



California Council of Community Mental Health Agencies

Leaders in the partnership that developed and promoted Proposition 63

AB 3632 – KEEP IT WITH COUNTIES AND INCREASE EFFORTS TO GET OTHER FUNDS FROM INSURERS AND FEDERAL PROGRAMS

Keep it connected to services to children with similar mental health needs and managed through the experts in addressing those needs

The California Council of Community Mental Health Agencies (CCCMHA) includes many of the major providers of care under the AB 3632 program who do so through contracts with county mental health departments. These agencies also provide nearly identical care under contracts with county mental health programs for other children with serious emotional disturbances. When you strip away the funding sources and referral mechanisms, the children and the services look the same; continuing management with the counties places it where there is the greatest expertise in effectively serving children with serious emotional disturbances in need of extensive community mental health care. Transferring this program to schools, which lack that expertise and which don't have services for other children, would likely lead to poorer decisions in optimizing treatment in many places.

When funding was controlled by schools they had a disincentive to identify the children needing this care – whatever this may save under AB 3632 is overwhelmed by the added costs that would be incurred in criminal justice and child welfare

Moreover, before these programs were transferred from schools to counties California ranked last among states in the percentage of children identified as having a serious emotional disturbance and needing special education and mental health care. We were identifying 1/2 of 1% of the children as meeting those criteria, which was 20% of the national average and 5 to 10% of the estimated prevalence. Such children, when left untreated, have only a 25% high school graduation rate and a very high prevalence of foster care, homelessness, incarceration and other failures that cost the state, counties, and the school system hundreds of thousands of dollars per child. 80% of those in state prisons are youth who did not graduate from high school, so many would cost far more.

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It would be an enormous and potentially very costly risk for the state to return this decision making and care management to the school systems which failed so badly when they were in charge of this program in the 1970s and early 1980s.

There are cost saving reforms which create the right incentives to save the state \$\$ and lead to better outcomes with the program managed by counties and incorporating opportunities created by federal healthcare reform

However, the program does need to be reformed, and in the long run it should be funded like a health insurance program similar to EPSDT, with counties reimbursed as claims are filed, given that the services and billing rates are virtually identical, and in most places the services are delivered by the same providers. This would be possible in the context of national health care reform, which will create savings for counties in indigent health care that, in 2014, could lead to restructuring the current realignment and MediCal managed care funding of county mental health..

National healthcare reform will also ensure that virtually all children have insurance and that they all have comprehensive mental health and substance abuse coverage. This leads to additional opportunities to incentivize better prevention and early intervention, which will eventually allow even greater savings.

In the meantime there are ways that the state could get some of the costs of this program transferred from the state general fund to private insurers and to programs with significant federal share of costs and to put in place incentives to allow more children to get their mental health problems identified and treated before they need special education and AB 3632 services.

Private Insurers could be required to reimburse the state and counties for care under the AB 3632 program

In past discussion of efforts to obtain insurance company payments for AB 3632 services, the answer has been that the free public education requirements of the federal Individuals with Disabilities Education Act (IDEA) prevents families from being required to use their private health insurance before coming to government programs for care, as government is obligated to offer free care to a child if the treatment is to address the child's disability and affects school performance.

However, this does not mean that the state could not impose requirements on insurers to reimburse government for providing such care when it is provided to a child who has health insurance and when the treatment provided is a covered benefit.

The state could impose conditions on health plans' participation in state funded health insurance programs including PERS, MediCal managed care and Healthy Families. The state could by legislation require that any health plan seeking such a contract must also agree to reimburse the state for AB 3632 costs for care provided through the counties to the same extent that they would have had to pay for that care if the families had chosen (as they had the right to do) to seek that care through the health plans.

The plans would be required to consider the IEP process that identifies the child's needs as a valid determination of medical necessity and to accept the services of the network of providers used by counties as if they were part of the health plan's current network of providers.

Reimbursement would be limited to what the health plan would have paid and not necessarily the full cost of the care but it would significantly reduce the costs for most of the children.

Records show that in many if not all counties, most of the children receiving mental health services under the AB 3632 program do not have a serious emotional disturbance but receive mental health care incidental to another disability. For these children the mental health outpatient therapy they receive is virtually identical to the care typically available through a health plan's own network of private therapists.

The state could also require counties to provide the information that a health plan would typically require of its own providers to document the need for establishing and continuing care.

School based prevention and early intervention programs can reduce the number of children needing this level of care

While most of the children receiving AB 3632 services do not have severe mental health problems, most of the expenditures are for those who do and whose educational disability is a result of that mental health problem.

A national white house commission report issued in 2003 concluded that there is a delay of six years or more in the identification and treatment of mental disorders after the first symptoms appear.

Many counties have created programs similar to the Early Mental Health Initiative and partnered with schools for MediCal children to effectively identify mental health problems early in their onset, when they can be treated more effectively and less expensively. The cost differential is hundreds of dollars per child versus tens of thousands of dollars per child when the mental health problems are not identified until they have become very severe.

With private health plans having no risk for the mental health problems of a child once they reach AB 3632 eligibility, they have no incentive to identify and treat these problems early in their onset. However, if the state creates the obligation for these health plans to pay for that care as proposed above, health plans could also be incentivized as well as obligated to partner with school districts and counties to support such programs for children that are enrolled in their health plans.

Schools have shown a willingness to help counties identify the children at risk and provide the space for the services. Counties have also supplemented these efforts with Proposition 63 Prevention and Early Intervention funds.

A work group of school county and health plan representatives could establish the parameters for these efforts.

Many children with serious emotional disturbances may qualify for other programs which could make federal funds available to reduce state costs

The children with the most serious mental health problems need specialized care that is beyond the typical outpatient therapy most private health plans offer. These children often need almost constant supervision and represent a significant strain on their parents.

These children typically qualify for child welfare and out of home placement, however, California has established wrap around programs that through a waiver allow those children to remain at home. Child welfare funding that would have been used to place them out of home is instead used to provide additional supports at home.

The children still qualify for child welfare, which makes them eligible for MediCal (regardless of the family's income) and thus provides the ability to shift the majority of the mental health costs to the federal government through EPSDT.

A work group is needed to consider these possibilities, which should be explored before adopting such a risky proposition as that proposed by the legislative analyst

The legislative analyst, in recommending continuing funding for one year for counties, does recognize that major change cannot be made suddenly and that a work group is needed.

However, there are many assumptions inherent in the legislative analyst's proposal that are simply hoped for results and for which there is no present evidence which offers any assurances.

On the other hand there is ample evidence to support the potential savings that are offered here, and there are probably many other management tools that can be effectively put in place without transferring the program to schools.

Moreover, any study of this program must look to 2014 when all of the national health care reform changes will be in place, and the many incentives for health plans to include prevention and early intervention strategies will add to the value of the reforms proposed in this paper.

In addition, the 2014 healthcare reform will shift many health care costs from the state and counties to the federal government, offering new ways to pay for the AB 3632 program and end this yearly fight over mandate reimbursement, which is clearly not the best way to structure payment for a healthcare program.