

AMENDED IN SENATE MAY 12, 2014
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: 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 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 insurance policy that 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~~, *January 1, 2015*, and to continue to be in force until ~~September 30, 2017~~ *December 31, 2015*. The bill would exempt those health care service plan contracts and health 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~~, *January 1, 2016*, 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,~~ *January 1, 2015*, and may continue to be in force until
3 ~~September 30, 2017,~~ *December 31, 2015*, subject to applicable
4 federal law, and any other requirements 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,~~ *December 31, 2015*, if the contract is amended to comply
8 with all of the provisions listed in subdivision (e) by ~~October 1,~~
9 ~~2017,~~ *January 1, 2016*, and complies with all other applicable
10 provisions of law.

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

20 (2) *A health care service plan shall include the following notice*
21 *with the notice issued pursuant to paragraph (1):*

22
23 *“New health care coverage options are available in California.*
24 *You currently have health care coverage that is not required to*
25 *comply with many new laws. For example, your current plan might*
26 *not include coverage for some of the benefits that must be covered*
27 *in the new health care products.*

28 *You have the option to remain with your current coverage for*
29 *one more year or switch to new coverage that complies with the*
30 *new laws. Talk to Covered California (1-800-300-1506), your plan*
31 *representative, or your insurance agent to discuss options.”*

32
33 (3) *A health care service plan shall include with the notices*
34 *issued pursuant to paragraphs (1) and (2), the premium, cost*
35 *sharing, and benefits associated with the plan’s standard benefit*
36 *designs approved consistent with subdivision (c) of Section 100504*
37 *of the Government Code for the geographic region of the small*
38 *employer.*

39 (c) A small employer health care service plan contract in effect
40 on October 1, 2013, including those renewed by December 31,

1 2013, and still in effect as of the effective date of this section, that
2 does not qualify as a grandfathered health plan under Section 1251
3 of PPACA that is renewed on or before ~~October 1, 2016~~, *January*
4 *1, 2015*, and that continues to be in force until no later than
5 ~~September 30, 2017~~, *December 31, 2015*, is exempt from the
6 following provisions:

7 (1) Paragraphs (1) and (2) of subdivision (a) of, and subdivisions
8 (e) and (i) of, Section 1357.503.

9 (2) Section 1357.512.

10 (3) Sections 1367.005 and 1357.508.

11 (4) Section 1367.0065.

12 (5) Section 1367.006.

13 (6) Section 1367.007.

14 (7) Section 1367.009.

15 (d) A small employer health care service plan contract described
16 in paragraph (1) of subdivision (a) shall be subject to Sections
17 1357.12 and 1357.13, and shall continue to be subject to Article
18 3.16 (commencing with Section 1357.500), except as provided in
19 subdivision (c), and to all otherwise applicable provisions of this
20 chapter.

21 (e) No later than ~~October 1, 2017~~, *January 1, 2016*, a small
22 employer health care service plan contract described in paragraph
23 (1) of subdivision (a) may be amended to comply with all of the
24 following:

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

27 (2) Section 1357.512.

28 (3) Sections 1357.508 and 1367.005.

29 (4) Section 1367.006.

30 (5) Section 1367.007.

31 (6) Section 1367.009.

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

34 (g) For purposes of this section, the following definitions shall
35 apply:

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

1 (2) “Small employer health care service plan contract” means
2 a group health care service plan contract, other than a specialized
3 health care service plan contract, issued to a small employer, as
4 defined in subdivision (s) of Section 1357.500.

5 SEC. 2. Section 10112.300 is added to the Insurance Code, to
6 read:

7 10112.300. (a) (1) A small employer health benefit plan in
8 effect on October 1, 2013, including those renewed by December
9 31, 2013, and still in effect as of the effective date of this section,
10 that does not qualify as a grandfathered health plan under Section
11 1251 of PPACA may be renewed until ~~October 1, 2016~~, *January*
12 *1, 2015*, and may continue to be in force until ~~September 30, 2017~~,
13 *December 31, 2015*, subject to applicable federal law, and any
14 other requirements imposed by this part.

15 (2) A small employer health benefit plan described in paragraph
16 (1) may continue to be in force after ~~September 30, 2017~~,
17 *December 31, 2015*, if the plan is amended to comply with all of
18 the provisions listed in subdivision (e) by ~~October 1, 2017~~, *January*
19 *1, 2016*, and complies with all other applicable provisions of law.

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

29 (2) *An insurer shall include the following notice with the notice*
30 *issued pursuant to paragraph (1):*

31
32 *“New health care coverage options are available in California.*
33 *You currently have health care coverage that is not required to*
34 *comply with many new laws. For example, your current insurance*
35 *might not include coverage for some of the benefits that must be*
36 *covered in the new health care products.*

37 *You have the option to remain with your current coverage for*
38 *one more year or switch to new coverage that complies with the*
39 *new laws. Talk to Covered California (1-800-300-1506), your plan*
40 *representative, or your insurance agent to discuss options.”*

1

2 (3) An insurer shall include with the notices issued pursuant to
3 paragraphs (1) and (2), the premium, cost sharing, and benefits
4 associated with the plan's standard benefit designs approved
5 consistent with subdivision (c) of Section 100504 of the
6 Government Code for the geographic region of the small employer.

7 (c) A small employer health benefit plan in effect on October
8 1, 2013, including those renewed by December 31, 2013, and still
9 in effect as of the effective date of this section, that does not qualify
10 as a grandfathered health plan under Section 1251 of PPACA that
11 is renewed on or before ~~October 1, 2016~~, *January 1, 2015*, and
12 that continues to be in force until no later than ~~September 30, 2017~~,
13 *December 31, 2015*, is exempt from the following provisions:

14 (1) Paragraph (1) of subdivision (b) of, and subdivisions (c),
15 (g), and (k) of, Section 10753.05.

16 (2) Section 10753.14.

17 (3) Section 10112.27.

18 (4) Section 10112.285.

19 (5) Section 10112.28.

20 (6) Section 10112.29.

21 (7) Section 10112.297.

22 (d) A small employer health benefit plan described in paragraph
23 (1) of subdivision (a) shall be subject to Sections 10714 and 10715,
24 and shall continue to be subject to Chapter 8.01 (commencing with
25 Section 10753), except as provided in subdivision (c), and to all
26 otherwise applicable provisions of this part.

27 (e) No later than ~~October 1, 2017~~, *January 1, 2016*, a small
28 employer health benefit plan described in paragraph (1) of
29 subdivision (a) may be amended to comply with all of the
30 following:

31 (1) Paragraph (1) of subdivision (b) of, and subdivisions (c),
32 (g), and (k) of, Section 10753.05.

33 (2) Section 10753.14.

34 (3) Section 10112.27.

35 (4) Section 10112.28.

36 (5) Section 10112.29.

37 (6) Section 10112.297.

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

1 (g) For purposes of this section, the following definitions shall
2 apply:

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

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

10 (3) “Small employer health benefit plan” means a group health
11 benefit plan issued to a small employer, as defined in Section
12 10753.

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

17 In order to carry out the extended transitional policy under the
18 federal Patient Protection and Affordable Care Act (Public Law
19 111-148) announced by the United States Department of Health
20 and Human Services, Centers for Medicare and Medicaid Services
21 on March 5, 2014, and to allow small businesses to ~~re-enroll~~
22 *reenroll* in their current health care coverage ~~in 2014, until 2016,~~
23 it is necessary that this act take effect immediately.