California Comprehensive Addiction Recovery Act:

PAYMENT REFORM

Fact Sheet

SUMMARY

This bill would reform the private payment market for addiction treatment by prohibiting "kickbacks" to referring agents, regulating addiction treatment call centers, and prohibiting dangerous direct "pay to patient" policies that result in large cash payments being made to addicts in early recovery. It also brings experts in private industry and government together for task force meetings to share information about the current state of access to addiction care and parity implementation efforts in California. Specifically, the legislation would place addiction treatment under the same rules governing financial relationships that mental and physical health providers have operated within for decades. This legislation would remove financial rewards for referring clients to related services, including laboratories, recovery residences and other treatment centers. It would also stop the practice of "selling" patients to treatment centers that pass kickbacks through to insurers.

The task force created by the bill would provide important data about the way in which treatment is approved; methods for approving continuing or "step down" treatment; and the way in which disputed claims are managed.

BACKGROUND

California has some of the most stringent laws regarding financial relationships between providers of medical or mental health services in the nation. Although California Business & Professions Code Section 650 (B&P 650) has effectively rid most healthcare markets of self referral and fee splitting, and patient brokering behavior, addiction treatment is not currently covered by this statute. Because there is not a license for practitioners of addiction treatment in the state, the profession is not found in the business and professions code, therefore it is not governed by the rules normally applied to other healthcare practitioners. Because addiction treatment programs are considered "nonmedical," unless they are performed at a chemical dependency recovery hospital, they also do not fall under federal stark laws or California B&P Codes regulating medical facilities. This lack of statutory authority to prohibit patient brokering has led to unscrupulous, yet completely legal, financial relationships between treatment providers and referring agents, including "interventionists." Reports of $5,000 to $10,000 payments for patient referrals are not uncommon.

Financial inducements are detrimental to patient health and ruinous to vulnerable families seeking help for loved ones. High pressure "sales tactics" are used to threaten those seeking help with death of the addict if they are not delivered to certain treatment centers for admission. "Sales people" with a profit motive coerce clients into treatment that may not be appropriate or necessary. Patient brokers are not credentialed professionals and often have little or no competency in identifying or assessing addiction. Call centers are staffed by nonprofessionals and referrals are made based upon financial incentive, not client benefit.

Clients who access out of network services face additional risk when leaving treatment. These clients often leave treatment and receive a check, meant to pay for the treatment, ranging in the $20,000 to $30,000 range. Receiving a large cash distribution in early recovery, in some cases, creates an ability to relapse with little consequence (disincentive to work, financing for drug purchases). Payment to

patients that are not applied to treatment impact the financial bottom line of treatment centers, reducing the overall ability to provide services for future clients.

Insurance coverage for addiction is inconsistent and arbitrary in many respects. "Medical necessity" for one insurer may vastly differ from that of another. Reimbursement for services, denials for services already rendered, and inadequate, addiction focused clinicians make obtaining and paying for addiction treatment, even when fully insured, problematic. "Fail first" policies, limitations on treatment length, arbitrary "step down" requirements, and limited ability for consumers to challenge utilization review decisions call in to question whether national and state parity laws are being properly implemented. There is an urgent need to provide consistency to the payment system for addiction treatment. A task force could bring experts together to seek solutions to challenging questions facing consumers, providers, and insurers.

PREVIOUS LEGISLATION

None

THIS BILL

This bill adds addiction treatment programs and practitioners to Section 11834.35 of the Health & Safety Code for the purpose of prohibiting financial incentives for treatment decisions. It would specifically prohibit the offer, delivery, receipt, or acceptance by any alcohol drug treatment program, or any certified alcohol drug counselor of any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for referring patients, clients, or customers to any person or certified or licensed program, irrespective of any membership, proprietary interest, or coownership in or with any person or program to whom these patients, clients, or customers are referred is unlawful.

In addition to the main focus of the bill, prohibiting kickbacks, the legislation also supports the goal of the California Comprehensive Addiction Recovery Act (CCARA), to create the nation's first "on demand" treatment system for addiction, by enacting a task force to examine the following:

- Network adequacy for addiction treatment services.
- Barriers to access for addiction treatment in private insurance systems.
- Level of knowledge and skills, including use of ASAM placement criteria, amongst key decision makers who make treatment and coverage decisions.
- Status of coding and rate systems for addiction treatment, including reimbursement rate effects on access to care.
- Status of parity implementation, including, at a minimum, progress on prohibiting "fail first" policies and mandatory "step down" polices; and policies for addressing multiple relapse patients.

STATUS

Seeking author

SUPPORT

- California Consortium of Addiction Programs and Professionals (CCAPP)

OPPOSITION

Unknown

FOR MORE INFORMATION

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