

AMENDED IN ASSEMBLY MARCH 30, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 1051

Introduced by Assembly Member Bennett

February 18, 2021

An act to amend Sections 14714 and 14717.1 of, and to add Sections 14717.2, 14717.25, 14717.26, 14717.3, 14717.35, 14717.4, and 14714.45 to, the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 1051, as amended, Bennett. Medi-Cal: specialty mental health services: foster youth.

Existing law establishes the Medi-Cal program, which is administered by the State Department of Health Care Services (department), under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Under existing law, specialty mental health services include federal Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) services provided to eligible Medi-Cal beneficiaries under 21 years of age. Existing law requires each local mental health plan to establish a procedure to ensure access to outpatient specialty mental health services, as required by the EPSDT program standards, for youth in foster care who have been placed outside their county of adjudication, as described.

Existing law requires the department to issue policy guidance concerning the conditions for, and exceptions to, presumptive transfer of responsibility for providing or arranging for specialty mental health services to a foster youth from the county of original jurisdiction to the county in which the foster youth resides, as prescribed.

This bill would make those provisions for presumptive transfer inapplicable to a foster youth or probation-involved youth placed in a ~~group home~~ *community treatment facility*, *group home*, or a short-term residential therapeutic program (STRTP) outside of their county of original jurisdiction, as specified.

The bill would prohibit the presumptive transfer of foster youth placed in a ~~group home~~ *home*, *community treatment facility*, or a STRTP unless an exception is invoked, as requested by one of specified individuals or entities pursuant to certain criteria. The bill would make the county probation agency or the child welfare services agency responsible for determining whether invoking the exception is appropriate. The bill would impose various notification requirements on the county placing agency and county mental health plans, and would require documentation of the invoked exception to be included in the foster youth's case plan. The bill would authorize a requester who disagrees with the county agency's determination to request judicial review, as specified.

The bill would impose procedural requirements for mental health assessments of the affected foster youth. The bill would authorize a foster youth to choose to continue their therapeutic relationship with prior treatment providers.

By creating new duties for county agencies with regard to processing requests for presumptive transfer, the bill would impose a state-mandated local program.

The bill would require the department and the State Department of Social Services to adopt regulations by July 1, 2022, to implement these provisions, as specified, and would authorize those departments to implement and administer those provisions through all-county letters, information notices, or similar written instructions until regulations are adopted.

The bill would condition implementation of the presumptive transfer provisions on the availability of federal financial participation and the receipt of all necessary federal approvals. The bill would require the department to make a request for any necessary federal approvals no later than January 1, 2022.

For the purpose of supporting timely payment to the provider for services to help ensure foster or probation involved youth placed out of county receive the care and treatment they need, this bill would require a mental health plan in the county of original jurisdiction *and a provider of services* to ensure payment by choosing a prescribed

payment option, such as making the payment based on an existing contract with that provider, in collaboration with the provider of services. ~~Starting or establishing a new comprehensive contract for payment.~~ For STRTPs, starting on the date of the youth's placement, the bill would require the provider to be paid for the services, as described in departmental guidance, based on medical ~~necessity~~, *necessity and verified*, as determined by the mental health assessment, and the terms of the contract or the agreement with the county of original jurisdiction or the county of residence, whichever applies.

The bill would require the department, in collaboration with the State Department of Social Services, to collect data, as specified, on the receipt of EPSDT specialty mental health services by foster youth who are placed outside of their county of original jurisdiction, and would require that those data be included in the department's Medi-Cal specialty mental health services performance dashboard.

No later than March 1, 2022, the bill would require the department to create standardized forms to be used by counties for the purpose of simplifying the notification of presumptive transfers or waivers. The bill would require the department, no later than June 1, 2022, to work with the State Department of Social Services to determine the feasibility of automating forms for use by county child welfare agencies and county mental health plans, as specified. By requiring counties to use certain forms relating to presumptive transfers, the bill would impose a state-mandated local program.

No later than June 1, 2022, the bill would require the department to work in consultation with *stakeholders, including, but not limited to*, the California Behavioral Health Directors ~~Association~~ *Association*, the California State Association of Counties, and the California Alliance of Child and Family Services to create a standardized contract template for use by a county of original jurisdiction for services provided by an ~~out-of-county out-of-county group-home home~~ *home, community treatment facility*, or short-term residential therapeutic 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.

This bill would provide that no reimbursement is required by this act for a specified reason.

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. Section 14714 of the Welfare and Institutions
2 Code is amended to read:

3 14714. (a) (1) Except as otherwise specified in this chapter,
4 a contract entered into pursuant to this chapter shall include a
5 provision that the mental health plan contractor shall bear the
6 financial risk for the cost of providing medically necessary
7 specialty mental health services to Medi-Cal beneficiaries.

