

CONCURRENCE IN SENATE AMENDMENTS

CSA1 Bill Id:AB 224 Author:(Bonta)

As Amended Ver:July 8, 2025

Majority vote

SUMMARY

Requires, beginning January 1, 2027, if the United States Department of Health and Human Services (HHS) approves a new essential health benefits (EHBs) benchmark plan for the State of California (state) pursuant to the submission by the state, the existing EHB benchmark plan *for health insurers* to additionally include coverage for hearing aids, durable medical equipment (DME), and infertility benefits, as specified.

Senate Amendments

- 1) Apply the provisions of this bill to health insurers, and delete the provisions applying its provisions to health care service plans (the requirements affecting health care service plans are in SB 62 [Menjivar], a companion bill to this measure).
- 2) Permit the Insurance Commissioner, on or before January 1, 2027, to issue guidance to health insurers regarding compliance with this bill, and exempts this guidance from the rule-making provisions of the Administrative Procedure Act.

COMMENTS

Signed into law by President Obama in 2010, the Affordable Care Act (ACA) marked a significant overhaul of the U.S. health care system. The ACA established EHBs, which are ten categories of services that plans are required to cover: (1) ambulatory patient services (outpatient care); (2) emergency services; (3) hospitalization; (4) maternity and newborn care; (5) mental health and substance use disorder services, including behavioral health treatment; (6) prescription drugs; (7) rehabilitative and habilitative services and devices; (8) laboratory services; (9) preventive and wellness services and chronic disease management; and, (10) pediatric services, including dental and vision care. Federal rules outline health insurance standards related to the coverage of EHBs and the determination of actuarial value (AV) – (which represents the share of health care expenses the plan covers for a typical group of enrollees), while providing significant flexibility to states to shape how EHBs are defined. Taken together, EHBs and AV significantly increase consumers' ability to compare and make an informed choice about health plans.

HHS defines EHBs based on state-specific EHB benchmark plans and gives each state the authority to choose its "benchmark" plan. California chose the Kaiser Small Group HMO plan in 2012, and last reviewed it in 2015. On March 28, 2025, Department of Managed Health Care (DMHC) announced California's intent to submit a proposal to the federal government to add three new benefits to the state's EHB benchmark plan: hearing aids, durable medical equipment, and infertility treatment. Notification from DMHC to HHS must take place by May 7, 2025 for the new benchmark to go into effect for the January 1, 2027 plan year. If the proposed EHB benchmark is approved by Centers for Medicare and Medicaid Services (CMS), legislation to codify the new benchmark plan will be necessary. This bill and SB 62 (Menjivar) have been introduced to codify any benchmark changes that may come out of this process.

The ACA also provides federal subsidies for those who qualify, referred to as Advanced Premium Tax Credits (APTCs), to help offset the costs to purchase individual market health insurance purchased through federal or state marketplaces (or health benefit exchanges). According to Covered California, the state's health benefit exchange, in June of 2024, approximately 1.5 million Californians received an average of \$519 per member per month in APTCs (this translates to \$9.7 billion on an annualized basis). Approximately 19% comes from the federal Inflation Reduction Act enhanced subsidies, which are set to expire at the end of 2025. For 2024, these enhanced APTCs were roughly \$1.8 billion. It should be noted that premiums may increase as a result of setting a new benchmark plan. Individuals who are eligible for premium subsidies may be shielded from premium increases, but those not eligible for subsidies will feel the full impact of any premium increase.

Under the ACA, if states require plans to cover services beyond those defined as EHBs in law, states must pay the costs of those benefits, either by paying the enrollee directly or by paying the qualified health plan (offered through Covered California). States adopting a new benchmark plan or revising the existing plan will not result in triggering defrayal.

According to the Author

The ACA requires health plans sold in the individual and small group markets to offer a comprehensive package of items and services, known as EHBs. The author states that under this federal legislation each state has the authority to choose its benchmark EHB plan, which details the EHBs that must be included in the scope of benefits for each health plan. The author continues that California's current EHB benchmark plan does not include coverage for a variety of benefits – such as hearing aids, infertility treatment or DME. In order to change California's EHBs, the author notes that the state was required to update its existing benchmark plan through a review process, which included an actuarial analysis and stakeholder process. The author continues that in order for new benefits to be in place for the 2027 plan year, the state must notify the federal government of its intention and proposed plan by May of this year. The author concludes that California has completed its review process and is now in the process of submitting a proposal to the federal government to add hearing aids, infertility treatment, and DME to California's EHB benchmark plan. This bill will codify these new EHBs if that proposal is approved.

