

Date of Hearing: May 14, 2025

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Buffy Wicks, Chair

AB 1429 (Bains) – As Amended May 1, 2025

Policy Committee: Health

Vote: 12 - 1

Urgency: No

State Mandated Local Program: Yes

Reimbursable: No

SUMMARY:

This bill requires the Kaiser Foundation Health Plan (Kaiser) to fully reimburse an enrollee who incurs out-of-pocket costs for behavioral health care services obtained from non-Kaiser providers or facilities or mental health prescription medication obtained from a non-Kaiser pharmacy or non-Kaiser provider on or after May 1, 2022, until the Department of Managed Health Care (DMHC) certifies that Kaiser has successfully completed implementation of the corrective action work plan (CAWP) resulting from its 2023 settlement agreement with DMHC. The bill requires Kaiser to establish specified procedures and to submit a monthly report to DMHC with specified information. If Kaiser fails to provide reimbursement, this bill requires Kaiser to pay the original amount plus 10% per year interest to the enrollee, as well as a \$5,000 fine per incident.

FISCAL EFFECT:

Costs to DMHC would exceed this committee's suspense threshold (Managed Care Fund). DMHC states enforcement costs would be in the tens of millions of dollars annually. The committee is seeking clarification on this estimate.

COMMENTS:

- 1) **Background. Kaiser.** Kaiser is the largest health plan in California, with 9.4 million members across the state. Kaiser operates under an integrated care model, meaning their members primarily receive care at Kaiser Foundation Hospitals and through providers with two exclusively contracted medical groups, The Permanente Medical Group and Southern California Permanente Medical Group. The health plan, hospitals, and medical groups are referred to collectively as Kaiser Permanente.

Behavioral Health Care Complaints and Actions Against Kaiser. The National Union of Healthcare Workers (NUHW), sponsor of this bill, provided a timeline of complaints that NUHW has filed with DMHC, surveys and investigations that DMHC has conducted, and settlement agreements that DMHC has reached regarding Kaiser's delivery of behavioral health services. In November of 2011, NUHW therapists filed their first complaint against Kaiser to DMHC, including a 34-page analysis of problems affecting Kaiser's behavioral health services. From 2011 to 2021, DMHC conducted various investigations and surveys of Kaiser, resulting in citations, fines, and settlements.

In May 2022, DMHC announced it was initiating a non-routine survey of Kaiser after receiving complaints from enrollees, providers, and other stakeholders concerning Kaiser's

behavioral health operations. In August 2022, DMHC launched an additional targeted enforcement investigation against Kaiser after receiving complaints that Kaiser was failing to schedule mental health appointments within the timely access standards in state law.

In October 2023, DMHC and Kaiser announced a settlement for both the enforcement investigation and non-routine survey. Collectively, the investigation and survey identified several violations and 20 deficiencies across Kaiser's plans. The settlement included \$50 million in fines, a \$150 million commitment to invest in programs to improve behavioral health services for all Californians beyond Kaiser's existing obligations, and a requirement that Kaiser take corrective action to address deficiencies in their delivery and oversight of behavioral health care to their members.

The settlement agreement identified areas of concern with corresponding corrective action areas (CAAs). The agreement further stipulated that Kaiser would hire consultants to develop a CAWP to address the eight CAAs outlined in the agreement. Kaiser submitted its initial CAWP to DMHC in August 2024, and an updated version in March 2025.

Claims Reimbursement Requirement. The settlement requires Kaiser to develop a process for identifying members who attempted, but were unable, to obtain timely and clinically appropriate behavioral health care services in-network and, as a result self-referred to an out-of-network provider. The settlement further requires Kaiser develop a process for evaluating enrollee out-of-network claims for reimbursement. The terms of such reimbursement will be subject to agreement between Kaiser and DMHC. This bill seeks to codify a claims reimbursement process into statute.

- 2) **Purpose.** NUHW states that despite nearly two decades of escalating regulatory sanctions, Kaiser's behavioral health services remain sorely understaffed and frequently fail to provide access to timely and appropriate care. NUHW argues that until Kaiser fully implements its CAWP, which DMHC expects to take up to five years, Kaiser patients will continue to suffer from lack of timely access to behavioral health services and a substandard grievance and appeals process. NUHW continues that this bill provides relief to Kaiser enrollees by requiring Kaiser to cover costs directly related to obtaining behavioral health care from non-Kaiser providers when Kaiser fails to provide timely and appropriate care, based solely upon the enrollees' written attestation to Kaiser's failure and submission of receipts and documentation that the services were prescribed or recommended by a licensed mental health provider. NUHW concludes that this bill ensures that Kaiser patients receive the behavioral health care they need and are entitled to under California law.
- 3) **Opposition.** Kaiser Permanente opposes this bill, arguing it is unnecessary and generally duplicative of current law. Kaiser contends that while this bill resembles their settlement agreement and CAWP with the DMHC, the bill does not require enrollees to attempt to access care within Kaiser Permanente's network first before going outside of network, which is inconsistent with current law and common practice in managed care. Kaiser Permanente further states that this bill allows providers and pharmacies to charge Kaiser members without limit since there is no agreed-upon rate. Kaiser Permanente argues the bill would undermine its ability to contract with external providers. Kaiser Permanente adds that the pharmacy component of this bill is also unnecessary and will be costly and difficult to administer, stating that medication access is not an issue or a noted deficiency for them.

Analysis Prepared by: Allegra Kim / APPR. / (916) 319-2081