



## Final Results of the 2017-18 Legislative Session

### REVIEW OF THE 2017-18 LEGISLATIVE SESSION

Governor Brown signed into law most of the health bills sent to him by the Legislature this year. This issue brief summarizes legislation by topic and actions taken by the Governor, Chaptered (signed) or Vetoed.

### Preserving California's Progress Under the Affordable Care Act (ACA)

As discussed in a recent [ITUP blog](#), the Legislature passed several bills aimed at safeguarding advances made under the ACA, including:

[Assembly Bill \(AB\) 2499](#) (Arambula, Chapter 678, Statutes of 2018) – Clarifies the ACA requirement in California law that health plans spend a minimum percent of premium on health care benefits (medical loss ratio), 80 percent for individual coverage and 85 percent for large group, applies consistent with federal standards in effect as of January 1, 2017, ensuring that a change in the ACA at the federal level will not eliminate this requirement in state law. Makes related changes.

[Senate Bill \(SB\) 910](#) (Hernandez, Chapter 687, Statutes of 2018) – Prohibits short-term, limited-duration health insurance.

[SB 1108](#) (Hernandez, Chapter 692, Statutes of 2018) – Requires the Department of Health Care Services (DHCS) to seek future federal Medi-Cal waivers and pilots that aim to either increase the number of Medi-Cal recipients or enhance the medical assistance provided to recipients. As introduced, would have prevented DHCS from securing federal waivers that impose a work requirement for Medi-Cal recipients.

[SB 1375](#) (Hernandez, Chapter 700, Statutes of 2018) – Makes changes to existing California market rules for small employer coverage, strengthening the limits on association health plans enacted in the early 1990s and ensuring that ACA rating and coverage rules apply even if individuals or employers join associations.

### Creating Greater Transparency and State Oversight

Bills passed that focus on increased transparency and state oversight affecting health care quality and costs, including:

[AB 315](#) (Wood, Dahle, and Nazarian, Chapter 905, Statutes of 2018) – Requires pharmacy benefit managers (PBMs) to register with the Department of Managed Health Care (DMHC) and to disclose

specified information. Requires DMHC to convene a task force on PBM reporting to determine what information on pharmaceutical costs should be reported to the state.

[AB 595](#) (Wood, Chapter 292, Statutes of 2018) – Strengthens DMHC authority over health plan mergers including authorizing DMHC to disapprove mergers that substantially reduce competition.

[AB 2275](#) (Arambula) – Requires the Department of Health Care Services (DHCS) to establish a quality assessment and performance improvement program for Medi-Cal managed care plans.

**VETOED** Veto message states this bill would duplicate current efforts while adding significant costs to Medi-Cal.

[AB 2427](#) (Wood) – Authorizes DHCS to terminate a for-profit Medi-Cal managed care plan contract if the Attorney General determines the health plan engaged in anticompetitive conduct, as specified, or if the plan has a pattern of not complying with medical loss ratio requirements.

**VETOED** Veto message states this bill is unnecessary because DHCS has sufficient authority to deal with inappropriate or illegal conduct by plans.

## Protecting Consumers and Expanding Services

The Legislature passed consumers protection bills and bills to expand or improve existing programs.

[AB 11](#) (McCarty and Bonta) – Requires the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) program to include developmental screening services for children zero to three.

**VETOED** Veto message states this service is not necessary because screening for developmental delays is already required in the EPSDT program based on the schedule recommended by the American Academy of Pediatrics.

[AB 1526](#) (Kalra, Chapter 247, Statutes of 2019) – Revises consumer notice requirements and timelines related to collection activity on old debts, including medical debts.

[AB 2233](#) (Kalra) – Requires DHCS to submit a federal waiver renewal for the Assisted Living Waiver (ALW) pilot program, including an increase in the number of participant slots from 3,700 to at least 18,500. The ALW program provides a community-based alternative for eligible seniors and persons with disabilities who can be safely transitioned into residential care facilities with added supportive services.

**VETOED** Veto message states the Assisted Living Waiver program was expanded in this year's budget and any further changes should be considered in next year's budget.

