



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

AB-1514 Deaf and Disabled Telecommunications Program. (2019-2020)

SHARE THIS:  

Date Published: 09/12/2019 09:00 PM

Assembly Bill No. 1514

CHAPTER 291

An act to amend Section 2881 of the Public Utilities Code, relating to telecommunications, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 2019. Filed with Secretary of State September 12, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1514, Patterson. Deaf and Disabled Telecommunications Program.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. Existing law requires the commission to design and implement a program to provide a telecommunications device capable of serving the needs of individuals who are deaf or hearing impaired, together with a single party line, at no charge additional to the basic exchange rate, to any subscriber who is certified as an individual who is deaf or hearing impaired by a licensed physician and surgeon, audiologist, or a qualified state or federal agency, as determined by the commission. Existing law also authorizes a physician assistant to certify the needs of an individual who has been diagnosed by a physician and surgeon as being deaf or hard of hearing to participate in the program after reviewing the medical records or copies of the medical records containing that diagnosis.

This bill would additionally authorize a nurse practitioner to certify for this purpose the needs of an individual who has been diagnosed by a physician and surgeon as being deaf or hard of hearing to participate in the program after reviewing the medical records or copies of the medical records containing that diagnosis.

Existing law requires the commission to design and implement a program whereby specialized or supplemental telephone communications equipment may be provided to subscribers who are certified to be disabled at no charge additional to the basic exchange rate. Existing law requires that the certification, including a statement of visual or medical need for specialized telecommunications equipment, be provided by a licensed optometrist, physician and surgeon, or physician assistant, acting within the scope of practice of the applicable license, or by a qualified state or federal agency as determined by the commission.

This bill would additionally authorize a nurse practitioner to certify a subscriber to be disabled for this purpose.

Existing law additionally requires the commission to design and implement a program to provide access to a speech-generating device to any subscriber who is certified as having a speech disability at no charge additional to the basic exchange rate. Existing law requires that the certification be provided by a licensed physician, licensed speech-language pathologist, or qualified state or federal agency.

This bill would additionally authorize a nurse practitioner to certify a subscriber as having a speech disability for this purpose.

This bill would incorporate additional changes to Section 2881 of the Public Utilities Code proposed by AB 497 to be operative only if this bill and AB 497 are enacted and this bill is enacted last.

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

SECTION 1. Section 2881 of the Public Utilities Code is amended to read:

2881. (a) The commission shall design and implement a program to provide a telecommunications device capable of serving the needs of individuals who are deaf or hard of hearing, together with a single party line, at no charge additional to the basic exchange rate, to a subscriber who is certified as an individual who is deaf or hard of hearing by a licensed physician and surgeon, audiologist, or a qualified state or federal agency, as determined by the commission, and to a subscriber that is an organization representing individuals who are deaf or hard of hearing, as determined and specified by the commission pursuant to subdivision (h). A licensed hearing aid dispenser may certify the need of an individual to participate in the program if that individual has been previously fitted with an amplified device by the dispenser and the dispenser has the individual's hearing records on file before certification. In addition, a physician assistant or nurse practitioner may certify the needs of an individual who has been diagnosed by a physician and surgeon as being deaf or hard of hearing to participate in the program after reviewing the medical records or copies of the medical records containing that diagnosis.

(b) The commission shall also design and implement a program to provide a dual-party relay system, using third-party intervention to connect individuals who are deaf or hard of hearing and offices of organizations representing individuals who are deaf or hard of hearing, as determined and specified by the commission pursuant to subdivision (h), with persons of normal hearing by way of intercommunications devices for individuals who are deaf or hard of hearing and the telephone system, making available reasonable access of all phases of public telephone service to telephone subscribers who are deaf or hard of hearing. In order to make a dual-party relay system that will meet the requirements of individuals who are deaf or hard of hearing available at a reasonable cost, the commission shall initiate an investigation, conduct public hearings to determine the most cost-effective method of providing dual-party relay service to the deaf or hard of hearing when using a telecommunications device, and solicit the advice, counsel, and physical assistance of statewide nonprofit consumer organizations of the deaf, during the development and implementation of the system. The commission shall apply for certification of this program under rules adopted by the Federal Communications Commission pursuant to Section 401 of the federal Americans with Disabilities Act of 1990 (Public Law 101-336).

(c) The commission shall also design and implement a program whereby specialized or supplemental telephone communications equipment may be provided to subscribers who are certified to be disabled at no charge additional to the basic exchange rate. The certification, including a statement of visual or medical need for specialized telecommunications equipment, shall be provided by a licensed optometrist, physician and surgeon, physician assistant, or nurse practitioner, acting within the scope of practice of the applicable license, or by a qualified state or federal agency as determined by the commission. The commission shall, in this connection, study the feasibility of, and implement, if determined to be feasible, personal income criteria, in addition to the certification of disability, for determining a subscriber's eligibility under this subdivision.

