

AMENDED IN ASSEMBLY SEPTEMBER 2, 2011

SENATE BILL

No. 222

**Introduced by ~~Senator Alquist~~ *Senators Evans and Alquist*
(*Coauthor: Senator De León*)**

(*Coauthors: Assembly Members Alejo, Ammiano, Blumenfield, Huffman,
and Bonnie Lowenthal*)

February 9, 2011

~~An act to amend Section 16809.4 of, and to add Article 2.82 (commencing with Section 14087.98) to Chapter 7 of Part 3 of Division 9 of, the Welfare and Institutions Code, relating to health plans. An act to add Section 10123.865 to the Insurance Code, relating to health care coverage.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 222, as amended, ~~Alquist~~ *Evans*. ~~Health plans: joint ventures. Maternity services.~~

Existing law provides for the regulation of health insurers by the Department of Insurance. Under existing law, a health insurer that provides maternity coverage may not restrict inpatient hospital benefits, as specified, and is required to provide notice of the maternity services coverage.

This bill, commencing July 1, 2012, would require every individual health insurance policy to provide coverage for maternity services for all insureds covered under the policy.

This bill would become operative only if AB 210 of the 2011–12 Regular Session is also enacted.

~~Existing law creates various health benefits programs, including the Medi-Cal program, administered by the State Department of Health Care Services, and the County Medical Services Program. Existing law,~~

~~the Knox-Keene Health Care Service Plan Act of 1975, administered by the Department of Managed Health Care, provides for the licensure and regulation of health care service plans.~~

~~This bill would authorize a county board of supervisors, a county special commission, or a county health authority that governs, owns, or operates a local initiative health plan or county-organized health system, as specified, or the County Medical Services Program governing board, to form joint ventures for the joint or coordinated offering of health plans to individuals and groups. The bill would require all joint ventures established pursuant to the above provisions to meet all of the requirements of the Knox-Keene Health Care Service Plan Act of 1975.~~

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

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

1 *SECTION 1. The Legislature finds and declares the following:*

2 *(a) In actual practice, health care service plans have been*
 3 *required by the Knox-Keene Health Care Service Plan Act of 1975*
 4 *(Chapter 2.2 (commencing with Section 1340) of Division 2 of the*
 5 *Health and Safety Code) to provide maternity services as a basic*
 6 *health care benefit.*

7 *(b) At the same time, existing law does not require health*
 8 *insurers to provide designated basic health care services and,*
 9 *therefore, health insurers are not required to provide coverage*
 10 *for maternity services.*

11 *(c) Therefore, it is essential to clarify that all health care*
 12 *coverage made available to California consumers, whether issued*
 13 *by health care service plans regulated by the Department of*
 14 *Managed Health Care or by health insurers regulated by the*
 15 *Department of Insurance, must include maternity services.*

16 *SEC. 2. Section 10123.865 is added to the Insurance Code, to*
 17 *read:*

18 *10123.865. (a) Commencing no later than July 1, 2012, every*
 19 *individual health insurance policy shall provide coverage for*
 20 *maternity services for all insureds covered under the policy.*

21 *(b) For purposes of this section, "maternity services" include*
 22 *prenatal care, ambulatory care maternity services, involuntary*
 23 *complications of pregnancy, neonatal care, and inpatient hospital*
 24 *maternity care, including labor and delivery and postpartum care.*

1 *This definition of “maternity services” shall remain in effect until*
2 *such time as federal regulations and guidance issued pursuant to*
3 *the federal Patient Protection and Affordable Care Act (Public*
4 *Law 111-148) define the scope of benefits to be provided under*
5 *the maternity benefit requirement of that act, after which time the*
6 *definition of that term under the federal act and associated*
7 *regulations and guidance shall apply for purposes of this section.*

8 *(c) This section shall not apply to specialized health insurance,*
9 *Medicare supplement insurance, short-term limited duration health*
10 *insurance, CHAMPUS-supplement insurance, or TRI-CARE*
11 *supplement insurance, or to hospital indemnity, accident-only, or*
12 *specified disease insurance.*

13 *SEC. 3. This act shall become operative only if Assembly Bill*
14 *210 of the 2011–12 Regular Session is also enacted and takes*
15 *effect.*

16 ~~SECTION 1. (a) The Legislature finds and declares all of the~~
17 ~~following:~~

