

AMENDED IN SENATE APRIL 14, 2021

SENATE BILL

No. 508

Introduced by Senator Stern

February 17, 2021

An act to amend Section 49408 of the Education Code, to add Sections 1374.722 and 1374.723 to the Health and Safety Code, to add Sections 10144.53 and 10144.54 to the Insurance Code, and to amend Section 14132.06 of, and to add Section 14197.15 to, the Welfare and Institutions Code, ~~and~~ relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

SB 508, as amended, Stern. Mental health coverage: school-based services.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income persons receive health care benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing law provides that specified services, including targeted case management services for children with an individual education plan or an individualized family service plan, provided by local educational agencies (LEAs), are covered Medi-Cal benefits, and authorizes an LEA to bill for those services. Existing law requires the department to perform various activities with respect to the billing option for services provided by LEAs.

Existing law authorizes a school district to require the parent or legal guardian of a pupil to keep current at the pupil's school of attendance certain emergency information.

This bill would authorize an LEA to have an appropriate mental health professional provide brief initial interventions at a school campus when necessary for all referred pupils, including pupils with a health care service plan, health insurance, or coverage through a Medi-Cal managed care plan, but not those covered by a county mental health plan. For pupils with coverage through a health care service plan, health insurance, or Medi-Cal managed care plan, the bill would ~~allow~~ *require* the mental health professional to contact the plan or insurer to facilitate a referral to the plan's provider for the brief initial intervention services, when appropriate and available, and would allow the mental health professional to complete the brief intervention services if the plan or insurer is unable to ~~meet the existing time and geographic access standards~~ *offer the pupil an appointment with a network provider within 48 hours for an urgent care appointment or within 15 business days for a nonurgent appointment*. If the plan or insurer is unable to ~~meet the time and geographic standards for delivery of~~ *offer the pupil* mental health services beyond the brief initial intervention services, the bill would ~~require~~ *authorize* the plan or insurer to negotiate with the LEA for a single case agreement to determine reimbursement for additional services, subject to specified reimbursement requirements.

The bill would also require a health care service plan, health insurer, or Medi-Cal managed care plan that is required to provide coverage for medically necessary treatment of mental health ~~and substance abuse disorders~~ to enter into a ~~memorandum of understanding (MOU)~~ *contract* with all LEAs in which 15 percent or more of the pupils enrolled are insured by the plan or insurer, as specified, and would authorize the LEA to bill for mental health ~~and substance use~~ disorder services provided if the plan or insurer fails to enter into ~~an MOU~~ *a contract* with the LEA, as specified. *The bill would require the State Department of Health Care Services, the Department of Insurance, the Department of Managed Health Care, and the State Department of Education to develop a model contract for use by LEAs, health care service plans, and health insurers when implementing these provisions.* Because a violation of this provision with respect to a health care service plan would be a crime, and by imposing new duties on LEAs with respect to entering into ~~MOUs with~~ *contracts with, and facilitating referrals*

to, health care service plans and health insurers, the bill would impose a state-mandated local program.

The bill would include telehealth as an approved modality for the Medi-Cal program for the specified services provided by an LEA.

The bill would authorize a school district to require the parent or legal guardian of a pupil also to keep current at the pupil’s school of attendance information on the pupil’s health care service plan, health insurance, or Medi-Cal managed care plan provider, if applicable.

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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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 49408 of the Education Code is amended
2 to read:

3 49408. For the protection of a pupil’s health and welfare, the
4 governing board of a school district may require the parent or legal
5 guardian of a pupil to keep current at the pupil’s school of
6 attendance, emergency information including the home address
7 and telephone number, business address and telephone number of
8 the parents or guardian, the name, ~~address~~ *address*, and telephone
9 number of a relative or friend who is authorized to care for the
10 pupil in any emergency situation if the parent or legal guardian
11 cannot be reached, and information on the pupil’s health care
12 service plan, health insurance, or Medi-Cal managed care plan
13 provider, if applicable. *The governing board of a school district*
14 *may require the parent or legal guardian of a pupil to update this*
15 *information if it changes during the school year.*

16 SEC. 2. Section 1374.722 is added to the Health and Safety
17 Code, immediately following Section 1374.721, to read:

1 1374.722. (a) The Legislature finds and declares all of the
2 following:

3 (1) All health care service plans are required to provide coverage
4 for the diagnosis and medically necessary treatment of mental
5 health ~~and substance use~~ disorders under the same terms and
6 conditions applied to other medical conditions, as defined in state
7 and federal law, including Sections 1374.72 and 1374.721 of this
8 code and the federal *Paul Wellstone and Pete Domenici* Mental
9 Health Parity and Addiction Equity Act of 2008 (Public Law
10 110-343).

11 (2) Suicide rates in California increased by 225 percent between
12 1999 and 2016 for children 10 to 14 years of age.