[AB 2299](#) (Chu) – Requires DHCS to ensure that written health education and informing materials, translated by managed care plans into Medi-Cal threshold languages (non-English languages spoken at a high proportional rate in a region), are at or below the equivalent of a sixth-grade reading level.

**VETOED** Veto message states current law and contracts with plans are sufficient to ensure plans make important health care documents understandable for Medi-Cal beneficiaries.

[AB 2941](#) (Berman, Chapter 196, Statutes of 2018) – Requires a health plan to provide an enrollee who has been displaced by a state of emergency, as specified, access to medically necessary health

care services, potentially including, among other things, coverage for out-of-network services or relaxation of prior authorization and approvals for some services.

[AB 3224](#) (Thurmond, Chapter 179, Statutes of 2018) – In response to recent federal rules that allow for privatization of eligibility for federal health and social services program eligibility, requires that only county employees, as specified, determine eligibility for Medi-Cal, CalWORKs, and CalFresh.

[SB 707](#) (Cannella)– Establishes the Medi-Cal Dental Advisory Group with the goal of increasing dental utilization rates and improving oral health of the Medi-Cal population.

**VETOED** Veto message states the Governor’s confidence that DHCS will engage with stakeholders in this matter, without the need for a public stakeholder process.

[SB 1021](#) (Wiener, Chapter 787, Statutes of 2018) – Extends from 2020 to 2023 the sunset that requires health plans to limit cost sharing for a covered outpatient prescription drug at \$250/\$500 per 30-day supply, as specified, as well as other formulary requirements and related health plan requirements.

[SB 1156](#) (Leyva) – Establishes requirements and consumer protections on entities making third-party premium payments for health plan enrollees, if the entity is a provider of services that receives direct or indirect financial benefit from the third-party payments.

**VETOED** Veto message states this bill goes too far by permitting health plans to refuse premium assistance payments and to choose which patients they will cover.

[SB 1287](#) (Hernandez, Chapter 855, Statutes of 2018) – Broadens the Medi-Cal definition of “medically necessary” for individuals under 21 years of age by incorporating the existing federal standards related to EPSDT services.

[SB 1423](#) (Hernandez, Chapter 568, Statutes of 2018) – Modifies the minimum qualifications for an interpreter translating for limited-English-proficient Medi-Cal recipients enrolled in managed care.

## Strengthening the Safety Net

The Legislature passed bills affecting safety-net programs and providers.

[AB 180](#) (Wood) – Requires DHCS to establish a stakeholder process and develop guidance on what constitutes an incentive payment that can be excluded from the federally qualified health center (FQHC) or rural health clinic (RHC) Medi-Cal payment reconciliation process.

**VETOED** Veto message states the Governor’s confidence that DHCS will engage with stakeholders in this matter, without the need for a public stakeholder process.

[AB 2204](#) (Gray, Chapter 279, Statutes of 2018) – Exempts an intermittent (satellite) clinic operated by a fully licensed community or free clinic from specified clinic licensing provisions, if the intermittent clinic is open for no more than 40 hours per week.

[AB 2428](#) (Gonzalez Fletcher, Chapter 762, Statutes of 2018) – Allows a FQHC or RHC that adds a new physical location to its existing primary care license to elect the same Prospective Payment System (PPS) rate as the original site for all locations, if certain conditions are met.

[AB 2576](#) (Aguiar-Curry, Chapter 716, Statutes of 2018) – During or immediately following a declared state of emergency, eases and standardizes the process for clinics and their providers to deliver health care when the physical clinic may not be accessible.

[SB 1125](#) (Atkins) – If federal financial participation is available, permits FQHCs and RHCs to be reimbursed for a maximum of two visits at a single location in a single day per patient, when the patient has a medical visit and either a mental health or dental visit on the same day.

**VETOED** Veto message states this bill requires significant, ongoing general fund commitments; and therefore, this issue should be considered as part of the budget process.

