

Health Insurance Benefit Mandates in California State Law

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This document has been prepared by the California Health Benefits Review Program (CHBRP). CHBRP responds to requests from the California Legislature to provide independent analysis of the medical, financial, and public health impacts of proposed health insurance benefit mandates and repeals. Annual updates of this [list](#) of health insurance benefit mandates current in California¹, as well as additional information about CHBRP, can be found at www.chbrp.org.

Purpose of this list: This list is intended to alert interested parties of existing state legislation that may relate to the subject or purpose of a health insurance benefit mandate or repeal bill.

Benefit Mandates listed: Listed in Table 1 are “health insurance benefit mandates,” as defined by CHBRP’s [authorizing statute](#)². The listed mandates fall into “categories of mandates” that (a) affect coverage for the screening, diagnosis, or treatment of specific diseases or conditions; (b) affect coverage for types of health care treatments or services, including coverage of medical equipment, supplies, or drugs used in a treatment or service; (c) affect coverage permitting treatment or services from a specific type of health care provider. The list also includes mandates that (d) specify terms (limits, timeframes, co-payments, deductibles, co-insurance, etc.) for any of the other categories.

Information included for listed mandates: Table 1 identifies relevant statutes and specifies whether the law mandates *coverage* for the benefit or mandates *an offer* of coverage for the benefit. The table also identifies which health insurance markets (group and/or individual) are subject to the mandate. Explanations of these terms are provided in Appendix A.

Other important information:

- Not all health insurance is subject to state-level health insurance benefit mandate law. CHBRP annually posts [estimates](#)³ of Californians’ sources of health insurance, including figures for the numbers of Californians with health insurance subject to state-level benefit mandates.

¹ Available at www.chbrp.org/documents/ca_mandates_updated.pdf

² Available at www.chbrp.org/documents/authorizing_statute.pdf

³ Available at www.chbrp.org/documents/insur_source_est_2011.pdf

- California has a bifurcated legal and regulatory system for health insurance products. The Department of Managed Health Care (DMHC) regulates health care service plan contracts, which are subject to the Health & Safety Code. The California Department of Insurance (CDI) regulates health insurance policies, which are subject to the California Insurance Code. DMHC-regulated plan contracts and CDI-regulated policies may be subject to state-level benefit mandate laws, depending upon the exact wording of the law.
- Federal benefit mandate laws may interact or overlap with state benefit mandate laws. Some relevant federal laws are noted in the footnotes for Table 1.
- DMHC-regulated health plans are subject to “minimum benefit” laws and regulations, which may interact or overlap with state benefit mandate laws. The Basic Health Care Services requirement for DMHC-regulated Health Plans is noted in Table 1 and further explained in Appendix B.
- Although CHBRP assesses the impacts of bills, not existing laws, CHBRP’s analysis of Assembly Bill 1214 (2007)⁴ required a review of mandate laws current at that time. That report and all other CHBRP analyses may be found at www.chbrp.org/analyses.html.

⁴ Available at www.chbrp.org/docs/index.php?action=read&bill_id=56&doc_type=3

TABLE 1 – California Health Insurance Benefit Mandates (by Topic)

#	Topic	Health & Safety Code (DMHC)	California Insurance Code (CDI)	Mandate to Cover or Mandate to Offer	Markets Subject to the Mandate	Mandate Category
DMHC-Regulated Health Care Service Plan “Minimum Benefits”						
0	Health Plans regulated by the Department of Managed Care (DMHC) are required to cover medically necessary basic health care services, including: (1) Physician services; (2) Hospital inpatient services and ambulatory care services; (3) Diagnostic laboratory and diagnostic and therapeutic radiologic services; (4) Home health services; (5) Preventive health services; (6) Emergency health care services, including ambulance and ambulance transport services, out-of-area coverage and ambulance transport services provided through the "911" emergency response system; (7) Hospice care. See Appendix B for further details.	Multiple Sections – See Appendix B	N/A ⁵	Coverage	Group and Individual	<i>Not a distinct mandate</i>
Cancer Benefit Mandates						
1	Breast cancer testing and treatment	1367.6	10123.8	Coverage	N/S ⁶	a
2	Cancer screening tests	1367.665	10123.20	Coverage	Group and Individual	b
3	Cervical cancer screening	1367.66	10123.18	Coverage	Group and Individual	a
4	Mammography	1367.65	10123.81	Coverage	N/S	a
5	Mastectomy and lymph node dissection – length of stay	1367.635	10123.86	Coverage	N/S	d
6	Patient care related to clinical trials for cancer	1370.6	10145.4	Coverage	N/S	d
7	Prostate cancer screening	1367.64	10123.835	Coverage	Group and Individual	a
Chronic Conditions Benefit Mandates						
8	Diabetes management and treatment	1367.51	10176.61	Coverage	N/S	a
9	HIV/AIDS, AIDS vaccine	1367.45	10145.2	Coverage	Group and Individual (DMHC), N/S (CDI)	a
10	HIV/AIDS, HIV Testing	1367.46	10123.91	Coverage	Group and Individual	a
11	HIV/AIDS, Transplantation services for persons with HIV	1374.17	10123.21(a)	Coverage	N/S	d
12	Osteoporosis	1367.67	10123.185	Coverage	N/S	a

