

**Introduced by Senator Schiff**

January 31, 2000

An act to amend and renumber Section 13933 of the Health and Safety Code, relating to health care service plans.

LEGISLATIVE COUNSEL'S DIGEST

SB 1401, as introduced, Schiff. Health care service plans.

Existing law establishes the responsibilities of a health care service plan with respect to disputed health care services for its enrollees.

This bill would correct an erroneous section number assigned to that provision and would delete an obsolete condition affecting the operation of that provision.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 13933 of the Health and Safety  
2 Code is amended and renumbered to read:  
3 ~~(1374.34)~~ 13933 1374.34. (a) Upon receiving the  
4 decision adopted by the director pursuant to Section  
5 1374.33 that a disputed health care service is medically  
6 necessary, the plan shall immediately contact the  
7 enrollee and offer to promptly implement the decision.  
8 (b) A plan shall not engage in any conduct that has the  
9 effect of prolonging the independent review process. The  
10 engaging in that conduct or the failure of the plan to  
11 promptly implement the decision is a violation of this



1 chapter and, in addition to any other fines, penalties, and  
2 other remedies available to the director under this  
3 chapter, the plan shall be subject to an administrative  
4 penalty of not less than five thousand dollars (\$5,000) for  
5 each day that the decision is not implemented.  
6 Administrative penalties shall be deposited in the State  
7 Managed Care Fund.

8 (c) In any case where an enrollee secured urgent care  
9 or emergency services outside of the plan provider  
10 network, which services are later found by the  
11 independent medical review organization to have been  
12 medically necessary pursuant to Section 1374.33, the  
13 director shall require the plan to promptly reimburse the  
14 enrollee for any reasonable costs associated with those  
15 services when the director finds that the enrollee's  
16 decision to secure the services outside of the plan  
17 provider network prior to completing the plan grievance  
18 process or seeking an independent medical review was  
19 reasonable under the circumstances and the disputed  
20 health care services were a covered benefit under the  
21 terms and conditions of the health care service plan  
22 contract.

23 (d) In addition to requiring plan compliance  
24 regarding subdivisions (a), (b), and (c) the director shall  
25 review individual cases submitted for independent  
26 medical review to determine whether any enforcement  
27 actions, including penalties, may be appropriate. In  
28 particular, where substantial harm to an enrollee has  
29 already occurred because of the decision of a plan, or one  
30 of its contracting providers, to delay, deny, or modify  
31 covered health care services that an independent  
32 medical review determines to be medically necessary  
33 pursuant to Section 1374.33, the director shall impose  
34 penalties.

35 (e) Pursuant to Section 1368.04, the director shall  
36 perform an annual audit of independent medical review  
37 cases for the dual purposes of education and the  
38 opportunity to determine if any investigative or  
39 enforcement actions should be undertaken by the  
40 department, particularly if a plan repeatedly fails to act



1 promptly and reasonably to resolve grievances associated  
2 with a delay, denial, or modification of medically  
3 necessary health care services when the obligation of the  
4 plan to provide those health care services to enrollees or  
5 subscribers is reasonably clear.

6 (f) This section shall become operative on January 1,  
7 2001, ~~and then only if Assembly Bill 55 of the 1999-2000~~  
8 ~~Regular Session is enacted.~~

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