

AMENDED IN SENATE APRIL 14, 2016
AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1291

Introduced by Senator Beall

February 19, 2016

An act to add Sections 14717.2 and 14717.5 to the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 1291, as amended, Beall. Medi-Cal: specialty mental health: children and youth.

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, including specialty mental health services. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Under existing law, specialty mental health services are provided by mental health plans and the department is responsible for conducting investigations and audits of claims and reimbursements for expenditures for specialty mental health services provided by mental health plans to Medi-Cal eligible individuals.

This bill would require each mental health plan, annually on or before July 1 of each year, to submit a foster care mental health service plan to the department detailing the service array, from prevention to crisis services, available to Medi-Cal eligible children and youth under the jurisdiction of the juvenile court and their families. The bill would require annual mental health plan reviews to be conducted by an external quality review organization (EQRO) and to include specific data for Medi-Cal eligible children and youth under the jurisdiction of the

juvenile court and their families, including the number of Medi-Cal eligible children and youth under the jurisdiction of the juvenile court served each year.

This bill would require the department to review the plans and the EQRO reviews and post them on its Internet Web site. The bill would also require the department to notify the mental health plan of any deficiencies and would require the mental health plan to provide a written corrective action plan to the department. The bill would also authorize the director, if he or she believes that a mental health plan is substantially failing to comply with any provision pertaining to the administration of specified benefits for children and youth under the jurisdiction of the juvenile court, to take specified action, including imposing certain sanctions.

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. Section 14717.2 is added to the Welfare and
- 2 Institutions Code, to read:
- 3 14717.2. (a) Each mental health plan shall submit an annual
- 4 foster care mental health service plan to the department detailing
- 5 the service array, from prevention to crisis services, available to
- 6 Medi-Cal eligible children and youth under the jurisdiction of the
- 7 juvenile court and their families. *These plans shall be consistent*
- 8 *with the Special Terms and Conditions outlined in the federal*
- 9 *Centers for Medicare and Medicaid Services (CMS) approved*
- 10 *waiver authorized under Section 1915 of the Social Security Act,*
- 11 *Sections 438.204, 438.240 and 438.358 of Title 42 of the Code of*
- 12 *Federal Regulations.* Plans shall be submitted by July 1 of each
- 13 year, beginning in 2017. Prior to submission to the department,
- 14 the board of supervisors of each mental health plan shall approve
- 15 the plan. The plan shall include, but not be limited to, all of the
- 16 following elements:
- 17 (1) The number of Medi-Cal eligible children and youth under
- 18 the jurisdiction of the juvenile court served each year.
- 19 (2) The number of family-~~members~~ *members, including foster*
- 20 *parents,* of children and youth under the jurisdiction of the juvenile
- 21 court served by the county mental health plans.

1 (3) Details on the types of *mental health* services provided to
2 children and youth under the jurisdiction of the juvenile court and
3 their families, including prevention and treatment services. *These*
4 *types of services may include, but are not limited to, screenings,*
5 *assessments, home-based mental health services, outpatient*
6 *services, day treatment services, or inpatient services, psychiatric*
7 *hospitalizations, crisis interventions, case management, and*
8 *psychotropic medication support services.*

9 (4) Access to and timeliness of mental health ~~services~~ services,
10 as described in Sections 1300.67.2, 1300.67.2.1, and 1300.67.2.2
11 of Title 28 of the California Code of Regulations and consistent
12 with Section 438.206 of Title 42 of the Code of Federal Regulations
13 available to Medi-Cal eligible children and youth under the
14 jurisdiction of the juvenile court.

15 (5) Quality of mental health services available to Medi-Cal
16 eligible children and youth under the jurisdiction of the juvenile
17 court.

18 (6) Translation and interpretation ~~services~~ services, consistent
19 with Section 438.10(c)(4) and (5) of Title 42 of the Code of Federal
20 Regulations and Section 1810.410 of Title 9 of the California Code
21 of Regulations available to Medi-Cal eligible children and youth
22 under the jurisdiction of the juvenile court.

23 (7) Coordination with other systems, including regional centers,
24 special education local plan areas, child welfare, and probation.

25 (8) Family and caregiver education and support.

26 (9) Performance data for Medi-Cal eligible children and youth
27 under the jurisdiction of the juvenile court in the annual external
28 quality review report required by Section 14717.5.

29 (10) Utilization data for Medi-Cal eligible children and youth
30 under the jurisdiction of the juvenile court in the annual external
31 quality review report required by Section 14717.5.

