

Senate Bill No. 785

CHAPTER 469

An act to add Sections 5777.7, 11376, and 16125 to the Welfare and Institutions Code, relating to public social services.

[Approved by Governor October 11, 2007. Filed with
Secretary of State October 11, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

SB 785, Steinberg. Foster children: mental health services.

Existing law requires the State Department of Mental Health to implement managed mental health care for Medi-Cal beneficiaries through fee-for-service or capitated rate contracts with mental health plans, including individual counties, counties acting jointly, any qualified individual or organization, or a nongovernmental entity. Under existing law, this may include the provision of specialty mental health services to children in foster care.

This bill would require the State Department of Mental Health, by July 1, 2008, to create a standardized contract, service authorization procedure, and set of documentation standards and forms, and to use these items to facilitate the receipt of medically necessary specialty mental health services by a foster child who is placed outside of his or her county of original jurisdiction, as specified. In addition, the bill would require the California Health and Human Services Agency to coordinate the efforts of the State Department of Mental Health and the State Department of Social Services for the performance of designated duties with respect to implementing these provisions, including establishing informational materials for foster care providers and county child welfare agencies, relating to the provision of mental health services to children in their care, as specified.

Existing law provides for the Adoption Assistance Program, administered by the State Department of Social Services, which provides for the payment by the department and counties of cash assistance to eligible families that adopt eligible children, and bases the amount of the payment on the needs of the child and the resources of the family to meet those needs. Under existing law, the department or licensed adoption agency is required, among other duties, to provide the prospective adoptive family with information on the availability of mental health services through the Medi-Cal program or other programs.

Existing law provides that the county responsible for determining the child's eligibility for the program, and for providing financial aid is the county that at the time of the adoptive placement would otherwise be responsible for making a payment pursuant to the CalWORKs program or

the Aid to Families with Dependent Children-Foster Care program if the child were not adopted.

Existing law provides for Kinship Guardianship Assistance Payment Program (Kin-GAP), as a part of the CalWORKs program, which provides aid on behalf of specified categories of eligible children who are placed in the home of a relative caretaker. Existing law provides that the county that formally had court ordered jurisdiction over a child receiving benefits under the Kin-GAP program shall be responsible for paying the child's aid regardless of where the child actually resides, so long as the child resides in California.

This bill would provide that a foster child whose adoption has become final and who is receiving or is eligible to receive Adoption Assistance Program assistance, including Medi-Cal, or who has become the subject of a legal guardianship and is receiving Kin-GAP assistance, including Medi-Cal, and whose foster care court supervision has been terminated, shall be provided medically necessary specialty mental health services, as specified.

This bill would require the State Department of Mental Health, if necessary, to seek federal approval prior to implementing the bill.

To the extent that it would impose new duties on county child welfare departments in connection with the provision of mental health services to foster children, this bill would impose a state-mandated local program.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

SECTION 1. Section 5777.7 is added to the Welfare and Institutions Code, to read:

5777.7. (a) In order to facilitate the receipt of medically necessary specialty mental health services by a foster child who is placed outside of his or her county of original jurisdiction, the State Department of Mental Health shall take all of the following actions:

(1) On or before July 1, 2008, create all of the following items, in consultation with stakeholders, including, but not limited to, the California Institute of Mental Health, the Child and Family Policy Institute, the California Mental Health Directors Association, and the California Alliance of Child and Family Services:

(A) A standardized contract for the purchase of medically necessary specialty mental health services from organizational providers, when a contract is required.

(B) A standardized specialty mental health service authorization procedure.

(C) A standardized set of documentation standards and forms, including, but not limited to, forms for treatment plans, annual treatment plan updates, day treatment intensive and day treatment rehabilitative progress notes, and treatment authorization requests.

(2) On or before January 1, 2009, use the standardized items as described in paragraph (1) of subdivision (a) to provide medically necessary specialty mental health services to a foster child who is placed outside of his or her county of original jurisdiction, so that organizational providers who are already certified by a mental health plan are not required to be additionally certified by the mental health plan in the county of original jurisdiction.

(3) (A) On or before January 1, 2009, use the standardized items described in paragraph (1) of subdivision (a) to provide medically necessary specialty mental health services to a foster child placed outside of his or her county of original jurisdiction to constitute a complete contract, authorization procedure, and set of documentation standards and forms, so that no additional documents are required.

