Date of Hearing: April 28, 2021

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Lorena Gonzalez, Chair
AB 470 (Carrillo) – As Amended April 13, 2021

Policy Committee: Health Vote: 12 - 0

Urgency: No State Mandated Local Program: Yes Reimbursable: No

SUMMARY:

This bill removes the consideration of assets for purposes of establishing eligibility for the Medi-Cal program. Specifically, this bill:

1) Prohibits, notwithstanding any Medi-Cal law, resources including property or other assets, from being used to determine eligibility under the Medi-Cal program, to the extent permitted by federal law.

2) Makes a number of conforming changes, including deleting provisions related to the counting of assets for purposes of Medi-Cal eligibility, and updates required language in statements and forms accordingly, to the extent such language is specified in statute.

3) Requires the Department of Health Care Services (DHCS) to update notices and forms to delete any reference to limitations on resources or assets.

4) Allows DHCS to implement the elimination of the asset test by means of provider bulletins or notices, policy letters, or other similar instructions, without taking regulatory action.

5) Requires DHCS to, by January 1, 2023, adopt, amend, or repeal regulations in accordance with the requirements of the Administrative Procedure Act.

FISCAL EFFECT:

Pursuant to a requirement in the Legislative Analyst's Office Supplemental Report of the 2019-20 Budget Act, DHCS issued a report on the asset test in March 2020 estimating the cost of eliminating the asset test. These estimates, shown in the table below, are based on examining the population of individuals who were denied or discontinued by the Medi-Cal program for having assets that were too high.

Option 1 —Eliminate the Asset Test			
	Total Funds	**General Funds**	**Federal Funds**
Program	$223,515,000	$107,405,860	$116,109,140
System Change	$452,000	$226,000	$226,000
Administrative	$148,000	$74,000	$74,000
Elimination of the Asset Verification Program (Savings)	($3,960,000)	($1,980,000)	($1,980,000)
Total Cost	**$220,155,000**	**$105,725,860**	**$114,429,140**

In sum, the report projected a net cost of $220 million annually ($106 million GF), comprised of the following:

1) $223.5 million ($107 million GF, $107 million federal) in additional health benefits cost for newly eligible individuals, inclusive of increased eligibility in eligibility categories including Non-MAGI, LTC and Medicare Savings Program, as well as costs for In-Home Supportive Services (IHSS). Nearly half the costs, about $50 million GF, are projected to be for IHSS, which provides beneficiaries non-medical support with activities of daily living.

   To calculate IHSS estimates, the Department of Social Services assumed cost per case based on 2018 calendar year data and assumed utilization rates in the newly eligible population would be roughly equivalent to those in the existing Medi-Cal population. This is a reasonable methodology, but the estimate is likely somewhat overstated because the newly eligible population would be likely to have lower utilization than the already-eligible population, as an individual with higher care needs is more likely to have already "spent down" their assets to become eligible. On that basis, it is likely IHSS costs would be lower than cited.

   Conversely, as noted discussed in the comments section below, more people might apply to Medi-Cal who previously would not have applied and therefore would not be reflected in the data used to calculate population estimates. Based on a higher-than-estimated total eligible population, total costs could also be higher than cited.

2) $150,000 total funds ($75,000 GF, $75,000 federal) annually for administrative staff to manage workload resulting from a change in the asset limits.

3) System updates to several information technology systems would be required. The Statewide Automated Welfare System (SAWS) would need to be updated, along with three separate county consortia-based systems that manage eligibility. Cost for systems changes are estimated at $450,000 ($225,000 GF, $225,000 federal) one-time.

4) Significant cost savings and county administrative time savings associated with repealing the asset test. Currently, California is required to have an asset verification program to determine unreported assets at application and redetermination in certain eligibility categories. This would no longer be required if the asset test was eliminated, saving nearly $4.0 million ($2.0 million GF, $2.0 million federal).

COMMENTS:

1) **Purpose**. According to the author, the current Medi-Cal asset limit does not allow Medi-Cal eligible seniors to retain adequate resources to endure a minor personal financial crisis. This bill updates the Medi-Cal asset test to allow seniors to become or remain eligible for the program despite maintaining a slightly higher level of assets.