## Improving Mental Health and Substance Use Disorder Treatment

Lawmakers passed bills aimed at improving care for those with mental health conditions and/or Substance Use Disorders (SUD), including:

[AB 2022](#) (Chu, Chapter 484, Statutes of 2018) – Requires a school to notify students and parents/guardians on how students can access available mental health services on campus or in the community at least twice during the school year.

[AB 2193](#) (Maienschein, Chapter 755, Statutes of 2018) – Requires a health plan to develop a maternal mental health (MMH) program and requires licensed practitioners who provide prenatal or postpartum care to ensure a mother is offered screening or is appropriately screened for MMH conditions.

[AB 2315](#) (Quirk-Silva, Chapter 759, Statutes of 2018) – Requires the California Department of Education, in consultation with DHCS and others, to develop guidelines on the use of telehealth technology to provide mental and behavioral health services to students on public school campuses.

[AB 2384](#) (Arambula) – Requires health plans, except for Medi-Cal managed care plans, to include in drug formularies specified prescription drugs for the medication-assisted treatment of SUDs.

**VETOED** Veto message states the drugs in the bill are useful in treating opioid addiction, but the bill eliminates requirements that may be in the best interest of patients.

[AB 2393](#) (Committee on Health, Chapter 77, Statutes of 2018) – Consistent with the federal requirement of parity for mental health services, prohibits a county mental health plan from charging fees for specialty mental health services for Medi-Cal recipients who do not have a share of cost or who have met their share of cost.

[AB 2487](#) (McCarty, Chapter 301, Statutes of 2018) – Authorizes physicians to complete a one-time continuing education course on opiate-dependent patient treatment and management, as an alternative to the existing requirement for a course on pain management and the treatment of terminally ill and dying patients.

[AB 2760](#) (Wood, Chapter 324, Statutes of 2018) – Requires a prescriber to offer naloxone hydrochloride or another drug federally approved for the complete or partial reversal of opioid depression for patients, when certain conditions are present, and to provide education on overdose prevention.

[AB 2983](#) (Arambula, Chapter 831, Statutes of 2018) – Prohibits a general acute care hospital or acute psychiatric hospital from requiring a person who voluntarily seeks care to be in custody pursuant to a Welfare and Institutions Code Section 5150 involuntary hold as a condition of admittance. Under a 5150 hold, a person with a mental illness can be involuntarily detained for up to 72 hours in a psychiatric facility.

[AB 3115](#) (Gipson) – Authorizes a local Emergency Medical Services (EMS) agency to develop a triage to alternate destination program, permitting EMS to transport patients directly to mental health facilities or sobering centers rather than only to general acute care hospitals.

**VETOED** Veto message states support for innovative local efforts; but the Governor believes this bill adds too many restrictions including on the types of facilities to which patients can be transported.

[SB 992](#) (Hernandez, Chapter 784, Statutes of 2018) – Changes current law for licensed alcoholism or drug abuse recovery or treatment facilities to improve client treatment, including requiring the facilities to develop a plan on addressing resident relapses that includes discharge and continuing care planning, as specified.

[SB 1019](#) (Beall) – Grants funds under the authority of the Mental Health Services Oversight and Accountability Commission (Commission) to local educational agency and mental health partnerships, as specified, to support prevention, early intervention, and direct services to children and youth.

**VETOED** Veto message states this bill would wrongly limit the Commission’s authority to exercise its judgment in the distribution of these grants.

[SB 1045](#) (Wiener, Chapter 845, Statutes of 2018) – Establishes a conservatorship procedure for Los Angeles, San Diego, and San Francisco Counties for individuals who are chronically homeless and incapable of caring for their own health and well-being due to co-occurring serious mental illness and SUDs.

## Expanding the Mental Health and SUD Workforce/Scope of Practice

[AB 2861](#) (Salas, Chapter 500, Statutes of 2018) – After securing federal approval and in accordance with California’s Medicaid state plan, requires DHCS to allow a licensed practitioner of the healing arts or a certified SUD counselor to receive Medi-Cal reimbursement for covered individual outpatient counseling services for SUDs provided through telehealth, as specified.

