

AMENDED IN ASSEMBLY MARCH 29, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

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 amended, 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 *and would require the office to adopt certain standards and procedures regarding those organizations*. 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:

20
 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

1 has not been satisfactorily resolved by your health plan, or a
2 grievance that has remained unresolved for more than 30 days,
3 you may call the department for assistance. You may also be
4 eligible for an Independent Medical Review (IMR). If you are
5 eligible for IMR, the IMR process will provide an impartial review
6 of medical decisions made by a health plan related to the medical
7 necessity of a proposed service or treatment, coverage decisions
8 for treatments that are experimental or investigational in nature
9 and payment disputes for emergency or urgent medical services.
10 The department also has a toll-free telephone number
11 (1-888-HMO-2219) and a TDD line (1-877-688-9891) for the
12 hearing and speech impaired. The department's Internet Web site
13 <http://www.hmohelp.ca.gov> has complaint forms, IMR application
14 forms and instructions online.”

15

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

18

19 DIVISION 115. OFFICE OF HEALTH CONSUMER
20 ASSISTANCE

21

22 136000. (a) There is hereby created in state government an
23 independent office of health coverage consumer assistance called
24 the Office of Health Consumer Assistance. The office shall be
25 under the direction of a chief executive officer who shall be known
26 as the Director of the Office of Health Consumer Assistance. The
27 director shall be appointed by the Governor, subject to confirmation
28 by the Senate.

29 (b) The Office of Health Consumer Assistance shall receive and
30 respond to all telephonic and in-person inquiries, complaints, and
31 requests for assistance from individuals concerning all health care
32 coverage available in California, including coverage available
33 through the Medi-Cal program, the Exchange, the Healthy Families
34 Program (Part 6.2 (commencing with Section 12693) of Division
35 2 of the Insurance Code), or any other county or state public health
36 program, or individual or group coverage available through health
37 care service plans under Chapter 2.2 (commencing with Section
38 1340) of Division 2 or health insurers under Part 2 (commencing
39 with Section 10110) of Division 2 of the Insurance Code.

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

1 (1) *Develop educational and informational guides for consumers*
2 *describing their rights and responsibilities and informing*
3 *consumers on effective ways to exercise their rights to secure*
4 *health care services. The guides shall be easy to read and*
5 *understand, shall be available in English and threshold languages,*
6 *and shall be made available to the public by the office, including*
7 *on the office's Internet Web site and through public outreach and*
8 *educational programs.*

9 (2) *Compile data and prepare an annual publication, to be made*
10 *available on the office's Internet Web site, that provides a quality*
11 *of care report card, including, but not limited to, health care*
12 *service plans and health insurers.*

13 ~~(1)~~

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

20 ~~(2)~~

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

23 ~~(3)~~

24 (5) Advise and assist consumers regarding eligibility for health
25 care coverage, including enrollment in, retention in, and transitions
26 between, health care coverage programs by providing information,
27 referral, and direct application assistance *for all types of payors,*
28 *including public programs such as Medi-Cal, Healthy Families,*
29 *Medicare, private individual coverage, employer-sponsored*
30 *coverage, ERISA plans, charity care, unsubsidized Exchange*
31 *coverage, and Exchange coverage with tax subsidies or tax credits.*

32 ~~(4)~~

33 (6) Advise and assist consumers with problems related to health
34 care services, including care and service problems and claims or
35 payment problems. Explain how to resolve these problems and
36 provide direct assistance, if needed.

37 ~~(5)~~

38 (7) Advise and assist consumers with the filing of complaints
39 and appeals, including appeals of coverage denials with the health
40 care coverage program denying eligibility, and appeals with the

1 internal appeal or grievance process of the health care service plan,
2 health insurer, or group health plan involved, and provide
3 information about any external appeal process.

4 ~~(6)~~

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

8 ~~(7)~~

9 (9) Provide the assistance and education described in this
10 subdivision to consumers with limited English language proficiency
11 in their primary oral ~~and written language, using an appropriate~~
12 ~~literacy level for written material~~ *languages, and provide written*
13 *materials in threshold languages using an appropriate literacy*
14 *level, and in a culturally competent manner.*

15 (d) The Office of Health Consumer Assistance may contract
16 with community-based consumer assistance organizations to assist
17 in *any or all of* the requirements of subdivisions (b) and (c).

18 (e) (1) The Office of Health Consumer Assistance shall collect,
19 track, quantify, and analyze problems and inquiries encountered
20 by consumers with respect to health care coverage, including, but
21 not limited to, the complaints reported to the network of health
22 consumer assistance organizations and the agencies under
23 subdivision ~~(m)~~ (n). The Office of Health Consumer Assistance
24 shall publicly report its analysis of these problems and inquiries
25 at least quarterly on its Internet Web site.

26 (2) The Office of Health Consumer Assistance shall track,
27 analyze, and publicly report on complaints reported to the Office
28 of Health Consumer Assistance under subdivision ~~(m)~~ (n)
29 according to the nature and resolution of the complaints and,
30 including, but not limited to, the health status, age, race, ethnicity,
31 language, geographic region, gender, or sexual orientation of the
32 complainants in order to identify the most common types of
33 problems and the problems faced by particular populations,
34 including any health disparity population.

35 (3) The Office of Health Consumer Assistance shall track,
36 analyze, and report on those complaints by health insurer or health
37 care service plan, *by race, ethnicity, and language preference,* and
38 by the type of health care coverage program, including the
39 timeliness of resolution of the complaints, and shall take into
40 account the number of individuals enrolled by each health insurer

1 or health care service plan and in each health care coverage
2 program.

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

6 (1) Operate a HealthHelp toll-free telephone hotline that can
7 route callers to the consumer assistance program in their area and
8 provide interpreters for ~~LEP~~ *limited-English-proficient (LEP)*
9 callers.