8 (2) If the mental health plan is not administered by a county,
9 the mental health plan shall not transfer the obligation for any
10 specialty mental health services to Medi-Cal beneficiaries to the
11 county. The mental health plan may purchase services from the
12 county. The mental health plan shall establish mutually
13 agreed-upon protocols with the county that clearly establish
14 conditions under which beneficiaries may obtain non-Medi-Cal
15 reimbursable services from the county. Additionally, the plan shall
16 establish mutually agreed-upon protocols with the county for the
17 conditions of transfer of beneficiaries who have lost Medi-Cal
18 eligibility to the county for care under Part 2 (commencing with
19 Section 5600), Part 3 (commencing with Section 5800), and Part
20 4 (commencing with Section 5850) of Division 5.

21 (3) The mental health plan shall be financially responsible for
22 ensuring access and a minimum required scope of benefits and
23 services, consistent with state and federal requirements, to
24 Medi-Cal beneficiaries who are residents of that county regardless
25 of where the beneficiary resides, except as provided for in Section
26 14717.1 or 14717.2. The department shall require that the same
27 definition of medical necessity be used, and the minimum scope
28 of benefits offered by each mental health plan be the same, except
29 to the extent that prior federal approval is received and is consistent
30 with state and federal laws.

31 (b) (1) Any contract entered into pursuant to this chapter may
32 be renewed if the mental health plan continues to meet the
33 requirements of this chapter, regulations promulgated pursuant to
34 this chapter, and the terms and conditions of the contract. Failure
35 to meet these requirements shall be cause for nonrenewal of the
36 contract. The department may base the decision to renew on timely
37 completion of a mutually agreed-upon plan of correction of any

1 deficiencies, submissions of required information in a timely
2 manner, or other conditions of the contract.

3 (2) If the contract is not renewed based on the reasons specified
4 in paragraph (1), the department shall notify the Department of
5 Finance, the fiscal and policy committees of the Legislature, and
6 the Controller of the amounts to be sequestered from the Mental
7 Health Subaccount, the Mental Health Equity Account, and the
8 Vehicle License Fee Collection Account of the Local Revenue
9 Fund and the Mental Health Account and the Behavioral Health
10 Subaccount of the Local Revenue Fund 2011, and the Controller
11 shall sequester those funds in the Behavioral Health Subaccount
12 pursuant to Section 30027.10 of the Government Code. Upon this
13 sequestration, the department shall use the funds in accordance
14 with Section 30027.10 of the Government Code.

15 (c) (1) The obligations of the mental health plan shall be
16 changed only by contract or contract amendment.

17 (2) Notwithstanding paragraph (1), the mental health plan shall
18 comply with federal and state requirements, including the
19 applicable sections of the state plan and waiver.

20 (3) A change may be made during a contract term or at the time
21 of contract renewal, when there is a change in obligations required
22 by federal or state law, or when required by a change in the
23 interpretation or implementation of any law or regulation.

24 (4) To the extent permitted by federal law, either the department
25 or the mental health plan may request that contract negotiations
26 be reopened during the course of a contract due to substantial
27 changes in the cost of covered benefits that result from an
28 unanticipated event.

29 (d) The department shall immediately terminate a contract when
30 the director finds that there is an immediate threat to the health
31 and safety of Medi-Cal beneficiaries. Termination of the contract
32 for other reasons shall be subject to reasonable notice of the
33 department's intent to take that action and notification to affected
34 beneficiaries. The plan may request a hearing by the Office of
35 Administrative Hearings and Appeals.

36 (e) A mental health plan may terminate its contract in accordance
37 with the contract. The mental health plan shall provide written
38 notice to the department at least 180 days before the termination
39 or nonrenewal of the contract.

1 (f) Upon the request of the director, the Director of the
2 Department of Managed Health Care may exempt a mental health
3 plan from the Knox-Keene Health Care Service Plan Act of 1975
4 (Chapter 2.2 (commencing with Section 1340) of Division 2 of
5 the Health and Safety Code). These exemptions may be subject to
6 conditions the director deems appropriate. This section does not
7 impair or diminish the authority of the Director of the Department
8 of Managed Health Care under the Knox-Keene Health Care
9 Service Plan Act of 1975, nor does it reduce or otherwise limit the
10 obligation of a mental health plan contractor licensed as a health
11 care service plan to comply with the requirements of the
12 Knox-Keene Health Care Service Plan Act of 1975, and the rules
13 of the Director of the Department of Managed Health Care
14 promulgated under the Knox-Keene Health Care Service Plan Act
15 of 1975. The director, in consultation with the Director of the
16 Department of Managed Health Care, shall analyze the
17 appropriateness of licensure or application of applicable standards
18 of the Knox-Keene Health Care Service Plan Act of 1975.

