

AMENDED IN ASSEMBLY MAY 27, 2011
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~~. *Patient Advocate*.

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, *which is headed by a patient advocate recommended to the Governor by the Business, Transportation and Housing Agency. The Office of Patient Advocate is responsible for, among other things, developing educational and informational guides for consumers, compiling an annual publication of a quality of care report card, and rendering advice and assistance to enrollees. The annual budget of the Office of Patient Advocate is separately identified in the annual budget request of the department.*

This bill would ~~eliminate~~ *transfer* the Office of Patient Advocate ~~and would instead create an Office of Health Consumer Assistance from the Department of Managed Health Care to instead operate as an independent state entity, and delete the requirement that the patient advocate be recommended to the Governor by the Business, Transportation and Housing Agency.~~ The bill would ~~impose specified~~ *add additional* duties and responsibilities ~~on to the existing duties of~~ the Office of ~~Health Consumer Assistance~~ *Patient Advocate* 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 provide that funding for the actual and necessary expenses of the office shall be provided, subject to appropriation by the Legislature, from transfers of moneys from the Managed Care Fund and the Insurance Fund, to be based on the number of covered lives in the state that are covered by plans or insurers, as determined by the Department of Managed Health Care and the Department of Insurance, in proportion to the total number of covered lives in the state.* The bill would establish the ~~California Health Consumer Assistance~~ *Office of Patient Advocate* 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 *also* 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~~ *and require the office to request from the federal government specified grant moneys.*

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.

1 (b) Every health care service plan shall publish the department's
2 toll-free telephone number, the department's TDD line for the
3 hearing and speech impaired, the plan's telephone number, and
4 the department's Internet address, on every plan contract, on every
5 evidence of coverage, on copies of plan grievance procedures, on
6 plan complaint forms, and on all written notices to enrollees
7 required under the grievance process of the plan, including any
8 written communications to an enrollee that offer the enrollee the
9 opportunity to participate in the grievance process of the plan and
10 on all written responses to grievances. The department's telephone
11 number, the department's TDD line, the plan's telephone number,
12 and the department's Internet address shall be displayed by the
13 plan in each of these documents in 12-point boldface type in the
14 following regular type statement:

15 "The California Department of Managed Health Care is
16 responsible for regulating health care service plans. If you have a
17 grievance against your health plan, you should first telephone your
18 health plan at (insert health plan's telephone number) and use your
19 health plan's grievance process before contacting the department.
20 Utilizing this grievance procedure does not prohibit any potential
21 legal rights or remedies that may be available to you. If you need
22 help with a grievance involving an emergency, a grievance that
23 has not been satisfactorily resolved by your health plan, or a
24 grievance that has remained unresolved for more than 30 days,
25 you may call the department for assistance. You may also be
26 eligible for an Independent Medical Review (IMR). If you are
27 eligible for IMR, the IMR process will provide an impartial review
28 of medical decisions made by a health plan related to the medical
29 necessity of a proposed service or treatment, coverage decisions
30 for treatments that are experimental or investigational in nature
31 and payment disputes for emergency or urgent medical services.
32 The department also has a toll-free telephone number
33 (1-888-HMO-2219) and a TDD line (1-877-688-9891) for the
34 hearing and speech impaired. The department's Internet Web site
35 <http://www.hmoHELP.ca.gov> has complaint forms, IMR application
36 forms and instructions online."

37 ~~(e) (1) There is within the department an Office of Patient~~
38 ~~Advocate, which shall be known and may be cited as the~~
39 ~~Gallegos-Rosenthal Patient Advocate Program, to represent the~~
40 ~~interests of enrollees served by health care service plans regulated~~

1 by the department. The goal of the office shall be to help enrollees
2 secure health care services to which they are entitled under the
3 laws administered by the department.

