

AMENDED IN SENATE APRIL 28, 2014

AMENDED IN SENATE MARCH 25, 2014

SENATE BILL

No. 1446

Introduced by Senator DeSaulnier

February 21, 2014

An act to add Section 1367.012 to the Health and Safety Code, and to add Section 10112.300 to the Insurance Code, relating to health care coverage, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1446, as amended, DeSaulnier. Health care ~~coverage~~. *coverage: small employer market.*

Existing federal law, the federal Patient Protection and Affordable Care Act (PPACA), enacts various health care coverage market reforms that take effect with respect to plan years on or after January 1, 2014. Among other things, PPACA requires each health insurance issuer that offers health insurance coverage in the individual or group market in a state to accept every employer and individual in the state that applies for that coverage and to renew that coverage at the option of the plan sponsor or the individual. PPACA prohibits a group health plan and a health insurance issuer offering group or individual health insurance coverage from imposing any preexisting condition exclusion with respect to that plan or coverage. PPACA allows the premium rate charged by a health insurance issuer offering small group or individual coverage to vary only by rating area, age, tobacco use, and whether the coverage is for an individual or family and prohibits discrimination against individuals based on health status. PPACA requires a health insurance issuer that offers coverage in the small group or individual market to ensure that the coverage includes the essential health benefits package,

as defined. However, guidance issued under PPACA grants transitional relief to health insurance coverage in the individual or small group market for policies ~~that have issued or will issue in 2014 that are renewed on or before in effect on October 1, 2013, that are renewed for a policy year starting between January 1, 2014, and October 1, 2016,~~ and exempts that coverage from certain PPACA reforms, as specified.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act), provides for the licensure and regulation of health care service plans by the Department of Managed Health Care. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law implements the PPACA reforms described above under the Knox-Keene Act and the laws governing health insurance.

This bill would allow a small employer health care service plan contract or a small employer health ~~benefit plan, as defined,~~ *insurance policy that is was in effect on October 1, 2013, that is still* in effect as of the effective date of this act, *and* that does not qualify as a grandfathered health plan under PPACA, to be renewed until October 1, 2016, and to continue to be in force until September 30, 2017. The bill would exempt those health care service plan contracts and health ~~benefit plans~~ *insurance policies* from various provisions of state law that implement the PPACA reforms described above *and would require that the contracts and policies be amended to comply with those provisions by October 1, 2017, in order to remain in force on and after that date.* The bill would require that these provisions be implemented only to the extent permitted by PPACA.

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

Vote: $\frac{2}{3}$. 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 1367.012 is added to the Health and
2 Safety Code, to read:
3 1367.012. (a) (1) A small employer health care service plan
4 contract in effect on October 1, 2013, *including those renewed by*
5 *December 31, 2013,* and still in effect as of the effective date of
6 this section, that does not qualify as a grandfathered health plan

1 under Section 1251 of PPACA may be renewed until October 1,
2 2016, and may continue to be in force until September 30, 2017,
3 subject to applicable federal law, and any other requirements
4 imposed by this chapter.

5 (2) *A small employer health care service plan contract described*
6 *in paragraph (1) may continue to be in force after September 30,*
7 *2017, if the contract is amended to comply with all of the provisions*
8 *listed in subdivision (e) by October 1, 2017, and complies with all*
9 *other applicable provisions of law.*

10 (b) Prior to renewing a small employer health care service plan
11 contract pursuant to *paragraph (1) of subdivision (a)*, the health
12 care service plan shall provide notice to the group contractholder
13 regarding the option to renew coverage pursuant to subdivision
14 (a) using the relevant notice attached to the guidance entitled
15 ~~“Industry~~ *“Insurance Standards Bulletin Series – Extension of*
16 *Transition Policy through October 1, 2016,”* issued by the United
17 States Department of Health and Human Services, Centers for
18 Medicare and Medicaid Services on March 5, 2014.

19 (c) A small employer health care service plan contract in effect
20 on October 1, 2013, *including those renewed by December 31,*
21 *2013,* and still in effect as of the effective date of this section, that
22 does not qualify as a grandfathered health plan under Section 1251
23 of PPACA that is renewed on or before October 1, 2016, and that
24 continues to be in force until no later than September 30, 2017, is
25 exempt from the following provisions:

26 (1) ~~Subdivision Paragraphs (1) and (2) of subdivision (a) of,~~
27 ~~and subdivisions (e) and (i) of, Section 1357.503.~~

28 (2) Section 1357.512.

