

AMENDED IN SENATE AUGUST 12, 2010
AMENDED IN SENATE JUNE 29, 2010
AMENDED IN SENATE JUNE 10, 2010
AMENDED IN ASSEMBLY APRIL 20, 2010
AMENDED IN ASSEMBLY APRIL 6, 2010
AMENDED IN ASSEMBLY MARCH 22, 2010
CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2042

Introduced by Assembly Member Feuer

February 17, 2010

An act to add Section 1374.255 to the Health and Safety Code, and to add Section 10199.49 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 2042, as amended, Feuer. Health care coverage: rate changes.

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, no change in premium rates or coverage in a health care service plan contract or a health insurance policy may become effective without prior written notification of the change to the contractholder or policyholder. Existing law prohibits a plan or insurer during the term

of a group plan contract or policy from changing the rate of the premium, copayment, coinsurance, or deductible during specified time periods.

This bill would prohibit a health care service plan or health insurer from altering the rates, as defined, that apply to individual health care service plan contracts or individual health insurance policies, or altering any benefits included in individual contracts or policies, more than once each calendar year, except as specified. Among those exceptions, the bill would provide that, if a brand name drug becomes available as a generic drug, the application of a lower cost-sharing rate for the generic drug would not constitute an alteration of benefits. The bill’s provisions would apply to a new individual plan contract or policy issued to an enrollee or insured who transfers from another plan or policy, as specified, and would prohibit the issuance of new plan contracts or policies more often than annually.

Because a willful violation of these requirements by a health care service plan 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.

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 1374.255 is added to the Health and
- 2 Safety Code, to read:
- 3 1374.255. (a) (1) For purposes of this section, “rate” includes,
- 4 but is not limited to, premiums, copayments, coinsurance
- 5 obligations, deductibles, out-of-pocket costs, and any other charges
- 6 for covered benefits.
- 7 (2) For purposes of this section, “cost sharing” includes, but is
- 8 not limited to, copayments, coinsurance obligations, deductibles,
- 9 out-of-pocket costs, and charges for covered benefits other than
- 10 the premium.
- 11 (b) Notwithstanding any other provision of law, except as
- 12 required by changes in state or federal law or as provided in

1 subdivision (c), a health care service plan shall not do either of the
2 following more than once each calendar year:

3 (1) Alter in any manner the rates that apply to individual plan
4 contracts.

5 (2) Alter in any manner any benefits included in individual plan
6 contracts.

7 (c) (1) If an enrollee changes geographic region or family
8 composition, the plan may alter the rates to reflect that change but
9 shall ensure that the change in the rates offered reflects only the
10 change in geographic region or family composition.

11 (2) If coinsurance obligations are based on a percentage of the
12 cost of services, nothing in this section shall prevent a change in
13 provider rates during the term of the contract between the enrollee
14 and the health care service plan even if that change increases the
15 charge for covered benefits to the enrollee.

16 (3) If a generic version of a brand name prescription drug
17 becomes available, the application of a lower cost-sharing rate for
18 the generic drug than that of the brand name version shall not
19 constitute an alteration in benefits. If a generic equivalent of a
20 brand name prescription drug becomes available, the placement
21 of the brand drug into another formulary tier or increasing the
22 copayment for that brand shall not constitute an alteration of
23 benefits or rate increase. Nothing in this paragraph shall otherwise
24 permit a plan to change the structure, tiers, or cost sharing for
25 generic and brand name drugs during the course of the year.

26 (4) Notwithstanding paragraph (1) of subdivision (b), a plan
27 may lower the premium if it does not otherwise alter cost sharing
28 or any benefits and if the reduction in premium is consistent with
29 other provisions of state and federal law.

30 (d) Upon issuance of a new individual plan contract consistent
31 with Section 1389.5, the provisions of this section shall apply to
32 that contract. In no instance shall a new individual plan contract
33 be issued more often than annually.

34 (e) This section shall not apply to health care service plan
35 contracts issued through a publicly funded state health care
36 coverage program, including, but not limited to, the Medi-Cal
37 program and the Healthy Families Program, or to Medicare
38 supplement contracts.