⁵ N/A indicates that mandate does not apply to products governed under that code.

⁶ An N/S indicates that the language of the law does not specify which market is affected.

#	Topic	Health & Safety Code (DMHC)	California Insurance Code (CDI)	Mandate to Cover or Mandate to Offer	Markets Subject to the Mandate	Mandate Category
13	Phenylketonuria	1374.56	10123.89	Coverage	N/S	a
Hospice & Home Health Care Benefit Mandates						
14	Home health care	N/A	10123.10	Offer	Group	b
15	Hospice care	1368.2	N/A	Coverage	Group	b
16	Dementing illness exclusion prohibition	1373.14	10123.16	Coverage	Group and Individual	d
Mental Health Benefit Mandates						
17	Alcohol and drug exclusion prohibition	N/A	10369.12	Coverage	Group	d
18	Alcoholism treatment	1367.2(a)	10123.6	Offer	Group	a
19	Coverage and premiums for persons with physical or mental impairment	1367.8	10122.1	Coverage	Group and Individual (DMHC), Group (CDI)	d
20	Coverage for mental and nervous disorders	N/A	10125	Offer	Group	a
21	Nicotine or chemical dependency treatment in licensed alcoholism or chemical dependency facilities	1367.2(b)	10123.6	Coverage	Group	b
22	Coverage for severe mental illnesses (in parity with coverage for other medical conditions) ⁷	1374.72	10123.15 (10144.5)	Coverage	N/S	a
23	Behavioral health treatment for autism and related disorders	1374.73	10144.51 10144.52	Coverage	N/S	b
Orthotics & Prosthetics Benefit Mandates						
24	Orthotic and prosthetic devices and services	1367.18	10123.7	Offer	Group	b
25	Prosthetic devices for laryngectomy	1367.61	10123.82	Coverage	N/S	b
26	Special footwear for persons suffering from foot disfigurement	1367.19	10123.141	Offer	Group	b
Pain Management Benefit Mandates						
27	Acupuncture	N/A	10127.3	Offer	Group	c
28	General anesthesia for dental procedures	1367.71	10119.9	Coverage	N/S	b
29	Pain management medication for terminally ill	1367.215	N/A	Coverage	N/S	b
Pediatric Care Benefit Mandates						
30	Asthma management	1367.06	N/A	Coverage	N/S	a
31	Comprehensive preventive care for children aged 16 years or younger	1367.35	10123.5	Coverage	Group	b

⁷ In addition to these state-level benefit mandates, the federal Mental Health Parity and Addition Equity Act of 2008 requires that if a group plan or policy covers mental health, it must do so at parity with coverage for medical and surgical benefits.

