



Agenda Item 7

May 20, 2014

ITEM NAME: Senate Bill 1340 (Hernandez) – Health Care Provider Contracts:
Transparency

As Amended March 24, 2014

PROGRAM: Legislation

ITEM TYPE: Action

RECOMMENDATION

Adopt a **SUPPORT** position on Senate Bill (SB) 1340 because it would provide greater transparency in health care cost and quality for our members.

EXECUTIVE SUMMARY

Currently, contracts between health plans or insurers and hospitals are prohibited from including provisions that restrict the release of information to subscribers, enrollees, policyholders or insureds regarding the cost range of medical procedures and quality of care for inpatient or ambulatory care services performed by a network hospital or affiliated licensed facility.

SB 1340 recasts the descriptions of entities and individuals subject to these disclosure requirements to conform to existing definitions of provider and supplier, and establishes new definitions of consumer and purchaser, in order to capture all licensed health care facilities, other entities that furnish health care services, individual health care practitioners and self-funded health coverage arrangements administered by a health plan or insurer. It also requires a health plan or insurer to provide a provider or supplier 30 days to review the methodology and data used, instead of the current 20 days.

The Board of Administration's (Board) Legislative Policy Standards do not specifically address the issues in this bill. The Board's 2009-10 Health Policy Priorities for State Legislation, however, suggest a support position on proposals that will: 1) create greater transparency in, and disclosure of, the cost of health care goods and services and 2) permit CalPERS members to obtain meaningful information about quality of care and cost of health services. SB 1340 ensures consumers have access to better information about health care costs and outcomes and is consistent with prior transparency legislation the Board has supported; therefore, staff recommends the Board adopt a support position.

STRATEGIC PLAN

This legislation is consistent with the CalPERS Strategic Plan Goal A to improve long-term pension and health benefit sustainability by supporting the strategic initiative to expand member and employer access to information regarding the cost and quality of health care.

BACKGROUND

1. Legislative Transparency Efforts

Over the past several years, both the Legislature and the health care industry have attempted to respond to demands for increased “transparency” concerning information about health care costs, utilization, and outcomes. With additional and improved data on costs and outcomes, purchasers can make better decisions, and the industry can more swiftly identify and resolve problems.

Existing law requires most health plans and insurers to disclose information on the cost of services performed by specified health care providers and suppliers in their networks. However, contractual agreements between carriers and some types of network providers and suppliers are not impacted by these disclosure requirements. This type of contract restriction inhibits the ability of plans to provide information to consumers that could help them better understand the differences in costs between providers. Increased consumer knowledge and awareness of health care costs may help rein in health care costs.

Existing law defines “provider” as a hospital, a skilled nursing facility, a comprehensive outpatient rehabilitation facility, a home health agency, a hospice, a clinic, or a rehabilitation agency. In addition, existing law defines “supplier” as a physician and surgeon or other health care practitioner, or an entity that furnishes health care services other than a provider.

2. CalPERS Transparency Efforts

As part of CalPERS commitment to transparency, CalPERS staff is currently developing, in partnership with Castlight Health and Anthem Blue Cross, a two-year pilot project to deliver a consumer-friendly health care “shopping” platform for CalPERS self-funded preferred provider organization (PPO) members. This online tool will provide PPO members the ability to quickly and easily compare doctors, hospitals, medical tests, and procedures based on cost, facility quality, physician quality, patient satisfaction, and convenience. The goal of this pilot is to help PPO members make informed choices about selecting medical and pharmaceutical services. CalPERS plans to introduce the service in mid-2014.

ANALYSIS

1. Proposed Changes

Specifically, SB 1340 would:

- Prohibit a health plan contract or health insurance policy between a health plan or insurer and a provider or supplier from containing a provision that

restricts the ability of the plan or insurer to furnish information to consumers or purchasers, as defined, relating to the cost range of a procedure or full course of treatment and the quality of services performed by the provider or supplier.

