

AMENDED IN SENATE JUNE 13, 2016

AMENDED IN ASSEMBLY MAY 31, 2016

AMENDED IN ASSEMBLY APRIL 26, 2016

AMENDED IN ASSEMBLY MARCH 29, 2016

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2821

**Introduced by Assembly Member Chiu
(Principal coauthor: Assembly Member Atkins)**

February 19, 2016

An act to add Chapter 6.9 (commencing with Section 50678) to Part 2 of Division 31 of the Health and Safety Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2821, as amended, Chiu. Medi-Cal Housing Program.

Existing law establishes various housing programs directed by the Department of Housing and Community Development (HCD), including special housing programs to provide housing assistance for persons with developmental and physical disabilities and persons with mental health disorders. Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services (DHCS), 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.

This bill would require HCD, in coordination with DHCS, to, on or before July 1, 2017, ~~design and create~~ *establish* the Medi-Cal Housing

Program and on or before ~~September~~ *December* 1, 2017, and every year thereafter, subject to appropriation by the Legislature, award grants ~~on a competitive basis to eligible counties and regions~~ *grant applicants* participating in a Whole Person Care pilot program, a program under the Medi-Cal program that provides specified entities with the option to receive support to integrate care for a particularly vulnerable group of Medi-Cal beneficiaries, including individuals who are experiencing or are at risk of homelessness, *that includes eligibility based on homelessness*, or ~~counties and regions~~ with Medi-Cal managed care plans administering the Health Home Program. The bill would provide that ~~a county or a region~~ *an applicant* is eligible for a grant under the program if the ~~county or region's lead agency~~ *applicant* meets specified requirements, including that the lead agency is participating in a Whole Person Care pilot or has previously participated in a Whole Person Care ~~pilot~~, *pilot designed to provide services to people experiencing homelessness* or is *located in* a county with Medi-Cal managed care plan or plans participating in the Health Home Program.

The bill would require a county or region awarded a grant to use the funds for specified purposes, including long-term rental assistance and interim housing. The bill would provide that a county resident is eligible to receive assistance pursuant to a grant awarded under the Medi-Cal Housing Program if he or she meets specified requirements, including that the person is homeless, is a Medi-Cal beneficiary, and is eligible for Supplemental Security Income, and is eligible to receive services under the Whole Person Care pilot or the Health Home Program. The bill would provide that the program is subject to an initial appropriation by the Legislature, and that thereafter grants under the program are subject to annual appropriations by the Legislature, as specified. *The bill would also authorize HCD and DHCS, for purposes of implementing these provisions, to enter into exclusive or nonexclusive contracts on a bid or negotiated basis, exempt from specified small business procurement, personal service, and public contracting provisions, and exempt from the review or approval of any division of the Department of General Services. The bill would also prohibit HCD and DHCS from implementing provisions developed pursuant to these provisions until necessary federal approvals have been obtained and other federal financial participation is not jeopardized.*

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) Homeless beneficiaries incur disproportionate Medi-Cal
4 costs, particularly people experiencing chronic homelessness and
5 people who cycle between homelessness, emergency departments,
6 inpatient care, and nursing home stays. Supportive housing, which
7 is affordable housing with intensive services, allows people
8 experiencing significant barriers to housing stability to improve
9 their health and decrease their Medicaid costs. National studies
10 comparing formerly homeless Medicaid beneficiaries living in
11 supportive housing with homeless beneficiaries receiving usual
12 care demonstrate Medicaid cost savings of almost \$9,000 per year
13 after the costs of services.

14 (b) In the proposal to renew California’s Section 1115 Medicaid
15 Waiver, “Medi-Cal 2020: Key Concepts for Renewal,” the State
16 Department of Health Care Services (DHCS) stated, “Research
17 suggests that individuals experiencing homelessness, particularly
18 those individuals with multiple chronic conditions, often struggle
19 to receive appropriate health care services and are
20 disproportionately likely to be high utilizers of the health care
21 safety net.” DHCS proposed using Medi-Cal to fund the tools
22 communities need to help homeless beneficiaries gain access to
23 and maintain housing stability, including the costs of interim
24 housing, recuperative/respite care, and long-term rental subsidies.

25 (c) The final Medi-Cal 2020 Waiver allows participating entities,
26 including counties, to create Whole Person Care pilots to address
27 the health, behavioral health, and social services needs of high
28 users of multiple systems. Participating entities will be able to use
29 Whole Person Care pilots to offer housing-related services to
30 homeless residents, form collaborations between local agencies
31 and health plans to address service needs of homeless beneficiaries,
32 pool waiver and other sources of financing to pay for services
33 promoting housing stability, and collect data on residents’
34 outcomes.

