

ASSEMBLY BILL

No. 2433

Introduced by Assembly Member Mansoor

February 21, 2014

An act to amend Section 1367.008 of the Health and Safety Code, and to amend Section 10112.295 of the Insurance Code, relating to health care coverage, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2433, as introduced, Mansoor. Health care coverage: catastrophic plans.

Existing 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 applicable individuals to maintain minimum essential coverage and requires health insurance issuers that offer coverage in the individual or small group market to ensure that the coverage includes the essential health benefits package, which is defined to mean coverage that, among other things, provides the bronze, silver, gold, and platinum level of coverage, as specified. PPACA exempts from this requirement a catastrophic plan that meets specified requirements and is sold only to an individual under 30 years of age or an individual who is exempt from the PPACA requirement to obtain minimum coverage because he or she cannot afford coverage or has suffered a hardship, as specified.

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 provides for the regulation of

health insurers by the Department of Insurance. Existing law defines bronze, silver, gold, and platinum levels of coverage for the nongrandfathered individual market consistent with the definitions in PPACA and authorizes a catastrophic plan to be offered in the individual market only if the individual purchasing the plan is under 30 years of age or the individual has a certificate of exemption pursuant to PPACA because the individual is not offered affordable coverage or because the individual faces hardship.

The bill would, to the extent permitted by PPACA, require that an individual be deemed to face hardship for purposes of this provision if his or her coverage was withdrawn from the market between December 1, 2013, and March 31, 2014, as specified. Because a willful violation of this requirement 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.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. 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 1367.008 of the Health and Safety Code
- 2 is amended to read:
- 3 1367.008. (a) Levels of coverage for the nongrandfathered
- 4 individual market are defined as follows:
- 5 (1) Bronze level: A health care service plan contract in the
- 6 bronze level shall provide a level of coverage that is actuarially
- 7 equivalent to 60 percent of the full actuarial value of the benefits
- 8 provided under the plan contract.
- 9 (2) Silver level: A health care service plan contract in the silver
- 10 level shall provide a level of coverage that is actuarially equivalent
- 11 to 70 percent of the full actuarial value of the benefits provided
- 12 under the plan contract.
- 13 (3) Gold level: A health care service plan contract in the gold
- 14 level shall provide a level of coverage that is actuarially equivalent

1 to 80 percent of the full actuarial value of the benefits provided
2 under the plan contract.

3 (4) Platinum level: A health care service plan contract in the
4 platinum level shall provide a level of coverage that is actuarially
5 equivalent to 90 percent of the full actuarial value of the benefits
6 provided under the plan contract.

7 (b) Actuarial value for nongrandfathered individual health care
8 service plan contracts shall be determined in accordance with the
9 following:

10 (1) Actuarial value shall not vary by more than plus or minus
11 2 percent.

12 (2) Actuarial value shall be determined on the basis of essential
13 health benefits as defined in Section 1367.005 and as provided to
14 a standard, nonelderly population. For this purpose, a standard
15 population shall not include those receiving coverage through the
16 Medi-Cal or Medicare programs.

17 (3) The department may use the actuarial value methodology
18 developed consistent with Section 1302(d) of PPACA.

19 (4) The actuarial value for pediatric dental benefits, whether
20 offered by a full service plan or a specialized plan, shall be
21 consistent with federal law and guidance applicable to the plan
22 type.

23 (5) The department, in consultation with the Department of
24 Insurance and the Exchange, shall consider whether to exercise
25 state-level flexibility with respect to the actuarial value calculator
26 in order to take into account the unique characteristics of the
27 California health care coverage market, including the prevalence
28 of health care service plans, total cost of care paid for by the plan,
29 price of care, patterns of service utilization, and relevant
30 demographic factors.

31 (c) (1) A catastrophic plan is a health care service plan contract
32 that provides no benefits for any plan year until the enrollee has
33 incurred cost-sharing expenses in an amount equal to the annual
34 limit on out-of-pocket costs as specified in Section 1367.006 except
35 that it shall provide coverage for at least three primary care visits.
36 A carrier that is not participating in the Exchange shall not offer,
37 market, or sell a catastrophic plan in the individual market.

38 (2) A catastrophic plan may be offered only in the individual
39 market and only if consistent with this paragraph. Catastrophic
40 plans may be offered only if either of the following apply:

1 (A) The individual purchasing the plan has not yet attained 30
2 years of age before the beginning of the plan year.

3 (B) The individual has a certificate of exemption from Section
4 5000(A) of the Internal Revenue Code because the individual is
5 not offered affordable coverage or because the individual faces
6 hardship. *To the extent permitted by PPACA, an individual shall*
7 *be deemed to face hardship for purposes of this subparagraph if*
8 *his or her coverage under a policy of health insurance, as defined*
9 *in subdivision (a) of Section 106 of the Insurance Code, other than*
10 *a specialized health insurance policy or a Medicare supplement*
11 *policy, or a health care service plan contract, other than a*
12 *specialized health care service plan contract or a Medicare*
13 *supplement contract, was canceled between December 1, 2013,*
14 *and March 31, 2014, pursuant to paragraph (5) or (6) of*
15 *subdivision (a) of Section 1365 or subdivision (d) or (e) of Section*
16 *10273.4 or Section 10273.6 of the Insurance Code.*

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

22 SEC. 2. Section 10112.295 of the Insurance Code is amended
23 to read:

24 10112.295. (a) Levels of coverage for the nongrandfathered
25 individual market are defined as follows:

26 (1) Bronze level: A health insurance policy in the bronze level
27 shall provide a level of coverage that is actuarially equivalent to
28 60 percent of the full actuarial value of the benefits provided under
29 the policy.

