

AMENDED IN ASSEMBLY APRIL 24, 2007

AMENDED IN ASSEMBLY APRIL 10, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1410

Introduced by Assembly Member Feuer

February 23, 2007

An act to amend Sections 4354, 4355, and 4358.5 of, and to add Section 14132.992 to, the Welfare and Institutions Code, relating to traumatic brain injury.

LEGISLATIVE COUNSEL'S DIGEST

AB 1410, as amended, Feuer. Traumatic brain injury.

Existing law requires the State Department of Mental Health to designate project sites in order to develop a system of postacute continuum-of-care models for adults 18 years of age or older with acquired traumatic brain injuries. Existing law also establishes the Traumatic Brain Injury Fund, to be used, upon appropriation by the Legislature for these purposes. These provisions are to be repealed as of January 1, 2012.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, pursuant to which medical benefits are provided to public assistance recipients and certain other low-income persons. The Medi-Cal program is partially governed and funded by federal Medicaid provisions.

This bill would require the department, by March 15, 2008, to submit to the federal Centers for Medicare and Medicaid Services a home- and community-based services waiver application ~~and a state plan amendment~~ to serve at least 100 adults with acquired traumatic brain

injuries who otherwise would require care in a Medi-Cal funded facility including a nursing facility and an intermediate care facility for persons with developmental disabilities.

The bill would require that services under the waiver be provided by project sites providing services to adults with acquired traumatic brain injuries, as described in existing law, would expand the services that these projects would be permitted to provide, and would require that the state transfer to the Traumatic Brain Injury Fund amounts equal to any federal match reimbursements received for expenditures and costs paid from that fund.

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 4354 of the Welfare and Institutions Code
- 2 is amended to read:
- 3 4354. For purposes of this chapter, the following definitions
- 4 shall apply:
- 5 (a) “Acquired traumatic brain injury” is an injury that is
- 6 sustained after birth from an external force to the brain or any of
- 7 its parts, resulting in cognitive, psychological, neurological, or
- 8 anatomical changes in brain functions.
- 9 (b) “Department” means the State Department of Mental Health.
- 10 (c) “Director” means the Director of Mental Health.
- 11 (d) (1) “Vocational supportive services” means a method of
- 12 providing vocational rehabilitation and related services that may
- 13 include prevocational and educational services to individuals who
- 14 are unserved or underserved by existing vocational rehabilitation
- 15 services.
- 16 (2) “Extended supported employment services” means ongoing
- 17 support services and other appropriate services that are needed to
- 18 support and maintain an individual with an acquired traumatic
- 19 brain injury in supported employment following that individual’s
- 20 transition from support provided as a vocational rehabilitation
- 21 service, including job coaching, by the State Department of
- 22 Rehabilitation, as defined in paragraphs (1) and (5) of subdivision
- 23 (a) of Section 19150.

1 (e) The following four characteristics distinguish “vocational
2 supportive services” from traditional methods of providing
3 vocational rehabilitation and day activity services:

4 (1) Service recipients appear to lack the potential for unassisted
5 competitive employment.

6 (2) Ongoing training, supervision, and support services must
7 be provided.

8 (3) The opportunity is designed to provide the same benefits
9 that other persons receive from work, including an adequate income
10 level, quality of working life, security, and mobility.

11 (4) There is flexibility in the provision of support which is
12 necessary to enable the person to function effectively at the
13 worksite.

14 (f) “Community reintegration services” means services as
15 needed by clients, designed to develop, maintain, increase, or
16 maximize independent functioning, with the goal of living in the
17 community and participating in community life. These services
18 may include, but are not limited to, providing, or arranging for
19 access to, housing, transportation, medical care, rehabilitative
20 therapies, day programs, chemical dependency recovery programs,
21 personal assistance, and education.

22 (g) “Fund” means the Traumatic Brain Injury Fund.

23 (h) “Supported living services” means a range of appropriate
24 supervision, support, and training in the client’s place of residence,
25 designed to maximize independence.

26 (i) “Functional assessment” means measuring the level or degree
27 of independence, amount of assistance required, and speed and
28 safety considerations for a variety of categories, including activities
29 of daily living, mobility, communication skills, psychosocial
30 adjustment, and cognitive function.

31 (j) “Residence” means the place where a client makes his or her
32 home, that may include, but is not limited to, a house or apartment
33 where the client lives independently, assistive living arrangements,
34 congregate housing, group homes, residential care facilities,
35 transitional living programs, and nursing facilities.

