

AMENDED IN ASSEMBLY JULY 16, 2015

AMENDED IN SENATE APRIL 20, 2015

SENATE BILL

No. 43

**Introduced by Senator Hernandez
(Coauthor: Senator Monning)**

December 5, 2014

An act to ~~amend~~ *amend, repeal, and add* Section 1367.005 of the Health and Safety Code, and to ~~amend~~ *amend, repeal, and add* Section 10112.27 of the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 43, as amended, Hernandez. Health care coverage: essential health benefits.

Existing federal 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 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. PPACA requires each state, by January 1, 2014, to establish an American Health Benefit Exchange that facilitates the purchase of qualified health plans by qualified individuals and qualified small employers. PPACA defines a qualified health plan as a plan that, among other requirements, provides an essential health benefits package. Existing state law creates the California Health Benefit Exchange (the Exchange) to facilitate the purchase of qualified health plans by qualified individuals and qualified small employers.

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 requires an individual or small group health care service plan contract or individual or small group health insurance policy issued, amended, or renewed on or after January 1, 2014, to cover essential health benefits, defined to include rehabilitative and habilitative services and the health benefits covered by particular benchmark plans, including a certain plan offered during the first quarter of 2012. Existing law requires habilitative services to be covered under the same terms and conditions applied to rehabilitative services under the plan contract or policy, and defines habilitative services to mean medically necessary health care services and health care devices that assist an individual in partially or fully acquiring or improving skills and functions and that are necessary to address a health condition. Existing law specifies that these provisions do not apply to specified plans, including grandfathered plans. Existing law authorizes the Department of Managed Health Care and the Department of Insurance to adopt emergency regulations implementing these provisions until March 1, 2016.

~~This bill would prohibit, for plan years commencing on or after January 1, 2017, would, for an individual or small group health care service plan contract or an individual or small group health insurance policy issued, amended, or renewed on or after January 1, 2017, prohibit limits on habilitative and rehabilitative services from being combined. The bill would combined, revise the definition of “habilitative services” to conform to federal regulations. The bill regulations, and would instead define essential health benefits to include the health benefits covered by particular benchmark plans as of the first quarter of 2014, as specified. The bill would authorize the Department of Managed Health Care and the Department of Insurance to adopt emergency regulations implementing amendments made to the above-described provisions during the 2015–16 Regular Session until July 1, 2018.~~

Because a willful violation of the bill’s requirements by a health care service plan would be a crime, this 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.

Vote: majority. 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 1367.005 of the Health and Safety Code,
2 as amended by Section 7 of Chapter 572 of the Statutes of 2014,
3 is amended to read:

4 1367.005. (a) An individual or small group health care service
5 plan contract issued, amended, or renewed on or after January 1,
6 2014, shall, at a minimum, include coverage for essential health
7 benefits pursuant to PPACA and as outlined in this section. For
8 purposes of this section, “essential health benefits” means all of
9 the following:

10 (1) Health benefits within the categories identified in Section
11 1302(b) of PPACA: ambulatory patient services, emergency
12 services, hospitalization, maternity and newborn care, mental health
13 and substance use disorder services, including behavioral health
14 treatment, prescription drugs, rehabilitative and habilitative services
15 and devices, laboratory services, preventive and wellness services
16 and chronic disease management, and pediatric services, including
17 oral and vision care.

18 (2) (A) The health benefits covered by the Kaiser Foundation
19 Health Plan Small Group HMO 30 plan (federal health product
20 identification number 40513CA035) as this plan was offered during
21 the first quarter of 2012, as follows, regardless of whether the
22 benefits are specifically referenced in the evidence of coverage or
23 plan contract for that plan:

24 (i) Medically necessary basic health care services, as defined
25 in subdivision (b) of Section 1345 and in Section 1300.67 of Title
26 28 of the California Code of Regulations.

27 (ii) The health benefits mandated to be covered by the plan
28 pursuant to statutes enacted before December 31, 2011, as
29 described in the following sections: Sections 1367.002, 1367.06,
30 and 1367.35 (preventive services for children); Section 1367.25
31 (prescription drug coverage for contraceptives); Section 1367.45
32 (AIDS vaccine); Section 1367.46 (HIV testing); Section 1367.51
33 (diabetes); Section 1367.54 (alpha feto protein testing); Section
34 1367.6 (breast cancer screening); Section 1367.61 (prosthetics for
35 laryngectomy); Section 1367.62 (maternity hospital stay); Section

1 1367.63 (reconstructive surgery); Section 1367.635 (mastectomies);
2 Section 1367.64 (prostate cancer); Section 1367.65
3 (mammography); Section 1367.66 (cervical cancer); Section
4 1367.665 (cancer screening tests); Section 1367.67 (osteoporosis);
5 Section 1367.68 (surgical procedures for jaw bones); Section
6 1367.71 (anesthesia for dental); Section 1367.9 (conditions
7 attributable to diethylstilbestrol); Section 1368.2 (hospice care);
8 Section 1370.6 (cancer clinical trials); Section 1371.5 (emergency
9 response ambulance or ambulance transport services); subdivision
10 (b) of Section 1373 (sterilization operations or procedures); Section
11 1373.4 (inpatient hospital and ambulatory maternity); Section
12 1374.56 (phenylketonuria); Section 1374.17 (organ transplants for
13 HIV); Section 1374.72 (mental health parity); and Section 1374.73
14 (autism/behavioral health treatment).

15 (iii) Any other benefits mandated to be covered by the plan
16 pursuant to statutes enacted before December 31, 2011, as
17 described in those statutes.

18 (iv) The health benefits covered by the plan that are not
19 otherwise required to be covered under this chapter, to the extent
20 required pursuant to Sections 1367.18, 1367.21, 1367.215, 1367.22,
21 1367.24, and 1367.25, and Section 1300.67.24 of Title 28 of the
22 California Code of Regulations.

23 (v) Any other health benefits covered by the plan that are not
24 otherwise required to be covered under this chapter.

25 (B) Where there are any conflicts or omissions in the plan
26 identified in subparagraph (A) as compared with the requirements
27 for health benefits under this chapter that were enacted prior to
28 December 31, 2011, the requirements of this chapter shall be
29 controlling, except as otherwise specified in this section.

30 (C) Notwithstanding subparagraph (B) or any other provision
31 of this section, the home health services benefits covered under
32 the plan identified in subparagraph (A) shall be deemed to not be
33 in conflict with this chapter.

34 (D) For purposes of this section, the Paul Wellstone and Pete
35 Domenici Mental Health Parity and Addiction Equity Act of 2008
36 (Public Law 110-343) shall apply to a contract subject to this
37 section. Coverage of mental health and substance use disorder
38 services pursuant to this paragraph, along with any scope and
39 duration limits imposed on the benefits, shall be in compliance
40 with the Paul Wellstone and Pete Domenici Mental Health Parity

1 and Addiction Equity Act of 2008 (Public Law 110-343), and all
2 rules, regulations, or guidance issued pursuant to Section 2726 of
3 the federal Public Health Service Act (42 U.S.C. Sec. 300gg-26).

4 (3) With respect to habilitative services, in addition to any
5 habilitative services identified in paragraph (2), coverage shall
6 also be provided as required by federal rules, regulations, and
7 guidance issued pursuant to Section 1302(b) of PPACA.
8 Habilitative services shall be covered under the same terms and
9 conditions applied to rehabilitative services under the plan contract.

10 (4) With respect to pediatric vision care, the same health benefits
11 for pediatric vision care covered under the Federal Employees
12 Dental and Vision Insurance Program vision plan with the largest
13 national enrollment as of the first quarter of 2012. The pediatric
14 vision care benefits covered pursuant to this paragraph shall be in
15 addition to, and shall not replace, any vision services covered under
16 the plan identified in paragraph (2).

17 (5) With respect to pediatric oral care, the same health benefits
18 for pediatric oral care covered under the dental plan available to
19 subscribers of the Healthy Families Program in 2011–12, including
20 the provision of medically necessary orthodontic care provided
21 pursuant to the federal Children’s Health Insurance Program
22 Reauthorization Act of 2009. The pediatric oral care benefits
23 covered pursuant to this paragraph shall be in addition to, and shall
24 not replace, any dental or orthodontic services covered under the
25 plan identified in paragraph (2).

26 (b) Treatment limitations imposed on health benefits described
27 in this section shall be no greater than the treatment limitations
28 imposed by the corresponding plans identified in subdivision (a),
29 subject to the requirements set forth in paragraph (2) of subdivision
30 (a).

31 (c) Except as provided in subdivision (d), nothing in this section
32 shall be construed to permit a health care service plan to make
33 substitutions for the benefits required to be covered under this
34 section, regardless of whether those substitutions are actuarially
35 equivalent.

36 (d) To the extent permitted under Section 1302 of PPACA and
37 any rules, regulations, or guidance issued pursuant to that section,
38 and to the extent that substitution would not create an obligation
39 for the state to defray costs for any individual, a plan may substitute
40 its prescription drug formulary for the formulary provided under

1 the plan identified in subdivision (a) as long as the coverage for
2 prescription drugs complies with the sections referenced in clauses
3 (ii) and (iv) of subparagraph (A) of paragraph (2) of subdivision
4 (a) that apply to prescription drugs.

5 (e) No health care service plan, or its agent, solicitor, or
6 representative, shall issue, deliver, renew, offer, market, represent,
7 or sell any product, contract, or discount arrangement as compliant
8 with the essential health benefits requirement in federal law, unless
9 it meets all of the requirements of this section.

10 (f) This section shall apply regardless of whether the plan
11 contract is offered inside or outside the California Health Benefit
12 Exchange created by Section 100500 of the Government Code.

13 (g) Nothing in this section shall be construed to exempt a plan
14 or a plan contract from meeting other applicable requirements of
15 law.

