

California to again consider proposal to streamline youth mental health care

By Eric He

07/02/2024 08:00 AM EDT

California law requires public and private health care providers to cover treatment for mental health and substance use disorders, but frustrations over denied claims has advocates pushing a follow-up bill from the [landmark 2020 measure](#).

Around three-quarters of health plan denials for mental health treatment [are overturned by the state's](#) Independent Medical Review process. Advocates for [SB 294](#) contend that there are many more denials that don't make it to a review, because it can be difficult to navigate the process. As a result, they claim that a sizable population seeking necessary mental health treatment are not receiving it.

The measure, authored by state Sen. [Scott Wiener](#) (D-San Francisco), would automatically trigger a review process if a provider denies a claim for mental health or substance use disorder treatment for those 26 and under. Health insurance companies have pushed back, contending that the bill would overflow the review system and could violate patient privacy.

“The purpose of this bill is to make sure that people who have insurance can actually get mental health treatment covered for their children,” Wiener said at a June Assembly Health Committee hearing. “Unfortunately, we have a long history of health plans making it all but impossible to access mental health treatment other than in emergency situations.”

WHAT'S IN THE BILL?

This Pro Bill Analysis is based on the [text of the bill](#) as amended on May 24.

The bill declares that mental health resources are disproportionately hard to access for low-income and minority children. Appeals of commercial health care coverage decisions through the Independent Medical Review System must be initiated by enrollees and those who are insured. The form to file for a review is only in English and Spanish (Sec. 1).

Nearly 80 percent of decisions about youth mental health disorders are overturned by the review system, a figure that has doubled since 2017. But, the measure declares, children and youth under private health insurance do not have the same protections for mental health coverage as older adults under Medicare.

Beginning in 2026, the bill would require health care service providers and disability insurers that cover mental health or substance use disorders to automatically trigger a grievance from an enrollee whenever they modify, delay or deny a treatment request for enrollees up to age 26 years. The grievance would be treated the same as an appeal of the decision, and no additional action would be required of the enrollee (Sec. 2, 4).

Enrollees would be able to withdraw the automatic grievance. Insurers would also have to provide an explanation and timeline of the grievance process. They would still be able to file another grievance for the same issue at a later date.

Most grievances that are denied or [unresolved within 30 days](#) would be automatically sent to an independent medical review. The provider would have to send information to the Independent Medical Review System within 24 hours if it denies coverage. The relevant denials would cite lack of medical necessity of the requested health care service or the use of experimental drugs or therapies to treat a seriously debilitating or life-threatening mental health or substance use disorder condition (Sec. 3, 5).

In cases involving an imminent and serious threat to the health of the enrollee, the provider would skip the grievance process and immediately submit the case for an independent review.

The enrollee would also be able to cancel the medical review. The provider would supply all relevant information by within 24 hours.

The Director of Managed Health Care and Insurance Commissioner would be able to, [within the purview](#) of the Legislature, create regulations for providers to comply with the measure by 2027 (Sec. 2-5).

Health care plans managed by Medi-Cal would be exempted from the bill (Secs. 2, 3).

Providers would have to get the consent of the enrollee to release their medical records for the review (Sec. 3).

The Department of Managed Health Care would be required to give a quarterly public report on the number of cases that have been automatically referred for an independent medical review and their outcomes.

WHO ARE THE POWER PLAYERS?

State Sen. **Scott Wiener** (D-San Francisco) introduced the bill for the second straight year, with state Sens. **Josh Becker** (D-Menlo Park) and **Susan Rubio** (D-Baldwin Park) and Assemblymembers **Eduardo Garcia** (D-Coachella), **Gail Pellerin** (D-Santa Cruz) and **Pilar Schiavo** (D-Chatsworth) as coauthors.

Children Now, a children's advocacy group, and **Santa Clara County** are sponsoring the legislation. In Santa Clara County, half of those receiving mental health treatment from a health provider are 26 or younger. County Supervisor **Joe Simitian** said SB 294 addresses a pressing health care concern.