19 (g) The department shall provide oversight to the mental health
20 plans to ensure quality, access, cost efficiency, and compliance
21 with data and reporting requirements. At a minimum, the
22 department shall monitor, through a method independent of any
23 agency of the mental health plan contractor, the level and quality
24 of services provided, expenditures pursuant to the contract, and
25 conformity with federal and state law.

26 (h) County employees implementing or administering a mental
27 health plan act in a discretionary capacity when they determine
28 whether or not to admit a person for care or to provide any level
29 of care pursuant to this chapter.

30 (i) If a county discontinues operations as the mental health plan,
31 the department shall approve any new mental health plan. The new
32 mental health plan shall give reasonable consideration to affiliation
33 with nonprofit community mental health agencies that were under
34 contract with the county and that meet the mental health plan's
35 quality and cost efficiency standards.

36 (j) This chapter does not modify, alter, or increase the
37 obligations of counties as otherwise limited and defined in Chapter
38 3 (commencing with Section 5700) of Part 2 of Division 5. The
39 county's maximum obligation for services to persons ineligible
40 for Medi-Cal shall be no more than the amount of funds remaining

1 in the mental health subaccount pursuant to Sections 17600, 17601,
2 17604, 17605, and 17609 after fulfilling the Medi-Cal contract
3 obligations.

4 SEC. 2. Section 14717.1 of the Welfare and Institutions Code
5 is amended to read:

6 14717.1. (a) (1) It is the intent of the Legislature to ensure
7 that foster youth who are placed outside of their county of original
8 jurisdiction are able to access specialty mental health services in
9 a timely manner, consistent with their individual strengths and
10 needs and the requirements of federal Early and Periodic Screening,
11 Diagnostic, and Treatment (EPSDT) services.

12 (2) It is the further intent of the Legislature to overcome any
13 barriers to care that may result when responsibility for providing
14 or arranging for specialty mental health services to foster youth
15 who are placed outside of their county of original jurisdiction is
16 retained by the county of original jurisdiction.

17 (b) In order to facilitate the receipt of medically necessary
18 specialty mental health services by a foster youth who is placed
19 outside of their county of original jurisdiction, the California Health
20 and Human Services Agency shall coordinate with the department
21 and the State Department of Social Services to take all of the
22 following actions on or before July 1, 2017:

23 (1) The department shall issue policy guidance on the conditions
24 for, and exceptions to, presumptive transfer, as described in
25 subdivisions (c) and (d), in consultation with the State Department
26 of Social Services and with the input of stakeholders that include
27 the County Welfare Directors Association of California, the Chief
28 Probation Officers of California, the County Behavioral Health
29 Directors Association of California, provider representatives, and
30 family and youth advocates.

31 (2) Policy guidance concerning the conditions for, and
32 exceptions to, presumptive transfer shall ensure all of the following:

33 (A) The transfer of responsibility improves access to specialty
34 mental health care services consistent with the mental health needs
35 of the foster youth.

36 (B) Presumptive transfer does not disrupt the continuity of care.

37 (C) Conditions and exceptions are applied consistently statewide,
38 giving due consideration to the varying capabilities of small,
39 medium, and large counties.

1 (D) Presumptive transfer can be waived only with an
2 individualized determination that an exception applies.

3 (E) A party to the case who disagrees with the presumptive
4 transfer individualized exception determination made by the county
5 placing agency pursuant to subdivision (d) is afforded an
6 opportunity to request judicial review before a transfer or exception
7 being finalized.

8 (F) There is a procedure for expedited transfer within 48 hours
9 of placement of the youth outside of the county of original
10 jurisdiction.

11 (c) For purposes of this section, “presumptive transfer” means
12 that absent any exceptions as established pursuant to this section,
13 responsibility for providing or arranging for specialty mental health
14 services shall promptly transfer from the county of original
15 jurisdiction to the county in which the foster youth resides, under
16 either of the following conditions:

17 (1) A foster youth is placed in a county other than the county
18 of original jurisdiction on or after July 1, 2017.

19 (2) A foster youth who resides in a county other than the county
20 of original jurisdiction after June 30, 2017, and is not receiving
21 specialty mental health services consistent with their mental health
22 needs, requests transfer of responsibility. A foster youth who
23 resided in a county other than the county of original jurisdiction
24 after June 30, 2017, and who continues to reside outside the county
25 of original jurisdiction after December 31, 2017, shall have
26 jurisdiction transferred no later than the youth’s first regularly
27 scheduled status review hearing conducted pursuant to Section
28 366 in the 2018 calendar year unless an exception described under
29 subdivision (d) applies.