16 (h) This section shall not be construed to prohibit a plan contract
17 from covering additional benefits, including, but not limited to,
18 spiritual care services that are tax deductible under Section 213 of
19 the Internal Revenue Code.

20 (i) Subdivision (a) shall not apply to any of the following:

21 (1) A specialized health care service plan contract.

22 (2) A Medicare supplement plan.

23 (3) A plan contract that qualifies as a grandfathered health plan
24 under Section 1251 of PPACA or any rules, regulations, or
25 guidance issued pursuant to that section.

26 (j) Nothing in this section shall be implemented in a manner
27 that conflicts with a requirement of PPACA.

28 (k) This section shall be implemented only to the extent essential
29 health benefits are required pursuant to PPACA.

30 (l) An essential health benefit is required to be provided under
31 this section only to the extent that federal law does not require the
32 state to defray the costs of the benefit.

33 (m) Nothing in this section shall obligate the state to incur costs
34 for the coverage of benefits that are not essential health benefits
35 as defined in this section.

36 (n) A plan is not required to cover, under this section, changes
37 to health benefits that are the result of statutes enacted on or after
38 December 31, 2011.

39 (o) (1) The department may adopt emergency regulations
40 implementing this section. The department may, on a one-time

1 basis, readopt any emergency regulation authorized by this section
2 that is the same as, or substantially equivalent to, an emergency
3 regulation previously adopted under this section.

4 (2) The initial adoption of emergency regulations implementing
5 this section and the readoption of emergency regulations authorized
6 by this subdivision shall be deemed an emergency and necessary
7 for the immediate preservation of the public peace, health, safety,
8 or general welfare. The initial emergency regulations and the
9 readoption of emergency regulations authorized by this section
10 shall be submitted to the Office of Administrative Law for filing
11 with the Secretary of State and each shall remain in effect for no
12 more than 180 days, by which time final regulations may be
13 adopted.

14 (3) The director shall consult with the Insurance Commissioner
15 to ensure consistency and uniformity in the development of
16 regulations under this subdivision.

17 (4) This subdivision shall become inoperative on March 1, 2016.

18 (p) For purposes of this section, the following definitions shall
19 apply:

20 (1) “Habilitative services” means medically necessary health
21 care services and health care devices that assist an individual in
22 partially or fully acquiring or improving skills and functioning and
23 that are necessary to address a health condition, to the maximum
24 extent practical. These services address the skills and abilities
25 needed for functioning in interaction with an individual’s
26 environment. Examples of health care services that are not
27 habilitative services include, but are not limited to, respite care,
28 day care, recreational care, residential treatment, social services,
29 custodial care, or education services of any kind, including, but
30 not limited to, vocational training. Habilitative services shall be
31 covered under the same terms and conditions applied to
32 rehabilitative services under the plan contract.

33 (2) (A) “Health benefits,” unless otherwise required to be
34 defined pursuant to federal rules, regulations, or guidance issued
35 pursuant to Section 1302(b) of PPACA, means health care items
36 or services for the diagnosis, cure, mitigation, treatment, or
37 prevention of illness, injury, disease, or a health condition,
38 including a behavioral health condition.

39 (B) “Health benefits” does not mean any cost-sharing
40 requirements such as copayments, coinsurance, or deductibles.

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

6 (4) “Small group health care service plan contract” means a
7 group health care service plan contract issued to a small employer,
8 as defined in Section 1357.500.

9 *(q) This section shall remain in effect only until January 1, 2017,*
10 *and as of that date is repealed, unless a later enacted statute, that*
11 *is enacted before January 1, 2017, deletes or extends that date.*

12 *SEC. 2. Section 1367.005 is added to the Health and Safety*
13 *Code, to read:*

14 *1367.005. (a) An individual or small group health care service*
15 *plan contract issued, amended, or renewed on or after January 1,*
16 *2017, shall, at a minimum, include coverage for essential health*
17 *benefits pursuant to PPACA and as outlined in this section. For*
18 *purposes of this section, “essential health benefits” means all of*
19 *the following:*

20 *(1) Health benefits within the categories identified in Section*
21 *1302(b) of PPACA: ambulatory patient services, emergency*
22 *services, hospitalization, maternity and newborn care, mental*
23 *health and substance use disorder services, including behavioral*
24 *health treatment, prescription drugs, rehabilitative and habilitative*
25 *services and devices, laboratory services, preventive and wellness*
26 *services and chronic disease management, and pediatric services,*
27 *including oral and vision care.*

28 *(2) (A) The health benefits covered by the Kaiser Foundation*
29 *Health Plan Small Group HMO 30 plan (federal health product*
30 *identification number 40513CA035) as this plan was offered during*
31 *the first quarter of 2014, as follows, regardless of whether the*
32 *benefits are specifically referenced in the evidence of coverage or*
33 *plan contract for that plan:*

34 *(i) Medically necessary basic health care services, as defined*
35 *in subdivision (b) of Section 1345 and in Section 1300.67 of Title*
36 *28 of the California Code of Regulations.*

37 *(ii) The health benefits mandated to be covered by the plan*
38 *pursuant to statutes enacted before December 31, 2011, as*
39 *described in the following sections: Sections 1367.002, 1367.06,*
40 *and 1367.35 (preventive services for children); Section 1367.25*

1 (prescription drug coverage for contraceptives); Section 1367.45
2 (AIDS vaccine); Section 1367.46 (HIV testing); Section 1367.51
3 (diabetes); Section 1367.54 (alpha feto protein testing); Section
4 1367.6 (breast cancer screening); Section 1367.61 (prosthetics
5 for laryngectomy); Section 1367.62 (maternity hospital stay);
6 Section 1367.63 (reconstructive surgery); Section 1367.635
7 (mastectomies); Section 1367.64 (prostate cancer); Section 1367.65
8 (mammography); Section 1367.66 (cervical cancer); Section
9 1367.665 (cancer screening tests); Section 1367.67 (osteoporosis);
10 Section 1367.68 (surgical procedures for jaw bones); Section
11 1367.71 (anesthesia for dental); Section 1367.9 (conditions
12 attributable to diethylstilbestrol); Section 1368.2 (hospice care);
13 Section 1370.6 (cancer clinical trials); Section 1371.5 (emergency
14 response ambulance or ambulance transport services); subdivision
15 (b) of Section 1373 (sterilization operations or procedures); Section
16 1373.4 (inpatient hospital and ambulatory maternity); Section
17 1374.56 (phenylketonuria); Section 1374.17 (organ transplants
18 for HIV); Section 1374.72 (mental health parity); and Section
19 1374.73 (autism/behavioral health treatment).

20 (iii) Any other benefits mandated to be covered by the plan
21 pursuant to statutes enacted before December 31, 2011, as
22 described in those statutes.

23 (iv) The health benefits covered by the plan that are not
24 otherwise required to be covered under this chapter, to the extent
25 required pursuant to Sections 1367.18, 1367.21, 1367.215,
26 1367.22, 1367.24, and 1367.25, and Section 1300.67.24 of Title
27 28 of the California Code of Regulations.

28 (v) Any other health benefits covered by the plan that are not
29 otherwise required to be covered under this chapter.

30 (B) Where there are any conflicts or omissions in the plan
31 identified in subparagraph (A) as compared with the requirements
32 for health benefits under this chapter that were enacted prior to
33 December 31, 2011, the requirements of this chapter shall be
34 controlling, except as otherwise specified in this section.

35 (C) Notwithstanding subparagraph (B) or any other provision
36 of this section, the home health services benefits covered under
37 the plan identified in subparagraph (A) shall be deemed to not be
38 in conflict with this chapter.

39 (D) For purposes of this section, the Paul Wellstone and Pete
40 Domenici Mental Health Parity and Addiction Equity Act of 2008

1 *(Public Law 110-343) shall apply to a contract subject to this*
2 *section. Coverage of mental health and substance use disorder*
3 *services pursuant to this paragraph, along with any scope and*
4 *duration limits imposed on the benefits, shall be in compliance*
5 *with the Paul Wellstone and Pete Domenici Mental Health Parity*
6 *and Addiction Equity Act of 2008 (Public Law 110-343), and all*
7 *rules, regulations, or guidance issued pursuant to Section 2726*
8 *of the federal Public Health Service Act (42 U.S.C. Sec. 300gg-26).*

9 *(3) With respect to habilitative services, in addition to any*
10 *habilitative services identified in paragraph (2), coverage shall*
11 *also be provided as required by federal rules, regulations, and*
12 *guidance issued pursuant to Section 1302(b) of PPACA.*
13 *Habilitative services shall be covered under the same terms and*
14 *conditions applied to rehabilitative services under the plan*
15 *contract. Limits on habilitative and rehabilitative services shall*
16 *not be combined.*

17 *(4) With respect to pediatric vision care, the same health benefits*
18 *for pediatric vision care covered under the Federal Employees*
19 *Dental and Vision Insurance Program vision plan with the largest*
20 *national enrollment as of the first quarter of 2014. The pediatric*
21 *vision care benefits covered pursuant to this paragraph shall be*
22 *in addition to, and shall not replace, any vision services covered*
23 *under the plan identified in paragraph (2).*

24 *(5) With respect to pediatric oral care, the same health benefits*
25 *for pediatric oral care covered under the dental benefit received*
26 *by children under the Medi-Cal program as of 2014, including the*
27 *provision of medically necessary orthodontic care provided*
28 *pursuant to the federal Children's Health Insurance Program*
29 *Reauthorization Act of 2009. The pediatric oral care benefits*
30 *covered pursuant to this paragraph shall be in addition to, and*
31 *shall not replace, any dental or orthodontic services covered under*
32 *the plan identified in paragraph (2).*

33 *(b) Treatment limitations imposed on health benefits described*
34 *in this section shall be no greater than the treatment limitations*
35 *imposed by the corresponding plans identified in subdivision (a),*
36 *subject to the requirements set forth in paragraph (2) of subdivision*
37 *(a).*

