Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 1859
Author: Levine (D)
Amended: 8/18/22 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 8-0, 6/22/22
AYES: Pan, Eggman, Gonzalez, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Melendez, Grove, Hurtado

SENATE APPROPRIATIONS COMMITTEE: 5-1, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates
NO VOTE RECORDED: Jones

ASSEMBLY FLOOR: 59-12, 5/26/22 - See last page for vote

SUBJECT: Mental health and substance use disorder treatment

SOURCE: Depression and Bipolar Support Alliance

DIGEST: This bill requires a health plan contract or health insurance policy that covers mental health services to approve coverage for medically necessary mental health and substance use disorder treatment when an enrollee or insured is referred for a follow-up appointment within time and distance standards, and limit cost-sharing to in-network amounts when services are provided out-of-network.

Senate Floor Amendments of 8/18/22:

1) Indicate that the bill applies to medically necessary mental health and substance use disorder treatment.

2) Delete the seven day standard, and instead require if the enrollee or insured is referred for a follow-up appointment for mental health services on a voluntary basis, as specified, the plan or insurer to process the referral as a request for an appointment, consistent with timely access requirements.

3) Define referral to include an appointment with a licensed mental health professional or substance use treatment professional as part of a discharge plan, unless the enrollee provides a signed waiver that is witnessed by a peer or guardian.

4) Require the referring facility to provide notification of the referral to the health plan or insurer within 48 hours of referral.

5) Require if the follow-up appointment requested is not available in network within the geographic and timely access standards set by law or regulation, the plan or insurer to arrange coverage to ensure the delivery of medically necessary out-of-network services and any medically necessary follow-up services that, to the maximum extent possible, meet those geographic and timely access standards. Define, "arrange coverage to ensure the delivery of medically necessary out-of-network services" to include, but not be limited to, providing services to secure medically necessary out-of-network options that are available within the geographic and timely access standards.

ANALYSIS:

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); California Department of Insurance (CDI) to regulate health and other insurance; and, the Department of Health Care Services (DHCS) to administer the Medi-Cal program. [HSC §1340, et seq., INS §106, et seq., and WIC §14000, et seq.]

2) Requires every health plan contract and insurance policy that provides hospital, medical, or surgical coverage to provide coverage for medically necessary treatment of mental health and substance use disorders under the same terms and conditions applied to other medical conditions, as specified. [HSC §1374.72 and INS §10144.5]

3) Requires the health plan or insurer, if services for the medically necessary treatment of a mental health or substance use disorder are not available in network within the geographic and timely access standards set by law or regulation, to arrange coverage to ensure the delivery of medically necessary out-of-network services and any medically necessary follow-up services that, to the maximum extent possible, meet those geographic and timely access standards. This includes, but is not limited to, providing services to secure

medically necessary out-of-network options that are available to the enrollee within geographic and timely access standards, and requires the enrollee or insured to pay no more than the same cost sharing that would be paid for the same covered services received from an in-network provider. [HSC §1374.72 and INS §10144.5]

This bill:

1) Requires a health plan contract or health insurance policy issued, amended, or renewed on or after July 1, 2023, that includes coverage for mental health services, to do all of the following:

   a) If the enrollee or insured is referred for a follow-up appointment for mental health services on a voluntary basis, as specified, the plan or insurer to process the referral as a request for an appointment, consistent with timely access requirements;

   b) Define referral to include an appointment with a licensed mental health professional or substance use treatment professional as part of a discharge plan, unless the enrollee provides a signed waiver that is witnessed by a peer or guardian;

   c) Require the referring facility to provide notification of the referral to the health plan or insurer within 48 hours of referral;

   d) Require if the follow-up appointment requested is not available in network within the geographic and timely access standards set by law or regulation, the plan or insurer to arrange coverage to ensure the delivery of medically necessary out-of-network services and any medically necessary follow-up services that, to the maximum extent possible, meet those geographic and timely access standards;

   e) Define, "arrange coverage to ensure the delivery of medically necessary out-of-network services" to include, but not be limited to, providing services to secure medically necessary out-of-network options that are available within the geographic and timely access standards; and,

   f) Provide that if an enrollee or insured receives covered mental health or substance use disorder treatment from a noncontracting provider, the enrollee or insured pays no more than the same cost-sharing amount that the enrollee or insured would pay for the same covered services received from a contracting provider. Requires this amount to be referred to as the "in-network cost-sharing amount."

2) Limits what an enrollee or insured owes the noncontracting provider to no more than the in-network cost-sharing amount for covered mental health and substance use disorder treatment, and requires at the time of payment by the plan to the noncontracting provider, the plan or insurer to inform the enrollee or insured and the noncontracting provider of the in-network cost-sharing amount owed.