4 ~~(2) The office shall be headed by a patient advocate~~
5 ~~recommended to the Governor by the Secretary of the Business,~~
6 ~~Transportation and Housing Agency. The patient advocate shall~~
7 ~~be appointed by and serve at the pleasure of the Governor.~~

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

11 ~~(A) Developing educational and informational guides for~~
12 ~~consumers describing enrollee rights and responsibilities, and~~
13 ~~informing enrollees on effective ways to exercise their rights to~~
14 ~~secure health care services. The guides shall be easy to read and~~
15 ~~understand, available in English and other languages, and shall be~~
16 ~~made available to the public by the department, including access~~
17 ~~on the department's Internet Web site and through public outreach~~
18 ~~and educational programs.~~

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

22 ~~(C) Rendering advice and assistance to enrollees regarding~~
23 ~~procedures, rights, and responsibilities related to the use of health~~
24 ~~care service plan grievance systems, the department's system for~~
25 ~~reviewing unresolved grievances, and the independent review~~
26 ~~process.~~

27 ~~(D) Making referrals within the department regarding studies,~~
28 ~~investigations, audits, or enforcement that may be appropriate to~~
29 ~~protect the interests of enrollees.~~

30 ~~(E) Coordinating and working with other government and~~
31 ~~nongovernment patient assistance programs and health care~~
32 ~~ombudsperson programs.~~

33 ~~(4) The director, in consultation with the patient advocate, shall~~
34 ~~provide for the assignment of personnel to the office. The~~
35 ~~department may employ or contract with experts when necessary~~
36 ~~to carry out functions of the office. The annual budget for the office~~
37 ~~shall be separately identified in the annual budget request of the~~
38 ~~department.~~

39 ~~(5) The office shall have access to department records including,~~
40 ~~but not limited to, information related to health care service plan~~

1 ~~audits, surveys, and enrollee grievances. The department shall~~
2 ~~assist the office in compelling the production and disclosure of~~
3 ~~any information the office deems necessary to perform its duties,~~
4 ~~from entities regulated by the department, if the information is~~
5 ~~determined by the department's legal counsel to be subject, under~~
6 ~~existing law, to production or disclosure to the department.~~

7 ~~(6) The patient advocate shall annually issue a public report on~~
8 ~~the activities of the office, and shall appear before the appropriate~~
9 ~~policy and fiscal committees of the Senate and Assembly, if~~
10 ~~requested, to report and make recommendations on the activities~~
11 ~~of the office.~~

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

14
15 *DIVISION 115. OFFICE OF PATIENT ADVOCATE*

16
17 *136000. (a) (1) There is hereby transferred from the*
18 *Department of Managed Health Care the Office of Patient*
19 *Advocate to operate as an independent entity within state*
20 *government, which shall be known and may be cited as the*
21 *Gallegos-Rosenthal Patient Advocate Program, to represent the*
22 *interests of enrollees served by health care service plans regulated*
23 *by the Department of Managed Health Care, insureds covered by*
24 *health insurers regulated by the Department of Insurance, and*
25 *individuals who receive or are eligible for other health care*
26 *coverage in California, including coverage available through the*
27 *Medi-Cal program, the California Health Benefit Exchange, the*
28 *Healthy Families Program, or any other county or state health*
29 *care program. The goal of the office shall be to help those*
30 *enrollees, insureds, and individuals to secure health care coverage*
31 *to which they are entitled under the law.*

32 *(2) The office shall be headed by a patient advocate appointed*
33 *by the Governor. The patient advocate shall serve at the pleasure*
34 *of the Governor.*

35 *(b) The duties of the office shall include, but not be limited to,*
36 *all of the following:*

37 *(1) Developing educational and informational guides for*
38 *consumers describing their rights and responsibilities, and*
39 *informing them on effective ways to exercise their rights to secure*
40 *health care coverage. The guides shall be easy to read and*

1 *understand and shall be made available in English and other*
2 *threshold languages, using an appropriate literacy level, and in*
3 *a culturally competent manner. The informational guides shall be*
4 *made available to the public by the office, including being made*
5 *accessible on the office's Internet Web site and through public*
6 *outreach and educational programs.*

7 (2) *Compiling an annual publication, to be made available on*
8 *the office's Internet Web site, of a quality of care report card,*
9 *including, but not limited to, health care service plans.*

10 (3) *Rendering advice and assistance to consumers regarding*
11 *the filing of complaints, grievances, and appeals, including appeals*
12 *of denials of care with the health care coverage program denying*
13 *eligibility, and appeals with the internal appeal or grievance*
14 *process of the health care service plan, health insurer, group health*
15 *plan, or other county or state health care program involved, and*
16 *provide information about any external appeal process.*