38 *(c) Except as provided in subdivision (d), nothing in this section*
39 *shall be construed to permit a health care service plan to make*
40 *substitutions for the benefits required to be covered under this*

1 *section, regardless of whether those substitutions are actuarially*
2 *equivalent.*

3 *(d) To the extent permitted under Section 1302 of PPACA and*
4 *any rules, regulations, or guidance issued pursuant to that section,*
5 *and to the extent that substitution would not create an obligation*
6 *for the state to defray costs for any individual, a plan may*
7 *substitute its prescription drug formulary for the formulary*
8 *provided under the plan identified in subdivision (a) as long as*
9 *the coverage for prescription drugs complies with the sections*
10 *referenced in clauses (ii) and (iv) of subparagraph (A) of*
11 *paragraph (2) of subdivision (a) that apply to prescription drugs.*

12 *(e) No health care service plan, or its agent, solicitor, or*
13 *representative, shall issue, deliver, renew, offer, market, represent,*
14 *or sell any product, contract, or discount arrangement as compliant*
15 *with the essential health benefits requirement in federal law, unless*
16 *it meets all of the requirements of this section.*

17 *(f) This section shall apply regardless of whether the plan*
18 *contract is offered inside or outside the California Health Benefit*
19 *Exchange created by Section 100500 of the Government Code.*

20 *(g) Nothing in this section shall be construed to exempt a plan*
21 *or a plan contract from meeting other applicable requirements of*
22 *law.*

23 *(h) This section shall not be construed to prohibit a plan*
24 *contract from covering additional benefits, including, but not*
25 *limited to, spiritual care services that are tax deductible under*
26 *Section 213 of the Internal Revenue Code.*

27 *(i) Subdivision (a) shall not apply to any of the following:*

28 *(1) A specialized health care service plan contract.*

29 *(2) A Medicare supplement plan.*

30 *(3) A plan contract that qualifies as a grandfathered health plan*
31 *under Section 1251 of PPACA or any rules, regulations, or*
32 *guidance issued pursuant to that section.*

33 *(j) Nothing in this section shall be implemented in a manner*
34 *that conflicts with a requirement of PPACA.*

35 *(k) This section shall be implemented only to the extent essential*
36 *health benefits are required pursuant to PPACA.*

37 *(l) An essential health benefit is required to be provided under*
38 *this section only to the extent that federal law does not require the*
39 *state to defray the costs of the benefit.*

1 (m) Nothing in this section shall obligate the state to incur costs
2 for the coverage of benefits that are not essential health benefits
3 as defined in this section.

4 (n) A plan is not required to cover, under this section, changes
5 to health benefits that are the result of statutes enacted on or after
6 December 31, 2011.

7 (o) (1) The department may adopt emergency regulations
8 implementing this section. The department may, on a one-time
9 basis, readopt any emergency regulation authorized by this section
10 that is the same as, or substantially equivalent to, an emergency
11 regulation previously adopted under this section.

12 (2) The initial adoption of emergency regulations implementing
13 this section and the readoption of emergency regulations
14 authorized by this subdivision shall be deemed an emergency and
15 necessary for the immediate preservation of the public peace,
16 health, safety, or general welfare. The initial emergency
17 regulations and the readoption of emergency regulations
18 authorized by this section shall be submitted to the Office of
19 Administrative Law for filing with the Secretary of State and each
20 shall remain in effect for no more than 180 days, by which time
21 final regulations may be adopted.

22 (3) The initial adoption of emergency regulations implementing
23 this section made during the 2015–16 Regular Session of the
24 Legislature and the readoption of emergency regulations
25 authorized by this subdivision shall be deemed an emergency and
26 necessary for the immediate preservation of the public peace,
27 health, safety, or general welfare. The initial emergency
28 regulations and the readoption of emergency regulations
29 authorized by this section shall be submitted to the Office of
30 Administrative Law for filing with the Secretary of State and each
31 shall remain in effect for no more than 180 days, by which time
32 final regulations may be adopted.

33 (4) The director shall consult with the Insurance Commissioner
34 to ensure consistency and uniformity in the development of
35 regulations under this subdivision.

36 (5) This subdivision shall become inoperative on July 1, 2018.

37 (p) For purposes of this section, the following definitions shall
38 apply:

39 (1) “Habilitative services” means health care services and
40 devices that help a person keep, learn, or improve skills and

1 *functioning for daily living. Examples include therapy for a child*
2 *who is not walking or talking at the expected age. These services*
3 *may include physical and occupational therapy, speech-language*
4 *pathology, and other services for people with disabilities in a*
5 *variety of inpatient or outpatient settings, or both. Habilitative*
6 *services shall be covered under the same terms and conditions*
7 *applied to rehabilitative services under the plan contract.*

8 (2) (A) *“Health benefits,” unless otherwise required to be*
9 *defined pursuant to federal rules, regulations, or guidance issued*
10 *pursuant to Section 1302(b) of PPACA, means health care items*
11 *or services for the diagnosis, cure, mitigation, treatment, or*
12 *prevention of illness, injury, disease, or a health condition,*
13 *including a behavioral health condition.*

14 (B) *“Health benefits” does not mean any cost-sharing*
15 *requirements such as copayments, coinsurance, or deductibles.*

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

21 (4) *“Small group health care service plan contract” means a*
22 *group health care service plan contract issued to a small employer,*
23 *as defined in Section 1357.500.*

24 SEC. 3. *Section 10112.27 of the Insurance Code, as amended*
25 *by Section 14 of Chapter 572 of the Statutes of 2014, is amended*
26 *to read:*

27 10112.27. (a) *An individual or small group health insurance*
28 *policy issued, amended, or renewed on or after January 1, 2014,*
29 *shall, at a minimum, include coverage for essential health benefits*
30 *pursuant to PPACA and as outlined in this section. This section*
31 *shall exclusively govern what benefits a health insurer must cover*
32 *as essential health benefits. For purposes of this section, “essential*
33 *health benefits” means all of the following:*

34 (1) *Health benefits within the categories identified in Section*
35 *1302(b) of PPACA: ambulatory patient services, emergency*
36 *services, hospitalization, maternity and newborn care, mental health*
37 *and substance use disorder services, including behavioral health*
38 *treatment, prescription drugs, rehabilitative and habilitative services*
39 *and devices, laboratory services, preventive and wellness services*

1 and chronic disease management, and pediatric services, including
2 oral and vision care.

3 (2) (A) The health benefits covered by the Kaiser Foundation
4 Health Plan Small Group HMO 30 plan (federal health product
5 identification number 40513CA035) as this plan was offered during
6 the first quarter of 2012, as follows, regardless of whether the
7 benefits are specifically referenced in the plan contract or evidence
8 of coverage for that plan:

9 (i) Medically necessary basic health care services, as defined
10 in subdivision (b) of Section 1345 of the Health and Safety Code
11 and in Section 1300.67 of Title 28 of the California Code of
12 Regulations.

13 (ii) The health benefits mandated to be covered by the plan
14 pursuant to statutes enacted before December 31, 2011, as
15 described in the following sections of the Health and Safety Code:
16 Sections 1367.002, 1367.06, and 1367.35 (preventive services for
17 children); Section 1367.25 (prescription drug coverage for
18 contraceptives); Section 1367.45 (AIDS vaccine); Section 1367.46
19 (HIV testing); Section 1367.51 (diabetes); Section 1367.54 (alpha
20 fetoprotein testing); Section 1367.6 (breast cancer screening);
21 Section 1367.61 (prosthetics for laryngectomy); Section 1367.62
22 (maternity hospital stay); Section 1367.63 (reconstructive surgery);
23 Section 1367.635 (mastectomies); Section 1367.64 (prostate
24 cancer); Section 1367.65 (mammography); Section 1367.66
25 (cervical cancer); Section 1367.665 (cancer screening tests);
26 Section 1367.67 (osteoporosis); Section 1367.68 (surgical
27 procedures for jaw bones); Section 1367.71 (anesthesia for dental);
28 Section 1367.9 (conditions attributable to diethylstilbestrol);
29 Section 1368.2 (hospice care); Section 1370.6 (cancer clinical
30 trials); Section 1371.5 (emergency response ambulance or
31 ambulance transport services); subdivision (b) of Section 1373
32 (sterilization operations or procedures); Section 1373.4 (inpatient
33 hospital and ambulatory maternity); Section 1374.56
34 (phenylketonuria); Section 1374.17 (organ transplants for HIV);
35 Section 1374.72 (mental health parity); and Section 1374.73
36 (autism/behavioral health treatment).

37 (iii) Any other benefits mandated to be covered by the plan
38 pursuant to statutes enacted before December 31, 2011, as
39 described in those statutes.

1 (iv) The health benefits covered by the plan that are not
2 otherwise required to be covered under Chapter 2.2 (commencing
3 with Section 1340) of Division 2 of the Health and Safety Code,
4 to the extent otherwise required pursuant to Sections 1367.18,
5 1367.21, 1367.215, 1367.22, 1367.24, and 1367.25 of the Health
6 and Safety Code, and Section 1300.67.24 of Title 28 of the
7 California Code of Regulations.

8 (v) Any other health benefits covered by the plan that are not
9 otherwise required to be covered under Chapter 2.2 (commencing
10 with Section 1340) of Division 2 of the Health and Safety Code.

11 (B) Where there are any conflicts or omissions in the plan
12 identified in subparagraph (A) as compared with the requirements
13 for health benefits under Chapter 2.2 (commencing with Section
14 1340) of Division 2 of the Health and Safety Code that were
15 enacted prior to December 31, 2011, the requirements of Chapter
16 2.2 (commencing with Section 1340) of Division 2 of the Health
17 and Safety Code shall be controlling, except as otherwise specified
18 in this section.

