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.


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

SECTION 1. The Legislature finds and declares all of the following:

(a) The Health Homes for Enrollees with Chronic Conditions option (Health Homes option) under Section 2703 of the federal Patient Protection and Affordable Care Act (Affordable Care Act) (42 U.S.C. Sec. 1396w-4) offers an opportunity for California to address complex and chronic health conditions, as well as social determinants of poor health outcomes and high costs among Medi-Cal beneficiaries.

(b) For example, people who frequently use hospitals for reasons that could have been avoided with more appropriate care incur high Medi-Cal costs and suffer poor health outcomes due to the complexity of their conditions and, often, their negative social determinants of health. Frequent users have difficulties accessing regular or preventive care and complying with treatment protocols, and the significant number who are homeless have no place to store medications, cannot adhere to a healthy diet or maintain
appropriate hygiene, face frequent victimization, and lack rest when recovering from illness.

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

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

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

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

For the purposes of this article, the following definitions shall apply:

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

(b) “Eligible individual” means an individual who meets the criteria defined by the department. “Individual eligible for enhanced health home services” means an individual who meets the criteria defined by the department, consistent with subdivision (c) (b) of Section 14127.2.

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

(A) Meets the criteria described in federal guidelines.

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

(C) Elects to participate in the program pursuant to this article.
Of offers services in a range of settings as appropriate to meet the needs of an individual eligible for enhanced health home services.

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

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

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

(A) Meets the criteria described in federal guidelines.

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

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

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

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

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

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

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

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

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

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

(d) Define the populations of eligible individuals.

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

(f) Identify health home services, consistent with federal guidelines.
(g) The department may submit applications and operate, to the extent permitted by federal law and to the extent federal approval is obtained, more than one health home program for distinct populations, different providers or contractors, or multiple geographic areas.

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

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

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

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

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

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

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

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

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

(B) Substance abuse or substance dependence disorders.
(C) Chronic or life-threatening medical conditions identified by the department as prevalent among frequent hospital users.

(D) Significant cognitive impairments associated with traumatic brain injury, dementia, or other causes.

(2) Two or more of the following indicators of severity:

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

(B) Excessive use of crisis or emergency services or inpatient hospital care with failed linkages to primary care or behavioral health care.

(C) Chronic homelessness.

(D) History of inadequate followthrough, related to risk factors, with elements of a treatment plan, including lack of followthrough in taking medications, following a crisis plan, or achieving stable housing.

(E) Two or more episodes of use of detoxification services.

(F) Medication resistance due to intolerable side effects, or illness interfering with consistent self-management of medications.

(G) Self-harm or threats of harm to others.

(H) Evidence of significant complications in health conditions.

(d) The department may establish other criteria to allow additional Medi-Cal or LIHP beneficiaries to be eligible for enhanced health home services.

(e) This section shall not be construed to permit providers to determine whether an individual is eligible for Medi-Cal or LIHP.

(f) The department may develop a payment methodology other than a fee-for-service payment, including, but not limited to, a per member, per month payment to designated providers.

(g)

14127.2. (a) The department may create one or more health home programs for children and adults pursuant to Section 14127.1, and, in consultation with stakeholders, shall develop the geographic criteria, beneficiary eligibility criteria, and provider eligibility criteria for each program.

(b) The health home program identified in Section 14127.1 shall include, but not be limited to, an eligible individual who is an adult who meets both of the following criteria:

(1) Current diagnosis of chronic, cooccurring physical health and mental health or substance use disorders prevalent among
frequent hospital users at an acuity level to be determined by the department.

