ITUP
Insure the Uninsured Project

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› State Legislative Update

2019-20 Introduced Legislation

The deadline for bill introduction in California's 2019-20 legislative session was February 22, 2019. Before the deadline, the Legislature introduced 2,687 bills and resolutions including almost 1,000 health-related bills. This fact sheet offers a preliminary review of various bills affecting health care and coverage. ITUP will be tracking and reporting on these and other bills over the course of the session.

Preserving Affordable Care Act (ACA) Progress

The following bills are aimed at preserving California's ACA progress and respond to federal rollbacks and proposed changes to federal rules:

- Assembly Bill (AB) 414 (Bonta) and Senate Bill (SB) 175 (Pan) – In response to the elimination of the federal tax penalty for not having health coverage that was effective January 2019, these bills require California residents and their dependents to maintain minimum essential health coverage, as defined, and impose a financial penalty for failure to do so. These bills also require Covered California to determine the penalty and any exemptions from the minimum coverage requirement, the penalty, or both.

- AB 1063 (Petrie-Norris) – Under federal law, Section 1332 waivers allow states to waive specified provisions of the ACA, so long as federal safeguards are met, and implement innovative ways to provide care in state ACA exchanges. This bill limits the ability of Covered California to apply for a state innovation waiver under Section 1332 of the ACA by requiring that Covered California first secure state statutory authority to request a 1332 waiver. This bill also enacts in state law federal provisions in the ACA that limit the types of Section 1332 waivers that states can secure. Recent guidance from the federal Centers for Medicare and Medicaid offered a revised interpretation of Section 1332 waivers that many observers are concerned will allow states to secure waivers that undermine key provisions of the ACA.

- AB 1309 (Bauer-Kahan) – Under federal law, starting in 2018, the federally administered ACA exchange operates with a shortened open enrollment period (November 1-December 15) for individuals to obtain coverage for the following year. California law requires health plans to offer combined open and special enrollment periods so that individuals can enroll in the state exchange (Covered California) and individual coverage outside of the exchange October 31-January 15. Starting in 2020, this bill establishes a combined open and special enrollment period of October 15-January 31.

Expanding Coverage and Improving Affordability

During 2018, the Legislature considered multiple bills and budget proposals to expand coverage and improve affordability with the goal of reducing the number of California's remaining uninsured. None of the 2018 proposals passed the Legislature. The following 2019 bills focus on coverage expansion and affordability of individual coverage:

- AB 4 (Arambula, Bonta and Chiu) and SB 29 (Lara and Durazo) - Expands Medi-Cal to cover all low-income Californians who meet Medi-Cal income eligibility requirements, regardless of immigration status. This proposal applies primarily to low-income undocumented adults not currently eligible for federal Medicaid and makes them eligible for state-supported Medi-Cal.

- AB 174 (Wood) – Beginning in 2020, establishes a tax credit to assist with the purchase of Covered California coverage for individuals between 400 and 600 percent of the federal poverty level (FPL) (in 2019, $24,280 - $48,560 in annual household income for one person). The amount of the tax credit will be equal to that portion of the premiums for the lowest cost bronze plan sold in Covered California that exceeds 8 - ___ percent (unspecified in this bill) of the individual's modified adjusted gross income. Under existing law, individuals above 400 percent FPL are not eligible for ACA federal tax credits.

- AB 715 (Arambula) – This bill expands Medi-Cal eligibility to cover individuals in the Medi-Cal Aged and Disabled Program up to 138 percent FPL (In 2019, $16,753 in household income for one person). Under current law, individuals above 124 percent of the FPL enrolled in the program must pay a monthly out-of-pocket amount for medical care services, (known as the share of cost) similar to a health insurance deductible, before Medi-Cal coverage begins.

- AB 1088 (Wood) – Extends eligibility without a share of cost under the Medi-Cal Aged and Disabled program to an aged, blind, or disabled individual who would otherwise be eligible for the program, if not for the state buy-in of their Medicare Part B premiums.

