

AMENDED IN SENATE JUNE 15, 2000

AMENDED IN SENATE MAY 18, 2000

AMENDED IN SENATE AUGUST 26, 1999

AMENDED IN SENATE AUGUST 18, 1999

AMENDED IN SENATE JUNE 9, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1455

**Introduced by Assembly Member Scott
(Principal coauthor: Assembly Member Knox)**

February 26, 1999

An act to add Section 1371.9 to the Health and Safety Code, relating to health care service plans.

LEGISLATIVE COUNSEL'S DIGEST

AB 1455, as amended, Scott. Health care service plans: unfair trade or business practices.

The Knox-Keene Health Care Service Plan Act of 1975 provides for the regulation and licensure of health care service plans by the Department of Managed Care, effective no later than July 1, 2000, or earlier pursuant to an executive order of the Governor, and makes the willful violation of the provisions of this act a crime. Under existing law, the director of the department is required to administer and enforce the act and is provided with certain powers in this respect, including the power to conduct investigations affecting the interests of plans, subscribers, enrollees, and the public; to

audit the books and records of plans; to hold public hearings, to issue subpoenas, to take testimony, and to compel the production of books, papers, documents, and other evidence.

This bill would authorize a plan enrollee, an enrollee's representative, or an enrollee's provider to petition the director to investigate an allegation that a health care service plan has engaged in an unfair trade or business practice, as defined, in its reimbursement of a provider of health care services and would require the director, as he or she deems necessary, to investigate the allegation, conduct a hearing or an audit, and subpoena witnesses and documents to determine whether the plan committed an unfair trade or business practice. This bill would authorize the director to ~~fine~~ *annually audit* a health care service plan that he or she determines has committed an unfair trade or business practice ~~and would authorize the department to audit the plan annually~~, as specified, to verify whether it engaged in further unfair trade or business practices. This bill would *authorize the director to* require a plan found as a result of this audit to have engaged in that practice to ~~reimburse, for a specified period, 70% of the total amount of each claim submitted by a provider within 10 days of the plan's receipt of the provider's claim~~ *make specified claims reimbursements to providers*.

Because this bill would add to the act specified reimbursement ~~requirements~~ *provisions* for plans found during these audits to have committed further unfair trade or business practices, a willful violation of which would be a crime, this bill would expand the scope of an existing crime and thereby 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 1371.9 is added to the Health and
2 Safety Code, to read:

3 1371.9. (a) An enrollee, an enrollee’s representative,
4 or an enrollee’s provider may petition the director to
5 investigate an allegation that a health care service plan
6 has engaged in an unfair trade or business practice, as
7 defined in this section, in its reimbursement of a provider.

8 (b) An unfair trade or business practice includes all of
9 the following:

10 ~~(1) Practices set forth in Chapter 5 (commencing with~~
11 ~~Section 17200) of Division 7 of the Business and~~
12 ~~Professions Code.~~

13 ~~(2) Failure to reimburse providers within the~~
14 ~~timeframes set forth in Section 1371.~~

15 ~~(3) Repeated failures to reimburse the undisputed~~
16 ~~portion of a claim pursuant to Section 1371.~~

17 ~~(4) A repeated delay or a pattern of delaying the~~
18 ~~reimbursement of claims for administrative errors or~~
19 ~~omissions of a nonsubstantive or technical nature.~~

20 ~~(5) Repeated failures to reimburse substantially~~
21 ~~complete claims.~~

22 ~~(6) Substantial deviation from the timely~~
23 ~~reconciliation of risk pools, withholds, and other~~
24 ~~risk-based arrangements with providers.~~

25 *(1) A pattern, practice, or scheme that results in a*
26 *failure to reimburse a provider within the timeframes set*
27 *forth in Section 1371.*

28 *(2) A pattern, practice, or scheme to delay, deny, or*
29 *otherwise reduce the reimbursement amount of a*
30 *provider’s claim for administrative errors or omissions of*
31 *a nonsubstantive, technical, or clerical nature.*

32 *(3) A pattern, practice, or scheme to delay the*
33 *reconciliation of risk based reimbursement arrangements*
34 *with providers.*

35 (c) After receipt of a petition to investigate an
36 allegation of an unfair trade or business practice by a
37 health care service plan, the director shall, as the director
38 deems necessary, as authorized by Section 1346,



1 investigate; audit; conduct a hearing; subpoena witnesses;
2 take testimony; compel the production of books, papers,
3 documents; and other evidence to obtain information
4 required to ~~enforce the provisions of this section~~
5 *determine whether or not a health care service plan has*
6 *engaged in an unfair trade or business practice.*

