

AMENDED IN SENATE MAY 18, 1999

AMENDED IN SENATE MAY 10, 1999

SENATE BILL

No. 745

Introduced by Senator Escutia

February 24, 1999

An act to add Sections 5777.5 and 5777.6 to the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

SB 745, as amended, Escutia. Mental health: contracts: disputes.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services, pursuant to which medical benefits are provided to public assistance recipients and certain other low-income persons. Existing law further provides that the State Department of Mental Health shall implement managed mental health care for Medi-Cal beneficiaries through fee-for-service or capitated rate contracts with mental health plans.

This bill would require the State Department of Mental Health to require the mental health plan to enter into a memorandum of understanding containing specified requirements with any managed care plan that is contracting with the State Department of Health Services, or with any managed care plan that is contracting with, or governed, owned, or operated by, a county board of supervisors, a county special commission, or a county health authority to provide Medi-Cal services to some of the same Medi-Cal recipients



served by the mental health plan, for the purpose of establishing guidelines and a mechanism for determining responsibility for prescription medication and other services that are medically necessary, when the financial responsibility is disputed between the Medi-Cal plan and the Medi-Cal mental health plan. It would specify the procedures if there is a dispute with the Medi-Cal managed care plans or with other health care service plans regarding responsibility for, or coverage of, the prescription medication and other services.

~~The bill would also specify the procedures for the provision of outpatient specialty mental health services for a child in foster care who is placed outside his or her county of adjudication, and would permit the county where placed to seek reimbursement from the county of adjudication for the services provided~~ *provide that if a child in foster care has been placed outside his or her county of adjudication, the county shall establish a procedure to ensure access to outpatient mental health services and an arrangement for reimbursement for services provided by a county other than the county of adjudication or a provider in a county other than the county of adjudication.* The imposition of these requirements on counties of adjudication ~~and counties of placement~~ would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.



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

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

3 (a) Persons who receive Medi-Cal mental health
4 services through mental health plans pursuant to Part 2.5
5 (commencing with Section 5775) of Division 5 and
6 Article 5 (commencing with Section 14680) of Chapter
7 8.8 of Part 3 of Division 9 of the Welfare and Institutions
8 Code, require timely access to prescription drugs
9 prescribed by the Medi-Cal mental health plan providers
10 because these prescription drugs may be crucial to
11 maintaining stability and furthering treatment goals.

12 (b) Disputes about responsibility for authorizing or
13 providing specific prescription drugs prescribed by
14 Medi-Cal mental health plan providers have the effect of
15 disrupting the timely access to prescription drugs needed
16 by persons receiving services through Medi-Cal mental
17 health plans.

18 (c) Existing state regulations and policies do not
19 adequately address a Medi-Cal recipient's right to timely
20 access to prescription drugs when there is a dispute
21 between a county mental health plan that prescribes
22 prescription drugs and a Medi-Cal managed care plan or
23 other health care plan that may have responsibility for
24 providing or authorizing coverage of prescription drugs
25 prescribed by a Medi-Cal mental health plan provider.

26 (d) Foster children who are placed outside their
27 county of residence and who need specialty mental
28 health services provided by county mental health plans
29 encounter delays and difficulties in accessing these
30 speciality mental health services.

31 (e) Under the federal Medicaid Act, including the
32 Balanced Budget Act of 1997, the state has special
33 responsibilities to children in foster care including those
34 who are placed outside their county of residence. The
35 state must ensure that foster children placed outside their
36 county of residence receive timely and appropriate
37 access to necessary mental health services, including
38 mental health services pursuant to the federal Early and



1 Periodic Screening, Diagnosis and Treatment Program
2 (42 U.S.C. Sec. 1396d(a)(4)(B).

3 SEC. 2. It is the intent of the Legislature that access
4 to prescription medications and other services for
5 Medi-Cal recipients who receive mental health services
6 through county mental health plans and who are also
7 members of Medi-Cal managed care plans or other health
8 care plans shall be no less than the timely access enjoyed
9 by Medi-Cal recipients who are not members of Medi-Cal
10 managed care plans or who do not have other health care
11 coverage.

12 SEC. 3. Section 5777.5 is added to the Welfare and
13 Institutions Code, to read:

14 5777.5. (a) The department shall require mental
15 health plans to enter into a memorandum of
16 understanding with any managed care plan contracting
17 with the State Department of Health Services, or with
18 any managed care plan that is contracting with, or
19 governed, owned, or operated by, a county board of
20 supervisors, a county special commission, or a county
21 health authority (collectively referred to as “physical
22 managed care plans”) to provide Medi-Cal services to
23 some of the same Medi-Cal recipients served by the
24 mental health plan, for the purpose of establishing
25 guidelines and a mechanism for determining
26 responsibility for prescription medications and other
27 services, such as laboratory tests, that are medically
28 necessary because of medications prescribed by a mental
29 health plan provider, when the financial responsibility is
30 disputed between the Medi-Cal plan and the Medi-Cal
31 mental health plan.

