

**ASSEMBLY BILL**

**No. 1011**

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**Introduced by Assembly Member Waldron**  
(Principal coauthor: Senator Wiener)

February 18, 2021

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An act to add Section 1367.207 to the Health and Safety Code, and to add Section 10123.204 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 1011, as introduced, Waldron. Health care coverage: substance use disorders.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law requires specified health insurance policies that provide coverage for outpatient prescription drugs to cover medically necessary prescription drugs and subjects those policies to certain limitations on cost sharing and the placement of drugs on formularies. Existing law authorizes a health care service plan and a health insurer to utilize formularies, prior authorization, step therapy, or other reasonable medical management practices in the provision of outpatient prescription drug coverage.

This bill would require health care service plan contracts and health insurance policies issued, amended, or renewed on or after January 1, 2022, that provide outpatient prescription drug benefits to cover all medically necessary prescription drugs approved by the United States Food and Drug Administration (FDA) for treating substance use

disorders that are appropriate for the specific needs of an enrollee or insured, and would require those drugs to be placed on the lowest cost-sharing tier of the plan or insurer’s prescription drug formulary, unless specified criteria are met. The bill would prohibit these contracts and policies from imposing prescribed requirements, including prior authorization or step therapy requirements on a prescription drug approved by the FDA for treating substance use disorders, unless specified criteria are met. Because a willful violation of these provisions by a health care service plan would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1367.207 is added to the Health and  
2 Safety Code, to read:

3 1367.207. (a) Notwithstanding any other law, a health care  
4 service plan contract issued, amended, or renewed on or after  
5 January 1, 2022, that provides outpatient prescription drug benefits  
6 shall do both of the following:

7 (1) Cover, under applicable pharmacy and medical benefits, all  
8 medically necessary prescription drugs approved by the United  
9 States Food and Drug Administration (FDA) for treating substance  
10 use disorders that are appropriate for the specific needs of an  
11 enrollee.

12 (2) Place all outpatient prescription drugs approved by the FDA  
13 for treating substance use disorders on the lowest cost-sharing tier  
14 of the drug formulary developed and maintained by the health care  
15 service plan or the health care service plan’s pharmacy benefit  
16 manager, except as authorized in subdivision (c).

17 (b) Except as authorized in subdivision (c), a health care service  
18 plan contract issued, amended, or renewed on or after January 1,  
19 2022, shall not impose any of the following:

1 (1) Prior authorization requirements on a prescription drug  
2 approved by the FDA for treating substance use disorders, or on  
3 any behavioral, cognitive, or mental health services prescribed in  
4 conjunction with or supplementary to that drug for the purpose of  
5 treating a substance use disorder.

6 (2) A requirement that the enrollee receives treatment at an  
7 outpatient facility that exceeds allowable time and distance  
8 standards for network adequacy.

9 (3) A limit on the number of visits, days of coverage, scope or  
10 duration of treatment, or other similar limitations on coverage of  
11 prescription drugs and benefits for treating substance use disorders.

12 (4) An exclusion or limitation on coverage of prescription drugs  
13 and benefits for treating substance use disorders based on an  
14 enrollee's prior success or failure with substance use disorder  
15 treatment.

16 (5) Step therapy requirements on a prescription drug approved  
17 by the FDA for treating substance use disorders.

18 (6) A requirement that the enrollee receives concurrent  
19 behavioral, cognitive, mental health, or other services as a condition  
20 of coverage for a prescription drug approved by the FDA for  
21 treating substance use disorders.

22 (7) An exclusion of coverage for a prescription drug approved  
23 by the FDA for treating substance use disorders and any associated  
24 counseling or wraparound services on the grounds that substance  
25 use disorder treatment was court ordered if the drugs and services  
26 were determined to be medically necessary, prescribed by a  
27 licensed health care provider, and provided in a community setting.

