ASSEMBLY BILL No. 3311

Introduced by Assembly Member Hill

February 18, 1986

An act to amend Section 14132 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 3311, as introduced, Hill. Medi-Cal: covered benefits.

Existing law provides for the Medi-Cal program pursuant to which public assistance recipients and other low-income persons are eligible for health care benefits, including the purchase of prescribed drugs which are subject to the Medi-Cal Drug Formulary and utilization controls.

This bill would revise that Medi-Cal covered benefit to include, instead, pharmaceutical services and prescribed drugs, subject to the Medi-Cal Drug Formulary and utilization controls.

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

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

SECTION 1. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of

persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) ~~Purchase of~~ *Pharmaceutical services and* prescribed drugs ~~is~~ *are* covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered in an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered, subject to utilization controls. Nothing in this subdivision shall be construed to require prior authorization for anesthesiologist services provided as part of an outpatient medical procedure or for portable X-ray services in an intermediate care facility or a skilled nursing facility.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls

shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. The department's utilization controls shall not require X-rays as a condition of reimbursement for fillings for children under 18 years of age. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization

controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, nurse practitioner services pursuant to Section 14115.6, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, other prophylaxis treatment for children 17 years of age and under, are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city,

county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to such persons. These services may be provided to patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared or congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, "in-home medical care service" includes utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

As used in this subdivision, in-home medical care services, include, but are not limited to:

(1) Level of care and cost of care evaluations.

(2) Expenses, directly attributable to home care activities, for materials.

(3) Physician fees for home visits.

(4) Expenses directly attributable to home care activities for shelter and modification to shelter.

(5) Expenses directly attributable to additional costs of special diets, including tube feeding.

(6) Medically related personal services.

(7) Home nursing education.

(8) Emergency maintenance repair.

(9) Home health agency personnel benefits which

permit coverage of care during periods when regular personnel are on vacation or using sick leave.

(10) All services needed to maintain antiseptic conditions at stoma or shunt sites on the body.

(11) Emergency and nonemergency medical transportation.

(12) Medical supplies.

(13) Medical equipment, including, but not limited to, scales, gurneys, and equipment racks suitable for paralyzed patients.

(14) Utility use directly attributable to the requirements of home care activities which are in addition to normal utility use.

(15) Special drugs and medications.

(16) Home health agency supervision of visiting staff which is medically necessary, but not included in the home health agency rate.

(17) Therapy services.

(18) Household appliances and household utensil costs directly attributable to home care activities.

(19) Modification of medical equipment for home use.

(20) Training and orientation for use of life support systems, including, but not limited to support of respiratory functions.

Beneficiaries receiving in-home medical care services are entitled to the full range of services within the Medi-Cal scope of benefits as defined by this section, subject to medical necessity and applicable utilization control. Services provided pursuant to this subdivision, which are not otherwise included in the Medi-Cal schedule of benefits, shall be available only to the extent that federal financial participation for these services is available in accordance with a home and community-based services waiver.

(u) Home and community-based services approved by the United States Department of Health and Human Services may be covered to the extent that federal financial participation is available for such services under waivers granted in accordance with Section 1915 of the federal Social Security Act. The director may seek

waivers for any or all home and community-based services approvable under Section 1915 of the federal Social Security Act. Coverage for such services shall be limited by the terms, conditions, and duration of the federal waivers.

The department shall submit a report, as provided in Section 28 of the 1982 Budget Act, 30 days prior to providing these services as Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall address the cost effectiveness of services provided pursuant to this subdivision.

(v) Comprehensive perinatal services, as provided through an agreement with a health care provider designated in Section 14134.5 and meeting the standards developed by the department pursuant to Section 14134.5, subject to utilization controls.

The department shall seek any federal waivers necessary to implement the provisions of this subdivision. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented. Provisions for which waivers are obtained or for which waivers are not required shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. No provision of this subdivision shall be implemented unless matching funds from Title XIX of the federal Social Security Act are available.

