

Final Results of the 2019-20 Legislative Session

REVIEW OF THE 2019-20 LEGISLATIVE SESSION

Governor Newsom signed most of the health care bills sent to him by the Legislature this year. This *ITUP Legislative Update* reviews the bills passed by the Legislature in 2019, and the governor's actions to sign (shown as chaptered) or veto the bills.

Preserving Affordable Care Act (ACA) Progress

Some of the most significant changes affecting health coverage this year were included in the 2019-20 state budget passed in June, such as Medi-Cal expansion for young, undocumented adults ages 19-25 and a state minimum health coverage requirement with state tax penalty (individual mandate). The Legislature enacted the state coverage requirement and penalty following action by Congress to eliminate the federal tax penalty. See the ITUP publication [2019-20 Final State Budget Health Care Highlights](#).

The following bills focus on preserving California's progress under the ACA:

[Assembly Bill \(AB\) 414](#) (Bonta, Chapter 801, Statutes of 2019) – Requires the Franchise Tax Board to annually report to the Legislature on implementation of the state individual mandate, including the number of individuals paying the penalty, the total amount of state penalty imposed, and the number of exemptions granted.

[AB 1309](#) (Bauer-Kahan, Chapter 828, Statutes of 2019) – Beginning in 2021, sets November 1-January 31 of each year as the combined annual open and special enrollment periods for individual coverage in California, including coverage through the state's ACA exchange, Covered California. For coverage year 2020, the open enrollment period is October 15, 2019-January 31, 2020. Individuals must sign up for coverage during the annual enrollment period, unless they experience a special circumstance that entitles them to enroll in individual coverage, such as they lose job-based coverage or move out of their health plan's service area. This bill also provides that coverage for individuals who sign up between December 16-January 31 will begin February 1. Federal law requires open enrollment in exchanges from November 1-December 15.



Expanding Coverage and Improving Affordability

The following 2019 bills focus on coverage expansion and improving affordability:

[AB 45](#) (Stone, Chapter 570, Statutes of 2019) – Prohibits state and local officials from imposing copayments for medical and dental services provided to inmates in county jails and state prisons. Current law authorizes state officials to set a \$5 copayment and city/county officials to set a \$3 copayment.

[AB 174](#) (Wood, Chapter 795, Statutes of 2019) – Requires Covered California to publicly report twice a year on the individual market assistance program (state-funded premium assistance) enacted as part of the 2019-20 state budget, including the number of applications received, detailed demographics, and other information about the applicants, as specified.

[AB 914](#) (Holden) – Extends Medi-Cal eligibility for an inmate under the age of 26 until the inmate is released from incarceration in a public institution or is no longer eligible for Medi-Cal benefits, whichever comes first. **VETOED** Veto message states that the age thresholds in this bill differ from those in federal law which would violate federal comparability standards, jeopardizing federal financial participation, and therefore resulting in significant state General Fund costs.

[SB 600](#) (Portantino, Chapter 853, Statutes of 2019) – Clarifies existing law by explicitly stating that basic health services include coverage of standard fertility preservation treatments when a covered cancer treatment may directly or indirectly cause infertility. Does not apply to coverage in the Medi-Cal program. Under California law, basic health care services are one component of essential health benefits for individual and small group coverage under the ACA, and also serves as a minimum benefit standard for large group coverage not subject to the ACA and licensed by the Department of Managed Health Care (DMHC).

In addition to these bills, according to the author of [SB 29](#) (Durazo), the governor has agreed to work with the legislature on extending full scope Medi-Cal benefits to income-eligible Californians above 65 years of age, regardless of immigration status.

Improving Mental Health and Substance Use Disorder (SUD) Treatment

With national focus on the opioid crisis and growing challenges facing California's systems for delivering mental health and SUD treatment services, the Legislature passed the following bills:

[AB 453](#) (Chau, Chapter 88, Statutes of 2019) – Requires the state Emergency Medical Services Authority to include training on how to interact effectively with persons with dementia and their caregivers, as part of basic training requirements for Emergency Medical Technicians (EMTs).

[AB 512](#) (Ting) – Requires county Mental Health Plans (MHPs) to assess linguistic and cultural competence of mental health services and identify statewide performance targets to reduce mental health disparities. Requires external quality review of county MHPs progress on statewide mental health disparity reduction. **VETOED** Veto message states the proposed requirements would create significant General Fund costs that are better considered through the budget process.

[AB 577](#) (Eggman, Chapter 775, Statutes of 2019) – Extends the duration of continuity of care for a woman who presents documentation of a maternal health condition diagnosis to 12 months from the contract

termination date, or 12 months from the effective date of coverage for a newly covered enrollee. Existing law limits care to “the immediate postpartum period.” Continuity of care provisions allow enrollees to continue a course of treatment from a specific provider whose health plan contract is terminated, under specified conditions.

