



IBHS Town Hall September 25, 2021

More than 500 people participated for the entirety of our 80-minute Town Hall meeting Saturday to discuss ongoing contract bargaining and our strategy to win a fair contract. Below is a summary of what was discussed including several questions and answers with clinicians on the call.

State of Bargaining

Nearly two months into bargaining, Kaiser Permanente in Northern California has rejected our proposals to address staffing shortages, unsustainable workloads and poor access to care. Northern California management has also rejected our proposals aimed at helping Kaiser more effectively recruit and retain clinicians.

Although management in Southern California has not responded to these same proposals, it's likely that they will reject them as well. Management in neither region has responded to our recently-introduced economic proposal for a minimum of 4 percent annual raises over a three-year contract. Our contracts are scheduled to expire on September 30, although Kaiser could propose a short-term extension, which it already has proposed for our Healthcare Professionals bargaining unit in Southern California.

Kaiser is in conflict with several of its unions. The 700 Stationary Engineers in Northern California are now more than one week into an open-ended strike, which is primarily about wages. The 52,000 member Alliance of Kaiser Health Care Unions, whose contract also expires at the end of September, is threatening a strike over takeaways that Kaiser has proposed, including lower wages for future employees.

Our Plan Going Forward

Our work to educate the public and public officials about Kaiser Permanente's behavioral health care failures has helped us pass two key pieces of legislation that should give us more power in bargaining to make Kaiser improve working conditions and access to care.

SB 855, which went into effect this year, requires California health plans, including Kaiser, to provide medically necessary care for the full range of mental health and substance use disorders recognized in the standard clinical manuals. The bill prevents health plans from using their own criteria for determining medical necessity and requires that when patients can't access timely, nearby care in-network, insurers must cover needed care out-of-network.

SB 221, our bill that is on the governor's desk after being passed overwhelmingly by the State Senate and Assembly, requires health plans, including Kaiser, to provide follow-up behavioral health care appointments within 10 business days unless the treating clinician determines that a longer wait period would not be detrimental.

Kaiser can't adhere to the requirements of these bills with its current staffing levels or its current turnover rate as people leave because of working conditions. But to make Kaiser address these issues at the bargaining table, we have to stop

Kaiser from continuing to use its data templates to give the false impression that patients are getting timely care. If we can't show that there's a real problem, it will be hard to remedy it in this contract and future contracts.

That's why the centerpiece of our plan will be a statewide documentation program in which clinicians will have the tools and information needed to accurately document in Kaiser templates when patients could potentially face adverse outcomes if they are not seen sooner than their clinician's next available appointment. Workers whose jobs don't include templates will be able to participate by filing Objection to Assignment forms.

As our documentation program gets underway, we will support it with additional efforts, including:

1. Continuing our outreach to major public and private purchasers of Kaiser insurance, informing them of Kaiser's failure to provide clinically-appropriate behavioral health care. In reaching out to these purchasers, we will be encouraging them to demand data from Kaiser on the behavioral health care provided to plan members and demand improved care from Kaiser. Officials in San Francisco will hold a hearing next month reviewing whether public employees in the city are getting the level of behavioral health care to which they are entitled and whether a rebate from Kaiser should be sought.
2. Deepening our connections with elected officials to hold Kaiser accountable to mental health parity laws and its requirements to provide clinically-appropriate care to Kaiser members.
3. Strengthening our relationships with mental health advocacy organizations and other allies to get them to support our bargaining proposals.
4. Communicating the struggles Kaiser patients face through traditional media and social media with professional organizations, patient advocates and former Kaiser clinicians all lending their voice about how Kaiser's system is failing patients.

We have more leverage to make Kaiser bargain over the key issues of staffing, clinician workload and patient access, but no matter the laws we pass or the allies we enlist, it won't be enough if Kaiser can continue to hide the facts about the care it provides.

Meiram Bendat, an LMFT and attorney who successfully sued United Behavioral Health and helped author SB 855, participated in Saturday's Town Hall. He has already been meeting with stewards and will be helping us gear up for this ongoing action to accurately document when patients can't access timely care.

The following is a partial list of Questions and Answers

Q: What protections will be in place if management tries to intimidate people over accurately documenting a lack of timely care in the templates?

A: The documentation campaign has not yet formally begun. We are working on scripts and protocols. We will guide everyone through how to do it, but it's important to understand that behavioral health clinicians have legal and ethical duties to provide their patients with clinically-appropriate care and to raise concerns if they are unable for any reason to provide that care. Any threat by management to retaliate is against the law and Kaiser's own policies. Also, the more people who participate in this action, the more powerless Kaiser management will be to try to intimidate anyone to stop it.

Q: Could we form a temporary coalition with the Alliance in Southern California and the Stationary Engineers in Northern California?

A: Our issues are very different from the Alliance and the Stationary Engineers, but we remain in contact with the United Food and Commercial Workers, an alliance member that represents behavioral healthcare workers elsewhere in the Kaiser system and many of us have joined the engineers on picket lines.

Q: Quite a few members asked whether we should move quickly toward an open-ended statewide strike.

A: Any decision to strike will be made by members with advice from stewards in a bottom-up way. At this point, there are several clinics that have the necessary super-majority support for an open-ended strike, but other clinics are not at that point yet.

Q: Will our IBHS proposal to stop Kaiser from forcing non-Emergency Department clinicians to work overtime inside the Emergency Department result in Emergency Department staff having to cover those shifts?

A: The intent of our proposal is to require Kaiser to provide enough dedicated staff to handle the volume in the Emergency Department without forcing people in the clinics to come to work in the Emergency Department after hours.

Q: Can we make a proposal in bargaining to address crisis care access issues?

A: Our bargaining teams will consider a proposal to require robust, designated crisis teams at every location.

Q: A clinician asked whether we have strategies to target the medical groups, which seem to be a major impediment to improving access to care. Another clinician asked whether we could make psychiatry more profitable so that the medical groups would provide more resources.

A: Part of our strategy is to put financial pressure on the medical groups, by increasing the risk that major institutional purchasers of Kaiser insurance will demand better behavioral health care and threaten to demand rebates or consider other healthcare providers. Our allies State Treasurer Fiona Ma and State Controller Betty Yee are leading the state retirement board to conduct surveys on access to behavioral health care for public employees in the state retirement system.

Q: What would we gain by striking given the outcome of previous strikes?

A: One potential difference is that we are in a better position politically to hold Kaiser accountable to a state law requiring that it provide care during a strike. The last time we went on strike, Kaiser was able to cancel thousands of appointments without fear of state sanction. We are continuing our work to be in a stronger position to hold Kaiser accountable for providing care should there be another strike.

Q: What are our rights to strike in sympathy with the stationary engineers in Northern California?

A: Clinicians have the individual right to strike in sympathy with the engineers, whether for one day or more than one day. However, clinicians do not have the same protections if they try to go back and forth between striking with the stationary engineers and returning to work.

Our contracts expire on September 30. Our bargaining committees have put our major proposals on the table in a good faith effort to settle a fair contract as quickly as possible. Within the next few weeks we expect Gov. Newsom to sign SB 221 into law and to have more clarity on whether Kaiser is intent on seeking major takeaways from the Alliance.

Our contract situation is unique. The Alliance is rejecting takeaways that Kaiser is not seeking from us at this point. The Stationary Engineers are primarily focused on wages. We are seeking to make significant improvements in the way Kaiser provides behavioral health care. We are already making progress through the legislation we've helped pass, now we have to build on that success by being able to document that our concerns are valid. We will be holding more local meetings and additional town halls as we roll out our documentation program and continue bargaining.