35 (d) Though the federal Centers for Medicare and Medicaid
36 Services disallowed federal financial participation in the costs of
37 housing interventions, the final Section 1115 Medicaid Waiver
38 special terms and conditions, referred to as the “Medi-Cal 2020

1 Waiver,” allow for state contributions to Whole Person Care
2 “county housing pools” to fund long-term costs of housing to
3 achieve the goals of the Waiver proposal. The final Waiver special
4 terms and conditions also permit ~~tracking costs saved by moving~~
5 ~~beneficiaries from homelessness to housing and then using these~~
6 ~~costs savings to pay for some costs of housing and providing~~
7 ~~services to additional participants.~~ *leveraging local resources to*
8 *increase access to subsidized housing units. They may also*
9 *incorporate a financing component to reallocate or reinvest a*
10 *portion of the savings from the reduced utilization of health care*
11 *services into the housing pool.*

12 (e) In most communities in California, a lack of housing
13 affordable to people experiencing homelessness is one of the
14 greatest barriers to exiting homelessness. Housing resources would
15 equip Whole Person Care counties choosing to target homeless
16 people with the resources to achieve the goals of the Whole Person
17 Care Waiver provisions, during the course of the pilot and after
18 the pilot ends.

19 SEC. 2. Chapter 6.9 (commencing with Section 50678) is added
20 to Part 2 of Division 31 of the Health and Safety Code, to read:

21
22 CHAPTER 6.9. MEDI-CAL HOUSING PROGRAM
23

24 50678. For purposes of this chapter, all of the following
25 definitions shall apply:

26 (a) “DHCS” means the Department of Health Care Services.
27 (b) “HCD” means the Department of Housing and Community
28 Development.

29 (a)
30 (c) “Homeless” has the same meaning as in Section 578.3 of
31 Title 24 of the Code of Federal Regulations. “Homeless” also
32 includes a person who would become homeless upon exiting a
33 publicly-funded institution or system of care, including a hospital,
34 skilled nursing facility, mental health facility, or incarceration.
35 “Homeless” also includes Whole Person Care pilot program
36 homeless populations, as approved by DHCS in the Whole Person
37 Care pilot program application and Medi-Cal beneficiaries served
38 under California’s Health Home Program under Section 2703 of
39 the federal Patient Protection and Affordable Care Act (Public
40 Law 111-148).

~~(b)~~

(d) “Interim housing” means a safe place for a participant to live temporarily while the participant is waiting to move into a permanent apartment affordable to the participant with rental assistance, and where the participant is not required to pay more than 30 percent of his or her income toward the cost of the interim housing. “Interim housing” may include recuperative or respite care and shall not be funded for longer than a period of nine months.

~~(e)~~

(e) “Long-term rental assistance” means a rental subsidy provided to a housing provider, including a landlord renting in the private market ~~or developers~~ or a developer ~~creating~~ *leasing* affordable housing, to assist a tenant to pay the difference between 30 percent of the tenant’s income and the costs of operating the assisted ~~apartment~~: *a housing unit*.

~~(f)~~

(f) “Permanent housing” means ~~an apartment~~ *a housing unit* where the landlord does not limit length of stay in the ~~apartment~~, *housing unit*, the landlord does not restrict the movements of the tenant, and the tenant has a lease and is subject to the rights and responsibilities of tenancy, pursuant to Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3 of the Civil Code.

~~(e)~~

(g) “Supportive housing” has the same meaning as in Section 50675.14.

~~(f)~~

(h) “Whole Person Care pilot” has the same meaning as described in ~~Sections 110-126 of the Medi-Cal 2020 Waiver Special Terms and Conditions, finalized Conditions (STCs), Sections 110-126, as approved by the federal Centers for Medicare and Medicaid Services, on December 30, 2015. 2015, or in any subsequent amendment to the STCs.~~

50678.1. ~~The Department of Housing and Community Development (HCD), HCD in coordination with the State Department of Health Care Services (DHCS), DHCS, shall do all of the following:~~

(a) On or before July 1, 2017, ~~design and create~~ *establish* the Medi-Cal Housing Program.

(b) On or before July 1, 2017, draft guidelines for stakeholder comment to fund competitive grants to pay for interim and long-term rental assistance under the Medi-Cal Housing Program. The guidelines shall detail competitive scoring criteria that includes, but is not limited to, scoring that awards points based upon all of the following:

(1) Need, which includes consideration of the number of individuals experiencing homelessness and the impact of the housing costs in the applicant's geographic area.

~~(1) Capacity~~

(2) Ability of the applicant to administer a program offering interim and long-term rental assistance; assistance to people experiencing homelessness.

~~(2) Identified~~

(3) The applicant's documented identified partnerships with affordable and supportive housing providers; providers in the applicant's geographic area.