13 (3) Thirty-seven percent of students with a mental health
14 condition 14 years of age and older drop out of school. Pupils with
15 emotional disturbances have the highest increase in absenteeism
16 and dropout rates when compared to any other disability.

17 (4) Seventy percent of youth arrested each year have a mental
18 health disorder.

19 ~~(5) None of the~~ *There is a shortage of qualified children's*
20 *mental health professionals in California. As a result, health care*
21 *service plans in California struggle to provide covered children*
22 *with adequate access to in-network mental health providers.*

23 (6) Meanwhile, children are 21 times more likely to get the
24 health and mental health services they need if services are provided
25 on a school campus. School-based services increase access to
26 qualified mental health care professionals and decrease the stigma
27 around receiving mental health services.

28 ~~(7) By failing to meet the mental health needs of children, health~~
29 ~~care service plans are passing the responsibility and cost of~~
30 ~~medically necessary mental health services on to local educational~~
31 ~~agencies (LEAs) in violation of their obligations under state and~~
32 ~~federal law.~~

33 *(7) Local educational agencies (LEAs) frequently bear the cost*
34 *of providing students with medically necessary mental health*
35 *interventions and services.*

36 (b) To ensure timely access to behavioral health interventions
37 at the earliest onset of a behavioral health condition, an appropriate
38 mental health ~~professional~~ *professional*, as described in Sections
39 49422 and 49424 of the Education Code and Chapters 6.6
40 (*commencing with Section 2900*), 13 (*commencing with Section*

1 4980), 14 (commencing with Section 4991), and 16 (commencing
2 with Section 4999.10) of Division 2 of the Business and
3 Professions Code, may provide brief initial interventions when
4 necessary for all referred pupils, including pupils who are enrollees
5 of a health care service plan contract.

6 (c) (1) Brief initial interventions, for purposes of this article,
7 consist of ~~Medi-Cal covered behavioral health services~~ *services*,
8 *as described in paragraph (2)*, that are essential health benefits,
9 as defined in state and federal law, including Section 1300.67.005
10 of Title 28 of the California Code of Regulations, Sections 1374.72
11 and 1374.721, and the federal *Paul Wellstone and Pete Domenici*
12 *Mental Health Parity and Addiction Equity Act of 2008* (Public
13 *Law 110-343*), and include, but are not limited to, mental health
14 ~~and substance use disorder services~~ specified in California's
15 essential health benefits benchmark plan.

16 (2) *Covered behavioral health services include preventive,*
17 *diagnostic, therapeutic, and rehabilitative services as described*
18 *in Section 51309 and subdivision (b) of Section 51360 of Title 22*
19 *of the California Code of Regulations.*

20 (d) (1) For pupils who are enrollees of a health care service
21 plan contract, the mental health professional or their designee ~~may~~
22 *shall* contact the plan upon initiating the brief initial intervention
23 services described in subdivision (b) to facilitate a referral to the
24 health care service plan's network providers, as appropriate and
25 consistent with professionally recognized standards of practice,
26 and in consultation with the pupil and their parent or guardian, in
27 compliance with all applicable state and federal laws protecting a
28 pupil's right to privacy ~~and parental rights~~. *and right to consent,*
29 *including Section 6924 of, and subdivision (b) of Section 6929 of,*
30 *the Family Code, Sections 123110 and 123115 of this code, and*
31 *Sections 56.10 and 56.11 of the Civil Code, and parental rights,*
32 *including Section 164.502 of Title 45 of the Code of Federal*
33 *Regulations.*

34 (2) If a health care service plan is unable to ~~meet timely and~~
35 ~~geographic access standards for care delivery required by state~~
36 ~~law, as defined by Section 1300.67.2.2 and Section 1300.51 of~~
37 ~~Title 28 of the California Code of Regulations,~~ *offer the pupil an*
38 *appointment with a network provider within 48 hours for an urgent*
39 *care appointment or within 15 business days for a nonurgent*
40 *appointment,* the mental health professional may complete the

1 brief initial intervention services. If a health care service plan
2 cannot meet timely access standards for care delivery for *offer the*
3 *pupil* mental health services beyond the brief initial intervention
4 services, the health care service plan and the LEA ~~shall~~ *may*
5 negotiate a single case agreement to determine reimbursement for
6 additional services.

7 ~~(A) A health care service plan shall reimburse services provided~~
8 ~~to pupils by the mental health professional at the rate required by~~
9 ~~state and federal law for noncontracted providers.~~

10 (A) *Absent a single case agreement, a health care service plan*
11 *shall reimburse the local educational agency for services provided*
12 *to pupils at the same rate that is provided to local educational*
13 *agencies participating in the LEA Medi-Cal Billing Option*
14 *program identified in Section 14115.8 of the Welfare and*
15 *Institutions Code.*

16 (B) A health care service plan shall meet requirements for the
17 timely payment of claims for a contracted provider. If the health
18 care service plan disputes the services provided or the amount, the
19 health care service plan may submit a dispute to the Department
20 of Managed Health Care, but shall still comply with requirements
21 for timely payment, including for services or amounts in dispute.