17 (4) *Rendering advice and assistance to consumers with problems*
18 *related to health care services, including care and service problems*
19 *and claims or payment problems. Explaining how to resolve these*
20 *problems and providing direct assistance, if needed.*

21 (5) *Advising consumers on problems related to mental health*
22 *parity and coverage for substance abuse treatment, consistent with*
23 *existing state and federal law.*

24 (6) *Making referrals to the appropriate state agency regarding*
25 *studies, investigations, audits, or enforcement that may be*
26 *appropriate to protect the interests of consumers.*

27 (7) *Coordinating and working with other government and*
28 *nongovernment patient assistance programs and health care*
29 *ombudsperson programs.*

30 (8) *The office shall employ necessary staff. The office may*
31 *employ or contract with experts when necessary to carry out the*
32 *functions of the office. The patient advocate shall make an annual*
33 *budget request for the office which shall be identified in the annual*
34 *budget act.*

35 (9) *The office shall have access to records of the Department*
36 *of Managed Health Care and the Department of Insurance,*
37 *including, but not limited to, information related to health care*
38 *service plan or health insurer audits, surveys, and enrollee or*
39 *insured grievances.*

1 (10) *The patient advocate shall annually issue a public report*
2 *on the activities of the office, and shall appear before the*
3 *appropriate policy and fiscal committees of the Senate and*
4 *Assembly, if requested, to report and make recommendations on*
5 *the activities of the office.*

6 (c) *The office shall also do all of the following:*

7 (1) *Receive and respond to all telephonic and in-person*
8 *inquiries, complaints, and requests for assistance from individuals*
9 *concerning all health care coverage available in California.*

10 (2) *Provide outreach and education about health care coverage*
11 *options, including, but not limited to:*

12 (A) *Information regarding applying for coverage; the cost of*
13 *coverage; renewal in, and transitions between, health coverage*
14 *programs; and education about how to navigate the health care*
15 *arena, including what health care services a plan or insurer offers*
16 *or provides, how to select a plan or insurer, and how to find a*
17 *doctor or other health care provider.*

18 (B) *Information and referral for all types of payers, including*
19 *public programs such as Medi-Cal, Healthy Families, and*
20 *Medicare; private coverage, including employer-sponsored*
21 *coverage, self-insured plans, unsubsidized Exchange coverage,*
22 *and Exchange coverage with tax subsidies or tax credits; and other*
23 *sources of care, such as county services, community clinics,*
24 *discounted hospital care, or charity care.*

25 (3) *Educate consumers on their rights and responsibilities with*
26 *respect to health care coverage.*

27 (4) *Advise and assist consumers with resolving problems with*
28 *obtaining premium tax credits under Section 36B of the Internal*
29 *Revenue Code.*

30 (d) *The office may contract with community-based consumer*
31 *assistance organizations to assist in any or all of the duties of*
32 *subdivisions (b) and (c).*

33 (e) (1) *The office shall collect, track, quantify, and analyze*
34 *problems and inquiries encountered by consumers with respect to*
35 *health care coverage, including, but not limited to, the complaints*
36 *reported to the network of health consumer assistance*
37 *organizations and the agencies under subdivision (n). The office*
38 *shall publicly report its analysis of these problems and inquiries*
39 *at least quarterly on its Internet Web site.*

1 (2) *The office shall track, analyze, and publicly report on*
2 *complaints reported to the office under subdivision (n) according*
3 *to the nature and resolution of the complaints and, including, but*
4 *not limited to, the health status, age, race, ethnicity, language,*
5 *geographic region, gender, gender identity, gender expression, or*
6 *sexual orientation of the complainants in order to identify the most*
7 *common types of problems and the problems faced by particular*
8 *populations, including any health disparity population.*

9 (3) *The office shall track, analyze, and report on those*
10 *complaints by all of the following:*

11 (A) *Health insurer or health care service plan.*

12 (B) *Health status, age, race, ethnicity, language preference,*
13 *geographic region, gender, gender identity, gender expression,*
14 *and sexual orientation.*

