



AB 2753 (Ortega) Clarify Coverage of Necessary Durable Medical Equipment *Prohibit Discriminatory Health Plan Design*

Problem:

Many Californians do not have access to the wheelchairs, hearing aids, ventilators, or other durable medical equipment (DME) that they need. Private health plans regularly exclude or severely limit coverage of this equipment, causing people to go without medically necessary devices, obtain inferior ones that put their health and safety at risk, or turn to publicly-funded health care programs for help. This gap in private coverage occurs despite the Affordable Care Act's (ACA) clear mandate to cover essential health benefits (EHB), including rehabilitative and habilitative devices, in a nondiscriminatory way.

Without adequate coverage of DME, the lives of adults and children with disabilities are severely impacted—many are unable to attend school, work, or participate in community life. Others face institutionalization because they cannot function in their own homes without needed equipment.

Background:

The ACA requires all individual and small group private health plans to cover EHBs, including rehabilitative and habilitative services and devices. States can select an existing health plan as a “benchmark” for EHB coverage, however, they must ensure that the plan's benefit design does not discriminate on the basis of disability or health status.

California selected as its EHB benchmark plan a Kaiser plan that excluded coverage of most DME. Following this benchmark, many plans have failed to cover essential DME items such as wheelchairs, hearing aids, and blood glucose monitors, or have placed “home use only” rules and/or strict dollar limitations on the equipment they will cover. These practices undermine the EHB guarantee and disproportionately impact people with disabilities, in violation of federal nondiscrimination law, including Section 1557 of the ACA and Section 504 of the Rehabilitation Act.

Because California chose to codify its EHB benchmark plan in State statute, the Legislature should amend the statute to correct the discriminatory exclusion of DME. When a benefit is added to the EHBs for the purpose of complying with federal law, then the State is not responsible for defraying the cost of the benefit.

Solution:

This bill would clarify that DME is a covered EHB in California health plans and policies when prescribed by a provider for rehabilitative or habilitative purposes and would remove limitations such as annual caps on DME coverage. This bill would be cost neutral to the State because it seeks to address lack of compliance with federal nondiscrimination law.

For more information:

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