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CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2266

**Introduced by Assembly Member Mitchell
(Principal coauthor: Assembly Member Atkins)
(Coauthors: Assembly Members Wieckowski and Williams)**

February 24, 2012

An act to add Article 3.9 (commencing with Section 14127) to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 2266, as amended, Mitchell. Medi-Cal: Health Homes for Medi-Cal Enrollees and 1115 Waiver Demonstration Populations with Chronic and Complex Conditions.

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 federal law authorizes a state, subject to federal approval of a state plan amendment, to offer health

home services, as defined, to eligible individuals with chronic conditions.

This bill would authorize the department, subject to federal approval, to create a health home program for enrollees with chronic conditions, as prescribed, as authorized under federal law. ~~If the department exercises its authority to create a health home program for enrollees with chronic conditions, this bill would require the department to, subject to federal approval, also create an enhanced health home program for enrollees with complex conditions, as prescribed. This bill would provide that those provisions shall not be implemented unless federal financial participation is available and additional state general funds are not used to fund the administration and service costs, except as specified.~~ This bill would require the department to ensure that an evaluation of the program is completed, if created by the department, and would require that the department submit a report to the appropriate policy and fiscal committees of the Legislature within 2 years after implementation of the program.

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. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The Health Homes for Enrollees with Chronic Conditions
- 4 option (Health Homes option) under Section 2703 of the federal
- 5 Patient Protection and Affordable Care Act (Affordable Care Act)
- 6 (42 U.S.C. Sec. 1396w-4) offers an opportunity for California to
- 7 address complex and chronic health conditions, as well as social
- 8 determinants of poor health outcomes and high costs among
- 9 Medi-Cal beneficiaries.
- 10 (b) For example, people who frequently use hospitals for reasons
- 11 that could have been avoided with more appropriate care incur
- 12 high Medi-Cal costs and suffer poor health outcomes due to the
- 13 complexity of their conditions and, often, their negative social
- 14 determinants of health. Frequent users have difficulties accessing
- 15 regular or preventive care and complying with treatment protocols,
- 16 and the significant number who are homeless have no place to
- 17 store medications, cannot adhere to a healthy diet or maintain

1 appropriate hygiene, face frequent victimization, and lack rest
2 when recovering from illness.

3 (c) Increasingly, health providers are partnering with community
4 behavioral health and social services providers to offer a
5 person-centered interdisciplinary system of care that effectively
6 addresses the needs of enrollees with multiple chronic or complex
7 conditions, including frequent hospital users and people
8 experiencing chronic homelessness. These health homes help
9 people with chronic and complex conditions to access better care
10 and better health, while decreasing costs.

11 (d) Federal guidelines allow the state to access enhanced federal
12 matching rates *for health home services* under the Health Homes
13 option for multiple target populations to achieve more than one
14 policy goal.

15 SEC. 2. Article 3.9 (commencing with Section 14127) is added
16 to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions
17 Code, to read:

18

19 Article 3.9. Health Homes for Medi-Cal Enrollees and 1115
20 Waiver Demonstration Populations with Chronic and Complex
21 Conditions

22

23 14127. For the purposes of this article, the following definitions
24 shall apply:

25 (a) “Department” means the State Department of Health Care
26 Services.

27 (b) “Eligible individual” means an individual who meets the
28 criteria defined by the department. ~~“Individual eligible for enhanced~~
29 ~~health home services” means an individual who meets the criteria~~
30 ~~defined by the department, consistent with subdivision (e) (b) of~~
31 Section 14127.2.