22 (3) If a health care service plan can meet timely and geographic
23 access standards for care delivery required by state law, as defined
24 by ~~Section 1300.67.2.2 and Section 1300.51 of Title 28 of the~~
25 ~~California Code of Regulations~~, *offer the pupil an appointment*
26 *with a network provider within 48 hours for an urgent care*
27 *appointment or within 15 business days for a nonurgent*
28 *appointment*, the mental health professional shall make a referral
29 to the plan's provider.

30 (d) Pursuant to subdivision (h) of Section 1374.72, a health care
31 service plan shall not limit benefits or reimbursement for medically
32 necessary services provided pursuant to this section on the basis
33 that those services should be or could be covered by a public
34 entitlement program, including, but not limited to, special education
35 or an individualized education program, Medi-Cal, Medicare,
36 Supplemental Security Income, or Social Security Disability
37 Insurance.

38 (e) A health care service plan is encouraged to contract with
39 LEAs to serve pupils who are receiving mental health services
40 pursuant to this section.

1 (f) This section does not apply to a contract with a county mental
2 health plan contracted with the State Department of Health Care
3 Services pursuant to Chapter 8.9 (commencing with Section 14700)
4 of Part 3 of Division 9 of the Welfare and Institutions Code.

5 (g) *The billing provisions of this section do not apply if the*
6 *mental health professional providing the brief initial intervention*
7 *services is employed by an LEA that has executed a contract*
8 *pursuant to Section 1374.723 with a pupil's health care service*
9 *plan.*

10 SEC. 3. Section 1374.723 is added to the Health and Safety
11 Code, immediately following Section 1374.722, to read:

12 1374.723. (a) A health care service plan that is required to
13 provide coverage for the medically necessary treatment of mental
14 health and substance abuse disorders pursuant to Sections 1374.72
15 and 1374.721 *and the federal Paul Wellstone and Pete Domenici*
16 *Mental Health Parity and Addiction Equity Act of 2008 (Public*
17 *Law 110-343), shall enter into a memorandum of understanding*
18 ~~(MOU) with all local educational agencies (LEAs)~~ *contract with*
19 *a local educational agency (LEA) if 15 percent or more of the*
20 *pupils enrolled are covered by the health care service plan. The*
21 ~~MOU~~ *contract shall describe the terms under which the health*
22 *care service plan will coordinate with the LEA to provide diagnosis*
23 *and medically necessary treatment of mental health and substance*
24 ~~use~~ *disorders to pupils who are plan enrollees in one or more of*
25 *the following ways:*

26 (1) Pursuant to Section 1374.722, a health care service plan
27 shall reimburse ~~for the mental health services provided to pupils~~
28 ~~who are plan enrollees at the rate required by state and federal law~~
29 ~~for noncontracted providers at the same rate that is provided to~~
30 ~~LEAs participating in the LEA Medi-Cal Billing Option program~~
31 ~~identified in Section 14115.8 of the Welfare and Institutions Code~~
32 ~~if, upon referral, the health care service plan is unable to meet~~
33 ~~timely and geographic access standards for care delivery required~~
34 ~~by state law, as defined by Section 1300.67.2.2 and Section~~
35 ~~1300.51 of Title 28 of the California Code of Regulations.~~ *offer*
36 *the pupil an appointment with a network provider within 48 hours*
37 *for an urgent care appointment or within 15 business days for a*
38 *nonurgent appointment.*

39 (2) A health care service plan shall designate and provide,
40 through in-network providers or through a contracted

1 community-based organization, one or more mental health
2 professionals that shall provide services on the school campus at
3 intervals that are sufficient to ensure that all pupils who are plan
4 enrollees receive access to diagnosis and medically necessary
5 ~~treatment of mental health and substance use disorders.~~ *mental*
6 *health services.* A health care service plan provider may use
7 telehealth, as defined in Section 49429 of the Education Code, to
8 facilitate the diagnosis, consultation, treatment, education, care
9 management, and self-management of a pupil's health care while
10 the pupil is on the school campus and the health care provider is
11 at a distant location.

