statute imposes a reimbursable state-mandated program under article XIII B, section 6 and Government Code section 17514 for counties. The test claim is supported by declarations from the County of Alameda, which estimates \$14,948.41 in annual costs to implement the mandate.²³ A separate declaration submitted with the test claim estimates a minimum of 30 minutes of a probation officer's time and 30 minutes of clerical time per juvenile to carry out the probation department's duties resulting from the test claim statute.²⁴

B. State Agency Positions

Department of Health Care Services: DHCS argues that the test claim statute does not impose a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and recommends that the Commission deny the test claim for the following reasons:

- The test claim statute's costs are incidental to a federal mandate. Federal regulations require agencies to have procedures to ensure that recipients make timely and accurate reports of any change in circumstances (such as incarceration) that may affect a recipients' eligibility for benefits. Because the test claim statute requirement does not exceed federal law, the test claim is not reimbursable.
- Under existing laws, counties are already required to assist all applicants and beneficiaries and provide care for all juvenile detainees. Specifically, CWDs have an obligation to conduct eligibility screenings of all applicants and perform re-determinations of individuals whenever there is a change of circumstances or at least every 12 months.
- The test claim statute does not shift the financial responsibility of carrying out governmental functions to local agencies. The statute merely clarifies that the eligibility determination or re-determination can commence when the county probation department learns of the juvenile's disposition and notifies the CWD.

DHCS also argues that the statute does not result in costs mandated by the state for the following reasons:

- County stakeholders supported the test claim legislation and, thus, Government Code section 17556(a) applies to bar reimbursement.

²³ Declaration of Patricia Fair, Deputy Chief Probation Officer for Juvenile Facilities, County of Alameda, test claim, page 1.

²⁴ Declaration of Allan P. Burdick, Maximus, page 1.

- The alleged costs of the county probation department are not “costs” for the purposes of article XIII B, section 6 because CWDs are already reimbursed for the eligibility determinations and any cost attributed to the test claim statute is a facet of its case management duties.
- Welfare and Institutions Code section 14011.10 (Stats. 2008, ch. 546) results in lower county costs to re-determine Medi-Cal eligibility because re-determination would be less work intensive when eligibility is suspended. The resulting offsetting savings means there are no costs mandated by the state in accordance with Government Code section 17556(e).
- Any de minimis costs of forwarding printouts of juvenile information to CWDs are made up for by offsetting savings, such as no longer having responsibility for the health of the juvenile 60-90 days after release. Under prior law, the juvenile could be deemed eligible 45-90 days after release and Medi-Cal would cover that period retroactively. After the test claim statute, the CWD would not have to expend work hours managing the transition or directing the health care of the juvenile, since Medi-Cal would be immediately online. Also saved would be any incurred costs during the 45-90 day period provided by non-Medi-Cal providers. And there would be savings from lower recidivism because the juvenile inmate would receive mental health and drug and alcohol treatment upon release.

Department of Finance: Finance believes that partial approval of the test claim may be appropriate for the sole requirement on the county detention facilities to provide specified information to the CWD, if additional costs have been incurred. Finance states that counties are fully reimbursed through state and federal funding for all costs of Medi-Cal eligibility determinations.

IV. Discussion

Article XIII B, section 6 of the California Constitution provides in relevant part the following:

Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such programs or increased level of service.

The purpose of article XIII B, section 6 is to “preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ‘ill equipped’ to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose.”²⁵ Thus, the subvention requirement of section 6 is “directed to state-mandated increases in the services provided by [local government] ...”²⁶

Reimbursement under article XIII B, section 6 is required when the following elements are met:

²⁵ *County of San Diego v. State of California* (1997)15 Cal.4th 68, 81.

²⁶ *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.

1. A state statute or executive order requires or “mandates” local agencies or school districts to perform an activity.²⁷
2. The mandated activity either:
 - a. Carries out the governmental function of providing a service to the public; or
 - b. Imposes unique requirements on local agencies or school districts and does not apply generally to all residents and entities in the state.²⁸
3. The mandated activity is new when compared with the legal requirements in effect immediately before the enactment of the test claim statute or executive order and it increases the level of service provided to the public.²⁹
4. The mandated activity results in the local agency or school district incurring increased costs. Increased costs, however, are not reimbursable if an exception identified in Government Code section 17556 applies to the activity.³⁰

The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.³¹ The determination of whether a statute or executive order imposes a reimbursable state-mandated program is a question of law.³² In making its decisions, the Commission must strictly construe article XIII B, section 6, and not apply it as an “equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”³³

A. The Test Claim Statute Imposes a State-Mandated New Program or Higher Level of Service on Counties.

1. The Test Claim Statute Requires Counties to Perform New Activities.

²⁷ *San Diego Unified School Dist. v. Commission on State Mandates (San Diego Unified School Dist.)* (2004) 33 Cal.4th 859, 874.

²⁸ *San Diego Unified School Dist., supra*, 33 Cal.4th at pgs. 874-875 (reaffirming the test set out in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.

²⁹ *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 874-875, 878; *Lucia Mar Unified School Dist. v. Honig*, (1988) 44 Cal.3d 830, 835.

³⁰ *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284; Government Code sections 17514 and 17556.

³¹ *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551 and 17552.

³² *County of San Diego, supra*, 15 Cal.4th 68, 109.

³³ *County of Sonoma, supra*, 84 Cal.App.4th 1265, 1280, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

The plain language of Welfare and Institutions Code section 14029.5, as added by the 2006 test claim statute, requires county detention facilities to perform the following activities beginning January 1, 2008:

1. Subject to the provisions in 2. below, immediately following the issuance of an order of the juvenile court committing the ward to a juvenile hall, camp, or ranch for 30 days or longer, provide the appropriate CWD with the following information: the ward's name, scheduled or actual release date, any known information regarding the ward's Medi-Cal status prior to disposition, and sufficient information when available for the CWD to begin the process of determining the ward's eligibility for the Medi-Cal program, including available contact information for the ward's parent or guardian if the ward is a minor.
2. If the ward is a minor and before providing information to the CWD, notify the parent or guardian in writing of the intention to submit the information to the CWD. The parent or guardian shall be given a reasonable time to opt out of the Medi-Cal eligibility determination. If the parent or guardian opts out of the Medi-Cal eligibility determination, the county detention facility shall not provide information to the CWD.

The CWD is then required to perform the following activities:

1. Upon receipt of the information from the county detention facility, and pursuant to the protocols and procedures developed by DHCS, initiate an application *and determine the eligibility for benefits* under the Medi-Cal program.

From January 1, 2008, until December 31, 2008, the CWD is required to perform these activities following the receipt of information from the county detention facility for all juvenile wards.

Beginning January 1, 2009, the CWD is required to initiate an application and determine eligibility for benefits under the Medi-Cal program only for wards not already enrolled in the Medi-Cal program.³⁴

2. If the ward is a minor, promptly contact the parent or guardian to arrange for completion of the application. Applications shall be expedited for those wards scheduled to be released in fewer than 45 days.
3. If the ward does not meet the eligibility requirements for the Medi-Cal program, forward the ward's information to the appropriate entity to determine eligibility for the Healthy Families Program, or other appropriate health coverage program, with the consent of the ward's parents or guardian if the ward is a minor.
4. If the ward meets eligibility requirements for the Medi-Cal program, provide sufficient documentation to enable the ward to obtain necessary medical care upon release from custody.

³⁴ Welfare and Institutions Code section 14029.5 as amended by Statutes 2008, chapter 546 (SB 1147).

The italicized activity required by section 14029.5 for CWDs to “determine the individual’s eligibility for benefits under the Medi-Cal program” is not new. Under prior law, CWDs were already required to perform annual eligibility determinations whenever the county received information about changes in a beneficiary’s circumstances that could affect eligibility for the Medi-Cal program, or at least every 12 months.³⁵ Since incarceration is a circumstance that changes a beneficiary’s Medi-Cal eligibility, prior law required CWDs to re-determine eligibility (from eligible to ineligible) for incarcerated Medi-Cal recipients, and then another determination of eligibility was required once the ward filed a new application following release from custody. Thus, this activity is not new.

All other activities, however, are newly required of counties. CWDs were not required under preexisting law to initiate a Medi-Cal application, contact a minor’s parent or guardian for completion of the Medi-Cal application, or forward a ward’s information to the appropriate entity to determine eligibility for the Healthy Families Program or other appropriate health coverage program if not eligible for Medi-Cal.

Providing documentation to enable the ward to obtain medical care is also new. Under existing law, when a person applies for Medi-Cal and is certified as eligible by the CWD, the state issues a Medi-Cal card based on documentation submitted to DHCS by the CWD.³⁶ CWDs issue “current or past month” (temporary) Medi-Cal cards to certain categories of individuals, such as those who have a need for medical services prior to the normal anticipated receipt of a state-issued Medi-Cal card³⁷ or those eligible for Supplemental Security Income or State Supplementary Payments.³⁸ CWDs may issue Medi-Cal cards to others, such as those who do not have a share of cost, or are not enrolled in a comprehensive prepaid health plan for the month for which a card is requested, or did not receive a Medi-Cal card.³⁹ Preexisting law did not require the CWD to provide sufficient documentation to enable wards to obtain necessary medical care upon release from custody, so this is a new and additional requirement. According to a DHCS memo, the requirement to provide sufficient documentation means that the county is required to “issue an immediate need paper Medi-Cal card for the juvenile as soon as eligibility is established.”⁴⁰

³⁵ Welfare and Institutions Code sections 14012 and 14005.37. California Code of Regulations, title 22, section 50189.

³⁶ Welfare and Institutions Code section 14017.8. California Code of Regulations, title 22, section 50741; California Code of Regulations, title 22, section 50742.

³⁷ California Code of Regulations, title 22, section 50658(d).

³⁸ California Code of Regulations, title 22, section 50743(a).

³⁹ California Code of Regulations, title 22, section 50743(b).

⁴⁰ DHCS memo to County Welfare Directors “Medi-Cal Pre-Release Application Process for Wards in County Juvenile Facilities Re: Senate Bill (SB) 1469, Chapter 657, Statutes of 2006, Welfare and Institutions (W&I) Code section 14029.5” January 2, 2008, page 2.

2. The New Requirements Imposed by the Test Claim Statute are Mandated by the State and not by Federal Law.

DHCS argues that the requirements imposed by the test claim statute are incidental to a federal mandate and, thus, are not considered state-mandated activities. DHCS states:

The requirements of this [test claim] statute come within the federal requirement to re-determine eligibility whenever there is a change in circumstances. Federal law requires states to re-determine eligibility every 12 months or whenever the agency is informed of a change in circumstances. This duty is concomitant to the eligibility determinations that are already delegated to the CWD.

DHCS quotes the federal Medicaid eligibility re-determination regulation (with underlined emphasis) as follows:

- (a) The agency must redetermine the eligibility of Medicaid recipients, with respect to circumstances that may change, at least every 12 months, however –
[¶] . . . [¶]
- (b) Procedures for reporting changes. The agency must have procedures designed to ensure that recipients make timely and accurate reports of any change in circumstances that may affect their eligibility.
- (c) CWD or local agency action on information about changes.
 - (1) The agency must promptly redetermine eligibility when it receives information about changes in a recipient’s circumstances that may affect his eligibility.
 - (2) If the agency has information about anticipated changes in a recipient’s circumstances, it must redetermine eligibility at the appropriate time based on those changes.⁴¹

DHCS argues that this federal requirement defeats the claim for reimbursement because of the holding in *San Diego Unified School District v. Commission on State Mandates*, which states: “for purposes of ruling upon a request for reimbursement, challenged state rules or procedures that are intended to implement an applicable federal law-- and whose costs are, in context, de minimis—should be treated as part and parcel of the underlying federal mandate.”⁴²

The Commission finds, however, that even though the state’s Medi-Cal program implements a federal program, the activities required by Welfare and Institutions Code section 14029.5 are mandated by the state and not by federal law.

Article XIII B, section 6 requires reimbursement only for state mandated costs. “When the federal government imposes costs on local agencies those costs are not mandated by the state and

⁴¹ 42 CFR section 435.916.

⁴² *San Diego Unified School District, supra*, 33 Cal.4th 859, 889.

thus would not require a state subvention. Instead, such costs are exempt from local agencies' taxing and spending limitations" under article XIII B.⁴³

In this case, the federal Medicaid program was passed under Congress' spending powers and provides financial assistance to states participating in the program to furnish health care to low-income persons based on a cost sharing formula with the states. In order to receive federal funding, states that participate in the program are required to comply with certain requirements, including those identified above by DHCS to re-determine eligibility when a recipient's circumstances change. As determined by the courts, a federal program in which the state participates is not a federal mandate on the state unless the program leaves state with no discretion as to alternatives and no true choice but to participate.⁴⁴ And, in the case of the Medicaid program, the U.S. Supreme Court has recently suggested that the states' participation in that federal program is not truly voluntary.⁴⁵

Even if Medicaid were determined to be a federal mandate on the states, the mandates analysis does not end there. The key question then turns on how the costs of complying with the new requirements in Welfare and Institutions Code section 14029.5 came to be imposed on the counties. "If the state freely chose to impose those costs upon the local agency as a means of implementing a federal program then the costs are the result of a reimbursable state mandate regardless whether the costs were imposed upon the state by the federal government."⁴⁶ In this case, the state freely chose to impose the costs of terminating Medi-Cal benefits of incarcerated juveniles and establishing a process to determine eligibility before the juvenile was released.

As DHCS points out, federal law requires states to have procedures to determine or re-determine Medicaid eligibility for applicants and recipients, but California already had these procedures in place before the test claim statute was enacted. Preexisting law required counties to conduct eligibility screening of Medi-Cal applicants and perform re-determinations whenever there is a change of circumstances or at least every 12 months.⁴⁷ The test claim statute was not necessary

⁴³ *Hayes v. Commission on State Mandates* (1992) 11 Cal.App.4th 1564, 1593, citing *City of Sacramento v. State of California* (1990) 50 Cal.3d 51, 76; see also, *San Diego Unified School District, supra*, 33 Cal.4th 859, 880; Government Code sections 17513, 17556(c).

⁴⁴ *City of Sacramento, supra*, 50 Cal.3d 51, 76; *Hayes, supra*, 11 Cal.App.4th 1564, 1581.

⁴⁵ See, *National Federation of Independent Business v. Sebulius* (2012) 132 S.Ct. 2566, where the court determined the constitutionality of the Patient Protection and Affordable Care Act of 2010, including the provisions governing the Medicaid expansion, which gives funds to the States on the condition that they provide specified health care to all citizens whose income falls below a certain threshold. In that case, the court recognized that Medicaid has long been the largest federal program of grants to the States; and noted the consequences of nonparticipation. (*Id.* at pp. 2604-2605.)

⁴⁶ *Hayes, supra*, 11 Cal.App.4th 1564, 1592-1593.

⁴⁷ Welfare and Institutions Code section 14012, California Code of Regulations, title 22, section 50189.

for California to comply with federal law. In addition, the federal government encouraged states to suspend benefits, instead of terminate benefits, upon incarceration. Thus, the federal Medicaid program did not force the state to enact Welfare and Institutions Code section 14029.5.

