

## May Revision Trailer Bill Proposals

### Medi-Cal Eligibility Changes to Preserve FMAP Under ARRA

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#### **Add Welfare and Institutions Code, Section 14005.50 as follows:**

14005.50 (a) To the extent that federal financial participation is available, the department shall exercise the option made available under Section 1902(a)(10)(A)(ii)(I) of the federal Social Security Act (42 U.S.C. Sec. 1396a(a)(10)(A)(ii)(I)) to extend full-scope Medi-Cal benefits to individuals who are ineligible for full-scope Medi-Cal benefits under a program listed in subdivision (c) as a result of the July 1, 2009 reduction in the Supplemental Security Income/State Supplementary Payment program maximum aid payments pursuant to Section 12200.019, or any subsequent reductions in maximum aid payments.

(b) The programs authorized under this section shall utilize the income and resource standards and methodologies of the Supplemental Security Income/State Supplementary Payment program and in addition an income disregard shall be applied as necessary to adjust the income standard to that which was in place for the affected program on May 1, 2009.

(c) (1) The Supplemental Security Income/State Supplementary Payment program under Title XVI of the federal Social Security Act;  
(2) The Pickle program under the Pickle Amendment to Title XIX of the federal Social Security Act, Public Law 94-566;  
(3) The Disabled Adult Child program under Section 1634 of the federal Social Security Act (42 U.S.C. Sec. 1383c);  
(4) The Disabled Widow or Widower program under Section 1634 of the federal Social Security Act (42 U.S.C. Sec. 1383c).

(d) Notwithstanding subdivision (b), for the purposes of this section, for blind individuals who meet the criteria for blindness as set forth in Section 1614(a)(2) of the federal Social Security Act (42 U.S.C. Sec. 1382c(a)(2)), but who have not been determined to be disabled in accordance with Section 1614(a)(3) of that Act (42 U.S.C. Sec. 1382c(a)(3)), the income and resource standards and methodologies applied in determining eligibility under this section shall be identical to that of the Aged and Disabled Federal Poverty Level program under Section 14005.40,

(e) The department shall implement an expedited application process to determine the Medi-Cal eligibility under this section for individuals who, based on excess income, are denied eligibility for the Supplemental Security Income/State Supplementary Payment program by the Social Security Administration. The

department shall use its best efforts to identify these individuals from information provided by the Social Security Administration and shall allow these individuals to self-identify by producing a copy of the notice of action that they received from the Social Security Administration informing them that their application for eligibility for the Supplemental Security Income/State Supplementary Payment program was denied based on excess income.

(f) 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 an all county letter or similar instruction without taking regulatory action.

(g) This section shall cease to be implemented when the Supplemental Security Income/State Supplementary Payment program payment levels increase beyond those in effect on May 1, 2009.

(h) Nothing in this section shall be read as entitling any individual to Medi-Cal benefits before his or her Medi-Cal eligibility determination has been completed by the department or county.

(i) The department shall seek any approvals from the Centers for Medicare and Medicaid Services necessary to obtain federal financial participation and to expeditiously implement this section.

**Amend Welfare and Institutions Code, Section 14007.9 to read:**

14007.9. (a) The department shall adopt the option made available under Section 1902(a)(10)(A)(ii)(XIII) of the federal Social Security Act (42 U.S.C. Sec. 1396a(a)(10)(A)(ii)(XIII)). In order to be eligible for benefits under this section, an individual shall be required to meet all of the following requirements:

(1) His or her net countable income is less than 250 percent of the federal poverty level for one person or, if the deeming of spousal income applies to the individual, his or her net countable income is less than 250 percent of the federal poverty level for two persons.

(2) He or she is disabled under Title II of the Social Security Act (Subch. 2 (commencing with Sec. 401), Ch. 7, Title 42 U.S.C.), Title XVI of the Social Security Act (Subch. 16 (commencing with Sec. 1381), Ch. 7, Title 42, U.S.C.), or Section 1902(v) of the Social Security Act (42 U.S.C. Sec. 1396a(v)). An individual shall be determined to be eligible under this section without regard to his or her ability to engage in, or actual engagement in, substantial gainful activity, as defined in Section 223(d)(4) of the Social Security Act (42 U.S.C. Sec. 423(d)(4)).

