

ASSEMBLY BILL

No. 361

Introduced by Assembly Member Mitchell

February 14, 2013

An act to add Article 3.9 (commencing with Section 14127) to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 361, as introduced, Mitchell. Medi-Cal: Health Homes for Medi-Cal Enrollees and Section 1115 Waiver Demonstration Populations with Chronic and Complex Conditions.

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. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing federal law authorizes a state, subject to federal approval of a state plan amendment, to offer health home services, as defined, to eligible individuals with chronic conditions.

This bill would authorize the department, subject to federal approval, to create a health home program for enrollees with chronic conditions, as prescribed, as authorized under federal law. This bill would provide that those provisions shall not be implemented unless federal financial participation is available and additional General Fund moneys are not used to fund the administration and service costs, except as specified. This bill would require the department to ensure that an evaluation of the program is completed, if created by the department, and would require that the department submit a report to the appropriate policy

and fiscal committees of the Legislature within 2 years after implementation of the program.

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. The Legislature finds and declares all of the
2 following:

3 (a) The Health Homes for Enrollees with Chronic Conditions
4 option (Health Homes option) under Section 2703 of the federal
5 Patient Protection and Affordable Care Act (Affordable Care Act)
6 (42 U.S.C. Sec. 1396w-4) offers an opportunity for California to
7 address chronic and complex health conditions, including social
8 determinants that lead to poor health outcomes and high costs
9 among Medi-Cal beneficiaries.

10 (b) For example, people who frequently use hospitals for reasons
11 that could have been avoided with more appropriate care incur
12 high Medi-Cal costs and suffer high rates of early mortality due to
13 the complexity of their conditions and, often, their negative social
14 determinants of health. Frequent users have difficulties accessing
15 regular or preventive care and complying with treatment protocols,
16 and the significant number who are homeless have no place to
17 store medications, cannot adhere to a healthy diet or maintain
18 appropriate hygiene, face frequent victimization, and lack rest
19 when recovering from illness.

20 (c) Increasingly, health providers are partnering with community
21 behavioral health and social services providers to offer a
22 person-centered interdisciplinary system of care that effectively
23 addresses the needs of enrollees with multiple chronic or complex
24 conditions, including frequent hospital users and people
25 experiencing chronic homelessness. These health homes help
26 people with chronic and complex conditions to access better care
27 and better health, while decreasing costs.

28 (d) Federal guidelines allow the state to access enhanced federal
29 matching rates for health home services under the Health Homes
30 option for multiple target populations to achieve more than one
31 policy goal.

1 SEC. 2. Article 3.9 (commencing with Section 14127) is added
2 to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions
3 Code, to read:

4
5 Article 3.9. Health Homes for Medi-Cal Enrollees and Section
6 1115 Waiver Demonstration Populations with Chronic and
7 Complex Conditions
8

9 14127. For the purposes of this article, the following definitions
10 shall apply:

11 (a) “Department” means the State Department of Health Care
12 Services.

13 (b) “Federal guidelines” means all federal statutes, and all
14 regulatory and policy guidelines issued by the federal Centers for
15 Medicare and Medicaid Services regarding the Health Homes for
16 Enrollees with Chronic Conditions option under Section 2703 of
17 the federal Patient Protection and Affordable Care Act (Affordable
18 Care Act) (42 U.S.C. Sec. 1396w-4), including the State Medicaid
19 Director Letter issued on November 16, 2010.

20 (c) (1) “Health home” means a provider or team of providers
21 designated by the department that satisfies all of the following:

22 (A) Meets the criteria described in federal guidelines.

23 (B) Offers a whole person approach, including, but not limited
24 to, coordinating other available services that address needs affecting
25 a participating individual’s health.

26 (C) Offers services in a range of settings, as appropriate, to meet
27 the needs of an individual eligible for health home services.

28 (2) Health home partners may include, but are not limited to, a
29 health plan, community clinic, a mental health plan, a hospital,
30 physicians, a clinical practice or clinical group practice, rural health
31 clinic, community health center, community mental health center,
32 home health agency, nurse practitioners, social workers,
33 paraprofessionals, housing navigators, and housing providers.

