

## **§ 1399.870. Health Equity and Quality Committee**

(a)(1) On or before March 1, 2022, the department shall convene a Health Equity and Quality Committee to make recommendations to the department for standard health equity and quality measures, including annual benchmark standards for assessing equity and quality in health care delivery. The department may contract with consultants to assist the committee with the implementation and administration of its duties.

(2) The committee shall provide initial recommendations, as well as recommendations on updating and revising standard health equity and quality measures and annual benchmark standards, consistent with this article. These recommendations shall consider the interaction of multiple characteristics in determining where disparate outcomes exist, including, but not limited to, race, ethnicity, gender, sexual orientation, language, age, income, and disability.

(3) Meetings of the committee shall be subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(4) The department may contract with consultants to assist the committee with the implementation and administration of its duties.

(b) In appointing members to the committee, the director shall consider all of the following:

(1) The expertise of each committee member so that the committee's composition reflects a diversity of relevant expertise.

(2) The racial, cultural, ethnic, sexual orientation, gender, economic, linguistic, age, disability, and geographical diversity of the state so that the committee's composition reflects the communities of California.

(3) The expertise of representatives from other state agencies that are engaged in the work of setting quality and equity goals or standards for health care entities.

(4) The representation of consumer stakeholders that serve diverse populations.

(5) Inclusion of experts, researchers, and community members who are engaged in the development of alternative approaches to measuring health equity, consumer experience, and health outcomes.

(c) On or before September 30, 2022, the committee shall provide the recommendations described in subdivision (a), which may consider and may include all of the following:

(1) Quality measures, including, but not limited to, Healthcare Effectiveness Data and Information Set (HEDIS) measures and the federal Centers for Medicare and Medicaid Services Child and Adult Core Set measures.

(2) Surveys or other measures to assess consumer experience and satisfaction, including alternative approaches that take into account cultural

competence, health literacy, exposure to discrimination, and social and cultural connectedness, such as connection to community, identity, traditions, and spirituality.

(3) Other child and adult quality or outcome measures that the committee determines are appropriate, including establishing new measures for patient-reported outcomes.

(4) Effective ways to measure health outcomes in the absence of quality measures, including both of the following:

(A) Demographic data or other data related to race, ethnicity, or socioeconomic variables that are currently collected by health care service plans.

(B) Other data sources, including the Health Care Payments Data Program established pursuant to Section 127671.1, the health evidence initiative of Covered California for the individual and small group markets, and other statistically valid and reliable sources of data.

(5) Approaches to stratifying reporting of results by factors, including, but not limited to, age, sex, geographic region, race, ethnicity, language, sexual orientation, gender identity, and income to the extent health plans or public programs have data on these factors and that the results are statistically valid and reliable.

(6) Alternative methods to measure health outcomes that permit sufficient stratification to determine impacts on health equity and quality that are not subject to the methodological limitations of current measurement approaches.

(7) Alternative methods to measure physical and behavioral health outcomes, including, but not limited to, measures to assess social and cultural connectedness, such as connection to community, identity, traditions, and spirituality. The department shall consult with the Office of Health Equity in identifying these alternative methods.

(8) Measures of social determinants of health, such as housing security, food insecurity, caregiving, and other nonmedical determinants of health.

(d) The committee's recommendations shall include setting annual health equity and quality benchmarks.

(e) The department shall consider the committee's recommendations in establishing the standard measures and annual benchmarks pursuant to Section 1399.871. The department shall enforce the established set of standard health equity and quality measures and applicable annual benchmarks consistent with Section 1399.872.

(f) The department shall reconvene the committee following the establishment of the standard measures and annual benchmarks pursuant to Section 1399.871 for the purpose of reviewing or revisiting the standard measures and annual benchmarks after the department has received data from health care service plans pursuant to Section 1399.872.

(g) Contracts entered into pursuant to this article are exempt from Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code, Section 19130 of the Government Code, and Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code, and are exempt from the review or approval of any division of the Department of General Services, until January 1, 2024.

**HISTORY:**

Added Stats 2021 ch 143 § 14 (AB 133), effective July 27, 2021.

**§ 1399.871. Establishment of standard measures and annual benchmarks for equity and quality in health care delivery; National Committee for Quality Assurance accreditation**

(a)(1) The department shall establish standard measures and annual benchmarks for equity and quality in health care delivery.

(2) A standard measure or annual benchmark shall not be adopted, updated, or revised in any manner without being discussed during at least one public meeting of the Health Equity and Quality Committee before the meeting in which the committee makes recommendations to the director.

(3) Standard measures and annual benchmarks shall sunset at most every five years from the date the department establishes standard measures and annual benchmarks pursuant to paragraph (1). To continue the standard measures and annual benchmarks, the department shall conduct a public assessment, at least one year before the sunset, of whether the measures and benchmarks are improving quality and equity, consistent with this article.

