

AMENDED IN SENATE APRIL 6, 2011

AMENDED IN SENATE MARCH 14, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 96

Introduced by ~~Committee on Budget (Blumenfield (Chair), Alejo, Allen, Brownley, Buchanan, Butler, Cedillo, Chesbro, Dickinson, Feuer, Gordon, Huffman, Mitchell, Monning, and Swanson)~~
Assembly Member Blumenfield

January 10, 2011

~~An act to amend Section 9205 of the Family Code, to amend Section 1417.2 of the Health and Safety Code, and to amend Sections 10533, 11253.5, 11265.2, 11266.5, 11320.15, 11320.3, 11320.32, 11322.63, 11325.71, 11329.5, 11450, 11450.02, 11454.5, 11487, 12301.3, 12301.4, 12302.25, 14132.97, 15525, and 17021 of, to amend and repeal Sections 11327.5 and 11454 of, to add Sections 11323.25, 11450.025, 11454.2, 12200.03, 12309.1, 14132.956, and 14132.957 to, to add and repeal Section 11334.8 of, to repeal Sections 11320.2 and 11322.64 of, to repeal Article 3.3 (commencing with Section 11330) of Chapter 2 of Part 3 of Division 9 of, to repeal and add Sections 12301.03 and 12301.05 of, and to repeal, amend, and add Section 11451.5 of, the Welfare and Institutions Code, relating to human services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately, bill related to the budget. An act to add Chapter 8.6 (commencing with Section 14515) to Part 3 of Division 9 of the Welfare and Institutions Code, relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 96, as amended, ~~Committee on Budget Blumenfeld. Human services. Adult day health care.~~

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

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

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

~~Existing law contains various provisions relating to the disclosure of personal information between adoptees and their biological siblings, the implementation of which is delayed until July 1, 2011.~~

~~This bill would delay implementation of these provisions, until July 1, 2012.~~

~~Existing law establishes the State Health Facilities Citation Penalties Account into which moneys derived from civil penalties for violations of state law are deposited. Moneys in this account may be used, upon appropriation by the Legislature, for the protection of health or property of residents of long-term health care facilities, as specified.~~

~~Existing law, the Mello-Granlund Older Californians Act, establishes the Office of the State Long-Term Care Ombudsman in the California Department of Aging. Existing law requires the department to allocate all federal and state funds for local ombudsman programs according to a specified schedule.~~

~~This bill, upon appropriation by the Legislature, would include the costs associated with the Long-Term Care Ombudsman Program among~~

~~the uses of the moneys in the State Health Facilities Citation Penalties Account.~~

~~Existing federal law provides for allocation of federal funds through the federal Temporary Assistance for Needy Families (TANF) block grant program to eligible states. Existing law provides for the California Work Opportunity and Responsibility to Kids (CalWORKs) program under which, through a combination of state and county funds and federal funds received through the TANF program, each county provides cash assistance and other benefits to qualified low-income families.~~

~~Existing law requires the State Department of Social Services, commencing July 1, 2011, to establish a CalWORKs county peer review process. Existing law requires the department to implement the process statewide no later than July 1, 2012.~~

~~This bill instead would require the department to establish the peer review process commencing July 1, 2013, and to implement the process statewide no later than July 1, 2014.~~

~~Existing law provides that a parent or caretaker relative shall not be eligible for CalWORKs aid when he or she has received aid for a cumulative total of 60 months. Existing law excludes any month in which certain conditions exist from being counted as a month of receipt of aid for these purposes.~~

~~This bill would revise the requirements for providing aid under the CalWORKs program, including reducing the existing time limits on receipt of aid with a 48-month limit for parents and caregiver relatives, except as specified. The bill would make conforming changes, including but not limited to eliminating self-sufficiency reviews, and revising provisions relating to sanctions and general assistance, to reflect the shortened CalWORKs time limits. The bill would apply the revised time limits to all months of CalWORKs aid received on and after January 1, 1998, except as specified. The bill would make the time limit revisions operative on the first day of the first calendar month following 90 days after the effective date of the bill, or June 1, 2011, whichever is later.~~

~~This bill would require county welfare departments to provide a specified notice regarding the revised time limit requirements, thus imposing a state-mandated local program.~~

