

AMENDED IN ASSEMBLY MARCH 18, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

**ASSEMBLY BILL**

**No. 368**

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**Introduced by Assembly Member Bonta  
(Coauthors: Assembly Members ~~Chiu~~ Arambula, Chiu, Reyes, and  
Wicks)**

February 1, 2021

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An act to add and repeal Section 14042.15 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 368, as amended, Bonta. ~~Medically supportive food.~~ *Food prescriptions.*

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services, including enteral nutrition products, pursuant to a schedule of benefits, and subject to utilization controls, such as prior authorization. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Existing law requires the department to establish a Medically Tailored Meals Pilot Program to operate for a period of 4 years from the date the program is established, or until funding is no longer available, whichever date is earlier, in specified counties, including the Counties of Alameda and Sonoma, to provide medically tailored meal intervention services to Medi-Cal participants with specified health conditions, such as diabetes and renal disease.

This bill would require the department to establish, no earlier than January 1, 2022, a pilot program for a 2-year period in 3 counties, including the County of Alameda, to provide food prescriptions ~~for~~

medically supportive food, such as healthy food vouchers or renewable food prescriptions, to eligible Medi-Cal beneficiaries, including individuals who have a specified chronic health condition, such as *Type 2* diabetes and hypertension, when utilizing evidence-based practices that demonstrate the prevention, ~~reduction,~~ *treatment,* or reversal of those specified diseases. The bill would authorize the department, in consultation with stakeholders, to establish utilization controls, including the limitation on the number of services, and to enter into contracts for purposes of implementing the pilot program. *The bill would require a Medi-Cal managed care plan or their contractor that participates in the pilot program to establish procedures for referring and enrolling eligible Medi-Cal beneficiaries in the pilot program.* The bill would require the department to evaluate the pilot program upon its conclusion, to report to the Legislature on those findings, and to implement these provisions by various means, including provider bulletins, without taking regulatory action. The bill would repeal these provisions on January 1, 2027.

This bill would make legislative findings and declarations as to the necessity of a special statute for ~~the County of Alameda, County of XXX, and County of XXX;~~ *specified counties, including the County of Alameda.*

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

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

1     SECTION 1. Section 14042.15 is added to the Welfare and  
2     Institutions Code, immediately following Section 14042.1, to read:  
3     14042.15. (a) (1) *It is the intent of the Legislature to eliminate*  
4     *racial and ethnic health disparities, increase positive health*  
5     *outcomes, and reduce rates of food and nutrition insecurity for*  
6     *Medi-Cal beneficiaries in three counties in California, including*  
7     *the County of Alameda and two large counties, by establishing a*  
8     *two-year food prescription pilot program. The objective of this*  
9     *pilot program is to build upon Assembly Concurrent Resolution*  
10    *No. 108 (Res. Ch. 166, Stats. 2017), which encourages local*  
11    *jurisdictions across California to create “Food as Medicine”*  
12    *programs to address the obesity and diabetes epidemic. The pilot*  
13    *program shall provide food prescriptions to eligible Medi-Cal*  
14    *beneficiaries who are enrolled in a Medi-Cal managed care plan*

1 *and are medically considered at rising-risk because they have one*  
2 *or more specified chronic health conditions and are experiencing*  
3 *food insecurity, but they do not require extensive care coordination.*  
4 *A food prescription shall consist of medically supportive food used*  
5 *for the prevention, reversal, or treatment of chronic health*  
6 *conditions, and may be paired with behavioral, cooking, or*  
7 *nutrition education, coaching, and counseling.*

