



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

AB-426 In-Home Supportive Services program. (2019-2020)

SHARE THIS:  

Date Published: 10/02/2019 09:00 PM

Assembly Bill No. 426

CHAPTER 424

An act to amend Section 12309.1 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor October 02, 2019. Filed with Secretary of State October 02, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 426, Maienschein. In-Home Supportive Services program.

Existing law provides for the county-administered In-Home Supportive Services (IHSS) program, under which qualified aged, blind, and disabled persons are provided with services to permit them to remain in their own homes. Under existing law, the Medi-Cal program provides services similar to those offered through the IHSS program, to eligible individuals, with these services known as personal care option services. Existing law requires an applicant for, or recipient of, either of these in-home supportive services, as a condition of receiving these services, to obtain a certification from a licensed health care professional, as specified, declaring that the applicant or recipient is unable to perform some activities of daily living independently, and that without services to assist the applicant or recipient with activities of daily living, the applicant or recipient is at risk of placement in out-of-home care.

This bill would prohibit a licensed health care professional from charging a fee for the completion of the certification form.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 12309.1 of the Welfare and Institutions Code is amended to read:

12309.1. (a) As a condition of receiving services under this article, or Section 14132.95 or 14132.952, an applicant for or recipient of services shall obtain a certification from a licensed health care professional, including, but not limited to, a physician, physician assistant, regional center clinician or clinician supervisor, occupational therapist, physical therapist, psychiatrist, psychologist, optometrist, ophthalmologist, or public health nurse, declaring that the applicant or recipient is unable to perform some activities of daily living independently, and that without services to assist the applicant or recipient with activities of daily living, the applicant or recipient is at risk of placement in out-of-home care.

(1) For purposes of this section, a licensed health care professional means an individual licensed in California by the appropriate California regulatory agency, acting within the scope of their license or certificate as defined in the Business and Professions Code.

(2) Except as provided in subparagraph (A) or (B), or subdivision (c), the certification shall be received prior to service authorization, and services shall not be authorized in the absence of the certification.

(A) Services may be authorized prior to receipt of the certification when the services have been requested on behalf of an individual being discharged from a hospital or nursing home and services are needed to enable the individual to return safely to their home or into the community.

(B) Services may be authorized temporarily pending receipt of the certification when the county determines that there is a risk of out-of-home placement.

(3) The county shall consider the certification as one indicator of the need for in-home supportive services, but the certification shall not be the sole determining factor.

(4) The health care professional's certification shall include, at a minimum, both of the following:

(A) A statement by the professional, as defined in subdivision (a), that the individual is unable to independently perform one or more activities of daily living, and that one or more of the services available under the IHSS program is recommended for the applicant or recipient, in order to prevent the need for out-of-home care.

(B) A description of any condition or functional limitation that has resulted in, or contributed to, the applicant's or recipient's need for assistance.

(b) The department, in consultation with the State Department of Health Care Services and with stakeholders, including, but not limited to, representatives of program recipients, providers, and counties, shall develop a standard certification form for use in all counties that includes, but is not limited to, all of the conditions in paragraph (4) of subdivision (a). The form shall include a description of the In-Home Supportive Services program and the services the program can provide when authorized after a social worker's assessment of eligibility. The form shall not, however, require health care professionals to certify the applicant's or recipient's need for each individual service.

(c) The department, in consultation with the State Department of Health Care Services and stakeholders, as defined in subdivision (b), shall identify alternative documentation that shall be accepted by counties to meet the requirements of this section, including, but not limited to, hospital or nursing facility discharge plans, minimum data set forms, individual program plans, or other documentation that contains the necessary information, consistent with the requirements specified in subdivision (a).

(d) The department shall develop a letter for use by counties to inform recipients of the requirements of subdivision (a). The letter shall be understandable to the recipient, and shall be translated into all languages spoken by a substantial number of the public served by the In-Home Supportive Services program, in accordance with Section 7295.2 of the Government Code.

(e) This section shall not apply to a recipient who is receiving services in accordance with this article or Section 14132.95 or 14132.952 on the operative date of this section until the date of the recipient's first reassessment following the operative date of this section, as provided in subdivision (f).

(1) The recipient shall be notified of the certification requirement before or at the time of the reassessment, and shall submit the certification within 45 days following the reassessment in order to continue to be authorized for receipt of services.

(2) A county may extend the 45-day period for a recipient to submit the medical certification on a case-by-case basis, if the county determines that good cause for the delay exists.

(f) A licensed health care professional shall not charge a fee for the completion of the certification form.

(g) This section shall become operative on the first day of the first month following 90 days after the effective date of Chapter 8 of the Statutes of 2011, or July 1, 2011, whichever is later.

(h) The State Department of Health Care Services shall provide notice to all Medi-Cal managed care plans, directing the plans to assess all Medi-Cal recipients applying for or receiving in-home supportive services, in order to make the certifications required by this section.

(i) If the Director of Health Care Services determines that a Medicaid State Plan amendment is necessary to implement subdivision (b) of Section 14132.95, this section shall not be implemented until federal approval is received.