
SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair

2017 - 2018 Regular

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Subject: Local Educational Agency Behavioral Health Integration Pilot Program

SUMMARY

This bill requires the Department of Health Care Services (DHCS), in cooperation with the California Department of Education, to establish the Local Educational Agency (LEA) Behavioral Health Integration Pilot Program to provide grants to schools improve the delivery of direct behavioral health services to students.

BACKGROUND

Existing law: check

- 1) Establishes the Medi-Cal program, administered by the DHCS, under which qualified low-income persons to receive health care benefits. (Welfare and Institutions Code §1400, et seq.)
- 2) Establishes a schedule of benefits in the Medi-Cal program and requires specified services provided by a LEA are covered Medi-Cal benefits, to the extent federal financial participation (FFP) is available, and subject to utilization controls and standards adopted by DHCS, and consistent with Medi-Cal requirements for physician prescription, order, and supervision. This is referred to as the LEA billing option. (WIC §14132.06)
- 3) Requires DHCS to amend the Medicaid state plan with respect to the LEA billing option for services provided by LEAs to ensure that schools be reimbursed for all eligible services that they provide that are not precluded by federal requirements. (WIC §14115.8)
- 4) Defines the scope of covered services that an LEA may provide, which included targeted case management services for children regardless of whether the child has an Individualized Education Program (IEP) or an Individual Family Service Plan (IFSP). (WIC § 14132.06)
- 5) Defines LEA, for the purpose of the LEA billing option, to include school districts, county offices of education, state special schools, charter schools, and California State University and a University of California campuses. (WIC § 14132.06)
- 6) Requires the DHCS to seek FFP for covered services that are provided by an LEA to a Medi-Cal eligible child regardless of whether the child has an IEP or an

individualized family service plan (IFSP), or whether those same services are provided at no charge to the child or to the community at large. (WIC § 14132.06)

- 7) Establishes the Mental Health Services Act (MHSA), enacted by voters in 2004 as Proposition 63, to provide funds to counties to expand services, develop innovative programs, and integrated service plans for mentally ill children, adults, and seniors through a 1 percent income tax on personal income above \$1 million.
- 8) Specifies that the MHSA can only be amended by a two-thirds vote of both houses of the Legislature and only as long as the amendment is consistent with and furthers the intent of the MHSA. (MHSA § 18)

ANALYSIS

This bill requires the Department of Health Care Services (DHCS), in cooperation with the California Department of Education (CDE), to establish the Local Educational Agency (LEA) Behavioral Health Integration Pilot Program to provide grants to schools improve the delivery of direct behavioral health services to students. Specifically, this bill:

- 1) Requires DHCS, in cooperation with the in cooperation with CDE, to establish the LEA Behavioral Health Integration Pilot Program to improve the delivery of underutilized direct behavioral health services.
- 2) Requires DHCS to do all of the following:
 - a) Encourage the participation in the program of eligible participants that are not yet participating in the program.
 - b) Provide technical assistance to LEAs that seek to participate in the program or that are eligible participants. This bill establishes that technical assistance includes but is not limited to identifying public and private funding sources that will assist the LEA in enrolling students in the Medi-Cal program.
 - c) Develop a request for proposals process that collects applicant information and determines which proposals are to receive funding. This bill requires funding priority to be given to proposals that ensure coordination with existing health care delivery systems, including Medi-Cal managed care plans, county mental health plans, and primary and behavioral health care providers or their representatives.
 - d) Formulate the necessary Medi-Cal State Plan amendments.
 - e) Award grants pursuant to this bill.
- 3) Requires an LEA that participates in the program to do all of the following:

