

AMENDED IN SENATE MARCH 26, 2012

SENATE BILL

No. 951

Introduced by Senator Hernandez

January 5, 2012

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

SB 951, as amended, Hernandez. Health care coverage: 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. ~~Existing law provides for the regulation of health care service plans and health insurers by the Department of Managed Health Care and the Department of Insurance, respectively, and requires health care service plans and health insurers to cover various benefits.~~ *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 an 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.

~~This bill would state the intent of the Legislature to enact legislation that would implement the essential health benefits as established under specified provisions of the PPACA.~~

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

1 *inside and outside of the California Health Benefit Exchange, with*
2 *the exception of grandfathered plans, to provide minimum coverage*
3 *that includes essential health benefits, as defined.*

4 *(b) It is the intent of the Legislature to comply with federal law*
5 *and consistently implement the essential health benefits provisions*
6 *of PPACA and related federal guidance and regulations, by*
7 *adopting the uniform minimum essential benefits requirement in*
8 *state-regulated health care coverage regardless of whether the*
9 *policy or contract is regulated by the Department of Managed*
10 *Health Care or the Department of Insurance and regardless of*
11 *whether the policy or contract is offered to individuals or small*
12 *employers inside or outside of the California Health Benefit*
13 *Exchange.*

14 *SEC. 2. Section 1367.005 is added to the Health and Safety*
15 *Code, to read:*

16 *1367.005. (a) An individual or small group health care service*
17 *plan contract issued, amended, or renewed on or after January 1,*
18 *2014, shall, at a minimum, include coverage for essential health*
19 *benefits. For purposes of this section, “essential health benefits”*
20 *means all of the following:*

21 *(1) (A) The benefits and services covered by the Kaiser Small*
22 *Group HMO plan contract (product number 40513CA035) as of*
23 *December 31, 2011, including, but not limited to, all of the*
24 *following:*

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

34 *(ii) The items and services covered by the plan contract within*
35 *the following categories: acupuncture services, chiropractic*
36 *services, skilled nursing facility services, hospice care, bariatric*
37 *surgery, nonsevere mental illness services, substance abuse*
38 *services, smoking cessation counseling, alcoholism treatment,*
39 *applied behavior analysis therapy for autism, smoking cessation*
40 *drugs, pain medication for terminally ill patients, rehabilitative*

1 services, habilitative, physical, and occupational therapy, speech
2 therapy, orthotics and prosthetics, prosthetic devices for
3 laryngectomy, special footwear for persons suffering from foot
4 disfigurement, surgically implanted hearing devices, home health
5 services, HIV/AIDS services, osteoporosis services, and diabetes
6 education.

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

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

18 (3) With respect to pediatric oral care, the same services and
19 benefits for pediatric oral care covered under the federal Blue
20 Cross and Blue Shield Standard Option Service Benefit Plan
21 available to enrollees through the Federal Employees Health
22 Benefit Plan (FEHB) as of December 31, 2011. Scope and duration
23 limits imposed on the services and benefits described in this
24 paragraph shall be no greater than the scope and duration
25 limitations imposed on those benefits by the federal Blue Cross
26 and Blue Shield Standard Option Service Benefit Plan available
27 to enrollees through the FEHB as of December 31, 2011.

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

29 (d) When offering, issuing, selling, or marketing a health care
30 service plan contract, a health care service plan shall not indicate
31 or imply that the plan contract covers essential health benefits
32 unless the plan contract covers essential health benefits as defined
33 in this section.

34 (e) This section shall apply regardless of whether the plan
35 contract is offered inside or outside the California Health Benefit
36 Exchange created by Section 100500 of the Government Code.

37 (f) A plan contract subject to this section shall also comply with
38 Section 1367.001.

39 (g) This section shall not be construed to prohibit a plan
40 contract from covering additional benefits, including, but not

1 *limited to, spiritual care services that are tax deductible under*
2 *Section 213 of the Internal Revenue Code.*

3 *(h) Subdivision (a) shall not apply to any of the following:*

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

7 *(2) A plan contract that qualifies as a grandfathered health plan*
8 *under Section 1251 of PPACA.*

9 *(i) This section shall be implemented only to the extent that*
10 *federal law or policy does not require the state to defray the costs*
11 *of benefits included within the definition of essential health benefits*
12 *under this section.*

13 *(j) For purposes of this section, the following definitions shall*
14 *apply:*

15 *(1) "Habilitative services" means health care services that help*
16 *a person keep, learn, or improve skills and functioning for daily*
17 *living.*