12 (3) A health care service plan shall designate and provide,
13 through in-network providers or through a contracted
14 community-based organization, one or more mental health
15 professionals that shall provide services within a ~~one~~ 30 mile radius
16 of the school campus where the referred pupil is enrolled. A health
17 care service plan shall ensure that there are sufficient mental health
18 professionals so that all pupils who are plan enrollees receive
19 access to diagnosis and medically necessary ~~treatment of mental~~
20 ~~health and substance use disorders in accordance with the timely~~
21 ~~and geographic access standards for care delivery required by state~~
22 ~~law, as defined by Section 1300.67.2.2 and Section 1300.51 of~~
23 ~~Title 28 of the California Code of Regulations.~~ *mental health*
24 *services within 48 hours for an urgent care appointment or within*
25 *15 business days for a nonurgent appointment.*

26 (4) A health care ~~services~~ *service* plan and the LEA shall agree
27 upon an annual ~~capitated reimbursement rate payment based on~~
28 ~~the number of pupils who are enrolled at the LEA and are enrollees~~
29 ~~of the health care service plan. To determine the amount of the~~
30 ~~annual capitation payment, the LEA, in compliance with all~~
31 ~~applicable state and federal laws protecting a pupil's right to~~
32 ~~privacy and parental rights, shall annually inform a health care~~
33 ~~service plan of the number of pupils who are enrolled at the LEA~~
34 ~~and are enrollees of the health care service plan.~~ *payment from the*
35 *health care service plan to the LEA that will be used to fund one*
36 *or more school mental health professional positions.*

37 (5) A health care service plan shall designate one or more
38 mental health professionals employed by the LEA as an in-network
39 provider.

1 (b) (1) No later than March 1, 2022, and each subsequent year
2 thereafter, an LEA shall calculate the percent of enrolled pupils
3 that are plan enrollees for each health care service plan. If ~~more~~
4 ~~than~~ 15 percent *or more* of students are enrollees of a particular
5 health care service plan, the LEA shall notify the health care service
6 plan and inform them of the requirements under this section.

7 (2) A health care service plan shall have 30 business days to
8 respond to the LEA's notice. If a health care service plan fails to
9 respond and begin negotiations ~~on an MOU~~ *a contract* within 30
10 business days, the LEA may inform the health care service plan
11 that it intends to bill the health care service plan for services
12 provided to pupils who are plan enrollees pursuant to Section
13 1374.722.

14 (3) A health care service plan and an LEA shall have no more
15 than 90 business days after March 1 to reach agreement on the
16 ~~MOU contract~~ required by this section. If an agreement cannot be
17 reached within 90 business days, the parties may mutually agree
18 to extend the deadline by ~~no more than 30~~ *up to 90* additional
19 business days. If the parties fail to reach an agreement, the LEA
20 may continue to bill the health care service plan for services
21 provided to pupils who are plan enrollees pursuant to Section
22 1374.722.

23 (4) *If a health care service plan and an LEA have executed a*
24 *contract pursuant to this section, the LEA shall not bill the health*
25 *care service plan for services pursuant to Section 1374.722 for*
26 *the duration of the contract.*

27 (c) (1) One or more LEAs may enter into a joint partnership
28 agreement with the county office of education for the purposes of
29 meeting the obligations under this section. A health care service
30 plan is required to enter into only one ~~MOU contract~~ with the
31 LEAs in a joint partnership agreement.

32 (2) The LEAs in a joint partnership agreement may combine
33 their enrollment numbers to calculate the percent of enrolled pupils
34 who are enrollees of each health care service plan.

35 (d) *The State Department of Health Care Services, the*
36 *Department of Insurance, the Department of Managed Health*
37 *Care, and the State Department of Education shall develop a model*
38 *contract for use by LEAs, health care service plans, and health*
39 *insurers when implementing the requirements of this section or*
40 *Section 10144.54 of the Insurance Code.*

1 SEC. 4. Section 10144.53 is added to the Insurance Code, to
2 read:

3 10144.53. (a) To ensure timely access to behavioral health
4 interventions at the earliest onset of a behavioral health condition,
5 an appropriate mental health ~~professional~~ *professional*, as described
6 in Sections 49422 and 49424 of the Education Code and Chapters
7 6.6 (*commencing with Section 2900*), 13 (*commencing with Section*
8 *4980*), 14 (*commencing with Section 4991*), and 16 (*commencing*
9 *with Section 4999.10*) of Division 2 of the Business and
10 Professions Code may provide brief initial interventions when
11 necessary for all referred pupils, including pupils who are insureds
12 of a health insurance policy.

13 (b) (1) Brief initial interventions, for purposes of this article,
14 consist of ~~Medi-Cal covered~~ behavioral health ~~services~~ *services*,
15 *as described in paragraph (2)*, that are essential health benefits,
16 as defined in state and federal law, including Section 1300.67.005
17 of Title 28 of the California Code of Regulations, Sections 10144.5
18 and 10144.52 of this code, and the federal *Paul Wellstone and*
19 *Pete Domenici Mental Health Parity and Addiction Equity Act of*
20 *2008 (Public Law 110-343)*, and include, but are not limited to,
21 mental health ~~and substance use~~ disorder services specified in
22 California's essential health benefits benchmark plan.

