

**ASSEMBLY BILL**

**No. 1299**

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**Introduced by Assembly Member Ridley-Thomas**

February 27, 2015

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An act to add Article 6 (commencing with Section 14695.1) to Chapter 8.8 of Part 3 of Division 9 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 1299, as introduced, Ridley-Thomas. Medi-Cal: specialty mental health services: foster children.

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 law provides that Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) for any individual under 21 years of age is covered under Medi-Cal, consistent with the requirements of federal law. Federal law defines EPSDT mental health services to include screening services, vision services, dental services, hearing services, and other necessary services to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services, whether or not the services are covered under the state plan. EPSDT is classified under the Medi-Cal program as a specialty mental health service.

Existing law requires each local mental health plan to establish a procedure to ensure access to outpatient specialty mental health services, as required by the EPSDT program standards, for children in foster care who have been placed outside their county of adjudication. Existing

law includes standardized contracts, procedures, documents, and forms, to facilitate the receipt of medically necessary specialty mental health services by a foster child who is placed outside his or her county of original jurisdiction.

This bill would declare the intent of the Legislature to ensure that foster children who are placed outside of their county of original jurisdiction, are able to access mental health services in a timely manner consistent with their individualized strengths and needs and the requirements of EPSDT program standards and requirements. The bill would require the department to issue policy guidance that establishes the presumptive transfer of responsibility for providing or arranging for mental health services to foster youth from the county of original jurisdiction to the foster child’s county of residence, as prescribed. The bill would define presumptive transfer for these purposes.

This bill would require the Department of Finance, by May 1,2016, to set or adjust its allocation schedule of the Behavioral Health Subaccount pursuant to realignment provisions enacted pursuant to a specified measure, in order that counties that have paid, or will pay, for the specialty mental health services provided pursuant to the bill, are fully reimbursed during the fiscal year in which the services were provided. This bill would require the department to determine whether it is necessary to seek approval under the state’s Section 1915(b) Medicaid waiver from the federal Centers for Medicare and Medicaid Services (CMS) prior to implementing the bill, and if so, to do everything within its power necessary to secure an expeditious approval.

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. Article 6 (commencing with Section 14695.1) is  
2 added to Chapter 8.8 of Part 3 of Division 9 of the Welfare and  
3 Institutions Code, to read:

4  
5 Article 6. Specialty Mental Health Services for Foster Children  
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7 14695.1. (a) (1) It is the intent of the Legislature to ensure  
8 that foster children who are placed outside of their county of  
9 original jurisdiction, are able to access mental health services in  
10 a timely manner, consistent with their individualized strengths and

1 needs and the requirements of Early Periodic Screening Diagnosis  
2 and Treatment (EPSDT) program standards and requirements.

3 (2) It is the further intent of the Legislature to overcome the  
4 barriers to care that exist under existing law, which place  
5 responsibility for providing or arranging for mental health services  
6 to foster children who are placed outside of their county of original  
7 jurisdiction, on those same counties.

8 (b) In order to facilitate the receipt of medically necessary  
9 specialty mental health services by a foster child who is placed  
10 outside of his or her county of original jurisdiction, the California  
11 Health and Human Services Agency shall coordinate with the  
12 department and the State Department of Social Services to take  
13 all of the following actions:

14 (1) On or before July 1, 2016, all of the following shall occur:

15 (A) The department shall issue policy guidance, pursuant to  
16 Section 14716, that establishes the presumptive transfer of  
17 responsibility for providing or arranging for mental health services  
18 to foster youth, consistent with the requirements of EPSDT  
19 program standards and requirements, from the county of original  
20 jurisdiction to the foster child’s county of residence.

21 (B) “Presumptive transfer” for the purposes of this section means  
22 that absent any conditions or exceptions as established pursuant  
23 to this article, responsibility for providing or arranging for mental  
24 health services shall immediately transfer from the county of  
25 original jurisdiction to the county of residence, when the all of the  
26 following conditions occur:

27 (i) A foster child is placed in a county other than the county of  
28 original jurisdiction.

29 (ii) The transfer of responsibility is requested by the county  
30 child welfare services agency, county probation department, foster  
31 caregiver, or any other person authorized to make medical decisions  
32 on behalf of the foster child.

33 (C) The department shall establish the conditions and exceptions  
34 to presumptive transfer in consultation with the State Department  
35 of Social Services, and with the input of stakeholders that include  
36 the County Welfare Directors Association of California, the County  
37 Behavioral Health Directors Association of California, provider  
38 representatives, and family and youth advocates. The conditions  
39 and exceptions to presumptive transfer are intended to ensure that

1 the transfer of responsibility improves access to mental health care  
2 services and does not impede the continuity of existing care.

3 (D) The department shall establish the procedures for  
4 implementing presumptive transfer that are consistent with the  
5 purposes and intent of this section and Early Periodic Screening  
6 Diagnosis and Treatment program standards and requirements,  
7 and shall include a procedure for expedited transfer within 48  
8 hours.

9 14695.2. By May 1, 2016, the Department of Finance shall set  
10 or adjust its allocation schedule of the Behavioral Health  
11 Subaccount pursuant to the requirements of Senate Bill 1020  
12 (Chapter 40, Statutes of 2012), in order that counties that have  
13 paid, or will pay, for specialty mental health services for foster  
14 children placed out of county pursuant to this article, are fully  
15 reimbursed during the fiscal year in which the services are  
16 provided.

17 14695.3. (a) If the department determines it is necessary, it  
18 shall seek approval under the state's Section 1915(b) Medicaid  
19 waiver from the United States Department of Health and Human  
20 Services, Centers for Medicare and Medicaid Services (CMS) prior  
21 to implementing this article.

22 (b) If the department makes the determination that it is necessary  
23 to seek CMS approval pursuant to subdivision (a), the department  
24 shall make an official request for approval from CMS no later than  
25 \_\_\_\_, and shall do everything within its power necessary to secure  
26 an expeditious approval from CMS.

27 (c) The department shall not be required to implement any  
28 provision of this article that CMS determines is not permitted under  
29 the state's waiver.