

GOVERNOR'S VETO
AB 1437 (Irwin and Quirk-Silva)
As Enrolled September 14, 2023
2/3 vote

SUMMARY

Requires the Department of Health Care Services (DHCS) to automatically approve a prescription refill for a Medi-Cal covered drug prescribed for serious mental illness (SMI), for a period of 365 days after the initial prescription is dispensed.

Governor's Veto Message

This bill would require the Medi-Cal program to automatically approve any prescription refill for serious mental illness (SMI) for a period of 365 days after the initial prescription is dispensed for a beneficiary 18 years or older.

I appreciate the author's intent to increase Medi-Cal beneficiaries' access and adherence to SMI drugs. However, this approach does not address the underlying obstacles with medication adherence and would remove clinical safeguards. Currently most medications used for an SMI are covered without prior authorization, and if prior authorization is needed, DHCS provides a response within 24 hours and allows emergency coverage of a drug up to 14 days. In instances where prior authorization is required, it is in place for patient safety. Maintaining utilization control is important to contain health care costs, protect patients, and ensure medically necessary care.

COMMENTS

- 1) *Medi-Cal Prescription Drug Coverage.* Outpatient prescription drug coverage is an optional benefit under federal law that all state Medicaid programs provide. Effective January 1, 2022, Medi-Cal provides outpatient prescription drug coverage through a statewide system called Medi-Cal Rx, via contract with a fiscal intermediary, Magellan Medicaid Administration, Inc. Even though the majority of individuals enrolled in Medi-Cal receive health care services through a managed care plan, the statewide Medi-Cal Rx system pays directly for all prescription drugs dispensed by a pharmacy and billed on a pharmacy claim.

Medi-Cal Rx maintains a single, statewide, approved Medi-Cal Contract Drug List (CDL) that standardizes the Medi-Cal pharmacy benefit. The CDL is DHCS' preferred set of covered drugs and generally includes drugs for which there is a current state supplemental drug rebate agreement in place. Most drugs on the CDL do not have a prior authorization (PA) requirement. Alternatively, if a drug is not listed on the Medi-Cal CDL, it generally requires an approved PA for coverage.

- 2) *PA.* PA is commonly used by health care payers, including in public programs and commercial health plans. PA requirements are used to help control costs and ensure payment accuracy by verifying that an item or service is medically necessary, meets coverage criteria, and is consistent with standards of care before the item or service is provided. PA generally involves submission of administrative and clinical information by the treating physician. According to the Kaiser Family Foundation (KFF), in a 2021 American Medical Association Survey, most physicians (88%) characterized administrative burdens from this process as high or extremely high. Doctors also indicated that PA often delays care patients receive and

results in negative clinical outcomes. KFF indicates PA is an increasingly scrutinized practice, and debate over further standards to limit the use or regulate PA may involve tradeoffs between claims spending versus access to care for patients and administrative burden for providers.

In Medi-Cal, certain pharmacy drug and medical supplies dispensed by a pharmacy are subject to PA by Medi-Cal Rx before reimbursement can be approved. A prescriber's office or pharmacy can submit an electronic PA request through a portal, other electronic means, or fax. Per state law, Medi-Cal Rx responds to PA requests within 24 hours (or the next business day if request is received after-hours). The Medi-Cal provider will receive a confirmation and/or notice of approval, deferral, modification, and/or denial, from DHCS.

DHCS indicates both initial and reauthorization PA requests are adjudicated based on documentation of medical necessity for the use of the specific medication requested. DHCS indicates documentation of medical necessity can be supported by including lab values, results of testing, treatment plan and treatment outcomes.

- 3) *Medi-Cal Rx Reevaluation of PA.* DHCS is currently implementing and evaluating changes to reduce the need for manual review and reduce administrative work associated with PA. As part of Medi-Cal Rx, DHCS states it is considering expanding auto-adjudication functionalities (i.e., automated claim approval and payment) to reduce the number of drugs with PA requirements that require manual review. DHCS lists potential categories of drugs for which it is considering expanding auto-adjudication. The list includes selective serotonin reuptake inhibitors used to treat depression, but does not include antipsychotics commonly used to treat other SMIs.

On March 23, 2023, DHCS released a policy bulletin entitled, "Extended Duration Prior Authorizations for Maintenance Medications." DHCS indicates to reduce administrative burden while ensuring continued medication safety for beneficiaries, the department has enabled extended duration/multi-year PAs for up to five years for certain maintenance medications used for chronic conditions. This extended duration PA is provided for certain maintenance medications with a PA requirement. Additional restrictions such as quantity limits, age limits, diagnosis restrictions, and other clinical edits may apply. DHCS indicates for a maintenance medication with an approved PA or paid claims history within the 15-month lookback period, if a drug is eligible for extended duration PA, the prescription will be automatically extended. Antidepressants and antipsychotics are cited as examples of drug classes of maintenance drugs DHCS will evaluate for extended duration PA, but DHCS has not yet made available the "Medi-Cal Rx Extended Duration Prior Authorization List" that will list specific eligible drugs.

