

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2612

Introduced by Assembly Member Dababneh

February 21, 2014

An act to ~~amend Section 1250.2 of the Health and Safety Code, relating to health facility licensing~~ *add Sections 14124.27, 14124.28, and 14129 to the Welfare and Institutions Code, relating to Medi-Cal.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2612, as amended, Dababneh. ~~Health facilities—licensing: psychiatric health facility—Medi-Cal: substance use disorder treatment.~~

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 prohibits federal financial participation for care or services provided to inmates of a public institution and care or services provided to patients in an institution for mental diseases. Existing law establishes the Drug Medi-Cal Treatment Program (Drug Medi-Cal) under which the department is authorized to enter into contracts with counties for various drug treatment services to Medi-Cal recipients, or is required to directly arrange for these services if a county elects not to do so.

This bill would provide that eligible individuals who are not inmates of a public institution may access medically necessary Drug Medi-Cal benefits. The bill would also authorize the department to establish a 10-year pilot project with 6 counties to develop models for housing individuals with substance use disorders to provide substance use

disorder treatment to those individuals who do not fall within the institution for mental diseases exclusion. The bill would provide that these provisions shall only be implemented if and to the extent that federal financial participation is not jeopardized. The bill would also require the department, in completing a specified application for a wavier of federal law, to request approval to create a process by which counties may receive federal financial participation under the Drug Medi-Cal program for stays of 90 days or less in an institution for mental diseases for beneficiaries with a substance use disorder diagnosis.

Existing law authorizes the department, subject to federal approval, to create a health home program for enrollees with chronic conditions, as prescribed.

This bill would require the department, in implementing that program, to request a waiver of federal law to authorize counties to designate a provider of behavioral health services, including a nonhospital facility that would otherwise be designated as an institution for mental diseases, as a health home.

~~Existing law provides for the licensure and regulation by the State Department of Public Health of health facilities. Under existing law, a health facility includes a psychiatric health facility, as defined to mean a health facility, licensed by the State Department of Health Care Services, that provides 24-hour inpatient care for mentally disordered, incompetent, or other specified persons.~~

~~This bill would make technical, nonsubstantive changes to these provisions:~~

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

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

- 1 SECTION 1. Section 14124.27 is added to the Welfare and
- 2 Institutions Code, immediately following Section 14124.26, to
- 3 read:
- 4 14124.27. (a) In order to increase access to substance use
- 5 disorder treatment for individuals in the criminal justice system,
- 6 eligible individuals who are not inmates of a public institution
- 7 may access medically necessary Drug Medi-Cal benefits as
- 8 provided in this article.

1 (b) The department may establish a 10-year pilot program with
2 six counties to develop models for housing individuals with
3 substance use disorders to provide substance use disorder
4 treatment to those individuals who do not fall within the institution
5 for mental diseases exclusion in federal law, thereby maximizing
6 federal financial participation.

7 (c) This section shall not create a state-only funded benefit or
8 program. The department shall implement this section only if and
9 to the extent that federal financial participation is not jeopardized.

10 SEC. 2. Section 14124.28 is added to the Welfare and
11 Institutions Code, to read:

12 14124.28. (a) The department shall, in completing its
13 application for a waiver under Section 1115 of the federal Social
14 Security Act (42 U.S.C. Sec. 1315), include a request for approval
15 to create a process by which counties may receive federal financial
16 participation for stays of 90 days or less in an institution for mental
17 diseases, as defined in Section 1396d(i) of Title 42 of the United
18 States Code, for beneficiaries with a substance use disorder
19 diagnosis for purposes of treating the individual's medically
20 necessary substance use disorder.

21 (b) This section shall be implemented only if the department
22 obtains federal approval for the Section 1115 waiver.

23 SEC. 3. Section 14129 is added to the Welfare and Institutions
24 Code, immediately following Section 14128, to read:

25 14129. (a) The department shall, in implementing this article,
26 request a waiver of federal law to authorize counties to designate
27 a provider of behavioral health services, including a nonhospital
28 facility that would otherwise be designated as an institution for
29 mental diseases as defined in Section 1396d(i) of Title 42 of the
30 United States Code, as a health home.