(b) In establishing the standard measures and annual benchmarks pursuant to subdivision (a), the department shall consider the recommendations made by the Health Equity and Quality Committee pursuant to Section 1399.870, as well as stakeholder comments on draft standards and benchmarks.

(c) After the department establishes the standard measures and benchmarks pursuant to subdivision (a), a health care service plan shall comply with the annual benchmarks and shall demonstrate compliance in reports submitted to the department pursuant to Section 1399.872.

(d)(1) On or before January 1, 2026, a health care service plan and its subcontracted health care service plans shall have and maintain National Committee for Quality Assurance (NCQA) accreditation.

(2) This subdivision does not apply to a health care service plan that contracts with the State Department of Health Care Services to provide health care services to Medi-Cal beneficiaries. NCQA accreditation for these plans shall be in accordance with Section 14184.203 of the Welfare and Institutions Code.

(e) Throughout the development, implementation, and updating of the standard measures and annual benchmarks pursuant to this section, the department shall coordinate with the State Department of Health Care Services, the Office of Statewide Health Planning and Development, the California Health Benefit Exchange, CalPERS, and the State Department of Public Health.

**HISTORY:**

Added Stats 2021 ch 143 § 14 (AB 133), effective July 27, 2021.

**§ 1399.872. Annual report; Department review and compliance determination; Noncompliance**

(a) Upon the department's establishment or updating of standard measures and annual benchmarks pursuant to Section 1399.871, a health care service plan shall annually submit to the department, at the time and in a manner specified by the department, a report containing health equity and quality data and information. A health care service plan shall implement the policies, procedures, and systems necessary for compliance with this article and shall, in a manner specified by the department, disclose substantiating documentation to the department demonstrating how the health care service plan shall achieve that compliance.

(b) The department shall review a health care service plan's equity and quality report submitted pursuant to this section for compliance with the health equity and quality standard measures and annual benchmarks established pursuant to Section 1399.871. The department may also review and use other credible sources of information and data, including, but not limited to, relevant data provided by other state agencies, to determine a health care service plan's compliance with the equity and quality standard measures and annual benchmarks.

(c) The department shall determine a health care service plan's compliance with the health equity and quality standard measures and annual benchmarks and issue a report of its findings to the health care service plan, which shall also be made publicly available on the department's internet website.

(d) If a health care service plan does not demonstrate compliance with this article, the department may take the following actions, which may be progressive, as appropriate:

(1) Require the health care service plan to implement corrective action to achieve and demonstrate compliance with the health equity and quality standard measures and annual benchmarks.

(2) Monitor a health care service plan's corrective action plan and improvement efforts.

(3) Investigate and require supplemental reporting by the health care service plan.

(4) Assess an administrative penalty in an amount that is initially commensurate with the failure to meet the requirements of this article, and assess additional penalties, in escalating amounts for repeated or continuing failure to meet the requirements. The director may assess administrative penalties under this paragraph if a health care service plan engages in any of the following conduct:

(A) Fails to report complete and accurate data required by this article.

(B) Neglects to file a required corrective action plan with the department.

(C) Fails to file an acceptable required corrective action plan with the department.

(D) Fails to implement or monitor a required corrective action plan.

(E) Fails to provide information required by this article to the department.

(F) Falsifies information required by this section.

(G) Fails to meet the health equity and quality standard measures and annual benchmarks established pursuant to Section 1399.871.

(5) Take other disciplinary or other enforcement action, as determined necessary and appropriate by the director.

(6) If the department assesses an administrative penalty or takes other disciplinary action, the department shall inform the California Health Benefit Exchange, the Office of Statewide Health Planning and Development, CalPERS, and the State Department of Health Care Services, each of which shall consider appropriate action.

(e)(1) For the measurement years 2023 and 2024, the department's enforcement activities pursuant to subdivision (d) shall address deficiencies in procedural data collection, reporting, corrective action plan implementation, or monitoring requirements pursuant to this article.

(2) Commencing with measurement year 2025, and for each following measurement year, the department's enforcement activities shall address deficiencies in meeting the requirements under paragraph (1), compliance with the standard measures and annual benchmarks, and all other requirements pursuant to this article.

(3) For the purpose of this subdivision, "measurement year" means the time period within which a health care service plan shall collect the required information for the report required by this section.

(f) Commencing in 2025, and annually thereafter, the department shall publish on its internet website a Health Equity and Quality Compliance Report.

(g) The department shall coordinate with the State Department of Health Care Services to support the review of, and any compliance action taken with respect to, Medi-Cal managed care plans consistent with this article, to maintain consistency with the applicable federal and state Medicaid requirements governing those plans.

**HISTORY:**

Added Stats 2021 ch 143 § 14 (AB 133), effective July 27, 2021.