

## Assembly Bill No. 342

### CHAPTER 723

An act to amend Section 15908 of, and to add Part 3.6 (commencing with Section 15909) to Division 9 of, the Welfare and Institutions Code, relating to Medi-Cal, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 19, 2010. Filed with  
Secretary of State October 19, 2010.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 342, John A. Pérez. Medi-Cal: demonstration project waivers.

Existing law provides for 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 benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions.

Existing law provides for the Health Care Coverage Initiative, which is a federal waiver demonstration project established to expand health care coverage to low-income uninsured individuals who are not currently eligible for the Medi-Cal program, the Healthy Families Program, or the Access for Infants and Mothers program.

Existing law provides for the repeal of the department's authority under the Health Care Coverage Initiative upon the execution of a declaration by the Director of Health Care Services specifying that the demonstration project has been terminated.

This bill would, alternatively, authorize the director to continue and administer any extensions, modifications, or continuation of the projects under the Health Care Coverage Initiative approved by the federal Centers for Medicare and Medicaid Services.

This bill would, in this regard, only to the extent that federal financial participation is available and only to the extent that federal financial participation is not jeopardized, require the department, on or after November 1, 2010, but no later than March 1, 2011, or 180 days after federal approval of a successor demonstration project, as defined, to authorize local Coverage Expansion and Enrollment Demonstration (CEED) projects, as specified, to provide scheduled health care benefits for uninsured adults 19 to 64, inclusive, years of age with incomes up to 133% of the federal poverty level who are not otherwise eligible for Medi-Cal or Medicare. This bill would require CEED projects to be designed and implemented with the systems and program elements necessary to facilitate the transition of those eligible individuals to the Medi-Cal program, or alternatively, to coverage through the California Health Benefit Exchange, by 2014, pursuant to the provisions

of federal and state law, and the terms and conditions of the demonstration project.

This bill would also provide that, to the extent federal financial participation is made available under the terms and conditions of the demonstration project, CEED project services may be made available to individuals with incomes between 134% to 200%, inclusive, of the federal poverty level.

This bill would require the department to approve any CEED project that, in addition to meeting specified requirements, voluntarily agrees to commit, on an annual basis, to provide the nonfederal share of CEED project expenditures for services to individuals who meet income eligibility standards specified for the CEED project.

This bill would provide that no state General Fund moneys shall be used to fund CEED project services, nor to fund any related administrative costs incurred by counties or any other political subdivision of the state. This bill would provide that, subject to the terms and conditions of the demonstration project, if a participating entity elects to fund the nonfederal share of a CEED project, the nonfederal funding and payments to the CEED project shall be provided through one of the specified mechanisms, at the option of the participating entity.

This bill would establish the CEED Project Fund in the State Treasury and would require that all moneys in the fund be continuously appropriated to the department for purposes relating to the CEED projects, as specified. It would permit counties, under one of the funding mechanisms, to transfer moneys into the fund for this purpose.

This bill would become operative only if Senate Bill 208 of the 2009-10 Regular Session of the Legislature is enacted.

This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

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

SECTION 1. Section 15908 of the Welfare and Institutions Code is amended to read:

15908. (a) This part shall become inoperative on the date that the director executes a declaration, which shall be retained by the director and provided to the fiscal and appropriate policy committees of the Legislature, stating that the federal demonstration project provided for in this part has been terminated by the federal Centers for Medicare and Medicaid Services, and shall, six months after the date the declaration is executed, be repealed.

(b) Notwithstanding subdivision (a), the director may continue and administer any extensions, modifications, or continuation of the projects under this part approved by the federal Centers for Medicare and Medicaid Services.

SEC. 2. Part 3.6 (commencing with Section 15909) is added to Division 9 of the Welfare and Institutions Code, to read:

PART 3.6. COVERAGE EXPANSION AND ENROLLMENT  
DEMONSTRATION PROJECTS

15909. The Legislature finds and declares all of the following:

(a) Pursuant to Section 14180, the Legislature directed the department to apply for a successor federal waiver or demonstration project, in part, to coincide with the end of the waiver described in relevant part in subdivision (b) of Section 15900 to, among other requirements, optimize opportunities to increase federal financial participation and maximize financial resources to address uncompensated care.

