Sen. Heather A. Steans

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AMENDMENT TO SENATE BILL 2382

AMENDMENT NO. _____. Amend Senate Bill 2382 by replacing everything after the enacting clause with the following:

"Section 1. Findings; intent. According to the Congressional Research Service reporting, approximately 35% to 60% of children placed in foster care have at least one chronic or acute physical health condition that requires treatment, including growth failure, asthma, obesity, vision impairment, hearing loss, neurological problems, and complex chronic illnesses; as many as 50% to 75% show behavioral or social competency issues that may warrant mental health services; many of these physical and mental health care issues persist and, relative to their peers in the general population, children who leave foster care for adoption and those who age out of care continue to have greater health needs.

Federal child welfare policy requires states to develop strategies to address the health care needs of each child in

foster care and mandates coordination of state child welfare and Medicaid agencies to ensure that the health care needs of children in foster care are properly identified and treated.

The Department of Children and Family Services is responsible for ensuring safety, family permanence, and well-being for the children placed in its custody and protecting these children from further trauma by ensuring timely access to appropriate placements and services, especially those children with complex emotional and behavioral needs who are at much greater risk for not achieving the fundamental child welfare goals of safety, permanence, and well-being.

The Department remains under federal court oversight pursuant to the B.H. Consent Decree, in part, for failure to provide constitutionally sufficient services and placements for children with psychological, behavioral, or emotional challenges; the 2015 court-appointed Expert Panel found too many children in the class experience multiple disruptions of placement, services, and relationships; these children and their families endure indeterminate waits, month upon month, for services the child and family need, without a concrete plan or timeframe; these disruptions and delays and the inaction of Department officials exacerbate children's already serious and chronic mental health problems; the Department's approach to treatment and its system of practice has been one shaped by crises, practitioner preferences, tradition, and system

expediency.

The American Academy of Pediatrics cautions that the effects of managed care on children's access to services and actual health outcomes are not yet clear; it outlines design and implementation principles if managed care is to be implemented for children.

It is the intent of the General Assembly to ensure that children are provided a system of health care with full and inclusive access to physical and behavioral health services necessary for them to thrive.

The General Assembly finds it necessary to protect youth in care by requiring the Department to plan the use of managed care services transparently, collaboratively, and deliberately to ensure quality outcomes and accountable oversight.

Section 5. The Children and Family Services Act is amended by adding Section 5.45 as follows:

(20 ILCS 505/5.45 new)

Sec. 5.45. Managed care plan services.

(a) As used in this Section:

"Caregiver" means an individual or entity directly providing the day-to-day care of a child ensuring the child's safety and well-being.

"Child" means a child placed in the care of the Department pursuant to the Juvenile Court Act of 1987.

"Council" means the Child Welfare Medicaid Managed Care Steering and Implementation Oversight Council.

"Department" means the Department of Children and Family Services, or any successor State agency.

"Director" means the Director of Children and Family Services.

"Managed care organization" has the meaning ascribed to that term in Section 5-30.1 of the Illinois Public Aid Code.

"Medicaid managed care plan" means a health care plan operated by a managed care organization under the Medical Assistance Program established in Article V of the Illinois Public Aid Code.

(b) Every child who is in the care of the Department pursuant to the Juvenile Court Act of 1987 shall receive the necessary services required by this Act and the Juvenile Court Act of 1987, including any child enrolled in a Medicaid managed care plan.

(c) The Department shall not relinquish its authority or diminish its responsibility to determine, provide, or authorize necessary services that are in the best interest of a child even if those services are directly or indirectly:

(1) provided by a managed care organization, another State agency, or other third parties;

(2) coordinated through a managed care organization, another State agency, or other third parties; or

(3) paid for by a managed care organization, another

State agency, or other third parties.

