

AMENDED IN ASSEMBLY MAY 7, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1917

Introduced by Assembly Member Gordon

February 19, 2014

An act to add Section 1367.0095 to the Health and Safety Code, and to add Section 10112.298 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 1917, as amended, Gordon. Outpatient prescription drugs: cost sharing.

Existing federal law, the federal Patient Protection and Affordable Care Act (PPACA), enacts various health care coverage market reforms that take effect January 1, 2014. Among other things, PPACA requires that a health insurance issuer offering coverage in the individual or small group market to ensure that the coverage includes the essential health benefits package, as defined. PPACA requires the essential health benefits package to limit cost-sharing for the coverage in a specified manner. PPACA also requires a group health plan to ensure that any annual cost-sharing imposed under the plan does not exceed those limitations. PPACA specifies that certain of its reforms do not apply to grandfathered plans, as defined. ~~PPACA also requires each state to establish an American Health Benefits Exchange for the purpose of facilitating the enrollment of qualified individuals and qualified small employers in qualified health plans and provides reduced cost sharing for certain low-income individuals who enroll in a qualified health plan in the silver level of coverage through the Exchange.~~

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 establishes the California Health Benefit Exchange for the purpose of facilitating the enrollment of qualified individuals and qualified small employers in qualified health plans as required under PPACA.~~ Existing law requires ~~a nongrandfathered~~ *an individual or group health care service plan contract or health insurance policy, including a specialized plan contract or policy, but excluding a grandfathered health plan,* that provides coverage for essential health benefits, as defined, and that is issued, amended, or renewed on or after January 1, 2015, to provide for an annual limit on out-of-pocket expenses for all covered benefits that meet the definition of essential health benefits.

With respect to a health care service plan contract or health insurance policy that is subject to those annual out-of-pocket limits, *and is issued, amended, or renewed on or after January 1, 2016, for an individual contract or policy, or July 1, 2015, for a group contract or policy,* this bill would require that the copayment, coinsurance, or any other form of cost sharing for a covered outpatient prescription drug for an individual prescription for a supply of up to 30 days not exceed $\frac{1}{24}$ of the annual out-of-pocket limit. ~~The bill would also require that an enrollee who is eligible for a reduction in cost sharing through a qualified health plan offered through the Exchange not be required to pay in any single month more than $\frac{1}{24}$ of the annual limit on out-of-pocket expenses for that product~~ *limit for a drug that does not have a time-limited course of treatment or that has a time-limited course of treatment of more than 3 months. For a drug that has a time-limited course of treatment of 3 months or less, the bill would require that the copayment, coinsurance, or other form of cost sharing not exceed $\frac{1}{2}$ of the annual out-of-pocket limit. The bill would specify that its provisions also apply to specialized plan contracts and policies that offer essential health benefits, as specified.* Because a willful violation of the bill's requirements by a health care service plan 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 1367.0095 is added to the Health and
2 Safety Code, to read:

3 1367.0095. (a) (1) With respect to ~~a nongrandfathered an~~
4 individual or group health care service plan contract subject to
5 Section 1367.006, the copayment, coinsurance, or any other form
6 of cost sharing for a covered outpatient prescription drug for an
7 individual prescription for a supply of up to 30 days shall not
8 exceed ~~$\frac{1}{24}$ of the annual out-of-pocket limit set forth in Section~~
9 ~~1367.006.~~ *the following:*

10 (A) *For a prescription drug that does not have a time-limited*
11 *course of treatment or that has a time-limited course of treatment*
12 *of more than three months, $\frac{1}{24}$ of the annual out-of-pocket limit*
13 *applicable under Section 1367.006.*

14 (B) *For a prescription drug that has a time-limited course of*
15 *treatment of three months or less, $\frac{1}{2}$ of the annual out-of-pocket*
16 *limit applicable under Section 1367.006.*

17 (2) For a health care service plan contract that meets the
18 ~~definition~~ *definition* of a high deductible health plan set forth in
19 Section 223(c)(2) of Title 26 of the United States Code, paragraph
20 (1) shall only apply once an enrollee’s deductible has been satisfied
21 for the plan year.

22 (3) Paragraph (1) shall not apply to coverage under a health care
23 service plan contract for the Medicare Program pursuant to Title
24 XVIII of the federal Social Security Act (42 U.S.C. Sec. 1395 et
25 seq.).

26 (b) Nothing in this section shall be construed to affect the
27 reduction in cost sharing for eligible enrollees described in Section
28 1402 of PPACA and any subsequent rules, regulations, or guidance
29 issued under that section.