30 (d) (1) On a case-by-case basis, and when consistent with the
31 medical rights of youth in foster care, presumptive transfer may
32 be waived and the responsibility for the provision of specialty
33 mental health services shall remain with the county of original
34 jurisdiction if any of the exceptions described in paragraph (5)
35 exist.

36 (2) A request for waiver in a manner established by the
37 department may be made by the foster youth, the person or agency
38 that is responsible for making mental health care decisions on
39 behalf of the foster youth, the county probation agency or the child
40 welfare services agency with responsibility for the care and

1 placement of the youth, or any other interested party who owes a
2 legal duty to the youth involving the youth's health or welfare, as
3 defined by the department.

4 (3) The county probation agency or the child welfare services
5 agency with responsibility for the care and placement of the youth,
6 in consultation with the youth and their parent, the youth and family
7 team if one exists, and other professionals who serve the youth as
8 appropriate, is responsible for determining whether waiver of the
9 presumptive transfer is appropriate pursuant to the conditions and
10 exceptions established under this section. The person who
11 requested the exception, along with any other parties to the case,
12 shall receive notice of the county agency's determination.

13 (4) The individual who requested the exception or any other
14 party to the case who disagrees with the determination made by
15 the county agency pursuant to paragraph (3) may request judicial
16 review before the county's determination becoming final. The
17 court may set the matter for hearing and may confirm or deny the
18 transfer of jurisdiction or application of an exception based on the
19 best interest of the youth.

20 (5) Presumptive transfer may be waived under any of the
21 following exceptions:

22 (A) It is determined that the transfer would disrupt continuity
23 of care or delay access to services provided to the foster youth.

24 (B) It is determined that the transfer would interfere with family
25 reunification efforts documented in the individual case plan.

26 (C) The foster youth's placement in a county other than the
27 county of original jurisdiction is expected to last less than six
28 months.

29 (D) The foster youth's residence is within 30 minutes of travel
30 time to the youth's established specialty mental health care provider
31 in the county of original jurisdiction.

32 (6) A waiver processed based on an exception to presumptive
33 transfer shall be contingent upon the mental health plan in the
34 county of original jurisdiction demonstrating an existing contract
35 with a specialty mental health care provider, or the ability to enter
36 into a contract, single case agreement, or other service payment
37 mechanism within 30 days of the waiver decision, and the ability
38 to deliver timely specialty mental health services directly to the
39 foster youth. That information shall be documented in the youth's
40 case plan.

1 (7) A request for waiver, the exceptions claimed as the basis
2 for the request, a determination whether a waiver is determined to
3 be appropriate under this section, and any objections to the
4 determination shall be documented in the foster youth's case plan
5 pursuant to Section 16501.1.

6 (e) If the mental health plan in the county of original jurisdiction
7 has completed an assessment of needed services for the foster
8 youth, the mental health plan in the county in which the foster
9 youth resides shall accept that assessment. The mental health plan
10 in the county in which the foster youth resides may conduct
11 additional assessments if the foster youth's needs change or an
12 updated assessment is needed to determine the youth's needs and
13 identify the needed treatment and services to address those needs.

14 (f) Upon presumptive transfer, the mental health plan in the
15 county in which the foster youth resides shall assume responsibility
16 for the authorization and provision of specialty mental health
17 services and payments for services. The foster youth transferred
18 to the mental health plan in the county in which the foster youth
19 resides shall be considered part of the county of residence caseload
20 for claiming purposes from the Behavioral Health Subaccount and
21 the Behavioral Health Services Growth Special Account, both
22 created pursuant to Section 30025 of the Government Code.

23 (g) The State Department of Social Services and the department
24 shall adopt regulations by July 1, 2019, to implement this section.
25 Notwithstanding the rulemaking provisions of the Administrative
26 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
27 Part 1 of Division 3 of Title 2 of the Government Code), the State
28 Department of Social Services and the department may implement
29 and administer the changes made by this legislation through
30 all-county letters, information notices, or similar written
31 instructions until regulations are adopted.

32 (h) (1) If the department determines it is necessary, it shall seek
33 approval from the United States Department of Health and Human
34 Services, federal Centers for Medicare and Medicaid Services
35 before implementing this section.

36 (2) If the department makes the determination that it is necessary
37 to seek federal approval pursuant to paragraph (1), the department
38 shall make an official request for approval from the federal
39 government no later than January 1, 2017.

1 (i) This section shall be implemented only if, and to the extent
2 that, federal financial participation under Title XIX of the federal
3 Social Security Act (42 U.S.C. Sec. 1396 et seq.) is available and
4 all necessary federal approvals have been obtained.