(d) The Department shall:

(1) implement and enforce measures to prevent enrollment in Medicaid managed care plans from disrupting service delivery or hindering continuity of treatment for any child;

(2) establish a single point of contact for health care coverage inquiries and dispute resolution systemwide without transferring this responsibility to a third party such as a managed care coordinator;

(3) not require participation in Medicaid managed care plans for any child; and

(4) develop and review managed care contract measures, quality assurance activities, and performance delivery evaluations in consultation with the Council; and

(5) post on its website:

(A) a link to any rule adopted or procedures changed to address the provisions of this Section, if applicable;

(B) each managed care organization's contract, enrollee handbook, and directory;

(C) the State's current Health Care Oversight and Coordination Plan developed in accordance with federal requirements; and

(D) the transition plan required under subsection (f), including:

(i) the public comments submitted to the Department or the Council for consideration in development of the transition plan;

(ii) a list and explanation of any recommendations of the Council that the Director or Director of Healthcare and Family Services declined to adopt or implement; and

(iii) the Department's attestation that implementation of the transition plan will not impact its ability to comply with current class action litigation.

(e) The Child Welfare Medicaid Managed Care Steering and Implementation Oversight Council is established to advise the Department on the transition and implementation of managed care for children. The Director of Children and Family Services and the Director of Healthcare and Family Services shall serve as co-chairpersons of the Council. The Directors shall jointly appoint members to the Council who are stakeholders from the child welfare community, including:

(1) 3 non-voting members who are employees of the Department of Children and Family Services who have responsibility in the areas of (i) managed care services, (ii) performance monitoring and oversight, (iii) placement operations, and (iv) budget revenue maximization;

(2) 3 non-voting members who are employees of the Department of Healthcare and Family Services who have

responsibility in the areas of (i) managed care contracting, (ii) performance monitoring and oversight, (iii) children's behavioral health, and (iv) budget revenue maximization;

(3) at least one representative of youth in care;

(4) at least one representative of managed care organizations;

(5) at least one representative of child welfare providers;

(6) at least one representative of a trade association with expertise in child welfare;

(7) at least one representative of parents of children in out-of-home care;

(8) at least one representative of universities or research institutions;

(9) at least one pediatric expert;

(10) at least one court stakeholder;

(11) at least one representative of caregivers of youth in care;

(12) at least one child and adolescent psychiatrist or psychologist;

(13) at least one representative of substance abuse and mental health providers with expertise in serving children involved in child welfare and their families;

(14) at least one representative of trade associations with expertise in substance abuse and mental health;

(15) a member of the Medicaid Advisory Committee;

(16) a private sector member of the Child Welfare Advisory Committee; and

(17) other child advocates.

To the greatest extent possible, the co-chairpersons shall appoint members who reflect the geographic diversity of the State and include members who represent rural service areas. Members shall serve 2-year terms. If a vacancy occurs in the Council membership, the vacancy shall be filled in the same manner as the original appointment for the remainder of the unexpired term. The Council shall hold meetings, as it deems appropriate, in the northern, central, and southern regions of the State to solicit public comments to develop its recommendations. The Department of Children and Family Services shall provide administrative support to the Council. Council members shall serve without compensation.

(f) Prior to placing any child in managed care, the Department of Children and Family Services and the Department of Healthcare and Family Services, in consultation with the Council, must develop, adopt, and submit to the General Assembly a comprehensive transition plan for the provision of health care services to children enrolled in Medicaid managed care plans. The transition plan shall address, but is not limited to, the following:

(1) an assessment of existing network adequacy, plans to address gaps in network before transition to managed

care, and ongoing network evaluation;

(2) an assessment of child welfare provider capacity-building needs, system infrastructure gaps, and steps to be taken to prepare and train organizations, caregivers, frontline staff, and managed care organizations;

(3) the identification of administrative changes necessary for successful transition to managed care, and the timeframes to make changes;

(4) defined roles, responsibilities, and lines of authority for care coordination, placement providers, service providers, and each State agency involved in management and oversight of managed care services;

(5) data used to establish baseline performance and quality of care, which shall be used to evaluate outcomes and identify ongoing areas for improvement;

(6) a process and timeline for stakeholder input into managed care contract development;

