

# KAISER'S RESPONSIBILITIES UNDER CALIFORNIA LAW

Below is a summary of Kaiser's legal responsibilities under recently passed mental health parity laws. If you're aware of managers making requests that violate these requirements, please contact your steward or an NUHW representative.

As Kaiser formulates its Corrective Action Plan as required under last year's \$200 million settlement agreement, we'll follow up with recommendations for holding Kaiser accountable to its legal and ethical obligations in everyone's day-to-day work.

## **SB 221** (In effect since July 2022)

- In all non-urgent cases, Kaiser must provide initial and follow-up therapy appointments within ten business days unless the referring and/or treating clinician – not a manager – determines that a longer wait would not be detrimental to a patient's health.
- Urgent therapy appointments, including urgent follow-up therapy appointments, must be made available within 48 hours.

## **SB 855** (In effect since January 2021)

- Kaiser must cover medically necessary treatment of mental health and substance use disorders listed in the mental and behavioral disorders chapter of the most recent edition of the International Classification of Diseases or the Diagnostic and Statistical Manual of Mental Disorders.
- Kaiser may not limit benefits or coverage for mental health and substance use disorders to short-term or acute treatment.
- As is the case for SB 221, Kaiser is required to arrange coverage for out-of-network services for medically necessary treatment of a mental health or substance use disorder when services are not available in-network within geographic and timely access standards. Kaiser's "in-network providers" include both its internal and external provider networks. "Out-of-network providers" are community providers who do not have a contracting relationship with Kaiser.
- Kaiser is prohibited from limiting benefits or coverage for medically necessary services on the basis that those services may be covered by a public entitlement program, such as Medi-Cal.
- Kaiser must determine "medical necessity" (for level of care or service intensity) through the exclusive application of non-profit professional association guidelines. Appropriate criteria (which Kaiser claims it's currently using) are LOCUS, CALOCUS, ASAM, and ECSII. Kaiser must offer free training in use of these tools to its clinicians. Kaiser cannot determine medical necessity by using measures meant for other purposes, like AOQ, PHQ, GAD, AUD, or Tridium's BHI.

## **2023 Kaiser Settlement Agreement**

One-appointment-at-a-time rule: State investigators found that the "one-appointment-at-a-time" rule in effect in certain Southern California service areas violates mental health parity laws and that Kaiser must do away with it as part of its Corrective Action Plan.