



JENNIFER KENT
DIRECTOR

State of California—Health and Human Services Agency
Department of Health Care Services



EDMUND G. BROWN JR.
GOVERNOR

June 19, 2018

The Honorable Richard Pan, Chair
Senate Health Committee
State Capitol, Room 2191
Sacramento, CA 95814

Dear Senator Pan:

ASSEMBLY BILL 2427 (AS AMENDED JUNE 7, 2018) – OPPOSE

The Department of Health Care Services (DHCS) must inform you of its opposition to Assembly Bill (AB) 2427, which is scheduled to be heard in the Senate Health Committee on June 27, 2018. AB 2427 would require DHCS to decline to renew or award a contract to a for-profit Medi-Cal managed care plan (MCP) if 1) the Attorney General determines that the MCP engaged in anticompetitive conduct, as defined, or 2) DHCS determines that the MCP has a pattern of not complying with the medical loss ratio (MLR) requirement.

AB 2427 would have a major impact on the way DHCS currently contracts with MCPs to provide services to Medi-Cal beneficiaries. DHCS already has methods in place to address poor MCP conduct, including administrative and financial sanctions up to and including contract termination. For example, DHCS may place the MCP under a corrective action plan, install a monitor or require a change in plan management, suspend enrollment and marketing activities, require the MCP to suspend or terminate certain subcontractors or personnel, and/or impose a monetary penalty. DHCS will most often pursue a remedy that is least disruptive to the beneficiaries enrolled in the MCP, while still addressing MCP deficiencies.

In addition, though anticompetitive practices or failure to comply with the MLR are very serious, they may be due to causes other than bad conduct, which should be taken into account. For example, in the case of the MLR requirement, an MCP could fail to comply with the MLR requirements due to inadvertently overstated capitation rates attributable to a healthier-than-anticipated population. In such a case, there may be interim solutions to address noncompliance, such as requiring the MCP to repay the state or to change the rates. Furthermore, there are a variety of state and federal statutes and regulations that give DHCS the discretion to balance the authority to impose sanctions

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or terminate contracts for bad conduct with the need to maintain adequate beneficiary access to appropriate care. Not only must all factors be taken into consideration, but DHCS must also be allowed to determine the appropriate remedy, given the health and access needs of Medi-Cal members.

For these reasons, DHCS opposes AB 2427.

If you have any questions, please contact me at 440-7500.

Sincerely,

o/s/by: CG

Carol Gallegos
Deputy Director

cc: The Honorable Jim Wood
Senate Health Committee, Members
Senate Republican Caucus
Senate Floor Analysis
Department of Finance
CHHS Legislative Unit
GO Deputy Legislative Secretary