

ASSEMBLY BILL

No. 2088

Introduced by Assembly Member Roger Hernández

February 20, 2014

An act to add Sections 10112.8 and 10112.9 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 2088, as introduced, Roger Hernández. Health insurance: minimum value: specified disease and hospital confinement policies.

Existing law, the federal Patient Protection and Affordable Care Act (PPACA), enacts various health care coverage market reforms that take effect January 1, 2014, and exempts health insurance coverage that provides excepted benefits from those reforms. PPACA requires each state to establish an American Health Benefits Exchange and allows qualified individuals to obtain premium assistance for coverage purchased through the Exchange. PPACA specifies that this premium assistance is not available if the individual is eligible for affordable employer-sponsored coverage that provides minimum value, as specified.

Existing law provides for the regulation of health insurers by the Insurance Commissioner. Existing law requires that health benefit plans issued by health insurers in the small group market and the individual market comply with specified requirements. Existing law defines a health benefit plan for this purpose to exclude a policy or certificate of specified disease or hospital confinement indemnity if the insurer certifies to the commissioner that the policy is being offered as supplemental health insurance and not as a substitute for essential health benefits. Existing law requires an insurer issuing these policies in the

small group market or the individual market to require that the persons to be covered are covered by coverage that is not designed to serve as supplemental coverage.

This bill would extend that requirement to an insurer issuing a policy of specified disease or hospital confinement indemnity or a policy that does not provide 60% minimum value in the large group market. The bill would require an insurer issuing those policies in the large group market to file a certification with the commissioner stating that the policies are being offered or marketed as supplemental health insurance and not as a substitute for minimum essential coverage.

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

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

1 SECTION 1. Section 10112.8 is added to the Insurance Code,
2 to read:
3 10112.8. (a) An insurer issuing a policy or certificate of
4 specified disease or hospital confinement indemnity to a large
5 group shall require that the persons to be covered by the policy
6 are covered by an individual or group policy or contract that
7 arranges or provides medical, hospital, and surgical coverage not
8 designed to supplement other private or governmental plans.
9 (b) An insurer issuing a policy or certificate of specified disease
10 or hospital confinement indemnity to a large group shall comply
11 with the following, in addition to complying with subdivision (a):
12 (1) The insurer shall file, on or before March 1 of each year, a
13 certification with the commissioner that contains the statement
14 and information described in paragraph (2).
15 (2) The certification required in paragraph (1) shall contain the
16 following:
17 (A) A statement from the insurer certifying that policies or
18 certificates described in this section (i) are being offered and
19 marketed as supplemental health insurance and not as a substitute
20 for coverage that provides minimum essential coverage as defined
21 in Section 5000A of the federal Internal Revenue Code, and (ii)
22 the disclosure form as described in Section 10603 contains the
23 following statement prominently on the first page: "This is a
24 supplement to health insurance. It is not a substitute for essential

1 health benefits or minimum essential coverage as defined in federal
2 law.”

3 (B) A summary description of each policy or certificate
4 described in this section, including the average annual premium
5 rates, or range of premium rates in cases where premiums vary by
6 age, gender, or other factors, charged for the policies and
7 certificates issued or delivered in this state.

8 (3) In the case of a policy or certificate that is described in this
9 section and that is offered for the first time in this state with respect
10 to plan years on or after January 1, 2015, the insurer files with the
11 commissioner the information and statement required in paragraph
12 (2) at least 30 days prior to the date that the policy or certificate
13 is issued or delivered in this state.

14 (c) As used in this section, the following definitions apply:

15 (1) “Large group” means a group that is not a small employer,
16 as defined in Section 10753.

17 (2) “Policies or certificates of specified disease” and “policies
18 or certificates of hospital confinement indemnity” mean policies
19 or certificates of insurance sold to an insured to supplement other
20 health insurance coverage as specified in this section.

21 SEC. 2. Section 10112.9 is added to the Insurance Code, to
22 read:

23 10112.9. (a) An insurer issuing a policy or certificate of health
24 insurance that does not provide a minimum value of at least 60
25 percent to a large group shall require that the persons to be covered
26 by the policy are covered by an individual or group policy or
27 contract that arranges or provides medical, hospital, and surgical
28 coverage not designed to supplement other private or government
29 plans.

30 (b) An insurer may offer, market, or sell a policy or certificate
31 of health insurance in the large group market that provides a
32 minimum value of less than 60 percent if the insurer offering the
33 policy or certificate complies with the following, in addition to
34 complying with subdivision (a):

35 (1) The insurer files, on or before March 1 of each year, a
36 certification with the commissioner that contains the statement
37 and information described in paragraph (2).

38 (2) The certification required in paragraph (1) shall contain the
39 following:

1 (A) A statement from the insurer certifying that policies or
2 certificates described in this section (i) are being offered and
3 marketed as supplemental health insurance and not as a substitute
4 for coverage that provides minimum essential coverage as defined
5 in Section 5000A of the federal Internal Revenue Code, and (ii)
6 the disclosure form as described in Section 10603 contains the
7 following statement prominently on the first page: “This is a
8 supplement to health insurance. It is not a substitute for essential
9 health benefits or minimum essential coverage as defined in federal
10 law.”

11 (B) A summary description of each policy or certificate
12 described in this section, including the average annual premium
13 rates, or range of premium rates in cases where premiums vary by
14 age, gender, or other factors, charged for the policies and
15 certificates issued or delivered in this state.

16 (3) In the case of a policy or certificate that is described in this
17 section and that is offered for the first time in this state with respect
18 to plan years on or after January 1, 2015, the insurer files with the
19 commissioner the information and statement required in paragraph
20 (2) at least 30 days prior to the date that the policy or certificate
21 is issued or delivered in this state.

22 (c) For purposes of this section, a plan provides a minimum
23 value of at least 60 percent if it complies with Section 36B(c)(2)(C)
24 of the federal Internal Revenue Code and any regulations or
25 guidance adopted under that section.

26 (d) For purposes of this section, the following definitions apply:

27 (1) “Large group” means a group that is not a small employer,
28 as defined in Section 10753.

29 (2) “Plan year” has the meaning set forth in Section 144.103
30 of Title 45 of the Code of Federal Regulations.