32 (11) Medication ~~monitoring~~: *monitoring consistent with the*
33 *Healthcare Effectiveness Data and Information Set (HEDIS),*
34 *including, but not limited to, the child welfare psychotropic*
35 *medication measures developed by the State Department of Social*
36 *Services and the following HEDIS measures related to psychotropic*
37 *medications:*

38 (A) *Follow-Up Care for Children Prescribed Attention Deficit*
39 *Hyperactivity Disorder Medication (HEDISADD), which measures*
40 *the number of children 6 to 12 years of age, inclusive, who have*

1 a visit with a provider with prescribing authority within 30 days
2 of the new prescription.

3 (B) Use of Multiple Concurrent Antipsychotics in Children and
4 Adolescents (HEDIS APC), which does both of the following:

5 (i) Measures the number of children receiving an antipsychotic
6 medication for at least 60 out of 90 days and the number of
7 children who additionally receive a second antipsychotic
8 medication that overlaps with the first.

9 (ii) Reports a total rate and age stratifications, including 6 to
10 11 years of age, inclusive, and 12 to 17 years of age, inclusive.

11 (C) Use of First-Line Psychosocial Care for Children and
12 Adolescents on Antipsychotics (HEDIS APP), which measures
13 whether a child has received psychosocial services 90 days before
14 through 30 days after receiving a new prescription for an
15 antipsychotic medication.

16 (D) Metabolic Monitoring for Children and Adolescents on
17 Antipsychotics (HEDIS APM), which does both of the following:

18 (i) Measures testing for glucose or HbA1c and lipid or
19 cholesterol of a child who has received at least two different
20 antipsychotic prescriptions on different days.

21 (ii) Reports a total rate and age stratifications, including 6 to
22 11 years of age, inclusive, and 12 to 17 years of age, inclusive.

23 (b) The department shall review the plan required pursuant to
24 subdivision (a) and shall post each plan on its Internet Web site.

25 (c) (1) If the department identifies deficiencies in a plan, the
26 department shall notify the mental health plan, in writing, of those
27 ~~deficiencies.~~ deficiencies pursuant to subdivision (e) of Section
28 14712.

29 (2) After notification, the mental health plan shall provide a
30 written corrective action plan to the department within 60 days.
31 The department shall notify the mental health plan of approval or
32 shall request changes, if necessary, within 30 days after receiving
33 the corrective action plan. Final plans shall be made publicly
34 available by, at minimum, posting on the department's Internet
35 Web site.

36 SEC. 2. Section 14717.5 is added to the Welfare and
37 Institutions Code, to read:

38 14717.5. (a) A mental health plan review shall be conducted
39 annually by an external quality review organization (EQRO). The
40 review shall include specific data for Medi-Cal eligible children

1 and youth under the jurisdiction of the juvenile court and their
2 families, including all of the following:

3 (1) The number of Medi-Cal eligible children and youth under
4 the jurisdiction of the juvenile court served each year.

5 (2) The number of family ~~members~~ *members, including foster*
6 *parents*, of children and youth under the jurisdiction of the juvenile
7 court, including foster parents, served by the mental health plans.

8 (3) Details on the types of *mental health* services provided to
9 children and their caregivers, including prevention and treatment
10 services. *These types of services may include, but are not limited*
11 *to, screenings, assessments, home-based mental health services,*
12 *outpatient services, day treatment services or inpatient services,*
13 *psychiatric hospitalizations, crisis interventions, case management,*
14 *and psychotropic medication support services.*

15 (4) Access to and timeliness of mental health ~~services~~ *services,*
16 *as described in Sections 1300.67.2, 1300.67.2.1, and 1300.67.2.2*
17 *of Title 28 of the California Code of Regulations and consistent*
18 *with Section 438.206 of Title 42 of the Code of Federal Regulations*
19 available to Medi-Cal eligible children and youth under the
20 jurisdiction of the juvenile court.

21 (5) Quality of mental health services available to Medi-Cal
22 eligible children and youth under the jurisdiction of the juvenile
23 court.

24 (6) Translation and interpretation ~~services~~ *services, consistent*
25 *with Section 438.10(c)(4) and (5) of Title 42 of the Code of Federal*
26 *Regulations and Section 1810.410 of Title 9 of the California Code*
27 *of Regulations* available to Medi-Cal eligible children and youth
28 under the jurisdiction of the juvenile court.

29 (7) Performance data for Medi-Cal eligible children and youth
30 under the jurisdiction of the juvenile court.

31 (8) Utilization data for Medi-Cal eligible children and youth
32 under the jurisdiction of the juvenile court.

