

AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1401

Introduced by Senator McGuire
(Coauthor: Assembly Member Dodd)

February 19, 2016

An act to add and repeal Section 14132.78 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 1401, as amended, McGuire. ~~Home health care pilot projects. Pediatric and Home Care Expansion Act.~~

Existing law provides for the licensure and regulation of home health agencies by the State Department of Public Health. Existing law requires all private or public organizations that provide or arrange for skilled nursing services to patients in the home to obtain a home health agency license. Existing law also 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. Existing law provides that home health care services are covered Medi-Cal benefits, subject to utilization controls.

This bill would require the department, on or before January 1, 2017, to develop at least 3 regional pilot projects in counties located in designated areas of the state. The pilot projects would be targeted to increase access to in-home, private duty nursing care for children receiving Medi-Cal benefits who are eligible for in-home, shift nursing care ~~services. services and participate in specified programs.~~ The bill would require, for a period of at least ~~2~~ 3 years, an increased reimbursement rate for participating licensed home health agencies that are currently providing private duty nursing. The bill would require that

the pilot project be implemented only to the extent that federal financial participation is available, and would require the department to submit any state plan amendment, waiver, or waiver amendment application necessary for federal approval.

This bill would authorize the ~~department~~ *department, in collaboration with home health agencies*, to establish reasonable provider eligibility standards and participation requirements and also would require the department, or an entity contracting with the department, to report to specified committees of the Legislature an evaluation of the effectiveness of the pilot projects, with input from specified stakeholders. The bill's provisions would become inoperative on July 1, ~~2019, 2020~~, and would be repealed as of January 1, ~~2020, 2021~~.

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) Home care services provide a critical role in the care
4 continuum. ~~Home Medi-Cal certified home~~ health agencies work
5 with *many pediatric* patients who have medically complex
6 conditions, are often permanently disabled, and require extended
7 or continuous care, including ventilation, tracheostomy, and enteral
8 feedings.

9 (b) These services allow *pediatric* patients to receive care in
10 their homes and allow parents of ~~disabled~~ *medically fragile* children
11 to continue to work in their communities. Studies have shown that
12 home care is cost effective compared to care in an acute care or
13 long-term care setting.

14 (c) The state has a responsibility under Section 1902(a)(30)(A)
15 of the federal Social Security Act (42 U.S.C. Sec. 1396a(a)(30)(A))
16 to ensure that Medicaid payments are consistent with efficiency,
17 economy, and quality of care, and are sufficient to enlist enough
18 providers so that care and services are available under the state
19 plan at least to the extent that care and services are available to
20 the general population in the geographic area.

21 (d) Hundreds of pediatric Medi-Cal patients in need of home
22 health services may face significant barriers in accessing care.
23 According to a 2015 study by Leavitt Partners, Medi-Cal patients

1 have fewer options than patients with alternative payment sources
2 for the services of home health agencies. Nearly 20 percent of
3 Medi-Cal certified agencies reported having to cease to provide
4 services to an area they previously served. In addition, only 28
5 percent of the agencies surveyed reported the ability to provide
6 more than 75 percent of the skilled nursing hours that the state
7 approved for the patient and almost 60 percent of the agencies
8 reported that they are able to cover less than 25 percent of the
9 approved hours for their Medi-Cal patients.

10 (e) Overwhelming evidence suggests that many home health
11 agencies are shifting resources away from Medi-Cal patients,
12 thereby creating barriers to providing care to Medi-Cal's most
13 medically fragile children. Factors that create these barriers include,
14 but are not limited to, out-of-date reimbursement methodologies,
15 difficulty recruiting nurses into the home health care sector because
16 of low-pay rates, competition for nursing staff from long-term care
17 facilities, and market exits by many certified agencies. These
18 factors appear to have resulted in home health agencies receiving
19 declining referrals from hospitals, using informal waiting lists or
20 caps to manage patient caseload, and missed nursing shifts for the
21 families of qualified patients.

