

AMENDED IN SENATE APRIL 15, 1999

SENATE BILL

No. 1181

Introduced by Senator Knight
(Coauthor: Senator Rainey)
(Coauthor: Assembly Member Strom-Martin)

February 26, 1999

An act to ~~add Section 1367.03 to~~ amend Sections 1352, 1357.11 and 1357.53 of, and to add Sections 1357.115, 1357.535, 1367.03, and 1367.04 to, the Health and Safety Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 1181, as amended, Knight. Health care service plans: withdrawal from a service area.

Existing law provides for the licensure and regulation of health care service plans by the Department of Corporations. The willful violation of these provisions is a crime. ~~Existing~~

Existing law requires a health care service plan, prior to any material modifications of its plan or operations, to give notice to the Commissioner of Corporations. Existing law requires the commissioner, within 20 business days of the notice, or the additional time that the plan may specify, to by order approve, disapprove, suspend, or postpone the effectiveness of the change.

This bill would instead provide that the commissioner may specify the additional time for an order to approve, disapprove, suspend, or postpone the effectiveness of the change.

This bill would provide that it shall be a material modification under this provision for a plan to withdraw from a service area. The bill would extend the time period within which the commissioner may act to within 90 days of the notice or the additional time that the commissioner may specify upon receiving notice regarding the withdrawal of a plan from a service area.

Existing law requires all health care service contracts offered to a small employer and all group health benefit plans to be renewable, except in certain circumstances, including that the plan is withdrawing a specified health care plan contract or a group health benefit plan from the market. However, in this case, existing law requires the plan to notify affected contractholders or employers and the commissioner at least 90 days prior to the discontinuation of those contracts.

This bill would require these plans to notify affected contractholders, employers, and the commissioner at least 120 days prior to the discontinuation of contracts in cases in which the plan is withdrawing these plan contracts from the market. The bill would require the notice to include a telephone number to contact the department and a telephone number to contact the plan with any questions or complaints with regard to the withdrawal of the plan from a service area.

Under existing law, it is an exception to the contract renewal requirement if there is noncompliance with the health care service plan's participation requirements or with a material plan contract provision of the group health benefit plan.

This bill would provide that when a health care service plan or group benefit plan proposes to make any change, including any reduction in or reorganization of the service area for which it provides coverage, that would make any enrollee to which the contract applies ineligible for renewal, including by virtue of noncompliance with a plan's participation requirements or with a material plan contract provision, because they are no longer in the service area for which the plan provides coverage, the plan shall be subject to notification requirements and restrictions on cancellation as provided under the bill.



Existing law requires, as a part of the application for licensure, a health care service plan to submit a statement describing the service area or areas to be served, including the service location for each provider rendering professional services on behalf of the plan and the location of any other plan facilities where required by the commissioner. Existing law requires a health care service plan to furnish services in a manner providing continuity of care and ready referral of patients to other providers at times as may be appropriate consistent with good professional practice.

~~Existing law requires all health care service plans to be renewable, except in certain circumstances, including that the health care service plan is withdrawing a group health benefit plan contract from the market. However, in this case, existing law requires the plan to notify affected contractholders or employers and the commissioner at least 90 days prior to the discontinuation of those contracts.~~

This bill would provide that it shall be a violation of the requirements of the act to furnish services in a manner providing continuity of care and ready referral of patients to other providers if the plan has not participated in good faith negotiations with medical service providers in the health care service plan prior to notifying the commissioner that the plan intends to withdraw from a service area or if, as a result of the withdrawal from a service area, less than 80% of the plan's members in the affected service area will have access to continuity of care at the same or equivalent levels at comparable costs. *The bill would prohibit the commissioner from approving the withdrawal of a plan from a service area if either one or both of these conditions apply.*

The bill would require the department to conduct public hearings upon receiving notification from a health care service plan that it intends to withdraw from a service area.

The bill would require the department to maintain all documents related to the request of a health care service plan to withdraw from a service area in one location and allow the public to have reasonable opportunity to review the contents of these documents.

The bill would require the department to submit an annual report to the Legislature that evaluates issues related to the



provision of health care to rural areas, in particular whether health care service plans are providing adequate health care services in rural areas.