8 *(2) The Legislature finds that racial and ethnic health disparities*  
9 *have been exacerbated by the COVID-19 pandemic. This public*  
10 *health emergency, COVID-19, has illuminated the urgent need to*  
11 *build resiliency among medically vulnerable populations,*  
12 *especially those with underlying chronic health conditions.*  
13 *According to the State Department of Public Health, Latinos,*  
14 *African Americans, Pacific Islanders, and Native Hawaiians have*  
15 *a higher death rate from COVID-19 than other populations. The*  
16 *federal Centers for Disease Control and Prevention*  
17 *overwhelmingly reports that most of those hospitalized or who die*  
18 *from COVID-19 have an underlying health condition. Chronic*  
19 *health conditions disproportionately impact communities of color,*  
20 *making them particularly vulnerable for adverse health outcomes*  
21 *from severe COVID-19, including hospitalization and death.*  
22 *African Americans, Latinos, and Filipinos are at higher risk for*  
23 *prediabetes and diabetes than other populations. The Kaiser*  
24 *Family Foundation reports that one in five Latinos say they have*  
25 *fair or poor health, and, according to the March of Dimes, African*  
26 *American women have a higher rate of preterm and low birth*  
27 *weight babies, which is often an indication of subsequent health*  
28 *problems, such as diabetes and high blood pressure. By preventing,*  
29 *treating, and reversing their underlying chronic health conditions,*  
30 *Medi-Cal beneficiaries, and especially members of populations*  
31 *who experience health disparities, may be less vulnerable not only*  
32 *to COVID-19, but other chronic illnesses. Moreover, it is the intent*  
33 *of the Legislature to reduce racial health disparities and generate*  
34 *long-term cost savings to the health care system as a result of the*  
35 *implementation of the two-year food prescription pilot program.*

36 *(b) For purposes of this section, the following definitions apply:*

37 *(1) "Eligible Medi-Cal beneficiary" means an individual who*  
38 *is eligible to participate in the pilot program and meets all of the*  
39 *following requirements:*

40 *(A) (i) Enrolled in a Medi-Cal managed care plan.*

1 (ii) For purposes of clause (i), “Medi-Cal managed care plan”  
2 means a Medi-Cal managed care health plan that serves in one  
3 or more of the three pilot counties.

4 (B) Has one or more of the following chronic health conditions:  
5 (i) Depression or anxiety.  
6 (ii) Type 2 diabetes or prediabetes.  
7 (iii) Hypertension, which is also referred to as high blood  
8 pressure.  
9 (iv) Nonalcoholic fatty liver disease.  
10 (v) Overweight, obesity, or severe obesity, as measured by a  
11 person’s body mass index (BMI). For purposes of this clause,  
12 “overweight” means a person’s BMI is between 25 kg/m<sup>2</sup> and 30  
13 kg/m<sup>2</sup>. “Obesity” means a person’s BMI is 30 kg/m<sup>2</sup> or higher,  
14 but under 40 kg/m<sup>2</sup>, and “severe obesity” means that a person’s  
15 BMI is 40 kg/m<sup>2</sup> or higher.  
16 (vi) Dyslipidemia, hypertriglyceridemia, or low high-density  
17 lipoprotein cholesterol.  
18 (vii) High-risk pregnancy, including gestational diabetes.

19 (C) Medically vulnerable, as defined by health conditions with  
20 the highest health disparities.

21 (2) “Food prescription” means a specific dosage of medically  
22 supportive food, which is prescribed by a Medi-Cal managed care  
23 plan or plan contractor, that is based on evidence-based practices  
24 that demonstrate the prevention, treatment, or reversal of specific  
25 chronic health conditions.

26 (3) “Medically supportive food” means any nutrient-rich whole  
27 food, including any fruit, vegetable, legume, nut, seed, whole grain,  
28 seafood, and lean animal protein, used for the prevention,  
29 treatment, or reversal of a specific chronic health condition.

30 (4) (A) “Pilot program” means the two-year pilot program  
31 established in the County of Alameda and two large counties to  
32 provide medically supportive food through food prescription  
33 programs and services to eligible Medi-Cal beneficiaries with the  
34 goal of eliminating health disparities, improving health outcomes,  
35 and reducing rates of food and nutrition insecurity.

36 (B) For purposes of subparagraph (A), “large counties” means  
37 counties with a population of greater than 700,000 people.

