

AMENDED IN ASSEMBLY APRIL 4, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 361

Introduced by Assembly Member Mitchell
(Principal coauthor: Assembly Member Atkins)
(Coauthor: Assembly Member Ammiano)
(Coauthor: Senator Beall)

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 amended, 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-~~morality~~
13 *mortality* due to the complexity of their conditions and, often, their
14 negative social determinants of health. Frequent users have
15 difficulties accessing regular or preventive care and complying
16 with treatment protocols, and the significant number who are
17 homeless have no place to store medications, cannot adhere to a
18 healthy diet or maintain appropriate hygiene, face frequent
19 victimization, and lack rest 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

1 option for multiple target populations to achieve more than one
2 policy goal.

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

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

10
11 14127. For the purposes of this article, the following definitions
12 shall apply:

13 (a) “Department” means the State Department of Health Care
14 Services.

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

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

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

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

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

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

36 (3) For purposes of serving ~~the population~~ *targeted beneficiaries*
37 identified in *subdivision (c) of Section 14127.3*, the department
38 shall require a lead provider to be a *physician, a community clinic,*
39 *a mental health plan, a community-based nonprofit organization,*
40 *a county health system, or a hospital.*

1 (4) The department may determine the model of health home
 2 it intends to create, including any entity, provider, or group of
 3 providers operating as a health team, as a team of health care
 4 professionals, or as a designated provider, as those terms are
 5 defined in Sections 3502(c)(2) and 1945(h)(5) and (h)(6) of the
 6 Affordable Care Act, respectively.

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

17 (e) “*Targeted beneficiary*” means an individual who meets the
 18 criteria specified in subdivision (c) of Section 14127.3.

19 14127.1. Subject to federal approval, the department may do
 20 all of the following to create a California Health Home Program,
 21 as authorized under Section 2703 of the Affordable Care Act:

22 (a) Design, with opportunity for public comment, a program to
 23 provide health home services to Medi-Cal beneficiaries and Section
 24 1115 waiver demonstration populations with chronic conditions.

25 (b) Contract with new providers, new managed care plans,
 26 existing Medi-Cal providers, existing managed care plans, or
 27 counties to provide health home services, as provided in Section
 28 14128.

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

36 ~~(d) Except as specified in Section 14127.3, define~~ Define the
 37 populations of eligible individuals.

38 (e) Develop a payment methodology, including, but not limited
 39 to, fee-for-service or per member, per month payment structures
 40 that include tiered payment rates that take into account the intensity

1 of services necessary to outreach to, engage, and serve the
2 populations the department identifies.

3 (f) Identify health home services, consistent with federal
4 guidelines.

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

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

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

19 (A) Comprehensive and individualized care management.

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

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

24 (D) Individual and family support, including authorized
25 representatives.

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

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

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

36 ~~(e) (1) The department shall design a health home program~~
37 ~~with specific elements to engage and serve eligible individuals,~~
38 ~~and health home program outreach and enrollment shall specifically~~
39 ~~focus on these populations.~~

1 ~~(2) The department shall design program elements, including~~
2 ~~provider rates specific to eligible populations defined by the~~
3 ~~department pursuant to subdivision (d) of Section 14127.1 and~~
4 ~~targeted beneficiaries described in Section 14127.3, if applicable,~~
5 ~~after consultation with stakeholder groups who have expertise in~~
6 ~~engagement and services for those individuals. The department~~
7 ~~shall design the health home program with specific elements to~~
8 ~~engage and serve these populations, and these populations shall~~
9 ~~be a specific focus for health home program outreach and~~
10 ~~enrollment.~~

11 14127.3. (a) If the department creates a health home program
12 pursuant to this article, the department shall determine whether a
13 health home program that targets adults is operationally viable.

14 (b) (1) In determining whether a health home program that
15 targets adults is operationally viable, the department shall consider
16 whether a state plan amendment could be designed in a manner
17 that minimizes the impact on the General Fund, whether the
18 department has the capacity to administer the program, and whether
19 a sufficient provider network exists for providing health home
20 services to ~~the population described in this section~~ *targeted*
21 *beneficiaries described in subdivision (c)*.

22 (2) If the department determines that a health home program
23 that targets adults is operationally viable pursuant to paragraph
24 (1), then the department shall design a state plan amendment to
25 target beneficiaries who meet the criteria specified in subdivision
26 (c).

27 (3) (A) If the department determines a health home program
28 that targets adults is not operationally viable, then the department
29 shall report the basis for this determination, as well as a plan to
30 address the *health* needs of ~~the~~ chronically homeless *beneficiaries*
31 and frequent hospital users to the appropriate policy and fiscal
32 committees of the Legislature.

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

36 (c) A state plan amendment ~~designed~~ *submitted* pursuant to this
37 section shall target *adult* beneficiaries who meet both of the
38 following criteria:

39 (1) Have current diagnoses of chronic, co-occurring physical
40 health, mental health, or substance use disorders prevalent among

1 frequent hospital users ~~at an acuity level to be determined by the~~
2 ~~department.~~

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

5 *(2) Have a level of severity in conditions established by the*
6 *department, based on one or more of the following factors:*

7 (A) Frequent inpatient hospital admissions, including
8 hospitalization for medical, psychiatric, or substance use related
9 conditions.