(b) Passage of federal health care reform, pursuant to the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), presents new options of federal support for coverage of low-income individuals and significant expansion of state coverage programs in 2014. Through the success of the Health Care Coverage Initiatives established pursuant to Part 3.5 (commencing with Section 15900), and with implementation of a successor federal Medicaid waiver or demonstration project, California is well positioned to develop enrollment and coverage expansion models that will lead the way to full implementation of comprehensive health care reforms in 2014.

15909.1. For purposes of this part, the following definitions shall apply:

(a) "Demonstration project" means a federal waiver or demonstration project described in Section 14180 approved by the federal Centers for Medicare and Medicaid Services that authorizes the implementation of a successor to the Health Care Coverage Initiative under Part 3.5 (commencing with Section 15900).

(b) "CEED project" means a local Coverage Expansion and Enrollment Demonstration project authorized under this part.

(c) "Eligible entity" means a county, city and county, consortium of counties serving a region consisting of more than one county, or health authority. For purposes of this section and to the extent allowed under the terms and conditions of the demonstration project, a County Medical Services Program shall be considered a consortium of counties serving a region consisting of more than one county.

(d) "Participating entity" means an eligible entity that operates an approved CEED project.

15910. (a) Subject to federal approval of a demonstration project effective on or after November 1, 2010, the department shall, by no later than March 1, 2011, or alternatively, 180 days after federal approval of the demonstration project, whichever occurs later, authorize local CEED projects to provide scheduled health care services, consistent with the terms and conditions of the demonstration project, to uninsured adults 19 to 64,

inclusive, years of age, who are not otherwise eligible for Medicare or Medi-Cal, with incomes up to 133 percent of the federal poverty level. To the extent federal financial participation is made available under the terms and conditions of the demonstration project and pursuant to Section 15910.1, CEED project services may be made available to individuals with incomes between 134 through 200 percent of the federal poverty level.

(b) Eligible entities, consistent with the terms and conditions of the demonstration project, may perform outreach and enrollment activities to target populations, including, but not limited to, the people who are homeless, individuals who frequently use hospital inpatient or emergency department services for avoidable reasons, or people with mental health or substance abuse treatment needs.

(c) CEED projects shall be designed and implemented with the systems and program elements necessary to facilitate the transition of those eligible individuals to Medi-Cal coverage, or alternatively, to coverage through the California Health Benefit Exchange, by 2014, pursuant to state and federal law, and the terms and conditions of the demonstration project.

(d) The department shall authorize CEED projects that meet the requirements set forth in this part and the terms and conditions of the demonstration project.

(e) (1) By January 1, 2011, or alternatively, 60 days after federal approval of the demonstration project, whichever occurs later, the department shall notify all eligible entities of the opportunity to elect to implement a CEED project, the applicable requirements, and the process for submitting an application for department approval of a CEED project.

(2) The director shall approve or deny an eligible entity's CEED project application within 60 days of receipt of the application. If the director denies an application, the denial shall be in writing and shall specify the reasons therefor.

(3) Within 10 days of a denial by the director under this subdivision, a participating entity may submit a written request for reconsideration. The director shall respond in writing to a request for reconsideration within 20 days, confirming or reversing the denial, and specifying the reasons for the reconsidered decision.

(4) An approval of a CEED project may be effective retroactively, and shall be effective on the date specified in the application, so long as the effective date is consistent with the terms and conditions of the demonstration project. If the eligible entity had in operation a Health Care Coverage Initiative program under Part 3.5 (commencing with Section 15900) as of August 31, 2010, and the eligible entity elects to continue funding the program, then the existing Health Care Coverage Initiative program shall, to the extent permitted by the terms and conditions of the demonstration project, remain in effect until the CEED project is effective, but no later than 180 days after the department provides notice to eligible entities pursuant to this subdivision.