32 (e) ~~(1) “Enhanced health home” means a provider so designated~~
33 ~~by the department that satisfies all of the following:~~

34 (A) ~~Meets the criteria described in federal guidelines.~~

35 (B) ~~Offers a whole person approach, such as, but not limited~~
36 ~~to, coordinating services for all of the needs affecting the health~~
37 ~~of an individual eligible for enhanced health home services.~~

38 (C) ~~Elects to participate in the program pursuant to this article.~~

1 ~~(D) Offers services in a range of settings as appropriate to meet~~
2 ~~the needs of an individual eligible for enhanced health home~~
3 ~~services.~~

4 ~~(2) An enhanced health home includes a lead provider that is a~~
5 ~~community clinic, a mental health plan, or a hospital, and may~~
6 ~~include a physician, clinical practice or clinical group practice,~~
7 ~~rural health clinic, community health center, community mental~~
8 ~~health center, home health agency, nurse care coordinators,~~
9 ~~nutritionists, social workers, behavioral health professionals, and~~
10 ~~paraprofessionals, or any other entity or provider.~~

11 ~~(d)~~
12 ~~(c) “Federal guidelines” means all federal statutory guidance~~
13 ~~statutes, and all regulatory and policy guidelines issued by the~~
14 ~~federal Centers for Medicare and Medicaid Services regarding the~~
15 ~~Health Homes for Enrollees with Chronic Conditions option under~~
16 ~~Section 2703 of the federal Patient Protection and Affordable Care~~
17 ~~Act (Affordable Care Act) (42 U.S.C. Sec. 1396w-4), including~~
18 ~~the State Medicaid Director Letter issued on November 16, 2010.~~

19 ~~(d) (1) “Health home” means a provider or team of providers~~
20 ~~designated by the department that satisfies all of the following:~~

21 ~~(A) Meets the criteria described in federal guidelines.~~

22 ~~(B) Offers a whole person approach, including, but not limited~~
23 ~~to, coordinating health home services and linkages to other~~
24 ~~available services for the needs affecting the health of an eligible~~
25 ~~individual.~~

26 ~~(C) Offers services in a range of settings, as appropriate, to~~
27 ~~meet the needs of an eligible individual for health home services.~~

28 ~~(2) Health home partners may include, but are not limited to,~~
29 ~~a health plan, community clinic, a mental health plan, a hospital,~~
30 ~~physicians, a clinical practice or clinical group practice, rural~~
31 ~~health clinic, community health center, community mental health~~
32 ~~center, home health agency, nurse practitioners, social workers,~~
33 ~~and paraprofessionals.~~

34 ~~(3) For purposes of serving eligible individuals, the department~~
35 ~~may require a lead provider to be a community clinic, a mental~~
36 ~~health plan, or a hospital.~~

37 ~~(e) “Health home” means a provider or team of providers the~~
38 ~~department designates that meets federal guidelines as a health~~
39 ~~home. The~~

1 (4) The department may determine the model of health home it
2 intends to create, including any entity, provider, or group of
3 providers operating as a health team, as a team of health care
4 professionals, or as a designated provider, as those terms are
5 defined in Sections 3502(c)(2) and 1945(h)(5) and (h)(6) of the
6 Affordable Care Act, respectively.

7 (f)

8 (e) “Homeless” has the same meaning as that term is defined
9 in Section 91.5 of Title 24 of the Code of Federal Regulations.
10 “Chronic homelessness” means the state of an individual whose
11 conditions limit his or her activities of daily living and who has
12 experienced homelessness for longer than a year or for four or
13 more episodes over three years.

14 ~~14127.1. Health homes for enrollees with chronic conditions.~~
15 Subject to federal approval, the department may do all of the
16 following to create a health home program, as authorized under
17 Section 2703 of the Affordable Care Act:

18 (a) Design, with opportunity for public comment, a program to
19 provide health home services to Medi-Cal beneficiaries and Section
20 1115 waiver demonstration populations with chronic conditions.

21 (b) Contract with new providers, new managed care plans,
22 existing Medi-Cal providers, existing managed care plans, or
23 counties to provide health home services, as provided in Section
24 14128.

25 (c) Submit any necessary applications to the federal Centers for
26 Medicare and Medicaid Services for a state plan amendment and
27 Section 1115 waiver demonstration amendment to provide health
28 home services to Medi-Cal beneficiaries, to newly eligible
29 Medi-Cal beneficiaries upon Medicaid expansion under the
30 Affordable Care Act, and, if applicable, to Low Income Health
31 Program (LIHP) enrollees in counties with LIHPs willing to match
32 federal funds.