18 ~~(1) Due to the economic downturn, hundreds of thousands of~~
19 ~~Californians are joining the ranks of the uninsured or are looking~~
20 ~~to publicly financed programs for their health care coverage.~~

21 ~~(2) Compared to persons with health care coverage, the~~
22 ~~uninsured are less likely to have a regular source of care, are likely~~
23 ~~to delay seeing a doctor, and are less likely to receive preventive~~
24 ~~health care services.~~

25 ~~(3) Based on recent data collected by the Kaiser Family~~
26 ~~Foundation, health care costs continue to rise at a faster rate than~~
27 ~~general inflation and average wage growth.~~

28 ~~(4) The federal Patient Protection and Affordable Care Act~~
29 ~~(Public Law 111-148), as signed by the President on March 23,~~
30 ~~2010, contains reforms that will give Californians better and more~~
31 ~~affordable choices for how they get their health coverage.~~

32 ~~(5) There is a continuing need for affordable health coverage~~
33 ~~options for those with limited incomes and those who do not~~
34 ~~receive health coverage through their employment or the~~
35 ~~employment of a family member.~~

36 ~~(6) Due to their structure and design, county local initiative~~
37 ~~health plans and county-organized health systems have the potential~~
38 ~~to offer affordable health coverage in the individual and group~~
39 ~~markets.~~

1 ~~(7) Joint ventures involving local initiative health plans and~~
2 ~~county-organized health systems may be a particularly promising~~
3 ~~means of providing affordable coverage in many regions of the~~
4 ~~state.~~

5 ~~(b) In light of these findings, it is the intent of the Legislature~~
6 ~~that representatives of local initiative health plans,~~
7 ~~county-organized health systems, and consumer, labor, and~~
8 ~~provider groups hold stakeholder discussions for the purposes of~~
9 ~~facilitating establishment of affordable health coverage options in~~
10 ~~the individual and group markets.~~

11 ~~SEC. 2. Article 2.82 (commencing with Section 14087.98) is~~
12 ~~added to Chapter 7 of Part 3 of Division 9 of the Welfare and~~
13 ~~Institutions Code, to read:~~

14
15 ~~Article 2.82. Health Plan Joint Ventures~~

16
17 ~~14087.98. (a) Notwithstanding any other provision of law, a~~
18 ~~health plan that is governed, owned, or operated by a county board~~
19 ~~of supervisors, a county special commission, a county-organized~~
20 ~~health system, or a county health authority that is authorized by~~
21 ~~Section 14018.7, 14087.31, 14087.35, 14087.36, or 14087.38,~~
22 ~~Article 2.8 (commencing with Section 14087.5) or Article 2.81~~
23 ~~(commencing with Section 14087.96), or Chapter 3 (commencing~~
24 ~~with Section 101675) of Part 4 of Division 101 of the Health and~~
25 ~~Safety Code, or the County Medical Services Program governing~~
26 ~~board pursuant to paragraph (3) of subdivision (c) of Section~~
27 ~~16809.4, may form joint ventures for the joint or coordinated~~
28 ~~offering of health plans to individuals and groups.~~

29 ~~(b) For purposes of this section, the joint ventures may consist~~
30 ~~of either of the following:~~

31 ~~(1) Contractual relationships entered into in order to pool risk~~
32 ~~or share networks, or both.~~

33 ~~(2) Contractual relationships entered into in order to provide~~
34 ~~for the joint offering or marketing of health plans to individuals~~
35 ~~and groups.~~

36 ~~(c) In forming joint ventures, participating health plans shall~~
37 ~~seek to contract with designated public hospitals, county health~~
38 ~~clinics, primary care clinics, and other traditional safety net~~
39 ~~providers.~~

1 ~~(d) If the County Medical Services Program governing board~~
2 ~~elects to participate in a joint venture as described in this section,~~
3 ~~the board may elect to contract with a third-party administrator to~~
4 ~~provide health coverage under the joint venture.~~

5 ~~(e) All joint ventures established pursuant to this section shall~~
6 ~~meet all the requirements of the Knox-Keene Health Care Service~~
7 ~~Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340)~~
8 ~~of Division 2 of the Health and Safety Code).~~

9 ~~SEC. 3. Section 16809.4 of the Welfare and Institutions Code~~
10 ~~is amended to read:~~

