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AMENDED IN SENATE AUGUST 15, 2016
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AMENDED IN SENATE JUNE 13, 2016
AMENDED IN ASSEMBLY MAY 31, 2016
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CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2821

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

February 19, 2016

An act to add Part ~~14~~ *14.2* (commencing with Section ~~53570~~) *53590*) to Division 31 of the Health and Safety Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2821, as amended, Chiu. ~~Medi-Cal~~ *Housing for a Healthy California* 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, HCD~~ to, on or before ~~July 1, 2017, October 1, 2017~~, establish the ~~Medi-Cal Housing for a Healthy California~~ Program and on or before ~~December 1, 2017, April 1, 2018~~, 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.~~ *applicants based on guidelines that HCD would draft, as prescribed, and other requirements.* 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 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.~~ *identify a source of funding, as specified, agree to contribute funding for interim and long-term rental assistance, and agree to collect and report data, as specified.*

The bill would require 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~~ *program* if he or she meets specified requirements, including that the person is homeless, is a Medi-Cal beneficiary, is eligible for Supplemental Security Income, ~~and is eligible to receive services under the Whole Person Care pilot or the Health Home Program.~~ *certain services, and is likely to improve his or her health with supportive services.* The bill would provide that the program shall be funded upon appropriation by the Legislature. The bill would also authorize ~~HCD and DHCS, HCD~~, 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 to the extent that other federal financial participation is not jeopardized. The bill would exempt the program guidelines created by the department from requirements prescribed for administrative regulations. The bill would require HCD to analyze data collected pursuant to the program, as specified, and by October 1, 2019, and subsequently as the program may be funded, to report program data to certain legislative committees, as specified.~~ The bill would condition implementation of these provisions upon an appropriation provided for this purpose.

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~~

1 and maintain housing stability, including the costs of interim
2 housing, recuperative/respite care, and long-term rental subsidies.

3 (e) ~~The final Medi-Cal 2020 Waiver allows participating entities,~~
4 ~~including counties, to create Whole Person Care pilots to address~~
5 ~~the health, behavioral health, and social services needs of high~~
6 ~~users of multiple systems. Participating entities will be able to use~~
7 ~~Whole Person Care pilots to offer housing-related services to~~
8 ~~homeless residents, form collaborations between local agencies~~
9 ~~and health plans to address service needs of homeless beneficiaries,~~
10 ~~pool waiver and other sources of financing to pay for services~~
11 ~~promoting housing stability, and collect data on residents'~~
12 ~~outcomes.~~

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

25 (e)

26 (b) In most communities in California, a lack of housing
27 affordable to people experiencing homelessness is one of the
28 greatest barriers to exiting homelessness. Housing resources would
29 equip Whole Person Care counties choosing to target homeless
30 people with the resources to achieve the goals of the Whole Person
31 Care Waiver provisions, during the course of the pilot and after
32 the pilot ends. *“Whole Person Care pilot” has the meaning as*
33 *described in the Medi-Cal 2020 Waiver Special Terms and*
34 *Conditions (STCs), Sections 110-126, as approved by the federal*
35 *Centers for Medicare and Medicaid Services on December 30,*
36 *2015, or in any subsequent amendment to the STCs.*

37 SEC. 2. Part ~~14~~ 14.2 (commencing with Section ~~53570~~) 53590)
38 is added to Division 31 of the Health and Safety Code, to read:

PART ~~14.14.2.~~ ~~MEDI-CAL~~ HOUSING FOR A HEALTHY
CALIFORNIA PROGRAM

~~53570.~~

53590. For purposes of this part, all of the following definitions shall apply:

(a) *“Applicant” means a county or a city collaborating with a county to secure services funding.*

~~(a)~~

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

~~(b)~~

(c) *“Fair market rent” means the rent, including the cost of utilities, as established by the United States Department of Housing and Urban Development pursuant to Parts 888 and 982 of Title 24 of the Code of Federal Regulations, as those parts read on January 1, 2017, for units by number of bedrooms, that must be paid in the market area to rent privately owned, existing, decent, safe, and sanitary rental housing of nonluxury nature with suitable amenities.*

~~(c)~~

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

~~(d)~~

(e) *“Homeless” has the same meaning as in Section 578.3 of Title 24 of the Code of Federal Regulations, as that section read on January 1, 2017. “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 the federal Patient Protection and Affordable Care Act (Public Law 111-148).*

~~(e)~~

(f) *“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*

1 housing. “Interim housing” may include recuperative or respite
2 care and shall not be funded for longer than a period of nine
3 months.

