SENATE COMMITTEE ON APPROPRIATIONS
Senator Anthony Portantino, Chair
2021 - 2022 Regular Session

SB 221 (Wiener) - Health care coverage: timely access to care

Version: March 22, 2021
Urgency: No
Hearing Date: May 3, 2021

Policy Vote: HEALTH 9 - 0
Mandate: Yes (non-reimbursable)
Consultant: , Karen French

Bill Summary: This bill would codify existing timely access to care standards for health plans and health insurers, applie these requirements to Medi-Cal managed care plans, add a standard for non-urgent follow-up appointments for non-physician mental health care or substance use disorder providers within ten business days of the prior appointment, provide that referrals to a specialist by a primary care provider or another specialist also be subject to timely access standards, and require a health plan that uses a tiered network demonstrate compliance with the timely access standards at the lowest cost-sharing tier.

Fiscal Impact:

California Department of Insurance (CDI) reports that the requirements set forth in the bill do not fully align with the existing CDI network adequacy regulations, the fiscal impact on CDI will include the one-time cost associated with drafting and adopting conforming regulations. (CDI would need $88,000 FY 2021-22 and $97,000 FY 2022-23).

DHCS would require additional staffing to meet the expanded workload created by SB 221. Specifically, DHCS would require one permanent full-time Health Program Specialist (HPS) I position, one permanent full-time Staff Services Manager (SSM) I, and two permanent full-time Associate Governmental Program Analysts (AGPAs) in the Managed Care Quality and Monitoring Division and additional contract costs to add to the timely access survey. (DHCS would need $674,000 [$337,500 General Fund] in the first year and $638,999 [$ 319,500 General Fund] annually ongoing) see details in Staff Comments below.

.DMHC estimates the total cost of this bill to be approximately $1,488,000 MCF and 5.0 PYs in FY 2021-22, $3,424,000 MCF and 14.9 PYs in FY 2022-23, $3,667,000 MCF and 16.1 PYs in FY 2023-24, $3,472,000 MCF and 16.1 PYs in FY 2024-25, $3,562,000 MCF and 16.1 PYs in FY 2025-26 and annually thereafter. These costs are primarily a result of workload to review health plan documents, develop methodology for monitoring plan compliance, address the increased volume of health plan surveys, and enforcement costs. These costs also include legal research, and workload related to promulgating regulations to clarify the requirements set forth in the bill, and for application upgrades for health plan submittals. All costs associated with this bill would be incurred by the Managed Care Fund (MCF) and covered through fees assessed on health plans Thank you.

Background: . In order to ensure consistency for Californians with state regulated insurance it is necessary to compare and evaluate each department's regulations. In this case, this task is also complicated in that DMHC is in the process of updating its timely access regulations. This bill is codifying the timely access standards for each department and making explicit a standard for follow-up care for mental health and substance use disorder services.

Proposed Law

1) SB 221 bill: would make the following changes: 1) require health care service plans (HCSPs) and health insurers, to follow timely access standards established by the bill, 2) require HCSP contracts and health insurance policies that are issued, renewed, or amended on or after July 1, 2022, to provide information to members regarding the standards for timely access to care, including information related to receipt of interpreter services in a timely manner, no less than annually, and 3) require HCSPs to arrange for coverage outside their contracted networks if medically necessary treatment of a mental health or substance use disorder (SUD) is not available in network within the geographic and timely access standards set by law or regulation. The requirements for HCSPs would extend to Knox-Keene Act licensed Medi-Cal managed care health plans (MCPs) that are regulated by the Department of Managed Health Care (DMHC).
2) The bill would further require an insurer to ensure timely access to covered heath care services, including applicable time-elapsed standards, by assisting an insured to locate available and accessible contracted providers in assisting in a timely manner appropriate for the insured's health needs. Requires an insurer to arrange for the provision of services outside the insurer's contracted network if unavailable within the network if medically necessary for the insured's condition. Requires an insureds costs for medically necessary referrals to non-network providers to not exceed applicable in-network copayments, coinsurance, and deductibles.

Related Legislation:*Prior legislation*

.SB 855 (Wiener, Chapter 151, Statutes of 2020) repeals California's mental health parity law and replaces it with a broader requirement on health plans and disability insurers to cover medically necessary treatment of mental health and substance use disorders under the same terms and conditions applied to other medical conditions; establishes new requirements for medically necessary care determinations and utilization review; and bans discretionary clauses in health plan contracts.

AB 2179 (Cohn, Chapter 792, Statures of 2002) requires DMHC and CDI to develop and adopt regulations to ensure that enrollees have access to needed health care services.

Staff Comments: DHCS Fiscal Estimate Detail: The HPS I position would be responsible for working with DHCS' External Quality Review Organization, Health Services Advisory Group (HSAG) to update the timely access methodology; leading policy development related to the bill's timely access requirements for follow-up appointments; working with MCPs on the implementation of the bill's provisions related to the bill's timely access requirements for follow-up appointments; ongoing efforts to improve provider compliance; and ensuring the MCP contract, Evidence of Coverage

(EOC), and All Plan Letters (APLs) reflect updated policy related to the bill's timely access requirements for follow-up appointments. The cost of 1.0 permanent full-time HPS I is anticipated to be $145,000 during the first year ($73,000 General Fund (GF)), and $136,000 ongoing ($68,500 GF).

The SSM I position would be responsible for review and approval of MCPs' updates to Policies and Procedures related to the arrangement of coverage of out-of-network mental health and substance use disorder services when timely access standards are not met, oversight of technical assistance as necessary, oversight of AGPA tasks, and leading the development of MCP guidance to ensure members are able to be triaged or screened for substance use disorder services, as well as to ensure that referrals to a specialist by a primary care provider or another specialist fall within the timeframes established by the bill. The cost of one permanent full-time SSM I is anticipated to be $154,000 during the first year ($77,000 GF), and $145,000 ongoing ($72,500 GF).

The AGPA positions would be responsible for providing technical assistance to MCPs, drafting of updates to the MCP contract, EOC, and APLs or other policy guidance related to the bill's requirements regarding triaging for substance use disorders, out-of-network coverage of mental health/SUD services, and timely access to specialist referrals, as well as the monitoring and execution of developed policies. The cost of two permanent full-time AGPAs is anticipated to be $273,000 during the first year ($136,500 GF), and $255,000 ongoing ($127,500 GF).

In addition to the above, SB 221 would also have a financial impact due to the need to ensure compliance with the timely access standards established in the bill. In order to ensure compliance with the provisions of this bill, HSAG would need to add three questions to the existing timely access survey for non-physician mental health providers. HSAG has informed DHCS that adding the three questions to the timely access survey would result in contracting costs of $102,000 ($51,000 GF) annually ongoing.

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