

California Abortion Coverage in Medi-Cal and Private Insurance

Access to comprehensive health care, which includes abortion coverage, is critical to every person's health and well-being. Abortions are legal in California.¹ Both Medi-Cal and private health insurance plans are required to cover all abortions.² This FAQ provides further information on the scope of coverage, cost-sharing, procedural requirements, and resources for assistance.

1. When is abortion legal in California?

In California, an individual may have an abortion under any circumstance, and without medical justification.³ An abortion may be performed at any time prior to fetal viability.⁴ After fetal viability, an abortion may be performed to protect the life or health of the pregnant person.⁵ An individual may have an abortion without consent or involvement of their parent/guardian, spouse, or the biological parent of the fetus.⁶

2. When is abortion covered under Medi-Cal?

California covers abortion services for all Medi-Cal enrollees.⁷ The state pays for all abortion services using state-only funds. Medi-Cal enrollees are not charged co-insurance or co-payments, nor do they need to pay any out-of-pocket costs. Medi-Cal enrollees may obtain an abortion without cost sharing, with the exception of enrollees who have Share of Cost Medi-Cal.⁸ Share of Cost Medi-Cal enrollees must pay a monthly amount toward their medical expenses, similar to a private insurance plan's out-of-pocket deductible.⁹ The state prohibits Medi-Cal managed care plans from requiring medical justification for an abortion.¹⁰

3. Is prior authorization allowed for an abortion under Medi-Cal?

Prior authorization is the process of requesting authorization from a health plan to provide a service, thereby ensuring that the provider will be reimbursed. Under Medi-Cal, plans are prohibited from requiring prior authorization for an abortion, including if an enrollee seeks care out-of-network.¹¹ The only exception is that prior authorization is allowed for non-emergency abortions that require inpatient hospitalizations.¹² The prior authorization approval or disapproval only determines whether the abortion can be performed on an inpatient basis, and not whether or not the pregnant person is allowed to have an abortion. If an abortion will require a hospital stay, the hospital must contact the Medi-Cal managed care plan directly to request prior authorization.

4. Is a referral required for an abortion under Medi-Cal?

A referral is the process of an assigned primary care provider "referring" their patient to another doctor for a service. Under Medi-Cal, managed care plans are strictly prohibited from requiring a referral for an abortion, even if the beneficiary has chosen to seek an abortion from an out-of-network provider.¹³

5. What services related to an abortion are covered by Medi-Cal?

Medi-Cal covers all services and supplies incidental or preliminary to an abortion, including office visits, laboratory exams, ultrasounds, and urine pregnancy tests. The provider should exercise professional judgment in determining whether a particular service is directly related to an abortion, or whether it would have been performed regardless of an abortion.¹⁴

6. Is contraception covered by Medi-Cal after an abortion?

Yes. Medi-Cal covers all forms of contraception at the time of an abortion or any other time. Enrollees have freedom of choice of providers to obtain contraception from any Medi-Cal provider in or out of network, so long as they are a Medi-Cal provider. Medi-Cal plans are prohibited from requiring a referral for contraception.¹⁵

7. Are abortions covered by private insurance?

Yes. California law requires most private health care plans, including employer and individual plans, to cover all abortions without medical justification.¹⁶ The private insurance requirement to cover abortions does not apply to multi-state plans participating in the Marketplace Exchange or to employers who self-fund their plans.¹⁷ The requirement was challenged through a complaint to the Office for Civil Rights, and was upheld.¹⁸ A lawsuit was subsequently filed, which is ongoing. The requirement remains in effect during the litigation.¹⁹

8. Is prior authorization allowed for an abortion under private insurance?

A private plan may require prior authorization for an abortion.²⁰ However, California law requires private plans to ensure that “[a]ll plan and provider processes necessary to obtain covered health care services, including but not limited to prior authorization processes, are completed in a manner that assures the provision of covered health care services . . . in a timely manner appropriate for the enrollee’s condition.”²¹ An individual or their provider should check with the plan for their prior authorization policies. If prior authorization is required, the plan must schedule urgent care within 96 hours of the request and non-urgent care within 15 days of the request.²²

9. Is a referral required for an abortion under private insurance?

No. As of January 1, 2017, private plans may not require a referral for certain reproductive health care services, including abortions and pregnancy care.²³

10. What services related to an abortion are covered by private insurance?

In accordance with coverage of all other basic health services, private insurance covers all services and supplies incidental to an abortion.²⁴

11. Is contraception covered by private insurance after an abortion?

Yes. Private insurance covers all forms of contraception at the time of an abortion or any other time. Private plans are prohibited from requiring cost sharing for contraception.²⁵ Private plans may not require an enrollee to “receive a referral prior to receiving coverage or services for reproductive and sexual health care” or “obtain prior approval from another physician, another provider, or the health care service plan prior to obtaining direct access to reproductive and sexual health care services.”²⁶

