

Senate Bill No. 987

CHAPTER 608

An act to add Section 14197.45 to the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 27, 2022. Filed with
Secretary of State September 27, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 987, Portantino. California Cancer Care Equity Act.

Existing law establishes the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income individuals receive health care services through various health care delivery systems, including managed care pursuant to Medi-Cal managed care plan contracts. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions.

This bill would, for covered benefits under its contract, require a Medi-Cal managed care plan to, among other things, make a good faith effort to contract with at least one National Cancer Institute (NCI)-designated comprehensive cancer center, site affiliated with the NCI Community Oncology Research Program (NCORP), or qualifying academic cancer center, as specified within each county in which the Medi-Cal managed care plan operates, and authorize any eligible enrollee diagnosed with a complex cancer diagnosis to request a referral to any of those centers to receive medically necessary services unless the enrollee chooses a different cancer treatment provider. The bill would require a Medi-Cal managed care plan to notify all enrollees of their right to request a referral to access to care through any of those centers.

The bill would authorize the department to implement, interpret, or make specific the provisions by means of all-county letters or similar guidance, without taking further regulatory action. The bill would require the department, in consultation with stakeholders, to develop a process for updating and further defining a "complex cancer diagnosis" on a periodic basis. The bill would require the department to seek federal approval to implement those provisions and would require the provisions be implemented only to the extent that necessary federal approvals are obtained.

The people of the State of California do enact as follows:

SECTION 1. This act shall be known, and may be cited, as the California Cancer Care Equity Act.

SEC. 2. (a) The Legislature finds and declares all of the following:

(1) Effective treatment of complex cancers relies on the accuracy of initial diagnosis, timeliness of intervention, choice of therapy, collaboration among multiple experts, and access to appropriate clinical trials or emerging therapies.

(2) The type, duration and complexity of treatment required to meet the needs of patients with complex cancer diagnoses can vary substantially depending on the type and subtype of cancer.

(3) National Cancer Institute (NCI)-designated comprehensive cancer centers are recognized for their scientific leadership, resources, and exceptional depth and breadth of transdisciplinary research that bridges the fields of prevention, cancer control, and population science.

(4) The NCI Community Oncology Research Program (NCORP) is a national network that brings cancer clinical trials and care delivery studies to patients in their own communities and contributes to improved patient outcomes and a reduction in cancer disparities for all people.

(5) Varying levels of access to quality cancer care correlated with socioeconomic status lead to disparities in cancer outcomes, disfavoring the most vulnerable and disadvantaged patients.

(b) It is the intent of the Legislature that a Medi-Cal managed care beneficiary who has received a complex cancer diagnosis will be eligible to receive and able to access the services of an NCI-designated comprehensive cancer center, NCORP-affiliated site, or qualifying academic cancer center.

SEC. 3. Section 14197.45 is added to the Welfare and Institutions Code, to read:

14197.45. (a) Notwithstanding any other law, for covered benefits under its contract, as applicable, a Medi-Cal managed care plan shall comply with all of the following:

(1) Make a good faith effort to contract with at least one National Cancer Institute (NCI)-designated comprehensive cancer center, site affiliated with the NCI Community Oncology Research Program (NCORP), or qualifying academic cancer center, within its contracted provider network and its subcontracted provider network, if applicable, within each county in which the Medi-Cal managed care plan operates, for provision of services to any eligible enrollee diagnosed with a complex cancer diagnosis. For purposes of this paragraph the NCI-designated comprehensive cancer center, NCORP affiliated site, or qualifying academic cancer center shall enroll in the Medi-Cal program if there is a state-level enrollment pathway, or the Medi-Cal managed care plan shall vet the qualifications of the facility to ensure they can meet the standards of participation required to contract with a Medi-Cal managed care plan.

(2) (A) Allow any eligible enrollee diagnosed with a complex cancer diagnosis to request a referral to receive medically necessary services through any of the following in-network providers unless the enrollee chooses a different cancer treatment provider:

- (i) An NCI-designated comprehensive cancer center.
- (ii) An NCORP-affiliated site.

(iii) A qualifying academic cancer center.

(B) (i) If the Medi-Cal managed care plan is unsuccessful in its good faith contracting efforts pursuant to paragraph (1), the Medi-Cal managed care plan shall allow an enrollee to request a referral to receive medically necessary services through an out-of-network NCI-designated comprehensive cancer center, out-of-network NCORP-affiliated site, or out-of-network qualifying academic cancer center, unless the enrollee chooses a different cancer treatment provider.

