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



EDMUND G. BROWN JR.
GOVERNOR

August 15, 2018

The Honorable Anthony J. Portantino, Chair
Senate Appropriations Committee
State Capitol, Room 2206
Sacramento, CA 95814

Dear Senator Portantino:

ASSEMBLY BILL 2427 (AS AMENDED JULY 2, 2018) – OPPOSE

The Department of Health Care Services (DHCS) must inform you of its opposition to Assembly Bill (AB) 2427. AB 2427 would require DHCS to include a provision in each contract with a for-profit Medi-Cal managed care plan (MCP) that authorizes DHCS to terminate the contract under the following circumstances: 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 also require DHCS, if it extends or renews a contract with a MCP that either engages in anticompetitive practices or where DHCS determined the MCP has a pattern of not complying with the MLR, to include provisions in the contract to address their noncompliance, as well as contractual remedies and penalties to ensure plan accountability.

AB 2427 is unnecessary, unequal in application, and could be detrimental to DHCS' ability to contract with MCPs. AB 2427 is unnecessary because DHCS already has broad authority to terminate contracts when necessary to protect beneficiary health or to protect Medi-Cal program funds. Such authority is found both in existing statute and is incorporated into the existing MCP contracts, and includes methods to address issues such as MCP non-compliance with MLR requirements.

In addition, contracts are not typically used for the purpose of implementing or instigating corrective action against a plan. This would be more appropriately addressed through a corrective action plan (CAP). Under the current system, each CAP is tailored to the individual MCP and includes steps to be taken to resolve any negative finding, specific milestones, and timelines for completion. Including corrective action within a contract is also problematic because the time that is required for a contract to be

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amended or approved is a lengthy process, and this bill's requirements could result in significant delays in taking corrective action.

Further, AB 2427 is unequal in its application to MCPs, since not all MCPs are for-profit plans. The result would be the inconsistent application of policy across the Medi-Cal managed care delivery system.

Overall, the bill could impact the way DHCS contracts with MCPs to provide services and could diminish DHCS' discretion to balance corrective action with the responsibility to ensure beneficiary access to services. For these reasons, DHCS opposes AB 2427.

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

Sincerely,

o/s/by: MR

Melissa Rolland
Assistant Deputy Director

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