

AMENDED IN SENATE MARCH 20, 2023

SENATE BILL

No. 541

Introduced by Senator Menjivar
(Coauthor: Senator Wiener)

February 14, 2023

An act to add Section 35292.7 ~~to~~ to, and to add Article 15 (commencing with Section 49595) to Chapter 9 of Part 27 of Division 4 of Title 2 of, the Education Code, to add Chapter 7.7 (commencing with Section 111823) to Part 5 of Division 104 of the Health and Safety Code, and to amend Section 14132 of the Welfare and Institutions Code, relating to sexual health.

LEGISLATIVE COUNSEL'S DIGEST

SB 541, as amended, Menjivar. Sexual health: contraceptives: immunization.

(1) Existing law, the California Healthy Youth Act, requires school districts, defined to include county boards of education, county superintendents of schools, the California School for the Deaf, the California School for the Blind, and charter schools, to ensure that all pupils in grades 7 to 12, inclusive, receive comprehensive sexual health education and human immunodeficiency virus (HIV) prevention education, as specified.

This bill would, in order to prevent and reduce unintended pregnancies and sexually transmitted infections, *on or before the start of the 2024–25 school year*, require each public school, including schools operated by a school district or county office of education and charter schools, to make *internal and external* condoms available to all pupils free of charge, as provided. *The bill would require these public schools to, at the beginning of each school year, inform pupils through existing school*

communication channels that free condoms are available and where the condoms can be obtained on school grounds. The bill would, commencing with the ~~2023–24~~ 2024–25 school year, require each public school to post at least one notice regarding these requirements in a prominent and conspicuous location on the school campus, as specified. *The bill would require this notice to include certain information, including, among other information, information about how to use condoms properly.* The bill would require each public school to allow the distribution of condoms during the course of, or in connection to, educational or public health programs and initiatives, as provided. By imposing additional duties on ~~public school officials, schools,~~ the bill would impose a state-mandated local program.

The bill would provide that school-based health center sites located on school campuses maintaining any combination of classrooms from grades 7 to 12, inclusive, may not be prohibited from making internal and external condoms available and easily accessible at the school-based health center site to all pupils free of charge.

(2) Under existing law, the Sherman Food, Drug, and Cosmetic Law, the State Department of Public Health generally regulates the packaging, labeling, advertising, and sale of food, drugs, devices, and cosmetics, in accordance with the Federal Food, Drug, and Cosmetic Act. A violation of those provisions is generally a crime. Existing law sets forth various other provisions relating to the furnishing and health care coverage of certain types of contraception.

This bill would, with certain exceptions, prohibit a retail establishment, as defined, from refusing to furnish nonprescription contraception to a person solely on the basis of age by means of any conduct, including, but not limited to, requiring the customer to present identification for purposes of demonstrating their age. Under the bill, a violation of that prohibition would be exempt from the above-described criminal penalty.

(3) Existing law establishes the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Existing law sets forth a schedule of benefits under the Medi-Cal program, including the Family Planning, Access, Care, and Treatment (Family PACT) Program pursuant to a federal waiver.

Under existing law, the Family PACT Program provides comprehensive clinical family planning services to a person who has a family income at or below 200% of the federal poverty level and who is eligible to receive those services pursuant to the waiver.

This bill would add, to the list of comprehensive clinical family planning services under the Family PACT Program, coverage for immunization against human papillomavirus (HPV), as clinically indicated, to persons who are 18 years of age or younger. The bill would specify that this requirement not be construed as prohibiting the department from providing that coverage to persons who are over 18 years of age through the Family PACT Program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) The federal Centers for Disease Control and Prevention
4 (CDC) estimates that one in five people in the United States have
5 a sexually transmitted infection (STI). More than 325,000
6 Californians were infected with syphilis, chlamydia, or gonorrhea
7 in 2019.

8 (2) California youth, and in particular youth of color, are
9 disproportionately impacted by the STI crisis. Statewide data
10 indicate over half of all STIs in the state are experienced among
11 California youth 15 to 24 years of age, inclusive. Young people
12 in this age group make up more than 5 out of every 10 chlamydia
13 cases in California, and more than 87 percent are youth of color.

14 (3) Untreated STIs can lead to serious long-term health
15 consequences. The CDC estimates that untreated STIs cause at
16 least 24,000 women in the United States each year to become
17 infertile. The human papillomavirus (HPV) can lead to increased

1 risk of developing cancer. The number of HPV-related cancers in
2 men dramatically increased in 2016.

3 (4) Vaccination rates against HPV are down nationwide due to
4 the COVID-19 pandemic, putting teens and young people at risk
5 of developing HPV-related cancers later in life. While nearly 80
6 percent of California teens received the first of three doses of the
7 HPV vaccine in 2020, the vast majority do not complete the full
8 vaccination series, leaving them without maximum protection.

9 (5) Condoms are an effective tool to reduce STI transmission,
10 but condom use among sexually active teens has declined over the
11 last decade. The CDC's Youth Risk Behavior Surveillance System
12 (YRBSS) shows that in 2019, an average of 20 percent of
13 California high school pupils were sexually active and 47 percent
14 of those pupils did not use condoms during their last sexual
15 intercourse.

16 (6) Teens face multiple barriers to accessing condoms that deter
17 them from seeking and securing the resources they need to protect
18 themselves against STIs and unintended pregnancy. Through
19 Essential Access Health's TeenSource Condom Access Project,
20 young people reported that cost is the biggest obstacle to obtaining
21 condoms. When cost barriers remain, youth with low incomes are
22 often left without the option to regularly use condoms to help
23 protect their health and prevent an unintended pregnancy from
24 occurring.

25 (7) Though most health plans, including ~~Medi-Cal~~, *Medi-Cal*,
26 will be required to cover condoms as a no-cost over-the-counter
27 benefit beginning in 2024, this benefit will only be extended to
28 women. Young males will not be able to access condoms over the
29 counter for free using their health coverage, and uninsured
30 individuals will have to continue to pay out of pocket.

