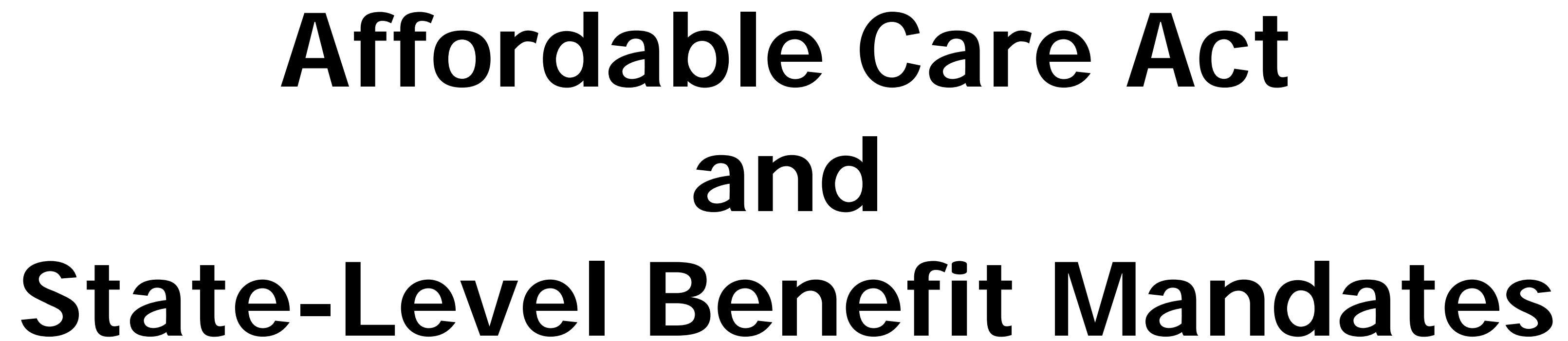

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California State Legislature
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State Mandates

Less than 20

20 to 40

More than 40

Source: Blue Cross and Blue Shield Association. *State Legislative Healthcare and Insurance Issues: 2010 Survey of Plans.*

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Health Insurance Benefit Mandates in California State Law

January 13, 2012

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 California[1], 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. CHRBP 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.

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[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

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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	*Not a distinct mandate*
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.

Federal Mandates

1996 Newborns' & Mothers' Health Protection Act

» Requires coverage for minimum hospital length of stay

1998 Women's Health and Cancer Rights Act

» Requires coverage for post-mastectomy reconstruction

2008 Mental Health Parity & Addition Equity Act

» Requires coverage at parity with medical/surgical benefits

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Federal Mandates

2010 Affordable Care Act (ACA)

- » Prohibits pre-existing condition exclusions for children
- » Requires coverage for preventive services
- » Prohibits prior authorization for access to OB-GYNs
- » Restricts cost-sharing for emergency services
- » Prohibits lifetime benefit limits
- » Restricts annual benefits limits

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Federal Mandates

As of 2014, the ACA will require

» Small Group Market and Individual Market plans/policies to cover Essential Health Benefits (EHBs)

» State to defray the cost -- for plans/policies sold via an Exchange -- of state requirements that exceed EHBs

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EHBs

As of now, ACA defines EHBs as 10 Categories

- Ambulatory patient services
- Emergency services
- Hospitalization
- Maternity and newborn care
- Mental health and substance use disorder services, including behavioral health treatment
- Prescription drugs
- Rehabilitative and habilitative services and devices
- Laboratory services
- Preventive and wellness services and chronic disease management
- Pediatric services, including oral and vision care

and notes that EHBs must "equal the scope of benefits provided under a typical employer plan."

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EHBs & Mandates

As of now …

Above?
Mammography

Not Interactive?
Home Care - Dementing Illness Exclusion Prohibition

EHB
"benefit floor"

Unclear?
Mental Health - Applied Behavioral Analysis (ABA) for Autism

Within?
Maternity Services

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EHBs

Proposed approach: defining EHBs as of 2014/15:

- **States** may select a benchmark plan.

- **Health Plans and Insurers** may then, via the state's Exchange, sell plans/policies "substantially equal" to the benchmark plan.

- **States** must still defray the costs of plans/policies sold via the Exchange for requirements that exceed EHBs -- but a benchmark plan may be inclusive of some/all of a state's benefit mandates.

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EHBs

Proposed approach: selecting a benchmark plan

1. Largest plan by enrollment in any of the three largest **small group** insurance products in the state's small group market
2. Any of the largest three **state employee** health benefit plans by enrollment
3. Any of the largest three national **Federal Employee** Health Benefit Plan options by enrollment
4. Largest insured **commercial non-Medicaid HMO** operating in the state

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EHBs & Mandates

Defining the EHB Benefit Floor	Mandate: Mental Health – ABA for Autism
As of now	
ACA – 10 EHB Categories	Unclear
As of 2014	
Benchmark 1: Small Group Market Plan	Within
Benchmark 2: CalPERS HMO	Unclear
Benchmark 3: CalPERS self-insured PPO	Above
Benchmark 4: FEDHP plan	Above
Benchmark 5: Large Group Market HMO	Within

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Affordable Care Act

As of now, adds federal mandates

» Plans/policies must meet or exceed both federal and state-level mandates

As of 2014, establishes EHB benefit floor

» Small Group Market and Individual Market plans/policies must meet or exceed the EHB benefit floor

» States must defray the cost -- for plans/policies sold via an exchange -- of state requirements that exceed EHBs

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CHBRP Reports and Analytic Methods

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California State Legislature
January 19, 2012

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Executive Summary

Analysis of Senate Bill 136:
Tobacco Cessation

A Report to the 2011-2012 California Legislature

mandate. The expected reduction in smoking prevalence and mortality attributable to SB 136 would bring California closer to achieving *Healthy People 2020* goals.

Potential Effects of the Federal Affordable Care Act

The federal "Patient Protection and Affordable Care Act" (P.L.111-148) and the "Health Care and Education Reconciliation Act" (H.R.4872) were enacted in March 2010. These laws (together referred to as the "Affordable Care Act [ACA]") are expected to dramatically affect the California health insurance market and its regulatory environment, with most changes becoming

effective in 2014. How these provisions are implemented in California will largely depend on pending legal actions, funding decisions, regulations to be promulgated by federal agencies, and statutory and regulatory actions to be taken by California state government.

<u>Essential health benefits offered by qualified health plans in the Exchange and potential interactions with SB 136</u>

The ACA requires beginning 2014 that states "make payments…to defray the cost of any additional benefits" required of qualified health plans (QHPs) sold in the Exchange.[12] SB 136 would make the requirements of the bill inoperative if the state determines that the requirements would "result in the state assuming additional costs pursuant to subparagraph (B) of paragraph (3) of subsection (d) of Section 1311 of the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by subsection (e) of Section 10104 of Title X of that act." Therefore, the marginal impact as presented in this report would no longer apply after 2014 if the requirements of SB 136 were deemed to add fiscal costs for qualified health plans to be offered in the Exchange.

When promulgating regulations on essential health benefits (EHBs), the U.S. Department of Health and Human Services is to ensure that the EHB floor "is equal to the scope of benefits provided under a typical employer plan." CHBRP found some variation in coverage based on carrier surveys (such as the types of counseling services provided, and inclusion of OTC smoking cessation items). Assuming this is true nationally, there is likely variation in employer coverage for services mandated under SB 136. Therefore, it is uncertain whether federal regulations and guidance would deem all the services mandated under SB 136 as being included under EHBs. In order for the state to determine whether any additional fiscal liability for the state would be incurred under SB 136, the following factors would need to be examined: