

AMENDED IN SENATE AUGUST 6, 2012

AMENDED IN SENATE JUNE 19, 2012

AMENDED IN ASSEMBLY MAY 25, 2012

AMENDED IN ASSEMBLY APRIL 23, 2012

AMENDED IN ASSEMBLY APRIL 10, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2252

Introduced by Assembly Member Gordon

February 24, 2012

An act to amend Section 1375.7 of the Health and Safety Code, and to amend Section 10133.65 of the Insurance Code, relating to health care service plans.

LEGISLATIVE COUNSEL'S DIGEST

AB 2252, as amended, Gordon. Dental coverage: provider notice of changes.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act), 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. Under the Knox-Keene Act, the Health Care Providers' Bill of Rights prohibits a contract between a health care service plan and a health care provider from including a term authorizing the plan to change a material term of the contract unless the parties have agreed to it or it is required to comply with state or federal law or with accreditation requirements of a private sector accreditation organization. Under existing law, if a change is

made by amending a manual, policy, or procedure document referenced in the contract between a plan and a provider, the plan is required to provide at least 45 business days' notice to the provider, as specified.

This bill would require a plan providing dental coverage that automatically renews dental provider contracts to, ~~upon renewal or on an annual basis no later than July 1 of each year,~~ *annually* make available, as specified, to the provider, ~~upon~~ *within 60 days following* a request by the provider, a copy of its current contract and a summary of all of those changes made since the contract was issued or last renewed, ~~whichever is later~~. The bill would also require a plan providing dental coverage to provide at least 45 business days' notice to dentists providing services under its plan contracts of any material change to the plan's rules, guidelines, policies, or procedures concerning dental provider contracting or coverage of or payment for dental services, as specified. Because a willful violation of these requirements would be a crime, the bill would impose a state-mandated local program.

Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law authorizes health insurers to contract with providers for alternative rates of payment and authorizes the contract to contain provisions permitting a material change to the contract if the insurer provides at least 45 business' days notice to the provider and the provider has the right to terminate the contract prior to implementation of the change.

This bill would require an insurer providing dental coverage that automatically renews dental provider contracts to, ~~upon renewal or on an annual basis no later than July 1 of each year,~~ *annually* make available, as specified, to the provider, ~~upon~~ *within 60 days following* a request by the provider, a copy of its current contract and a summary of all those changes made since the contract was issued or last renewed, ~~whichever is later~~. The bill would also require an insurer providing dental coverage to provide at least 45 business days' notice to dentists contracting with the insurer to provide services under its health insurance policies of any material change to the insurer's rules, guidelines, policies, or procedures concerning dental provider contracting or coverage of or payment for dental services, as specified.

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 1375.7 of the Health and Safety Code is
2 amended to read:

3 1375.7. (a) This section shall be known and may be cited as
4 the Health Care Providers' Bill of Rights.

5 (b) No contract issued, amended, or renewed on or after January
6 1, 2003, between a plan and a health care provider for the provision
7 of health care services to a plan enrollee or subscriber shall contain
8 any of the following terms:

9 (1) (A) Authority for the plan to change a material term of the
10 contract, unless the change has first been negotiated and agreed
11 to by the provider and the plan or the change is necessary to comply
12 with state or federal law or regulations or any accreditation
13 requirements of a private sector accreditation organization. If a
14 change is made by amending a manual, policy, or procedure
15 document referenced in the contract, the plan shall provide 45
16 business days' notice to the provider, and the provider has the right
17 to negotiate and agree to the change. If the plan and the provider
18 cannot agree to the change to a manual, policy, or procedure
19 document, the provider has the right to terminate the contract prior
20 to the implementation of the change. In any event, the plan shall
21 provide at least 45 business days' notice of its intent to change a
22 material term, unless a change in state or federal law or regulations
23 or any accreditation requirements of a private sector accreditation
24 organization requires a shorter timeframe for compliance. However,
25 if the parties mutually agree, the 45-business day notice
26 requirement may be waived. Nothing in this subparagraph limits
27 the ability of the parties to mutually agree to the proposed change
28 at any time after the provider has received notice of the proposed
29 change.

30 (B) If a contract between a provider and a plan provides benefits
31 to enrollees or subscribers through a preferred provider
32 arrangement, the contract may contain provisions permitting a
33 material change to the contract by the plan if the plan provides at
34 least 45 business days' notice to the provider of the change and

1 the provider has the right to terminate the contract prior to the
2 implementation of the change.

3 (C) If a contract between a noninstitutional provider and a plan
4 provides benefits to enrollees or subscribers covered under the
5 Medi-Cal or Healthy Families Program and compensates the
6 provider on a fee-for-service basis, the contract may contain
7 provisions permitting a material change to the contract by the plan,
8 if the following requirements are met:

9 (i) The plan gives the provider a minimum of 90 business days'
10 notice of its intent to change a material term of the contract.

