

Assembly Bill No. 2185

CHAPTER 711

An act to add Section 1367.06 to the Health and Safety Code, relating to health care coverage.

[Approved by Governor September 23, 2004. Filed with Secretary of State September 23, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2185, Frommer. Asthma treatment care.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a violation of the act's requirements a crime. Under the act, a plan is required to provide coverage for specified types of medications.

This bill would require a health care service plan that covers outpatient prescription drug benefits to provide coverage for inhaler spacers, nebulizers, and peak flow meters when medically necessary for the management and treatment of pediatric asthma.

Because the bill would specify additional requirements for a health care service plan, the 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.

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

SECTION 1. Section 1367.06 is added to the Health and Safety Code, to read:

1367.06. (a) A health care service plan contract, except a specialized health care service plan contract, that is issued, amended, delivered, or renewed on or after January 1, 2005, that covers outpatient prescription drug benefits shall include coverage for inhaler spacers when medically necessary for the management and treatment of pediatric asthma.

(b) If a subscriber has coverage for outpatient prescription drugs, a health care service plan contract, except a specialized health care service



plan contract, that is issued, amended, delivered, or renewed on or after January 1, 2005, shall include coverage for the following equipment and supplies when medically necessary for the management and treatment of pediatric asthma:

- (1) Nebulizers, including face masks and tubing.
- (2) Peak flow meters.

(c) The quantity of the equipment and supplies required to be covered pursuant to subdivisions (a) and (b) may be limited by the health care service plan if the limitations do not inhibit appropriate compliance with treatment as prescribed by the enrollee's physician and surgeon. A health care service plan shall provide for an expeditious process for approving additional or replacement inhaler spacers, nebulizers, and peak flow meters when medically necessary for an enrollee to maintain compliance with his or her treatment regimen. The process required by Section 1367.24 may be used to satisfy the requirements of this section for an inhaler spacer.

(d) Education for pediatric asthma, including education to enable an enrollee to properly use the device identified in subdivisions (a) and (b), shall be consistent with current professional medical practice.

(e) The coverage required by this section shall be provided under the same general terms and conditions, including copayments and deductibles, applicable to all other benefits provided by the plan.

(f) A health care service plan shall disclose the benefits under this section in its evidence of coverage and disclosure forms.

(g) A health care service plan may not reduce or eliminate coverage as a result of the requirements of this section.

(h) Nothing in this section shall be construed to deny or restrict in any way the department's authority to ensure plan compliance with this chapter, if a plan provides coverage for prescription drugs.

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

