

AMENDED IN SENATE APRIL 19, 2021

AMENDED IN SENATE FEBRUARY 24, 2021

**SENATE BILL**

**No. 279**

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**Introduced by Senator Pan**

January 29, 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 14124.30) to Chapter 7 of Part 3 of Division 9 of, 14127.6 of, to add Sections 14184.203 and 14184.500 to, and to repeal Article 3.9 (commencing with Section 14127) of Chapter 7 of Part 3 of Division 9 of, the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 279, as amended, Pan. ~~Specialty mental health services and substance use disorder treatment. Medi-Cal: delivery systems: services.~~

(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: *either through a fee-for-service or managed care delivery system.* 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 authorizes the department to create the Health Home Program for Medi-Cal enrollees with chronic conditions, subject to federal approval and the availability of federal financial participation. Existing law generally conditions the implementation of the program on no additional General Fund moneys being used to fund the administration and costs of services.*~~

~~*This bill would authorize, commencing with the 2021–22 state fiscal year, the Health Home Program to be implemented using General Fund moneys upon appropriation by the Legislature. The bill would require the department to cease implementing the Health Home Program on January 1, 2022, or as specified, and would repeal the Health Home Program’s provisions on January 1, 2023.*~~

~~(2) Existing law authorizes the department to enter into various types of contracts for the provision of services to beneficiaries, including contracts with a Medi-Cal managed care plan. Existing law imposes various requirements on managed care plan contractors, including network adequacy standards relating to time and distance.~~

~~*For contract periods commencing on or after January 1, 2026, the bill would authorize the department to require each Medi-Cal managed care plan and each health plan subcontractor of a Medi-Cal managed care plan to be accredited by the National Committee for Quality Assurance, or an alternative entity, as specified.*~~

~~Existing~~

~~(3) 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 to the Joint Legislative Budget Committee and the fiscal and appropriate policy committees of the Legislature on the implementation of these provisions.~~

*This bill would require, subject to federal approval, the department to implement the State Plan Dental Improvement Program, with the goal of further improving accessibility of Medi-Cal dental services and oral health outcomes for targeted populations, as a successor program to the Dental Transformation Initiative. Commencing no sooner than January 1, 2021, the bill would expand the Medi-Cal schedule of benefits for certain populations, such as Caries Risk Assessment bundle for eligible children who are 0 to 6 years of age, and would require the department to make supplemental payments to qualified dental providers for increased utilization of certain preventive dental services and for the establishment or maintenance of beneficiary continuity of care through a dental home. The bill would require the department to develop the methodology for making these supplemental payments to qualified dental providers, including safety net clinics.*

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 14127.6 of the Welfare and Institutions*  
2 *Code is amended to read:*

3     14127.6. (a) The Health Home Program shall be implemented  
4 only if and to the extent federal financial participation is available  
5 and the federal Centers for Medicare and Medicaid Services  
6 approves any state plan amendments and any necessary waivers  
7 sought pursuant to this article.

8     (b) (1) Except as provided in *paragraph (2) and subdivision*  
9 *(c)*, this article shall be implemented only *through the 2020–21*  
10 *state fiscal year* if no additional General Fund moneys are used to  
11 fund the administration and costs of services.

12     (2) *Notwithstanding any other law, for the 2021–22 state fiscal*  
13 *year and each state fiscal year thereafter, as applicable, this article*  
14 *may be implemented using General Fund moneys upon*  
15 *appropriation by the Legislature.*

16     (c) Notwithstanding subdivision (b), if the department projects,  
17 based on analysis of current and projected expenditures for health  
18 home services ~~prior to~~, *before*, during, or after the first eight  
19 quarters of implementation, that this article can be implemented  
20 in a manner that does not or will not result in a net increase in  
21 ongoing General Fund costs for the Medi-Cal program, the  
22 department may use state funds to fund any Health Home Program  
23 costs.

24     (d) The department may use new funding in the form of  
25 enhanced federal financial participation for health home services  
26 that are currently provided to fund additional costs for new Health  
27 Home Program services.

