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Informational Hearing
Assembly Health Committee
Kaiser Permanente’s Behavioral Health Care System
Tuesday, May 6, 2025 — 1:30 p.m.
1021 O Street, Room 1100

INTRODUCTION

Kaiser is the largest health plan in California with 9.4 million members across the state. Kaiser operates under an integrated care model, meaning their members primarily receive care at Kaiser Foundation Hospitals and through providers with two exclusively contracted medical groups, The Permanente Medical Group and Southern California Permanente Medical Group. Collectively the health plan, hospitals, and medical groups are referred to as “Kaiser Permanente.”

The Department of Managed Health Care (DMHC) is charged with enforcing behavioral health (BH) laws, including mental health (MH) parity and timely access laws. Since 2011, DMHC has conducted various investigations and surveys of Kaiser’s delivery of BH care, resulting in citations, fines, and settlements. In 2023, DMHC and Kaiser entered into a settlement to address 20 identified deficiencies in Kaiser’s provision of BH care, which included a record \$50 million fine and a \$150 million commitment by Kaiser to invest in programs that improve BH services for all Californians.

BACKGROUND

MH Parity. Federal MH Parity laws require if a health plan includes services for MH and substance use disorders (SUDs) as part of their benefits that those services must be covered under the same terms and conditions as other medical services. The Patient Protection and Affordable Care Act (ACA) established essential health benefits, which are ten categories of services that plans are required to cover: (1) ambulatory patient services (outpatient care); (2) emergency services; (3) hospitalization; (4) maternity and newborn care; (5) MH and SUD services, including BH treatment; (6) prescription drugs; (7) rehabilitative and habilitative services and devices; (8) laboratory services; (9) preventive and wellness services and chronic disease management; and, (10) pediatric services, including dental and vision care. The ACA strengthened previous federal law by mandating coverage instead of requiring parity only if coverage is provided.

SB 855 (Wiener), Chapter 151, Statutes of 2020, requires commercial health plans and insurers in California to provide full coverage for the treatment of all MH conditions and SUDs. SB 855

also establishes specific standards for what constitutes medically necessary treatment and criteria for the use of clinical guidelines. SB 855 applies to all state-regulated health plans and insurers that provide hospital, medical, or surgical coverage, and to any entity acting on the plan or insurer's behalf. A health plan cannot limit benefits or coverage for MH or SUD treatments or services when medically necessary.

Timely access laws. SB 221 (Wiener) Chapter 724, Statutes of 2021, codified DMHC regulations requiring health plans to meet a set of standards, including specific time frames under which enrollees must be able to access care. These requirements provide health plan members the right to BH appointments within the following time frames:

- a) Urgent care without prior authorization: **within 48 hours**;
- b) Urgent care with prior authorization: **within 96 hours**;
- c) Non-urgent psychiatrist appointments **within 15 business days**, and non-physician MH or SUD providers **within 10 business days**; and,
- d) Non-urgent follow-up appointments with a non-physician MH care or SUD provider **within 10 business days** of the prior appointment for those undergoing a course of treatment for an ongoing MH or SUD condition.

History of BH complaints against Kaiser. DMHC enforces BH laws, including MH parity and timely access laws. The National Union of Healthcare Workers (NUHW) provided the committee a timeline of complaints that NUHW has filed with DMHC, surveys and investigations that DMHC has conducted, and settlement agreements that DMHC has reached regarding Kaiser's delivery of BH services. In November of 2011, NUHW therapists filed a complaint against Kaiser to DMHC, including a 34-page analysis of problems affecting Kaiser's BH services. Since 2011, DMHC has conducted various investigations and surveys of Kaiser, resulting in citations, fines, and settlements.

In March of 2013, DMHC released a final report of a routine survey of Kaiser that began in 2012. That report notes that Kaiser had not corrected any of the four identified deficiencies related to enrollee MH appointment timeframes and continuity of care, and DMHC fined Kaiser \$4 million in June 2013. Nearly two years later in February 2015, DMHC released a follow up survey report stating that two of the four deficiencies identified in March of 2013 remained uncorrected. The report specifically stated "The Plan's Quality Assurance Program does not ensure that effective action is taken to improve care where deficiencies are identified in service elements, including accessibility, availability, and continuity of care," and "The Plan does not provide accurate and understandable effective BH education services, including information regarding the availability and optimal use of MH care services provided by the Plan or health care organizations affiliated with the Plan."

A similar pattern of routine surveys, identified deficiencies, and a follow up report noting deficiencies had not been resolved repeated from 2015-2017, culminating in the announcement of a settlement agreement in July 2017. Kaiser agreed to implement a corrective action plan to address and correct the identified BH program deficiencies. The corrective action plan focused on several areas, including improved documentation of quality improvement efforts for access

compliance, improved monitoring of follow-up appointment access and adherence to enrollees' treatment plans uniformly applied across both regions, and improved integration of external contracted provider access data and oversight.

In May of 2022, DMHC announced that it was initiating a non-routine survey of Kaiser after receiving complaints from enrollees, providers, and other stakeholders concerning Kaiser's MH and SUD operations. Key issues included Kaiser's internal and external provider network, timely access to care, process for intake and follow-up appointments, appointment scheduling processes, levels of care and associated decision-making processes, medical record documentation and retention practices, and monitoring of urgent appointments. In August of 2022, DMHC launched an additional targeted enforcement investigation against Kaiser after receiving complaints that Kaiser was failing to schedule MH appointments within the timely access standards set forth by state law.