- SB 65 (Pan) - Requires Covered California to administer financial assistance to help low- and middle-income Californians access affordable health care coverage in the exchange. This bill requires Covered California to implement maximum premium contribution limits (8% or less of an individual's annual household income) and reduce copayments and deductibles for individuals with incomes between 200 percent and 400 percent FPL ($24,280 - $48,560 in annual household income for one person).

- SB 289 (Archuleta) - Authorizes an individual who is otherwise eligible for Medi-Cal home- and community-based services (HCBS) to enroll for those services if the individual is a dependent child or spouse of an active duty military service member and either the military service member receives a military order to transfer to another state or the individual was receiving similar Medicaid HCBS in their last state of residence. HCBS generally provide

opportunities for Medicaid beneficiaries to receive services in their own home or community rather than institutions or other isolated settings.

Improving Mental Health and Substance Use Disorder (SUD) Treatment

With the national focus on the opioid crisis and growing challenges facing California's systems for delivering mental health and SUD treatment services, the Legislature introduced approximately 160 bills addressing these issues, including:

- AB 8 (Chu) - Requires every school to have at least one mental health professional on campus for every 600 students, during school hours, beginning December 31, 2022. Schools with fewer than 600 students must have at least one mental health professional accessible to students on campus during school hours.

- AB 480 (Salas) - Establishes within the Department of Health Care Services (DHCS) an Older Adult Mental Health Services Administrator to oversee mental health services for older adults.

- AB 1468 (McCarty and Gallagher) - Commencing with the 2021–22 fiscal year, requires a manufacturer or wholesaler that sells or distributes opioid drugs in California to submit to the State Department of Public Health a report, including specified information, detailing all opioid drugs sold or distributed during the preceding fiscal year. Reporting entities are subject to a payment that will be used for opioid prevention and rehabilitation programs.

- AB 1572 (Chen, R.) - Existing law provides for the involuntary commitment and treatment of a person who is a danger to themselves or others, or who is gravely disabled, defined as unable to provide for his or her basic personal needs. This bill changes the definition of gravely disabled to an evaluation of an individual's ability to make informed decisions about the provision of basic needs, including food, clothing and shelter.

- SB 10 (Beall) (Principal coauthor: Assembly Member Waldron) - Establishes a state certification process for peer providers (people with experience recovering from addiction or mental illness who guide and help their clients) with four distinct certification categories: peer, parent, transition-age, and family support specialist. Requires DHCS to submit a Medicaid State Plan Amendment to add peer support specialist services as a reimbursable Medi-Cal benefit.

- SB 11 (Beall) - Strengthens enforcement of state and federal mental health parity laws by requiring all health plans in the state to include all SUD medications on tier 1 (the lowest cost tier of prescription drugs), without prior authorization or step therapy (trying less expensive options before "stepping up" to drugs that cost more). This bill also requires an annual report from each health plan to state regulators regarding compliance with the Mental Health Parity Act.

- SB 12 (Beall and Portantino) - Creates the Integrated Youth Mental Health Program to establish centers that provide integrated mental health, substance use, physical health, social support, and other services for youths 12 to 25 years of age, inclusive, and their families.

- SB 389 (Hertzberg) - Existing law prohibits Mental Health Services Act (MHSA) (Act) funds from being used for persons incarcerated in state prison or parolees. This bill amends the Act to authorize counties to use 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.

- SB 582 (Beall) - Establishes partnerships between schools and local county mental health plans to leverage school and community resources to provide comprehensive multi-tiered interventions on a sustainable basis.

Protecting Consumers and Expanding Services

The Legislature introduced numerous bills to increase consumer protections including:

- AB 318 (Chu) – Requires, among other things, DHCS and Medi-Cal managed care plans, commencing January 1, 2020, to conduct field testing of all materials translated into other languages for Medi-Cal beneficiaries. This bill defines "field testing" as a review of translations for accuracy, cultural appropriateness and readability.

- AB 678 (Flora) - Restores podiatric services as a covered benefit in Medi-Cal starting January 1, 2020.