38 (c) To the extent funds are made available in the annual Budget  
39 Act for this purpose, and no earlier than January 1, 2022, the  
40 department shall establish a pilot program for a two-year period

1 *in the County of Alameda and two large counties to provide food*  
2 *prescriptions to eligible Medi-Cal beneficiaries, as described in*  
3 *paragraph (1) of subdivision (b), subject to utilization controls,*  
4 *as specified in subdivision (d) and Section 14133.*

5 *(d) The department, in consultation with stakeholders, may*  
6 *establish utilization controls, as described in Section 14133, with*  
7 *respect to the limitation on the number of services, including how*  
8 *these services may be restricted as to a set number within a*  
9 *specified timeframe. In developing these utilization controls under*  
10 *the pilot program, the department and Medi-Cal managed care*  
11 *plans shall consider the nutritional needs, food security, and health*  
12 *status of a recipient. If applicable, the department shall consult*  
13 *with the Medi-Cal managed care plans in each of the pilot program*  
14 *counties to ensure that the pilot program does not duplicate*  
15 *services or funding between pilot program participants and the*  
16 *target population for the California Advancing and Innovating*  
17 *Medi-Cal initiative, including enhanced case management and in*  
18 *lieu of services, and the Medically Tailored Meals Pilot Program,*  
19 *as established under Section 14042.1.*

20 *(e) For purposes of implementing the pilot program, the*  
21 *department may enter into exclusive or nonexclusive contracts on*  
22 *a bid or negotiated basis with Medi-Cal managed care plans that*  
23 *may directly implement the food prescription programs and*  
24 *services or contract with vendors to administer these programs*  
25 *and services on their behalf. Medi-Cal managed care plans shall*  
26 *prioritize public, nonprofit, and community-based organizations,*  
27 *including entities that source California-grown produce and*  
28 *products. Any contract entered into or amended pursuant to this*  
29 *section shall be exempt from Chapter 6 (commencing with Section*  
30 *14825) of Part 5.5 of Division 3 of Title 2 of the Government Code,*  
31 *Section 19130 of the Government Code, and Part 2 (commencing*  
32 *with Section 10100) of Division 2 of the Public Contract Code,*  
33 *and shall be exempt from the review or approval of any division*  
34 *of the Department of General Services.*

35 *(f) A Medi-Cal managed care plan or their contractor that*  
36 *participates in the pilot program shall establish procedures for*  
37 *referring and enrolling eligible Medi-Cal beneficiaries in the pilot*  
38 *program. The department shall direct the Medi-Cal managed plans*  
39 *participating in the pilot program to target eligible Medi-Cal*

1 beneficiaries with health conditions as described in subparagraphs  
 2 (B) and (C), inclusive, of paragraph (1) of subdivision (b).

3 (g) (1) Upon the completion of the pilot program, and to the  
 4 extent it can be determined, the department shall evaluate the  
 5 impact of the pilot program, including, but not limited to, relevant  
 6 health outcome and health disparities data, and the pilot program’s  
 7 impact on quality and performance improvement metrics, such as  
 8 Healthcare Effectiveness Data and Information Set measures,  
 9 medication adherence, medical appointment attendance, and  
 10 member satisfaction scores. The department shall prepare these  
 11 findings, including its recommendation on expanding the pilot  
 12 program on a statewide-basis or for an extended period of time,  
 13 into a finalized report, and shall submit this report to the  
 14 Legislature by January 1, 2025, or within 12 months after the end  
 15 of the pilot program, whichever is sooner.

16 (2) A report to be submitted pursuant to paragraph (1) shall be  
 17 submitted in compliance with Section 9795 of the Government  
 18 Code.

19 (h) Notwithstanding Chapter 3.5 (commencing with Section  
 20 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
 21 the department shall implement this section by means of a provider  
 22 bulletin or similar instruction, without taking regulatory action.

23 (i) This section shall remain in effect only until January 1, 2027,  
 24 and as of that date is repealed.

25 SEC. 2. The Legislature finds and declares that a special statute  
 26 is necessary and that a general statute cannot be made applicable  
 27 within the meaning of Section 16 of Article IV of the California  
 28 Constitution because of the unique position of the County of  
 29 Alameda, and the large counties described in this act, to continue  
 30 to build upon their efforts to provide medically supportive food to  
 31 medically vulnerable residents for purposes of developing a model  
 32 food prescription pilot program to be expanded on a statewide  
 33 basis.

