

Date of Hearing: April 26, 2017

ASSEMBLY COMMITTEE ON EDUCATION  
Patrick O'Donnell, Chair  
AB 254 (Thurmond) – As Amended April 17, 2017

**[This bill was doubled referred and was heard by the Assembly Health Committee on matters that are within their jurisdiction.]**

**SUBJECT:** Local Educational Agency Pilot for Overall Needs

**SUMMARY:** Provides grants funds to local education agencies to expand health care services to all pupils. Specifically, **this bill:**

- 1) Requires the Department of Health Care Services (DHCS), in cooperation with the State Department of Education (CDE), to establish the Local Educational Agency Pilot for Overall Needs for the purpose of increasing comprehensive and integrated physical and mental health services as part of a whole person care approach.
- 2) Defines the following terms:
  - a) "Department" means the State Department of Health Care Services.
  - b) "Eligible participant" means either of the following:
    - i) A local educational agency (LEA) that does not participate in the Medi-Cal billing option for LEAs.
    - ii) An LEA that participates in the Medi-Cal billing option for LEAs, but which receives low reimbursement relative to the number of students enrolled in the Medi-Cal program who would be eligible to receive covered services.
  - c) "Direct health services" means those services that DHCS has identified as reimbursable services under the Medi-Cal billing option for LEAs and physical and mental health care services that are not covered under the Medi-Cal billing option for LEAs, including, but not limited to, any or all of the following:
    - (1) Management of chronic medical conditions.
    - (2) Basic laboratory tests.
    - (3) Reproductive health services.
    - (4) Nutrition services.
    - (5) Mental health and alcohol and substance abuse service assessments, crisis intervention, counseling, treatment, and referral to a continuum of services including emergency psychiatric care, evidence-based mental health or alcohol

and substance abuse treatment services, community support programs, inpatient care, and outpatient programs

- (6) Oral health services that may include preventive services, basic restorative services, and referral to specialty services.
  - d) “Program” means the Local Educational Agency Pilot for Overall Needs.
  - e) “School health center” means a center or program, located at or near an LEA, that provides age-appropriate health care services at the program site or through referrals.
- 3) Requires DHCS to do all of the following:
- a) Encourage the participation in the program of eligible participants that are not yet participating in the program.
  - b) Provide technical assistance to LEAs that seek to participate in the program or that are eligible participants. Technical assistance includes, but is not limited to, identifying public and private funding sources that will assist the LEA in enrolling students in the Medi-Cal program.
  - c) Develop a request for proposals process that collects applicant information and determines which proposals shall receive funding.
- 4) Requires an LEA that participates in the program to do all of the following:
- a) Use funds received through the program to increase direct health services provided to all registered students, with a concerted effort toward providing services to students enrolled in the Medi-Cal program. Funds received through the program shall be used to fund new on-site direct health services not already provided by the LEA.
  - b) Strive to provide integrated physical and mental health services that are individualized and supportive of students, and where appropriate their families, to ensure that health, social, or behavioral challenges are addressed.
  - c) Create a sustainability plan that establishes how the LEA will seek to maximize the use of public funds, including, but not limited to, participation in federal reimbursement programs.
  - d) Make a concerted effort toward enrolling students eligible for the Medi-Cal program into the Medi-Cal program.
- 5) Requires an LEA that participates in the program to participate in the Medi-Cal billing option for LEAs by the time the LEA begins participation in the program.
- 6) Requires a reimbursement received through the program for direct health services provided by the LEA to be used in accordance with applicable federal laws, regulations, or guidelines.

- 7) Authorizes an LEA participating in the program to provide direct health services through direct employment of health care providers, such as school nurses, or by contracting with other health care providers or school health centers for the purpose of supplementing services; and, specifies the Legislature does not intend for a school health center to serve as a substitute for a school nurse directly employed by an LEA.
- 8) Requires an LEA that contracts with a health care provider or school health center to do both of the following:
  - a) Create and maintain a mechanism, described in writing, to coordinate services provided to individual students among school staff and school health center staff while maintaining the confidentiality and privacy of health information consistent with applicable state and federal law.
  - b) Create and maintain a contract or memorandum of understanding between the LEA, the health care provider or school health center, and any other provider agencies that describes the relationship between the LEA and the school health center, if applicable.
- 9) Requires a school health center that contracts with an LEA to be or to be eligible to become an enrolled Medi-Cal provider at the time of contracting and to do all of the following:
  - a) Work in partnership with the school nurse, if one is employed by the LEA, to provide direct health services that are either not provided by the LEA or that are provided by the LEA but require supplementation in order to improve services delivered to students under the program.
  - b) Serve all registered students enrolled in school without regard to ability to pay, with a concerted effort toward providing services to students enrolled in the Medi-Cal program.
  - c) Seek reimbursement from and have procedures in place for billing public and private health insurers or health care service plans for covered services provided to students by the school health center.
- 10) Authorizes, for the purposes of the program, a school health center to provide direct health services, to provide referrals for services not offered at the school health center site; and, to serve two or more nonadjacent schools or LEAs.
- 11) Specifies this program shall be implemented only upon appropriation of funds for the program and to the extent that any necessary federal approvals have been obtained and the program shall operate for four years from the date of the appropriation, notwithstanding fiscal years.
- 12) Requires, upon the depletion of funds appropriated for the program and the termination of the program, DHCS to submit a report, in the aggregate, to the Assembly Committee on Appropriations and the Senate Committee on Appropriations that to include, but not be limited to, all of the following information:
  - a) An evaluation of the need for funding school-based health services and their connection to early mental health outcomes.