5 (j) Upon the implementation of the requirements set forth in
6 Section 14717.2, this section shall not apply to a foster youth or
7 probation-involved youth who is placed in a ~~group home~~
8 *community treatment facility, group home*, or a short-term
9 residential therapeutic program, as defined in paragraphs ~~(13)~~ (8),
10 (13), and (18), respectively, of subdivision (a) of Section 1502 of
11 the Health and Safety Code, outside of the youth's county of
12 original jurisdiction.

13 SEC. 3. Section 14717.2 is added to the Welfare and
14 Institutions Code, to read:

15 14717.2. (a) (1) It is the intent of the Legislature to ensure
16 that foster youth placed in congregate care settings outside of their
17 county of original jurisdiction are able to access specialty mental
18 health services in a timely manner, consistent with their individual
19 strengths and needs and the requirements of federal Early and
20 Periodic Screening, Diagnostic, and Treatment (EPSDT) services.

21 (2) The Legislature finds that because group home or short-term
22 residential therapeutic program (STRTP) placements are intended
23 to be ~~short-term~~, *short-term and community treatment facility*
24 *placements are intended to be time-limited based on medical*
25 *necessity*, the responsibility for the provision of or arrangement
26 for specialty mental health services for a foster youth before
27 placement and upon return from the temporary placement ~~belongs~~
28 ~~to~~ *are vested with* the county of original jurisdiction.

29 (3) The Legislature finds that the placement of a youth in a
30 ~~group home~~ *home, community treatment facility*, or STRTP outside
31 of the county of original jurisdiction should not disrupt continuity
32 of care or adversely impact timely payment to the provider of
33 specialty mental health services.

34 (b) Foster youth placed in a ~~group home~~ *community treatment*
35 *facility, group home*, or a short-term residential therapeutic
36 program, as defined in paragraphs ~~(13)~~ (8), (13), and (18),
37 respectively, of subdivision (a) of Section 1502 of the Health and
38 Safety Code, shall not be presumptively transferred, as described
39 in Section 14717.1, unless an exception is invoked pursuant to this
40 subdivision.

1 (1) A request to invoke an exception in a manner established
 2 by the department *in consultation with stakeholders* may be made
 3 by the foster youth, the person or agency that is responsible for
 4 making mental health care decisions on behalf of the foster youth,
 5 the county probation agency or the child welfare services agency
 6 with responsibility for the care and placement of the foster youth,
 7 or any other interested party who owes a legal duty to the foster
 8 youth involving the youth’s health or welfare, as defined by the
 9 department.

10 (2) The county probation agency or the child welfare services
 11 agency with responsibility for the care and placement of the foster
 12 youth, with input from the child and family team if one exists, and
 13 in consultation with the foster youth and their parent, and other
 14 professionals who serve the youth as appropriate, is responsible
 15 for determining whether invoking the exception is appropriate
 16 pursuant to the conditions and exceptions established under this
 17 section. The person or entity that requested the exception, along
 18 with any other parties to the case, shall receive notice of the county
 19 agency’s determination.

20 (3) The individual or entity that requested the exception or any
 21 other party to the case who disagrees with the determination made
 22 by the county agency pursuant to paragraph (2) may request judicial
 23 review before the county’s determination becomes final. The court
 24 may set the matter for hearing and may confirm or deny the transfer
 25 of jurisdiction or application of an exception based on the best
 26 interest of the foster youth.

27 (4) An exception may be invoked, and presumptive transfer
 28 applied, for either of the following reasons:

29 (A) The foster youth’s case plan includes a transition to a
 30 home-based setting in the county of residence or within the same
 31 geographic region.

32 (B) The mental health plan in the county of residence requests
 33 presumptive transfer to directly serve the youth, and continued
 34 oversight and ensuring consistency of services can be provided
 35 through the members of the youth’s treatment team.

36 (c) (1) To support service delivery, continuity of care, and
 37 timely payment, the placing agency shall provide notification to
 38 the mental health plans in the county of original jurisdiction and
 39 the county of residence before placing a foster youth out of county
 40 in a ~~group home~~ *community treatment facility, group home, or a*

1 short-term residential therapeutic program, as defined in paragraphs
2 (13) and (18), respectively, of subdivision (a) of Section 1502 of
3 the Health and Safety Code. *program. The county may complete*
4 *the notification through email. The State Department of Social*
5 *Services shall maintain and update a contact list of county mental*
6 *health plans on its internet website. If notification before placement*
7 *is not possible, the placing agency shall notify the mental health*
8 *plans in the county of original jurisdiction and the county of*
9 *residence no later than three business days after making the out of*
10 *county out-of-county placement. Timely payment timeframes*
11 *outlined in Section 14717.25 shall not begin until mental health*
12 *plans are notified of the placement by the placing agency or the*
13 *placement provider.*

