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SB-289 Medi-Cal: home- and community-based services: military. (2019-2020)

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Senate Bill No. 289

CHAPTER 846

An act to add Section 14132.993 to the Welfare and Institutions Code, relating to Medi-Cal.

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

LEGISLATIVE COUNSEL'S DIGEST

SB 289, Archuleta. Medi-Cal: home- and community-based services: military.

Existing law establishes the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income persons receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Existing federal law provides for various home- and community-based services (HCBS), as part of a waiver or a state plan amendment under the Medicaid program, to promote coverage and services that enable an individual who would otherwise be institutionalized to live at home or in the community.

This bill would require the retention of placement on the waiting list for, or the reenrollment in, specified HCBS waiver programs for an individual who is a dependent child or spouse of an active duty military service member and who transfers out of state with the military service member on official military orders, if the individual subsequently reestablishes residence in this state and meets other specified procedural requirements.

The bill would authorize an individual applying for one of those specified waiver programs who is a dependent child or spouse of an active duty military service member and is residing out of state to submit the individual's application to enroll in that waiver program as soon as the military service member receives official military orders to transfer to this state and before moving to this state, as specified.

The bill would condition the implementation of these provisions on receipt of any necessary federal approvals and the availability of federal financial participation, and would authorize the department to seek amendments to the waiver programs, or take other action, as necessary to implement these provisions.

The bill would authorize the department to implement these provisions by means of letters or other similar instructions, without taking regulatory action.

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

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

SECTION 1. Section 14132.993 is added to the Welfare and Institutions Code, to read:

14132.993. (a) This section applies to the Home- and Community-Based Alternatives Waiver (HCBA), the Assisted Living Waiver (ALW), and, to the extent that the dependent child or spouse of an active duty military service member is deemed eligible for the Medi-Cal program, the Home- and Community-Based Services for the Developmentally Disabled (HCBS-DD) 1915(c) waiver programs, pursuant to state law and Section 1915(c) of the federal Social Security Act (42 U.S.C. Sec. 1396n(c)).

(b) (1) If a dependent child or spouse of an active duty military service member is currently included on the waiting list for a waiver program specified in subdivision (a) and transfers out of state with the military service member on official military orders, the dependent child or spouse shall retain their place on the waiting list for the applicable waiver program if the child or spouse subsequently reestablishes residence in this state. The dependent child's or spouse's place on the waiting list shall advance as the waiting list advances during the time they are out of the state.

(A) In order for the place on the waiting list to be saved after the dependent child or spouse leaves the state, the dependent child or spouse shall notify the department or its designee that they are leaving the state due to the military service member's transfer orders and that they are requesting to remain on the waiver program's waiting list.

(B) While the dependent child or spouse resides out of state and is in the first place on the waiver program's waiting list, and has not informed the department or its designee that the military service member has received official military orders to relocate back to the state, waiver applicants with places farther down the waiting list shall continue to be processed for intake into the waiver program without regard to the dependent child's or spouse's place on the waiting list.

(C) If a dependent child or spouse who is on the waiver program's waiting list informs the department or its designee that the military service member has received official military orders to return to the state and that the dependent child or spouse would like to enroll in the waiver program, the department or its designee shall take action on the dependent child's or spouse's waiver program application in accordance with their place on the waiver program's waiting list.

(2) If a dependent child or spouse of an active duty military service member enrolled in a waiver program specified in subdivision (a) transfers out of state with the military service member on official military orders, and then returns to the state with the military service member on official military orders, the dependent child or spouse shall be reenrolled in the applicable waiver program if there is an open slot in the waiver program, or shall be placed in the first place on the waiver program's waiting list if there is no open slot in the waiver program, subject to the dependent child or spouse meeting all of the following conditions:

(A) The dependent child or spouse reestablishes residence in this state.

(B) The dependent child or spouse submits an application for enrollment in the waiver program and is found to be eligible for the applicable waiver program.

(i) If no more than three years have passed since the dependent child or spouse left the waiver program, they may apply for reenrollment in the waiver program using an abbreviated waiver program enrollment form developed by the department.

(ii) If more than three years have passed since the dependent child or spouse left the waiver program, they shall apply for reenrollment in the waiver program using the standard waiver program enrollment form for that waiver program.

(iii) The dependent child or spouse shall follow the regular Medi-Cal eligibility and enrollment processes to obtain Medi-Cal enrollment.

(c) An individual applying for a waiver program specified in subdivision (a) who is a dependent child or spouse of an active duty military service member and is residing out of state with that military service member may submit the individual's application to enroll in that waiver program as soon as the military service member receives official military orders to transfer to this state and before moving to this state. A copy of the order shall be submitted with the application for the Medi-Cal program and the applicable waiver program. The department or its designee may work with the dependent child or spouse, or their family, prior to their actual relocation to the state in order to evaluate the waiver program application with the goal of having medically necessary waiver program services in place as soon as possible when the family relocates to the state.

(d) (1) This section is not intended to authorize the provision of services to a dependent child or spouse of an active duty military service member through a waiver program specified in subdivision (a) while the dependent child or spouse is transferred to, and living, out of state with the military service member, or has not yet transferred to this state. Waiver program services provided to a dependent child or spouse under this section shall only be provided upon their establishing residence in this state and enrolling in Medi-Cal and the waiver program.

(2) This section is not intended to prevent another individual from receiving services through a waiver program described in subdivision (a) due to lack of space in the applicable waiver program on the sole basis that a dependent child or spouse

described in this section is placed on the waiting list for that waiver program while the dependent child or spouse is transferred to, and living, out of state with the military service member, or has not yet transferred to this state.

(e) For purposes of this section, "dependent child" means an individual, whether a minor or an adult, who is a dependent of a parent or guardian.

(f) (1) This section shall be implemented only to the extent that any necessary federal approvals have been obtained and that federal financial participation is available.

(2) The department may seek amendments to the waiver programs specified in subdivision (a), or take other action, as necessary to implement this section.

(3) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section, in whole or in part, by means of letters or other similar instructions, without taking regulatory action.