

ASSEMBLY BILL

No. 922

Introduced by Assembly Member Monning

February 18, 2011

An act to amend Section 1368.02 of, and to add Division 115 (commencing with Section 136000) to, the Health and Safety Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 922, as introduced, Monning. Office of Health Consumer Assistance.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the regulation of health care service plans by the Department of Managed Health Care. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law creates within the Department of Managed Health Care an Office of Patient Advocate to assist enrollees with regard to health care coverage.

This bill would eliminate the Office of Patient Advocate and would instead create an Office of Health Consumer Assistance. The bill would impose specified duties and responsibilities on the Office of Health Consumer Assistance with regard to providing outreach and education about health care coverage to consumers. The bill would authorize the office to contract with community organizations to provide those services. The bill would require specified state agencies to report to the office regarding consumer complaints submitted to those agencies by individuals with complaints about their health care coverage. The bill would establish the California Health Consumer Assistance Trust Fund for those purposes and would make moneys deposited into that fund

available for purposes of administering the program, subject to appropriation by the Legislature. The bill would authorize the office to apply to the federal government for moneys to fund the office and would transfer moneys used to support the Office of Patient Advocate to the fund.

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

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

1 SECTION 1. Section 1368.02 of the Health and Safety Code
2 is amended to read:

3 1368.02. (a) The director shall establish and maintain a toll-free
4 telephone number for the purpose of receiving complaints regarding
5 health care service plans regulated by the director.

6 (b) Every health care service plan shall publish the department’s
7 toll-free telephone number, the department’s TDD line for the
8 hearing and speech impaired, the plan’s telephone number, and
9 the department’s Internet address, on every plan contract, on every
10 evidence of coverage, on copies of plan grievance procedures, on
11 plan complaint forms, and on all written notices to enrollees
12 required under the grievance process of the plan, including any
13 written communications to an enrollee that offer the enrollee the
14 opportunity to participate in the grievance process of the plan and
15 on all written responses to grievances. The department’s telephone
16 number, the department’s TDD line, the plan’s telephone number,
17 and the department’s Internet address shall be displayed by the
18 plan in each of these documents in 12-point boldface type in the
19 following regular type statement:
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21 “The California Department of Managed Health Care is
22 responsible for regulating health care service plans. If you have a
23 grievance against your health plan, you should first telephone your
24 health plan at (insert health plan’s telephone number) and use your
25 health plan’s grievance process before contacting the department.
26 Utilizing this grievance procedure does not prohibit any potential
27 legal rights or remedies that may be available to you. If you need
28 help with a grievance involving an emergency, a grievance that
29 has not been satisfactorily resolved by your health plan, or a
30 grievance that has remained unresolved for more than 30 days,

1 you may call the department for assistance. You may also be
2 eligible for an Independent Medical Review (IMR). If you are
3 eligible for IMR, the IMR process will provide an impartial review
4 of medical decisions made by a health plan related to the medical
5 necessity of a proposed service or treatment, coverage decisions
6 for treatments that are experimental or investigational in nature
7 and payment disputes for emergency or urgent medical services.
8 The department also has a toll-free telephone number
9 (1-888-HMO-2219) and a TDD line (1-877-688-9891) for the
10 hearing and speech impaired. The department's Internet Web site
11 <http://www.hmoHELP.ca.gov> has complaint forms, IMR application
12 forms and instructions online.”

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14 ~~(e) (1) There is within the department an Office of Patient
15 Advocate, which shall be known and may be cited as the
16 Gallegos-Rosenthal Patient Advocate Program, to represent the
17 interests of enrollees served by health care service plans regulated
18 by the department. The goal of the office shall be to help enrollees
19 secure health care services to which they are entitled under the
20 laws administered by the department.~~

21 ~~(2) The office shall be headed by a patient advocate
22 recommended to the Governor by the Secretary of the Business,
23 Transportation and Housing Agency. The patient advocate shall
24 be appointed by and serve at the pleasure of the Governor.~~

25 ~~(3) The duties of the office shall be determined by the secretary,
26 in consultation with the director, and shall include, but not be
27 limited to:~~

28 ~~(A) Developing educational and informational guides for
29 consumers describing enrollee rights and responsibilities, and
30 informing enrollees on effective ways to exercise their rights to
31 secure health care services. The guides shall be easy to read and
32 understand, available in English and other languages, and shall be
33 made available to the public by the department, including access
34 on the department's Internet Web site and through public outreach
35 and educational programs.~~

36 ~~(B) Compiling an annual publication, to be made available on
37 the department's Internet Web site, of a quality of care report card,
38 including, but not limited to, health care service plans.~~

39 ~~(C) Rendering advice and assistance to enrollees regarding
40 procedures, rights, and responsibilities related to the use of health~~

1 care service plan grievance systems, the department's system for
2 reviewing unresolved grievances, and the independent review
3 process.

4 (D) Making referrals within the department regarding studies,
5 investigations, audits, or enforcement that may be appropriate to
6 protect the interests of enrollees.

7 (E) Coordinating and working with other government and
8 nongovernment patient assistance programs and health care
9 ombudsperson programs.

10 (4) The director, in consultation with the patient advocate, shall
11 provide for the assignment of personnel to the office. The
12 department may employ or contract with experts when necessary
13 to carry out functions of the office. The annual budget for the office
14 shall be separately identified in the annual budget request of the
15 department.

16 (5) The office shall have access to department records including,
17 but not limited to, information related to health care service plan
18 audits, surveys, and enrollee grievances. The department shall
19 assist the office in compelling the production and disclosure of
20 any information the office deems necessary to perform its duties;
21 from entities regulated by the department, if the information is
22 determined by the department's legal counsel to be subject, under
23 existing law, to production or disclosure to the department.

24 (6) The patient advocate shall annually issue a public report on
25 the activities of the office, and shall appear before the appropriate
26 policy and fiscal committees of the Senate and Assembly, if
27 requested, to report and make recommendations on the activities
28 of the office.

29 SEC. 2. Division 115 (commencing with Section 136000) is
30 added to the Health and Safety Code, to read:

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DIVISION 115. OFFICE OF HEALTH CONSUMER
ASSISTANCE

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136000. (a) There is hereby created in state government an
independent office of health coverage consumer assistance called
the Office of Health Consumer Assistance. The office shall be
under the direction of a chief executive officer who shall be known
as the Director of the Office of Health Consumer Assistance. The

1 director shall be appointed by the Governor, subject to confirmation
2 by the Senate.

3 (b) The Office of Health Consumer Assistance shall receive and
4 respond to all telephonic and in-person inquiries, complaints, and
5 requests for assistance from individuals concerning all health care
6 coverage available in California, including coverage available
7 through the Medi-Cal program, the Exchange, the Healthy Families
8 Program (Part 6.2 (commencing with Section 12693) of Division
9 2 of the Insurance Code), or any other county or state public health
10 program, or individual or group coverage available through health
11 care service plans under Chapter 2.2 (commencing with Section
12 1340) of Division 2 or health insurers under Part 2 (commencing
13 with Section 10110) of Division 2 of the Insurance Code.

14 (c) The office shall do all of the following:

15 (1) Provide outreach and education about health care coverage
16 options including, but not limited to, information regarding the
17 cost of coverage and education about how to navigate the health
18 care arena, including what health services a plan offers or provides,
19 how to select a plan, and how to find a doctor or other health care
20 provider.

21 (2) Educate consumers on their rights and responsibilities with
22 respect to health care coverage.

23 (3) Advise and assist consumers regarding eligibility for health
24 care coverage, including enrollment in, retention in, and transitions
25 between, health care coverage programs by providing information,
26 referral, and direct application assistance.

27 (4) Advise and assist consumers with problems related to health
28 care services, including care and service problems and claims or
29 payment problems. Explain how to resolve these problems and
30 provide direct assistance, if needed.

31 (5) Advise and assist consumers with the filing of complaints
32 and appeals, including appeals of coverage denials with the health
33 care coverage program denying eligibility, and appeals with the
34 internal appeal or grievance process of the health care service plan,
35 health insurer, or group health plan involved, and provide
36 information about any external appeal process.

37 (6) Advise and assist consumers with resolving problems with
38 obtaining premium tax credits under Section 36B of the Internal
39 Revenue Code.

1 (7) Provide the assistance and education described in this
2 subdivision to consumers with limited English language proficiency
3 in their primary oral and written language, using an appropriate
4 literacy level for written material, and in a culturally competent
5 manner.

6 (d) The Office of Health Consumer Assistance may contract
7 with community-based consumer assistance organizations to assist
8 in the requirements of subdivisions (b) and (c).

9 (e) (1) The Office of Health Consumer Assistance shall collect,
10 track, quantify, and analyze problems and inquiries encountered
11 by consumers with respect to health care coverage, including, but
12 not limited to, the complaints reported to the network of health
13 consumer assistance organizations and the agencies under
14 subdivision (m). The Office of Health Consumer Assistance shall
15 publicly report its analysis of these problems and inquiries at least
16 quarterly on its Internet Web site.

17 (2) The Office of Health Consumer Assistance shall track,
18 analyze, and publicly report on complaints reported to the Office
19 of Health Consumer Assistance under subdivision (m) according
20 to the nature and resolution of the complaints and, including, but
21 not limited to, the health status, age, race, ethnicity, language,
22 geographic region, gender, or sexual orientation of the
23 complainants in order to identify the most common types of
24 problems and the problems faced by particular populations,
25 including any health disparity population.

26 (3) The Office of Health Consumer Assistance shall track,
27 analyze, and report on those complaints by health insurer or health
28 care service plan and by the type of health care coverage program,
29 including the timeliness of resolution of the complaints, and shall
30 take into account the number of individuals enrolled by each health
31 insurer or health care service plan and in each health care coverage
32 program.

33 (f) In order to assist consumers in navigating and resolving
34 problems with health care coverage and programs, the Office of
35 Health Consumer Assistance shall do the following:

36 (1) Operate a HealthHelp toll-free telephone hotline that can
37 route callers to the consumer assistance program in their area and
38 provide interpreters for LEP callers.

1 (2) Operate a HealthHelp Internet Web site, other social media,
2 and up-to-date communication systems to give information
3 regarding the consumer assistance programs.

4 (g) The Office of Health Consumer Assistance and any local
5 community-based nonprofit consumer assistance programs that
6 they contract with shall have as their primary mission assistance
7 of health care consumers. Contracting consumer assistance
8 programs shall have experience in the following areas:

9 (1) Assisting consumers in navigating the local health care
10 system.

11 (2) Advising consumers regarding their health care coverage
12 options and helping enroll consumers in and retaining health care
13 coverage.

14 (3) Resolving consumer problems accessing health care services.

15 (4) Serving consumers with special needs, including, but not
16 limited to, consumers with limited-English language proficiency,
17 consumers requiring culturally competent services, low-income
18 consumers, consumers with disabilities, consumers with low
19 literacy rates, and consumers with multiple health conditions.

20 (5) Collecting and reporting data on the categories of populations
21 listed in subdivision (e), including subgroup categories of race,
22 and types of health care coverage problems consumers face.

23 (h) Consumer assistance programs that contract with the Office
24 of Health Consumer Assistance to provide direct consumer
25 assistance shall qualify as navigators pursuant to paragraph (1) of
26 subdivision (l) of Section 100502 of the Government Code.

27 (i) The Office of Health Consumer Assistance shall collect and
28 report data to the United States Secretary of Health and Human
29 Services on the categories of populations listed in subdivision (e),
30 including subgroup categories of race, and types of problems and
31 inquiries encountered by consumers.

32 (j) The Office of Health Consumer Assistance shall develop
33 protocols and procedures and training modules for consumer
34 assistance programs.

35 (k) The Office of Health Consumer Assistance may contract
36 with consumer assistance programs to develop a series of
37 appropriate literacy level and culturally and linguistically
38 appropriate educational materials in all threshold languages for
39 consumers regarding health care coverage options and how to
40 resolve problems. These materials shall be made available to all

1 consumer assistance programs and on the Internet Web site of the
2 Office of Health Consumer Assistance.