Moreover, DHCS's reliance on the *San Diego Unified School District* case is misplaced. The court did find, as asserted by DHCS, that "for purposes of ruling upon a request for reimbursement, challenged state rules or procedures that are intended to implement an applicable federal law-- and whose costs are, in context, de minimis—should be treated as part and parcel of the underlying federal mandate."⁴⁸ However, that finding was made in a factual context that does not apply here. The *San Diego Unified* case addressed the costs associated with due process hearings triggered by discretionary student expulsion recommendations. The discretionary expulsion recommendation then triggered federal due process requirements. The court found that the state's hearing procedures required by the test claim statute were adopted to implement federal due process requirements, and that even in the absence of the test claim statute, school districts would still be required to comply with federal law. Even though the state adopted some additional notice and recording requirements that were not expressly articulated in federal due process law, those excess requirements were intended to implement the federal mandate and did not significantly increase the cost of compliance with the federal law. Thus, the excess requirements in that case were viewed as part and parcel of the federal mandate.⁴⁹

Here, on the other hand, there is no federal mandate to terminate benefits and then establish a process to determine eligibility before a juvenile is released from incarceration. Thus, in the absence of the test claim statute, counties would *not* be required by federal law to comply with the process outlined in Welfare and Institutions Code section 14029.5.

Moreover, the intent of section 14029.5 was not to implement a federal requirement. The intent of the statute was to carry out the state's policy of addressing the huge rates of recidivism among the juvenile population, which was thought to be at least partially caused by the termination of benefits upon incarceration and the lack of benefits immediately upon release that were needed for the care of mental health and substance abuse issues. The central purpose article XIII B, section 6 is to prevent the state from shifting to local government the fiscal responsibility for providing services which the state believed should be extended to the public.⁵⁰ Here it is state law, not federal law that requires counties to incur the costs of complying with section 14029.5.

Accordingly, the Commission finds that the new requirements imposed by Welfare and Institutions Code section 14029.5 are mandated by the state.

3. The New Mandated Activities Impose a New Program or Higher Level of Service on Counties.

⁴⁸ *San Diego Unified School District, supra*, 33 Cal.4th 859, 889.

⁴⁹ *Id.* at pp. 888-890.

⁵⁰ *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.

DHCS argues that the test claim statute does not shift the financial responsibility of carrying out governmental functions from the state to local agencies and, thus, does not mandate a new program or higher level of service. The Commission disagrees.

In order for the newly-mandated activities to impose a new program or higher level of service, the activities must be new, as determined above, and either carry out the governmental function of providing a service to the public, or impose unique requirements on local government to carry out the state's policy, which do not apply generally to all residents and entities in the state.⁵¹ Both factors are present here. The activities mandated by the test claim statute are uniquely required of counties and implement the state's policy with respect to ensuring medical coverage through Medi-Cal, the Healthy Families program, or other health care program for incarcerated juveniles immediately upon release. As indicated in the legislative history of the test claim statute, the purpose of the bill was to reduce recidivism and, thus, the activities provide a service to the public.

DHCS further argues that the test claim statute is similar to the one at issue in *County of Los Angeles*,⁵² where reimbursement was denied. There, the test claim statute required local law enforcement officers to participate in two hours of domestic violence training every two years. There was a preexisting requirement for officers to spend 24 hours in continuing education training every two years, of which the two hours of domestic violence training could be part. The court found that the statute did not mandate a higher level of service because the training requirement remained at 24 hours before and after enactment of the test claim statute, so there were no increased training hours and costs associated with the domestic violence training course. As the court said, "the state is requiring certain courses to be placed within an already existing framework of training. This loss of 'flexibility' does not, in and of itself, require the county to expend funds that previously had been expended on the POST program by the State."⁵³

However, unlike the statute in the *County of Los Angeles* case, the test claim statute in this case imposes a new process on counties that does not fit within an existing framework of minimum program requirements.

Accordingly, the Commission finds that the test claim statute mandates a new program or higher level of service on counties.

B. The Test Claim Statute Imposes Costs Mandated by The State Within the Meaning of Government Code Section 17514.

In order for the activities required by the test claim statute to be reimbursable under article XIII B, section 6 of the California Constitution, they must impose "costs mandated by the state,"

⁵¹ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 874-875, 878; *Lucia Mar Unified School Dist. v. Honig*, *supra*, 44 Cal.3d 830, 835; *Carmel Valley Fire Protection Dist. v. State of California* (1987) 190 Cal.App.3d 521, 537.

⁵² *County of Los Angeles v. Commission on State Mandates* (2003) 110 Cal.App.4th 1176.

⁵³ *Id.*, at 1194.

defined as any increased cost that a local agency or school district incurs as a result of any statute or executive order that mandates a new program or higher level of service.⁵⁴

The claimant contends that all activities required by the test claim statute result in increased costs mandated by the state within the meaning of Government Code section 17514. The test claim is supported by declarations from the County of Alameda, which estimates \$14,948.41 in annual costs to implement the test claim statute.⁵⁵

Government Code section 17556 prohibits the Commission from finding costs mandated by the state if, after a hearing, the Commission makes certain specified findings. DHCS argues that the test claim statute does not impose costs mandated by the state for the reasons stated in Government Code section 17556(a) and (e). The Commission finds that Government Code section 17556(a) and (e) do not apply to deny this claim.

1. Government Code Section 17556(a) Does Not Apply to this Test Claim.

DHCS points out that the bill that enacted the test claim statute (SB 1469) was supported by the following organizations and local agencies: County Alcohol and Drug Program Administrators Association of California, California Mental Health Directors Association, Chief Probation Officers of California, City of Los Angeles, City of Santa Monica, Urban Counties Caucus, and the National Association of Social Workers. DHCS argues that this support constitutes a request for legislative authority to implement the program specified in Welfare and Institutions Code section 14029.5 and, thus, reimbursement is not required pursuant to Government Code section 17556(a).

The Commission finds that Government Code section 17556(a) does not apply to the test claim. This provision prohibits the Commission from finding that the test claim statute imposes costs mandated by the state if the Commission finds that:

The claim is submitted by a local agency or school district that requests or previously requested legislative authority for that local agency or school district to implement the program specified in the statute, and that statute imposes costs upon that local agency or school district requesting the legislative authority. A resolution from the governing body or a letter from a delegated representative of the governing body of a local agency or school district that requests authorization for that local agency or school district to implement a given program shall constitute a request within the meaning of this subdivision.

Government Code section 17556(a) requires “a resolution from the governing body or a letter from a delegated representative of the governing body of a local agency or school district that requests authorization for that local agency or school district to implement a given program.” The legislative history of the bill indicates that it was *supported* by associations representing local agencies. But there is no resolution in the record from a governing body of a county, or

⁵⁴ Government code section 17514.

⁵⁵ Declaration of Patricia Fair, Deputy Chief Probation Officer for Juvenile Facilities, County of Alameda, test claim page 1.

any evidence that a county delegated a representative to draft a letter requesting authorization to implement the test claim statute.

Moreover, the Legislature, when enacting the exception in Government Code section 17556(a), did not intend that support for a bill would be enough to constitute a request for the legislation by a local agency. Section 17556 originated in Statutes 1977, chapter 1135, also known as Senate Bill No. 90 (1977-1978 Reg. Sess.), in former Revenue and Taxation Code section 2253.2.⁵⁶ The original bill precluded reimbursement for a “chaptered bill ...requested by or on behalf of the local agency ...which desired legislative authority to implement the program specified in the bill.” The following year, section 2253.2 was amended by Statutes 1978, chapter 794 (Sen. Bill No. 1490 (1977-1978 Reg. Sess.)). The May 8, 1978 version of Senate Bill 1490 added the definition of request to include “expresses a desire for and support of legislation” as follows:

For purposes of this paragraph, a resolution from the governing body or a letter from a member or delegated representative of the governing body of a local agency ...*which expresses a desire for and support of legislation to authorize that local agency ...to implement a given program shall constitute a “request”...*” (emphasis added).

However, the June 21, 1978 version amended the sentence to delete the “support” language and amended the section to be nearly identical to its current form in the Government Code, as follows:

For purposes of this paragraph, a resolution from the governing body or a letter from a ~~member or~~ delegated representative of the governing body of a local agency ...which ~~expresses a desire for and support of legislation to authorize requests legislative authorization for~~ that local agency ...to implement a given program shall constitute a “request”...” (added italicized text in original).⁵⁷

Rejection of a specific provision contained in an act as originally introduced is most persuasive that the act should not be interpreted to include what was left out.⁵⁸ Here, deleting the phrase “expresses a desire for and support of legislation,” means that a “request of legislative authorization” should not be interpreted to include an expression of “desire for and support of legislation” because this phrase was left out of the final bill. In other words, the Legislature did not intend to preclude reimbursement for counties or other local entities that support legislation.

⁵⁶ The provisions of Senate Bill No. 90 (1977-1978 Reg. Sess.) governed the mandates process for the Board of Control, the Commission on State Mandate’s predecessor and was repealed by Statutes 1988, chapter 160. Government Code section 17556 was added in 1984 by Statutes 1984, chapter 1459 to govern the mandates process and replace the former Revenue and Taxation Codes.

⁵⁷ The word “legislative” was later amended out of the provision.

⁵⁸ *Bollinger v. San Diego Civil Service Comm.* (1999) 71 Cal. App. 4th 568, 575.

Therefore, the Commission finds that Government Code section 17556(a) does not preclude a finding that Welfare and Institutions Code section 14029.5 (Stats. 2006, ch. 657) imposes costs mandated by the state.

2. Government Code Section 17556(e) Does Not Apply to Deny the Test Claim.

DHCS and Finance also suggest that Government Code section 17556(e) applies to deny this claim. Government Code section 17556(e) precludes a finding of costs mandated by the state if the Commission finds:

The statute, executive order, or an appropriation in a Budget Act or other bill provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate.

The Commission finds that section 17556(e) does not apply to deny this claim.

a) There is no evidence of additional revenue appropriated by the Legislature that is specifically intended to fund the costs of the mandated activities.

DHCS and Finance assert that counties receive sufficient funding from the state and the federal government to conduct eligibility re-determinations for Medi-Cal, and that funding is available for the necessary administrative costs incurred in determining and re-determining Medi-Cal eligibility.⁵⁹ As discussed above, however, eligibility determinations or re-determinations are not new and do not constitute a state-mandated new program or higher level of service. Thus, the funding for determining eligibility is not relevant to the mandated activities in this case.

Other than the funding for determining eligibility, DHCS acknowledges that no appropriation has been identified in the test claim and no funds have been appropriated for the new activities mandated by the state.⁶⁰

The Commission finds that there is no evidence the Legislature has appropriated additional revenue in a Budget Act or other bill “specifically intended” to fund the cost of the new activities mandated by section 14029.5. Accordingly, the exception provided in Government Code section 17556(e) for offsetting revenue sufficient to fund the cost of the mandate does not apply in this case.

b) There is no evidence of offsetting cost savings resulting from the test claim statute.

DHCS also argues that the test claim statute results in potential offsetting savings because counties are no longer required to direct the health care needs of the juvenile for the time period

⁵⁹ 42 CFR 435.1001 states: “(a) FFP [federal financial participation] is available in the necessary administrative costs the State incurs in— (1) Determining and redetermining Medicaid eligibility and in providing Medicaid to eligible individuals; . . .”

⁶⁰ DHCS comments filed June 22, 2009, page 13.

following release and the subsequent approval and determination of Medi-Cal eligibility, as follows:

Specifically, the county failed to factor in potential savings that could offset the work hours as a result of Medi-Cal starting coverage immediately upon release of the juvenile. Under the old rules (before the effective date of Welf. & Inst. Code §14029.5), the county was responsible for the health care of the juvenile 60-90 days from release from incarceration. During the 45-90 day period, the juvenile was still not covered by Medi-Cal, hence, the county would expend work hours to determine and direct the health care needs of the juvenile. Once approved under Medi-Cal, Medi-Cal would retroactively cover the 45-90 day period. Under Welfare and Institutions Code section 14029.5, Medi-Cal would be on-line immediately and the county would not have to expend work hours managing the transition, directing the health care of the juvenile. Consequently, the counties will realize a savings from Welfare and Institutions Code section 14029.5 since they will not expend any work hours directing the juvenile's health care needs during those 60-90 days since Medi-Cal would be immediately online.

Furthermore, any services provided by non-Medi-Cal providers during the 45-90 day period would not be reimbursed to the county even after Medi-Cal eligibility is established. The process under Welfare and Institutions Code section 14029.5 will cancel out the 45-90 day period, and hence would not subject the county to potential services that are not reimbursable thereby resulting in savings to the county.

Lastly, the county failed to take into consideration any potential savings mentioned in SB 1469's analysis regarding lower costs to counties because lower recidivism will lower rates of incarceration since the juvenile inmates will receive mental health and alcohol and drug treatment upon release.⁶¹

Counties are required to provide indigent medical care under Welfare and Institutions Code sections 17000 et seq. for those not eligible for Medi-Cal or other insurance programs. Counties receive realignment money to perform these services.⁶² And once Medi-Cal is approved, the benefits retroactively cover and fund the health services of the juvenile.⁶³ Although counties no longer have to direct the health care needs of the juvenile for the 45 to 90 days following release from incarceration pending Medi-Cal eligibility with the enactment of the test claim statute, and juvenile recidivism might decrease, county detention facilities and CWDs are now required to perform new activities mandated by the state that, as determined above, increase the level of

⁶¹ DHCS provides a declaration from John Zapata, a Unit Chief in DHCS, Medi-Cal eligibility division, regarding these same potential offsetting costs. Exhibit B.

⁶² Welfare and Institutions Code sections 17600, *et seq.* as amended in 1991.

⁶³ Welfare and Institutions Code section 14019; California Code of Regulations, title 22, section 50197.

service provided to the public without any additional revenue appropriated to the county. DHCS has filed no evidence to support the argument that counties will realize decreased costs as a result of the test claim statute. “Cost savings authorized by the state” is defined, in part, to mean “any decreased costs that a local agency or school district realizes as a result of any statute enacted or executive order adopted that permits or requires the discontinuance of or a reduction in the level of service.”⁶⁴

Accordingly, the Commission finds that the offsetting savings exception in Government Code section 17556(e) does not apply to this test claim.

V. Conclusion

The Commission finds that Welfare and Institutions Code section 14029.5 (Stats. 2006, ch. 657) imposes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and requires county detention facilities to perform the following mandated activities beginning January 1, 2008:

1. Subject to the provisions in 2. below, immediately following the issuance of an order of the juvenile court committing the ward to a juvenile hall, camp, or ranch for 30 days or longer, provide the appropriate CWD with the following information: the ward’s name, scheduled or actual release date, any known information regarding the ward’s Medi-Cal status prior to disposition, and sufficient information when available for the CWD to begin the process of determining the ward’s eligibility for the Medi-Cal program, including available contact information for the ward’s parent or guardian if the ward is a minor.
2. If the ward is a minor and before providing information to the CWD, notify the parent or guardian in writing of the intention to submit the information to the CWD. The parent or guardian shall be given a reasonable time to opt out of the Medi-Cal eligibility determination. If the parent or guardian opts out of the Medi-Cal eligibility determination, the county detention facility shall not provide information to the CWD.

