
SENATE COMMITTEE ON HEALTH

Senator Dr. Richard Pan, Chair

BILL NO: SB 225
AUTHOR: Wiener
VERSION: August 18, 2022
HEARING DATE: August 29, 2022
CONSULTANT: Teri Boughton

PURSUANT TO SENATE RULE 29.10

SUBJECT: Health care coverage: timely access to care.

SUMMARY: Revises the enforcement authority of the Department of Managed Health Care and Department of Insurance over health plans and insurers related to timely access to mental health and substance use treatment and extends the time frame for the departments to develop and adopt standards and methodologies without being subject to the Administrative Procedures Act.

Existing law:

- 1) Establishes the Department of Managed Health Care (DMHC) to regulate health plans under the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act) and the California Department of Insurance (CDI) to regulate health and other insurance. [HSC §1340, et seq., and INS §106, et seq.]
- 2) Requires a health plan or health insurer that provides or arranges for the provision of hospital or physician services, including a specialized mental health plan that provides physician or hospital services, or that provides mental health services pursuant to a contract with a full service plan, to comply with specified timely access requirements. [HSC §1367.03 and INS §10133.54]
- 3) Requires a plan operating in a network service areas that has shortage of providers to ensure timely access to covered health care services, including applicable time-elapsd standards, by referring an enrollee to, or in the case of a preferred provider network, by assisting an enrollee to locate available and accessible network providers consistent with patterns of practice for obtaining services in a timely manner appropriate for the enrollee's needs. [HSC § 1367.03]
- 4) Authorizes regulations to be issued by DMHC and CDI related to timely access to care. [Title 10 of the California Code of Regulations, including Sections 2240.1, 2240.15, and 2240.16. and Title 28 of the California Code of Regulations, including Sections 1300.67.2, 1300.67.2.2, 1300.68, and 1300.70.]
- 5) Requires a health plan contract that is issued, renewed, or amended on or after July 1, 2017, to provide information to an enrollee regarding the standards for timely access to care and other specified information, including information related to receipt of interpreter services in a timely manner, no less than annually. [HSC § 1367.031]

- 6) Establishes the Medi-Cal program, administered by the Department of Health Care Services (DHCS), under which low-income individuals are eligible for medical coverage. [WIC §14000, et seq.]
- 7) Requires Medi-Cal managed care plans to adhere to certain network adequacy standards that to maintain a network of specialists that are located within a certain time or distance from their enrollees' places of residence, dependent on what county the enrollee lives in. This law will sunset on January 1, 2026. [WIC §14197]

This bill:

- 1) Requires a plan to ensure that enrollee costs for medically necessary referrals to non-network providers do not exceed applicable *in-network* copayments, coinsurance, and deductibles.
- 2) Requires a health plan to incorporate the timely access standards into the health plan's quality assurance systems and processes, as specified.
- 3) Replaces "contracted" provider with "network" providers and makes other clarifying changes.
- 4) Expands the definition of "preventive care" to include basic health care services required under the preventive services mandate required under the Affordable Care Act and other comprehensive preventive services for children.
- 5) Permits DMHC to develop methodologies to demonstrate compliance with, and the average appointment wait time for, each class of dental appointments, as specified, and exempts the development and adoption of specified methodologies from the Administrative Procedure Act (APA), as specified, until December 31, 2025.
- 6) Permits DMHC to take compliance or disciplinary action, including assessment of administrative penalties, on the basis of noncompliance, including, but not limited to, timeframes for appointments and follow-up appointments.
- 7) Permits DMHC to review and adopt standards, in addition to those specified, concerning the availability of primary care physicians, specialty physicians, hospital care, and other health care, so that consumers have timely access to care. Requires DMHC to consider the nature of physician practices, including individual and group practices, as well as the nature of the plan network.
- 8) Requires DMHC to also consider various circumstances affecting the delivery of care, including urgent care, care provided on the same day, and requests for specific providers. Permits DMHC to make recommendations to the Assembly Committee on Health and the Senate Committee on Health as part of its annual review if DMHC finds that health plans and health care providers have difficulty meeting these standards. Exempts the development and adoption of standards from the APA until December 31, 2028. Requires DMHC to consult with stakeholders in developing the standards and methodologies described in this bill.
- 9) Permits DMHC to, assess administrative penalties subject to appropriate notice of, and the opportunity for, a hearing, as specified, regarding noncompliance with the requirements of this section. Requires DMHC to consider, as an aggravating factor when assessing administrative penalties, if harm to an enrollee, including financial or health impacts to an

enrollee or substantial harm as defined, has occurred as a result of noncompliance. Gives DMHC the discretion to determine what harm constitutes harm to an enrollee. Permits DMHC to consider patterns of noncompliance.

