

AMENDED IN ASSEMBLY MAY 11, 2021

AMENDED IN ASSEMBLY APRIL 19, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 942

Introduced by Assembly Member Wood

February 17, 2021

An act to add Sections 14184.400, 14184.401, 14184.402, 14184.403, and 14184.404 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 amended, 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 under specified circumstances, including before a provider renders their diagnosis. The bill would provide that the above-described medical necessity criteria for a Medi-Cal beneficiary under 21 years of age is applicable to the Drug Medi-Cal Treatment Program and the Drug Medi-Cal organized delivery system. For the 2022–23 and 2023–24 fiscal years, the bill would require the department to include as part of the Medi-Cal program assumptions and estimates certain information relating to Medi-Cal specialty mental health services, including changes to the department’s clinical auditing standards. The bill would require the department to develop, in consultation with specified individuals, including certain Medi-Cal providers, standardized screening tools and statewide transition tools, and to require the use of these tools after those tools have been field tested. The bill would authorize the department to implement these provisions by various means, including provider bulletins, and, by July 1, 2023, would require the department to promulgate regulations, as necessary, on these provisions.

(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 (CalAIM) 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 CalAIM, 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.

For purposes of the CalAIM initiative, commencing January 1, 2022, this bill would require the department to continue to implement the Medi-Cal Specialty Mental Health Services Program and the Drug Medi-Cal organized delivery system, as a component of CalAIM and consistent with the Special Terms and Conditions approved by the federal Centers for Medicare and Medicaid Services. Commencing no sooner than July 1, 2022, the bill would require each Medi-Cal behavioral health delivery system to comply with the behavioral health payment reform provisions approved in the CalAIM Terms and Conditions. As a component of these payment reforms, the bill would require the department to design and implement, at a minimum, an intergovernmental transfer-based reimbursement methodology to replace the use of certified public expenditures for specified claims provided through Medi-Cal behavioral health delivery systems. Commencing no sooner than July 1, 2022, the bill would require the nonfederal share of any payments associated with Medi-Cal behavioral health systems to consist of voluntary intergovernmental transfers of funds provided by eligible governmental agencies or public entities associated with those systems. The bill would require the department to establish and implement prospective reimbursement rate methodologies utilizing past county cost experience for specified covered services provided through Medi-Cal behavioral health delivery systems. Commencing January 1, 2027, the bill would require a county, or counties acting jointly, to provide and administer covered behavioral health Medi-Cal benefits

under a single Medi-Cal behavioral health delivery system contract pursuant to the CalAIM Terms and Conditions.

(3) The bill would make its provisions severable and would make other legislative findings and declarations.

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

4
5 Article 3.3. Behavioral Health Quality Improvement Program
6

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

1 section, in whole or in part, by means of information notices or
2 other similar instructions, without taking regulatory action.

3 (e) For purposes of implementing this section, the department
4 may enter into exclusive or nonexclusive contracts, or amend
5 existing contracts, on a bid or negotiated basis. Any contract
6 entered into or amended pursuant to this section shall be exempt
7 from Chapter 6 (commencing with Section 14825) of Part 5.5 of
8 Division 3 of Title 2 of the Government Code, Section 19130 of
9 the Government Code, Part 2 (commencing with Section 10100)
10 of Division 2 of the Public Contract Code, and the State
11 Administrative Manual, and from the review or approval of any
12 division of the Department of General Services.

13 SEC. 2. Section 14184.400 is added to the Welfare and
14 Institutions Code, to read:

15 14184.400. (a) Commencing January 1, 2022, subject to
16 subdivision (f) of Section 14184.102, the department shall continue
17 to implement the Medi-Cal Specialty Mental Health Services
18 Program, as described in Chapter 8.9 (commencing with Section
19 14700), as a component of CalAIM and in accordance with the
20 CalAIM Terms and Conditions.

21 (b) Each mental health plan contracting with the department to
22 provide Medi-Cal specialty mental health services pursuant to
23 Chapter 8.9 (commencing with Section 14700) shall comply with
24 all applicable CalAIM Terms and Conditions and any guidance
25 issued by the department pursuant to subdivision (d) of Section
26 14184.102.

27 SEC. 3. Section 14184.401 is added to the Welfare and
28 Institutions Code, to read:

29 14184.401. (a) Commencing January 1, 2022, subject to
30 subdivision (f) of Section 14184.102, the department shall continue
31 to implement the Drug Medi-Cal organized delivery system
32 (DMC-ODS) program, previously authorized under the California
33 Medi-Cal 2020 Demonstration pursuant to Article 5.5 (commencing
34 with Section 14184), as a component of CalAIM and in accordance
35 with the CalAIM Terms and Conditions.

36 (b) A county, or consortium of counties in a regional model,
37 that elects to administer, or elects to continue to administer, a
38 DMC-ODS pilot shall enter into and maintain an intergovernmental
39 agreement with the department. Those counties shall comply with
40 all applicable CalAIM Terms and Conditions and any guidance

1 issued by the department pursuant to subdivision (d) of Section
2 14184.102 as a condition of participation.