- 4) *Evidence of the Effects of Formulary Restrictions.* Studies have examined the effectiveness and unintended consequences of PA and other restrictions for drugs generally, as well as drugs prescribed to treat SMI.

A June 2009 study in the journal *Psychiatric Services* entitled "Medicaid Prescription Drug Policies and Medication Access and Continuity: Findings From Ten States" compared medication access problems among psychiatric patients in 10 state Medicaid programs, assessed adverse events associated with medication access problems, and determined whether prescription drug utilization management is associated with access problems and adverse events. Over 4,800 psychiatrists from the American Medical Association's Masterfile

were randomly selected, 62% responded and 32% treated Medicaid patients and were randomly assigned a start day and time to report on two Medicaid patients. The results of the study found that a medication access problem in the past year was reported for a mean of 48.3% of the patients, with a 37.6% absolute difference between states with the lowest and highest rates. The most common access problems were not being able to access clinically indicated medication refills or new prescriptions because Medicaid would not cover or approve them (34%), prescribing a medication not clinically preferred because clinically indicated or preferred medications were not covered or approved (29.4%), and discontinuing medications as a result of prescription drug coverage or management issues (25.8%).

Medication access problems varied by state. The states with the lowest rates of reported medication access problems were New York (27.1%), Texas (31.0%), and California (32.4%), while Tennessee (63.3%), Georgia (64.2%), and Michigan (64.7%) had the highest rates. Patient access to new medications and medication refills also varied by state. Patients in New York, Texas, and California had the lowest rates of problems accessing clinically indicated medication refills or new prescriptions because they were not covered or approved (19.0%–22.4%), while patients in Tennessee, Georgia, and Michigan had the highest rates of problems (49.3%–55%).

Another study found formulary restrictions for drugs prescribed for SMI were not associated with statistically significantly lower pharmacy expenditures for either group and that patients with schizophrenia subject to formulary restrictions had worse adherence.

- 5) *Proposed Federal Rule.* In December 2022, the Centers for Medicare and Medicaid Services published a proposed rule designed to reduce the administrative burden of PA by requiring certain payers to implement an automated process, meet shorter time frames for decision making, and improve transparency. The rule would apply to Medicaid programs and other public health insurance programs. Among other things, the rule would require payers to publicly report specific PA metrics annually. Impacted payers would be required to disclose annually on their website a list of all services requiring prior authorization and specific aggregated metrics. Metrics would include, among other items, the percentage of prior authorizations that were approved and denied, the percentage of prior authorization requests approved after appeal, and the average time for a prior authorization determination

According to the Author

This bill will improve access to crucial medications for Medi-Cal patients with SMI by removing unnecessary barriers.

Arguments in Support

This bill is sponsored by the California Access Coalition and Psychiatric Physicians Alliance of California and supported by providers, drug manufacturers and mental health advocacy groups. Sponsors argue that this bill will improve access to critical medications for Medi-Cal patients with SMI by removing unnecessary barriers. Sponsors state that 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.

Arguments in Opposition

There is no known opposition.

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

- 1) 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 SMI (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.
- 2) 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)

VOTES**ASM HEALTH: 15-0-0**

YES: Wood, Waldron, Aguiar-Curry, Arambula, Boerner Horvath, Wendy Carrillo, Flora, Vince Fong, Maienschein, McCarty, Joe Patterson, Rodriguez, Santiago, Villapudua, Weber

ASM APPROPRIATIONS: 15-0-1

YES: Holden, Megan Dahle, Bryan, Calderon, Wendy Carrillo, Dixon, Mike Fong, Hart, Lowenthal, Mathis, Papan, Pellerin, Sanchez, Weber, Ortega

ABS, ABST OR NV: Robert Rivas

ASSEMBLY FLOOR: 75-0-5

YES: Addis, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Zbur, Rendon

ABS, ABST OR NV: Aguiar-Curry, Jones-Sawyer, Mathis, Papan, Wood

SENATE FLOOR: 39-0-1

YES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk

ABS, ABST OR NV: Caballero

UPDATED

VERSION: September 14, 2023

CONSULTANT: Lisa Murawski / HEALTH / (916) 319-2097

FN: 0002544