33 (d) Define the populations of eligible individuals.

34 (e) Develop a payment methodology, including, but not limited
35 to, fee-for-service or per member, per month payment structures
36 *that may include tiered payment rates that take into account the*
37 *intensity of services necessary to outreach to, engage, and serve*
38 *the populations the department identifies.*

39 (f) Identify health home services, consistent with federal
40 guidelines.

1 (g) The department may submit applications and operate, to
2 the extent permitted by federal law and to the extent federal
3 approval is obtained, more than one health home program for
4 distinct populations, different providers or contractors, or multiple
5 geographic areas.

6 ~~14127.2.— Enhanced health homes for enrollees with complex~~
7 ~~conditions. If the department creates a health home program~~
8 ~~pursuant to Section 14127.1, it shall include an enhanced health~~
9 ~~home program, subject to federal approval under Section 2703 of~~
10 ~~the Affordable Care Act.~~

11 (a) ~~In creating an enhanced health home program, the department~~
12 ~~shall do all of the following:~~

13 (1) ~~Design, with opportunity for public comment, a program to~~
14 ~~provide enhanced health home services identified in subdivision~~
15 ~~(g) to persons at high risk of avoidable and frequent use of hospital~~
16 ~~services due to complex co-occurring health and behavioral health~~
17 ~~conditions.~~

18 (2) ~~Contract with new and existing providers, new and existing~~
19 ~~managed care plans, or counties in accordance with the selection~~
20 ~~criteria identified in subdivision (h), as designated enhanced health~~
21 ~~homes.~~

22 (3) ~~Include an enhanced health home program in an application~~
23 ~~to the federal Centers for Medicare and Medicaid Services for a~~
24 ~~state plan amendment under the Health Homes option to provide~~
25 ~~enhanced health home services.~~

26 (b) ~~The program established pursuant to this section shall~~
27 ~~provide services to Medi-Cal beneficiaries, to newly enrolled~~
28 ~~Medi-Cal beneficiaries upon implementation of Medicaid~~
29 ~~expansion under the Affordable Care Act, and, if applicable, in~~
30 ~~counties with a LHHP willing to match federal funds, to enrollees~~
31 ~~of the LHHP.~~

32 (c) ~~Designated enhanced health home providers shall determine~~
33 ~~whether an individual is eligible for enhanced health home services.~~
34 ~~An individual is eligible for enhanced health home services if the~~
35 ~~individual is a Medi-Cal beneficiary or, if applicable, a LHHP~~
36 ~~beneficiary who meets both of the following criteria:~~

37 (1) ~~Two or more of the following current diagnoses:~~

38 (A) ~~Mental health disorders identified by the department as~~
39 ~~prevalent among frequent hospital users.~~