28     (e) ~~The~~ *Through the 2020–21 state fiscal year, the department*  
29 *shall seek to fund the creation, implementation, and administration*  
30 *of the program with funding other than state general funds.*

31     (f) The department may revise or terminate the Health Home  
32 Program any time after the first eight quarters of implementation  
33 if the department finds that the program fails to result in reduced  
34 inpatient stays, hospital admission rates, and emergency department  
35 visits, or results in substantial General Fund expense without  
36 commensurate decreases in Medi-Cal costs among program  
37 participants.

1 (g) (1) Notwithstanding any law, the department shall cease to  
2 implement the Health Home Program on January 1, 2022, or the  
3 effective date reflected in any necessary federal approvals obtained  
4 by the department to implement the Enhanced Care Management  
5 benefit under the California Advancing and Innovating Medi-Cal  
6 initiative pursuant to Section 14184.205, whichever is later.

7 (2) The department shall conduct any necessary closeout  
8 activities associated with the Health Home Program, including,  
9 but not limited to, the evaluation required pursuant to subdivision  
10 (a) of Section 14127.5.

11 (3) This article shall remain in effect only until January 1, 2023,  
12 and as of that date is repealed.

13 SEC. 2. Section 14184.203 is added to the Welfare and  
14 Institutions Code, to read:

15 14184.203. (a) For contract periods commencing on or after  
16 January 1, 2026, the department may require each Medi-Cal  
17 managed care plan and each health plan subcontractor of a  
18 Medi-Cal managed care plan to be accredited by the National  
19 Committee for Quality Assurance, or an alternative entity pursuant  
20 to subdivision (c), in accordance with this section and the CalAIM  
21 Terms and Conditions.

22 (b) The department shall not use findings from the accreditation  
23 pursuant to subdivision (a) to certify or deem a Medi-Cal managed  
24 care plan’s compliance with applicable state and federal Medicaid  
25 requirements, except in the area of credentialing.

26 (c) If the department determines that a Medi-Cal managed care  
27 plan or an applicable health plan subcontractor thereof is unable  
28 to receive accreditation from the National Committee for Quality  
29 Assurance due to population size, the department may authorize  
30 alternate accreditation if the requirements applied are substantially  
31 similar to those applied pursuant to subdivision (a), as determined  
32 by the department.

33 (d) For purposes of this section, “subcontractor” shall have  
34 the same meaning as set forth in Section 438.2 of Title 42 of the  
35 Code of Federal Regulations.

36 SEC. 3. Section 14184.500 is added to the Welfare and  
37 Institutions Code, to read:

38 14184.500. (a) The department shall implement the State Plan  
39 Dental Improvement Program in accordance with the CalAIM  
40 Terms and Conditions and as described in this section, with the

1 goal of further improving accessibility of Medi-Cal dental services  
2 and oral health outcomes for targeted populations, as a successor  
3 program to the Dental Transformation Initiative described in  
4 Section 14184.70.

5 (b) Commencing no sooner than January 1, 2021, subject to  
6 subdivision (f) of Section 14184.102, both of the following shall  
7 be covered Medi-Cal benefits for the specified populations, when  
8 medically necessary and subject to utilization controls:

9 (1) Caries Risk Assessment bundle for eligible children 0 to 6  
10 years of age, inclusive.

11 (2) Silver diamine fluoride for eligible children 0 to 6 years of  
12 age, inclusive, and for eligible adults residing in skilled nursing  
13 facilities or intermediate care facilities or that receive services in  
14 facilities overseen by the State Department of Developmental  
15 Services, as determined by the department.

16 (c) (1) Commencing no sooner than January 1, 2021, subject  
17 to subdivision (f) of Section 14184.102, the department shall make  
18 supplemental payments to qualified dental providers for increased  
19 utilization of certain preventive dental services, and for the  
20 establishment or maintenance of beneficiary continuity of care  
21 through a dental home.

22 (2) The department shall develop the methodology for making  
23 supplemental payments pursuant to this subdivision, including,  
24 but not limited to, the eligibility criteria for receiving payments,  
25 the amount of payments, and the applicable preventive dental  
26 services that are eligible for payments.