34 SECTION 1. Section 14042.15 is added to the Welfare and  
 35 Institutions Code, immediately following Section 14042.1, to read:

36 14042.15. (a) (1) It is the intent of the Legislature to increase  
 37 positive health outcomes for Medi-Cal beneficiaries in three  
 38 counties, the Counties of Alameda, \_\_\_\_\_, and \_\_\_\_\_, by  
 39 establishing a two-year food prescription pilot program. The pilot  
 40 program shall provide food prescriptions to eligible Medi-Cal

1 beneficiaries who are enrolled in Medi-Cal managed care plans,  
2 have one or more specified chronic health condition, and are  
3 experiencing food insecurity. A food prescription shall consist of  
4 medically supportive food used for the prevention, reversal, or  
5 management of chronic health conditions and may be paired with  
6 behavioral, cooking, nutrition education, coaching, and counseling.

7 (2) Racial and ethnic health disparities have been exacerbated  
8 by the COVID-19 pandemic. This public health emergency,  
9 COVID-19, has illuminated the urgent need to build resiliency  
10 among vulnerable populations, especially those with underlying  
11 chronic health conditions. Chronic health conditions  
12 disproportionately impact communities of color, making them  
13 particularly vulnerable for adverse health outcomes from severe  
14 COVID-19, including hospitalization and death. By managing,  
15 treating, and reversing their underlying chronic health conditions,  
16 Medi-Cal beneficiaries, and especially members of communities  
17 who experience health disparities, shall be less vulnerable not only  
18 to COVID-19, but other chronic illnesses. Moreover, it is the intent  
19 of the Legislature to reduce racial health disparities and generate  
20 long-term cost savings to the health care system as a result of the  
21 implementation of the two-year prescription pilot program.

22 (b) For purposes of this section, the following definitions apply:

23 (1) “Eligible Medi-Cal beneficiary” means an individual who  
24 is eligible to participate in the pilot program and meets all of the  
25 following requirements:

26 (A) Enrolled in a Medi-Cal managed care plan.

27 (B) Have one or more of the following chronic health conditions:

28 (i) Depression.

29 (ii) Diabetes, including prediabetes and type 1 diabetes mellitus.

30 (iii) Hypertension or high blood pressure.

31 (iv) Liver disease.

32 (v) Obesity or severe obesity, as measured by a person’s body  
33 mass index (BMI). For purposes of this clause, “obesity” means  
34 a person’s BMI is 25 kg/m<sup>2</sup> or higher, but under 40 kg/m<sup>2</sup>, and  
35 “severe obesity” means that a person’s BMI is 40 kg/m<sup>2</sup> or higher.

36 (vi) Pregnancy.

37 (C) Experience food or nutrition insecurity.

38 (D) Self-identify as a member of a community that experiences  
39 health disparities.

- 1     ~~(2) “Food prescription” means a specific dosage of medically~~  
2 ~~supportive food, which is prescribed by a Medi-Cal provider, that~~  
3 ~~is based on evidence-based practices that demonstrate the~~  
4 ~~prevention, reduction, or reversal of specific chronic health~~  
5 ~~conditions. A food prescription includes, but is not limited to,~~  
6 ~~medically supportive food administered through any of the~~  
7 ~~following programs and services:~~
- 8     ~~(A) Healthy food boxes, groceries, or meals.~~  
9     ~~(B) Healthy food vouchers for food, including produce, whole~~  
10 ~~grains, seafood, and lean animal protein.~~  
11     ~~(C) Renewable food prescriptions for food, including produce,~~  
12 ~~whole grains, seafood, and lean animal protein.~~  
13     ~~(D) Renewable produce prescriptions, including produce that~~  
14 ~~has no added fat, sugar, or salt.~~
- 15     ~~(3) “Healthy food voucher” means a coupon for free or~~  
16 ~~discounted medically supportive food.~~
- 17     ~~(4) “Medically supportive food” means any nutrient-rich whole~~  
18 ~~food, including any fruit, vegetable, legume, nut, seed, whole grain,~~  
19 ~~seafood, and lean animal protein, used for the prevention, reversal,~~  
20 ~~or management of a specific chronic health condition.~~
- 21     ~~(5) “Pilot program” means the two-year pilot program~~  
22 ~~established in the Counties of Alameda, \_\_\_\_\_, and \_\_\_\_\_,~~  
23 ~~to provide food prescriptions to eligible Medi-Cal beneficiaries.~~
- 24     ~~(e) To the extent funds are made available in the annual Budget~~  
25 ~~Act for this purpose, and no earlier than January 1, 2022, the~~  
26 ~~department shall establish a pilot program for a two-year period~~  
27 ~~in the Counties of Alameda, \_\_\_\_\_, and \_\_\_\_\_, to provide~~  
28 ~~food prescriptions to eligible Medi-Cal beneficiaries, as described~~  
29 ~~in paragraph (1) of subdivision (b), subject to utilization controls,~~  
30 ~~as specified in subdivision (d) and Section 14133.~~
- 31     ~~(d) The department, in consultation with stakeholders, may~~  
32 ~~establish utilization controls, as described in Section 14133, with~~  
33 ~~respect to the limitation on the number of services, including how~~  
34 ~~these services may be restricted as to a set number within a~~  
35 ~~specified timeframe. In developing these utilization controls under~~  
36 ~~the pilot program, the department shall consider the nutritional~~  
37 ~~needs of a recipient to prevent, reverse, or manage specified chronic~~  
38 ~~health conditions disproportionately represented in communities~~  
39 ~~of color, their acuity, and other selection criteria.~~