31 (8) Teens have also long reported experiencing difficulties while
32 attempting to purchase condoms at some pharmacies and retailers,
33 including being judged, shamed, or harassed, or being asked to
34 show an identification card despite the fact that there are no age
35 requirements for condom purchases.

36 (9) Condom availability programs in schools began in the early
37 1990s, and are a key and cost-effective strategy for helping to
38 prevent HIV, STIs, and pregnancy among teens. According to the
39 CDC, only 7.2 percent of high schools and 2.3 percent of middle
40 schools made condoms available to pupils in 2014. Studies

1 conducted by the CDC also found that condom access programs
2 in schools did not increase sexual activity among teens and can
3 increase condom use among sexually active pupils and pupils at
4 high risk.

5 (10) In 2020, Vermont became the first state in the country to
6 require public secondary schools to make free condoms readily
7 available to pupils. The Society for Adolescent Health and
8 Medicine strongly supports access to free condoms in schools in
9 easily accessible locations, such as school-based health centers
10 and clinics, nurses' offices, and bathrooms.

11 (11) California has an interest in promoting and expanding
12 equitable access to tools and resources that empower youth to
13 make healthier choices and reduce the spread of STIs.

14 (b) Therefore, it is the intent of the Legislature to improve public
15 health outcomes and reduce STI rates among California youth by
16 making condoms more accessible for young people and ensuring
17 there is no wrong door for HPV vaccine access.

18 SEC. 2. Section 35292.7 is added to the Education Code, to
19 read:

20 35292.7. (a) In order to prevent and reduce unintended
21 pregnancies and sexually transmitted infections, *on or before the*
22 *start of the 2024–25 school year*, each public school shall make
23 *internal and external* condoms available to all pupils free of charge.
24 ~~Public school administrative teams, in consultation with their~~
25 ~~nursing staff, shall determine the best manner in which to make~~
26 ~~condoms available to pupils. At a minimum, condoms shall be~~
27 ~~placed in locations that are safe and readily accessible to pupils.~~
28 *Each public school shall distribute condoms in the following*
29 *manner:*

30 (1) *Condoms shall be placed in a minimum of two locations on*
31 *school grounds where the condoms are easily accessible to pupils*
32 *during school hours without requiring assistance or permission*
33 *from school staff.*

34 (2) *Condoms placed in unsupervised locations shall be stored*
35 *in tamper-proof dispensers.*

36 (b) *A public school described in subdivision (a) shall, at the*
37 *beginning of each school year, inform pupils through existing*
38 *school communication channels that free condoms are available*
39 *and where the condoms can be obtained on school grounds.*

40 (b)

1 (c) Commencing with the ~~2023–24~~ 2024–25 school year, each
 2 public school shall post at least one notice regarding the
 3 requirements of this section in a prominent and conspicuous
 4 location on the school campus. This notice shall include ~~the text~~
 5 ~~of this section and contact information, including an email address~~
 6 ~~and telephone number, for a designated individual responsible for~~
 7 ~~maintaining the requisite supply of condoms.~~ *all of the following:*

- 8 (1) *The text of this section.*
 9 (2) *The contact information, including an email address and*
 10 *telephone number, for a designated individual responsible for*
 11 *maintaining the requisite supply of condoms.*
 12 (3) *Information that abstinence from sexual activity and injection*
 13 *drug use is the only certain way to prevent HIV and other sexually*
 14 *transmitted infections and that abstinence from sexual intercourse*
 15 *is the only certain way to prevent unintended pregnancy.*
 16 (4) *Information about how to use condoms properly.*
 17 (5) *Information on how to access local resources and pupils’*
 18 *legal rights to access local resources for sexual and reproductive*
 19 *health care such as testing and medical care for HIV and other*
 20 *sexually transmitted infections and pregnancy prevention and care,*
 21 *as well as local resources for assistance with sexual assault and*
 22 *intimate partner violence.*

23 ~~(e)~~
 24 (d) Each public school serving any of grades 7 to 12, inclusive,
 25 shall allow the distribution of condoms during the course of, or in
 26 connection to, educational or public health programs and initiatives,
 27 including, but not limited to, from any of the following:

- 28 (1) Community organizations or other entities ~~contracted to~~
 29 ~~provide~~ *providing* instruction for purposes of the California Healthy
 30 Youth Act (Chapter 5.6 (commencing with Section 51930) of Part
 31 28 of Division 4).
 32 (2) ~~School-sanctioned pupil~~ *Pupil* peer health programs, clubs,
 33 or groups.
 34 (3) ~~School-sanctioned pupil~~ *Pupil* health fairs conducted on
 35 campus.
 36 (4) School-based health center staff.

37 ~~(f)~~
 38 (e) For purposes of this section, “public school” includes a
 39 school operated by a school district, a school operated by a county
 40 office of education, and a charter school.

1 SEC. 3. Article 15 (commencing with Section 49595) is added
2 to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education
3 Code, to read:

4
5 Article 15. Miscellaneous Provisions
6

7 49595. School-based health center sites located on school
8 campuses maintaining any combination of classrooms from grades
9 7 to 12, inclusive, may not be prohibited from making internal and
10 external condoms available and easily accessible at the
11 school-based health center site to all pupils free of charge.

12 ~~SEC. 3.~~

13 SEC. 4. Chapter 7.7 (commencing with Section 111823) is
14 added to Part 5 of Division 104 of the Health and Safety Code, to
15 read:

16
17 CHAPTER 7.7. NONPRESCRIPTION CONTRACEPTION
18

19 111823. (a) A retail establishment shall not refuse to furnish
20 nonprescription contraception to a person solely on the basis of
21 age by means of any conduct, including, but not limited to,
22 requiring the customer to present identification for purposes of
23 demonstrating their age.

