

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1808

Introduced by Assembly Member Galgiani

February 10, 2010

An act to ~~amend Section 5777 of~~ add Section 5777.8 to the Welfare and Institutions Code, relating to ~~Medi-Cal~~ foster children.

LEGISLATIVE COUNSEL'S DIGEST

AB 1808, as amended, Galgiani. Medi-Cal: ~~Mental~~ mental health services.

Existing law requires the State Department of Mental Health to implement managed mental health care for Medi-Cal beneficiaries through fee-for-service or capitated rate contracts with mental health plans, including individual counties, counties acting jointly, any qualified individual or organization, or a nongovernmental entity. Under existing law, this may include the provision of specialty mental health services to children in foster care.

Existing law requires the State Department of Mental Health to create a standardized contract, service authorization procedure, and set of documentation standards and forms, and to use these items to facilitate the receipt of medically necessary specialty mental health services by a foster child who is placed outside of his or her county of original jurisdiction, as specified. In addition, existing law requires the California Health and Human Services Agency to coordinate the efforts of the State Department of Mental Health and the State Department of Social Services for the performance of designated duties with respect to implementing these provisions, including establishing informational

materials for foster care providers and county child welfare agencies, as specified.

This bill would require that when a child is placed in foster care outside of the county of original jurisdiction, the county in which the child is placed shall be responsible for ensuring that the child receives mental health services, and any adjustments in the administration of the Medi-Cal program shall be made, to ensure that the funding applicable to the mental health services for that child is received by the new county of residence.

This bill would also require the California Child Welfare Council and other stakeholders to document the problems an out-of-county foster child faces when seeking mental health services in the host county and provide solutions in a report to the Legislature by January 1, 2012.

To the extent that this bill would impose new duties on county child welfare departments in connection with the provision of mental health services to foster children, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~Existing law provides for the Medi-Cal program, administered by the State Department of Health Care Services, under which qualified low-income persons are provided with health care services, including mental health services.~~

~~This bill would make technical, nonsubstantive changes in Medi-Cal Mental health provisions.~~

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

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

- 1 SECTION 1. Section 5777.8 is added to the Welfare and
- 2 Institutions Code, to read:
- 3 5777.8. (a) When a child is placed in foster care outside of
- 4 the county of original jurisdiction, the county in which the child

1 *is placed shall be responsible for ensuring that the child receives*
2 *mental health services, and any adjustments in the administration*
3 *of the Medi-Cal program shall be made, to ensure that the funding*
4 *applicable to the mental health services for that child is received*
5 *by the new county of residence.*

6 *(b) The California Child Welfare Council and other stakeholders*
7 *shall document the problems an out-of-county foster child faces*
8 *when seeking mental health services in the host county and provide*
9 *solutions in a report to the Legislature by January 1, 2012.*

10 *SEC. 2. If the Commission on State Mandates determines that*
11 *this act contains costs mandated by the state, reimbursement to*
12 *local agencies and school districts for those costs shall be made*
13 *pursuant to Part 7 (commencing with Section 17500) of Division*
14 *4 of Title 2 of the Government Code.*

15 ~~SECTION 1. Section 5777 of the Welfare and Institutions Code~~
16 ~~is amended to read:~~

17 ~~5777. (a) (1) Except as otherwise specified in this part, a~~
18 ~~contract entered into pursuant to this part shall include a provision~~
19 ~~that the mental health plan contractor shall bear the financial risk~~
20 ~~for the cost of providing medically necessary mental health services~~
21 ~~to Medi-Cal beneficiaries irrespective of whether the cost of those~~
22 ~~services exceeds the payment set forth in the contract. If the~~
23 ~~expenditures for services do not exceed the payment set forth in~~
24 ~~the contract, the mental health plan contractor shall report the~~
25 ~~unexpended amount to the department, but shall not be required~~
26 ~~to return the excess to the department.~~

27 ~~(2) If the mental health plan is not the county's, the mental~~
28 ~~health plan may not transfer the obligation for any mental health~~
29 ~~services to Medi-Cal beneficiaries to the county. The mental health~~
30 ~~plan may purchase services from the county. The mental health~~
31 ~~plan shall establish mutually agreed-upon protocols with the county~~
32 ~~that clearly establish conditions under which beneficiaries may~~
33 ~~obtain non-Medi-Cal reimbursable services from the county.~~
34 ~~Additionally, the plan shall establish mutually agreed-upon~~
35 ~~protocols with the county for the conditions of transfer of~~
36 ~~beneficiaries who have lost Medi-Cal eligibility to the county for~~
37 ~~care under Part 2 (commencing with Section 5600), Part 3~~
38 ~~(commencing with Section 5800), and Part 4 (commencing with~~
39 ~~Section 5850).~~