By changing the requirements of a health care service plan, this bill would change the definition of a crime, thereby imposing 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 1352 of the Health and Safety*
 2 *Code is amended to read:*
 3 1352. (a) A licensed plan shall, within 30 days after
 4 any change in the information contained in its
 5 application, other than financial or statistical information,
 6 file an amendment thereto in the manner the
 7 commissioner may by rule prescribe setting forth the
 8 changed information. However, the addition of any
 9 association, partnership, or corporation in a controlling,
 10 controlled, or affiliated status relative to the plan shall
 11 necessitate filing, within a 30-day period of an
 12 authorization for disclosure to the commissioner of
 13 financial records of the person pursuant to Section 7473
 14 of the Government Code.
 15 (b) (1) Prior to any material modification of its plan
 16 or operations, a plan shall give notice thereof to the
 17 commissioner, who shall, within 20 business days or ~~such~~
 18 ~~any additional time~~—*as that the plan commissioner may*
 19 *specify, by order approve, disapprove, suspend, or*
 20 *postpone the effectiveness of any—such the change, except*
 21 *as provided in paragraph (2) and subject to Section 1354.*
 22



1 @@@(2) *It shall be a material modification*
2 *requiring notice pursuant to paragraph (1) for a plan to*
3 *withdraw from a service area. If the material modification*
4 *is to withdraw from a service area, the commissioner shall,*
5 *within 90 days of the notice, or the additional time that*
6 *the commissioner may specify, by order approve,*
7 *disapprove, suspend, or postpone the effectiveness of the*
8 *change, subject to Section 1354.*

9 (c) A plan shall, within five days, give written notice
10 to the commissioner in the form as by rule may be
11 prescribed, of any change in the officers, directors,
12 partners, controlling shareholders, principal creditors, or
13 persons occupying similar positions or performing similar
14 functions, of the plan and of any management company
15 of the plan, and of any parent company of the plan or
16 management company. The commissioner may by rule
17 define the positions, duties, and relationships which are
18 referred to in this subdivision.

19 (d) The fee for filing a notice of major modification
20 pursuant to subdivision (b) shall be the actual cost to the
21 commissioner of processing the notice, including
22 overhead, but shall not exceed seven hundred fifty dollars
23 (\$750).

24 *SEC. 2. Section 1357.11 of the Health and Safety Code*
25 *is amended to read:*

26 1357.11. All health care service plan contracts offered
27 to a small employer shall be renewable with respect to all
28 eligible employees or dependents at the option of the
29 contractholder or small employer except:

30 (a) For nonpayment of the required premiums by the
31 contractholder or small employer.

32 (b) For fraud or misrepresentation by the
33 contractholder or small employer or, with respect to
34 coverage of individuals, the individuals or their
35 representatives.

36 (c) For noncompliance with a plan's participation or
37 employer contribution requirements at the time of
38 renewal.

39 (d) When the plan ceases to provide or arrange for the
40 provision of health care services for new small employer



1 health care service plan contracts in this state; ~~provided,~~
2 ~~however, that~~ if the following conditions are satisfied:

3 (1) (A) Notice of the decision to cease new or existing
4 small employer health benefits plans in this state is
5 provided to the commissioner, *all affected enrollees*, and
6 to either the contractholder or small employer at least 180
7 days prior to the discontinuation of the coverage.

8 (B) *The notice provided to all affected enrollees*
9 *pursuant to this paragraph shall include both a telephone*
10 *number to contact the department and a telephone*
11 *number to contact the health care service plan with any*
12 *questions or complaints with regard to the withdrawal of*
13 *the health care service plan from the service area.*

14 (2) Small employer health care service plan contracts
15 subject to this chapter shall not be canceled for 180 days
16 after the date of the notice required under paragraph (1)
17 and for that business of a plan which remains in force, any
18 plan that ceases to offer for sale new small employer
19 health care service plan contracts shall continue to be
20 governed by this article with respect to business
21 conducted under this article.

22 (3) Except as authorized under subdivision (d) of
23 Section 1357.09 and Section 1357.10, a plan that ceases to
24 write new small employer business in this state after the
25 effective date of this article shall be prohibited from
26 offering for sale new small employer health care service
27 plan contracts in this state for a period of five years from
28 the date of notice to the commissioner.

29 (e) (1) When the plan withdraws a health care
30 service plan contract from the small employer market;
31 ~~provided, the.~~ *However, the plan notifies shall notify* all
32 affected contractholders ~~or~~ small employers, and the
33 commissioner at least ~~90~~ 120 days prior to the
34 discontinuation of those contracts, and the plan ~~makes~~
35 *shall make* available to the small employer all plan
36 contracts that it makes available to new small employer
37 business; ~~and provided, that the.~~ *In addition, the*
38 *premium for the new plan contract complies shall comply*
39 with the renewal increase requirements set forth in
40 Section 1357.12.