24 (b) Section 111825 does not apply to a violation of subdivision
25 (a).

26 (c) Subdivision (a) does not apply to the refusal to furnish
27 nonprescription contraception on the basis of age if, under other
28 provisions of federal or state law, the contraception is subject to
29 restrictions on the basis of age.

30 (d) For purposes of this section, “retail establishment” means
31 any vendor that, in the regular course of business, furnishes
32 nonprescription contraception at retail directly to the public,
33 including, but not limited to, a pharmacy, grocery store, or other
34 retail store.

35 ~~SEC. 4.~~

36 SEC. 5. Section 14132 of the Welfare and Institutions Code is
37 amended to read:

38 14132. The following is the schedule of benefits under this
39 chapter:

40 (a) Outpatient services are covered as follows:

1 Physician, hospital or clinic outpatient, surgical center,
2 respiratory care, optometric, chiropractic, psychology, podiatric,
3 occupational therapy, physical therapy, speech therapy, audiology,
4 acupuncture to the extent federal matching funds are provided for
5 acupuncture, and services of persons rendering treatment by prayer
6 or healing by spiritual means in the practice of any church or
7 religious denomination insofar as these can be encompassed by
8 federal participation under an approved plan, subject to utilization
9 controls.

10 (b) (1) Inpatient hospital services, including, but not limited
11 to, physician and podiatric services, physical therapy, and
12 occupational therapy, are covered subject to utilization controls.

13 (2) For a Medi-Cal fee-for-service beneficiary, emergency
14 services and care that are necessary for the treatment of an
15 emergency medical condition and medical care directly related to
16 the emergency medical condition. This paragraph does not change
17 the obligation of Medi-Cal managed care plans to provide
18 emergency services and care. For the purposes of this paragraph,
19 “emergency services and care” and “emergency medical condition”
20 have the same meanings as those terms are defined in Section
21 1317.1 of the Health and Safety Code.

22 (c) Nursing facility services, subacute care services, and services
23 provided by any category of intermediate care facility for the
24 developmentally disabled, including podiatry, physician, nurse
25 practitioner services, and prescribed drugs, as described in
26 subdivision (d), are covered subject to utilization controls.
27 Respiratory care, physical therapy, occupational therapy, speech
28 therapy, and audiology services for patients in nursing facilities
29 and any category of intermediate care facility for persons with
30 developmental disabilities are covered subject to utilization
31 controls.

32 (d) (1) Purchase of prescribed drugs is covered subject to the
33 Medi-Cal List of Contract Drugs and utilization controls.

34 (2) Purchase of drugs used to treat erectile dysfunction or any
35 off-label uses of those drugs are covered only to the extent that
36 federal financial participation is available.

37 (3) (A) To the extent required by federal law, the purchase of
38 outpatient prescribed drugs, for which the prescription is executed
39 by a prescriber in written, nonelectronic form on or after April 1,
40 2008, is covered only when executed on a tamper resistant

1 prescription form. The implementation of this paragraph shall
2 conform to the guidance issued by the federal Centers for Medicare
3 and Medicaid Services, but shall not conflict with state statutes on
4 the characteristics of tamper resistant prescriptions for controlled
5 substances, including Section 11162.1 of the Health and Safety
6 Code. The department shall provide providers and beneficiaries
7 with as much flexibility in implementing these rules as allowed
8 by the federal government. The department shall notify and consult
9 with appropriate stakeholders in implementing, interpreting, or
10 making specific this paragraph.

11 (B) Notwithstanding Chapter 3.5 (commencing with Section
12 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
13 the department may take the actions specified in subparagraph (A)
14 by means of a provider bulletin or notice, policy letter, or other
15 similar instructions without taking regulatory action.

16 (4) (A) (i) For the purposes of this paragraph, nonlegend has
17 the same meaning as defined in subdivision (a) of Section
18 14105.45.

19 (ii) Nonlegend acetaminophen-containing products, including
20 children’s acetaminophen-containing products, selected by the
21 department are covered benefits.

22 (iii) Nonlegend cough and cold products selected by the
23 department are covered benefits.

24 (B) Notwithstanding Chapter 3.5 (commencing with Section
25 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
26 the department may take the actions specified in subparagraph (A)
27 by means of a provider bulletin or notice, policy letter, or other
28 similar instruction without taking regulatory action.

29 (e) Outpatient dialysis services and home hemodialysis services,
30 including physician services, medical supplies, drugs, and
31 equipment required for dialysis, are covered, subject to utilization
32 controls.

33 (f) Anesthesiologist services when provided as part of an
34 outpatient medical procedure, nurse anesthetist services when
35 rendered in an inpatient or outpatient setting under conditions set
36 forth by the director, outpatient laboratory services, and x-ray
37 services are covered, subject to utilization controls. This
38 subdivision does not require prior authorization for anesthesiologist
39 services provided as part of an outpatient medical procedure or

1 for portable x-ray services in a nursing facility or any category of
2 intermediate care facility for the developmentally disabled.

3 (g) Blood and blood derivatives are covered.

4 (h) (1) Emergency and essential diagnostic and restorative
5 dental services, except for orthodontic, fixed bridgework, and
6 partial dentures that are not necessary for balance of a complete
7 artificial denture, are covered, subject to utilization controls. The
8 utilization controls shall allow emergency and essential diagnostic
9 and restorative dental services and prostheses that are necessary
10 to prevent a significant disability or to replace previously furnished
11 prostheses that are lost or destroyed due to circumstances beyond
12 the beneficiary's control. Notwithstanding the foregoing, the
13 director may by regulation provide for certain fixed artificial
14 dentures necessary for obtaining employment or for medical
15 conditions that preclude the use of removable dental prostheses,
16 and for orthodontic services in cleft palate deformities administered
17 by the department's California Children's Services program.

18 (2) For persons 21 years of age or older, the services specified
19 in paragraph (1) shall be provided subject to the following
20 conditions:

21 (A) Periodontal treatment is not a benefit.