~~Existing law provides that when aid under the CalWORKs program is repaid to a county or recovered by a county, the state is entitled to a share of the amount received or recovered, proportionate to the amount of state funds paid. If funds advanced by the federal government were~~

~~paid, existing law entitles the federal government to a share of the amount received or recovered, proportionate to the amount of federal funds paid. Existing law excepts from the above requirement designated payments from nonecustodial parents for child or spousal support with respect to whom a specified assignment of support rights has been made, and requires those payments to be paid directly to the local child support agency and not to the family.~~

~~This bill would delete the exception for child and spousal support. It would entitle the state to the entire amount of any aid repaid to the state, except where federal and county funds were paid, in which case the federal government would remain entitled to a proportionate share of the amount received or recovered and the county would remain entitled to its proportionate share, except for county funds received or recovered during the 2011–12 fiscal year, which would be retained by the state.~~

~~Existing law requires the State Department of Social Services to administer a voluntary Temporary Assistance Program (TAP) to provide cash assistance and other benefits to specified current and future CalWORKs recipients who meet the exemption criteria for participation in welfare-to-work activities and are not single parents who have a child under one year of age. Existing law requires the TAP to commence no later than October 1, 2012.~~

~~This bill would delay the commencement date of the TAP until October 1, 2014.~~

~~Existing law makes specified findings and declarations with respect to the effect of decreased funding for CalWORKs for the 2009–10 and 2010–11 fiscal years. In connection with this decreased funding, existing law extends certain exemptions from months counted as a month of receipt of aid, and allows counties to redirect funding between specified employment assistance and substance abuse treatment programs during the specified fiscal years.~~

~~This bill would extend the above provisions to apply to specified decreases in CalWORKs funding for the 2011–12 fiscal year. The bill would authorize a county to revise a specified welfare-to-work exemption in order to implement the county's portion of this funding reduction.~~

~~Existing law requires recipients of aid under the CalWORKs program who are under 19 years of age who are pregnant or custodial parents to participate in certain educational programs, which are referred to as the Cal-Learn Program. Under existing law, a Cal-Learn Program participant is entitled to monetary supplements or bonuses, as specified, for~~

~~maintaining satisfactory educational progress, and successfully completing high school or a California high school equivalency examination.~~

~~This bill would make the Cal-Learn Program inoperative from July 1, 2011, to June 30, 2012, inclusive, with the exception of the payment of supplements and bonuses to eligible participants. These provisions making the Cal-Learn Program inoperative would be repealed on July 1, 2012, as specified. The bill would repeal related inoperative provisions. This bill would authorize implementation of the Cal-Learn provisions by all-county letters or similar instructions from the department, pending the adoption, by July 1, 2012, of emergency regulations.~~

~~Existing law requires certain participants in the CalWORKs program to participate in certain welfare-to-work activities, which may include, but are not limited to, subsidized employment in either the public or private sector. Existing law requires the department to pay 50% of the wage subsidy to counties that include these activities within their welfare-to-work activities, subject to prescribed limitations. Existing law also requires the department, no later than January 10, 2011, to report to the Legislature on the outcomes of implementing these provisions.~~

~~This bill would revise the requirements relating to the state's financial participation in subsidized employment programs, including requiring the department to pay 50%, less \$56, of the total wage costs, as defined, of an employee for whom a wage subsidy is paid, as opposed to a percentage of the wage subsidy alone. The bill would establish maximum state contribution standards for subsidized wage program participants receiving CalWORKs benefits, for participants who have exceeded applicable time limits for receipt of aid, and for those who are participating in subsidized employment as a part of continuing welfare-to-work services provided by a county to former CalWORKs participants who have become employed, as specified.~~

~~This bill would specify applicable income exemption and work requirements when an assistance unit applies for CalWORKs benefits after a participant's subsidized employment ends.~~

~~Existing law establishes maximum aid grant amounts to be provided under the CalWORKs program, subject to specified adjustments. Existing law reduces the maximum aid payments in effect on September 1, 2007, by 4%, commencing July 1, 2009.~~

This bill would reduce the maximum aid payments in effect on July 1, 2009, by an additional 8%, and would authorize implementation of this reduction by all-county letters or similar instructions from the State Department of Social Services, pending the adoption of regulations, as specified. The bill would require 3 subsequent 5% reductions to the computed aid grants for assistance units that do not include an aided adult, in the 61st, 73rd, and 85th cumulative months of aid. The bill would exempt assistance units in which all parents or caretaker relatives in the assistance unit are disabled and receiving SSI/SSP benefits from these subsequent reductions.

