

Introduced by Senator Beall**(Principal coauthor: Senator Wiener)**

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An act to add Section 1374.78 to the Health and Safety Code, and to add Section 10144.42 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 854, as introduced, Beall. Health care coverage: Substance use disorders.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law requires specified health insurance policies that provide coverage for outpatient prescription drugs to cover medically necessary prescription drugs and subjects those policies to certain limitations on cost sharing and the placement of drugs on formularies. Existing law authorizes a health care service plan and a health insurer to utilize formularies, prior authorization, step therapy, or other reasonable medical management practices in the provision of outpatient prescription drug coverage.

This bill would require health care service plans and health insurers that provide prescription drug benefits for the treatment of substance use disorders to place prescription medications approved by the United

States Food and Drug Administration (FDA) on the lowest cost-sharing tier of the plan or insurer's prescription drug formulary. The bill would impose various prohibitions on those plans and insurers, including a prohibition on prior authorization requirements on, or any step therapy requirements before authorizing coverage for, a prescription medication approved by the FDA for the treatment of substance use disorders. The bill would require those plans and insurers to make specified disclosures online and in printed provider directories, including which providers provide medication-assisted treatment services, and would state that these provisions do not apply to health care service plan contracts or health insurance policies for health care services or coverage provided in the Medi-Cal program.

Because a willful violation of the bill's provisions by a health care service plan would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 1374.78 is added to the Health and Safety
2 Code, to read:
3 1374.78. (a) Notwithstanding any other law, a health care
4 service plan that provides prescription drug benefits for the
5 treatment of substance use disorders shall place all prescription
6 medications approved by the United States Food and Drug
7 Administration (FDA) on the lowest cost-sharing tier of the drug
8 formulary developed and maintained by the health care service
9 plan or the pharmacy benefit management company, and shall not
10 do any of the following:
11 (1) Impose any prior authorization requirements on any
12 prescription medication approved by FDA for the treatment of
13 substance use disorders, or on any behavioral, cognitive, or mental
14 health services prescribed in conjunction with or supplementary

1 to that medication for the purpose of treating a substance use
2 disorder.

3 (2) Impose any requirement that the enrollee receives coverage
4 at an outpatient facility that exceeds allowable time and distance
5 standards for network adequacy, a specific number of visits, days
6 of coverage, scope, or duration of treatment, or other similar
7 limitations.

8 (3) Impose any requirement related to an enrollee’s prior success
9 or failure with substance use disorder treatment.

10 (4) Impose any step therapy requirements before authorizing
11 coverage for a prescription medication approved by the FDA for
12 the treatment of substance use disorders.

13 (5) Exclude coverage for any prescription medication approved
14 by the FDA for the treatment of substance use disorders and any
15 associated counseling or wraparound services on the grounds that
16 those medications and services were court ordered.

17 (b) A health care service plan shall disclose which providers in
18 each network provide medication-assisted treatment services, and
19 the level of care that those providers render pursuant to the current
20 edition of the ASAM Criteria. The disclosure shall be made in a
21 prominent location in the online and printed provider directories.

22 (c) This section does not apply to a health care service plan
23 contract issued, sold, renewed, or offered for health care services
24 or coverage provided in the Medi-Cal program (Chapter 7
25 (commencing with Section 14000) of Part 3 of Division 9 of the
26 Welfare and Institutions Code).

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

28 (1) “ASAM Criteria” means the national set of criteria for
29 providing outcome-oriented and results-based care in the treatment
30 of addiction, and includes a comprehensive set of guidelines for
31 placement, continued stay, and transfer and discharge of patients
32 with addiction and cooccurring conditions, as published by the
33 American Society of Addiction Medicine.

34 (2) “Pharmacy benefit management company” means a company
35 that administers a prescription drug plan for a health care service
36 plan.