32 (b) In the absence of a memorandum of
33 understanding, any prescription for medications or for
34 other services such as laboratory tests, that may be
35 necessary because of medications prescribed by a mental
36 health plan provider, and that should be covered by a
37 memorandum of understanding, shall be treated as a
38 carved-out drug or service and processed as covered by
39 the fee-for-service Medi-Cal authorization and payment
40 system. Under these circumstances, any payments on



1 behalf of Medi-Cal recipients whose prescriptions for
2 medications or other services, or both, are within the
3 scope of services provided by the physical managed care
4 plan and that should be covered by a memorandum of
5 understanding shall be deducted from payments by the
6 State Department of Health Services to those physical
7 managed care plans.

8 (c) The memorandum of understanding shall ~~require~~
9 *include* all of the following:

10 (1) ~~The~~ *A requirement that the* decision regarding
11 responsibility and coverage for a prescription drug shall
12 be made by the physical managed care plan within 24
13 hours, or one business day, from the date the request for
14 decision is received by telephone or other
15 telecommunication device.

16 (2) ~~The~~ *A requirement that the* decision regarding
17 responsibility and coverage for services, such as
18 laboratory tests, that are medically necessary because of
19 medications prescribed by a mental health plan provider,
20 shall be made by the physical managed care plan within
21 seven days following the date the request for decision is
22 received by telephone or other telecommunication
23 device.

24 (3) ~~If~~ *(A) A requirement that if* the decision of the
25 physical Medi-Cal managed care plan on the request is a
26 deferral, for example a determination that the physical
27 Medi-Cal managed care plan needs more information,
28 the physical Medi-Cal managed care plan shall transmit
29 notice of the deferral, by facsimile or by other
30 telecommunication system, to the pharmacist or other
31 service provider, to the mental health provider, to a
32 designated mental health plan representative, and by
33 mail to the Medi-Cal beneficiary. The notice shall set out
34 with specificity what additional information is needed to
35 make a medical necessity determination. ~~The designated~~
36 ~~mental health plan representative~~

37 *(B) A process or entity* shall be responsible for
38 providing the additional information identified in the
39 deferral notice as necessary for a medical necessity



1 determination by the close of the business day following
2 the day the deferral notice is received.

3 (4) Any denial of authorization or payment for a
4 prescription medication or for any services, such as
5 laboratory tests, that may be medically necessary because
6 of medications prescribed by a mental health plan
7 provider, shall set forth the reasons for the denial with
8 specificity. The denial notice shall be transmitted by
9 facsimile or other telecommunication system to the
10 pharmacist or other service provider, to the mental
11 health provider, to a designated mental health plan
12 representative, and by mail to the Medi-Cal beneficiary.

13 ~~(5) Failure to act and give required notice on a request
14 for authorization for a prescription medication or for any
15 services, such as laboratory tests, that may be medically
16 necessary because of medications prescribed by a mental
17 health plan provider, within the time periods set forth in
18 this section shall mean the request is deemed approved.~~

19 ~~(6)~~

20 (5) For purposes of subsequent requests for a
21 medication, the county mental health plan provider
22 prescribing the prescription medication shall be treated
23 as a plan provider under subdivision (a) of Section 1367.22
24 of the Health and Safety Code.

25 ~~(d) If the Medi-Cal beneficiary has other health care
26 coverage that may cover prescription medications or
27 other services, such as laboratory tests that may be
28 medically necessary because of medications prescribed
29 by a mental health plan provider, then the pharmacist or
30 other provider shall seek authorization, if required, from
31 the department at the same time it seeks authorization or
32 coverage from the other health care plan by telephone or
33 by facsimile or other telecommunication system. If the
34 other health care plan has denied coverage, or has failed
35 to accept responsibility for coverage of a prescription
36 medication or for other services, such as laboratory tests
37 that may be medically necessary because of medications
38 prescribed by mental health plan providers, within the
39 time periods set forth in subdivision (c), then the
40 prescription written by county mental health plan~~



1 providers for medications or other services shall be
2 implemented as if there were no other health care
3 coverage. However, when the other health care plan fails
4 to respond in a timely manner, the Medi-Cal program
5 shall not be billed for the prescription or other services
6 until there is a denial or a failure by the other health care
7 plan to respond within 30 days from the date the initial
8 request regarding coverage is made to the other health
9 care plan.

10 ~~(e)~~

11 (d) For purposes of the right of Medi-Cal recipients to
12 have timely access to necessary prescription medications,
13 physical managed care plans that are not qualified under
14 the Knox-Keene Act (Chapter 2.2 (commencing with
15 Section 1340) of Division 2 of the Health and Safety Code)
16 shall be treated as if the plans were subject to the
17 requirements of that act and as if the plans were issued,
18 amended, or renewed on or after July 1, 1999.