15 (C) *The type of health care coverage program.*

16 (D) *The timeliness of resolution of complaints.*

17 (4) *In analyzing and reporting complaints, the office shall take*
18 *into account the number of individuals enrolled by each health*
19 *insurer or health care service plan and in each health care*
20 *coverage program.*

21 (f) *In order to assist consumers in navigating and resolving*
22 *problems with health care coverage and programs, the office shall*
23 *do the following:*

24 (1) *Operate a HealthHelp toll-free telephone hotline that can*
25 *route callers to the consumer assistance program in their area*
26 *and provide interpreters for limited-English-proficient callers.*

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

30 (g) *The office and any local community-based nonprofit*
31 *consumer assistance programs with which the office contracts*
32 *shall include in their mission assistance of, and duty to, health*
33 *care consumers. Contracting consumer assistance programs shall*
34 *have experience in the following areas:*

35 (1) *Assisting consumers in navigating the local health care*
36 *system.*

37 (2) *Advising consumers regarding their health care coverage*
38 *options and helping consumers enroll in and retain health care*
39 *coverage.*

1 (3) *Assisting consumers with problems in accessing health care*
2 *services.*

3 (4) *Serving consumers with special needs, including, but not*
4 *limited to, consumers with limited-English language proficiency,*
5 *consumers requiring culturally competent services, low-income*
6 *consumers, consumers with disabilities, consumers with low*
7 *literacy rates, and consumers with multiple health conditions,*
8 *including behavioral health.*

9 (5) *Collecting and reporting data on the categories of*
10 *populations listed in subdivision (e), including subgroup categories*
11 *of race, ethnicity, language preference, gender, gender identity,*
12 *gender expression, and sexual orientation, and types of health*
13 *care coverage problems consumers face.*

14 (h) *Consumer assistance programs that contract with the office*
15 *to provide direct consumer assistance shall qualify as navigators*
16 *pursuant to paragraph (1) of subdivision (l) of Section 100502 of*
17 *the Government Code.*

18 (i) *The office shall collect and report data to the United States*
19 *Secretary of Health and Human Services on the categories of*
20 *populations listed in subdivision (e), including subgroup categories*
21 *of race, and types of problems and inquiries encountered by*
22 *consumers.*

23 (j) *The office shall develop protocols, procedures, and training*
24 *modules for organizations with which it contracts. The office shall*
25 *implement and oversee a training program with continuing*
26 *education components for organizations with which it contracts.*

27 (k) *The office shall adopt standards for organizations with which*
28 *it contracts regarding confidentiality and conduct. The office shall*
29 *have the power to revoke the contract of any organization that*
30 *violates these standards and shall include a clause reserving that*
31 *power in every contract entered into with such an organization.*

32 (l) *The office may contract with consumer assistance programs*
33 *to develop a series of appropriate literacy level and culturally and*
34 *linguistically appropriate educational materials in all threshold*
35 *languages for consumers regarding health care coverage options*
36 *and how to resolve problems. These materials shall be made*
37 *available to all consumer assistance programs and on the Internet*
38 *Web site of the office.*

39 (m) *The office shall develop protocols and procedures for the*
40 *resolution of consumer complaints and the establishment of*

1 responsibility or referral, as appropriate, with regard to the
2 following agencies:

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

5 (2) The Health Insurance Counseling and Advocacy Program
6 as provided in Section 9541 of the Welfare and Institutions Code
7 and, as appropriate, the federal Centers for Medicare and
8 Medicaid Services regarding the Medicare Program.

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

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

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

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

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

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

38 (o) For purposes of this section, the following definitions shall
39 apply:

1 (1) “Consumer” or “individual” includes the individual or his
2 or her parent, guardian, conservator, or authorized representative.

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

6 (3) “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 Sec. 300gg-91).

9 (4) “Health care” includes behavioral health, including both
10 mental health and substance abuse treatment.

11 (5) “Health care service plan” has the same meaning as that
12 set forth in subdivision (f) of Section 1345. Health care service
13 plan includes “specialized health care service plans,” including
14 behavioral health plans.

15 (6) “Health insurance” has the same meaning as set forth in
16 Section 106 of the Insurance Code.

17 (7) “Health insurer” means an insurer that issues policies of
18 health insurance.

