

Introduced by Senator Jackson

February 22, 2013

An act to amend Sections 10123.12, 10601, and 10604 of, and to add Section 10133.57 to, the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 780, as introduced, Jackson. Disability insurance.

Existing law provides for the regulation of health insurers by the Department of Insurance. Under existing law, a health insurer may contract with providers for alternative rates of payment. Existing law requires those insurers to file a policy with the department describing how the insurer facilitates the continuity of care for new insureds under group policies receiving services for an acute condition from a noncontracting provider. Existing law also requires those health insurers to, at the request of an insured, arrange for the completion of covered services by a terminated provider if the insured is undergoing treatment for certain conditions, as specified.

The bill would require a health insurer to notify the department at least 30 days prior to terminating a contract with a provider group or general acute care hospital to provide services at alternative rates of payment if the contract termination would result in a material change to the provider network, and would require the insurer to send written notice, at least 15 days prior to the termination date of the contract, to all insureds who have obtained services from the provider group or general acute hospital within the last 6 months, as specified.

Existing law requires disability insurance policies to include a disclosure form that contains specified information, including the principal benefits and coverage of the policy, the exceptions, reductions, and limitations that apply to the policy, and a statement, with respect

to health insurance policies, describing how participation in the policy may affect the choice of physician, hospital, or health care providers, and describing the extent of financial liability that may be incurred if care is furnished by a nonparticipating provider.

With respect to health insurance policies, this bill would require the disclosure form to include additional information, including conditions and procedures for cancellation, rescission, or nonrenewal, a description of the limitations on the insured's choice of provider, and, with respect to insurers that contract for alternate rates of payment, a statement describing the basic method of reimbursement made to its participating providers, as specified. The bill would also require the first page of the disclosure form for health insurance policies to include other specified information. The bill would require a health insurer, medical group, or participating provider that uses or receives financial bonuses or other incentives to provide a written summary of specified information to any requesting person.

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 10123.12 of the Insurance Code is
2 amended to read:
3 10123.12. (a) Every health insurer, including those insurers
4 that contract for alternative rates of payment pursuant to Section
5 10133, and every self-insured employee welfare benefit plan that
6 will affect the choice of physician, hospital, or other health care
7 providers, shall include within its disclosure form and within its
8 evidence or certificate of coverage a statement clearly describing
9 how participation in the policy or plan may affect the choice of
10 physician, hospital, or other health care providers, and describing
11 the nature and extent of the financial liability that is, or that may
12 be, incurred by the insured, enrollee, or covered dependents if care
13 is furnished by a provider that does not have a contract with the
14 insurer or plan to provide service at alternative rates of payment
15 pursuant to Section 10133. The form shall clearly inform
16 prospective insureds or plan enrollees that participation in the
17 policy or plan will affect the person's choice in this regard by
18 placing the following statement in a conspicuous place on all
19 material required to be given to prospective insureds or plan

1 enrollees including promotional and descriptive material, disclosure
2 forms, and certificates and evidences of coverage:

3
4 PLEASE READ THE FOLLOWING INFORMATION SO
5 YOU WILL KNOW FROM WHOM OR WHAT GROUP OF
6 PROVIDERS HEALTH CARE MAY BE OBTAINED
7

8 It is not the intent of this section to require that the names of
9 individual health care providers be enumerated to prospective
10 insureds or enrollees.

11 If a health insurer providing coverage for hospital, medical, or
12 surgical expenses provides a list of facilities to patients or
13 contracting providers, the insurer shall include within the ~~provider~~
14 listing a notification that insureds or enrollees may contact the
15 insurer in order to obtain a list of the facilities with which the
16 health insurer is contracting for subacute care and/or transitional
17 inpatient care.

18 *(b) Every health insurer that contracts for alternative rates of*
19 *payment pursuant to Section 10133 shall include within its*
20 *disclosure form a statement clearly describing the basic method*
21 *of reimbursement, including the scope and general methods of*
22 *payment, made to its contracting providers of health care services,*
23 *and whether financial bonuses or any other incentives are used.*
24 *The disclosure form shall indicate that, if an insured wishes to*
25 *know more about these issues, the insured may request additional*
26 *information from the insurer, the insured's provider, or the*
27 *provider's medical group regarding the information required*
28 *pursuant to subdivision (c).*

29 *(c) If a health insurer, medical group, or participating health*
30 *care provider uses or receives financial bonuses or any other*
31 *incentives, the insurer, medical group, or health care provider*
32 *shall provide a written summary to any person who requests it*
33 *that includes both of the following:*

34 *(1) A general description of the bonus and any other incentive*
35 *arrangements used in its compensation agreements. Nothing in*
36 *this paragraph shall be construed to require disclosure of trade*
37 *secrets or commercial or financial information that is privileged*
38 *or confidential, such as payment rates, as determined by the*
39 *commissioner, pursuant to state law.*

1 (2) A description regarding whether, and in what manner, the
2 bonuses and any other incentives are related to a provider's use
3 of referral services.

