About Time: The Story on Winning Timely Access to Health Care

In 2002, Health Access sponsored and passed the bill **AB 2179 (Cohn)** that directed The Department of Managed Health Care (DMHC) to set standards to guarantee timely access to health care.

The Legislative History

In 1997, Health Access California sponsored first-ever legislation to require that HMOs provide care in a timely manner. AB497 (Wildman) would have required that HMOs answer the telephone within four minutes, provide a non-urgent appointment within ten business days, an urgent appointment with a primary care physician on the same day, and an urgent appointment with a specialist within 48 hours.

In 2002, Health Access California took a different approach: instead of specifying timely access standards in statute, AB2179 directed the Department of Managed Health Care to develop timely access standards. AB2179 stated that the DMHC could adopt standards other than time-elapsed standards if the Department could demonstrate that other standards for assuring timely access to care were more appropriate for protecting consumers. Through the long regulatory process that ensued, no entity ever demonstrated that any other standard other than time-elapsed standards were more appropriate for protecting consumers.

In 2002, the Department of Managed Health Care, using the Advisory Committee of experts that then advised the Department, held a series of public hearings on timely access. Testimony presented included testimony by a medical group that had converted to same-day access, working down its backlog. This medical group adopted same-day access with the consumer's own physician because it found that consumer who saw a doctor other than their own went back to their regular doctor for follow-up, a second step that cost unnecessary time and money for the insurer, the medical group and consumer.

The Department also reviewed the timely access guidelines that HMOs had been filing with the Department since 1975 when each HMO was asked to develop its own internal guideline for timely access. There was considerable uniformity among these guidelines but as best anyone could determine, very little adherence to them. The regulations now adopted incorporate standards similar to those the HMOs had voluntarily imposed on themselves but failed to comply with for over 30 years.

The Regulatory Struggle

Health Access and our coalition partners (including Western Center on Law and Poverty [WCLP] and the California Pan Ethnic Health Network [CPEHN]) have given testimony at three rounds of public hearings, participated in numerous stakeholder meetings, and represented consumers over lengthy and contentious "negotiations" with plans, providers, and associations over the specific provisions of the Department's regulations. These regulations have now been approved and will become effective **January 17, 2010**.

Health Access believes this regulatory language provides significant consumer protections and lays the foundation for a common understanding as to reasonable time-elapsed standards for patients to be able to see their doctor or receive specialty or ancillary services.

Summary of New Timely Access Standards for Consumers

Here are some examples of the specific time-elapsed standards contained in the new regulation:

Request for Care	Routine	Urgent	Elapsed Time Standard	Special Requirements
Visit for primary care	√		10 business days	
Visit for primary care		√	48 hours	
Referral for visit to specialist	√		15 business days	
Referral for visit to specialist		√	96 hours	
Visit with non-physician mental health provider	√		10 business days	
Ancillary services for diagnosis or treatment	√		15 business days	
Preventive services	√		"Consistent with professionally recognized standards of practice"	
Dental services	√		36 business days	
Dental services		√	72 hours	
Preventive dental services	√		40 business days	
Telephone triage and screening services consultation with health care professional		√	Waiting time cannot exceed 30 minutes	Must be available 24/7

Why Has It Taken So Long?

Although the concept of timely access to health care was one of the cornerstones of the original Knox-Keene Act of 1975 that established managed care in California, it has remained largely unrealized. This law mandating timely access to health care passed in 2002, but the Department of Managed Health Care encountered considerable resistance from health plans, doctors, medical groups, and hospitals, and associations as they began to write the implementing regulations. While most plans and providers of services say they agree with the concept of timely access to care, patients do not always receive it, if we can gauge by the volume of ongoing consumer complaints. Throughout this very long and contentious process Health Access and other consumer group allies pushed for **specific standards** for timely access to care with **strong oversight and enforcement** by the Department.

The Policy Debate Surrounding the Issuance of the New DMHC Timely Access Regulations

Timely access has always been central to the original Knox-Keene legislative language that lay the foundation for managed care in California in 1975. As a result, timely access to care should have been available consistently from that time forward.