34 (3) For purposes of serving the population identified in Section
35 14127.3, the department shall require a lead provider to be a
36 community clinic, a mental health plan, a community-based
37 nonprofit organization, a county health system, or a hospital.

38 (4) The department may determine the model of health home
39 it intends to create, including any entity, provider, or group of
40 providers operating as a health team, as a team of health care

1 professionals, or as a designated provider, as those terms are
2 defined in Sections 3502(c)(2) and 1945(h)(5) and (h)(6) of the
3 Affordable Care Act, respectively.

4 (d) “Homeless” has the same meaning as that term is defined
5 in Section 91.5 of Title 24 of the Code of Federal Regulations. A
6 “chronically homeless individual” means an individual whose
7 conditions limit his or her activities of daily living and who has
8 experienced homelessness for longer than a year or for four or
9 more episodes over three years. An individual who is currently
10 residing in transitional housing or who has been residing in
11 permanent supportive housing for less than two years shall be
12 considered a chronically homeless individual if the individual was
13 chronically homeless prior to his or her residence.

14 14127.1. Subject to federal approval, the department may do
15 all of the following to create a California Health Home Program,
16 as authorized under Section 2703 of the Affordable Care Act:

17 (a) Design, with opportunity for public comment, a program to
18 provide health home services to Medi-Cal beneficiaries and Section
19 1115 waiver demonstration populations with chronic conditions.

20 (b) Contract with new providers, new managed care plans,
21 existing Medi-Cal providers, existing managed care plans, or
22 counties to provide health home services, as provided in Section
23 14128.

24 (c) Submit any necessary applications to the federal Centers for
25 Medicare and Medicaid Services for one or more state plan
26 amendments to provide health home services to Medi-Cal
27 beneficiaries, to newly eligible Medi-Cal beneficiaries upon
28 Medicaid expansion under the Affordable Care Act, and, if
29 applicable, to Low Income Health Program (LIHP) enrollees in
30 counties with LIHPs willing to match federal funds.

31 (d) Except as specified in Section 14127.3, define the
32 populations of eligible individuals.

33 (e) Develop a payment methodology, including, but not limited
34 to, fee-for-service or per member, per month payment structures
35 that include tiered payment rates that take into account the intensity
36 of services necessary to outreach to, engage, and serve the
37 populations the department identifies.

38 (f) Identify health home services, consistent with federal
39 guidelines.

1 (g) The department may submit applications and operate, to the
2 extent permitted by federal law and to the extent federal approval
3 is obtained, more than one health home program for distinct
4 populations, different providers or contractors, or specific
5 geographic areas.

6 14127.2. (a) The department may design one or more state
7 plan amendments to provide health home services to children and
8 adults pursuant to Section 14127.1, and, in consultation with
9 stakeholders, shall develop the geographic criteria, beneficiary
10 eligibility criteria, and provider eligibility criteria for each state
11 plan amendment.

12 (b) (1) Subject to federal approval for receipt of the enhanced
13 federal match, services provided under the program established
14 pursuant to this article shall include all of the following:

15 (A) Comprehensive and individualized care management.

16 (B) Care coordination and health promotion, including
17 connection to medical, mental health, and substance use care.

18 (C) Comprehensive transitional care from inpatient to other
19 settings, including appropriate followup.

20 (D) Individual and family support, including authorized
21 representatives.

22 (E) Referral to relevant community and social services supports,
23 including, but not limited to, connection to housing for participants
24 who are homeless or unstably housed, transportation to
25 appointments needed to managed health needs, and peer recovery
26 support.

27 (F) Health information technology to identify eligible individuals
28 and link services, if feasible and appropriate.

29 (2) According to beneficiary needs, the health home provider
30 may provide less intensive services or graduate the beneficiary
31 completely from the program upon stabilization.

32 (c) (1) The department shall design a health home program
33 with specific elements to engage and serve eligible individuals,
34 and health home program outreach and enrollment shall specifically
35 focus on these populations.

