

West's Ann.Cal.Welf. & Inst.Code § 14059.5

C**Effective: [See Text Amendments]**West's Annotated California Codes [Currentness](#)Welfare and Institutions Code ([Refs & Annos](#))Division 9. Public Social Services ([Refs & Annos](#))Part 3. Aid and Medical Assistance ([Refs & Annos](#))↳ [Chapter 7. Basic Health Care \(Refs & Annos\)](#)↳ [Article 2. Definitions \(Refs & Annos\)](#)→ **§ 14059.5. Medically necessary or medical necessity**

A service is "**medically necessary**" or a "**medical necessity**" when it is reasonable and necessary to protect life, to prevent significant illness or significant disability, or to alleviate severe pain.

CREDIT(S)

(Added by Stats.1985, c. 1411, § 1, eff. Oct. 1, 1985.)

CODE OF REGULATIONS REFERENCES

Health care services,

Local educational agency (LEA) services, defined, see [22 Cal. Code of Regs. § 51190.4](#).Scope and duration of benefits, see [22 Cal. Code of Regs. § 51301 et seq.](#)

Scope and duration of benefits,

Dental services, see [22 Cal. Code of Regs. § 51307](#).Physician services, see [22 Cal. Code of Regs. § 51305](#).

LIBRARY REFERENCES

2001 Main Volume

Social Security and Public Welfare ↪241.91.

Westlaw Topic No. 356A.

[C.J.S. Social Security and Public Welfare § 134](#).

RESEARCH REFERENCES

ALR Library

[132 ALR 738](#), Assumption of Jurisdiction by Court Before Completion of Administrative Procedure as Ground of Prohibition.

NOTES OF DECISIONS

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

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1. In general

In order to qualify for Medi-Cal coverage of medication, beneficiary must establish that the medication is "medically necessary." [Holmes v. Kizer \(App. 5 Dist. 1992\) 13 Cal.Rptr.2d 746, 11 Cal.App.4th 395](#), modified. Health  [474](#)


2. Construction with federal law

States have considerable discretion in designing their Medicaid programs, such as Medi-Cal, and appropriate limits may be placed on a service based on such criteria as **medical necessity** or utilization control procedures. [Paleski v. State Dept. of Health Services \(App. 2 Dist. 2006\) 51 Cal.Rptr.3d 28, 144 Cal.App.4th 713](#). Health  [462](#); Health  [473](#); Health  [474](#)

According to legislative history of Medicaid Act, state programs like Medi-Cal must strike a careful balance between the deference due a treating physician's decision to prescribe a particular drug and the implementation of utilization controls, including prior authorization criteria, which ensure that prescriptions are appropriate and medically necessary. [Paleski v. State Dept. of Health Services \(App. 2 Dist. 2006\) 51 Cal.Rptr.3d 28, 144 Cal.App.4th 713](#). Health  [482](#); Health  [501](#)

This section and [Welf. & Inst. Code § 14133.3](#) were not inconsistent with Medicaid Act [[42 U.S.C.A. § 1396 et seq.](#)]; that act gives states, rather than physicians, discretion to determine what services qualify as "medically necessary." [Cowan v. Myers \(App. 3 Dist. 1986\) 232 Cal.Rptr. 299, 187 Cal.App.3d 968](#), rehearing denied, review denied, certiorari denied [108 S.Ct. 140, 484 U.S. 846, 98 L.Ed.2d 97](#). Health  [474](#)


3. FDA approval


State is not required to cover expenses of all drugs any Medi-Cal recipient feels are helpful in treating condition of illness from which he or she suffers, regardless of whether drug has been approved by Federal Drug Administration (FDA) or whether medication meets reasonable and current prescribing practice, when claimant is able to persuade physician to prescribe medication; rather, when medication has been approved by FDA for treatment of certain condition and medication has been prescribed by physician for that condition, and condition cannot effectively be treated by use of another medication, federal law requires medication to be covered by state program if state participates in prescription drug program. [Holmes v. Kizer \(App. 5 Dist. 1992\) 13 Cal.Rptr.2d 746, 11 Cal.App.4th 395](#), modified. Health  [482](#)

4. Psychoactive substances


Denial of Medi-Cal recipient's treatment authorization request for prescribed "Marinol," which contains principal psychoactive substance present in marijuana, for treatment of recipient's nystagmus was not violation of federal law by discriminating on basis of **medical** condition; "Marinol" was not **medical necessity** for recipient, recipient was not in immediate danger of institutionalization or death without drug, and recipient was able to live and function on his own. [Holmes v. Kizer \(App. 5 Dist. 1992\) 13 Cal.Rptr.2d 746, 11 Cal.App.4th 395](#), modi-

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Evidence supported trial court's finding that "Marinol," which is brand name of "dronabinol," the principal psychoactive substance present in marijuana, was not "**medical necessity**" to Medi-Cal recipient who suffered from "nystagmus," an eye disorder causing intermittent episodes in which eyes rapidly tilt upward, causing vertical double vision, and thus that drug was not covered; recipient testified that during the six weeks he took the drug the duration of periods when he suffered from nystagmus shortened, but that nystagmus was not completely eliminated, and physician's opinions as to beneficial results of Marinol appeared to be based solely on recipient's claims. [Holmes v. Kizer \(App. 5 Dist. 1992\) 13 Cal.Rptr.2d 746, 11 Cal.App.4th 395](#), modified. Health  507

5. Durable **medical** equipment

The word "**medical**" in the federal statute requiring states to provide Medicaid benefits for durable **medical** equipment, if they seek to cover home health care services for the **medically** indigent, and in the state statute covering durable **medical** equipment in the Medi-Cal program refers to the treatment, cure, or alleviation of any health condition, including a disability such as the inability to climb stairs. [Blue v. Bonta \(App. 1 Dist. 2002\) 121 Cal.Rptr.2d 483, 99 Cal.App.4th 980](#). Health  478

6. Physician authority to determine treatment

Although under Medicaid physicians still have the primary responsibility for determining what treatment should be available to their patients, they must operate within the reasonable limitations that the state may impose. [Paleski v. State Dept. of Health Services \(App. 2 Dist. 2006\) 51 Cal.Rptr.3d 28, 144 Cal.App.4th 713](#). Health  473

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Current through Ch. 2 of 2008 Reg.Sess. and Ch. 6 of 2007-2008 Third Ex.Sess. urgency legislation.

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