(ii) Clause (i) shall only apply if the Medi-Cal managed care plan and the out-of-network NCI-designated comprehensive cancer center, out-of-network NCORP-affiliated site, or out-of-network qualifying academic cancer center come to agreement with respect to payment.

(3) (A) After approving a referral request pursuant to paragraph (2), allow an eligible enrollee diagnosed with a complex cancer diagnosis to access oncology, hematology, or other relevant specialists through a contracted NCI-designated comprehensive cancer center, a contracted NCORP-affiliated site, or a contracted qualifying academic cancer center, for the enrollee's condition and identified needs as medically necessary.

(B) If the NCI-designated comprehensive cancer center, NCORP-affiliated site, or qualifying academic cancer center refers an enrollee with a complex cancer condition to an out-of-network specialist pursuant to subparagraph (B) of paragraph (2), this paragraph shall only apply if the Medi-Cal managed care plan and the out-of-network specialist come to an agreement with respect to payment.

(4) A denial of an enrollee's referral request shall be based upon a determination by the treating provider that the request to receive services at an NCI-designated comprehensive cancer center, or 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 at the requested NCI-designated comprehensive cancer center, NCORP affiliated site, or a qualifying academic cancer center site, or the NCI-designated comprehensive cancer center, NCORP-affiliated site, or qualifying academic cancer center is an out-of-network provider and the Medi-Cal managed care plan and the out-of-network NCI-designated comprehensive cancer center, NCORP-affiliated site, or qualifying academic cancer center are unable to come to agreement with the respect to payment.

(5) Ensure that the services of an NCI-designated comprehensive cancer center, NCORP-affiliated site, or qualifying academic cancer center available to an eligible enrollee are sufficient in amount, duration, and scope as medically necessary for the treatment of the enrollee's condition.

(6) Refrain 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.

(b) A Medi-Cal managed care plan shall notify all enrollees of their right to request a referral to access care through an NCI-designated comprehensive cancer center, NCORP-affiliated site, or qualifying academic cancer center, if they are diagnosed with a complex cancer diagnosis.

(c) For the purposes of this section, the following definitions apply:

(1) (A) “Complex cancer diagnosis” means 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, or any other condition as determined pursuant to paragraph (2) of subdivision (d). “Advanced stage” cancer means stage IV metastatic cancer.

(B) The department is authorized to periodically update and further define “complex cancer diagnosis” pursuant to the process outlined in subdivision (d).

(2) “Eligible enrollee” means an individual enrolled with a particular Medi-Cal managed care plan who receives a complex cancer diagnosis.

(3) “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.

(4) “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.

(5) “Qualifying academic cancer center” is a research and clinical cancer center that meets all the following criteria:

(A) It is an institution with a medical oncology or hematology subspecialty expertise in each of the diagnoses included in paragraph (1).

(B) It has a portfolio of phases 1, 2, and 3 clinical trials available for eligible enrollees.

(C) It provides fellowship programs in medical oncology, hematology or hematological oncology, radiation oncology, or a surgical oncology specialty.

(D) It provides inpatient and outpatient supportive care services.

(E) It covers clinical, anatomic, and molecular pathology with subspecialty expertise for each of the cancer types included in paragraph (1).

(F) It provides a program accredited by the American College of Surgeons (ACS) Commission on Cancer (CoC).

(G) It has accreditation for the main campus by the Foundation for the Accreditation of Cellular Therapy.

(d) (1) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section, in whole or in part, by means of all-county letters, plan letters, provider bulletins, information notices, or other similar guidance, without taking further regulatory action.

(2) The department, in consultation with stakeholders, shall develop a process for updating and further defining a “complex cancer diagnosis” on a periodic basis.

(e) The department shall seek any federal approvals it deems necessary to implement this section. This section shall be implemented only to the extent that any necessary federal approvals are obtained and federal financial participation is available and is not otherwise jeopardized.

(f) For purposes of implementing this section, the department may enter into an exclusive or nonexclusive contract, or amend existing contracts, on a bid or negotiated basis. Contracts entered into or amended pursuant to this section shall be exempt from Chapter 6 (commencing with Section 10100) of Division 2 of the Public Contract Code, and shall be exempt from the review or approval of any division of the Department of General Services.