(f) Services provided pursuant to this part shall be available to those eligible, uninsured individuals enrolled in the applicable CEED project,

subject to the limitations of this part and the terms and conditions of the demonstration project. However, nothing in this part is intended to create an entitlement program of any kind.

(g) Each CEED project shall establish an income eligibility standard for individuals to enroll in the CEED project, which shall be expressed as a percentage between 0 and 133 of the federal poverty level. Notwithstanding the established eligibility standard, a CEED project may impose a limit on enrollment in the CEED project, which shall be subject to all of the following provisions:

(1) The special terms and conditions required by the federal Centers for Medicare and Medicaid Services for the approval of the demonstration project described in Section 14180 permit a limitation on enrollment in a CEED project.

(2) Any enrollment limitation by a CEED project shall be administered in accordance with the special terms and conditions required by the federal Centers for Medicare and Medicaid Services.

(3) Any enrollment limitation by a CEED project is subject to approval by the director.

(4) Prior to applying for approval from the director, the CEED project shall submit to the director a resolution from the county board of supervisors in which the CEED project is located approving the proposed limitation on enrollment by the CEED project.

(h) CEED projects shall be established and implemented only to the extent that federal financial participation is available and only to the extent that available federal financial participation is not jeopardized.

(i) For the purposes of operating a CEED project approved under this part, and notwithstanding Section 14181, participating entities shall be exempt from the provisions of Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code, shall not be considered Medi-Cal managed care health plans subject to the requirements applicable to the two-plan model and geographic managed care plans, as contained in Article 2.7 (commencing with Section 14087.3), Article 2.81 (commencing with Section 14087.96) and Article 2.91 (commencing with Section 14089) of Chapter 7 of Part 1 and the corresponding regulations, and shall not be considered prepaid health plans as defined in Section 14251.

15910.1. (a) If federal financial participation is available for CEED projects serving individuals with incomes between 134 and 200 percent of the federal poverty level, subject to federal funding limits or requirements that differ from the requirements for individuals described in subdivision (a) of Section 15910, the department shall, in consultation with participating entities, develop a process for allocating the available federal funding to those approved CEED projects that have established an income eligibility standard of at least 134 percent of the federal poverty level, and that elect to serve the additional group of individuals identified in this subdivision, if the participating entity voluntarily agrees to provide the nonfederal share of the CEED project expenditures for the additional group.

(b) To the extent permitted by the terms and conditions of the demonstration project, the allocation of funding under this section shall ensure that a Health Care Coverage Initiative program under Part 3.5 (commencing with Section 15900) as of August 31, 2010, that elects to continue as a participating entity under this article receives, at a minimum, an allocation in an amount adequate to ensure that their existing enrollees can continue to receive services under their CEED project.

(c) Section 15910 and Section 15910.2 shall apply with respect to CEED projects funded under this section, as appropriate.

(d) Payments to CEED projects approved under this section shall be made in accordance with Section 15910.3 or through another mechanism authorized under the terms and conditions for the demonstration project.

(e) The nonfederal share of funding for CEED project expenditures authorized under this section shall be provided in accordance with Section 15911 or through another mechanism authorized by the terms and conditions of the demonstration project.

(f) Any unused federal funds shall be distributed in accordance with the terms and conditions of the demonstration project.

15910.2. (a) The department shall approve any CEED project that meets both of the following requirements and any additional requirements imposed by the terms and conditions of the demonstration project:

(1) Is proposed by an eligible entity that voluntarily agrees to commit, on an annual basis, to provide the nonfederal share of CEED project expenditures for services to individuals who meet the income eligibility standards specified for the CEED project.

(2) Includes the CEED project elements set forth in subdivision (b).