4 (f)

5 (g) “Long-term rental assistance” means a rental subsidy
6 provided to a housing provider, including a landlord renting in the
7 private market or a developer leasing affordable housing, to assist
8 a tenant to pay the difference between 30 percent of the tenant’s
9 income and fair market ~~rent~~. *rent or reasonable market rent as*
10 *determined by HCD.*

11 (g)

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

18 (i) “Program” means the *Housing for a Healthy California*
19 *Program created by this part.*

20 (h)

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

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

28 ~~53571. HCD, in coordination with DHCS,~~

29 ~~53591. HCD shall do all of the following:~~

30 (a) ~~On or before July 1, 2017, October 1, 2017, establish the~~
31 ~~Medi-Cal Housing for a Healthy California Program.~~

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

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

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

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

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

11 ~~(5)~~
12 (4) A comprehensive plan to connect interim housing, long-term
13 rental assistance, and project-based supportive housing resources
14 ~~made available under the Medi-Cal Housing Program with services~~
15 ~~made available through the Whole Person Care pilot and the Health~~
16 ~~Home Program.~~ *resources.*

17 ~~(6)~~
18 (5) Coordination with (A) community-based housing and
19 homeless service providers, (B) behavioral health providers, and
20 (C), safety net providers, including community health centers.

21 (c) On or before ~~December 1, 2017, April 1, 2018,~~ and every
22 year thereafter, subject to appropriation by the Legislature, award
23 grants on a competitive basis to eligible grant ~~applicants~~
24 ~~participating in a Whole Person Care pilot that includes eligibility~~
25 ~~based on homelessness or a partnership with Medi-Cal managed~~
26 ~~care plans administering the Health Home Program.~~ *applicants.*
27 If appropriations are made available in future years, applicants
28 shall compete for each round of five-year grants.

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

33 (e) No later than ~~January~~ April 1, 2018, contract with an
34 independent evaluator ~~or work with an evaluator who is contracted~~
35 ~~with DHCS~~ to analyze data collected pursuant to Section 53573
36 to determine changes in health care costs associated with services
37 provided under the ~~Medi-Cal Housing Program.~~ *program.* HCD
38 shall provide, on a regular basis as needed, collected data to the
39 evaluator.

(f) (1) ~~By March 31, 2019, On or before October 1, 2019,~~ for grants awarded in ~~2017, 2018,~~ and in subsequent years thereafter in which the ~~Medi-Cal Housing Program~~ *program* is allocated 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.

(g) *HCD is encouraged to consult with DHCS where appropriate to carry out the intent of this section.*

~~53572.~~

53592. An applicant shall be eligible for a ~~Medi-Cal Housing Program~~ *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) *Identify* a source of funding for Housing Transition Services and Tenancy Sustaining Services, as 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~~ *may include, but are not limited to,* one or more of the following:

(1) County general funds.

(2) Whole Person Care pilot program funds.

(3) The Health Home Program.

1 (4) *Other county-controlled funding to provide these services*
2 *to eligible participants.*

3 ~~(e) Agrees~~

4 (b) *Agree to contribute funding for interim and long-term rental*
5 *assistance through one or more of the following sources: an*
6 *identified source.*

7 ~~(1) County general funds.~~

8 ~~(2) Flexible housing pools created through a Whole Person Care~~
9 ~~pilot.~~

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

14 ~~(d)~~

15 (c) *Has designated a process for administering grant funds*
16 *through agencies administering housing programs.*

17 ~~(e) Agrees~~

18 (d) *Agree to collect and report data, as described in Section*
19 *53573, to HCD and DHCS. 53593, to HCD.*

