AMENDED IN SENATE AUGUST 20, 2010

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CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL No. 2093

Introduced by Assembly Member V. Manuel Pérez
(Coauthors: Assembly Members Blumenfield, Fletcher, and Jones)

February 18, 2010

An act to amend Section 1367.36 of~~, and to add Section 1367.37 to,~~ the Health and Safety Code, and to add Section 10123.56 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 2093, as amended, V. Manuel Pérez. Immunizations for children: reimbursement of physicians.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of that act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law requires every health care service plan or health insurer that covers hospital, medical, or surgical expenses on a group basis to provide certain preventive health care benefits for children, including immunizations. Existing law prohibits a risk-based contract between a health care service plan and a physician or physician group from including a provision requiring the physician or physician group to assume financial risk for

the acquisition costs of required immunizations for children and specifies the reimbursement rate with respect to immunizations that are not part of the current contract between a health care service plan and a physician or physician group.

This bill would prohibit a plan from requiring a physician or physician group to assume financial risk for the acquisition or administration costs of required immunizations and would require a health care service plan or health insurer that provides coverage for childhood and adolescent immunizations to include in its reimbursement of a physician or physician group a reimbursement for the cost of administration of the vaccine, as specified. The bill would specify that these requirements would not apply to services provided pursuant to contracts or policies with the Board of Administration of the Public Employees' Retirement System or to services provided pursuant to Medi-Cal or the Healthy Families Program. The bill would make other related changes.

~~The bill would prohibit a health care service plan contract or health insurance policy providing coverage for childhood or adolescent immunizations from imposing a deductible, copayment, coinsurance, or other cost-sharing mechanism for the administration of a childhood or adolescent immunization or for related procedures. The bill would also prohibit those contracts or policies from containing a dollar limit provision for the administration of childhood and adolescent immunizations or including the cost of those immunizations in a dollar limit provision. The bill would specify that these prohibitions do not apply to services provided pursuant to Medi-Cal or the Healthy Families Program.~~

Because a willful violation of the bill's requirements relative to health care service plans would be 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:

SECTION 1. The Legislature finds and declares all of the following:

(a) Pediatric immunizations proved to be one of the most successful, safe, and cost-effective public health interventions of the 20th century. Worldwide, millions of childhood deaths are prevented by vaccinations every year. Vaccine-preventable disease levels are at or near record lows.

(b) Vaccines are among the most cost-effective components of preventive medical care. In 2003, the federal Centers for Disease Control and Prevention estimated a direct cost savings of six dollars and thirty cents ($6.30) for every dollar spent on vaccinations. If societal costs are factored in, the savings increase to eighteen dollars and forty cents ($18.40) per dollar spent.

(c) Due to increasing numbers of approved and recommended life-saving vaccines, as well as increasing prices, pediatric vaccine acquisition costs have increased dramatically in recent years and could triple by the year 2020.

(d) Physicians typically face higher vaccine prices than large public purchasers and usually lose money when they provide immunizations due to under-reimbursement, which may discourage physicians from purchasing adequate doses to meet the demand in their practices. This trend could shift the burden of vaccine financing to parents' out-of-pocket expenses or to local public health clinics or other public programs.

(e) As small businesses, physicians face severe financial strain when they continue to absorb the unreimbursed costs associated with vaccine acquisition and administration. The purchase of vaccines is the single most expensive part of a pediatric or family practice. When providers are not adequately reimbursed to cover the direct and indirect costs of providing immunizations, the viability of their practice is threatened.

(f) Insured children and their families can face financial barriers to immunization such as deductibles, copayments, and other out-of-pocket expenses.

(g) Unvaccinated children can contract a dangerous or life-threatening disease at any time in their lives. In order to effectively protect the public health, it is imperative that we ensure

continued access to disease-preventing vaccines in order to achieve maximum immunization for infants, children, and adolescents.

(h) Therefore, in order to maximize immunization rates to protect individual children and the general population from existing and emerging communicable diseases, it is the intent of the Legislature to ensure that physicians are fully reimbursed for the costs to acquire and administer recommended vaccines and that out-of-pocket expenses do not deter parents from immunizing their children.

(i) The Legislature further recognizes the importance of the California Immunization Registry in maximizing immunization rates and supports and encourages physicians and their specialty societies in efforts to increase physician participation in the registry.

SEC. 2. Section 1367.36 of the Health and Safety Code is amended to read:

1367.36. (a) A contract between a health care service plan and a physician or physician group that is issued, amended, delivered, or renewed in this state on or after January 1, 2011, shall not include a provision that requires a physician or a physician group to assume financial risk for the acquisition costs or administration costs, as defined in subdivision (b), of required immunizations for children as a condition of accepting the contract. A physician or physician group shall not be required to assume financial risk for immunizations, regardless of whether those immunizations are part of the current contract.

(b) A health care service plan that provides coverage for childhood and adolescent immunizations ~~pursuant to Section 1367.3 or 1367.35~~ shall include in its reimbursement of a physician or physician group a reimbursement for the administration cost of the vaccine. For purposes of this section, the administration cost of the vaccine, which includes physician time, clinical staff time, and office staff time, as well as other practice expenses associated with providing the immunization such as storage, insurance, supplies, and medical equipment, shall be an amount not less than that specified in the most current annual Medicare physician fee schedule published pursuant to Section 1395w-4(b)(1) of Title 42 of the United States Code.

(c) With respect to immunizations for children that are not part of the current contract between a health care service plan and a

physician or physician group, the health care service plan shall reimburse a physician or physician group at the lowest of the following, until the contract is renegotiated: (1) the physician's actual acquisition cost, (2) the "average wholesale price" as published in the Drug Topics Red Book, or (3) the lowest acquisition cost through sources made available to the physician by the health care service plan. Reimbursements pursuant to this subdivision shall be made within 45 days of receipt by the plan of documents from the physician or physician group demonstrating that the immunizations were performed, consistent with Section 1371 or through an alternative funding mechanism mutually agreed to by the health care service plan and the physician or physician group. The alternative funding mechanism shall be based on reimbursements consistent with this subdivision.