23 (2) *Covered behavioral health services include preventive,*
24 *diagnostic, therapeutic, and rehabilitative services as described*
25 *in Section 51309 and subdivision (b) of Section 51360 of Title 22*
26 *of the California Code of Regulations.*

27 (c) (1) For pupils who are insureds of a health insurance policy,
28 the mental health professional or their designee ~~may~~ *shall* contact
29 the health insurer upon initiating the brief initial intervention
30 services described in subdivision (a) to facilitate a referral to the
31 insurer's network providers, as appropriate and consistent with
32 professionally recognized standards of practice, and in consultation
33 with the pupil and their parent or guardian, in compliance with all
34 applicable state and federal laws protecting a pupil's right to
35 ~~privacy and parental rights~~ *and right to consent, including Section*
36 *6924 of, and subdivision (b) of Section 6929 of, the Family Code,*
37 *Sections 123110 and 123115 of the Health and Safety Code, and*
38 *Sections 56.10 and 56.11 of the Civil Code, and parental rights,*
39 *including Section 164.502 of Title 45 of the Code of Federal*
40 *Regulations.*

1 (2) If a health insurer is unable to meet timely and geographic
2 access standards for care delivery required by state law, as defined
3 by Section 1300.67.2.2 and Section 1300.51 of Title 28 of the
4 California Code of Regulations, *offer the pupil an appointment*
5 *with a network provider within 48 hours for an urgent care*
6 *appointment or within 15 business days for a nonurgent*
7 *appointment*, the mental health professional may complete the
8 brief initial intervention services. If an insurer cannot meet timely
9 access standards for care delivery for *offer the pupil* mental health
10 services beyond the brief initial intervention services, the insurer
11 and the LEA shall may negotiate a single case agreement to
12 determine reimbursement for additional services.

13 (A) ~~A health insurer shall reimburse services provided to pupils~~
14 ~~by the mental health professional at the rate required by state and~~
15 ~~federal law for noncontracted providers.~~

16 (A) *Absent a single case agreement, a health insurer shall*
17 *reimburse the local educational agency for services provided to*
18 *pupils at the same rate that is provided to local educational*
19 *agencies participating in the LEA Medi-Cal Billing Option*
20 *program identified in Section 14115.8 of the Welfare and*
21 *Institutions Code.*

22 (B) A health insurer shall meet requirements for the timely
23 payment of claims for a contracted provider. If a health insurer
24 disputes the services provided or the amount, an insurer may submit
25 a dispute to the Department of Insurance, but shall still comply
26 with requirements for timely payment, including for services or
27 amounts in dispute.

28 (3) If a health insurer can meet timely and geographic access
29 standards for care delivery required by state law, as defined by
30 Section 1300.67.2.2 and Section 1300.51 of Title 28 of the
31 California Code of Regulations, *offer the pupil an appointment*
32 *with a network provider within 48 hours for an urgent care*
33 *appointment or within 15 business days for a nonurgent*
34 *appointment*, the mental health professional shall make a referral
35 to the insurer's provider.

36 (c) Pursuant to subdivision (h) of Section 10144.5, a health
37 insurer shall not limit benefits or reimbursement for medically
38 necessary services provided pursuant to this section on the basis
39 that those services should be, or could be, covered by a public
40 entitlement program, including, but not limited to, special education

1 or an individualized education program, Medi-Cal, Medicare,
 2 Supplemental Security Income, or Social Security Disability
 3 Insurance.

4 (d) A health insurer is encouraged to contract with LEAs to
 5 serve pupils who are receiving mental health services pursuant to
 6 this section.

7 (e) This section does not apply to a contract with a county mental
 8 health plan contracted with the State Department of Health Care
 9 Services pursuant to Chapter 8.9 (commencing with Section 14700)
 10 of Part 3 of Division 9 of the Welfare and Institutions Code.

11 (f) *The billing provisions of this section do not apply if the*
 12 *mental health professional providing the brief initial intervention*
 13 *services is employed by an LEA that has executed a contract*
 14 *pursuant to Section 10144.54 with a pupil's health insurer.*

15 SEC. 5. Section 10144.54 is added to the Insurance Code, to
 16 read:

17 10144.54. (a) A health insurer that is required to provide
 18 coverage for the medically necessary treatment of mental health
 19 ~~and substance abuse disorders pursuant to Sections 10144.5 and~~
 20 ~~10144.52, 10144.52 and the federal Paul Wellstone and Pete~~
 21 ~~Domenici Mental Health Parity and Addiction Equity Act of 2008~~
 22 ~~(Public Law 110-343), shall enter into a memorandum of~~
 23 ~~understanding (MOU) with all local educational agencies (LEAs)~~
 24 ~~contract with a local educational agency (LEA) if 15 percent or~~
 25 ~~more of the pupils enrolled are insured by the health insurer. The~~
 26 ~~MOU contract shall describe the terms under which an insurer~~
 27 ~~will coordinate with an LEA to provide diagnosis and medically~~
 28 ~~necessary treatment of mental health and substance use disorders~~
 29 ~~to insured pupils in one or more of the following ways:~~

