



## CAHP IMPLEMENTATION GUIDELINE

### SB 221 (Weiner) Chapter 724, Statutes of 2021

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*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.*

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#### **HEALTH CARE COVERAGE: TIMELY ACCESS TO CARE**

##### BACKGROUND

Senate Bill 221 was introduced by Senator Scott Weiner (D-San Francisco) and sponsored by the National Union of Health Care Workers, a labor organization.

SB 221 partially codifies the timely access regulations adopted by the Department of Managed Health Care. In addition, SB 221 would require health plans to ensure that nonurgent appointments with a nonphysician mental health care or substance use disorder providers within 10 business days of the request for an appointment.

CAHP opposed this measure due to the fact that the bill takes a one-size-fits-all approach to, and lacks the consideration of, the many challenges that scheduling follow-up appointments within 10 days entails. Specifically, CAHP pointed to the lack of available workforce to meet the current demand for mental health services. Unfortunately, these concerns were not enough to move the needle with state legislators, who were narrowly focused on the mental health impacts for individuals created by the COVID-19 pandemic. As the bill continued to move throughout the legislative process, the bill picked up more and more bi-partisan support despite the policy flaws with the bill. Seeing the writing on the wall, CAHP was able to negotiate a delayed effective date with the author's office to delay the 10-day follow-up standard to July 1, 2022 to allow health plans additional time to staff up prior to the bill's implementation.

SB 221 passed out of the Legislature with bi-partisan support, and the Governor signed SB 221 on October 8, 2020.

##### REQUIREMENTS

Specifically, SB 221 does the following:

- 1) Requires a health plan that provides or arranges for the provision of hospital or physician services, including a specialized mental health plan that provides physician or hospital services, or that provides mental health services pursuant to the contract with a full service plan to comply with timely access requirements pursuant to this bill, and for contracts issued, renewed, or amended on or after July 1, 2022, to provide information to an enrollee regarding the standards

for timely access to care, including information related to interpreter services at the time of the appointment without imposing delay on scheduling of the appointment, and in a timely manner, no less than annually.

- 2) Codifies many of the requirements of the DMHC and CDI timely access regulations described in 2) of the comments section below and adds a new standard, commencing July 1, 2022, for nonurgent follow-up appointments with a nonphysician mental health care or substance use disorder provider of within ten business days of the prior appointment for those undergoing a course of treatment for an ongoing mental health or substance use disorder condition, except when the provider has determined and noted in the record that a longer time will not have a detrimental impact, as specified. This bill does not limit coverage to once every 10 business days. Requires a health plan that uses a tiered network to demonstrate compliance based on providers available at the lowest cost-sharing tier.
- 3) Clarifies that 2) above, does not permit nonurgent follow-up appointments with a nonphysician mental health care or substance use disorder provider to be limited to once every 10 days.
- 4) Requires a health plan to arrange coverage outside the plan's contracted network in accordance with existing law, if medically necessary treatment of a mental health or substance use disorder is not available in network within the geographic and timely access standards set by law or regulation, as specified.
- 5) Applies the DMHC timely access requirements to Medi-Cal managed care plans. Requires a referral to a specialist by a primary care provider or another specialist to be subject to relevant time elapsed standards, except as specified.
- 6) Requires DMHC's timely access report to include demonstration of the average waiting time for each class of appointment regulated under the law.
- 7) Requires a health insurance policy that is issued, renewed, or amended on or after July 1, 2022, that provides benefits through contract with providers for alternative rates, to provide information to an insured regarding the standards for timely access to care, as specified, including information related to receipt of interpreter services in a timely manner, no less than annually.
- 8) Requires an insurer to ensure timely access to covered health care services, including applicable time-elapsed standards, by assisting an insured to locate available and accessible contracted providers in assisting in a timely manner appropriate for the insured's health needs. Requires an insurer to arrange for the provision of services outside the insurer's contracted network if unavailable within the network if medically necessary for the insured's condition. Requires an insured's costs for medically necessary referrals to non network providers to not exceed applicable in-network copayments, coinsurance, and deductibles.
- 9) Prohibits a plan or insurer from preventing, discouraging or disciplining a contracting provider or employee for informing enrollees or insureds about timely access standards.

## COMPLIANCE DATES

Plans will be required to follow the codified timely access regulations beginning on January 1, 2022. However, the requirement for health plans to ensure a 10-day follow-up appointment with nonphysician mental health providers will be required after July 1, 2022.

## IMPLEMENTATION ISSUES

### Applicability:

This law applies to all health care service plans and health insurers, including Medi-Cal managed care plans.

### Implementation Issues:

H.S.C. section 1367.03 requires health plans to provide or arrange for the provision of covered health care services in a timely, clinically appropriate manner. Health plans will need to ensure that administrative processes are in place and system updates are made in order to establish and maintain these network adequacy standards.

Plans may need to review their existing Policies and Procedures (P&P), especially those related to utilization management (UM) practices, to ensure that plan and provider processes necessary to obtain covered health care services comply with this section.

Plans should review service contracts and member handbooks/Evidence of Coverage (EOC) to verify that 1) any contracts existing as of July 1, 2017 provide information to enrollees regarding timely access standards adopted pursuant to H.S.C. section 1367.03, and 2) any contracts issued, renewed, or amended on or after July 1, 2022 reflect standards required by H.S.C. section 1367.032. Additionally, plans should confirm that contracted providers have adequate capacity and availability to offer appointments that meet the timeframes specified in this section.

In correlation with SB 221, the DMHC also submitted a Timely Access Regulation (TAR) package to the Office of Administrative Law (OAL) on August 2, 2021. Pursuant to the California Governor's Executive Order, OAL has a total of 150 working days to review regulations, which gives OAL until March 11, 2022 to approve or deny the TAR package. If OAL passes the regulation as written, the DMHC will collaborate with health plans to figure out implementation. If the regulation returns from OAL with edits, the DMHC has stated that this could lead to an adjustment in the January 1, 2022 implementation date. The DMHC anticipates further guidance on Timely Access, and plans may need to be prepared to review and potentially implement such guidance.

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*If you have any questions regarding this document, please email Jedd Hampton at [jhampton@calhealthplans.org](mailto:jhampton@calhealthplans.org).*