

AMENDED IN ASSEMBLY APRIL 23, 2012

AMENDED IN ASSEMBLY MARCH 20, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1579

Introduced by Assembly Member Campos

February 2, 2012

An act to add Section 1374.196 to the Health and Safety Code, and to add Section 10120.4 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 1579, as amended, Campos. Dental coverage: noncontracting providers: assignment of benefits.

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 authorizes licensed nonphysician providers that contract with a medical group, physician, or independent practice association to provide services to health care service plan enrollees to directly bill the plan for services rendered under certain circumstances. Existing law requires group health care service plans to authorize and permit assignment of a Medi-Cal beneficiary's right to reimbursement for covered services to the State Department of Health Care Services, except as specified. Existing law provides for the direct payment of group insurance medical benefits by a health insurer to the person or persons furnishing or paying for hospitalization or medical or surgical aid, as specified.

This bill would require a health care service plan or health insurer that pays a contracting dental provider directly for covered services rendered to an enrollee or insured to also pay a noncontracting dental provider directly for covered services rendered to an enrollee or insured where the provider submits a written assignment of benefits signed by the enrollee or insured or the legal representative thereof, as specified. The bill would specify that ~~an~~ *a plan or insurer's* payment pursuant to this provision discharges the *plan or insurer's* obligation with respect to the amount paid. The bill would also require a noncontracting dental provider to disclose to the enrollee or insured or the legal representative thereof that the provider is a noncontracting provider prior to accepting an assignment of benefits, *and to provide additional specified written notices to the enrollee or insured or the legal representative thereof, including a written notice of the estimated full cost of the planned treatment and the estimated amount of those costs payable by the enrollee or insured. The bill would also prohibit a provider from collecting from an enrollee or insured any amount over the enrollee's or insured's estimated cost, and would require the provider to refund any overpayment to the enrollee or insured.*

Because a willful violation of the bill's requirements 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. Section 1374.196 is added to the Health and
- 2 Safety Code, to read:
- 3 1374.196. (a) For purposes of this section, "assignment of
- 4 benefits" means the transfer of reimbursement or other rights
- 5 provided for under a health care service plan contract to a treating
- 6 provider for services or items rendered to an enrollee.
- 7 (b) If a health care service plan pays a contracting dental
- 8 provider directly for covered services rendered to an enrollee, the

1 plan shall pay a noncontracting dental provider directly for covered
2 services rendered to an enrollee where the noncontracting provider
3 submits to the plan a written assignment of benefits signed by the
4 enrollee or, if the enrollee is a minor or is incompetent or
5 incapacitated, the legal representative thereof. When payment is
6 made directly to a noncontracting dental provider pursuant to this
7 section, the plan shall give written notice of the payment to the
8 enrollee who received the services or, if the enrollee is a minor or
9 is incompetent or incapacitated, the legal representative thereof.

10 *(c) (1) A noncontracting dental provider accepting assignment*
11 *of benefits pursuant to this section shall give, prior to treatment,*
12 *a written notice to the enrollee or, if the enrollee is a minor or is*
13 *incompetent or incapacitated, the legal representative thereof,*
14 *that contains the following:*

15 *(A) Notification that the provider is not in the network of the*
16 *enrollee's plan.*

17 *(B) The estimated full cost of the planned treatment and the*
18 *estimated amount for which the enrollee is responsible.*

19 *(C) The estimate of the treatment cost covered by the health*
20 *care service plan, pursuant to paragraph (2), if available prior to*
21 *treatment. Nothing in this section shall be construed to require a*
22 *delay in treatment to the enrollee.*

23 *(2) For purposes of the notice required pursuant to paragraph*
24 *(1), a health care service plan shall, upon inquiry from the*
25 *provider, provide an estimate of the treatment cost to be covered*
26 *by the plan as soon as possible, but no later than three business*
27 *days from the date of the request.*

28 *(3) The notice required pursuant to paragraph (1) shall be made*
29 *available by the provider in the primary language of the two largest*
30 *populations seen by the provider who either do not speak English*
31 *or who are unable to effectively communicate in English because*
32 *English is not their native language, and who comprise 5 percent*
33 *or more of the patients served by the provider.*

