

AMENDED IN ASSEMBLY APRIL 17, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1453**

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**Introduced by Assembly Member Monning**

January 5, 2012

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An act to add Section 1367.005 to the Health and Safety Code, and to add Section 10112.27 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 1453, as amended, Monning. Essential health benefits.

Commencing January 1, 2014, existing law, the federal Patient Protection and Affordable Care Act (PPACA), requires a health insurance issuer that offers coverage in the small group or individual market to ensure that such coverage includes the essential health benefits package, as defined. PPACA requires each state to, by January 1, 2014, establish an American Health Benefit Exchange that facilitates the purchase of qualified health plans by qualified individuals and qualified small employers. PPACA defines a qualified health plan as a plan that, among other requirements, provides the essential health benefits package. Existing state law creates the California Health Benefit Exchange (the Exchange) to facilitate the purchase of qualified health plans by qualified individuals and qualified small employers by January 1, 2014.

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. Existing law requires health care service plan contracts and health insurance policies to cover various benefits.

This bill would require an individual or small group health care service plan contract or health insurance policy issued, amended, or renewed on or after January 1, 2014, to cover essential health benefits, which would be defined to include the benefits and services covered by particular plans. The bill would specify that this provision applies regardless of whether the contract or policy is offered inside or outside the Exchange but would provide that it does not apply to grandfathered plans or plans that offer excepted benefits, as specified. The bill would prohibit a health care service plan or health insurer, when offering, issuing, selling, or marketing a plan contract or policy, from indicating or implying that the contract or policy covers essential health benefits unless the contract or policy covers essential health benefits as provided in the bill.

Because a willful violation of the bill’s provisions with respect to health care service plans would be a crime, the bill 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.  
 State-mandated local program: yes.

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

- 1 SECTION 1. The Legislature hereby finds and declares the
- 2 following:
- 3 (a) Commencing January 1, 2014, the federal Patient Protection
- 4 and Affordable Care Act (PPACA) requires a health insurance
- 5 issuer that offers coverage to small employers or individuals, both
- 6 inside and outside of an American Health Benefit Exchange, with
- 7 the exception of grandfathered plans, to provide minimum coverage
- 8 that includes essential health benefits, as defined.
- 9 (b) It is the intent of the Legislature to comply with federal law
- 10 and consistently implement the essential health benefits provisions

1 of PPACA and related federal guidance and regulations, by  
2 adopting the uniform minimum essential benefits requirement in  
3 state-regulated health care coverage regardless of whether the  
4 policy or contract is regulated by the Department of Managed  
5 Health Care or the Department of Insurance and regardless of  
6 whether the policy or contract is offered to individuals or small  
7 employers inside or outside of the California Health Benefit  
8 Exchange.

9 SEC. 2. Section 1367.005 is added to the Health and Safety  
10 Code, to read:

11 1367.005. (a) An individual or small group health care service  
12 plan contract issued, amended, or renewed on or after January 1,  
13 2014, shall, at a minimum, include coverage for essential health  
14 benefits. For purposes of this section, “essential health benefits”  
15 means all of the following:

16 (1) (A) The benefits and services covered by the Kaiser Small  
17 Group HMO plan contract (product number 40513CA035) as of  
18 ~~December 31, 2011, this contract was offered during the first~~  
19 ~~quarter of 2012~~, including, but not limited to, all of the following:

20 (i) The items and services covered by the plan contract within  
21 the categories identified in subsection (b) of Section 1302 of  
22 PPACA, including, but not limited to, ambulatory patient services,  
23 emergency services, hospitalization, maternity and newborn care,  
24 mental health and substance use disorder services, including  
25 behavioral health treatment, prescription drugs, rehabilitative and  
26 habilitative services and devices, laboratory services, preventive  
27 and wellness services and chronic disease management, and  
28 pediatric vision care.

29 ~~(ii) The items and services covered by the plan contract within~~  
30 ~~the following categories: acupuncture services, chiropractic~~  
31 ~~services, skilled nursing facility services, hospice care, bariatric~~  
32 ~~surgery, nonsevere mental illness services, substance abuse~~  
33 ~~services, smoking cessation counseling, alcoholism treatment,~~  
34 ~~applied behavior analysis therapy for autism, smoking cessation~~  
35 ~~drugs, pain medication for terminally ill patients, rehabilitative~~  
36 ~~services, habilitative, physical, and occupational therapy, speech~~  
37 ~~therapy, orthotics and prosthetics, prosthetic devices for~~  
38 ~~laryngectomy, special footwear for persons suffering from foot~~  
39 ~~disfigurement, surgically implanted hearing devices, home health~~

1 services, HIV/AIDS services, osteoporosis services, and diabetes  
2 education.

3 (ii) Mandated benefits pursuant to statutes enacted before  
4 December 31, 2011.

