

AMENDED IN ASSEMBLY AUGUST 29, 2000

AMENDED IN ASSEMBLY AUGUST 7, 2000

AMENDED IN ASSEMBLY JUNE 22, 2000

AMENDED IN ASSEMBLY MARCH 15, 2000

AMENDED IN SENATE MAY 28, 1999

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, 5777.6, and 14456.5 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 any mental health plan that provides Medi-Cal services to enter into a memorandum of understanding containing specified requirements with any Medi-Cal managed care plan that provides Medi-Cal health services to some of the same Medi-Cal recipients served by the mental health plan.

The bill would require the establishment of a procedure to ensure access to outpatient mental health services, as required by the Early Periodic Screening and Diagnostic Treatment program standards, for any child in foster care who has been placed outside his or her county of adjudication. The imposition of these requirements on counties of adjudication would create a state-mandated local program.

This bill would further require the State Department of Health Services to ensure that coverage is provided for necessary prescription medications and related medically necessary medical services that are prescribed by a local mental health plan provider, and that are within the Medi-Cal scope of benefits, but are excluded from coverage under the above-described requirements applicable to the State Department of Mental Health.

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:



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

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

16 ~~(c) Existing state regulations and policies do not
17 adequately address a Medi-Cal recipient's~~

18 *(c) Medi-Cal recipients have the right to timely access
19 to prescription drugs when there is a dispute between a
20 county mental health plan that prescribes prescription
21 drugs and a Medi-Cal managed care plan or other health
22 care plan that may have responsibility for providing or
23 authorizing coverage of prescription drugs prescribed by
24 a Medi-Cal mental health plan provider. regardless of the
25 entity responsible to provide or authorize coverage.*

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 specialty 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
39 Periodic Screening, Diagnosis and Treatment Program
40 (42 U.S.C. Sec. 1396d(a)(4)(B)).



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

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

12 5777.5. (a) (1) The department shall require any
13 mental health plan that provides Medi-Cal services to
14 enter into a memorandum of understanding with any
15 Medi-Cal managed care plan that provides Medi-Cal
16 health services to some of the same Medi-Cal recipients
17 served by the mental health plan. The memorandum of
18 understanding shall comply with applicable regulations.

19 (2) For purposes of this section, a “Medi-Cal managed
20 care plan” means any *prepaid health plan or Medi-Cal*
21 managed care plan contracting with the State
22 Department of Health Services to provide services to
23 enrolled Medi-Cal beneficiaries under Chapter 7
24 (commencing with Section 14000) or Chapter 8
25 (commencing with Section 14200) of Part 3 of Division 9,
26 or Part 4 (commencing with Section 101525) of Division
27 101 of the Health and Safety Code.

28 (b) The department shall require the memorandum
29 of understanding to include all of the following:

30 (1) A process or entity to be designated by the local
31 mental health plan to receive notice of actions, denials, or
32 deferrals from the Medi-Cal managed care plan, and to
33 provide any additional information requested in the
34 deferral notice as necessary for a medical necessity
35 determination.

36 (2) A requirement that the local mental health plan
37 respond by the close of the business day following the day
38 the deferral notice is received.



1 (c) The department may sanction a mental health
2 plan pursuant to paragraph (1) of subdivision (e) of
3 Section 5775 for failure to comply with this section.

4 (d) This section shall apply to any contracts entered
5 into, amended, modified, extended, or renewed on or
6 after January 1, 2001.

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

9 5777.6. (a) Each local mental health plan shall
10 establish a procedure to ensure access to outpatient
11 mental health services, as required by the Early Periodic
12 Screening and Diagnostic Treatment program standards,
13 for any child in foster care who has been placed outside
14 his or her county of adjudication.

15 (b) The procedure required by subdivision (a) may be
16 established through one or more of the following:

17 (1) The establishment of, and federal approval, if
18 required, of, a statewide system or procedure.

19 (2) An arrangement between local mental health
20 plans for reimbursement for services provided by a
21 mental health plan other than the mental health plan in
22 the county of adjudication and designation of an entity to
23 provide additional information needed for approval or
24 reimbursement. This arrangement shall not require
25 providers who are already credentialed or certified by
26 the mental health plan in the beneficiary's county of
27 residence to be credentialed or certified by, or to contract
28 with, the mental health plan in the county of
29 adjudication.

30 (3) Arrangements between the mental health plan in
31 the county of adjudication and mental health providers in
32 the beneficiary's county of residence for authorization of,
33 and reimbursement for, services. This arrangement shall
34 not require providers credentialed or certified by, and in
35 good standing with, the mental health plan in the
36 beneficiary's county of residence to be credentialed or
37 certified by the mental health plan in the county of
38 adjudication.

39 (c) The department shall collect and keep statistics
40 that will enable the department to compare access to



1 outpatient specialty mental health services by foster
2 children placed in their county of adjudication with
3 access to outpatient specialty mental health services by
4 foster children placed outside of their county of
5 adjudication.

6 SEC. 5. Section 14456.5 is added to the Welfare and
7 Institutions Code, to read:

8 14456.5. (a) For purposes of this section, Medi-Cal
9 managed care plan means any prepaid health plan or
10 Medi-Cal managed care plan contracting with the
11 department to provide services to enrolled Medi-Cal
12 beneficiaries under Chapter 7 (commencing with
13 Section 14000) or this chapter, or Part 4 (commencing
14 with Section 101525) of Division 101 of the Health and
15 Safety Code.