- b) The impact of the program on student well-being, academic achievement, school engagement, attendance, and other outcome and indicator measures collected by LEAs participating in the program.

**EXISTING LAW:**

- 1) Establishes the Medi-Cal program, administered by DHCS under which qualified low-income individuals receive health care services.
- 2) Requires DHCS to amend the Medicaid state plan with respect to the LEA Billing Program for services provided by LEAs, to ensure that schools be reimbursed for all eligible services that they provide that are not precluded by federal requirements.
- 3) Authorizes DHCS to contract with local governmental agency (LGAs) or local education consortium (LECs) to assist with the performance of administrative activities necessary for the proper and efficient administration of the Medi-Cal program through the Medi-Cal Administrative Activities (MAA) program.
- 4) Defines the scope of covered services that an LEA may provide, including targeted case management services (TCM) for children with an Individualized Education Program (IEP) or an Individual Family Service Plan (IFSP).
- 5) Permits DHCS to contract with each participating LGA or each LEC to assist with the performance of administrative activities necessary for the proper and efficient administration of the Medi-Cal program.
- 6) Requires DHCS to examine methodologies for increasing school participation in the Medi-Cal billing option for LEAs so that schools can meet the health care needs of their students and requires DHCS to simplify claiming processes for LEA billing.
- 7) Requires DHCS to regularly consult with CDE, representatives of urban, rural, large and small school districts, county offices of education, the LECs, and LEAs.
- 8) Requires each LEA that elects to participate in the MAA program to submit claims through its LEC or LGA, but not both.
- 9) Defines a LEA for purposes of the MAA program as the governing body of any school district or community college district, the county office of education, a state special school, a California State University campus, or a University of California campus that participates in the Administrative Claiming process as a subcontractor to the LEC in its service region.

**FISCAL EFFECT:** Unknown

**COMMENTS:** This bill creates a grant program for local education agencies (LEAs) to provide expanded health care services to all students. The program emphasizes services to Medi-Cal eligible pupils but also requires districts expand their current services to all students.

According to the author, "The Local Education Agency (LEA) Billing Program provides up to a 50% federal reimbursement for a specified direct health services provided to Medi-Cal-enrolled

students. Reimbursement is limited to services that are already provided by a school district and cannot go to create a new service, nor replace funding levels for an existing program. Examples of reinvestments can include health care services (e.g. immunizations) and mental health services (e.g. primary prevention and crisis intervention, assessments, or training for teachers to recognize mental health problems).

On September 15, 2015, as allowed by the Federal government, California has joined other states in reversing the free care rule. The removal of this rule now permits reimbursement for Medi-Cal-covered services provided to Medi-Cal enrollees, regardless of whether the service is also provided at no cost to other non-Medi-Cal populations. The reversal frees up schools to seek reimbursement for services to all Medi-Cal students; enhance and expand the role of school districts in the broader health delivery system. In addition, the Department of Health Care Services is in on-going conversations with the Centers for Medicare & Medicaid Services to expand the reimbursable services, providers who can be reimbursed, and a change in the billing methodology that could reduce staff time required.

These potential changes to the LEA Billing Option program present an opportunity for the State of California to promote school-based health care services while attaining a return-on-investment from the federal government. In targeting school districts with students who could most benefit from this pilot program, this bill would improve educational outcomes through more wholesome school-based physical and mental healthcare services."