- 10) Applies this bill to health plans that provide services to Medi-Cal beneficiaries except for appointment wait standards, and reaffirms DHCS standards, as specified.
- 11) Requires plans to notify contracting providers about the DMHC website where complaints can be filed.
- 12) Permits CDI to issue guidance to insurers regarding timely access and network reporting methodologies until December 31, 2025.
- 13) Requires a health insurer to incorporate the standards set forth in the insurer's quality assurance systems and processes, as described.
- 14) Permits CDI to take compliance or disciplinary action, including imposition of administrative penalties, on the basis of noncompliance with, including, but not limited to, timeframes for appointments and follow-up appointments.
- 15) Permits CDI to review and adopt standards, concerning the availability of primary care physicians, specialty physicians, hospital care, and other health care, so that consumers have timely access to care. Requires CDI to consider the nature of physician practices, including individual and group practices, as well as the nature of the network; and consider various circumstances affecting the delivery of care, including urgent care, care provided on the same day, and requests for specific providers.
- 16) Permits, if CDI finds that insurers and health care providers have difficulty meeting these standards, to make recommendations to the Assembly Committee on Health and the Senate Committee on Health. Exempts the development and adoption of standards from being subject to the APA until December 31, 2028. Requires CDI to consult with stakeholders in developing the standards and methodologies described in this bill.

FISCAL EFFECT: 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 DHCS.

COMMENTS:

- 1) *Author's statement.* According to the author, this bill is clean-up legislation that ensures 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. This bill remedies this by updating relevant terminology and clarifying the DMHC's enforcement authority.

- 2) *Select Committee on Mental Health and Addiction.* On August 10, 2022, the Senate Select Committee on Mental Health and Addiction met to discuss implementation of SB 225. At the hearing, the DMHC director testified along with families and mental health providers. The hearing highlighted some of the continuing timely access issues enrollees with major health plans in California continue to face when seeking mental health treatment.
- 3) *Related legislation.* SB 184 (Committee on Budget, Chapter 47, Statutes of 2022) among many other items, extends from January 1, 2023 to January 1, 2026 certain time, distance, and appointment time standards for specified services to ensure that Medi-Cal managed care covered services are available and accessible to enrollees of Medi-Cal managed care plans in a timely manner.
- 4) SB 1180 (Pan) requires DHCS to seek input from stakeholders, including consumer advocates, plans, and providers prior to January 1, 2025, to determine what changes, if any, are needed to existing time and distance and appointment availability standards for Medi-Cal managed care plans, county mental health plans, county Drug Medi-Cal organized Delivery Systems and Denti-Cal managed care plans. *SB 1180 is pending on the Assembly Floor.*
- 5) *Prior legislation.* SB 221 codifies existing timely access to care standards for health plans and health insurers, applies these requirements to Medi-Cal managed care plans, adds a standard for non-urgent follow-up appointments for nonphysician mental health care or substance use disorder providers that is within 10 business days of the prior appointment, and, prohibits contracting providers and employees from being disciplined for informing patients about timely access standards.
- 6) *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 ensure that follow-up appointment standards apply to autism screenings. In addition, this bill strengthens DMHCs enforcement authority by allowing them to consider patterns of noncompliance. For these reasons, we are pleased to support this bill. The California State Association of Psychiatrists writes that this bill seeks to update the terminology in the timely access statutes to align with the DMHC's timely access and annual network reporting regulation. This is important as doing so will allow the DMHC to enforce the follow-up appointment standards in all situations. Specifically, 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. This bill will also help clarify the DMHC's enforcement authority and allow the DMHC to consider patterns of a health plan's noncompliance with the timely access standards. Lastly, the bill will extend the DMHC's APA waiver to 2027, thereby granting the DMHC more time to test the complex annual reporting methodology over multiple reporting cycles.

SUPPORT AND OPPOSITION:

Support: Center for Autism Related Disorders
 California State Association of Psychiatrists

Oppose: None received

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