19 (e) *This section shall apply to any contracts entered*
20 *into, amended, modified, or extended on or after January*
21 *1, 2000.*

22 SEC. 4. Section 5777.6 is added to the Welfare and
23 Institutions Code, to read:

24 5777.6. (a) If a child in foster care has been placed
25 outside his or her county of adjudication, ~~and has been~~
26 ~~assigned a public health nurse from his or her county of~~
27 ~~adjudication, that public health nurse, with the assistance~~
28 ~~of a designated representative from the county mental~~
29 ~~health plan in the county of adjudication, shall be~~
30 ~~responsible for ensuring the foster child's timely access to~~
31 ~~outpatient specialty mental health services, as follows:~~

32 ~~(1) Identifying, with the assistance of the mental~~
33 ~~health plan in the county of adjudication, appropriate~~
34 ~~providers of specialty mental health services in the~~
35 ~~county where placed including, when those services may~~
36 ~~be medically necessary, providers who will deliver~~
37 ~~services in the home to the foster child and who will~~
38 ~~provide training to the foster parents or other caregivers~~
39 ~~on how to address the mental health and behavioral needs~~
40 ~~of the child, as well as other providers of Early and~~



1 ~~Periodic Screening, Diagnostic and Treatment (EPSDT)~~
2 ~~supplemental services.~~

3 ~~(2) Putting together documentation, as part of a~~
4 ~~request for authorization for services to the mental health~~
5 ~~plan in the county of adjudication supporting and~~
6 ~~explaining the need for screening, diagnostic, or~~
7 ~~treatment services.~~

8 ~~(3) Assisting the mental health plan in the county of~~
9 ~~adjudication in securing additional information when the~~
10 ~~request for approval for requested screening, diagnostic,~~
11 ~~or treatment services is deferred for additional~~
12 ~~information.~~

13 ~~(4) Assisting the mental health plan in the county of~~
14 ~~adjudication in scheduling and obtaining transportation~~
15 ~~to and from screening, diagnostic, or treatment services.~~

16 ~~(b) The mental health plan in the county of~~
17 ~~adjudication, with the assistance of the public health~~
18 ~~nurse, shall be responsible for securing the additional~~
19 ~~information when the mental health plan has deferred a~~
20 ~~request for authorization. If the mental health plan in the~~
21 ~~county of adjudication fails to act by an approval, deferral~~
22 ~~for more information, or a denial of a request for~~
23 ~~authorization for specialty mental health screening,~~
24 ~~diagnostic, or treatment services within seven days of the~~
25 ~~date of receiving the request, the request shall be deemed~~
26 ~~approved. Providers of approved services including~~
27 ~~services deemed approved shall be deemed mental~~
28 ~~health plan providers of the mental health plan in the~~
29 ~~county of adjudication for purposes of billing and~~
30 ~~payment.~~

31 ~~(c) If a child in foster care has been placed outside his~~
32 ~~or her county of adjudication but has not been assigned~~
33 ~~a public health nurse from his or her county of~~
34 ~~adjudication, then outpatient specialty mental health~~
35 ~~services shall be authorized and paid for by the mental~~
36 ~~health plan in the county where placed by the county of~~
37 ~~adjudication. The mental health plan in the county where~~
38 ~~placed by the county of adjudication may seek~~
39 ~~reimbursement from the mental health plan in the~~
40 ~~county of adjudication for the services provided. In the~~



1 ~~event of a dispute regarding reimbursement by the~~
 2 ~~mental health plan in the county of adjudication, the~~
 3 ~~mental health plan that provided the services may utilize~~
 4 ~~procedures contained in Title 9 (commencing with~~
 5 ~~Section 500) of the California Code of Regulations to~~
 6 ~~resolve the billing disputes, but may not deny or restrict~~
 7 ~~services to the child.~~

8 ~~(d)~~ *the county shall establish all of the following:*

9 *(1) A procedure to ensure access to outpatient mental*
 10 *health services.*

11 *(2) An arrangement for reimbursement for services*
 12 *provided by a county other than the county of*
 13 *adjudication or a provider in a county other than the*
 14 *county of adjudication.*

15 *(3) An entity designated to provide any additional*
 16 *information needed for approval or reimbursement.*

17 *(b)* The procedures prescribed by this section shall not
 18 apply if the department and the State Department of
 19 Health Services secure federal approval for an
 20 amendment to the current waiver to provide for ~~different~~
 21 ~~procedures~~ *a statewide system or procedure* to ensure
 22 that foster children who are placed outside their county
 23 of adjudication have full and timely access to specialty
 24 mental health services equal to that enjoyed by Medi-Cal
 25 children who are residents of the county where placed by
 26 the county of adjudication.

27 SEC. 5. Notwithstanding Section 17610 of the
 28 Government Code, if the Commission on State Mandates
 29 determines that this act contains costs mandated by the
 30 state, reimbursement to local agencies and school
 31 districts for those costs shall be made pursuant to Part 7
 32 (commencing with Section 17500) of Division 4 of Title
 33 2 of the Government Code. If the statewide cost of the
 34 claim for reimbursement does not exceed one million
 35 dollars (\$1,000,000), reimbursement shall be made from
 36 the State Mandates Claims Fund.

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