30 (1) Pursuant to Section 10144.53, a health insurer shall
 31 reimburse
 32 ~~for the mental health services provided to insured pupils at the rate~~
 33 ~~required by state and federal law for noncontracted providers~~
 34 ~~at the same rate that is provided to LEAs participating in the LEA~~
 35 ~~Medi-Cal Billing Option program identified in Section 14115.8 of~~
 36 ~~the Welfare and Institutions Code~~
 37 if, upon referral, an insurer is unable to
 38 ~~meet timely and geographic access standards for care delivery~~
 39 ~~required by state law, as defined by Section 1300.67.2.2 and~~
 40 ~~Section 1300.51 of Title 28 of the California Code of Regulations.~~

1 *offer the pupil an appointment with a network provider within 48*
2 *hours for an urgent care appointment or within 15 business days*
3 *for a nonurgent appointment.*

4 (2) A health insurer shall designate and provide, through
5 in-network providers or through a contracted community-based
6 organization, one or more mental health professionals that shall
7 provide services on the school campus at intervals that are
8 sufficient to ensure that all insured pupils receive access to
9 diagnosis and medically necessary ~~treatment of mental health and~~
10 ~~substance use disorders.~~ *mental health services.* An insurer's
11 provider may use telehealth, as defined in Section 49429 of the
12 Education Code, to facilitate the diagnosis, consultation, treatment,
13 education, care management, and self-management of a pupil's
14 health care while the pupil is on the school campus and the health
15 care provider is at a distant location.

16 (3) A health insurer shall designate and provide, through
17 in-network providers or through a contracted community-based
18 organization, one or more mental health professionals that shall
19 provide services within a
20 ~~one~~
21 *30*

22 mile radius of the school campus where the referred pupil is
23 enrolled. An insurer shall ensure that there are sufficient mental
24 health professionals so that all insured pupils receive access to
25 diagnosis and medically necessary
26 ~~treatment of mental health and substance use disorders in~~
27 ~~accordance with the timely and geographic access standards for~~
28 ~~care delivery required by state law, as defined by Section~~
29 ~~1300.67.2.2 and Section 1300.51 of Title 28 of the California Code~~
30 ~~of Regulations.~~

31 *mental health services within 48 hours for an urgent care*
32 *appointment or within 15 business days for a nonurgent*
33 *appointment.*

34 (4) A health insurer and an LEA shall agree upon an annual
35 ~~capitated reimbursement rate payment based on the number of~~
36 ~~pupils who are enrolled at the LEA and are insured by the insurer.~~
37 ~~To determine the amount of the annual capitation payment, an~~
38 ~~LEA, in compliance with all applicable state and federal laws~~
39 ~~protecting a pupil's right to privacy and parental rights, shall~~
40 ~~annually inform an insurer of the number of pupils who are enrolled~~

1 ~~at the LEA and are insured by the insurer.~~ *payment from the health*
 2 *insurer to the LEA that will be used to fund one or more school*
 3 *mental health professional positions.*

4 (5) *A health insurer shall designate one or more mental health*
 5 *professionals employed by the LEA as an in-network provider.*

6 (b) (1) No later than March 1, 2022, and each subsequent year
 7 thereafter, an LEA shall calculate the percent of enrolled pupils
 8 insured by each health insurer. ~~If more than 15 percent or more of~~
 9 ~~students are insured by a particular insurer, the LEA shall notify~~
 10 ~~the insurer and inform them of the requirements under this section.~~

11 (2) A health insurer shall have 30 business days to respond to
 12 an LEA's notice. If a health insurer fails to respond and begin
 13 negotiations ~~on an MOU~~ *a contract* within 30 business days, an
 14 LEA may inform the insurer that it intends to bill the insurer for
 15 services provided to insured pupils pursuant to Section 10144.53.

16 (3) A health insurer and an LEA shall have no more than 90
 17 business days after March 1 to reach agreement on the ~~MOU~~
 18 *contract* required by this section. If an agreement cannot be reached
 19 within 90 business days, the parties may mutually agree to extend
 20 the deadline by ~~no more than 30~~ *up to 90* additional business days.
 21 If the parties fail to reach an agreement, the LEA may continue to
 22 bill the insurer for services provided to insured pupils pursuant to
 23 Section 10144.53.