22 (B) Endodontic therapy is not a benefit except for vital
23 pulpotomy.

24 (C) Laboratory processed crowns are not a benefit.

25 (D) Removable prosthetics shall be a benefit only for patients
26 as a requirement for employment.

27 (E) The director may, by regulation, provide for the provision
28 of fixed artificial dentures that are necessary for medical conditions
29 that preclude the use of removable dental prostheses.

30 (F) Notwithstanding the conditions specified in subparagraphs
31 (A) to (E), inclusive, the department may approve services for
32 persons with special medical disorders subject to utilization review.

33 (3) Paragraph (2) shall become inoperative on July 1, 1995.

34 (i) Medical transportation is covered, subject to utilization
35 controls.

36 (j) Home health care services are covered, subject to utilization
37 controls.

38 (k) (1) Prosthetic and orthotic devices and eyeglasses are
39 covered, subject to utilization controls. Utilization controls shall
40 allow replacement of prosthetic and orthotic devices and eyeglasses

1 necessary because of loss or destruction due to circumstances
2 beyond the beneficiary's control. Frame styles for eyeglasses
3 replaced pursuant to this subdivision shall not change more than
4 once every two years, unless the department so directs.

5 (2) Orthopedic and conventional shoes are covered when
6 provided by a prosthetic and orthotic supplier on the prescription
7 of a physician and when at least one of the shoes will be attached
8 to a prosthesis or brace, subject to utilization controls. Modification
9 of stock conventional or orthopedic shoes when medically indicated
10 is covered, subject to utilization controls. If there is a clearly
11 established medical need that cannot be satisfied by the
12 modification of stock conventional or orthopedic shoes,
13 custom-made orthopedic shoes are covered, subject to utilization
14 controls.

15 (3) Therapeutic shoes and inserts are covered when provided
16 to a beneficiary with a diagnosis of diabetes, subject to utilization
17 controls, to the extent that federal financial participation is
18 available.

19 (l) Hearing aids are covered, subject to utilization controls.
20 Utilization controls shall allow replacement of hearing aids
21 necessary because of loss or destruction due to circumstances
22 beyond the beneficiary's control.

23 (m) Durable medical equipment and medical supplies are
24 covered, subject to utilization controls. The utilization controls
25 shall allow the replacement of durable medical equipment and
26 medical supplies when necessary because of loss or destruction
27 due to circumstances beyond the beneficiary's control. The
28 utilization controls shall allow authorization of durable medical
29 equipment needed to assist a disabled beneficiary in caring for a
30 child for whom the disabled beneficiary is a parent, stepparent,
31 foster parent, or legal guardian, subject to the availability of federal
32 financial participation. The department shall adopt emergency
33 regulations to define and establish criteria for assistive durable
34 medical equipment in accordance with the rulemaking provisions
35 of the Administrative Procedure Act (Chapter 3.5 (commencing
36 with Section 11340) of Part 1 of Division 3 of Title 2 of the
37 Government Code).

38 (n) Family planning services are covered, subject to utilization
39 controls. However, for Medi-Cal managed care plans, utilization

1 controls shall be subject to Section 1367.25 of the Health and
2 Safety Code.

3 (o) Inpatient intensive rehabilitation hospital services, including
4 respiratory rehabilitation services, in a general acute care hospital
5 are covered, subject to utilization controls, when either of the
6 following criteria are met:

7 (1) A patient with a permanent disability or severe impairment
8 requires an inpatient intensive rehabilitation hospital program as
9 described in Section 14064 to develop function beyond the limited
10 amount that would occur in the normal course of recovery.

11 (2) A patient with a chronic or progressive disease requires an
12 inpatient intensive rehabilitation hospital program as described in
13 Section 14064 to maintain the patient's present functional level as
14 long as possible.

15 (p) (1) Adult day health care is covered in accordance with
16 Chapter 8.7 (commencing with Section 14520).

17 (2) Commencing 30 days after the effective date of the act that
18 added this paragraph, and notwithstanding the number of days
19 previously approved through a treatment authorization request,
20 adult day health care is covered for a maximum of three days per
21 week.

22 (3) As provided in accordance with paragraph (4), adult day
23 health care is covered for a maximum of five days per week.

24 (4) As of the date that the director makes the declaration
25 described in subdivision (g) of Section 14525.1, paragraph (2)
26 shall become inoperative and paragraph (3) shall become operative.

27 (q) (1) Application of fluoride, or other appropriate fluoride
28 treatment as defined by the department, and other prophylaxis
29 treatment for children 17 years of age and under are covered.

30 (2) All dental hygiene services provided by a registered dental
31 hygienist, registered dental hygienist in extended functions, and
32 registered dental hygienist in alternative practice licensed pursuant
33 to Sections 1753, 1917, 1918, and 1922 of the Business and
34 Professions Code may be covered as long as they are within the
35 scope of Denti-Cal benefits and they are necessary services
36 provided by a registered dental hygienist, registered dental
37 hygienist in extended functions, or registered dental hygienist in
38 alternative practice.

39 (r) (1) Paramedic services performed by a city, county, or
40 special district, or pursuant to a contract with a city, county, or

1 special district, and pursuant to a program established under former
2 Article 3 (commencing with Section 1480) of Chapter 2.5 of
3 Division 2 of the Health and Safety Code by a paramedic certified
4 pursuant to that article, and consisting of defibrillation and those
5 services specified in subdivision (3) of former Section 1482 of the
6 article.

7 (2) A provider enrolled under this subdivision shall satisfy all
8 applicable statutory and regulatory requirements for becoming a
9 Medi-Cal provider.

10 (3) This subdivision shall be implemented only to the extent
11 funding is available under Section 14106.6.