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

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

18 (1) Assisting consumers in navigating the local health care
19 system.

20 (2) Advising consumers regarding their health care coverage
21 options and helping enroll consumers in and retaining health care
22 coverage.

23 (3) ~~Resolving consumer problems~~ *Assisting consumers with*
24 *problems in* accessing health care services.

25 (4) Serving consumers with special needs, including, but not
26 limited to, consumers with limited-English language proficiency,
27 consumers requiring culturally competent services, low-income
28 consumers, consumers with disabilities, consumers with low
29 literacy rates, and consumers with multiple health conditions.

30 (5) Collecting and reporting data on the categories of populations
31 listed in subdivision (e), including subgroup categories of race,
32 *ethnicity, language preference*, and types of health care coverage
33 problems consumers face.

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

38 (i) The Office of Health Consumer Assistance shall collect and
39 report data to the United States Secretary of Health and Human
40 Services on the categories of populations listed in subdivision (e),

1 including subgroup categories of race, and types of problems and
2 inquiries encountered by consumers.

3 ~~(j) The Office of Health Consumer Assistance shall develop~~
4 ~~protocols and procedures and training modules for consumer~~
5 ~~assistance programs.~~

6 *(j) The Office of Health Consumer Assistance shall develop*
7 *protocols, procedures, and training modules for organizations*
8 *with which it contracts. The office shall implement and oversee a*
9 *training program for organizations with which it contracts with*
10 *continuing education components.*

11 *(k) The Office of Health Consumer Assistance shall adopt*
12 *standards for organizations with which it contracts regarding*
13 *confidentiality and conduct. The office shall have the power to*
14 *revoke the contract of any organization that violates these*
15 *standards and shall include a clause reserving that power in every*
16 *contract entered into with such an organization.*

17 ~~(k)~~

18 *(l) The Office of Health Consumer Assistance may contract*
19 *with consumer assistance programs to develop a series of*
20 *appropriate literacy level and culturally and linguistically*
21 *appropriate educational materials in all threshold languages for*
22 *consumers regarding health care coverage options and how to*
23 *resolve problems. These materials shall be made available to all*
24 *consumer assistance programs and on the Internet Web site of the*
25 *Office of Health Consumer Assistance.*

26 ~~(l)~~

27 *(m) The Office of Health Consumer Assistance shall develop*
28 *protocols and procedures for the resolution of consumer complaints*
29 *and the establishment of responsibility or referral as appropriate*
30 *with regard to the following agencies:*

31 *(1) The federal Department of Labor regarding employee welfare*
32 *benefit plans regulated under ERISA.*

33 *(2) The Centers for Medicare and Medicaid Services regarding*
34 *the Medicare Program.*

35 *(3) The Department of Managed Health Care regarding coverage*
36 *under health care service plans regulated under Chapter 2.2*
37 *(commencing with Section 1340) of Division 2.*

38 *(4) The Department of Insurance regarding policies of health*
39 *insurance regulated under the Insurance Code.*

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

3 (6) The Managed Risk Medical Insurance Board regarding the
4 Healthy Families Program (Part 6.2 (commencing with Section
5 12693) of Division 2 of the Insurance Code), the Access for Infants
6 and Mothers Program (Part 6.3 (commencing with Section 12695)
7 of Division 2 of the Insurance Code), the California Major Risk
8 Medical Insurance Program (Part 6.5 (commencing with Section
9 12700) of Division 2 of the Insurance Code), and the Federal
10 Temporary High Risk Pool established under Part 6.6 (commencing
11 with Section 12739.5) of Division 2 of the Insurance Code.

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

13 ~~(m)~~

14 (n) The Department of Managed Health Care, the Department
15 of Insurance, the State Department of Health Care Services, the
16 Managed Risk Medical Insurance Board, the State Department of
17 Public Health, and the Exchange shall report data and other
18 information to the Office of Health Consumer Assistance regarding
19 consumer complaints submitted to those agencies, including the
20 nature of the complaints, the resolution of the complaints, and the
21 timeliness of the resolution, and further including, but not limited
22 to, the health status, age, race, ethnicity, language, geographic
23 region, gender, or sexual orientation of the complainants. This
24 information shall be reported according to the particular health
25 insurer or health care service plan involved.

26 ~~(n)~~

27 (o) (1) The Office of Health Consumer Assistance shall apply
28 to the United States Secretary of Health and Human Services for
29 a grant under Section 2793 of the federal Public Health Service
30 Act, as added by Section 1002 of the federal Patient Protection
31 and Affordable Care Act (Public Law 111-148).

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

35 (3) To the extent permitted by federal law, the Office of Health
36 Consumer Assistance may seek federal funding through the federal
37 Children’s Health Insurance Program Reauthorization Act outreach
38 grants.

39 ~~(o)~~

1 (p) For purposes of this section, the following definitions shall
2 apply:

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

6 (2) “Group health plan” has the same meaning set forth in
7 Section 2791 of the federal Public Health Service Act (42 U.S.C.
8 300gg-91).

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

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

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

16 (6) *For purposes of this section, “threshold languages” are*
17 *languages spoken by at least 20,000 or more*
18 *limited-English-proficient (LEP) health consumers residing in*
19 *California.*

20 136020. (a) The California Health Consumer Assistance Trust
21 Fund is hereby created in the State Treasury, and, upon
22 appropriation by the Legislature, moneys in the fund shall be made
23 available for the purpose of this division. Any moneys in the fund
24 that are unexpended or unencumbered at the end of the fiscal year
25 may be carried forward to the next succeeding fiscal year.

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

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

32 136030. Funds allocated to support the Office of the Patient
33 Advocate shall be transferred to the California Health Consumer
34 Assistance Trust Fund.