"Mental health issues need to be treated with the same urgency that we provide someone who has a debilitating disease, or a broken bone, or any physical condition that would result in medical attention — with no questions asked," Simitian [said in a statement](#).

Lishaun Francis, senior director of behavioral health for Children Now, told POLITICO that she's heard from parents who have not been able to get mental health care for their kids, and the process to appeal can be difficult to navigate — assuming parents know that one even exists.

"Unless you are a parent with a lot of time and resources and understanding about how the system works, you're probably getting denied for a health plan service without really understanding what recourse you have," Francis said.

Insurance companies have lined up against the bill, including [America's Health Insurance Plans](#), the [Association of California Life & Health Insurance Companies](#) and the [California Association of Health Plans](#).

Jedd Hampton, director of legislative affairs at the California Association of Health Plans, raised concerns at the hearing about the proposal creating a "bifurcated review process" and said that automatically reviewing denials is "excessive." Hampton added that the resulting influx of cases could compromise the effectiveness of the entire system.

Insurance companies also contended that SB 294 might violate the Health Insurance Portability and Accountability Act (HIPAA), according to **Steffanie Watkins**, senior vice president of the Association of California Life & Health Insurance Companies. Automatically referring cases for an independent medical review without the patient explicitly authorizing consent to share clinical notes puts health plans and insurers in an "untenable position of either violating federal HIPAA laws while attempting to adhere to the requirements of this bill," Watkins said.

"Requiring an enrollee to expressly consent to IMR," Watkins added, "is critical to ensuring the patient fully appreciates the privacy rights the bill is attempting to waive on their behalf."

Francis, in an interview, rejected both concerns. A provision in the bill requires a signed independent review medical application to consent to release medical records. And she said that the health plans' issue with a potential influx of cases is paradoxical.

"You just can't have it both ways," Francis said. "Either you're doing a great job and you're not worried about this and this is an easy bill to manage once it's implemented — or you're not doing a good job and you're afraid that you're now going to have to deliver the care that you promised."

WHAT'S HAPPENED SO FAR?

Wiener's bill last year, [SB 238](#), was held in the Assembly Appropriations Committee after it [estimated the proposal would cost](#) tens of millions of dollars annually due to an expected increase in the number of independent medical reviews. This

year, the appropriations committee [pegged the bill](#) as costing \$1.3 million in the next fiscal year, but increasing to \$92.3 million by 2028 as implementation ramps up.

Francis contested the estimate, which was made by the Department of Managed Health Care.

“What we’re concerned about is them using our bill to justify how they need to staff up their help centers and their other departments — which really isn’t a reflection of our bill being so expensive, but more of a reflection that possibly they need to put in a departmental request for more funding,” Francis said.

The Assembly Health Committee advanced the bill on a party-line vote on June 4, [but staff recommended](#) that the Legislature consider reviewing the process for other health care services because “denials are also occurring in other health care services subject to IMR.”

In 2020, Wiener authored [SB 855](#), which required health plans to cover medically necessary mental health and substance use disorder treatments. But advocates pushing for SB 294 say that health insurance companies regularly reject claims, pointing to the high rate of overturned denials by the review process.

“When plans don’t provide the care that they’re supposed to, children and families end up paying out of pocket or seeking care from medical and county public health systems at an enormous cost to the public,” said Colleen Corrigan, a health policy associate with Children Now, at the Assembly Health Committee hearing.

WHAT’S NEXT?

The bill awaits a hearing in the Assembly Appropriations Committee on Tuesday, and is likely to be sent to the suspense file, where it stalled last year.

But the committee has a different chair this year: Assemblymember [Buffy Wicks](#) (D-Oakland). If it passes, it would need to clear a floor vote in the Assembly before heading to Gov. [Gavin Newsom’s](#) desk.

WHAT ARE SOME STORIES ON THE BILL?

[Read POLITICO news on SB 294.](#)