12 (s) (1) In-home medical care services are covered when
13 medically appropriate and subject to utilization controls, for a
14 beneficiary who would otherwise require care for an extended
15 period of time in an acute care hospital at a cost higher than
16 in-home medical care services. The director shall have the authority
17 under this section to contract with organizations qualified to
18 provide in-home medical care services to those persons. These
19 services may be provided to a patient placed in a shared or
20 congregate living arrangement, if a home setting is not medically
21 appropriate or available to the beneficiary.

22 (2) As used in this subdivision, “in-home medical care service”
23 includes utility bills directly attributable to continuous, 24-hour
24 operation of life-sustaining medical equipment, to the extent that
25 federal financial participation is available.

26 (3) As used in this subdivision, in-home medical care services
27 include, but are not limited to:

28 (A) Level-of-care and cost-of-care evaluations.

29 (B) Expenses, directly attributable to home care activities, for
30 materials.

31 (C) Physician fees for home visits.

32 (D) Expenses directly attributable to home care activities for
33 shelter and modification to shelter.

34 (E) Expenses directly attributable to additional costs of special
35 diets, including tube feeding.

36 (F) Medically related personal services.

37 (G) Home nursing education.

38 (H) Emergency maintenance repair.

- 1 (I) Home health agency personnel benefits that permit coverage
2 of care during periods when regular personnel are on vacation or
3 using sick leave.
- 4 (J) All services needed to maintain antiseptic conditions at stoma
5 or shunt sites on the body.
- 6 (K) Emergency and nonemergency medical transportation.
- 7 (L) Medical supplies.
- 8 (M) Medical equipment, including, but not limited to, scales,
9 gurneys, and equipment racks suitable for paralyzed patients.
- 10 (N) Utility use directly attributable to the requirements of home
11 care activities that are in addition to normal utility use.
- 12 (O) Special drugs and medications.
- 13 (P) Home health agency supervision of visiting staff that is
14 medically necessary, but not included in the home health agency
15 rate.
- 16 (Q) Therapy services.
- 17 (R) Household appliances and household utensil costs directly
18 attributable to home care activities.
- 19 (S) Modification of medical equipment for home use.
- 20 (T) Training and orientation for use of life-support systems,
21 including, but not limited to, support of respiratory functions.
- 22 (U) Respiratory care practitioner services as defined in Sections
23 3702 and 3703 of the Business and Professions Code, subject to
24 prescription by a physician and surgeon.
- 25 (4) A beneficiary receiving in-home medical care services is
26 entitled to the full range of services within the Medi-Cal scope of
27 benefits as defined by this section, subject to medical necessity
28 and applicable utilization control. Services provided pursuant to
29 this subdivision, which are not otherwise included in the Medi-Cal
30 schedule of benefits, shall be available only to the extent that
31 federal financial participation for these services is available in
32 accordance with a home- and community-based services waiver.
- 33 (t) Home- and community-based services approved by the
34 United States Department of Health and Human Services are
35 covered to the extent that federal financial participation is available
36 for those services under the state plan or waivers granted in
37 accordance with Section 1315 or 1396n of Title 42 of the United
38 States Code. The director may seek waivers for any or all home-
39 and community-based services approvable under Section 1315 or
40 1396n of Title 42 of the United States Code. Coverage for those

1 services shall be limited by the terms, conditions, and duration of
2 the federal waivers.

3 (u) Comprehensive perinatal services, as provided through an
4 agreement with a health care provider designated in Section
5 14134.5 and meeting the standards developed by the department
6 pursuant to Section 14134.5, subject to utilization controls.

7 The department shall seek any federal waivers necessary to
8 implement the provisions of this subdivision. The provisions for
9 which appropriate federal waivers cannot be obtained shall not be
10 implemented. Provisions for which waivers are obtained or for
11 which waivers are not required shall be implemented
12 notwithstanding any inability to obtain federal waivers for the
13 other provisions. No provision of this subdivision shall be
14 implemented unless matching funds from Subchapter XIX
15 (commencing with Section 1396) of Chapter 7 of Title 42 of the
16 United States Code are available.

17 (v) Early and periodic screening, diagnosis, and treatment for
18 any individual under 21 years of age is covered, consistent with
19 the requirements of Subchapter XIX (commencing with Section
20 1396) of Chapter 7 of Title 42 of the United States Code.

21 (w) Hospice service that is Medicare-certified hospice service
22 is covered, subject to utilization controls. Coverage shall be
23 available only to the extent that no additional net program costs
24 are incurred.

25 (x) When a claim for treatment provided to a beneficiary
26 includes both services that are authorized and reimbursable under
27 this chapter and services that are not reimbursable under this
28 chapter, that portion of the claim for the treatment and services
29 authorized and reimbursable under this chapter shall be payable.

30 (y) Home- and community-based services approved by the
31 United States Department of Health and Human Services for a
32 beneficiary with a diagnosis of Acquired Immune Deficiency
33 Syndrome (AIDS) or AIDS-related complex, who requires
34 intermediate care or a higher level of care.

35 Services provided pursuant to a waiver obtained from the
36 Secretary of the United States Department of Health and Human
37 Services pursuant to this subdivision, and that are not otherwise
38 included in the Medi-Cal schedule of benefits, shall be available
39 only to the extent that federal financial participation for these
40 services is available in accordance with the waiver, and subject to

1 the terms, conditions, and duration of the waiver. These services
2 shall be provided to a beneficiary in accordance with the client's
3 needs as identified in the plan of care, and subject to medical
4 necessity and applicable utilization control.

5 The director may, under this section, contract with organizations
6 qualified to provide, directly or by subcontract, services provided
7 for in this subdivision to an eligible beneficiary. Contracts or
8 agreements entered into pursuant to this division shall not be
9 subject to the Public Contract Code.

10 (z) Respiratory care when provided in organized health care
11 systems as defined in Section 3701 of the Business and Professions
12 Code, and as an in-home medical service as outlined in subdivision
13 (s).