1 ~~(3) The mental health plan shall be financially responsible for~~
2 ~~ensuring access and a minimum required scope of benefits;~~
3 ~~consistent with state and federal requirements, to the services to~~
4 ~~the Medi-Cal beneficiaries of that county regardless of where the~~
5 ~~beneficiary resides. The department shall require that the definition~~
6 ~~of medical necessity used, and the minimum scope of benefits~~
7 ~~offered, by each mental health contractor be the same, except to~~
8 ~~the extent that any variations receive prior federal approval and~~
9 ~~are consistent with state and federal statutes and regulations.~~

10 ~~(b) A contract entered into pursuant to this part may be renewed~~
11 ~~if the plan continues to meet the requirements of this part,~~
12 ~~regulations promulgated pursuant thereto, and the terms and~~
13 ~~conditions of the contract. Failure to meet these requirements shall~~
14 ~~be cause for nonrenewal of the contract. The department may base~~
15 ~~the decision to renew on timely completion of a mutually~~
16 ~~agreed-upon plan of correction of any deficiencies, submissions~~
17 ~~of required information in a timely manner, or other conditions of~~
18 ~~the contract. At the discretion of the department, each contract~~
19 ~~may be renewed for a period not to exceed three years.~~

20 ~~(c) (1) The obligations of the mental health plan shall be~~
21 ~~changed only by contract or contract amendment.~~

22 ~~(2) A change may be made during a contract term or at the time~~
23 ~~of contract renewal, where there is a change in obligations required~~
24 ~~by federal or state law or when required by a change in the~~
25 ~~interpretation or implementation of any law or regulation. To the~~
26 ~~extent permitted by federal law and except as provided under~~
27 ~~paragraph (10) of subdivision (c) of Section 5778, if a change in~~
28 ~~obligations occurs that affects the cost to the mental health plan~~
29 ~~of performing under the terms of its contract, the department may~~
30 ~~reopen contracts to negotiate the state General Fund allocation to~~
31 ~~the mental health plan under Section 5778, if the mental health~~
32 ~~plan is reimbursed through a fee-for-service payment system, or~~
33 ~~the capitation rate to the mental health plan under Section 5779;~~
34 ~~if the mental health plan is reimbursed through a capitated rate~~
35 ~~payment system. During the time period required to redetermine~~
36 ~~the allocation or rate, payment to the mental health plan of the~~
37 ~~allocation or rate in effect at the time the change occurred shall be~~
38 ~~considered interim payments and shall be subject to increase or~~
39 ~~decrease, as the case may be, effective as of the date on which the~~
40 ~~change is effective.~~

1 ~~(3) To the extent permitted by federal law, either the department~~
2 ~~or the mental health plan may request that contract negotiations~~
3 ~~be reopened during the course of a contract due to substantial~~
4 ~~changes in the cost of covered benefits that result from an~~
5 ~~unanticipated event.~~

6 ~~(d) The department shall immediately terminate a contract when~~
7 ~~the director finds that there is an immediate threat to the health~~
8 ~~and safety of Medi-Cal beneficiaries. Termination of the contract~~
9 ~~for other reasons shall be subject to reasonable notice of the~~
10 ~~department's intent to take that action and notification of affected~~
11 ~~beneficiaries. The plan may request a public hearing by the Office~~
12 ~~of Administrative Hearings.~~

13 ~~(e) A plan may terminate its contract in accordance with the~~
14 ~~provisions in the contract. The plan shall provide written notice~~
15 ~~to the department at least 180 days prior to the termination or~~
16 ~~nonrenewal of the contract.~~