19 (C) Notwithstanding subparagraph (B) or any other provision
20 of this section, the home health services benefits covered under
21 the plan identified in subparagraph (A) shall be deemed to not be
22 in conflict with Chapter 2.2 (commencing with Section 1340) of
23 Division 2 of the Health and Safety Code.

24 (D) For purposes of this section, the Paul Wellstone and Pete
25 Domenici Mental Health Parity and Addiction Equity Act of 2008
26 (Public Law 110-343) shall apply to a policy subject to this section.
27 Coverage of mental health and substance use disorder services
28 pursuant to this paragraph, along with any scope and duration
29 limits imposed on the benefits, shall be in compliance with the
30 Paul Wellstone and Pete Domenici Mental Health Parity and
31 Addiction Equity Act of 2008 (Public Law 110-343), and all rules,
32 regulations, and guidance issued pursuant to Section 2726 of the
33 federal Public Health Service Act (42 U.S.C. Sec. 300gg-26).

34 (3) With respect to habilitative services, in addition to any
35 habilitative services identified in paragraph (2), coverage shall
36 also be provided as required by federal rules, regulations, or
37 guidance issued pursuant to Section 1302(b) of PPACA.
38 Habilitative services shall be covered under the same terms and
39 conditions applied to rehabilitative services under the policy.

1 (4) With respect to pediatric vision care, the same health benefits
2 for pediatric vision care covered under the Federal Employees
3 Dental and Vision Insurance Program vision plan with the largest
4 national enrollment as of the first quarter of 2012. The pediatric
5 vision care services covered pursuant to this paragraph shall be in
6 addition to, and shall not replace, any vision services covered under
7 the plan identified in paragraph (2).

8 (5) With respect to pediatric oral care, the same health benefits
9 for pediatric oral care covered under the dental plan available to
10 subscribers of the Healthy Families Program in 2011–12, including
11 the provision of medically necessary orthodontic care provided
12 pursuant to the federal Children’s Health Insurance Program
13 Reauthorization Act of 2009. The pediatric oral care benefits
14 covered pursuant to this paragraph shall be in addition to, and shall
15 not replace, any dental or orthodontic services covered under the
16 plan identified in paragraph (2).

17 (b) Treatment limitations imposed on health benefits described
18 in this section shall be no greater than the treatment limitations
19 imposed by the corresponding plans identified in subdivision (a),
20 subject to the requirements set forth in paragraph (2) of subdivision
21 (a).

22 (c) Except as provided in subdivision (d), nothing in this section
23 shall be construed to permit a health insurer to make substitutions
24 for the benefits required to be covered under this section, regardless
25 of whether those substitutions are actuarially equivalent.

26 (d) To the extent permitted under Section 1302 of PPACA and
27 any rules, regulations, or guidance issued pursuant to that section,
28 and to the extent that substitution would not create an obligation
29 for the state to defray costs for any individual, an insurer may
30 substitute its prescription drug formulary for the formulary
31 provided under the plan identified in subdivision (a) as long as the
32 coverage for prescription drugs complies with the sections
33 referenced in clauses (ii) and (iv) of subparagraph (A) of paragraph
34 (2) of subdivision (a) that apply to prescription drugs.

35 (e) No health insurer, or its agent, producer, or representative,
36 shall issue, deliver, renew, offer, market, represent, or sell any
37 product, policy, or discount arrangement as compliant with the
38 essential health benefits requirement in federal law, unless it meets
39 all of the requirements of this section. This subdivision shall be

1 enforced in the same manner as Section 790.03, including through
2 the means specified in Sections 790.035 and 790.05.

3 (f) This section shall apply regardless of whether the policy is
4 offered inside or outside the California Health Benefit Exchange
5 created by Section 100500 of the Government Code.

6 (g) Nothing in this section shall be construed to exempt a health
7 insurer or a health insurance policy from meeting other applicable
8 requirements of law.

9 (h) This section shall not be construed to prohibit a policy from
10 covering additional benefits, including, but not limited to, spiritual
11 care services that are tax deductible under Section 213 of the
12 Internal Revenue Code.

13 (i) Subdivision (a) shall not apply to any of the following:

14 (1) A policy that provides excepted benefits as described in
15 Sections 2722 and 2791 of the federal Public Health Service Act
16 (42 U.S.C. Sec. 300gg-21; 42 U.S.C. Sec. 300gg-91).

17 (2) A policy that qualifies as a grandfathered health plan under
18 Section 1251 of PPACA or any binding rules, regulation, or
19 guidance issued pursuant to that section.

20 (j) Nothing in this section shall be implemented in a manner
21 that conflicts with a requirement of PPACA.

22 (k) This section shall be implemented only to the extent essential
23 health benefits are required pursuant to PPACA.

24 (l) An essential health benefit is required to be provided under
25 this section only to the extent that federal law does not require the
26 state to defray the costs of the benefit.

27 (m) Nothing in this section shall obligate the state to incur costs
28 for the coverage of benefits that are not essential health benefits
29 as defined in this section.

30 (n) An insurer is not required to cover, under this section,
31 changes to health benefits that are the result of statutes enacted on
32 or after December 31, 2011.

33 (o) (1) The commissioner may adopt emergency regulations
34 implementing this section. The commissioner may, on a one-time
35 basis, readopt any emergency regulation authorized by this section
36 that is the same as, or substantially equivalent to, an emergency
37 regulation previously adopted under this section.

38 (2) The initial adoption of emergency regulations implementing
39 this section and the readoption of emergency regulations authorized
40 by this subdivision shall be deemed an emergency and necessary

1 for the immediate preservation of the public peace, health, safety,
2 or general welfare. The initial emergency regulations and the
3 readoption of emergency regulations authorized by this section
4 shall be submitted to the Office of Administrative Law for filing
5 with the Secretary of State and each shall remain in effect for no
6 more than 180 days, by which time final regulations may be
7 adopted.

8 (3) The commissioner shall consult with the Director of the
9 Department of Managed Health Care to ensure consistency and
10 uniformity in the development of regulations under this
11 subdivision.

12 (4) This subdivision shall become inoperative on March 1, 2016.

13 (p) Nothing in this section shall impose on health insurance
14 policies the cost sharing or network limitations of the plans
15 identified in subdivision (a) except to the extent otherwise required
16 to comply with provisions of this code, including this section, and
17 as otherwise applicable to all health insurance policies offered to
18 individuals and small groups.

19 (q) For purposes of this section, the following definitions shall
20 apply:

21 (1) “Habilitative services” means medically necessary health
22 care services and health care devices that assist an individual in
23 partially or fully acquiring or improving skills and functioning and
24 that are necessary to address a health condition, to the maximum
25 extent practical. These services address the skills and abilities
26 needed for functioning in interaction with an individual’s
27 environment. Examples of health care services that are not
28 habilitative services include, but are not limited to, respite care,
29 day care, recreational care, residential treatment, social services,
30 custodial care, or education services of any kind, including, but
31 not limited to, vocational training. Habilitative services shall be
32 covered under the same terms and conditions applied to
33 rehabilitative services under the policy.

34 (2) (A) “Health benefits,” unless otherwise required to be
35 defined pursuant to federal rules, regulations, or guidance issued
36 pursuant to Section 1302(b) of PPACA, means health care items
37 or services for the diagnosis, cure, mitigation, treatment, or
38 prevention of illness, injury, disease, or a health condition,
39 including a behavioral health condition.

1 (B) “Health benefits” does not mean any cost-sharing
2 requirements such as copayments, coinsurance, or deductibles.

3 (3) “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 thereunder.

8 (4) “Small group health insurance policy” means a group health
9 insurance policy issued to a small employer, as defined in Section
10 10753.

11 (r) *This section shall remain in effect only until January 1, 2017,*
12 *and as of that date is repealed, unless a later enacted statute, that*
13 *is enacted before January 1, 2017, deletes or extends that date.*

14 SEC. 4. *Section 10112.27 is added to the Insurance Code, to*
15 *read:*

16 10112.27. (a) *An individual or small group health insurance*
17 *policy issued, amended, or renewed on or after January 1, 2017,*
18 *shall, at a minimum, include coverage for essential health benefits*
19 *pursuant to PPACA and as outlined in this section. This section*
20 *shall exclusively govern what benefits a health insurer must cover*
21 *as essential health benefits. For purposes of this section, “essential*
22 *health benefits” means all of the following:*

23 (1) *Health benefits within the categories identified in Section*
24 *1302(b) of PPACA: ambulatory patient services, emergency*
25 *services, hospitalization, maternity and newborn care, mental*
26 *health and substance use disorder services, including behavioral*
27 *health treatment, prescription drugs, rehabilitative and habilitative*
28 *services and devices, laboratory services, preventive and wellness*
29 *services and chronic disease management, and pediatric services,*
30 *including oral and vision care.*

31 (2) (A) *The health benefits covered by the Kaiser Foundation*
32 *Health Plan Small Group HMO 30 plan (federal health product*
33 *identification number 40513CA035) as this plan was offered during*
34 *the first quarter of 2014, as follows, regardless of whether the*
35 *benefits are specifically referenced in the plan contract or evidence*
36 *of coverage for that plan:*

37 (i) *Medically necessary basic health care services, as defined*
38 *in subdivision (b) of Section 1345 of the Health and Safety Code*
39 *and in Section 1300.67 of Title 28 of the California Code of*
40 *Regulations.*

