

**ASSEMBLY BILL**

**No. 942**

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**Introduced by Assembly Member Wood**

February 17, 2021

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An act to amend Section 14059.5 of, to add Sections 14124.245 and 14724 to, and to add Article 3.3 (commencing with Section 14124.3) to Chapter 7 of Part 3 of Division 9 of, the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 942, as introduced, Wood. Specialty mental health services and substance use disorder treatment.

(1) Existing law establishes the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services, including mental health and substance use disorder services, pursuant to a schedule of benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions.

Under existing law, for individuals 21 years of age and older, a service is “medically necessary” if it is reasonable and necessary to protect life, to prevent significant illness or significant disability, or to alleviate severe pain. Existing law provides that for individuals under 21 years of age, “medically necessary” or “medical necessity” standards are governed by the definition in federal law.

This bill would provide that the above-specified medical necessity standards do not preclude coverage for, and reimbursement of, a clinically appropriate and covered mental health or substance use disorder assessment, screening, or treatment service before a provider renders a diagnosis.

(2) For purposes of the Medi-Cal program, behavioral health services, which encompass specialty mental health services and substance use disorder treatment are provided under the Medi-Cal Specialty Mental Health Services Program, the Drug Medi-Cal Treatment Program, and the Drug Medi-Cal organized delivery system, respectively. Under existing law, specialty mental health services and substance use disorder treatment are funded through certified public expenditures. Existing law requires the department to implement managed mental health care for purposes of delivering specialty mental health services to Medi-Cal beneficiaries through contracts with county mental health plans.

Existing law, the Medi-Cal 2020 Demonstration Project Act, requires the department to implement specified components of a Medi-Cal demonstration project, including the Global Payment Program, the Whole Person Care pilot program, and the Dental Transformation Initiative, consistent with the Special Terms and Conditions approved by the federal Centers for Medicare and Medicaid Services. Pursuant to existing law, the department has created a multiyear initiative, the California Advancing and Innovating Medi-Cal initiative, for purposes of building upon the outcomes of various Medi-Cal pilots and demonstration projects, including the Medi-Cal 2020 demonstration project.

This bill would require the department to establish, implement, and administer the Behavioral Health Quality Improvement Program to assist county mental health plans and counties that administer the Drug Medi-Cal Treatment Program or the Drug Medi-Cal organized delivery system for purposes of preparing those entities for implementation of the behavioral health components included in the California Advancing and Innovating Medi-Cal initiative, and would establish in the State Treasury the Behavioral Health Quality Improvement Account to fund those efforts. The bill would require the department to determine the methodology and distribution of funds appropriated to those entities. The bill would authorize the department to implement these provisions by various means, including provider bulletin, without taking regulatory action, and to enter into contracts that would be exempt from specified provisions of state contracting requirements. The bill would condition the implementation of these provisions to the extent that the department determines that federal financial participation is not jeopardized.

(3) Existing law provides that any county, political subdivision of the state, or other governmental entity in the state may elect to transfer funds in the form of cash or loans to the department in support of the

Medi-Cal program, and provides the department discretion to accept or not accept any elective transfer from a county, political subdivision, or other governmental entity for obtaining federal financial participation. Pursuant to this provision, existing law authorizes the Director of Health Care Services to maximize federal financial participation to provide access to services provided by hospitals that are not reimbursed by certified public expenditure by authorizing the use of intergovernmental transfers to fund the nonfederal share of supplemental payments as permitted under federal law, and requires the department to establish various intergovernmental transfer programs, including the Nondesignated Public Hospital Intergovernmental Transfer Program.

For purposes of the Medi-Cal Specialty Mental Health Services Program, the Drug Medi-Cal Treatment Program, and the Drug Medi-Cal organized delivery system, this bill would require the department to design and implement an intergovernmental transfer program to fund the nonfederal share of supplemental payments and to replace claiming based on certified public expenditures. The bill would require each transferring entity, upon providing any intergovernmental transfer of funds, to certify that the transferred funds qualify for federal financial participation, and would provide that participation in the intergovernmental transfer program is voluntary. The bill would prohibit the director from implementing an intergovernmental transfer program if they determine that the payments do not comply with federal Medicaid program requirements, and would authorize the director to adjust payments to comply with those federal requirements. The bill would require the department to obtain federal approvals and federal matching funds, to implement these provisions by various means, including policy letters, and, by January 1, 2023, and annually thereafter, to provide a status update on the implementation of these provisions.

