

SENATE THIRD READING  
SB 225 (Wiener)  
As Amended August 18, 2022  
Majority vote

## SUMMARY

Requires a health care service plan (health plan) and health insurers to incorporate timely access to care standards and processes into its quality assurance systems. Authorizes the Department of Managed Health Care (DMHC) and California Department of Insurance (CDI) to develop methodologies to demonstrate appointment wait time compliance and averages, take compliance or disciplinary action, review and adopt standards concerning the availability of health care to ensure enrollees and insureds have timely access to care, and make recommendations to the Legislature if it finds that health plans and insurers and providers have difficulty meeting the standards developed. Requires the DMHC Director to consider, as an aggravating factor when assessing administrative penalties, if harm to an enrollee has occurred as a result of plan noncompliance. Clarifies that the timely access to care provisions do not alter requirements or standards for Medi-Cal managed care (MCMC) plans, except as specified.

## Major Provisions

## COMMENTS

- 1) *Existing Network Adequacy Requirements.* California law sets forth various network adequacy requirements on health plans and insurers. For example, health plans are subject to the following:
  - a) *Timely Access.* Timely Access Laws and Regulations require that health plans meet a set of standards which include specific time frames under which enrollees must be able to access care. These requirements generally include the following standards for appointment availability and are codified in SB 221 (Weiner), Chapter 724, Statutes of 2021:
    - i) *Urgent care without prior authorization:* within 48 hours;
    - ii) *Urgent care with prior authorization:* within 96 hours;
    - iii) *Non-urgent primary care appointments:* within 10 business days;
    - iv) *Non-urgent specialist appointments:* within 15 business days;
    - v) *Non-Urgent mental health appointments:* within 15 business days for psychiatrist, within 10 business days for non-physician mental health provider;
    - vi) *Non-urgent follow up appointments for nonphysician mental health (MH) care or substance use disorder (SUD) providers within 10 business days of the prior appointment; and,*
    - vii) *Non-urgent appointment for ancillary services for the diagnosis or treatment of injury, illness or other health condition:* within 15 business days.

*Existing regulations also authorize the applicable waiting time for a particular appointment to be extended if the referring or treating licensed health care provider, or the health professional providing triage or screening services, as applicable, acting within the scope of their practice and consistent with professionally recognized standards of practice, has determined and noted in the relevant record that a longer waiting time will not have a detrimental impact on the health of the enrollee.*

- b) Timely Access Report. DMHC recently published its Timely Access Report for Measurement Year 2020 and the key findings are as follows:
  - i) Full Service Health Plans: For non-urgent and urgent appointments, the percentage of all surveyed providers who had appointments available within the wait time standards ranged from a high of 98% to a low of 53%. For non-urgent appointments, the percentage of all surveyed providers who had appointments available within the wait time standards ranged from a high of 98% to a low of 69%. For urgent appointments, the percentage of all surveyed providers who had appointments available within the wait time standards ranged from a high of 97% to a low of 35%.
  - ii) Behavioral Health Plans: For non-urgent and urgent appointments, the percentage of all surveyed providers who had appointments available within the wait time standards ranged from a high of 79% to a low of 75%. For non-urgent appointments, the percentage of all surveyed providers who had appointments available within the wait time standards ranged from a high of 88% to a low of 83%. For urgent appointments, the percentage of all surveyed providers who had appointments available within the wait time standards ranged from a high of 72% to a low of 64%.
- c) SB 221. The author provided information that this bill is clean-up legislation that ensures the DMHC can effectively enforce SB 221 (Wiener), Chapter 724, Statutes of 2021. In 2021, SB 221 codified timely access standards set forth above for follow-up appointments, including appointments with non-physician MH and SUD providers. In 2021, the DMHC also promulgated a robust regulation which requires health plans to provide the DMHC with annual data to prove that they are complying with the timely access and network adequacy laws. This bill addresses two issues:
  - i) SB 221 uses more limited terminology to refer to the health care providers in a health plan's network, which inadvertently limits the applicability of SB 221's follow-up appointment standards. The follow-up appointment standards added by SB 221 also do not apply to specific preventative care required for children and adolescents, as the statute does not cross reference preventative care described elsewhere in existing law. This bill will update the terminology in the timely access statutes to align with the DMHC's timely access and annual network reporting regulation, thereby allowing the DMHC to enforce the follow-up appointment standards in all situations. This bill will amend the definition of "preventative care" to ensure that the follow-up appointment standards apply to specific preventative care required for children and adolescents; and,
  - ii) SB 221 implies that the DMHC's enforcement authority is limited to assessing administrative penalties. Moreover, the Administrative Procedure Act (APA) waiver provided to the DMHC to develop reporting methodologies does not provide the DMHC with enough time to test the efficacy of the methodologies. This bill will