39 (f) Nothing in this section shall prevent a plan from providing
40 coverage for newly approved treatments, therapies, and prescription

1 drugs related to an existing benefit or service provided under the
2 contract. Nothing in this section shall be construed to provide any
3 limitation on medically necessary services.

4 (g) This section shall apply only to health care service plan
5 contracts issued, amended, or renewed on or after January 1, 2011.

6 (h) *This section shall be implemented to the extent that it does*
7 *not conflict with federal laws and regulations.*

8 SEC. 2. Section 10199.49 is added to the Insurance Code, to
9 read:

10 10199.49. (a) (1) For purposes of this section, “rate” includes,
11 but is not limited to, premiums, copayments, coinsurance
12 obligations, deductibles, out-of-pocket costs, and any other charges
13 for covered benefits.

14 (2) For purposes of this section, “cost sharing” includes, but is
15 not limited to, copayments, coinsurance obligations, deductibles,
16 out-of-pocket costs, and charges for covered benefits other than
17 the premium.

18 (b) Notwithstanding any other provision of law, except as
19 required by changes in state or federal law or as provided in
20 subdivision (c), a health insurer shall not do either of the following
21 more than once each calendar year:

22 (1) Alter in any manner the rates that apply to individual health
23 insurance policies.

24 (2) Alter in any manner any benefits included in individual
25 health insurance policies.

26 (c) (1) If an insured changes geographic region or family
27 composition, the health insurance policy may alter the rates to
28 reflect that change but shall ensure that the change in the rates
29 offered reflects only the change in geographic region or family
30 composition.

31 (2) If coinsurance obligations are based on a percentage of the
32 cost of services, nothing in this section shall prevent a change in
33 provider rates during the term of the policy between the insured
34 and the health insurer even if that change increases the charge for
35 covered benefits to the insured.

36 (3) If a generic version of a brand name prescription drug
37 becomes available, the application of a lower cost-sharing rate for
38 the generic drug than that of the brand name version shall not
39 constitute an alteration in benefits. If a generic equivalent of a
40 brand name prescription drug becomes available, the placement

1 of the brand drug into another formulary tier or increasing the
2 copayment for that brand shall not constitute an alteration of
3 benefits or rate increase. Nothing in this paragraph shall otherwise
4 permit an insurer to change the structure, tiers, or cost sharing for
5 generic and brand name drugs during the course of the year.

6 (4) Notwithstanding paragraph (1) of subdivision (b), a plan
7 may lower the premium if it does not otherwise alter cost sharing
8 or any benefits and if the reduction in premium is consistent with
9 other provisions of state and federal law.

10 (d) Upon issuance of a new individual health benefit plan
11 consistent with Section 10119.1, the provisions of this section shall
12 apply to that plan. In no instance shall a new individual health
13 benefit plan be issued more often than annually.

14 (e) This section shall not apply to health insurance policies
15 issued through a publicly funded state health care coverage
16 program, including, but not limited to, the Medi-Cal program and
17 the Healthy Families Program, or to Medicare supplement policies.

18 (f) Nothing in this section shall prevent an insurer from
19 providing coverage for newly approved treatments, therapies, and
20 prescription drugs related to an existing benefit or service provided
21 under the policy. Nothing in this section shall be construed to
22 provide any limitation on medically necessary services.

23 (g) This section shall apply only to health insurance policies
24 and health benefit plans issued, amended, or renewed on or after
25 January 1, 2011.

26 (h) *This section shall be implemented to the extent that it does*
27 *not conflict with federal laws or regulations.*

28 SEC. 3. No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 the only costs that may be incurred by a local agency or school
31 district will be incurred because this act creates a new crime or
32 infraction, eliminates a crime or infraction, or changes the penalty
33 for a crime or infraction, within the meaning of Section 17556 of
34 the Government Code, or changes the definition of a crime within
35 the meaning of Section 6 of Article XIII B of the California
36 Constitution.

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