ASSEMBLY BILL No. 1840

Introduced by Assembly Member Figueroa

February 24, 1995

An act to amend Section 1368 of, and to add Sections 1367.24 and 1371.25 to, the Health and Safety Code, relating to health care service plans.

LEGISLATIVE COUNSEL'S DIGEST

AB 1840, as introduced, Figueroa. Health care service plans: grievances: termination of providers: denial of services.

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 Commissioner of Corporations. Under existing law, violation of the Knox-Keene Health Care Service Plan Act of 1975 is a misdemeanor. Existing law requires plans to establish and maintain a grievance system for enrollees to submit grievances. Existing law requires plans to provide notice to group contract holders of the cancellation of the plan contract. Existing law also provides procedures for the appeal of a contested claim.

This bill would revise the grievance system requirements to include provider grievances. This bill would require plans to notify affected enrollees of the termination of a contract with a provider of the enrollee using specified procedures for notification. It would require review by the commissioner when a plan terminates a health facility or health care provider contract, except as specified. This bill would also prohibit plans and entities employed by plans to review claims

from holding themselves harmless in cases in which denial of services resulted in harm to the patient. By revising the definition of 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:

SECTION 1. Section 1367.24 is added to the Health and Safety Code, immediately following Section 1367.23, to read:

1367.24. (a) A health care service plan shall notify its affected enrollees of the termination of provider contracts between the plan and a health facility or provider rendering health care services.

(1) In the case of a plan that directly provides health care services either through its own staff or through a contract with a group health care service provider or multiple group health care service providers, notice of termination shall be provided by posting a notice in the plan's health facilities within 30 days of the contract termination and by quarterly written notice mailed to all of its enrollees.

(2) In the case of a plan that does not directly provide health care services, notice shall be provided in accordance with all of the following:

(A) By mail within 30 days of the termination of a health care provider's contract to each subscriber or enrollee who is actively receiving services from the provider or if the enrollee or subscriber or any dependent of the enrollee or subscriber has selected the health care provider within the previous 12 months.

(B) By mail within 30 days of the termination of a health facility's contract to each enrollee or subscriber, if the plan allows for direct, nonemergency access to the facility without prior authorization of a health care provider, and the enrollee or subscriber has accessed the facility directly within the previous 12 months.

(C) By quarterly written notice mailed to all of its subscribers.

(b) Except as provided in this subdivision, a plan shall only terminate a health facility or health care provider contract with the review of the commissioner pursuant to subdivision (c). A health care service plan may terminate a health facility or health care provider contract without review of the commissioner if the plan permits the facility or provider to continue to provide health care services to enrollees or subscribers and their dependents, and to be reimbursed for those services, until the plan's current contract with the subscriber has expired. The plan shall not be required to identify the terminated health facility or health care provider in a document issued to enrollees or subscribers if termination occurs in accordance with this section.

(c) A health care service plan may file a notice with the commissioner stating its intent to immediately terminate a contract with a health facility or health care provider. The plan shall mail a copy of the filed notice to the facility or provider. The termination shall not become effective until the expiration of 30 days after the filing of the notice, unless the commissioner gives earlier approval for the termination. If the commissioner is not satisfied that the termination is reasonably necessary and in the best interests of the plan's enrollees, he or she shall notify the plan in writing and, except as provided in subdivision (b), the plan shall not terminate the facility's or provider's contract or deny payment for the provision of covered services to enrollees or subscribers by that facility or provider.

SEC. 2. Section 1368 of the Health and Safety Code is amended to read:

1368. (a) Every plan shall establish and maintain a grievance system *or systems* approved by the department under which enrollees *and providers* may submit their grievances to the plan. Each system shall provide reasonable procedures in accordance with department regulations ~~which~~ *that* shall insure adequate consideration of enrollee *and provider* grievances and rectification when appropriate.

(b) Every plan shall inform its subscribers and enrollees upon enrollment in the plan and annually thereafter*, and its providers upon contract arrangement or affiliation with a plan and annually thereafter,* of the procedure for processing and resolving grievances. ~~Such~~ *The* information shall include the location and telephone number where grievances may be submitted.

(c) Every plan shall provide forms for complaints to be given to subscribers and enrollees who wish to register written complaints. The forms used by plans licensed pursuant to Section 1353 shall be approved by the commissioner in advance as to format.

(d) The plan shall keep in its files all copies of complaints, and the responses thereto, for a period of five years.

(e) The plan shall provide the commissioner with additional information related to individual grievances upon request.

SEC. 3. Section 1371.25 is added to the Health and Safety Code, immediately following Section 1371.2 to read:

1371.25. In contracts with health care providers, health care service plans and entities employed by plans for the purpose of reviewing claims for service shall not hold themselves harmless from liability in cases in which a denial for services resulted in harm to the patient.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty

for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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