33 (9) Medication ~~monitoring~~ *monitoring consistent with the*
34 *Healthcare Effectiveness Data and Information Set (HEDIS),*
35 *including, but not limited to, the child welfare psychotropic*
36 *medication measures developed by the State Department of Social*
37 *Services and the following HEDIS measures related to psychotropic*
38 *medications:*

39 (A) *Follow-Up Care for Children Prescribed Attention Deficit*
40 *Hyperactivity Disorder Medication (HEDIS ADD), which measures*

1 *the number of children 6 to 12 years of age, inclusive, who have*
2 *a visit with a provider with prescribing authority within 30 days*
3 *of the new prescription.*

4 *(B) Use of Multiple Concurrent Antipsychotics in Children and*
5 *Adolescents (HEDIS APC), which does both of the following:*

6 *(i) Measures the number of children receiving an antipsychotic*
7 *medication for at least 60 out of 90 days and the number of*
8 *children who additionally receive a second antipsychotic*
9 *medication that overlaps with the first.*

10 *(ii) Reports a total rate and age stratifications, including 6 to*
11 *11 years of age, inclusive, and 12 to 17 years of age, inclusive.*

12 *(C) Use of First-Line Psychosocial Care for Children and*
13 *Adolescents on Antipsychotics (HEDIS APP), which measures*
14 *whether a child has received psychosocial services 90 days before*
15 *through 30 days after receiving a new prescription for an*
16 *antipsychotic medication.*

17 *(D) Metabolic Monitoring for Children and Adolescents on*
18 *Antipsychotics (HEDIS APM), which does both of the following:*

19 *(i) Measures testing for glucose or HbA1c and lipid or*
20 *cholesterol of a child who has received at least two different*
21 *antipsychotic prescriptions on different days.*

22 *(ii) Reports a total rate and age stratifications, including 6 to*
23 *11 years of age, inclusive, and 12 to 17 years of age, inclusive.*

24 (b) (1) The department shall review the EQRO data for
25 Medi-Cal eligible children and youth under the jurisdiction of the
26 juvenile court and their families.

27 (2) If the EQRO identifies deficiencies in a mental health plan's
28 ability to serve Medi-Cal eligible children and youth under the
29 jurisdiction of the juvenile court, the department shall notify the
30 mental health plan in writing of identified deficiencies.

31 (3) The mental health plan shall provide a written corrective
32 action plan to the department within 60 days of receiving the notice
33 required pursuant to paragraph (2). The department shall notify
34 the mental health plan of approval of the corrective action plan or
35 shall request changes, if necessary, within 30 days after receipt of
36 the corrective action plan. Final corrective action plans shall be
37 made publicly available by, at minimum, posting on the
38 department's Internet Web site.

39 (c) The department shall conduct annual audits of each mental
40 health plan for the administration of EPSDT benefits for children

1 and youth under the jurisdiction of the juvenile court, *consistent*
2 *with Section 14707.5*, unless the director determines there is good
3 cause for additional reviews. The reviews shall use the standards
4 and criteria established pursuant to *Sections 1300.67.2, 130067.2.1,*
5 *and 1300.67.2.2 of Title 28 of the California Code of Regulations*
6 *related to access to, and timelines of, services adopted pursuant*
7 to the Knox-Keene Health Care Service Plan Act of 1975, as
8 appropriate. The department may contract with professional
9 organizations, as appropriate, to perform the periodic review
10 required by this section. The department, or its designee, shall
11 make a finding of fact with respect to the ability of the mental
12 health plan to provide quality health care services, effectiveness
13 of peer review, and utilization control mechanisms, and the overall
14 performance of the mental health plan in providing mental health
15 care benefits to its enrollees. The director shall publicly report the
16 findings of finalized annual audits conducted pursuant to this
17 section as soon as possible, but no later than 90 days following
18 completion of a corrective action plan initiated pursuant to the
19 audit, if any, unless the director determines, in his or her discretion,
20 that additional time is reasonably necessary to fully and fairly
21 report the results of the audit.