- a) Use funds to provide, or to build capacity for the provision of, direct behavioral health services to all students with a demonstrated need, with a concerted effort toward improving the delivery of underutilized services to students enrolled in the Medi-Cal program. This bill requires funds to be used to deliver, or develop capacity to ensure delivery of, new onsite direct behavioral health services not already provided by the local education agency (LEA).
 - b) Maximize enrollment of students eligible for the Medi-Cal program into the Medi-Cal program.
 - c) Provide, or ensure the provision of, behavioral health services that are individualized and supportive of students and, where appropriate, their families, to ensure that social and behavioral challenges are addressed.
 - d) Create a sustainability plan that establishes how the LEA will seek to maximize the use of public funds, including but not limited to participation in federal reimbursement programs.
 - e) Provide comprehensive professional development opportunities for school employees, including teachers, that enable school employees to recognize and respond to a child's unique needs that includes the ability to provide referrals to professionals in the school who can provide mental health services. This bill provides that it is not intended to require teachers to provide mental health services to students.
- 4) Requires a LEA that participates in the program to participate in the LEA billing option by the time the LEA begins participation in the program pursuant to this bill.
 - 5) Requires a reimbursement for direct behavioral health services provided by the LEA to be used in accordance with applicable federal laws, regulations, or guidelines.
 - 6) Authorizes a participating LEA to provide direct behavioral health services through direct employment of health care providers or by contracting with other health care providers or school health centers to supplement services.
 - 7) Requires a LEA that contracts with a health care provider or school health center to do both of the following:
 - a) Create and maintain a mechanism, described in writing, to coordinate services provided to individual students among school staff and school health center staff while maintaining the confidentiality and privacy of health information consistent with applicable state and federal laws.
 - b) Create and maintain a contract or memorandum of understanding between the LEA, the health care provider or school health center, and any other provider agencies that describes the relationship between the LEA and the school health center, if applicable.

- 8) Appropriates up to \$10 million per year to Department of Health Care Services (DHCS) in the 2018-19 to 2021-22 fiscal years from the Mental Health Services Act funds allocated to DHCS, subject to the availability of those funds. This bill requires that funds not fully expended in a single fiscal year to be available to implement this bill in any one, or across one or more of, subsequent fiscal years through the 2021-22 fiscal year.
- 9) Requires implementation only to the extent that any necessary federal approvals have been obtained.
- 10) Sunsets the Local Educational Agency (LEA) Behavioral Health Integration Pilot Program four years from the date of the appropriation, notwithstanding fiscal years.
- 11) Requires the Department of Health Care Services (DHCS), upon the depletion of funds and the termination of the grant program, to submit a report to specified legislative committees that includes but is not limited to all of the following information (reported in the aggregate and not in a manner that would compromise student privacy):
 - a) An evaluation of the need for funding school-based health services and their connection to early behavioral health outcomes.
 - b) The impact of the program on student well-being, academic achievement, school engagement, attendance, and other outcome and indicator measures collected by participating LEAs.
- 12) Provides the following definitions:
 - a) “Eligible participant” means either of the following:
 - i) A local educational agency (LEA) that does not participate in the LEA billing option.
 - ii) An LEA that participates in the LEA billing option but receives low reimbursement relative to the number of students enrolled in the Medi-Cal program who would be eligible to receive covered services.
 - b) “Direct behavioral health services” means services that the DHCS has identified as reimbursable behavioral health services under the LEA billing option and behavioral health services that are not covered under the LEA billing option, including but not limited to:
 - i) Mental health and alcohol and substance abuse service assessments.
 - ii) Crisis intervention.
 - iii) Counseling.

- iv) Treatment.
- v) Referral to a continuum of services, including but not limited to:
 - (1) Emergency psychiatric care.
 - (2) Evidence-based mental health or alcohol and substance abuse treatment services.
 - (3) Community support programs.
 - (4) Inpatient care.
 - (5) Outpatient programs.
- c) “School health center” means a center or program, located at or near a local educational agency (LEA), that provides age-appropriate health care services at the program site or through referrals.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “The LEA billing option provides up to a 50% federal reimbursement for a specified direct health services provided to Medi-Cal-enrolled students. Reimbursement is limited to services that are already provided by a school district and cannot go to create a new service, nor replace funding levels for an existing program. Examples of reinvestments can include health care services (e.g. immunizations) and mental health services (e.g. primary prevention and crisis intervention, assessments, or training for teachers to recognize mental health problems).