#	Topic	Health & Safety Code (DMHC)	California Insurance Code (CDI)	Mandate to Cover or Mandate to Offer	Markets Subject to the Mandate	Mandate Category
32	Comprehensive preventive care for children aged 17 or 18 years	1367.3	10123.55	Offer	Group	b
33	Coverage for the effects of diethylstilbestrol	1367.9	10119.7	Coverage	N/S	a
34	Screening children for blood lead levels	1367.3(b) (2)(d)	10119.8	Offer	Group (DMHC), Group and Individual (CDI)	b
Provider Reimbursement Mandates						
35	Emergency 911 transportation ⁸	1371.5	10126.6	Coverage	N/S	d
36	Medical transportation services – direct reimbursement	1367.11	10126.6	Coverage	N/S	d
37	OB-GYNs as primary care providers ⁹	1367.69	10123.83	Coverage	N/S	d
38	Pharmacists -- compensation for services within their scope of practice	1368.5	N/A	Coverage	N/S	c
Reproduction Benefit Mandates						
39	Contraceptive devices requiring a prescription	1367.25	10123.196	Coverage	Group and Individual	b
40	Participation in the statewide prenatal testing Expanded Alpha Feto Protein (AFP) program	1367.54	10123.184	Coverage	Group and Individual	b
41	Infertility treatments	1374.55	10119.6	Offer	Group	a
42	Maternity – minimum length of stay ¹⁰	1367.62	10123.87	Coverage	N/S (DMHC), Group and Individual (CDI)	d
43	Maternity – amount of copayment or deductible for inpatient services	1373.4	10119.5	Coverage	N/S	d
44	Prenatal diagnosis of genetic disorders	1367.7	10123.9	Offer	Group	b
45	Maternity services	N/A	10123.865 10123.866	Coverage	Group and Individual	b
Sterilization						
46	Sterilization rationale exclusion prohibition	1373 (b)	10120	Coverage	N/S	d
Surgery Benefit Mandates						

⁸ The federal Affordable Care Act (ACA) of 2010 (Section 2719A) imposes a related requirement regarding coverage and cost-sharing for emergency services. Grandfathered health plans (ACA Section 1251) are not subject to this requirement.

⁹ The federal Affordable Care Act (ACA) of 2010 (Section 2719A) imposes a similar requirement prohibiting prior authorization for access to OB-GYNs. Grandfathered health plans (ACA Section 1251) are not subject to this requirement.

¹⁰ The federal Newborns' and Mothers' Health Protection Act of 1996 requires coverage for a minimum length of stay in a hospital after delivery *if* the plan covers maternity services.

#	Topic	Health & Safety Code (DMHC)	California Insurance Code (CDI)	Mandate to Cover or Mandate to Offer	Markets Subject to the Mandate	Mandate Category
47	Jawbone or associated bone joints	1367.68	10123.21	Coverage	N/S (DMHC), Group and Individual (CDI)	a
48	Reconstructive surgery ¹¹	1367.63	10123.88	Coverage	N/S	b
Terms & Conditions of Coverage Benefit Mandates						
49	Authorization for nonformulary prescription drugs	1367.24	N/A	Coverage	N/S	d
50	Blindness or partial blindness	1367.4	N/A	Coverage	Group and Individual	d
51	Prescription drugs: coverage for previously prescribed drugs	1367.22	N/A	Coverage	N/S	d
52	Prescription drugs: coverage of "off-label" use	1367.21	10123.195	Coverage	N/S (DMHC), Group and Individual (CDI)	d
53	Preventive services coverage without cost-sharing	1367.002	10112.2	Coverage	Group and Individual	d

¹¹ The federal Women's Health and Cancer Rights Act of 1998 requires coverage for post-mastectomy reconstructive surgery.

APPENDIX A: Terms and Categories for Table 1

Code – A health insurance benefit mandate is a law requiring health insurance products (plans and policies) to provide, or in specified cases simply to offer, coverage for specified benefits or services. Because California has a bifurcated regulatory system for health insurance products, a benefit mandate law may appear in either of two codes or in both:

- Health & Safety Code: The California Department of Managed Health Care (DMHC) regulates and licenses health care services plans as per the [California Health and Safety Code](#)¹².
- Insurance Code: The California Department of Insurance (CDI) licenses disability insurance carriers and regulates disability insurance, which includes health insurance policies, per the [California Insurance Code](#)¹³.

Mandated Coverage or Mandated Offer of Coverage – In the language of either code section, the law may mandate coverage of benefits or may mandate that coverage for the benefits be offered.

- “Mandate to cover” means that all health insurance subject to the law must cover the benefit.
“Mandate to offer” means all health care service plans and health insurers selling health insurance subject to the mandate are required to offer coverage for the benefit for purchase. The health plan or insurer may comply with the mandate either (1) by including the benefit as standard in its health insurance products or (2) by offering coverage for the benefit separately at an additional cost (e.g. a rider).