22 (f) In order to address access to in-home nursing care for
23 children, the State Department of Health Care Services shall
24 conduct pilot projects targeted to home care providers in counties
25 in at least three regions of the state: the San Francisco Bay area
26 counties, the Central Valley region, and the San Diego area. ~~The~~
27 ~~pilot projects will require the department to adopt an~~
28 ~~incentive-based value payment for children who are receiving~~
29 ~~skilled nursing care in the home and who are enrolled in the state's~~
30 ~~Medi-Cal EPSDT/IHO waiver programs. The value-based payment~~
31 ~~model will reward providers that improve quality and lower costs,~~
32 ~~through better outcomes. County of Los Angeles.~~

33 SEC. 2. Section 14132.78 is added to the Welfare and
34 Institutions Code, to read:

35 14132.78. (a) ~~(1) On~~ *This section shall be known, and may*
36 *be cited, as the Pediatric and Home Care Expansion Act.*

37 (b) (1) On or before January 1, 2017, the department shall
38 establish at least three regional pilot projects, located in counties
39 in the San Francisco Bay area, the Central Valley, and the San
40 Diego area, County of Los Angeles, applicable to home health

1 agencies that treat children who receive skilled nursing services
2 through the Medi-Cal program.

3 (2) The pilot projects established pursuant to paragraph (1) shall
4 be targeted to increase access to in-home, private duty nursing
5 care for children receiving Medi-Cal benefits who are eligible for
6 in-home, shift nursing care ~~services~~. *services and participate in*
7 *the In-Home Operations Waiver (IHO), the California Children's*
8 *Services Program (CCS), or the Early Periodic Screening,*
9 *Diagnosis and Treatment Program (EPSDT).* The applicable
10 reimbursement rate for licensed home health agencies that are
11 currently providing private duty nursing care shall be 20 percent
12 above the Medi-Cal rate schedule as of July 1, 2015. The increased
13 reimbursement rate shall remain in effect for at least ~~two~~ *three*
14 years.

15 (3) This section shall be implemented only to the extent that
16 federal financial participation is available. The department shall
17 submit any necessary application to the federal Centers for
18 Medicare and Medicaid Services for a state plan amendment,
19 waiver, or amendment to a waiver to implement the pilot project
20 described in this section.

21 ~~(b)~~

22 (c) The department ~~may~~ *may, in collaboration with home health*
23 *agencies, establish reasonable provider eligibility standards and*
24 *participation requirements for the pilot projects. Collaborating*
25 *home health agencies shall include, but are not limited to, agencies*
26 *in good standing with the State Department of Public Health,*
27 *agencies that are participating in the Medi-Cal program, and*
28 *agencies that are accredited by the Accreditation Commission for*
29 *Health Care.*

30 ~~(e)~~

31 (d) (1) No later than April 1, ~~2019~~, 2020, the department, or a
32 qualified academic institution or other entity with which the
33 department contracts, shall submit a report evaluating the
34 effectiveness of the pilot projects to the Senate Committee on
35 Health, the Assembly Committee on Health, the Senate Committee
36 on Budget and Fiscal Review, and the Assembly Committee on
37 Budget.

38 ~~(1)~~

39 (2) In order to compare access to necessary and approved
40 services before and after the establishment of the pilot projects,

1 the department may request participating home health agencies to
2 report on key access to care indicators identified by the department,
3 the participating agencies, and referring hospitals. The key access
4 to care indicators shall include, but need not be limited to:

5 (A) The increase or decrease in hospital discharges to home
6 health agencies.

7 (B) The number of nursing hours filled, as compared to the
8 number of hours that have been approved.

9 (C) The number of available licensed home health agencies that
10 accept pediatric patients.

11 ~~(2)~~

12 (3) In evaluating the effectiveness of the pilot projects, the
13 department shall cooperate with, and consider input from, home
14 health agencies, consumer groups, hospitals, and other provider
15 associations.

16 (4) *For the purposes of paragraph (1) of subdivision (b), the*
17 *three regional pilot project areas shall, at a minimum, include the*
18 *following counties:*

19 (A) *The counties of Alameda, Contra Costa, Marin, Napa, San*
20 *Francisco, San Mateo, Santa Clara, Solano, and Sonoma in the*
21 *San Francisco Bay area.*

22 (B) *The counties of Fresno, Kern, Kings, Madera, Merced, San*
23 *Joaquin, Stanislaus, and Tulare in the Central Valley region.*

24 (C) *The County of Los Angeles.*

25 ~~(3)~~

26 (5) A report submitted pursuant to *this* subdivision shall be
27 submitted in compliance with Section 9795 of the Government
28 Code.

29 ~~(4)~~

30 (e) This section shall become inoperative on July 1, ~~2019~~, 2020,
31 and as of January 1, ~~2020~~, 2021, is repealed.