ASSEMBLY BILL No. 108

Introduced by Assembly Member Hayashi

January 12, 2009

An act to add Section 1389.21 to the Health and Safety Code, and to add Section 10384.17 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL’S DIGEST

AB 108, as amended, Hayashi. Individual health care coverage. 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 its provisions a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law prohibits the cancellation or nonrenewal of an enrollment or subscription by a health care service plan except in specified circumstances. Existing law prohibits the nonrenewal of individual health benefit plans by a health insurer except in specified circumstances.
This bill would prohibit a health care service plan or health insurer from rescinding an individual health care service plan contract or individual health insurance policy for any reason, or from canceling, limiting, or raising the premiums of the plan contract or policy due to any omission, misrepresentation, or inaccuracy in the application form, after 24 months following the issuance of the plan contract or policy, except as specified.

Because this bill would impose additional requirements on 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.


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

SECTION 1. Section 1389.21 is added to the Health and Safety Code, to read:

1389.21. Notwithstanding any other provision of law, after 24 months following the issuance of an individual health care service plan contract, a plan shall not rescind the plan contract for any reason, and shall not cancel the plan contract, limit any of the provisions of the plan contract, or raise premiums on the plan contract due to any omissions, misrepresentations, or inaccuracies in the application form. Nothing in this section shall be construed to allow a health care service plan to rescind a plan contract within the 24-month time period contrary to other applicable law, or to allow a health care service plan to cancel, limit, or raise premiums within this time period contrary to other applicable law. This section shall not limit a plan’s remedies upon a showing of willful misrepresentation in the application form, whether willful or not. Nothing in this section shall be construed to alter existing law that otherwise applies to a health care service plan within the first 24 months following the issuance of an individual health care service plan contract.
SEC. 2. Section 10384.17 is added to the Insurance Code, to read:

10384.17. Notwithstanding any other provision of law, after
24 months following the issuance of an individual health insurance
policy, a health insurer shall not rescind the policy for any reason,
and shall not cancel the policy, limit any of the provisions of the
policy, or raise premiums on the policy due to any omissions,
misrepresentations, or inaccuracies in the application form. Nothing
in this section shall be construed to allow a health insurer to rescind
a health insurance policy within the 24-month time period contrary
to other applicable law, or to allow a health insurer to cancel, limit,
or raise premiums within this time period contrary to other
applicable law. This section shall not limit a health insurer's
remedies upon a showing of willful misrepresentation: application
form, whether willful or not. Nothing in this section shall be
construed to alter existing law that otherwise applies to a health
insurer within the first 24 months following the issuance of an
individual health insurance policy.

SEC. 3. No reimbursement is required by this act pursuant to
Section 6 of Article XIIIB 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 XIIIB of the California
Constitution.