Markets Subject to the Mandate – In the language of either code section, the law may (or may not) specify which market or markets are subject to the mandate.

- The “group” market includes health insurance products issued to employers (or other entities) to provide coverage for employees (or other persons) and/or their dependents.
- The “individual” market includes health insurance products issued to an individual to provide coverage for a person and/or his/her dependants.

Mandate Category – As per CHBRP’s [authorizing statute](#), the listed mandates fall into one or more types. A particular mandate law can require that subject health insurance do one or more of the following:

- a. Offer or provide coverage for the screening, diagnosis, or treatment of a particular disease or condition. An example would be a mandate that requires coverage for all health care services related to the screening and treatment of breast cancer.
- b. Offer or provide coverage of a particular type of health care treatment or service, or of medical equipment, medical supplies, or drugs used in connection with a health care treatment or service. An example would be a mandate to cover reconstructive surgery.
- c. Offer or provide coverage for services from a specified type of health provider that fall within the provider’s scope of practice. An example would be a mandate that requires coverage for services provided by a licensed acupuncturist.
- d. Offer or provide any of the forms of coverage listed above per specific terms and conditions. For example, the mental health parity law requires coverage for serious mental health conditions to be *on par* with other medical conditions, so that mental health benefits and other benefits are subject to the same co-payments, limits, etc.

¹² Available at www.leginfo.ca.gov/cgi-bin/calawquery?codesection=hsc&codebody=&hits=20

¹³ Available at www.leginfo.ca.gov/cgi-bin/calawquery?codesection=ins&codebody=&hits=20

APPENDIX B: Basic Health Care Services for DMHC-Regulated Health Care Service Plans*

The California Department of Managed Health Care (DMHC) regulates health care service plans, which are subject to the California Health & Safety Code. The Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act) requires all health care service plans, except specialized health care service plans, to provide coverage for all medically necessary basic health care services.

This requirement is based on several sections of the Knox-Keene Act rather than one straightforward provision, and so is not technically a Health Insurance Benefit Mandate. Specifically, subdivision (b) of Section 1345 defines the term "basic health care services" to mean all of the following: (1) Physician services, including consultation and referral; (2) Hospital inpatient services and ambulatory care services; (3) Diagnostic laboratory and diagnostic and therapeutic radiologic services; (4) Home health services; (5) Preventive health services; (6) Emergency health care services, including ambulance and ambulance transport services and out-of-area coverage and ambulance transport services provided through the "911" emergency response system; (7) Hospice care pursuant to Section 1368.2. "Basic health care services" are also further defined in Section 1300.67 of the California Code of Regulations.

In addition, subdivision (i) of Section 1367 of the Health and Safety Code provides the following: (i) A health care service plan contract shall provide to subscribers and enrollees all of the basic health care services included in subdivision (b) of Section 1345, except that the director may, for good cause, by rule or order exempt a plan contract or any class of plan contracts from that requirement. The director shall by rule define the scope of each basic health care service that health care service plans are required to provide as a minimum for licensure under this chapter. Nothing in this chapter shall prohibit a health care service plan from charging subscribers or enrollees a copayment or a deductible for a basic health care service or from setting forth, by contract, limitations on maximum coverage of basic health care services, provided that the copayments, deductibles, or limitations are reported to, and held unobjectionable by, the director and set forth to the subscriber or enrollee pursuant to the disclosure provisions of Section 1363.

Although the Act does not explicitly state that "basic health care services" means all "medically necessary" basic health care services, there are numerous provisions within the act that reference "medical necessity" and that place requirements on plans in terms of what they must do when denying, delaying or modifying coverage based on a decision for medical necessity (Section 1367.01). In addition, Section 1300.67 of Title 28 of the California Code of Regulation, which further defines "basic health care services" does further clarify that "the basic health care services required to be provided by a health care service plan to its enrollees shall include, where medically necessary, subject to any co-payment, deductible, or limitation of which the Director may approve..."

The entire Knox-Keene Act and the applicable regulations can be accessed online on the DMHC's website at www.dmhc.ca.gov.