(w) Early and periodic screening, diagnosis, and treatment for any individual under 21 years of age is covered, consistent with the requirements of Title XIX of the federal Social Security Act.

(x) When a claim for treatment provided to a beneficiary includes both services which are authorized and reimbursable under this chapter, and services which are not reimbursable under this chapter, that portion of the claim for the treatment and services authorized and reimbursable under this chapter shall be payable.

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AMENDED IN ASSEMBLY APRIL 10, 1986

CALIFORNIA LEGISLATURE—1985–86 REGULAR SESSION

ASSEMBLY BILL No. 3311

Introduced by Assembly Member ~~Hill~~ *Katz*

February 18, 1986

~~An act to amend Section 14132 of the Welfare and Institutions Code, relating to Medi/Cal.~~ *An act to amend Section 7180 of the Health and Safety Code, relating to The Uniform Determination of Death Act.*

LEGISLATIVE COUNSEL'S DIGEST

AB 3311, as amended, ~~Hill~~ *Katz.* ~~Medi/Cal: covered benefits~~ *The Uniform Determination of Death Act.*

(1) Existing law, known as the Uniform Determination of Death Act, provides that an individual who has sustained either an irreversible cessation of circulatory and respiratory function or an irreversible cessation of all functions of the entire brain, including the brain stem, is dead.

This bill would provide an exception to this definition of death by providing that an individual, as specified, is not dead if the determination of death would violate the religious or moral beliefs or convictions of the individual. This bill would provide that an individual, as specified, who is a minor or incompetent whose religious or moral beliefs or convictions are not known, is not dead if the determination of death would violate the religious or moral beliefs or convictions of the parent or guardian of the individual. This bill would also require persons, authorized to determine that an individual is dead, to use reasonable means to determine whether a finding of death would violate the religious or moral beliefs or convictions of the individual or of the parent or guardian of the individual, as specified. To the extent that this requirement would apply to local public health facilities, it

would impose a state-mandated local program.

(2) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed $500,000 statewide and other procedures for claims whose statewide costs exceed $500,000.

This bill would provide that reimbursement for costs mandated by the bill shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed $500,000, shall be payable from the State Mandates Claims Fund.

~~Existing law provides for the Medi/Cal program pursuant to which public assistance recipients and other low/income persons are eligible for health care benefits, including the purchase of prescribed drugs which are subject to the Medi/Cal Drug Formulary and utilization controls.~~

~~This bill would revise that Medi/Cal covered benefit to include, instead, pharmaceutical services and prescribed drugs, subject to the Medi/Cal Drug Formulary and utilization controls.~~

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

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

~~SECTION 1.~~ ~~Section 14132 of the Welfare and~~

SECTION 1. Section 7180 of the Health and Safety Code is amended to read:

7180. (a) ~~An~~ *Except as provided in subdivision (b), an* individual who has sustained either (1) irreversible cessation of circulatory and respiratory functions, or (2) irreversible cessation of all functions of the entire brain, including the brain stem, is dead. A determination of death must be made in accordance with accepted medical standards.

(b) An individual whose heartbeat and respiration are maintained by mechanical means is not dead if a determination of death would violate the religious or

moral beliefs or convictions of the individual, as previously announced by the individual or as attested to by a family member or next friend. If the individual, as described above, is a minor or an incompetent person whose religious or moral beliefs or convictions are not known, the individual is not dead if this determination would violate the religious or moral beliefs or convictions of the parent or guardian of the individual. Any person, who is authorized to determine that an individual is dead, shall use reasonable means to determine, from the family or next friend of the individual, whether a finding of death would violate the religious or moral beliefs or convictions of the individual and, in the case of a minor or incompetent person whose religious or moral beliefs or convictions are unknown, whether a finding of death would violate the religious or moral beliefs or convictions of the parent or guardian of the individual. For the purposes of this section "next friend" means any person whose contact with an individual enables him or her to be familiar with the religious or moral beliefs or convictions of thse individual and who may be asked to present an affidavit stating the facts and circumstances upon which this claim of friendship is based.