22 (d) If the director believes that a mental health plan is
23 substantially failing to comply with any provision of this code or
24 any regulation pertaining to the administration of EPSDT benefits
25 for children and youth under the jurisdiction of the juvenile court,
26 and the director determines that formal action may be necessary
27 to secure compliance, he or she shall inform the county behavioral
28 health director and the board of supervisors of that failure. The
29 notice to the county behavioral health director and board of
30 supervisors shall be in writing and shall allow the county and the
31 mental health plan a period of time specified by the department,
32 but in no case less than 30 days, to correct the failure to comply
33 with the law or regulations. If within the specified period the county
34 and the mental health plan do not comply or provide reasonable
35 assurances in writing that they will comply within the additional
36 time as the director may allow, the director may order a
37 representative of the county to appear at a hearing before the
38 director to show cause why the director should not take
39 administrative action to secure compliance. The county shall be
40 given at least 30 days' notice of the hearing. The director shall

1 consider the case on the record established at the hearing and,
 2 within 30 days, shall render proposed findings and a proposed
 3 decision on the issues. The proposed findings and decisions shall
 4 be submitted to the county, and the county shall have the
 5 opportunity to appear within 10 days, at a time and place as may
 6 be determined by the director, for the purpose of presenting oral
 7 arguments respecting the proposed findings and decisions.
 8 Thereupon, the director shall make final findings and issue a final
 9 administrative decision.

10 (e) If the director determines, based on the record established
 11 at the hearing pursuant to subdivision (d), that the county is failing
 12 to comply with laws or regulations pertaining to a program
 13 administered by the department, ~~or if the Department of Human~~
 14 ~~Resources certifies to the director that a county is not in conformity~~
 15 ~~with established merit system standards under Part 2.5~~
 16 ~~(commencing with Section 19800) of Division 5 of Title 2 of the~~
 17 ~~Government Code, and that administrative sanctions are necessary~~
 18 ~~to secure compliance, the director may invoke either of the~~
 19 ~~following sanctions, except that the sanctions shall not be invoked~~
 20 ~~concurrently: *sanctions allowable under subdivision (e) of Section*~~
 21 ~~*14712.*~~

22 (1) ~~Withhold all or part of state and federal funds from the~~
 23 ~~county until the county demonstrates to the director that it has~~
 24 ~~complied.~~

25 (2) (A) ~~Suspend all or part of an existing contract with the~~
 26 ~~mental health plan and assume, temporarily, direct responsibility~~
 27 ~~for the administration of all or part of any programs administered~~
 28 ~~by the department in the county until the county provides~~
 29 ~~reasonable written assurances to the director of its intention and~~
 30 ~~ability to comply. During the period of direct state administrative~~
 31 ~~responsibility, the director or his or her authorized representative~~
 32 ~~shall have all of the powers and responsibilities of the county~~
 33 ~~director, except that he or she shall not be subject to the authority~~
 34 ~~of the board of supervisors.~~

35 (B) (i) ~~In the event that the director invokes sanctions pursuant~~
 36 ~~to this section, the county shall be responsible for providing any~~
 37 ~~funds necessary for the continued operation of all programs~~
 38 ~~administered by the department in the county. If a county fails or~~
 39 ~~refuses to provide these funds, including a sufficient amount to~~
 40 ~~reimburse all costs incurred by the department in directly~~

1 administering a program in the county, the Controller may deduct
2 an amount certified by the director as necessary for the continued
3 operation of these programs by the department from any state or
4 federal funds payable to the county for any purpose.

5 (ii) ~~In the event of a state-imposed sanction, the amount of the~~
6 ~~sanction shall be no greater than the amount of county funds that~~
7 ~~the county would be required to contribute to fully match the~~
8 ~~General Fund allocation for the particular program or programs~~
9 ~~for which the county is being sanctioned for those programs that~~
10 ~~are not public safety programs realigned pursuant to 2011~~
11 ~~Realignment Legislation.~~

12 (iii) ~~In the event of a state-imposed sanction pursuant to this~~
13 ~~paragraph for the public safety programs realigned pursuant to~~
14 ~~2011 Realignment Legislation that are administered by the State~~
15 ~~Department of Health Care Services, the amount of the sanction~~
16 ~~shall be no greater than the amount of funding originally provided~~
17 ~~to the county in the 2011–12 fiscal year for the particular program~~
18 ~~from the Behavioral Services Subaccount within the Support~~
19 ~~Services Account of the Local Revenue Fund 2011, as adjusted~~
20 ~~by the county’s share of the additional incremental funding~~
21 ~~provided pursuant to paragraph (1) of subdivision (f) of Section~~
22 ~~30027.5 of, paragraph (1) of subdivision (f) of Section 30027.6~~
23 ~~of, paragraph (1) of subdivision (f) of Section 30027.7 of, and~~
24 ~~paragraph (1) of subdivision (f) of Section 30027.8 of, the~~
25 ~~Government Code, the estimated growth funding for the program~~
26 ~~from the Support Services Growth Subaccount within the Sales~~
27 ~~and Use Tax Growth Account, and any adjustment to the county~~
28 ~~allocation pursuant to subdivision (a) of Section 30029.6 of the~~
29 ~~Government Code.~~

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