(b) An approved CEED project shall include all of the following elements, subject to the terms and conditions of the demonstration project:

(1) Development of standardized eligibility and enrollment procedures that interface with Medi-Cal processes according to the milestones developed in consultation with the counties, county health departments, public hospitals, and county human service departments. CEED projects shall migrate to the standardized procedures in accordance with the terms and conditions of the demonstration project. If authorized under the terms and conditions of the demonstration project, eligibility for CEED benefits may be provided retroactively for any of the three months prior to the enrollment date in which the individual would have been found eligible had he or she applied during that month. If an individual is determined to be retroactively eligible, CEED project coverage for the retroactive period shall be limited to those services provided within the approved CEED project network.

(2) (A) Assignment of eligible individuals to a medical home. For purposes of this paragraph and subject to the terms and conditions of the demonstration project, “medical home” means a single provider, facility, or health care team that maintains an individual’s medical information, and coordinates health care services for enrolled individuals. The medical home shall provide, at a minimum, all of the following elements, which shall be considered in the contracting process:

(i) A primary health care contact who facilitates the enrollee’s access to preventive, primary, specialty, mental health, or chronic illness treatment, as appropriate.

(ii) An intake assessment of each new enrollee’s general health status.

(iii) Referrals to qualified professionals, community resources, or other agencies as needed.

(iv) Care coordination for the beneficiary across the service delivery system, as agreed to between the medical home and the CEED project. This may include facilitating communication among enrollee’s health care providers, including appropriate outreach to mental health providers.

(v) Care management, case management, and transitions among levels of care, if needed and as agreed to between the medical home and the CEED project.

(vi) Use of clinical guidelines and other evidence-based medicine when applicable for treatment of the enrollee’s health care issues and timing of clinical preventive services.

(vii) Focus on continuous improvement in quality of care.

(viii) Timely access to qualified health care interpretation as needed and as appropriate for enrollees with limited English proficiency, as determined by applicable federal guidelines.

(ix) Health information, education, and support to beneficiaries and, where appropriate, their families, if and when needed, in a culturally competent manner.

(B) In implementing this section, and the terms and conditions of the demonstration project, the department may alter the medical home elements described in this paragraph as necessary to secure the increased federal financial participation associated with the provision of medical assistance in conjunction with a health home, as made available under the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), and codified in Section 1945 of Title XIX of the federal Social Security Act.

(3) A scheduled package of services required under the terms and conditions of the demonstration project that shall be limited to those services provided within an approved CEED project’s provider network and service delivery system.

(4) A provider network and service delivery system that seeks to promote the viability of the existing safety net health care system that serves the population to be covered by the CEED project. The provider network and service delivery system shall meet the standards established in the terms and conditions of the demonstration project.

(5) Development of an outreach and enrollment plan that reaches potential project enrollees and begins to prepare to transition eligible individuals to Medi-Cal coverage in 2014, or alternatively, to coverage through the California Health Benefit Exchange.

(6) A quality measurement and quality monitoring system.

(7) Data tracking systems to provide the department with required data for quality monitoring, quality improvement, and evaluation.

(8) Demonstration of how the CEED project will provide consumer assistance to individuals applying for, participating in, or accessing, services in the CEED projects, including the availability of materials that provide information on all of the following:

(A) The scope of covered services.

(B) The exceptions, reductions, and limitations that apply to covered services.

(C) Any premium, copayment, or deductible requirements that may be incurred by the enrollee.

(D) The participating providers in the CEED project network.

(E) The medical homes within the CEED project network from which the enrollee may select.

(F) The CEED project's telephone number or numbers that may be used by an enrollee to receive additional information about the covered services or participating providers.

(9) Ability to meet program requirements, standards, and performance measurements developed by the department, in consultation with participating counties, for the CEED projects.

15910.3. (a) In consultation with participating entities, the department shall determine actuarially sound per enrollee capitation rates for CEED projects that are adequate and sufficient to ensure access to services for enrollees and to at least cover the projected cost of care. As part of the rate development process, each CEED project shall submit a detailed proposal to the department outlining proposed methodologies and rates that have been certified by county-employed or county-retained actuaries using state and federal Medicaid principles and the standards provided in this section.

