

Child and Adolescent Mental Health Legislation in the 111th Congress

Almost one in five young people have a mental, emotional, or behavioral disorder, yet less than a third of children and youth with the most serious problems have any contact with the mental health system. The presence of major mental illness may occur as early as 7 to 11 years old, but the first symptoms typically occur 2 to 4 years before a disorder is diagnosed.

Below is a summary of the bills Congress introduced in 2009 to address the mental, emotional, and behavioral health needs of children. Provisions from some of these bills have been included in the House and Senate healthcare reform bills.

School-Based Health Clinic Establishment Act of 2007 ([H.R. 4230](#))

Originally introduced in the 2007 in both the Senate (S. 600) and the House of Representatives (H.R. 4230), this bill was introduced only in the House in 2009. The bill authorizes a grant-based program for the operation and development of school-based health clinics (SBHCs) to:

- Provide comprehensive and accessible primary health care services to medically underserved children, youth and families;
- Improve the physical health, the emotional well-being and academic performance of children and youth;
- Work in collaboration with schools to integrate health into the overall school environment.

Healthy Schools Act of 2009 ([S. 1034/H.R. 2840](#))

Senator Stabenow, along with six original cosponsors, introduced S. 1034 on May 13, 2009, followed by a House of Representatives companion bill, H.R. 2840, introduced by Representatives Sarbanes, Towns, Dingell, and 11 original cosponsors, on June 11, 2009. The *Healthy Schools Act of 2009* establishes a mechanism for States to certify school based health centers (SBHCs) to be recognized under Medicaid and the State Children's Health Insurance Program for Medicaid and SCHIP-enrolled school children and adolescents. The *Healthy Schools Act of 2009*:

- Ensure procedures for payment under Medicaid and SCHIP for services provided by school-based health clinics certified by States and Health and Human Services;
- Establish a certification procedure for States to certify to the Secretary of Health and Human Services that the State has implemented procedures to pay for SCHIP and Medicaid provided health care in a SBHC;
- Set minimum criteria for "primary health services" as the core group of services offered by a SBHC, **including comprehensive health and mental health assessments**, intervention and treatment, as well as oral health, social, and health education services.

SBHCs and the Healthy Schools Act in Healthcare Reform

Elements of the *School-Based Health Clinic Establishment Act* and the *Healthy Schools Act* (see description below) have been incorporated in to the Senate and House healthcare reform bills. Specifically, the House of Representatives [*Affordable Health Care for America Act of 2009*](#) includes the following provisions:

- Authorization and Reimbursement (Subtitle B, Part 1, Sec. 2511): Establishes a new program to support school-based health clinics that provide health services to children and adolescents, and authorizes \$50 million for FY 2011 and such sums as may be necessary for each of FY 2012 through FY 2015 to carry out this program. This section also includes a provision on reimbursement under Medicaid and CHIP.
- Cost-Based Reimbursement (Subtitle C, Sec. 1730B): Requires that State Medicaid programs reimburse school-based health clinics receiving funds under the program established by section 2511 on the same basis as they reimburse federally-qualified health centers (FQHCs).

The Senate [*Patient Protection and Affordable Care Act*](#) includes the following provisions regarding school-based health centers:

- Federal Authorizing Program for SBHCs (Sec. 399z-1): Establishes a new program to support school-based health clinics that provide health services to children and adolescents.
- Short-Term Appropriation for the Establishment of SBHCs (Sec. 4101): This section establishes a grant program for SBHCs. There are two major changes in the language from the Senate Finance version, where it originally appeared: (1) The grant funding can only be used for expenditures for facilities, equipment, or similar expenditures as specified by the Secretary, and (2) the total amount of \$200 million remains unchanged, but funding is now \$50 million/year over four years (as opposed to \$100 million/year over two years).

Child Health Care Crisis Relief Act of 2009 ([S.999](#)/[H.R. 1932](#))

Originally introduced in 2007, Representatives Patrick Kennedy (D-RI) and Ileana Ros-Lehtinen (R-FL) introduced H.R. 1932 on April 2, 2009, followed by Senators Jeff Bingaman (D-NM) and Susan Collins (R-ME) on May 7, 2009. The *Child Health Care Crisis Relief Act of 2009* creates incentives to help recruit and retain child mental health professionals providing direct clinical care, and to improve, expand, or help create programs to train child mental health professionals through the following mechanisms:

- Loan Repayment and Scholarships for child mental health and school-based service professionals to help pay back educational loans.
- Grants to graduate schools for internships and field placements in child mental health services.
- Grants for the pre-service and in-service training of paraprofessionals who work with children in mental health clinic settings.
- Grants to graduate schools to help develop and expand child and adolescent mental health programs.
- Graduate Medical Education Program Extension. The bill also allows for an increase in the number of Child and Adolescent Psychiatrists permitted under the Medicare Graduate Medical Education Program and extends the Board Eligibility period for residents and fellows from four to six years.