The CWD is then required to perform the following mandated activities:

1. From January 1, 2008, until December 31, 2008, upon receipt of the information from the county detention facility, and pursuant to the protocols and procedures developed by DHCS, initiate an application for benefits under the Medi-Cal program for all juvenile wards.
2. Beginning January 1, 2009, upon receipt of the information from the county detention facility, and pursuant to the protocols and procedures developed by DHCS, initiate an application for benefits under the Medi-Cal program only for wards not already enrolled in the Medi-Cal program. If the ward is a minor, promptly contact the parent or guardian to arrange for completion of the application. Applications shall be expedited for those wards scheduled to be released in fewer than 45 days.

⁶⁴ Government Code section 17517.5.

3. If the ward does not meet the eligibility requirements for the Medi-Cal program, forward the ward's information to the appropriate entity to determine eligibility for the Healthy Families Program, or other appropriate health coverage program, with the consent of the ward's parents or guardian if the ward is a minor.
4. If the ward meets eligibility requirements for the Medi-Cal program, provide sufficient documentation to enable the ward to obtain necessary medical care upon release from custody.

All other activities alleged by the claimant to require reimbursement do not mandate a new program or higher level of service and are, therefore, denied.



TOBY DOUGLAS
DIRECTOR

State of California—Health and Human Services Agency
Department of Health Care Services



EDMUND G. BROWN JR.
GOVERNOR

Received
August 6, 2013
Commission on
State Mandates

August 6, 2013

Ms. Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

**Re: Department of Health Care Services' Comments on Test Claim 08-TC-04
Medi-Cal Eligibility of Juvenile Offenders**

Dear Ms. Halsey:

The Department of Health Care Services (DHCS) has reviewed the draft staff analysis for the above-named matter. DHCS disagrees with the draft analysis to the extent that it recommends the Commission partially approve the test claim. The reasons for DHCS's disagreement are well-documented in its June 22, 2009, and October 27, 2010, comments. DHCS renews and maintains the arguments set forth in its previous comments, but for the sake of brevity, will not repeat all of those arguments here.

DHCS's position that no additional costs will be incurred by the County Probation Department, however, is worth restating, as it was largely ignored by the draft analysis. As DHCS has previously noted, counties are already being reimbursed for their intake, investigation, and other services incidental to juvenile incarceration. Counties are responsible for the case management of juveniles who have been incarcerated in the juvenile justice system. (See Welf. & Inst. Code, §§ 650 et seq., 850 et seq., and 207.1, subd. (e)(1).)

The draft analysis does acknowledge that determining eligibility for benefits under the Medi-Cal program is not a new activity for the County. This, together with the fact that counties are already reimbursed and responsible for services incidental to juvenile incarceration, means that even a partial finding of a reimbursable mandate would result in duplicative reimbursement to the counties.

Heather Halsey
Page 2
August 6, 2013

If you have any questions concerning this submission, please contact Mr. Jesse Phillips at (916) 440-7692 or via email at jesse.phillips@dhcs.ca.gov.

Sincerely,

Kara Read-Spangler
Senior Assistant Chief Counsel

A handwritten signature in black ink, appearing to read "Jesse D. Phillips", with a long horizontal flourish extending to the right.

Jesse D. Phillips
Attorney III



RECEIVED
September 5, 2013
COMMISSION ON
STATE MANDATES

EDMUND G. BROWN JR. ■ GOVERNOR

915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

September 5, 2013

Ms. Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

RE: Commission Request for Comments on Draft Staff Analysis, Schedule for Comments and Notice of Hearing” (Medi-Cal Eligibility of Juvenile Offenders, 08-TC-04)

Dear Ms. Halsey:

The Department of Finance (Finance) has reviewed the test claim submitted by Alameda County (claimant) for Claim No. 08-TC-04, entitled Medi-Cal Eligibility of Juvenile Offenders.

Commission on State Mandates (CSM) staff finds that Welfare and Institutions Code section 14029.5 (Stats. 2006, Ch. 657) imposes a reimbursable state-mandated program on county detention facilities that house juveniles by requiring such facilities to provide county welfare departments (CWDs) with information concerning soon to be released wards. In addition, if the ward is a minor, the code requires the facilities to contact the ward’s parents and perform specific activities before providing eligibility determination information to the CWD.

Finance, in its letter to Ms. Paula Higashi dated August 10, 2009, stated that approval of a portion of the test claim may be appropriate for the sole requirement on the county probation department to provide specified information regarding a ward to the CWD. The Department of Health Care Services (DHCS), conversely, stated in a letter to Ms. Higashi dated January 6, 2010, that “As discussed extensively in DHCS initial comment to this test case, activities by County Probation Officers are not state reimbursable mandates under SB 1469.” As a result of further discussions with the DHCS, it has been clarified that it was not DHCS’s intent to question whether the activities of the county detention facilities or the county probation departments are reimbursable mandates. The intent of DCHS, in its written comments, was to clarify that these activities were not allowable federal Medicaid expenditures and, as a result, could not be paid from Medi-Cal. As a result, Finance continues to hold the position that approval of that portion of the test claim relating to juvenile detention facility administrative costs, as stated above, may be appropriate.

CSM staff have further found that Welfare and Institutions Code section 14029.5 (Stats. 2006, Ch. 657) imposes a reimbursable state-mandated program on county welfare departments for four specific activities concerning the application for benefits under the Medi-Cal program for juvenile wards, procurement of parental’ consent, determination of eligibility for other health coverage, should the ward be found ineligible for Medi-Cal, and providing sufficient documentation to enable the ward to obtain necessary medical care upon release. The DHCS contends that these activities are already funded through federal Medicaid and/or state Medi-Cal

funding. Staff of the CSM, however, disagree with the DHCS and are of the opinion that these activities are funded out of county tax proceeds. Finance does not have access to the required documentation to opine which position is correct and is unable assess whether the costs of CWD personnel have already been charged to state and/or federal funds or are truly costs to the county general fund.

Finance has requested that the DHCS take a closer look toward the activities claimed by Alameda County's welfare department which may result in the claimant providing additional documentation to support its claim that the costs in question have been, in fact, borne by the county's general tax fund. It is our intent to request that staff of the DHCS be present at the December 6, 2013 Commission' hearing to provide a more detailed discussion of the costs and funding of county welfare departments activities under Medi-Cal.

Pursuant to section 1181.2, subdivision (c)(1)(E) of the California Code of Regulations, "documents that are e-filed with the Commission on State Mandates need not be otherwise served on persons that have provided an e-mail address for the mailing list."

If you have any questions regarding this letter, please contact Michael Byrne, Principal Program Budget Analyst at (916) 445-3274.

Sincerely,


for TOM DYER
Assistant Program Budget Manager

Enclosure



Enclosure A

DECLARATION OF MICHAEL BYRNE
DEPARTMENT OF FINANCE
CLAIM NO. 08-TC-04

1. I am currently employed by the State of California, Department of Finance (Finance), am familiar with the duties of Finance, and am authorized to make this declaration on behalf of Finance.

I certify under penalty of perjury that the facts set forth in the foregoing are true and correct of my own knowledge except as to the matters therein stated as information or belief and, as to those matters, I believe them to be true.

9/5/2013

at Sacramento, CA

Michael Byrne

AB 1469

Page 1

Date of Hearing: June 20, 2006

ASSEMBLY COMMITTEE ON HEALTH
Wilma Chan, Chair

SB 1469 (Cedillo) - As Amended: June 15, 2006

SENATE VOTE : 27-9SUBJECT : Medi-Cal eligibility: juvenile offenders.

SUMMARY : Requires a county juvenile detention facility to notify the county welfare department (CWD) when a juvenile is incarcerated, so that the CWD can determine if the juvenile will be eligible for Medi-Cal or Healthy Families on release from custody. Requires the CWD to initiate an application for Medi-Cal and Healthy Families with the cooperation of the juvenile's parent or guardian. Specifically, this bill :

- 1) Requires, beginning January 1, 2008, a county juvenile detention facility, immediately following the issuance of an order committing a ward of the county to a juvenile hall, camp, or ranch for 30 days or longer, to provide the CWD with the ward's name, his or her scheduled or actual release date, any known information regarding the ward's Medi-Cal status prior to disposition, and sufficient information for the CWD to determine the ward's eligibility for benefits under this bill.
- 2) Requires the county juvenile detention facility to notify the parent or guardian of its intention to submit the information required by #1) above to the CWD if the ward is a minor. Requires the parent or guardian to be given a reasonable time to opt out of the Medi-Cal eligibility determination provided for under this bill.
- 3) Defines, for purposes of this bill, "ward" to mean a person in the custody of a county juvenile detention facility.
- 4) Requires the CWD to initiate an application and determine the individual's eligibility for benefits under the Medi-Cal program on receipt of the information described in #1) above. Requires the CWD to promptly contact the parent or guardian to arrange for completion of the application. Requires the county to expedite the application of a ward who, according to

AB 1469

Page 2

the information provided pursuant to #1) above, is scheduled to be released in fewer than 45 days.

- 5) Requires the CWD to forward the individual's information to the appropriate entity to determine eligibility for the Healthy Families Program, or other appropriate health coverage program, if the CWD determines that the individual does not meet the eligibility requirements for the Medi-Cal program.
- 6) Requires the county to provide sufficient documentation to enable the ward to obtain necessary medical care upon his or her release from custody if the CWD determines that the ward is eligible for Medi-Cal.
- 7) Requires DHS, in consultation with the Chief Probation Officers of California and the County Welfare Directors Association, to collaborate to establish the protocols and procedures necessary to implement this bill by June 1, 2007.
- 8) Requires DHS to implement this bill by means of all-county letters or similar instructions. Requires DHS to obtain any necessary federal waivers.

EXISTING LAW :

- 1) Establishes the Medi-Cal program, administered by DHS, which provides comprehensive health benefits to low-income children,

their parents or caretaker relatives, pregnant women, elderly, blind or disabled persons, nursing home residents and refugees, who meet specified eligibility criteria.

- 2) States that Medi-Cal benefits do not include care or services for any individual who is an inmate of an institution (except as a patient in a medical institution), except to the extent permitted by federal law.
- 3) Prohibits, notwithstanding any other provision of law, the denial of Medi-Cal benefits to any person for whom Federal Financial Participation (FFP) is available solely because such person is incarcerated in a county or city jail or juvenile detention facility.
- 4) States, under California regulations, that individuals who are inmates of public institutions are not eligible for Medi-Cal.

AB 1469

Page 3

- 5) Establishes the Healthy Families Program, administered by Managed Risk Medical Insurance Board (MRMIB), to provide low-cost, subsidized health, vision and dental insurance to uninsured children, with family incomes up to 250% of the federal poverty level (FPL), who are not eligible for no-cost Medi-Cal.
- 6) Established the Medi-Cal/Healthy Families joint application, which includes information about HFP premiums and allows families to choose not to submit an application for either program.

FISCAL EFFECT : According to the Senate Appropriations Committee analysis, state costs associated with the provision of Medi-Cal benefits to wards released from custody who otherwise might not have applied are unknown, but likely significant. For purposes of an estimate, if half of the minors released from local detention were found to be eligible for Medi-Cal and 15% of those minors would not otherwise have accessed Medi-Cal coverage without SB 1469's assessments and eligibility determinations, annual benefits costs for new enrollees would exceed \$750,000 with a portion of these costs being carried over to future years to reflect ongoing eligibility and receipt of benefits. Costs for local juvenile detention facilities and agencies to initiate an application and determine Medi-Cal eligibility for wards released from custody are unknown, but potentially significant. In 2004, an estimated 56,600 youths were made wards of the court statewide. If each of the state's 58 counties were to spend \$30,000 per year in conjunction with the Medi-Cal eligibility assessment and enrollment activities for released wards consistent with this measure, reimbursable costs would exceed \$1.7 million annually. One-time costs for DHS to develop an implementation protocol for SB 1469's requirements and issue all-county letters to local agencies are estimated at \$80,000. Any ongoing costs to the department should be minor and absorbable.

COMMENTS :

1)PURPOSE OF THIS BILL . According to the author, this bill will ensure that any youth eligible for Medi-Cal and Healthy Families will be enrolled in the respective program upon the youth's release from a county juvenile facility. Currently,

AB 1469

Page 4

many youths lose their coverage while incarcerated. As a result, upon release they do not have the medical care they need until they re-enroll in a health insurance program. Even for those youth that did not have benefits prior to incarceration, it is an essential component of discharge planning that these youths are enrolled, if eligible, in the appropriate health insurance program. There are huge rates of

recidivism among the juvenile population. Often, the reason for a ward's return to custody is the result of his or her failure to receive treatment for a mental health or substance abuse disorder. The author reports that a recent study conducted at the University of California, Irvine found that harmful alcohol and drug use by adolescents in juvenile detention facilities is at a 70% level, or roughly 70,000 of the 100,000 admissions to juvenile halls across California counties in 2004.

2)BACKGROUND . According to DHS, any individual taken into custody loses Medi-Cal eligibility when he or she is booked into a correctional facility for a criminal act. No services provided by the correctional facility or during the time of incarceration can be billed to Medi-Cal. Any individual who is booked will automatically be terminated from Medi-Cal benefits. A match is run by Medi-Cal monthly with the California Youth Authority System and with the Jail Match Registry System to determine who has been incarcerated if there has been no notification to the county welfare system.

3)RELEASE FROM CUSTODY . DHS has provided the following information relevant to juvenile Medi-Cal eligibility following release from custody:

Medi-Cal eligibility should be re-established by the foster care intake worker in the county if the juvenile is awaiting placement in foster care. Juveniles awaiting placement in foster care are automatically eligible for Medi-Cal even if they are still in juvenile hall or a correctional facility. A probation officer or a member of the court may initiate this process by contacting County Social Services staff. Many county courts have set up a network with the county welfare systems to provide benefits for juveniles awaiting placement in foster care and to continue Medi-Cal benefits upon release. If the juvenile is released back to the parents, then the parents are

AB 1469
Page 5

responsible for re-activating the juvenile's Medi-Cal benefits by contacting County Medi-Cal staff if the family wants Medi-Cal for the child.

A juvenile is eligible immediately upon release if otherwise eligible. . . . If a juvenile is incarcerated and released in the same month, their Medi-Cal eligibility can be continued without a break in aid if their Medi-Cal worker is notified before the end of the month. If there is not sufficient time left in the month of incarceration to provide a ten-day notice that Medi-Cal benefits are ending, the juvenile's Medi-Cal case will remain active for the following month as well. Therefore, any time a juvenile is incarcerated for less than 30 days, the county should be notified as soon as possible to prevent Medi-Cal benefits from stopping whenever possible. Juveniles whose Medi-Cal has been discontinued during incarceration would need to re-establish eligibility upon release. We recommend that families and social workers begin the Medi-Cal restoration or re-application process prior to release whenever possible.

4)HEALTHY FAMILIES PROGRAM (HFP) . According to MRMIB, individuals enrolled in HFP remain enrolled for one year as long as premiums are paid. Incarcerated youths are not disenrolled unless premiums are not paid. However, youths who are incarcerated are not permitted to enroll (or reenroll) in HFP while incarcerated.