11 ~~16809.4. (a) Counties voluntarily participating in the County~~
12 ~~Medical Services Program pursuant to Section 16809 may establish~~
13 ~~the County Medical Services Program Governing Board pursuant~~
14 ~~to procedures contained in this section. The governing board shall~~
15 ~~govern the County Medical Services Program.~~

16 ~~(b) The membership of the governing board shall be comprised~~
17 ~~of all of the following:~~

18 ~~(1) Three members who shall each be a member of a county~~
19 ~~board of supervisors.~~

20 ~~(2) Three members who shall be county administrative officers.~~

21 ~~(3) Two members who shall be county welfare directors.~~

22 ~~(4) Two members who shall be county health officials.~~

23 ~~(5) One member who shall be the Secretary of California Health~~
24 ~~and Human Services, or his or her designee, and who shall serve~~
25 ~~as an ex officio, nonvoting member.~~

26 ~~(e) The governing board may establish its own bylaws and~~
27 ~~operating procedures.~~

28 ~~(d) The voting membership of the governing board shall meet~~
29 ~~all of the following requirements:~~

30 ~~(1) All of the members shall hold office or employment in~~
31 ~~counties that participate in the County Medical Services Program.~~

32 ~~(A) The three county supervisor members shall be elected by~~
33 ~~the boards of supervisors of the CMSP counties, with each county~~
34 ~~having one vote and convened at the call of the chair of the~~
35 ~~governing board.~~

36 ~~(B) The three county administrative officers shall be elected by~~
37 ~~the administrative officers of the CMSP counties convened at the~~
38 ~~call of the chair of the governing board.~~

- 1 ~~(C) The two county health officials shall be selected by the~~
2 ~~health officials of the CMSP counties convened at the call of the~~
3 ~~chair of the governing board.~~
- 4 ~~(D) The two county welfare directors shall be elected by the~~
5 ~~welfare directors of the CMSP counties convened at the call of the~~
6 ~~chair of the governing board.~~
- 7 ~~(2) Governing board members shall serve three-year terms.~~
- 8 ~~(3) No two persons from the same county may serve as members~~
9 ~~of the governing board at the same time.~~
- 10 ~~(4) The governing board may elect a permanent chair.~~
- 11 ~~(e) (1) The governing board is hereby established with the~~
12 ~~following powers:~~
- 13 ~~(A) Determine program eligibility and benefit levels.~~
- 14 ~~(B) Establish reserves and participation fees.~~
- 15 ~~(C) Establish procedures for the entry into, and disenrollment~~
16 ~~of counties from the County Medical Services Program.~~
17 ~~Disenrollment procedures shall be fair and equitable.~~
- 18 ~~(D) Establish cost containment and case management~~
19 ~~procedures, including, but not limited to, alternative methods for~~
20 ~~delivery of care and alternative methods and rates from those used~~
21 ~~by the department.~~
- 22 ~~(E) Sue and be sued in the name of the governing board.~~
- 23 ~~(F) Apportion jurisdictional risk to each county.~~
- 24 ~~(G) Utilize procurement policies and procedures of any of the~~
25 ~~participating counties as selected by the governing board.~~
- 26 ~~(H) Make rules and regulations.~~
- 27 ~~(I) Make and enter into contracts or stipulations of any nature~~
28 ~~with a public agency or person for the purposes of governing or~~
29 ~~administering the County Medical Services Program.~~
- 30 ~~(J) Purchase supplies, equipment, materials, property, or~~
31 ~~services.~~
- 32 ~~(K) Appoint and employ staff to assist the governing board.~~
- 33 ~~(L) Establish rules for its proceedings.~~
- 34 ~~(M) Accept gifts, contributions, grants, or loans from any public~~
35 ~~agency or person for the purposes of this program.~~
- 36 ~~(N) Negotiate and set rates, charges, or fees with service~~
37 ~~providers, including alternative methods of payment to those used~~
38 ~~by the department.~~
- 39 ~~(O) Establish methods of payment that are compatible with the~~
40 ~~administrative requirements of the department's fiscal intermediary~~

1 during the term of any contract with the department for the
2 administration of the County Medical Services Program.