14 (aa) (1) There is hereby established in the department a program
15 to provide comprehensive clinical family planning services to any
16 person who has a family income at or below 200 percent of the
17 federal poverty level, as revised annually, and who is eligible to
18 receive these services pursuant to the waiver identified in paragraph
19 (2). This program shall be known as the Family Planning, Access,
20 Care, and Treatment (Family PACT) Program.

21 (2) The department shall seek a waiver in accordance with
22 Section 1315 of Title 42 of the United States Code, or a state plan
23 amendment adopted in accordance with Section
24 1396a(a)(10)(A)(ii)(XXI) of Title 42 of the United States Code,
25 which was added to Section 1396a of Title 42 of the United States
26 Code by Section 2303(a)(2) of the federal Patient Protection and
27 Affordable Care Act (PPACA) (Public Law 111-148), for a
28 program to provide comprehensive clinical family planning
29 services as described in paragraph (8). Under the waiver, the
30 program shall be operated only in accordance with the waiver and
31 the statutes and regulations in paragraph (4) and subject to the
32 terms, conditions, and duration of the waiver. Under the state plan
33 amendment, which shall replace the waiver and shall be known as
34 the Family PACT successor state plan amendment, the program
35 shall be operated only in accordance with this subdivision and the
36 statutes and regulations in paragraph (4). The state shall use the
37 standards and processes imposed by the state on January 1, 2007,
38 including the application of an eligibility discount factor to the
39 extent required by the federal Centers for Medicare and Medicaid
40 Services, for purposes of determining eligibility as permitted under

1 Section 1396a(a)(10)(A)(ii)(XXI) of Title 42 of the United States
2 Code. To the extent that federal financial participation is available,
3 the program shall continue to conduct education, outreach,
4 enrollment, service delivery, and evaluation services as specified
5 under the waiver. The services shall be provided under the program
6 only if the waiver and, when applicable, the successor state plan
7 amendment are approved by the federal Centers for Medicare and
8 Medicaid Services and only to the extent that federal financial
9 participation is available for the services. This section does not
10 prohibit the department from seeking the Family PACT successor
11 state plan amendment during the operation of the waiver.

12 (3) Solely for the purposes of the waiver or Family PACT
13 successor state plan amendment and notwithstanding any other
14 law, the collection and use of an individual's social security number
15 shall be necessary only to the extent required by federal law.

16 (4) Sections 14105.3 to 14105.39, inclusive, 14107.11, 24005,
17 and 24013, and any regulations adopted under these statutes shall
18 apply to the program provided for under this subdivision. No other
19 law under the Medi-Cal program or the State-Only Family Planning
20 Program shall apply to the program provided for under this
21 subdivision.

22 (5) Notwithstanding Chapter 3.5 (commencing with Section
23 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
24 the department may implement, without taking regulatory action,
25 the provisions of the waiver after its approval by the federal Centers
26 for Medicare and Medicaid Services and the provisions of this
27 section by means of an all-county letter or similar instruction to
28 providers. Thereafter, the department shall adopt regulations to
29 implement this section and the approved waiver in accordance
30 with the requirements of Chapter 3.5 (commencing with Section
31 11340) of Part 1 of Division 3 of Title 2 of the Government Code.
32 Beginning six months after the effective date of the act adding this
33 subdivision, the department shall provide a status report to the
34 Legislature on a semiannual basis until regulations have been
35 adopted.

36 (6) If the Department of Finance determines that the program
37 operated under the authority of the waiver described in paragraph
38 (2) or the Family PACT successor state plan amendment is no
39 longer cost effective, this subdivision shall become inoperative on
40 the first day of the first month following the issuance of a 30-day

1 notification of that determination in writing by the Department of
2 Finance to the chairperson in each house that considers
3 appropriations, the chairpersons of the committees, and the
4 appropriate subcommittees in each house that considers the State
5 Budget, and the Chairperson of the Joint Legislative Budget
6 Committee.

7 (7) If this subdivision ceases to be operative, all persons who
8 have received or are eligible to receive comprehensive clinical
9 family planning services pursuant to the waiver described in
10 paragraph (2) shall receive family planning services under the
11 Medi-Cal program pursuant to subdivision (n) if they are otherwise
12 eligible for Medi-Cal with no share of cost, or shall receive
13 comprehensive clinical family planning services under the program
14 established in Division 24 (commencing with Section 24000) either
15 if they are eligible for Medi-Cal with a share of cost or if they are
16 otherwise eligible under Section 24003.

17 (8) For purposes of this subdivision, “comprehensive clinical
18 family planning services” means the process of establishing
19 objectives for the number and spacing of children, and selecting
20 the means by which those objectives may be achieved. These
21 means include a broad range of acceptable and effective methods
22 and services to limit or enhance fertility, including contraceptive
23 methods, federal Food and Drug Administration-approved
24 contraceptive drugs, devices, and supplies, natural family planning,
25 abstinence methods, and basic, limited fertility management.
26 Comprehensive clinical family planning services include, but are
27 not limited to, preconception counseling, maternal and fetal health
28 counseling, general reproductive health care, including diagnosis
29 and treatment of infections and conditions, including cancer, that
30 threaten reproductive capability, medical family planning treatment
31 and procedures, including supplies and followup, and
32 informational, counseling, and educational services.
33 Comprehensive clinical family planning services shall not include
34 abortion, pregnancy testing solely for the purposes of referral for
35 abortion or services ancillary to abortions, or pregnancy care that
36 is not incident to the diagnosis of pregnancy. Comprehensive
37 clinical family planning services shall be subject to utilization
38 control and include all of the following:

39 (A) Family planning related services and male and female
40 sterilization. Family planning services for men and women shall

1 include emergency services and services for complications directly
2 related to the contraceptive method, federal Food and Drug
3 Administration-approved contraceptive drugs, devices, and
4 supplies, and followup, consultation, and referral services, as
5 indicated, which may require treatment authorization requests.