24 (4) *If a health insurer and an LEA have executed a contract*
 25 *pursuant to this section, the LEA shall not bill the health insurer*
 26 *for services pursuant to Section 10144.53 for the duration of the*
 27 *contract.*

28 (c) (1) One or more LEAs may enter into a joint partnership
 29 agreement with the county office of education for the purposes of
 30 meeting the obligations under this section. A health insurer is
 31 required to enter into only one ~~memorandum of understanding~~
 32 *contract* with the LEAs in a joint partnership agreement.

33 (2) The LEAs in a joint partnership agreement may combine
 34 their enrollment numbers to calculate the percent of enrolled pupils
 35 insured by each health insurer.

36 (d) *An LEA and a health insurer may use the model contract*
 37 *developed pursuant to Section 1374.723 of the Health and Safety*
 38 *Code when implementing the requirements of this section.*

39 SEC. 6. Section 14132.06 of the Welfare and Institutions Code
 40 is amended to read:

1 14132.06. (a) Services specified in this section that are
2 provided by a local educational agency are covered Medi-Cal
3 benefits, to the extent federal financial participation is available,
4 and subject to utilization controls and standards adopted by the
5 department, and consistent with Medi-Cal requirements for
6 physician prescription, order, and supervision.

7 (b) Any provider enrolled on or after January 1, 1993, to provide
8 services pursuant to this section may bill for those services
9 provided on or after January 1, 1993.

10 (c) This section shall not be interpreted to expand the current
11 category of professional health care practitioners permitted to
12 directly bill the Medi-Cal program.

13 (d) This section is not intended to increase the scope of practice
14 of any health *care* professional providing services under this
15 section or Medi-Cal requirements for physician prescription, order,
16 and supervision.

17 (e) (1) For the purposes of this section, the local educational
18 agency, as a condition of enrollment to provide services under this
19 section, shall be considered the provider of services. A local
20 educational agency provider, as a condition of enrollment to
21 provide services under this section, shall enter into, and maintain,
22 a contract with the department in accordance with guidelines
23 contained in regulations adopted by the director and published in
24 Title 22 of the California Code of Regulations.

25 (2) Notwithstanding paragraph (1), a local educational agency
26 providing services pursuant to this section shall utilize current
27 safety net and traditional health care providers, when those
28 providers are accessible to specific schoolsites identified by the
29 local educational agency to participate in this program, rather than
30 adding duplicate capacity.

31 (f) For the purposes of this section, covered services may include
32 all of the following local educational agency services:

33 (1) Health and mental health evaluations and health and mental
34 health education.

35 (2) Medical transportation.

36 (A) The following provisions shall not apply to medical
37 transportation eligible to be billed under this section:

38 (i) Section 51323(a)(2)(A) of Title 22 of the California Code
39 of Regulations.

1 (ii) Section 51323(a)(3)(B) of Title 22 of the California Code
2 of Regulations.

3 (iii) For students whose medical or physical condition does not
4 require the use of a gurney, Section 51231.1(f) of Title 22 of the
5 California Code of Regulations.

6 (iv) For students whose medical or physical condition does not
7 require the use of a wheelchair, Section 51231.2(e) of Title 22 of
8 the California Code of Regulations.

9 (B) (i) Subparagraph (A) shall become inoperative on January
10 1, 2018, or on the date the director executes a declaration stating
11 that the regulations implementing subparagraph (A) and Section
12 14115.8 have been updated, whichever is later.

13 (ii) The department shall post the declaration executed under
14 clause (i) on its internet website and transmit a copy of the
15 declaration to the Assembly Committee on Budget and the Senate
16 Committee on Budget and Fiscal Review and the LEA Ad Hoc
17 Workgroup.

18 (iii) If subparagraph (A) becomes inoperative on January 1,
19 2018, subparagraph (A) and this subparagraph shall be inoperative
20 on January 1, 2018, unless a later enacted statute enacted before
21 that date, deletes or extends that date.

22 (iv) If subparagraph (A) becomes inoperative on the date the
23 director executes a declaration as described in clause (i),
24 subparagraph (A) and this subparagraph shall be inoperative on
25 the January 1 immediately following the date subparagraph (A)
26 becomes inoperative, unless a later enacted statute enacted before
27 that date, deletes or extends that date.

28 (3) Nursing services.

29 (4) Occupational therapy.

30 (5) Physical therapy.

31 (6) Physician services.

32 (7) Mental health and counseling services.

33 (8) School health aide services.

34 (9) Speech pathology services. These services may be provided
35 by either of the following:

36 (A) A licensed speech pathologist.

37 (B) A credentialed speech-language pathologist, to the extent
38 authorized by Chapter 5.3 (commencing with Section 2530) of
39 Division 2 of the Business and Professions Code.

40 (10) Audiology services.

1 (11) Targeted case management services for children regardless
2 of whether the child has an individualized education plan (IEP) or
3 an individualized family service plan (IFSP).

