
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2023 - 2024 Regular Session

SB 427 (Portantino) - Health care coverage: antiretroviral drugs, devices, and products

Version: March 21, 2023
Urgency: No
Hearing Date: May 8, 2023

Policy Vote: HEALTH 10 - 0
Mandate: Yes
Consultant: Agnes Lee

Bill Summary: SB 427 would prohibit health plans and insurers from requiring step therapy or prior authorization, as specified, or 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 (FDA) or recommended by the Centers for Disease Control and Prevention (CDC) for the prevention of AIDS/HIV, as specified.

Fiscal Impact:

- The Department of Managed Health Care estimates minor and absorbable costs to administer the provisions.
- The Department of Insurance estimates no fiscal impact from administering the provisions.
- The California Health Benefits Review Program (CHBRP) estimates an increase in CalPERS employer premiums of \$4,664,000.

Background: The Department of Managed Health Care (DMHC) regulates health plans under the Knox-Keene Act and the California Department of Insurance (CDI) regulates health insurance.

Current law prohibits health plans and insurers from subjecting antiretroviral drugs that are medically necessary for the prevention of AIDS/HIV, including preexposure prophylaxis (PrEP) and postexposure prophylaxis (PEP), to prior authorization or step therapy, except that if the United States Food and Drug Administration (FDA) approves one or more therapeutic equivalents of a drug, device, or product for the prevention of AIDS/HIV, health plan and insurers are not required to cover all of the therapeutically equivalent versions without prior authorization or step therapy, if at least one therapeutically equivalent version is covered without prior authorization or step therapy.

PrEP and PEP are effective HIV-prevention strategies. PrEP is a daily pill taken by individuals who do not have HIV to stay HIV negative. PEP is 28-day courses of medicine people take after potential exposure to HIV to prevent infection. PEP must be started within 72 hours after a possible exposure. According to the CDC, PrEP can reduce the risk of contracting HIV from injections by 74 percent and from sexual activity by up to 99 percent.

Proposed Law: Specific provisions of the bill would:

- Prohibit health plans and insurers from subjecting antiretroviral drugs, devices, or products that are either approved by the FDA or recommended by the CDC for the prevention of AIDS/HIV, including PrEP or PEP, to prior authorization or step therapy, except as provided.
- Allow that if the FDA has approved one or more therapeutic equivalents of a drug, device, or product for the prevention of AIDS/HIV, a health plan or insurer is not required to cover all of the therapeutically equivalent versions without prior authorization or step therapy, if at least one therapeutically equivalent version is covered without prior authorization or step therapy and the plan or insurer provides coverage for a noncovered therapeutic equivalent antiretroviral drug, device, or product without cost sharing pursuant to an exception request.
- Prohibit health plans and insurers from imposing any cost-sharing or utilization review requirements for antiretroviral drugs, devices, or products that are either approved by the FDA or recommended by the CDC for the prevention of AIDS/HIV, including PrEP or PEP.
- Require “grandfathered” health plans and insurers to provide coverage, and prohibit imposing any cost-sharing or utilization review requirements, for antiretroviral drugs, devices, or products that are either approved by the FDA or recommended by the CDC for the prevention of AIDS/HIV, including PrEP or PEP.
- Require health plans and insurers to provide coverage under the outpatient prescription drug benefit for antiretroviral drugs, devices, or products that are either approved by the FDA or recommended by the CDC for the prevention of AIDS/HIV, including by supplying participating providers directly with a drug, device, or product that is required by this provision and is not self-administered.
- Apply the provisions to Medi-Cal managed care plans.

Staff Comments: According to the California Health Benefits Review Program (CHBRP), SB 427 (as amended March 21) would increase total net annual expenditures by \$51,601,000 under DMHC-regulated health plans and CDI-regulated policies. This is due to a \$157,254,000 increase in total health insurance premiums paid by employers and enrollees for newly covered benefits, adjusted by a \$105,653,000 decrease in enrollee expenses for covered and/or noncovered benefits. This includes an increase in CalPERS employer premiums of \$4,664,000. Although the benefit coverage for beneficiaries with DMHC-regulated Medi-Cal plans is subject to SB 427, their pharmacy benefit is carved out and administered under Medi-Cal Rx, and therefore, SB 427 would not impact their benefit coverage.

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