* The text in this appendix was adapted from a document prepared by a representative of the Department of Managed Health Care (S. Lowenstein).

APPENDIX C – California Mandates (by Health & Safety Code Section)

The following table is presented to allow easy comparison with other lists of mandates.

#	Health & Safety Code (DMHC)	California Insurance Code (CDI)
14	N/A ⁸	10123.10
17	N/A	10369.12
20	N/A	10125
27	N/A	10127.3
45	N/A	10123.865 10123.866
53	1367.002	10112.2
30	1367.06	N/A
36	1367.11	10126.6
24	1367.18	10123.7
26	1367.19	10123.141
18	1367.2(a)	10123.6
21	1367.2(b)	10123.6
52	1367.21	10123.195
29	1367.215	N/A
51	1367.22	N/A
49	1367.24	N/A
39	1367.25	10123.196
32	1367.3	10123.55
34	1367.3(b) (2)(d)	10119.8
31	1367.35	10123.5
50	1367.4	N/A
9	1367.45	10145.2
10	1367.46	10123.91
8	1367.51	10176.61
40	1367.54	10123.184
1	1367.6	10123.8
25	1367.61	10123.82

#	Health & Safety Code (DMHC)	California Insurance Code (CDI)
42	1367.62	10123.87
48	1367.63	10123.88
5	1367.635	10123.86
7	1367.64	10123.835
4	1367.65	10123.81
3	1367.66	10123.18
2	1367.665	10123.20
12	1367.67	10123.185
47	1367.68	10123.21
37	1367.69	10123.83
44	1367.7	10123.9
28	1367.71	10119.9
19	1367.8	10122.1
33	1367.9	10119.7
15	1368.2	N/A
38	1368.5	N/A
6	1370.6	10145.4
35	1371.5	10126.6
46	1373 (b)	10120
16	1373.14	10123.16
43	1373.4	10119.5
11	1374.17	10123.21(a)
41	1374.55	10119.6
13	1374.56	10123.89
22	1374.72	10123.15 (10144.5)
23	1374.73	10144.51 10144.52

⁸ An N/A in either the Health & Safety Code column or the California Insurance Code column indicates that a mandate does not apply to products covered under that code.

APPENDIX D – California Mandates (by Insurance Code Section)

The following table is presented to allow easy comparison with other lists of mandates.

#	Health & Safety Code (DMHC)	California Insurance Code (CDI)
15	1368.2	N/A ⁹
29	1367.215	N/A
30	1367.06	N/A
38	1368.5	N/A
49	1367.24	N/A
50	1367.4	N/A
51	1367.22	N/A
53	1367.002	10112.2
43	1373.4	10119.5
41	1374.55	10119.6
33	1367.9	10119.7
34	1367.3(b) (2)(d)	10119.8
28	1367.71	10119.9
46	1373 (b)	10120
19	1367.8	10122.1
14	N/A	10123.10
26	1367.19	10123.141
22	1374.72	10123.15 (10144.5)
16	1373.14	10123.16
3	1367.66	10123.18
40	1367.54	10123.184
12	1367.67	10123.185
52	1367.21	10123.195
39	1367.25	10123.196
2	1367.665	10123.20
11	1374.17	10123.21(a)
47	1367.68	10123.21

#	Health & Safety Code (DMHC)	California Insurance Code (CDI)
31	1367.35	10123.5
32	1367.3	10123.55
18	1367.2(a)	10123.6
21	1367.2(b)	10123.6
24	1367.18	10123.7
1	1367.6	10123.8
4	1367.65	10123.81
25	1367.61	10123.82
37	1367.69	10123.83
7	1367.64	10123.835
5	1367.635	10123.86
45	N/A	10123.865 10123.866
42	1367.62	10123.87
48	1367.63	10123.88
13	1374.56	10123.89
44	1367.7	10123.9
10	1367.46	10123.91
20	N/A	10125
35	1371.5	10126.6
36	1367.11	10126.6
27	N/A	10127.3
23	1374.73	10144.51 10144.52
9	1367.45	10145.2
6	1370.6	10145.4
8	1367.51	10176.61
17	N/A	10369.12

⁹ An N/A in either the Health & Safety Code column or the California Insurance Code column indicates that a mandate does not apply to products covered under that code.