30 ~~(e) An enrollee who is eligible for a reduction in cost sharing~~
31 ~~pursuant to Section 1402 of PPACA shall not be required to pay~~
32 ~~in any single month more than $\frac{1}{24}$ of the annual limit on~~
33 ~~out-of-pocket expenses for the cost sharing reduction product.~~

1 (c) *If an essential health benefit, as defined in Section 1367.005,*
 2 *is offered or provided by a specialized health care service plan*
 3 *contract, this section shall apply to the outpatient prescription*
 4 *drugs covered by the contract that constitute essential health*
 5 *benefits. This section shall not apply to a specialized health care*
 6 *service plan contract that does not offer or provide an essential*
 7 *health benefit, as defined in Section 1367.005.*

8 (d) *This section shall only apply to an individual health care*
 9 *service plan contract that is issued, amended, or renewed on or*
 10 *after January 1, 2016, and to a group health care service plan*
 11 *contract that is issued, amended, or renewed on or after July 1,*
 12 *2015.*

13 ~~(e)~~

14 (e) For purposes of this section, the following definitions shall
 15 apply:

16 (1) “Outpatient prescription drug” means a drug approved by
 17 the federal Food and Drug Administration, *and prescribed by a*
 18 *licensed health care professional acting within his or her scope*
 19 *of practice*, that is self-administered by a patient, administered by
 20 a licensed health care professional in an outpatient setting, or
 21 administered in a clinical setting that is not an inpatient setting.

22 (2) For nongrandfathered health care service plan contracts in
 23 the group market, “plan year” has the meaning set forth in Section
 24 144.103 of Title 45 of the Code of Federal Regulations. For
 25 nongrandfathered health care service plan contracts sold in the
 26 individual market, “plan year” means the calendar year.

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

32 SEC. 2. Section 10112.298 is added to the Insurance Code, to
 33 read:

34 10112.298. (a) (1) With respect to ~~a nongrandfathered~~ *an*
 35 *individual or group health insurance policy subject to Section*
 36 *10112.28, the copayment, coinsurance, or any other form of cost*
 37 *sharing for a covered outpatient prescription drug for an individual*
 38 *prescription for a supply of up to 30 days shall not exceed ¹/₂₄ of*
 39 ~~the annual out-of-pocket limit set forth in Section 10112.28.~~ *the*
 40 *following:*

1 (A) For a prescription drug that does not have a time-limited
2 course of treatment or that has a time-limited course of treatment
3 of more than three months, $\frac{1}{24}$ of the annual out-of-pocket limit
4 applicable under Section 10112.28.

5 (B) For a prescription drug that has a time-limited course of
6 treatment of three months or less, $\frac{1}{2}$ of the annual out-of-pocket
7 limit applicable under Section 10112.28.

8 (2) For a health insurance policy that meets the ~~definition~~
9 definition of a high deductible health plan set forth in Section
10 223(c)(2) of Title 26 of the United States Code, paragraph (1) shall
11 only apply once an insured's deductible has been satisfied for the
12 plan year.

13 (3) Paragraph (1) shall not apply to coverage under a health
14 insurance policy for the Medicare Program pursuant to Title XVIII
15 of the federal Social Security Act (42 U.S.C. Sec. 1395 et seq.).

16 (b) Nothing in this section shall be construed to affect the
17 reduction in cost sharing for eligible insureds described in Section
18 1402 of PPACA and any subsequent rules, regulations, or guidance
19 issued under that section.

20 ~~(e) An insured who is eligible for a reduction in cost sharing~~
21 ~~pursuant to Section 1402 of PPACA shall not be required to pay~~
22 ~~in any single month more than $\frac{1}{24}$ of the annual limit on~~
23 ~~out-of-pocket expenses for the cost sharing reduction product.~~

24 (c) If an essential health benefit, as defined in Section 10112.27,
25 is offered or provided by a specialized health insurance policy,
26 this section shall apply to the outpatient prescription drugs covered
27 by the policy that constitute essential health benefits. This section
28 shall not apply to a specialized health insurance policy that does
29 not offer or provide an essential health benefit, as defined in
30 Section 10112.27.

31 (d) This section shall only apply to an individual health
32 insurance policy that is issued, amended, or renewed on or after
33 January 1, 2016, and to a group health insurance policy that is
34 issued, amended, or renewed on or after July 1, 2015.

35 ~~(d)~~

36 (e) For purposes of this section, the following definitions shall
37 apply:

38 (1) "Outpatient prescription drug" means a drug approved by
39 the federal Food and Drug Administration, and prescribed by a
40 licensed health care professional acting within his or her scope

1 *of practice*, that is self-administered by a patient, administered by
2 a licensed health care professional in an outpatient setting, or
3 administered in a clinical setting that is not an inpatient setting.

4 (2) For nongrandfathered health insurance policies in the group
5 market, “plan year” has the meaning set forth in Section 144.103
6 of Title 45 of the Code of Federal Regulations. For
7 nongrandfathered health insurance policies sold in the individual
8 market, “plan year” means the calendar year.

9 (3) “PPACA” means the federal Patient Protection and
10 Affordable Care Act (Public Law 111-148), as amended by the
11 federal Health Care and Education Reconciliation Act of 2010
12 (Public Law 111-152), and any rules, regulations, or guidance
13 issued thereunder.

14 SEC. 3. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section 17556 of
20 the Government Code, or changes the definition of a crime within
21 the meaning of Section 6 of Article XIII B of the California
22 Constitution.