18 *(2) "PPACA" means the federal Patient Protection and*
19 *Affordable Care Act (Public Law 111-148), as amended by the*
20 *federal Health Care and Education Reconciliation Act of 2010*
21 *(Public Law 111-152), and any rules, regulations, or guidance*
22 *issued thereunder.*

23 *(3) "Small group health care service plan contract" means a*
24 *group health care service plan contract issued to a small employer,*
25 *as defined in Section 1357.*

26 *SEC. 3. Section 10112.27 is added to the Insurance Code, to*
27 *read:*

28 *10112.27. (a) An individual or small group health insurance*
29 *policy issued, amended, or renewed on or after January 1, 2014,*
30 *shall, at a minimum, include coverage for essential health benefits.*

31 *For purposes of this section, "essential health benefits" means all*
32 *of the following:*

33 *(1) (A) The benefits and services covered by the Kaiser Small*
34 *Group HMO plan contract (product number 40513CA035) as of*
35 *December 31, 2011, including, but not limited to, all of the*
36 *following:*

37 *(i) The items and services covered by the plan contract within*
38 *the categories identified in subsection (b) of Section 1302 of*
39 *PPACA, including, but not limited to, ambulatory patient services,*
40 *emergency services, hospitalization, maternity and newborn care,*

1 *mental health and substance use disorder services, including*
2 *behavioral health treatment, prescription drugs, rehabilitative and*
3 *habilitative services and devices, laboratory services, preventive*
4 *and wellness services and chronic disease management, and*
5 *pediatric vision care.*

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

19 *(B) The services and benefits described in this paragraph shall*
20 *be covered to the extent they are medically necessary. Scope and*
21 *duration limits imposed on the services and benefits described in*
22 *this paragraph shall be no greater than the scope and duration*
23 *limits imposed on those services and benefits by the health care*
24 *service plan contract identified in subparagraph (A).*

25 *(2) With respect to habilitative services, in addition to any*
26 *habilitative services identified in paragraph (1), the same services*
27 *as the policy covers for rehabilitative services. Habilitative services*
28 *shall be covered under the same terms and conditions applied to*
29 *rehabilitative services under the policy.*

30 *(3) With respect to pediatric oral care, the same services and*
31 *benefits for pediatric oral care covered under the federal Blue*
32 *Cross and Blue Shield Standard Option Service Benefit Plan*
33 *available to enrollees through the Federal Employees Health*
34 *Benefit Plan (FEHB) as of December 31, 2011. Scope and duration*
35 *limits imposed on the services and benefits described in this*
36 *paragraph shall be no greater than the scope and duration*
37 *limitations imposed on those benefits by the federal Blue Cross*
38 *and Blue Shield Standard Option Service Benefit Plan available*
39 *to enrollees through the FEHB as of December 31, 2011.*

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

1 (d) When offering, issuing, selling, or marketing a health
2 insurance policy, a health insurer shall not indicate or imply that
3 the policy covers essential health benefits unless the policy covers
4 essential health benefits as defined in this section.

5 (e) This section shall apply regardless of whether the policy is
6 offered inside or outside the California Health Benefit Exchange
7 created by Section 100500 of the Government Code.

8 (f) A health insurance policy subject to this section shall also
9 comply with Section 10112.1.

10 (g) This section shall not be construed to prohibit a policy from
11 covering additional benefits, including, but not limited to, spiritual
12 care services that are tax deductible under Section 213 of the
13 Internal Revenue Code.

14 (h) Subdivision (a) shall not apply to any of the following:

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

18 (2) A policy that qualifies as a grandfathered health plan under
19 Section 1251 of PPACA.

20 (i) This section shall be implemented only to the extent that
21 federal law or policy does not require the state to defray the costs
22 of benefits included within the definition of essential health benefits
23 under this section.

24 (j) For purposes of this section, the following definitions shall
25 apply:

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

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

34 (3) “Small group health insurance policy” means a group health
35 care service insurance policy issued to a small employer, as defined
36 in Section 10700.

37 SEC. 4. No reimbursement is required by this act pursuant to
38 Section 6 of Article XIII B of the California Constitution because
39 the only costs that may be incurred by a local agency or school
40 district will be incurred because this act creates a new crime or

1 *infraction, eliminates a crime or infraction, or changes the penalty*
2 *for a crime or infraction, within the meaning of Section 17556 of*
3 *the Government Code, or changes the definition of a crime within*
4 *the meaning of Section 6 of Article XIII B of the California*
5 *Constitution.*

6 ~~SECTION 1. It is the intent of the Legislature to enact~~
7 ~~legislation that would implement the essential health benefits as~~
8 ~~established under Section 1302 of the federal Patient Protection~~
9 ~~and Affordable Care Act (Public Law 111-148).~~