

VETO/CHAPTER SUMMARY

Bill: AB 96 2011-2012
VETOED DATE: 07/25/11

To the Members of the California State Assembly:

I am returning Assembly Bill 96 without my signature.

The bill would recreate, under a different name, the same Adult Day Health Care (ADHC) program that was eliminated as a Medi-Cal optional benefit through the 2011-12 Budget Act. While my Administration deeply shares the goal of "Keeping Adults Free from Institutions," creating a new ADHC look-alike program at this juncture is unnecessary and untimely. It does not address the immediate need to transition ADHC beneficiaries to other home and community-based services that can meet their needs, and would cause confusion for both consumers and providers about when an ill-defined "KAFI" program would be available.

In order to ensure that ADHC beneficiaries do not face the risk of unnecessary institutionalization when the benefit expires, my Administration is currently working with adult day health centers, managed care plans, and local community-based organizations to ensure that needed medical services and home and community-based services are available. Additionally, in order to ensure that there is enough time for transition to such services, the Department of Health Care Services recently extended the ADHC benefit through administrative action until December 1, 2011, with federal funding approval.

Given the importance of these transition efforts, I am directing the Department of Health Care Services to work with the Legislature, stakeholders, managed care plans, and home and community-based services providers to ensure that ADHC beneficiaries will have a smooth transition to appropriate services, and those who are most at risk of institutionalization have access to services that will help them remain in the community.

Care in an integrated setting will be part of my Administration's plan to improve long-term care. To the extent that adult day health care-type services can become part of an integrated continuum of care, my Administration will work to bring such providers into the conversation on how these services can be efficiently and effectively delivered for the benefit of consumers.

For this reason, I am signing Senate Bill 91, which will allow adult day health centers to continue to operate after the fee-for-service payments under Medi-Cal expire. This will allow adult day health centers to be considered a care option as part of an integrated delivery system, or for consumers who may wish to access services apart from Medi-Cal.

Sincerely,

Edmund G. Brown Jr.

CHAPTER _____

An act to add Chapter 8.6 (commencing with Section 14515) to Part 3 of Division 9 of the Welfare and Institutions Code, relating to Medi-Cal, making an appropriation therefor, to take effect immediately, bill related to the budget.

LEGISLATIVE COUNSEL'S DIGEST

AB 96, Committee on Budget. Keeping Adults Free from Institutions program.

Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which health care services are provided to qualified, low-income persons. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing law provides, to the extent permitted by federal law, that adult day health care (ADHC) be excluded from coverage under the Medi-Cal program.

This bill would provide that it is the intent of the Legislature to create the Keeping Adults Free from Institutions (KAFI) program, which shall be a new program to provide services in the community that are designed to prevent institutionalization, and that the KAFI program be established as quickly as possible to minimize any disruption in services resulting from the elimination of ADHC as a Medi-Cal benefit. This bill would prohibit the KAFI program from being implemented until federal approval is obtained, and provide that the KAFI program is to be implemented only to the extent that federal financial participation is available. This bill would require the department to submit, on or before September 1, 2011, an application to the federal Centers for Medicare and Medicaid Services (CMS) to implement the KAFI program. This bill would require the KAFI program to utilize licensed adult day health centers to provide a well-defined scope of specified services for Medi-Cal beneficiaries who have been assessed to be at significant risk of institutionalization. This bill would require the department to consult with interested stakeholders and the Legislature in developing the application to CMS and would authorize the department to implement these provisions by means

of a state plan amendment or federal waiver, or combination thereof.

This bill would appropriate \$1,000 to the department for administration.

This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Appropriation: yes.

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

SECTION 1. Chapter 8.6 (commencing with Section 14515) is added to Part 3 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 8.6. KEEPING ADULTS FREE FROM INSTITUTIONS

14515. (a) It is the intent of the Legislature to create the Keeping Adults Free from Institutions (KAFI) program, which shall be a new program to provide services in the community that are designed to prevent institutionalization.

(b) It is the intent of the Legislature that the KAFI program allow recipients of adult day health care pursuant to Chapter 8.7 (commencing with Section 14520), who are at the greatest risk of institutionalization, to be given immediate priority to transition to the new program.

(c) It is the intent of the Legislature that the KAFI program be established as quickly as possible to minimize any disruption in services resulting from the elimination of adult day health care as a Medi-Cal optional benefit.

14516. (a) On or before September 1, 2011, the department shall submit an application to the federal Centers for Medicare and Medicaid Services (CMS) to implement the Keeping Adults Free from Institutions (KAFI) program. This program shall utilize licensed adult day health centers, as defined in subdivision (b) of Section 1570.7 of the Health and Safety Code, to provide a well-defined scope of medical, behavioral health, and social services for Medi-Cal beneficiaries who have been assessed using evidence-based risk factors to be at significant risk of institutionalization, including admission or readmission to an

institutional setting in the absence of community-based services. The KAFI program shall achieve all of the following:

- (1) Promote person-centered care planning.
- (2) Work in coordination with existing state programs, including other federal waivers and pilot projects that have, as one of their goals, to delay or prevent inappropriate or personally undesirable institutionalization.
- (3) Emphasize partnership between the participant, the participant's family, the personal health care provider, and other community care providers in working toward maintaining personal independence.

(4) Facilitate the beneficiary's choice to the extent feasible.

(b) The department may implement this chapter by means of a state plan amendment or federal waiver, or a combination thereof, as necessary to accomplish the intent of this chapter. The department shall seek to maximize the availability of federal financial participation for implementation of this chapter under the terms of any existing waivers or state plan provisions, through amendment of any existing waivers or state plan provisions, or by means of a new waiver or state plan amendment, or any combination thereof.

(c) In developing the application to CMS pursuant to this section, the department shall consult with interested stakeholders and the Legislature.

(d) Notwithstanding the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement this chapter through all-county letters or similar instructions, without taking regulatory action. Prior to issuing any letter or similar instruction authorized pursuant to this subdivision, the department shall notify and consult with stakeholders, including advocates, providers, and beneficiaries, in implementing, interpreting, or making specific this chapter.

14516.5. (a) The director shall seek any necessary federal approvals for the implementation of the KAFI program. The KAFI program shall not be implemented until federal approval is obtained and shall be implemented only to the extent that federal financial participation is available.

(b) Implementation of the KAFI program is subject to an appropriation in the annual Budget Act.

SEC. 2. The sum of one thousand dollars (\$1,000) is hereby appropriated from the General Fund to the State Department of Health Care Services for administration.

SEC. 3. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.