36 SEC. 2. Section 4355 of the Welfare and Institutions Code is
37 amended to read:

38 4355. (a) The department shall designate sites in order to
39 develop a system of postacute continuum-of-care models for adults
40 18 years of age or older with an acquired traumatic brain injury.

1 (b) The project sites shall coordinate vocational supportive
 2 services, community reintegration services, and supported living
 3 services. The purpose of the project is to demonstrate the
 4 effectiveness of a coordinated service approach that furthers the
 5 goal of assisting those persons to attain productive, independent
 6 lives which may include paid employment.

7 (c) Project sites that are authorized to provide home- and
 8 community-based waiver services pursuant to Section 14132.992
 9 shall also provide extended supported employment services, as
 10 defined in paragraph (2) of subdivision (d) of Section 4354.

11 SEC. 3. Section 4358.5 of the Welfare and Institutions Code
 12 is amended to read:

13 4358.5. (a) Funds deposited into the Traumatic Brain Injury
 14 Fund pursuant to paragraph (8) of subdivision (f) of Section 1464
 15 of the Penal Code shall be matched by federal vocational
 16 rehabilitation services funds for implementation of the Traumatic
 17 Brain Injury program pursuant to this chapter. However, this
 18 matching of funds shall be required only to the extent it is required
 19 by other state and federal law, and to the extent the matching of
 20 funds would be consistent with the policies and priorities of the
 21 State Department of Rehabilitation regarding funding.

22 (b) The department shall seek and secure funding from available
 23 federal resources, including, but not limited to, medicaid and drug
 24 and alcohol funds, utilizing the Traumatic Brain Injury Fund as
 25 match and shall seek any necessary waiver of federal program
 26 requirements to maximize available federal dollars.

27 (c) The state shall transfer into the Traumatic Brain Injury Fund
 28 at least quarterly, amounts equal to any federal match
 29 reimbursements received by the state for expenditures and costs
 30 paid from the Traumatic Brain Injury Fund.

31 SEC. 4. Section 14132.992 is added to the Welfare and
 32 Institutions Code, to read:

33 14132.992. (a) (1) By March 15, 2008, the department shall
 34 submit to the federal Centers for Medicare and Medicaid Services
 35 a home- and community-based services waiver application pursuant
 36 to Section 1396n(c) of Title 42 of the United States Code to serve
 37 at least 100 adults with acquired traumatic brain injuries who
 38 otherwise would require care in a Medi-Cal funded facility
 39 including a nursing facility and an intermediate care facility for
 40 persons with developmental disabilities.

1 (2) As authorized by Section 1396n(c)(3) of Title 42 of the
2 United States Code, the waiver shall waive the statewide
3 application of this section as well as comparability of services so
4 that waiver services may be provided by one or more of the sites
5 designated to provide services to persons with acquired traumatic
6 brain injury pursuant to Section 4356.

7 (3) The waiver services to be provided to eligible Medi-Cal
8 recipients shall include case management services, community
9 reintegration and supported living services, vocational supportive
10 services including prevocational services, neuropsychological
11 assessments, and rehabilitative services—~~currently~~ provided by
12 project sites *currently* serving persons with acquired traumatic
13 brain injuries pursuant to Chapter 5 (commencing with Section
14 4353).

15 (4) The waiver services to be provided shall include as a
16 habilitation service pursuant to Section 1396n(c)(5) of Title 42 of
17 the United States Code “extended supported employment services”
18 to support and maintain an individual with an acquired traumatic
19 brain injury in supported employment following that individual’s
20 transition from support provided as a vocational rehabilitation
21 service, including job coaching, by the State Department of
22 Rehabilitation pursuant to paragraphs (1) and (5) of subdivision
23 (a) of Section 19150.

24 (5) The waiver services to be provided shall include
25 rehabilitative therapies, including, but not limited to, occupational
26 therapy, physical therapy, speech therapy, and cognitive therapy,
27 that are different in kind and scope from state plan services.

28 (6) The waiver shall require an aggregate cost-effectiveness
29 formula be used.

30 (b) In developing the home- and community-based services
31 waiver application ~~and state plan amendment~~, the department shall
32 solicit the opinion and help of the affected communities including
33 the working group members convened by the State Department of
34 Health Care Services pursuant to Section 4357.1 and ~~providers of~~
35 ~~services under Sections 4353 to 4364, inclusive.~~ *representatives*
36 *of project sites currently serving persons with acquired traumatic*
37 *brain injuries pursuant to Chapter 5 (commencing with Section*
38 *4353) of Part 3 of Division 4.*

O