36 (2) The department shall design program elements, including
37 provider rates specific to eligible populations defined by the
38 department pursuant to subdivision (d) of Section 14127.1 and
39 targeted beneficiaries described in Section 14127.3, if applicable,
40 after consultation with stakeholder groups who have expertise in

1 engagement and services for those individuals. The department
2 shall design the health home program with specific elements to
3 engage and serve these populations, and these populations shall
4 be a specific focus for health home program outreach and
5 enrollment.

6 14127.3. (a) If the department creates a health home program
7 pursuant to this article, the department shall determine whether a
8 health home program that targets adults is operationally viable.

9 (b) (1) In determining whether a health home program that
10 targets adults is operationally viable, the department shall consider
11 whether a state plan amendment could be designed in a manner
12 that minimizes the impact on the General Fund, whether the
13 department has the capacity to administer the program, and whether
14 a sufficient provider network exists for providing health home
15 services to the population described in this section.

16 (2) If the department determines that a health home program
17 that targets adults is operationally viable pursuant to paragraph
18 (1), then the department shall design a state plan amendment to
19 target beneficiaries who meet the criteria specified in subdivision
20 (c).

21 (3) (A) If the department determines a health home program
22 that targets adults is not operationally viable, then the department
23 shall report the basis for this determination, as well as a plan to
24 address the needs of the chronically homeless and frequent hospital
25 users to the appropriate policy and fiscal committees of the
26 Legislature.

27 (B) The requirement for submitting the report and plan under
28 subparagraph (A) is inoperative four years after the date the report
29 is due, pursuant to Section 10231.5 of the Government Code.

30 (c) A state plan amendment designed pursuant to this section
31 shall target beneficiaries who meet both of the following criteria:

32 (1) Have current diagnoses of chronic, cooccurring physical
33 health, mental health, or substance use disorders prevalent among
34 frequent hospital users at an acuity level to be determined by the
35 department.

36 (2) Have one or more of the following indicators of severity, at
37 a level to be determined by the department:

38 (A) Frequent inpatient hospital admissions, including
39 hospitalization for medical, psychiatric, or substance use related
40 conditions.

1 (B) Excessive use of crisis or emergency services.

2 (C) Chronic homelessness.

3 (d) (1) For the purposes of providing health home services to
4 targeted beneficiaries who meet the criteria in subdivision (c), the
5 department shall select designated health home providers, managed
6 care organizations subcontracting with providers, or counties acting
7 as or subcontracting with providers operating as a health home
8 team that have all of the following:

9 (A) Demonstrated experience working with frequent hospital
10 users.

11 (B) Demonstrated experience working with people who are
12 chronically homeless.

13 (C) The capacity and administrative infrastructure to participate
14 in the program, including the ability to meet requirements of federal
15 guidelines.

16 (D) A viable plan, with roles identified among providers of the
17 health home, to do all of the following:

18 (i) Reach out to and engage frequent hospital users and
19 chronically homeless eligible individuals.

20 (ii) Link eligible individuals who are homeless or experiencing
21 housing instability to permanent housing, such as supportive
22 housing.

23 (iii) Ensure coordination and linkages to services needed to
24 access and maintain health stability, including medical, mental
25 health, substance use care, and social services to address social
26 determinants of health.

27 (2) The department may design additional provider criteria to
28 those identified in paragraph (1) after consultation with stakeholder
29 groups who have expertise in engagement and services for targeted
30 beneficiaries described in this section.

31 (3) The department may authorize health home providers eligible
32 under this subdivision to serve Medi-Cal enrollees through a
33 fee-for-service or managed care delivery system, and shall allow
34 for both county-operated and private providers to participate in
35 the California Health Home program.

36 14127.4. (a) The department shall administer this article in a
37 manner that attempts to maximize federal financial participation,
38 consistent with federal law.

39 (b) This article shall not be construed to preclude local
40 governments or foundations from contributing the nonfederal share

1 of costs for services provided under this program, so long as those
2 contributions are permitted under federal law. The department, or
3 counties contracting with the department, may also enter into
4 risk-sharing and social impact bond program agreements to fund
5 services under this article.

