CAHP IMPLEMENTATION GUIDELINE

SB 987 (Portantino)
Chapter 608, Statutes of 2022

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 CANCER CARE EQUITY ACT

BACKGROUND

SB 987 was introduced by Senator Anthony Portantino (D-LA Cañada Flintridge) relating to access to National Cancer Institute (NCI)-designated cancer centers. As introduced, the bill would have required Medi-Cal managed care plans to include in their contracted provider networks at least one NCI-designated cancer center and ensure that any beneficiary diagnosed with a complex cancer diagnosis is referred to an NCI-Designated Cancer Center within 15 business days of the diagnosis unless the beneficiary selects a different cancer treatment provider. This bill was co-sponsored by the American Cancer Society Cancer Action Network and the City of Hope.

CAHP had significant concerns with the introduced version of this bill, as it required Medi-Cal managed care plans to contract with NCI-designated cancer centers, provided no guidance on how delegated provider networks would send authorization requests back to the primary plan and allowed beneficiaries to initiate a pre-service authorization request directly to the managed care plan without going through the beneficiary's primary provider.

CAHP worked extensively with the author's office and the sponsors to secure amendments that stripped the requirement that Medi-Cal managed care plans contract with NCI-designated cancer centers, and instead, requires plans to make a good-faith effort to work out contracting arrangements with these entities. Additionally, CAHP secured additional amendments to clarify that pre-service authorization requests must go through the primary care provider and other technical and clarifying changes to the bill. While not perfect, the amendments taken by the author's office enabled CAHP to remove our opposition to the bill.

The bill passed out of the Legislature on a bi-partisan vote. The Governor signed SB 987 on September 27, 2022.

REQUIREMENTS

SB 987 adds Section 14197.45 to the Welfare and Institutions Code, relating to Medi-Cal.

Specifically, SB 987 does the following:

1) Defines “complex cancer diagnosis” as a diagnosis for which there is no standard FDA-approved treatment or for which known highly effective therapy for metastatic cancer has failed and any of the following diagnoses: hematological malignancies, acute leukemia, advanced, relapsed, refractory non-Hodgkin lymphoma and multiple myeloma, including BPDCN and T-cell leukemias and lymphomas, and advanced stage, relapsed solid tumors refractory to standard FDA-approved treatment options, advanced stage rare solid tumors for which there is no known effective standard treatment options. Authorizes DHCS to review and update the definition on a periodic basis after consultation with stakeholders.

2) Requires MCMCPs to make a good faith effort to include in their contracted provider network at least one NCI-Designated Comprehensive Cancer Center, NCORP-affiliated site, or qualifying academic center in each county the MCMCP operates. Defines each of these terms as follows:

    a) “NCI-designated comprehensive cancer center” is a cancer center that meets ongoing standards for cancer prevention, clinical services, and research, as determined by regular reviews and evaluations by NCI.

    b) “National Cancer Institute (NCI) Community Oncology Research Program (NCORP) affiliated site” is a cancer center that has received an approved grant from NCI through NCORP that provides cancer clinical trials and care delivery studies.

        i) “Qualifying academic cancer center” is a research and clinical cancer center that meets all the following criteria: has a medical oncology or hematology subspecialty expertise in each of the included complex cancers; has a portfolio of phases 1, 2, and 3 clinical trials available for eligible enrollees; provides fellowship programs n medical oncology, hematology or hematological oncology, radiation oncology, or a surgical oncology specialty; provides inpatient and outpatient supportive care services; covers clinical, anatomic, and molecular pathology with subspecialty expertise for each of the included complex cancers; provides a program accredited by the American College of Surgeons Commission on Cancer; and has accreditation for the main campus by the Foundation for the Accreditation of Cellular Therapy.

3) Allows MCMCP enrollees with a complex cancer diagnosis to request a referral to an in-network NCI-Designated Comprehensive Cancer Center, NCORP-affiliated site, or qualifying academic center. Should there be no in-network NCI-Designated Comprehensive Cancer Center, NCORP-affiliated site, or qualifying academic center, an MCMCP enrollee may request an out-of-network referral on the condition that the MCMCP and the provider can come to an agreement on payment.

4) Allows an MCMCP to deny a referral solely upon a determination by the treating provider that the request to receive services at an NCI–designated Comprehensive Cancer Center, NCORP-affiliated site, or a qualifying academic cancer center is not medically necessary, the requested services are not available at, or not applicable to, the enrollee’s cancer diagnosis or the requested provider is out-of-network provider and the Medi-Cal managed care plan and the out-of-network provider are unable to come to agreement with the respect to payment.

5) Requires MCMCPs, upon approval of a request to receive services at an NCI-designated Comprehensive Cancer Center, NCORP-affiliated site, or qualifying academic cancer center, to ensure the services available to an eligible enrollee are sufficient in amount, duration, and scope as medically necessary for the treatment of the enrollee's condition and prohibits MCMCPs from arbitrarily denying or reducing the amount, duration, or scope of required services solely because of diagnosis, type of illness, or condition of the enrollee.

6) Requires DHCS to seek the federal approval necessary to implement this bill and conditions implementation on the receipt of any necessary federal approval and continued federal financial participation.

7) Authorizes DHCS to implement this bill via guidance without taking further regulatory action and to enter into contract to implement this bill without the need for review or approval by the Department of General Services

COMPLIANCE DATES

Plans will be required to implement the provisions of this bill beginning on January 1, 2023.

IMPLEMENTATION ISSUES

Applicability:
This bill applies to Medi-Cal managed care plans.

Implementation Issues:
The Welfare and Institutions Code is amended to add section 14197.45 and requires Medi-Cal managed care plans to comply with the following:

1) Make a good faith effort to contract with at least one National-Cancer Institute (NCI)-designated site or qualifying academic cancer center within its contracted provider network for each county in which they operate.
2) Allow eligible enrollees to request a referral for medically necessary services through in-network providers unless the enrollee chooses a different cancer treatment provider. If the Medi-Cal managed care plan is unsuccessful in their good faith effort to contract with the NCI or qualifying academic cancer center than they shall allow the enrollee to request a referral for medically necessary services through an out-of-network center.
3) Notify all enrollees of their right to request a referral to access such care.

Plans will need to ensure administrative processes are in place to allow eligible enrollees to receive medically necessary services when a referral is granted. Plans will need to update their existing Policies and Procedures (P&P), including those related to Utilization Management, to reflect the process for enrollees with a complex cancer diagnosis to receive care at an NCI, NCORP, or Academic Cancer Center.

Plans may consider updated processes to allow for the documentation and storage of outreach efforts if the plan is unable to execute a contract within a county to support a "good faith effort" to DHCS.

Plans will also need to prepare to notify members of their right to request a referral to access care through an NCI/NCORP/Academic Cancer Center if diagnosed with complex cancer, possibly

through updates to member handbooks/Evidence of Coverage (EOCs). Plans may experience an increase in IMR and State Hearing requests as a result of this bill.

This law allows DHCS to issue related guidance without the need for further regulatory action. Plans will need to be prepared to review and potentially implement such guidance.