

Ensuring Accurate Health Plan Provider Directories

AB 236 (Holden)

Background

Every health plan in California is required to maintain an updated list of in-network health care providers to their enrollees. These include doctors, mental health professionals, hospitals, labs, imaging centers, and more. When consumers go to search for a new doctor or mental health specialist, they must be able to rely on these “provider directories” for accurate information.

When the providers on these lists are unreachable or do not actually provide care to consumers covered by that health plan, this is sometimes referred to as a “ghost network”.ⁱ Ghost networks lead to confusion among consumers who may have their care denied or delayed. Consumers may even feel forced to seek necessary care out-of-network and pay inflated rates for care.ⁱⁱ These inaccuracies and ghost networks have the greatest impact on consumers who already face the worst access such as those with limited English proficiency, persons with disabilities, and others in marginalized communities thus worsening inequities in health care.

In one case, a consumer used a provider directory to call 73 doctors listed as in-network and found that some had retired, others were not accepting their insurance, some had disconnected phone numbers, and a few had passed away.ⁱⁱⁱ

Existing law, SB 137 (Hernandez 2015) requires basic information such as the provider’s name, address, telephone number, languages spoken, and e-mail contact be included in these directories. The law also requires regular updates by health plans and an annual review by the Department of Health Care Services (DHCS) to ensure that the proper information is being provided. Current law also mandates that if a consumer visits a provider listed as in-network by their plan’s directory, but the provider is actually out-of-network, then their plan pays as if the care were in-network.

Existing law, however, has not fully ensured the accuracy of these directories of doctors, hospitals, and other providers. Error rates vary among health plan directories, but are highest for non-physician mental health professionals and psychiatrists; error rates are also high for primary care and specialty care providers.^{iv} One health plan was found to have an error rate of 80% for non-physician mental health professionals, most had error rates of 20%-30%. In contrast, one health plan was able to achieve 95% accuracy.^v Audits by the DHCS have also found that in some cases health plans have failed to provide enrollees with any printed provider directory and excluded mental health providers.^{vi vii}



Existing law has also not effectively enforced basic consumer protections or addressed the alarming pattern of inaccuracies in provider directories. Since the enactment of SB 137, the Department of Managed Health Care has only taken five enforcement actions where the fines were small and infrequent. Health plans need a timetable towards improvement tied with greater accountability, audits, and penalties to finally address this ongoing problem.

Getting to Accurate Provider Directories & Eliminating Ghost Networks

Assembly Bill 236 (Holden) requires that health plans audit their own provider directories per standards set by DHCS. The bill also ties existing requirements to accuracy benchmarks, which will serve as an effective enforcement mechanism.

AB 236 establishes annual, increasing provider directory accuracy benchmarks for health plans. Plans would be required to have:

- 60% accurate directories by January 1, 2024
- 80% accuracy by January 1, 2025
- 90% accuracy by January 1, 2026
- 95% accuracy by January 1, 2027

AB 236 would also require these audits be done annually and verification by health plans of provider directories for accuracy of all required information. If the plan cannot verify that the information is accurate, the provider will be removed from the directory in the next required update. To address ghost directories, if a provider has not filed five claims with the plan within the previous year, the provider would be deleted from the directory. AB 236 also includes specific penalties for inaccurate information and failure to meet accuracy benchmarks:

- \$5,000 penalty per 1,000 enrollees for the first year a health plan fails to meet a benchmark.
- \$10,000 penalty per 1,000 enrollees for subsequent years.
- Up to \$1,000 administrative penalty for each inaccurate listing in the directory.

For any questions or concerns please contact Jose Torres Casillas, Policy and Legislative Advocate.

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i Busch, Susan H., and Kelly A. Kyanko. 2020. "Incorrect Provider Directories Associated With Out-Of-Network Mental Health Care And Outpatient Surprise Bills: An examination of the role inaccurate provider directories play in out-of-network mental health treatment and surprise bills." *Health Affairs* 39 (6): 975-983.

ii Burman, Abigail. 2021. "Laying Ghost Networks to Rest: Combatting Deceptive Health Plan Provider Directories." *Yale Law & Policy Review* 40.

iii Ellison, Katherine. 2022. "73 doctors and none available: How ghost networks hamper mental health care." *The Washington Post*.
<https://www.washingtonpost.com/health/2022/02/19/mental-health-ghost-network/>

iv Burman, Abigail. 2021. "Laying Ghost Networks to Rest: Combatting Deceptive Health Plan Provider Directories." *Yale Law & Policy Review* 40.

v Burman, Abigail. 2021. "Laying Ghost Networks to Rest: Combatting Deceptive Health Plan Provider Directories." *Yale Law & Policy Review* 40.

vi California Department of Health Care Services. 2020. Report on the Medical Audit of KP, Cal LLC Kaiser Permanente GMC
[https://www.dhcs.ca.gov/services/Documents/MCOMD/Compliance Unit-CAP/2019Kaiser.pdf](https://www.dhcs.ca.gov/services/Documents/MCOMD/Compliance%20Unit-CAP/2019Kaiser.pdf)

vii California Department of Health Care Services. 2020. Report on the Medical Audit of CenCal Health Plan
[https://www.dhcs.ca.gov/services/Documents/MCOMD/Compliance Unit-CAP/CenCal_Main.pdf](https://www.dhcs.ca.gov/services/Documents/MCOMD/Compliance%20Unit-CAP/CenCal_Main.pdf)