

Senate Bill No. 276

Passed the Senate September 1, 2015

Secretary of the Senate

Passed the Assembly August 31, 2015

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2015, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 14132.06 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 276, Wolk. Medi-Cal: local educational agencies.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income persons receive health care benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Existing law provides that specified services, including targeted case management services for children with an individualized education plan (IEP) or an individualized family service plan (IFSP), provided by local educational agencies (LEAs) are covered Medi-Cal benefits, and authorizes an LEA to bill for those services. Existing law requires the department to perform various activities with respect to the billing option for services provided by LEAs. Existing law defines an LEA as the governing body of any school district or community college district, the county office of education, a state special school, a California State University campus, or a University of California campus.

This bill would require the department to seek federal financial participation for covered services that are provided by an LEA to a child who is an eligible Medi-Cal beneficiary regardless of whether the child has an IEP or an IFSP, or whether those same services are provided at no charge to the beneficiary or to the community at large, if the LEA takes all reasonable measures to ascertain and pursue claims for payment of covered services against legally liable 3rd parties. The bill would require a legally liable 3rd party to either reimburse the claim or issue a notice of denial of noncoverage of services or benefits if the legally liable 3rd party receives a claim for payment of covered services submitted by an LEA. The bill would authorize an LEA to bill the Medi-Cal program if there is no response to a claim for payment of covered services submitted to a legally liable 3rd party within 45 days, and would require the LEA to retain a copy of the claim submitted to

the legally liable 3rd party for a period of 3 years. The bill would expand the definition of an LEA to include the governing body of a charter school. The bill would provide that these provisions shall not be implemented until the department obtains necessary federal approvals.

This bill would also expand the authority of an LEA to provide targeted case management services.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Local educational agencies (LEA) must have an approved provider participant agreement with the State Department of Health Care Services through the federal Centers for Medicare and Medicaid Services to be eligible to provide services. To participate in the LEA Medi-Cal billing option program, LEAs must reinvest the federal reimbursement they receive under this program in health and social services for children and families, and develop and maintain a collaborative committee to assist them in decisions regarding the reinvestment of federal reimbursements. The providers and supervisors of staff for the assessment and medically necessary health services are those qualified medical practitioners the LEA employs or contracts with to render certain health services.

(b) The LEA billing option facilitates reinvestment in health and social services for students and their families so that schools can foster access to and provide comprehensive health services to eligible Medi-Cal students.

(c) The funds are reimbursement for services rendered and can be used as matching dollars to draw down federal financial participation. The funds are restricted in their use; they must supplement existing services, not supplant.

(d) It is, therefore, the intent of the Legislature in enacting this act to ensure that a school district or county office of education that is authorized as an LEA Medi-Cal provider is assured that all options for federal financial participation are available. The Legislature encourages LEAs to utilize reimbursed funds to hire credentialed school nurses to supplement, not supplant, existing LEA health services personnel.

SEC. 2. Section 14132.06 of the Welfare and Institutions Code is amended to read:

14132.06. (a) Services specified in this section that are provided by a local educational agency are covered Medi-Cal benefits, to the extent federal financial participation is available, and subject to utilization controls and standards adopted by the department, and consistent with Medi-Cal requirements for physician prescription, order, and supervision.

(b) Any provider enrolled on or after January 1, 1993, to provide services pursuant to this section may bill for those services provided on or after January 1, 1993.

(c) Nothing in this section shall be interpreted to expand the current category of professional health care practitioners permitted to directly bill the Medi-Cal program.

(d) Nothing in this section is intended to increase the scope of practice of any health professional providing services under this section or Medi-Cal requirements for physician prescription, order, and supervision.

(e) (1) For the purposes of this section, the local educational agency, as a condition of enrollment to provide services under this section, shall be considered the provider of services. A local educational agency provider, as a condition of enrollment to provide services under this section, shall enter into, and maintain, a contract with the department in accordance with guidelines contained in regulations adopted by the director and published in Title 22 of the California Code of Regulations.

(2) Notwithstanding paragraph (1), a local educational agency providing services pursuant to this section shall utilize current safety net and traditional health care providers, when those providers are accessible to specific schoolsites identified by the local educational agency to participate in this program, rather than adding duplicate capacity.