40 (B) ~~Substance abuse or substance dependence disorders.~~

- 1 ~~(C) Chronic or life-threatening medical conditions identified~~
- 2 ~~by the department as prevalent among frequent hospital users.~~
- 3 ~~(D) Significant cognitive impairments associated with traumatic~~
- 4 ~~brain injury, dementia, or other causes.~~
- 5 ~~(2) Two or more of the following indicators of severity:~~
- 6 ~~(A) Frequent inpatient hospital admissions, including long-term~~
- 7 ~~hospitalization for medical, psychiatric, or substance abuse-related~~
- 8 ~~conditions.~~
- 9 ~~(B) Excessive use of crisis or emergency services or inpatient~~
- 10 ~~hospital care with failed linkages to primary care or behavioral~~
- 11 ~~health care.~~
- 12 ~~(C) Chronic homelessness.~~
- 13 ~~(D) History of inadequate followthrough, related to risk factors,~~
- 14 ~~with elements of a treatment plan, including lack of followthrough~~
- 15 ~~in taking medications, following a crisis plan, or achieving stable~~
- 16 ~~housing.~~
- 17 ~~(E) Two or more episodes of use of detoxification services.~~
- 18 ~~(F) Medication resistance due to intolerable side effects, or~~
- 19 ~~illness interfering with consistent self-management of medications.~~
- 20 ~~(G) Self-harm or threats of harm to others.~~
- 21 ~~(H) Evidence of significant complications in health conditions.~~
- 22 ~~(d) The department may establish other criteria to allow~~
- 23 ~~additional Medi-Cal or LHHP beneficiaries to be eligible for~~
- 24 ~~enhanced health home services.~~
- 25 ~~(e) This section shall not be construed to permit providers to~~
- 26 ~~determine whether an individual is eligible for Medi-Cal or LHHP.~~
- 27 ~~(f) The department may develop a payment methodology other~~
- 28 ~~than a fee-for-service payment, including, but not limited to, a per~~
- 29 ~~member, per month payment to designated providers.~~
- 30 ~~(g)~~
- 31 *14127.2. (a) The department may create one or more health*
- 32 *home programs for children and adults pursuant to Section*
- 33 *14127.1, and, in consultation with stakeholders, shall develop the*
- 34 *geographic criteria, beneficiary eligibility criteria, and provider*
- 35 *eligibility criteria for each program.*
- 36 *(b) The health home program identified in Section 14127.1 shall*
- 37 *include, but not be limited to, an eligible individual who is an adult*
- 38 *who meets both of the following criteria:*
- 39 *(1) Current diagnosis of chronic, cooccurring physical health*
- 40 *and mental health or substance use disorders prevalent among*

1 frequent hospital users at an acuity level to be determined by the
2 department.

3 (2) One or more of the following indicators of severity, at a
4 level to be determined by the department:

5 (A) Frequent inpatient hospital admissions, including long-term
6 hospitalization for medical, psychiatric, or substance abuse-related
7 conditions.

8 (B) Excessive use of crisis or emergency services or inpatient
9 hospital care.

10 (C) Chronic homelessness.

11 (c) The department shall design program elements specific to
12 the eligible individuals after consultation with stakeholder groups
13 who have expertise in engagement and services for those
14 individuals.

15 (d) (1) Subject to federal approval for receipt of the enhanced
16 federal match, services provided under the program established
17 pursuant to this section shall include all of the following:

18 (A) Comprehensive and individualized ~~care~~ *care* management.

19 (B) Care coordination and health promotion, including
20 connection to medical, mental health, and substance abuse care.

21 (C) Comprehensive transitional care from inpatient to other
22 settings, including appropriate followup.

23 (D) Individual and family support, including authorized
24 representatives.

25 (E) If relevant, referral to other community and social services
26 supports, including transportation to appointments needed to
27 manage health needs, connection to housing for participants who
28 are homeless or unstably housed, and peer and recovery support.

29 (F) Health information technology to identify eligible individuals
30 and link services, if feasible and appropriate.

31 (2) ~~Beneficiaries~~ *According to beneficiary needs, the department*
32 ~~may require~~ *provide* less intensive services or graduate *the*
33 *beneficiary* completely from the program upon stabilization.

34 ~~(h) For purposes of implementing this section, the department~~
35 ~~shall ensure that designated~~

36 (e) *In addition to selecting providers to serve other populations,*
37 *for the purposes of providing health home services to the eligible*
38 *individuals, the department shall select designated health home*
39 *providers, managed care organizations subcontracting with*
40 *providers, or and counties subcontracting with providers offer*

1 *operating with a team of health care professionals that have all*
2 *of the following:*

3 ~~(1) A designated lead provider that is a community clinic, a~~
4 ~~mental health plan pursuant to Section 14712, or a hospital.~~

5 ~~(2)~~

6 ~~(1) Demonstrated experience working with frequent hospital~~
7 ~~users, with documentation of experience reducing emergency~~
8 ~~department visits and hospital inpatient days among the population~~
9 ~~served.~~

