

AMENDED IN ASSEMBLY JULY 3, 2019

AMENDED IN SENATE APRIL 3, 2019

SENATE BILL

No. 65

Introduced by Senator Pan

January 8, 2019

An act to add Title 25 (commencing with Section 100800) to and repeal Section 100509 of the Government Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 65, as amended, Pan. Health care coverage: financial assistance.

Existing federal law, the federal Patient Protection and Affordable Care Act (PPACA), enacts various healthcare coverage market reforms. Among other things, the PPACA requires each state to establish an American Health Benefit Exchange that facilitates the purchase of qualified health plans by qualified individuals and qualified small employers and requires that state entity to meet certain other requirements. Existing law creates the California Health Benefit Exchange (the Exchange), also known as Covered California, for the purpose of facilitating the enrollment of qualified individuals and qualified small employers in qualified health plans as required under the PPACA. ~~Existing law requires the Exchange, among other duties, to develop options for providing financial assistance to help low-income and middle-income Californians access healthcare coverage.~~ *administer an individual market assistance program to provide health care coverage financial assistance to California residents with household incomes at or below 600% of the federal poverty level.*

~~This bill would require the Exchange, only to the extent that the Legislature appropriates funding for these purposes, to administer a program of financial assistance, to be known as the Affordable Care Access Plus Program, to help low-income and middle-income Californians access affordable health care coverage with respect to individual coverage that is made available through the Exchange. The bill would require the program to provide financial assistance to California residents with household incomes below 600% of the federal poverty level, and would authorize the program to provide other appropriate subsidies designed to make health care more accessible and affordable for individuals and households. The bill would require the Exchange to adopt a program design to implement these provisions by resolution of the board of the Exchange, as specified. The bill would require the Exchange to promulgate rules and regulations to implement these provisions, and would authorize any rules and regulations necessary to implement these provisions to be adopted as emergency regulations, as specified.~~

This bill would, until January 1, 2023, require the board of the Exchange to develop and prepare one or more reports to be issued at least quarterly and to be made publicly available within 30 days following the end of each quarter for the purpose of informing the California Health and Human Services Agency, the Legislature, and the public about the enrollment process for the individual market assistance program. The bill would require the reports to contain specified information, including, among other things, the number of applications received for the program, the disposition of those applications, and the total number of grievances and appeals filed by applicants and enrollees.

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

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

- 1 SECTION 1. Section 100509 is added to the Government Code,
- 2 to read:
- 3 100509. (a) *The board shall develop and prepare one or more*
- 4 *reports that shall be issued at least quarterly and be made publicly*
- 5 *available within 30 days following the end of each quarter for the*
- 6 *purpose of informing the California Health and Human Services*
- 7 *Agency, the Legislature, and the public about the enrollment*

1 process for the individual market assistance program pursuant to
2 Title 25 (commencing with Section 10800). The reports shall
3 include, but not be limited to, the following information:

4 (1) The number of applications received for the individual
5 market assistance program.

6 (2) The number of applicants included on those applications.

7 (3) Aggregate applicant demographics, including, but not limited
8 to, gender, age, race, ethnicity, and primary language.

9 (4) The disposition of applications, including all of the
10 following:

11 (A) The number of eligibility determinations that resulted in
12 approval for financial assistance.

13 (B) The program or programs for which the applicants were
14 determined eligible.

15 (C) The number of applicants that were denied financial
16 assistance and the reason or reasons for the denials.

17 (5) The number of program participants in the following
18 categories:

19 (A) Between 401 percent to 600 percent, inclusive, of the federal
20 poverty level.

21 (B) Between 139 percent to 400 percent, inclusive, of the federal
22 poverty level.

23 (C) At or below 138 percent of the federal poverty level.

24 (6) The amount of the financial assistance provided to program
25 participants in each of the federal poverty levels described in
26 paragraph (5).

27 (7) The number of program participants subject to reconciliation
28 in each of the federal poverty levels described in paragraph (5).

29 (8) The health plans selected by applicants as reported by the
30 program.

31 (9) The total number of grievances and appeals filed by
32 applicants and enrollees, the bases for the grievances, and the
33 outcomes of the appeals.

34 (10) Any other information the board determines to be relevant
35 to the individual market assistance program design.

36 (b) The report required to be submitted to the Legislature
37 pursuant to subdivision (a) shall be submitted in compliance with
38 Section 9795.

39 (c) This section shall remain in effect only until January 1, 2023,
40 and as of that date is repealed.

