

ASSEMBLY BILL

No. 2036

Introduced by Assembly Member Mansoor

February 23, 2012

An act to amend Section 1367.03 of the Health and Safety Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 2036, as introduced, Mansoor. Health care service plans.

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. Existing law requires the department to adopt regulations to ensure that enrollees have access to needed health care services in a timely manner, and authorizes the department to take enforcement action against plans regarding noncompliance with those requirements, as specified.

This bill would delete certain obsolete language from, and make other technical, nonsubstantive changes to, that provision.

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

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

- 1 SECTION 1. Section 1367.03 of the Health and Safety Code
- 2 is amended to read:
- 3 1367.03. (a) Not later than January 1, 2004, the department
- 4 shall develop and adopt regulations to ensure that enrollees have
- 5 access to needed health care services in a timely manner. In
- 6 developing these regulations, the department shall develop

1 indicators of timeliness of access to care and, in so doing, shall
2 consider the following as indicators of timeliness of access to care:

3 (1) Waiting times for appointments with physicians, including
4 primary care and specialty physicians.

5 (2) Timeliness of care in an episode of illness, including the
6 timeliness of referrals and obtaining other services, if needed.

7 (3) Waiting time to speak to a physician, registered nurse, or
8 other qualified health professional acting within his or her scope
9 of practice who is trained to screen or triage an enrollee who may
10 need care.

11 (b) In developing these standards for timeliness of access, the
12 department shall consider the following:

13 (1) Clinical appropriateness.

14 (2) The nature of the specialty.

15 (3) The urgency of care.

16 (4) The requirements of other provisions of law, including
17 Section 1367.01 governing utilization review, that may affect
18 timeliness of access.

19 (c) The department may adopt standards other than the time
20 elapsed between the time an enrollee seeks health care and obtains
21 care. If the department chooses a standard other than the time
22 elapsed between the time an enrollee first seeks health care and
23 obtains it, the department shall demonstrate why that standard is
24 more appropriate. In developing these standards, the department
25 shall consider the nature of the plan network.

26 (d) The department shall review and adopt standards, as needed,
27 concerning the availability of primary care physicians, specialty
28 physicians, hospital care, and other health care, so that consumers
29 have timely access to care. In so doing, the department shall
30 consider the nature of physician practices, including individual
31 and group practices as well as the nature of the plan network. The
32 department shall also consider various circumstances affecting the
33 delivery of care, including urgent care, care provided on the same
34 day, and requests for specific providers. If the department finds
35 that health care service plans and health care providers have
36 difficulty meeting these standards, the department may make
37 recommendations to the Assembly Committee on Health and the
38 Senate Committee on Insurance of the Legislature pursuant to
39 subdivision (i).

1 (e) In developing standards under subdivision (a), the department
2 shall consider requirements under federal law, requirements under
3 other state programs, standards adopted by other states, nationally
4 recognized accrediting organizations, and professional associations.
5 The department shall further consider the needs of rural areas,
6 specifically those in which health facilities are more than 30 miles
7 apart and any requirements imposed by the State Department of
8 Health Care Services on health care service plans that contract
9 with the State Department of Health Care Services to provide
10 Medi-Cal managed care.

11 (f) (1) Contracts between health care service plans and health
12 care providers shall ~~assure~~ *ensure* compliance with the standards
13 developed under this section. These contracts shall require
14 reporting by health care providers to health care service plans and
15 by health care service plans to the department to ensure compliance
16 with the standards.

17 (2) Health care service plans shall report annually to the
18 department on compliance with the standards in a manner specified
19 by the department. The reported information shall allow consumers
20 to compare the performance of plans and their contracting providers
21 in complying with the standards, as well as changes in the
22 compliance of plans with these standards.

23 (g) (1) When evaluating compliance with the standards, the
24 department shall focus more upon patterns of noncompliance rather
25 than isolated episodes of noncompliance.

26 (2) The director may investigate and take enforcement action
27 against plans regarding noncompliance with the requirements of
28 this section. Where substantial harm to an enrollee has occurred
29 as a result of plan noncompliance, the director may, by order,
30 assess administrative penalties subject to appropriate notice of,
31 and the opportunity for, a hearing in accordance with Section 1397.
32 The plan may provide to the director, and the director may
33 consider, information regarding the plan's overall compliance with
34 the requirements of this section. The administrative penalties shall
35 not be deemed an exclusive remedy available to the director. These
36 penalties shall be paid to the Managed Care Administrative Fines
37 and Penalties Fund and shall be used for the purposes specified in
38 Section 1341.45. The director shall periodically evaluate grievances
39 to determine if any audit, investigative, or enforcement actions
40 should be undertaken by the department.

1 (3) The director may, after appropriate notice and opportunity
2 for hearing in accordance with Section 1397, by order, assess
3 administrative penalties if the director determines that a health
4 care service plan has knowingly committed, or has performed with
5 a frequency that indicates a general business practice, either of the
6 following:

7 (A) Repeated failure to act promptly and reasonably to assure
8 timely access to care consistent with this chapter.

9 (B) Repeated failure to act promptly and reasonably to require
10 contracting providers to ~~assure~~ *ensure* timely access that the plan
11 is required to perform under this chapter and that have been
12 delegated by the plan to the contracting provider when the
13 obligation of the plan to the enrollee or subscriber is reasonably
14 clear.

15 (C) The administrative penalties available to the director
16 pursuant to this section are not exclusive, and may be sought and
17 employed in any combination with civil, criminal, and other
18 administrative remedies deemed warranted by the director to
19 enforce this chapter.

20 (4) The administrative penalties shall be paid to the Managed
21 Care Administrative Fines and Penalties Fund and shall be used
22 for the purposes specified in Section 1341.45.

23 (h) The department shall work with the patient advocate to
24 assure that the quality of care report card incorporates information
25 provided pursuant to subdivision (f) regarding the degree to which
26 health care service plans and health care providers comply with
27 the requirements for timely access to care.

28 ~~(i) The department shall report to the Assembly Committee on
29 Health and the Senate Committee on Insurance of the Legislature
30 on March 1, 2003, and on March 1, 2004, regarding the progress
31 toward the implementation of this section.~~

32 ~~(j)~~

33 (i) Every three years, the department shall review information
34 regarding compliance with the standards developed under this
35 section and shall make recommendations for changes that further
36 protect enrollees.