12. What happens if there is no abortion provider available within a private plan network?

If there is no abortion provider available within the private network plan, the plan must ensure timely access to care by referring individuals to out-of-network providers.²⁷ Out-of-network costs to patients, including co-payments and co-insurance, for medically necessary referrals must not be greater than that for in-network care.²⁸

13. What confidentiality protections exist for abortion services?

An individual may have an abortion without consent or involvement of their parent/guardian, spouse/partner, or the biological parent of the fetus.²⁹ Further, providers may not inform a parent or guardian that a patient has received reproductive health services, including an abortion or contraception, without the signed consent of the patient.³⁰ If a patient receives a “sensitive service,” including an abortion or contraception, both private and public insurance plans must comply with requests to send an explanation of benefits (EOB) or any other plan communications related to the service in the format and to the place of the enrollee’s choice.³¹ All Medi-Cal managed care plans are also required to “implement and maintain procedures that ensure confidential access to these sensitive services.”³²

14. What should an individual do if they encounter a violation of one of the rules in this FAQ?

If individuals with Medi-Cal managed care or private insurance encounter a problem with their health plan, they can file a grievance or complaint with their plan. All managed care plans are required to establish a grievance procedure and must provide enrollees with written notice of how to file grievances. If the problem is urgent, an enrollee may request expedited review. If the plan's internal process does not resolve the problem, the individual may request external review, as established by the plan. There are different kinds of external review available for different plans [They can refer to this [NHeLP Issue Brief](#) as well as this other [NHeLP Issue Brief](#) for further information].

Medi-Cal enrollees who receive fee-for-service Medi-Cal may request a fair hearing from the State Hearings Office at the California Department of Social Services any time they are dissatisfied with Medi-Cal. If an individual has difficulty navigating this process, they should contact one of the organizations listed below in the resource section for assistance.

Resources

National Health Law Program
 3701 Wilshire Blvd. Suite 750
 Los Angeles, CA 90010
 310-204-6010
www.healthlaw.org

ACCESS: Women's Health Justice
 P.O. Box 3609
 Oakland, CA 94609
 510-923-0739
www.accesswhj.org

¹ See *Comm. to Defend Reprod. Rights v. Myers*, 625 P.2d 779, 886 (Cal. 1981) (striking down abortion funding restrictions as an unconstitutional invasion of a woman's freedom of reproductive choice).

² Cal. Dep't of Health Care Svcs., *Medi-Cal Provider Manual* Ch. Abortions at p. 1; Michelle Rouillard, Director of Department of Managed Health Care letter to Mark Morgan, California President of Anthem Blue Cross, RE: Limitations or Exclusions of Abortion Services. August 22, 2014. <https://www.dmhc.ca.gov/Portals/0/082214letters/abc082214.pdf>.

³ Cal. Dep't of Health Care Svcs., *Medi-Cal Provider Manual* Ch. Abortions at p. 1; Michelle Rouillard, Director of Department of Managed Health Care letter to Mark Morgan, California President of Anthem Blue Cross, RE: Limitations or Exclusions of Abortion Services. August 22, 2014. <https://www.dmhc.ca.gov/Portals/0/082214letters/abc082214.pdf>.

⁴ Fetal viability is defined by California law as "the point in the pregnancy when, in the good faith medical judgment of a physician, on the particular facts of the case before that physician, there is a reasonable likelihood of the fetus' sustained survival outside the uterus without the application of extraordinary medical measures." Cal. Health & Safety Code § 123464(d).

⁵ Cal. Health & Safety Code § 123466 (West).

⁶ See *Am. Acad. of Pediatrics v. Lungren*, 16 Cal. 4th 307 (1997) (holding that the right to privacy found in the California Constitution invalidates a statute requiring that pregnant minors obtain judicial or parental consent prior to abortion).

⁷ Cal. Dep't of Health Care Svcs., *Medi-Cal Provider Manual* Ch. Abortions at p. 1.

⁸ See Cal. Welfare & Inst. Code § 14134(a)(6)(D) and Cal. Code Regs. tit.22, § 51002 for prohibition on cost sharing; Cal. Dep't of Health Care Svcs., *Medi-Cal Provider Manual* Ch. Presumptive Eligibility for Pregnant Women for inclusion of abortion services in coverage of perinatal care; Cal. Dep't of Health Care Svcs., *Medi-Cal Provider Manual* Ch. Share of Cost at p. 1 for cost sharing requirements under Share of Cost Medi-Cal.

⁹ Cal. Dep't of Health Care Svcs., *Medi-Cal Provider Manual* Ch. Share of Cost at p. 1.

¹⁰ Cal. Dep't of Health Care Svcs., *Medi-Cal Provider Manual* Ch. Abortions at p. 1.