1 (ii) *The health benefits mandated to be covered by the plan*
2 *pursuant to statutes enacted before December 31, 2011, as*
3 *described in the following sections of the Health and Safety Code:*
4 *Sections 1367.002, 1367.06, and 1367.35 (preventive services for*
5 *children); Section 1367.25 (prescription drug coverage for*
6 *contraceptives); Section 1367.45 (AIDS vaccine); Section 1367.46*
7 *(HIV testing); Section 1367.51 (diabetes); Section 1367.54 (alpha*
8 *feto protein testing); Section 1367.6 (breast cancer screening);*
9 *Section 1367.61 (prosthetics for laryngectomy); Section 1367.62*
10 *(maternity hospital stay); Section 1367.63 (reconstructive surgery);*
11 *Section 1367.635 (mastectomies); Section 1367.64 (prostate*
12 *cancer); Section 1367.65 (mammography); Section 1367.66*
13 *(cervical cancer); Section 1367.665 (cancer screening tests);*
14 *Section 1367.67 (osteoporosis); Section 1367.68 (surgical*
15 *procedures for jaw bones); Section 1367.71 (anesthesia for dental);*
16 *Section 1367.9 (conditions attributable to diethylstilbestrol);*
17 *Section 1368.2 (hospice care); Section 1370.6 (cancer clinical*
18 *trials); Section 1371.5 (emergency response ambulance or*
19 *ambulance transport services); subdivision (b) of Section 1373*
20 *(sterilization operations or procedures); Section 1373.4 (inpatient*
21 *hospital and ambulatory maternity); Section 1374.56*
22 *(phenylketonuria); Section 1374.17 (organ transplants for HIV);*
23 *Section 1374.72 (mental health parity); and Section 1374.73*
24 *(autism/behavioral health treatment).*

25 (iii) *Any other benefits mandated to be covered by the plan*
26 *pursuant to statutes enacted before December 31, 2011, as*
27 *described in those statutes.*

28 (iv) *The health benefits covered by the plan that are not*
29 *otherwise required to be covered under Chapter 2.2 (commencing*
30 *with Section 1340) of Division 2 of the Health and Safety Code,*
31 *to the extent otherwise required pursuant to Sections 1367.18,*
32 *1367.21, 1367.215, 1367.22, 1367.24, and 1367.25 of the Health*
33 *and Safety Code, and Section 1300.67.24 of Title 28 of the*
34 *California Code of Regulations.*

35 (v) *Any other health benefits covered by the plan that are not*
36 *otherwise required to be covered under Chapter 2.2 (commencing*
37 *with Section 1340) of Division 2 of the Health and Safety Code.*

38 (B) *Where there are any conflicts or omissions in the plan*
39 *identified in subparagraph (A) as compared with the requirements*
40 *for health benefits under Chapter 2.2 (commencing with Section*

1 1340) of Division 2 of the Health and Safety Code that were
2 enacted prior to December 31, 2011, the requirements of Chapter
3 2.2 (commencing with Section 1340) of Division 2 of the Health
4 and Safety Code shall be controlling, except as otherwise specified
5 in this section.

6 (C) Notwithstanding subparagraph (B) or any other provision
7 of this section, the home health services benefits covered under
8 the plan identified in subparagraph (A) shall be deemed to not be
9 in conflict with Chapter 2.2 (commencing with Section 1340) of
10 Division 2 of the Health and Safety Code.

11 (D) For purposes of this section, the Paul Wellstone and Pete
12 Domenici Mental Health Parity and Addiction Equity Act of 2008
13 (Public Law 110-343) shall apply to a policy subject to this section.
14 Coverage of mental health and substance use disorder services
15 pursuant to this paragraph, along with any scope and duration
16 limits imposed on the benefits, shall be in compliance with the
17 Paul Wellstone and Pete Domenici Mental Health Parity and
18 Addiction Equity Act of 2008 (Public Law 110-343), and all rules,
19 regulations, and guidance issued pursuant to Section 2726 of the
20 federal Public Health Service Act (42 U.S.C. Sec. 300gg-26).

21 (3) With respect to habilitative services, in addition to any
22 habilitative services identified in paragraph (2), coverage shall
23 also be provided as required by federal rules, regulations, or
24 guidance issued pursuant to Section 1302(b) of PPACA.
25 Habilitative services shall be covered under the same terms and
26 conditions applied to rehabilitative services under the policy.
27 Limits on habilitative and rehabilitative services shall not be
28 combined.

29 (4) With respect to pediatric vision care, the same health benefits
30 for pediatric vision care covered under the Federal Employees
31 Dental and Vision Insurance Program vision plan with the largest
32 national enrollment as of the first quarter of 2014. The pediatric
33 vision care services covered pursuant to this paragraph shall be
34 in addition to, and shall not replace, any vision services covered
35 under the plan identified in paragraph (2).

36 (5) With respect to pediatric oral care, the same health benefits
37 for pediatric oral care covered under the dental benefit received
38 by children under Medi-Cal as of 2014, including the provision
39 of medically necessary orthodontic care provided pursuant to the
40 federal Children's Health Insurance Program Reauthorization

1 Act of 2009. The pediatric oral care benefits covered pursuant to
2 this paragraph shall be in addition to, and shall not replace, any
3 dental or orthodontic services covered under the plan identified
4 in paragraph (2).

5 (b) Treatment limitations imposed on health benefits described
6 in this section shall be no greater than the treatment limitations
7 imposed by the corresponding plans identified in subdivision (a),
8 subject to the requirements set forth in paragraph (2) of subdivision
9 (a).

10 (c) Except as provided in subdivision (d), nothing in this section
11 shall be construed to permit a health insurer to make substitutions
12 for the benefits required to be covered under this section,
13 regardless of whether those substitutions are actuarially equivalent.

14 (d) To the extent permitted under Section 1302 of PPACA and
15 any rules, regulations, or guidance issued pursuant to that section,
16 and to the extent that substitution would not create an obligation
17 for the state to defray costs for any individual, an insurer may
18 substitute its prescription drug formulary for the formulary
19 provided under the plan identified in subdivision (a) as long as
20 the coverage for prescription drugs complies with the sections
21 referenced in clauses (ii) and (iv) of subparagraph (A) of
22 paragraph (2) of subdivision (a) that apply to prescription drugs.

23 (e) No health insurer, or its agent, producer, or representative,
24 shall issue, deliver, renew, offer, market, represent, or sell any
25 product, policy, or discount arrangement as compliant with the
26 essential health benefits requirement in federal law, unless it meets
27 all of the requirements of this section. This subdivision shall be
28 enforced in the same manner as Section 790.03, including through
29 the means specified in Sections 790.035 and 790.05.

30 (f) This section shall apply regardless of whether the policy is
31 offered inside or outside the California Health Benefit Exchange
32 created by Section 100500 of the Government Code.

33 (g) Nothing in this section shall be construed to exempt a health
34 insurer or a health insurance policy from meeting other applicable
35 requirements of law.

36 (h) This section shall not be construed to prohibit a policy from
37 covering additional benefits, including, but not limited to, spiritual
38 care services that are tax deductible under Section 213 of the
39 Internal Revenue Code.

40 (i) Subdivision (a) shall not apply to any of the following:

1 (1) A policy that provides excepted benefits as described in
2 Sections 2722 and 2791 of the federal Public Health Service Act
3 (42 U.S.C. Sec. 300gg-21; 42 U.S.C. Sec. 300gg-91).

4 (2) A policy that qualifies as a grandfathered health plan under
5 Section 1251 of PPACA or any binding rules, regulation, or
6 guidance issued pursuant to that section.

7 (j) Nothing in this section shall be implemented in a manner
8 that conflicts with a requirement of PPACA.

9 (k) This section shall be implemented only to the extent essential
10 health benefits are required pursuant to PPACA.

11 (l) An essential health benefit is required to be provided under
12 this section only to the extent that federal law does not require the
13 state to defray the costs of the benefit.

14 (m) Nothing in this section shall obligate the state to incur costs
15 for the coverage of benefits that are not essential health benefits
16 as defined in this section.

17 (n) An insurer is not required to cover, under this section,
18 changes to health benefits that are the result of statutes enacted
19 on or after December 31, 2011.

20 (o) (1) The commissioner may adopt emergency regulations
21 implementing this section. The commissioner may, on a one-time
22 basis, readopt any emergency regulation authorized by this section
23 that is the same as, or substantially equivalent to, an emergency
24 regulation previously adopted under this section.

25 (2) The initial adoption of emergency regulations implementing
26 this section and the readoption of emergency regulations
27 authorized by this subdivision shall be deemed an emergency and
28 necessary for the immediate preservation of the public peace,
29 health, safety, or general welfare. The initial emergency
30 regulations and the readoption of emergency regulations
31 authorized by this section shall be submitted to the Office of
32 Administrative Law for filing with the Secretary of State and each
33 shall remain in effect for no more than 180 days, by which time
34 final regulations may be adopted.

35 (3) The initial adoption of emergency regulations implementing
36 this section made during the 2015–16 Regular Session of the
37 Legislature and the readoption of emergency regulations
38 authorized by this subdivision shall be deemed an emergency and
39 necessary for the immediate preservation of the public peace,
40 health, safety, or general welfare. The initial emergency

1 regulations and the readoption of emergency regulations
2 authorized by this section shall be submitted to the Office of
3 Administrative Law for filing with the Secretary of State and each
4 shall remain in effect for no more than 180 days, by which time
5 final regulations may be adopted.

6 (4) The commissioner shall consult with the Director of the
7 Department of Managed Health Care to ensure consistency and
8 uniformity in the development of regulations under this subdivision.

9 (5) This subdivision shall become inoperative on July 1, 2018.

10 (p) Nothing in this section shall impose on health insurance
11 policies the cost sharing or network limitations of the plans
12 identified in subdivision (a) except to the extent otherwise required
13 to comply with provisions of this code, including this section, and
14 as otherwise applicable to all health insurance policies offered to
15 individuals and small groups.