14 (2) To support service delivery, continuity of care, and timely
15 payment, the ~~State~~ *community treatment facility, group home, or*
16 *short-term residential therapeutic program that accepts an*
17 *out-of-county placement may also notify the county of original*
18 *jurisdiction and the county of residence about the out-of-county*
19 *placement in their group home, facility, or program.*

20 (3) *Timely payment timeframes outlined in Section 14717.25*
21 *shall not begin until mental health plans are notified of the*
22 *placement by either the placing agency or the placement provider.*

23 (d) *The State Department of Social Services shall verify that*
24 *notification to the mental health plans in the county of original*
25 *jurisdiction and the county of residence has been made as outlined*
26 *in paragraph (1). subdivision (c).*

27 (3) ~~The group home or the short-term residential therapeutic~~
28 ~~program that accepts an out of county placement may also notify~~
29 ~~the county of original jurisdiction and the county of residence~~
30 ~~about the out of county placement in their group home or program~~
31 ~~to ensure timely payment can occur.~~

32 (d)

33 (e) (1) An exception may be applied at any point during the
34 foster youth's placement out of county, and the placing agency
35 shall provide notification to the mental health plan in the county
36 of residence and the county of original jurisdiction within five
37 business days. *days of the exception's approval or denial pursuant*
38 *to the process outlined in subdivision (c). When an exception*
39 *occurs, the mental health plan in the county of residence shall*

1 *notify the provider and the timely payment timeframes outlined in*
2 *Section 14717.25 shall commence.*

3 (2) The mental health plan in the county of residence, upon the
4 presumptive transfer, shall assume responsibility for the
5 authorization and provision of mental health services consistent
6 with federal Early and Periodic Screening, Diagnostic, and
7 Treatment (EPSDT) requirements, as defined in Section 1396d(r)
8 of Title 42 of the United States Code, and the payment for services.

9 (e)

10 (f) A request to invoke an exception, the reasons claimed as the
11 basis for the request, a determination whether an exception is
12 determined to be appropriate under this section, and any objections
13 to the determination shall be documented in the foster youth’s case
14 plan pursuant to Section 16501.1.

15 (f)

16 (g) The department and the State Department of Social Services
17 shall adopt regulations by July 1, 2022, to implement this section.
18 Notwithstanding the rulemaking provisions of the Administrative
19 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
20 Part 1 of Division 3 of Title 2 of the Government Code), the
21 department and the State Department of Social Services may
22 implement and administer this section through all-county letters,
23 information notices, or similar written instructions until regulations
24 are adopted.

25 (g)

26 (h) (1) If the department determines it is necessary, it shall seek
27 approval from the United States Department of Health and Human
28 Services, federal Centers for Medicare and Medicaid Services
29 before implementing this section.

30 (2) If the department makes the determination that it is necessary
31 to seek federal approval pursuant to paragraph (1), the department
32 shall make an official request for approval from the federal
33 government no later than January 1, 2022.

34 (h)

35 (i) This section shall be implemented only if, and to the extent
36 that, federal financial participation under Title XIX of the federal
37 Social Security Act (42 U.S.C. Sec. 1396 et seq.) is available and
38 all necessary federal approvals have been obtained.

39 SEC. 4. Section 14717.25 is added to the Welfare and
40 Institutions Code, immediately following Section 14717.2, to read:

1 14717.25. (a) It is the intent of the Legislature to support
2 timely payment to the provider for services to help ensure foster
3 or probation involved youth placed out of county receive the care
4 and treatment they need.

5 ~~(b) This section shall apply when a foster or probation involved~~
6 ~~youth is placed out of county in a group home or a short-term~~
7 ~~residential therapeutic program (STRTP), as defined in paragraph~~
8 ~~(13) or (18), respectively, of subdivision (a) of Section 1502 of~~
9 ~~the Health and Safety Code and the youth is not presumptively~~
10 ~~transferred pursuant to Section 14717.2, making the mental health~~
11 ~~plan in the county of original jurisdiction responsible for payment~~
12 ~~of all out of county specialty mental health services, including~~
13 ~~services provided by the short-term residential therapeutic program~~
14 ~~and any other medically necessary specialty mental health services.~~

15 (e)

16 (b) If a foster or probation involved youth is placed out of
17 county, as described in subdivision (b), and the mental health plan
18 in the county of original jurisdiction is responsible for payment of
19 specialty mental health services, *county in a group home,*
20 *community treatment facility, or short-term residential therapeutic*
21 *program and the youth is not presumptively transferred pursuant*
22 *to Section 14717.2, the mental health plan in the county of original*
23 *jurisdiction and the provider of services shall ensure timely*
24 *payment by choosing choose one of the following options in*
25 *collaboration with the provider of services: in order to ensure*
26 *timely payment:*

