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AB-1366 Reimbursement for pharmacist services. (2025-2026)

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AMENDED IN ASSEMBLY MARCH 28, 2025

CALIFORNIA LEGISLATURE— 2025–2026 REGULAR SESSION

ASSEMBLY BILL

NO. 1366

Introduced by Assembly Member Flora

February 21, 2025

An act *to amend Section 1368.5 of the Health and Safety Code, to amend Section 10125.1 of the Insurance Code, and to amend Sections 14132.968 and 14132.969 of the Welfare and Institutions Code, to relating to healing arts.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1366, as amended, Flora. ~~The Pharmacy Law.~~ *Reimbursement for pharmacist services.*

Existing law provides for the Medi-Cal program, administered by the State Department of Health Care Services and under which health care services are provided to low-income individuals pursuant to a schedule of benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Under existing law, pharmacist services are a benefit under the Medi-Cal program, subject to federal approval, and the rate of reimbursement for pharmacist services is 85% of the fee schedule for physician services, except for medication therapy management (MTM) pharmacist services. Existing law requires the department to implement an MTM reimbursement methodology relating to the dispensing of qualified specialty drugs by an eligible contracting pharmacy, which would be intended to supplement Medi-Cal payments to eligible pharmacies for MTM pharmacist services provided in conjunction with certain specialty drug therapy categories.

This bill would instead require the rate of reimbursement for pharmacist services to be the same as the fee schedule for physician services, including MTM pharmacist services. The bill would require the department to implement an MTM reimbursement methodology relating to the use of drugs to ensure that Medi-Cal payments are only made to eligible pharmacists or pharmacies for MTM pharmacist services provided in conjunction with certain specialty drug therapy categories.

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 a health care service plan or disability insurer that offers coverage for pharmacist services to pay or reimburse the cost of the service performed by a pharmacist at an in-network pharmacy or a pharmacist at an out-of-network pharmacy if the insurer has an out-of-network pharmacy benefit.

Existing law authorizes this payment or reimbursement when specified conditions are met, including that the coverage otherwise provides reimbursement for identical services performed by other licensed health care providers.

This bill would additionally require those health care service plans and disability insurers to pay or reimburse the cost of the service performed by a pharmacist enrolled as a provider with the plan or insurer. The bill would authorize payment or reimbursement if the coverage otherwise provides reimbursement for similar services performed by other licensed health care providers, among other requirements. Because a willful violation of the bill's requirements relative to health care service plans 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.

~~Existing law, the Pharmacy Law, establishes the California State Board of Pharmacy to administer its provisions and authorizes a pharmacist to, among other things, perform certain procedures or functions as specified.~~

~~This bill would state the intent of the Legislature to enact subsequent legislation that establishes or clarifies the standard of care applicable to pharmacists in California.~~

Vote: majority Appropriation: no Fiscal Committee: ~~no~~yes Local Program: ~~no~~yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. *Section 1368.5 of the Health and Safety Code is amended to read:*

1368.5. (a) ~~Every~~*A* health care service plan that offers coverage for a service that is within the scope of practice of a duly licensed pharmacist shall pay or reimburse the cost of the service performed by a pharmacist at an in-network ~~pharmacy or pharmacy~~, a pharmacist at an out-of-network pharmacy if the health care service plan has an out-of-network pharmacy ~~benefit~~*benefit, or a pharmacist enrolled as a provider with the health care service plan.*

(b) Payment or reimbursement may be made pursuant to this section for a service performed by a duly licensed pharmacist only when all of the following conditions are met:

(1) The service performed is within the lawful scope of practice of the pharmacist.

(2) The coverage otherwise provides reimbursement for ~~identical~~ *similar* services performed by other licensed health care providers.

(c) ~~Nothing in this section shall~~ *This section does not* require the plan to pay a claim to more than one provider for duplicate service or be interpreted to limit physician reimbursement.

SEC. 2. *Section 10125.1 of the Insurance Code is amended to read:*

10125.1. (a) ~~Every~~*An* insurer issuing disability insurance that covers hospital, medical, or surgical expenses that offers coverage for a service that is within the scope of practice of a duly licensed pharmacist shall pay or reimburse the cost of the service performed by a pharmacist at an in-network ~~pharmacy or pharmacy~~, a pharmacist at an out-of-network pharmacy if the insurer has an out-of-network pharmacy ~~benefit~~ *benefit, or a pharmacist enrolled as a provider with the insurer.*

(b) Payment or reimbursement may be made pursuant to this section for a service performed by a duly licensed pharmacist only when all of the following conditions are met:

(1) The service performed is within the lawful scope of practice of the pharmacist.

(2) The coverage otherwise provides reimbursement for ~~identical~~ *similar* services performed by other licensed health care providers.

(c) ~~Nothing in this section shall~~ *This section does not* require the insurer to pay a claim to more than one provider for duplicate service or be interpreted to limit physician reimbursement.

SEC. 3. *Section 14132.968 of the Welfare and Institutions Code is amended to read:*

14132.968. (a) (1) Pharmacist services are a benefit under the Medi-Cal program, subject to approval by the federal Centers for Medicare and Medicaid Services.

(2) The department shall establish a fee schedule for the list of pharmacist services.

(3) The rate of reimbursement for pharmacist services shall be ~~at 85 percent of the same as~~ the fee schedule for physician services under the Medi-Cal program, ~~except for including~~ medication therapy management (MTM) pharmacist services as described in Section 14132.969.

