
SENATE COMMITTEE ON HEALTH

Senator Dr. Susan Talamantes Eggman, Chair

BILL NO: AB 1437
AUTHOR: Irwin, Quirk-Silva
VERSION: April 13, 2023
HEARING DATE: June 21, 2023
CONSULTANT: Jen Flory

SUBJECT: Medi-Cal: serious mental illness

SUMMARY: Requires the Department of Health Care Services to automatically approve a Medi-Cal prescription refill for a drug for serious mental illness for 365 days after the initial prescription is dispensed.

Existing law:

- 1) Establishes the Medi-Cal Program, administered by the Department of Health Care Services (DHCS), under which qualified low-income individuals receive health care services. [WIC §14000 et seq.]
- 2) Establishes a schedule of benefits under the Medi-Cal program, including prescription drugs, subject to the Medi-Cal contract drug list and utilization controls. [WIC §14132]
- 3) Authorizes prior authorization as one of the utilization controls that may be applied to Medi-Cal services. Defines “prior authorization” as approval by a DHCS consultant, of a specified service in advance of the rendering of that service based upon a determination of medical necessity; and, includes authorization for multiple services which are requested and granted on the basis of an extended treatment plan where there is a need for continuity in the treatment of a chronic or extended condition. [WIC §14133]
- 4) Requires DHCS to ensure the timely and efficient processing of authorization requests by providing a response by telephone or other means of telecommunication within 24 hours of the receipt of an authorization request; and, to the extent permitted by federal law, providing for the dispensing of at least a 72-hour supply of a covered drug in an emergency situation, as defined by federal regulation. [WIC §14133.37]

This bill:

- 1) Requires a Medi-Cal prescription refill for a drug for serious mental illness to be automatically approved for a period of 365 days after the initial prescription is dispensed if the following conditions are met:
 - a) The prescription is for a person 18 years of age or over; and,
 - b) The person is not within the transition jurisdiction of the juvenile court.
- 2) Defines “serious mental illness” as a mental disorder that is identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders and that is severe in degree and persistent in duration, presents a major risk to the person’s health and well-being, causes behavioral functioning that interferes substantially with the primary activities of daily living, and results in an inability to maintain stable adjustment and independent functioning without treatment, support, and rehabilitation for a long or indefinite period of time. Includes, but is not limited to, schizophrenia, post-traumatic stress disorder, bipolar disorder, other major affective disorders, or other severely disabling mental disorders.

FISCAL EFFECT: According to the Assembly Appropriations Committee:

Potentially significant costs of an unknown amount in the Medi-Cal program for prescription drugs, to the extent automatic approval of prescription refills results in beneficiaries receiving more drugs than they would if they needed to seek re-approvals to obtain medication for serious mental illness (General Fund (GF) and federal funds (FF)). To the extent this bill helps Medi-Cal enrollees adhere to their prescription drug regimens, and reduces the need for costlier care, some cost savings could also result.

Minor one-time administrative costs to update provider manuals and notify providers about changes required by the bill, as well as minor ongoing administrative workload reduction for fewer prescription drug reviews (GF, FF).

PRIOR VOTES:

Assembly Floor:	75 - 0
Assembly Appropriations Committee:	15 - 0
Assembly Health Committee:	15 - 0

COMMENTS:

- 1) *Author's statement.* According to the author, Californians who are covered by Medi-Cal and need access to anti-psychotic medications should not have to face obstacles when trying to adhere to their prescribed drug regimens. Unfortunately, studies have shown that nearly half of Medi-Cal patients with a serious mental illness diagnosis are experiencing a medication access problem leading to a negative outcome, such as loss of employment or homelessness. This bill will make essential changes to the process of refilling anti-psychotic medications for Medi-Cal patients, thus improving medication access for California's most vulnerable populations.
- 2) *Serious mental illness among low-income adults in California.* According to a July 2022 report by the California Health Care Foundation, in 2019, while 3.9% of adults in California experienced a serious mental illness, those with low incomes are disproportionately affected. For those below 100% of the federal poverty level (FPL), 8.5% experienced a serious mental illness; for those with incomes between 100% and 199% of FPL, 6% experienced a serious mental illness. The impact is also disproportionately born by Black and American Indian/Alaskan Natives with incident rates at 5.3% and 6.8% respectively. Despite these numbers, less than 4% of adults received any specialty mental health services in 2019 from Medi-Cal. Specialty mental health services are services provided by the county to Medi-Cal recipients with moderate to severe mental illness. The report also indicated that medication adherence for persons with serious mental illness on Medi-Cal is an issue: 57% of adults enrolled in Medi-Cal who were prescribed antipsychotic medications for schizophrenia remained on them for at least 80% of their treatment period, though this is just slightly lower than the 60% national average.
- 3) *Impact of prior authorization on medication adherence.* Several studies have evaluated the impact of prior authorization on Medicaid beneficiaries with severe mental illness. For example, a 2015 issue brief from USC Schaeffer Center for Health Policy & Economics summarizing three peer reviewed studies on Medicaid formulary restrictions, including prior authorization, found that such formulary restrictions increased overall Medicaid spending for people with serious mental illness, as well as increased the likelihood that the individuals

would be hospitalized, incarcerated, or homeless. A June 2009 study in the journal *Psychiatric Services* compared medication access problems among psychiatric patients in ten state Medicaid programs. The most common access problems were not being able to access clinically indicated medication refills or new prescriptions because they were not covered or approved, prescribing a medication not clinically preferred because clinically indicated or preferred medications were not covered or approved, and discontinuing medications as a result of prescription drug coverage or administrative or management issues. California was among the states with the lowest rates of reported medication access problems, though 32.4% of the recipients reported at least one access problem.

- 4) *Medi-Cal Rx*. On January 7, 2019, Governor Newsom issued EO N-01-19, which directed the state to take action to reduce the cost of prescription drugs and required DHCS to transition outpatient Medi-Cal prescription drug services to the fee-for-service delivery system under a single statewide system, known as Medi-Cal Rx. The Medi-Cal Rx system began operating in January of 2022. Under Medi-Cal Rx, the state's contracted vendor, Magellan Medicaid Administration, Inc., is responsible for providing claims administration, providing utilization management, administering drug rebate services at DHCS's direction, providing drug utilization review, and operating a call center for providers and beneficiaries. DHCS remains responsible for developing the Medi-Cal pharmacy policy, including the contract drug list and prior authorization, negotiating supplemental drug rebates, developing reimbursement methodologies, overseeing a drug utilization review process, and maintaining the pharmacy network. The contract drug list is DHCS's preferred set of covered drugs and includes drugs for which there is a current state supplemental drug rebate agreement in place. Most drugs on the list do not have a prior authorization requirement.
- 5) *Current Medi-Cal procedures for prior authorization of drugs*. Medi-Cal providers have five ways to submit prior authorization requests, one of three different online portals, fax, or mail. The contract with Magellan requires prior authorization determinations to be completed within 24 hours. According to recent data provided by DHCS, Magellan is currently in complete compliance with this requirement. The determination is based on the provider's documentation of medical necessity and a prior authorization determination is complete once the provider is notified whether the prior authorization is approved, deferred, modified, or denied by DHCS. The online portals permits providers to add additional information as needed.

During the early implementation of Medi-Cal Rx, many prior authorization requirements were waived, particularly for drugs which enrollees were already using that did not previously require a prior authorization (but did once Medi-Cal Rx was implemented). Prior authorization requirements were also waived, for a limited period of time, for drugs for which an enrollee had approved via prior authorization, before the transition to Medi-Cal Rx. This limited time period varied – in many cases prior authorizations were waived for a 180 day transition period, and in other cases, DHCS allowed for an extensions of existing prior authorizations for three months to one year. More recently, DHCS provided a list of drugs eligible for an extended prior authorization period of up to five years for certain maintenance medications for chronic conditions. DHCS has also indicated that some drugs may be excluded from prior authorization requirements entirely at some time in the future. These policies are all subject to change at any time by DHCS. This bill would provide a floor for drugs used to treat adults with serious mental illness that would preclude another required prior authorization for 365 days after the initial prescription is dispensed.