Loan Repayment Programs in Healthcare Reform

Several loan repayment programs have been included in the healthcare reform bills, including an expansion of the National Health Service Corps and creation of a new Pediatric Specialty Loan Repayment Program for individuals employed full-time, in health professional shortage area medically underserved area, or serving a medically underserved population, “providing pediatric medical subspecialty, pediatric surgical specialty, or **child and adolescent mental and behavioral health care, including substance abuse prevention and treatment services.**”

Mental Health in Schools Act of 2009 ([H.R. 2531](#))

Representative Grace Napolitano (D-CA) and Tim Murphy (R-PA) re-introduced the *Mental Health in Schools Act of 2009* (H.R. 2531), on May 20, 2009, to enhance the scope of the Safe Schools-Healthy Students program administered by SAMHSA. First introduced in 2007, and based upon a bill introduced by Senator Ted Kennedy (S. 1132), the *Mental Health in Schools Act of 2009* has been revised with additional input from educators to support a public health approach to school-based mental health services for children in K-12. The bill:

- Revises, increases funding for, and expands the scope of the Safe Schools-Healthy Students program to provide access to more comprehensive school-based mental health services and supports.
- Authorizes competitive grants to local school districts to assist them in implementing effective mental health programs administered by state-licensed or certified mental health professionals.
- Expands requirements for eligibility such that: (1) the local education agency will enter into a memorandum of understanding with relevant community-based entities that clearly states the responsibilities of each partner; (2) the program will include training of all school personnel, family members of children with mental health disorders, and concerned members of the community; and (3) the program will demonstrate the measures to be taken to sustain the program after funding terminates.
- Provides for comprehensive, culturally and linguistically appropriate staff development for school and community service personnel working in the school to identify and support students in need of immediate mental health care and those at risk for behavioral mental health disorders, allowing teachers to concentrate on teaching.
- Promotes positive mental health education and support for parents, siblings, and other family members of children with mental health disorders, as well as concerned members of the community.
- Requires schools to thoroughly document measures of outcome and demonstrate the actions they are taking to continue sustaining the program independently of grant funds.
- Distributes funds from SAMHSA to local educational agencies that form partnerships with community agencies and programs involved with mental health, i.e. public or private entities that are directly or indirectly involved with mental health.

Positive Behavior for Safe and Effective Schools Act ([H.R. 2597](#))

Representative Phil Hare (D-IL) re-introduced the *Positive Behavior for Safe and Effective Schools Act* (H.R. 2597) on May 21, 2009. This bill was previously introduced as the *Positive Behavior for Effective Schools Act* (S. 2111/H.R. 3407) by U.S. Senators Barack Obama (D-IL) and Dick Durbin (D-IL), and Representative Phil Hare (D-IL) in the 110th Congress. The legislation promotes the use of school-wide positive behavior support (PBS) to help improve school climate and foster students' academic and social success. School-wide PBS reinforces desired behavior and eliminates inadvertent reinforcement of problem behavior. PBS has been shown to improve instructional time, reduce disciplinary problems and increase test scores. Specifically, the bill:

- Provides flexibility for use of Title I funds so State agencies may provide technical assistance and support the implementation of PBS;
- Amends the Safe & Drug Free Schools and Communities Program to emphasize initiatives that improve the whole school climate in order to foster learning;
- Authorizes local education agencies to use funds for school-wide programs as a way to promote a school environment that is safe and conducive to learning;
- Offers instructional leadership skills to help teachers administer PBS and enhance their understanding of the social and emotional learning of children to improve the learning climate;
- Establishes a new office in the Department of Education to help coordinate and administer assistance to mental health and related services professionals who work with students on PBS and other evidence-based approaches to help improve their academic and behavioral outcomes;
- Distributes funds from Department of Education to State Education agencies.