5 (B) The services and benefits described in this paragraph shall  
6 be covered to the extent they are medically necessary. Scope and  
7 duration limits imposed on the services and benefits described in  
8 this paragraph shall be no greater than the scope and duration limits  
9 imposed on those services and benefits by the plan contract  
10 identified in subparagraph (A).

11 (2) With respect to habilitative services, in addition to any  
12 habilitative services identified in paragraph (1), the same services  
13 as the plan contract covers for rehabilitative services. Habilitative  
14 services shall be covered under the same terms and conditions  
15 applied to rehabilitative services under the plan contract.

16 (3) With respect to pediatric oral care *and pediatric vision care*,  
17 the same services and benefits for pediatric oral care *and pediatric*  
18 *vision care* covered under the ~~federal Blue Cross and Blue Shield~~  
19 ~~Standard Option Service Benefit Plan available to enrollees through~~  
20 ~~the Federal Employees Health Benefit Plan (FEHB) as of~~  
21 ~~December 31, 2011~~ *Federal Employees Dental and Vision*  
22 *Insurance Program dental plan and vision plan with the largest*  
23 *national enrollment as of the first quarter of 2012.* Scope and  
24 duration limits imposed on the services and benefits described in  
25 this paragraph shall be no greater than the scope and duration  
26 limitations imposed on those benefits by the ~~federal Blue Cross~~  
27 ~~and Blue Shield Standard Option Service Benefit Plan available~~  
28 ~~to enrollees through the FEHB as of December 31, 2011~~ *Federal*  
29 *Employees Dental and Vision Insurance Program dental plan and*  
30 *vision plan with the largest national enrollment as of the first*  
31 *quarter of 2012.*

32 (4) Any other benefits required to be covered under this chapter.

33 (b) When offering, issuing, selling, or marketing a health care  
34 service plan contract, a health care service plan shall not indicate  
35 or imply that the plan contract covers essential health benefits  
36 unless the plan contract covers essential health benefits as defined  
37 in this section.

38 (c) This section shall apply regardless of whether the plan  
39 contract is offered inside or outside the California Health Benefit  
40 Exchange created by Section 100500 of the Government Code.

1 (d) A plan contract subject to this section shall also comply with  
2 Section 1367.001.

3 (e) This section shall not be construed to prohibit a plan contract  
4 from covering additional benefits, including, but not limited to,  
5 spiritual care services that are tax deductible under Section 213 of  
6 the Internal Revenue Code.

7 (f) Subdivision (a) shall not apply to any of the following:

8 (1) A plan contract that provides excepted benefits as described  
9 in Section 2722 of the federal Public Health Service Act (42 U.S.C.  
10 Sec. 300gg-21).

11 (2) A plan contract that qualifies as a grandfathered health plan  
12 under Section 1251 of PPACA.

13 (g) This section shall be implemented only to the extent that  
14 federal law or policy does not require the state to defray the costs  
15 of benefits included within the definition of essential health benefits  
16 under this section.

17 (h) For purposes of this section, the following definitions shall  
18 apply:

19 (1) “Habilitative services” means health care services that help  
20 a person keep, learn, or improve skills and functioning for daily  
21 living.

22 (2) “PPACA” means the federal Patient Protection and  
23 Affordable Care Act (Public Law 111-148), as amended by the  
24 federal Health Care and Education Reconciliation Act of 2010  
25 (Public Law 111-152), and any rules, regulations, or guidance  
26 issued thereunder.

27 (3) “Small group health care service plan contract” means a  
28 group health care service plan contract issued to a small employer,  
29 as defined in Section 1357.

30 SEC. 3. Section 10112.27 is added to the Insurance Code, to  
31 read:

32 10112.27. (a) An individual or small group health insurance  
33 policy issued, amended, or renewed on or after January 1, 2014,  
34 shall, at a minimum, include coverage for essential health benefits.  
35 For purposes of this section, “essential health benefits” means all  
36 of the following:

37 (1) (A) The benefits and services covered by the Kaiser Small  
38 Group HMO plan contract (product number 40513CA035) as ~~of~~  
39 ~~December 31, 2011, this contract was offered during the first~~  
40 *quarter of 2012*, including, but not limited to, all of the following:

1 (i) The items and services covered by the plan contract within  
2 the categories identified in subsection (b) of Section 1302 of  
3 PPACA, including, but not limited to, ambulatory patient services,  
4 emergency services, hospitalization, maternity and newborn care,  
5 mental health and substance use disorder services, including  
6 behavioral health treatment, prescription drugs, rehabilitative and  
7 habilitative services and devices, laboratory services, preventive  
8 and wellness services and chronic disease management, and  
9 pediatric vision care.

