



CAHP LEGISLATIVE INFORMATION

AB 929 (Rivas)

Chapter 812, Statutes of 2019

As a service to our members, the California Association of Health Plans produces guidelines designed to assist in the interpretation and implementation of new laws, and to promote full compliance with those laws. This document, however, is not intended to be authoritative. Any questions about official interpretations of the law should be directed to the appropriate state regulatory agency such as the Department of Managed Health Care or the Department of Health Care Services, as well as your legal counsel.

CALIFORNIA HEALTH BENEFIT EXCHANGE: DATA COLLECTION

BACKGROUND

Assembly Bill 929 was authored by Assemblymember Luz Rivas and sponsored by the California Pan-Ethnic Health Network and Health Access California. According to the author, the intent of AB 929 is to help the process to eliminating health disparities and inequities in health care by starting with high quality data. This bill is intended to ensure that Covered California has the authority to collect the data it needs to fully evaluate how a health plan is delivering care and to publish health plan specific data.

Under the bill, Qualified Health Plans (QHPs) at Covered California are required to submit data to the Exchange for on and off Exchange products. Covered California can publish that information as specified.

CAHP took an oppose unless amended position on AB 929 when it was amended prior to its hearing in the Senate Health Committee. During the legislative process CAHP was able to secure a number of helpful amendments to the bill. For instance, the bill originally required QHPs to submit large group and Medi-Cal data. These markets are amended out of the bill per CAHP's request. Additional amendments were taken to tighten the handling of sensitive information such as provider rates and personal health information. Despite these limited changes, the bill in its final form contains several flaws.

For instance, AB 929 requires QHPs to provide personal health information to Covered California for individuals that purchase health coverage through the individual and small group market both on and off the Exchange market. The bill does not require personal identification information to be removed from the vast and detailed health information that is transferred to Covered California, which raises several patient privacy concerns for health plan enrollees. CAHP requested the author and sponsor amend the bill to remove the requirement that health plans include personal identification information in the data submissions for off-exchange products. This amendment suggestion was rejected by the author and sponsors.

AB 929 also compels QHPs to transfer proprietary financial information. Much of the information that will be transferred to Covered California under AB 929 is proprietary. While there is an attempt in this bill to limit the public exposure of proprietary financial data, the bill still requires the

submission of sensitive data, including contracted provider payment rates. The potential exposure of this information is an outstanding concern. The California Medical Association (CMA) agreed to amendments that prohibited contracts from being subject to public records requests. CAHP offered further amendments to more solidly protect the handling of this information but beyond the narrow protections obtained by CMA, the bill contains limited safeguards.

AB 929 cleared both houses of the Legislature with solid bipartisan support.

REQUIREMENTS

AB 929 amends Section 100508 of, and adds Sections 100503.7 and 100503.8 to, the Government Code, relating to health care coverage.

Specifically, AB 929 does the following:

SEC. 1. (a) Finds and declares that since the enactment of legislation that created Covered California, Covered California has used its authority to negotiate QHP contracts with health plans and health insurers that have moderated rate increases for individual consumers, while holding health plans and insurers accountable for improving the quality of care and reducing health disparities.

SEC. 1. (b) States legislative intent in enacting this bill that Covered California is able to obtain from health plans and insurers information on cost, quality, and disparities useful in evaluating the impact of Covered California on the health delivery system and health coverage in California, including information from QHP contracts since the inception of Covered California.

100503.7. (a) (1) Requires Covered California, if it requires, or has previously required in its contracts, a QHP to report on cost reduction efforts, quality improvements, or disparity reductions, to make public, on its website, plan-specific data and information on cost reduction efforts, quality improvements, and disparity reductions.

100503.7. (a) (2) Requires the data and information to be posted in a way that demonstrates the compliance and performance of a QHP with respect to cost reduction efforts, quality improvement, or disparity reduction reporting, but protects the personal information of an enrollee pursuant to the Confidentiality of Medical Information Act and the federal Health Insurance Portability and Accountability Act of 1996.

