



CAHP LEGISLATIVE INFORMATION

SB 159 (Wiener) Chapter 532, 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.

HIV: PREEXPOSURE AND POSTEXPOSURE PROPHYLAXIS

BACKGROUND

Senate Bill 159 was authored by Senator Scott Wiener and sponsored by Equality California, San Francisco AIDS Foundation, the California Pharmacists Association and the California Society of Health Systems Pharmacists. The intent of the bill is to increase access to HIV medications by allowing pharmacists to furnish two powerful HIV preventative medications, PrEP and PEP without a physician's prescription. The bill also prohibits requiring prior authorization for these medications, although the language was modified by amendments.

CAHP issued a letter of concerns on this bill. CAHP asked for clarification in that PEP is a covered medication as long as it is obtained from an in-network pharmacy. The bill was eventually amended stating that it does not require a health plan to cover given by a pharmacist at an out-of-network pharmacy, unless the plan has an out-of-network pharmacy benefit. Plans also asked that medical management strategies, such as prior authorization, be allowed when generics are available for substitution. Language was added to the bill stating that the bill does not require a health plan 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.

The bill received bipartisan support in the Legislature after much of the opposition from medical societies and others was removed by amendments.

REQUIREMENTS

SB 159 amends Section 4052 of, and adds Sections 4052.02 and 4052.03 to, the Business and Professions Code, and adds Section 1342.74 to the Health and Safety Code, and amends Section 14132.968 of the Welfare and Institutions Code, relating to HIV prevention.

Specifically, SB 159 does the following:

4052.02. (b) Defines PrEP, PEP, and (c) CDC Guidelines.

4052.02. (d) Authorizes a pharmacist who has undergone specified training to (e) furnish at least a 30-day, up to a 60-day, supply of PrEP once in a two-year timeframe, according to specified conditions.

4052.03. (e) Authorizes a pharmacist to furnish a full course of PEP, according to specified conditions.

4052.03. (g) Requires the Board of Pharmacy, in consultation with the Medical Board of California, to adopt emergency regulations by July 1, 2020, to implement the bill's requirements in accordance with CDC guidelines.

1342.74. (a) Prohibits health plans from requiring prior authorization or step therapy for PrEP or PEP, and requires coverage of pharmacist-prescribed PrEP and PEP. Prohibits a health care service plan from covering PrEP furnished by a pharmacist in excess of a 60-day supply to a single patient once every two years, unless the pharmacist has been directed otherwise by a prescriber.

14132.968. (a) Allows Medi-Cal reimbursement for pharmacists prescribing PrEP and PEP.

COMPLIANCE DATES

January 1, 2020 – no prior authorization or step therapy will be allowed for PrEP and PEP drugs.

July 1, 2020 – the California Board of Pharmacy must adopt emergency regulations to allow prescribers to administer and provide PrEP and PEP without a prescription as clinically appropriate and within the guidelines of the law.

IMPLEMENTATION ISSUES

Applicability

This law applies to all Knox-Keene licensed health care service plans regulated by DMHC. Plans will be required to cover up to a 60-day supply of PrEP furnished by a pharmacist without a prescription not more than once every two years.

Health care service plans are not required to cover this benefit at an out-of-network or non-contracted pharmacy.

If there is more than one therapeutic equivalent drug for PrEP, plans are required to cover at least one therapeutically equivalent PrEP drug without prior authorization or step therapy.

Implementation Issues

Plans will need to review contracts with pharmacy benefit managers to ensure that contract language that would prohibit a pharmacist at a contracted, in-network pharmacy from dispensing PrEP for enrollees that meet the conditions for PrEP as set forth in BPC 4052.02(e)(1), 4052.02(e)(2), and 4052.02(e)(3).

Recently, the U.S. Preventive Services Task Force (USPSTF) recommended that clinicians offer prescription pre-exposure prophylaxis (PrEP) to individuals at high risk of contracting HIV; this recommendation received an A rating from the USPSTF.

Under the requirements of the Affordable Care Act (ACA), USPSTF A or B recommendations must be covered for all non-grandfathered plans at no member cost sharing beginning in the plan year or

policy year that begins one year after the issue date of the recommendation. For IFP plans, the effective date of the zero cost sharing will be January 1, 2021. For group plans, the effective date is tied to the renewal date.

Plans should also review formularies as this law prohibit plans from subjecting PrEP to prior authorization or step therapy, and the plan's formulary or formularies must display this information consistently with Rule 1300.67.205 related to the standard prescription drug formulary template.