On September 15, 2015, as allowed by the Federal government, California has joined other states in reversing the free care rule. The removal of this rule now permits reimbursement for Medi-Cal-covered services provided to Medi-Cal enrollees, regardless of whether the service is also provided at no cost to other non-Medi-Cal populations. The reversal frees up schools to seek reimbursement for services to all Medi-Cal students; enhance and expand the role of school districts in the broader health delivery system. In addition, the Department of Health Care Services is in on-going conversations with the Centers for Medicare & Medicaid Services to expand the reimbursable services, providers who can be reimbursed, and a change in the billing methodology that could reduce staff time required.

These potential changes to the LEA billing option present an opportunity for the State of California to promote school-based health care services while attaining a return-on-investment from the federal government. In targeting school districts with students who could most benefit from this pilot program, this bill would improve educational outcomes through more wholesome school-based physical and mental healthcare services.

The grants establish a multi-tiered care system where teachers are the frontline of recognizing and referring students who need services; school nurses and counselors provided preventative services, referrals, and mental health assessments; and health providers give mental health services. In targeting school districts with students who could most benefit from this pilot program, the bill would explore how we can improve educational outcomes by enhancing and expanding the role of school districts in the health care delivery system.”

- 2) ***The local educational agency (LEA) billing option.*** The LEA billing option provides federal financial participation (FFP) through Medicaid reimbursement to LEAs (school districts, county offices of education, charter schools, a state special school, community colleges, California State University and University of California) for health-related services provided by qualified medical practitioners to students who are enrolled in Medi-Cal. Any of these entities is authorized to bill for services provided to any student, regardless of age, who is a Medi-Cal recipient. LEAs pay for health-related services and are reimbursed for 50 percent of their costs through Medicaid FFP. LEA services are delivered either through the LEAs (which employ practitioners who provide the services on site) or through local contracted practitioners. LEAs must annually certify that the public funds expended for LEA services provided are eligible for FFP. LEA covered services can include the following:
- a) Health and mental health evaluations and health and mental health education.
 - b) Medical transportation.
 - c) Nursing services.
 - d) Occupational therapy and physical therapy.
 - e) Physician services.
 - f) Mental health and counseling services.
 - g) School health aide services.
 - h) Speech pathology services.
 - i) Audiology services.
 - j) Targeted case management services for children regardless of whether the child has an individualized education plan (IEP) or an individualized family service plan (IFSP).

The Department of Health Care Services’ May 2017 Medi-Cal Estimate assumes the LEA billing option will draw down \$131.1 million in federal funds in 2017-18.

- 3) ***Recent change in policy allows for additional reimbursement opportunities.*** Prior to 2014, under long-standing policy known as the “free care rule,” LEAs

could not receive payment for services which they made available without charge to Medi-Cal eligible students or to the community at large unless all students were billed for the service. For example, if all children in a school received hearing evaluations, Medi-Cal could not be billed for the hearing evaluations provided to Medi-Cal recipients unless all students, regardless of insurance status, were billed for the services as well. This meant that before being able to bill, schools had to bill a variety of private insurers as well as Medi-Cal. This was an administrative burden that many local educational agencies (LEAs) found prohibitive.

In December 2014, the Centers for Medicare and Medicaid Services issued new guidance which will allow LEAs to serve all Medi-Cal-eligible students, whether or not they have an individualized education plan (IEP) or an individualized family service plan (IFSP). While California receives the largest total share of federal funds, the amount the state receives per eligible student is low relative to other states. In 2009-10, California served 240,000 of its 3.3 million eligible students, resulting in an average of \$159 per eligible student. The average among the 32 states surveyed was \$544 per eligible student. Nebraska (with 103,000 eligible students) received \$796 per eligible student, Vermont received \$694 per eligible student, and Rhode Island received \$635 per eligible student (all figures include Medicaid administrative funds).

The December 2014 guidance reversed the above administrative requirement, allowing Medicaid reimbursement for covered services under the approved state plan that are provided to Medicaid beneficiaries, regardless of whether there is any charge for the service to the beneficiary or the community at large. As a result, funding is available for Medicaid payments for care provided through providers that do not charge individuals for the service, as long as all other Medicaid requirements are met.