34 *(4) In addition to the notice required pursuant to paragraph*
35 *(1), a noncontracting dental provider accepting an assignment of*
36 *benefits shall provide, prior to providing treatment, the enrollee*
37 *or, if the enrollee is a minor or is incompetent or incapacitated,*
38 *the enrollee's legal representative, the following notification, in*
39 *12-point type, on a single page without any additional information,*

1 and obtain the signature of the enrollee or the enrollee’s legal
2 representative indicating receipt and review thereof:

3
4 *Assignment of Benefits*

5 *Your signature below acknowledges that you have chosen to*
6 *have your dental services provided by [provider’s name] at*
7 *[business name and location] and that you are aware that this*
8 *provider is not participating in your plan’s network. You also*
9 *acknowledge that when you obtain care from a nonparticipating*
10 *or out-of-network provider you understand the following:*

11 *Your plan’s benefits and policies may not apply to the treatment*
12 *you will receive. The provider is not subject to contract*
13 *requirements or oversight by your health plan as required by state*
14 *law for participating and network providers. Contact*
15 *1-800-HMO-HELP for more information.*

16 *Your out-of-pocket costs may be higher when visiting a dentist*
17 *who is not in your plan’s network due to higher cost-sharing*
18 *requirements under your health plan and because you may be*
19 *responsible for any difference between the dentist’s usual fee and*
20 *your plan’s payment.*

21 *You have the right to confirm your dental benefit or insurance*
22 *information from your plan, insurer, or employer before beginning*
23 *treatment.*

24
25 (e)

26 (d) (1) ~~The amount of the payment made pursuant to this section~~
27 ~~shall not exceed the amount of the benefit covered by the plan~~
28 ~~contract with respect to the service or the billing of the provider~~
29 ~~of the service. Payment made pursuant to this section shall~~
30 ~~discharge the plan’s obligation with respect to that amount paid.~~
31 *following:*

32 (A) *The amount of the benefit covered by the plan contract with*
33 *respect to the service or the billing of the provider of the service.*

34 (B) *The amount of expenses incurred on account of the dental*
35 *care or treatment provided.*

36 (2) *Payment made pursuant to this section shall discharge the*
37 *plan’s obligation with respect to that amount paid.*

38 ~~(d) Prior to accepting an assignment of benefits, a noncontracting~~
39 ~~dental provider shall disclose to the enrollee or, if the enrollee is~~

1 a minor or is incompetent or incapacitated, the legal representative
2 thereof, that the provider is a noncontracting dental provider.

3 (e) A provider accepting an assignment of benefits may only
4 collect from the enrollee the enrollee's estimated cost according
5 to the written treatment plan pursuant to subparagraph (B) of
6 paragraph (1) of subdivision (c). A provider shall refund any
7 overpayment to the enrollee within 30 business days after receiving
8 the direct payment from the enrollee's plan if the actual payment
9 is more than the estimated payment.

10 (e)

11 (f) This section shall only apply to a health care service plan
12 contract covering dental services or a specialized health care service
13 plan contract covering dental services pursuant to this chapter *that*
14 *is a preferred provider organization plan contract, a*
15 *point-of-service plan contract, or any other plan contract that*
16 *provides coverage for out-of-network services.*

17 (g) *Nothing in this section shall be construed to exempt a health*
18 *care service plan from the requirements of Section 1373.96 or*
19 *1371.4.*

20 SEC. 2. Section 10120.4 is added to the Insurance Code, to
21 read:

22 10120.4. (a) For purposes of this section, "assignment of
23 benefits" means the transfer of reimbursement or other rights
24 provided for under a health insurance policy to a treating provider
25 for services or items rendered to an insured.

26 (b) If a health insurer pays a contracting dental provider directly
27 for covered services rendered to an insured, the insurer shall pay
28 a noncontracting dental provider directly for covered services
29 rendered to an insured where the noncontracting provider submits
30 to the insurer a written assignment of benefits signed by the insured
31 or, if the insured is a minor or is incompetent or incapacitated, the
32 legal representative thereof. When payment is made directly to a
33 noncontracting dental provider pursuant to this section, the insurer
34 shall give written notice of the payment to the insured who received
35 the services or, if the insured is a minor or is incompetent or
36 incapacitated, the legal representative thereof.