4 (d) The statements and written information provided pursuant
5 to subdivisions (b) and (c) shall be communicated in clear and
6 simple language that enables consumers to evaluate and compare
7 health insurance policies.

8 SEC. 2. Section 10133.57 is added to the Insurance Code, to
9 read:

10 10133.57. (a) At least 30 days prior to the termination date of
11 a contract between a health insurer and a provider group or a
12 general acute care hospital to provide services at alternative rates
13 of payment pursuant to Section 10133, the insurer shall submit a
14 written notice notifying the department of the termination if the
15 termination of the contract would result in a material change to
16 the insurer's provider network, as defined by the department by
17 regulation. The insurer shall include with that notice the written
18 notice the insurer proposes to send to affected insureds pursuant
19 to subdivision (b).

20 (b) At least 15 days prior to the termination date of a contract
21 between a health insurer and a provider group or a general acute
22 care hospital to provide services at alternative rates of payment
23 pursuant to Section 10133, the insurer shall send the written notice
24 described in subdivision (a) by United States mail to all insureds
25 who have obtained services from the provider group or general
26 acute care hospital within the preceding six months.

27 (c) If an individual provider terminates his or her contract or
28 employment with a provider group that contracts with a health
29 insurer and that termination is subject to the requirements of
30 subdivision (b), the insurer may require that the provider group
31 send the notice required by subdivision (b).

32 (d) If, after sending the notice required by subdivision (b), a
33 health insurer reaches an agreement with a terminated provider
34 group or general acute care hospital to renew or enter into a new
35 contract or to not terminate its contract, the insurer shall send a
36 written notice notifying the affected covered lives that the provider
37 group or hospital remains in their provider network.

38 (e) A health insurer or a provider group shall include in the
39 written notice sent pursuant to subdivision (b) or (c) the following
40 information in not less than 12-point type:

1 (1) The name of the terminated provider group or general acute
2 care hospital, or in the case of a notice sent pursuant to subdivision
3 (c), the name of the terminated individual provider.

4 (2) The date of the pending contract termination.

5 (3) A description explaining how to access a list of contracted
6 providers in the insured's provider network.

7 (4) A statement that the insured may contact the insurer's
8 customer service department to request completion of care for an
9 ongoing course of treatment from a terminated provider and a
10 telephone number for further explanation.

11 (5) A statement informing the insured that he or she may be
12 required to pay a larger portion of costs if the insured continues
13 to use the terminated provider.

14 (6) The following statement:

15
16 "If you have been receiving care from a health care provider,
17 you may have a right to keep your provider for a designated time
18 period. Please contact your insurer's customer service department,
19 and if you have further questions, you are encouraged to contact
20 the Department of Insurance, which protects insurance consumers,
21 by telephone at its toll-free number, 800-927-HELP (4357), or at
22 a TDD number for the hearing impaired at 800-482-4833, or online
23 at www.insurance.ca.gov."

24
25 (f) The commissioner may adopt regulations in accordance with
26 the Administrative Procedure Act (Chapter 3.5 (commencing with
27 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
28 Code) that are necessary to implement the provisions of this
29 section.

30 SEC. 3. Section 10601 of the Insurance Code is amended to
31 read:

32 10601. As used in this chapter:

33 (a) "Benefits and coverage" means the accident, sickness, or
34 disability indemnity available under a policy of disability insurance.

35 (b) "Exception" means any provision in a policy whereby
36 coverage for a specified hazard or condition is entirely eliminated.

37 (c) "Reduction" means any provision in a policy ~~which~~ *that*
38 reduces the amount of a policy benefit to some amount or period
39 less than would be otherwise payable for medically authorized
40 expenses or services had ~~such a~~ *the* reduction not been used.

(d) “Limitation” means any provision other than an exception or a reduction ~~which~~ *that* restricts coverage under the policy.

(e) “Presenting for examination or sale” means either (1) publication and dissemination of any brochure, mailer, advertisement, or form ~~which~~ *that* constitutes a presentation of the provisions of the policy and ~~which~~ *that* provides a policy enrollment or application form, or (2) consultations or discussions between prospective beneficiaries or their contract agents and employees or agents of disability insurers, when ~~such~~ *those* consultations or discussions include presentation of formal, organized information about the policy ~~which~~ *that* is intended to influence or inform the prospective insured or beneficiary, such as brochures, summaries, charts, slides, or other modes of information in lieu of or in addition to the policy itself.

(f) “Disability insurance” means every policy of disability insurance; *and* self-insured employee welfare benefit plan, ~~and nonprofit hospital service plan~~ issued, delivered, or entered into pursuant to or described in Chapter 1 (commencing with Section 10110); *or* Chapter 4 (commencing with Section 10270); ~~or Chapter 11A (commencing with Section 11491)~~ of this part.

(g) “Insurer” means every insurer transacting disability insurance; *and* every self-insured employee welfare plan, ~~and every nonprofit hospital service plan~~ specified in subdivision ~~(e)~~ *(f)*.

(h) “Disclosure form” means the standard supplemental disclosure form required pursuant to Section 10603.