29 (3) ~~Subdivision (a) of Section 1357.503.~~

30 (4) ~~Subdivision (e) of Section 1357.503.~~

31 (5) ~~Section 1365.~~

32 (6) ~~Section 1367.005.~~

33 (3) ~~Sections 1367.005. and 1357.508.~~

34 (7)

35 (4) ~~Section 1367.0065 for health care service plan contracts~~
36 ~~renewed on or after January 1, 2014, and Section 1367.006 for~~
37 ~~health care service plan contracts renewed after January 1, 2015.~~
38 ~~1367.0065.~~

39 (5) ~~Section 1367.006.~~

40 (8)

1 (6) Section 1367.007.

2 ~~(9)~~

3 (7) Section 1367.009.

4 (d) A small employer health care service plan contract described
5 in *paragraph (1) of subdivision (a)* shall ~~continue to be subject to~~
6 ~~the following provisions:~~ *be subject to Sections 1357.12 and*
7 *1357.13, and shall continue to be subject to Article 3.16*
8 *(commencing with Section 1357.500), except as provided in*
9 *subdivision (c), and to all otherwise applicable provisions of this*
10 *chapter.*

11 ~~(1) Sections 1357.12 and 1357.13.~~

12 ~~(2) Subdivision (a) of Section 1357.506 and Section 1357.51.~~

13 ~~(3) Subdivision (h) of Section 1357.503 and Section 1357.52.~~

14 ~~(4) Subdivision (b) of Section 1357.506 and paragraph (1) of~~
15 ~~subdivision (e) of Section 1357.51.~~

16 ~~(5) Section 1357.514.~~

17 (e) *No later than October 1, 2017, a small employer health care*
18 *service plan contract described in paragraph (1) of subdivision*
19 *(a) may be amended to comply with all of the following:*

20 (1) *Paragraphs (1) and (2) of subdivision (a) of, and*
21 *subdivisions (e) and (i) of, Section 1357.503.*

22 (2) *Section 1357.512.*

23 (3) *Sections 1357.508 and 1367.005.*

24 (4) *Section 1367.006.*

25 (5) *Section 1367.007.*

26 (6) *Section 1367.009.*

27 ~~(e)~~

28 (f) This section shall be implemented only to the extent permitted
29 by PPACA.

30 ~~(f)~~

31 (g) For purposes of this section, the following definitions shall
32 apply:

33 (1) “PPACA” means the federal Patient Protection and
34 Affordable Care Act (Public Law 111-148), as amended by the
35 federal Health Care and Education Reconciliation Act of 2010
36 (Public Law 111-152), and any rules, regulations, or guidance
37 issued pursuant to that law.

38 (2) “Small employer health care service plan contract” means
39 a group health care service plan contract, *other than a specialized*

1 *health care service plan contract*, issued to a small employer, as
2 defined in subdivision (s) of Section 1357.500.

3 SEC. 2. Section 10112.300 is added to the Insurance Code, to
4 read:

5 10112.300. (a) (1) A small employer health benefit plan in
6 effect on October 1, 2013, *including those renewed by December*
7 *31, 2013*, and still in effect as of the effective date of this section,
8 that does not qualify as a grandfathered health plan under Section
9 1251 of PPACA may be renewed until October 1, 2016, and may
10 continue to be in force until September 30, 2017, subject to
11 applicable federal law, and any other requirements imposed by
12 this part.

13 (2) *A small employer health benefit plan described in paragraph*
14 *(1) may continue to be in force after September 30, 2017, if the*
15 *plan is amended to comply with all of the provisions listed in*
16 *subdivision (e) by October 1, 2017, and complies with all other*
17 *applicable provisions of law.*

18 (b) Prior to renewing a small employer health benefit plan
19 pursuant to *paragraph (1) of subdivision (a)*, the insurer shall
20 provide notice to the group contractholder regarding the option to
21 renew coverage pursuant to subdivision (a) using the relevant
22 notice attached to the guidance entitled—~~“Industry~~ *“Insurance*
23 *Standards Bulletin Series – Extension of Transition Policy through*
24 *October 1, 2016,”* issued by the United States Department of Health
25 and Human Services, Centers for Medicare and Medicaid Services
26 on March 5, 2014.