10 ~~(ii) The items and services covered by the plan contract within~~  
11 ~~the following categories: acupuncture services, chiropractic~~  
12 ~~services, skilled nursing facility services, hospice care, bariatric~~  
13 ~~surgery, nonsevere mental illness services, substance abuse~~  
14 ~~services, smoking cessation counseling, alcoholism treatment,~~  
15 ~~applied behavior analysis therapy for autism, smoking cessation~~  
16 ~~drugs, pain medication for terminally ill patients, rehabilitative~~  
17 ~~services, habilitative, physical, and occupational therapy, speech~~  
18 ~~therapy, orthotics and prosthetics, prosthetic devices for~~  
19 ~~laryngectomy, special footwear for persons suffering from foot~~  
20 ~~disfigurement, surgically implanted hearing devices, home health~~  
21 ~~services, HIV/AIDS services, osteoporosis services, and diabetes~~  
22 ~~education.~~

23 *(ii) Mandated benefits pursuant to statutes enacted before*  
24 *December 31, 2011.*

25 (B) The services and benefits described in this paragraph shall  
26 be covered to the extent they are medically necessary. Scope and  
27 duration limits imposed on the services and benefits described in  
28 this paragraph shall be no greater than the scope and duration limits  
29 imposed on those services and benefits by the health care service  
30 plan contract identified in subparagraph (A).

31 (2) With respect to habilitative services, in addition to any  
32 habilitative services identified in paragraph (1), the same services  
33 as the policy covers for rehabilitative services. Habilitative services  
34 shall be covered under the same terms and conditions applied to  
35 rehabilitative services under the policy.

36 (3) With respect to pediatric oral care *and pediatric vision care*,  
37 the same services and benefits for pediatric oral care *and pediatric*  
38 *vision care* covered under the federal Blue Cross and Blue Shield  
39 Standard Option Service Benefit Plan available to enrollees through  
40 the Federal Employees Health Benefit Plan (FEHB) as of

1 ~~December 31, 2011~~ *Federal Employees Dental and Vision*  
2 *Insurance Program dental plan and vision plan with the largest*  
3 *national enrollment as of the first quarter of 2012.* Scope and  
4 duration limits imposed on the services and benefits described in  
5 this paragraph shall be no greater than the scope and duration  
6 limitations imposed on those benefits by the ~~federal Blue Cross~~  
7 ~~and Blue Shield Standard Option Service Benefit Plan available~~  
8 ~~to enrollees through the FEHB as of December 31, 2011~~ *Federal*  
9 *Employees Dental and Vision Insurance Program dental plan and*  
10 *vision plan with the largest national enrollment as of the first*  
11 *quarter of 2012.*

12 (4) Any other benefits required to be covered under this part.

13 (b) When offering, issuing, selling, or marketing a health  
14 insurance policy, a health insurer shall not indicate or imply that  
15 the policy covers essential health benefits unless the policy covers  
16 essential health benefits as defined in this section.

17 (c) This section shall apply regardless of whether the policy is  
18 offered inside or outside the California Health Benefit Exchange  
19 created by Section 100500 of the Government Code.

20 (d) A health insurance policy subject to this section shall also  
21 comply with Section 10112.1.

22 (e) This section shall not be construed to prohibit a policy from  
23 covering additional benefits, including, but not limited to, spiritual  
24 care services that are tax deductible under Section 213 of the  
25 Internal Revenue Code.

26 (f) Subdivision (a) shall not apply to any of the following:

27 (1) A policy that provides excepted benefits as described in  
28 Section 2722 of the federal Public Health Service Act (42 U.S.C.  
29 Sec. 300gg-21).

30 (2) A health insurance policy that qualifies as a grandfathered  
31 health plan under Section 1251 of PPACA.

32 (g) This section shall be implemented only to the extent that  
33 federal law or policy does not require the state to defray the costs  
34 of benefits included within the definition of essential health benefits  
35 under this section.

36 (h) For purposes of this section, the following definitions shall  
37 apply:

38 (1) "Habilitative services" means health care services that help  
39 a person keep, learn, or improve skills and functioning for daily  
40 living.

1 (2) “PPACA” means the federal Patient Protection and  
2 Affordable Care Act (Public Law 111-148), as amended by the  
3 federal Health Care and Education Reconciliation Act of 2010  
4 (Public Law 111-152), and any rules, regulations, or guidance  
5 issued thereunder.

6 (3) “Small group health insurance policy” means a group health  
7 insurance policy issued to a small employer, as defined in Section  
8 10700.

9 SEC. 4. No reimbursement is required by this act pursuant to  
10 Section 6 of Article XIII B of the California Constitution because  
11 the only costs that may be incurred by a local agency or school  
12 district will be incurred because this act creates a new crime or  
13 infraction, eliminates a crime or infraction, or changes the penalty  
14 for a crime or infraction, within the meaning of Section 17556 of  
15 the Government Code, or changes the definition of a crime within  
16 the meaning of Section 6 of Article XIII B of the California  
17 Constitution.

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