**LEA Billing Program.** The LEA Billing Program was established in 1993 in conjunction with CDE and has provided Medicaid funds to LEAs for health-related services provided to students who have IEPs or IFSPs. The LEA Billing Program provides the federal share of reimbursement for health assessment and treatment for Medi-Cal eligible children and family members within the school environment. A LEA provider employs or contracts with qualified medical practitioners to render certain health services. Reimbursement is based upon a "fee-for-service" model. School expenditures for services rendered are reimbursed at 50% of cost. Eligible services include the following:

- 1) Health and Mental Health Evaluation and Education (Assessments)
- 2) Physical Therapy
- 3) Occupational Therapy
- 4) Speech Therapy
- 5) Audiology Services
- 6) Psychology and Counseling
- 7) Nursing Services and Trained Health Care Aide Services
- 8) Physician Services
- 9) Medical Transportation and Mileage
- 10) Targeted Case Management Services

**Recent change in federal policy.** Prior to 2014, under long-standing policy known as the "free care rule," LEAs could not receive payment for services which they made available without charge to Medi-Cal eligible students or to the community at large unless all students were billed for the service. For example, if all children in a school received hearing evaluations, Medi-Cal could not be billed for the hearing evaluations provided to Medi-Cal recipients unless all students, regardless of insurance status, were billed for the services as well. This meant that

before being able to bill, schools had to bill a variety of private insurers as well as Medi-Cal. This was an administrative burden that many LEAs found prohibitive.

In December, 2014, the Centers for Medicare and Medicaid Services (CMS) issued new guidance which will allow LEAs to serve all Medi-Cal-eligible students, whether or not they have an IEP or an IFSP. While California receives the largest total share of federal funds, the amount the state receives per eligible student is low relative to other states. In 2009-10, California served 240,000 of its 3.3 million eligible students, resulting in an average of \$159 per eligible student. The average among the 32 states surveyed was \$544 per eligible student. Nebraska (with 103,000 eligible students) received \$796 per eligible student, Vermont received \$694 per eligible student, and Rhode Island received \$635 per eligible student (all figures include Medicaid administrative funds).

The December 2014 guidance reversed the above administrative requirement, allowing Medicaid reimbursement for covered services under the approved state plan that are provided to Medicaid beneficiaries, regardless of whether there is any charge for the service to the beneficiary or the community at large. As a result, funding is available for Medicaid payments for care provided through providers that do not charge individuals for the service, as long as all other Medicaid requirements are met.

***How will school districts know that they qualify?*** This bill specifies that districts are eligible for the grant program in one of two cases: either the district does not currently participate in the Medi-Cal billing option, or the district participates in the Medi-Cal billing option but receives low reimbursement rates relative to the number of students enrolled in the Medi-Cal program who would be eligible to receive covered services. First, it is unclear how many school districts currently opt-out of the Medi-Cal billing option program. One data list provided by DHCS ranks 537 LEAs based on reimbursement rates. Does this mean that only 537 LEAs participate in the Medi-Cal billing option? There are nearly 1,000 school districts, 58 county offices of education and over 1,200 charter schools in this State. Second, would a district that currently participates in the Medi-Cal billing option program know whether they have a low reimbursement rate, and therefore know that they qualify for this grant program? The committee should consider whether the eligibility criteria for the grant program are clear to potential program applicants.

***Purpose of the Grant Funds.*** It is unclear for what purpose the grant funds shall be used. The language in the bill specifies that districts must expand physical and mental health care services not covered under the LEA billing option program. Therefore, districts must expand services that they will not receive reimbursement for from the federal government. Is the grant funding meant to cover the costs of providing these expanded services? Or, is the grant program meant to fund staff to provide these services? The committee should consider whether the scope of the grant program will provide enough funding to cover both the cost of increased health care staff, but also the cost of the non-reimbursable health care services.

***Funding.*** This bill specifies that the program shall go into effect upon appropriation of funds in the State budget. According to the author, the intent is to seek \$60 million over 3 years from the Prop. 63 administrative cap fund, to fund this grant program. The \$60 million over 3 years could potentially fund approximately 20 districts at \$1 million per year, per district.

***Committee Amendments:*** The Health Committee passed this bill with the understanding that the following amendments would be processed by our committee, due to the Legislative deadline.

- 1) This bill requires a report on the Pilot Program to be submitted only to the Assembly and Senate Appropriations Committees. The bill should be amended to require the reports to be submitted the appropriate policy committees.
- 2) This bill creates an expansion of services in the LEA Billing Program without federal participation/approval. Currently, the following health services are not considered reimbursable services, and would therefore not be eligible for FFP:
  - a. Management of chronic medical conditions;
  - b. Basic laboratory tests;
  - c. Reproductive health services;
  - d. Nutrition services;
  - e. Mental health and alcohol and substance abuse service assessments, crisis intervention, counseling, treatment, and referral to a continuum of services including emergency psychiatric care, evidence-based mental health or alcohol and substance abuse treatment services, community support programs, inpatient care, and outpatient programs; and,
  - f. Oral health services that may include preventive services, basic restorative services, and referral to specialty services.

The bill should be amended to specify that necessary Medicaid state plan amendments be required before implementation of the Pilot Program.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California Academy of Child and Adolescent Psychiatry

**Opposition**

None on file

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