Existing law provides that certain amounts are exempt from the calculation of income of the family for purposes of determining eligibility for benefits under the CalWORKs program. These exempt amounts include \$225 of disability-based unearned income, and an amount of otherwise exempt earned income that is determined based on the amount of disability-based unearned income, as specified.

This bill would revise the above earned income calculation when the amount of disability-based unearned income is less than \$225, to exempt the total amount of the disability-based unearned income plus the lesser of (1) \$112 of earned income that is not otherwise exempt, or (2) the amount of otherwise nonexempt earned income that represents the difference between the amount of unearned disability-based income and \$225, and 50% of any additional earned income.

Existing law provides for the State Supplementary Program for the Aged, Blind and Disabled (SSP), which requires the State Department of Social Services to contract with the United States Secretary of Health and Human Services to make payments to SSP recipients to supplement Supplemental Security Income (SSI) payments made available pursuant to the federal Social Security Act. State payment levels for SSI/SSP recipients are established in accordance with prescribed requirements. Existing law also establishes the Medi-Cal program, which is partially governed and funded pursuant to the federal Medicaid Program.

This bill would require SSI/SSP rates for individuals to be reduced to equal the minimum amount required by the federal Social Security Act in order to maintain the state's eligibility for federal Medicaid funding, subject to prescribed exceptions. The bill would make this reduction effective on the first day of the first month following 90 days after the effective date of the bill.

Existing law provides for the In-Home Supportive Services (IHSS) program, under which, either through employment by the recipient, or

by or through contract by the county, qualified aged, blind, and disabled persons receive services enabling them to remain in their own homes. Counties are responsible for the administration of the IHSS program. Under the Medi-Cal program, similar services are provided to eligible individuals, with these services known as personal care option services.

Existing law, with certain exceptions, requires each county to appoint an IHSS advisory committee of 11 members, establishes the qualifications of its members, and sets forth its duties. Existing law makes counties eligible for state reimbursement of administrative costs of the committee. Existing law requires each county to consider the advice of the committee prior to making policy and IHSS funding decisions.

This bill would delete the provisions requiring establishment of the committee, would instead authorize appointment of an IHSS advisory committee, would delete provisions requiring state reimbursement for the costs of the committee, and would make conforming changes.

This bill would require the State Department of Health Care Services to establish a medication machine pilot project for certain at-risk Medi-Cal recipients, as specified, and would designate the duties of the department in this regard. The bill would require the Department of Finance to perform specified functions and make related notifications, in connection with determining and evaluating savings to the General Fund as a result of the implementation of the pilot project. The bill would authorize the State Department of Health Care Services to terminate the pilot project under designated circumstances.

Existing law authorized an individual who was eligible for IHSS services in the 1992-93 fiscal year, and who had his or her services reduced pursuant to specified provisions, but who believed that he or she was at serious risk of out-of-home placement unless all or part of the reduced hours were restored, to apply for an IHSS Care Supplement, as specified.

This bill would recast and revise these provisions, to instead require, if the medication machine pilot project established pursuant to the bill does not result in specified General Fund savings, as determined by the Department of Finance, a reduction in authorized hours of service to all recipients of in-home supportive services, as specified, which would be operative on October 1, 2012, or the first day of the first month following 90 days after the effective date of the bill, whichever is later. The bill would authorize an individual whose services have been reduced, and who believes that he or she is at serious risk of out-of-home

~~placement, to submit an IHSS Care Supplement application, in accordance specified provisions, in order to have all or part of the service hour reduction restored.~~

~~This bill would revise the definition of “waiver personal care services” received by certain recipients under the Medi-Cal program, to distinguish those services from other categories of personal care services provided under the Medi-Cal program, and would prohibit waiver personal care services from replacing any hours of services authorized or reduced pursuant to the other service categories.~~

