

## **SB 363 (Wiener): Health Plan Transparency of Denials, Delays and Modifications**

**Problem:** Health plans are denying lifesaving care to members. In 2021, Monica\*, a female patient between 11 and 20 years old, was denied treatment authorization for admission to a Residential Treatment Center (RTC) by her health plan. The RTC program would have addressed her suicidal ideation, depression, and substance abuse issues. Monica reported a total of 16 suicide attempts, beginning in the 8th grade, and destructive behaviors like stealing, compulsiveness, poor hygiene, and alcohol and substance use. Monica’s mother sought help for her daughter, only to be told the RTC program wasn’t “medically necessary.” She then contacted the health plan to explain why her daughter desperately needed the treatment, but the health plan upheld its decision. Finally, Monica’s mother contacted the Department of Managed Health Care (DMHC) where an Independent Medical Review (IMR) case was opened. Thanks to Monica’s mother’s persistence and the IMR process, the health plan’s decision was overturned, the plan was forced to provide coverage for Monica, and she was able to get the care she needed. **Unfortunately, there is no way to know how many people experience similar denials and modifications of care made by commercial health plans. This has made it difficult to identify how many families are struggling to access care.**

**Complaint Process:** When a health plan denies, delays or modifies care, enrollees may first appeal the decision with their

insurance company. If the decision is upheld, they can then file a case with the statewide Independent Medical Review (IMR) process. Under the IMR process, independent providers who are not affiliated with the health plan then review the case and determine whether the service should be provided. Health plans must abide by the outcome of the IMR determination, which is either to uphold or overturn the original denial.

The current complaint process places the burden on the consumer and delays or prevents people in California from accessing critical, timely health care. Language barriers, health literacy, and demanding jobs may prevent some enrollees from appealing a decision and filing an IMR, furthering health access inequities.

### **Accountability through Reporting and Fees:**

Generally speaking, the State enforces accountability of health plans through reporting and fees. According to the [DMHC Annual Report](#), approximately 72% of health plan members who submitted IMR requests in 2023 received the services and care they requested, indicating that health plans are denying care that should ultimately be provided. For some demographics and diagnoses, the IMR overturn rate is even higher. For example, in 2020, 82% of health plan denials for youth mental health care were overturned by IMR. **However, because health plans are NOT required to report what care they deny or modify, there is**

\*The names of patients aren’t known; Children Now has named this child for story-telling purposes.  
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**very little information about the scale on which health plans may be denying care.**

Similarly, there are a [number of other violations](#) for which health plans may be fined by DMHC including not meeting timely access to care standards, inadequate communication with enrollees, using surprise billing practices, and more. In 2023, over 90 cases were closed with a penalty, and over \$53 million in fines were assessed against health plans. There are currently no fines, however, for the practice of consistently and systematically denying care that is later overturned by the IMR process.

**Solution:** There is an urgent need for accountability and transparency in the commercial health plan landscape with respect to denials of necessary, life-saving care. SB 363 will:

**1) Require the reporting of health plan denials and modifications of provider recommended care** (e.g. shortening of a treatment stay or change in medication). The reports of these denials should be split into designated categories (surgical, medical, and behavioral), should be disaggregated for children and youth by age and should be included in the DMHC Annual Report;

**2) Assess fines on health plans with significant rates of overturned IMRs.** If the majority of IMRs filed by a health plan's enrollees in any given category are overturned, then the health plan would be fined by DMHC. Health plans would also be fined for failing to report a denial. This will

increase transparency, improve the health of Californians, and reduce downstream workload for DMHC as plans self-correct.

**Support:** SB 363 is sponsored by Children Now and the California Academy of Child and Adolescent Psychiatry (CALACAP).