(d) (1) The commission shall also design and implement a program to provide access to a speech-generating device to any subscriber who is certified as having a speech disability at no charge additional to the basic exchange rate. The certification shall be provided by a licensed physician, licensed speech-language pathologist, nurse practitioner, or qualified state or federal agency. The commission shall provide to a certified subscriber access to a speech-generating device that is all of the following:

(A) A telecommunications device or a device that includes a telecommunications component.

(B) Appropriate to meet the subscriber's needs for access to, and use of, the telephone network, based on the recommendation of a licensed speech-language pathologist.

(C) Consistent with the quality of speech-generating devices available for purchase in the state.

(2) The commission shall adopt rules to implement this subdivision and subdivision (e) by January 1, 2014.

(e) All of the following apply to any device or equipment described in this section that is classified as durable medical equipment under guidelines established by the United States Department of Health and Human Services:

(1) It is the intent of the Legislature that the commission be the provider of last resort and that eligible subscribers first obtain coverage from any available public or private insurance.

(2) The commission may require the subscriber to provide information about coverage for any or all of the cost of the device or equipment that is available from a public or private insurance, the cost to the subscriber of a deductible, copayment, or other relevant expense, and any related benefit cap information.

(3) The total cost of a device or equipment provided to a subscriber under this section shall not exceed the rate of reimbursement provided by Medi-Cal for that device or equipment.

(f) This section does not require the commission to provide training to a subscriber on the use of a speech-generating device.

(g) The commission shall establish a rate recovery mechanism through a surcharge not to exceed one-half of 1 percent uniformly applied to a subscriber's intrastate telephone service, other than one-way radio paging service and universal telephone service, both within a service area and between service areas, to allow providers of the equipment and service specified in subdivisions (a) to (d), inclusive, to recover costs as they are incurred under this section. The surcharge shall be in effect until January 1, 2020. The commission shall require that the programs implemented under this section be identified on subscribers' bills, and shall establish a fund and require separate accounting for each of the programs implemented under this section.

(h) The commission shall determine and specify those statewide organizations representing the deaf or hard of hearing that shall receive a telecommunications device pursuant to subdivision (a), or a dual-party relay system pursuant to subdivision (b), or both, and in which offices the equipment shall be installed in the case of an organization having more than one office.

(i) The commission may direct a telephone corporation subject to its jurisdiction to comply with its determinations and specifications pursuant to this section.

(j) The commission shall annually review the surcharge level and the balances in the funds established pursuant to subdivision (g). Until January 1, 2020, the commission may make, within the limits set by subdivision (g), necessary adjustments to the surcharge to ensure that the programs supported by the surcharge are adequately funded and that the fund balances are not excessive. A fund balance that is projected to exceed six months' worth of projected expenses at the end of the fiscal year is excessive.

(k) In order to continue to meet the access needs of individuals with functional limitations of hearing, vision, movement, manipulation, speech, and interpretation of information, the commission shall perform an ongoing assessment of, and if appropriate, expand the scope of, the program to allow for additional access capability consistent with evolving telecommunications technology.

(l) The commission shall structure the programs required by this section so that a charge imposed to promote the goals of universal service reasonably equals the value of the benefits of universal service to contributing entities and their subscribers.

SEC. 1.5. Section 2881 of the Public Utilities Code is amended to read:

2881. (a) The commission shall design and implement a program to provide a telecommunications device capable of serving the needs of individuals who are deaf or hard of hearing, together with a single party line, at no charge additional to the basic exchange rate, to a subscriber who is certified as an individual who is deaf or hard of hearing by a licensed physician and surgeon, audiologist, or a qualified state or federal agency, as determined by the commission, and to a subscriber that is an organization representing individuals who are deaf or hard of hearing, as determined and specified by the commission pursuant to subdivision (h). A licensed hearing aid dispenser may certify the need of an individual to participate in the program if that individual has been previously fitted with an amplified device by the dispenser and the dispenser has the individual's hearing records on file before certification. In addition, a physician assistant or nurse practitioner may certify the needs of an individual who has been diagnosed by a physician and surgeon as being deaf or hard of hearing to participate in the program after reviewing the medical records or copies of the medical records containing that diagnosis.

(b) The commission shall also design and implement a program to provide a dual-party relay system, using third-party intervention to connect individuals who are deaf or hard of hearing and offices of organizations representing individuals who are deaf or hard of hearing, as determined and specified by the commission pursuant to subdivision (h), with persons of normal hearing by way of intercommunications devices for individuals who are deaf or hard of hearing and the telephone system, making available reasonable access of all phases of public telephone service to telephone subscribers who are deaf or hard of hearing. In order to make a dual-party relay system that will meet the requirements of individuals who are deaf or hard of hearing available at a reasonable cost, the commission shall initiate an investigation, conduct public hearings to determine the most cost-effective method of providing dual-party relay service to the deaf or hard of hearing when using a telecommunications device, and solicit the advice, counsel, and physical assistance of statewide nonprofit consumer organizations of the deaf, during the development and implementation of the system. The commission shall apply for certification of this program under rules adopted by the Federal Communications Commission pursuant to Section 401 of the federal Americans with Disabilities Act of 1990 (Public Law 101-336).