5)PRIOR LEGISLATION . AB 470 (Yee), which would have required DHS, in the case of a minor who has been incarcerated, to suspend the minor's Medi-Cal benefits but not terminate the minor's Medi-Cal eligibility, failed passage on the Assembly floor in January 2006.

6)RELATED LEGISLATION . AB 2004 (Yee) requires DHS, in the case of a minor who has been incarcerated, to suspend the minor's Medi-Cal benefits but not terminate the minor's Medi-Cal eligibility; to ensure that such minors receive all health care benefits for which they are eligible immediately on release from incarceration; and, to take all necessary action to ensure that the Medi-Cal application of a minor, who has

not previously been determined to be eligible for Medi-Cal, will enable the minor, if eligible, to receive Medi-Cal covered services immediately upon release from incarceration.

AB 2004 applies to juvenile incarceration in state or county facilities. SB 1467 is limited to juveniles in county facilities and imposes requirements primarily on CWDs. AB 2004 is currently in the Senate Health Committee. SB 1616 (Kuehl) includes provisions related to Medi-Cal eligibility for disabled individuals in state juvenile detention facilities. SB 1616 is currently in the Assembly Health Committee.

7) SUPPORT . Supporters argue that this bill will increase access to health care for children in need. Enrolling youthful offenders in Medi-Cal and other programs for which they are eligible will allow these children to receive mental health and substance abuse treatment and will reduce the rate of recidivism. Supporters believe that society has a responsibility to establish policies that ensure effective community services and assistance programs when necessary for families in need. These programs should be structured and delivered in ways that contribute to the integrity and stability of families and to ensure that children will have adequate support to meet their basic needs.

8) AUTHOR'S AMENDMENTS . The author plans to amend this bill in Health Committee as follows:

- a) On page 3, line 24, strike out "The" and insert: "If the ward is a minor, the"
- b) On page 4, line 3, strike out "collaborate to" to clarify the author's intent to require DHS, in consultation with the Chief Probation Officers of California and the County Welfare Directors Association, to establish the protocols and procedures necessary to implement this bill by June 1, 2007.

9) COMMENT . The author may wish to clarify the procedure for applying to Medi-Cal and Healthy Families under this bill with the following amendments:

- a) On page 3, line 22, strike out "an" and insert "a joint Medi-Cal and Healthy Families Program"
- b) On page 3, line 32, strike out "information" and insert "application"
- c) On page 3, line 35, after "department" insert "unless instructed otherwise by the ward, or if the ward is a minor, by the ward's parent or guardian"

REGISTERED SUPPORT / OPPOSITION :

Support

Adolescent Health Working Group
American Federation of State, County and Municipal Employees
Books Not Bars
California Coalition for Youth
California Commission on the Status of Women
California Medical Association
California Psychological Association
California Public Defenders Association
California State PTA
City of Los Angeles
County Alcohol and Drug Program Administrators Association of California
Girl Scout Councils of California
Juvenile Court Judges of California
Juvenile Justice Commission, County of Santa Clara
National Association of Social Workers, California Chapter
One individual

Opposition

None on file.

Analysis Prepared by : John Gilman / HEALTH / (916) 319-2097



State of California—Health and Human Services Agency
Department of Health Care Services



SANDRA SHEWRY
Director

ARNOLD SCHWARZENEGGER
Governor

January 2, 2008

TO: ALL COUNTY WELFARE DIRECTORS Letter No.: 07-34
ALL COUNTY WELFARE ADMINISTRATIVE OFFICERS
ALL COUNTY MEDI-CAL PROGRAM SPECIALISTS/LIAISONS
ALL COUNTY HEALTH EXECUTIVES
ALL COUNTY MENTAL HEALTH DIRECTORS
ALL COUNTY MEDS LIAISONS

SUBJECT: MEDI-CAL PRE-RELEASE APPLICATION PROCESS
FOR WARDS IN COUNTY JUVENILE FACILITIES
RE: Senate Bill (SB) 1469, Chapter 657, Statutes of 2006
Welfare & Institutions (W&I) Code Section §14029.5

The purpose of this letter is to provide county welfare departments (CWDs) with the instructions needed to implement SB 1469 (Ch. 657; Stats. 2006). This bill requires all county juvenile detention facilities, by January 1, 2008, to provide specific information to the appropriate CWD for a ward who is to be released so that the county can determine the Medi-Cal eligibility of the ward. This enables the ward to receive medical care upon his or her release. A ward is a youth who has been committed to a county juvenile hall, camp, or ranch, for 30 days or longer by a juvenile court.

OVERVIEW:

The purpose of this bill is to ensure that the Medi-Cal application process is initiated before juvenile wards are released from incarceration so Medi-Cal eligibility can be established immediately upon the ward's release whenever possible. In general, SB 1469 requires:

- County juvenile detention facilities, immediately following the issuance of an order scheduling the release date of a ward from their facility, to provide the appropriate CWD with the ward's name, his or her scheduled or actual release date, and sufficient information, when available, for the CWD to begin the process of determining the ward's Medi-Cal eligibility for benefits.
- County welfare departments to use the information provided by the juvenile facility to process a Medi-Cal application, as explained below. This process may require the county to request additional information to complete the eligibility determination. This bill does not change existing eligibility procedures or requirements. Medi-Cal applications submitted on behalf of juvenile inmates in accordance with this letter are processed in the same manner as all other Medi-Cal applications.

HOW DOES THIS WORK?

The juvenile facility notifies the ward's parent or guardian that they intend to obtain Medi-Cal benefits for the ward. If the parent or guardian does not respond to this notification, the juvenile facility and the CWD continue the Medi-Cal application process. The juvenile facility completes an information worksheet and sends it to the CWD. The CWD works with the juvenile facility, the ward or the ward's parents or guardian to complete a Medi-Cal application. Once the CWD contacts the child's representative to request additional information, all Medi-Cal application requirements apply. This means that an application can be denied if the responsible individual does not cooperate with the request for additional information. Counties must only request the minimum information needed to determine or restore eligibility under current Medi-Cal policy. The CWD then determines whether the ward is eligible for benefits and notifies the juvenile facility of the outcome of their determination. The county must issue an immediate need paper Medi-Cal card for the juvenile as soon as eligibility is established.

WHO DOES THIS BILL COVER?

The bill requires that; "commencing January 1, 2008, immediately following the issuance of an order of the juvenile court, pertaining to the disposition of a ward of the county, committing that ward to a juvenile hall, camp or ranch for 30 days or longer, the

county juvenile detention facility shall provide the appropriate CWD with the ward's name, his or her actual release date, any known information regarding the ward's Medi-Cal status prior to disposition, and sufficient information, when available, for the CWD to begin the process of determining the ward's eligibility for benefits under this chapter, including, if the ward is a minor, contact information for the ward's parent or guardian, if available." (SB 1469, Welfare and Institutions Code Sec.14029.5(a)(1))

Under Article 6 of the Medi-Cal Eligibility Procedures Manual, a juvenile loses Medi-Cal eligibility if he or she is:

- In a detention center due to criminal activity and is a resident of a public institution.
- On intensive probation with a plan of release which includes residence in a detention center.

A ward that would have had to apply for Medi-Cal after his or her release from incarceration under Article 6 of the Medi-Cal Eligibility Procedures Manual can, under SB 1469, apply for Medi-Cal prior to his or her release. The eligibility that is established as a result of the pre-release application takes effect as soon as the ward is released from incarceration.

PRE-RELEASE APPLICATION PROCESS:

The following pre-release application policy and procedures will be followed by county juvenile facilities and CWDs to ensure that eligible youth have Medi-Cal coverage or other medical assistance upon discharge from a county juvenile detention facility such as a juvenile hall, camp, or ranch.

COUNTY JUVENILE FACILITIES:

- When a ward has been issued an order committing that ward to a juvenile hall, camp, or ranch for 30 days or longer, the facility will provide to the CWD:
 1. The name of the ward.
 2. The scheduled or actual release date, or, if applicable, notify the CWD about placement into a medical/mental health care facility. It is important that the facility keep the CWD informed of any changes in release date.
 3. The ward's Medi-Cal status prior to disposition.
 4. Sufficient information, if available, to begin determining Medi-Cal eligibility. (See Sample Medi-Cal Transmittal Form enclosed.)

5. If the ward is under 21, contact information for the ward's parent or guardian, if available.
- The facility shall notify the parent or guardian, in writing, of its intention to obtain Medi-Cal benefits for the ward and will give reasonable time for a response (30 days). If the parent or guardian informs the facility that they do not want an application to be submitted on behalf of their child, there will be no application and the facility and the CWD will end this process. If the parent or guardian does not respond, the juvenile facility and the CWD will continue with the process. However, because this process does not change Medi-Cal eligibility rules, the application or restoration of benefits can be denied if the parent or guardian fails to cooperate or does not respond to request for information that is needed to determine eligibility.
 - The facility shall submit all information and supporting documentation with a cover letter at least 90 days prior to release to the designated CWD within the county where the ward is scheduled to be released. Documentation can be submitted at less than 90 days prior to release, when necessary, but information worksheets should be submitted to the CWD no less than 90 days prior to release for individuals with disabilities and no less than 45 days prior to release for non-disabled individuals. Late information worksheets will be processed as they are submitted.
 - Medi-Cal applications include confidential (and sometimes medical) information. Therefore, Medi-Cal applications sent from juvenile facilities to CWDs in accordance with this letter and the requirements of SB 1469 should be handled by individuals within the juvenile facility (or in some instances a medical facility) who are authorized to handle medical and other confidential information related to the juvenile for whom Medi-Cal is being requested.
 - If disability is claimed for a ward at a juvenile facility, the facility shall provide all medical information for the county to request a disability evaluation. If the ward is over 21, he/she may sign the MC 220 Medical Authorization of Release.
 - All information and documentation can be sent via mail, fax or E-mail with appropriate information security measures to protect confidential information. County juvenile facilities and CWDs will both provide contact person information so that the information needed to complete this process can be exchanged effectively and expeditiously.

COUNTY WELFARE DEPARTMENTS:

County juvenile facilities will send the CWD documentation on a ward via a coversheet and an information worksheet (enclosed). The facility will not send a Medi-Cal application. The CWD is to process an application based on the ward's information to determine Medi-Cal eligibility, and, for wards under 21, will contact the parent/guardian for further information as necessary. The CWD must review this information to determine whether the ward will be eligible for Medi-Cal and may request additional information as needed. The CWD will then inform the facility of its determination. If the ward is eligible, an application will be processed 45 days before release whenever possible. The application may be signed by the person or agency responsible for the ward's affairs in accordance with current Medi-Cal application policy.

All Medi-Cal applications, policies and procedures apply for incarcerated youth who are reviewed for eligibility based on this letter. For example:

- Eligibility cannot be established prior to release unless all required information is provided in accordance with current Medi-Cal policy.
- Failure to cooperate is grounds for denial of eligibility in accordance with current Medi-Cal policy.
- All Notice of Action requirements apply.

In compliance with SB 1469 the CWD will:

- Accept information from facilities to begin the Medi-Cal eligibility determination for wards prior to their release. All current procedures used to process Medi-Cal applications apply. This is not a new Medi-Cal program.
- Use the date of release as the date of Medi-Cal eligibility. The ward will be eligible in the month of release. Use date and month of release on MEDS and Consortia systems.
- Acknowledge receipt of the ward's informal application via a cover letter to designated staff within ten days of the information.
- Work with the juvenile facility staff, the ward and with the ward's parent or guardian as appropriate to complete the application and notify the facility.
- Expedite the pre-release application process if the ward is scheduled for release in fewer than 45 days. Late applications will be processed when the documentation is submitted.

- Forward the ward's information to the Healthy Families Program or another appropriate health coverage program if the ward is not eligible for Medi-Cal. (With the permission of the ward's parent or guardian as required by State law.)
- Notify the designated worker at the county juvenile facility in writing on the outcome of the eligibility determination or if additional information is required.
- Notify the county juvenile facility at least ten days prior to the expected release date if the Medi-Cal determination is not completed.
- Provide a Temporary Paper Card using immediate need procedures to enable an eligible ward to access Medi-Cal benefits immediately upon release if the county determines that the ward or inmate is Medi-Cal eligible. The temporary card must be sent to the facility prior to the release date to be given to the ward upon release. A permanent Benefit Identification Card will be mailed to the ward soon thereafter.

EVIDENCE OF CITIZENSHIP AND IDENTIFICATION REQUIREMENTS:

All federal Deficit Reduction Act of 2005 (DRA) requirements specified in All County Welfare Directors Letter (ACWDL) 07-12 apply. This includes the requirement that evidence of citizenship and identity must be provided (when required) before eligibility begins for wards applying for Medi-Cal in accordance with this letter. For example, if the family or facility is making a good faith effort to provide citizenship information for an applicant but it has not already been provided on the date of release, eligibility cannot be established upon release. In these cases, counties should work with the family or guardian of the ward to obtain the required citizenship information as soon as possible. For those wards who are making a good faith effort to provide citizenship information, but who are unable to provide it by the date of release, counties should grant restricted eligibility as specified in ACWDL 07-12 if the good faith effort ends (if otherwise eligible). Wards that have already provided evidence of citizenship and identity do not have to produce original or certified copies of their documents again.

EFFECTIVE DATE:

This pre-release application process is effective January 1, 2008. Effective with the issuance of this letter, juveniles who are released from a juvenile facility before the requirements of this letter are in place should have an expedited review of any Medi-Cal applications received, including issuance of immediate need Medi-Cal if eligible.

REQUIRED CONTACT INFORMATION:

Within 30 days of the date of this letter, county juvenile facilities must provide the Medi-Cal Eligibility Division with a contact person and a designated back-up who will work with the CWDs in determining Medi-Cal eligibility for wards. Likewise, CWDs must provide the Medi-Cal Eligibility Division with a contact person and a designated back-up who will work with the county juvenile facilities in accordance with this letter. Please include name, address, phone number, fax number, and E-mail address. This letter will be followed by an information letter to provide counties with a list of the CWD and county juvenile facility contacts in each county. Please send CWD contact information to Mr. Jeffery Baca at the following address:

Mr. Jeffery Baca
California Department of Health Care Services
Medi-Cal Eligibility Division
1501 Capitol Avenue, Suite 71.4063
MS 4607
P.O. Box 997417
Sacramento, CA 95899-7417

If there are any questions, please contact Mr. Jeffery Baca at (916) 552-9523.