As DMHC turned to the task of writing the implementing regulations of this law, plans stated that they were, in fact, providing timely access to care. However, when Health Access looked into this assertion we found there was no consistency or congruence from plan to plan as to common standards and no tracking of plan performance by DMHC. This inconsistency led to a more detailed examination of what the timely access standards should look like, how they should be measured, and how they should be enforced. Below is a summary of some of the policy debate

between health plans, providers, and associations on one side, and Health Access and other consumer organizations on the other side:

Issue/Argument	**Plans, Providers, Medical Groups, and Associations**	**Health Access and other consumer groups**	**Final DMHC Language**
What is Timely Access to Care and how should it be measured?	There should be no specific standard for timely access. It should vary for each patient.	The standard should be based on clinical appropriateness and be measured in specific time-elapsed measurements. Any attempt to use other than time-elapsed standards results in no standard at all.	The regulation provides specific time-elapsed standards.
When should this regulation go into effect?	DMHC should proceed slowly and cautiously, weighing the difficulties of implementing and the associated costs.	The law passed in 2002 and should be implemented as soon as possible	The regulation will be effective January 17, 2010.
How specific should this regulation be?	The cost and complexity of this regulation should require the language to be very general and non-specific.	The legislature delegated the specific standards for timely access to care to DMHC. DMHC undertook an elaborate consultation process over the ensuing 7 years to seek input from health plans, providers, and consumers on the language in the regulation. The public nature of this process and the extensiveness of the consultation could hardly make the contents of this regulation a surprise to the industry.	The regulation contains specific time-elapsed standards.
What rights to timely access exist for low English proficient (LEP) consumers?	LEP consumers must make a choice between timely access to care and cultural and linguistic access to care.	This is not an either/or proposition for LEP. They are entitled to care in a language they can understand **and** that care should be delivered in a timely fashion.	DMHC requires that scheduling of appointments be coordinated in a manner that ensures the provision of interpreter services at the time of the appointment. The timely access regulation does not modify the Department's language assistance plan requirements.
What are the requirements for	Many plans (but not all) do this already. If	Triage must be available 24/7 and be given by a	Triage must be provided 24/7 and

plans to furnish telephone triage for consumers regarding after-hours urgent care?	they do not, it is because it is too costly and difficult to provide.	health care professional within the scope of their practice within 30 minutes of the inquiry.	screening waiting cannot exceed 30 minutes.
What provision exists for consumers to delay appointments based on their preference for a certain provider?	Plans/providers may not be meeting timely access standards in many cases based on consumer preferences to see a specific provider. They should not be held accountable for delays at the specific request of the consumer.	Consumers may elect to delay appointments in order to see a particular provider, but they should be permitted to do so only in cases where there are no adverse clinical consequences and their file is so documented.	Access to care may be delayed beyond the specific time-elapsed standards, but **only** if the doctor documents their file that a delay would have no clinical impact.
What alternatives exist to specific time-elapsed standards?	Same-day access; Advance access	We are not opposed to alternatives to time-elapsed standards.	DMHC requires that health care services are provided in a timely manner appropriate for the nature of the enrollee's condition consistent with good professional practice. "Advanced access" qualifies as meeting that standard if an appointment is given on the same or the next business day.
Oversight & Enforcement	Plans should be able to propose alternative standards for DMHC approval.	We believe individual standard-setting would lead to confusion in the market place, among consumers, and by regulators. We oppose watered down language and vague standards. We support vigorous and effective oversight by DMHC and any alternatives must be temporary and time-limited and be accompanied by a Corrective Action Plan. We oppose the Department's Material Modification process to approval of alternate standards because it is not open to public scrutiny.	Alternative standards proposed by the plans may utilize the material modification process for approval by DMHC. Any alternative standards must be based on scientifically valid evidence. The burden falls on the plan to demonstrate why an alternative standard is **more appropriate** than time-elapsed standards.

Why Are Timely Access to Care Standards So Important?

If consumers do not receive timely access to health care, it can—and does—have serious implications for that consumer by delaying needed care, limiting treatment options based on the timing of the course of treatment, and raising the cost of care because only more expensive alternative remain. In addition when consumers cannot get access to timely care, they often seek care in the most expensive and inefficient setting, the hospital emergency room.

In addition, Health Access believes that when plans and providers have not provided timely access to care in the past, it has often masked other more serious problems that go far beyond one patient. In the most serious cases, consumers cannot get timely access to care because the plan does not have sufficient contracted providers in the service area, nor do they have an adequate mechanism to provide access to additional non-contracted providers. The financial strains which result in an inadequate network can result in the broader disruption of delivery of services and can result in the financial failure of health plans and medical groups. Specifically the lack of timely access to care often conceals:

- inadequate provider networks,
- insufficient financial resources devoted to providing care,
- insufficient accountability/oversight of providers,
- contracting imbalances by medical specialty or geographic area, and/or
- financial insolvency

Health Access believes that these time-specific, measurable, common sense regulations will help achieve better health outcomes for Californians who are enrolled in managed care plans. We believe the **California regulatory language as the first in the nation** will be influential in setting clearer benchmark standards during the national debate on health care reform. We believe these timely access standards will lay the foundation for clinical treatment and practice guidelines for people who have health insurance, in addition to broadening coverage for people without health insurance, and introducing significant insurance market reforms.

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