27 (c) A small employer health benefit plan in effect on October
28 1, 2013, *including those renewed by December 31, 2013*, and still
29 in effect as of the effective date of this section, that does not qualify
30 as a grandfathered health plan under Section 1251 of PPACA that
31 is renewed on or before October 1, 2016, and that continues to be
32 in force until no later than September 30, 2017, is exempt from
33 the following provisions:

34 (1) ~~Subdivision (k) of Paragraph (1) of subdivision (b) of, and~~
35 ~~subdivisions (c), (g), and (k) of, Section 10753.05.~~

36 (2) Section 10753.14.

37 (3) ~~Paragraph (1) of subdivision (b) of Section 10753.05 and~~
38 ~~subdivision (e) of Section 10753.05.~~

39 (4) ~~Subdivision (g) of Section 10753.05.~~

40 (5) ~~Section 10753.13.~~

- 1 ~~(6)~~
- 2 (3) Section 10112.27.
- 3 ~~(7)~~
- 4 (4) Section ~~10112.285~~ for policies renewed on or after January
- 5 1, 2014, and Section ~~10112.28~~ for policies renewed on or after
- 6 ~~January 1, 2015.~~ 10112.285.
- 7 (5) Section 10112.28.
- 8 ~~(8)~~
- 9 (6) Section 10112.29.
- 10 ~~(9)~~
- 11 (7) Section 10112.297.
- 12 (d) A small employer health benefit plan described in *paragraph*
- 13 *(1)* of subdivision (a) shall ~~continue to be subject to the following~~
- 14 ~~provisions:~~ *be subject to Sections 10714 and 10715, and shall*
- 15 *continue to be subject to Chapter 8.01 (commencing with Section*
- 16 *10753), except as provided in subdivision (c), and to all otherwise*
- 17 *applicable provisions of this part.*
- 18 ~~(1) Sections 10714 and 10715.~~
- 19 ~~(2) Sections 10753.08 and 10198.7.~~
- 20 ~~(3) Subdivision (j) of Section 10753.05 and Section 10198.9.~~
- 21 ~~(4) Subdivision (b) of Section 10753.08 and paragraph (1) of~~
- 22 ~~subdivision (e) of Section 10198.7.~~
- 23 ~~(5) Section 10753.16.~~
- 24 (e) *No later than October 1, 2017, a small employer health*
- 25 *benefit plan described in paragraph (1) of subdivision (a) may be*
- 26 *amended to comply with all of the following:*
- 27 (1) *Paragraph (1) of subdivision (b) of, and subdivisions (c),*
- 28 *(g), and (k) of, Section 10753.05.*
- 29 (2) Section 10753.14.
- 30 (3) Section 10112.27.
- 31 (4) Section 10112.28.
- 32 (5) Section 10112.29.
- 33 (6) Section 10112.297.
- 34 ~~(e)~~
- 35 (f) This section shall be implemented only to the extent permitted
- 36 by PPACA.
- 37 ~~(f)~~
- 38 (g) For purposes of this section, the following definitions shall
- 39 apply:

1 (1) “Health benefit plan” has the same meaning as defined in
2 subdivision (j) of Section 10753.

3 (2) “PPACA” means the federal Patient Protection and
4 Affordable Care Act (Public Law 111-148), as amended by the
5 federal Health Care and Education Reconciliation Act of 2010
6 (Public Law 111-152), and any rules, regulations, or guidance
7 issued pursuant to that law.

8 (3) “Small employer health benefit plan” means a group health
9 benefit plan issued to a small employer, as defined in Section
10 10753.

11 SEC. 3. This act is an urgency statute necessary for the
12 immediate preservation of the public peace, health, or safety within
13 the meaning of Article IV of the Constitution and shall go into
14 immediate effect. The facts constituting the necessity are:

15 In order to carry out the extended transitional policy under the
16 federal Patient Protection and Affordable Care Act (*Public Law*
17 *111-148*) announced by the United States Department of Health
18 and Human Services, Centers for Medicare and Medicaid Services
19 on March 5, 2014, and to allow small businesses to re-enroll in
20 their current health care coverage in 2014, it is necessary that this
21 act take effect immediately.