Original signed by Vivian Auble

Vivian Auble, Chief
Medi-Cal Eligibility Division

Attachment

**MEDI-CAL APPLICATION TRANSMITTAL
INFORMATION FORM**

1. **NAME OF WARD:** _____

2. **RELEASE DATE:** _____

3. **FACILITY CASE NUMBER:** _____

4. **MEDICAL STATUS PRE-INCARCERATION:**

MEDI-CAL ELIGIBILITY / **NO** / / **YES**

OTHER HEALTH COVERAGE: / / **NO** / / **YES**

DISABILITY: / **NO** / / **YES**

5. **SOCIAL SECURITY NUMBER:** _____

6. **DATE OF BIRTH:** _____

7. **RESIDENCE ADDRESS UPON RELEASE (include county):**

8. **PARENT OR GUARDIAN CONTACT INFORMATION:
(Name, address and phone number)**

FATHER: _____

MOTHER: _____

GUARDIAN: _____

9. REFERRING PARTY (facility contact):

NAME: _____
FACILITY: _____
PHONE #: _____
FAX#: _____



DAVID MAXWELL-JOLLY
Director

State of California—Health and Human Services Agency
Department of Health Care Services



ARNOLD SCHWARZENEGGER
Governor

March 23, 2010

TO: ALL COUNTY WELFARE DIRECTORS Letter No.: 10-06
ALL COUNTY ADMINISTRATIVE OFFICERS
ALL COUNTY MEDI-CAL PROGRAM SPECIALISTS/LIAISONS
ALL COUNTY HEALTH EXECUTIVES
ALL COUNTY MENTAL HEALTH DIRECTORS

SUBJECT: SUSPENSION OF MEDI-CAL BENEFITS FOR INCARCERATED
JUVENILES

The purpose of this letter is to:

- Inform counties of the implementation of Senate Bill (SB) 1147, Statutes of 2008, Chapter 546 codified at Welfare and Institutions (W&I) Code Sections 14029.5 and 14011.10.
- Inform counties of the process by which DHCS and county welfare departments will suspend Medi-Cal benefits for individuals under the age of 21 who were Medi-Cal beneficiaries at the time that they became inmates of a public institution.

BACKGROUND

SB 1147 requires the suspension of Medi-Cal, rather than the termination of Medi-Cal eligibility, for individuals under age 21 who were Medi-Cal beneficiaries at the time that they became inmates of a public institution. The term “inmate of a public institution” is defined in federal and state law. See Medi-Cal Eligibility Procedures Manual Article 6 Institutional Status.

Effective January 1, 2010, SB 1147 requires restoration of Medi-Cal benefits on the day an eligible juvenile is no longer an inmate of a public institution. This means that Medi-Cal must be restored without a new application on the day the juvenile is no longer considered an inmate of a public institution. The requirements of SB 1147 apply to juveniles who:

- Are Medi-Cal beneficiaries at the time of incarceration; and
- Comply with all annual redetermination requirements during their period of incarceration; and
- Remain otherwise eligible for Medi-Cal during their period of incarceration; and
- Are no longer considered an inmate of a public institution within one year of their incarceration date; and
- Are eligible on the day they are released.

SB 1147 REQUIREMENTS

Pursuant to SB 1147:

- DHCS is required to suspend Medi-Cal benefits for individuals under the age of 21 who were Medi-Cal beneficiaries on the date that they became inmates of a public institution.
- The suspension of Medi-Cal benefits begins on the date the individual becomes an inmate of a public institution.

NOTE: Due to notice of action requirements in California Administrative Code Title 22, Section 50179, Medi-Cal cannot be suspended until proper notice has been given to the affected beneficiaries. Suspension of Medi-Cal benefits, therefore, cannot always occur on the date the individual becomes an inmate of a public institution.

- The suspension of Medi-Cal benefits ends on the date the individual is no longer an inmate of a public institution or at the end of the month of the anniversary date he or she became an inmate of the public institution, or at the end of the month that the juvenile turns 21, or at the end of the month that the juvenile has become otherwise ineligible for Medi-Cal, whichever is sooner.

OVERVIEW OF THE PROCESS FOR SUSPENDING MEDI-CAL BENEFITS

When a CWD learns of a juvenile's incarceration from either self reporting by the juvenile's family or reporting by the detention facility, the Eligibility Worker must:

1. Determine if the incarcerated juvenile is in a Child Only Medi-Cal case or if he or she is in a Medi-Cal case that includes other family members.
2. If the juvenile is in a Medi-Cal case with other family members, the eligibility of the other family members must be reviewed by means of an SB 87 redetermination to determine if they are eligible for Medi-Cal while the juvenile is incarcerated. After completing the review of the case, counties must terminate the eligibility of other family members (with proper notice) if the other family members lose eligibility when the juvenile is incarcerated.
3. If an incarcerated juvenile is part of an open and active Medi-Cal case that includes other family members, the juvenile's eligibility must be suspended with a proper notice by means of temporarily removing that juvenile from the family Medi-Cal case. When the eligibility of an incarcerated juvenile is suspended he or she must receive the enclosed notice, "Suspension of Medi-Cal Benefits for an Incarcerated Minor" (Enclosure1).
4. Medi-Cal eligibility is suspended pursuant to Welfare and Institutions Code 14011.10 effective the date one becomes an inmate of a public institution. Counties must send the inmate notice that Medicaid is suspended as soon as the county is notified of the institutionalized status.
5. When Medi-Cal eligibility is terminated for an incarcerated juvenile while under suspension, he or she must receive proper 10-day notice about the termination of eligibility and the end of the suspension (Enclosure 3).
6. For the first year of the juvenile's incarceration all normal redetermination requirements apply even though the juvenile has been removed from the family Medi-Cal case. If redetermination requirements are not met for an incarcerated juvenile, suspension of Medi-Cal and eligibility must be terminated with proper 10-day notice.
7. If an incarcerated juvenile who is a member of an open and active Medi-Cal case that includes other family members is eligible upon release, Medi-Cal must be restored effective the day the juvenile is no longer considered an inmate of a public institution, without requiring a new application.

8. If, after reassessing the case status, the juvenile is in a Child Only Medi-Cal case, the juvenile's eligibility must be suspended with a proper notice (mailed in sufficient time to reach the beneficiary by the effective date of the action) by updating MEDS with information regarding the incarceration as explained below. When the eligibility of an incarcerated juvenile is suspended he or she must receive the enclosed notice, "Suspension of Medi-Cal Benefits for an Incarcerated Minor" (Enclosure1).
9. Benefits are restored for Juveniles in a Child-Only Medi-Cal case on the date the county reports a Release Date reflecting either the date the juvenile is released, or the date the juvenile is no longer considered an inmate. The juvenile will be able to access covered Medi-Cal services as of the Release Date entered into MEDS if they are still eligible for Medi-Cal. When suspension of Medi-Cal benefits ends because a juvenile is released, counties must send appropriate notice to inform the juvenile's family or caretakers that Medi-Cal benefits are restored. The enclosed notice, "Restore Medi-Cal Benefits Upon Release of An Eligible Minor" (or a notice containing the same information) must be used for this purpose (Enclosure 2).

TWOFOLD APPROACH TO SUSPENDING MEDI-CAL BENEFITS

DHCS has developed a bifurcated approach to suspending eligibility for incarcerated juveniles. The approach required to suspend Medi-Cal for incarcerated juveniles depends on whether they are in a Medi-Cal case that includes other family members or in a Child Only Medi-Cal case.

Suspension of Medi-Cal for Incarcerated Juveniles in a Medi-Cal Case That Includes Other Family Members

An incarcerated juvenile that is a member of an open and active Medi-Cal case that includes other individuals must be suspended by means of removing that juvenile from the family Medi-Cal case while benefits are suspended. Counties should add the released juvenile back into the family case when they are notified that he or she is no longer an inmate of a public institution, if the child is living with the family and is otherwise eligible.

- **The Family Members Case Example 1:** A child from a family that includes a mother and three children on 1931(b) becomes an inmate of a public institution. The institutionalized child must be removed from the family case. Eligibility must

be redetermined for the mother and remaining children. The institutionalized child must be added back to the case upon the release, if living with the family and otherwise eligible.

- **The Family Members Case Example 2:** A child from a family that includes a mother, a father, and only one child becomes incarcerated. All members of the family were on 1931(b). The father is SSA disabled. Due to his disability, the father maintains linkage without the child in the home. This is evaluated as a family case. In this case, the child is removed from the case; the mother is made an ineligible member of the case and the father is approved for disability linked Medi-Cal, if otherwise eligible. Upon release of the juvenile, the child must be added back to the case, if living with the family and otherwise eligible. All family members must be evaluated for eligibility as appropriate when the child is incarcerated and when the child is released.

Impact on Eligibility for Incarcerated Juveniles in a Family Case

- When benefits are suspended for an incarcerated juvenile in a family with an open and active Medi-Cal case, eligibility will be reviewed for that family when the child is incarcerated (to determine if all family members are still eligible) and at their regularly scheduled annual redetermination for all eligible family members and for the incarcerated child. As part of that review, counties must confirm that the incarcerated juvenile is still otherwise eligible and note that finding in the case file. This is necessary so that the eligibility of the child can be restored immediately upon release.
- Incarcerated juveniles who lose Medi-Cal eligibility (and suspension of benefits) while incarcerated are no longer considered to be members of their family's Medi-Cal case. Their inclusion in the family's Medi-Cal case must be re-evaluated upon their release to determine whether the juvenile is once again eligible for Medi-Cal.

Suspension of Medi-Cal for Incarcerated Juveniles in Child Only Medi-Cal Cases

To suspend eligibility for incarcerated juveniles in Child Only Medi-Cal cases, counties must use the new online MEDS transaction to report the incarceration information. Based on the reported information, MEDS will suspend Medi-Cal benefits for the incarcerated juvenile. Counties will enter incarceration information in the new "Institutionalized Client Update" MEDS screen to suspend Medi-Cal benefits. Detailed

information about the new screen will be transmitted to MEDS coordinators through the normal MEDS Change Cycle Letter process. MEDS will set an Other Health Coverage (OHC) Code value of "I" to identify suspension of Medi-Cal.

MEDS will add the "I" OHC code to the MEDS record when a Suspension Start Date is sent by the counties via the new MEDS screen. When Medi-Cal benefits are suspended for a juvenile due to incarceration, counties are required to send a proper notice of action to notify the juvenile's family or caretakers about the suspension of benefits. This notice must be mailed in sufficient time to reach the beneficiary by the effective date of the action. The enclosed notice, "Suspension of Medi-Cal Benefits for an Incarcerated Minor" (or a notice containing the same information) must be used for this purpose (Enclosure 1).

MEDS will end suspension of benefits on the date the county reports a Release Date reflecting either the date the juvenile is no longer an inmate of a public institution, or the first of the month following the month in which the juvenile loses eligibility during incarceration. The juvenile will be able to access covered Medi-Cal services as of the Release Date entered into MEDS if they are still eligible for Medi-Cal. When the county reports the Release Date, the Health Insurance System (HIS) database will be updated immediately to show the day prior to the Release Date as the end date of the institutionalized coverage exclusion. The 'I' OHC Code will still appear on the MEDS record until the following month but will not adversely affect the juvenile's eligibility once the suspension end date is reported. When suspension of Medi-Cal benefits ends because a juvenile is released, counties must send appropriate notice to inform the juvenile's family or caretakers that Medi-Cal benefits are restored. The enclosed notice, "Restore Medi-Cal Benefits Upon Release of An Eligible Minor" (or a notice containing the same information) must be used for this purpose (Enclosure 2).

When an incarcerated juvenile in a Child Only Medi-Cal case whose Medi-Cal has been suspended becomes ineligible during the first year of incarceration, turns 21, or is incarcerated for more than one year, counties must terminate the eligibility, confirm that the termination action has updated MEDS and then transmit the beginning date of ineligibility to MEDS as the suspension end date. This will end the suspension and remove the "I" OHC Code, which is necessary when eligibility and/or suspension ends for any reason. In this case, counties must send a proper 10-day notice explaining the reason for termination of Medi-Cal eligibility and the right to request a fair hearing (Enclosure 3).

IMPORTANT: Before terminating the suspension of an incarcerated juvenile who loses eligibility during incarceration or at release, counties must comply with all applicable eligibility review requirements to ensure that the child is not eligible for Medi-Cal based on another program.

- **Child Only Case Example 1:** The child from a family that includes a mother, a father, and only one child, becomes incarcerated. The child was on a Federal Poverty Level Percentage Program and the parents are not on Medi-Cal. The case remains open and the county updates MEDS with suspension dates as described in this letter. Upon release of the juvenile, the county ends the juvenile's suspension on MEDS as described in this letter.
- **Child Only Case Example 2:** The child from a family that includes a mother, a father, and only one child, becomes incarcerated. All members of the family were on 1931(b). The parents have no linkage without the child in the home. The parents must be terminated with proper 10-day notice. The child's case remains active and the county updates MEDS with suspension dates as described in this letter. Upon release of the juvenile, the county ends the juvenile's suspension on MEDS as described in this letter. When the juvenile is no longer considered an inmate all family members must be evaluated for eligibility as appropriate.

Impact on Eligibility for Child Only cases

- When benefits are suspended, eligibility must be reviewed at the next annual redetermination if it arises during the first year a juvenile is an inmate of a public institution. Counties must confirm that the juvenile is still an inmate of a public institution and is otherwise eligible. The county may use an ex parte review process to determine if the juvenile is still otherwise eligible for Medi-Cal. If there is no information known to the county that would change the juvenile's Medi-Cal eligibility, suspension continues until the end of the month of the one year anniversary of the incarceration, or until the end of the month that the juvenile turns 21 or on the date that the juvenile is released, whichever is sooner.
- If an incarcerated juvenile becomes ineligible for Medi-Cal during the first year of incarceration, suspension must end at the end of that month and eligibility must be terminated with a proper 10-day notice explaining the reason for termination of Medi-Cal eligibility and the right to request a fair hearing.

- If an incarcerated juvenile is incarcerated for more than one year, MEDS will send an alert 60 days prior to the scheduled end of the one year suspension period to remind the county to terminate Medi-Cal eligibility at the end of the last month of the one-year suspension period and send a proper notice (mailed in sufficient time to reach the beneficiary by the effective date of the action) explaining the reason for termination of Medi-Cal eligibility and the right to request a fair hearing.
- When suspension of benefits ends because an otherwise eligible incarcerated juvenile is released within one year of the suspension date, (and the release date is properly entered into MEDS), MEDS will end suspension and restore Medi-Cal effective as of the end date. Counties should assist the beneficiary as needed to ensure that benefits are restored effective on the date of release, without a new application.
- If suspension ends because a juvenile turns 21 years of age while he or she is incarcerated, eligibility must be terminated with proper notice only after an SB 87 redetermination, in accordance with current eligibility review requirements. This means that the county must determine the juvenile is not eligible under another Medi-Cal program before eligibility is terminated. 60 days prior to the beneficiary's 21st birthday MEDS will send counties an alert to remind them to terminate Medi-Cal eligibility if appropriate (with proper notice).
- Suspension and eligibility must be terminated with a proper 10-day notice for incarcerated juveniles if Medi-Cal eligibility ends for any reason and the juvenile is not eligible under another Medi-Cal program. The notice must explain the reason for the termination and the right to request a fair hearing.

Impact on Eligibility for Other Members of the Incarcerated Juvenile's Family Medi-Cal Case

- Counties must redetermine eligibility, at the time of incarceration and annual redetermination, for the other members of a family Medi-Cal case that includes an incarcerated juvenile.
- Individuals whose linkage to Medi-Cal is based solely on the residence of the incarcerated juvenile within their home, must have eligibility redetermined based on the change of circumstances when the juvenile is incarcerated and when he or she is released in addition to regular annual redetermination requirements.

