California Legislative Beat: Newly Introduced Health Bills Seek to Keep Costs Down for Consumers

This January, the California Legislature began the second year of its two-year legislative cycle. Back in October, we reviewed three pending healthcare bills in the California Legislature. Those bills have until January 31, 2018 to pass. While we await the fate of those bills, we take a sneak peek at two California Assembly bills introduced since the Legislature reconvened for 2018.

The bills we'll explore concern: (a) removing college savings plan from determination of Medi-Cal eligibility [AB 1785] and (b) limiting costs of orally administered cancer medications for health plan enrollees [AB 1860].

Removing College Savings Plan from Determination of Medi-Cal Eligibility

AB 1785 (Nazarian): This bill would exclude the contribution to a 529 College Savings Plan as an asset or resource that would affect Medi-Cal eligibility. This bill does not apply to those whose Medi-Cal eligibility is determined by MAGI-based financial methods.

Why it's an important bill to consider: This bill may be limited in who it reaches. Most Medicaid beneficiaries' eligibility is calculated by modified adjusted gross income (MAGI), which includes earned income like wages, tips, and

gratuities, as well as unearned income like interest, dividends, and rents.[1] But, the Affordable Care Act's enactment of MAGI excluded individuals over the age of 65, medically needed individuals, and individuals eligible for Medicare cost-sharing.[2] These individuals must disclose their assets and resources to determine their eligibility for Medi-Cal. Among such assets or resources, 529 College Savings Plan, which a parent or grandparent purchases to contribute money to fund a beneficiary child's future college education, may throw a significant wrench at Medi-Cal eligibility. In general, eligibility for Medicaid would require the individual to have less than $2,000 in total assets or resources.[3] Because 529 College Savings Plans are still controlled by the contributor, these plans are considered to be their assets rather than the beneficiary's. This means the existence of a significant principal in a 529 plan a Medi-Cal applicant purchased could most certainly deny the individual's Medi-Cal eligibility.[4] In other words, they would have to use their 529 plan, money saved up for funding someone else's higher education, before they can tap into Medicaid.[5]

With the passage of this bill, individuals would no longer have to draw from any existing college savings plan before they become eligible for Medicaid. This directly reduces the cost of medical care in two ways. First, the contributor no longer needs to tap into the money put aside in a college savings plan.[6] Second, this effectively eliminates any tax penalty for non-qualified withdrawals from the fund. Additionally, the education fund can be used for its original purpose: to finance a beneficiary's education. Without this bill, individuals who have set aside money in a college savings plan and need Medi-Cal assistance may suffer for planning ahead. While there is not much research on whether this bill will increase the number of Medicaid recipients, it would certainly decrease the barriers to access Medi-Cal assistance. If passed, California would join other states like Indiana that have removed 529 plans from Medicaid eligibility

consideration.

Limiting Out of Pocket Costs of Anticancer Medications

AB 1860 (Limón): This bill would permanently prohibit the coinsurance or copay of any prescribed, orally administered anticancer medication from exceeding $200 to a health plan enrollee. This does not preclude health plans from incorporating a higher deductible, which is the amount an enrollee pays before the insurance plan starts to pay. This bill is the extension of,2013's AB 219 (Perea), which has a sunset clause of Jan. 1, 2019.

Why it's an important bill to consider: Orally administered anticancer medications have become "the heart of daily oncology practice" and are preferred by patients more than other types of cancer drugs.[7] Unfortunately, the cost of orally-administered cancer drugs have increased from an average of $1,869 a month in 2000 to $11,325 a month in 2014.[8] Health plans have sought to use coinsurance, which pays a percentage of medical costs after paying the deductible, to pass along such costs to patients.[9] But, such high costs to patients discourage them from using such drugs. One study found a positive correlation between "high out-of-pocket costs and prescription abandonment" of cancer drugs.[10] That makes high costs of these medications deadly.

When AB 219 first introduced the $200 limit to coinsurance and copay for an individual prescription, the California Health Benefit Review Program (CHBRP) assessed the impact of the bill at the request of the California Legislature. The CHBRP estimated that patients would see a reduction of $2,539,000 in out of pocket costs from AB 219.[11] By passing AB 1860 to permanently set a limit on coinsurance and copay, the continual costs of orally administered cancer medications will be kept low for patients.

From removing college saving plans from Medi-Cal eligibility consideration to keeping costs of anticancer drugs low, the California Legislature is off to a great start in trying to provide affordable healthcare. Tune in next month to learn about the new bills filed and any informational hearings on healthcare costs! In the meantime, please let us know if there are other interesting bills or additional California Legislature topics you'd like to see us cover on the blog.

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[1] Center on Budget and Policy Priorities, SNAP Households by Likely MAGI-based Financial Eligibility Status, FY 2008 at 16 (Mar. 21, 2013).

[2] 42 USCA § 1396a(e)(14)(D)(i).

[3] Ann Carrns, *A Closer Look at 529 Able Accounts*, New York Times (Feb. 12, 2016).

[4] *Section 529 College Savings Plans and Medicaid*, Coulson Elder Law, http://coulsonelderlaw.com/section-529-college-savings-plans-medicaid/.

[5] *See 529 Plan Assets Can Collide with Medicaid Eligibility*, ElderLawAnswers (May 8, 2015)|Eileen Ambrose, *Are 529s a Money Trap*, AARP the Magazine (2015).

[6] *See* Gail Buckner, *Attention! Medicaid and College Savings Plans May Not Mix*, Fox News (Apr. 12, 2002).

[7] R. Colmer, et. al., *Treatment of cancer with oral drugs: a position statement by the Spanish Society of Medical Oncology (SEOM)*, 21:2 Annals of Oncology (Feb. 1, 2010). *See also* Katrina Pascual, *Orally Administered Cancer Drugs See Spike In*

Cost, Tech Times (April 29, 2016) (writing that "Shawn Osborne of University Hospitals of Cleveland echoed the growing popularity of oral cancer therapies because of the more targeted treatment and better patient outcomes that they bring")|Perelman School of Medicine at the University of Pennsylvania, High out-of-pocket costs may place oral cancer medications out of reach, MedicalXpress (Dec. 20, 2017) (noting that "[t]he advantages of oral medications include simpler administration and convenience, since they do not require a visit to the hospital or doctor's office").

[8] University of North Carolina at Chapel Hill, *Costs for orally administered cancer drugs skyrocket: Patients may increasingly take on cost burden*, ScienceDaily (April 28, 2016) (discussing the results of Stacie B. Dusetzina, PhD. *Drug Pricing Trends for Orally Administered Anticancer Medications Reimbursed by Commercial Health Plans, 2000-2014*, JAMA Oncology (April 2016)).

[9] *Id*. *See also* Perelman School of Medicine, *supra* note 9 (writing that "more of the medication's cost often passed on to the patient through coinsurance that requires patients to pay a percentage of the cost").

[10] Perelman School of Medicine, *supra* note 9.

[11] California Health Benefits Review Program, Executive Summary Analysis of Assembly Bill 219: Cancer Treatment at 8 (Apr. 4, 2013).