27 (A) For payments for increased utilization of certain preventive  
28 services, the department shall make a flat rate supplemental  
29 payment to a qualified dental service office location for each  
30 eligible paid claim made for those Current Dental Terminology  
31 codes specified by the department and approved in the CalAIM  
32 Terms and Conditions. To the extent the department deems  
33 practicable, the supplemental payment shall be applied at the same  
34 time as the underlying eligible paid claim is made.

35 (B) For payments for the establishment or maintenance of  
36 beneficiary continuity of care through a dental home, the  
37 department shall make a single annual supplemental payment to  
38 each eligible service office location based on the number of  
39 Medi-Cal beneficiaries for which eligible paid claims were  
40 submitted using at least one of Current Dental Terminology exam

1 codes, as specified by the department, in two or more consecutive  
2 calendar years.

3 (d) To the extent permissible under federal law and authorized  
4 under the CalAIM Terms and Conditions, for purposes of eligibility  
5 for payments described in this section, qualified dental providers  
6 may include safety net clinics that provide services defined under  
7 subdivision (a) or (b) of Section 14132.100. Supplemental payments  
8 made pursuant to this section to safety net clinics shall be  
9 considered separate and apart from either the Prospective Payment  
10 Service reimbursement for federally qualified health centers or  
11 rural health clinics, or Memorandum of Agreement reimbursement  
12 for Tribal Health Centers.

13 (e) The department shall seek federal approval of any state plan  
14 amendments it deems necessary to implement subdivisions (b) and  
15 (c).

16 SEC. 4. The Legislature finds and declares that this act is a  
17 state law within the meaning of Section 1621(d) of Title 8 of the  
18 United States Code.

19 SEC. 5. The provisions of this act are severable. If any  
20 provision of this act or its application is held invalid, that invalidity  
21 shall not affect other provisions or applications that can be given  
22 effect without the invalid provision or application. The Legislature  
23 hereby declares that it would have enacted this bill and each and  
24 every provision thereof not declared invalid or unconstitutional  
25 without regard to whether any other provision of this act or  
26 application thereof would be subsequently declared invalid or  
27 unconstitutional.

28 SECTION 1. ~~Section 14059.5 of the Welfare and Institutions~~  
29 ~~Code is amended to read:~~

30 ~~14059.5. (a) For an individual 21 years of age or older, a~~  
31 ~~service is “medically necessary” or a “medical necessity” when it~~  
32 ~~is reasonable and necessary to protect life, to prevent significant~~  
33 ~~illness or significant disability, or to alleviate severe pain.~~

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

38 ~~(2) The department and its contractors shall update any model~~  
39 ~~evidence of coverage documents, beneficiary handbooks, and~~  
40 ~~related material to ensure the medical necessity standard for~~

1 coverage for an individual under 21 years of age is accurately  
2 reflected in all materials.

3 (3) Notwithstanding Chapter 3.5 (commencing with Section  
4 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
5 the department, without taking any further regulatory action, shall  
6 implement, interpret, and make specific this subdivision by means  
7 of all county letters, plan letters, plan provider bulletins, manuals,  
8 plan contract amendments, or similar instructions until regulations  
9 are revised or adopted.

10 (4) By July 1, 2022, the department shall revise or adopt  
11 regulations in accordance with the requirements of Chapter 3.5  
12 (commencing with Section 11340) of Part 1 of Division 3 of Title  
13 2 of the Government Code.

14 (e) This section does not preclude coverage for, or  
15 reimbursement of, a clinically appropriate and covered mental  
16 health or substance use disorder assessment, screening, or treatment  
17 service before a provider renders a diagnosis.