7 ~~(d) If the director determines that a health care~~
8 ~~service plan has engaged in an unfair trade or business~~
9 ~~practice, the director may fine the plan not less than two~~
10 ~~thousand five hundred dollars (\$2,500) for each unfair~~
11 ~~trade or business practice committed by the plan. If the~~
12 ~~director determines as a result of a subsequent petition~~
13 ~~that the health care service plan has engaged in an unfair~~
14 ~~trade or business practice, the director may fine the plan~~
15 ~~not less than twenty five thousand dollars (\$25,000) for~~
16 ~~each of the unfair trade or business practices committed~~
17 ~~by the plan. If the director determines as a result of any~~
18 ~~further petitions that the health care service plan has~~
19 ~~engaged in an unfair trade or business practice, the~~
20 ~~director may fine the plan not less than two hundred fifty~~
21 ~~thousand dollars (\$250,000) for each of the unfair trade or~~
22 ~~business practices committed by the plan.~~

23 ~~(e) The department shall annually audit each health~~
24 ~~care service plan that the director previously determined~~
25 ~~has engaged in an unfair trade or business practice for a~~
26 ~~period not to exceed five years from the time of the~~
27 ~~director's determination to verify the plan has not~~
28 ~~engaged in further unfair trade or business practices.~~
29 ~~Notwithstanding any other powers or remedies available~~
30 ~~to the director, if the director determines as a result of the~~
31 ~~audit that the plan has engaged in an unfair trade or~~
32 ~~business practice, the plan shall for a period not to exceed~~
33 ~~five years from the date of the director's determination,~~
34 ~~or for a shorter period prescribed by the director,~~
35 ~~reimburse 70 percent of the total amount of each claim~~
36 ~~submitted by a provider within ten days of the plan's~~
37 ~~receipt of the provider's claim. Each health care service~~
38 ~~plan audited pursuant to this subdivision shall reimburse~~
39 ~~the department for all costs incurred by the department~~
40 ~~in conducting the audit.~~



1 ~~(f)~~
2 ~~(d)~~ In addition to any other powers or remedies
3 available to the director, the director may ~~issue an order~~
4 ~~directing a health care service plan to cease and desist~~
5 ~~from engaging in any unfair trade or business practice, as~~
6 ~~determined by the director. Nothing in this section shall~~
7 ~~be construed as affecting the director's authority~~
8 ~~pursuant to Article 7 (commencing with Section 1386) or~~
9 ~~Article 8 (commencing with Section 1390).~~

10 ~~(g)~~ *annually audit each health care service plan that*
11 *has previously been determined by the director to have*
12 *engaged in an unfair trade or business practice, for a*
13 *period not to exceed five years from the date of the*
14 *director's determination, or for a shorter period*
15 *prescribed by the director, in order to verify that the plan*
16 *has not engaged in further unfair trade or business*
17 *practices. Notwithstanding any other powers or remedies*
18 *available to the director, if the director determines that*
19 *a health care service plan has engaged in an unfair trade*
20 *or business practice, the director may require the plan to*
21 *reimburse 70 percent of the total amount of each claim*
22 *submitted by a provider, or 100 percent of the*
23 *plan-provider contract amount, whichever is greater,*
24 *within 10 days of the plan's receipt of the provider's claim,*
25 *for a period not to exceed five years from the date of the*
26 *director's determination, or for a shorter period*
27 *prescribed by the director. The director may also issue an*
28 *order directing a health care service plan to cease and*
29 *desist from engaging in any unfair trade or business*
30 *practice, as determined by the director. Nothing in this*
31 *section shall be construed as affecting the director's*
32 *authority pursuant to Article 7 (commencing with*
33 *Section 1386) or Article 8 (commencing with Section*
34 *1390).*

35 ~~(e)~~ The enforcement remedies provided in this
36 section are not exclusive and shall not limit or preclude
37 the use of any other criminal, civil, or administrative
38 remedy otherwise available.

39 ~~(h)~~



1 (f) In addition to any other authority granted to the
2 director or department, the director is authorized to
3 study and evaluate other methods that may be available
4 to enforce the law relating to unfair trade or business
5 practices and may promulgate regulations pertaining to
6 those methods.

7 SEC. 2. No reimbursement is required by this act
8 pursuant to Section 6 of Article XIII B of the California
9 Constitution because the only costs that may be incurred
10 by a local agency or school district will be incurred
11 because this act creates a new crime or infraction,
12 eliminates a crime or infraction, or changes the penalty
13 for a crime or infraction, within the meaning of Section
14 17556 of the Government Code, or changes the definition
15 of a crime within the meaning of Section 6 of Article
16 XIII B of the California Constitution.