(b) (1) The following services are covered pharmacist services that may be provided to a Medi-Cal beneficiary:

(A) Furnishing travel medications, as authorized in clause (3) of subparagraph (A) of paragraph (10) of subdivision (a) of Section 4052 of the Business and Professions Code.

(B) Furnishing naloxone hydrochloride, as authorized in Section 4052.01 of the Business and Professions Code.

(C) Furnishing self-administered hormonal contraception, as authorized in subdivision (a) of Section 4052.3 of the Business and Professions Code.

(D) Initiating and administering immunizations, as authorized in Section 4052.8 of the Business and Professions Code.

(E) Providing tobacco cessation counseling and furnishing nicotine replacement therapy, as authorized in Section 4052.9 of the Business and Professions Code.

(F) Initiating and furnishing preexposure prophylaxis, as authorized in Section 4052.02 of the Business and Professions Code.

(G) Initiating and furnishing postexposure prophylaxis, as authorized in Section 4052.03 of the Business and Professions Code.

(H) Providing MTM pharmacist services in conjunction with the ~~dispensing of~~ *use of* qualified specialty drugs, as described in Section 14132.969.

(2) Covered pharmacist services shall be subject to department protocols and utilization controls.

(c) A pharmacist shall be enrolled as an ordering, referring, and prescribing provider under the Medi-Cal program ~~prior to before~~ rendering a pharmacist service that is submitted by *a pharmacist or* a Medi-Cal pharmacy provider for reimbursement pursuant to this section.

(d) (1) The director shall seek any necessary federal approvals to implement this section. This section shall not be implemented until the necessary federal approvals are obtained and shall be implemented only to the extent that federal financial participation is available.

(2) This section ~~neither restricts nor prohibits any~~ *does not restrict or prohibit* services currently provided by pharmacists as authorized by law, ~~including, but not limited to, this chapter, or~~ *including this chapter and* the Medicaid state plan.

(e) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section, and any applicable federal waivers and state plan amendments, by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions, without taking regulatory action. By July 1, 2021, the department shall adopt regulations in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Commencing July 1, 2017, the department shall provide a status report to the Legislature on a semiannual basis, in compliance with Section 9795 of the Government Code, until regulations have been adopted.

SEC. 4. *Section 14132.969 of the Welfare and Institutions Code is amended to read:*

14132.969. (a) Subject to an annual appropriation for this express purpose, the department shall implement a medication therapy management (MTM) reimbursement methodology for covered pharmacist services related to the ~~dispensing use of~~ qualified specialty ~~drugs by an eligible pharmacy contracted with the department pursuant to subdivision (c).~~ *drugs*. MTM reimbursement pursuant to this section is intended to ~~supplement~~ *ensure* Medi-Cal payments *are only* made to eligible *pharmacists or* pharmacies for MTM pharmacist services provided in conjunction with certain specialty drug therapy categories, as identified by the department pursuant to paragraph (2) of subdivision (b).

(b) In implementing this section, the department shall do all of the following:

(1) Establish and maintain protocols and utilization controls for covered MTM pharmacist services.

(2) Establish and maintain a list of covered specialty drug therapy categories for which MTM pharmacist services reimbursement is available.

(3) Establish and maintain rates of reimbursement for covered MTM pharmacist services under contracts with participating pharmacies pursuant to subdivision (c).

(4) Establish and maintain the eligibility criteria and conditions for receipt of MTM pharmacist services reimbursement pursuant to this section.

(c) (1) MTM pharmacist services reimbursement pursuant to this section shall only be available to a Medi-Cal enrolled pharmacy *or an eligible pharmacist* that enters into an MTM pharmacist services contract with the department.

(2) For purposes of implementing this section, the department may enter into exclusive or nonexclusive contracts, or amend existing contracts, on a bid or negotiated basis. Contracts entered into or amended pursuant to this subdivision shall be exempt from Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code, Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code, and the State Administrative Manual, and shall be exempt from the review or approval of any division of the Department of General Services.

(d) (1) This section shall apply to dates of service on or after July 1, 2021, or to dates of service on or after the effective date reflected in any necessary federal approvals obtained by the department pursuant to paragraph (2), whichever is later.

(2) The department shall seek any necessary federal approvals to implement this section.

(3) This section shall be implemented only to the extent that any necessary federal approvals are obtained and federal financial participation is available and is not otherwise jeopardized.

(e) This section ~~neither restricts nor prohibits any~~ *does not restrict or prohibit* services currently provided by pharmacists as authorized by law, ~~including, but not limited to, this chapter, or including this chapter and~~ the Medicaid state plan.

(f) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section, in whole or in part, by means of provider bulletins or other similar instructions, without taking any further regulatory action.

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

(1) "Medication therapy management" or "MTM" means a distinct service or group of services, as determined by the department, that are provided by pharmacists to improve health outcomes of beneficiaries who are at risk of treatment failure due to noncompliance, nonadherence, or other factors found to negatively affect drug therapy outcomes.

(2) "Specialty drugs" has the same meaning as set forth in paragraph (13) of subdivision (a) of Section 14105.45.

SEC. 5. *No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.*

~~SECTION 1. It is the intent of the Legislature to enact subsequent legislation that establishes or clarifies the standard of care applicable to pharmacists in California.~~