

AMENDED IN SENATE MAY 18, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2035

Introduced by Assembly Member Coto
(Coauthors: Assembly Members Block and Jones)

February 17, 2010

An act to add Section 1759.11 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 2035, as amended, Coto. Self-funded dental benefit plans: administrators.

Existing law provides for the regulation of insurers by the Department of Insurance. Existing law requires administrators who perform certain acts in connection with life or health insurance coverage or annuities to be registered with the Insurance Commissioner and to comply with certain other requirements.

This bill would require an administrator providing administrative services for a self-funded dental benefit plan to ~~include certain language in explanation of benefits documents and in forms sent to claimants in response to claims for benefits~~ *provide a claimant with a written notice of the claimant's right to an appeal, the appeal process, and certain other information in the case of an adverse benefit determination on a claim, as provided.*

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

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

1 SECTION 1. (a) *It is the intent of this act that adequate*
2 *notification and information be provided to claimants when a*
3 *third-party administrator of a dental plan operating under the*
4 *federal Employee Retirement Income Security Act of 1974 (29*
5 *U.S.C. Sec. 1001 et seq.) renders an adverse payment decision on*
6 *a claim submitted to the plan. It is intended that this requirement*
7 *conform to the requirements regarding notices of adverse benefit*
8 *determinations as outlined in Section 2560.503-1(g) of Title 29 of*
9 *the Code of Federal Regulations.*

10 (b) The Legislature finds and declares that third-party
11 administrators of insurance are regulated by the Insurance
12 Commissioner. Therefore, the requirements of this act constitute
13 a regulation of insurance within the meaning of subparagraph (A)
14 of paragraph (2) of subdivision (b) of Section 1144 of Title 29 of
15 the United States Code.

16 SEC. 2. Section 1759.11 is added to the Insurance Code, to
17 read:

18 1759.11. (a) This section shall only apply to an administrator
19 who provides administrative services for a self-funded dental
20 benefit plan otherwise subject to the jurisdiction of the federal
21 government.

22 ~~(b) The administrator shall include the following language or~~
23 ~~similar language in explanation of benefits documents and in forms~~
24 ~~sent to claimants response to claims for benefits:~~

25 ~~“This dental benefit plan is self-funded and subject to compliance~~
26 ~~with the federal Employee Retirement Income Security Act. As~~
27 ~~such, it is not subject to state law governing health care coverage~~
28 ~~for dental care. Any questions, appeals, or disputes arising from~~
29 ~~the payment of a submitted claim should be directed to the entity~~
30 ~~providing the coverage, or to the United States Department of~~
31 ~~Labor, Office of Participant Assistance. You can contact the Office~~
32 ~~of Participant Assistance at _____.”~~

33 ~~(c) The administrator shall fill in the blank in the notice required~~
34 ~~by subdivision (b) with the appropriate telephone number for the~~
35 ~~Office of Participant Assistance.~~

36 (b) *In the case of an adverse determination on a claim involving*
37 *a denial, reduction, or termination of, or a failure to provide or*
38 *make payment for, a benefit, the administrator shall provide a*

1 *claimant with a written notice of the claimant's right to appeal*
2 *the determination, and the process for filing an appeal. The notice*
3 *shall also inform the claimant that the dental benefit plan is subject*
4 *to compliance with the federal Employee Retirement Income*
5 *Security Act of 1974 (29 U.S.C. Sec. 1001 et seq.), and as such, is*
6 *not subject to state law governing health care coverage for dental*
7 *care.*

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