28 (c) If the FDA has approved one or more therapeutic equivalents  
29 of a prescription drug for treating substance use disorders, a health  
30 care service plan contract issued, amended, or renewed on or after  
31 January 1, 2022, may do both of the following:

32 (1) Place a therapeutic equivalent of the drug on any tier of a  
33 drug formulary if at least one therapeutic equivalent of the drug  
34 is covered on the lowest cost-sharing tier of the drug formulary.

35 (2) Require prior authorization or step therapy for a therapeutic  
36 equivalent of the drug if at least one therapeutic equivalent of the  
37 drug is covered without prior authorization or step therapy.

38 (d) A health care service plan shall disclose which providers in  
39 each network provide prescription drugs approved by the FDA for  
40 treating substance use disorders and the level of care that those

1 providers render pursuant to the current edition of the ASAM  
2 Criteria. The disclosure shall be made in a prominent location in  
3 the online and printed provider directories.

4 (e) This section does not apply to a health care service plan  
5 contract issued, sold, renewed, or offered for health care services  
6 or coverage provided in the Medi-Cal program (Chapter 7  
7 (commencing with Section 14000) of Part 3 of Division 9 of the  
8 Welfare and Institutions Code) or to a specialized health care  
9 service plan contract that covers only vision or dental benefits.

10 (f) For purposes of this section, the following definitions apply:

11 (1) “ASAM Criteria” means the national set of criteria for  
12 providing outcome-oriented and results-based care in treating  
13 addiction, and includes a comprehensive set of guidelines for  
14 placement, continued stay, and transfer and discharge of patients  
15 with addiction and cooccurring conditions, as published by the  
16 American Society of Addiction Medicine.

17 (2) “Pharmacy benefit manager” has the same meaning as  
18 defined in Section 1385.001.

19 (3) “Prior authorization” means the process by which a health  
20 care service plan or pharmacy benefit manager determines the  
21 medical necessity of otherwise covered health care services before  
22 those services are rendered. “Prior authorization” includes any  
23 requirement of a health care service plan, or of any entities with  
24 which the plan contracts for services that include utilization review  
25 or utilization management functions, that an enrollee or health care  
26 provider notify the health care service plan or contracting entity  
27 before those services are provided.

28 (4) “Step therapy” means a type of protocol that specifies the  
29 sequence in which different prescription drugs for a medical  
30 condition and medically appropriate for a particular enrollee are  
31 to be prescribed.

32 SEC. 2. Section 10123.204 is added to the Insurance Code, to  
33 read:

34 10123.204. (a) Notwithstanding any other law, a health  
35 insurance policy issued, amended, or renewed on or after January  
36 1, 2022, that provides outpatient prescription drug benefits shall  
37 do both of the following:

38 (1) Cover, under applicable pharmacy and medical benefits, all  
39 medically necessary prescription drugs approved by the United  
40 States Food and Drug Administration (FDA) for treating substance

1 use disorders that are appropriate for the specific needs of an  
2 insured.

3 (2) Place all outpatient prescription drugs approved by the FDA  
4 for treating substance use disorders on the lowest cost-sharing tier  
5 of the drug formulary developed and maintained by the health  
6 insurer or the health insurer's pharmacy benefit manager, except  
7 as authorized in subdivision (c).

8 (b) Except as authorized in subdivision (c), a health insurance  
9 policy issued, amended, or renewed on or after January 1, 2022,  
10 shall not impose any of the following:

11 (1) Prior authorization requirements on a prescription drug  
12 approved by the FDA for treating substance use disorders, or on  
13 any behavioral, cognitive, or mental health services prescribed in  
14 conjunction with or supplementary to that drug for the purpose of  
15 treating a substance use disorder.

16 (2) A requirement that the insured receives treatment at an  
17 outpatient facility that exceeds allowable time and distance  
18 standards for network adequacy.