16 (q) For purposes of this section, the following definitions shall
17 apply:

18 (1) “*Habilitative services*” means health care services and
19 devices that help a person keep, learn, or improve skills and
20 functioning for daily living. Examples include therapy for a child
21 who is not walking or talking at the expected age. These services
22 may include physical and occupational therapy, speech-language
23 pathology, and other services for people with disabilities in a
24 variety of inpatient or outpatient settings, or both. *Habilitative*
25 *services* shall be covered under the same terms and conditions
26 applied to rehabilitative services under the policy.

27 (2) (A) “*Health benefits*,” unless otherwise required to be
28 defined pursuant to federal rules, regulations, or guidance issued
29 pursuant to Section 1302(b) of PPACA, means health care items
30 or services for the diagnosis, cure, mitigation, treatment, or
31 prevention of illness, injury, disease, or a health condition,
32 including a behavioral health condition.

33 (B) “*Health benefits*” does not mean any cost-sharing
34 requirements such as copayments, coinsurance, or deductibles.

35 (3) “*PPACA*” means the federal Patient Protection and
36 Affordable Care Act (Public Law 111-148), as amended by the
37 federal Health Care and Education Reconciliation Act of 2010
38 (Public Law 111-152), and any rules, regulations, or guidance
39 issued thereunder.

1 (4) “Small group health insurance policy” means a group health
2 insurance policy issued to a small employer, as defined in Section
3 10753.

4 SEC. 5. No reimbursement is required by this act pursuant to
5 Section 6 of Article XIII B of the California Constitution because
6 the only costs that may be incurred by a local agency or school
7 district will be incurred because this act creates a new crime or
8 infraction, eliminates a crime or infraction, or changes the penalty
9 for a crime or infraction, within the meaning of Section 17556 of
10 the Government Code, or changes the definition of a crime within
11 the meaning of Section 6 of Article XIII B of the California
12 Constitution.

13 SECTION 1. Section 1367.005 of the Health and Safety Code,
14 as amended by Section 7 of Chapter 572 of the Statutes of 2014,
15 is amended to read:

16 1367.005. (a) An individual or small group health care service
17 plan contract issued, amended, or renewed on or after January 1,
18 2014, shall, at a minimum, include coverage for essential health
19 benefits pursuant to PPACA and as outlined in this section. For
20 purposes of this section, “essential health benefits” means all of
21 the following:

22 (1) Health benefits within the categories identified in Section
23 1302(b) of PPACA: ambulatory patient services, emergency
24 services, hospitalization, maternity and newborn care, mental health
25 and substance use disorder services, including behavioral health
26 treatment, prescription drugs, rehabilitative and habilitative services
27 and devices, laboratory services, preventive and wellness services
28 and chronic disease management, and pediatric services, including
29 oral and vision care.

30 (2) (A) The health benefits covered by the Kaiser Foundation
31 Health Plan Small Group HMO 30 plan (federal health product
32 identification number 40513CA035) as this plan was offered during
33 the first quarter of 2014, as follows, regardless of whether the
34 benefits are specifically referenced in the evidence of coverage or
35 plan contract for that plan:

36 (i) Medically necessary basic health care services, as defined
37 in subdivision (b) of Section 1345 and in Section 1300.67 of Title
38 28 of the California Code of Regulations.

39 (ii) The health benefits mandated to be covered by the plan
40 pursuant to statutes enacted before December 31, 2011, as

1 described in the following sections: Sections 1367.002, 1367.06,
2 and 1367.35 (preventive services for children); Section 1367.25
3 (prescription drug coverage for contraceptives); Section 1367.45
4 (AIDS vaccine); Section 1367.46 (HIV testing); Section 1367.51
5 (diabetes); Section 1367.54 (alpha feto protein testing); Section
6 1367.6 (breast cancer screening); Section 1367.61 (prosthetics for
7 laryngectomy); Section 1367.62 (maternity hospital stay); Section
8 1367.63 (reconstructive surgery); Section 1367.635 (mastectomies);
9 Section 1367.64 (prostate cancer); Section 1367.65
10 (mammography); Section 1367.66 (cervical cancer); Section
11 1367.665 (cancer screening tests); Section 1367.67 (osteoporosis);
12 Section 1367.68 (surgical procedures for jaw bones); Section
13 1367.71 (anesthesia for dental); Section 1367.9 (conditions
14 attributable to diethylstilbestrol); Section 1368.2 (hospice care);
15 Section 1370.6 (cancer clinical trials); Section 1371.5 (emergency
16 response ambulance or ambulance transport services); subdivision
17 (b) of Section 1373 (sterilization operations or procedures); Section
18 1373.4 (inpatient hospital and ambulatory maternity); Section
19 1374.56 (phenylketonuria); Section 1374.17 (organ transplants for
20 HIV); Section 1374.72 (mental health parity); and Section 1374.73
21 (autism/behavioral health treatment).

22 (iii) Any other benefits mandated to be covered by the plan
23 pursuant to statutes enacted before December 31, 2011, as
24 described in those statutes.

25 (iv) The health benefits covered by the plan that are not
26 otherwise required to be covered under this chapter, to the extent
27 required pursuant to Sections 1367.18, 1367.21, 1367.215, 1367.22,
28 1367.24, and 1367.25, and Section 1300.67.24 of Title 28 of the
29 California Code of Regulations.

30 (v) Any other health benefits covered by the plan that are not
31 otherwise required to be covered under this chapter.

32 (B) Where there are any conflicts or omissions in the plan
33 identified in subparagraph (A) as compared with the requirements
34 for health benefits under this chapter that were enacted prior to
35 December 31, 2011, the requirements of this chapter shall be
36 controlling, except as otherwise specified in this section.

37 (C) Notwithstanding subparagraph (B) or any other provision
38 of this section, the home health services benefits covered under
39 the plan identified in subparagraph (A) shall be deemed to not be
40 in conflict with this chapter.

1 ~~(D) For purposes of this section, the Paul Wellstone and Pete~~
2 ~~Domenici Mental Health Parity and Addiction Equity Act of 2008~~
3 ~~(Public Law 110-343) shall apply to a contract subject to this~~
4 ~~section. Coverage of mental health and substance use disorder~~
5 ~~services pursuant to this paragraph, along with any scope and~~
6 ~~duration limits imposed on the benefits, shall be in compliance~~
7 ~~with the Paul Wellstone and Pete Domenici Mental Health Parity~~
8 ~~and Addiction Equity Act of 2008 (Public Law 110-343), and all~~
9 ~~rules, regulations, or guidance issued pursuant to Section 2726 of~~
10 ~~the federal Public Health Service Act (42 U.S.C. Sec. 300gg-26).~~

11 ~~(3) With respect to habilitative services, in addition to any~~
12 ~~habilitative services identified in paragraph (2), coverage shall~~
13 ~~also be provided as required by federal rules, regulations, and~~
14 ~~guidance issued pursuant to Section 1302(b) of PPACA.~~
15 ~~Habilitative services shall be covered under the same terms and~~
16 ~~conditions applied to rehabilitative services under the plan contract.~~
17 ~~For plan years commencing on or after January 1, 2017, limits on~~
18 ~~habilitative and rehabilitative services shall not be combined.~~

19 ~~(4) With respect to pediatric vision care, the same health benefits~~
20 ~~for pediatric vision care covered under the Federal Employees~~
21 ~~Dental and Vision Insurance Program vision plan with the largest~~
22 ~~national enrollment as of the first quarter of 2014. The pediatric~~
23 ~~vision care benefits covered pursuant to this paragraph shall be in~~
24 ~~addition to, and shall not replace, any vision services covered under~~
25 ~~the plan identified in paragraph (2).~~

26 ~~(5) With respect to pediatric oral care, the same health benefits~~
27 ~~for pediatric oral care covered under the dental plan available to~~
28 ~~subscribers of the Healthy Families Program in 2011-12, including~~
29 ~~the provision of medically necessary orthodontic care provided~~
30 ~~pursuant to the federal Children's Health Insurance Program~~
31 ~~Reauthorization Act of 2009. The pediatric oral care benefits~~
32 ~~covered pursuant to this paragraph shall be in addition to, and shall~~
33 ~~not replace, any dental or orthodontic services covered under the~~
34 ~~plan identified in paragraph (2).~~

35 ~~(b) Treatment limitations imposed on health benefits described~~
36 ~~in this section shall be no greater than the treatment limitations~~
37 ~~imposed by the corresponding plans identified in subdivision (a);~~
38 ~~subject to the requirements set forth in paragraph (2) of subdivision~~
39 ~~(a).~~

1 ~~(e) Except as provided in subdivision (d), nothing in this section~~
2 ~~shall be construed to permit a health care service plan to make~~
3 ~~substitutions for the benefits required to be covered under this~~
4 ~~section, regardless of whether those substitutions are actuarially~~
5 ~~equivalent.~~

6 ~~(d) To the extent permitted under Section 1302 of PPACA and~~
7 ~~any rules, regulations, or guidance issued pursuant to that section,~~
8 ~~and to the extent that substitution would not create an obligation~~
9 ~~for the state to defray costs for any individual, a plan may substitute~~
10 ~~its prescription drug formulary for the formulary provided under~~
11 ~~the plan identified in subdivision (a) as long as the coverage for~~
12 ~~prescription drugs complies with the sections referenced in clauses~~
13 ~~(ii) and (iv) of subparagraph (A) of paragraph (2) of subdivision~~
14 ~~(a) that apply to prescription drugs.~~

15 ~~(e) No health care service plan, or its agent, solicitor, or~~
16 ~~representative, shall issue, deliver, renew, offer, market, represent,~~
17 ~~or sell any product, contract, or discount arrangement as compliant~~
18 ~~with the essential health benefits requirement in federal law, unless~~
19 ~~it meets all of the requirements of this section.~~

20 ~~(f) This section shall apply regardless of whether the plan~~
21 ~~contract is offered inside or outside the California Health Benefit~~
22 ~~Exchange created by Section 100500 of the Government Code.~~

