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An act to amend Section 14717.1 of the Welfare and Institutions Code,
relating to Medi-Cal.



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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 14717.1 of the Welfare and Institutions Code is amended to read:

14717.1. (a) (1) It is the intent of the Legislature to ensure that foster children who are placed outside of their county of original jurisdiction are able to access specialty mental health services in a timely manner, consistent with their individual strengths and needs and the requirements of federal Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) services.

(2) It is the further intent of the Legislature to overcome any barriers to care that may result when responsibility for providing or arranging for specialty mental health services to foster children who are placed outside of their county of original jurisdiction is retained by the county of original jurisdiction.

(b) 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 California Health and Human Services Agency shall coordinate with the department and the State Department of Social Services to take all of the following actions on or before July 1, 2017:

(1) The department shall issue policy guidance concerning the conditions for and exceptions to presumptive transfer, as described in subdivisions (c) and (d), in consultation with the State Department of Social Services and with the input of stakeholders that include the County Welfare Directors Association of California, the Chief Probation Officers of California, the County Behavioral Health Directors Association of California, provider representatives, and family and youth advocates.



(2) Policy guidance concerning the conditions for and exceptions to presumptive transfer shall ensure that:

(A) The transfer of responsibility improves access to specialty mental health care services consistent with the mental health needs of the foster youth.

(B) Presumptive transfer does not disrupt the continuity of care.

(C) Conditions and exceptions are applied consistently statewide giving due consideration to the varying capabilities of small, medium, and large counties.

(D) Presumptive transfer can be waived only with an individualized determination that an exception applies.

(E) A party to the case who disagrees with the presumptive transfer individualized exception determination made by the county placing agency pursuant to subdivision (d) is afforded an opportunity to request judicial review prior to a transfer or exception being finalized.

(F) There is a procedure for expedited transfer within 48 hours of placement of the child outside of the county of original jurisdiction.

(c) "Presumptive transfer," for the purposes of this section, means that absent any exceptions as established pursuant to this section, responsibility for providing or arranging for specialty mental health services shall promptly transfer from the county of original jurisdiction to the county in which the foster child resides, under either of the following conditions:

(1) A foster child is placed in a county other than the county of original jurisdiction on or after July 1, 2017.



(2) A foster youth who resides in a county other than the county of original jurisdiction after June 30, 2017, and is not receiving specialty mental health services consistent with his or her mental health needs, requests transfer of responsibility. A foster child who resided in a county other than the county of original jurisdiction after June 30, 2017, and who continues to reside outside the county of original jurisdiction after December 31, 2017, shall have jurisdiction transferred no later than the child's first regularly scheduled status review hearing conducted pursuant to Section 366 in the 2018 calendar year unless an exception described under subdivision (d) applies.

(d) (1) On a case-by-case basis, and when consistent with the medical rights of children in foster care, presumptive transfer may be waived and the responsibility for the provision of specialty mental health services shall remain with the county of original jurisdiction if any of the exceptions described in paragraph (5) exist.

(2) A request for waiver in a manner established by the department may be made by the foster child, the person or agency that is responsible for making mental health care decisions on behalf of the foster child, the county probation agency or the child welfare services agency with responsibility for the care and placement of the child, or any other interested party who owes a legal duty to the child involving the child's health or welfare, as defined by the department.

(3) The county probation agency or the child welfare services agency with responsibility for the care and placement of the child, in consultation with the child and his or her parent, the child and family team if one exists, and other professionals who serve the child as appropriate, is responsible for determining whether waiver of the presumptive transfer is appropriate pursuant to the conditions and exceptions



established under this section. The person who requested the exception, along with any other parties to the case, shall receive notice of the county agency's determination.

(4) The individual who requested the exception or any other party to the case who disagrees with the determination made by the county agency pursuant to paragraph (3) may request judicial review prior to the county's determination becoming final. The court may set the matter for hearing and may confirm or deny the transfer of jurisdiction or application of an exception based on the best interest of the child.

(5) Presumptive transfer may be waived under any of the following exceptions:

(A) It is determined that the transfer would disrupt continuity of care or delay access to services provided to the foster child.

(B) It is determined that the transfer would interfere with family reunification efforts documented in the individual case plan.

(C) The foster child's placement in a county other than the county of original jurisdiction is expected to last less than six months.

(D) The foster child's residence is within 30 minutes of travel time to his or her established specialty mental health care provider in the county of original jurisdiction.

(6) A waiver processed based on an exception to presumptive transfer shall be contingent upon the mental health plan in the county of original jurisdiction demonstrating an existing contract with a specialty mental health care provider, or the ability to enter into a contract within 30 days of the waiver decision, and the ability to deliver timely specialty mental health services directly to the foster child. That information shall be documented in the child's case plan.



(7) A request for waiver, the exceptions claimed as the basis for the request, a determination whether a waiver is determined to be appropriate under this section, and any objections to the determination shall be documented in the foster child's case plan pursuant to Section 16501.1.

(e) If the mental health plan in the county of original jurisdiction has completed an assessment of needed services for the foster child, the mental health plan in the county in which the foster child resides shall accept that assessment. The mental health plan in the county in which the foster child resides may conduct additional assessments if the foster child's needs change or an updated assessment is needed to determine the child's needs and identify the needed treatment and services to address those needs.

(f) Upon presumptive transfer, the mental health plan in the county in which the foster child resides shall assume responsibility for the authorization and provision of specialty mental health services and payments for services. The foster child transferred to the mental health plan in the county in which the foster child resides shall be considered part of the county of residence caseload for claiming purposes from the Behavioral Health Subaccount and the Behavioral Health Services Growth Special Account, both created pursuant to Section 30025 of the Government Code.

(g) The State Department of Social Services and the State Department of Health Care Services shall adopt regulations by July 1, ~~2019~~, 2020, to implement this section. Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the State Department of Social Services and the State Department of Health Care Services may implement and administer the changes made



by this legislation through all-county letters, information notices, or similar written instructions until regulations are adopted.

(h) If the department determines it is necessary, it shall seek approval from the United States Department of Health and Human Services, federal Centers for Medicare and Medicaid Services (CMS) prior to implementing this section.

(i) If the department makes the determination that it is necessary to seek CMS approval pursuant to subdivision (h), the department shall make an official request for approval from CMS no later than January 1, 2017.

(j) This section shall be implemented only if and to the extent that federal financial participation under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396, et seq.) is available and all necessary federal approvals have been obtained.



LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, _____.

General Subject: Medi-Cal: specialty mental health services: foster children.

Existing law provides for 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. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Existing law provides that specialty mental health services and Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) for any individual under 21 years of age are covered under Medi-Cal, consistent with the requirements of federal law. Existing law requires the department to issue policy guidance that establishes the conditions for and exceptions to presumptive transfer of responsibility for providing or arranging for specialty mental health services to a foster child from the county of original jurisdiction to the county in which the foster child resides, as prescribed, and requires the mental health plan in the host county to assume responsibility for the authorization and provision of mental health services, and



payments for services, upon the presumptive transfer. Existing law requires the department and the State Department of Social Services to adopt regulations to implement these provisions by July 1, 2019.

This bill would extend the deadline to adopt regulations to July 1, 2020.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.



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