Healthy Transitions Act ([H.R. 2691](#))

The Healthy Transitions Act of 2009, introduced June 3, 2009, is modeled on the [Partnerships for Youth in Transition demonstration program](#) and was first introduced as the *Healthy Transition Act of 2008* (H.R.6375/S.3195) by Senators Gordon Smith (R-OR) and Chris Dodd (D-CT) and U.S. Representative Pete Stark (D-CA) in the 110th Congress. There was no companion bill in the Senate this year. The current bill in the House establishes a planning grant program that would allow States to implement effective transition-age mental health services and supports. Funds are directed through SAMHSA to State agencies. There are three parts to the bill:

- Planning Grants to States to develop coordination plans that will give adolescents and young adults with a serious mental health disorder the tools they need to make a healthy transition to adulthood.
- Implementation Grants to States to help States execute these coordination plans. This grant program encourages increasing matching requirements by States to ensure stability in the program.
- A Committee of Federal Partners that will coordinate federal programs to coordinate programs providing such services. The Committee will: (1) review how federal programs and efforts that address issues related to the transition of adolescents and young adults with serious mental health disorders may be coordinated to ensure the maximum benefit for the individuals being served; and (2) provide technical assistance to the States that are planning or implementing programs under this Act.

Student Support Act ([H.R. 1338](#))

Introduced March 5, 2009 by Representative Barbara Lee, the *Student Support Act* amends the Elementary and Secondary Education Act of 1965 to support hiring of additional school-based mental health and student service providers. This bill was first introduced in 2007 and does not have any cosponsors this year. The *Student Support Act*:

- Provides matching grants of at least \$1 million to States for allocation to local educational agencies (LEAs) to hire additional school-based mental health and student service providers;
- Recommends reducing the student-to-provider ratios in elementary and secondary schools to 250:1, as advised by the Institute of Medicine of the National Academy of Sciences; Qualified personnel specifically included are school counselors, school psychologists or other psychologists, child or adolescent psychiatrists, and school social workers among such providers;
- Directs grants to be allocated by specified formulas that take into account a State's and school district's share of disadvantaged children.

Medicaid Services Restoration Act ([S. 1217](#))

Introduced by Senator Stabenow and four cosponsors on June 9, 2009, the *Medicaid Services Restoration Act* clarifies and protects vital Medicaid services for children, youth, and adults with mental illness and individuals with disabilities. The bill:

- Creates a Medicaid service category under which therapeutic foster care (TFC) services can be reimbursed. TFC provides medically necessary, evidence-based, intensive services in a least-restrictive, community-based environment for children with severe mental and behavioral health needs.
- Permits states to use reasonable and efficient payment methodologies for rehabilitative and targeted case management (TCM) services, including fee-for-service, case rates, daily rates, or other forms of capitated payment.
- Amends the definition of rehabilitative services to include not only restoration of functioning, but also the attainment or retention of an individual's best possible functional status.
- Clarifies that Medicaid will reimburse for medical and surgical services for children receiving inpatient psychiatric services in psychiatric hospitals or psychiatric residential treatment centers, to ensure that Medicaid-eligible children under 21 receive EPSDT services as required by law.
- Clarifies that non-medical programs, including child welfare and foster care, can continue drawing down Medicaid funds to provide important clinical rehabilitative treatment and TCM to vulnerable children and youth in their care.
- Codifies current policy known as the *Olmstead* policy that supports case management services for individuals transitioning to the community from an institution within the last 180 days of their stay.
- Explicitly permits states to use multiple case managers when necessary.

Therapeutic Foster Care in Healthcare Reform

The TFC portions of the *Medicaid Services Restoration Act* were also included in the House healthcare reform bill, the *Affordable Health Choices for America Act*.

Full-Service Community Schools Act of 2009 ([H.R. 3545/S. 1655](#))

On Sept. 9, 2009, the *Full-Service Community Schools Act* was introduced in the House by Rep. Steny Hoyer and 62 cosponsors and in the Senate by Sen. Ben Nelson and six cosponsors. This bill authorizes a Department of Education grant program to expand the number of full-service community schools across the nation. Full-service community schools are public schools that coordinate academic and non-academic supports, including mental health counseling, mentoring, and other youth health and development services.

Mental Health on Campus Improvement Act ([S. 682/H.R. 1704](#))

Sen. Durbin and Rep. Schakowsky introduced the *Mental Health on Campus Improvement Act* in March of 2009. The purpose of this bill is to improve and expand the mental and behavioral health services available on college campuses around the country. The legislation:

- Establishes a grant program within the Department of Health and Human Services to assist colleges and universities in providing direct mental health services and outreach to students, families, and staff. This funding may also be used to hire staff and provide mental health training opportunities.
- Calls on the Centers for Disease Control and Prevention to create a public health awareness campaign around mental health for students and to reduce the stigma associated with mental illness.
- Establishes an interagency working group on college mental health to support innovations in services and supports for students on college/university campuses.