Settlement Agreement (SA). In October of 2023, DMHC and Kaiser announced a \$200 million settlement for both the enforcement investigation and non-routine survey. Collectively, the investigation and survey identified several violations and 20 deficiencies across Kaiser's plans. The settlement included \$50 million in fines, a \$150 million commitment to invest in programs that improve BH services for all Californians beyond Kaiser's existing obligations, and a requirement that Kaiser take corrective action to address deficiencies in their delivery and oversight of BH care to their members.

The SA notes, in summary, while Kaiser was "managing unprecedented statewide need for BH services exacerbated by the pandemic and the NUHW strike, DMHC's investigation identified deficiencies in Kaiser's provision of BH care services, many of which have been ongoing." The SA identified areas of concern with corresponding corrective action areas. The SA requires Kaiser to retain a consulting team to develop a corrective action work plan to identify corrective actions, performance measures, reporting provisions, timelines, deadlines, deliverables, benchmarks, and expected outcomes. The consulting team must also provide DMHC with status updates and progress review reports of the activities performed and outcomes pursuant to the SA on a quarterly basis, and they must meet with Kaiser and DMHC on a quarterly basis to provide progress updates. The first quarterly meeting took place in April 2025.

The \$150 million investment commitment mentioned above must include workforce development programs; partnerships with schools, universities, and other local partners to expand community MH training programs; programs to reduce MH/SUD stigma; prevention and early intervention programs for school aged children and families; programs designed to reduce depression and anxiety in California youth; community training pathways for peers and para-professionals; and supporting community based organizations providing MH and SUD care for high risk and high acuity community members.

The SA notes that, despite several past agreements and corrective actions, including the 2017 agreement, Kaiser has been unable to consistently maintain compliance with quality assurance requirements. The SA also acknowledges that Kaiser lacks sufficient BH providers in its medical groups and in its contracted provider network. Further, the SA says that the lack of clinical staff resulted in excessive wait times for enrollee individual therapy appointments and may have contributed to an overreliance on group therapy. Regarding group therapy, the SA states that

enrollees have expressed discomfort with receiving treatment primarily in a group setting and a review of medical records indicated that many enrollees chose not to engage in group therapy and were not offered alternative treatments or more frequent individual therapy.

State law requires health plans to promptly reschedule an appointment in a manner appropriate for an enrollee's health needs, when necessary. The SA notes that during the 2022 NUHW strike in Northern California, Kaiser cancelled 111,803 behavioral health appointments affecting 63,808 enrollees, and appointments for nearly 30,000 enrollees who had appointment cancellations initiated by Kaiser were not rescheduled internally within 10 days. The SA further notes, however, there were multiple appointments not reflected in Kaiser's appointment documentation, which cast doubts on the accuracy of Kaiser's calculations and appointment tracking system.

Corrective Action Work Plan. The SA stipulated that Kaiser would hire consultants to develop a corrective action work plan to address the eight corrective action areas outlined in the agreement. On August 15, 2024 Kaiser submitted their initial corrective action work plan to DMHC. An updated version was released on March 12, 2025. The eight corrective action areas include:

- a) Area 1: Oversight;
- b) Area 2: Access;
- c) Area 3: Network and Referrals;
- d) Area 4: Grievance and Appeals;
- e) Area 5: Future Strike Contingency;
- f) Area 6: MH Parity;
- g) Area 7: Member Communications; and,
- h) Area 8: Continuous Improvement and Comprehensive Review.

The corrective action work plan included a detailed timeline of the key milestones and actions that Kaiser is committed to complete. That timeline is included at the end of this paper and the areas listed in a) through h) above correspond to the areas on the timeline.

Ongoing strike. Kaiser is the largest private employer in the state, with over 181,000 employees, including 130,500 union members. NUHW represents a range of Kaiser BH employees in both Northern and Southern California. In October 2024, nearly 2,400 NUHW BH workers for Kaiser in Southern California authorized a strike. There was a break in negotiations from late-October 2024 before resuming in January 2025. Following a request from the Governor in February 2025, Kaiser and NUHW agreed to enter mediation in early March but it was quickly suspended based upon remaining core disagreements. The remaining disagreements are the number of hours therapists are guaranteed for duties outside of direct patient care (such as

charting notes and preparing for appointments), the type of pension workers receive, and therapist salaries. Negotiations resumed on April 15, 2025.

Kaiser reported in April that it is utilizing a network of more than 13,000 providers, along with the 60% of NUHW-represented employees who did not strike or have since returned to work. Kaiser argues that it meets access timeframes 99.7% of the time for urgent care, 95% of the time for initial nonurgent care appointments, and 92.6% of the time for follow-up nonurgent care appointments (as of February 2025).

CONCLUSION

Given the scope of Kaiser's current corrective action work plan, the struggles to meet the requirements of past agreements, the ongoing implementation of significant BH legislation, and the fact that it enrolls over 9 million Californians, it is important for the Legislature to understand the strategies Kaiser is utilizing to address the issues identified in the SA. It is also important for the Legislature to hear perspectives on the access and quality of Kaiser's behavioral health system as it embarks in the implementation of the corrective action work plan.

CA BH DMHC CAMW | Milestone Timeline | CAAs 1 – 4

2024

2025

Q1 Q2 Q3 Q4 Q1 Q2 Q3 Q4 Q1 Q2 Q3 Q4

Key

- Completed work
- Started work
- Future work
- Continuous oversight