[AB 1088](#) (Wood, Chapter 450, Statutes of 2019) – Requires the state Department of Health Care Services (DHCS) to seek a Medicaid state plan amendment or waiver that extends Medi-Cal eligibility to aged, blind, and disabled individuals who would otherwise be eligible for the program, if not for the state buy-in of their Medicare Part B premiums.

[SB 10](#) (Beall) – Establishes a state certification process for peer providers (people with lived experience recovering from addiction or mental illness who provide guidance and support) with four distinct certification categories: peer, parent, transition-age, and family support specialist. Requires DHCS to submit a Medicaid State Plan Amendment that adds peer support specialist services as a reimbursable Medi-Cal benefit.

VETOED Veto message states that the Administration plans on working with the Legislature and counties to transform the state’s behavioral health care delivery system more comprehensively.

[SB 389](#) (Hertzberg, Chapter 209, Statutes of 2019) – Authorizes counties to use Mental Health Services Act (MHSA) funds to serve persons in a pre-sentencing or post-sentencing diversion program, or who are on parole, probation, post-release community supervision, or mandatory supervision. Existing law prohibits MHSA funds from being used for incarcerated individuals.

Protecting Consumers and Expanding Services

The following bills expand coverage for specific services or increase consumer protections in public and private coverage:

[AB 241](#) (Kamlager-Dove, Chapter 417, Statutes of 2019) – Requires continuing education courses for physicians, nurses, and physician assistants to include the understanding of implicit bias and the promotion of bias-reducing strategies.

[AB 318](#) (Chu) – Requires DHCS and Medi-Cal managed care plans to, among other things, conduct field testing of all materials translated into other languages for Medi-Cal beneficiaries. Defines “field testing” as a review of translations for accuracy, cultural appropriateness, and readability.

VETOED Veto message states the proposed requirements would create significant costs and should be evaluated in the annual budget process.

[AB 678](#) (Flora, Chapter 433, Statutes of 2019) – Restores podiatric services as a covered benefit in Medi-Cal.

[AB 824](#) (Wood, Chapter 531, Statutes of 2019) – Presumes that an agreement that resolves or settles a patent infringement claim in connection with the sale of a pharmaceutical product to be anticompetitive, if both of the following apply: 1) a generic or biosimilar manufacturer receives anything of value from another company asserting patent infringement; and, 2) the generic or biosimilar manufacturer agrees to limit or forego research, development, manufacturing, or sales of the generic or biosimilar manufacturer's product for a period of time. The term “pay-for-delay,” refers to the practice of prescription drug companies paying generic drug makers to postpone release of lower-cost alternative medications.

[AB 1287](#) (Nazarian, Chapter 825, Statutes of 2019) – Requires the state Master Plan for Aging to consider using a “No Wrong Door System,” which will help older adults, people with disabilities, and caregivers receive accurate information and timely referrals about community services and supports. The state Master Plan for Aging, which is being developed pursuant to an executive order issued by Governor Newsom, is intended to “serve as a blueprint that can be used by state government, local communities, private organizations, and philanthropy to build environments that promote healthy aging.”

[SB 154](#) (Pan) – Requires Medi-Cal to cover silver diamine fluoride (SDF) for treatment of dental caries as part of a comprehensive treatment plan.

VETOED Veto message states the proposed requirements impose significant General Fund costs that are better considered through the budget process.

[SB 159](#) (Wiener, Chapter 532, Statutes of 2019) – Authorizes trained pharmacists to dispense a 60-day supply of HIV prevention drugs, pre-exposure prophylaxis (PrEP), and post-exposure prophylaxis (PEP) without a prescription.

[SB 165](#) (Atkins, Chapter 365, Statutes of 2019) – Requires DHCS to establish a pilot project concurrent with a study focused on medical interpretation services and recommend strategies on medical interpretation services for Medi-Cal beneficiaries with limited English proficiency. Existing law requires DHCS to make recommendations for and establish the pilot after the study.

[SB 260](#) (Hurtado, Chapter 845, Statutes of 2019) – Requires Covered California to enroll individuals who lose coverage in Medi-Cal or the Children’s Health Insurance Program into the lowest cost silver plan in the exchange, as specified. Requires health plans and insurers to provide Covered California with specified contact information for enrollees that lose coverage and to annually let enrollees know that they can choose to opt out of this transfer of information. Requires implementation no later than July 1, 2021.

[SB 276](#) (Pan, Chapter 276, Statutes of 2019) – Authorizes the California Department of Public Health (CDPH) to review medical exemptions from childhood immunization requirements and to revoke exemptions provided by licensed physicians that are found to be fraudulent or inconsistent with the guidelines of the federal Centers for Disease Control. Requires CDPH to revise and standardize the medical exemption forms.

[SB 464](#) (Mitchell, Chapter 533, Statutes of 2019) – Requires hospitals, alternative birthing centers, and health centers to provide implicit bias training for perinatal providers, as required. Requires CDPH to track and publish data on maternal mortality rates and severe pregnancy morbidity.

