AMENDED IN SENATE APRIL 28, 2010

SENATE BILL No. 1200

Introduced by Senator Leno

February 18, 2010

An act to amend Section 1367.03 of the Health and Safety Code, and to amend Section 10133.5 of the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 1200, as amended, Leno. Health care coverage: ~~school-based health~~ *timeliness of* care.

Existing law provides for *the* licensing and regulation of health care service plans by the Department of Managed Health Care. Existing law provides for *the* regulation of health insurers by the Insurance Commissioner. Existing law requires the department and the commissioner to develop and adopt regulations to ensure that enrollees or insureds of health care service plans and certain health insurers have access to needed health care services in a timely manner pursuant to specified indicators of timeliness.

This bill would add timeliness of care for schoolage children who must receive medically necessary services during school hours as one of the indicators of timeliness.

Existing law requires the department to review and adopt standards, as needed, concerning the availability of primary care physicians, specialty physicians, hospital care, and other health care so that consumers have timely access to care. *In adopting those standards, the department is required to consider the nature of physician practices and circumstances affecting the delivery of care. If the department finds that health care service plans and health care providers have difficulty*

meeting those standards, existing law authorizes the department to make recommendations to the Assembly Committee on Health and the Senate Committee on Insurance on specified dates regarding implementation.

This bill would add availability of school-based health care to the timely access to care provisions for which the department may adopt standards. *The bill would instead authorize the department to report and make recommendations to the Assembly Committee on Health and the Senate Committee on Health regarding those standards.*

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

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

SECTION 1. Section 1367.03 of the Health and Safety Code is amended to read:

1367.03. (a) The department shall develop and adopt regulations to ensure that enrollees have access to needed health care services in a timely manner. In developing these regulations, the department shall develop indicators of timeliness of access to care and, in so doing, shall consider the following as indicators of timeliness of access to care:

(1) Waiting times for appointments with physicians, including primary care and specialty physicians.

(2) Timeliness of care in an episode of illness, including the timeliness of referrals and obtaining other services, if needed.

(3) Waiting time to speak to a physician, registered nurse, or other qualified health professional acting within his or her scope of practice who is trained to screen or triage an enrollee who may need care.

(4) Timeliness of care for schoolage children who must receive medically necessary services during school hours.

(b) In developing these standards for timeliness of access, the department shall consider the following:

(1) Clinical appropriateness.

(2) The nature of the specialty.

(3) The urgency of care.

(4) The requirements of other provisions of law, including Section 1367.01 governing utilization review, that may affect timeliness of access.

(c) The department may adopt standards other than the time elapsed between the time an enrollee seeks health care and obtains care. If the department chooses a standard other than the time elapsed between the time an enrollee first seeks health care and obtains it, the department shall demonstrate why that standard is more appropriate. In developing these standards, the department shall consider the nature of the plan network.

(d) The department shall review and adopt standards, as needed, concerning the availability of primary care physicians, specialty physicians, hospital care, school-based health care, and other health care, so that consumers have timely access to care. In so doing, the department shall consider the nature of physician practices, including individual and group practices as well as the nature of the plan network. The department shall also consider various circumstances affecting the delivery of care, including urgent care, care provided on the same day, and requests for specific providers. If the department finds that health care service plans and health care providers have difficulty meeting these standards, the department may report and make recommendations to the Assembly Committee on Health and the Senate Committee on ~~Insurance~~ *Health* of the Legislature.

(e) In developing standards under subdivision (a), the department shall consider requirements under federal law, requirements under other state programs, standards adopted by other states, nationally recognized accrediting organizations, and professional associations. The department shall further consider the needs of rural areas, specifically those in which health facilities are more than 30 miles apart and any requirements imposed by the State Department of Health Care Services on health care service plans that contract with the State Department of Health Care Services to provide Medi-Cal managed care.

(f) (1) Contracts between health care service plans and health care providers shall ~~assure~~ *ensure* compliance with the standards developed under this section. These contracts shall require reporting by health care providers to health care service plans and by health care service plans to the department to ensure compliance with the standards.

(2) Health care service plans shall report annually to the department on compliance with the standards in a manner specified by the department. The reported information shall allow consumers

to compare the performance of plans and their contracting providers in complying with the standards, as well as changes in the compliance of plans with these standards.

(g) (1) When evaluating compliance with the standards, the department shall focus more upon patterns of noncompliance rather than isolated episodes of noncompliance.

(2) The director may investigate and take enforcement action against plans regarding noncompliance with the requirements of this section. Where substantial harm to an enrollee has occurred as a result of plan noncompliance, the director may, by order, assess administrative penalties subject to appropriate notice of, and the opportunity for, a hearing in accordance with Section 1397. The plan may provide to the director, and the director may consider, information regarding the plan's overall compliance with the requirements of this section. The administrative penalties shall not be deemed an exclusive remedy available to the director. These penalties shall be paid to the Managed Care Administrative Fines and Penalties Fund and shall be used for the purposes specified in Section 1341.45. The director shall periodically evaluate grievances to determine if any audit, investigative, or enforcement actions should be undertaken by the department.

(3) The director may, after appropriate notice and opportunity for hearing in accordance with Section 1397, by order, assess administrative penalties if the director determines that a health care service plan has knowingly committed, or has performed with a frequency that indicates a general business practice, either of the following:

(A) Repeated failure to act promptly and reasonably to ~~assure~~ *ensure* timely access to care consistent with this chapter.

(B) Repeated failure to act promptly and reasonably to require contracting providers to ~~assure~~ *ensure* timely access that the plan is required to perform under this chapter and that have been delegated by the plan to the contracting provider when the obligation of the plan to the enrollee or subscriber is reasonably clear.