31 (b) The department shall implement this section only if the
32 waiver of federal law is obtained.

33 SECTION 1. ~~Section 1250.2 of the Health and Safety Code is~~
34 ~~amended to read:~~

35 ~~1250.2. (a) (1) As defined in Section 1250, "health facility"~~
36 ~~includes a "psychiatric health facility," defined to mean a health~~
37 ~~facility, licensed by the State Department of Health Care Services,~~
38 ~~that provides 24-hour inpatient care for mentally disordered,~~
39 ~~incompetent, or other persons described in Division 5 (commencing~~
40 ~~with Section 5000) or Division 6 (commencing with Section 6000)~~

1 of the Welfare and Institutions Code. This care shall include, but
2 not be limited to, the following basic services: psychiatry, clinical
3 psychology, psychiatric nursing, social work, rehabilitation, drug
4 administration, and appropriate food services for those persons
5 whose physical health needs can be met in an affiliated hospital
6 or in outpatient settings.

7 (2) It is the intent of the Legislature that a psychiatric health
8 facility shall provide a distinct type of service to psychiatric
9 patients in a 24-hour acute inpatient setting. The State Department
10 of Health Care Services shall require regular utilization reviews
11 of admission and discharge criteria and lengths of stay in order to
12 ensure that these patients are moved to less restrictive levels of
13 care as soon as appropriate.

14 (b) (1) The State Department of Health Care Services may issue
15 a special permit to a psychiatric health facility for that facility to
16 provide structured outpatient services (commonly referred to as
17 SOPS) consisting of morning, afternoon, or full daytime organized
18 programs, not exceeding 10 hours, for acute daytime care for
19 patients admitted to the facility. This subdivision shall not be
20 construed as requiring a psychiatric health facility to apply for a
21 special permit to provide these alternative levels of care.

22 (2) The Legislature recognizes that, with access to structured
23 outpatient services, as an alternative to 24-hour inpatient care,
24 certain patients would be provided with effective intervention and
25 less restrictive levels of care. The Legislature further recognizes
26 that, for certain patients, the less restrictive levels of care eliminate
27 the need for inpatient care, enable earlier discharge from inpatient
28 care by providing a continuum of care with effective aftercare
29 services, or reduce or prevent the need for a subsequent readmission
30 to inpatient care.

31 (e) Reference in any statute to Section 1250 of the Health and
32 Safety Code shall be deemed and construed to also be a reference
33 to this section.

34 (d) Notwithstanding any other law, and to the extent consistent
35 with federal law, a psychiatric health facility shall be eligible to
36 participate in the medicare program under Title XVIII of the federal
37 Social Security Act (42 U.S.C. Sec. 1395 et seq.), and the medicaid
38 program under Title XIX of the federal Social Security Act (42
39 U.S.C. Sec. 1396 et seq.), if all of the following conditions are
40 met:

- 1 ~~(1) The facility is a licensed facility.~~
- 2 ~~(2) The facility is in compliance with all related statutes and~~
- 3 ~~regulations enforced by the State Department of Health Care~~
- 4 ~~Services, including regulations contained in Chapter 9~~
- 5 ~~(commencing with Section 77001) of Division 5 of Title 22 of the~~
- 6 ~~California Code of Regulations.~~
- 7 ~~(3) The facility meets the definitions and requirements contained~~
- 8 ~~in subdivisions (e) and (f) of Section 1861 of the federal Social~~
- 9 ~~Security Act (42 U.S.C. Sec. 1395x(e) and (f)), including the~~
- 10 ~~approval process specified in Section 1861(e)(7)(B) of the federal~~
- 11 ~~Social Security Act (42 U.S.C. Sec. 1395x(e)(7)(B)), which~~
- 12 ~~requires that the state agency responsible for licensing hospitals~~
- 13 ~~has assured that the facility meets licensing requirements.~~
- 14 ~~(4) The facility meets the conditions of participation for hospitals~~
- 15 ~~pursuant to Part 482 of Title 42 of the Code of Federal Regulations.~~