27 (1) ~~The payment to the out of county specialty mental health~~
28 ~~provider shall be made based on an existing contract with this~~
29 ~~provider.~~

30 (1) *Utilize an existing contract between the mental health plan*
31 *in the county of original jurisdiction and the out-of-state specialty*
32 *mental health services provider.*

33 (2) ~~Establish, if no contract exists, but both the mental health~~
34 ~~plan in the county of original jurisdiction and the out of county~~
35 ~~specialty mental health provider agree to establish a comprehensive~~
36 ~~contract for payment of specialty mental health services for a youth~~
37 ~~or multiple youth, the two parties shall establish youths, a~~
38 ~~comprehensive contract for payment of services within a mutually~~
39 ~~agreed upon timeframe.~~

40 (3)

1 (c) (1) If neither of the options described under paragraphs (1)
 2 and (2) of subdivision (b) are available, payment for ~~the nonfederal~~
 3 ~~share of~~ the specialty mental health services shall be made through
 4 an agreement between the mental health plan in the county of
 5 residence and the mental health plan in the county of original
 6 jurisdiction. ~~The~~

7 (2) ~~The~~ agreement between these two parties shall ~~allow~~ *require*
 8 the mental health plan in the county of residence to pay the
 9 specialty mental health provider under an existing contract, single
 10 case agreement, or other payment mechanism with the specialty
 11 mental health provider. ~~The mental health plan in the county of~~
 12 ~~residence shall submit the claim to the department and receive the~~
 13 ~~federal match for the services rendered. The mental health plan in~~
 14 ~~the county of original jurisdiction shall be responsible for~~
 15 ~~reimbursing the mental health plan in the county of residence for~~
 16 ~~the nonfederal share of the services rendered to the foster youth~~
 17 ~~by the specialty mental health provider. Under this circumstance,~~
 18 *financial responsibility for the youth remains with the county of*
 19 *original jurisdiction because the youth has not been presumptively*
 20 *transferred.*

21 (4)

22 (3) If no contract exists between the mental health plan in the
 23 county of residence and the specialty mental health provider, as
 24 described in paragraph ~~(3)~~; (2), and if the mental health plan in the
 25 county of residence does not intend to ~~contract~~ *enter a payment*
 26 *agreement* with the specialty mental health provider, the county
 27 of original jurisdiction shall be responsible for payment and shall
 28 establish a contract, single case agreement, or other payment
 29 mechanism for payment of specialty mental health services. The
 30 two parties shall enter into a contract, single case agreement, or
 31 other payment mechanism for payment of services within 30 days.
 32 This timeframe shall not begin until the mental health plans in the
 33 county of original jurisdiction and the county of residence have
 34 been notified of the ~~out-of-county~~ *out-of-state* placement by either
 35 the placing agency or the placement provider.

36 (d) ~~Starting~~ *For short-term residential therapeutic programs*
 37 *(STRTP), starting* from the date of placement, the provider shall
 38 be paid for the services, as described under the STRTP interim
 39 regulations, ~~as referred to in the Behavioral Health Information~~
 40 ~~Notice No. 20-005, dated February 12, 2020,~~ *promulgated by the*

1 *State Department of Social Services*, based on medical ~~necessity~~,
2 *necessity and verified*, as determined by the mental health
3 assessment, and the terms of the contract or the agreement with
4 the county of original jurisdiction or the county of residence,
5 whichever applies. The contract or agreement may expand the
6 scope of reimbursable services.

7 SEC. 5. Section 14717.26 is added to the Welfare and
8 Institutions Code, to read:

9 14717.26. The department, in collaboration with the State
10 Department of Social Services, shall collect data on the receipt of
11 Early and Periodic Screening, Diagnostic, and Treatment (EPSDT)
12 specialty mental health services by foster youth who are placed
13 outside of their county of original jurisdiction. These data shall be
14 included in the department's Medi-Cal specialty mental health
15 services performance dashboard, and shall contain, on the state
16 level and for each county, by placement type, all of the following:

- 17 (a) The number of foster youth placed out of county.
18 (b) The number of foster youth placed out of county who receive
19 specialty mental health services.
20 (c) For foster youth placed out of county who receive specialty
21 mental health services, the number of foster youth for whom the
22 county of original jurisdiction is responsible for providing or
23 arranging for those services, and the number of foster youth for
24 whom the county of residence is responsible for that provision or
25 arrangement.