(7) a dispute resolution process, including the rights of enrollees and representatives of enrollees under the dispute process and timeframes for dispute resolution determinations and remedies;

(8) the relationship of the dispute resolution process described in paragraph (7) to the administrative review process under the Administrative Review Law;

(9) an initial enrollment process and enrollment

process for those children entering or exiting the Department's care after the implementation of managed care;

(10) protections to ensure the continued provision of health care services if a child's residence or legal guardian changes;

(11) a method that the Department shall use to ensure a reasonable rate is utilized for Medicaid managed care plans to meet the specialized needs of children in the Department's care;

(12) the notification process and timeframes to inform managed care plan enrollees, enrollees' caregivers, and enrollees' legal representation of any changes in health care coverage or a change in a child's managed care provider;

(13) defined pre-clearance requirements for prescriptions, goods, and services in emergency and non-emergency situations, if applicable;

(14) the Department's role and responsibility to ensure implementation of a robust, responsive beneficiary support system that has the capacity to provide assistance in navigating the Medicaid managed care system to all current and prospective beneficiaries and their representatives, including, but not limited to:

(A) establishing a single point of contact systemwide;

(B) defining informational notice requirements;

(C) explanation of enrollment and disenrollment rights;

(D) education on grievance process and requirements for timely responses; and

(E) key beneficiary protections; and

(15) any limitations to the Department's ability to ensure implementation of the beneficiary support system described in paragraph (14).

(g) Prior to implementing the transition plan described in subsection (f), the Department shall submit to the Chairpersons, Vice-Chairpersons, and Minority Spokespersons of the House and Senate Human Services Committees, or to any successor committees:

(1) the transition plan; and

(2) notice of any Council recommendations that the Director of Children and Family Services or the Director of Healthcare and Family Services declined to adopt or implement. This notice shall include: (i) the Council's recommendation that the Director of Children and Family Services or the Director of Healthcare and Family Services declined to adopt or implement; (ii) the justification for declining to adopt or implement the recommendation; and (iii) an attestation from the Director of Children and Family Services or the Director of Healthcare and Family Services that failure to adopt or implement the

recommendation does not contradict any court order or conflict with federal funding requirements.

(h) Reports.

(1) On or before February 1, 2019, and on or before each February 1 thereafter, the Department shall submit a report to the House and Senate Human Services Committees, or to any successor committees, on measures of access to and the quality of health care services for children enrolled in Medicaid managed care plans, including, but not limited to, data showing whether:

(A) children enrolled in Medicaid managed care plans have continuity of care across placement types, geographic regions, and specialty service needs;

(B) each child is receiving the early periodic screening, diagnosis, and treatment services as required by federal law, including, but not limited to, regular preventative care and timely specialty care;

(C) children are assigned to health homes;

(D) each child has a health care oversight and coordination plan as required by federal law;

(E) there exist complaints and grievances indicating gaps or barriers in service delivery;

(F) the Council and other stakeholders have and continue to be engaged in quality improvement initiatives;

(G) there exist disenrollment trends and related

reasons such as poor quality of care, lack of access to services covered by the managed care organization, lack of access to providers experienced in addressing enrollees' needs, limitations of in-network and out-of-network coverage, or any other factors.

The report shall be prepared in consultation with the Council and other agencies, organizations, or individuals the Director deems appropriate in order to obtain comprehensive and objective information about the managed care plan operation.

(2) During each legislative session, the House and Senate Human Services Committees shall hold hearings to take public testimony about managed care implementation for children in the care of, adopted from, or placed in guardianship by the Department. The Department shall present testimony, including information provided in the report required under paragraph (1), the Department's compliance with the provisions of this Section, and any recommendations for statutory changes to improve health care for children in the Department's care.

(i) If any provision of this Section or its application to any person or circumstance is held invalid, the invalidity of that provision or application does not affect other provisions or applications of this Section that can be given effect without the invalid provision or application.

Section 99. Effective date. This Act takes effect upon becoming law.".