Governor Newsom Signs Historic Mental Health Legislation

Insights 09.25.20

This morning, Governor Newsom signed historic mental health legislation that seeks to expand access to quality behavioral healthcare for Californians and place California as a national leader on mental health and substance use disorder coverage. While many of the administration's efforts around behavioral healthcare have been temporarily sidelined by the unprecedented COVID-19 pandemic, including a significant transformation effort with Medi-Cal's CalAim initiative, the Governor expressed that this legislation is merely the beginning of California's conversations around mental health and parity. The legislation signed today includes changes to strengthen California's mental health parity laws (SB 855); expand and diversify California's behavioral health workforce by establishing certification programs for peer support specialists, who are individuals who self-identify as having lived experience with the process of recovery from mental illness, substance use disorder or both (SB 803); strengthen California's Assisted Outpatient Treatment (AOT) program or "Laura's Law" (AB 1976); and, finally, to authorize the use of Mental Health Services Act funds for children, adults and older adults with co-occurring mental health and substance use disorders (AB 2265).

These new laws come at a time when California is experiencing an escalation of an already desperate need for access to better and more mental health and addiction treatment as a result of an unprecedented pandemic, economic instability, civil unrest, and now massive wildfires. But even before these recent events, access to mental health treatment was in crisis in California. Last year, Milliman Healthcare Consultants found California patients were more than five times more likely to have office visits for mental health and addiction problems outside their insurance plan's network compared with their counterparts seeking medical and surgical care. And, earlier this year, the California State Auditor issued a report finding that the state has not ensured that residents with mental illness receive adequate ongoing care. There have also been accounts of individuals moving from private insurers to Medi-Cal in order to get necessary mental health treatment.

SB855, in particular, is intended to expand mental health and addiction coverage (offered by certain California regulated health care service plans and insurers) and ensure treatment is provided under the same terms and conditions as applied to other medical conditions. Highlights of this new law:

- Requires coverage of the full range of mental illnesses and substance use disorders identified in the most recent versions of the American

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Psychiatric Association's Diagnostic and Statistical Manual (DSM).

- Requires coverage of "medically necessary treatment" and that "medical necessity" determinations be consistent with generally accepted standards of care applied in mental health and substance use disorder care.
- Requires the use of specified clinical criteria and guidelines for level of care determinations and prohibits the plan or insurer from applying additional, different or conflicting criteria.
- Prohibits limiting benefits or coverage for mental health or substance use disorders to short term or acute treatment.
- Prohibits denying medically necessary services on the basis that they should be or could be covered by a public entitlement program.
- Provides for administrative or civil penalties by the Department of Managed Care or the Department of Insurance.

Hooper, Lundy and Bookman will be providing a separate in-depth analysis of SB855 and its impact on the behavioral health landscape in California.

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For further information, please contact Alicia Macklin or Linda Kollar in Los Angeles, or your regular Hooper, Lundy & Bookman contact.

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