



California expands health insurance mandates, modifies leave laws

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California has completed its regular 2021 session with a variety of health insurance and related legislation. Along with expanding required coverage for large groups, new laws require coverage of COVID-19 testing and vaccines without cost sharing, add dependent coverage for parents, and mandate screening children for adverse physical or emotional experiences. Lawmakers also postponed changes to the state's paid family and disability leave programs. Gov. Gavin Newsom vetoed a pharmacy benefit manager (PBM) anti-steering law.

Expanded large-group coverage

Large-group health insurance policies issued or renewed in California on or after July 1, 2022, must cover medically necessary "basic health care services," under legislation ([Ch. 636, SB 280](#)) enacted in October. These services include:

- Physician services
- Hospital inpatient and ambulatory care services
- Diagnostic laboratory services
- Diagnostic and therapeutic radiologic services
- Home healthcare
- Preventive healthcare

- Emergency healthcare, including ambulance and ambulance transport services
- Hospice care

Plans also must provide out-of-area coverage for “urgently needed services” for an unforeseen illness or injury requiring immediate treatment.

California is one of only four states that define large-group plans as policies for more than 100 employees. Similar coverage requirements already apply to individual and small-group plans through the federal Affordable Care Act’s mandated essential health benefits. California’s basic healthcare mandate doesn’t apply to self-funded ERISA plans or stand-alone dental or vision policies. However, no exemption applies for grandfathered health insurance plans.

The new law also prohibits large-group insurers (including officials, employees, agents and representatives) from marketing practices or benefit designs that discourage enrollment by individuals with significant health needs. In addition, large-group insurers are barred from discriminating based on race, color, national origin, present or predicted disability, age, sex, gender identity, sexual orientation, expected length of life, degree of medical dependency, quality of life, or other health conditions.

The new law imposes a \$2,500 fine for a first-time violation. The fine increases to \$15,000–\$100,000 per violation if the discrimination is a general practice or a knowing violation. The penalty does not apply to grandfathered large-group insured plans or dental or vision policies.

COVID-19 testing and vaccine coverage

Insured California health plans must cover COVID-19 diagnostic and screening tests, immunizations and related healthcare services with no patient cost sharing. No prior authorization or any other utilization management requirements may apply under recently signed legislation ([Ch. 729](#), SB 510).

Insured plans also must cover without cost sharing any items, services or immunizations — whether provided in or out of network — to prevent or mitigate COVID-19, if they meet certain criteria. These provisions apply retroactively to March 4, 2020, when the governor declared a COVID-19 [state of emergency](#). The out-of-network cost-sharing ban applies only during the [federal public health emergency](#), which the US Department of Health and Human Services has regularly renewed every 90 days.

“Screening testing” under the law means tests to identify people with asymptomatic COVID-19 infections who do not have known, suspected or reported exposure to the virus. Screening tests help to identify unknown cases so measures can be taken to prevent further transmission. People undergoing these screenings may include all of the following:

- Employees in a workplace setting
- Students, faculty and staff in a school setting
- Individuals returning from or preparing for travel

- Someone at home who does not have COVID-19 symptoms or a known exposure to someone with COVID-19

This differs from [federal guidance](#) (see Q&A-5), which exempts group health plans from covering COVID-19 tests without cost sharing if the tests are conducted for surveillance or employment-related purposes. These provisions also will apply to any future disease for which the California governor declares a public health emergency.

Dependent coverage

Individual health plans issued or renewed on or after Jan. 1, 2023, that provide dependent coverage must make it available to a parent or stepparent of the enrollee or insured. To be eligible, a dependent must meet the definition of a [qualifying relative](#) under Section 152(d) of the federal tax code and must reside within the plan's service area. The coverage mandate ([Ch. 468](#), AB 570) does not apply to group health plans.

Childhood mental health coverage

Insured health plans that cover pediatric services and preventive care must also cover screenings for "adverse childhood experiences" (ACEs). The new law ([Ch. 641](#), SB 428) defines an ACE as an event, a series of events or a set of circumstances that a child experiences as physically or emotionally harmful or threatening and that has lasting adverse effects on the individual's functioning and physical, social, emotional, or spiritual well-being.

The act doesn't address what [screening tool](#) to use or specify follow-up care. Future regulations may clarify this coverage requirement. Cost sharing may apply. The mandate applies to insured health plans issued or renewed on or after Jan. 1, 2022.

Paid disability and family leave

California's current calculation rates for state disability insurance (SDI) and paid family leave (PFL) benefits will continue for another year until Jan. 1, 2023, under recent legislation ([Ch. 78](#), AB 138). The current rates were due to sunset at the end of this year under a 2016 law ([Ch. 5](#), AB 908), but the new law averts a lapse to the lower pre-2018 levels. Benefits for 2022 will continue at 60%–70% of an employee's highest quarterly earnings in a base period divided by 13, capped at the annually adjusted weekly maximum benefit (\$1,357 for 2021).

Other legislation ([AB 123](#)) would have raised the weekly benefit to 65%–70% of an employee's weekly wage for PFL and the first 12 weeks of SDI benefits for claims beginning on or after Jan. 1, 2023, and then to 70%–90% in 2025. However, the governor vetoed that measure, [citing](#) budgetary concerns.

PBM anti-steering

California legislation ([SB 524](#)) would have barred health plans that provide prescription drug coverage from requiring patients to use a particular pharmacy or pharmacies if other network pharmacies can provide the services or medication. The measure initially raised concerns because it would have applied to self-funded ERISA plans as well as insured plans. Under a revised version, only California-regulated health insurers and health care service plans would have had to comply.

However, Gov. Gavin Newsom [vetoed](#) the bill, saying it remains “unclear what business relationships between health plans, insurers, and their agents are intended to be affected.”

Related resources

Non-Mercer resources

- [Ch. 729](#), SB 510 (California Legislature, Oct. 8, 2021)
- [SB 524](#) (California Legislature, Oct. 8, 2021)
- [Veto message on SB 524](#) (Governor’s Office, Oct. 8, 2021)
- [Ch. 636](#), SB 280 (California Legislature, Oct. 7, 2021)
- [Ch. 641](#), SB 428 (California Legislature, Oct. 7, 2021)
- [Ch. 468](#), AB 570 (California Legislature, Oct. 5, 2021)
- [Ch. 78](#), AB 138 (California Legislature, July 13, 2021)
- [FAQs about Families First Coronavirus Response Act and Coronavirus Aid, Relief, And Economic Security Act Implementation Part 43](#) (US Department of Labor, June 23, 2020)
- [California’s declared COVID-19 state of emergency](#) (Governor’s Office, March 4, 2020)

Mercer Law & Policy resources

- [States, cities tackle COVID-19 paid leave](#) (updated regularly)
- [Roundup of selected state health developments, third-quarter 2021](#) (Oct. 22, 2021)
- [Changes to California’s paid leave programs coming in 2023](#) (Oct. 8, 2021)

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