3 (l) The Office of Health Consumer Assistance shall develop
4 protocols and procedures for the resolution of consumer complaints
5 and the establishment of responsibility or referral as appropriate
6 with regard to the following agencies:

7 (1) The federal Department of Labor regarding employee welfare
8 benefit plans regulated under ERISA.

9 (2) The Centers for Medicare and Medicaid Services regarding
10 the Medicare Program.

11 (3) The Department of Managed Health Care regarding coverage
12 under health care service plans regulated under Chapter 2.2
13 (commencing with Section 1340) of Division 2.

14 (4) The Department of Insurance regarding policies of health
15 insurance regulated under the Insurance Code.

16 (5) The State Department of Health Care Services regarding the
17 Medi-Cal program.

18 (6) The Managed Risk Medical Insurance Board regarding the
19 Healthy Families Program (Part 6.2 (commencing with Section
20 12693) of Division 2 of the Insurance Code), the Access for Infants
21 and Mothers Program (Part 6.3 (commencing with Section 12695)
22 of Division 2 of the Insurance Code), the California Major Risk
23 Medical Insurance Program (Part 6.5 (commencing with Section
24 12700) of Division 2 of the Insurance Code), and the Federal
25 Temporary High Risk Pool established under Part 6.6 (commencing
26 with Section 12739.5) of Division 2 of the Insurance Code.

27 (7) The Exchange regarding coverage through the Exchange.

28 (m) The Department of Managed Health Care, the Department
29 of Insurance, the State Department of Health Care Services, the
30 Managed Risk Medical Insurance Board, the State Department of
31 Public Health, and the Exchange shall report data and other
32 information to the Office of Health Consumer Assistance regarding
33 consumer complaints submitted to those agencies, including the
34 nature of the complaints, the resolution of the complaints, and the
35 timeliness of the resolution, and further including, but not limited
36 to, the health status, age, race, ethnicity, language, geographic
37 region, gender, or sexual orientation of the complainants. This
38 information shall be reported according to the particular health
39 insurer or health care service plan involved.

1 (n) (1) The Office of Health Consumer Assistance shall apply
2 to the United States Secretary of Health and Human Services for
3 a grant under Section 2793 of the federal Public Health Service
4 Act, as added by Section 1002 of the federal Patient Protection
5 and Affordable Care Act (Public Law 111-148).

6 (2) To the extent permitted by federal law, the Office of Health
7 Consumer Assistance may seek federal financial participation for
8 assisting beneficiaries of the Medi-Cal program.

9 (3) To the extent permitted by federal law, the Office of Health
10 Consumer Assistance may seek federal funding through the federal
11 Children’s Health Insurance Program Reauthorization Act outreach
12 grants.

13 (o) For purposes of this section, the following definitions shall
14 apply:

15 (1) “Exchange” means the California Health Benefit Exchange
16 established pursuant to Title 22 (commencing with Section 100500)
17 of the Government Code.

18 (2) “Group health plan” has the same meaning set forth in
19 Section 2791 of the federal Public Health Service Act (42 U.S.C.
20 300gg-91).

21 (3) “Health care service plan” or “specialized health care service
22 plan” has the same meaning as that set forth in subdivision (f) of
23 Section 1345.

24 (4) “Health insurance” has the same meaning as set forth in
25 Section 106 of the Insurance Code.

26 (5) “Health insurer” means an insurer that issues policies of
27 health insurance.

28 136020. (a) The California Health Consumer Assistance Trust
29 Fund is hereby created in the State Treasury, and, upon
30 appropriation by the Legislature, moneys in the fund shall be made
31 available for the purpose of this division. Any moneys in the fund
32 that are unexpended or unencumbered at the end of the fiscal year
33 may be carried forward to the next succeeding fiscal year.

34 (b) The Office of Health Consumer Assistance shall establish
35 and maintain a prudent reserve in the fund.

36 (c) Notwithstanding Section 16305.7 of the Government Code,
37 all interest earned on moneys that have been deposited in the fund
38 shall be retained in the fund and used for purposes consistent with
39 this division.

- 1 136030. Funds allocated to support the Office of the Patient
- 2 Advocate shall be transferred to the California Health Consumer
- 3 Assistance Trust Fund.

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