- If, when a juvenile's Medi-Cal eligibility is suspended, the county determines that persons in the incarcerated juvenile's family Medi-Cal case are ineligible for Medi-Cal due to the absence of linkage and the county has conducted an SB 87 redetermination finding them ineligible for Medi-Cal, those family members must have their Medi-Cal eligibility discontinued with a proper 10-day notice explaining the reason for termination of Medi-Cal eligibility and the right to request a fair hearing.
- Although the suspension of an incarcerated juvenile's benefits is effective on the day the adequate notice requirement is met, the Medi-Cal eligibility of a family member who loses eligibility because of the juvenile's incarceration must continue until the end of the month the juvenile is incarcerated, and the other family members must receive a proper 10-day notice before their eligibility is terminated.
- Juveniles incarcerated prior to January 1, 2010 are not eligible for suspension of Medi-Cal benefits. Medi-Cal must be terminated with a proper 10-day notice of action. Juveniles incarcerated prior to January 1, 2010 who want Medi-Cal upon release must have eligibility re-established based on Medi-Cal rules in place prior to SB 1147 including, but not limited to the SB 1469 requirements (see below for more information) for processing a Medi-Cal application prior to release.

Impact of SB 1147 on SB 1469 Requirements

Prior to the passage of SB 1147, SB 1469 (Chapter 657 Statutes of 2006) required DHCS to develop a Medi-Cal application process so that juveniles who are incarcerated in specified county detention facilities for 30 days or longer can establish Medi-Cal eligibility immediately upon release if they are determined eligible. The two processes required by SB 1469 and SB 1147 will work together to make Medi-Cal more accessible to newly released juveniles who are Medi-Cal eligible. As stated in SB 1469, county detention facilities are required to notify counties when juveniles are released. Counties can use that information to add eligible juveniles back into family Medi-Cal cases or update MEDS with the suspension stop date. Juveniles who are eligible for restoration of Medi-Cal immediately upon release (without an application), under SB 1147, must not be subjected to the Medi-Cal application requirements of SB 1469. See ACWDL 07-34 for more information on SB 1469 requirements.

MEDS CHANGES FOR SUSPENSION OF MEDI-CAL BENEFITS

New MEDS Screens

DHCS has created a new MEDS screen for entering information about incarcerated juveniles in Child Only Medi-Cal cases. The Institutionalized Client Update Screen will accept entries to the "Suspension Start Date" field, and to the "Release Date" field. Once the information is entered on the Institutionalized Client Update Screen, MEDS will immediately update the HIS database with the Suspension Start Date (and Release Date, if reported) and create a transaction to update the MEDS database with an OHC code of "1" for the suspension months reported. MEDS will remove the OHC indicator "1" for the month following the Release Date month when the HIS record segment terminates based on a Release Date reported to MEDS by the county. MEDS users may view the information entered about the incarcerated juvenile by choosing the View Insurance Segment option from the HIS action request menu.

IMPORTANT NOTE: The suspension stop date cannot be reported to MEDS in advance. The MEDS update must be done on or after the reported Release Date.

New MEDS Alerts

The new MEDS alerts needed for suspension of Medi-Cal benefits, pursuant to SB 1147, are currently in development. Detailed information about those alerts will be released in an upcoming MEDS change cycle letter.

New Notices of Action

The enclosed Notices of Action (NOAs) have not yet been assigned a Medi-Cal notice number. Camera ready notices with assigned Medi-Cal numbers will be included in English in an upcoming ACWDL and posted on the DHCS website. Versions of the NOAs translated into threshold languages will follow shortly after the English versions. Please use the language in the enclosed NOAs to notify affected beneficiaries until the new NOAs are released.

All County Welfare Directors Letter No.: 10-06
Page 11
March 23, 2010

If you have any further questions regarding this process please contact Mr. Jeffery Baca at (916) 552-9513, or by email at jeff.baca@dhcs.ca.gov.

Original signed by

René Mollow, MSN, RN, Chief
Medi-Cal Eligibility Division

Enclosures

**NOTICE OF ACTION
RESTORE MEDI-CAL BENEFITS
UPON RELEASE OF AN ELIGIBLE MINOR**

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Notice Date: _____
 Case Number: _____
 Worker Name: _____
 Worker ID Number: _____
 Worker Telephone Number: _____
 Office Hours: _____

THIS NOTICE IS TO INFORM YOU THAT MEDI-CAL BENEFITS HAVE BEEN RESTORED FOR:
[Insert Name\(s\) Here](#)

The county has received information that the minor child named above is no longer an inmate of a public institution.

Medi-cal benefits for the child named above are restored as of _____.

The child’s Medi-Cal benefits have been restored because he or she is eligible for Medi-Cal benefits on the day he or she in no longer an inmate of a public institution. This means that he or she can receive Medi-Cal covered services provided on or after the above date.

If this child is still an inmate of a public institution, you must tell the Eligibility Worker identified above.

IF THE CHILD NAMED ABOVE ALREADY HAS A BENEFITS IDENTIFICATION CARD (BIC) DO NOT THROW IT AWAY. IT CAN BE USED NOW.

If the child needs a new BIC contact the eligibility worker identified above to get a new one.

MC XXX (Restore benefits for an incarcerated minors immediately upon release) (Rev. date)

The authority for this notice is Welfare and Institutions Code section 14011.10

NOTICE OF ACTION
DISCONTINUANCE OF BENEFITS

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Notice Date: _____
Case Number: _____
Worker Name: _____
Worker ID Number: _____
Worker Telephone Number: _____
Office Hours: _____

DISCONTINUANCE NOTICE FOR:

Insert Name(s) Here

We have looked at all information available to us about your circumstances and evaluated you for all Medi-Cal programs. Based on this information, your eligibility to receive Medi-Cal will be discontinued effective the last day of _____.

The reason for this discontinuance is:

Previously you received a notice informing you of the suspension of your Medi-Cal benefits. The discontinuance of your Medi-Cal eligibility also ends the suspension of your Medi-Cal benefits. This means that you will need to apply for Medi-Cal if you want Medi-Cal when you are released.

Please Note: Other family members with different eligibility status will receive a separate notice. Please call your worker if you need additional information about this notice.

We based this discontinuance action on the information available to us. You should call or write your worker right away if you have any questions about this action or if the information in the notice is not correct. You can appeal this discontinuance. The back of this page explains how to request a hearing. You can reapply at any time.

DO NOT THROW AWAY YOUR BENEFITS IDENTIFICATION CARD (BIC)

If you already have a plastic Benefits Identification Card (BIC), do not throw it away. You can use it again if you become eligible for Medi-Cal.

MC XXX (Discontinuance notice for incarcerated minors) (Rev. date)

The authority for this notice is Welfare and Institutions Code section 14011.10.

MEDI-CAL ELIGIBILITY PROCEDURES MANUAL

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MEDI-CAL ELIGIBILITY PROCEDURES MANUAL

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MEDI-CAL ELIGIBILITY PROCEDURES MANUAL

6A--INTRODUCTION

1. PURPOSE

Medi-Cal is not available to certain individuals in a public institution or in an institution for mental diseases (IMDs). Federal Medicaid regulations prohibit Federal Financial Participation (FFP) for certain individuals due to institutional status. This article will distinguish for both adults and juveniles who is eligible for Medi-Cal benefits if an individual is a resident of a public institution or IMD.

2. BACKGROUND

Title 42, United States Code (U.S.C.), Section 1396d and Title 42, Code of Federal Regulation (CFR), Section 435.1008(a)(1) state that FFP is not available in expenditures for services provided to individuals who are residing in public institutions. Title 42 CFR Section 435.1009 states that an inmate of a public institution is a person who is residing in a public institution.

Under federal guidelines from the Health Care Financing Administration (HCFA), dated January 13, 1992, to the Director of the Arizona Health Care Cost Containment System, the term "inmate of a public institution" was further defined for purposes of Medicaid eligibility under Title XIX of the Social Security Act (SSA). The guidelines clarify that an individual is considered an "inmate of a public institution" from the date of actual incarceration in a prison, county, city, or tribal jail until permanent release, bail, probation, or parole.

Under the Social Security Act (SSA) Section 1905(a)(24)(A) and (B), Medicaid services are available for any individual over age 65 in an institution for mental diseases (IMDs), and is available for psychiatric inpatient hospital services for individuals up to age 22. HCFA Medicaid Regional Memo Number 98 clarified that an individual between the ages of 22 and 65 may be eligible for Medi-Cal/Medicaid, but there is no FFP. These persons may be eligible for state-only Medi-Cal with no FFP.

HCFA has continued to approve California's waiver request for the Medi-Cal Specialty Mental Health Services Consolidation Program authorized under Section 1915(b)(1) and 1915(b)(4) of the Social Security Act as long as California demonstrates that the program is consistent with the purpose of the Medicaid Program and complies with specific conditions set forth in their waiver approval, which include outreach and identification activities and coordination with programs such as foster care, special education, and juvenile justice.

For persons of any age who are detained under the penal system, the responsible third party is the penal institution or administration who retains authority over the individual. Under Section 4011.1 of the Penal Code a county may choose to cover prisoners under the county medical program; however, such coverage is optional. If a county does not choose to cover prisoners, the medical provider must collect directly from the penal authority, i.e., city jail for city prisoners, county jail or sheriff's office for county prisoners, etcetera.

3. IMPLEMENTATION

HCFA guidelines which clarified the federal statute were sent to all county welfare departments on July 7, 1993. A retroactive period of one year previous to this date was granted for any case which resulted in a wrongful denial of Medi-Cal eligibility based upon institutional status. This would include any case wherein the final determination of ineligibility was made during the time period July 7, 1992 until July 7, 1993.

SENATE HEALTH
 COMMITTEE ANALYSIS
 Senator Deborah V. Ortiz, Chair

BILL NO: SB 1469
 S
 AUTHOR: Cedillo
 B
 AMENDED: March 30, 2006
 HEARING DATE: April 5, 2006
 1
 FISCAL: Rules / Appropriations
 4
 6
 9
 CONSULTANT:
 Dunstan / ag

SUBJECT

Medi-cal: eligibility: juvenile offenders

SUMMARY

This bill requires the Department of Corrections and Rehabilitation, Division of Juvenile Facilities to notify county welfare departments about the release of a ward so that eligibility for Medi-Cal can be determined.

ABSTRACT

Existing Federal law:

- 1.Establishes the Medicaid program to provide comprehensive health benefits to low-income persons.
- 2.Provides that Medicaid benefits generally cannot be paid for incarcerated individuals.
- 3.Allows incarcerated individuals to retain their Medicaid eligibility.

Existing State law:

Continued---

STAFF ANALYSIS OF SENATE BILL 1469 (Cedillo) Page
 2

- 1.Establishes the Medi-Cal program, administered by the Department of Health Services (DHS) to provide health care benefits to qualified low-income individuals.
- 2.Defines health care benefits eligible under the Medi-cal programs.
- 3.Excludes from the definition of health care benefits, care or services for any individual who is an inmate of an institution (except as a patient in a medical institution).

This bill:

- 1.Directs the Department of Corrections and Rehabilitation, Division of Juvenile Facilities (division) and county juvenile detention facilities (county) to provide the appropriate county welfare department with the ward's name, release date and sufficient information for the county welfare department to begin the process of determining the ward's eligibility for Medi-Cal.
- 2.Mandates the division and county to notify the ward's parents or guardian so that they may have the option of opting out of the Medi-Cal eligibility determination.
- 3.Requires the county welfare director to expedite the review of the enrollment application.

4. Directs the county welfare director to forward the application to the appropriate entity for Healthy Families eligibility or other appropriate health coverage program, if the ward does not meet the requirements for Medi-Cal.
5. Requires the county welfare department to issue appropriate documentation to obtain necessary medical care for a released ward who meets eligibility requirements for Medi-Cal.
6. Requires the division and the DHS in consultation with the County Welfare Directors Association, Chief Probation Officers of California and parole services of the division, to establish protocols and procedures to implement this bill.

Continued---

STAFF ANALYSIS OF SENATE BILL 1469 (Cedillo) Page
3

7. Allows DHS to implement this bill through all-county letters or similar methods without adopting regulations.
8. Requires DHS to seek any federal waivers necessary for the implementation of this bill.
9. Establishes a method for paying any mandates that this bill creates.

FISCAL IMPACT

Unknown, however it is keyed as a state-mandated local program.

BACKGROUND AND DISCUSSION

Need for the bill

The author of the bill states that SB 1469 will ensure that all youths eligible for Medi-Cal and Healthy Families will be enrolled in the respective program upon the youth's release from a county or state juvenile facility. Currently, many youths lose their coverage while incarcerated. As a result, upon release they do not have the medical care they need until they re-enroll in a health insurance program.

This problem is especially acute for the many youths exiting the juvenile detention system who are in need of psychotropic medicine or other medical care necessary to treat severe health conditions. A significant factor in the huge rates of recidivism among youth is the failure of a ward to receive treatment for a mental health or substance abuse disorder. In the division's facilities alone, 85 percent of the youth have substance abuse problems, and 71 percent have three or more diagnosable mental health disorders.

Medi-Cal eligibility

Under Medicaid law, states do not receive federal matching funds for services provided to individuals in jail. However, federal law does not require states to terminate inmates' eligibility. Inmates may remain enrolled in Medicaid even though services received while in jail are

Continued---

STAFF ANALYSIS OF SENATE BILL 1469 (Cedillo) Page
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not covered. Accordingly, someone who had a Medicaid card when jailed may be able to use it to obtain needed services and medication immediately after release.

Under federal rules, Medicaid eligibility should be reinstated upon release unless the person is no longer eligible. Before ending eligibility, states must determine the potential for qualifying under all the state's eligibility categories. Regrettably, this re-determination

often does not occur.

Even inmates who keep their Medicaid eligibility may lose Medicaid coverage unnecessarily because of procedures in correctional facilities. Many individuals will be incarcerated for so long that they will lose their Medicaid benefits after the state's customary re-determination of eligibility is conducted (annually for California). Something as simple as the loss of a Medicaid card following arrest can make it impossible to obtain mental health services from Medicaid providers upon release. Cards are often lost because jails take possession of all personal property when booking a person. In many jurisdictions, this property is destroyed if it is not claimed within a certain time. Inmates cannot claim the property themselves and if they have no one to do it for them, their Medicaid card is destroyed.

Continued---

Federal view

As part of a federal effort to reduce homelessness, the Centers for Medicare and Medicaid Services (CMS) has sent a letter encouraging states to suspend and not terminate Medicaid benefits while a person is in a public institution. The letter points out the difference between the prohibitions on receiving benefits versus maintaining eligibility while an eligible individual is in an institution. The letter also encourages state Medicaid agencies to work with corrections officials.

Related legislation

SB 1616 (Kuehl) - requires the division to work with the Social Security Administration and DHS to ensure that disabled wards are enrolled in Medi-Cal and that their disability benefits are available to them when they are released from a state institution. This bill is currently in the Senate Health Committee.

AB 1945 (Coto) - requires that a juvenile detention facility determine if an eligible minor being released is enrolled in need-based health insurance programs. This bill is currently in the Assembly Health Committee.

AB 2004 (Yee) - prohibits the use of inmate status to terminate the eligibility of a minor under the Medi-Cal program, require DHS to suspend rather than terminate eligibility and ensure that eligibility was reinstated upon release. This bill is currently in the Assembly Health Committee.