(f) For the purposes of this section, covered services may include all of the following local educational agency services:

(1) Health and mental health evaluations and health and mental health education.

(2) Medical transportation.

(A) The following provisions shall not apply to medical transportation eligible to be billed under this section:

(i) Section 51323(a)(2)(A) of Title 22 of the California Code of Regulations.

(ii) Section 51323(a)(3)(B) of Title 22 of the California Code of Regulations.

(iii) For students whose medical or physical condition does not require the use of a gurney, Section 51231.1(f) of Title 22 of the California Code of Regulations.

(iv) For students whose medical or physical condition does not require the use of a wheelchair, Section 51231.2(e) of Title 22 of the California Code of Regulations.

(B) (i) Subparagraph (A) shall become inoperative on January 1, 2018, or on the date the director executes a declaration stating that the regulations implementing subparagraph (A) and Section 14118.5 have been updated, whichever is later.

(ii) The department shall post the declaration executed under clause (i) on its Internet Web site and transmit a copy of the declaration to the Assembly Committee on Budget and the Senate Committee on Budget and Fiscal Review and the LEA Ad Hoc Workgroup.

(iii) If subparagraph (A) becomes inoperative on January 1, 2018, subparagraph (A) and this subparagraph shall be inoperative on January 1, 2018, unless a later enacted statute enacted before that date, deletes or extends that date.

(iv) If subparagraph (A) becomes inoperative on the date the director executes a declaration as described in clause (i), subparagraph (A) and this subparagraph shall be inoperative on the January 1 immediately following the date subparagraph (A) becomes inoperative, unless a later enacted statute enacted before that date, deletes or extends that date.

(3) Nursing services.

(4) Occupational therapy.

(5) Physical therapy.

(6) Physician services.

(7) Mental health and counseling services.

(8) School health aide services.

(9) Speech pathology services. These services may be provided by either of the following:

(A) A licensed speech pathologist.

(B) A credentialed speech-language pathologist, to the extent authorized by Chapter 5.3 (commencing with Section 2530) of Division 2 of the Business and Professions Code.

(10) Audiology services.

(11) Targeted case management services for children regardless of whether the child has an individualized education plan (IEP) or an individualized family service plan (IFSP).

(g) Local educational agencies may, but need not, provide any or all of the services specified in subdivision (f).

(h) For the purposes of this section, “local educational agency” means the governing body of any school district or community college district, the county office of education, a charter school, a state special school, a California State University campus, or a University of California campus.

(i) Notwithstanding any other law, a community college district, a California State University campus, or a University of California campus, consistent with the requirements of this section, may bill for services provided to any student, regardless of age, who is a Medi-Cal recipient.

(j) No later than July 1, 2013, and every year thereafter, the department shall make publicly accessible an annual accounting of all funds collected by the department from federal Medicaid payments allocable to local educational agencies, including, but not limited to, the funds withheld pursuant to subdivision (g) of Section 14115.8. The accounting shall detail amounts withheld from federal Medicaid payments to each participating local educational agency for that year. One-time costs for the development of this accounting shall not exceed two hundred fifty thousand dollars (\$250,000).

(k) (1) If the requirements in paragraphs (2) and (4) are satisfied, the department shall seek federal financial participation for covered services that are provided by a local educational agency pursuant to subdivision (a) to a child who is an eligible Medi-Cal beneficiary, regardless of either of the following:

(A) Whether the child has an IEP or an IFSP.

(B) Whether those same services are provided at no charge to the beneficiary or to the community at large.

(2) The local educational agency shall take all reasonable measures to ascertain and pursue claims for payment of covered services specified in this section against legally liable third parties

pursuant to Section 1902(a)(25) of the federal Social Security Act (42 U.S.C. Sec. 1396a(a)(25)).

(3) If a legally liable third party receives a claim submitted by a local educational agency pursuant to paragraph (2), the legally liable third party shall either reimburse the claim or issue a notice of denial of noncoverage of services or benefits. If there is no response to a claim submitted to a legally liable third party by a local educational agency within 45 days, the local educational agency may bill the Medi-Cal program pursuant to subdivision (b). The local educational agency shall retain a copy of the claim submitted to the legally liable third party for a period of three years.

(4) This subdivision shall not be implemented until the department obtains any necessary federal approvals.

Approved _____, 2015

Governor