~~(3) Partnerships~~

(4) The applicant's partnerships with Medi-Cal managed care plans in the applicant's geographic area and the percentage of county Medi-Cal beneficiaries that assigned to those partnering Medi-Cal managed health plans cover plans.

~~(4) Comprehensive plans that connect housing~~

(5) A comprehensive plan to connect interim housing, long-term rental assistance, and project-based supportive housing resources made available under the program Medi-Cal Housing Program with services made available through the Whole Person Care pilot or and the Health Home Program.

~~(5) Quality of services provided through the Whole Person Care pilot or the Health Home Program in the applying county.~~

(6) Coordination with community-based housing and homeless service providers, behavioral health providers, and safety net providers, including community health centers.

(c) On or before ~~September~~ December 1, 2017, and every year thereafter, subject to appropriation by the Legislature, award grants ~~on a competitive basis to eligible counties and regions grant applicants participating in a Whole Person Care pilot or counties and regions that includes eligibility bases on homelessness or a partnership with Medi-Cal managed care plans administering the Health Home Program under Section 2703 of the federal Patient~~

~~Protection and Affordable Care Act. Program. If appropriations~~
~~are made available in future years, counties shall compete for~~
~~each round of five-year grants.~~

~~(d) Collect data midyear and annually—Midyear and annually,~~
~~collect data from the Medi-Cal Housing Program grantees or from~~
~~the Medi-Cal managed care plan partnering with participating~~
~~counties and regions receiving grants awarded pursuant to this~~
~~chapter. applicants and other Medi-Cal data available from~~
~~grantees or from DHS, as appropriate.~~

~~(e) No later than July 1, 2017, January 1, 2018, contract with~~
~~an independent evaluator to analyze data collected pursuant to~~
~~Section 50678.4 50678.3 to determine potential costs avoided or~~
~~saved due to changes in health care costs associated with services~~
~~provided under the Medi-Cal Housing Program. HCD shall~~
~~provide, on a regular basis as needed, collected data to the~~
~~evaluator.~~

~~(f) (1) By March 31, 2019, for grants awarded in 2017, and in~~
~~subsequent years for every year thereafter in which the Medi-Cal~~
~~Housing Program receives is allocated funding, report data~~
~~collected to the Assembly Committee on Budget, the Senate~~
~~Committee on Budget and Fiscal Review, the Assembly and Senate~~
~~committees on health, the Assembly Committee on Housing and~~
~~Community Development, and the Senate Committee on~~
~~Transportation and Housing.~~

~~(2) A report to be submitted pursuant to paragraph (1) shall be~~
~~submitted in compliance with Section 9795 of the Government~~
~~Code.~~

~~50678.2. A county or a region that includes more than one~~
~~county—An applicant shall be eligible for a Medi-Cal Housing~~
~~Program grant if the county or regional agency applying for grant~~
~~funds applicant meets the requirements of this section. Eligibility~~
~~does not create an entitlement to grant funds and is subject to~~
~~availability of funds. The county or regional agency applying~~
~~applicant shall meet all of the following requirements:~~

~~(a) The agency satisfies one of—Satisfies one or more the~~
~~following:~~

~~(1) Is a lead agency participating in a Whole Person Care pilot.~~
~~pilot designed to provide services to people experiencing~~
~~homelessness.~~

(2) Is a lead agency that ~~had~~ previously participated in a Whole Person Care pilot that has ~~expired~~. *expired and the applicant has decided to continue to provide services to homeless people under the structures developed in the Whole Person Care pilot.*

(3) Is located in a county with a Medi-Cal managed care plan or plans participating in the Health Home Program.

~~(b) As described under Section 115 of the Medi-Cal 2020 Special Waiver Terms and Conditions, the agency has formed collaborative relationships with at least one health plan whose members will participate in the program, county health and behavioral health agencies, at least one housing authority, and relevant continuums of care.~~

~~(e) For residents participating in the Medi-Cal Housing Program, has~~

(b) Has identified a source of funding for Housing Transition Services and Tenancy Sustaining Services, as identified in the Centers for Medicare and Medicaid Services' Informational Bulletin regarding Housing-Related Activities and Services for People with Disabilities, issued June 26, 2015. Funding for these services shall include one or more of the following:

(1) County general funds.

(2) Whole Person Care pilot housing pool and care management programs. program funds.

(3) The Health Home Program.

~~(d)~~

(c) Agrees to contribute funding for interim and long-term rental assistance through one or more of the following sources:

(1) County general funds.

(2) Housing-Flexible housing pools created through a Whole Person Care pilot.

(3) A county or partnering housing authority's set-aside of at least 15 percent turn-over federal Housing Choice Vouchers to residents experiencing homelessness and who are eligible to receive Whole Person Care pilot or Health Home Program services.

~~(e)~~

(d) Has designated a process for administering grant funds through agencies administering housing programs.

