
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

Bill No: AB 1239 **Hearing Date:** July 11, 2023
Author: Calderon
Version: March 23, 2023
Urgency: No **Fiscal:** Yes
Consultant: SJ

Subject: *Incarcerated persons: Family Planning, Access, Care, and Treatment Program*

HISTORY

Source: Author

Prior Legislation: AB 732 (Bonta), Ch. 321, Stats. 2020
AB 720 (Skinner), Ch. 626, Stats. 2013

Support: American College of Obstetricians and Gynecologists District IX

Opposition: None known

Assembly Floor Vote: 76 - 0

PURPOSE

The purpose of this bill is to require the Department of Health Care Services (DHCS) to issue a list of Family Planning, Access, Care, and Treatment Program (Family PACT) providers and clinics to entities designated by the California Department of Corrections and Rehabilitation (CDCR) and county jails for voluntary partnership to assist incarcerated individuals receiving services upon their release.

Existing law establishes DHCS to administer the Family PACT program which provides comprehensive clinical family planning services to low income persons. (Welf. & Inst. Code, § 14132, subd. (aa).)

Existing law defines “comprehensive clinical family planning services” to mean the process of establishing objectives for the number and spacing of children, and selecting the means by which those objectives may be achieved. Includes a broad range of acceptable and effective methods and services to limit or enhance fertility, including contraceptive methods, federal Food and Drug Administration (FDA)-approved contraceptive drugs, devices, and supplies, natural family planning, abstinence methods, and basic, limited fertility management. Specifies that comprehensive clinical family planning services include, but are not limited to, preconception counseling, maternal and fetal health counseling, general reproductive health care, including diagnosis and treatment of infections and conditions, including cancer, that threaten reproductive capability, medical family planning treatment and procedures, including supplies and follow-up, and informational, counseling, and educational services. (Welf. & Inst. Code, § 14132, subd. (aa)(8).)

Existing law requires that any person incarcerated in state prison who is capable of becoming pregnant have access to and be allowed to obtain, upon request, contraceptive counseling and their choice of birth control methods unless medically contraindicated. (Pen. Code, § 3049, subd. (a).)

Existing law requires all birth control methods and emergency contraception approved by the FDA to be made available to incarcerated persons who are capable of becoming pregnant, with the exception of sterilizing procedures that are prohibited by law. Requires the California Correctional Health Care Services establish a formulary that consists of all FDA-approved birth control methods. Provides that if a birth control method has more than one FDA-approved therapeutic equivalent, only one version of that method must be required to be made available, unless another version is specifically indicated by a prescribing provider and approved by the chief medical physician at the facility. Requires access to nonprescription birth control methods without the requirement to see a licensed health care provider. (Pen. Code, § 3049, subd. (b).)

Existing law requires any contraceptive service that requires a prescription, or any contraceptive counseling, provided to incarcerated persons who are capable of becoming pregnant, to be furnished by a licensed health care provider who has been provided with training in reproductive health care, including contraceptive care and counseling, and shall be nondirective, unbiased, and noncoercive. (Pen. Code, § 3049, subd. (c).)

Existing law requires any incarcerated person who is capable of becoming pregnant to be furnished by the facility with information and education regarding the availability of family planning services and their right to receive nondirective, unbiased, and noncoercive contraceptive counseling and services. (Pen. Code, § 3049, subd. (d).)

Existing law requires contraceptive counseling and family planning services to be offered and made available to all incarcerated persons who are capable of becoming pregnant at least 60 days, but not longer than 180 days, prior to a scheduled release date. (Pen. Code, § 3049, subd. (e).)

Existing law authorizes the board of supervisors in each county, through December 31, 2022, to designate an entity or entities in consultation with the county sheriff, to assist county jail inmates with submitting an application for a health insurance affordability program consistent with federal requirements. (Pen. Code, § 4011.11, subd. (a)(1).)

Existing law prohibits the board of supervisors from designating the county sheriff as an entity to assist with submitting an application for a health insurance affordability program for county jail inmates unless the county sheriff agrees to perform this function. (Pen. Code, § 4011.11, subd. (a)(2).)

Existing law provides that if the board of supervisors designates a community-based organization as an entity to assist with submitting an application for a health insurance affordability program for county jail inmates, the designation must be subject to approval by the jail administrator or their designee. (Pen. Code, § 4011.11, subd. (a)(3).)

