Date of Hearing: August 3, 2022

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Chris Holden, Chair
SB 853 (Wiener) – As Amended June 2, 2022

Policy Committee: Health Vote: 11 - 0

Urgency: No State Mandated Local Program: Yes Reimbursable: No

SUMMARY:

This bill requires a health insurance policy or health care service plan (health plan) that includes a pharmacy benefit to provide coverage for a drug, dose of a drug, or dosage form of a drug (for example, oral or injectable) prescribed by a health care provider if that drug has been previously approved for coverage by a policy or plan for an enrollee's medical condition during the entire duration of utilization review and any appeals of utilization review. This bill prohibits a health plan or insurer that provides prescription drug coverage from imposing additional cost sharing for covering a drug as prescribed, during the utilization review and any appeals if specified criteria apply.

FISCAL EFFECT:

1) The California Department of Insurance (CDI) will need $14,000 in fiscal year (FY) 2022-23 and $23,000 in FY 2023-24 to review revised coverage documents for compliance (Insurance Fund).

2) Department of Managed Health Care (DMHC) estimates costs of approximately $2,525,000 in FY 2022-23, $3,100,000 in FY 2023-24, and $3,243,000 in FY 2024-25 and annually thereafter to hire additional staff for a variety of tasks, including legal research, reviewing documents, handling complaints, developing new processes, and contracting for services (Managed Care Fund).

3) The California Public Employees Retirement System (CalPERS) reports unknown costs. The California Health Benefits Review Program (CHBRP) analysis for an earlier version of this bill estimates CalPERS employer expenditures would increase by $743,000; the state is the payer for approximately 60% of CalPERS enrollees. CHBRP estimates recent amendments somewhat increase impacts on premiums compared to the published analysis; thus, costs to the state for CalPERS could exceed $445,000 (Public Employees Health Care Fund).

4) No costs to Department of Health Care Services for Medi-Cal managed care plans because the pharmacy benefit is not regulated by DMHC.

5) CHBRP estimates this bill would increase total net annual expenditures by $83,735,000 (0.06%) for enrollees with health insurance subject to state-level benefit mandates. This increase is due to a $74,276,000 increase in total health insurance premiums and a $9,458,000 increase in enrollee cost sharing. Costs would increase most for commercial health plans and policies, especially in the individual and small group markets. For example,

CHBRP estimates this bill will raise premiums for DMHC-regulated small group health plans by $0.44 per member, per month (PMPM) and by $0.94 PMPM for individual market health plans. For commercial insurance policies regulated by CDI, CHBRP estimates this bill will raise premiums in the small group market by $0.69 PMPM and in the individual market by $1.49 PMPM. While such costs are not direct costs to the state, to the extent the state subsidizes small-group and individual market health coverage through Covered California, higher premiums may affect plan designs and subsidies.

COMMENTS:

1) **Purpose**. According to the author, this bill ensures patients receive prompt access to medication and aren't forced to go without medication during appeals of insurance denials. This bill requires health plans and insurers to cover a drug, dose, and dosage form that was previously prescribed to the patient, for the duration of an appeals process. This bill also clarifies California's prohibition on non-medical switching, when a health plan forces a patient to switch from a prescribed drug to a different drug for non-medical reasons, by clarifying that the prohibition also applies to the prescribed dose or dose level of a drug. When health plans and insurers refuse to cover medications, those actions can pose life-threatening health challenges. The author concludes this bill allows patients to continue on their medication during an appeals process to ensure continuity of care and prioritize the safety of those living with chronic illnesses.

2) **CHBRP Report.** According to CHBRP, recent amendments to this bill would somewhat reduce impacts on cost sharing and somewhat increase impacts on premiums for enrollees in DMHC-regulated health plans and CDI-regulated health policies compared to the estimates in the CHBRP report, which is the source of the following comments.

   At baseline, the total annual number of prescriptions impacted by this bill is 1,108,750, which is less than 1% of prescriptions filled for enrollees with a pharmacy benefit. This bill will result in 22,851 additional prescriptions being filled, primarily due to the mandate to provide coverage during appeal, which would influence coverage for enrollees changing one plan or policy for another. This bill increases the average unit cost of prescriptions because the mix of covered prescription fills would include a greater proportion of specialty and brand drugs, which are generally more expensive.

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