Expanding the Health Workforce

Recent and proposed coverage expansions have challenged the state’s already inadequate health care workforce. Legislators passed multiple bills intended to address the state’s workforce challenges including:

[AB 239](#) (Salas, Chapter 83, Statutes of 2019) – Extends sunset for the existing community college registered nursing program admissions guidelines from 2020 to 2025.

[AB 744](#) (Aguiar-Curry, Chapter 867, Statutes of 2019) – Requires health plans and insurers, starting January 1, 2021, to cover and reimburse diagnosis, consultation, or treatment delivered through telehealth to the same extent that the service is covered if provided in-person.

[AB 993](#) (Nazarian) – Requires health plans licensed by the DMHC, in contracts issued, amended, or renewed after January 1, 2020, to allow HIV specialists to serve as primary care providers, if the provider asks to be a primary care provider and meets the health care service plan’s eligibility criteria for all specialists seeking primary care provider status, unless the health plan does not require a referral to visit specialty providers. **VETOED** Veto message states this bill is unnecessary because specialty physicians are already permitted to serve as primary care physicians under existing law.

[AB 1494](#) (Aguiar-Curry, Chapter 829, Statutes of 2019) – Requires Medi-Cal reimbursement for telehealth services (to the extent federal financial participation is available) and states that neither face-to-face contact nor a patient’s physical presence on the premises of an enrolled community clinic is required for services provided by the clinic to a Medi-Cal beneficiary during or immediately following a state of emergency, as specified.

[SB 163](#) (Portantino) – Extends and broadens the current requirement for health plans and insurers to cover behavioral health treatment (BHT) for individuals with a pervasive developmental disorder or autism to include not only behavioral developmental models but also relationship-based and other evidence-based models, as specified.

VETOED Veto message states a formal licensing scheme that includes clinical expertise and administrative oversight would be more appropriate. In addition, this bill would create conflicts in the Medi-Cal program, resulting in delays in access to care and jeopardizing federal financial participation.

[SB 697](#) (Caballero, Chapter 707, Statutes of 2019) – Revises requirements for physician oversight of physician assistants (PAs) by allowing a “practice agreement” to describe supervision, evaluation of competency, prescribing, and other accountability details, as well as allowing the supervision of PAs by a group of physicians. Significantly modifies supervision requirements, without changing the scope of practice of PAs, by providing more flexibility and less stringent minimum state standards; allows for a method of supervision that conforms to the common practice model of physician groups, whereas current laws require supervision by an individual physician.

Creating Greater Transparency, State Oversight, and Cost Containment

The Legislature passed bills to strengthen state oversight affecting health care quality, accountability, and costs including:

[AB 204](#) (Wood, Chapter 535, Statutes of 2019) – Requires the Office of Statewide Health Planning and Development (OSHPD) to standardize hospital community benefit plan reporting and the calculated economic value of community benefits, as specified. Requires OSHPD to complete an annual report on community benefits and to impose fines on hospitals that fail to submit required information on their community benefit plans. Existing state law requires private not-for-profit hospitals to, among other things, adopt and annually update a community benefits plan to address community needs identified within its mission and financial capacity and to submit the plan to OSHPD.

[AB 290](#) (Wood, Chapter 862, Statutes of 2019) – Prohibits a chronic dialysis clinic from directing a patient to a specific coverage program to obtain premium assistance. Sets dialysis provider reimbursement rates to Medicare levels for patients who receive premium assistance, as specified. Requires health plans to accept premium payments from charities on behalf of patients.

[AB 731](#) (Kalra, Chapter 807, Statutes of 2019) – Extends current health insurance premium rate review requirements for individual and small group coverage to large group coverage (groups with more than 100 enrollees) and revises existing rate filing and data requirements.

[AB 929](#) (Rivas, Chapter 812, Statutes of 2019) – Requires Covered California to publish on the exchange website health plan-specific data, if collected, on cost reduction efforts, quality improvements, and disparity reductions, as specified.

[AB 1642](#) (Wood, Chapter 465, Statutes 2019) – Revises Medi-Cal managed care time and distance standards and related reporting. Revises and broadens DHCS authority to terminate contracts and impose administrative and financial sanctions on any entity under contract with DHCS for the delivery of health care services, including Medi-Cal managed care plans, county mental health plans, Drug Medi-Cal service providers, and others, as specified.

[SB 129](#) (Pan, Chapter 241, Statutes of 2019) – Revises existing annual health plan enrollment reporting requirements to include reporting on multiple employee welfare arrangements (MEWA), including association health plans. A MEWA is a single plan that provides health and welfare benefits to the employees of two or more unrelated employers.

[SB 227](#) (Levy, Chapter 843, Statutes of 2019) – Requires periodic, unannounced inspections of health care facilities to assess compliance with minimum nurse-to-patient ratios and sets penalties for any violation of the standards.