11 (ii) The plan clearly gives the provider the right to exercise his
12 or her intent to negotiate and agree to the change within 30 business
13 days of the provider's receipt of the notice described in clause (i).

14 (iii) The plan clearly gives the provider the right to terminate
15 the contract within 90 business days from the date of the provider's
16 receipt of the notice described in clause (i) if the provider does not
17 exercise the right to negotiate the change or no agreement is
18 reached, as described in clause (ii).

19 (iv) The material change becomes effective 90 business days
20 from the date of the notice described in clause (i) if the provider
21 does not exercise his or her right to negotiate the change, as
22 described in clause (ii), or to terminate the contract, as described
23 in clause (iii).

24 (2) A provision that requires a health care provider to accept
25 additional patients beyond the contracted number or in the absence
26 of a number if, in the reasonable professional judgment of the
27 provider, accepting additional patients would endanger patients'
28 access to, or continuity of, care.

29 (3) A requirement to comply with quality improvement or
30 utilization management programs or procedures of a plan, unless
31 the requirement is fully disclosed to the health care provider at
32 least 15 business days prior to the provider executing the contract.
33 However, the plan may make a change to the quality improvement
34 or utilization management programs or procedures at any time if
35 the change is necessary to comply with state or federal law or
36 regulations or any accreditation requirements of a private sector
37 accreditation organization. A change to the quality improvement
38 or utilization management programs or procedures shall be made
39 pursuant to paragraph (1).

1 (4) A provision that waives or conflicts with any provision of
2 this chapter. A provision in the contract that allows the plan to
3 provide professional liability or other coverage or to assume the
4 cost of defending the provider in an action relating to professional
5 liability or other action is not in conflict with, or in violation of,
6 this chapter.

7 (5) A requirement to permit access to patient information in
8 violation of federal or state laws concerning the confidentiality of
9 patient information.

10 (c) With respect to a health care service plan contract covering
11 dental services or a specialized health care service plan contract
12 covering dental services, all of the following shall apply:

13 (1) If a material change is made to the health care service plan's
14 rules, guidelines, policies, or procedures concerning dental provider
15 contracting or coverage of or payment for dental services, the plan
16 shall provide at least 45 business days' written notice to the dentists
17 contracting with the health care service plan to provide services
18 under the plan's individual or group plan contracts, including
19 specialized health care service plan contracts, unless a change in
20 state or federal law or regulations or any accreditation requirements
21 of a private sector accreditation organization requires a shorter
22 timeframe for compliance. For purposes of this paragraph, written
23 notice shall include notice by electronic mail or facsimile
24 transmission. This paragraph shall apply in addition to the other
25 applicable requirements imposed under this section, except that it
26 shall not apply where notice of the proposed change is required to
27 be provided pursuant to subparagraph (C) of paragraph (1) of
28 subdivision (b).

29 (2) For purposes of paragraph (1), a material change made to a
30 health care service plan's rules, guidelines, policies, or procedures
31 concerning dental provider contracting or coverage of or payment
32 for dental services is a change to the system by which the plan
33 adjudicates and pays claims for treatment that would reasonably
34 be expected to cause delays or disruptions in processing claims or
35 making eligibility determinations, or a change to the general
36 coverage or general policies of the plan that affect rates and fees
37 paid to providers.

38 (3) A plan that automatically renews a contract with a dental
39 provider shall, ~~upon renewal or on an annual basis no later than~~
40 ~~July 1 of each year,~~ *annually* make available to the provider, ~~upon~~

1 *within 60 days following a request by the provider, either online,*
2 *via email, or in paper form, a copy of its current contract and a*
3 *summary of the changes described in paragraph (1) of subdivision*
4 *(b) that have been made since the contract was issued or last*
5 *renewed, whichever is later.*

6 (4) This subdivision shall not apply to a health care service plan
7 that exclusively contracts with no more than two medical groups
8 in the state to provide or arrange for the provision of professional
9 medical services to the enrollees of the plan.

10 (d) (1) When a contracting agent sells, leases, or transfers a
11 health provider's contract to a payor, the rights and obligations of
12 the provider shall be governed by the underlying contract between
13 the health care provider and the contracting agent.

14 (2) For purposes of this subdivision, the following terms shall
15 have the following meanings:

16 (A) "Contracting agent" has the meaning set forth in paragraph
17 (2) of subdivision (d) of Section 1395.6.

18 (B) "Payor" has the meaning set forth in paragraph (3) of
19 subdivision (d) of Section 1395.6.

20 (e) Any contract provision that violates subdivision (b), (c), or
21 (d) shall be void, unlawful, and unenforceable.

22 (f) The department shall compile the information submitted by
23 plans pursuant to subdivision (h) of Section 1367 into a report and
24 submit the report to the Governor and the Legislature by March
25 15 of each calendar year.

26 (g) Nothing in this section shall be construed or applied as
27 setting the rate of payment to be included in contracts between
28 plans and health care providers.