(3) Except as otherwise provided in this section, his or her net nonexempt resources, which shall be determined in accordance with the methodology used under Title XVI of the federal Social Security Act (42 U.S.C. Sec. 1381 et seq.), are not in excess of the limits provided for under those provisions.

(b)(1) Countable income shall be determined under Section 1612 of the federal Social Security Act (42 U.S.C. Sec. 1382a), except that the individual's disability income, including all federal and state disability benefits and private disability insurance, shall be exempted. Resources excluded under Section 1613 of the federal Social Security Act (42 U.S.C. Sec. 1382b) shall be disregarded.

(2) Resources in the form of employer or individual retirement arrangements authorized under the Internal Revenue Code shall be exempted as authorized by Section 1902(r) of the federal Social Security Act (42 U.S.C. Sec. 1396a(r)).

(3)(A) For the purposes of calculating countable income under this section, an income exemption shall be applied as necessary to adjust the income standard so that it is the same as the income standard that was in place on May 1, 2009.

(B) This additional income exemption shall cease to be implemented when the Supplemental Security Income/State Supplementary Payment program payment levels increase beyond those in effect on May 1, 2009.

(C) 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

subdivision (b)(3) by means of an all county letter or similar instruction without taking regulatory action.

(c) Medi-Cal benefits provided under this chapter pursuant to this section shall be available in the same amount, duration, and scope as those benefits are available for persons who are eligible for Medi-Cal benefits as categorically needy persons and as specified in Section 14007.5.

(d) Individuals eligible for Medi-Cal benefits under this section shall be subject to the payment of premiums determined under this subdivision. The department shall establish sliding-scale premiums that are based on countable income, with a minimum premium of twenty dollars (\$20) per month and a maximum premium of two hundred fifty dollars (\$250) per month, and shall, by regulations, annually adjust the premiums. Prior to adjustment of any premiums pursuant to this subdivision, the department shall submit a report of proposed premium adjustments to the appropriate committees of the Legislature as part of the annual budget act process.

(e) The department shall adopt regulations specifying the process for discontinuance of eligibility under this section for nonpayment of premiums for more than two months by a beneficiary.

(f) In order to implement the collection of premiums under this section, the department may develop and execute a contract with a public or private entity to collect premiums, or may amend any existing or future premium-collection contract that it has executed. Notwithstanding any other provision of law, any contract developed and executed or amended pursuant to this subdivision is exempt from the approval of the Director of General Services and from the Public Contract Code.

(g) Notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall implement, without taking any regulatory action, this section by means of an all-county letter or similar instruction. Thereafter, the department shall adopt regulations 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.

(h) Notwithstanding any other provision of law, this section shall be implemented only if, and to the extent that, the department determines that federal financial participation is available pursuant to Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.).

(i) Subject to subdivision (h), this section shall be implemented commencing April 1, 2000.

**Amend Section 14005.40 to read as follows:**

14005.40. (a) To the extent federal financial participation is available, the department shall exercise its option under Section 1902(a)(10)(A)(ii)(X) of the federal Social Security Act (42 U.S.C. Sec. 1396a(a)(10)(A)(ii)(X)), to implement a program for aged and disabled persons as described in Section 1902(m) of the federal Social Security Act (42 U.S.C. Sec. 1396a(m)(1)).

(b) To the extent federal financial participation is available, the blind shall be included within the definition of disabled for the purposes of the program established in this section.

(c) An individual shall satisfy the financial eligibility requirement of this program if both of the following conditions are met:

(1) Countable income, as determined in accordance with Section 1902(m) of the federal Social Security Act (42 U.S.C. Sec. 1396a(m)), does not exceed an income standard equal to 100 percent of the applicable federal poverty level, plus two hundred thirty dollars (\$230) for an individual or, in the case of a couple, three hundred ten dollars (\$310), provided that the income standard so determined shall not be less than the SSI/SSP payment level for a disabled individual or, in the case of a couple, the SSI/SSP payment level for a disabled couple.