37 (3) “Prior authorization” means the process by which a health
38 care service plan or pharmacy benefit management company
39 determines the medical necessity of otherwise covered health care
40 services before those services are rendered. “Prior authorization”

1 includes any health care service plan’s or utilization review entity’s
2 requirement that an enrollee or health care provider notify the
3 health care service plan or utilization review entity before those
4 services are provided.

5 (4) “Step therapy” means a protocol or program that establishes
6 the specific sequence that prescription drugs for a medical
7 condition, and which drugs are medically appropriate for a patient,
8 are authorized by a health care service plan or prescription drug
9 management company.

10 SEC. 2. Section 10144.42 is added to the Insurance Code, to
11 read:

12 10144.42. (a) Notwithstanding any other law, a health insurer
13 that provides prescription drug benefits for the treatment of
14 substance use disorders shall place all prescription medications
15 approved by the United States Food and Drug Administration
16 (FDA) on the lowest cost-sharing tier of the drug formulary
17 developed and maintained by the health insurer, and shall not do
18 any of the following:

19 (1) Impose any prior authorization requirements on any
20 prescription medication approved by FDA for the treatment of
21 substance use disorders, or on any behavioral, cognitive, or mental
22 health services prescribed in conjunction with or supplementary
23 to that medication for the purpose of treating a substance use
24 disorder.

25 (2) Impose any requirement that the insured receives coverage
26 at an outpatient facility that exceeds allowable time and distance
27 standards for network adequacy, a specific number of visits, days
28 of coverage, scope, or duration of treatment, or other similar
29 limitations.

30 (3) Impose any requirement related to an insured’s prior success
31 or failure with substance use disorder treatment.

32 (4) Impose any step therapy requirements before authorizing
33 coverage for a prescription medication approved by the FDA for
34 the treatment of substance use disorders.

35 (5) Exclude coverage for any prescription medication approved
36 by the FDA for the treatment of substance use disorders and any
37 associated counseling or wraparound services on the grounds that
38 those medications and services were court ordered.

39 (b) A health insurer shall disclose which providers in each
40 network provide medication-assisted treatment services, and the

1 level of care that those providers render pursuant to the current
2 edition of the ASAM Criteria. The disclosure shall be made in a
3 prominent location in the online and printed provider directories.

4 (c) This section does not apply to a health insurance policy
5 issued, sold, renewed, or offered for health care services or
6 coverage provided in the Medi-Cal program (Chapter 7
7 (commencing with Section 14000) of Part 3 of Division 9 of the
8 Welfare and Institutions Code).

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

10 (1) “ASAM Criteria” means the national set of criteria for
11 providing outcome-oriented and results-based care in the treatment
12 of addiction, and includes a comprehensive set of guidelines for
13 placement, continued stay, and transfer and discharge of patients
14 with addiction and cooccurring conditions, as published by the
15 American Society of Addiction Medicine.

16 (2) “Pharmacy benefit management company” means a company
17 that administers a prescription drug plan for a health insurer.

18 (3) “Prior authorization” means the process by which a health
19 insurer or pharmacy benefit management company determines the
20 medical necessity of otherwise covered health care services before
21 those services are rendered. “Prior authorization” includes any
22 health insurer’s or utilization review entity’s requirement that an
23 insured or health care provider notify the health insurer or
24 utilization review entity before those services are provided.

25 (4) “Step therapy” means a protocol or program that establishes
26 the specific sequence that prescription drugs for a medical
27 condition, and which drugs are medically appropriate for a patient,
28 are authorized by a health insurer or prescription drug management
29 company.

30 SEC. 3. No reimbursement is required by this act pursuant to
31 Section 6 of Article XIII B of the California Constitution because
32 the only costs that may be incurred by a local agency or school
33 district will be incurred because this act creates a new crime or
34 infraction, eliminates a crime or infraction, or changes the penalty
35 for a crime or infraction, within the meaning of Section 17556 of
36 the Government Code, or changes the definition of a crime within
37 the meaning of Section 6 of Article XIII B of the California
38 Constitution.

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