100503.7. (a) (3) Requires Covered California to post the data no less than annually. Requires that comparison among QHPs contribute to the understanding of the data and progress in achieving goals established by Covered California through QHP contracts.

100503.7. (b) (1) Requires a QHP to provide data on enrollees to Covered California in a form, manner, and frequency specified by Covered California. (2) Requires the data to be disclosed by Covered California in a manner that protects the personal information of an enrollee, pursuant to state and federal privacy laws. (3) Prohibits records that reveal contracted rates paid by QHPs to providers and enrollee coinsurance that can be used to determine contracted rates paid to providers from being subject to public disclosure.

100503.7. (c) (1) Requires a QHP to provide to Covered California information that Covered California identifies as necessary to conduct its duties or exercise its oversight powers and furnish the information in the form, manner and frequency specified by Covered California.

100503.7. (d) (1) Requires a QHP to provide enrollee data, and other information on quality measures, including contract compliance with measures that affect individual and population health, as improvements in care coordination and patient safety, in a manner that allows for an analysis by demographic subpopulations.

100503.7. (d) (2) Requires a QHP to provide encounter data, and performance improvement strategies, payment methods, and other information necessary to monitor adherence to contract provisions designed to improve health equity and reduce health disparities on an individual and population health basis.

100503.7. (d) (3) Requires a QHP to also provide financial data and information, including cost detail, claims data, encounter data, and payment methods to evaluate cost and utilization experience for enrollees. Requires enrollment data and information to include demographic, coverage, premium, product, network, and benefit design detail for each enrollee.

100503.7. (e) Requires a health plan contracted with Covered California to offer a QHP, to disclose to Covered California the following information:

- (1) Nongrandfathered individual market products, whether offered through Covered California or otherwise; and,
- (2) Nongrandfathered small group products, whether offered through Covered California or otherwise.

100503.7 Requires a health plan contracted with Covered California to offer a QHP to also disclose to Covered California:

- (f) Quality and disparity measures, data, and information for all of the enrollees and insureds of the carrier in all market segments, including individual, small group, but not including large group, Medi-Cal, Medicare; and,
- (g) Data and information required by this bill for each of the plan years in which the QHP is or has been contracted with Covered California, including prior years.

100503.8. Requires Covered California to engage in health oversight activities relating to its operations, including, but not limited to, audits, investigations, inspections, evaluations, analyses, data collection through routine reporting, and any other activities for oversight of Covered California and the individuals or entities regulated in connection with Covered California, including QHPs. Permits Covered California to exercise its authority directly or through its designees, and requires Covered California to act as a health oversight agency, as defined, in performing those duties.

100508. (a) Exempts, from disclosure under the California Public Records Act, records that (2) reveal cost detail, claims data, encounter data, information about payment methods, contracted rates paid by QHPs to providers, and enrollee coinsurance or other cost sharing that can be used to determine contracted rates paid by plans to providers.

COMPLIANCE DATES

Covered California is currently going through a process to consider additional QHP responsibilities and reporting requirements for Attachment 7.

While the provisions of this law are technically effective on January 1, 2020, the Covered California Board will need to approve a new Attachment 7 for subsequent contract years before health plans will be required to submit additional data.

IMPLEMENTATION ISSUES

This law only applies to qualified health plans contracted with the Exchange.

This bill gives Covered California the broad authority as a health oversight agency and will therefore be permitted to conduct oversight into all Exchange operations including audits, investigations and inspections, evaluations, analyses, data collection and any other activities necessary for proper oversight.

Carriers that participate on the Exchange will be required to report additional data to demonstrate compliance with Attachment 7 of the QHP contract and any additional information requested by the Covered California Board of Directors. This law also requires carriers to submit data for all on and off-Exchange non-grandfathered individual and small group products.

Carriers that offer both HMO products regulated by DMHC and PPO products regulated by CDI will be required to submit this information, regardless of licensing agency.