23 ~~(g) Nothing in this section shall be construed to exempt a plan~~
24 ~~or a plan contract from meeting other applicable requirements of~~
25 ~~law.~~

26 ~~(h) This section shall not be construed to prohibit a plan contract~~
27 ~~from covering additional benefits, including, but not limited to,~~
28 ~~spiritual care services that are tax deductible under Section 213 of~~
29 ~~the Internal Revenue Code.~~

30 ~~(i) Subdivision (a) shall not apply to any of the following:~~

31 ~~(1) A specialized health care service plan contract.~~

32 ~~(2) A Medicare supplement plan.~~

33 ~~(3) A plan contract that qualifies as a grandfathered health plan~~
34 ~~under Section 1251 of PPACA or any rules, regulations, or~~
35 ~~guidance issued pursuant to that section.~~

36 ~~(j) Nothing in this section shall be implemented in a manner~~
37 ~~that conflicts with a requirement of PPACA.~~

38 ~~(k) This section shall be implemented only to the extent essential~~
39 ~~health benefits are required pursuant to PPACA.~~

1 ~~(l) An essential health benefit is required to be provided under~~
2 ~~this section only to the extent that federal law does not require the~~
3 ~~state to defray the costs of the benefit.~~

4 ~~(m) Nothing in this section shall obligate the state to incur costs~~
5 ~~for the coverage of benefits that are not essential health benefits~~
6 ~~as defined in this section.~~

7 ~~(n) A plan is not required to cover, under this section, changes~~
8 ~~to health benefits that are the result of statutes enacted on or after~~
9 ~~December 31, 2011.~~

10 ~~(o) (1) The department may adopt emergency regulations~~
11 ~~implementing this section. The department may, on a one-time~~
12 ~~basis, readopt any emergency regulation authorized by this section~~
13 ~~that is the same as, or substantially equivalent to, an emergency~~
14 ~~regulation previously adopted under this section.~~

15 ~~(2) The initial adoption of emergency regulations implementing~~
16 ~~this section and the readoption of emergency regulations authorized~~
17 ~~by this subdivision shall be deemed an emergency and necessary~~
18 ~~for the immediate preservation of the public peace, health, safety,~~
19 ~~or general welfare. The initial emergency regulations and the~~
20 ~~readoption of emergency regulations authorized by this section~~
21 ~~shall be submitted to the Office of Administrative Law for filing~~
22 ~~with the Secretary of State and each shall remain in effect for no~~
23 ~~more than 180 days, by which time final regulations may be~~
24 ~~adopted.~~

25 ~~(3) The initial adoption of emergency regulations implementing~~
26 ~~amendments to this section made during the 2015-16 Regular~~
27 ~~Session and the readoption of emergency regulations authorized~~
28 ~~by this subdivision shall be deemed an emergency and necessary~~
29 ~~for the immediate preservation of the public peace, health, safety,~~
30 ~~or general welfare. The initial emergency regulations and the~~
31 ~~readoption of emergency regulations authorized by this section~~
32 ~~shall be submitted to the Office of Administrative Law for filing~~
33 ~~with the Secretary of State and each shall remain in effect for no~~
34 ~~more than 180 days, by which time final regulations may be~~
35 ~~adopted.~~

36 ~~(4) The director shall consult with the Insurance Commissioner~~
37 ~~to ensure consistency and uniformity in the development of~~
38 ~~regulations under this subdivision.~~

39 ~~(5) This subdivision shall become inoperative on July 1, 2018.~~

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

3 ~~(1) “Habilitation services” means health care services and~~
4 ~~devices that help a person keep, learn, or improve skills and~~
5 ~~functioning for daily living. Examples include therapy for a child~~
6 ~~who is not walking or talking at the expected age. These services~~
7 ~~may include physical and occupational therapy, speech-language~~
8 ~~pathology, and other services for people with disabilities in a~~
9 ~~variety of inpatient or outpatient settings, or both. Habilitation~~
10 ~~services shall be covered under the same terms and conditions~~
11 ~~applied to rehabilitative services under the plan contract.~~

12 ~~(2) (A) “Health benefits,” unless otherwise required to be~~
13 ~~defined pursuant to federal rules, regulations, or guidance issued~~
14 ~~pursuant to Section 1302(b) of PPACA, means health care items~~
15 ~~or services for the diagnosis, cure, mitigation, treatment, or~~
16 ~~prevention of illness, injury, disease, or a health condition,~~
17 ~~including a behavioral health condition.~~

18 ~~(B) “Health benefits” does not mean any cost-sharing~~
19 ~~requirements such as copayments, coinsurance, or deductibles.~~

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

25 ~~(4) “Small group health care service plan contract” means a~~
26 ~~group health care service plan contract issued to a small employer,~~
27 ~~as defined in Section 1357.500.~~

28 ~~SEC. 2. Section 10112.27 of the Insurance Code, as amended~~
29 ~~by Section 14 of Chapter 572 of the Statutes of 2014, is amended~~
30 ~~to read:~~

31 ~~10112.27. (a) An individual or small group health insurance~~
32 ~~policy issued, amended, or renewed on or after January 1, 2014,~~
33 ~~shall, at a minimum, include coverage for essential health benefits~~
34 ~~pursuant to PPACA and as outlined in this section. This section~~
35 ~~shall exclusively govern what benefits a health insurer must cover~~
36 ~~as essential health benefits. For purposes of this section, “essential~~
37 ~~health benefits” means all of the following:~~

38 ~~(1) Health benefits within the categories identified in Section~~
39 ~~1302(b) of PPACA: ambulatory patient services, emergency~~
40 ~~services, hospitalization, maternity and newborn care, mental health~~

1 and substance use disorder services, including behavioral health
2 treatment, prescription drugs, rehabilitative and habilitative services
3 and devices, laboratory services, preventive and wellness services
4 and chronic disease management, and pediatric services, including
5 oral and vision care.

6 ~~(2) (A) The health benefits covered by the Kaiser Foundation~~
7 ~~Health Plan Small Group HMO 30 plan (federal health product~~
8 ~~identification number 40513CA035) as this plan was offered during~~
9 ~~the first quarter of 2014, as follows, regardless of whether the~~
10 ~~benefits are specifically referenced in the plan contract or evidence~~
11 ~~of coverage for that plan:~~

12 ~~(i) Medically necessary basic health care services, as defined~~
13 ~~in subdivision (b) of Section 1345 of the Health and Safety Code~~
14 ~~and in Section 1300.67 of Title 28 of the California Code of~~
15 ~~Regulations.~~

16 ~~(ii) The health benefits mandated to be covered by the plan~~
17 ~~pursuant to statutes enacted before December 31, 2011, as~~
18 ~~described in the following sections of the Health and Safety Code:~~
19 ~~Sections 1367.002, 1367.06, and 1367.35 (preventive services for~~
20 ~~children); Section 1367.25 (prescription drug coverage for~~
21 ~~contraceptives); Section 1367.45 (AIDS vaccine); Section 1367.46~~
22 ~~(HIV testing); Section 1367.51 (diabetes); Section 1367.54 (alpha~~
23 ~~feto protein testing); Section 1367.6 (breast cancer screening);~~
24 ~~Section 1367.61 (prosthetics for laryngectomy); Section 1367.62~~
25 ~~(maternity hospital stay); Section 1367.63 (reconstructive surgery);~~
26 ~~Section 1367.635 (mastectomies); Section 1367.64 (prostate~~
27 ~~cancer); Section 1367.65 (mammography); Section 1367.66~~
28 ~~(cervical cancer); Section 1367.665 (cancer screening tests);~~
29 ~~Section 1367.67 (osteoporosis); Section 1367.68 (surgical~~
30 ~~procedures for jaw bones); Section 1367.71 (anesthesia for dental);~~
31 ~~Section 1367.9 (conditions attributable to diethylstilbestrol);~~
32 ~~Section 1368.2 (hospice care); Section 1370.6 (cancer clinical~~
33 ~~trials); Section 1371.5 (emergency response ambulance or~~
34 ~~ambulance transport services); subdivision (b) of Section 1373~~
35 ~~(sterilization operations or procedures); Section 1373.4 (inpatient~~
36 ~~hospital and ambulatory maternity); Section 1374.56~~
37 ~~(phenylketonuria); Section 1374.17 (organ transplants for HIV);~~
38 ~~Section 1374.72 (mental health parity); and Section 1374.73~~
39 ~~(autism/behavioral health treatment).~~

1 ~~(iii) Any other benefits mandated to be covered by the plan~~
2 ~~pursuant to statutes enacted before December 31, 2011, as~~
3 ~~described in those statutes.~~

4 ~~(iv) The health benefits covered by the plan that are not~~
5 ~~otherwise required to be covered under Chapter 2.2 (commencing~~
6 ~~with Section 1340) of Division 2 of the Health and Safety Code,~~
7 ~~to the extent otherwise required pursuant to Sections 1367.18,~~
8 ~~1367.21, 1367.215, 1367.22, 1367.24, and 1367.25 of the Health~~
9 ~~and Safety Code, and Section 1300.67.24 of Title 28 of the~~
10 ~~California Code of Regulations.~~

11 ~~(v) Any other health benefits covered by the plan that are not~~
12 ~~otherwise required to be covered under Chapter 2.2 (commencing~~
13 ~~with Section 1340) of Division 2 of the Health and Safety Code.~~

14 ~~(B) Where there are any conflicts or omissions in the plan~~
15 ~~identified in subparagraph (A) as compared with the requirements~~
16 ~~for health benefits under Chapter 2.2 (commencing with Section~~
17 ~~1340) of Division 2 of the Health and Safety Code that were~~
18 ~~enacted prior to December 31, 2011, the requirements of Chapter~~
19 ~~2.2 (commencing with Section 1340) of Division 2 of the Health~~
20 ~~and Safety Code shall be controlling, except as otherwise specified~~
21 ~~in this section.~~

