

AMENDED IN SENATE AUGUST 6, 2012  
AMENDED IN ASSEMBLY JANUARY 23, 2012  
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 137**

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**Introduced by Assembly Member Portantino**

January 12, 2011

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An act to amend Section ~~1367.65~~ of, and to add Section 1367.651 to, the Health and Safety Code, and to amend Section 10123.81 of, and to add Section 10123.815 to, of the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 137, as amended, Portantino. Health care coverage: mammographies.

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, a health care service plan contract, except a specialized health care service plan contract, that is issued, amended, delivered, or renewed on or after January 1, 2000, is deemed to provide coverage for mammography for screening or diagnostic purposes upon referral by a participating nurse practitioner, participating certified nurse-midwife, or participating physician, providing care to the patient and operating within the scope of practice provided under existing law. Under existing law, an individual or group policy of disability insurance that is issued, amended, delivered, or renewed on or after January 1, 2000, is deemed

to provide specified coverage based upon age for mammography for screening or diagnostic purposes upon referral by a participating nurse practitioner, participating certified nurse-midwife, or participating physician, providing care to the patient and operating within the scope of practice provided under existing law.

This bill would provide that ~~health care service plan contracts and individual or group policies of health insurance issued, amended, delivered, or renewed on or after July 1, 2013,~~ shall be deemed to provide coverage for mammographies for screening or diagnostic purposes upon referral of a participating nurse practitioner, participating certified nurse-midwife, participating physician assistant, or participating physician, as specified. ~~The bill would, commencing July 1, 2013, require plans and insurers subject to these provisions to provide subscribers or policyholders with information regarding recommended timelines for an individual to undergo tests for the screening or diagnosis of breast cancer, as specified.~~

~~Because this bill would specify additional requirements for 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.~~

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

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

1     ~~SECTION 1. Section 1367.65 of the Health and Safety Code~~  
 2     ~~is amended to read:~~  
 3     ~~1367.65. (a) Until June 30, 2013, every health care service~~  
 4     ~~plan contract, except a specialized health care service plan contract,~~  
 5     ~~that is issued, amended, delivered, or renewed shall be deemed to~~  
 6     ~~provide coverage for mammography for screening or diagnostic~~  
 7     ~~purposes upon referral by a participating nurse practitioner,~~  
 8     ~~participating certified nurse-midwife, or participating physician,~~  
 9     ~~providing care to the patient and operating within the scope of~~  
 10    ~~practice provided under existing law.~~

1 ~~(b) On or after July 1, 2013, every health care service plan~~  
2 ~~contract, except a specialized health care service plan contract,~~  
3 ~~that is issued, amended, delivered, or renewed shall be deemed to~~  
4 ~~provide coverage for mammography for screening or diagnostic~~  
5 ~~purposes upon referral by a participating nurse practitioner,~~  
6 ~~participating certified nurse-midwife, participating physician~~  
7 ~~assistant, or participating physician, providing care to the patient~~  
8 ~~and operating within the scope of practice provided under existing~~  
9 ~~law.~~

10 ~~(c) Nothing in this section shall be construed to prevent~~  
11 ~~application of copayment or deductible provisions in a plan, nor~~  
12 ~~shall this section be construed to require that a plan be extended~~  
13 ~~to cover any other procedures under an individual or a group health~~  
14 ~~care service plan contract. Nothing in this section shall be construed~~  
15 ~~to authorize a plan enrollee to receive the services required to be~~  
16 ~~covered by this section if those services are furnished by a~~  
17 ~~nonparticipating provider, unless the plan enrollee is referred to~~  
18 ~~that provider by a participating provider identified in subdivision~~  
19 ~~(a) or (b), as applicable, providing care to the patient.~~

20 ~~SEC. 2. Section 1367.651 is added to the Health and Safety~~  
21 ~~Code, to read:~~

22 ~~1367.651. Commencing July 1, 2013, a health care service~~  
23 ~~plan subject to Section 1367.6 or 1367.65 shall provide a subscriber~~  
24 ~~with information regarding recommended timelines for an~~  
25 ~~individual to undergo tests for the screening or diagnosis of breast~~  
26 ~~cancer. This information may be provided by written letter sent to~~  
27 ~~the subscriber, by publication in a newsletter sent to the subscriber,~~  
28 ~~by publication in evidence of coverage, by direct telephone call~~  
29 ~~to the subscriber, by electronic transmission, by Web-based portal~~  
30 ~~containing various plan and benefit information if the subscriber~~  
31 ~~has access to that portal, or by any other means that will reasonably~~  
32 ~~notify the subscriber of the recommended timelines for testing.~~  
33 ~~Communications made by a plan's contracted providers that satisfy~~  
34 ~~the requirements of this section shall constitute compliance by the~~  
35 ~~plan with this section.~~