- AB 577 (Eggman) - Extends Medi-Cal postpartum care for up to one year, beginning on the last day of the pregnancy, for an eligible individual diagnosed with a maternal mental health condition.

- AB 1246 (Limón) - Requires large group health insurance policies subject to the jurisdiction of the state Department of Insurance, except certain specialized health insurance policies (e.g., dental, vision, etc.), to include coverage for medically necessary basic health care services and, to the extent the policy covers prescription drugs, coverage for medically necessary prescription drugs, as defined in law applicable to health plans subject to the jurisdiction of the state Department of Managed Health Care under the Knox-Keene Health Care Service Plan Act of 1975.

- AB 1611 (Chiu) - On or after January 1, 2020, limits charges a hospital can charge a patient, the patient's health plan or other third-party payor for emergency and post-emergency stabilization, in cases where the hospital does not have a contract with the patient's health plan or other third-party payor.

- AB 1630 (Irwin) - Requires the Office of Statewide Planning and Development (OSHPD), in consultation with the Insurance Commissioner, to establish a medical billing task force on or before April 1, 2020 to, among other things, engage interested parties in the development of a system to improve the readability of medical bills and create a standard medical billing form.

- SB 165 (Atkins and Pan) – Requires DHCS to establish a pilot project concurrent with a currently required study focused on medical interpretation services and requiring DHCS to recommend strategies for medical interpretation services for Medi-Cal beneficiaries who are limited English proficient. Existing law requires DHCS to make recommendations for and establish the pilot after the study.

- SB 207 (Hurtado and Principal Coauthor Assembly Member Chiu) - Includes asthma preventive services as a covered benefit under the Medi-Cal program.

- SB 260 (Hurtado) - Requires a health plan providing individual or group health coverage to annually notify an enrollee or subscriber if they are no longer enrolled in coverage. Also requires health plans to provide a transfer list of people who lost coverage to Covered California so that Covered California can contact consumers directly and inform them of coverage options and potential financial assistance.

- SB 214 (Dodd) - Requires DHCS to implement and administer as a state program, the California Community Transitions (CTT) program. The CCT program is the California version of a federal program, the Money Follows the Person (MFP) Program, which helps Medi-Cal beneficiaries living in a skilled nursing facility for longer than 90 days transition back to their home or to community living with the help of a Transition Coordinator.

- SB 361 (Mitchell) - Removes existing restrictions on the use of state General Funds for the Health Home Program, a program designed to coordinate enhanced care management for eligible Medi-Cal beneficiaries with complex medical needs and chronic conditions. This bill requires Medi-Cal managed care plans, among other things, to pay higher rates to health home providers serving chronically homeless individuals.

- SB 446 (Stone) - Provides that hypertension medication management services are a covered pharmacist service under the Medi-Cal program.

- SB 746 (Bates) - Mandates coverage for the treatment of cancer to cover anticancer medical devices. This bill defines “anticancer medical device” as a medical device designed for use outside of a medical treatment facility that has been federally approved and prescribed by an authorized provider.

Expanding the Health Workforce/Scope of Practice

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

- AB 389 (Arambula and Santiago) - Requires DHCS to establish a pilot program for measuring the efficacy of utilizing trained SUD and behavioral health peer navigators in emergency rooms.

- AB 890 (Wood) - Authorizes a nurse practitioner to practice without the supervision of a physician or surgeon, if the nurse practitioner meets specified requirements, including previously practicing under the supervision of a physician or surgeon for an unspecified number of hours. Authorizes the nurse practitioner to perform specified functions beyond those authorized by law including ordering and interpreting diagnostic procedures, certifying disability, and prescribing, dispensing, and administering controlled substances.

- AB 1619 (Weber) - Appropriates $20 million from the state General Fund to OSHPD to increase available grants for students eligible to apply for the Mental Health Loan Assumption Program (MHLAP), administered by the Health Professions Education Foundation.

