

On February 11, 2015, the California Senate Committee on Health requested that CHBRP analyze Senate Bill (SB) 190.

As of February 20, 2015, the Senate Health Committee asked CHBRP to analyze SB 190 including amending language. In the introduced language, below, the amending language is called out in *blue italics*.

SENATE BILL No. 190

Introduced by Senator Beall

Coauthor: Assembly Member Waldron

February 10, 2015

An act to add Section 1367.81 to the Health and Safety Code, and to add Section 10123.65 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 190, as introduced, Beall. Health care coverage: acquired brain injury.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law requires health care service plan contracts and health insurance policies to provide coverage for specified benefits.

This bill would require health care service plan contracts and health insurance policies issued, amended, renewed, or delivered on or after January 1, 2016, to include coverage for post-acute residential transitional rehabilitation services made necessary as a result of and related to an acquired brain injury. The bill would prohibit the plan contract or policy from including any acquired brain injury post-acute care treatment covered under the plan contract or policy in any lifetime limitation on the number of days of covered acute care treatment, and would require the plan contract or policy to provide the post-acute residential transitional rehabilitation services under the same terms and conditions, including, but not limited to, deductibles and copayments, as are applicable to similar coverage provided under the plan contract or policy. The bill would also prohibit a health care service plan or health insurer that contracts with or approves admission to a service provider pursuant to these requirements from refusing to contract with or approve admission to that facility to provide services that meet specified criteria solely because a facility is licensed by this state as an adult residential facility. Because a willful violation of the bill's provisions by a health care service plan would be a crime, it 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 no reimbursement is required by this act for a specified reason.

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

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

SECTION 1.

Section 1367.81 is added to the *Health and Safety Code*, to read:

1367.81.

(a) A health care service plan contract issued, amended, renewed, or delivered on or after January 1, 2016, shall include coverage for post-acute residential transitional rehabilitation services made necessary as a result of and related to an acquired brain injury.

(1) The health care service plan contract shall not include any acquired brain injury post-acute care treatment covered under the plan contract in any lifetime limitation on the number of days of covered acute care treatment. Any limitation imposed under the plan contract on days of acquired brain injury post-acute care treatment shall be separately stated in the plan contract.

(2)

(A) The health care service plan contract shall provide the services described in this section under the same terms and conditions as are applicable to similar coverage provided under the plan contract.

(B) Those terms and conditions include, but are not limited to, all of the following:

(i) Deductibles.

(ii) Copayments.

(iii) Coinsurance.

(iv) Annual or lifetime maximum payment limits.

(b) A health care service plan that contracts with or approves admission to a service provider under this section shall not, solely because a facility is licensed by this state as an adult residential

facility, refuse to contract with or approve admission to that facility to provide services that are all of the following:

- (1) Required by this section.
- (2) Within the scope of its license as an adult residential facility.
- (3) Within the scope of the services of an adult residential facility or post-acute residential rehabilitation *transitional* facility that has a specialty in brain injury rehabilitation, which may include accreditation by the Commission on Accreditation of Rehabilitation Facilities or other state licensed or nationally recognized or accredited rehabilitation program for brain injury.

(c)

(1) As used in this section, “post-acute residential transitional rehabilitation” means physician-prescribed rehabilitation indicated for the individuals specified below that utilizes an interdisciplinary, coordinated team approach in a residential facility and provides direct medical and goal-oriented treatment for a complex range of medical, physical, communicative, cognitive, neurobehavioral and psychological conditions arising from or associated with acquired brain injury.

(2) As used in this subdivision “interdisciplinary, coordinated team approach” means a treatment approach that includes physical therapy, occupational therapy, speech therapy, rehabilitation nursing, respiratory therapy, neuropsychology and psychology services, prosthetic/orthotic services, or a combination thereof.

(3) As used in this subdivision, “goal oriented treatment” means treatment that has the goal of minimizing or eliminating medical complications, reducing disability, and returning the person to self-sufficiency and/or maximal possible functional independence.