36 ~~SEC. 3.~~

37 ~~SECTION 1. Section 10123.81 of the Insurance Code is~~  
38 ~~amended to read:~~

39 ~~10123.81. (a) Until June 30, 2013, every-Every individual or~~  
40 ~~group policy of disability insurance or self-insured employee~~

1 welfare benefit plan that is issued, amended, or renewed, shall be  
2 deemed to provide coverage for ~~at least the following,~~  
3 *mammography for screening or diagnostic purposes* upon the  
4 referral of a nurse practitioner, certified nurse-midwife, or  
5 physician, providing care to the patient and operating within the  
6 scope of practice provided under existing law for breast cancer  
7 screening or diagnostic purposes: *law.*

8 (1) A baseline mammogram for women age 35 to 39, inclusive.

9 (2) A mammogram for women age 40 to 49, inclusive, every  
10 two years or more frequently based on the women's physician's  
11 recommendation.

12 (3) A mammogram every year for women age 50 and over.

13 (b) On or after July 1, 2013, every individual or group policy  
14 of health insurance that is issued, amended, delivered, or renewed  
15 shall be deemed to provide coverage for mammography for  
16 screening or diagnostic purposes upon referral by a participating  
17 nurse practitioner, participating certified nurse-midwife,  
18 participating physician assistant, or participating physician,  
19 providing care to the patient and operating within the scope of  
20 practice provided under existing law.

21 (c) Nothing in this section shall be construed to require an  
22 individual or group policy to cover the surgical procedure known  
23 as mastectomy or to prevent application of deductible or copayment  
24 provisions contained in the policy or plan, nor shall this section  
25 be construed to require that coverage under an individual or group  
26 policy be extended to any other procedures.

27 (d) Nothing in this section shall be construed to authorize an  
28 insured or plan member to receive the coverage required by this  
29 section if that coverage is furnished by a nonparticipating provider,  
30 unless the insured or plan member is referred to that provider by  
31 a participating provider identified in subdivision (a) or (b), as  
32 applicable, providing care to the patient.

33 (e) This section shall not apply to specialized health insurance,  
34 Medicare supplement insurance, short-term limited duration health  
35 insurance, CHAMPUS supplement insurance, TRI-CARE  
36 supplement insurance, or to hospital indemnity, accident-only, or  
37 specified disease insurance.

38 (b) *Nothing in this section shall be construed to prevent the*  
39 *application of copayment or deductible provisions in a policy, nor*  
40 *shall this section be construed to require that a policy be extended*

1 *to cover any other procedures under an individual or a group*  
2 *policy. Nothing in this section shall be construed to authorize a*  
3 *policyholder to receive the services required to be covered by this*  
4 *section if those services are furnished by a nonparticipating*  
5 *provider, unless the policyholder is referred to that provider by a*  
6 *participating physician, nurse practitioner, or certified nurse*  
7 *midwife providing care.*

8 SEC. 4. ~~Section 10123.815 is added to the Insurance Code, to~~  
9 ~~read:~~

10 ~~10123.815. (a) Commencing July 1, 2013, a health insurer~~  
11 ~~subject to Section 10123.8 or 10123.81 shall provide a policyholder~~  
12 ~~with information regarding recommended timelines for an~~  
13 ~~individual to undergo tests for the screening or diagnosis of breast~~  
14 ~~cancer. This information may be provided by written letter sent to~~  
15 ~~the policyholder, by publication in a newsletter sent to the~~  
16 ~~policyholder, by publication in evidence of coverage, by direct~~  
17 ~~telephone call to the policyholder, by electronic transmission, by~~  
18 ~~Web-based portal containing various plan or policy and benefit~~  
19 ~~information if the policyholder has access to that portal, or by any~~  
20 ~~other means that will reasonably notify the policyholder of the~~  
21 ~~recommended timelines for testing. Communications made by an~~  
22 ~~insurer's contracted providers that satisfy the requirements of this~~  
23 ~~section shall constitute compliance by the insurer with this section.~~

24 ~~(b) This section shall not apply to specialized health insurance,~~  
25 ~~Medicare supplement insurance, short-term limited duration health~~  
26 ~~insurance, CHAMPUS supplement insurance, TRI-CARE~~  
27 ~~supplement insurance, or to hospital indemnity, accident-only, or~~  
28 ~~specified disease insurance.~~

29 SEC. 5. ~~No reimbursement is required by this act pursuant to~~  
30 ~~Section 6 of Article XIII B of the California Constitution because~~  
31 ~~the only costs that may be incurred by a local agency or school~~  
32 ~~district will be incurred because this act creates a new crime or~~  
33 ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
34 ~~for a crime or infraction, within the meaning of Section 17556 of~~  
35 ~~the Government Code, or changes the definition of a crime within~~  
36 ~~the meaning of Section 6 of Article XIII B of the California~~  
37 ~~Constitution.~~

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