

AMENDED IN SENATE JUNE 13, 2002

AMENDED IN ASSEMBLY MAY 15, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2420**

**Introduced by Assembly Member Richman**

February 21, 2002

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An act to amend Section 1375.5 of, and to add Section ~~1375.7~~ 1375.8 to, the Health and Safety Code, relating to health care service plans.

LEGISLATIVE COUNSEL'S DIGEST

AB 2420, as amended, Richman. Health care service plans.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the regulation and licensing of health care service plans by the Department of Managed Health Care and makes the willful violation of any of the act's provisions a crime. This act prohibits a contract between a health care service plan and a risk-bearing organization, as defined, from including any provision that requires the risk-bearing organization to be at financial risk for the provision of health care services unless the provision has been first negotiated and agreed to by the parties or is included within a contract meeting specified criteria.

This bill would provide that no health care service plan contract that is issued, amended, or renewed in this state on or after July 1, 2003, shall require or allow a health care service provider, as defined, to assume or be at any financial risk, as defined, for certain designated items administered in an outpatient setting that would ~~be funded~~, instead, *be paid for, as specified*, by the health care service plan, subject to any

applicable copayment or deductible. The bill would specify, however, that a health care service provider may request in writing to assume the financial risk for these items when negotiating an initial contract or renewing a contract with a health care service plan. ~~The bill would also require the department to report to the Legislature by July 1, 2005, on whether the services that would be excluded from the contracts specified in the bill should continue to be excluded and whether other services should be added.~~

Because this bill would impose a requirement regulating health care service plans, the willful violation of which would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1375.5 of the Health and Safety Code  
2 is amended to read:

3 1375.5. No contract between a risk-bearing organization and  
4 a health care service plan that is issued, amended, delivered, or  
5 renewed in this state on or after July 1, 2000, shall include any  
6 provision that requires the risk-bearing organization to be at  
7 financial risk for the provision of health care services, unless the  
8 provision has first been negotiated and agreed to between the  
9 health care service plan and the risk-bearing organization.

10 This section shall not prevent a risk-bearing organization from  
11 accepting the financial risk pursuant to a contract that meets the  
12 requirements of Section 1375.4.

13 SEC. 2. Section ~~1375.7~~ 1375.8 is added to the Health and  
14 Safety Code, to read:

15 ~~1375.7.~~  
16 1375.8. (a) The Legislature finds the following:



1 (1) Because of the nature and cost of certain medical items, the  
2 financial risk of these items is better retained by the health care  
3 service plan than by a health care service provider.

4 (2) Allowing a health care service provider to take the financial  
5 risk for the items described in this section only if the provider  
6 specifically requests in writing to assume that risk, will assist in  
7 maintaining patient access to health care service providers.

8 (b) (1) Notwithstanding Section 1375.5, no health care service  
9 plan contract that is issued, amended, delivered, or renewed in this  
10 state on or after July 1, 2003, shall require or allow a health care  
11 service provider to assume or be at any financial risk for any item  
12 described in subparagraphs (A) to (F), inclusive, when covered  
13 under the applicable plan contract and administered in an  
14 outpatient setting, ~~that. These items~~ shall, instead, be ~~funded and~~  
15 paid for *on a fee-for-service basis at the negotiated contract rate*,  
16 subject to any applicable copayment or deductible, by the health  
17 care service plan.

18 (A) ~~Chemotherapeutic~~ — *Injectable chemotherapeutic*  
19 medications and *injectable* adjunct pharmaceutical therapies for  
20 side effects.

21 (B) *Injectable drugs, medications, medications* or blood  
22 products used for hemophilia.

23 (C) *Injectable* medications related to transplant services.

24 (D) ~~Injectable~~ *Adult vaccines*.

25 (E) *Self-injectable medications*.

26 (F) *Other injectable* medication or medication in an  
27 implantable dosage form costing more than five hundred dollars  
28 (\$500) per patient per year, based on the average wholesale price,  
29 as published in the Drug Topics Red Book.

30 ~~(E) Adult vaccines.~~

31 ~~(F) Self-injectable medications.~~

32 (2) Notwithstanding the provisions of paragraph (1), a health  
33 care service provider may assume financial risk for the items  
34 described in subparagraphs (A) to (F), inclusive, of paragraph (1)  
35 after making the request in writing at the time of negotiating an  
36 initial contract or renewing a contract with a health care service  
37 plan. No health care service plan may request, require, or imply  
38 that as a condition of the contract agreement a health care service  
39 provider shall request to assume the financial risk for any of those  
40 items.



1 ~~(c) For a contract between a health care service plan and a~~  
2 ~~health care service provider that is issued, amended, delivered, or~~  
3 ~~renewed in this state on or after July 1, 2003, and does not include~~  
4 ~~financial risk for the items described in subparagraphs (A) to (F),~~  
5 ~~inclusive, of paragraph (1) of subdivision (b), the health care~~  
6 ~~service plan shall reimburse the health care service provider on a~~  
7 ~~fee for service basis at the negotiated contract rate for any of those~~  
8 ~~items that the health care service provider has purchased.~~

9 ~~(d)~~

10 (c) The following definitions apply for the purposes of this  
11 section:

12 (1) “Financial risk” means any contractual financial  
13 agreement between a health care service provider and a health care  
14 service plan for services rendered to a patient or enrollee if the  
15 reimbursement from a health care service plan is other than a fee  
16 for service rate structure. “Financial risk” includes, but is not  
17 limited to, capitation payments, case rates, and risk pools.

18 (2) “Health care service provider” means an individual,  
19 partnership, group, or corporation lawfully licensed or organized  
20 under Division 2 (commencing with Section 500) of the Business  
21 and Professions Code, unless specifically exempt from those  
22 provisions, or licensed under Section 1204 or exempt from  
23 licensure under Section 1206 that delivers, furnishes, or otherwise  
24 arranges for or provides health care services. “Health care service  
25 provider” does not include a health facility as defined in Section  
26 1250.

27 ~~(e)~~

28 (d) This section shall not preclude any payment by a health care  
29 service plan to a health care service provider for the performance  
30 of any services related to quality measures and programs.

31 ~~(f)~~

32 (e) This section shall not apply to a contract that is between a  
33 health care service plan and a health care service provider who  
34 meets the criteria set forth in paragraph (2) of subdivision (g) of  
35 Section 1375.4 or to a contract between health care service plans.

36 ~~(g) The Department of Managed Health Care shall report to the~~  
37 ~~appropriate policy and fiscal committees of the Legislature by July~~  
38 ~~1, 2005, on whether the services listed in subdivision (b) should~~  
39 ~~continue to be excluded from contracts and whether any other~~  
40 ~~services should be added to that list.~~



1 SEC. 3. No reimbursement is required by this act pursuant to  
2 Section 6 of Article XIII B of the California Constitution because  
3 the only costs that may be incurred by a local agency or school  
4 district will be incurred because this act creates a new crime or  
5 infraction, eliminates a crime or infraction, or changes the penalty  
6 for a crime or infraction, within the meaning of Section 17556 of  
7 the Government Code, or changes the definition of a crime within  
8 the meaning of Section 6 of Article XIII B of the California  
9 Constitution.

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