

AMENDED IN SENATE JUNE 16, 2016

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 *Members Chiu and Santiago*
(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, establish the Medi-Cal Housing Program and on or before December 1, 2017, and every year thereafter, subject to appropriation by the Legislature, award grants *on a competitive basis* to eligible 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 with Medi-Cal managed care plans administering the Health Home Program. The bill would provide that an applicant is eligible for a grant under the program if the applicant meets specified requirements, including that the *applicant is a lead agency*—is participating in a Whole Person Care pilot or has previously participated in a Whole Person Care 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~~ *an applicant* 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~~ *shall be funded, upon* 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~~ HCD and DHCS from implementing provisions developed pursuant to these provisions until necessary federal approvals have been obtained and *to the extent that* 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.

(d) Though the federal Centers for Medicare and Medicaid Services disallowed federal financial participation in the costs of housing interventions, the final Section 1115 Medicaid Waiver special terms and conditions, referred to as the “Medi-Cal 2020 Waiver,” allow for state contributions to Whole Person Care “county housing pools” to fund long-term costs of housing to achieve the goals of the Waiver proposal. The final Waiver special terms and conditions also permit leveraging local resources to increase access to subsidized housing units. They may also incorporate a financing component to reallocate or reinvest a portion of the savings from the reduced utilization of health care services into the housing pool.

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

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

CHAPTER 6.9. MEDI-CAL HOUSING PROGRAM

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

(a) “DHCS” means the *State* Department of Health Care Services.

(b) “HCD” means the Department of Housing and Community Development.

(c) “Homeless” has the same meaning as in Section 578.3 of Title 24 of the Code of Federal Regulations. “Homeless” also includes a person who would become homeless upon exiting a publicly-funded institution or system of care, including a hospital, skilled nursing facility, mental health facility, or incarceration. “Homeless” also includes Whole Person Care pilot program homeless populations, as approved by DHCS in the Whole Person Care pilot program application and Medi-Cal beneficiaries served under California’s Health Home Program under Section 2703 of

1 the federal Patient Protection and Affordable Care Act (Public
2 Law 111-148).

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

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

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

22 (g) “Supportive housing” has the same meaning as in Section
23 50675.14.

24 (h) “Whole Person Care pilot” has the same meaning as
25 described in the Medi-Cal 2020 Waiver Special Terms and
26 Conditions (STCs), Sections 110-126, as approved by the federal
27 Centers for Medicare and Medicaid Services, on December 30,
28 2015, or in any subsequent amendment to the STCs.

29 50678.1. HCD in coordination with DHCS, shall do all of the
30 following:

31 (a) On or before July 1, 2017, establish the Medi-Cal Housing
32 Program.

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

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

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

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

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

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

19 (6) Coordination with (A) community-based housing and
20 homeless service providers, (B) behavioral health providers, (C)
21 and safety net providers, including community health centers.

22 (c) On or before December 1, 2017, and every year thereafter,
23 subject to appropriation by the Legislature, award grants *on a*
24 *competitive basis* to eligible grant applicants participating in a
25 Whole Person Care pilot that includes eligibility ~~bases~~ *based* on
26 homelessness or a partnership with Medi-Cal managed care plans
27 administering the Health Home Program. If appropriations are
28 made available in future years, counties shall compete for each
29 round of five-year grants.

30 (d) Midyear and annually, collect data from the Medi-Cal
31 Housing Program grantees or from the Medi-Cal managed care
32 plan partnering with ~~applicants and~~ *applicants, as well as* other
33 Medi-Cal data available from ~~grantees or from DHS, DHCS,~~ as
34 appropriate.

35 (e) No later than January 1, 2018, contract with an independent
36 evaluator to analyze data collected pursuant to Section 50678.3 to
37 determine changes in health care costs associated with services
38 provided under the Medi-Cal Housing Program. HCD shall provide,
39 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 is allocated ~~funding~~, *additional funds*, 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. An applicant shall be eligible for a Medi-Cal Housing Program grant if the applicant meets the requirements of this section. Eligibility does not create an entitlement to grant funds and is subject to availability of funds. The applicant shall meet all of the following requirements:

(a) Satisfies one or more the following:

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

(2) Is a lead agency that previously participated in a Whole Person Care pilot that has 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) Has identified a source of funding for Housing Transition Services and Tenancy Sustaining Services, as ~~identified~~ *defined* 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 program funds.

(3) The Health Home Program.

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

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

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

7 (e) Agrees to collect and report data, as described in Section
8 50678.3, to HCD and DHCS.

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

17 (b) An applicant awarded grant funds shall, at annual and
18 midyear intervals, report all of the following data to HCD and
19 DHCS:

20 (1) Data specified by HCD necessary to measure the costs
21 described in subdivision (a).

22 (2) The number of participants and the type of interventions
23 offered through grant funds.

24 (3) The number of participants living in supportive housing or
25 other permanent housing.

26 (c) HCD shall collaborate with DHCS to provide available
27 fee-for-service data to the evaluator.

28 50678.4. An applicant shall use grants awarded pursuant to
29 this chapter for one or more of the following, which may be
30 administered through a housing pool, as defined in the Whole
31 Person Care pilot:

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

33 (b) A capitalized operating reserve for up to 15 years to pay for
34 operating costs of an apartment or apartments within a development
35 receiving public funding to provide supportive housing to people
36 experiencing homelessness.

37 (c) Interim housing.

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

1 50678.5. A county resident is eligible to receive assistance
2 pursuant to a grant awarded under the Medi-Cal Housing Program
3 if he or she meets all of the following requirements:

- 4 (a) Is homeless upon initial eligibility.
5 (b) Is a Medi-Cal beneficiary.
6 (c) Is eligible for Supplemental Security Income.
7 (d) Is eligible to receive services under either the Whole Person
8 Care pilot or the Health Home Program, whichever is operative
9 in the participating county or region.
10 (e) Is likely to improve his or her health conditions with
11 supportive housing.

12 50678.6. The Medi-Cal Housing Program ~~is subject to an initial~~
13 *shall be funded, upon* appropriation by the Legislature. ~~After the~~
14 ~~initial appropriation, the~~ The funding of grants under the program
15 is subject to annual appropriations by the Legislature. The
16 Legislature shall consider the impact that housing and supportive
17 services have had in changing utilization and health care costs, as
18 identified in the evaluation described in Section 50678.1, of moving
19 eligible participants into supportive housing.

20 50678.7. HCD shall reimburse DHCS for the costs of
21 collaborating in the design and implementation of the program.
22 HDC shall use no more than 5 percent of the funds appropriated
23 for the Medi-Cal Housing Program for purposes of administering
24 the program.

25 50678.8. (a) For purposes of implementing this chapter, HCD
26 or DHCS may enter into exclusive or nonexclusive contracts on a
27 bid or negotiated basis. Contracts entered into or amended pursuant
28 to this subdivision shall be exempt from Chapter 6 (commencing
29 with Section 14825) of Part 5.5 of Division 3 of Title 2 of the
30 Government Code, Section 19130 of the Government Code, and
31 Part 2 (commencing with Section 10100) of Division 2 of the
32 Public Contract Code and shall be exempt from the review or
33 approval of any division of the Department of General Services.

34 (b) ~~HDC~~ HCD and DHCS shall implement the provisions
35 developed pursuant to this chapter only after all necessary federal
36 approvals have been obtained *for the Health Home Program and*
37 *to the extent that* other federal financial participation is not
38 jeopardized.

O