

AMENDED IN SENATE JULY 11, 1997
AMENDED IN SENATE JUNE 30, 1997
AMENDED IN ASSEMBLY APRIL 9, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 742

Introduced by Assembly Member Washington

February 26, 1997

An act to add Section 1367.09 to the Health and Safety Code, relating to health care service plans.

LEGISLATIVE COUNSEL'S DIGEST

AB 742, as amended, Washington. Health care service plans.

Under existing law, the Health Care Service Plan Act of 1975, health care service plans are regulated by the Department of Corporations. Willful violation of the act is a crime.

This bill would require an enrollee of a health care service plan who has Medicare coverage and is discharged from an acute care hospital to be allowed to return to a ~~freestanding~~ skilled nursing facility, as defined, that serves the needs of special populations in which the enrollee resided for at least 60 days prior to hospitalization, or *the skilled nursing unit of* a continuing care retirement community, as defined, or multilevel facility, as defined, in which the enrollee is a resident, if certain conditions are met. The bill would require the health care service plan to reimburse the facility to which

the patient returns at ~~the a negotiated rate applicable to similar skilled nursing coverage for facilities participating in the plan.~~

By changing the definition of 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. The Legislature finds and declares all of
2 the following:

3 (a) Elderly persons and their families may select
4 nursing facilities as a permanent home when their health
5 status and functional limitations make it difficult for them
6 to remain in the community. In addition, some elderly
7 persons select continuing care retirement communities
8 in advance of the need for care and services with the
9 expectation that the continuing care retirement
10 community will provide for their health and long-term
11 care needs, if and when they need services, according to
12 the provisions of their contract and financial
13 arrangement with the facility.

14 (b) Health care service plan contracts that require
15 enrollees be placed in a skilled nursing facility
16 participating in the plan can disrupt the residential
17 arrangements of elderly and disabled persons and
18 interfere with continuing care contracts.

19 ~~(e) Elderly persons are often not adequately informed
20 or aware of these possible future consequences of their
21 enrollment in a Medicare HMO.~~

22 ~~(d)~~

23 (c) As of September 1996, there were 1.4 million
24 Medicare beneficiaries enrolled in Medicare HMO plans



1 in California, representing 37 percent of the more than
2 3.8 million Medicare beneficiaries eligible. Medicare
3 HMO enrollment rates in California have been increasing
4 at more than 20 percent per year since 1994, with nearly
5 300,000 new Medicare enrollees in health care service
6 plans in 1996 alone.

7 ~~(e)~~

8 (d) It is therefore the intent of the Legislature to enact
9 reasonable protections to allow elderly and disabled
10 enrollees to return to their residence, whether it be a
11 freestanding skilled nursing facility, multilevel facility, or
12 continuing care retirement community.

13 SEC. 2. Section 1367.09 is added to the Health and
14 Safety Code, to read:

15 1367.09. (a) An enrollee with coverage for Medicare
16 benefits who is discharged from an acute care hospital
17 shall be allowed to return to a ~~freestanding~~ skilled nursing
18 facility in which the enrollee resided prior to
19 hospitalization, or *the skilled nursing unit of* a continuing
20 care retirement community or multilevel facility in
21 which the enrollee is a resident, if all of the following
22 conditions are met:

23 (1) The enrollee is a resident of a continuing care
24 retirement community, as defined in paragraph (10) of
25 subdivision (a) of Section 1771, or is a resident of a
26 multilevel facility, as defined in paragraph (9) of
27 subdivision (d) of Section 15432 of the Government
28 Code, or has resided for at least 60 days in a skilled nursing
29 facility, as defined in Section 1250, that serves the needs
30 of special populations, including religious and cultural
31 groups.

32 (2) The primary care physician, and the treating
33 physician if appropriate, *in consultation with the patient,*
34 determines that the medical care needs of the enrollee,
35 *including continuity of care,* can be met in the skilled
36 nursing facility, *or the skilled nursing unit of the*
37 continuing care retirement community, or multilevel
38 facility. *If a determination not to return the patient to the*
39 *facility is made, the physician shall document reasons in*



1 *the patient's medical record and share that written*
2 *explanation with the patient.*

3 (3) The skilled nursing facility, continuing care
4 retirement facility, or multilevel facility *is within the*
5 *service area and agrees to abide by the plan's standards*
6 *and terms and conditions related to the following:*

7 (A) Utilization review, quality assurance, peer review,
8 and access to health care services.

9 (B) Management and administrative procedures,
10 including data and financial reporting that may be
11 required by the plan.

12 (C) Licensing and certification as required by Section
13 1367.

14 (D) Appropriate certification of the facility by the
15 Health Care Financing Administration or other federal
16 and state agencies.

17 (4) The skilled nursing facility, multilevel facility, or
18 continuing care retirement community agrees to accept
19 ~~reimbursement from the health care service plan at the~~
20 ~~rate applicable to similar skilled nursing coverage or~~
21 ~~facilities participating in the plan.~~ *reimbursement at a*
22 *rate negotiated in good faith by the health care service*
23 *plan or designated agent on an individual, per enrollee,*
24 *contractual basis. Reimbursement shall not necessarily be*
25 *based on actual costs and may be comparable to similar*
26 *skilled nursing facility reimbursement methods available*
27 *for other plan contracted facilities available to the*
28 *individual member.*

29 (b) The health care service plan, *or designated agent,*
30 shall be required to reimburse the skilled nursing facility,
31 continuing care retirement facility, or multilevel facility
32 at the rate ~~applicable to similar skilled nursing coverage~~
33 ~~for facilities participating in the plan.~~ *agreed to in*
34 *paragraph (4) of subdivision (a).*

35 (c) Nothing in this section requires a skilled nursing
36 facility, continuing care retirement facility, or multilevel
37 facility to accept as a skilled nursing unit patient anyone
38 other than a resident of the facility.

39 SEC. 3. No reimbursement is required by this act
40 pursuant to Section 6 of Article XIII B of the California



1 Constitution because the only costs that may be incurred
2 by a local agency or school district will be incurred
3 because this act creates a new crime or infraction,
4 eliminates a crime or infraction, or changes the penalty
5 for a crime or infraction, within the meaning of Section
6 17556 of the Government Code, or changes the definition
7 of a crime within the meaning of Section 6 of Article
8 XIII B of the California Constitution.

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

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