3 ~~(P) Use generally accepted accounting procedures.~~

4 ~~(Q) Develop and implement procedures and processes to monitor
5 and enforce the appropriate billing and payment of rates, charges,
6 and fees.~~

7 ~~(R) Investigate and pursue repayment of fees billed and paid
8 through improper means, including, but not limited to, fraudulent
9 billing and collection practices by providers.~~

10 ~~(S) Pursue third-party recoveries and estate recoveries for
11 services provided under the County Medical Services Program,
12 including the filing and perfecting of liens to secure reimbursement
13 for the reasonable value of benefits provided.~~

14 ~~(T) Establish and maintain pilot projects to identify or test
15 alternative approaches for determining eligibility or for providing
16 or paying for services.~~

17 ~~(U) Establish provisions for payment to participating counties
18 for making eligibility determinations, as determined by the
19 governing board.~~

20 ~~(V) Develop and implement alternative products with varying
21 levels of eligibility criteria and benefits outside of the County
22 Medical Services Program for counties contracting with the
23 governing board for those products, provided that any such
24 products shall be funded separately from the County Medical
25 Services Program and shall not impair the financial stability of
26 that program.~~

27 ~~(2) The Legislature finds and declares that the amendment of
28 subparagraph (N) of paragraph (1) in 1995, and the addition of
29 subparagraphs (Q), (R), (S), (T), and (U) in 2006, are declaratory
30 of existing law.~~

31 ~~(3) In addition to the powers set forth in paragraph (1), the
32 governing board shall have the power to develop and participate
33 in joint ventures as described in Section 14087.98, provided that
34 the joint ventures shall be funded separately from the County
35 Medical Services Program and shall not impair the financial
36 stability of the program.~~

37 ~~(f) (1) The governing board shall be considered a “public entity”
38 for purposes of Division 3.6 (commencing with Section 810) of
39 Title 1 of the Government Code, and a “local public entity” for
40 purposes of Part 3 (commencing with Section 900) of Division~~

1 3.6 of Title 1 of the Government Code, but shall not be considered
2 a “state agency” for purposes of Chapter 3.5 (commencing with
3 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
4 Code and shall be exempt from that chapter. No participating
5 county shall have any liability for civil judgments awarded against
6 the County Medical Services Program or the governing board.
7 Nothing in this paragraph shall be construed to expand the liability
8 of the state with respect to the County Medical Services Program
9 beyond that set forth in Section 16809. Nothing in this paragraph
10 shall be construed to relieve any county of the obligation to provide
11 health care to indigent persons pursuant to Section 17000, or the
12 obligation of any county to pay its participation fees and share of
13 apportioned and allocated risk.

14 (2) ~~Before initiating any proceeding to challenge rates of~~
15 ~~payment, charges, or fees set by the governing board, to seek~~
16 ~~reimbursement or release of any funds from the County Medical~~
17 ~~Services Program, or to challenge any other action by the governing~~
18 ~~board, any prospective claimant shall first notify the governing~~
19 ~~board, in writing, of the nature and basis of the challenge and the~~
20 ~~amount claimed. The governing board shall consider the matter~~
21 ~~within 60 days after receiving the notice and shall promptly~~
22 ~~thereafter provide written notice of the governing board’s decision.~~
23 ~~If the governing board contracts with the department for~~
24 ~~administration of the program in accordance with Section 16809,~~
25 ~~this paragraph shall have no application to provider audit appeals~~
26 ~~conducted pursuant to Article 1.5 (commencing with Section~~
27 ~~51016) of Chapter 3 of Division 3 of Title 22 of the California~~
28 ~~Code of Regulations and shall apply to all claims not reviewed~~
29 ~~pursuant to Section 51003 or 51015 of Title 22 of the California~~
30 ~~Code of Regulations.~~

31 (3) ~~All regulations adopted by the governing board shall clearly~~
32 ~~specify by reference the statute, court decision, or other provision~~
33 ~~of law that the governing board is seeking to implement, interpret,~~
34 ~~or make specific by adopting, amending, or repealing the~~
35 ~~regulation.~~

36 (4) ~~No regulation adopted by the governing board is valid and~~
37 ~~effective unless the regulation meets the standards of necessity,~~
38 ~~authority, clarity, consistency, and nonduplication, as defined in~~
39 ~~paragraph (5).~~

1 ~~(5) The following definitions govern the interpretation of this~~
2 ~~subdivision:~~

3 ~~(A) “Necessity” means the record of the regulatory proceeding~~
4 ~~that demonstrates by substantial evidence the need for the~~
5 ~~regulation. For purposes of this standard, evidence includes, but~~
6 ~~is not limited to, facts, studies, and expert opinion.~~