(b) Rates determined under this section shall be based on utilization and cost data specific to the enrolled population or comparable data, including where available, project- and county- specific data. In setting actuarially sound rates, the department shall apply appropriate factors to ensure sufficient access to primary and specialty care, and shall take into account the cost of the services specified under the approved CEED project, administrative costs, graduate medical education costs, the utilization and intensity of services expected for CEED project enrollees, and an appropriate case management fee.

(c) The department may include risk corridors to allow for adjustments to rates if the actual cost or utilization of a CEED project exceeds the projected cost.

(d) The department may develop additional payment mechanisms that provide for incentive payments to CEED projects that meet designated performance criteria for quality of and access to care.

(e) The rate shall be determined annually, and shall be effective either the first day of each CEED project year, or another date agreed upon by the participating entity and the department. Rates may be adjusted outside the annual redetermination process if there is a change in federal or state law

or regulation that increases the cost of fulfilling the obligations of a CEED project.

(f) Notwithstanding any other provision of law, payments to CEED projects shall not be limited by an estimate of the reimbursement that would be available for program services if those services were provided to Medi-Cal beneficiaries under the Medi-Cal fee-for-service program.

(g) CEED projects shall be paid actuarially sound rates as determined under this section at the beginning of each quarter based on enrollment. If payments are based on estimated enrollment data, the payments shall be reconciled to actual enrollment on an annual basis.

15911. (a) Funding for each CEED project shall be based on all of the following:

(1) The amount of funding that the participating entity voluntarily provides for the nonfederal share of CEED project expenditures.

(2) Any limitations imposed by the terms and conditions of the demonstration project.

(3) Whether additional funds are allocated to the CEED projects under Section 15910.1 for services to individuals with incomes between 134 and 200 percent of the federal poverty level.

(4) Whether funding under this part would result in the reduction of other payments under the demonstration project.

(b) Nothing in this part shall be construed to require a political subdivision of the state to participate in the program of CEED projects as set forth in this part, and those local funds expended or transferred for the nonfederal share of CEED project expenditures under this part shall be considered voluntary contributions for purposes of the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), and the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5), as amended by the federal Patient Protection and Affordable Care Act.

(c) No state General Fund moneys shall be used to fund CEED project services, nor to fund any related administrative costs incurred by counties or any other political subdivision of the state.

(d) Subject to the terms and conditions of the demonstration project, if a participating entity elects to fund the nonfederal share of a CEED project, the nonfederal funding and payments to the CEED project shall be provided through one of the following mechanisms, at the options of the participating entity:

(1) On a quarterly basis, the participating entity shall transfer to the department for deposit in the CEED Project Fund established for the participating counties and pursuant to subparagraph (A), the amount necessary to meet the nonfederal share of estimated payments to the CEED project for the next quarter under subdivision (g) Section 15910.3.

(A) The CEED Project Fund is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, all moneys in the fund shall be continuously appropriated to the department for the purposes

specified in this part. The fund shall contain all moneys deposited into the fund in accordance with this paragraph.

(B) The department shall obtain the related federal financial participation and pay the rates established under Section 15910.3, provided that the intergovernmental transfer is transferred in accordance with the deadlines imposed under the Medi-Cal Checkwrite Schedule, no later than the next available warrant release date. This payment shall be a nondiscretionary obligation of the department, enforceable under a writ of mandate pursuant to Section 1085 of the Code of Civil Procedure. Participating entities may request expedited processing within seven business days of the transfer as made available by the State Controllers Office, provided that the participating entity prepay the department for the additional administrative costs associated with the expedited processing.

(C) Total quarterly payment amounts shall be determined in accordance with estimates of the number of enrollees in each rate category, subject to annual reconciliation to final enrollment data.

(2) If a participating entity operates its CEED project through a contract with another entity, the participating entity may pay the operating entity based on the per enrollee rates established under Section 15910.3 on a quarterly basis in accordance with estimates of the number of enrollees in each rate category, subject to annual reconciliation to final enrollment data.

