

Introduced by Senator MitchellFebruary 25, 2015

An act to amend Section 1363 of the Health and Safety Code, and to amend Section 10603 of the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 388, as introduced, Mitchell. Solicitation and enrollment.

Existing law, the federal Patient Protection and Affordable Care Act (PPACA), requires a group health plan and a health insurance issuer offering group or individual health insurance coverage to provide a written summary of benefits and coverage (SBC) and requires that the SBC be provided in a culturally and linguistically appropriate manner, as specified.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance.

Existing law requires a plan or insurer to provide certain disclosures of the benefits, services, and terms of a contract or policy. Existing law requires that contracts and policies subject to PPACA satisfy certain of those disclosure requirements by providing the SBC required under PPACA. Existing law requires the departments to adopt regulations establishing standards and requirements to provide enrollees and insureds with access to language assistance, including requirements for the translation of vital documents, as specified.

This bill would provide that the SBC constitutes a vital document and would require a plan or insurer to comply with requirements

applicable to those documents. Because a willful violation of those requirements by a health care service plan would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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 1363 of the Health and Safety Code is
2 amended to read:

3 1363. (a) The director shall require the use by each plan of
4 disclosure forms or materials containing information regarding
5 the benefits, services, and terms of the plan contract as the director
6 may require, so as to afford the public, subscribers, and enrollees
7 with a full and fair disclosure of the provisions of the plan in
8 readily understood language and in a clearly organized manner.
9 The director may require that the materials be presented in a
10 reasonably uniform manner so as to facilitate comparisons between
11 plan contracts of the same or other types of plans. Nothing
12 contained in this chapter shall preclude the director from permitting
13 the disclosure form to be included with the evidence of coverage
14 or plan contract.

15 The disclosure form shall provide for at least the following
16 information, in concise and specific terms, relative to the plan,
17 together with additional information as may be required by the
18 director, in connection with the plan or plan contract:

19 (1) The principal benefits and coverage of the plan, including
20 coverage for acute care and subacute care.

21 (2) The exceptions, reductions, and limitations that apply to the
22 plan.

23 (3) The full premium cost of the plan.

24 (4) Any copayment, coinsurance, or deductible requirements
25 that may be incurred by the member or the member’s family in
26 obtaining coverage under the plan.

1 (5) The terms under which the plan may be renewed by the plan
2 member, including any reservation by the plan of any right to
3 change premiums.

4 (6) A statement that the disclosure form is a summary only, and
5 that the plan contract itself should be consulted to determine
6 governing contractual provisions. The first page of the disclosure
7 form shall contain a notice that conforms with all of the following
8 conditions:

9 (A) (i) States that the evidence of coverage discloses the terms
10 and conditions of coverage.

11 (ii) States, with respect to individual plan contracts, small group
12 plan contracts, and any other group plan contracts for which health
13 care services are not negotiated, that the applicant has a right to
14 view the evidence of coverage prior to enrollment, and, if the
15 evidence of coverage is not combined with the disclosure form,
16 the notice shall specify where the evidence of coverage can be
17 obtained prior to enrollment.

18 (B) Includes a statement that the disclosure and the evidence of
19 coverage should be read completely and carefully and that
20 individuals with special health care needs should read carefully
21 those sections that apply to them.

22 (C) Includes the plan's telephone number or numbers that may
23 be used by an applicant to receive additional information about
24 the benefits of the plan or a statement where the telephone number
25 or numbers are located in the disclosure form.

26 (D) For individual contracts, and small group plan contracts as
27 defined in Article 3.1 (commencing with Section 1357), the
28 disclosure form shall state where the health plan benefits and
29 coverage matrix is located.

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

32 (7) A statement as to when benefits shall cease in the event of
33 nonpayment of the prepaid or periodic charge and the effect of
34 nonpayment upon an enrollee who is hospitalized or undergoing
35 treatment for an ongoing condition.

36 (8) To the extent that the plan permits a free choice of provider
37 to its subscribers and enrollees, the statement shall disclose the
38 nature and extent of choice permitted and the financial liability
39 that is, or may be, incurred by the subscriber, enrollee, or a third
40 party by reason of the exercise of that choice.

