

Assembly Bill No. 30

Passed the Assembly August 18, 2008

Chief Clerk of the Assembly

Passed the Senate August 14, 2008

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 1374.56 of, and to add Section 1374.4 to, the Health and Safety Code, and to amend Section 10123.89 of, and to add Section 10123.90 to, the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 30, Evans. Health care coverage: phenylketonuria: inborn errors of metabolism.

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 willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Under existing law, a plan and a health insurer are required to provide coverage, as specified, for the testing and treatment of phenylketonuria. Existing law requires that this coverage include those formulas and special food products, as defined, that are part of a diet prescribed by a licensed physician and managed by a health care professional, as specified.

This bill would revise the definition of the term “formula” for purposes of those provisions and would make related technical changes. The bill would also extend this coverage requirement for health care service plans and insurers, as specified, to inborn errors of metabolism, as defined.

Because a willful violation of the bill’s provisions with respect to health care service plans would be a crime, the bill 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 1374.4 is added to the Health and Safety Code, to read:

1374.4. (a) Every health care service plan contract, except a specialized health care service plan contract, issued, amended, delivered, or renewed in this state on and after January 1, 2009, that provides coverage for hospital, medical, or surgical expenses shall provide coverage for the testing and treatment of inborn errors of metabolism under the terms and conditions of the plan contract.

(b) Coverage for treatment of inborn errors of metabolism shall include those formulas and special food products that are part of a diet prescribed by a licensed physician and surgeon and managed by a health care professional in consultation with a physician and surgeon who specializes in the treatment of metabolic disease and who participates in, or is authorized by, the plan, if the diet is deemed medically necessary to avert the development of serious physical or mental disabilities or to promote normal development or function as a consequence of inborn errors of metabolism.

(c) Coverage pursuant to this section is not required except to the extent that the cost of the necessary formulas and special food products exceeds the cost of a normal diet.

(d) For purposes of this section, the following definitions shall apply:

(1) "Formula" means an enteral product or enteral products that are prescribed by a physician and surgeon or nurse practitioner, or ordered by a registered dietician upon referral by a health care provider authorized to prescribe dietary treatments, as medically necessary for the treatment of inborn errors of metabolism.

(2) "Inborn errors of metabolism" means an inheritable disorder of biochemistry detected through the California newborn screening program.

(3) "Special food product" means a food product that is both of the following:

(A) Prescribed by a physician and surgeon or nurse practitioner for the treatment of inborn errors of metabolism and is consistent with the recommendations and best practices of qualified health professionals with expertise germane to, and experience in the treatment and care of, inborn errors of metabolism. It does not include a food that is naturally low in protein, but may include a

food product that is specially formulated to have less than one gram of protein per serving.

(B) Used in place of normal food products, such as grocery store foods, used by the general population.

(e) A plan that provides the coverage required by this section shall be deemed to comply with Section 1374.56.

SEC. 2. Section 1374.56 of the Health and Safety Code is amended to read:

1374.56. (a) On and after July 1, 2000, every health care service plan contract, except a specialized health care service plan contract, issued, amended, delivered, or renewed in this state that provides coverage for hospital, medical, or surgical expenses shall provide coverage for the testing and treatment of phenylketonuria (PKU) under the terms and conditions of the plan contract.

(b) Coverage for treatment of phenylketonuria (PKU) shall include those formulas and special food products that are part of a diet prescribed by a licensed physician and surgeon and managed by a health care professional in consultation with a physician and surgeon who specializes in the treatment of metabolic disease and who participates in or is authorized by the plan, provided that the diet is deemed medically necessary to avert the development of serious physical or mental disabilities or to promote normal development or function as a consequence of phenylketonuria (PKU).

(c) Coverage pursuant to this section is not required except to the extent that the cost of the necessary formulas and special food products exceeds the cost of a normal diet.

(d) For purposes of this section, the following definitions shall apply:

(1) "Formula" means an enteral product or enteral products that are prescribed by a physician and surgeon or nurse practitioner, or ordered by a registered dietician upon referral by a health care provider authorized to prescribe dietary treatments, as medically necessary for the treatment of phenylketonuria (PKU).

(2) "Special food product" means a food product that is both of the following:

(A) Prescribed by a physician and surgeon or nurse practitioner for the treatment of phenylketonuria (PKU) and is consistent with the recommendations and best practices of qualified health professionals with expertise germane to, and experience in the

treatment and care of, phenylketonuria (PKU). It does not include a food that is naturally low in protein, but may include a food product that is specially formulated to have less than one gram of protein per serving.

(B) Used in place of normal food products, such as grocery store foods, used by the general population.

