

Vote Yes on Prop 79

Cheaper Drugs More Californians Can Count On



Myths and Facts about Proposition 79 Using the State's Bargaining Power through Medi-Cal

Proposition 79 would provide a drug discount card to millions of low- and moderate-income Californians that now pay among the highest prices in the world for needed medications.

Unlike Proposition 78 sponsored by the prescription drug companies, Proposition 79 would use the bargaining power of the state of California to negotiate reduced drug prices, not only for the State of California, but for Californians who pay out-of-pocket for these drugs.

Using the bargaining power of Medi-Cal, as the largest and most knowledgeable state purchaser of prescription drugs, would yield substantial savings to millions of Californians who are uninsured or who have high health care costs. The state of California purchases over \$4 billion of prescription drug through the state's Medi-Cal program (the California version of Medicaid), which provide health and drug coverage to over 6.8 million seniors, children, and people with disabilities. Medi-Cal is the state program spending the most money on prescription drugs. It will spend more than double what CalPERS, the second largest spender and one of the biggest health purchasers nationally, will spend in 2006.

The state of California already uses its purchasing power to get hundreds of millions of dollars in rebates for the state's general fund. Drug companies provide these rebates in order to be placed on Medicaid's "prior authorization" lists, so that their drugs are given preference in the program. Medi-Cal has been using a preferred drug lists and prior authorization to win rebates from drug-makers for years. Thirty-seven other state Medicaid programs also use prior authorization (Treat, 2005a).

Proposition 79 does nothing to change current law or practice with regard to Medi-Cal patients' access to prescription drugs. Instead, it simply allows the state not only to negotiate on behalf of itself, but on behalf of those who are forced to pay retail prices: the uninsured, the underinsured, and those with high health costs.

Medi-Cal patients continue to have access to needed medications. Under the existing system, when doctors have a choice of possible medications to prescribe, they are encouraged to select those drugs on the "preferred drug" list. Patients have access to **all** drugs, but they must get "prior authorization" from Medi-Cal in order to get covered for drugs not on the preferred list. Federal law requires Medi-Cal to have a process for responding within 24 hours to authorization requests and to provide a 72-hour emergency supply of any prescribed medicine (Hoadley, 2005).

While patients continue to get access to the medications they need, drug manufacturers have a powerful financial incentive to avoid removal from the preferred drug list. Drugs are now taken off the preferred list for several reasons, including that they have not been shown to be cost effective, that they haven't been medically proven, and that the drug company has not provided a drug rebate to the Medi-Cal program. If they are not on the list, millions of dollars in business would be diverted to a competitor's comparable products.

As a result, the Medi-Cal program has a long track record of successfully negotiating rebates. It is currently negotiating rebates saving Medi-Cal up to \$600 million a year. (In comparison, for example, CalPERS contracts out its negotiations for drug prices and its staff does not work on negotiating rebates.)

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No Medi-Cal recipient would be denied access to a needed prescription drug under this proposal. In April, 2004, a federal appeals court rejected a challenge to Michigan's use of prior authorization, stating, "the available data confirmed that in practice the prior authorization requirement has proved neither burdensome nor overly time-consuming" (Hoadley, 2005).

Proposition 79 would explicitly prevent a drug from being taken off the preferred list unless there were other drugs that were "therapeutically equivalent," so a doctor will always be able to provide a treatment without needed authorization.

The main concern about this existing system of "prior authorization" is that occasionally, some small pharmacies fail to initiate the prior authorization process, and advocates have called for better education of pharmacies and beneficiaries regarding this process (Health Consumer Alliance, 2004). Past and future efforts will continue to work to streamline this "prior authorization" process, for prescription drugs and the other treatments for which it is used.

Proposition 79 would benefit the Medi-Cal program. In litigation over the Maine program, the US Supreme Court found that, by getting medicine to people who need and cannot afford it, some of these people are prevented from becoming seriously ill and qualifying for Medicaid. Thus, Proposition 79 can save money for Medi-Cal and potentially benefit people on the program. It may even add to the prescription drug purchasing power of Medi-Cal, since the program would now be negotiating on behalf of even more Californians.

Proposition 79 would directly benefit low-income people not on Medi-Cal. California has over six million uninsured, who do not get any coverage. These include many adults and seniors below the poverty level who do not have dependent children, and thus do not qualify for Medi-Cal coverage. For these seniors and low-income people, the provision of these discounts could make a significant impact on their ability to make ends meet and access needed medication.

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