

AMENDED IN SENATE JULY 10, 1997
AMENDED IN ASSEMBLY APRIL 16, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 974

Introduced by Assembly Member Gallegos

(Principal coauthor: Senator Leslie)

**(Coauthors: Assembly Members Alquist, Aroner, Bordonaro,
Cunneen, Kuehl, Machado, and Murray) Bordonaro,
Cardoza, Cunneen, Kuehl, Machado, Murray, and Wayne)**

(Coauthor: Senator Watson)

February 27, 1997

An act to add Section 1367.22 to the Health and Safety Code, relating to health care service plans.

LEGISLATIVE COUNSEL'S DIGEST

AB 974, as amended, Gallegos. Health care service plans: prescription drug benefits.

Under existing law, the Knox-Keene 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.

Existing law requires health care service plans to furnish services in a manner providing continuity of care and to be able to demonstrate to the department that medical decisions are rendered by qualified medical providers, unhindered by fiscal and administrative management.

This bill would require, for health care service plan contracts covering prescription drug benefits issued, amended, or renewed on or after January 1, 1998, that drug therapy regimens, as described, be included within the services for which continuity of care is required, that the choice of drug therapy regimen be included in the meaning of medical decisions, and that coverage for a drug not be limited or excluded for an enrollee if the drug had previously been approved for the enrollee as part of an ongoing drug therapy regimen *and the drug is considered safe and effective for treatment*. It would prohibit construing this provision as precluding the prescribing physician from prescribing an alternative drug therapy that is covered by the plan and is medically appropriate.

Existing law prohibits any plan from being issued, amended, delivered, or renewed in this state if the plan limits or excludes coverage for a drug on the basis that the drug is prescribed for a use that is different from the use for which that drug has been approved for marketing by the federal Food and Drug Administration.

This bill would provide that coverage for those different-use drugs is controlled by those provisions of existing law and not by this bill.

The bill would also require every health care service plan that covers prescription drug benefits to comply with certain requirements regarding notice to enrollees ~~of the use of and content of~~ regarding whether the plan uses a formulary. *The bill would require plans that use a formulary to provide an enrollee or prospective enrollee, upon request, a list of all of the drugs contained in the plan's formulary, and would require the plan to provide access to a toll-free telephone number for information, by telephone, about whether specific drugs are on the plan's formulary.*

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. Section 1367.22 is added to the Health
2 and Safety Code, to read:

3 1367.22. (a) All of the following shall apply to a health
4 care service plan contract, issued, amended, or renewed
5 on or after January 1, 1998, that covers prescription drug
6 benefits:

7 (1) Drug therapy regimens shall be included within
8 the services for which continuity of care is required by
9 subdivision (d) of Section 1367.

10 (2) The choice of drug therapy regimen shall be
11 included within the meaning of medical decisions as used
12 in subdivision (g) of Section 1367.

13 (3) Coverage for a drug shall not be limited or
14 excluded for an enrollee if the drug had previously been
15 approved for coverage by the plan for the enrollee and is
16 part of an ongoing drug therapy regimen, *provided that*
17 *the drug is appropriately prescribed and is considered*
18 *safe and effective for treating the enrollee's medical*
19 *condition.* Nothing in this section shall preclude the
20 prescribing physician and surgeon from prescribing an
21 alternative drug therapy covered by the plan that is
22 medically appropriate for the enrollee.

23 (4) *This section does not control coverage for any drug*
24 *that is prescribed for a use that is different from the use*
25 *for which that drug has been approved for marketing by*
26 *the federal Food and Drug Administration. Coverage for*
27 *different-use drugs is controlled by Section 1367.21.*

28 (b) For purposes of this section, “drug therapy
29 regimen” shall include a single medication or
30 combination of medications, prescribed by a person
31 authorized to write a prescription pursuant to Section
32 4059 of the Business and Professions Code, to treat a
33 medical condition of an enrollee.



1 (c) Every health care service plan that covers
2 prescription drug benefits shall comply with all of the
3 following requirements:

4 (1) Provide notice in the evidence of coverage and
5 disclosure form to enrollees regarding ~~the use of~~ *whether*
6 *the plan uses* a formulary. The notice shall be in language
7 that is easily understood and in a format that is easy to
8 understand. The notice shall include an explanation of
9 what a formulary is, how the plan determines which
10 prescription drugs are included or excluded, and how
11 often the plan reviews the contents of the formulary.
12 Every plan shall provide notice to enrollees regarding the
13 rights of an enrollee when the enrollee's health care
14 provider prescribes a drug that does not appear on the
15 plan's formulary.

16 (2) Furnish to any prospective or current enrollee,
17 ~~upon request, a current copy of the plan's formulary, and~~
18 ~~furnish to any prospective or current enrollee, upon~~
19 ~~request, the list of~~ *upon request, the list of all of the* drugs
20 contained in the plan's formulary by major therapeutic
21 category. Enrollees or prospective enrollees shall be
22 informed that the presence of a drug on the plan's
23 formulary does not guarantee that the enrollee will be
24 prescribed that drug by his or her physician and surgeon
25 for a particular medical condition.

26 (3) Provide ~~access~~ to prospective or current enrollees,
27 ~~through a toll-free phone number, to~~ *by telephone,*
28 information regarding whether a specific drug or drugs
29 is on the plan's formulary. Notice of this requirement,
30 including the plan's ~~toll-free~~ phone number, shall be
31 included in the notice required by paragraph (1).

32 SEC. 2. No reimbursement is required by this act
33 pursuant to Section 6 of Article XIII B of the California
34 Constitution because the only costs that may be incurred
35 by a local agency or school district will be incurred
36 because this act creates a new crime or infraction,
37 eliminates a crime or infraction, or changes the penalty
38 for a crime or infraction, within the meaning of Section
39 17556 of the Government Code, or changes the definition



1 of a crime within the meaning of Section 6 of Article
2 XIII B of the California Constitution.
3 Notwithstanding Section 17580 of the Government
4 Code, unless otherwise specified, the provisions of this act
5 shall become operative on the same date that the act
6 takes effect pursuant to the California Constitution.

O