19 (8) “Office” means the Office of Patient Advocate.

20 (9) “Threshold languages” are languages spoken by at least
21 20,000 or more limited-English-proficient health consumers
22 residing in California.

23 136020. (a) The Office of Patient Advocate Trust Fund is
24 hereby created in the State Treasury, and, upon appropriation by
25 the Legislature, moneys in the fund shall be made available for
26 the purpose of this division. Any moneys in the fund that are
27 unexpended or unencumbered at the end of the fiscal year may be
28 carried forward to the next succeeding fiscal year.

29 (b) The office shall establish and maintain a prudent reserve in
30 the fund.

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

35 136030. (a) In addition to the moneys received pursuant to
36 subdivision (d), funding for the actual and necessary expenses of
37 the office in implementing this division shall be provided, subject
38 to appropriation by the Legislature, from transfers of moneys from
39 the Managed Care Fund and the Insurance Fund.

1 (b) *The share of funding from the Managed Care Fund shall be*
 2 *based on the number of covered lives in the state that are covered*
 3 *under plans regulated by the Department of Managed Health Care,*
 4 *including covered lives under Medi-Cal managed care and the*
 5 *Healthy Families Program, as determined by the Department of*
 6 *Managed Health Care, in proportion to the total number of all*
 7 *covered lives in the state.*

8 (c) *The share of funding to be provided from the Insurance Fund*
 9 *shall be based on the number of covered lives in the state that are*
 10 *covered under health insurance policies and benefit plans regulated*
 11 *by the Department of Insurance, including covered lives under*
 12 *Medicare supplement plans, as determined by the Department of*
 13 *Insurance, in proportion to the total number of all covered lives*
 14 *in the state.*

15 (d) *In addition to moneys received pursuant to subdivision (a),*
 16 *the office may receive funding as follows:*

17 (1) *The office may apply to the United States Secretary of Health*
 18 *and Human Services for federal grants.*

19 (2) *The office shall apply to the United States Secretary of*
 20 *Health and Human Services for a grant under Section 2793 of the*
 21 *federal Public Health Service Act, as added by Section 1002 of*
 22 *the federal Patient Protection and Affordable Care Act (Public*
 23 *Law 111-148).*

24 (3) *To the extent permitted by federal law, the office may seek*
 25 *federal financial participation for assisting beneficiaries of the*
 26 *Medi-Cal program.*

27 (e) *All moneys received by the Office of Patient Advocate shall*
 28 *be deposited into the fund specified in Section 136020.*

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

31 ~~1368.02. (a) The director shall establish and maintain a toll-free~~
 32 ~~telephone number for the purpose of receiving complaints regarding~~
 33 ~~health care service plans regulated by the director.~~

34 ~~(b) Every health care service plan shall publish the department's~~
 35 ~~toll-free telephone number, the department's TDD line for the~~
 36 ~~hearing and speech impaired, the plan's telephone number, and~~
 37 ~~the department's Internet address, on every plan contract, on every~~
 38 ~~evidence of coverage, on copies of plan grievance procedures, on~~
 39 ~~plan complaint forms, and on all written notices to enrollees~~
 40 ~~required under the grievance process of the plan, including any~~

1 written communications to an enrollee that offer the enrollee the
2 opportunity to participate in the grievance process of the plan and
3 on all written responses to grievances. The department's telephone
4 number, the department's TDD line, the plan's telephone number,
5 and the department's Internet address shall be displayed by the
6 plan in each of these documents in 12-point boldface type in the
7 following regular type statement:

8
9 “The California Department of Managed Health Care is
10 responsible for regulating health care service plans. If you have a
11 grievance against your health plan, you should first telephone your
12 health plan at (insert health plan's telephone number) and use your
13 health plan's grievance process before contacting the department.
14 Utilizing this grievance procedure does not prohibit any potential
15 legal rights or remedies that may be available to you. If you need
16 help with a grievance involving an emergency, a grievance that
17 has not been satisfactorily resolved by your health plan, or a
18 grievance that has remained unresolved for more than 30 days,
19 you may call the department for assistance. You may also be
20 eligible for an Independent Medical Review (IMR). If you are
21 eligible for IMR, the IMR process will provide an impartial review
22 of medical decisions made by a health plan related to the medical
23 necessity of a proposed service or treatment, coverage decisions
24 for treatments that are experimental or investigational in nature
25 and payment disputes for emergency or urgent medical services.
26 The department also has a toll-free telephone number
27 (1-888-HMO-2219) and a TDD line (1-877-688-9891) for the
28 hearing and speech impaired. The department's Internet Web site
29 <http://www.hmohelp.ca.gov> has complaint forms, IMR application
30 forms and instructions online.”