1 (2) *The notice to affected contractholders and*
2 *employers shall include both a telephone number to*
3 *contact the department and a telephone number to*
4 *contact the health care service plan with any questions or*
5 *complaints with regard to the withdrawal of the plan*
6 *from a service area.*

7 *SEC. 3. Section 1357.115 is added to the Health and*
8 *Safety Code, immediately following Section 1357.11, to*
9 *read:*

10 *1357.115. Notwithstanding Section 1357.11, when a*
11 *health care service plan contract offered to a small*
12 *employer proposes to make any change, including any*
13 *reduction in or reorganization of, the service area for*
14 *which it provides coverage, that would make any enrollee*
15 *to which the contract applies ineligible for renewal,*
16 *including by virtue of noncompliance with the plan's*
17 *participation requirements pursuant to subdivision (c) of*
18 *Section 1357.11, because they are no longer in the service*
19 *area for which the health care service plan provides*
20 *coverage, the health care service plan shall comply with*
21 *all of the following requirements:*

22 *(a) (1) Provide notice of the specific proposed*
23 *change in the service area to the commissioner, all*
24 *affected enrollees, and to either the contractholder or*
25 *small employer at least 180 days prior to the*
26 *implementation of the change and any related refusal to*
27 *renew.*

28 *(2) The notice required under this subdivision shall*
29 *include both a telephone number to contact the*
30 *department and a telephone number to contact the plan*
31 *with any questions or complaints with regard to the*
32 *change in the service area for which the health care*
33 *service plan provides coverage.*

34 *(b) Withhold the cancellation of a health care service*
35 *plan contract subject to this section for 180 days after the*
36 *date of the notice required under subdivision (a) or until*
37 *the end of the term of contract, whichever comes later.*

38 *SEC. 4. Section 1357.53 of the Health and Safety Code*
39 *is amended to read:*



1 1357.53. All group health benefit plans shall be
2 renewable with respect to the contractholder or
3 employer except as follows:

4 (a) For nonpayment of the required premiums by the
5 contractholder or employer.

6 (b) For fraud or other intentional misrepresentation
7 of material fact by the contractholder or employer.

8 (c) For noncompliance with a material plan contract
9 provision.

10 (d) If the plan ceases to provide or arrange for the
11 provision of health care services for new health benefit
12 plans in the state; ~~provided, however, that~~ if the following
13 conditions are satisfied:

14 (1) (A) Notice of the decision to cease new or existing
15 group health benefit plans in the state shall be provided
16 to the commissioner; *all affected enrollees*, and to either
17 the contractholder or employer at least 180 days prior to
18 discontinuation of this coverage.

19 (B) *The notice provided to all affected enrollees*
20 *pursuant to this paragraph shall include both a telephone*
21 *number to contact the department and a telephone*
22 *number to contact the health care service plan with any*
23 *questions or complaints with regard to the withdrawal of*
24 *the health care service plan from the service area.*

25 (2) Group health benefit plans shall not be canceled
26 for 180 days after the date of the notice required under
27 paragraph (1) and for that business of a plan that remains
28 in force, any plan that ceases to offer for sale new group
29 health benefit plans shall continue to be governed by this
30 section with respect to business conducted under this
31 section.

32 (3) Except as authorized under subdivision (d) of
33 Section 1357.09 and Section 1357.10, a plan that ceases to
34 write new group health benefit plans in this state after the
35 effective date of this section shall be prohibited from
36 offering for sale group health benefit plans in this state for
37 a period of five years from the date of notice to the
38 commissioner.

39 (e) (1) If the plan withdraws a group health benefit
40 plan from the market; ~~provided, that the~~. *However, the*



1 plan ~~notifies~~ shall notify all affected contractholders ~~or~~
2 employers, and the commissioner at least ~~90~~ 120 days
3 prior to the discontinuation of these plans, and ~~that the~~
4 ~~plan makes~~ shall make available to the employer all
5 health benefit plans that it makes available to new
6 employer business without regard to the claims
7 experience or health-related factors of enrollees.

8 (2) The notice to affected contractholders and
9 employers shall include both a telephone number to
10 contact the department and a telephone number to
11 contact the health care service plan with any questions or
12 complaints with regard to the withdrawal of the plan
13 from a service area.