22 ~~(C) Notwithstanding subparagraph (B) or any other provision~~
23 ~~of this section, the home health services benefits covered under~~
24 ~~the plan identified in subparagraph (A) shall be deemed to not be~~
25 ~~in conflict with Chapter 2.2 (commencing with Section 1340) of~~
26 ~~Division 2 of the Health and Safety Code.~~

27 ~~(D) For purposes of this section, the Paul Wellstone and Pete~~
28 ~~Domenici Mental Health Parity and Addiction Equity Act of 2008~~
29 ~~(Public Law 110-343) shall apply to a policy subject to this section.~~
30 ~~Coverage of mental health and substance use disorder services~~
31 ~~pursuant to this paragraph, along with any scope and duration~~
32 ~~limits imposed on the benefits, shall be in compliance with the~~
33 ~~Paul Wellstone and Pete Domenici Mental Health Parity and~~
34 ~~Addiction Equity Act of 2008 (Public Law 110-343), and all rules,~~
35 ~~regulations, and guidance issued pursuant to Section 2726 of the~~
36 ~~federal Public Health Service Act (42 U.S.C. Sec. 300gg-26).~~

37 ~~(3) With respect to habilitative services, in addition to any~~
38 ~~habilitative services identified in paragraph (2), coverage shall~~
39 ~~also be provided as required by federal rules, regulations, or~~
40 ~~guidance issued pursuant to Section 1302(b) of PPACA.~~

1 ~~Habilitative services shall be covered under the same terms and~~
2 ~~conditions applied to rehabilitative services under the policy. For~~
3 ~~plan years commencing on or after January 1, 2017, limits on~~
4 ~~habilitative and rehabilitative services shall not be combined.~~

5 ~~(4) With respect to pediatric vision care, the same health benefits~~
6 ~~for pediatric vision care covered under the Federal Employees~~
7 ~~Dental and Vision Insurance Program vision plan with the largest~~
8 ~~national enrollment as of the first quarter of 2014. The pediatric~~
9 ~~vision care services covered pursuant to this paragraph shall be in~~
10 ~~addition to, and shall not replace, any vision services covered under~~
11 ~~the plan identified in paragraph (2).~~

12 ~~(5) With respect to pediatric oral care, the same health benefits~~
13 ~~for pediatric oral care covered under the dental plan available to~~
14 ~~subscribers of the Healthy Families Program in 2011–12, including~~
15 ~~the provision of medically necessary orthodontic care provided~~
16 ~~pursuant to the federal Children’s Health Insurance Program~~
17 ~~Reauthorization Act of 2009. The pediatric oral care benefits~~
18 ~~covered pursuant to this paragraph shall be in addition to, and shall~~
19 ~~not replace, any dental or orthodontic services covered under the~~
20 ~~plan identified in paragraph (2).~~

21 ~~(b) Treatment limitations imposed on health benefits described~~
22 ~~in this section shall be no greater than the treatment limitations~~
23 ~~imposed by the corresponding plans identified in subdivision (a);~~
24 ~~subject to the requirements set forth in paragraph (2) of subdivision~~
25 ~~(a).~~

26 ~~(c) Except as provided in subdivision (d), nothing in this section~~
27 ~~shall be construed to permit a health insurer to make substitutions~~
28 ~~for the benefits required to be covered under this section, regardless~~
29 ~~of whether those substitutions are actuarially equivalent.~~

30 ~~(d) To the extent permitted under Section 1302 of PPACA and~~
31 ~~any rules, regulations, or guidance issued pursuant to that section,~~
32 ~~and to the extent that substitution would not create an obligation~~
33 ~~for the state to defray costs for any individual, an insurer may~~
34 ~~substitute its prescription drug formulary for the formulary~~
35 ~~provided under the plan identified in subdivision (a) as long as the~~
36 ~~coverage for prescription drugs complies with the sections~~
37 ~~referenced in clauses (ii) and (iv) of subparagraph (A) of paragraph~~
38 ~~(2) of subdivision (a) that apply to prescription drugs.~~

39 ~~(e) No health insurer, or its agent, producer, or representative,~~
40 ~~shall issue, deliver, renew, offer, market, represent, or sell any~~

1 product, policy, or discount arrangement as compliant with the
2 essential health benefits requirement in federal law, unless it meets
3 all of the requirements of this section. This subdivision shall be
4 enforced in the same manner as Section 790.03, including through
5 the means specified in Sections 790.035 and 790.05.

6 ~~(f) This section shall apply regardless of whether the policy is
7 offered inside or outside the California Health Benefit Exchange
8 created by Section 100500 of the Government Code.~~

9 ~~(g) Nothing in this section shall be construed to exempt a health
10 insurer or a health insurance policy from meeting other applicable
11 requirements of law.~~

12 ~~(h) This section shall not be construed to prohibit a policy from
13 covering additional benefits, including, but not limited to, spiritual
14 care services that are tax deductible under Section 213 of the
15 Internal Revenue Code.~~

16 ~~(i) Subdivision (a) shall not apply to any of the following:~~

17 ~~(1) A policy that provides excepted benefits as described in
18 Sections 2722 and 2791 of the federal Public Health Service Act
19 (42 U.S.C. Sec. 300gg-21; 42 U.S.C. Sec. 300gg-91).~~

20 ~~(2) A policy that qualifies as a grandfathered health plan under
21 Section 1251 of PPACA or any binding rules, regulation, or
22 guidance issued pursuant to that section.~~

23 ~~(j) Nothing in this section shall be implemented in a manner
24 that conflicts with a requirement of PPACA.~~

25 ~~(k) This section shall be implemented only to the extent essential
26 health benefits are required pursuant to PPACA.~~

27 ~~(l) An essential health benefit is required to be provided under
28 this section only to the extent that federal law does not require the
29 state to defray the costs of the benefit.~~

30 ~~(m) Nothing in this section shall obligate the state to incur costs
31 for the coverage of benefits that are not essential health benefits
32 as defined in this section.~~

33 ~~(n) An insurer is not required to cover, under this section,
34 changes to health benefits that are the result of statutes enacted on
35 or after December 31, 2011.~~

36 ~~(o) (1) The commissioner may adopt emergency regulations
37 implementing this section. The commissioner may, on a one-time
38 basis, readopt any emergency regulation authorized by this section
39 that is the same as, or substantially equivalent to, an emergency
40 regulation previously adopted under this section.~~

1 ~~(2) The initial adoption of emergency regulations implementing~~
2 ~~this section and the readoption of emergency regulations authorized~~
3 ~~by this subdivision shall be deemed an emergency and necessary~~
4 ~~for the immediate preservation of the public peace, health, safety,~~
5 ~~or general welfare. The initial emergency regulations and the~~
6 ~~readoption of emergency regulations authorized by this section~~
7 ~~shall be submitted to the Office of Administrative Law for filing~~
8 ~~with the Secretary of State and each shall remain in effect for no~~
9 ~~more than 180 days, by which time final regulations may be~~
10 ~~adopted.~~

11 ~~(3) The initial adoption of emergency regulations implementing~~
12 ~~amendments to this section made during the 2015-16 Regular~~
13 ~~Session and the readoption of emergency regulations authorized~~
14 ~~by this subdivision shall be deemed an emergency and necessary~~
15 ~~for the immediate preservation of the public peace, health, safety,~~
16 ~~or general welfare. The initial emergency regulations and the~~
17 ~~readoption of emergency regulations authorized by this section~~
18 ~~shall be submitted to the Office of Administrative Law for filing~~
19 ~~with the Secretary of State and each shall remain in effect for no~~
20 ~~more than 180 days, by which time final regulations may be~~
21 ~~adopted.~~

22 ~~(4) The commissioner shall consult with the Director of the~~
23 ~~Department of Managed Health Care to ensure consistency and~~
24 ~~uniformity in the development of regulations under this~~
25 ~~subdivision.~~

26 ~~(5) This subdivision shall become inoperative on July 1, 2018.~~

27 ~~(p) Nothing in this section shall impose on health insurance~~
28 ~~policies the cost sharing or network limitations of the plans~~
29 ~~identified in subdivision (a) except to the extent otherwise required~~
30 ~~to comply with provisions of this code, including this section, and~~
31 ~~as otherwise applicable to all health insurance policies offered to~~
32 ~~individuals and small groups.~~

33 ~~(q) For purposes of this section, the following definitions shall~~
34 ~~apply:~~

35 ~~(1) “Habilitative services” means health care services and~~
36 ~~devices that help a person keep, learn, or improve skills and~~
37 ~~functioning for daily living. Examples include therapy for a child~~
38 ~~who is not walking or talking at the expected age. These services~~
39 ~~may include physical and occupational therapy, speech-language~~
40 ~~pathology, and other services for people with disabilities in a~~

1 variety of inpatient or outpatient settings, or both. Habilitative
2 services shall be covered under the same terms and conditions
3 applied to rehabilitative services under the policy.

4 (2) (A) “Health benefits,” unless otherwise required to be
5 defined pursuant to federal rules, regulations, or guidance issued
6 pursuant to Section 1302(b) of PPACA, means health care items
7 or services for the diagnosis, cure, mitigation, treatment, or
8 prevention of illness, injury, disease, or a health condition,
9 including a behavioral health condition.

10 (B) “Health benefits” does not mean any cost-sharing
11 requirements such as copayments, coinsurance, or deductibles.

12 (3) “PPACA” means the federal Patient Protection and
13 Affordable Care Act (Public Law 111-148), as amended by the
14 federal Health Care and Education Reconciliation Act of 2010
15 (Public Law 111-152), and any rules, regulations, or guidance
16 issued thereunder.

17 (4) “Small group health insurance policy” means a group health
18 insurance policy issued to a small employer, as defined in Section
19 10753.

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