1 ~~(e) For purposes of implementing the pilot program, the~~  
2 ~~department may enter into exclusive or nonexclusive contracts on~~  
3 ~~a bid or negotiated basis, and shall prioritize public, nonprofit, and~~  
4 ~~community-based organizations or entities that provide~~  
5 ~~California-grown produce and products. Any contract entered into~~  
6 ~~or amended pursuant to this section shall be exempt from Chapter~~  
7 ~~6 (commencing with Section 14825) of Part 5.5 of Division 3 of~~  
8 ~~Title 2 of the Government Code, Section 19130 of the Government~~  
9 ~~Code, and Part 2 (commencing with Section 10100) of Division~~  
10 ~~2 of the Public Contract Code, and shall be exempt from the review~~  
11 ~~or approval of any division of the Department of General Services.~~

12 ~~(f) (1) Upon the completion of the pilot program, and to the~~  
13 ~~extent it can be determined, the department shall evaluate the~~  
14 ~~impact of the pilot program, including, but not limited to, relevant~~  
15 ~~health outcome data collected under the Medi-Cal program, and~~  
16 ~~the pilot program's impact on Healthcare Effectiveness Data and~~  
17 ~~Information Set measures, medication utilization, hospital~~  
18 ~~readmissions, admissions into long-term care facilities, and~~  
19 ~~emergency room utilization rates. The department shall prepare~~  
20 ~~these findings, including its recommendation on expanding the~~  
21 ~~pilot program on a statewide basis or for an extended period of~~  
22 ~~time, into a finalized report, and shall submit this report to the~~  
23 ~~Legislature by January 1, 2024, or within 12 months after the end~~  
24 ~~of the pilot program, whichever is sooner.~~

25 ~~(2) A report submitted pursuant to this subdivision shall be~~  
26 ~~submitted in compliance with Section 9795 of the Government~~  
27 ~~Code.~~

28 ~~(g) Notwithstanding Chapter 3.5 (commencing with Section~~  
29 ~~11340) of Part 1 of Division 3 of Title 2 of the Government Code,~~  
30 ~~the department shall implement this section by means of a provider~~  
31 ~~bulletin or similar instruction, without taking regulatory action.~~

32 ~~(h) This section shall remain in effect only until January 1, 2027,~~  
33 ~~and as of that date is repealed.~~

34 ~~SEC. 2. The Legislature finds and declares that a special statute~~  
35 ~~is necessary and that a general statute cannot be made applicable~~  
36 ~~within the meaning of Section 16 of Article IV of the California~~  
37 ~~Constitution because of the unique position of the Counties of~~  
38 ~~Alameda, \_\_\_\_\_, and \_\_\_\_\_, to continue to build upon their~~  
39 ~~efforts to provide medically supportive food to medically needy~~

- 1 residents for purposes of developing a model pilot program to be
- 2 expanded on a statewide basis.

O