

AMENDED IN SENATE JUNE 1, 2010
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: timeliness of care.

Existing law provides for the licensing and regulation of health care service plans by the Department of Managed Health Care, *and makes a willful violation of those provisions by a health care service plan a crime*. 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.

The bill would require health care service plans and health insurers to work constructively with local education agencies to provide reimbursement for covered health care services provided to a child during school hours and to ensure adequate availability of licensed health care professionals to accommodate the necessary medical needs of children during school hours. Because a willful violation of these provisions by a health care service plan would be a crime, the bill would impose a state-mandated local program. The bill would require the Department of Managed Health Care and the Department of Insurance to implement these provisions by regulation by January 1, 2012.

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: ~~no~~-yes.

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

- 1 SECTION 1. Section 1367.03 of the Health and Safety Code
- 2 is amended to read:
- 3 1367.03. (a) The department shall develop and adopt
- 4 regulations to ensure that enrollees have access to needed health
- 5 care services in a timely manner. In developing these regulations,
- 6 the department shall develop indicators of timeliness of access to
- 7 care and, in so doing, shall consider the following as indicators of
- 8 timeliness of access to care:

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

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

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

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

11 (A) *Health care service plans shall work constructively with*
12 *local education agencies to provide reimbursement for covered*
13 *health care services provided to a child by the agency during*
14 *school hours.*

15 (B) *Health care service plans shall ensure adequate availability*
16 *of licensed health care professionals to accommodate the necessary*
17 *medical needs of children during school hours, including the*
18 *administration of medically necessary medications.*

19 (C) *The department shall update existing regulations to*
20 *implement this paragraph no later than January 1, 2012.*

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

23 (1) Clinical appropriateness.

24 (2) The nature of the specialty.

25 (3) The urgency of care.

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

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

36 (d) The department shall review and adopt standards, as needed,
37 concerning the availability of primary care physicians, specialty
38 physicians, hospital care, school-based health care, and other health
39 care, so that consumers have timely access to care. In so doing,
40 the department shall consider the nature of physician practices,

1 including individual and group practices as well as the nature of
2 the plan network. The department shall also consider various
3 circumstances affecting the delivery of care, including urgent care,
4 care provided on the same day, and requests for specific providers.
5 If the department finds that health care service plans and health
6 care providers have difficulty meeting these standards, the
7 department may report and make recommendations to the
8 Assembly Committee on Health and the Senate Committee on
9 Health of the Legislature.

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

20 (f) (1) Contracts between health care service plans and health
21 care providers shall ensure compliance with the standards
22 developed under this section. These contracts shall require
23 reporting by health care providers to health care service plans and
24 by health care service plans to the department to ensure compliance
25 with the standards.

26 (2) Health care service plans shall report annually to the
27 department on compliance with the standards in a manner specified
28 by the department. The reported information shall allow consumers
29 to compare the performance of plans and their contracting providers
30 in complying with the standards, as well as changes in the
31 compliance of plans with these standards.

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

35 (2) The director may investigate and take enforcement action
36 against plans regarding noncompliance with the requirements of
37 this section. Where substantial harm to an enrollee has occurred
38 as a result of plan noncompliance, the director may, by order,
39 assess administrative penalties subject to appropriate notice of,
40 and the opportunity for, a hearing in accordance with Section 1397.

1 The plan may provide to the director, and the director may
2 consider, information regarding the plan's overall compliance with
3 the requirements of this section. The administrative penalties shall
4 not be deemed an exclusive remedy available to the director. These
5 penalties shall be paid to the Managed Care Administrative Fines
6 and Penalties Fund and shall be used for the purposes specified in
7 Section 1341.45. The director shall periodically evaluate grievances
8 to determine if any audit, investigative, or enforcement actions
9 should be undertaken by the department.

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

16 (A) Repeated failure to act promptly and reasonably to ensure
17 timely access to care consistent with this chapter.

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

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

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

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

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

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

3 10133.5. (a) The commissioner shall promulgate regulations
4 applicable to health insurers that contract with providers for
5 alternative rates pursuant to Section 10133 to ensure that insureds
6 have the opportunity to access needed health care services in a
7 timely manner.

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

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

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

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

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

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

29 (A) *Health insurers shall work constructively with local*
30 *education agencies to provide reimbursement for covered health*
31 *care services provided to a child by the agency during school*
32 *hours.*

33 (B) *Health insurers shall ensure adequate availability of licensed*
34 *health care professionals to accommodate the necessary medical*
35 *needs of children during school hours, including the administration*
36 *of medically necessary medications.*

37 (C) *The department shall update existing regulations to*
38 *implement this paragraph no later than January 1, 2012.*

39 (c) In developing standards under subdivision (a), the department
40 shall also consider requirements under federal law; requirements

1 under other state programs and law, including utilization review;
2 and standards adopted by other states, national accrediting
3 organizations and professional associations. The department shall
4 further consider the accessibility to provider services in rural areas.

5 (d) In designing the regulations the commissioner shall consider
6 the regulations in Title 28, of the California Administrative Code
7 of Regulations, commencing with Section 1300.67.2, which are
8 applicable to health care service plans, and all other relevant
9 guidelines in an effort to accomplish maximum accessibility within
10 a cost-efficient system of indemnification. The department shall
11 consult with the Department of Managed Health Care concerning
12 regulations developed by that department pursuant to Section
13 1367.03 of the Health and Safety Code and shall seek public input
14 from a wide range of interested parties.

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

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

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

O