17 ~~(f) Upon the request of the Director of Mental Health, the~~
18 ~~Director of Managed Health Care may exempt a mental health~~
19 ~~plan contractor or a capitated rate contract from the Knox-Keene~~
20 ~~Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing~~
21 ~~with Section 1340) of Division 2 of the Health and Safety Code).~~
22 ~~These exemptions may be subject to conditions the director deems~~
23 ~~appropriate. Nothing in this part shall be construed to impair or~~
24 ~~diminish the authority of the Director of Managed Health Care~~
25 ~~under the Knox-Keene Health Care Service Plan Act of 1975, nor~~
26 ~~shall anything in this part be construed to reduce or otherwise limit~~
27 ~~the obligation of a mental health plan contractor licensed as a~~
28 ~~health care service plan to comply with the requirements of the~~
29 ~~Knox-Keene Health Care Service Plan Act of 1975, and the rules~~
30 ~~of the Director of Managed Health Care promulgated thereunder.~~
31 ~~The Director of Mental Health, in consultation with the Director~~
32 ~~of Managed Health Care, shall analyze the appropriateness of~~
33 ~~licensure or application of applicable standards of the Knox-Keene~~
34 ~~Health Care Service Plan Act of 1975.~~

35 ~~(g) (1) The department, pursuant to an agreement with the State~~
36 ~~Department of Health Care Services, shall provide oversight to~~
37 ~~the mental health plans to ensure quality, access, and cost~~
38 ~~efficiency. At a minimum, the department shall, through a method~~
39 ~~independent of any agency of the mental health plan contractor,~~

1 monitor the level and quality of services provided, expenditures
2 pursuant to the contract, and conformity with federal and state law.

3 (2) (A) Commencing July 1, 2008, county mental health plans,
4 in collaboration with the department, the federally required external
5 review organization, providers, and other stakeholders, shall
6 establish an advisory statewide performance improvement project
7 (PIP) to increase the coordination, quality, effectiveness, and
8 efficiency of service delivery to children who are either receiving
9 at least three thousand dollars (\$3,000) per month in the Early and
10 Periodic Screening, Diagnosis, and Treatment (EPSDT) Program
11 services or children identified in the top 5 percent of the county
12 EPSDT cost, whichever is lowest. The statewide PIP shall replace
13 one of the two required PIPs that mental health plans must perform
14 under federal regulations outlined in the mental health plan
15 contract.

16 (B) The federally required external quality review organization
17 shall provide independent oversight and reviews with
18 recommendations and findings or summaries of findings, as
19 appropriate, from a statewide perspective. This information shall
20 be accessible to county mental health plans, the department, county
21 welfare directors, providers, and other interested stakeholders in
22 a manner that both facilitates, and allows for, a comprehensive
23 quality improvement process for the EPSDT Program.

24 (C) Each July, the department, in consultation with the federally
25 required external quality review organization and the county mental
26 health plans, shall determine the average monthly cost threshold
27 for counties to use to identify children to be reviewed who are
28 currently receiving EPSDT services. The department shall consult
29 with representatives of county mental health directors, county
30 welfare directors, providers, and the federally required external
31 quality review organization in setting the annual average monthly
32 cost threshold and in implementing the statewide PIP. The
33 department shall provide an annual update to the Legislature on
34 the results of this statewide PIP by October 1 of each year for the
35 prior fiscal year.

36 (D) It is the intent of the Legislature for the EPSDT PIP to
37 increase the coordination, quality, effectiveness, and efficiency of
38 service delivery to children receiving EPSDT services and to
39 facilitate evidence-based practices within the program, and other
40 high-quality practices consistent with the values of the public

1 ~~mental health system within the program to ensure that children~~
2 ~~are receiving appropriate mental health services for their mental~~
3 ~~health wellness.~~

4 ~~(E) This paragraph shall become inoperative on September 1,~~
5 ~~2011.~~

6 ~~(h) County employees implementing or administering a mental~~
7 ~~health plan act in a discretionary capacity when they determine~~
8 ~~whether or not to admit a person for care or to provide any level~~
9 ~~of care pursuant to this part.~~

10 ~~(i) If a county chooses to discontinue operations as the local~~
11 ~~mental health plan, the new plan shall give reasonable consideration~~
12 ~~to affiliation with nonprofit community mental health agencies~~
13 ~~that were under contract with the county and that meet the mental~~
14 ~~health plan's quality and cost efficiency standards.~~

15 ~~(j) Nothing in this part shall be construed to modify, alter, or~~
16 ~~increase the obligations of counties as otherwise limited and~~
17 ~~defined in Chapter 3 (commencing with Section 5700) of Part 2.~~
18 ~~The county's maximum obligation for services to persons not~~
19 ~~eligible for Medi-Cal shall be no more than the amount of funds~~
20 ~~remaining in the mental health subaccount pursuant to Sections~~
21 ~~17600, 17601, 17604, 17605, 17606, and 17609 after fulfilling the~~
22 ~~Medi-Cal contract obligations.~~