4 (g) (1) Local educational agencies may, but need not, provide
5 any or all of the services specified in subdivision (f).

6 (2) Notwithstanding any other law, and consistent with federal
7 requirements, telehealth, as defined in Section 2290.5 of the
8 Business and Professions Code, is an approved modality for service
9 delivery under this section, except for services, such as specialized
10 medical transportation services, that preclude a telehealth modality.
11 LEAs may use any appropriate ~~non-public facing~~ *nonpublic-facing*
12 remote communication products that meet privacy and security
13 requirements in their delivery of billable telehealth services. The
14 department shall reimburse for covered services provided via
15 telehealth in the same manner and at the same rate as for
16 face-to-face services. The department shall not pay for ancillary
17 costs, such as technical support, transmission charges, and
18 equipment.

19 (h) For the purposes of this section, “local educational agency”
20 means the governing body of any school district or community
21 college district, the county office of education, a charter school, a
22 state special school, a California State University campus, or a
23 University of California campus.

24 (i) Notwithstanding any other law, a community college district,
25 a California State University campus, or a University of California
26 campus, consistent with the requirements of this section, may bill
27 for services provided to any student, regardless of age, who is a
28 Medi-Cal recipient.

29 (j) No later than July 1, 2013, and every year thereafter, the
30 department shall make publicly accessible an annual accounting
31 of all funds collected by the department from federal Medicaid
32 payments allocable to local educational agencies, including, but
33 not limited to, the funds withheld pursuant to subdivision (g) of
34 Section 14115.8. The accounting shall detail amounts withheld
35 from federal Medicaid payments to each participating local
36 educational agency for that year. One-time costs for the
37 development of this accounting shall not exceed two hundred fifty
38 thousand dollars (\$250,000).

39 (k) (1) If the requirements in paragraphs (2) and (4) are
40 satisfied, the department shall seek federal financial participation

1 for covered services that are provided by a local educational agency
2 pursuant to subdivision (a) to a child who is an eligible Medi-Cal
3 beneficiary, regardless of either of the following:

4 (A) Whether the child has an IEP or an IFSP.

5 (B) Whether those same services are provided at no charge to
6 the beneficiary or to the community at large.

7 (2) The local educational agency shall take all reasonable
8 measures to ascertain and pursue claims for payment of covered
9 services specified in this section against legally liable third parties
10 pursuant to Section 1902(a)(25) of the federal Social Security Act
11 (42 U.S.C. Sec. 1396a(a)(25)).

12 (3) If a legally liable third party receives a claim submitted by
13 a local educational agency pursuant to paragraph (2), the legally
14 liable third party shall either reimburse the claim or issue a notice
15 of denial of noncoverage of services or benefits. If there is no
16 response to a claim submitted to a legally liable third party by a
17 local educational agency within 45 days, the local educational
18 agency may bill the Medi-Cal program pursuant to subdivision
19 (b). The local educational agency shall retain a copy of the claim
20 submitted to the legally liable third party for a period of three
21 years.

22 (4) This subdivision shall not be implemented until the
23 department obtains any necessary federal approvals.

24 SEC. 7. Section 14197.15 is added to the Welfare and
25 Institutions Code, immediately following Section 14197.1, to read:

26 14197.15. (a) A Medi-Cal managed care plan shall comply
27 with the requirements in Sections 1374.722 and 1374.723 of the
28 Health and Safety Code, relating to agreements with local
29 educational agencies (LEAs) for the provision of mental health
30 services to students on school campuses.

31 (b) Notwithstanding Chapter 3.5 (commencing with Section
32 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
33 the department, without taking any further regulatory action, may
34 implement, interpret, or make specific this section by means of
35 all-county letters, plan letters, plan or provider bulletins, or similar
36 instructions until the time regulations are adopted.

37 (c) The department shall seek any federal approvals it deems
38 necessary to implement this section. This section shall be
39 implemented only to the extent that any necessary federal approvals

1 are obtained and federal financial participation is available and is
2 not otherwise jeopardized.

3 (d) This section does not apply to a contract with a county
4 mental health plan contracted with the State Department of Health
5 Care Services pursuant to Chapter 8.9 (commencing with Section
6 14700).

7 SEC. 8. No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution for certain
9 costs that may be incurred by a local agency or school district
10 because, in that regard, this act creates a new crime or infraction,
11 eliminates a crime or infraction, or changes the penalty for a crime
12 or infraction, within the meaning of Section 17556 of the
13 Government Code, or changes the definition of a crime within the
14 meaning of Section 6 of Article XIII B of the California
15 Constitution.

16 However, if the Commission on State Mandates determines that
17 this act contains other costs mandated by the state, reimbursement
18 to local agencies and school districts for those costs shall be made
19 pursuant to Part 7 (commencing with Section 17500) of Division
20 4 of Title 2 of the Government Code.