(i) “*Small group health insurance policy*” means a group health insurance policy issued to a small employer, as defined in Section 10700, 10753, or 10755.

SEC. 4. Section 10604 of the Insurance Code is amended to read:

10604. The disclosure form shall include *at least* the following information, in concise and specific terms, relative to the disability insurance policy, *together with additional information as the commissioner may require in connection with the policy*:

(a) The applicable category or categories of coverage provided by the policy, from among the following:

- (1) Basic hospital expense coverage.
- (2) Basic medical-surgical expense coverage.
- (3) Hospital confinement indemnity coverage.
- (4) Major medical expense coverage.

1 (5) Disability income protection coverage.

2 (6) Accident only coverage.

3 (7) Specified disease or specified accident coverage.

4 (8) ~~Such other~~ Other categories as the commissioner may
5 prescribe.

6 (b) The principal benefits and coverage of the disability
7 insurance policy, *including coverage for acute care and subacute*
8 *care if the policy is a health insurance policy, as defined in Section*
9 *106.*

10 (c) The exceptions, reductions, and limitations that apply to
11 ~~such the~~ policy.

12 (d) A summary, including a citation of the relevant contractual
13 provisions, of the process used to authorize, *modify, delay,* or deny
14 payments for services under the coverage provided by the policy
15 including coverage for subacute care, transitional inpatient care,
16 or care provided in skilled nursing facilities. This subdivision shall
17 only apply to policies of ~~disability insurance that cover hospital,~~
18 ~~medical, or surgical expenses~~ *health insurance as defined in Section*
19 *106.*

20 (e) The full premium cost of ~~such the~~ policy.

21 (f) Any copayment, coinsurance, or deductible requirements
22 that may be incurred by the insured or his *or her* family in
23 obtaining coverage under the policy.

24 (g) The terms under which the policy may be renewed by the
25 insured, including any reservation by the insurer of any right to
26 change premiums.

27 (h) A statement that the disclosure form is a summary only, and
28 that the policy itself should be consulted to determine governing
29 contractual provisions.

30 (i) *For a health insurance policy, as defined in Section 106, all*
31 *of the following:*

32 (1) *A notice on the first page of the disclosure form that*
33 *conforms with all of the following conditions:*

34 (A) (i) *States that the form discloses the terms and conditions*
35 *of coverage.*

36 (ii) *States, with respect to individual health insurance policies,*
37 *small group health insurance policies, and any group health*
38 *insurance policies, that the applicant has a right to view the*
39 *disclosure form and policy prior to beginning coverage under the*
40 *policy, and, if the policy does not accompany the disclosure form,*

1 the notice shall specify where the policy can be obtained prior to
2 beginning coverage.

3 (B) Includes a statement that the disclosure and the policy
4 should be read completely and carefully and that individuals with
5 special health care needs should read carefully those sections that
6 apply to them.

7 (C) Includes the insurer's telephone number or numbers that
8 may be used by an applicant to receive additional information
9 about the benefits of the policy, or states where those telephone
10 number or numbers are located in the disclosure form.

11 (D) For individual health insurance policies and small group
12 health insurance policies, states where a health policy benefits
13 and coverage matrix is located.

14 (E) Is printed in type no smaller than that used for the remainder
15 of the disclosure form and is displayed prominently on the page.

16 (2) A statement as to when benefits shall cease in the event of
17 nonpayment of premium and the effect of nonpayment upon an
18 insured who is hospitalized or undergoing treatment for an ongoing
19 condition.

20 (3) To the extent that the policy or insurer permits a free choice
21 of provider to its insureds, the statement shall disclose, consistent
22 with Section 10123.12, the nature and extent of choice permitted
23 and the financial liability that is, or may be, incurred by the
24 insured, covered dependents, or a third party by reason of the
25 exercise of that choice.

26 (4) For group health insurance policies, including small group
27 health insurance policies, a summary of the terms and conditions
28 under which insureds may remain in the policy in the event the
29 group ceases to exist, the group policy is terminated, an individual
30 insured leaves the group, or the insureds' eligibility status changes.

31 (5) If the policy utilizes arbitration to settle disputes, a statement
32 of that fact. If the policy requires binding arbitration, a disclosure
33 pursuant to Section 10123.19.

34 (6) A description of any limitations on the insured's choice of
35 primary care physician, specialty care physician, or nonphysician
36 health care practitioner, based on service area and limitations on
37 the insured's choice of acute care hospital care, subacute or
38 transitional inpatient care, or skilled nursing facility.

39 (7) Conditions and procedures for cancellation, rescission, or
40 nonrenewal.

- 1 (8) *A description as to how an insured may request continuity*
2 *of care as required by Sections 10133.55 and 10133.56, and*
3 *request a second opinion pursuant to Section 10123.68.*
- 4 (9) *Information concerning the right of an insured to request*
5 *an independent medical review in accordance with Article 3.5*
6 *(commencing with Section 10169) of Chapter 1.*
- 7 (10) *A notice as required by Section 791.04.*

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