



University of California  
Office of the President

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[www.chbrp.org](http://www.chbrp.org)

May 12, 2014

Lisa Murawski  
Assembly Appropriations

*Via E-mail only*

Dear Lisa:

I am writing in response to a query from Assembly Appropriations regarding CHBRP's April 25<sup>th</sup> analysis of Assembly Bill (AB) 2418 (Bonilla and Skinner) Health Care Coverage: Prescription Drug Refills.<sup>1</sup> The full report and an executive summary are available on CHBRP's website at: <http://www.chbrp.org/analyses.html>.

On April 30, 2014 Blue Shield of California (BSC) expressed two concerns, via letter, with respect to CHBRP's analysis of AB 2418. CHBRP has considered the concerns in connection with CHBRP's April 25<sup>th</sup> report and offers the following responses.

The BSC letter indicated that if AB 2418 prohibited all mandatory mail requirements (by universally requiring mandatory mail opt out processes – thereby making mandatory mail not “mandatory”), then AB 2418 might also prohibit the generally lower cost-sharing terms that plans and insurers have established to promote use of optional mail refills. In reviewing the language of the bill,<sup>2</sup> CHBRP noted that AB 2418 would not require an “opt-out” process for all drugs subject to a mandatory mail requirement. AB 2418 specifies that the opt out process is not required for drugs not available at a network pharmacy due to any of the following: 1. an industry shortage listed on the Current Drug Shortages Index maintained by the Food and Drug Administration (FDA); 2. a manufacturer's instructions or restrictions; 3. any risk evaluation management strategy approved by the FDA; 4. a special shortage affecting the plan's pharmacy network. CHBRP compared these four “opt-out exceptions” to a list of drugs identified to CHBRP as subject to mandatory mail refill requirements. CHBRP found that the list included drugs with manufacturer and/or FDA limits that preclude retail pharmacy refills. AB 2418 would not require an “opt-out” process for mandatory mail requirements on these drugs, AB 2418 would not eliminate all mandatory mail requirements. Therefore, although CHBRP does not provide legal analysis, it seems unlikely that AB 2418 would broadly prohibit lower cost sharing terms for optional mail refills.

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<sup>1</sup>CHBRP's report analyzed the February 21, 2014 version of the bill. The bill was amended on April 23, 2014. At the request of the Assembly Health Committee, CHBRP reviewed the amended language and determined that its report is still broadly applicable to the amended version of the bill.

<sup>2</sup> This letter quotes the amended (April 23) version of AB 2418. However, similar language was present in the February 21 version that was the focus of CHBRP's report.

The BSC letter also indicated that BSC enrollees associated with the California Pension and Retirement System (CalPERS) have coverage for specialty drugs subject to a mandatory mail refill requirement, a requirement which would be altered by AB 2418. This information had not been made available to CHBRP or to CalPERS during the report production cycle, when CHBRP requested information about enrollees and outpatient pharmacy drug (OPD) benefits subject to a mandatory mail requirement. However, the subject of specialty drugs is exceedingly complex. “Specialty drugs” is a term still without a widely accepted and broadly adopted definition and, furthermore, the delivery of specialty drugs through specialty pharmacy networks may include shipping via agencies such as Federal Express- but such shipments are not generally referred to as being “mailed.” Because of such complexities associated with specialty drugs, it seemed possible that responses to CHBRP’s query had not considered OPD to be inclusive of specialty drugs and may not have considered “mail” and “specialty pharmacy network shipping” to be synonymous – either or both of which might have caused an underreporting of the number of enrollees with an OPD benefit subject to a mandatory mail requirement. Therefore, CHBRP reconsidered enrollee benefits and AB 2418’s potential impacts. For enrollee benefits, CHBRP and CalPERS re-queried, requesting information on enrollees with coverage for specialty drugs that might be subject to a mandatory mail requirement.

The revised responses indicate that a minority of CalPERS enrollees and a minority of enrollees in the broader market do indeed have coverage for specialty drugs subject to mandatory mail requirements. Furthermore, the revised responses listed mandatory mail requirements for some specialty drugs for which mail (or shipping from a specialty pharmacy network) is not required by the manufacturer or the FDA. Applying the revised information, CHBRP initiated new analysis considering the mail and retail costs of specialty drugs and how expenditures might be altered by switching some specialty drug refills from mail (or shipping) to retail pharmacies. Unfortunately, although content expert opinion suggested that such a switch could increase the expenditures impact of AB 2418 beyond CHBRP’s April 25 report’s estimated impacts, available data (MarketScan) on these drug specialty drug refill costs is inconclusive. This is probably due to industry-wide confusion as to whether “mail” and “shipping” are synonymous. Therefore, although an increase in expenditure impacts is possible, should the language of AB 2418 be interpreted as applicable to specialty drug shipping, CHBRP cannot, with certainty, indicate what impacts on expenditures the new enrollee benefits information may imply.

As always, CHBRP appreciates the opportunity to support the Legislature, and would be happy to answer any further questions.

Sincerely,



Garen Corbett, MS  
Director, California Health Benefits Review Program  
Division of Health Sciences and Services  
University of California, Office of the President



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April 25, 2014

The Honorable Richard Pan  
Chair, California Assembly Committee on Health  
State Capitol, Room 6005  
10<sup>th</sup> and L Streets  
Sacramento, CA 95814

The Honorable Ed Hernández  
Chair, California Senate Committee on Health  
State Capitol, Room 5108  
10<sup>th</sup> and L Streets  
Sacramento, CA 95814

*Via E-mail only*

Dear Assembly Member Pan and Senator Hernández:

I am writing in response to a query from staff of the Assembly Health Committee regarding Assembly Bill (AB) 2418 (Bonilla and Skinner) Health Care Coverage: Prescription Drug Refills, which was amended on April 21, 2014.

On February 25, 2014, the Assembly Health Committee requested that the California Health Benefits Review Program (CHBRP) complete an analysis of AB 2418. CHBRP prepared and submitted its analysis of AB 2418 on April 25, 2014 (an embargoed copy went to the Committee a couple of days earlier). The full report and an executive summary are available on CHBRP's website at: <http://www.chbrp.org/analyses.html>. CHBRP's report analyzed the earlier version of the bill. Staff of the Assembly Health Committee inquired whether the April 21st revised language in AB 2418 would alter the analysis or conclusions in the report CHBRP has just submitted.

Having reviewed the amended language, CHBRP believes that its report (based on the February 21, 2014 version of AB 2418) is still broadly applicable to the current (April 21, 2014), amended version of the bill. We appreciate the opportunity to support the Legislature, and would be happy to answer any further questions.

Sincerely,

A handwritten signature in blue ink that reads "Garen Corbett". The signature is stylized and cursive.

Garen Corbett, MS  
Director, California Health Benefits Review Program  
Division of Health Sciences and Services  
University of California, Office of the President