Arguments in Support

The Western Center on Law and Poverty (WCLP) supports this bill, stating that the current benchmark creates a significant gap in services due to its lack of coverage for DME. WCLP continues that as a result, many Californians do not have access to the wheelchairs, hearing aids, oxygen equipment or other DME that they need because private health plans in California's individual and small group markets regularly exclude or limit coverage of this equipment. WCLP notes that without adequate coverage, people go without medically necessary devices, obtain inferior ones that put their health and safety at risk, or turn to publicly-funded health care programs for help.

SEIU California supports this bill, citing the inclusion of infertility services as an EHB. SEIU California argues that this bill moves our health care delivery system forward for those seeking to start or grow their family. SEIU California notes that with seven out of 10 of their members identifying as women and 60% as women of color, this bill is personal for many. SEIU California continues that for their members, like the physician residents and interns united in SEIU CIR, who may train and study for decades before being financially stable to consider a

family, this bill is particularly important. SEIU states that with one in four physicians with wombs experiencing infertility, this allows them the reassurance that they can fulfill their professional vision while honoring their personal family vision, too.

Arguments in Opposition

The Center for Bioethics and Culture Network (CBCN), writes in opposition that, while supporting individuals facing infertility is a worthy goal, this bill conflates elective reproductive technologies with medically necessary care, and in doing so, raises serious ethical, medical, and financial concerns, particularly because restorative reproductive medicine has similar outcomes with far less health risks, financial burden, or ethical implications. CBCN argues this bill goes well beyond the current requirements of a recently enacted law which mandates coverage of up to three in vitro fertilization (IVF) cycles and unlimited embryo transfers for large group plans. CBCN argues these provisions lack fiscal transparency, with no commitment from the state to subsidize the increased cost, and this creates the real risk of premium hikes, particularly burdening small businesses and individuals. CBCN also argues mandating coverage for procedures that expose women—often financially vulnerable—to such risks raises profound bioethical concerns. Finally, CBCN argues this bill fails to incorporate any meaningful bioethical review or public oversight mechanisms, and this lack of accountability is unacceptable for legislation with such far-reaching implications. CBCN concludes that this bill should include safeguards to limit coverage to medically necessary interventions, to create an independent multidisciplinary board to review reproductive health policy changes, to study the short- and long-term health outcomes of surrogate mothers, egg donors, and children conceived via assisted reproductive technology (ART), and to ensure that premium and actuarial projections account for the significant costs of repeat IVF, NICU care, and high-risk pregnancies.

FISCAL COMMENTS

According to the Senate Appropriations Committee, California Department of Insurance (CDI) estimates costs of \$25,000 in 2025-26 and \$157,000 in 2026-27 for state administration (Insurance Fund).

VOTES:

ASM HEALTH: 14-0-2

YES: Bonta, Addis, Aguiar-Curry, Arambula, Carrillo, Flora, Mark González, Krell, Patel, Patterson, Celeste Rodriguez, Schiavo, Sharp-Collins, Stefani

ABS, ABST OR NV: Chen, Sanchez

ASM APPROPRIATIONS: 11-0-4

YES: Wicks, Arambula, Calderon, Caloza, Elhawary, Fong, Mark González, Hart, Pacheco, Pellerin, Solache

ABS, ABST OR NV: Sanchez, Dixon, Ta, Tangipa

ASSEMBLY FLOOR: 60-1-18

YES: Addis, Aguiar-Curry, Ahrens, Alanis, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Calderon, Caloza, Carrillo, Connolly, Davies, Elhawary, Fong, Gabriel, Garcia, Gipson, Jeff Gonzalez, Mark González, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Kalra, Krell, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Ortega,

Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Schiavo, Schultz, Stefani, Valencia, Wallis, Wicks, Wilson, Zbur, Rivas

NO: DeMaio

ABS, ABST OR NV: Alvarez, Bryan, Castillo, Chen, Dixon, Ellis, Flora, Gallagher, Hadwick, Lackey, Nguyen, Sanchez, Sharp-Collins, Solache, Soria, Ta, Tangipa, Ward

SENATE FLOOR: 40-0-0

YES: Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Hurtado, Jones, Laird, Limón, McGuire, McNerney, Menjivar, Niello, Ochoa Bogh, Padilla, Pérez, Reyes, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener

UPDATED

VERSION: July 8, 2025

CONSULTANT: Scott Bain and Riana King / HEALTH / (916) 319-2097

FN: 0001574