



California Association of  
**Health Plans**

# CAHP IMPLEMENTATION GUIDELINE

## SB 242 (Newman) Chapter 538, 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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### **PROVIDER REIMBURSEMENTS**

#### **BACKGROUND**

Senate Bill 242 was introduced by Senator Josh Newman (D-Fullerton) and sponsored by the California Medical Association (CMA).

When SB 242 was introduced the author stated that to treat patients safely during the COVID-19 pandemic, medical and dental practices have faced increased costs, and a danger of insolvency, because of the need for mandatory and necessary Personal Protective Equipment (PPE), infection control materials, and testing supplies. This bill was introduced to require health plans to reimburse health care providers for some “business expenses” related to the procurement of PPE and other critical supplies. SB 242 represents one component of a multi-year, multi-pronged effort by the provider community to force plans provide emergency funding to providers during the COVID-19 pandemic.

CAHP and its allied trades (America’s Health Insurance Plans and the Association of Life and Health Insurance Companies) strongly opposed this measure in its initial form. The health plans argued that health plans had already provided substantial support to their provider partners on the front lines of the COVID-19 pandemic; providers have received financial assistance and materials from the state and federal governments; SB 242 contained no limits on the assistance provided, and; the bill shifts consumer premium dollars away from the direct care of enrollees. The trades eventually moved to Oppose Unless Amended position seeking to substantially narrow the bill.

SB 242 was substantially amended in the Assembly Health Committee. The amendments narrowed the bill in important ways. To address concerns that this bill is overly broad as it relates to a long list of medically necessary business expenses, the Committee intended to add amendments limiting the definition of “business expenses” to PPE, apply the bill’s provisions only to future public health emergencies, and delete all references to the current pandemic. The actual amendments limiting to PPE are unclear but seem to be based on a CPT Code (99072) developed by the American Medical Association created during the pandemic. The language does, however, state that the reimbursement mandate applies to “business expenses” to prevent the spread of diseases causing public health emergencies declared on or after January 1, 2022.

The votes for SB 242 were predominantly party-line with Democrats voting in favor and Republicans against, with some exceptions of moderate Democrats abstaining prior to the amendments.

## REQUIREMENTS

- Requires a health plan to reimburse contracting health care providers for their business expenses to prevent the spread of respiratory-transmitted infectious diseases causing public health emergencies declared on or after January 1, 2022.
- Defines business expenses as personal protective equipment (PPE), additional supplies, materials, and clinical staff time over and above those expenses usually included in an office visit or other nonfacility service or services, as specified.
- Requires reimbursement to a contracting health care provider for each individual patient encounter, limited to one encounter per day per enrollee or insured for the duration of the public health emergency.
- Specifies that a change to a contract between a health plan and a health care provider that delegates financial risk for testing, as specified, is a material change to the parties' contract. Exempts from this bill, Medi-Cal managed care plans that contract with the Department of Health Care Services.

## COMPLIANCE DATES

Applies to business expenses to prevent the spread of diseases causing public health emergencies declared on or after January 1, 2022.

## IMPLEMENTATION ISSUES

### Applicability:

This law applies to all commercial plans and does not apply to Medi-Cal managed care plans.

### Implementation Issues:

This bill includes a similar delegation of financial risk (DOFR) provision to that of SB 510 (Pan) regarding testing and related items and services, except this bill only applies to future public health emergencies. Plans should review provider contracts to ensure that no material changes are being made in relation to DOFR, unless the parties have negotiated and agreed upon a new contract provision pursuant to H.S.C. section 1375.7.

In reviewing provider contracts, plans should also confirm that reimbursement will be provided for any business expenses, as defined above, to prevent the spread of diseases causing public health emergencies declared on or after January 1, 2022. Administrative processes will also need to be established or maintained to ensure that reimbursement is provided in a timely manner.

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*If you have any questions regarding this document, please contact Nick Louizos at [nlouizos@calhealthplans.org](mailto:nlouizos@calhealthplans.org)*