3) Prohibits a noncontracting provider billing or collecting any amount from the enrollee or insured for covered mental health and substance disorder treatment, except for the in-network cost-sharing amount.

4) Exempts Medi-Cal managed care plans.

Comments

According to the author, a recent State Audit concluded that in California, thousands of individuals were subjected to repeated instances of involuntary treatment without being connected to ongoing care that could help them live safely in their communities. According to the California Health Benefits Review Program (CHBRP), 24% of enrollees who had a 72-hour hold have a follow-up visit within 48 hours of the hold, and 37% have no follow-up visit within 90 days. Prompt follow-up appointments with outpatient mental health providers after discharge from a psychiatric hospitalization are critical for maintaining continuity of treatment and preventing repeat hospitalizations. This bill will ensure timely access to care by requiring that a patient released from involuntary mental health hospitalization receive authorization and an appointment for care within 48 hours of their release. This bill will help create parity in the provision of mental health care services compared to physical health care services, provide urgent support to an individual suffering from a mental health emergency, and improve mental health outcomes of Californians.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee, DMHC estimates state operations costs of approximately $483,000 in 2022-23, $736,000 in 2023-24, and $745,000 annually thereafter (Managed Care Fund). CDI estimates one-time state operations costs of $2,000 in 2022-23 and $12,000 in 2023-24 (Insurance Fund).

SUPPORT: (Verified 8/10/22)

Depression and Bipolar Support Alliance (source)
California Chapter of the American College of Emergency Physicians
California Council of Community Behavioral Health Agencies

California State Association of Psychiatrists
City of West Hollywood
National Alliance on Mental Illness – California
National Association of Social Workers, California Chapter
Steinberg Institute

OPPOSITION: (Verified 8/10/22)

Americas Health Insurance Plans
Association of California Life and Health Insurance Companies
California Association of Health Plans

ARGUMENTS IN SUPPORT: This bill's sponsor, the Depression and Bipolar Support Alliance (DBSA) writes the LPS Act as implemented has serious issues, the greatest overall is that it provides very little useful treatment. DBSA supports legislation that provides voluntary treatment as part of this process and provides as much of a warm handoff as possible. This bill, while not providing a true warm handoff, is a first step toward ensuring that individuals placed on an involuntary hold actually receive voluntary treatment in a timely manner. The National Association of Social Workers, California Chapter writes upon release from an involuntary hold, the process for obtaining follow-up care can be complicated and frustrating. This care is crucial to keep these individuals from facing another mental health crisis. This bill will help improve mental health outcomes and ensure timely access to care. This is an extremely important bill to ensure mental health parity and to help those suffering from a serious mental health crisis obtain care.

The National Alliance on Mental Illness – California writes that individuals with mental illnesses must have timely access to treatments that have been recognized as effective by the Food and Drug Administration and the National Institute of Mental Health. NAMI California is adamant that individuals with mental illness have timely access to clinically appropriate medications, evidence-based services, and treatment, including psychotherapy that are provided in a person-centered approach. This bill requires that the location of the facilities providing the mental health services will be within reasonable proximity of the business or residence of the patient.

ARGUMENTS IN OPPOSITION: The California Association of Health Plans, the Association of California Life and Health Insurance Companies, and America's Health Insurance Plans states that this bill, taken together with AB 2024 (Friedman, related to breast imaging and AB 2516 (Aguiar-Curry, related to HPV), will increase premiums on Californians by nearly $123 million. California has

been a national leader in maintaining a stable market despite rising costs and uncertainty at the federal level over the individual and employer market. Opponents write that now is not the time to inhibit competition with proscriptive mandates that reduce choice and increase costs. California needs to protect the coverage gains made and stay focused on the stability and long-term affordability of our health care system. Benefit mandates impose a one-size-fits-all approach to medical care and benefit design driven by the legislature, rather than consumer choice. State mandates increase costs of coverage especially for families who buy coverage without subsidies, small business owners who cannot or do not wish to self-insure, and California taxpayers who foot the bill for the state's share of those mandates. These bills will lead to higher premiums, harming affordability and access for small businesses and individual market consumers.

ASSEMBLY FLOOR: 59-12, 5/26/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Choi, Cooley, Cooper, Cunningham, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Chen, Megan Dahle, Davies, Flora, Fong, Kiley, Nguyen, Patterson, Seyarto, Smith, Voepel
NO VOTE RECORDED: Berman, Daly, Gallagher, Grayson, Lackey, Mayes, O'Donnell

Prepared by: Teri Boughton / HEALTH / (916) 651-4111
8/22/22 15:17:29

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