1 (9) A summary of the provisions required by subdivision (g) of
2 Section 1373, if applicable.

3 (10) If the plan utilizes arbitration to settle disputes, a statement
4 of that fact.

5 (11) A summary of, and a notice of the availability of, the
6 process the plan uses to authorize, modify, or deny health care
7 services under the benefits provided by the plan, pursuant to
8 Sections 1363.5 and 1367.01.

9 (12) A description of any limitations on the patient's choice of
10 primary care physician, specialty care physician, or nonphysician
11 health care practitioner, based on service area and limitations on
12 the patient's choice of acute care hospital care, subacute or
13 transitional inpatient care, or skilled nursing facility.

14 (13) General authorization requirements for referral by a primary
15 care physician to a specialty care physician or a nonphysician
16 health care practitioner.

17 (14) Conditions and procedures for disenrollment.

18 (15) A description as to how an enrollee may request continuity
19 of care as required by Section 1373.96 and request a second opinion
20 pursuant to Section 1383.15.

21 (16) Information concerning the right of an enrollee to request
22 an independent review in accordance with Article 5.55
23 (commencing with Section 1374.30).

24 (17) A notice as required by Section 1364.5.

25 (b) (1) As of July 1, 1999, the director shall require each plan
26 offering a contract to an individual or small group to provide with
27 the disclosure form for individual and small group plan contracts
28 a uniform health plan benefits and coverage matrix containing the
29 plan's major provisions in order to facilitate comparisons between
30 plan contracts. The uniform matrix shall include the following
31 category descriptions together with the corresponding copayments
32 and limitations in the following sequence:

33 (A) Deductibles.

34 (B) Lifetime maximums.

35 (C) Professional services.

36 (D) Outpatient services.

37 (E) Hospitalization services.

38 (F) Emergency health coverage.

39 (G) Ambulance services.

40 (H) Prescription drug coverage.

- 1 (I) Durable medical equipment.
- 2 (J) Mental health services.
- 3 (K) Chemical dependency services.
- 4 (L) Home health services.
- 5 (M) Other.

6 (2) The following statement shall be placed at the top of the
7 matrix in all capital letters in at least 10-point boldface type:

8
9 THIS MATRIX IS INTENDED TO BE USED TO HELP YOU
10 COMPARE COVERAGE BENEFITS AND IS A SUMMARY
11 ONLY. THE EVIDENCE OF COVERAGE AND PLAN
12 CONTRACT SHOULD BE CONSULTED FOR A DETAILED
13 DESCRIPTION OF COVERAGE BENEFITS AND
14 LIMITATIONS.

15
16 (3) (A) A health care service plan contract subject to Section
17 2715 of the federal Public Health Service Act (42 U.S.C. Sec.
18 300gg-15), shall satisfy the requirements of this subdivision by
19 providing the uniform summary of benefits and coverage required
20 under Section 2715 of the federal Public Health Service Act (42
21 U.S.C. Sec. 300gg-15) and any rules or regulations issued
22 thereunder. A health care service plan that issues the uniform
23 summary of benefits referenced in this paragraph shall do both of
24 the following:

25 (i) Ensure that all applicable benefit disclosure requirements
26 specified in this chapter and in Title 28 of the California Code of
27 Regulations are met in other health plan documents provided to
28 enrollees under the provisions of this chapter.

29 (ii) Consistent with applicable law, advise applicants and
30 enrollees, in a prominent place in the plan documents referenced
31 in subdivision (a), that enrollees are not financially responsible in
32 payment of emergency care services, in any amount that the health
33 care service plan is obligated to pay, beyond the enrollee's
34 copayments, coinsurance, and deductibles as provided in the
35 enrollee's health care service plan contract.

36 (B) *The uniform summary of benefits and coverage referenced*
37 *in this paragraph shall constitute a vital document for the purposes*
38 *of Section 1367.04. Not later than January 1, 2016, the department*
39 *shall make available on its Internet Web site written translations*
40 *of the template uniform summary of benefits and coverage. In*

1 *developing the translations, the department shall consider*
2 *subdivision (c) of Section 1367.04.*

3 ~~(B)~~

4 (C) Subdivision (c) shall not apply to a health care service plan
5 contract subject to subparagraph (A).