(c) The commission shall also design and implement a program whereby specialized or supplemental telephone communications equipment may be provided to subscribers who are certified to be disabled at no charge additional to the basic exchange rate. The certification, including a statement of visual or medical need for specialized telecommunications equipment, shall be provided by a licensed optometrist, physician and surgeon, physician assistant, or nurse practitioner, acting within the scope of practice of

the applicable license, or by a qualified state or federal agency as determined by the commission. The commission shall, in this connection, study the feasibility of, and implement, if determined to be feasible, personal income criteria, in addition to the certification of disability, for determining a subscriber's eligibility under this subdivision.

(d) (1) The commission shall also design and implement a program to provide access to a speech-generating device to any subscriber who is certified as having a speech disability at no charge additional to the basic exchange rate. The certification shall be provided by a licensed physician, licensed speech-language pathologist, nurse practitioner, or qualified state or federal agency. The commission shall provide to a certified subscriber access to a speech-generating device that is all of the following:

(A) A telecommunications device or a device that includes a telecommunications component.

(B) Appropriate to meet the subscriber's needs for access to, and use of, the telephone network, based on the recommendation of a licensed speech-language pathologist.

(C) Consistent with the quality of speech-generating devices available for purchase in the state.

(2) The commission shall adopt rules to implement this subdivision and subdivision (e) by January 1, 2014.

(e) All of the following apply to any device or equipment described in this section that is classified as durable medical equipment under guidelines established by the United States Department of Health and Human Services:

(1) It is the intent of the Legislature that the commission be the provider of last resort and that eligible subscribers first obtain coverage from any available public or private insurance.

(2) The commission may require the subscriber to provide information about coverage for any or all of the cost of the device or equipment that is available from a public or private insurance, the cost to the subscriber of a deductible, copayment, or other relevant expense, and any related benefit cap information.

(3) The total cost of a device or equipment provided to a subscriber under this section shall not exceed the rate of reimbursement provided by Medi-Cal for that device or equipment.

(f) This section does not require the commission to provide training to a subscriber on the use of a speech-generating device.

(g) The commission shall establish a rate recovery mechanism through a surcharge not to exceed one-half of 1 percent uniformly applied to a subscriber's intrastate telephone service, other than one-way radio paging service and universal telephone service, both within a service area and between service areas, to allow providers of the equipment and service specified in subdivisions (a) to (d), inclusive, to recover costs as they are incurred under this section. The surcharge shall be in effect until January 1, 2025. The commission shall require that the programs implemented under this section be identified on subscribers' bills, and shall establish a fund and require separate accounting for each of the programs implemented under this section.

(h) The commission shall determine and specify those statewide organizations representing the deaf or hard of hearing that shall receive a telecommunications device pursuant to subdivision (a), or a dual-party relay system pursuant to subdivision (b), or both, and in which offices the equipment shall be installed in the case of an organization having more than one office.

(i) The commission may direct a telephone corporation subject to its jurisdiction to comply with its determinations and specifications pursuant to this section.

(j) The commission shall annually review the surcharge level and the balances in the funds established pursuant to subdivision (g). Until January 1, 2025, the commission may make, within the limits set by subdivision (g), necessary adjustments to the surcharge to ensure that the programs supported by the surcharge are adequately funded and that the fund balances are not excessive. A fund balance that is projected to exceed six months' worth of projected expenses at the end of the fiscal year is excessive.

(k) In order to continue to meet the access needs of individuals with functional limitations of hearing, vision, movement, manipulation, speech, and interpretation of information, the commission shall perform an ongoing assessment of, and if appropriate, expand the scope of, the program to allow for additional access capability consistent with evolving telecommunications technology.

(l) The commission shall structure the programs required by this section so that a charge imposed to promote the goals of universal service reasonably equals the value of the benefits of universal service to contributing entities and their subscribers.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 2881 of the Public Utilities Code proposed by both this bill and Assembly Bill 497. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2020, (2) each bill amends Section 2881 of the Public Utilities Code, and (3) this bill is enacted after Assembly Bill 497, in which case Section 2881 of the Public Utilities Code, as amended by Assembly Bill 497, shall remain operative only

until the operative date of this bill, at which time Section 1.5 of this bill shall become operative, and Section 1 of this bill shall not become operative.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that persons who are deaf or hard of hearing have ready access to necessary means of communication, including the ability to contact first-responders in emergency situations, it is necessary for this act to take effect immediately.