14 SEC. 5. Section 1357.535 is added to the Health and
15 Safety Code, immediately following Section 1357.53, to
16 read:

17 1357.535. Notwithstanding Section 1357.53, when a
18 group benefit plan proposes to make any change,
19 including any reduction in or reorganization of, the
20 service area for which it provides coverage, that would
21 make any enrollee to which the contract applies ineligible
22 for renewal, including by virtue of noncompliance with
23 a material plan contract provision pursuant to subdivision
24 (c) of Section 1357.53, because they are no longer in the
25 service area for which the plan provides coverage, the
26 plan shall comply with all of the following requirements:

27 (a) (1) Provide notice of the specific proposed
28 change in the service area to the commissioner, all
29 affected enrollees, and to either the contractholder or
30 employer at least 180 days prior to the implementation of
31 the change and any related refusal to renew.

32 (2) The notice required under this subdivision shall
33 include both a telephone number to contact the
34 department and a telephone number to contact the plan
35 with any questions or complaints with regard to the
36 change in the service area for which the health care
37 service plan provides coverage.

38 (b) Withhold the cancellation of a plan contract
39 subject to this section for 180 days after the date of the



1 *notice required under subdivision (a) or until the end of*
2 *the term of contract, whichever comes later.*

3 *SEC. 6. Section 1367.03 is added to the Health and*
4 *Safety Code, to read:*

5 *1367.03. (a) The department shall issue a public*
6 *notice and conduct public hearings upon receiving*
7 *notification from a health care service plan that it intends*
8 *to withdraw from a service area.*

9 *(b) The department shall maintain all documents*
10 *related to the request of a health care service plan to*
11 *withdraw from a service area in one location. The*
12 *department shall allow the public to have reasonable*
13 *opportunity to review the contents of these documents.*

14 *(c) The department shall submit an annual report to*
15 *the Legislature that evaluates issues related to the*
16 *provision of health care to rural areas. In particular, the*
17 *report shall assess whether health care service plans are*
18 *providing adequate health care services in service areas*
19 *located in rural areas. The report shall include, but not be*
20 *limited to, all of the following:*

21 *(1) The number of health care service plans that have*
22 *submitted requests to withdraw from a service area.*

23 *(2) The length of time it takes the department to*
24 *approve the request for, and the health care service plan*
25 *to implement, the withdrawal from a service area.*

26 *(3) The number of consumer complaints associated*
27 *with the withdrawal of a health care service plan from a*
28 *service area.*

29 *(4) How consumer complaints associated with the*
30 *withdrawal of a health care service plan from a service*
31 *area are handled by the health care service plan and the*
32 *department and the length of time it takes to resolve and*
33 *close a consumer complaint.*

34 *SEC. 7. Section 1367.04 is added to the Health and*
35 *Safety Code, to read:*

36 *1367.04. (a) The following shall be a violation of the*
37 *requirements of subdivision (d) of Section 1367 to furnish*
38 *services in a manner providing continuity of care and*
39 *ready referral of patients to other providers:*



1 (1) The health care service plan has not participated
2 in good faith negotiations, *including, but not limited to,*
3 *participation in the dispute resolution mechanism*
4 *required pursuant to subdivision (h) of Section 1367,* with
5 medical service providers in the health care service plan
6 prior to notifying the commissioner that the plan intends
7 to withdraw from a service area.

8 (2) As a result of the withdrawal from a service area,
9 less than 80 percent of the plan's members in the affected
10 service area, *as demonstrated by the health care service*
11 *plan,* will have access to continuity of care at the same or
12 equivalent levels at comparable costs.

13 ~~SEC. 2.—~~

14 (b) *The commissioner may not by order approve,*
15 *pursuant to subdivision (b) of Section 1352, the material*
16 *modification of a health care service plan to withdraw*
17 *from a service area if paragraph (1), paragraph (2), or*
18 *both paragraphs (1) and (2), of subdivision (a), apply to*
19 *the plan that intends to withdraw from a service area.*

20 SEC. 8. No reimbursement is required by this act
21 pursuant to Section 6 of Article XIII B of the California
22 Constitution because the only costs that may be incurred
23 by a local agency or school district will be incurred
24 because this act creates a new crime or infraction,
25 eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section
27 17556 of the Government Code, or changes the definition
28 of a crime within the meaning of Section 6 of Article
29 XIII B of the California Constitution.