30 (2) Silver level: A health insurance policy in the silver level
31 shall provide a level of coverage that is actuarially equivalent to
32 70 percent of the full actuarial value of the benefits provided under
33 the policy.

34 (3) Gold level: A health insurance policy in the gold level shall
35 provide a level of coverage that is actuarially equivalent to 80
36 percent of the full actuarial value of the benefits provided under
37 the policy.

38 (4) Platinum level: A health insurance policy in the platinum
39 level shall provide a level of coverage that is actuarially equivalent

1 to 90 percent of the full actuarial value of the benefits provided
2 under the policy.

3 (b) Actuarial value for nongrandfathered individual health
4 insurance policies shall be determined in accordance with the
5 following:

6 (1) Actuarial value shall not vary by more than plus or minus
7 2 percent.

8 (2) Actuarial value shall be determined on the basis of essential
9 health benefits as defined in Section 10112.27 and as provided to
10 a standard, nonelderly population. For this purpose, a standard
11 population shall not include those receiving coverage through the
12 Medi-Cal or Medicare programs.

13 (3) The department may use the actuarial value methodology
14 developed consistent with Section 1302(d) of PPACA.

15 (4) The actuarial value for pediatric dental benefits, whether
16 offered by a major medical policy or a specialized health insurance
17 policy, shall be consistent with federal law and guidance applicable
18 to the policy type.

19 (5) The department, in consultation with the Department of
20 Managed Health Care and the Exchange, shall consider whether
21 to exercise state-level flexibility with respect to the actuarial value
22 calculator in order to take into account the unique characteristics
23 of the California health care coverage market, including the
24 prevalence of health insurance policies, total cost of care paid for
25 by the health insurer, price of care, patterns of service utilization,
26 and relevant demographic factors.

27 (c) (1) A catastrophic policy is a health insurance policy that
28 provides no benefits for any plan year until the insured has incurred
29 cost-sharing expenses in an amount equal to the annual limit on
30 out-of-pocket costs as specified in Section 10112.28 except that
31 it shall provide coverage for at least three primary care visits. A
32 carrier that is not participating in the Exchange shall not offer,
33 market, or sell a catastrophic plan in the individual market.

34 (2) A catastrophic policy may be offered only in the individual
35 market and only if consistent with this paragraph. Catastrophic
36 policies may be offered only if either of the following apply:

37 (A) The individual purchasing the policy has not yet attained
38 30 years of age before the beginning of the plan year.

39 (B) The individual has a certificate of exemption from Section
40 5000(A) of the Internal Revenue Code because the individual is

1 not offered affordable coverage or because the individual faces
2 hardship. *To the extent permitted by PPACA, an individual shall*
3 *be deemed to face hardship for purposes of this subparagraph if*
4 *his or her coverage under a policy of health insurance, as defined*
5 *in subdivision (a) of Section 106, other than a specialized health*
6 *insurance policy or a Medicare supplement policy, or a health*
7 *care service plan contract, as defined in Section 1345 of the Health*
8 *and Safety Code, other than a specialized health care service plan*
9 *contract or a Medicare supplement contract, was canceled between*
10 *December 1, 2013, and March 31, 2014, pursuant to subdivision*
11 *(d) or (e) of Section 10273.4 or Section 10273.6 or paragraph (5)*
12 *or (6) of subdivision (a) of Section 1365 of the Health and Safety*
13 *Code.*

14 (d) This section shall apply to a policy of health insurance, as
15 defined in subdivision (b) of Section 106, that covers any essential
16 health benefit as defined in Section 10112.27. This section shall
17 not apply to a specialized health insurance policy that does not
18 cover any of the essential health benefits.

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

24 SEC. 3. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 the only costs that may be incurred by a local agency or school
27 district will be incurred because this act creates a new crime or
28 infraction, eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section 17556 of
30 the Government Code, or changes the definition of a crime within
31 the meaning of Section 6 of Article XIII B of the California
32 Constitution.

33 SEC. 4. This act is an urgency statute necessary for the
34 immediate preservation of the public peace, health, or safety within
35 the meaning of Article IV of the Constitution and shall go into
36 immediate effect. The facts constituting the necessity are:

37 Many health care service plans and health insurers terminated
38 health plans in anticipation of compliance with the federal Patient
39 Protection and Affordable Care Act. In order to ensure that
40 individuals enrolled in those plans will have access to the hardship

1 exemption announced by the United States Department of Health
2 and Human Services on December 19, 2013, it is necessary that
3 this act take effect immediately.

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