Arguments in support

The County Alcohol and Drug Program Administrators Association of California (CADPAAC) strongly support the bill. They believe that this bill will provide Medi-Cal and other health benefits for eligible adolescents immediately upon their release from juvenile detention facilities. They believe that this bill will be a valuable effort to help trouble youth who are trying to put their lives together after incarceration.

POSITIONS

Continued---

Support: County Alcohol and Drug Program Administrators
Association of
California

Oppose:None received.

-- END --

BILL ANALYSIS

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|SENATE RULES COMMITTEE | SB 1147|
|Office of Senate Floor Analyses |
|1020 N Street, Suite 524 |
|(916) 651-1520 Fax: (916) |
|327-4478 |
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UNFINISHED BUSINESS

Bill No: SB 1147
 Author: Calderon (D), et al
 Amended: 8/8/08
 Vote: 21

SENATE HEALTH COMMITTEE : 6-1, 3/12/08
 AYES: Kuehl, Alquist, Cox, Negrete McLeod, Steinberg, Yee
 NOES: Maldonado
 NO VOTE RECORDED: Aanestad, Cedillo, Ridley-Thomas, Wyland

SENATE APPROPRIATIONS COMMITTEE : 9-3, 5/22/08
 AYES: Torlakson, Cox, Cedillo, Corbett, Florez, Kuehl,
 Oropeza, Simitian, Yee
 NOES: Aanestad, Ashburn, Dutton
 NO VOTE RECORDED: Ridley-Thomas, Runner, Wyland

SENATE FLOOR : 27-13, 5/27/08
 AYES: Alquist, Calderon, Cedillo, Corbett, Correa, Cox,
 Denham, Ducheny, Florez, Kehoe, Kuehl, Lowenthal,
 Machado, Migden, Negrete McLeod, Oropeza, Padilla,
 Perata, Ridley-Thomas, Romero, Scott, Simitian,
 Steinberg, Torlakson, Vincent, Wiggins, Yee
 NOES: Aanestad, Ackerman, Ashburn, Battin, Cogdill,
 Dutton, Harman, Hollingsworth, Maldonado, Margett,
 McClintock, Runner, Wyland

ASSEMBLY FLOOR : 48-30, 8/13/08 - See last page for vote

SUBJECT : Medi-Cal: eligibility: juvenile offenders

SOURCE : Youth Law Center

CONTINUED

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DIGEST : This bill requires the Department of Health Care Services to develop procedures to ensure that the Medi-Cal eligibility of minors is not terminated when they are incarcerated.

Assembly Amendments conform the bill to federal law and made clarifying changes.

ANALYSIS :

Existing Federal Law

- 1.Establishes the Medicaid program to provide comprehensive health benefits to low-income persons.
- 2.Provides that Medicaid benefits generally cannot be paid for incarcerated individuals except when the inmate is a patient in a medical institution. Although an incarcerated individual's benefits are restricted, federal law does allow that person to retain their Medicaid eligibility.

Existing State Law

- 1.Establishes the Medi-Cal program as the state's Medicaid program and establishes the Department of Health Care

Services (DHCS) as the administering agency.

2. Defines the health care benefits that are to be offered by the program.
3. Excludes from the definition of Medi-Cal health care benefits, care or services for any individual who is an inmate of an institution (except as permitted under federal law).

— This bill:

1. Requires Medi-Cal benefits to an individual under 21 years of age who is an inmate of a public institution (a state or federal prison, correctional facility, county/city jail or detention center) to be suspended in

CONTINUED

SB 1147
Page

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accordance with a specified provision of federal law (current state Medi-Cal regulations make individuals who are inmates of public institutions ineligible for Medi-Cal).

2. Requires, if a Medi-Cal beneficiary is under age 21 on the date he/she becomes an inmate of a public institution, his or her Medi-Cal benefits to be suspended effective the date he or she becomes an inmate of a public institution. Requires the suspension to end on the date he/she is no longer an inmate of a public institution or one year from the date he/she becomes an inmate of a public institution, whichever is sooner.
3. Requires county welfare departments to notify DHCS within 10 days of receiving information that an individual under 21 years of age on Medi-Cal in the county is or will be an inmate of a public institution.
4. Prohibits the bill from creating a state-funded benefit or program, and prohibits health care services under the Medi-Cal program from being provided to inmates of public institutions whose Medi-Cal benefits have been suspended.
5. Requires this bill to be implemented only if and to the extent allowed by federal law, and only to the extent that any necessary federal approvals are obtained. Make this bill inoperable if it is in conflict with or does not comply with federal law. Requires this bill be implemented on January 1, 2010, or when all necessary federal approvals are obtained, whichever is later.
6. Requires DHCS, by January 1, 2010 or when all necessary federal approvals are obtained, in consultation with the Chief Probation Officers of California and the County Welfare Directors Association, to establish the protocols and procedures necessary to implement this bill, including any needed changes to the protocols and procedures previously established to implement a specified provision of existing law.
7. Requires DHCS to implement this bill by all-county letters or similar instructions without taking regulatory action. Thereafter, DHCS must implement this bill

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through regulation.

8. Limits the existing law requirement that county welfare departments initiate a Medi-Cal application to only those wards not already enrolled in the Medi-Cal program, when a county has received information on a ward from a county juvenile detention facility.
9. Requires county welfare departments to deny a minor's

Medi-Cal application in accordance with due process requirements if the cooperation of the minor's parent or guardian is necessary to complete the application, but the minor's parent or guardian fails to cooperate in completing the application.

Background

Medical Problems of Juvenile Inmates . Lack of access to medical care is an acute problem for youth exiting the juvenile detention system. Many are in need of psychotropic medicine or other medical care necessary to treat severe health conditions. Failure of a ward to receive treatment for a mental health or substance abuse disorder can be a significant factor in the high rate of recidivism among youth. In the state corrections juvenile division's facilities alone, 85 percent of the youth have substance abuse problems, and 71 percent have three or more diagnosable mental health disorders.

Currently, under federal rules, if a youth is disenrolled, Medicaid eligibility should be reinstated upon the release of the person unless they are no longer eligible. States can arrive at a decision on a person's eligibility only by examining the potential for qualifying under all the state's eligibility categories.

As part of a federal effort to reduce homelessness, the federal Center for Medicare and Medicaid Services (CMS) sent a letter encouraging states to suspend, rather than terminate, Medicaid benefits while a person is incarcerated. The letter points out the difference between prohibiting incarcerated individuals from receiving benefits versus terminating their eligibility. The letter also encourages state Medicaid agencies to work with

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corrections officials.

DHCS View . In comments on AB 2004 (Yee), 2005-06 Session, an earlier bill that addressed the same issue, DHCS stated that any individual taken into custody loses Medi-Cal eligibility when he or she is booked into a correctional facility for a criminal act. No services provided by the correctional facility during the time of incarceration can be billed to Medi-Cal. Any individual who is booked will automatically be terminated from Medi-Cal benefits. A match is run by Medi-Cal monthly with the California Youth Authority System and with the Jail Match Registry System to determine who has been incarcerated if there has been no notification to the county welfare system.

DHCS also provided other comments relevant to juvenile Medi-Cal eligibility following release from custody. In essence, these comments state that specific parties, either the county social worker, probation officer, court, and/or parents can and should take steps to help inmates gain eligibility as soon as possible after release.

Current Litigation . The City and County of San Francisco and the County of Santa Clara have sued DHCS over the current treatment of incarcerated minors. They have asked the court to halt the current DHCS policy that terminates eligible minors and then requires subsequent reapplication. The plaintiffs specifically argue that that federal and state law requires Medi-Cal recipients receive the benefits to which they are entitled and the state is depriving eligible recipients of those benefits by terminating and delaying the restoration of eligibility. The case is currently in superior court.

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

According to the Assembly Appropriations Committee:

1. Annual increased Medi-Cal costs of \$250,000 (50% General Fund [GF]) to \$500,000 (50% GF) to provide 150 to 300 formerly incarcerated youth per month with two months of Medi-Cal benefits immediately upon return to the community, rather than youth having to reapply for

benefits.

- 2.This estimate reflects updated information on caseload, Medi-Cal eligibility, administrative savings, county variability with respect to Medi-Cal termination, youth disposition in terms of length of stay in placement, and current law provisions codified by SB 1469 (Cedillo), Chapter 657, Statutes of 2006.
- 3.Potentially significant loss of federal funds to the extent continued non-compliance results in punitive action from the federal government. Medi-Cal GF spending is matched dollar for dollar with federal financial support. Therefore a reduction in the area would have serious GF implications.

SUPPORT : (Verified 8/15/08)

Youth Law Center (source)
 American Federation of State, County and Municipal Employees
 California Association of Counties
 California State Sheriffs Association
 Chief Probation Officers of California
 County of Santa Clara Probation Department
 County Welfare Directors Association of California
 Fight Crime Invest in Kids
 Humboldt County Probation Department
 Juvenile Justice Program
 Lambda Letters
 Los Angeles County Office of Education
 Western Center on Law and Poverty

ARGUMENTS IN SUPPORT : Supporters argue that this bill will help to ensure that eligible youth leaving custody can access necessary health care services provided by Medi-Cal. Supporters argue that the current policy of termination requires a time-consuming reapplication process that leaves many without needed prescriptions, mental health services, and medical treatment. They also argue that the state has violated federal law by imposing delays in reinstating released inmates whose eligibility has been terminated and, as a result, is faced with litigation over this very issue. The Youth Law Center, the bill's sponsor, also points out

CONTINUED

that CMS has issued guidance urging states to do exactly what this bill would do, that is not to terminate otherwise eligible individuals in public institutions.

ASSEMBLY FLOOR :

AYES: Aghazarian, Arambula, Beall, Berg, Brownley, Caballero, Charles Calderon, Carter, Coto, Davis, De La Torre, De Leon, DeSaulnier, Dymally, Eng, Evans, Feuer, Fuentes, Furutani, Galgiani, Hancock, Hayashi, Hernandez, Huffman, Jones, Karnette, Krekorian, Laird, Leno, Levine, Lieber, Lieu, Ma, Mendoza, Mullin, Nava, Nunez, Parra, Portantino, Price, Ruskin, Salas, Saldana, Solorio, Swanson, Torrico, Wolk, Bass

NOES: Adams, Anderson, Benoit, Berryhill, Blakeslee, Cook, DeVore, Duvall, Emmerson, Fuller, Gaines, Garcia, Garrick, Horton, Houston, Huff, Jeffries, Keene, La Malfa, Maze, Nakanishi, Niello, Plescia, Silva, Smyth, Spitzer, Strickland, Tran, Villines, Walters

NO VOTE RECORDED: Sharon Runner, Soto

**** END ****

CONTINUED



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22 CA ADC § 50189

§ 50189. Redetermination -Frequency and Process.

Term 
22 CCR § 50189

Cal. Admin. Code tit. 22, § 50189

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Title 22. Social Security

Division 3. Health Care Services

Subdivision 1. California Medical Assistance Program

Chapter 2. Determination of Medi-Cal Eligibility and Share of Cost

 [Article 4. Beneficiary Application Process \(Refs & Annos\)](#)

➔ **§ 50189. Redetermination -Frequency and Process.**

- (a) Persons or families determined to be eligible for Medi-Cal shall have their eligibility redetermined at least once every 12 months.
- (b) At the time of the redetermination, the beneficiary shall complete a new Statement of Facts.
- (c) The county department shall:
- (1) Complete the redetermination within 12 months of the most recent of the following:
 - (A) Approval of eligibility on any application, reapplication or restoration which required a Statement of Facts form.
 - (B) Last redetermination.
 - (2) Inform beneficiaries in writing that income and eligibility information, including tax information, will be obtained through the IEVS.
 - (3) Verify information on the Statement of Facts in accordance with Section 50169 (d).
 - (4) Send a Notice of Action if there is a change in the beneficiary's eligibility status or share of cost.
 - (5) Provide an informational pamphlet on the CHDP program to the beneficiary which describes the CHDP benefits available, and how and where the benefits are provided in the county, if there are persons under 21 years of age in the family.
- (d) A face-to-face interview shall be required at the time of redetermination for all MFBU's which contain at least one AFDC-MN or MI member, except for MFBU's consisting of any of the following:
- (1) Persons who receive Medi-Cal through the Aid for Adoption of Children program.
 - (2) Persons who have a government representative, such as a public guardian, acting on their behalf.
 - (3) MI children who are not living with a parent or relative and for whom a public agency is assuming financial responsibility in whole or in part.

Note: Authority cited: Sections 10725, 10740 and 14124.5, Welfare and Institutions Code. Reference: Sections 11004, 14001, 14005.4 and 14012, Welfare and Institutions Code; and 42 Code of Federal

Regulations 435.945(d).

HISTORY

1. Amendment of subsections (c) and (d) filed 12-15-77; effective thirtieth day thereafter (Register 77, No. 51).
2. Amendment of subsection (c)(1)(A) filed 8-7-78; effective thirtieth day thereafter (Register 78, No. 32).
3. Amendment of subsection (d) filed 9-1-78; effective thirtieth day thereafter (Register 78, No. 35).
4. Editorial correction to History Note 3 (Register 78, No. 40).
5. Amendment of subsection (d)(3) filed 8-8-80; effective thirtieth day thereafter (Register 80, No. 32).
6. Editorial correction of subsection (c)(1)(A) filed 7-7-83 (Register 83, No. 29).
7. Amendment of subsection (c) filed 7-16-87; operative 7-16-87 pursuant to Government Code Section 11346.2(d) (Register 87, No. 30).

22 CCR § 50189, **← 22 CA ADC § 50189 →**

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Welcome to the online source for the California Code of Regulations

22 CA ADC § 50197 § 50197. Retroactive Eligibility.

Term 
22 CCR § 50197

Cal. Admin. Code tit. 22, § 50197

Barclays Official California Code of Regulations [Currentness](#)
Title 22. Social Security
Division 3. Health Care Services
Subdivision 1. California Medical Assistance Program
Chapter 2. Determination of Medi-Cal Eligibility and Share of Cost
↳ [Article 4.](#) Beneficiary Application Process ([Refs & Annos](#))
↳ **§ 50197. Retroactive Eligibility.**

(a) In addition to the period of eligibility specified in Section 50195, an applicant shall be eligible for Medi-Cal in any of the three months immediately preceding the month of application or reapplication if all of the following requirements are met in that month:

- (1) The county department determines that the applicant would have been eligible for one of the programs specified in Section 50201, except as specified in (c), had an application been made.
- (2) The applicant received health services.
- (3) The applicant was not previously denied Medi-Cal for the month in question, unless the application was denied for one of the following reasons:
 - (A) County error.
 - (B) The applicant's failure to cooperate, when that failure, or the applicant's subsequent failure to reapply, was due to circumstances beyond the control of the applicant.

(b) The request for retroactive eligibility shall be made in accordance with Section 50148 and shall be treated as any other application, except that persons applying on the basis of disability shall have their disability determined prior to determining retroactive eligibility.

(c) A person 21 years of age or older shall not be retroactively eligible as a medically indigent person unless either of the following conditions exist.

- (1) The person was residing in a skilled nursing or intermediate care facility during any part of both:
 - (A) The month of application.
 - (B) The month for which retroactive eligibility is requested.
- (2) The person is a woman with a confirmed pregnancy.