(C) The administrative penalties available to the director pursuant to this section are not exclusive, and may be sought and employed in any combination with civil, criminal, and other administrative remedies deemed warranted by the director to enforce this chapter.

(4) The administrative penalties shall be paid to the Managed Care Administrative Fines and Penalties Fund and shall be used for the purposes specified in Section 1341.45.

(h) The department shall work with the patient advocate to ~~assure~~ *ensure* that the quality of care report card incorporates information provided pursuant to subdivision (f) regarding the degree to which health care service plans and health care providers comply with the requirements for timely access to care.

(i) Every three years, the department shall review information regarding compliance with the standards developed under this section and shall make recommendations for changes that further protect enrollees.

~~SEC. 2. Section 10133.5 of the Insurance Code is amended to read:~~

~~10133.5. (a) The commissioner shall promulgate regulations applicable to health insurers that contract with providers for alternative rates pursuant to Section 10133 to ensure that insureds have the opportunity to access needed health care services in a timely manner.~~

~~(b) These regulations shall be designed to assure accessibility of provider services in a timely manner to individuals comprising the insured or contracted group, pursuant to benefits covered under the policy or contract. The regulations shall insure:~~

~~1. Adequacy of number and locations of institutional facilities and professional providers, and consultants in relationship to the size and location of the insured group and that the services offered are available at reasonable times.~~

~~2. Adequacy of number of professional providers, and license classifications of such providers, in relationship to the projected demands for services covered under the group policy or plan. The department shall consider the nature of the specialty in determining the adequacy of professional providers.~~

~~3. The policy or contract is not inconsistent with standards of good health care and clinically appropriate care.~~

~~4. All contracts including contracts with providers, and other persons furnishing services, or facilities shall be fair and reasonable.~~

~~5. Timeliness of care for schoolage children who must receive medically necessary services during school hours.~~

~~(c) In developing standards under subdivision (a), the department shall also consider requirements under federal law; requirements under other state programs and law, including utilization review; and standards adopted by other states, national accrediting organizations and professional associations. The department shall further consider the accessability to provider services in rural areas.~~

~~(d) In designing the regulations the commissioner shall consider the regulations in Title 28, of the California Administrative Code of Regulations, commencing with Section 1300.67.2, which are applicable to health care service plans, and all other relevant guidelines in an effort to accomplish maximum accessibility within a cost efficient system of indemnification. The department shall consult with the Department of Managed Health Care concerning regulations developed by that department pursuant to Section 1367.03 of the Health and Safety Code and shall seek public input from a wide range of interested parties.~~

~~(e) Health insurers that contract for alternative rates of payment with providers shall report annually on complaints received by the insurer regarding timely access to care. The department shall review these complaints and any complaints received by the department regarding timeliness of care and shall make public this information.~~

~~(f) Every three years, the commissioner shall review the latest version of the regulations adopted pursuant to subdivision (a) and shall determine if the regulations should be updated to further the intent of this section.~~

SEC. 2. Section 10133.5 of the Insurance Code is amended to read:

10133.5. (a) The commissioner shall~~, on or before January 1, 2004,~~ promulgate regulations applicable to health insurers ~~which~~ *that* contract with providers for alternative rates pursuant to Section 10133 to ensure that insureds have the opportunity to access needed health care services in a timely manner.

(b) These regulations shall be designed to ~~assure~~ *ensure* accessibility of provider services in a timely manner to individuals comprising the insured or contracted group, pursuant to benefits covered under the policy or contract. The regulations shall ~~insure~~ *ensure all of the following*:

~~1.~~

(1) Adequacy of number and locations of institutional facilities and professional providers, and consultants in relationship to the size and location of the insured group and that the services offered are available at reasonable times.

~~2.~~

(2) Adequacy of number of professional providers, and license classifications of such providers, in relationship to the projected demands for services covered under the group policy or plan. The department shall consider the nature of the specialty in determining the adequacy of professional providers.

~~3.~~

(3) The policy or contract is not inconsistent with standards of good health care and clinically appropriate care.

~~4.~~

(4) All contracts including contracts with providers, and other persons furnishing services, or facilities shall be fair and reasonable.

(5) Timeliness of care for schoolage children who must receive medically necessary services during school hours.

(c) In developing standards under subdivision (a), the department shall also consider requirements under federal law; requirements under other state programs and law, including utilization review; and standards adopted by other states, national accrediting organizations and professional associations. The department shall further consider the ~~accessability~~ *accessibility* to provider services in rural areas.

(d) In designing the regulations the commissioner shall consider the regulations in Title 28, of the California Administrative Code of Regulations, commencing with Section 1300.67.2, which are applicable to ~~Knox-Keene~~ *health care service* plans, and all other relevant guidelines in an effort to accomplish maximum accessibility within a ~~cost efficient~~ *cost-efficient* system of indemnification. The department shall consult with the Department of Managed Health Care concerning regulations developed by that department pursuant to Section 1367.03 of the Health and Safety Code and shall seek public input from a wide range of interested parties.

(e) Health insurers that contract for alternative rates of payment with providers shall report annually on complaints received by the insurer regarding timely access to care. The department shall

review these complaints and any complaints received by the department regarding timeliness of care and shall make public this information.

~~(f) The department shall report to the Assembly Committee on Health and the Senate Committee on Insurance of the Legislature on March 1, 2003, and on March 1, 2004, regarding the progress towards the implementation of this section.~~

~~(g)~~

(f) Every three years, the commissioner shall review the latest version of the regulations adopted pursuant to subdivision (a) and shall determine if the regulations should be updated to further the intent of this section.

O