(A) (i) On a quarterly basis, the participating entity shall certify the expenditures made under this paragraph and submit the report of certified public expenditures to the department.

(ii) The department shall report the certified public expenditures of a participating entity under this paragraph on the next available quarterly report as necessary to obtain federal financial participation for the expenditures. The total amount of federal financial participation associated with the participating entity's expenditures under this paragraph shall be paid to the participating entity.

(B) At the option of the participating entity, the CEED project may be reimbursed on a cost basis in accordance with the methodology applied to Health Care Coverage Initiative programs established under Part 3.5 (commencing with Section 15900) including interim quarterly payments.

(e) Notwithstanding Section 15910.3 and subdivision (d) of this section, if the participating entity cannot reach an agreement with the department as to the appropriate rate to be paid under Section 15910.3, at the option of the participating entity, the CEED project shall be reimbursed on a cost basis in accordance with the methodology applied to Health Care Coverage Initiative programs established under Part 3.5 (commencing with Section 15900), including interim quarterly payments. If the participating entity and the department reach an agreement as to the appropriate rate, the rate shall be applied no earlier than the first day of the CEED project year in which the parties agree to the rate.

(f) If authorized under the terms and conditions of the demonstration project, pending the department's development of rates in accordance with Sections 15910.3, the department shall make interim quarterly payments to

approved CEED projects for expenditures based on estimated costs submitted for rate setting.

(g) Participating entities that operate a CEED project directly or through contract with another entity shall be entitled to any federal financial participation available for administrative expenditures incurred in the operation of the Medi-Cal program or the demonstration project, including, but not limited to, outreach, screening and enrollment, program development, data collection, reporting and quality monitoring, and contract administration, but only to the extent that the expenditures are allowable under federal law and only to the extent the expenditures are not taken into account in the determination of the per enrollee rates under Section 15910.3.

(h) On and after January 1, 2014, the state shall implement comprehensive health care reform for the populations targeted by the CEED in compliance with federal health care reform law, regulation, and policy, including the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), and subsequent amendments.

(i) Participation in the CEED projects under this article is voluntary on the part of the county or counties for purposes of all applicable federal laws. As part of its voluntary participation under this article, the county or counties shall agree to reimburse the state for the nonfederal share of state staffing or administrative costs directly attributable to the cost of administering that county or counties' CEED project. This section shall be implemented only to the extent federal financial participation is not jeopardized.

15912. (a) Subject to the terms and conditions of the demonstration project, the department shall ensure that the CEED projects established under this part are evaluated to determine to what extent the projects have met the standards and performance measures described in paragraph (9) of subdivision (b) of Section 15910.2, and the extent to which the CEED projects have complied with the department's program to implement the transition of eligible CEED project enrollees to Medi-Cal coverage, or alternatively, to coverage through the California Health Benefit Exchange, in 2014.

(b) The department may seek federal or private funds or enter into partnership with an independent, nonprofit group or foundation, an academic institution, or a governmental entity providing grants for health-related activities, to evaluate the programs funded under this part.

15913. 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 part, and the terms and conditions of the demonstration project secured pursuant to subdivision (a) of Section 15910, by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions. Prior to issuing any letter or similar instrument authorized pursuant to this section, the department shall notify and consult with stakeholders, including advocates, providers, and beneficiaries. The department shall notify the appropriate policy and fiscal

committees of the Legislature of its intent to issue instructions under this section at least five days in advance of the issuance.

15914. The application process used by the department to authorize entities to operate CEED projects and any agreements entered into by, or modified by, the department for purposes of this part shall not be subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

15915. In the event of a conflict between a provision of this part and a term or condition of the successor federal waiver or demonstration project pursuant to subdivision (a) of Section 15910, the terms and conditions of the successor federal waiver or demonstration project shall control.

SEC. 3. This act shall become operative only if Senate Bill 208 of the 2009-10 Regular Session of the Legislature is enacted.

SEC. 4. 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 Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make changes to publicly funded health care programs at the earliest possible time, it is necessary that this act take effect immediately.