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

11 (C) Chronic homelessness.

12 (d) (1) For the purposes of providing health home services to
13 targeted beneficiaries who meet the criteria in subdivision (c), the
14 department shall select designated health home providers, managed
15 care organizations subcontracting with providers, or counties acting
16 as or subcontracting with providers operating as a health home
17 team that have all of the following:

18 (A) Demonstrated experience working with frequent hospital
19 users.

20 (B) Demonstrated experience working with people who are
21 chronically homeless.

22 (C) The capacity and administrative infrastructure to participate
23 in the program, including the ability to meet requirements of federal
24 guidelines.

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

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

29 (ii) Link eligible individuals who are homeless or experiencing
30 housing instability to permanent housing, such as supportive
31 housing.

32 (iii) Ensure coordination and linkages to services needed to
33 access and maintain health stability, including medical, mental
34 health, substance use care, and social services to address social
35 determinants of health.

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

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

6 (4) *The department shall design strategies to outreach to,*
7 *engage, and provide health home services to the targeted*
8 *beneficiaries identified in subdivision (c), based on consultation*
9 *with stakeholder groups who have expertise in engaging and*
10 *providing services to these targeted beneficiaries.*

11 (5) *The department shall design other health home elements,*
12 *including provider rates specific to targeted beneficiaries described*
13 *in subdivision (c), after consultation with stakeholder groups who*
14 *have expertise in engaging and providing services to these targeted*
15 *beneficiaries.*

16 (6) *If the department creates a health home program that targets*
17 *adults described in subdivision (c), the department may also submit*
18 *state plan amendments targeting other adult populations.*

19 14127.4. (a) The department shall administer this article in a
20 manner that attempts to maximize federal financial participation,
21 consistent with federal law.

22 (b) This article shall not be construed to preclude local
23 governments or foundations from contributing the nonfederal share
24 of costs for services provided under this program, so long as those
25 contributions are permitted under federal law. The department, or
26 counties contracting with the department, may also enter into
27 risk-sharing and social impact bond program agreements to fund
28 services under this article.

29 (c) In accordance with federal guidelines, the state may limit
30 availability of health home or enhanced health home services
31 geographically.

32 14127.5. (a) If the department creates a health home program,
33 the department shall ensure that an evaluation of the program is
34 completed and shall, within two years after implementation, submit
35 a report to the appropriate policy and fiscal committees of the
36 Legislature.

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

1 14127.6. (a) This article shall be implemented only if and to
2 the extent federal financial participation is available and the federal
3 Centers for Medicare and Medicaid Services approves any state
4 plan amendments sought pursuant to this article.

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

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

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

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

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

27 (g) The department may revise or terminate the health home
28 program any time after the first eight quarters of implementation
29 if the department finds that the program fails to result in improved
30 health outcomes or results in substantial General Fund expense
31 without commensurate decreases in Medi-Cal costs among program
32 participants.

33 14128. (a) In the event of a judicial challenge of the provisions
34 of this article, this article shall not be construed to create an
35 obligation on the part of the state to fund any payment from state
36 funds due to the absence or shortfall of federal funding.

37 (b) For the purposes of implementing this article, the department
38 may enter into exclusive or nonexclusive contracts on a bid or
39 negotiated basis, and may amend existing managed care contracts
40 to provide or arrange for services under this article. Contracts may

1 be statewide or on a more limited geographic basis. Contracts
2 entered into or amended under this section shall be exempt from
3 the provisions of Chapter 2 (commencing with Section 10290) of
4 Part 2 of Division 2 of the Public Contract Code and Chapter 6
5 (commencing with Section 14825) of Part 5.5 of Division 3 of the
6 Government Code, and shall be exempt from the review or
7 approval of any division of the Department of General Services.

8 (c) (1) Notwithstanding Chapter 3.5 (commencing with Section
9 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
10 the department may implement, interpret, or make specific the
11 process set forth in this article by means of all-county letters, plan
12 letters, plan or provider bulletins, or similar instructions, without
13 taking regulatory action, until such time as regulations are adopted.
14 It is the intent of the Legislature that the department be provided
15 temporary authority as necessary to implement program changes
16 until completion of the regulatory process.

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

22 (3) The initial adoption of emergency regulations implementing
23 this article and the readoptions of emergency regulations authorized
24 by this section shall be deemed an emergency and necessary for
25 the immediate preservation of the public peace, health, safety, or
26 general welfare. Initial emergency regulations and readoptions
27 authorized by this section shall be exempt from review by the
28 Office of Administrative Law. The initial emergency regulations
29 and readoptions authorized by this section shall be submitted to
30 the Office of Administrative Law for filing with the Secretary of
31 State and shall remain in effect for no more than 180 days, by
32 which time final regulations may be adopted.