SEC. 3. Section 10123.89 of the Insurance Code is amended to read:

10123.89. (a) On and after July 1, 2000, every policy of disability insurance issued, amended, delivered, or renewed in this state that provides coverage for hospital, medical, or surgical expenses shall provide coverage for the testing and treatment of phenylketonuria (PKU) under the terms and conditions of the policy.

(b) Coverage for treatment of phenylketonuria (PKU) shall include those formulas and special food products that are part of a diet prescribed by a licensed physician and surgeon and managed by a health care professional in consultation with a physician and surgeon who specializes in the treatment of metabolic disease and who participates in or is authorized by the insurer, provided that the diet is deemed medically necessary to avert the development of serious physical or mental disabilities or to promote normal development or function as a consequence of phenylketonuria (PKU).

(c) Coverage pursuant to this section is not required except to the extent that the cost of necessary formulas and special food products exceeds the cost of a normal diet.

(d) For purposes of this section, the following definitions shall apply:

(1) "Formula" means an enteral product or enteral products that are prescribed by a physician and surgeon or nurse practitioner, or ordered by a registered dietician upon referral by a health care provider authorized to prescribe dietary treatments, as medically necessary for the treatment of phenylketonuria (PKU).

(2) "Special food product" means a food product that is both of the following:

(A) Prescribed by a physician and surgeon or nurse practitioner for the treatment of phenylketonuria (PKU) and is consistent with the recommendations and best practices of qualified health professionals with expertise germane to, and experience in the

treatment and care of, phenylketonuria (PKU). It does not include a food that is naturally low in protein, but may include a food product that is specially formulated to have less than one gram of protein per serving.

(B) Used in place of normal food products, such as grocery store foods, used by the general population.

(e) This section shall not apply to vision-only, dental-only, accident-only, specified disease, hospital indemnity, Medicare supplement, long-term care, or disability income insurance, except that for accident only, specified disease, or hospital indemnity coverage, coverage for benefits under this section shall apply to the extent that the benefits are covered under the general terms and conditions that apply to all other benefits under the policy or contract. Nothing in this section shall be construed as imposing a new benefit mandate on accident only, specified disease, or hospital indemnity insurance.

SEC. 4. Section 10123.90 is added to the Insurance Code, to read:

10123.90. (a) Every policy of health insurance issued, amended, delivered, or renewed in this state on and after January 1, 2009, that provides coverage for hospital, medical, or surgical expenses shall provide coverage for the testing and treatment of inborn errors of metabolism under the terms and conditions of the policy.

(b) Coverage for treatment of inborn errors of metabolism shall include those formulas and special food products that are part of a diet prescribed by a licensed physician and surgeon and managed by a health care professional in consultation with a physician and surgeon who specializes in the treatment of metabolic disease and who participates in, or is authorized by, the insurer, if the diet is deemed medically necessary to avert the development of serious physical or mental disabilities or to promote normal development or function as a consequence of inborn errors of metabolism.

(c) Coverage pursuant to this section is not required except to the extent that the cost of necessary formulas and special food products exceeds the cost of a normal diet.

(d) For purposes of this section, the following definitions shall apply:

(1) "Formula" means an enteral product or enteral products that are prescribed by a physician and surgeon or nurse practitioner,

or ordered by a registered dietician upon referral by a health care provider authorized to prescribe dietary treatments, as medically necessary for the treatment of inborn errors of metabolism.

(2) “Inborn errors of metabolism” means an inheritable disorder of biochemistry detected through the California newborn screening program.

(3) “Special food product” means a food product that is both of the following:

(A) Prescribed by a physician and surgeon or nurse practitioner for the treatment of inborn errors of metabolism and is consistent with the recommendations and best practices of qualified health professionals with expertise germane to, and experience in the treatment and care of, inborn errors of metabolism. It does not include a food that is naturally low in protein, but may include a food product that is specially formulated to have less than one gram of protein per serving.

(B) Used in place of normal food products, such as grocery store foods, used by the general population.

(e) A health insurer that provides the coverage required by this section shall be deemed to comply with Section 10123.89.

(f) This section shall not apply to vision-only, dental-only, accident-only, specified disease, hospital indemnity, Medicare supplement, long-term care, or disability income insurance, except that for accident only, specified disease, or hospital indemnity coverage, coverage for benefits under this section shall apply to the extent that the benefits are covered under the general terms and conditions that apply to all other benefits under the policy or contract. Nothing in this section shall be construed as imposing a new benefit mandate on accident only, specified disease, or hospital indemnity insurance.

SEC. 5. 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.

Approved _____, 2008

Governor