(2) One or more of the following indicators of severity, at a level to be determined by the department:
(A) Frequent inpatient hospital admissions, including long-term hospitalization for medical, psychiatric, or substance abuse-related conditions.
(B) Excessive use of crisis or emergency services or inpatient hospital care.
(C) Chronic homelessness.
(c) The department shall design program elements specific to the eligible individuals after consultation with stakeholder groups who have expertise in engagement and services for those individuals.
(d) (1) Subject to federal approval for receipt of the enhanced federal match, services provided under the program established pursuant to this section shall include all of the following:
(A) Comprehensive and individualized case care management.
(B) Care coordination and health promotion, including connection to medical, mental health, and substance abuse care.
(C) Comprehensive transitional care from inpatient to other settings, including appropriate followup.
(D) Individual and family support, including authorized representatives.
(E) If relevant, referral to other community and social services supports, including transportation to appointments needed to manage health needs, connection to housing for participants who are homeless or unstably housed, and peer and recovery support.
(F) Health information technology to identify eligible individuals and link services, if feasible and appropriate.
(2) 
(h) For purposes of implementing this section, the department shall ensure that designated
(e) In addition to selecting providers to serve other populations, for the purposes of providing health home services to the eligible individuals, the department shall select designated health home providers, managed care organizations subcontracting with providers, or and counties subcontracting with providers—
operating with a team of health care professionals that have all
of the following:

(1) A designated lead provider that is a community clinic, a
mental health plan pursuant to Section 14712, or a hospital.
(2)
(1) Demonstrated experience working with frequent hospital
users, with documentation of experience reducing emergency
department visits and hospital inpatient days among the population
served.
(3)
(2) Demonstrated experience working with people experiencing
chronic homelessness.
(4)
(3) The capacity and administrative infrastructure to participate
in the program, including the ability to meet requirements of federal
guidelines.
(5) Documented ability to provide or to link clients with
appropriate community-based services, including intensive
individualized face-to-face care coordination, primary care;
specialty care, mental health treatment, substance abuse treatment;
peer and recovery support, permanent or transitional housing, and
transportation.
(6) Experience working with supportive or other permanent
housing providers.
(7) Current partnership with essential community hospitals.
(8)
(4) A viable plan, with roles identified among providers of the
enhanced health home, to do all of the following:
(A) Reach out to and engage frequent hospital users and
chronically homeless eligible individuals.
(B) Connect–Link eligible individuals who are homeless or
experiencing housing instability to permanent housing, including
such as supportive housing.
(C) Ensure eligible individuals receive integrated coordination
and linkages to services needed to access and maintain health
stability, including medical, mental health, substance abuse care,
and social services to address social determinants of health.
(D) Track, maintain, and provide outcome data as required by
the department for purposes of the evaluation required pursuant
to Section 14127.4.
Identify appropriate funding sources for the nonfederal share of costs of services for the first eight quarters of implementation of the program.

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

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

The department shall design a health home program with specific elements to engage and serve eligible individuals, and health home program outreach and enrollment shall specifically focus on these populations.

The department shall administer this article in a manner that attempts to maximize federal financial participation, consistent with federal law.

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

In accordance with federal guidelines, the state may limit availability of health home or enhanced health home services geographically.

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

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

This article shall be implemented only if federal financial participation is available and the federal Centers for
Medicare and Medicaid Services approves the state plan amendment and any necessary waivers sought pursuant to this article, and the department expects the programs to be cost neutral to the state.

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

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

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

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

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

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

14128. (a) In the event of a judicial challenge of the provisions of this article, this article shall not be construed to create an
obligation on the part of the state to fund any payment from state funds due to the absence or shortfall of federal funding.

(b) For the purposes of implementing this article, the department shall establish and use a competitive process to select or amend existing contracts to provide or arrange for services under this article. Contracts may be statewide or on a more limited geographic basis. Contracts entered into or amended under this section shall be exempt from the provisions of Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code and Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of the Government Code, and shall be exempt from the review or approval of any division of the Department of General Services.

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

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

(3) The adoption of emergency regulations implementing this article authorized by this subdivision shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. Emergency regulations authorized by this section shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and shall
remain in effect for no more than 180 days, by which time final regulations may be adopted.