20 ~~53573.~~

21 53593. (a) *HCD shall coordinate with DHCS to identify a*
22 *process for collecting and providing match program participant*
23 *data, consistent with state and federal privacy law, to Medi-Cal*
24 *data regarding to identify outcomes among participants as well as*
25 *changes in health care costs associated with housing and services*
26 *provided under the Medi-Cal Housing Program program to the*
27 *extent that information is available, up to 12 months prior to each*
28 *participant's move into permanent housing, as well as changes in*
29 *costs after each participant's move into permanent housing.*

30 (b) *An applicant awarded grant funds shall, at annual and*
31 *midyear intervals, report all of the following data to HCD and*
32 *DHCS: HCD:*

33 (1) *Data specified by HCD necessary to measure the costs*
34 *described in subdivision (a): and outcomes of the program.*

35 (2) *The number of participants and the type of interventions*
36 *offered through grant funds.*

37 (3) *The number of participants living in supportive housing or*
38 *other permanent housing.*

39 ~~(e) HCD shall collaborate with DHCS to provide available~~
40 ~~fee-for-service data to the evaluator.~~

1 ~~53574.~~

2 53594. An applicant shall use grants awarded pursuant to this
3 part for one or more of the following, which may be administered
4 through a housing pool, as defined in the Whole Person Care pilot:
5 *pool:*

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

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

11 (c) Interim housing.

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

14 ~~53575.~~

15 53595. A county resident is eligible to receive assistance
16 pursuant to a grant awarded under the ~~Medi-Cal Housing Program~~
17 *program* if he or she meets all of the following requirements:

18 (a) Is homeless upon initial eligibility.

19 (b) Is a Medi-Cal beneficiary.

20 (c) Is eligible for Supplemental Security Income.

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

24 ~~(d) Is eligible to receive services under a program providing~~
25 ~~services promoting housing stability, including, but not limited to,~~
26 ~~the following:~~

27 ~~(1) The Whole Person Care pilot program.~~

28 ~~(2) Health Home Program.~~

29 ~~(3) A locally controlled services program funding or providing~~
30 ~~services in supportive housing.~~

31 (e) Is likely to improve his or her health conditions with
32 supportive housing.

33 ~~53576.~~

34 53596. The ~~Medi-Cal Housing Program~~ *program* shall be
35 funded upon appropriation by the Legislature. The Legislature
36 shall consider the impact that housing and supportive services have
37 had in changing utilization and health care costs, as identified in
38 the evaluation described in Section ~~53574~~, 53591, of moving
39 eligible participants into supportive housing.

1 ~~53577.~~

2 53597. HCD shall reimburse DHCS for the costs of
3 collaborating in the design and implementation of the program.
4 ~~matching and providing relevant data.~~ HCD shall use no more
5 than 5 percent of the funds appropriated for the Medi-Cal Housing
6 Program program for purposes of administering the program.

7 ~~53578.~~

8 53598. (a) For purposes of implementing this part, HCD ~~or~~
9 ~~DHCS~~ may enter into exclusive or nonexclusive contracts on a
10 bid or negotiated basis. Contracts entered into or amended pursuant
11 to this subdivision shall be exempt from Chapter 6 (commencing
12 with Section 14825) of Part 5.5 of Division 3 of Title 2 of the
13 Government Code, Section 19130 of the Government Code, and
14 Part 2 (commencing with Section 10100) of Division 2 of the
15 Public Contract Code and shall be exempt from the review or
16 approval of any division of the Department of General Services.

17 ~~(b) HCD and DHCS shall implement the provisions developed~~
18 ~~pursuant to this part only after all necessary federal approvals have~~
19 ~~been obtained for the Health Home Program and to the extent that~~
20 ~~other federal financial participation is not jeopardized.~~

21 *(b) Any guidelines that are adopted, amended, or repealed to*
22 *implement this chapter shall not be subject to Chapter 3.5*
23 *(commencing with Section 11340) of Part 1 of Division 3 of Title*
24 *2 of the Government Code.*

25 ~~53579.~~

26 53599. Implementation of this part shall be contingent on an
27 appropriation provided for this purpose in the annual Budget Act
28 or other measure.