Existing law requires, commencing January 1, 2023, the board of supervisors in each county, in consultation with the county sheriff, to designate an entity or entities to assist county jail inmates with submitting an application for, or otherwise assisting their enrollment in, a health insurance affordability program consistent with federal requirements. Requires the board of supervisors in

each county, in consultation with the chief probation officer, to designate an entity or entities to assist juvenile inmates in county juvenile facilities with submitting an application for, or otherwise assisting with an application for enrollment in, a health insurance affordability program consistent with federal requirements. (Pen. Code, § 4011.11, subd. (h)(1).)

Existing law prohibits the board of supervisors from designating the county sheriff as an entity to assist with submitting an application for a health insurance affordability program for county jail inmates unless the county sheriff agrees to perform this function, and prohibits the board from designating the chief probation officer as an entity to assist with submitting an application for a health insurance affordability program for juvenile inmates unless the chief probation officer agrees to perform this function. (Pen. Code, § 4011.11, subd. (h)(2).)

Existing law requires, if the board of supervisors designates a community-based organization as an entity to assist with submitting an application for a health insurance affordability program for county jail inmates, the designation for county jail inmates to be subject to approval by the jail administrator or their designee, and the designation for juvenile inmates to be subject to approval by the chief probation officer or their designee. (Pen. Code, § 4011.11, subd. (h)(3).)

Existing law requires, consistent with federal law, a county jail inmate who is currently enrolled in the Medi-Cal program to remain eligible for, and prohibits the person from being terminated from, the program due to their incarceration unless required by federal law, they become otherwise ineligible, or the inmate's suspension of benefits has ended, as specified. (Pen. Code, § 4011.11, subd. (c).)

Existing law provides, only to the extent federal law allows and federal financial participation is available, a designated entity is authorized to act on behalf of a county jail inmate for the purpose of applying for, or determinations of, Medi-Cal eligibility for acute inpatient hospital services. Prohibits a designated entity from determining Medi-Cal eligibility or redetermining Medi-Cal eligibility, unless the entity is the county human services agency. (Pen. Code, § 4011.11, subd. (d).)

Existing law provides that the fact that an applicant is an inmate shall not, in and of itself, preclude a county human services agency from processing an application for the Medi-Cal program submitted to it by, or on behalf of, that inmate. (Pen. Code, § 4011.11, subd. (e).)

Existing law requires DHCS to develop the data elements required to implement this section, in consultation with interested stakeholders that include representatives of counties, county sheriffs, county probation agencies, and whole person care pilot lead entities with experience working with incarcerated individuals. (Pen. Code, § 4011.11, subd. (h)(4)(A).)

Existing law requires DHCS, counties, county sheriffs, and county probation agencies to share the information and data necessary to facilitate the enrollment of inmates in health insurance affordability programs on or before their date of release and to appropriately suspend and unsuspend Medi-Cal coverage for beneficiaries. (Pen. Code, § 4011.11, subd. (h)(4)(B).)

Existing law requires, no sooner than January 1, 2023, the DHCS, in consultation with counties, county sheriffs, probation departments, Medi-Cal managed care plans, and Medi-Cal behavioral health delivery systems, to develop and implement a mandatory process by which county jails and county juvenile facilities coordinate with Medi-Cal managed care plans and Medi-Cal behavioral health delivery systems to facilitate continued behavioral health treatment in the

community for county jail inmates and juvenile inmates that were receiving behavioral health services before their release. (Pen. Code, § 4011.11, subd. (h)(5)(B).)

This bill requires DHCS, no later than September 1, 2025, to issue a list of Family PACT providers and clinics to an entity designated by CDCR and county jails for voluntary partnership to assist incarcerated individuals with continuing their prescribed contraception methods and receiving services, including sexually transmitted infection (STI) and cervical cancer screenings, upon their release.

This bill requires assistance provided to an incarcerated individuals to be provided only to the extent that the person elects to receive information on Family PACT providers and clinics from the designated entity.

COMMENTS

1. Need For This Bill

According to the author:

The Family Planning, Access, Care, and Treatment (FPACT) program is a Medi-Cal expansion program that provides low-income individuals with essential family planning services. These services include contraceptives, cervical cancer screenings, and treatments for urinary tract infections. Incarcerated individuals can already receive contraceptive counseling and family planning services at least 60 days prior to their release. While state prisons and county jails currently provide technical assistance for Medi-Cal and share information on family planning services upon release, incarcerated individuals rarely know where to seek such services. To ensure these individuals continue their prescribed contraception method and receive other services, Assembly Bill 1239 requires incarcerated individuals, who elect to receive assistance, to be provided with a list of FPACT providers and clinics.