10 ~~(3)~~

11 ~~(2) Demonstrated experience working with people experiencing~~
12 ~~chronic homelessness.~~

13 ~~(4)~~

14 ~~(3) The capacity and administrative infrastructure to participate~~
15 ~~in the program, including the ability to meet requirements of federal~~
16 ~~guidelines.~~

17 ~~(5) Documented ability to provide or to link clients with~~
18 ~~appropriate community-based services, including intensive~~
19 ~~individualized face-to-face care coordination, primary care,~~
20 ~~specialty care, mental health treatment, substance abuse treatment,~~
21 ~~peer and recovery support, permanent or transitional housing, and~~
22 ~~transportation.~~

23 ~~(6) Experience working with supportive or other permanent~~
24 ~~housing providers.~~

25 ~~(7) Current partnership with essential community hospitals.~~

26 ~~(8)~~

27 ~~(4) A viable plan, with roles identified among providers of the~~
28 ~~enhanced health home, to do all of the following:~~

29 ~~(A) Reach out to and engage frequent hospital users and~~
30 ~~chronically homeless eligible individuals.~~

31 ~~(B) Connect-Link eligible individuals who are homeless or~~
32 ~~experiencing housing instability to permanent housing, including~~
33 ~~such as supportive housing.~~

34 ~~(C) Ensure eligible individuals receive integrated coordination~~
35 ~~and linkages to services needed to access and maintain health~~
36 ~~stability, including medical, mental health, substance abuse care,~~
37 ~~and social services to address social determinants of health.~~

38 ~~(D) Track, maintain, and provide outcome data as required by~~
39 ~~the department for purposes of the evaluation required pursuant~~
40 ~~to Section 14127.4.~~

1 ~~(E)~~
 2 (D) Identify appropriate funding sources for the nonfederal
 3 share of costs of services for the first eight quarters of
 4 implementation of the program.

5 ~~(F) Identify appropriate funding sources for the nonfederal share~~
 6 ~~of costs of services to sustain program funding beyond the first~~
 7 ~~eight quarters of implementation of the program. Identifying~~
 8 ~~sources may include a plan to partner with managed care~~
 9 ~~organizations, counties, hospitals, private funders, or others.~~

10 (f) *The department may design additional provider criteria to*
 11 *those identified in subdivision (e) after consultation with*
 12 *stakeholder groups who have expertise in engagement and services*
 13 *for eligible individuals.*

14 (g) *The department shall design a health home program with*
 15 *specific elements to engage and serve eligible individuals, and*
 16 *health home program outreach and enrollment shall specifically*
 17 *focus on these populations.*

18 14127.3. (a) The department shall administer this article in a
 19 manner that attempts to maximize federal financial participation,
 20 consistent with federal law.

21 (b) This article shall not be construed to preclude local
 22 governments or foundations from contributing the nonfederal share
 23 of costs for services provided under this program, *so long as those*
 24 *contributions are permitted under federal law.* The department,
 25 *and counties contracting with the department,* may also enter into
 26 risk-sharing and social impact bond program agreements to fund
 27 services under this article.

28 (c) In accordance with federal guidelines, the state may limit
 29 availability of health home or enhanced health home services
 30 geographically.

31 14127.4. (a) If the department implements a health home ~~or~~
 32 ~~enhanced health home~~ program, the department shall ensure that
 33 an evaluation of the program identified in this article is completed
 34 and shall, within two years after implementation, submit a report
 35 to the appropriate policy and fiscal committees of the Legislature.

36 (b) The requirement for submitting the report imposed under
 37 subdivision (a) is inoperative four years after the date the report
 38 is due, pursuant to Section 10231.5 of the Government Code.