6 (c) In accordance with federal guidelines, the state may limit
7 availability of health home or enhanced health home services
8 geographically.

9 14127.5. (a) If the department creates a health home program,
10 the department shall ensure that an evaluation of the program is
11 completed and shall, within two years after implementation, submit
12 a report to the appropriate policy and fiscal committees of the
13 Legislature.

14 (b) The requirement for submitting the report under subdivision
15 (a) is inoperative four years after the date the report is due, pursuant
16 to Section 10231.5 of the Government Code.

17 14127.6. (a) This article shall be implemented only if and to
18 the extent federal financial participation is available and the federal
19 Centers for Medicare and Medicaid Services approves any state
20 plan amendments sought pursuant to this article.

21 (b) Except as provided in subdivisions (c) and (d), this article
22 shall be implemented only if no additional General Fund moneys
23 are used to fund the administration and costs of services.

24 (c) Notwithstanding subdivision (b), prior to and during the first
25 eight quarters of implementation, if the department projects, based
26 on analysis of current and projected expenditures for health home
27 services, that this article can be implemented in a manner that does
28 not result in a net increase in ongoing General Fund costs for the
29 Medi-Cal program, the department may use state funds to fund
30 any program costs.

31 (d) Notwithstanding subdivision (b), if the department projects,
32 after the first eight quarters of implementation, that implementation
33 of this article has not resulted in a net increase in ongoing General
34 Fund costs for the Medi-Cal program, the department may use
35 state funds to fund any program costs.

36 (e) The department may use new funding in the form of
37 enhanced federal financial participation for health home services
38 that are currently funded to fund any additional costs for new health
39 home program services.

1 (f) The department shall seek to fund the creation,
2 implementation, and administration of the program with funding
3 other than state general funds.

4 (g) The department may revise or terminate the health home
5 program any time after the first eight quarters of implementation
6 if the department finds that the program fails to result in improved
7 health outcomes or results in substantial General Fund expense
8 without commensurate decreases in Medi-Cal costs among program
9 participants.

10 14128. (a) In the event of a judicial challenge of the provisions
11 of this article, this article shall not be construed to create an
12 obligation on the part of the state to fund any payment from state
13 funds due to the absence or shortfall of federal funding.

14 (b) For the purposes of implementing this article, the department
15 may enter into exclusive or nonexclusive contracts on a bid or
16 negotiated basis, and may amend existing managed care contracts
17 to provide or arrange for services under this article. Contracts may
18 be statewide or on a more limited geographic basis. Contracts
19 entered into or amended under this section shall be exempt from
20 the provisions of Chapter 2 (commencing with Section 10290) of
21 Part 2 of Division 2 of the Public Contract Code and Chapter 6
22 (commencing with Section 14825) of Part 5.5 of Division 3 of the
23 Government Code, and shall be exempt from the review or
24 approval of any division of the Department of General Services.

25 (c) (1) Notwithstanding Chapter 3.5 (commencing with Section
26 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
27 the department may implement, interpret, or make specific the
28 process set forth in this article by means of all-county letters, plan
29 letters, plan or provider bulletins, or similar instructions, without
30 taking regulatory action, until such time as regulations are adopted.
31 It is the intent of the Legislature that the department be provided
32 temporary authority as necessary to implement program changes
33 until completion of the regulatory process.

34 (2) The department shall adopt emergency regulations no later
35 than two years after implementation of this article. The department
36 may readopt, up to two times, any emergency regulation authorized
37 by this section that is the same as or substantially equivalent to an
38 emergency regulation previously adopted pursuant to this section.

39 (3) The initial adoption of emergency regulations implementing
40 this article and the readoptions of emergency regulations authorized

1 by this section shall be deemed an emergency and necessary for
2 the immediate preservation of the public peace, health, safety, or
3 general welfare. Initial emergency regulations and readoptions
4 authorized by this section shall be exempt from review by the
5 Office of Administrative Law. The initial emergency regulations
6 and readoptions authorized by this section shall be submitted to
7 the Office of Administrative Law for filing with the Secretary of
8 State and shall remain in effect for no more than 180 days, by
9 which time final regulations may be adopted.

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