Note: Authority cited: Section 20, Health and Safety Code; and Sections 10725 and 14124.5, Welfare and Institutions Code. Reference: Sections 14005.4, 14019, 14019.6, 14142 and 14145, Welfare and Institutions Code.

1. Change without regulatory effect renumbering former section 50710 to new section 50197 filed 9-19-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 38).

2. Change without regulatory effect amending subsections (a) and (a)(2) and Note filed 6-21-2012 pursuant to section 100, title 1, California Code of Regulations (Register 2012, No. 25).

22 CCR § 50197, **← 22 CA ADC § 50197 →**

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Welcome to the online source for the California Code of Regulations

22 CA ADC § 50273

§ 50273. Medi-Cal Ineligibility Due to Institutional Status.

Term 
22 CCR § 50273

Cal. Admin. Code tit. 22, § 50273


Barclays Official California Code of Regulations [Currentness](#)

Title 22. Social Security

Division 3. Health Care Services

Subdivision 1. California Medical Assistance Program

Chapter 2. Determination of Medi-Cal Eligibility and Share of Cost

 [Article 6. Institutional Status \(Refs & Annos\)](#)

➔ § 50273. Medi-Cal Ineligibility Due to Institutional Status.

(a) Individuals who are inmates of public institutions are not eligible for Medi-Cal: The following individuals are considered inmates of a public institution:

- (1) An individual in a prison, or a county, city, or tribal jail.
- (2) An individual in a prison or jail: Prior to arraignment, prior to conviction, or prior to sentencing.
- (3) An individual who is incarcerated, but can leave prison or jail on work release or work furlough and must return at specific intervals.
- (4) Individuals released from prison or jail due to a medical emergency who would otherwise be incarcerated but for the medical emergency. Institutional status of such persons is not affected by transfer to a public or private medical facility.
- (5) A minor in a juvenile detention center prior to disposition (judgment) due to criminal activity of the minor.
- (6) A minor, after disposition, placed in a detention or correctional facility, including a youth ranch, forestry camp, or home which is part of the criminal justice system.
- (7) A minor placed on probation by a juvenile court on juvenile intensive probation with specific conditions of release, including residence in a juvenile detention center.
- (8) A minor placed on probation by a juvenile court on juvenile intensive probation to a secure treatment facility contracted with the juvenile detention center if the secure treatment facility is part of the criminal justice system.
- (9) Individuals between the ages of 21-65 who are in an institution for mental diseases shall be considered inmates of a public institution until they are unconditionally released.

(b) Ineligibility for individuals classified as inmates in (a) begins on the day institutional status commences and ends on the day institutional status ends.

(c) The following individuals are not considered inmates of a public institution and shall be eligible for Medi-Cal provided that all other requirements for eligibility set out in this chapter are satisfied:

- (1) An individual released from prison or jail on permanent release, bail, own recognizance (OR),

probation, or parole with a condition of:

(A) Home arrest;

(B) Work release;

(C) Community service;

(D) Outpatient treatment;

(E) Inpatient treatment.

(2) An individual who, after arrest but before booking, is escorted by police to a hospital for medical treatment and held under guard.

(3) An individual in prison or jail who transfers temporarily to a halfway house or residential treatment facility prior to a formal probation release order.

(4) An individual released from prison or jail under a court probation order due to a medical emergency.

(5) A minor in a juvenile detention center prior to disposition (judgment) due to care, protection or in the best interest of the child (e.g., Child Protective Services) if there is a specific plan for that person that makes the stay at the detention center temporary. This would include those juveniles awaiting placement but still physically present in juvenile hall.

(6) A minor placed on probation by a juvenile court on juvenile intensive probation with home arrest restrictions.

(7) A minor placed on probation by a juvenile court on juvenile intensive probation to a secure treatment facility contracted with the juvenile detention center if the secure treatment facility is not part of the criminal justice system.

(8) A minor placed on probation by a juvenile court on juvenile intensive probation with treatment as a condition of probation:

(A) In a psychiatric hospital;

(B) In a residential treatment center;

(C) As an outpatient.

(9) Individuals released from an institution for mental diseases or transferred from such an institution to a public or private medical facility.

(10) Individuals on conditional release or convalescent leave from an institution for mental diseases.

(11) Individuals under age 22 who are patients in an institution for mental diseases, were institutionalized prior to their 21st birthday, and continue to receive inpatient psychiatric care.

(12) An individual under 21 years of age, who is receiving acute inpatient hospital services and/or inpatient psychiatric hospital services while an inmate of a public institution.

Note: Authority cited: Section 20, Health and Safety Code; and Sections 10725 and 14124.5, Welfare and Institutions Code. Reference: Sections 11014, 11016, 14011.10, 14053, 14053.8 and 14053.9, Welfare and Institutions Code; Sections 4011.1 and 4015, Penal Code; 42 U.S.C. Section 1396d(a)(29)(A); and 42 CFR Sections 435.1009 and 435.1010.

HISTORY

1. Repealer and new section filed 4-1-83 effective thirtieth day thereafter (Register 83, No. 14). For prior history, see Register 77, No. 51.

2. Amendment filed 4-10-86; effective thirtieth day thereafter (Register 86, No. 15).

3. Amendment of subsections (c) and (d) filed 4-17-89; operative 5-17-89 (Register 89, No. 48.)
4. Repealer and new section filed 1-26-95; operative 2-27-95 (Register 95, No. 4).
5. Editorial correction of subsections (a)(4) and (a)(5) (Register 2011, No. 52).
6. Change without regulatory effect adding new subsection (c)(12) and amending Note filed 1-26-2012 pursuant to section 100, title 1, California Code of Regulations (Register 2012, No. 4).
7. Change without regulatory effect amending subsection (c)(12) and amending Note filed 3-14-2013 pursuant to section 100, title 1, California Code of Regulations (Register 2013, No. 11).

22 CCR § 50273, **← 22 CA ADC § 50273 →**

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22 CA ADC § 50658

§ 50658. Form MC 177S Processing.

Term 
22 CCR § 50658

Cal. Admin. Code tit. 22, § 50658


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Title 22. Social Security

Division 3. Health Care Services

Subdivision 1. California Medical Assistance Program

Chapter 2. Determination of Medi-Cal Eligibility and Share of Cost

 [Article 12. Share of Cost \(Refs & Annos\)](#)

➔ **§ 50658. Form MC 177S Processing.**

(a) When the share of cost has been met, the beneficiary shall return the signed form MC 177S to the county department. The county department shall review form MC 177S to ensure that:

- (1) The case description portion of the form is complete.
- (2) The services listed were provided to persons listed on form MC 177S.
- (3) The providers have completed the form in accordance with Section 50657(a)(4) through (6).
- (4) The beneficiary or the beneficiary's representative has signed the form.

(b) If the items specified above are not completed correctly, the following action shall be taken:

(1) The county department shall attempt to obtain the information necessary for completion of form MC 177S verbally from either of the following:

(A) The beneficiary.

(B) The provider.

(2) If the information necessary to correct form MC 177S cannot be obtained verbally the county department shall:

(A) Identify the information needed.

(B) Return the form to the beneficiary.

(3) When the amount shown in the Billed Patient column is in excess of the share of cost amount, the county department shall:

(A) Explain to the beneficiary that the amount shown in the Billed Patient column is the amount for which he has assumed legal responsibility.

(B) Attempt to correct the error in accordance with (b) (1) and (2) if the beneficiary states that the assumption of legal responsibility for the cost of services in excess of the share of cost was not intentional.

(c) After form MC 177S has been determined to be correct and complete, the following action shall be taken, unless the conditions specified in (d) are met.

(1) The first two pages of form MC 177S shall be submitted to Department of Health Services, Key Data Entry Unit. In addition a copy of form MC 176M shall be submitted with form MC 177S if an adjustment to the share of cost is being made pursuant to Section 50653.3.

(2) Key Data Entry Unit will certify that the share of cost has been met.

(3) The Department will issue Medi-Cal cards to the persons included in the MFBU.

(d) If the beneficiary signs a Certification of Medical Need/Request for Medi-Cal Card, MC 113, which indicates a need for medical services prior to normal anticipated receipt of a Department issued Medi-Cal card, the county department shall:

(1) Enter the date of certification for claims clearance on form MC 177S.

(2) Issue a Medi-Cal card to each person who has been listed on form MC 113 as having an immediate need. Card issuance procedures specified in Article 14 shall be followed.

(3) Indicate on form MC 177S and form MC 176M, if required, the persons who have been issued a card.

(4) Forward form MC 177S and form MC 176M, if required, to the Key Data Entry Unit.

Note: Authority cited: Sections 10725, 14005.9(c) and 14124.5, Welfare and Institutions Code; Section 133.5, AB 251, Chapter 102, Statutes of 1981. Reference: Sections 14005.4, 14005.7, 14005.9 and 14017, Welfare and Institutions Code.

HISTORY

1. Amendment of Subsection (a)(3) and new subsection (a)(8) filed 11-30-81 as an emergency; effective upon filing (Register 81, No. 49). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-30-82.

2. Certificate of Compliance filed 3-30-82 (Register 82, No. 14).

3. Amendment of subsection (a)(3) filed 10-1-82 as an emergency; effective upon filing (Register 82, No. 40). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 1-29-83.

4. Certificate of Compliance transmitted to OAL 12-30-82 and filed 2-2-83 (Register 83, No. 6).

5. Editorial correction of NOTE filed 4-12-83 (Register 83, No. 16).

6. Amendment filed 7-3-86; effective thirtieth day thereafter (Register 86, No. 27).

22 CCR § 50658, **←22 CA ADC § 50658 →**

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22 CA ADC § 50741

§ 50741. Medi-Cal Card Issuance by the Department.

Term 
22 CCR § 50741

Cal. Admin. Code tit. 22, § 50741

Barclays Official California Code of Regulations [Currentness](#)

Title 22. Social Security

Division 3. Health Care Services

Subdivision 1. California Medical Assistance Program

Chapter 2. Determination of Medi-Cal Eligibility and Share of Cost

 [Article 14. Medi-Cal Card Use and Issuance \(Refs & Annos\)](#)

➔ **§ 50741. Medi-Cal Card Issuance by the Department.**

(a) The Department shall issue a Medi-Cal card to each person who is not enrolled in a comprehensive PHP and is any of the following:

- (1) Reported by the county department as both eligible and certified for Medi-Cal and for whom the county department is requesting that a card be issued.
- (2) Reported by the Social Security Administration as eligible for SSI/SSP.
- (3) Certified for Medi-Cal by BRU.

Note: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code. Reference: Section 14017, Welfare and Institutions Code.

HISTORY

1. Amendment filed 3-5-81; effective thirtieth day thereafter (Register 81, No. 10).

22 CCR § 50741, **← 22 CA ADC § 50741 →**

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22 CA ADC § 50742

§ 50742. Limitations on Eligibility Reports and Card Issuance Requests Submitted by the County Department.

Term 
22 CCR § 50742

Cal. Admin. Code tit. 22, § 50742


Barclays Official California Code of Regulations [Currentness](#)

Title 22. Social Security

Division 3. Health Care Services

Subdivision 1. California Medical Assistance Program

Chapter 2. Determination of Medi-Cal Eligibility and Share of Cost

 [Article 14.](#) Medi-Cal Card Use and Issuance ([Refs & Annos](#))

➔ **§ 50742. Limitations on Eligibility Reports and Card Issuance Requests Submitted by the County Department.**

(a) The county department shall not submit a report of eligibility to the Department for a person for a given month, or request the Department to issue a Medi-Cal card for a person for a given month, as long as any one of the following applies to that person for that month:

(1) The county has information which requires discontinuance of the person for that month.

(2) The person is subject to discontinuance for the month due to loss of contact or noncooperation.

(b) The county department shall not request the Department to issue a Medi-Cal card for a person for a month during the following periods:

(1) From time of county receipt of information which requires that the person be assigned a share of cost and receive a form MC 177S for a month, until the completed MC 177S is submitted to the county department.

(2) From time of county receipt of information which requires that an LTC person receive an increased share of cost, until determination of the increased share of cost is made.

(c) The county department shall not withhold a report of eligibility for the beneficiary for the coming month if information requiring an adverse action is received too late in a month for the county department to make that action effective the coming month because timely notice of the adverse action cannot be provided to the beneficiary.

(d) This section applies to all Medi-Cal eligibles including public assistance recipients.

(e) The report of eligibility data required by this section shall be completed in accordance with schedules issued by the Director.

Note: Authority cited: Sections 10554.1 and 14124.5, Welfare and Institutions Code. Reference: Sections 10600, 10850, 11004, 11050, 11051, 11052, 11054, 11055, 12305, 14000.2, 14001, 14005, 14005.1, 14005.4, 14005.7, 14011, 14012, 14014, 14016, 14050.1, 14051 and 14052, Welfare and Institutions Code.

1. New section filed 9-1-78; effective thirtieth day thereafter (Register 78, No. 35).

22 CCR § 50742, **←22 CA ADC § 50742 →**

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22 CA ADC § 50743

§ 50743. Medi-Cal Card Issuance by the County Department -No Share of Cost.

Term 
22 CCR § 50743

Cal. Admin. Code tit. 22, § 50743

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Title 22. Social Security

Division 3. Health Care Services

Subdivision 1. California Medical Assistance Program

Chapter 2. Determination of Medi-Cal Eligibility and Share of Cost

Article 14. Medi-Cal Card Use and Issuance ([Refs & Annos](#))

➔ **§ 50743. Medi-Cal Card Issuance by the County Department -No Share of Cost.**

(a) The county department shall issue a current or past month Medi-Cal card as limited by Section 50746, to each person who meets all of the following conditions:

(1) Is eligible for SSI/SSP. The county department shall verify SSI/SSP eligibility by obtaining information from the SDX data available to the county. If the SDX data on the individual does not appear to be accurate or complete, proof of eligibility shall be any of the following:

(A) The SSI/SSP check for the month for which the card is requested.

(B) Documentation from the Social Security Administration verifying eligibility.

(C) An SSI/SSP award letter received that month.

(D) An approved Title XVI emergency loan for that month.

(E) Other proof of eligibility as specified by the Department.

(2) Is not enrolled in a comprehensive PHP for the month for which a card is requested.

(3) Needs any of the following:

(A) Additional or duplicate POE labels.

(B) A replacement for a mutilated card.

(C) A replacement for a card containing erroneous data.

(D) A replacement Medi-Cal card because the original card was not received. In this case, the SSI/SSP recipient shall complete and sign form MC 110.

(b) The county department may issue current or past month Medi-Cal cards, as limited by Section 50746, to all other Medi-Cal eligibles who meet all of the following conditions:

(1) Do not have a share of cost.

(2) Are not enrolled in a comprehensive PHP for the month for which a card is requested.

(3) Did not receive a Medi-Cal card. In this case, the beneficiary shall complete and sign form MC 110.

Note: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code. Reference: Sections 14017.8 and 14115, Welfare and Institutions Code.

HISTORY

1. Amendment filed 12-15-77; effective thirtieth day thereafter (Register 77, No. 51).
2. Amendment filed 3-5-81; effective thirtieth day thereafter (Register 81, No. 10).
3. Amendment of subsection (a) filed 7-9-87; operative 8-8-87 (Register 87, No. 30).

22 CCR § 50743, **← 22 CA ADC § 50743 →**

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