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

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

- 1 SECTION 1. Section 14059.5 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 14059.5. (a) For ~~individuals~~ *an individual* 21 years of age or
- 4 older, a service is “medically necessary” or a “medical necessity”
- 5 when it is reasonable and necessary to protect life, to prevent

1 significant illness or significant disability, or to alleviate severe  
 2 pain.

3 (b) (1) For ~~individuals~~ *an individual* under 21 years of age, a  
 4 service is “medically necessary” or a “medical necessity” if the  
 5 service meets the standards set forth in Section 1396d(r)(5) of Title  
 6 42 of the United States Code.

7 (2) The department and its contractors shall update any model  
 8 evidence of coverage documents, beneficiary handbooks, and  
 9 related material to ensure the medical necessity standard for  
 10 coverage for ~~individuals~~ *an individual* under 21 years of age is  
 11 accurately reflected in all materials.

12 (3) Notwithstanding Chapter 3.5 (commencing with Section  
 13 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
 14 the department, without taking any further regulatory action, shall  
 15 implement, interpret, and make specific this subdivision by means  
 16 of all-county letters, plan letters, plan provider bulletins, manuals,  
 17 plan contract amendments, or similar instructions until regulations  
 18 are revised or adopted.

19 (4) By July 1, 2022, the department shall revise or adopt  
 20 regulations in accordance with the requirements of Chapter 3.5  
 21 (commencing with Section 11340) of Part 1 of Division 3 of Title  
 22 2 of the Government Code.

23 (c) *This section does not preclude coverage for, or*  
 24 *reimbursement of, a clinically appropriate and covered mental*  
 25 *health or substance use disorder assessment, screening, or*  
 26 *treatment service before a provider renders a diagnosis.*

27 (e)

28 (d) This section shall not be construed to limit the application  
 29 of subdivisions (a) and (b) of Section 51184 of Title 22 of the  
 30 California Code of Regulations.

31 SEC. 2. Section 14124.245 is added to the Welfare and  
 32 Institutions Code, immediately following Section 14124.24, to  
 33 read:

34 14124.245. (a) Notwithstanding subdivision (c) of Section  
 35 14124.24, the department, in consultation with the California  
 36 Behavioral Health Directors Association and representatives of  
 37 counties, shall design and implement an intergovernmental transfer  
 38 program relating to services provided by counties under the Drug  
 39 Medi-Cal Treatment Program and the Drug Medi-Cal organized  
 40 delivery system to fund the nonfederal share of supplemental

1 payments, as permitted under Section 433.51 of Title 42 of the  
2 Code of Federal Regulations or any other applicable federal  
3 Medicaid program laws, and to replace claiming based on certified  
4 public expenditures. Upon providing any intergovernmental  
5 transfer of funds, each transferring entity shall certify that the  
6 transferred funds qualify for federal financial participation pursuant  
7 to applicable federal Medicaid program laws, and in the form and  
8 manner specified by the department. The total intergovernmental  
9 transfer-funded payment amount, which includes the federal and  
10 nonfederal share, paid to a county shall be retained by the county  
11 and used for providing substance use disorder treatment under the  
12 Drug Medi-Cal Treatment Program and the Drug Medi-Cal  
13 organized delivery system.

14 (b) This section shall be implemented on July 1, 2022, or the  
15 date on which all necessary federal approvals have been received,  
16 whichever is later, and only to the extent intergovernmental  
17 transfers from counties are provided for this purpose.

18 (c) Participation in the intergovernmental transfer program under  
19 this section is voluntary on the part of the transferring entities for  
20 the purposes of all applicable federal laws.

21 (d) This section shall be implemented only to the extent federal  
22 financial participation is available for any reimbursement and  
23 federal financial participation is not jeopardized.

24 (e) If the director determines that the payments do not comply  
25 with federal Medicaid program requirements, the director shall  
26 not implement an intergovernmental transfer program and may  
27 adjust payments as necessary to comply with federal Medicaid  
28 program requirements.

29 (f) Notwithstanding Chapter 3.5 (commencing with Section  
30 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
31 the department shall implement this section by letters, information  
32 notices, or similar instructions, without taking further regulatory  
33 action.

34 (g) Notwithstanding Section 10231.5 of the Government Code,  
35 by January 1, 2023, and annually thereafter, the department shall  
36 provide a status update on the implementation of this section to  
37 the Joint Legislative Budget Committee and the fiscal and  
38 appropriate policy committees of the Legislature.