2. Family PACT Program

The Family PACT Program is administered by the Office of Family Planning within DHCS and provides family planning and reproductive health services at no cost to California's low-income residents of reproductive age. The program offers comprehensive family planning services, including contraception, pregnancy testing, and sterilization, as well as sexually transmitted infection testing and limited cancer screening services.

Medical providers who are eligible to enroll in the Family PACT Program include solo providers, group providers, or primary care clinics that currently have a National Provider Identifier (NPI), are enrolled and in good standing with Medi-Cal, and have the family planning skills, competency, and knowledge to provide comprehensive family planning and reproductive health services as well as provide the full range of services covered in the program.

3. California Advancing and Innovating Medicine (CalAIM) Justice-Involved Initiative

When a person is released from prison or jail, they need housing, access to health care, and employment, among other things. Many individuals being released from prison often have serious or chronic health conditions, and in the first two weeks following release are twelve times more likely to die due to health issues or from an increased risk of a fatal overdose. (Nisi Wilder and J. Duncan Moore, Jr., *Getting Out of Prison is ‘Terrifying’* (Feb. 13, 2023) available at <<https://www.chcf.org/blog/getting-out-of-prison-terrifying/>>.) In recent years, there have been various efforts to improve continuity of health care for those re-entering society following incarceration.

Earlier this year, California became the first state in the nation approved to offer a targeted set of Medicaid services to youth and eligible adults in state prisons, county jails, and youth correctional facilities for up to 90 days prior to release. By establishing pre-release Medi-Cal enrollment strategies to ensure individuals have continuity of coverage upon their release and access to key services, the state hopes to improve health outcomes in this population and facilitate a successful return to their communities.

According to DHCS, the California Justice-Involved initiative has several key components. Under the initiative, county jails, county youth correctional facilities, and state prisons:

- Ensure all eligible individuals are enrolled in Medi-Cal prior to release;
- Provide targeted Medi-Cal health care services to youth and eligible adults in the 90 days prior to release to prepare them to return to the community and reduce gaps in care. Eligible adults include those who have a mental health diagnosis or suspected diagnosis, a substance use disorder or suspected diagnosis, a chronic clinical condition, a traumatic brain injury, intellectual or development disability, or are pregnant or postpartum. All incarcerated youth in a youth correctional facility are eligible with no clinical criteria required;
- Provide “warm handoffs” to health care providers to ensure that individuals who require behavioral and other health care services, medications, and other medical supplies (e.g., a wheelchair) have what they need upon re-entry;
- Work with community-based care managers to offer intensive, community-based care coordination for individuals at re-entry, including through Enhanced Care Management; and,
- Work with community-based care managers to make Community Supports (e.g., housing supports or food supports) available upon re-entry if offered by their managed care plan. (DHCS, *California Advancing and Innovating Medicine Justice-Involved Initiative Fact Sheet*, p. 2 available at <<https://www.dhcs.ca.gov/CalAIM/Documents/CalAIM-JI-ally.pdf>>.)

4. Effect of This Bill

Current law requires each county board of supervisors, in consultation with the county sheriff, to designate an entity or entities to assist county jail inmates with submitting an application for or assisting enrollment in a health insurance affordability program. (Pen. Code, § 4011.11, subd. (h)(1).) A county board of supervisors may only designate the county sheriff as that entity unless the county sheriff agrees to do so. (Pen. Code, § 4011.11, subd. (h)(2).) If a community-based

organization is designated as that entity for county jail inmates, its designation as such must be approved by the jail administrator or their designee. (Pen. Code, § 4011.11, subd. (h)(3).)

This bill requires DHCS, no later than September 1, 2025, to issue a list of Family PACT providers and clinics to an entity designated by CDCR and county jails for voluntary partnership to assist incarcerated individuals with continuing their prescribed contraception methods and receiving services, including sexually transmitted infection and cervical cancer screenings, upon their release. This bill specifies that assistance provided to an incarcerated individual only has to be provided if the person elects to receive information on Family PACT providers and clinics from the designated entity.

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