

AMENDED IN ASSEMBLY MAY 24, 2013

AMENDED IN ASSEMBLY APRIL 4, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 361**

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

February 14, 2013

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

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

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

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9 Article 3.9. Health Homes for Medi-Cal Enrollees and Section  
10 1115 Waiver Demonstration Populations with Chronic and  
11 Complex Conditions

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13 14127. For the purposes of this article, the following definitions  
14 shall apply:

15 (a) "Department" means the State Department of Health Care  
16 Services.

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

24 (c) (1) "Health home" means a provider or team of providers  
25 designated by the department that satisfies all of the following:

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

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

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

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

38 (3) For purposes of serving targeted beneficiaries identified in  
39 subdivision (c) of Section 14127.3, the department shall require a  
40 lead provider to be a physician, a community clinic, a mental health

1 plan, a community-based nonprofit organization, a county health  
2 system, or a hospital.

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

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

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

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

24 (a) Design, with opportunity for public comment, a program to  
25 provide health home services to Medi-Cal beneficiaries and Section  
26 1115 waiver demonstration populations with chronic conditions.

27 (b) Contract with new providers, new managed care plans,  
28 existing Medi-Cal providers, existing managed care plans, or  
29 counties to provide health home services, as provided in Section  
30 14128.

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

38 (d) Define the populations of eligible individuals.

39 (e) Develop a payment methodology, including, but not limited  
40 to, fee-for-service or per member, per month payment structures

1 that include tiered payment rates that take into account the intensity  
2 of services necessary to outreach to, engage, and serve the  
3 populations the department identifies.

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

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

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

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

20 (A) Comprehensive and individualized care management.

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

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

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

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

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

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

37 14127.3. (a) If the department creates a health home program  
38 pursuant to this article, the department shall determine whether a  
39 health home program that targets adults is operationally viable.

1 (b) (1) In determining whether a health home program that  
2 targets adults is operationally viable, the department shall consider  
3 whether a state plan amendment could be designed in a manner  
4 that minimizes the impact on the General Fund, whether the  
5 department has the capacity to administer the program, and whether  
6 a sufficient provider network exists for providing health home  
7 services to targeted beneficiaries described in subdivision (c).

8 (2) If the department determines that a health home program  
9 that targets adults is operationally viable pursuant to paragraph  
10 (1), then the department shall design a state plan amendment to  
11 target beneficiaries who meet the criteria specified in subdivision  
12 (c).

13 (3) (A) If the department determines a health home program  
14 that targets adults is not operationally viable, then the department  
15 shall report the basis for this determination, as well as a plan to  
16 address the health needs of chronically homeless beneficiaries and  
17 frequent hospital users to the appropriate policy and fiscal  
18 committees of the Legislature.

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

22 (c) A state plan amendment submitted pursuant to this section  
23 shall target adult beneficiaries who meet both of the following  
24 criteria:

25 (1) Have current diagnoses of chronic, co-occurring physical  
26 health, mental health, or substance use disorders prevalent among  
27 frequent hospital users.

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

30 (A) Frequent inpatient hospital admissions, including  
31 hospitalization for medical, psychiatric, or substance use related  
32 conditions.

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

34 (C) Chronic homelessness.

35 (d) (1) For the purposes of providing health home services to  
36 targeted beneficiaries who meet the criteria in subdivision (c), the  
37 department shall select designated health home providers, managed  
38 care organizations subcontracting with providers, or counties acting  
39 as or subcontracting with providers operating as a health home  
40 team that have all of the following:

- 1 (A) Demonstrated experience working with frequent hospital  
2 users.
- 3 (B) Demonstrated experience working with people who are  
4 chronically homeless.
- 5 (C) The capacity and administrative infrastructure to participate  
6 in the program, including the ability to meet requirements of federal  
7 guidelines.
- 8 (D) A viable plan, with roles identified among providers of the  
9 health home, to do all of the following:
- 10 (i) Reach out to and engage frequent hospital users and  
11 chronically homeless eligible individuals.
- 12 (ii) Link eligible individuals who are homeless or experiencing  
13 housing instability to permanent housing, such as supportive  
14 housing.
- 15 (iii) Ensure coordination and linkages to services needed to  
16 access and maintain health stability, including medical, mental  
17 health, substance use care, and social services to address social  
18 determinants of health.
- 19 (2) The department may design additional provider criteria to  
20 those identified in paragraph (1) after consultation with stakeholder  
21 groups who have expertise in engagement and services for targeted  
22 beneficiaries described in this section.
- 23 (3) The department may authorize health home providers eligible  
24 under this subdivision to serve Medi-Cal enrollees through a  
25 fee-for-service or managed care delivery system, and shall allow  
26 for both county-operated and private providers to participate in  
27 the California Health Home program.
- 28 (4) The department shall design strategies to outreach to, engage,  
29 and provide health home services to the targeted beneficiaries  
30 identified in subdivision (c), based on consultation with  
31 ~~stakeholders~~ *stakeholder* groups who have expertise in engaging  
32 and providing services to these targeted beneficiaries.
- 33 (5) The department shall design other health home elements,  
34 including provider rates specific to targeted beneficiaries described  
35 in subdivision (c), after consultation with stakeholder groups who  
36 have expertise in engaging and providing services to these targeted  
37 beneficiaries.
- 38 (6) If the department creates a health home program that targets  
39 adults described in subdivision (c), the department may also submit  
40 state plan amendments targeting other adult populations.

1 14127.4. (a) The department shall administer this article in a  
2 manner that attempts to maximize federal financial participation,  
3 consistent with federal law.

4 ~~(b) This article shall not be construed to preclude local~~  
5 ~~governments or foundations from contributing the nonfederal share~~  
6 ~~of costs for services provided under this program, so long as those~~  
7 ~~contributions are permitted under federal law. Except as provided~~  
8 ~~in Section 14127.6, the nonfederal share shall be provided by funds~~  
9 ~~from local governments, private foundations, or any other source~~  
10 ~~permitted under federal law.~~ The department, or counties  
11 contracting with the department, may also enter into risk-sharing  
12 and social impact bond program agreements to fund services under  
13 this article.

14 (c) In accordance with federal guidelines, the state may limit  
15 availability of health home or enhanced health home services  
16 geographically.

17 14127.5. (a) If the department creates a health home program,  
18 the department shall ensure that an evaluation of the program is  
19 completed and shall, within two years after implementation, submit  
20 a report to the appropriate policy and fiscal committees of the  
21 Legislature.

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

25 14127.6. (a) This article shall be implemented only if and to  
26 the extent federal financial participation is available and the federal  
27 Centers for Medicare and Medicaid Services approves any state  
28 plan amendments sought pursuant to this article.

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

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

39 (d) Notwithstanding subdivision (b), if the department projects,  
40 after the first eight quarters of implementation, that implementation

1 of this article has not resulted in a net increase in ongoing General  
2 Fund costs for the Medi-Cal program, the department may use  
3 state funds to fund any program costs.

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

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

11 (g) The department may revise or terminate the health home  
12 program any time after the first eight quarters of implementation  
13 if the department finds that the program fails to result in improved  
14 health outcomes or results in substantial General Fund expense  
15 without commensurate decreases in Medi-Cal costs among program  
16 participants.

17 14128. (a) In the event of a judicial challenge of the provisions  
18 of this article, this article shall not be construed to create an  
19 obligation on the part of the state to fund any payment from state  
20 funds due to the absence or shortfall of federal funding.

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

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

1 (2) The department shall adopt emergency regulations no later  
2 than two years after implementation of this article. The department  
3 may readopt, up to two times, any emergency regulation authorized  
4 by this section that is the same as or substantially equivalent to an  
5 emergency regulation previously adopted pursuant to this section.  
6 (3) The initial adoption of emergency regulations implementing  
7 this article and the readoptions of emergency regulations authorized  
8 by this section shall be deemed an emergency and necessary for  
9 the immediate preservation of the public peace, health, safety, or  
10 general welfare. Initial emergency regulations and readoptions  
11 authorized by this section shall be exempt from review by the  
12 Office of Administrative Law. The initial emergency regulations  
13 and readoptions authorized by this section shall be submitted to  
14 the Office of Administrative Law for filing with the Secretary of  
15 State and shall remain in effect for no more than 180 days, by  
16 which time final regulations may be adopted.

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