1 SEC. 3. Article 3.3 (commencing with Section 14124.3) is  
2 added to Chapter 7 of Part 3 of Division 9 of the Welfare and  
3 Institutions Code, to read:

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5 Article 3.3. Behavioral Health Quality Improvement Program

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7 14124.3. (a) The department shall establish, implement, and  
8 administer the Behavioral Health Quality Improvement Program  
9 to assist county mental health plans and counties that administer  
10 the Drug Medi-Cal Treatment Program or the Drug Medi-Cal  
11 organized delivery system for purposes of preparing those entities  
12 and their contracting health care providers for implementation of  
13 the behavioral health components included in the California  
14 Advancing and Innovating Medi-Cal initiative.

15 (b) (1) There is hereby created in the State Treasury the  
16 Behavioral Health Quality Improvement Program Account for  
17 purposes of the Behavioral Health Quality Improvement Program.  
18 Moneys in this account shall be exclusively used to achieve the  
19 purpose of the program.

20 (2) The department shall determine the methodology and  
21 distribution of the moneys included in the Behavioral Health  
22 Quality Improvement Program Account to county mental health  
23 plans and counties that administer the Drug Medi-Cal Treatment  
24 Program or the Drug Medi-Cal organized delivery system that the  
25 department deems qualified.

26 (c) This section shall be implemented only if and to the extent  
27 that the department determines that federal financial participation  
28 is not jeopardized.

29 (d) Notwithstanding Chapter 3.5 (commencing with Section  
30 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
31 the department may implement, interpret, or make specific this  
32 section, in whole or in part, by means of information notices or  
33 other similar instructions, without taking regulatory action.

34 (e) For purposes of implementing this section, the department  
35 may enter into exclusive or nonexclusive contracts, or amend  
36 existing contracts, on a bid or negotiated basis. Any contract  
37 entered into or amended pursuant to this section shall be exempt  
38 from Chapter 6 (commencing with Section 14825) of Part 5.5 of  
39 Division 3 of Title 2 of the Government Code, Section 19130 of  
40 the Government Code, Part 2 (commencing with Section 10100)

1 of Division 2 of the Public Contract Code, and the State  
2 Administrative Manual, and from the review or approval of any  
3 division of the Department of General Services.

4 SEC. 4. Section 14724 is added to the Welfare and Institutions  
5 Code, to read:

6 14724. (a) Notwithstanding Sections 14708, 14718, and 14723,  
7 and subdivisions (e) and (f) of Section 14711, the department, in  
8 consultation with the California Behavioral Health Directors  
9 Association and representatives of counties, shall design and  
10 implement an intergovernmental transfer program relating to  
11 Medi-Cal specialty mental health benefits provided by county  
12 mental health plans to fund the nonfederal share of supplemental  
13 payments, as permitted under Section 433.51 of Title 42 of the  
14 Code of Federal Regulations or any other applicable federal  
15 Medicaid program laws, and to replace claiming based on certified  
16 public expenditures. Upon providing any intergovernmental  
17 transfer of funds, each transferring entity shall certify that the  
18 transferred funds qualify for federal financial participation pursuant  
19 to applicable federal Medicaid program laws, and in the form and  
20 manner specified by the department. The total intergovernmental  
21 transfer-funded payment amount, which includes the federal and  
22 nonfederal share, paid to a county shall be retained by the county  
23 and used for providing Medi-Cal specialty mental health services  
24 under the Medi-Cal Specialty Mental Health Services Program.

25 (b) This section shall be implemented on July 1, 2022, or the  
26 date on which all necessary federal approvals have been received,  
27 whichever is later, and only to the extent intergovernmental  
28 transfers from counties are provided for this purpose.

29 (c) Participation in the intergovernmental transfer program under  
30 this section is voluntary on the part of the transferring entities for  
31 the purposes of all applicable federal laws.

32 (d) This section shall be implemented only to the extent federal  
33 financial participation is available for any reimbursement and  
34 federal financial participation is not jeopardized.

35 (e) If the director determines that the payments do not comply  
36 with federal Medicaid program requirements, the director shall  
37 not implement an intergovernmental transfer program and may  
38 adjust payments as necessary to comply with federal Medicaid  
39 program requirements.

1 (f) Notwithstanding Chapter 3.5 (commencing with Section  
2 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
3 the department shall implement this section by letters, information  
4 notices, or similar instructions, without taking further regulatory  
5 action.

6 (g) Notwithstanding Section 10231.5 of the Government Code,  
7 by January 1, 2023, and annually thereafter, the department shall  
8 provide a status update on the implementation of this section to  
9 the Joint Legislative Budget Committee and the fiscal and  
10 appropriate policy committees of the Legislature.