7 ~~(B) “Authority” means the provision of law that permits or~~
8 ~~obligates the CMSP Governing Board to adopt, amend, or repeal~~
9 ~~a regulation.~~

10 ~~(C) “Clarity” means that the regulation is written or displayed~~
11 ~~so that the meaning of the regulation can be easily understood by~~
12 ~~those persons directly affected by it.~~

13 ~~(D) “Consistency” means being in harmony with, and not in~~
14 ~~conflict with, or contradictory to, existing statutes, court decisions,~~
15 ~~or other provisions of law.~~

16 ~~(E) “Nonduplication” means that a regulation does not serve~~
17 ~~the same purpose as a state or federal statute or another regulation.~~
18 ~~This standard requires that the governing board identify any state~~
19 ~~or federal statute or regulation that is overlapped or duplicated by~~
20 ~~the proposed regulation and justify any overlap or duplication.~~
21 ~~This standard is not intended to prohibit the governing board from~~
22 ~~printing relevant portions of enabling legislation in regulations~~
23 ~~when the duplication is necessary to satisfy the clarity standard in~~
24 ~~subparagraph (C). This standard is intended to prevent the~~
25 ~~indiscriminate incorporation of statutory language in a regulation.~~

26 ~~(g) The requirements of the Ralph M. Brown Act (Chapter 9~~
27 ~~(commencing with Section 54950) of Part 1 of Division 2 of Title~~
28 ~~5 of the Government Code) shall apply to the meetings of the~~
29 ~~governing board, including meetings held pursuant to subdivision~~
30 ~~(i), except the board may meet in closed session to consider and~~
31 ~~take action on matters pertaining to contracts and contract~~
32 ~~negotiations with providers of health care services.~~

33 ~~(h) (1) The governing board shall comply with the following~~
34 ~~procedures for public meetings held to eliminate or reduce the~~
35 ~~level of services, restrict eligibility for services, or adopt~~
36 ~~regulations:~~

37 ~~(A) Provide prior public notice of those meetings.~~

38 ~~(B) Provide that notice not less than 30 days prior to those~~
39 ~~meetings.~~

1 ~~(C) Publish that notice in a newspaper of general circulation in~~
2 ~~each participating CMSP county.~~

3 ~~(D) Include in the notice, at a minimum, the amount and type~~
4 ~~of each proposed change, the expected savings, and the number~~
5 ~~of persons affected.~~

6 ~~(E) Either hold those meetings in the county seats of at least~~
7 ~~four regionally distributed CMSP participating counties, or,~~
8 ~~alternatively, hold two meetings in Sacramento County.~~

9 ~~(2) For meetings held outside Sacramento County, the~~
10 ~~requirements for public meetings pursuant to this subdivision to~~
11 ~~eliminate or reduce the level of services, or to restrict the eligibility~~
12 ~~for services or hear testimony regarding regulations to implement~~
13 ~~any of these service charges, are satisfied if at least three voting~~
14 ~~members of the governing board hold the meetings as required~~
15 ~~and report the testimony from those meetings to the full governing~~
16 ~~board at its next regular meeting. No action shall be taken at any~~
17 ~~meeting held outside Sacramento County pursuant to this~~
18 ~~paragraph.~~

19 ~~(i) Records of the County Medical Services Program and of the~~
20 ~~governing board that relate to rates of payment or to the board's~~
21 ~~negotiations with providers of health care services or to the~~
22 ~~governing board's deliberative processes regarding either shall not~~
23 ~~be subject to disclosure pursuant to the Public Records Act~~
24 ~~(Chapter 5 (commencing with Section 6250) of Division 7 of Title~~
25 ~~1 of the Government Code).~~

26 ~~(j) The following definitions shall govern the construction of~~
27 ~~this part, unless the context requires otherwise:~~

28 ~~(1) "CMSP" or "program" means the County Medical Services~~
29 ~~Program, which is the program by which health care services are~~
30 ~~provided to eligible persons in those counties electing to participate~~
31 ~~in the CMSP pursuant to Section 16809.~~

32 ~~(2) "CMSP county" means a county that has elected to~~
33 ~~participate pursuant to Section 16809 in the CMSP.~~

34 ~~(3) "Governing Board" means the County Medical Services~~
35 ~~Program Governing Board established pursuant to this section.~~