31
32 SEC. 2. Division 115 (commencing with Section 136000) is
33 added to the Health and Safety Code, to read:

34
35 DIVISION 115. OFFICE OF HEALTH CONSUMER
36 ASSISTANCE
37

38 136000. (a) There is hereby created in state government an
39 independent office of health coverage consumer assistance called
40 the Office of Health Consumer Assistance. The office shall be

1 under the direction of a chief executive officer who shall be known
2 as the Director of the Office of Health Consumer Assistance. The
3 director shall be appointed by the Governor, subject to confirmation
4 by the Senate.

5 (b) ~~The Office of Health Consumer Assistance shall receive and~~
6 ~~respond to all telephonic and in-person inquiries, complaints, and~~
7 ~~requests for assistance from individuals concerning all health care~~
8 ~~coverage available in California, including coverage available~~
9 ~~through the Medi-Cal program, the Exchange, the Healthy Families~~
10 ~~Program (Part 6.2 (commencing with Section 12693) of Division~~
11 ~~2 of the Insurance Code), or any other county or state public health~~
12 ~~program, or individual or group coverage available through health~~
13 ~~care service plans under Chapter 2.2 (commencing with Section~~
14 ~~1340) of Division 2 or health insurers under Part 2 (commencing~~
15 ~~with Section 10110) of Division 2 of the Insurance Code.~~

16 (e) ~~The office shall do all of the following:~~

17 (1) ~~Develop educational and informational guides for consumers~~
18 ~~describing their rights and responsibilities and informing consumers~~
19 ~~on effective ways to exercise their rights to secure health care~~
20 ~~services. The guides shall be easy to read and understand, shall be~~
21 ~~available in English and threshold languages, and shall be made~~
22 ~~available to the public by the office, including on the office's~~
23 ~~Internet Web site and through public outreach and educational~~
24 ~~programs.~~

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

29 (3) ~~Provide outreach and education about health care coverage~~
30 ~~options including, but not limited to, information regarding the~~
31 ~~cost of coverage and education about how to navigate the health~~
32 ~~care arena, including what health services a plan or insurer offers~~
33 ~~or provides, how to select a plan or insurer, and how to find a~~
34 ~~doctor or other health care provider.~~

35 (4) ~~Educate consumers on their rights and responsibilities with~~
36 ~~respect to health care coverage.~~

37 (5) ~~Advise and assist consumers regarding eligibility for health~~
38 ~~care coverage, including enrollment in, retention in, and transitions~~
39 ~~between, health care coverage programs by providing information,~~
40 ~~referral, and direct application assistance for all types of payors,~~

1 including public programs such as Medi-Cal, Healthy Families,
2 Medicare, private individual coverage, employer-sponsored
3 coverage, ERISA plans, charity care, unsubsidized Exchange
4 coverage, and Exchange coverage with tax subsidies or tax credits.

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

9 (7) Advise and assist consumers with the filing of complaints
10 and appeals, including appeals of coverage denials with the health
11 care coverage program denying eligibility, and appeals with the
12 internal appeal or grievance process of the health care service plan,
13 health insurer, or group health plan involved, and provide
14 information about any external appeal process.

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

18 (9) Provide the assistance and education described in this
19 subdivision to consumers with limited English language proficiency
20 in their primary oral languages, and provide written materials in
21 threshold languages using an appropriate literacy level, and in a
22 culturally competent manner.

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

26 (e) (1) The Office of Health Consumer Assistance shall collect,
27 track, quantify, and analyze problems and inquiries encountered
28 by consumers with respect to health care coverage, including, but
29 not limited to, the complaints reported to the network of health
30 consumer assistance organizations and the agencies under
31 subdivision (n). The Office of Health Consumer Assistance shall
32 publicly report its analysis of these problems and inquiries at least
33 quarterly on its Internet Web site.