6 (B) All United States Department of Agriculture, federal Food
7 and Drug Administration-approved contraceptive drugs, devices,
8 and supplies that are in keeping with current standards of practice
9 and from which the individual may choose.

10 (C) Culturally and linguistically appropriate health education
11 and counseling services, including informed consent, that include
12 all of the following:

13 (i) Psychosocial and medical aspects of contraception.

14 (ii) Sexuality.

15 (iii) Fertility.

16 (iv) Pregnancy.

17 (v) Parenthood.

18 (vi) Infertility.

19 (vii) Reproductive health care.

20 (viii) Preconception and nutrition counseling.

21 (ix) Prevention and treatment of sexually transmitted infection.

22 (x) Use of contraceptive methods, federal Food and Drug
23 Administration-approved contraceptive drugs, devices, and
24 supplies.

25 (xi) Possible contraceptive consequences and followup.

26 (xii) Interpersonal communication and negotiation of
27 relationships to assist individuals and couples in effective
28 contraceptive method use and planning families.

29 (D) A comprehensive health history, updated at the next periodic
30 visit (between 11 and 24 months after initial examination) that
31 includes a complete obstetrical history, gynecological history,
32 contraceptive history, personal medical history, health risk factors,
33 and family health history, including genetic or hereditary
34 conditions.

35 (E) A complete physical examination on initial and subsequent
36 periodic visits.

37 (F) Services, drugs, devices, and supplies deemed by the federal
38 Centers for Medicare and Medicaid Services to be appropriate for
39 inclusion in the program.

1 (G) (i) Home test kits for sexually transmitted diseases,
2 including any laboratory costs of processing the kit, that are
3 deemed medically necessary or appropriate and ordered directly
4 by an enrolled Medi-Cal or Family PACT clinician or furnished
5 through a standing order for patient use based on clinical guidelines
6 and individual patient health needs.

7 (ii) For purposes of this subparagraph, “home test kit” means a
8 product used for a test recommended by the federal Centers for
9 Disease Control and Prevention guidelines or the United States
10 Preventive Services Task Force that has been CLIA-waived,
11 FDA-cleared or -approved, or developed by a laboratory in
12 accordance with established regulations and quality standards, to
13 allow individuals to self-collect specimens for STDs, including
14 HIV, remotely at a location outside of a clinical setting.

15 (iii) Reimbursement under this subparagraph shall be contingent
16 upon the addition of codes specific to home test kits in the Current
17 Procedural Terminology or Healthcare Common Procedure Coding
18 System to comply with Health Insurance Portability and
19 Accountability Act requirements. The home test kit shall be sent
20 by the enrolled Family PACT provider to a Medi-Cal-enrolled
21 laboratory with fee based on Medicare Clinical Diagnostic
22 Laboratory Tests Payment System Final Rule.

23 (H) Coverage for immunization against human papillomavirus
24 (HPV), as clinically indicated, to persons who are 18 years of age
25 or younger. This subparagraph shall not be construed as prohibiting
26 the department from providing that coverage to persons who are
27 over 18 years of age through the Family PACT Program.

28 (9) In order to maximize the availability of federal financial
29 participation under this subdivision, the director shall have the
30 discretion to implement the Family PACT successor state plan
31 amendment retroactively to July 1, 2010.

32 (ab) (1) Purchase of prescribed enteral nutrition products is
33 covered, subject to the Medi-Cal list of enteral nutrition products
34 and utilization controls.

35 (2) Purchase of enteral nutrition products is limited to those
36 products to be administered through a feeding tube, including, but
37 not limited to, a gastric, nasogastric, or jejunostomy tube. A
38 beneficiary under the Early and Periodic Screening, Diagnostic,
39 and Treatment Program shall be exempt from this paragraph.

1 (3) Notwithstanding paragraph (2), the department may deem
2 an enteral nutrition product, not administered through a feeding
3 tube, including, but not limited to, a gastric, nasogastric, or
4 jejunostomy tube, a benefit for patients with diagnoses, including,
5 but not limited to, malabsorption and inborn errors of metabolism,
6 if the product has been shown to be neither investigational nor
7 experimental when used as part of a therapeutic regimen to prevent
8 serious disability or death.

9 (4) Notwithstanding Chapter 3.5 (commencing with Section
10 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
11 the department may implement the amendments to this subdivision
12 made by the act that added this paragraph by means of all-county
13 letters, provider bulletins, or similar instructions, without taking
14 regulatory action.

15 (5) The amendments made to this subdivision by the act that
16 added this paragraph shall be implemented June 1, 2011, or on the
17 first day of the first calendar month following 60 days after the
18 date the department secures all necessary federal approvals to
19 implement this section, whichever is later.

20 (ac) Diabetic testing supplies are covered when provided by a
21 pharmacy, subject to utilization controls.

22 (ad) (1) Nonmedical transportation is covered, subject to
23 utilization controls and permissible time and distance standards,
24 for a beneficiary to obtain covered Medi-Cal services.

25 (2) (A) (i) Nonmedical transportation includes, at a minimum,
26 round trip transportation for a beneficiary to obtain covered
27 Medi-Cal services by passenger car, taxicab, or any other form of
28 public or private conveyance, and mileage reimbursement when
29 conveyance is in a private vehicle arranged by the beneficiary and
30 not through a transportation broker, bus passes, taxi vouchers, or
31 train tickets.

32 (ii) Nonmedical transportation does not include the
33 transportation of a sick, injured, invalid, convalescent, infirm, or
34 otherwise incapacitated beneficiary by ambulance, litter van, or
35 wheelchair van licensed, operated, and equipped in accordance
36 with state and local statutes, ordinances, or regulations.

37 (B) Nonmedical transportation shall be provided for a
38 beneficiary who can attest in a manner to be specified by the
39 department that other currently available resources have been
40 reasonably exhausted. For a beneficiary enrolled in a managed

1 care plan, nonmedical transportation shall be provided by the
2 beneficiary's managed care plan. For a Medi-Cal fee-for-service
3 beneficiary, the department shall provide nonmedical transportation
4 when those services are not available to the beneficiary under
5 Sections 14132.44 and 14132.47.

