



August 6, 2019

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The Honorable Anthony Portantino
Chair, Senate Appropriations Committee
State Capitol, Room 3086
Sacramento, CA 95814

**Re: Assembly Bill 1642 (Wood) – Medi-Cal: managed care plans
As Amended on July 11, 2019 – OPPOSE UNLESS AMENDED
Set for Hearing on August 12, 2019 – Senate Appropriations Committee**

Dear Senator Portantino:

The California State Association of Counties (CSAC), representing all 58 of California's counties, has adopted an OPPOSE UNLESS AMENDED position on Assembly Member Jim Wood's Assembly Bill 1642. While counties are supportive of appropriate oversight and accountability, AB 1642 overly broadens the authority of the Department of Health Care Services (DHCS) to place sanctions on health plans, including county-administered mental health plans, that could reduce or negatively impact patient services.

The current Welfare and Institutions Code grants DHCS the authority to take action against health plans or Medi-Cal managed health care plans. Current statute also already provides DHCS with the authority to impose a sanction, fine, penalty, payment withhold, special requirement, probationary or corrective action or any other action the department deems necessary when it has determined a county mental health plan has violated federal or state statute, regulations or the contract. AB 1642 looks to replace current language with provisions that do not ensure county mental health plans have a clearly defined set of standards to which they are held accountable, and does not ensure a transparent process for any sanction actions taken by DHCS in the future.

In recent years, DHCS has used their current authority to require corrective action plans or impose sanctions on county mental health plans. In April, 10 county mental health plans were sanctioned for allegedly not meeting provider-to-beneficiary ratio requirements. DHCS's process used in April to inform counties of their alleged violations, their appeals process, and subsequent sanctions demonstrated the need for DHCS to clearly define expectations and due process around sanctions, not to broaden them. Further, sanctions could affect the core services provided by county mental health plans by reducing available funding and tying up precious resources that could be used to provide services.

Counties respectfully request amendments in the following areas:

Good Cause. The current statute allows DHCS to demonstrate "good cause" in sanctions or contract terminations for plans when there has been "three repeated and uncorrected findings of serious deficiencies that have the potential to endanger patient care, as defined by the department in accordance with this section, identified in the medical audits conducted by the department." The proposed new provisions would not define "good cause" in terms of repeated and uncorrected findings of serious deficiencies, and would expand the use of materials outside of medical audits to reach a "good cause" determination.

CSAC would respectfully request the “good cause” definition be amended to ensure that sanctions, and especially contract terminations, are limited to those cases where a health plan or mental health plan has repeated and serious violations which can be substantiated through documentation of potential patient endangerment. DHCS retains ample additional tools to ensure compliance with the less serious violations pursuant to the provisions of AB 1642.

Due Process. This measure would eliminate existing law that outlines requirements for advance notification and specified due process whenever the department has determined that a mental health plan has failed to comply with any regulations, contractual requirements, state plans or waivers. The notification process is necessary prior to any negative action taken by DHCS under existing law.

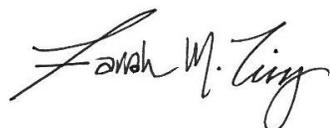
CSAC would respectfully request AB 1642 be amended to incorporate several existing due process requirements. For example, we would request that the department continue to be required to provide advance 30-day notification when the department has made a finding of any violation of state or federal laws, regulations or contract provisions.

Transparency. As previously stated, 10 county mental health plans are currently in the process of being sanctioned due to inadequate provider-to-beneficiary ratio standards. However, the network adequacy standards they are expected to meet have not been set forth in state or federal statute, and have not been established through the regulatory process or publicly published by the department; unlike the overall provider and primary care standards established in state regulations. CSAC would respectfully request that any provider-to-beneficiary ratio requirements subject to the accountability measures in AB 1642 be transparently posted in a reasonable time frame, as is the case with existing primary care and health provider ratios in state regulation. In addition, CSAC requests that all monetary sanctions be limited only to documented violations of standards set forth in state or federal law, regulation or contract.

These requests are reasonable and reflect the principles of due process while striving to balance the necessary duty of the state to oversee and ensure a safe and efficient managed care model. Counties wish to work with the state as partners in providing critical behavioral health services, and AB 1642, if amended, could provide critically needed clarity regarding standards and consequences.

It is for these reasons that CSAC has regretfully taken an oppose unless amended position on AB 1642. Should you or your staff have additional questions about our position, please do not hesitate to contact Farrah McDaid Ting at (916) 650-8110 or fmcting@counties.org. Thank you.

Sincerely,

A handwritten signature in black ink that reads "Farrah M. Ting". The signature is written in a cursive, flowing style.

Farrah McDaid Ting
Legislative Representative

cc: The Honorable Jim Wood, Member, California State Assembly
Honorable Members, Senate Appropriations Committee
Marjorie Swartz, Policy Consultant, Office of Pro Tem Atkins
Samantha Lui, Consultant, Senate Appropriations Committee
Melanie Moreno, Staff Director, Senate Health Committee
Joe Parra, Consultant, Senate Republican Caucus
Agnes Lee, Policy Consultant, Office of Speaker Rendon
Scott Bain, Consultant, Assembly Health Committee
Alex Khan, Consultant, Assembly Republican Caucus
Paula Villescaz, Assistant Secretary, CA Health and Human Services Agency
Carol Gallegos, Deputy Director, Department of Health Care Services
Michelle Cabrera, Executive Director, County Behavioral Health Directors
Association