29 (h) For purposes of this section the following definitions apply:

30 (1) "Health care provider" means any professional person,
31 medical group, independent practice association, organization,
32 health care facility, or other person or institution licensed or
33 authorized by the state to deliver or furnish health services.

34 (2) "Material" means a provision in a contract ~~or a change~~
35 ~~described in subdivision (e)~~ to which a reasonable person would
36 attach importance in determining the action to be taken upon the
37 provision ~~or change~~.

38 SEC. 2. Section 10133.65 of the Insurance Code is amended
39 to read:

1 10133.65. (a) This section shall be known and may be cited
2 as the Health Care Providers' Bill of Rights.

3 (b) No contract issued, amended, or renewed on or after January
4 1, 2003, between a health insurer and a health care provider for
5 the provision of covered benefits at alternative rates of payment
6 to an insured shall contain any of the following terms:

7 (1) A provision that requires a health care provider to accept
8 additional patients beyond the contracted number or in the absence
9 of a number if, in the reasonable professional judgment of the
10 provider, accepting additional patients would endanger patients'
11 access to, or continuity of, care.

12 (2) A requirement to comply with quality improvement or
13 utilization management programs or procedures of a health insurer,
14 unless the requirement is fully disclosed to the health care provider
15 at least 15 business days prior to the provider executing the
16 contract. However, the health insurer may make a change to the
17 quality improvement or utilization management programs or
18 procedures at any time if the change is necessary to comply with
19 state or federal law or regulations or any accreditation requirements
20 of a private sector accreditation organization. A change to the
21 quality improvement or utilization management programs or
22 procedures shall be made pursuant to subdivision (c).

23 (3) A provision that waives or conflicts with any provision of
24 the Insurance Code.

25 (4) A requirement to permit access to patient information in
26 violation of federal or state laws concerning the confidentiality of
27 patient information.

28 (c) If a contract is with a health insurer that negotiates and
29 arranges for alternative rates of payment with the provider to
30 provide benefits to insureds, the contract may contain provisions
31 permitting a material change to the contract by the health insurer
32 if the health insurer provides at least 45 business days' notice to
33 the provider of the change, and the provider has the right to
34 terminate the contract prior to implementation of the change.

35 (d) With respect to a health insurance policy covering dental
36 services or a specialized health insurance policy covering dental
37 services, all of the following shall apply:

38 (1) If a material change is made to the health insurer's rules,
39 guidelines, policies, or procedures concerning dental provider
40 contracting or coverage of or payment for dental services, the

1 insurer shall provide at least 45 business days' written notice to
2 the dentists contracting with the health insurer to provide services
3 under the insurer's individual or group health insurance policies,
4 including specialized health insurance policies. For purposes of
5 this paragraph, written notice shall include notice by electronic
6 mail or facsimile transmission. This paragraph shall apply in
7 addition to the other applicable requirements imposed under this
8 section.

9 (2) For purposes of paragraph (1), a material change made to a
10 health insurer's rules, guidelines, policies, or procedures concerning
11 dental provider contracting or coverage of or payment for dental
12 services is a change to the system by which the insurer adjudicates
13 and pays claims for treatment that may cause delays or disruptions
14 in processing claims or making eligibility determinations, or a
15 change to the general coverage or general policies of the insurer
16 that affect rates and fees paid to providers.

17 (3) An insurer that automatically renews a contract with a dental
18 provider shall, ~~upon renewal or on an annual basis no later than~~
19 ~~July 1 of each year,~~ *annually* make available to the provider, ~~upon~~
20 *within 60 days following a* request by the provider, either online,
21 via email, or in paper form, a copy of its current contract and a
22 summary of the changes described in subdivision (c) that have
23 been made since the contract was issued or last renewed, ~~whichever~~
24 ~~is later.~~

25 (e) Any contract provision that violates subdivision (b), (c), or
26 (d) shall be void, unlawful, and unenforceable.

27 (f) The Department of Insurance shall annually compile all
28 provider complaints that it receives under this section, and shall
29 report to the Legislature and the Governor the number and nature
30 of those complaints by March 15 of each calendar year.

31 (g) Nothing in this section shall be construed or applied as
32 setting the rate of payment to be included in contracts between
33 health insurers and health care providers.

34 (h) For purposes of this section, the following definitions apply:

35 (1) "Health care provider" means any professional person,
36 medical group, independent practice association, organization,
37 health facility, or other person or institution licensed or authorized
38 by the state to deliver or furnish health care services.

39 (2) "Health insurer" means any admitted insurer writing health
40 insurance, as defined in Section 106, that enters into a contract

1 with a provider to provide covered benefits at alternative rates of
2 payment.

3 (3) “Material” means a provision in a contract ~~or a change~~
4 ~~described in subdivision (d)~~ to which a reasonable person would
5 attach importance in determining the action to be taken upon the
6 provision ~~or change~~.

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