3 (c) An election by a county, or consortium of counties in a
4 regional model, to participate as a DMC-ODS pilot shall be
5 considered voluntary for purposes of all state and federal laws.

6 SEC. 4. Section 14184.402 is added to the Welfare and
7 Institutions Code, to read:

8 14184.402. (a) (1) Section 14059.5 does not preclude coverage
9 for, or reimbursement of, a clinically appropriate and covered
10 mental health or substance use disorder assessment, screening, or
11 treatment service under any of the following circumstances:

12 (A) Before a provider renders their diagnosis.

13 (B) During a provider's treatment of a Medi-Cal beneficiary as
14 part of an assessment.

15 (C) For a provider treating a Medi-Cal beneficiary who has a
16 ~~co-occurring~~ *cooccurring* mental health condition and substance
17 use disorder.

18 (D) For a provider who provides specialty mental health services
19 to a Medi-Cal beneficiary under a contract with a county mental
20 health plan when that beneficiary concurrently receives
21 nonspecialty mental health services from a Medi-Cal managed
22 care plan or under the Medi-Cal fee-for-service delivery system,
23 if those services are coordinated between the specialty and
24 nonspecialty mental health systems and those services are not
25 duplicated.

26 (E) For a provider who provides nonspecialty mental health
27 services to a Medi-Cal beneficiary pursuant to a contract with a
28 Medi-Cal managed care plan or under the fee-for-service delivery
29 system when that beneficiary concurrently receives specialty mental
30 health services from a county mental health plan, if those services
31 are coordinated between the nonspecialty and specialty mental
32 health systems and those services are not duplicated.

33 (2) Section 14059.5 shall not preclude clinically appropriate
34 and covered mental health or substance use disorder services during
35 the assessment process.

36 (b) The department shall not impose a requirement for a covered
37 diagnosis, such as the diagnoses described under paragraph (1) of
38 subdivision (a) of Section 1820.205, or paragraph (2) of subdivision
39 (b) of Section 1830.205, of Title 9 of the California Code of

1 Regulations, as a condition to receive Medi-Cal specialty mental
2 health services.

3 (c) (1) The medical necessity criteria for a Medi-Cal beneficiary
4 under 21 years of age in the Drug Medi-Cal Treatment Program
5 and the Drug Medi-Cal organized delivery system shall be
6 consistent with paragraph (1) of subdivision (b) of Section 14059.5.

7 (2) A provider who treats a Medi-Cal beneficiary under 21 years
8 of age shall only apply the American Society of Addiction
9 Medicine placement criteria when that provider determines
10 placement level following their determination of medical necessity.

11 (d) A county that does not participate in the Drug Medi-Cal
12 organized delivery system shall provide, or arrange for the
13 provision of all medically necessary services required under the
14 Drug Medi-Cal organized delivery system. *system for an individual*
15 *under 21 years of age, consistent with the federal requirements*
16 *for Early and Periodic Screening, Diagnostic, and Treatment*
17 *services set forth in Section 1396d(r) of Title 42 of the United*
18 *States Code.*

19 (e) A dispute between a county mental health plan and a
20 Medi-Cal managed care health plan shall not delay the provision
21 of medically necessary services by the county mental health plan
22 or the Medi-Cal managed care health plan. Pending resolution of
23 the dispute, those plans shall comply with Section 1850.525 of
24 Title 9 of the California Code of Regulations.

25 (f) For the 2022–23 and 2023–24 fiscal years, the department
26 shall include as part of the Medi-Cal program assumptions and
27 estimates, as described under Section 14100.5, a description of all
28 of the following as it relates to Medi-Cal specialty mental health
29 services:

30 (1) Documentation requirements, including changes to the
31 documentation requirements for the treatment plan and chart notes.

32 (2) The status of the proposed transition to Healthcare Common
33 Procedure Coding System Level 1 Code.

34 (3) Changes to the department’s clinical auditing standards.

35 (g) (1) The department shall develop, in consultation with
36 county behavioral health directors, consumer advocates, labor
37 organization representing county mental health workers, mental
38 health and substance use disorder treatment providers, standardized
39 screening tools to guide a referral to a behavioral health delivery
40 system. The department shall develop a standardized screening

1 tool for Medi-Cal beneficiaries who are under 21 years of age and
2 those who are over 21 years of age. The department shall require
3 the use of these standardized screening tools.

4 (2) The department shall develop, in consultation with county
5 behavioral health directors, consumer advocates, labor organization
6 representing county mental health workers, mental health and
7 substance use disorder treatment providers, standardized statewide
8 transition tools to ensure that Medi-Cal beneficiaries requiring
9 transition between delivery systems receive timely coordinated
10 care. The department shall develop standardized statewide
11 transition tools for Medi-Cal beneficiaries who are under 21 years
12 of age and those who are over 21 years of age. The department
13 shall require the use of these statewide transition tools.

14 (3) The department shall field test the tools described under
15 paragraphs (1) and (2) before implementing these tools.

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

23 (i) By July 1, 2023, the department shall promulgate regulations,
24 as necessary, in accordance with the requirements of Chapter 3.5
25 (commencing with Section 11340) of Part 1 of Division 3 of Title
26 2 of the Government Code.