37 (c) (1) *A noncontracting dental provider accepting assignment*
38 *of benefits pursuant to this section shall give, prior to treatment,*
39 *a written notice to the insured or, if the insured is a minor or is*

1 *incompetent or incapacitated, the legal representative thereof,*
2 *that contains the following:*

3 *(A) Notification that the provider is not in the network covered*
4 *by the insured's policy.*

5 *(B) The estimated full cost of the planned treatment and the*
6 *estimated amount for which the insured is responsible.*

7 *(C) The estimated treatment cost covered by the policy, pursuant*
8 *to paragraph (2), if available prior to treatment. Nothing in this*
9 *section shall be construed to require a delay in treatment to the*
10 *insured.*

11 *(2) For purposes of the notice required pursuant to paragraph*
12 *(1), a health insurer shall, upon inquiry from the provider, the*
13 *insured, or both, provide an estimate of the treatment cost covered*
14 *by the policy as soon as possible, but no later than three business*
15 *days from the date of the request.*

16 *(3) The notice required pursuant to paragraph (1) shall be made*
17 *available by the provider in the primary language of the two largest*
18 *populations seen by the provider who either do not speak English*
19 *or who are unable to effectively communicate in English because*
20 *English is not their native language, and who comprise 5 percent*
21 *or more of the patients served by the provider.*

22 *(4) In addition to the notice required pursuant to paragraph*
23 *(1), a noncontracting dental provider accepting an assignment of*
24 *benefits shall provide, prior to providing treatment, the insured*
25 *or, if the insured is a minor or is incompetent or incapacitated,*
26 *the insured's legal representative, the following notification, in*
27 *12-point type, on a single page without any additional information,*
28 *and obtain the signature of the insured or the insured's legal*
29 *representative indicating receipt and review thereof:*

30 *Assignment of Benefits*

31 *Your signature below acknowledges that you have chosen to*
32 *have your dental services provided by [provider's name] at*
33 *[business name and location] and that you are aware that this*
34 *provider is not participating in your insurer's network. You also*
35 *acknowledge that when you obtain care from a nonparticipating*
36 *or out-of-network provider you understand the following:*

37 *Your insurance policy's benefits may not apply to the treatment*
38 *you will receive. The provider is not subject to contract*
39 *requirements or oversight by a dental insurer as required by state*

1 law for participating and network providers. Contact
2 1-800-927-HELP for more information.

3 Your out-of-pocket costs may be higher when visiting a dentist
4 who is not in your insurer's network due to higher cost-sharing
5 requirements under your policy and because you may be
6 responsible for any difference between the dentist's usual fee and
7 your policy's payment.

8 You have the right to confirm your dental benefit or insurance
9 information from your plan, insurer, or employer before beginning
10 treatment.

11 (e)

12 (d) (1) The amount of the payment made pursuant to this section
13 shall not exceed the amount of the benefit covered by the policy
14 with respect to the service or the billing of the provider of the
15 service. Payment made pursuant to this section shall discharge the
16 insurer's obligation with respect to that amount paid. following:

17 (A) The amount of the benefit covered by the policy with respect
18 to the service or the billing of the provider of the service.

19 (B) The amount of expenses incurred on account of the dental
20 care or treatment provided.

21 (2) Payment made pursuant to this section shall discharge the
22 insurer's obligation with respect to that amount paid.

23 ~~(d) Prior to accepting an assignment of benefits, a noncontracting
24 dental provider shall disclose to the insured or, if the insured is a
25 minor or is incompetent or incapacitated, the legal representative
26 thereof, that the provider is a noncontracting dental provider.~~

27 (e) A provider accepting an assignment of benefits may only
28 collect from the insured the insured's estimated cost according to
29 the written treatment plan pursuant to subparagraph (B) of
30 paragraph (1) of subdivision (c). A provider shall refund any
31 overpayment to the insured within 30 business days after receiving
32 the direct payment from the insurer if the actual payment is more
33 than the estimated payment.

34 (e)

35 (f) This section shall only apply to a health insurance policy
36 covering dental services or a specialized health insurance policy
37 covering dental services pursuant to this part that provides services
38 at alternative rates of payment pursuant to Section 10133.

39 (g) Nothing in this section shall be construed to exempt a health
40 insurer from the requirements of Section 10133.56.

1 SEC. 3. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

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