- Clarify that these required disclosures include, but are not limited to, facility, professional, and diagnostic services, prescription drugs, durable medical equipment, and other items and services related to the treatment.
- Delete references to “hospital” and “facility” and instead references “provider” and “supplier,” as defined in current law.
- Define “consumer” as enrollees or subscribers of the health plan, or policy holder or insured of a health insurance policy, or beneficiaries of a self-funded health coverage arrangement administered by the health care service plan or other persons entitled to access services through a network established by the health care service plan
- Define “purchasers” as the sponsors of a self-funded health coverage arrangement administered by the health plan or insurer.
- Require health plans to provide the providers or suppliers an advance opportunity of 30 days to review the methodology and data developed and compiled by the health plan before cost and quality information is provided to consumers or purchasers.
- Apply to any health plan contract or health insurance policy issued, amended, or renewed on or after January 1, 2015.

2. Arguments in Support

According to the author, “Recent legislation has made attempts to bring transparency to contracts between hospitals and health plans/insurers; however, there has been some difficulty in implementation due to a lack of clarity in the law. This bill improves transparency by making a number of clarifying changes to the prohibition on gag clauses in hospital contracts. It also builds on existing law by allowing enrollees in self-funded health plans to obtain cost and quality information.”

3. Arguments in Opposition

There is no formal opposition to the bill at this time.

4. Price Transparency

Price transparency makes it possible for consumers to compare health care prices charged by carriers and compare quality information for specific services available to consumers. Ideally, greater health care cost and quality transparency would assist consumers and others who make decisions on their behalf

(employers, health carriers, and referring practitioners) with making health care decisions.

The CalPERS / Anthem Blue Cross Knee-Hip replacement program is an example of how price transparency raises the awareness of consumers of variations in cost.

5. Quality of Care Transparency

Despite spending more on health care per capita than any other industrialized country in the world, Americans have only a 50 percent chance of receiving appropriate evidence-based care, according to a study by the RAND Corporation.

According to testimony provided by the California Health Care Foundation in a past informational hearing on health care transparency held by the Assembly Health Committee, quality transparency is important for several audiences. For hospitals and other providers, displaying reliable quality data for individual providers and showing how these results compare with state and national providers helps focus their quality improvement efforts and gauge their own success. For health plans and other health care purchasers, quality information helps inform decisions about which providers to contract with and helps to determine whether costs are justified.

6. Clarifies and Expands Past Transparency Legislation Supported by the Board

CalPERS believes that quality and cost transparency motivates and accelerates improvement efforts and is widely accepted as essential for provider and health system performance accountability. In February 2013, the Board adopted a Resolution related to Health Benefit Purchasing and Data Availability.

Specifically, it resolves that “CalPERS will seek, support and participate in the establishment of multi-payer all-claims database providing all stakeholder groups, purchasers, the public and other health plan beneficiaries, researchers, insurers, and providers access to comprehensive quality, outcomes, and cost data that each can use to evaluate, choose, and compete on quality and value.”

In the past few years, the Board adopted support positions on SB 1196 (Hernandez, Chapter 869, Statutes of 2012) and SB 751 (Gaines, Chapter 244, Statutes of 2011), which improved disclosure of cost and quality of care information for services provided by hospitals and specified other health care providers or suppliers. SB 1340, which is related and builds upon these prior legislative measures, further improves the transparency of health care cost and quality information by requiring the disclosure of the full cost of treatment by hospitals and other types of health care providers or suppliers, and requiring disclosure to all consumers, including self-funded health plan sponsors.

BUDGET AND FISCAL IMPACTS

1. Benefit Costs
SB 1340 could increase transparency in the health marketplace, empowering consumers to make informed health care spending decisions, potentially resulting in lowering health care costs for members and insurers.
2. Administrative Costs
There are no anticipated administrative costs.

BENEFITS/RISKS

1. Benefits of Bill Becoming Law
 - The disclosure of health care quality and cost measurements gives consumers the health care information they need to seek out hospitals and other health care providers with a proven track record for high quality care and efficiency.
2. Risks of Bill Becoming Law
 - Because the bill does not necessarily prescribe a particular rating methodology, providers, health plans or insurers may utilize methodologies that confuse consumers rather than provide consumers with meaningful, understandable information on cost and quality of care.

ATTACHMENTS

- Attachment 1 – Legislative History
Attachment 2 – List of Support and Opposition

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