AMENDED IN SENATE APRIL 18, 1995

SENATE BILL No. 454

Introduced by Senator Russell
(Coauthor: Senator Rosenthal)

February 16, 1995

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

LEGISLATIVE COUNSEL'S DIGEST

SB 454, as amended, Russell. Health care service plans: grievances.

Existing law provides for the licensure and regulation of health care service plans administered by the Commissioner of Corporations. Under existing law, willful violation of any of these provisions is a misdemeanor. Existing law requires every plan to establish and maintain a grievance system approved by the department under which enrollees may submit grievances to the plan.

This bill would *instead require every plan to establish and maintain grievance systems and would* require the expansion of the grievance system to also allow the submission of grievances to the plan by providers. By changing the definition of a crime, this bill would impose a state-mandated local program.

This bill would also allow ~~providers,~~ subscribers~~,~~ and enrollees*, or their family members or agents,* to submit a grievance to the Department of Corporations for review after compliance with certain procedures*, and would require the*

plan to provide notice of this right to subscribers or enrollees in a prescribed manner.

This bill would authorize a provider to join with, or otherwise assist, a subscriber or enrollee in submitting the grievance or complaint to the department and to assist with the department's grievance process. The bill would require the department to review the documents submitted, would authorize the department to request additional information and to hold meetings with the parties, and would require the department to send a written report of its conclusions and proposed actions to the ~~provider,~~ subscriber~~,~~ or enrollee, *or their family member or agent,* and the plan within 60 calendar days.

The bill would also authorize the subscriber or enrollee, or their family member or agent, to request voluntary mediation with the plan prior to exercising their right to submit a complaint or grievance to the department, and would provide that choosing to use mediation services would not affect that right.

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 1368 of the Health and Safety Code is amended to read:

1368. (a) Every plan shall do all of the following:

(1) Establish and maintain ~~a grievance system~~ *grievance 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 shall insure adequate consideration of

enrollee and provider grievances and rectification when appropriate.

(2) Inform its providers, subscribers, and enrollees upon enrollment in the plan and annually thereafter of the procedure for processing and resolving grievances. The information shall include the location and telephone number where grievances may be submitted.

(3) Provide forms for complaints to be given to providers, 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.

(4) Keep in its files all copies of complaints, and the responses thereto, for a period of five years.

~~(b) (1) A provider, subscriber, or enrollee may, after complying with subdivision (a), submit the grievance or complaint to the department for review.~~

~~(2) The department shall review the written documents submitted with the provider's, subscriber's, or enrollee's request for review, may ask for additional information, and may hold an informal meeting with the involved parties. The department shall send a written report of its conclusions, reasons, and proposed action to the provider, subscriber, or enrollee and the plan within 60 calendar days of receipt of the request for review from the provider, subscriber, or enrollee.~~

(b) (1) After either completing the grievance process set forth in subdivision (a), or participating in the process for at least 30 days, a subscriber or enrollee may submit the grievance or complaint to the department for review. In any case determined by the department to be an emergency, the requirement of at least 30 days participation in the grievance process or completion of the process prior to submitting the grievance or complaint to the department shall be waived by the department.

(2) A family member, or other legally authorized agent of the subscriber or enrollee may submit the grievance or complaint to the department on behalf of the subscriber or enrollee. Further, a provider may join

with, or otherwise assist, a subscriber or enrollee, or the family member or agent, to submit the grievance or complaint to the department. In addition, following submission of the grievance or complaint to the department, the subscriber or enrollee, or the family member or agent, may authorize the provider to assist, including advocating on behalf of the subscriber or enrollee before the department.

(3) Every health care service plan regulated by the department shall prominently display in every plan contract, on enrollee and subscriber evidence of coverage forms, on the complaint forms required under paragraph (3) of subdivision (a), and on all written responses to grievances and complaints, a notice of the right to submit unresolved grievances and complaints to the department for review.

(4) The department shall review the written documents submitted with the subscriber's or the enrollee's request for review, or submitted by a family member or agent on behalf of the subscriber or enrollee. The department may ask for additional information, and may hold an informal meeting with the involved parties, including providers who have joined in submitting the grievance or complaint, or who are otherwise assisting or advocating on behalf of the subscriber or enrollee. The department shall send a written report of its conclusions, reasons, and proposed action to the subscriber or enrollee, the family member or agent, to any provider that has joined with or is otherwise assisting the subscriber or enrollee, and to the plan, within 60 calendar days of receipt of the request for review.

(5) A subscriber or enrollee, or the family member or agent acting on behalf of a subscriber or enrollee, may request voluntary mediation with the plan prior to exercising the right to submit a grievance or complaint to the department. The use of mediation services shall not preclude the right to submit a grievance or complaint to the department upon completion of mediation. Further, a grievance or complaint may be submitted to the department for review and resolution prior to any

arbitration that is required to be followed in the event the plan's grievance process is unsuccessful.

SEC. 2. 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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