~~This bill would require an applicant or recipient of in-home supportive services to obtain a certification from a licensed health care professional, as specified, as a condition of receiving those services. The bill would require the State Department of Social Services, in consultation with the State Department of Health Care Services, to develop a standard certification form for this purpose. The bill would delay implementation of these certification provisions until the receipt of specified federal approval, under prescribed circumstances. To the extent that implementation of the certification requirement would increase county duties in implementing the In-Home Supportive Services program, this bill would impose a state-mandated local program.~~

~~Existing federal law authorizes states to exercise an option to amend the state Medicaid plan to provide home- and community-based attendant services and supports, as specified.~~

~~This bill would require the department to assess and determine the cost efficiency of exercising the federal option to provide home- and community-based attendant services and supports. The bill would require the department, if the department determines that exercise of the federal option would be cost efficient, to establish a development and implementation council, with specified membership, and to consult and collaborate with the council in exercising the federal option. This bill would authorize services and supports under the option to be rendered under the administrative direction of other state departments in accordance with the state plan amendment, as specified. This bill would authorize implementation of these provisions by all-county letters or similar instructions from the director, pending the adoption of emergency regulations, as specified.~~

~~Existing law requires the State Department of Social Services to establish a Work Incentive Nutritional Supplement (WINS) program, under which each county is required to provide a \$40 monthly additional food assistance benefit for each eligible food stamp household, as~~

defined. The bill would require the state to pay the counties 100% of the cost of WINS benefits, using funds that qualify for the state's Temporary Assistance for Needy Families (TANF) program maintenance of effort requirements, as specified. Existing law prohibits WINS benefits from being paid before October 1, 2012, and requires full implementation of the program on or before April 1, 2013.

This bill would extend the time for payment of WINS benefits to commence to October 1, 2013, and the time for full implementation of the program to April 1, 2014.

Existing law authorizes the director to implement the WINS program by all-county letters by March 1, 2012, pending the adoption of emergency regulations.

This bill would extend the time for issuance of all-county letters to March 1, 2013.

Existing law requires the department to convene a workgroup on or before December 1, 2011, comprised of designated representatives, to consider the progress of the WINS automation effort in tandem with a preassistance employment readiness system (PAERS) program and any other program options that may provide offsetting benefits to the caseload reduction credit in the CalWORKs program. Existing law prohibits full implementation of the WINS program until the workgroup is convened.

This bill would extend the date by which the department is required to establish the WINS/PAERS workgroup to December 1, 2012, and would make conforming changes.

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.

The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. Governor Schwarzenegger issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 6, 2010. Governor Brown issued a proclamation on January 20, 2011, declaring and reaffirming that a fiscal emergency exists and stating that his proclamation supersedes the earlier proclamation for purposes of that constitutional provision.

~~This bill would state that it addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation issued on January 20, 2011, pursuant to the California Constitution.~~

~~This bill would declare that it is to take immediate effect as an urgency statute and a bill providing for appropriations related to the Budget Bill.~~

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

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

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

4
 5 CHAPTER 8.6. KEEPING ADULTS FREE FROM INSTITUTIONS
 6

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

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

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

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

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

28 (b) The department shall establish the Keeping Adults Free from
 29 Institutions (KAFI) program for the purposes of transitioning

1 *individuals from the ADHC program to a program under a Section*
2 *1915(c) waiver or to any other supportive services, if appropriate.*
3 *(c) The department shall take all appropriate action to obtain*
4 *expedited approval by CMS to convert the ADHC program to a*
5 *Section 1915(c) waiver.*

6 *SEC. 2. This act is an urgency statute necessary for the*
7 *immediate preservation of the public peace, health, or safety within*
8 *the meaning of Article IV of the Constitution and shall go into*
9 *immediate effect. The facts constituting the necessity are:*

10 *In order for the provisions of this act to be implemented at the*
11 *earliest possible time and thereby avoid a gap in services to*
12 *beneficiaries of adult day health care, it is necessary that this act*
13 *take effect immediately.*

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**All matter omitted in this version of the bill
appears in the bill as amended in the
Senate, March 14, 2011. (JR11)**