(4) Post-acute residential transitional rehabilitation may be indicated for individuals who can be treated more effectively in a residential setting, or may not have had access to appropriate or adequate hospital or sub-acute rehabilitation in a long-term acute hospital or skilled nursing facility and who have any combination of the following conditions and factors due to ABI:

- (A) Have continuing medical complexity;*
- (B) Have significant functional deficits;*
- (C) Are deemed unsafe to be discharged to his or her personal residence;*
- (D) Require continued neurobehavioral treatment; or*
- (E) Have a deteriorated medical, physical, communicative, cognitive, neurobehavioral and psychological status.*

~~(c)~~ (d) This section ~~shall~~ does not apply to ~~accident-only~~, any of the following: (1) A specialized health care service plan that does not cover treatment for brain injury, (2) Accident-only, specified disease, hospital indemnity, Medicare supplement, dental-only, or vision-only health care service plan contracts *or a health care service plan issued, sold, renewed or offered*

for health care services or coverage provided in the Medi-Cal program (Chapter 7(commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code).

SEC. 2.

Section 10123.65 is added to the *Insurance Code*, to read:

10123.65.

(a) A health insurance policy issued, amended, renewed, or delivered on or after January 1, 2016, shall include coverage for post-acute residential transitional rehabilitation services made necessary as a result of and related to an acquired brain injury.

(1) The health insurance policy shall not include any acquired brain injury post-acute care treatment covered under the policy in any lifetime limitation on the number of days of covered acute care treatment. Any limitation imposed under the policy on days of acquired brain injury post-acute care treatment shall be separately stated in the policy.

(2)

(A) The health insurance policy shall provide the services described in this section under the same terms and conditions as are applicable to similar coverage provided under the policy.

(B) Those terms and conditions include, but are not limited to, all of the following:

(i) Deductibles.

(ii) Copayments.

(iii) Coinsurance.

(iv) Annual or lifetime maximum payment limits.

(b) An insurer that contracts with or approves admission to a service provider under this section shall not, solely because a facility is licensed by this state as an adult residential facility, refuse to contract with or approve admission to that facility to provide services that are all of the following:

(1) Required by this section.

(2) Within the scope of its license as an adult residential facility.

(3) Within the scope of the services of an adult residential *transitional* facility or post-acute residential rehabilitation facility that has a specialty in brain injury rehabilitation, which may include accreditation by the Commission on Accreditation of Rehabilitation Facilities or other state licensed or nationally recognized or accredited rehabilitation program for brain injury.

(c)

(1) As used in this section, “post-acute residential transitional rehabilitation” means physician-prescribed rehabilitation indicated for the individuals specified below that utilizes an interdisciplinary, coordinated team approach in a residential facility and provides direct medical and goal-oriented treatment for a complex range of medical, physical, communicative, cognitive, neurobehavioral and psychological conditions arising from or associated with acquired brain injury.

(2) As used in this subdivision “interdisciplinary, coordinated team approach” means a treatment approach that includes physical therapy, occupational therapy, speech therapy, rehabilitation nursing, respiratory therapy, neuropsychology and psychology services, prosthetic/orthotic services, or a combination thereof.

(3) As used in this subdivision, “goal oriented treatment” means treatment that has the goal of minimizing or eliminating medical complications, reducing disability, and returning the person to self-sufficiency and/or maximal possible functional independence.

(4) Post-acute residential transitional rehabilitation may be indicated for individuals who can be treated more effectively in a residential setting, or may not have had access to appropriate or adequate hospital or sub-acute rehabilitation in a long-term acute hospital or skilled nursing facility and who have any combination of the following conditions and factors due to ABI:

(A) Have continuing medical complexity;

(B) Have significant functional deficits;

(C) Are deemed unsafe to be discharged to his or her personal residence;

(D) Require continued neurobehavioral treatment; or

(E) Have a deteriorated medical, physical, communicative, cognitive, neurobehavioral and psychological status.

~~(c)~~ (d) This section ~~shall~~ does not apply to ~~accident-only~~ any of the following: (1) A specialized health care service plan that does not cover treatment for brain injury, (2) Accident-only, , specified disease, hospital indemnity, Medicare supplement, dental-only, or vision-only health insurance policies.

(3) A health insurance policy issued, sold, renewed, or offered for health care services or coverage provided in the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code).

SEC. 3.

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.