Educational Success for Children and Youth Without Homes Act of 2009 ([S. 2800](#))

On Nov. 19, 2009, Sens. Patty Murray and Al Franken introduced the *Educational Success for Children and Youth Without Homes Act of 2009*. This legislation expands and reinforces some of the provisions of the *McKinney-Vento Act's* Education for Homeless Children and Youth (EHCY) program. The bill seeks to make the EHCY program even more effective by:

- Keeping homeless children and youth in their original schools unless the parent, guardian, or unaccompanied youth wishes to change schools, or unless an individualized, best interest determination by the school supports a change of schools;
- Increasing the funding level to help assist with the costs of transportation to the school of origin and making transportation to the school of origin an allowable use of Title I, Part A funds;
- Establishing and training a homeless youth liaison within schools;
- Increasing outreach and identification efforts for homeless students;
- Improving access to summer school, before and after school programs, and other educational opportunities;
- Extending some of the *McKinney-Vento Act's* provisions to homeless preschoolers.

Juvenile Justice and Delinquency Prevention Reauthorization Act of 2009 ([S. 678](#))

On Dec. 17, 2009, the Senate Judiciary Committee voted 12-7 to approve the bipartisan *Juvenile Justice and Delinquency Prevention Act* (S. 678). This legislation, introduced by Sen. Patrick Leahy and seven cosponsors, reauthorizes through fiscal year 2014 the juvenile delinquency prevention portions of the *Juvenile Justice and Delinquency Prevention Act of 1974*. In addition, the bill:

- Requires state plans under the Act to include alternatives to detention for juveniles who are status or first-time minor offenders;
- Requires state plans to include the use of community-based services to address the needs of at-risk youth;
- Authorizes incentive grants to state and local governments for the prevention and reduction of juvenile delinquency prevention programs, including evidence-based programs for the prevention and reduction of juvenile delinquency, personnel recruitment and training, and mental health and substance abuse screening and treatment;
- Includes mentoring programs as a permissible grant purpose under the incentive grant program.

Stop Child Abuse in Residential Programs for Teens Act of 2009 ([H.R. 911](#))

Rep. George Miller and 23 cosponsors introduced the *Stop Child Abuse in Residential Programs for Teens Act of 2009* on February 9, 2009. The bill was approved by the House in June 2009 and referred to the Senate Committee on Health, Education, Labor and Pensions, where it has remained without further action. The intent of the bill is to enhance federal oversight of residential programs in the wake of several GAO reports that found instances of gaps in standards and regulations between states, failure of some programs to meet licensing standards, deceptive marketing practices by certain programs, and in some cases, the abuse of children enrolled in residential programs. The Miller bill establishes minimum federal standards with which all residential programs must comply, including a prohibition against child abuse, limitations on the use of seclusion and restraint, and several requirements for ongoing staff training.

The proposed federal oversight could be potentially problematic for high-quality residential programs that are already state-monitored and/or licensed and staffed by highly-qualified, licensed professionals because of the burden that duplicate licensure and reporting requirements would place on these programs. An [alternate bill](#) that would enhance oversight of unsafe programs while addressing some of the concerns of high-quality, state-monitored programs has been drafted but not yet introduced in either the House or the Senate.

Preventing Harmful Restraint and Seclusion in Schools Act ([H.R. 4247/S. 2860](#))

The GAO reports detailing abuse in residential programs also found evidence of improper or abusive use of seclusion and restraints in some public and private schools, often on children with disabilities. There are currently no federal laws that address how and when seclusion and restraint may be safely used in schools. In Dec. 2009, Rep. George Miller and Sen. Dodd introduced the *Preventing Harmful Restraint and Seclusion in Schools Act* in order to enact federal standards that would:

- Allow physical restraint or locked seclusion only when there is imminent danger of injury, and only when imposed by trained staff;
- Prohibit the use of mechanical restraints, chemical restraints, restraints that restricts breathing, and interventions that compromise health and safety;
- Require every state to enact policies and regulations that meet the minimum federal standards outlined in the bill;
- Provide grants to states for professional development and training in positive behavior support programs.

As with the *Stop Child Abuse for Teens in Residential Treatment Act*, some of the provisions in this bill could potentially create duplicate regulatory and reporting requirements for high-quality programs that are safely and responsibly using seclusion and restraints.