

HEALTH & MEDICINE

## Kaiser agrees to pay \$200M in ‘monumental’ behavioral health settlement

BY CATHIE ANDERSON

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Kaiser mental health clinicians represented by the National Union of Healthcare Workers strike Aug. 15, 2022, at Kaiser Permanente on Morse Avenue in Arden Arcade. About 2,000 will to strike in Northern California, according to the NUHW. BY SARA NEVIS

Health care giant Kaiser Permanente will invest \$150 million over the next five years to expand and improve its behavioral health services in what mental health clinicians hope is a “monumental” settlement with the state announced Thursday.

Kaiser will also pay a penalty of \$40 million this month, and \$10 million more if it fails to meet the terms of the settlement agreement by the end of a two-year consultation period, per the regulating California Department of Managed Health Care.

“With this historic agreement, Kaiser Permanente will undertake a systemic overhaul and transformational change of the plan’s behavioral health care delivery system to improve enrollee experiences, access to care and treatment outcomes,” said Mary Watanabe, the director of the

DMHC. “I appreciate Kaiser working proactively and in good faith to reach this agreement for the benefit of its members.” Kaiser officials said demand for the company’s behavioral health operations surged during the COVID-19 pandemic as the nation experienced a shortage of providers.

Greg A. Adams, the chair and chief executive officer of Kaiser Permanente, said the group saw a 33% increase in patient need during the pandemic, and have seen 20% more patients in 2023 than at this point last year. “An ongoing shortage of qualified mental health professionals, clinician burnout and turnover, even a 10-week strike last year by 2,000 mental health clinicians in California, have all contributed to make it very difficult to meet this growing need for care,” Adams said.

However, Leslie Hansen and another licensed therapist told The Sacramento Bee that there’s not a shortage of mental health clinicians, but rather a shortage of mental health clinicians willing to contract with big health plans.

Hansen, who is now retired, said that when she started working in the field, the health plans had contacts that therapists could call to resolve billing issues. Over the years, they did away with those personnel.

Hansen said she spent years trying to resolve a billing issue with Kaiser but kept seeing the patient because they needed help. While Hansen felt obligated to serve, many clinicians graduating today are opting to only accept patients who can pay them directly because they don’t have time to devote to billing, she said.

Consumer complaints led to two inquiries Partially spurred by the number of member complaints about access to behavioral health services, the DMHC launched a surprise investigation, or a nonroutine survey as it’s officially known, of Kaiser’s behavioral health care operations in May 2022.

About three months after, Kaiser’s mental health providers went on strike to advocate for improved access for their patients.

Their union, the National Union of Healthcare Workers, pushed for guarantees as part of the labor contract they were negotiating at the time. Patient complaints about access surged during the strike, and DMHC regulators launched a second investigation of the company before a new contract was approved.

NUHW President Sal Rosselli described the settlement as “a monumental victory for Kaiser Permanente patients and its mental health therapists who have waged multiple strikes over the past decade to make Kaiser fix its broken behavioral healthcare system.”

Rosselli said the report “affirms everything that Kaiser therapists have said about their patients’ inability to receive timely, adequate mental health care.”

But while Rosselli was “thrilled” about the agreement, he urged caution. “...(The) success of any overhaul depends on Kaiser agreeing to work in tandem with therapists to build a better model for delivering care,” Rosselli said.

### **CA regulators list multiple areas of concern**

The terms of the settlement, regulators said, are intended to resolve both of the regulatory actions, though the DMHC’s surprise investigation has not yet concluded and could result in future actions.

The DMHC has been investigating Kaiser’s mental health services on and off since 2006 in an attempt to remedy concerns.

Over the years, regulators have identified multiple areas of concerns within Kaiser’s internal and external contracted provider networks. Other issues include timely access to care, appointment scheduling, medical record documentation and retention.

Some details of the regulators’ findings:

- Kaiser has not proactively worked to ensure that its network includes the types of practitioners patients need and to connect its members with those practitioners.
- Processes and procedures did not assure that members are receiving the level of care, including treatment plans, that is appropriate and consistent. The timeliness of care also did not always meet professional standards of care.
- Although the health plan represented that it uses criteria and guidelines developed by the nonprofit professional associations in each clinical specialty, the department’s regulators reviewed 100 records and could not find the necessary documentation. These clinical data are required by Senate Bill 855, regulators said.
- Health care service plans must ensure that their networks have adequate capacity and availability of licensed providers to offer members appointments that meet specific time-frames, but Kaiser acknowledged that its staffing was insufficient to provide that timely access.

Adams said the company has already begun taking steps to ensure it would be able to meet needs.

“Over the past three years, we have recognized the need to expand mental health care,” he said. “We have increased our staffing and facilities to help meet this growing need.

Since 2020, we have invested an additional \$1.1 billion to provide mental health treatment for our members.” Kaiser has hired nearly 600 additional therapists and expanded its external networks with thousands of community therapists, he said. “We have invested an additional \$195 million in new clinical facilities that include 329 mental health provider offices,” Adams

said. “Even so, during the period of the DMHC survey we fell short of our members expectations and our own expectations.”