[SB 399](#) (Portantino) – Expands the definition of a “qualified autism service professional” to include behavioral service providers who meet specified educational and professional or work experience qualifications, and also prohibits a health plan from denying or reducing medically necessary behavioral health treatment, as specified.

**VETOED** Veto message states the Governor is not inclined to revise the standards for autism providers when the standards were updated just last year.

[SB 906](#) (Beall and Anderson) – Requires DHCS to establish a program for certifying peer support specialists in mental illness or SUD recovery services, or both. Requires DHCS to secure federal approval for peer support specialist services as a Medi-Cal benefit.

**VETOED** Veto message states this bill imposes a costly new program that would shut out some individuals already working as peer support specialists.

## Transforming Care Delivery System in California

The Legislature included initiatives in the 2018-19 state budget, discussed in the next section, to explore system transformation and improvement. Along this same line, the Legislature passed the following bill:

[AB 2472](#) (Wood, Chapter 677, Statutes of 2018)– Requires the newly-created Council on Health Care Delivery Systems to analyze the feasibility of a public option to increase competition and choice for health care consumers. For additional information about a public option in California, see [ITUP’s Issue Brief](#).

## 2018-19 State Budget: Expanding Coverage and Improving Affordability

At the end of June, the Governor signed the final 2018-19 state budget. As part of the budget process, the Legislature considered, but ultimately did not fund, various proposals to expand Medi-Cal coverage and provide state subsidies to help some Californians afford coverage. Many of these budget proposals paralleled bills pending at the time including:

- [AB 2430](#) (Arambula) – Expands eligibility in the Medi-Cal Aged and Disabled Program by increasing income disregards so individuals up to 138 percent of the federal poverty level (FPL) would be eligible. *(As amended June 7, 2018)*
- [AB 2459](#) (Friedman) – Establishes a state premium tax credit for individuals with incomes between 400 and 600 percent FPL who purchase coverage through Covered California. *(As amended August 6, 2018)*
- [AB 2565](#) (Chiu) – Requires Covered California offer enhanced premium assistance to consumers, eligible for federal tax credits, with incomes between 138 and 400 percent FPL. *(As amended May 25, 2018)*
- [AB 2965](#) (Arambula) – Extends eligibility for full-scope Medi-Cal benefits to individuals ages 19-25 who are otherwise eligible but for their immigration status. *(As amended May 25, 2018)*
- [SB 974](#) (Lara) – Extends eligibility for full-scope Medi-Cal benefits to low-income adults 65 and over who are otherwise eligible but for their immigration status. *(As amended May 25, 2018)*
- [SB 1255](#) (Hernandez) – Requires Covered California to administer state financial assistance (defined as premium tax credits or reductions in cost-sharing) to help low- and middle-income Californians afford coverage. *(As amended March 21, 2018)*

Without funding in the state budget to pay for expanded coverage or state subsidies, in mid-August, the Assembly and Senate Appropriations Committees held the related bills in committee, delivering the final blow to these proposals for the 2017-18 legislative session.

The final 2018-19 state budget includes funding for a new **Council on Health Care Delivery Systems** charged with developing options for a unified financing system to achieve universal coverage in the state. The final state budget also directs Covered California to develop at least three options for administering financial assistance for low- and middle-income Californians to help them access

affordable coverage. Based on the continued interest among California lawmakers to address the remaining uninsured and the initiatives funded in the 2018-19 state budget, the next Legislature and new Governor will likely consider similar proposals to expand coverage and improve affordability as outlined above.

For more information on 2017-18 legislative proposals likely to resurface in the upcoming year, see [ITUP's Issue Brief, California Strategies: Covering California's Remaining Uninsured and Improving Affordability](#).

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### About ITUP

Insure the Uninsured Project (ITUP) is a Sacramento-based nonprofit health policy institute that for more than two decades has provided expert analysis and facilitated convenings for California policymakers and decisionmakers focused on health reform.

*The mission of ITUP is to promote innovative and workable policy solutions that expand health care access and improve the health of Californians, through policy-focused research and broad-based stakeholder engagement.*

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