

Date of Hearing: August 23, 2023

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Chris Holden, Chair

SB 427 (Portantino) – As Amended August 14, 2023

Policy Committee: Health

Vote: 12 - 0

Urgency: No

State Mandated Local Program: Yes

Reimbursable: No

SUMMARY:

This bill prohibits a nongrandfathered or grandfathered health plan contract or insurance policy, including a Medi-Cal managed care plan (MCP), from imposing any cost sharing or utilization review (UR) requirements for antiretroviral drugs, devices, or products (ARVs) for the prevention of HIV/AIDS, as specified.

This bill also prohibits a health plan or health insurer from subjecting to prior authorization (PA) or step therapy an ARV for the prevention of HIV/AIDS, unless at least one therapeutically equivalent version is covered without PA or step therapy and the health plan or insurer provides coverage for a noncovered therapeutic equivalent ARV without cost sharing pursuant to an exception request.

Specifically, this bill:

- 1) Prohibits a health plan or insurer from subjecting an ARV approved by the U.S. Food and Drug Administration (FDA) or recommended by the U.S. Centers for Disease Control and Prevention (CDC) for HIV/AIDS prevention, including pre-exposure prophylaxis (PrEP) and postexposure prophylaxis (PEP), to PA or step therapy, except as specified in 2), below.
- 2) Allows a health plan or insurer to not cover all therapeutically equivalent versions of an ARV without PA or step therapy, if at least one therapeutically equivalent version is covered without PA or step therapy and the plan or insurer provides coverage for a noncovered therapeutic equivalent ARV without cost sharing pursuant to an exception request.
- 3) Requires a nongrandfathered health plan contract or insurance policy to provide coverage without imposing any cost-sharing or UR requirements for ARVs that are either approved by FDA or recommended by CDC for the prevention of HIV/AIDS, including PrEP or PEP.
- 4) Requires a grandfathered health plan or insurer to provide coverage, without imposing cost-sharing or UR requirements, for ARVs that are either approved by FDA or recommended by CDC for the prevention of HIV/AIDS, including PrEP or PEP.
- 5) Requires a health plan or insurer to provide coverage under the outpatient prescription drug benefit for ARVs that are either approved by FDA or recommended by CDC for the prevention of HIV/AIDS, including by supplying providers directly with a drug, device, or product that is not self-administered, in addition to the coverage a health plan provides for prescription drugs that are not self-administered.

- 6) Applies the provisions of this bill to a MCP.
- 7) Exempts a specialized health plan or insurance policy that covers only dental or vision benefits or a Medicare supplement contract from the provisions of this bill.
- 8) Applies the provisions of this bill regardless of whether an ARV is self-administered.
- 9) Authorizes the California Department of Insurance (CDI) and CDI Commissioner to implement and enforce this bill, as specified.
- 10) Requires a high deductible health plan (HDHP) to comply with the cost-sharing requirements of this bill unless the application conflicts with the HDHP's federal requirements, in which case, applies the cost-sharing limits once a contract's deductible has been satisfied for the plan year.

FISCAL EFFECT:

- 1) No costs to CDI.
- 2) The Department of Managed Health Care (DMHC) estimates costs of this bill to be approximately \$55,000 in fiscal year (FY) 2025-26 and \$133,000 in FY 2026-27 and annually thereafter (Managed Care Fund).
- 3) The Department of Health Care Services (DHCS) expects this bill to shift costs from fee-for-service Medi-Cal to Medi-Cal Managed Care (MCMC). That shift in costs would be approximately \$600 million (\$300 million General Fund, \$300 million federal funds).

As this bill would shift responsibility for ARVs from fee-for-service to MCMC, DHCS anticipates no change in utilization. DHCS would also continue to collect federal mandatory rebates on any shift of utilization to MCMC. However, DHCS would lose supplemental rebates for utilization that shifted to MCMC. If 85% of claims went to MCMC, the loss of supplemental rebates would be approximately \$45 million to \$50 million annually (General Fund, federal funds).

- 4) The California Health Benefits Review Program (CHBRP) estimates an increase in CalPERS employer premiums of \$4.7 million, of which the state pays approximately 60% (Public Employees Health Care Fund).

COMMENTS:

- 1) **Purpose.** This bill is sponsored by CDI. According to the author:

The HIV epidemic continues to disproportionately affect historically disadvantaged communities in California. Cost and access are two major barriers to lifesaving medications. The only way to end the HIV epidemic is by ensuring effective HIV prevention and treatment reaches all communities, but especially those disproportionately affected by HIV. HIV PrEP and PEP are important for the overall health of many at-risk and historically disadvantaged communities.

Under SB 427 all grandfathered health insurance policies and health plans would be required to cover both HIV PrEP and PEP without any cost sharing, and in doing so the bill would expand zero-dollar coverage of PrEP to one million Californians who must currently pay out-of-pocket for PrEP. In addition, non-grandfathered health insurance policies and health plans would be required to cover PEP without cost sharing.

- 2) **Expenditures.** CHBRP estimates this bill will increase total net annual expenditures by \$51.6 million (0.0352%) for enrollees with DMHC-regulated plans and CDI-regulated policies, excluding DMHC-regulated Medi-Cal. While CHBRP estimates overall enrollee expenses will decrease by \$105.6 million under this bill, total premiums will increase by \$157.3 million under this bill.
- 3) **Related Legislation.** AB 1645 (Zbur) expands health insurance coverage for preventive services without cost-sharing to include office visits and services integral to the provision of those services, as defined; and prohibit cost-sharing and limitations on sexually transmitted infections (STI) screenings and services integral to an STI screening, as specified. AB 1645 is pending on the Senate Appropriations Committee's suspense file.

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