(B) Authorize a county mental health plan to be exempt from subparagraph (A) and have an addendum to a contract, authorization procedure, or set of documentation standards and forms, when the county mental health plan has an externally placed requirement, such as a requirement from a federal integrity agreement, that would affect one of these documents.

(4) Following consultation with stakeholders, including, but not limited to, the California Institute of Mental Health, the Child and Family Policy Institute, the California Mental Health Directors Association, the California State Association of Counties, and the California Alliance of Child and Family Services, require the use of the standardized contracts, authorization procedures, and documentation standards and forms as specified in paragraph (1) of subdivision (a) in the 2008–09 state-county mental health plan contract and each state-county mental health plan contract thereafter.

(5) The mental health plan shall complete a standardized contract, as provided in paragraph (1) of subdivision (a), if a contract is required, or another mechanism of payment if a contract is not required, with a provider or providers of the county's choice, to deliver approved specialty mental health services for a specified foster child, within 30 days of an approved Treatment Authorization Request (TAR).

(b) The California Health and Human Services Agency shall coordinate the efforts of the State Department of Mental Health and the State Department of Social Services to do all of the following:

(1) Participate with the stakeholders in the activities described in this section.

(2) During budget hearings in 2008 and 2009, report to the Legislature regarding the implementation of this section and subdivision (c) of Section 5777.6.

(3) On or before July 1, 2008, establish the following, in consultation with stakeholders, including, but not limited to, the California Mental Health Directors Association, the California Alliance of Child and Family Services, and the County Welfare Directors Association:

(A) Informational materials that explain to foster care providers how to arrange for mental health services on behalf of the beneficiary in their care.

(B) Informational materials that county child welfare agencies can access relevant to the provision of services to children in their care from the out-of-county local mental health plan that is responsible for providing those services, including, but not limited to, receiving a copy of the child's treatment plan within 60 days after requesting services.

(C) It is the intent of the Legislature to ensure that foster children who are adopted or placed permanently with relative guardians, and who move to a county outside their original county of residence, can access mental health services in a timely manner. It is the intent of the Legislature to enact this section as a temporary means of ensuring access to these services, while the appropriate stakeholders pursue a long-term solution in the form of a change to the Medi-Cal Eligibility Data System (MEDS) that will allow these children to receive mental health services through their new county of residence.

SEC. 2. Section 11376 is added to the Welfare and Institutions Code, to read:

11376. A foster child who has become the subject of a legal guardianship, who is receiving assistance under the Kin-Gap Program, including Medi-Cal, and whose foster care court supervision has been terminated, shall be provided medically necessary specialty mental health services by the local mental health plan in the county of residence of his or her legal guardian, pursuant to all of the following:

(a) The host county mental health plan shall be responsible for submitting the treatment authorization request (TAR) to the mental health plan in the county of origin.

(b) The requesting public or private service provider shall prepare the TAR.

(c) The county of origin shall retain responsibility for authorization and reauthorization of services utilizing an expedited TAR process.

SEC. 3. Section 16125 is added to the Welfare and Institutions Code, to read:

16125. A foster child whose adoption has become final, who is receiving or is eligible to receive Adoption Assistance Program assistance, including Medi-Cal, and whose foster care court supervision has been terminated, shall be provided medically necessary specialty mental health services by the local mental health plan in the county of residence of his or her adoptive parents, pursuant to all of the following:

(a) The host county mental health plan shall be responsible for submitting the treatment authorization request (TAR) to the mental health plan in the county of origin.

(b) The requesting public or private service provider shall prepare the TAR.

(c) The county of origin shall retain responsibility for authorization and reauthorization of services utilizing an expedited TAR process.

SEC. 4. (a) If the State Department of Mental Health determines it is necessary, the department shall seek approval under the state's Section 1915(b) Medicaid waiver from the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) prior to implementation of this act.

(b) The department shall make the determination of the necessity to secure CMS approval and, should approval be deemed necessary, shall make the official request for approval from CMS by July 1, 2008, and shall do all that is necessary within its power to secure an expeditious approval from CMS.

(c) The department shall not be required to implement any section of this act that is determined by CMS not to be permitted under the state's waiver.

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.