34 (2) The Office of Health Consumer Assistance shall track,
35 analyze, and publicly report on complaints reported to the Office
36 of Health Consumer Assistance under subdivision (n) according
37 to the nature and resolution of the complaints and, including, but
38 not limited to, the health status, age, race, ethnicity, language,
39 geographic region, gender, or sexual orientation of the
40 complainants in order to identify the most common types of

1 ~~problems and the problems faced by particular populations,~~
2 ~~including any health disparity population.~~

3 ~~(3) The Office of Health Consumer Assistance shall track,~~
4 ~~analyze, and report on those complaints by health insurer or health~~
5 ~~care service plan, by race, ethnicity, and language preference, and~~
6 ~~by the type of health care coverage program, including the~~
7 ~~timeliness of resolution of the complaints, and shall take into~~
8 ~~account the number of individuals enrolled by each health insurer~~
9 ~~or health care service plan and in each health care coverage~~
10 ~~program.~~

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

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

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

20 ~~(g) The Office of Health Consumer Assistance and any local~~
21 ~~community-based nonprofit consumer assistance programs that~~
22 ~~they contract with shall have as their primary mission assistance~~
23 ~~of health care consumers. Contracting consumer assistance~~
24 ~~programs shall have experience in the following areas:~~

25 ~~(1) Assisting consumers in navigating the local health care~~
26 ~~system.~~

27 ~~(2) Advising consumers regarding their health care coverage~~
28 ~~options and helping enroll consumers in and retaining health care~~
29 ~~coverage.~~

30 ~~(3) Assisting consumers with problems in accessing health care~~
31 ~~services.~~

32 ~~(4) Serving consumers with special needs, including, but not~~
33 ~~limited to, consumers with limited-English language proficiency,~~
34 ~~consumers requiring culturally competent services, low-income~~
35 ~~consumers, consumers with disabilities, consumers with low~~
36 ~~literacy rates, and consumers with multiple health conditions.~~

37 ~~(5) Collecting and reporting data on the categories of populations~~
38 ~~listed in subdivision (e), including subgroup categories of race,~~
39 ~~ethnicity, language preference, and types of health care coverage~~
40 ~~problems consumers face.~~

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

5 ~~(i) The Office of Health Consumer Assistance shall collect and~~
6 ~~report data to the United States Secretary of Health and Human~~
7 ~~Services on the categories of populations listed in subdivision (e),~~
8 ~~including subgroup categories of race, and types of problems and~~
9 ~~inquiries encountered by consumers.~~

10 ~~(j) The Office of Health Consumer Assistance shall develop~~
11 ~~protocols, procedures, and training modules for organizations with~~
12 ~~which it contracts. The office shall implement and oversee a~~
13 ~~training program for organizations with which it contracts with~~
14 ~~continuing education components.~~

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

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

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

33 ~~(1) The federal Department of Labor regarding employee welfare~~
34 ~~benefit plans regulated under ERISA.~~

35 ~~(2) The Centers for Medicare and Medicaid Services regarding~~
36 ~~the Medicare Program.~~

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

1 ~~(4) The Department of Insurance regarding policies of health~~
2 ~~insurance regulated under the Insurance Code.~~

3 ~~(5) The State Department of Health Care Services regarding the~~
4 ~~Medi-Cal program.~~

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

14 ~~(7) The Exchange regarding coverage through the Exchange.~~

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

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 ~~(p) For purposes of this section, the following definitions shall~~
40 ~~apply:~~

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

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

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

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

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

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

18 136020. (a) The California Health Consumer Assistance Trust
19 Fund is hereby created in the State Treasury, and, upon
20 appropriation by the Legislature, moneys in the fund shall be made
21 available for the purpose of this division. Any moneys in the fund
22 that are unexpended or unencumbered at the end of the fiscal year
23 may be carried forward to the next succeeding fiscal year.

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

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

30 136030. Funds allocated to support the Office of the Patient
31 Advocate shall be transferred to the California Health Consumer
32 Assistance Trust Fund.