6 (c) Nothing in this section shall prevent a plan from using
7 appropriate footnotes or disclaimers to reasonably and fairly
8 describe coverage arrangements in order to clarify any part of the
9 matrix that may be unclear.

10 (d) All plans, solicitors, and representatives of a plan shall, when
11 presenting any plan contract for examination or sale to an
12 individual prospective plan member, provide the individual with
13 a properly completed disclosure form, as prescribed by the director
14 pursuant to this section for each plan so examined or sold.

15 (e) In the case of group contracts, the completed disclosure form
16 and evidence of coverage shall be presented to the contractholder
17 upon delivery of the completed health care service plan agreement.

18 (f) Group contractholders shall disseminate copies of the
19 completed disclosure form to all persons eligible to be a subscriber
20 under the group contract at the time those persons are offered the
21 plan. If the individual group members are offered a choice of plans,
22 separate disclosure forms shall be supplied for each plan available.
23 Each group contractholder shall also disseminate or cause to be
24 disseminated copies of the evidence of coverage to all applicants,
25 upon request, prior to enrollment and to all subscribers enrolled
26 under the group contract.

27 (g) In the case of conflicts between the group contract and the
28 evidence of coverage, the provisions of the evidence of coverage
29 shall be binding upon the plan notwithstanding any provisions in
30 the group contract that may be less favorable to subscribers or
31 enrollees.

32 (h) In addition to the other disclosures required by this section,
33 every health care service plan and any agent or employee of the
34 plan shall, when presenting a plan for examination or sale to any
35 individual purchaser or the representative of a group consisting of
36 25 or fewer individuals, disclose in writing the ratio of premium
37 costs to health services paid for plan contracts with individuals
38 and with groups of the same or similar size for the plan's preceding
39 fiscal year. A plan may report that information by geographic area,

1 provided the plan identifies the geographic area and reports
2 information applicable to that geographic area.

3 (i) Subdivision (b) shall not apply to any coverage provided by
4 a plan for the Medi-Cal program or the Medicare program pursuant
5 to Title XVIII and Title XIX of the Social Security Act.

6 SEC. 2. Section 10603 of the Insurance Code, as amended by
7 Section 8 of Chapter 1 of the 1st Extraordinary Session of the
8 Statutes of 2013, is amended to read:

9 10603. (a) (1) On or before April 1, 1975, the commissioner
10 shall promulgate a standard supplemental disclosure form for all
11 disability insurance policies. Upon the appropriate disclosure form
12 as prescribed by the commissioner, each insurer shall provide, in
13 easily understood language and in a uniform, clearly organized
14 manner, as prescribed and required by the commissioner, the
15 summary information about each disability insurance policy offered
16 by the insurer as the commissioner finds is necessary to provide
17 for full and fair disclosure of the provisions of the policy.

18 (2) On and after January 1, 2014, a disability insurer offering
19 health insurance coverage subject to Section 2715 of the federal
20 Public Health Service Act (42 U.S.C. Sec. 300gg-15) shall satisfy
21 the requirements of this section and the implementing regulations
22 by providing the uniform summary of benefits and coverage
23 required under Section 2715 of the federal Public Health Service
24 Act and any rules or regulations issued thereunder. An insurer that
25 issues the federal uniform summary of benefits referenced in this
26 paragraph shall ensure that all applicable disclosures required in
27 this chapter and its implementing regulations are met in other
28 documents provided to policyholders and insureds. An insurer
29 subject to this paragraph shall provide the uniform summary of
30 benefits and coverage to the commissioner together with the
31 corresponding health insurance policy pursuant to Section 10290.

32 (3) *The uniform summary of benefits and coverage referenced*
33 *in this subdivision shall constitute a vital document for the purposes*
34 *of Section 10133.8. Not later than January 1, 2016, the*
35 *commissioner shall make available on its Internet Web site written*
36 *translations of the template uniform summary of benefits and*
37 *coverage. In developing the translations, the commissioner shall*
38 *consider subdivision (c) of Section 10133.8.*

1 (b) Nothing in this section shall preclude the disclosure form
2 from being included with the evidence of coverage or certificate
3 of coverage or policy.

4 SEC. 3. 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.