~~(b)~~

(c) ~~This~~ *Subject to the provisions of subdivision (b), this* article shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this article among states enacting it.

~~(c)~~

(d) This article may be cited as the Uniform Determination of Death Act.

SEC. 2. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

All matter omitted in this version of the bill appears in the bill as introduced in the Assembly, February 18, 1986 (J.R. 11).

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AMENDED IN ASSEMBLY JUNE 2, 1986

AMENDED IN ASSEMBLY APRIL 10, 1986

CALIFORNIA LEGISLATURE—1985–86 REGULAR SESSION

ASSEMBLY BILL No. 3311

Introduced by Assembly Member Katz

February 18, 1986

An act to amend Section 7180 of the Health and Safety Code, relating to The Uniform Determination of Death Act.

LEGISLATIVE COUNSEL'S DIGEST

AB 3311, as amended, Katz. The Uniform Determination of Death Act.

(1) Existing law, known as the Uniform Determination of Death Act, provides that an individual who has sustained either an irreversible cessation of circulatory and respiratory function or an irreversible cessation of all functions of the entire brain, including the brain stem, is dead.

This bill would provide an exception to this definition of death by providing that an individual, as specified, is not dead if the determination of death would violate the religious or moral beliefs or convictions of the individual. This bill would provide that an individual, as specified, who is a minor or incompetent whose religious or moral beliefs or convictions are not known, is not dead if the determination of death would violate the religious or moral beliefs or convictions of the parent or guardian of the individual. This bill would also require persons, authorized to determine that an individual is dead, to ~~use~~ *make a* reasonable ~~means~~ *attempt* to determine *from a family member of the individual, as defined,* whether a finding of death would violate the religious or moral beliefs or convictions of the individual or of the parent or guardian of the individual, as specified. To the extent that this

requirement would apply to local public health facilities, it would impose a state-mandated local program.

(2) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed $500,000 statewide and other procedures for claims whose statewide costs exceed $500,000.

This bill would provide that reimbursement for costs mandated by the bill shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed $500,000, shall be payable from the State Mandates Claims Fund.

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

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

SECTION 1. Section 7180 of the Health and Safety Code is amended to read:

7180. (a) Except as provided in subdivision (b), an individual who has sustained either (1) irreversible cessation of circulatory and respiratory functions, or (2) irreversible cessation of all functions of the entire brain, including the brain stem, is dead. A determination of death must be made in accordance with accepted medical standards.

(b) An individual whose heartbeat and respiration are maintained by mechanical means is not dead if a determination of death would violate the religious or moral beliefs or convictions of the individual, as previously announced by the individual or as attested to by a family member ~~or next friend~~. If the individual, as described above, is a minor or an incompetent person whose religious or moral beliefs or convictions are not known, the individual is not dead if this determination would violate the religious or moral beliefs or convictions of the parent or guardian of the individual. Any person, who is authorized to determine that an individual is dead,

shall ~~use reasonable means~~ *make a reasonable attempt* to determine, from the family ~~or next friend~~ *member* of the individual, whether a finding of death would violate the religious or moral beliefs or convictions of the individual and, in the case of a minor or incompetent person whose religious or moral beliefs or convictions are unknown, whether a finding of death would violate the religious or moral beliefs or convictions of the parent or guardian of the individual. For the purposes of this section ~~"next friend"~~ *"family member"* means any person ~~whose contact with an individual enables him or her to be familiar with the religious or moral beliefs or convictions of thse individual and who may be asked to present an affidavit stating thc facts and circumstances upon which this claim of friendship is based.~~ *related to the individual as set forth in subdivisions (a) to (d), inclusive, of Section 7151.5 or a guardian or conservator of the individual or other person legally responsible for making medical decisions for the individual.*

(c) Subject to the provisions of subdivision (b), this article shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this article among states enacting it.

(d) This article may be cited as the Uniform Determination of Death Act.

SEC. 2. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

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