



## CALIFORNIA LEGISLATIVE SUMMARY: EMPLOYEE BENEFITS 2020 END OF SESSION

On August 31, 2020, the California legislature ended the most unusual legislative session we have seen in decades. Both COVID-19 (which caused the legislature to close for weeks) and a drastically changed budgetary landscape focused the attention of the legislature and limited the number of bills it passed this year. There were no major changes to the state laws that impact employee benefit plans this year. Below are the new laws that will have an impact on schools', municipality and hospitals' health plans.

### REPORTING REQUIREMENTS

#### **AB 2118 (Chapter 277, Statutes of 2020) — Health Care Service Plans and Health Insurers: Reporting Requirements**

This bill, beginning on October 1, 2021, establishes new reporting requirements for insurance carriers with respect to premium rates, cost sharing, benefits and benefit designs of products offered and sold in the individual and small group markets. Beginning in 2022, both the Department of Managed Health Care (DMHC) and the Department of Insurance (CDI) will be required to present this information publicly and post it annually on their websites. Similar reporting is already done in the large group market. While the bill's author and supporters cited increased transparency as the goal, critics of the legislation expressed concern that this bill was redundant, repeating other cost tracking already done in the state. Carriers also expressed concern about the impact of the extra regulatory compliance on premium costs.

### EMPLOYEE LEAVE

#### **AB 2992 (Chapter 224, Statutes of 2020) — Employment Practices: Leave Time**

This new law expands existing protected leave under Labor Code §§ 230 and 230.1 to victims of any violent crime and to immediate family members of homicide victims; and further allows additional reasonable forms of documentation to verify that a crime or abuse occurred to determine employee eligibility for protected leave.

#### **SB 1383 (Chapter 86, Statutes of 2020)—Unlawful Employment Practice: California Family Rights Act**

This law expands the classes of employers subject to the California Family Rights Act (CFRA) as well as the categories of employees who are eligible for a leave under its provisions. This new law will go into effect on January 1, 2021. For a full summary of the law and its impact on employers, please review Keenan's *Briefing* "SB 1383: Bill Expands Categories of Employees Eligible for Leave Under the California Family Rights Act" [here](#).



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## AFFORDABLE CARE ACT

### SB 406 (Chapter 302, Statutes of 2020) — Health Care: Omnibus Bill

Among other provisions, this law de-couples from federal law and permanently enshrines in California statute two provisions of the Affordable Care Act (ACA). First, it requires a fully-insured group or individual non-grandfathered health plan to provide coverage for specified preventive services without any cost-sharing requirements for those preventive services. Secondly, it prohibits an individual or fully-insured group health plan from establishing lifetime or annual limits on the dollar value of any covered benefits for an enrollee or insured, whether provided in network or out of network. While both of those provisions had previously been California law, the language of those statutes was dependent on the provisions being valid law at the federal level. Due to the present threat to the ACA in the pending Supreme Court cases of *California v. Texas* and *Texas v. California*, the statutes were changed. The impact of this law is that the preventive services mandate and the prohibition on lifetime or annual limits on the dollar value of covered benefits will withstand a potential Supreme Court decision striking down all or part of the ACA in California, at least for fully-insured plans.

## PRESCRIPTION DRUGS

### SB 852 (Chapter 207, Statutes of 2020) — Health Care: Prescription Drugs

This law requires the California Health and Human Services Agency (CHHSA) to enter into partnerships, in consultation with other state departments as necessary, to increase competition, lower prices, and address shortages in the market for generic prescription drugs, to reduce the cost of prescription drugs for public and private purchasers, taxpayers, and consumers, and, to increase patient access to affordable drugs. Employers seeking more information regarding the impact of this new law on their group health plans, can review Keenan's blog post on SB 852 [here](#).

## MENTAL HEALTH PARITY

### SB 855 (Chapter 151, Statutes of 2020)

This law expands the California Mental Health Parity law for fully-insured health insurance plans. Self-insured plans will not be impacted. An analysis of the bill completed by the California Health Benefits Review Program (CHBRP) in March of this year found that 99.8% of insureds in California currently have coverage for all MH/SUD treatments required to be covered by the bill. The analysis found that the 0.2% of the population subject to SB 855 who do not have benefit coverage for MH/SUD at parity are a segment of the grandfathered individual market. For health insurance carriers, the changes in the bill that are more significant are those that define medical necessity, require out-of-network care at in-network cost-sharing and dictate utilization review criteria, but it is not anticipated that those changes will have much, if any impact on premiums. They will, however, result in a more robust mental health benefit for participants in fully-insured plans. For a full summary of this law, please review Keenan's *Briefing*, "SB 855: Bill Expands the California Health Parity Law for Fully-Insured Plans" [here](#).

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