
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2021 - 2022 Regular Session

SB 365 (Caballero) - E-consult service

Version: May 4, 2021

Urgency: No

Hearing Date: May 17, 2021

Policy Vote: HEALTH 11 - 0

Mandate: No

Consultant: Karen French

Bill Summary: Requires electronic consultation services provided by an enrolled Medi-Cal provider, including a federally qualified health center or rural health clinic provider, to be reimbursable under the Medi-Cal Program.

Fiscal Impact:

- DHCS estimates that this bill will result in indeterminate, but significant costs to the Medi-Cal program and the State GF because Medi-Cal does not currently reimburse FQHC or RHC for e-consult and does not currently have a mechanism to do so. SB 365 is contingent upon DHCS obtaining necessary federal approval and FFP, which DHCS does not believe CMS will approve. However, should CMS grant DHCS the necessary approvals, the services authorized under this bill would be reimbursed 50 percent from the GF, and 50 percent from FF.

Background: As a result of the COVID-19 public health emergency (PHE), The Department of Health Care Services (DHCS) implemented broad telehealth flexibilities offered under a myriad of federal waivers and flexibilities. On February 2, 2021, DHCS released a set of telehealth policy recommendations to maintain some of the temporary PHE policy changes and implement new telehealth policies after the conclusion of the PHE. According to DHCS, reimbursement for e-consults will be subject to a separate fee schedule that will likely be available for both the attending or primary care provider and the consulting specialist. However, FQHCs and RHCs will not be eligible for reimbursement for these services under fee-for-service or PPS. DHCS also states its intent to engage with interested FQHC and RHC stakeholders regarding the use of e-consults and other telehealth services in the context of an APM discussion. DHCS's telehealth policy recommendations are currently included as proposed trailer bill language for the 2021-22 budget.

Proposed Law: Requires an "e-consult" provided by an enrolled Medi-Cal provider, including a Federally Qualified Health Centers (FQHC) and Rural Health Clinics (RHC) to be reimbursed under Medi-Cal.

Defines "e-consult" to mean interprofessional health record assessment and management service initiated by a treating or requesting provider and delivered by a consultative provider, including a written report to the patient's treating or requesting provider. Defines an e-consult service to involve a treating or requesting provider sending information regarding the patient and a consultation request to a consultative provider, usually a specialist provider, who may then respond in any of a number of ways, including providing requested feedback, asking for additional information, recommending certain studies or examinations, or initiating the scheduling of an appointment.

Requires DHCS to seek any federal waivers and approvals necessary to implement this bill, and provision, and would condition the implementation of the bill's provisions on the department obtaining necessary federal approval of federal matching funds.

Make legislative findings and declarations regarding the benefits of e-consult services to patients and to the Medi-Cal program.

Related Legislation: AB 32 (Aguiar-Curry) requires telehealth services provided by an enrolled clinic to be reimbursed by Medi-Cal on the same on the same basis, to the same extent, and at the same payment rate as those services are reimbursed if furnished in person. Prohibits DHCS from restricting the ability of an enrolled clinic to provide and be reimbursed for services furnished through telehealth. Requires DHCS to indefinitely continue the telehealth flexibilities in place during the COVID-19 PHE. Requires DHCS to convene an advisory group with specified membership to provide on the development of a revised Medi-Cal telehealth policy that promotes specified principles. *AB 32 is pending in the Assembly Appropriations Committee.*

Prior legislation. AB 2164 (Rivas of 2020) would have allowed FQHCs and RHCs to establish a patient who is located within the federal designated service area of the FQHC and RHC through synchronous interaction or asynchronous store and forward as of the date of service, under specified conditions. *AB 2164 was vetoed by Governor Newsom, who wrote in his veto message: "While I am supportive of utilizing telehealth to increase access to primary and specialty care services, DHCS is currently in the process of evaluating its global telehealth policy to determine what temporary flexibilities should be extended beyond the COVID-19 pandemic. Changes to FQHC and RHC telehealth is better considered within the context of a global assessment around telehealth in the state of California. Further, the cost of these changes is also more appropriately considered alongside other policy changes in the budget process next year."*

Staff Comments: Recent amendments ensure that the bill is dependent upon federal approval of matching funds.

-- END --