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

21 SEC. 2. Section 14124.245 is added to the Welfare and  
22 Institutions Code, immediately following Section 14124.24, to  
23 read:

24 14124.245. (a) Notwithstanding subdivision (c) of Section  
25 14124.24, the department, in consultation with the County  
26 Behavioral Health Directors Association of California and  
27 representatives of counties, shall design and implement an  
28 intergovernmental transfer program relating to services provided  
29 by counties under the Drug Medi-Cal Treatment Program and the  
30 Drug Medi-Cal organized delivery system to fund the nonfederal  
31 share of supplemental payments, as permitted under Section 433.51  
32 of Title 42 of the Code of Federal Regulations or any other  
33 applicable federal Medicaid program laws, and to replace claiming  
34 based on certified public expenditures. Upon providing any  
35 intergovernmental transfer of funds, each transferring entity shall  
36 certify that the transferred funds qualify for federal financial  
37 participation pursuant to applicable federal Medicaid program  
38 laws, and in the form and manner specified by the department.  
39 The total intergovernmental transfer-funded payment amount,  
40 which includes the federal and nonfederal share, paid to a county

1 shall be retained by the county and used for providing substance  
2 use disorder treatment under the Drug Medi-Cal Treatment  
3 Program and the Drug Medi-Cal organized delivery system.

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

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

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

14 (e) If the director determines that the payments do not comply  
15 with federal Medicaid program requirements, the director shall  
16 not implement an intergovernmental transfer program and may  
17 adjust payments as necessary to comply with federal Medicaid  
18 program requirements.

19 (f) Notwithstanding Chapter 3.5 (commencing with Section  
20 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
21 the department shall implement this section by letters, information  
22 notices, or similar instructions, without taking further regulatory  
23 action.

24 (g) Notwithstanding Section 10231.5 of the Government Code,  
25 by January 1, 2023, and annually thereafter, the department shall  
26 provide a status update on the implementation of this section to  
27 the Joint Legislative Budget Committee and the fiscal and  
28 appropriate policy committees of the Legislature.

29 SEC. 3. Article 3.3 (commencing with Section 14124.30) is  
30 added to Chapter 7 of Part 3 of Division 9 of the Welfare and  
31 Institutions Code, to read:

32  
33 Article 3.3. Behavioral Health Quality Improvement Program  
34

35 14124.30. (a) The department shall establish, implement, and  
36 administer the Behavioral Health Quality Improvement Program  
37 to assist county mental health plans and counties that administer  
38 the Drug Medi-Cal Treatment Program or the Drug Medi-Cal  
39 organized delivery system for purposes of preparing those entities  
40 and their contracting health care providers for implementation of

1 the behavioral health components included in the California  
2 Advancing and Innovating Medi-Cal initiative.

3 (b) (1) There is hereby created in the State Treasury the  
4 Behavioral Health Quality Improvement Program Account for  
5 purposes of the Behavioral Health Quality Improvement Program.  
6 Moneys in this account shall be exclusively used to achieve the  
7 purpose of the program.

8 (2) The department shall determine the methodology and  
9 distribution of the moneys included in the Behavioral Health  
10 Quality Improvement Program Account to county mental health  
11 plans and counties that administer the Drug Medi-Cal Treatment  
12 Program or the Drug Medi-Cal organized delivery system that the  
13 department deems qualified.

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

17 (d) Notwithstanding Chapter 3.5 (commencing with Section  
18 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
19 the department may implement, interpret, or make specific this  
20 section, in whole or in part, by means of information notices or  
21 other similar instructions, without taking regulatory action.

22 (e) For purposes of implementing this section, the department  
23 may enter into exclusive or nonexclusive contracts, or amend  
24 existing contracts, on a bid or negotiated basis. Any contract  
25 entered into or amended pursuant to this section shall be exempt  
26 from Chapter 6 (commencing with Section 14825) of Part 5.5 of  
27 Division 3 of Title 2 of the Government Code, Section 19130 of  
28 the Government Code, Part 2 (commencing with Section 10100)  
29 of Division 2 of the Public Contract Code, and the State  
30 Administrative Manual, and from the review or approval of any  
31 division of the Department of General Services.

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

34 14724. (a) Notwithstanding Sections 14708, 14718, and 14723,  
35 and subdivisions (e) and (f) of Section 14711, the department, in  
36 consultation with the County Behavioral Health Directors  
37 Association of California and representatives of counties, shall  
38 design and implement an intergovernmental transfer program  
39 relating to Medi-Cal specialty mental health benefits provided by  
40 county mental health plans to fund the nonfederal share of

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

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.

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