27 SEC. 5. Section 14184.403 is added to the Welfare and
28 Institutions Code, to read:

29 14184.403. (a) Notwithstanding any other law, commencing
30 no sooner than July 1, 2022, subject to subdivision (f) of Section
31 14184.102, each Medi-Cal behavioral health delivery system shall
32 comply with the behavioral health payment reform provisions
33 approved in the CalAIM Terms and Conditions and any associated
34 instruction issued by the department pursuant to subdivision (d)
35 of Section 14184.102.

36 (b) As a component of behavioral health payment reform under
37 CalAIM, the department shall design and implement, at a
38 minimum, an intergovernmental transfer-based reimbursement
39 methodology to replace the use of certified public expenditures
40 for claims associated with covered Medi-Cal specialty mental

1 health services and Medi-Cal drug services provided through
2 Medi-Cal behavioral health delivery systems.

3 (c) Notwithstanding any other law, commencing no sooner than
4 July 1, 2022, the nonfederal share of any payments associated with
5 each Medi-Cal behavioral health delivery system shall consist of
6 voluntary intergovernmental transfers of funds provided by eligible
7 governmental agencies or public entities associated with a
8 respective Medi-Cal behavioral delivery system. Upon providing
9 any intergovernmental transfer of funds, each transferring entity
10 shall certify that the transferred funds qualify for federal financial
11 participation pursuant to Section 433.51 of Title 42 of the Code
12 of Federal Regulations, any other applicable federal Medicaid
13 laws, and the CalAIM Terms and Conditions, and in the form and
14 manner specified by the department. Any intergovernmental
15 transfer of funds made pursuant to this section shall be considered
16 voluntary for purposes of all state and federal laws.
17 Notwithstanding any other law, the department shall not assess
18 the fee described in subdivision (d) of Section 14301.4 or any other
19 similar fee on the intergovernmental transfers made pursuant to
20 this section.

21 (d) The department shall establish and implement prospective
22 reimbursement rate methodologies utilizing past county cost
23 experience for covered Medi-Cal specialty mental health services
24 and Medi-Cal drug services provided through Medi-Cal behavioral
25 health delivery systems. Those methodologies shall make use of
26 peer groups whereby counties are grouped according to past cost
27 experience, as determined appropriate by the department. The
28 department shall determine the frequency of payments and
29 intergovernmental transfers made pursuant to this section.

30 (e) For purposes of this section, “Medi-Cal behavioral health
31 delivery system” means an entity or local agency that contracts
32 with the department to provide covered behavioral health Medi-Cal
33 benefits pursuant to Article 3.2 (commencing with Section
34 14124.20), Section 14184.400, or Chapter 8.9 (commencing with
35 Section 14700), or a county Drug Medi-Cal organized delivery
36 system pilot authorized under the CalAIM Terms and Conditions
37 and described in Section 14184.401.

38 SEC. 6. Section 14184.404 is added to the Welfare and
39 Institutions Code, to read:

1 14184.404. (a) Notwithstanding any other law, commencing
2 January 1, 2027, subject to subdivision (f) of Section 14184.102,
3 an individual county, or counties acting jointly, shall provide and
4 administer covered behavioral health Medi-Cal benefits under a
5 single Medi-Cal behavioral health delivery system contract, in
6 accordance with the CalAIM Terms and Conditions.

7 (b) During the CalAIM term, the department, in consultation
8 with counties, shall conduct any planning activities it deems
9 necessary and issue related guidance pursuant to subdivision (d)
10 of Section 14184.102 to facilitate implementation of subdivision
11 (a).

12 (c) The department may authorize a noncounty organization
13 that it contracts with pursuant to subdivision (a) of Section 14712
14 or Section 14124.21 to provide and administer covered behavioral
15 health Medi-Cal benefits under a single Medi-Cal Behavioral
16 Health Delivery System contract, in accordance with the CalAIM
17 Terms and Conditions.

18 (d) For purposes of this section, “Medi-Cal behavioral health
19 delivery system” means an entity or local agency that contracts
20 with the department to provide covered behavioral health Medi-Cal
21 benefits pursuant to Article 3.2 (commencing with Section
22 14124.20), or Section 14184.400 and Chapter 8.9 (commencing
23 with Section 14700), or a county Drug Medi-Cal organized delivery
24 system, as authorized under the CalAIM Terms and Conditions
25 and described in Section 14184.401.

26 SEC. 7. The Legislature finds and declares that this act is a
27 state law within the meaning of Section 1621(d) of Title 8 of the
28 United States Code.

29 SEC. 8. (a) The provisions of this act are severable. If any
30 provision of this act or its application is held invalid, that invalidity
31 shall not affect other provisions or applications that can be given
32 effect without the invalid provision or application.

33 (b) The Legislature hereby declares that it would have enacted
34 this act and each and every provision thereof not declared invalid
35 or unconstitutional without regard to whether any other provision
36 of this act or application thereof would be subsequently declared
37 invalid or unconstitutional.