6 (3) Nonmedical transportation shall be provided in a form and
7 manner that is accessible, in terms of physical and geographic
8 accessibility, for the beneficiary and consistent with applicable
9 state and federal disability rights laws.

10 (4) It is the intent of the Legislature in enacting this subdivision
11 to affirm the requirement under Section 431.53 of Title 42 of the
12 Code of Federal Regulations, in which the department is required
13 to provide necessary transportation, including nonmedical
14 transportation, for recipients to and from covered services. This
15 subdivision shall not be interpreted to add a new benefit to the
16 Medi-Cal program.

17 (5) The department shall seek any federal approvals that may
18 be required to implement this subdivision, including, but not
19 limited to, approval of revisions to the existing state plan that the
20 department determines are necessary to implement this subdivision.

21 (6) This subdivision shall be implemented only to the extent
22 that federal financial participation is available and not otherwise
23 jeopardized and any necessary federal approvals have been
24 obtained.

25 (7) Prior to the effective date of any necessary federal approvals,
26 nonmedical transportation was not a Medi-Cal managed care
27 benefit with the exception of when provided as an Early and
28 Periodic Screening, Diagnostic, and Treatment service.

29 (8) Notwithstanding Chapter 3.5 (commencing with Section
30 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
31 the department, without taking any further regulatory action, shall
32 implement, interpret, or make specific this subdivision by means
33 of all-county letters, plan letters, plan or provider bulletins, or
34 similar instructions until the time regulations are adopted. By July
35 1, 2018, the department shall adopt regulations in accordance with
36 the requirements of Chapter 3.5 (commencing with Section 11340)
37 of Part 1 of Division 3 of Title 2 of the Government Code.
38 Commencing January 1, 2018, and notwithstanding Section
39 10231.5 of the Government Code, the department shall provide a
40 status report to the Legislature on a semiannual basis, in

1 compliance with Section 9795 of the Government Code, until
2 regulations have been adopted.

3 (9) This subdivision shall not be implemented until July 1, 2017.

4 (ae) (1) No sooner than January 1, 2022, Rapid Whole Genome
5 Sequencing, including individual sequencing, trio sequencing for
6 a parent or parents and their baby, and ultra-rapid sequencing, is
7 a covered benefit for any Medi-Cal beneficiary who is one year
8 of age or younger and is receiving inpatient hospital services in
9 an intensive care unit.

10 (2) Notwithstanding Chapter 3.5 (commencing with Section
11 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
12 the department, without taking any further regulatory action, shall
13 implement, interpret, or make specific this subdivision by means
14 of all-county letters, plan letters, plan or provider bulletins, or
15 similar instructions until the time regulations are adopted.

16 (3) This subdivision shall be implemented only to the extent
17 that any necessary federal approvals are obtained, and federal
18 financial participation is available and not otherwise jeopardized.

19 (af) (1) Home test kits for sexually transmitted diseases that
20 are deemed medically necessary or appropriate and ordered directly
21 by an enrolled Medi-Cal clinician or furnished through a standing
22 order for patient use based on clinical guidelines and individual
23 patient health needs.

24 (2) For purposes of this subdivision, “home test kit” means a
25 product used for a test recommended by the federal Centers for
26 Disease Control and Prevention guidelines or the United States
27 Preventive Services Task Force that has been CLIA-waived,
28 FDA-cleared or -approved, or developed by a laboratory in
29 accordance with established regulations and quality standards, to
30 allow individuals to self-collect specimens for STDs, including
31 HIV, remotely at a location outside of a clinical setting.

32 (3) Reimbursement under this subparagraph shall be contingent
33 upon the addition of codes specific to home test kits in the Current
34 Procedural Terminology or Healthcare Common Procedure Coding
35 System to comply with Health Insurance Portability and
36 Accountability Act requirements. The home test kit shall be sent
37 by the enrolled Medi-Cal provider to a Medi-Cal-enrolled
38 laboratory with fee based on Medicare Clinical Diagnostic
39 Laboratory Tests Payment System Final Rule.

1 (4) This subdivision shall be implemented only to the extent
2 that federal financial participation is available and not otherwise
3 jeopardized, and any necessary federal approvals have been
4 obtained.

5 (5) Notwithstanding Chapter 3.5 (commencing with Section
6 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
7 the State Department of Health Care Services may implement this
8 subdivision by means of all-county letters, plan letters, plan or
9 provider bulletins, or similar instructions, without taking any
10 further regulatory action.

11 (ag) (1) Violence prevention services are covered, subject to
12 medical necessity and utilization controls.

13 (2) Notwithstanding Chapter 3.5 (commencing with Section
14 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
15 the department, without taking any further regulatory action, may
16 implement, interpret, or make specific this subdivision by means
17 of all-county letters, plan letters, plan or provider bulletins, or
18 similar instructions until the time regulations are adopted.

19 (3) This subdivision shall be implemented only to the extent
20 that any necessary federal approvals are obtained, and federal
21 financial participation is available and not otherwise jeopardized.

22 (4) The department shall post on its internet website the date
23 upon which violence prevention services may be provided and
24 billed pursuant to this subdivision.

25 (5) “Violence prevention services” means evidence-based,
26 trauma-informed, and culturally responsive preventive services
27 provided to reduce the incidence of violent injury or reinjury,
28 trauma, and related harms and promote trauma recovery,
29 stabilization, and improved health outcomes.

30 ~~SEC. 5.~~

31 *SEC. 6.* If the Commission on State Mandates determines that
32 this act contains costs mandated by the state, reimbursement to
33 local agencies and school districts for those costs shall be made
34 pursuant to Part 7 (commencing with Section 17500) of Division
35 4 of Title 2 of the Government Code.