1 SECTION 1. ~~Title 25 (commencing with Section 100800) is~~
2 ~~added to the Government Code, to read:~~

3
4 TITLE 25. ~~AFFORDABLE CARE ACCESS PLUS PROGRAM~~
5

6 100800. ~~(a) The Exchange shall implement this title only to~~
7 ~~the extent that the Legislature appropriates funding for this purpose.~~

8 ~~(b) The Exchange shall administer a program of financial~~
9 ~~assistance, which shall be known as the Affordable Care Access~~
10 ~~Plus Program, to help low-income and middle-income Californians~~
11 ~~access affordable health care coverage with respect to individual~~
12 ~~coverage that is made available through the Exchange.~~

13 ~~(c) The program shall provide financial assistance to California~~
14 ~~residents with household incomes below 600 percent of the federal~~
15 ~~poverty level, and may provide other appropriate subsidies~~
16 ~~designed to make health care more accessible and affordable for~~
17 ~~individuals and households.~~

18 ~~(d) (1) The Exchange shall adopt, and may amend, a program~~
19 ~~design to implement this section by resolution of the board of the~~
20 ~~Exchange after a discussion by the board during at least one~~
21 ~~properly noticed board meeting before the board meeting at which~~
22 ~~the board votes on the final program design. The resolution shall~~
23 ~~be adopted at a duly noticed meeting.~~

24 ~~(2) A resolution adopted pursuant to this section shall not take~~
25 ~~effect until after 10 days notification in writing to the Director of~~
26 ~~Finance and the Joint Legislative Budget Committee.~~

27 ~~(3) The requirements of paragraph (2) may be waived by the~~
28 ~~joint written consent of the Director of Finance and the Chair of~~
29 ~~the Joint Legislative Budget Committee to adopt a resolution that~~
30 ~~is deemed urgent. A resolution adopted pursuant to this paragraph~~
31 ~~shall take immediate effect.~~

32 ~~(4) The Administrative Procedure Act (Chapter 3.5~~
33 ~~(commencing with Section 11340) of Part 1 of Division 3 of Title~~
34 ~~2 of the Government Code) shall not apply to the program design~~
35 ~~or a resolution adopted pursuant to this section.~~

36 ~~(e) The Exchange shall provide appropriate opportunities for~~
37 ~~stakeholders and the public to consult in the design of the program.~~

38 100801. ~~(a) A premium assistance subsidy provided by the~~
39 ~~program shall be remitted by the Exchange to a qualified health~~
40 ~~plan issuer, based on the program participant's projected household~~

1 income, household size, and other factors determined pursuant to
2 the program design.

3 (b) A premium assistance subsidy provided by the program shall
4 be provided only to a California resident who is eligible for the
5 federal premium tax credit authorized under Section 36B of the
6 Internal Revenue Code, except that a premium assistance subsidy
7 shall not be subject to the income requirements of that section.

8 100802. For purposes of this title:

9 (a) “Applicable dependent program participant” means a
10 dependent, as defined in Section 17056 of the Revenue and
11 Taxation Code, who is also a program participant.

12 (b) “Exchange” means the California Health Benefit Exchange,
13 also known as Covered California, established pursuant to Title
14 22 (commencing with Section 100500).

15 (c) “Federal poverty level” means the most recently published
16 poverty guidelines, updated periodically in the Federal Register
17 by the Secretary of Health and Human Services under the authority
18 of Section 9902(2) of Title 42 of the United States Code, as of the
19 first day of the regular enrollment period for coverage by a
20 qualified health plan offered through the Exchange.

21 (d) “Program” means the Affordable Care Access Plus Program
22 established pursuant to Section 100800.

23 (e) “Program participant” means an individual eligible to receive
24 financial assistance pursuant to this title and who applies for and
25 receives that assistance pursuant to the program design.

26 (f) “Qualified health plan” has the same meaning as defined in
27 Section 1301 of the federal Patient Protection and Affordable Care
28 Act (Public Law 111-148), as amended by the federal Health Care
29 and Education Reconciliation Act of 2010 (Public Law 111-152).

30 100803. (a) The Exchange shall promulgate rules and
31 regulations to implement this title.

32 (b) Until January 1, 2022, any rules and regulations necessary
33 to implement this title may be adopted as emergency regulations
34 in accordance with the Administrative Procedure Act (Chapter 3.5
35 (commencing with Section 11340) of Part 1 of Division 3 of Title
36 2). The adoption of emergency regulations shall be deemed to be
37 an emergency and necessary for the immediate preservation of the
38 public peace, health and safety, or general welfare. Notwithstanding
39 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
40 3 of Title 2, including subdivisions (e) and (h) of Section 11346.1,

1 an emergency regulation adopted pursuant to this section shall be
2 repealed by operation of law unless the adoption, amendment, or
3 repeal of the regulation is promulgated by the board pursuant to
4 Chapter 3.5 (commencing with Section 11340) of Part I of Division
5 3 of Title 2 within five years of the initial adoption of the
6 emergency regulation. An emergency regulation adopted pursuant
7 to this section shall be discussed by the board during at least one
8 properly noticed board meeting before the board meeting at which
9 the board adopts the regulation. Notwithstanding subdivision (h)
10 of Section 11346.1, until January 1, 2027, the Office of
11 Administrative Law may approve more than two readoptions of
12 an emergency regulation adopted pursuant to this section.

13 (c) In construing this title, the regulations promulgated by the
14 Exchange under Title 10 of the California Code of Regulations
15 shall apply to the extent that those regulations do not conflict with
16 this title, the program design adopted pursuant to Section 100800,
17 and regulations promulgated by the Exchange pursuant to this
18 section.

19 100804. The appeals process described in Section 100506 to
20 Section 100506.5, inclusive, shall apply to this title.

21 100805. This title shall not be construed to create an entitlement
22 program of any kind.