16 (b) The department shall ensure that coverage is
17 provided for medically necessary prescription
18 medications and related medically necessary medical
19 services that are prescribed by a local mental health plan
20 provider, and are within the Medi-Cal scope of benefits,
21 but are excluded from coverage under Part 2.5
22 (commencing with Section 5775) of Division 5, by doing,
23 at least, all of the following:

24 (1) Requiring Medi-Cal managed care plans to comply
25 with the following standards:

26 (A) The decision regarding responsibility and
27 coverage for a prescription drug shall be made by the
28 Medi-Cal managed care plan within 24 hours, or one
29 business day, from the date the request for a decision is
30 received by telephone or other telecommunication
31 device.

32 (B) The decision regarding responsibility and
33 coverage for services, such as laboratory tests, that are
34 medically necessary because of medications prescribed
35 by a mental health provider, shall be made by the
36 Medi-Cal managed care plan within seven days following
37 the date the request for a decision is received by
38 telephone or other telecommunication device.

39 (C) If the decision of the Medi-Cal managed care plan
40 on the request is a deferral because of a determination



1 that the Medi-Cal managed care plan needs more
2 information, the Medi-Cal managed care plan shall
3 transmit notice of the deferral, by facsimile or by other
4 telecommunication system, to the pharmacist or other
5 service provider, to the prescribing mental health
6 provider, and to a designated mental health plan
7 representative. The notice shall set out with specificity
8 what additional information is needed to make a medical
9 necessity determination.

10 (D) Any denial of authorization or payment for a
11 prescription medication or for any services ~~prescribed~~
12 *such as laboratory tests that may be medically necessary*
13 *because of medications ordered* by a mental health plan
14 provider shall set forth the reasons for the denial with
15 specificity. The denial notice shall be transmitted by
16 facsimile or other telecommunication system to the
17 pharmacist or other service provider, to the prescribing
18 mental health provider, to a designated mental health
19 plan representative, and by mail to the Medi-Cal
20 beneficiary.

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

26 (F) If the decision cannot be made within ~~the~~
27 ~~timeframes specified in subparagraphs (A) or (B)~~ *five*
28 *working days because of a request for additional*
29 *information, any Medi-Cal managed care plan licensed*
30 *pursuant to Division 2 (commencing with Section 1340)*
31 *of the Health and Safety Code shall inform the enrollee*
32 *as required by paragraph (5) of subdivision (h) of Section*
33 *1367.01 of the Health and Safety Code. In regard to any*
34 *Medi-Cal managed care plan contract as described*
35 *pursuant to subdivision (a) that is issued, amended, or*
36 *renewed on or after January 1, 2001, with a plan not*
37 *licensed pursuant to Division 2 (commencing with*
38 *Section 1340) of the Health and Safety Code, if the*
39 *decision cannot be made within five working days*
40 because of a request for additional information as



1 specified in subparagraph (C), the plan shall;
2 ~~immediately upon the expiration of the timeframe~~
3 ~~specified in subparagraph (A) or (B) or as soon as the~~
4 ~~plan becomes aware that it will not meet the applicable~~
5 ~~timeframe, whichever occurs first, notify the enrollee, in~~
6 ~~writing, that the plan cannot make a decision to approve,~~
7 ~~modify, or deny the request for authorization within the~~
8 ~~required timeframe, and specify the information~~
9 ~~requested, but not received. As part of this notice, the~~
10 ~~plan shall also notify the enrollee of the anticipated date~~
11 ~~on which a decision may be rendered. Upon receipt of all~~
12 ~~authorization. All managed care plans shall, upon receipt~~
13 ~~of all information reasonably necessary for making the~~
14 ~~decision and that was requested by the plan, the plan shall~~
15 ~~approve, modify, or deny the request for authorization~~
16 ~~within the timeframes specified in subparagraph (A) or~~
17 ~~(B), whichever applies.~~

18 (2) In consultation with the Medi-Cal managed care
19 plans, the State Department of Mental Health, and local
20 mental health plans establishing a process to recognize
21 credentialing of local mental health plan providers, for
22 the purpose of expediting approval of medications
23 prescribed by a local mental health plan provider who is
24 not contracting with the Medi-Cal managed care plan. In
25 implementing this requirement, the Medi-Cal managed
26 care plan shall not be required to violate licensure,
27 accreditation, or certification requirements of other
28 entities.

29 (3) Requiring any Medi-Cal managed care plan to
30 enter into a memorandum of understanding with the
31 local mental health plan. The memorandum of
32 understanding shall comply with applicable regulations.

33 (c) The department may sanction a Medi-Cal
34 managed care plan for violations of this section pursuant
35 to Section 14088.23 or 14304.

36 (d) Every Medi-Cal managed care plan that provides
37 prescription drug benefits and that maintains one or
38 more drug formularies shall provide to members of the
39 public, upon request, a copy of the most current list of
40 prescription drugs on the formulary of the Medi-Cal



1 managed care plan, by therapeutic category, with an
2 indication of whether any drugs on the list are preferred
3 over other listed drugs. If the Medi-Cal managed care
4 plan maintains more than one formulary, the plan shall
5 notify the requester that a choice of formulary lists is
6 available.

7 (e) This section shall apply to any contracts entered
8 into, amended, modified, or extended on or after January
9 1, 2001.

10 SEC. 6. Notwithstanding Section 17610 of the
11 Government Code, if the Commission on State Mandates
12 determines that this act contains costs mandated by the
13 state, reimbursement to local agencies and school
14 districts for those costs shall be made pursuant to Part 7
15 (commencing with Section 17500) of Division 4 of Title
16 2 of the Government Code. If the statewide cost of the
17 claim for reimbursement does not exceed one million
18 dollars (\$1,000,000), reimbursement shall be made from
19 the State Mandates Claims Fund.