~~(f)~~

(e) Agrees to collect and report data, as described in Section 50678.3, to the Department of Housing and Community

1 ~~Development and the State Department of Health Care Services.~~
2 ~~HCD and DHCS.~~

3 ~~50678.3. (a) A county or region awarded grant funds under~~
4 ~~this chapter shall form agreements with partnering health plans to~~
5 ~~collect Medi-Cal data regarding members' medical costs;~~

6 ~~50678.3. (a) HCD shall coordinate with DHCS to identify a~~
7 ~~process for collecting and providing Medi-Cal data regarding~~
8 ~~changes in health care costs associated with services provided~~
9 ~~under the Medi-Cal Housing Program to the extent that~~
10 ~~information is available, up to 12 months prior to each participant's~~
11 ~~move into permanent housing, as well as medical costs after each~~
12 ~~participant's move in, pursuant to the reporting requirements of~~
13 ~~this section.~~

14 ~~(b) A county or region An applicant awarded grant funds or the~~
15 ~~county's or region's partnering Medi-Cal managed care plan shall,~~
16 ~~at annual and midyear intervals, report all of the following data to~~
17 ~~HCD and DHCS:~~

18 ~~(1) A comparison of medical costs of participants receiving~~
19 ~~long-term rental assistance under the Medi-Cal Housing Program~~
20 ~~to medical costs of the same participants 12 months prior to move~~
21 ~~in to permanent housing, or for participants with less than 12~~
22 ~~months of available data prior to move in, any data available prior~~
23 ~~to move in.~~

24 ~~(1) Data specified by HCD necessary to measure the costs~~
25 ~~described in subdivision (a).~~

26 ~~(2) The number of participants and the type of interventions~~
27 ~~offered through grant funds.~~

28 ~~(3) The number of participants living in supportive housing or~~
29 ~~other permanent housing.~~

30 ~~(c) HCD shall collaborate with DHCS to provide available~~
31 ~~fee-for-service data to the evaluator.~~

32 ~~50678.4. A county or region An applicant shall use grants~~
33 ~~awarded pursuant to this chapter for one or more of the following,~~
34 ~~which may be administered through a housing pool, as defined in~~
35 ~~the Whole Person Care pilot:~~

36 ~~(a) Long-term rental assistance for periods up to five years.~~

37 ~~(b) A capitalized operating reserve for up to 15 years to pay for~~
38 ~~operating costs of an apartment or apartments within a development~~
39 ~~receiving public funding to provide supportive housing to people~~
40 ~~experiencing homelessness.~~

1 (c) Interim housing.

2 (d) A county's administrative costs for up to 3 percent of the
3 total grant awarded.

4 50678.5. A county resident is eligible to receive assistance
5 pursuant to a grant awarded under the Medi-Cal Housing Program
6 if he or she meets all of the following requirements:

7 (a) Is homeless upon initial eligibility.

8 (b) Is a Medi-Cal beneficiary.

9 (c) Is eligible for Supplemental Security Income.

10 (d) Is eligible to receive services under either the Whole Person
11 Care pilot or the Health Home Program, whichever is operative
12 in the participating county or region.

13 (e) ~~Is assessed to be~~ likely to improve his or her health
14 conditions with supportive housing.

15 50678.6. The Medi-Cal Housing Program is subject to an initial
16 appropriation by the Legislature. After the initial appropriation,
17 the funding of grants under the program is subject to annual
18 appropriations by the ~~Legislature based on decreased costs of care,~~
19 *Legislature. The Legislature shall consider the impact that housing*
20 *and supportive services have had in changing utilization and health*
21 *care costs*, as identified in the evaluation described in Section
22 50678.1, of moving eligible participants into supportive housing.

23 50678.7. HCD shall reimburse DHCS for the costs of ~~collecting~~
24 ~~data and~~ collaborating in the design *and implementation* of the
25 program. HDC shall use no more than 5 percent of the funds
26 appropriated for the Medi-Cal Housing Program for purposes of
27 administering the program.

28 50678.8. (a) *For purposes of implementing this chapter, HCD*
29 *or DHCS may enter into exclusive or nonexclusive contracts on a*
30 *bid or negotiated basis. Contracts entered into or amended*
31 *pursuant to this subdivision shall be exempt from Chapter 6*
32 *(commencing with Section 14825) of Part 5.5 of Division 3 of Title*
33 *2 of the Government Code, Section 19130 of the Government Code,*
34 *and Part 2 (commencing with Section 10100) of Division 2 of the*
35 *Public Contract Code and shall be exempt from the review or*
36 *approval of any division of the Department of General Services.*

37 (b) *HDC and DHCS shall implement the provisions developed*
38 *pursuant to this chapter only after all necessary federal approvals*

1 *have been obtained and other federal financial participation is*
2 *not jeopardized.*

O