- 4) **California historically poor at drawing down Medicaid funding.** For many years California has drawn down a low share of Medicaid funding through the LEA billing option relative to the number of eligible students in the state. A 2000 report by the U.S. General Accounting Office found that California ranked in the bottom quartile of states by funding received through this option. The amount claimed has been increasing in recent years: a 2012 report from the Department of Health Care Services (DHCS) on the LEA billing option found that statewide reimbursement increased from \$60 million in 2000-01 and to \$130 million in 2009-10. But while California receives the largest total share of federal funds, the amount the state receives per eligible student is low relative to other states. In 2009-10, California served 240,000 of its 3.3 million eligible students, resulting in an average of \$159 per eligible student. The average among the 32 states surveyed was \$544 per eligible student. Nebraska (with 103,000 eligible students) received \$796 per eligible student, Vermont received \$694 per eligible student, and Rhode Island received \$635 per eligible student (all figures include Medicaid administrative funds).
- 5) **Funding source in this bill.** Under the LEA billing option, schools currently fund the non-federal share that is used to draw down federal Medicaid funds. This bill appropriates up to \$10 million annually each year for four years in funds currently

reserved for the costs for DHCS, the California Mental Health Planning Council, the Office of Statewide Health Planning and Development, the Mental Health Services Oversight and Accountability Commission, the Department of Public Health, and any other state agency to implement all duties pursuant to specified programs set forth in the Mental Health Services Act. The Department of Finance indicates, as of the 2017 May Revision, there was approximately \$36 million available for 2017-18 from this fund source. The Budget Conference Committee included about \$21.1 million of new expenditures, so using the May Revision, leaving approximately \$15 million for 2017-18.

- 6) ***Related and previous legislation.*** AB 834 (O'Donnell) requires the California Department of Education (CDE) to establish an Office of School-Based Health Programs (Office) for the purpose of administering current health-related programs under the purview of CDE, and requires the scope of the Office to include, but not be limited to, improving the operation of, and participation in, school-based health programs, including the Administrative Claiming process and the LEA billing option. AB 834 Increases the annual amount of moneys collected as a result of the reduction in federal Medicaid payments allocable to LEAs for DHCS administrative activities from \$1.5 million to \$2 million, and requires \$500,000 of this amount to be available for transfer through an interagency agreement to CDE for the support of the Office of School-Based Health Programs. AB 834 is pending before the Senate Appropriations Committee.

SB 123 (Liu of 2016) would have established a revised process for school-based and non-school-based administrative claiming, authorized DHCS to administer or oversee a single statewide quarterly random moment time survey, requires the DHCS and CDE to enter into an interagency agreement or Memorandum of Understanding (MOU) by July 1, 2018, and to establish a workgroup to provide advice on issues related to the delivery of school-based Medi-Cal services to students. SB 123 was vetoed by Governor Brown, who stated that collaboration among DHCS, CDE, and local education groups is very important, but the existing advisory committee is working well and codification is not needed.

SB 276 (Wolk, Chapter 653, Statutes of 2015) required DHCS to seek federal financial participation for covered services that are provided by a LEA to a child who is an eligible Medi-Cal beneficiary, regardless of whether the child has an individualized education plan (IEP) or an individualized family service plan (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 third parties.

AB 2608 (Bonilla, Chapter 755, Statutes of 2012) made permanent and expanded provisions relating to program improvement activities in the LEA billing option. AB 2608 also expanded the scope of transportation services for which Medicaid reimbursements can be received.

SB 870 (Ducheny, Chapter 712, Statutes of 2010) (the 2010-11 Budget Bill) required DHCS to withhold 1 percent of LEA reimbursements, not to exceed

\$650,000, for the purpose of funding the work and related administrative costs associated with the audit resources approved in a specified budget change proposal to ensure fiscal accountability of the LEA billing option and to comply with the Medi-Cal State Plan.

SUPPORT

California Academy of Child and Adolescent Psychiatry
California Alliance of Child and Family Services
California Immigrant Policy Center
California School Boards Association
California School Nurses Organization
California State PTA
California Teachers Association
Children's Defense Fund – California
Common Sense Kids Action
Los Angeles County Office of Education
Mental Health Services Oversight and Accountability Commission
United Ways of California
Young Minds Advocacy

OPPOSITION

California Right to Life Committee, Inc.

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