- SB 697 (Caballero) - Expands a physician assistant's scope of practice to perform various medical services pursuant to a practice agreement, or in collaboration with a physician and surgeon or other qualified health care provider, in a manner consistent with the education, training, experience, and competencies of the physician assistant and the standard of care. Allows physician assistants to bill for medical services they provide. This bill also allows a physician assistant to, unless otherwise prohibited, prescribe, dispense, order, administer, and procure drugs and medical devices to a patient or a person, as specified.

Creating Greater Transparency, State Oversight and Cost Containment

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

- AB 204 (Wood) - Requires OSHPD to develop regulations standardizing the calculation of the economic value of community benefits, as defined, and community benefit plan reporting. A community benefit plan outlines actions a hospital has undertaken to address identified community needs within its mission and financial capacity. Requires OSHPD to complete an annual report on community benefits and fine hospitals that fail to submit required information on community benefit plans.

- AB 537 (Arambula) - Requires DHCS to establish a quality assessment and performance improvement (QAPI) program, and eventually a quality rating system, for Medi-Cal managed care plans, as specified.

- AB 731 (Kalra) - Current law requires a health plan offering individual or small group coverage to file specified information, including total earned premiums and total incurred claims, with the appropriate state regulatory agency (California Department of Insurance or Department of Managed Health Care) at least 120 days before implementing a premium rate change. This bill expands those requirements to large group coverage (groups above 100 enrollees). Requires additional disclosures including data estimating year-to-year cost increases in specific benefit categories, comparisons of prices paid by the plan with Medicare for the same services, and outliers in utilization by benefit category.

- AB 1268 (Rodriguez) - On or before July 1, 2020, requires health plans that prospectively review services (prior the service being delivered) based on medical necessity to annually report the number of times in the preceding calendar year that services, subject to prospective review, were approved, modified, delayed, or denied.

- SB 129 (Pan) - Expands health plan reporting requirements regarding the number of enrollees by health plan product type (e.g., individual, small employer, large employer) to multiple employee welfare arrangements (MEWA), including association health plans. A MEWA is defined as a single plan that covers the employees of two or more unrelated employers.

- SB 406 (Pan) - Requires the Department of Managed Health Care and the Department of Insurance to prepare an annual summary report that describes the impact of the federal ACA risk adjustment program on premium rates in California. Risk adjustment is a method to offset the cost of providing health insurance for high-risk, high-cost individuals, such as those with chronic and health conditions. The ACA risk adjustment program redistributes funds from health plans with lower-risk enrollees to health plans with higher-risk enrollees.

Shoring up the Health Safety Net

Legislators introduced legislation affecting safety-net programs and providers including:

- AB 515 (Mathis) - Prohibits DHCS from assessing or collecting interest on the recovery of an overpayment from a federally qualified health center (FQHC) or a rural health clinic (RHC) located in a medically underserved area, as defined.

- AB 770 (Garcia, E.) - FQHCs and RHCs receive a clinic specific, per-visit payment rate for serving Medi-Cal beneficiaries. The per-visit rate is established and adjusted based on a methodology outlined in existing law. This bill would require the methodology for adjusting the per-visit rate to exclude a per-visit payment limitation, a provider productivity standard

or any other cost limitation not based on the reasonable costs of the FQHC or RHC, as specified.

- AB 1494 (Aguiar-Curry) – Only to the extent federal financial participation (Medicaid matching funds) is available, this bill authorizes Medi-Cal reimbursement for telehealth services and provides 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. Authorizes DHCS to apply the same rule to another enrolled fee-for-service Medi-Cal provider, clinic, or facility.

- SB 66 (Atkins and McGuire) - Allows for FQHCs and RHCs to bill Medi-Cal for multiple visits on the same day. This bill authorizes reimbursement for a maximum of two visits taking place on the same day at a single location if after the first visit the patient suffers illness or injury requiring additional diagnosis or treatment, or if the patient has a medical visit and a mental health visit or a dental visit on the same day, as defined. This bill also adds acupuncture as a Medi-Cal reimbursable service for an FQHC and RHC.