¹¹ Cal. Dep't of Health Care Svcs., Letter to all Medi-Cal Managed Care Health Plans, All Plan Letter No. 15-020: Abortion Services (Sept. 30, 2015), <http://www.dhcs.ca.gov/formsandpubs/Documents/MMCDAPLsandPolicyLetters/APL2015/APL15-020.pdf>.

- ¹² Cal. Dep't of Health Care Servs., Letter to all Medi-Cal Managed Care Health Plans, All Plan Letter No. 15-020: Abortion Services (Sept. 30, 2015), <http://www.dhcs.ca.gov/formsandpubs/Documents/MMCDAPLsandPolicyLetters/APL2015/APL15-020.pdf>; Cal. Dep't of Health Care Servs., *Medi-Cal Medical Services Provider Manual* Ch. Abortions at p. 1.
- ¹³ Cal. Dep't of Health Care Servs., Letter to all Medi-Cal Managed Care Health Plans, All Plan Letter No. 15-020: Abortion Services (Sept. 30, 2015), <http://www.dhcs.ca.gov/formsandpubs/Documents/MMCDAPLsandPolicyLetters/APL2015/APL15-020.pdf>.
- ¹⁴ Cal. Dep't of Health Care Servs., *Medi-Cal Medical Services Provider Manual* Ch. Abortions at p. 1-4.
- ¹⁵ There are 18 federally recognized categories of contraceptive methods that can be found here: <http://kff.org/womens-health-policy/issue-brief/minimum-contraceptive-coverage-requirements-clarified-by-hhs-guidance/>. Cal. Dep't of Health Care Servs., *Medi-Cal Provider Manual* Ch. Family Planning at pp. 2, 7-12; Cal. Health & Safety Code § 1367.25.
- ¹⁶ Michelle Rouillard, Director of Department of Managed Health Care letter to Mark Morgan, California President of Anthem Blue Cross, RE: Limitations or Exclusions of Abortion Services. August 22, 2014.
- ¹⁷ To learn more about multi-state health plans, please visit <https://www.opm.gov/healthcare-insurance/multi-state-plan-program/>. To learn more about self-funded plans, please visit <http://www.hcaa.org/page/selffunding>.
- ¹⁸ U.S. Dept. of Health and Human Servs., Office for Civil Rights, Re: OCR Transaction Numbers: 14-193604, 15-193782, & 15-195665 (June 21, 2016), <https://adfllegal.blob.core.windows.net/web-content-dev/docs/default-source/documents/resources/media-resources/cdmhc-investigation-closure-letter.pdf?sfvrsn=2>.
- ¹⁹ Compl. Filed with U.S. Dept. of Health and Human Servs., Office for Civil Rights, on behalf of Foothill Church and Foothill Christian School, et al. (Oct. 9, 2014), <http://www.adfmedia.org/files/CalifChurchesComplaint.pdf>.
- ²⁰ Cal. Health & Safety Code § 1300.67.2.2 (West).
- ²¹ Cal. Health & Safety Code § 1300.67.2.2 (West).
- ²² Cal. Health & Safety Code § 1300.67.2.2 (West).
- ²³ A.B. 1954: Direct Access to Reproductive Health Act, signed into law September 23, 2016.
- ²⁴ Cal. Health & Safety Code § 1340 et seq.; Michelle Rouillard, Director of Department of Managed Health Care letter to Mark Morgan, California President of Anthem Blue Cross, RE: Limitations or Exclusions of Abortion Services. August 22, 2014.
- ²⁵ There are 18 federally recognized categories of contraceptive methods that can be found here: <http://kff.org/womens-health-policy/issue-brief/minimum-contraceptive-coverage-requirements-clarified-by-hhs-guidance/>. Cal. Health & Safety Code § 1367.25.
- ²⁶ Cal. Health & Safety Code § 1367.31.
- ²⁷ Cal. Health & Safety Code § 1300.67.2.2 (West).
- ²⁸ Cal. Health & Safety Code § 1300.67.2.2 (West).
- ²⁹ See *Am. Acad. of Pediatrics v. Lungren*, 16 Cal. 4th 307 (1997) (holding that the right to privacy found in the California Constitution invalidates a statute requiring that pregnant minors obtain judicial or parental consent prior to abortion); Cal. Family Code Section 6925.
- ³⁰ Cal. Health & Safety Code Section 123110, 123115.
- ³¹ SB 138: Confidential Health Information Act.
- ³² Cal. Dep't of Health Care Servs., Letter to all Medi-Cal Managed Care Health Plans, All Plan Letter No. 15-020: Abortion Services (Sept. 30, 2015), <http://www.dhcs.ca.gov/formsandpubs/Documents/MMCDAPLsandPolicyLetters/APL2015/APL15-020.pdf>.