(2) (A) For the purposes of calculating countable income under this section, an income exemption shall be applied as necessary to adjust the SSI/SSP payment level as used in this section so that it is the same as the SSI/SSP payment level that was in place on May 1, 2009.

(B) This additional income exemption shall cease to be implemented when the SSI/SSP payment level increases beyond those in effect on May 1, 2009.

(C) 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 subdivision (c)(2) by means of an all county letter or similar instruction without taking regulatory action.

~~(2)~~ (3) Countable resources, as determined in accordance with Section 1902(m) of the federal Social Security Act (42 U.S.C. Sec. 1396a(m)), do not exceed the maximum levels established in that section.

(d) The financial eligibility requirements provided in subdivisions (c) may be adjusted upwards to reflect the cost of living in California, contingent upon appropriation in the annual Budget Act.

(e) 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, and without taking regulatory action. Thereafter, the department shall adopt regulations 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.

(f) For purposes of calculating income under this section during any calendar year, increases in social security benefit payments under Title II of the federal Social Security Act (42 U.S.C. Sec. 401 et seq.) arising from cost-of-living adjustments shall be disregarded commencing in the month that these social security benefit payments are increased by the cost-of-living adjustment through the month before the month in which a change in the federal poverty level requires the department to modify the income standard described in subdivision (c).

(g) (1) For purposes of this section the following definitions apply:

(A) "SSI" means the federal Supplemental Security Income program established under Title XVI of the federal Social Security Act.

(B) "Income standard" means the applicable income standard including the augmentations specified in paragraph (1) of subdivision (c).

(C) The board and care "personal care services" or "PCS" deduction refers to an income disregard that is applied to a resident in a licensed community care facility in lieu of the board and care deduction (equal to the amount by which the basic board and care rate exceeds the income standard in subparagraph (B), of paragraph (1) of subdivision (g)) when the PCS deduction is greater than the board and care deduction.

(2) (A) For purposes of this section, the SSI recipient retention amount is the amount by which the SSI maximum payment amount to an individual residing in a licensed community care facility exceeds the maximum amount that the state allows community care facilities to charge a resident who is an SSI recipient.

(B) For the purposes of this section, the personal and incidental needs deduction for an individual residing in a licensed community care facility is either of the following:

(i) If the board and care deduction is applicable to the individual, the amount, not to exceed the amount by which the SSI recipient retention amount exceeds twenty dollars (\$20), nor to be less than zero, by which the sum of the amount which the individual pays to his or her licensed community care facility and the SSI recipient retention amount exceed the sum of the individual's income standard, the individual's board and care deduction, and twenty dollars (\$20).

(ii) If the PCS deduction specified in paragraph (1) of subdivision (g) is applicable to the individual, an amount, not to exceed the amount by which the SSI recipient retention amount exceeds twenty dollars (\$20), nor to be less than zero, by which the sum of the amount which the individual pays to his or her community care facility and the SSI recipient retention amount exceed the sum of the individual's income standard, the individual's PCS deduction and twenty dollars (\$20).

(3) In determining the countable income under this section of an individual residing in a licensed community care facility, the individual shall have deducted from his or her income the amount specified in subparagraph (B) of paragraph (2).

(h) No later than one month after the effective date of subdivision (g), the department shall submit to the federal Medicaid administrator a state plan amendment seeking approval of the income deduction specified in paragraph (3) of subdivision (g), and of federal financial participation for the costs resulting from that income deduction.

(i) The deduction prescribed by paragraph (3) of subdivision (g) shall be applied no later than the first day of the fourth month after the month in which the department receives approval for the federal financial participation specified in subdivision (h). Until approval for federal financial participation is received, there shall be no deduction under paragraph (3) of subdivision (g).