clarify the DMHC's enforcement authority and allow the DMHC to consider patterns of a health plan's noncompliance with the timely access standards when taking an enforcement action against a health plan. Finally, this bill will extend the DMHC's APA waiver to 2027, which will allow the DMHC time to test the complex annual reporting methodology over multiple reporting cycles, resulting in a more effective final methodology.

**According to the Author**

This bill is clean-up legislation that ensures the DMHC can effectively enforce SB 221 (Wiener), Chapter 724, Statutes of 2021, which codified timely access standards for follow-up appointments. The existing timely access statute uses more limited terminology to refer to the health care providers in a health plan's network, which inadvertently limits the applicability of SB 221's follow-up appointment standards. The follow-up appointment standards added by SB 221 also do not apply to specific preventative care required for children and adolescents. Furthermore, the existing statute implies that the DMHC's enforcement authority is limited to assessing administrative penalties. Moreover, the APA waiver provided to the DMHC to develop reporting methodologies does not provide the DMHC with enough time to test the efficacy of the methodologies. The author concludes that this bill remedies this by updating relevant terminology and clarifying the DMHC's enforcement authority.

**Arguments in Support**

The Center for Autism and Related Disorders writes that this bill updates to the definition of "preventative care" to include the most recent recommendations by the American Academy of Pediatrics. This change ensures that follow-up appointment standards apply to autism screenings. In addition, this bill strengthens DMHC's enforcement authority by allowing them to consider patterns of noncompliance.

**Arguments in Opposition**

There is no known opposition to this bill.

**FISCAL COMMENTS**

According to the Assembly Appropriations Committee:

- 1) CDI estimates costs between \$250,000 and \$400,000 in fiscal year 2023-24 to review and adopt standards concerning the availability and nature of health care services and providers. CDI indicates a need to add staff and retain experts to implement this bill, but the number of experts needed is difficult to assess based on the language as written (Insurance Fund).
- 2) DMHC projects minor and absorbable costs.
- 3) Likely minor and absorbable costs to the Department of Health Care Services.

**VOTES**

**SENATE FLOOR: 29-0-11**

**YES:** Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Newman, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Wieckowski, Wiener  
**ABS, ABST OR NV:** Bates, Borgeas, Dahle, Durazo, Jones, Melendez, Min, Nielsen, Stern, Umberg, Wilk

**ASM HEALTH: 12-0-3**

**YES:** Wood, Waldron, Aguiar-Curry, Arambula, Carrillo, Flora, Maienschein, Mayes, Nazarian, Luz Rivas, Rodriguez, Santiago  
**ABS, ABST OR NV:** Bigelow, McCarty, Akilah Weber

**ASM APPROPRIATIONS: 14-0-2**

**YES:** Holden, Bryan, Calderon, Arambula, Davies, Mike Fong, Fong, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, McCarty  
**ABS, ABST OR NV:** Bigelow, Megan Dahle

**UPDATED**

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CONSULTANT: Kristene Mapile / HEALTH / (916) 319-2097

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