(d) Physician groups may assume financial risk for the acquisition costs and administration costs, as defined in subdivision (b), of providing required immunizations if the immunizations have experiential data that has been negotiated and agreed upon by the health care service plan and the physician group*, or if the physician group contracts with a health care service plan that has an exclusive contract with that physician group to serve a specific geographic area to provide or arrange for professional medical services for the enrollees of the plan*. However, a health care service plan shall not require a physician group to accept financial risk or impose additional risk on a physician group in violation of subdivision (a) or (b).

(e) A health care service plan shall not include the acquisition costs or administration costs, as defined in subdivision (b), associated with required immunizations for children in the capitation rate of a physician who is individually capitated.

(f) The amendments to this section by the act adding this subdivision shall not apply to services provided pursuant to any of the following:

(1) Health care service plan contracts entered into with the Board of Administration of the Public Employees' Retirement System pursuant to the Public Employees' Medical and Hospital Care Act (Part 5 (commencing with Section 22750) of Division 5 of Title 2 of the Government Code).

(2) Contracts entered into pursuant to Chapter 7 (commencing with Section 14000) of, or Chapter 8 (commencing with Section

14200) of, Part 3 of Division 9 of the Welfare and Institutions Code between the State Department of Health Care Services and health care service plans for enrolled Medi-Cal beneficiaries.

(3) Contracts entered into pursuant to Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code between the Managed Risk Medical Insurance Board and health care service plans for enrolled Healthy Families beneficiaries.

~~SEC. 3. Section 1367.37 is added to the Health and Safety Code, to read:~~

~~1367.37. (a) A health care service plan contract issued, amended, or renewed on or after January 1, 2011, that provides coverage for childhood and adolescent immunizations pursuant to Section 1367.3 or 1367.35 shall not do either of the following:~~

~~(1) Impose a deductible, copayment, coinsurance, or other cost-sharing mechanism for the administration of a childhood or adolescent immunization or for procedures related to that administration. Nothing in this paragraph prohibits charging a deductible, copayment, coinsurance, or other cost-sharing mechanism for procedures, services, or treatment unrelated to an immunization.~~

~~(2) Contain a dollar limit provision for the administration of childhood and adolescent immunizations or include the cost of those immunizations in a dollar limit provision of the contract.~~

~~(b) This section shall not apply to services provided pursuant to either of the following:~~

~~(1) Contracts entered into pursuant to Chapter 7 (commencing with Section 14000) of, or Chapter 8 (commencing with Section 14200) of, Part 3 of Division 9 of the Welfare and Institutions Code between the State Department of Health Care Services and health care service plans for enrolled Medi-Cal beneficiaries.~~

~~(2) Contracts entered into pursuant to Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code between the Managed Risk Medical Insurance Board and health care service plans for enrolled Healthy Families beneficiaries.~~

~~SEC. 4.~~

SEC. 3. Section 10123.56 is added to the Insurance Code, to read:

10123.56. (a) A health insurer that provides coverage for childhood and adolescent immunizations ~~pursuant to Section 10123.5 or 10123.55~~ shall include in its reimbursement of a

physician or physician group a reimbursement for the cost of administration of the vaccine. For purposes of this section, the cost of administration of the vaccine, which includes physician time, clinical staff time, and office staff time, as well as other practice expenses associated with providing the immunization such as storage, insurance, supplies, and medical equipment, shall be an amount not less than that specified in the most current annual Medicare physician fee schedule published pursuant to Section 1395w-4(b)(1) of Title 42 of the United States Code.

~~(b) A health insurance policy issued, amended, or renewed on or after January 1, 2011, that provides coverage for childhood and adolescent immunizations pursuant to Section 10123.5 or 10123.55 shall not do either of the following:~~

~~(1) Impose a deductible, copayment, coinsurance, or other cost-sharing mechanism for the administration of a childhood or adolescent immunization or for procedures related to that administration. Nothing in this paragraph prohibits charging a deductible, copayment, coinsurance, or other cost-sharing mechanism for procedures, services, or treatment unrelated to an immunization.~~

~~(2) Contain a dollar limit provision for the administration of childhood and adolescent immunizations or include the cost of those immunizations in a dollar limit provision of the contract.~~

~~(c) Subdivision (a) shall not apply to services provided pursuant to health insurance policies entered into with the Board of Administration of the Public Employees' Retirement System pursuant to the Public Employees' Medical and Hospital Care Act (Part 5 (commencing with Section 22750) of Division 5 of Title 2 of the Government Code).~~

~~(d)~~

(b) This section shall not apply to services provided pursuant to ~~either~~ *any* of the following:

(1) Health insurance policies entered into with the Board of Administration of the Public Employees' Retirement System pursuant to the Public Employees' Medical and Hospital Care Act (Part 5 (commencing with Section 22750) of Division 5 of Title 2 of the Government Code).

~~(1)~~

(2) Contracts entered into pursuant to Chapter 7 (commencing with Section 14000) of, or Chapter 8 (commencing with Section

14200) of, Part 3 of Division 9 of the Welfare and Institutions Code between the State Department of Health Care Services and health insurers for enrolled Medi-Cal beneficiaries.

~~(2)~~

(3) Contracts entered into pursuant to Part 6.2 (commencing with Section 12693) between the Managed Risk Medical Insurance Board and health insurers for enrolled Healthy Families beneficiaries.

~~SEC. 5.~~

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CORRECTIONS:

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