2) **Background**. Medi-Cal eligibility is complex and is governed by federal law, regulation and guidance, as well as state law, regulation, and guidance. There are multiple pathways to coverage. For adults under 138% of the federal poverty level, eligibility is based solely on modified adjusted gross income (MAGI), but seniors age 65 and above must also have limited assets to qualify for Medi-Cal.

For a so-called "non-MAGI" Medi-Cal applicant, if property and assets are over the Medi-Cal property limit, the applicant will not be eligible for Medi-Cal unless they lower their property and assets according to program rules.

Examining assets for eligibility determination is administratively complicated. Medi-Cal defines property as either "real property" or "personal property." Real property is land, buildings, mobile homes which are taxed as real property, life estates in real property, mortgages, promissory notes and deeds of trust. Personal property is any kind of liquid or non-liquid asset (for example, cars, jewelry, stocks, bonds, financial institution accounts, income tax refunds, checking and savings accounts, boats, trucks, trailers, etc.). Property that is not counted in determining a person's eligibility is called "exempt" or "unavailable" property. Countable property (property not exempt or unavailable) is included in the applicant's or beneficiary's asset limit. A person is not eligible for Medi-Care if their property exceeds the asset limit.

The asset limits vary by beneficiary eligibility category. For example, the Aged and Disabled Federal Poverty Level (FPL) Program has an asset limit of $2,000 for an individual and $3,000 for a couple. By contrast, the Medicare Savings Program has a limit of $4,000 for an individual and $6,000 for a married couple.

3) **DHCS Report on Asset Limit Changes**. In the aforementioned DHCS report, DHCS examined three options: eliminating the asset test, increasing and changing asset limits as proposed in AB 683 (Carrillo), of the 2019-20 Legislative Session or increasing the asset limit to $10,000 for an individual and $5000 for each additional household member.

   DHCS confirmed with the federal Centers for Medicaid and Medicare services (CMS) that any of these options would be allowable under federal law to the extent federal approvals are obtained and state resources are made available to support the increased state matching cost. Depending how the state chooses to modify the asset limit, DHCS would need to seek a state plan amendment or a federal waiver.

   The report notes based on the California Consumer Price Index, the asset limits in the Aged and Disabled FPL eligibility category would be $4,385 for a single adult and $6,576 for a couple, had the limits been adjusted for inflation in 2019 (compared to the current $2,000 and $3,000). The limits for that program have not been adjusted since 1989.

4) **Effect of Repealing Asset Limits**. The proposed repeal of asset limits would make more people eligible for these programs, resulting in higher caseloads and additional cost to the state. This would occur as some individuals who currently apply for assistance and are denied because of assets are instead approved, as some individuals who currently are discontinued from the program because of assets remain enrolled, and as others who are aware that they currently have assets over the limit apply for assistance and are enrolled.

   The DHCS report provides an estimate of newly eligible individuals and cost estimates for each option. DHCS also provided an important caveat related to the cost estimates—specifically, DHCS acknowledged the potential for an additional population of individuals to newly apply and be eligible for Medi-Cal as a result of repealing or increasing the asset limit. DHCS accordingly recognized the cost for each option could be greater than estimated.

5) **Support**. This bill is co-sponsored by Western Center on Law & Poverty and Justice in Aging, and supported by a number of health care and aging advocates and advocates for low-income consumers. The sponsors indicate this is consistent with other efforts California has undertaken to encourage savings or prevent low-income people from depleting all their resources prior to receiving help. Currently, sponsors assert, when an adult turns 65 or becomes Medicare-eligible, their Medi-Cal eligibility is determined by a restrictive set of rules that requires them to have minimal assets to remain eligible. Sponsors note this limit also prevents low-income people of color from amassing any wealth to transfer to their children, consequently widening racial disparities in intergenerational wealth transfer.

6) **Prior Legislation**. AB 683 (Carrillo), of the 2019-20 Legislative Session, would have changed the Medi-Cal eligibility "asset test" by increasing the asset limit to $10,000 for an individual and $15,000 for a couple, indexing the limit to inflation and excluding more property and resources from the test. AB 683 was referred to the Senate Health Committee and not heard.

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