39 14127.5. (a) This article shall be implemented only if federal
 40 financial participation is available and the federal Centers for

1 Medicare and Medicaid Services approves the state plan
2 amendment *and any necessary waivers* sought pursuant to this
3 article, ~~and the department expects the programs to be cost neutral~~
4 ~~to the state.~~

5 (b) Except as provided in ~~subdivision~~ *subdivisions (c) and (d)*,
6 this article shall be implemented only if ~~nonstate public funds or~~
7 ~~private additional state general funds are available to fully not~~
8 ~~used to fund the administration and service costs during the first~~
9 ~~eight quarters of implementation, and thereafter.~~

10 (c) Notwithstanding subdivision (b), *prior to and during the*
11 *first eight quarters of implementation*, if the department finds, ~~after~~
12 ~~the first eight quarters of implementation~~, that Medi-Cal costs
13 ~~avoided by the participants of the enhanced health home program~~
14 ~~are adequate to fully fund the program costs projects, based on~~
15 ~~analysis of current and projected expenditures for health home~~
16 ~~services, that this article can be implemented in a manner that~~
17 ~~does not result in a net increase in ongoing state general fund~~
18 ~~costs for the Medi-Cal program~~, the department may use state
19 funds to fund ~~the any~~ program costs.

20 (d) *Notwithstanding subdivision (b), if the department projects,*
21 *after the first eight quarters of implementation, that implementation*
22 *of this article has not resulted in a net increase in ongoing state*
23 *general fund costs for the Medi-Cal program*, the department may
24 use state general funds to fund any program costs.

25 (e) *The department may use new funding in the form of enhanced*
26 *federal financial participation for health home services that are*
27 *currently funded to fund any additional costs for new health home*
28 *program services.*

29 (f) *The department shall seek to fund the creation,*
30 *implementation, and administration of the program with funding*
31 *other than state general funds.*

32 ~~(g)~~

33 (g) The department may revise or terminate the ~~enhanced~~ health
34 home program any time after the first eight quarters of
35 implementation if the department finds that the program fails to
36 result in improved health outcomes or results in substantial General
37 Fund expense without commensurate decreases in Medi-Cal costs
38 among program participants.

39 14128. (a) In the event of a judicial challenge of the provisions
40 of this article, this article shall not be construed to create an

1 obligation on the part of the state to fund any payment from state
2 funds due to the absence or shortfall of federal funding.

3 (b) For the purposes of implementing this article, the department
4 ~~shall establish and use a competitive process to select or amend~~
5 ~~existing contracts~~ *may enter into exclusive or nonexclusive*
6 *contracts on a bid or negotiated basis, and may amend existing*
7 *managed care contracts* to provide or arrange for services under
8 this article. Contracts may be statewide or on a more limited
9 geographic basis. Contracts entered into or amended under this
10 section shall be exempt from the provisions of Chapter 2
11 (commencing with Section 10290) of Part 2 of Division 2 of the
12 Public Contract Code and Chapter 6 (commencing with Section
13 14825) of Part 5.5 of Division 3 of the Government Code, and
14 shall be exempt from the review or approval of any division of the
15 Department of General Services.

16 (c) (1) Notwithstanding Chapter 3.5 (commencing with Section
17 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
18 the department may implement, interpret, or make specific *the*
19 *process set forth in* this article by means of all-county letters, plan
20 letters, plan or provider bulletins, or similar instructions, without
21 taking regulatory action, until such time as regulations are adopted.
22 It is the intent of the Legislature that the department is allowed
23 temporary authority as necessary to implement program changes
24 until completion of the regulatory process.

25 (2) The department shall adopt emergency regulations no later
26 than two years after implementation of this article. The department
27 may readopt, up to two times, any emergency regulation authorized
28 by this section that is the same as or substantially equivalent to an
29 emergency regulation previously adopted pursuant to this section.

30 (3) The adoption of emergency regulations implementing this
31 article authorized by this subdivision shall be deemed an
32 emergency and necessary for the immediate preservation of the
33 public peace, health, safety, or general welfare. Emergency
34 regulations authorized by this section shall be exempt from review
35 by the Office of Administrative Law. The emergency regulations
36 authorized by this section shall be submitted to the Office of
37 Administrative Law for filing with the Secretary of State and shall

- 1 remain in effect for no more than 180 days, by which time final
- 2 regulations may be adopted.

O