19 (3) A limit on the number of visits, days of coverage, scope or  
20 duration of treatment, or other similar limitations on coverage of  
21 prescription drugs and benefits for treating substance use disorders.

22 (4) An exclusion or limitation on coverage of prescription drugs  
23 and benefits for treating substance use disorders based on an  
24 insured's prior success or failure with substance use disorder  
25 treatment.

26 (5) Step therapy requirements on a prescription drug approved  
27 by the FDA for treating substance use disorders.

28 (6) A requirement that the insured receives concurrent  
29 behavioral, cognitive, mental health, or other services as a condition  
30 of coverage for a prescription drug approved by the FDA for  
31 treating substance use disorders.

32 (7) An exclusion of coverage for a prescription drug approved  
33 by the FDA for treating substance use disorders and any associated  
34 counseling or wraparound services on the grounds that substance  
35 use disorder treatment was court ordered if the drugs and services  
36 were determined to be medically necessary, prescribed by a  
37 licensed health care provider, and provided in a community setting.

38 (c) If the FDA has approved one or more therapeutic equivalents  
39 of a prescription drug for treating substance use disorders, a health

1 insurance policy issued, amended, or renewed on or after January  
2 1, 2022, may do both of the following:

3 (1) Place a therapeutic equivalent of the drug on any tier of a  
4 drug formulary if at least one therapeutic equivalent of the drug  
5 is covered on the lowest cost-sharing tier of the drug formulary.

6 (2) Require prior authorization or step therapy for a therapeutic  
7 equivalent of the drug if at least one therapeutic equivalent of the  
8 drug is covered without prior authorization or step therapy.

9 (d) A health insurer shall disclose which providers in each  
10 network provide prescription drugs approved by the FDA for  
11 treating substance use disorders and the level of care that those  
12 providers render pursuant to the current edition of the ASAM  
13 Criteria. The disclosure shall be made in a prominent location in  
14 the online and printed provider directories.

15 (e) This section does not apply to a specialized health insurance  
16 policy that covers only vision or dental benefits or a Medicare  
17 supplement policy.

18 (f) For purposes of this section, the following definitions apply:

19 (1) “ASAM Criteria” means the national set of criteria for  
20 providing outcome-oriented and results-based care in treating  
21 addiction, and includes a comprehensive set of guidelines for  
22 placement, continued stay, and transfer and discharge of patients  
23 with addiction and cooccurring conditions, as published by the  
24 American Society of Addiction Medicine.

25 (2) “Pharmacy benefit manager” means a person, business, or  
26 other entity that, pursuant to a contract with a health insurer,  
27 manages the prescription drug coverage provided by the health  
28 insurer, including the processing and payment of claims for  
29 prescription drugs, the performance of drug utilization review, the  
30 processing of drug prior authorization requests, the adjudication  
31 of appeals or grievances related to prescription drug coverage,  
32 contracting with network pharmacies, and controlling the cost of  
33 covered prescription drugs.

34 (3) “Prior authorization” means the process by which a health  
35 insurer or pharmacy benefit manager determines the medical  
36 necessity of otherwise covered health care services before those  
37 services are rendered. “Prior authorization” includes any  
38 requirement of a health insurer, or of any entities with which the  
39 insurer contracts for services that include utilization review or  
40 utilization management functions, that an insured or health care

1 provider notify the health insurer or contracting entity before those  
2 services are provided.

3 (4) “Step therapy” has the same meaning as defined in Section  
4 10123.201.

5 SEC. 3. No reimbursement is required by this act pursuant to  
6 Section 6 of Article XIII B of the California Constitution because  
7 the only costs that may be incurred by a local agency or school  
8 district will be incurred because this act creates a new crime or  
9 infraction, eliminates a crime or infraction, or changes the penalty  
10 for a crime or infraction, within the meaning of Section 17556 of  
11 the Government Code, or changes the definition of a crime within  
12 the meaning of Section 6 of Article XIII B of the California  
13 Constitution.

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