- 6) *Related legislation.* A number of bills this year limit prior authorization by commercial health plans or insurers:

SB 324 (Limón) prohibits a health plan contract or health insurance policy from requiring prior authorization or other utilization review for any clinically indicated treatment for endometriosis, as determined by the treating physician and consistent with nationally recognized evidence-based clinical guidelines. *SB 324 is pending in the Assembly Health Committee.*

SB 427 (Portantino) prohibits a nongrandfathered health plan contract or health insurance policy from imposing any cost-sharing or utilization review requirements for antiretroviral drugs, devices, or products that are either approved by the federal Food and Drug Administration or recommended by the federal Centers for Disease Control and Prevention for the prevention of AIDS/HIV, including preexposure prophylaxis or postexposure prophylaxis. *SB 427 is pending in the Assembly Health Committee.*

SB 598 (Skinner) prohibits a health plan or health insurer from requiring a contracted health professional with a total contracting history of at least 36 months, to complete or obtain a prior authorization for any covered health care services if, in the most recent one-year contracted period, the health plan approved or would have approved not less than 90% of the prior authorization requests submitted by the health professional for the class of health care services or treatments subject to prior authorization. *SB 598 is pending in the Assembly Health Committee.*

AB 931 (Irwin) prohibits a health plan contract or disability insurance policy that provides coverage for physical therapy from requiring prior authorization for the initial 12 treatment visits for physical therapy. *AB 931 passed the Senate Health Committee by a vote 10-0 on June 14, 2023.*

- 7) *Prior legislation.* AB 1178 (Irwin of 2021) would have prohibited prior authorization from being required by the DHCS for a drug prescribed for the treatment of serious mental illness for a period of 180 days after the initial prescription has been dispensed, required DHCS to automatically approve a prescription for a drug for the treatment of a serious mental illness if the patient was previously dispensed that drug before they enrolled in the Medi-Cal program and during the previous 365 days of the date of the new prescription before the date of that prescription, and addressed early refills and 90-day supplies of drugs. *AB 1178 was held in the Assembly Appropriations Committee.*

AB 3285 (Irwin of 2020) was substantially similar to AB 1178. *Due to the shortened Legislative calendar brought on by the COVID-19 pandemic, AB 3285 was not set for a hearing.*

- 8) *Support.* Co-sponsors Alliance for Patient Access, California Access Coalition, and Psychiatric Physicians Alliance of California write that ensuring adults in Medi-Cal with serious mental illness have access to their prescribed medications is an essential element in avoiding negative health outcomes. Studies of state Medicaid programs found psychiatric patients' lack of access to these medications contributes to a higher rate of negative outcomes for this population including increased emergency room visits, hospitalizations, homelessness or incarceration. In addition, these negative outcomes are further exacerbated across racial and ethnic demographics. They also point out the impact this bill would have on individuals experiencing homelessness or at risk of homelessness stating that medication adherence is instrumental in stabilizing patients with serious mental illness, which in some

cases, can prevent homelessness and in others, can assist patients in transitioning into housing. They state that provisions of this bill will make it easier for individuals experiencing homelessness to receive medication refills if their medications are lost or stolen, which is a persistent issue in this community.

Supporters, Cal Voices point out that individuals with serious mental illness who are also living in poverty face additional barriers to medication adherence such as limited access to transportation, internet or cell phone services, in addition to a mental health workforce shortage that can make it difficult to get an appointment with a provider. All of these factors can make it more difficult to refill a prescription when prior authorization is needed.

SUPPORT AND OPPOSITION:

Support: Alliance for Patient Access (co-sponsor)
California Access Coalition (co-sponsor)
Psychiatric Physicians Alliance of California (co-sponsor)
California Chronic Care Coalition
California Coalition for Mental Health (CCMH)
California Life Sciences
California Professional Firefighters (CPF)
California State Association of Psychiatrists (CSAP)
Cal Voices
Connection Coalition
Depression and Bipolar Support Alliance (DBSA) California
Mental Health America of California (MHA)
National Association of Social Workers (NASW), California Chapter
PathPoint
Schizophrenia & Psychosis Action Alliance
Steinberg Institute
The California Association of Local Behavioral Health Boards and Commissions
The Kennedy Forum

Oppose: None received.

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