26 SEC. 6. Section 14717.3 is added to the Welfare and
27 Institutions Code, to read:

28 14717.3. (a) If a foster youth is placed in a congregate care
29 setting outside of their county of jurisdiction, and the county of
30 jurisdiction retains responsibility for specialty mental health
31 services, the placing agency shall inform, if possible ~~immediately~~,
32 *at the time of placement*, but no later than three business days from
33 placement, the mental health plans in the county of residence and
34 the county of original jurisdiction.

35 (b) For foster youth placed in a short-term residential therapeutic
36 program or other congregate care facility outside the county of
37 jurisdiction pursuant to the mental health program approval, a
38 mental health assessment shall be completed or received by a
39 licensed mental health professional within 10 calendar days of a
40 youth's admission.

1 (c) If relying upon a previously completed mental health
2 assessment, that previously completed assessment shall be
3 completed within 60 calendar days before admission and performed
4 by a licensed mental health professional or an otherwise recognized
5 provider of mental health services acting within their scope of
6 practice. An exception is authorized in instances in which a
7 licensed mental health professional determines it is more clinically
8 appropriate to complete a more current mental health assessment.
9 The mental health assessment shall include a mental health status
10 examination.

11 (d) Pursuant to federal law, and regardless if the presumptive
12 transfer is made, foster youth placed out of county shall be entitled
13 to continue their therapeutic relationship with prior treatment
14 providers if chosen by the youth, and any changes to treatment
15 providers shall be made in consultation with the youth in the
16 context of the child and family team, as defined in paragraph (4)
17 of subdivision (a) of Section 16501.

18 SEC. 7. Section 14717.35 is added to the Welfare and
19 Institutions Code, immediately following Section 14717.3, to read:

20 14717.35. (a) The mental health plan in the county of
21 jurisdiction shall notify the mental health plan in the county of
22 residence of any third-party service provider if additional
23 information must be obtained directly from the third-party service
24 provider.

25 (b) The county mental health plan in the county of jurisdiction
26 shall provide to the mental health plan in the county of residence
27 both of the following:

28 (1) Contact information for the third-party service provider, if
29 applicable.

30 (2) Any completed assessment or client plans.

31 SEC. 8. Section 14717.4 is added to the Welfare and
32 Institutions Code, to read:

33 14717.4. (a) It is the intent of the Legislature that all eligible
34 youth, including youth in the state's child welfare system, have
35 timely access to mental health care through the federal Early and
36 Periodic Screening, Diagnostic, and Treatment program. It is
37 further the intent of the Legislature that, in order to fulfill this
38 important responsibility, all mental health plans operating in the
39 state use standardized forms to facilitate efficient and effective
40 provision of mental health services by providers of specialty mental

1 health services to all foster youth, regardless of the county in which
2 the youth live.

3 (b) The department, in consultation with the State Department
4 of Social Services and stakeholders, and no later than March 1,
5 2022, shall create standardized forms that shall be used by counties
6 for the purpose of simplifying the notification of ~~out-of-county~~
7 *out-of-county* placements, and presumptive transfers or waivers
8 thereof, including in the case of foster youth placed in home-based
9 care and foster youth placed in congregate care.

10 (c) The department, no later than June 1, 2022, shall work with
11 the State Department of Social Services to determine the feasibility
12 of automating forms through the child welfare automation data
13 system for use by county child welfare agencies and county mental
14 health plans.

15 SEC. 9. Section 14717.45 is added to the Welfare and
16 Institutions Code, immediately following Section 14717.4, to read:

17 14717.45. No later than June 1, 2022, the department shall
18 work in consultation with *stakeholders, including, but not limited*
19 *to, the California Behavioral Health Directors—Association*
20 *Association, the California State Association of Counties, and the*
21 *California Alliance of Child and Family—Services Services, among*
22 *others, to create a standardized contract template for use by a*
23 *county of original jurisdiction for services provided pursuant to*
24 *Sections 14717.2 and 14717.25 by an ~~out-of-county group home~~*
25 *out-of-county community treatment facility, group home, or*
26 *short-term residential therapeutic program, as defined in paragraphs*
27 ~~(13)~~ *(8), (13), and (18), respectively, of subdivision (a) of Section*
28 *1502 of the Health and Safety Code.*

29 SEC. 10. To the extent that this act has an overall effect of
30 increasing the costs already borne by a local agency for programs
31 or levels of service mandated by the 2011 Realignment Legislation
32 within the meaning of Section 36 of Article XIII of the California
33 Constitution, it shall apply to local agencies only to the extent that
34 the state provides annual funding for the cost increase. Any new
35 program or higher level of service provided by a local agency
36 pursuant to this act above the level for which funding has been
37 provided shall not require a subvention of funds by the state or

- 1 otherwise be subject to Section 6 of Article XIII B of the California
- 2 Constitution.

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