

Introduced by Senator Corbett

February 23, 2009

An act to add Section 1367.49 to the Health and Safety Code, and to add Section 10117.6 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 196, as introduced, Corbett. Health care coverage: provider contracts.

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 the act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance.

This bill would prohibit a contract between a health care provider and a health care service plan or a health insurer from containing a provision that restricts the ability of the plan or insurer to furnish information on the cost of procedures, as defined, or information on health care quality to subscribers, enrollees, policyholders, or insureds. If the health care quality information is quality of care data compiled by the plan or insurer, the bill would require plans and insurers to involve health care providers in the development of the information and to provide affected health care providers an opportunity to review the information prior to furnishing it to subscribers, enrollees, policyholders, or insureds, as specified, and would also require that information to be based on specified guidelines and to be updated at appropriate intervals. The bill would also prohibit a health care service plan or health care provider from disclosing negotiated capitation rates or other prepaid arrangements to enrollees or subscribers.

Because a willful violation of the bill's provisions relating to health care service plans would be a crime, this 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 1367.49 is added to the Health and Safety
- 2 Code, to read:
- 3 1367.49. (a) A contract between a health care service plan and
- 4 a health care provider that is issued, amended, renewed, or
- 5 delivered on or after January 1, 2010, shall not contain any
- 6 provision that restricts the ability of the health care service plan
- 7 to furnish information on the cost of procedures or information
- 8 about health care quality to subscribers or enrollees of the plan.
- 9 (b) If the health care quality information that the health care
- 10 service plan proposes to disclose pursuant to subdivision (a) is
- 11 quality of care data that the health care service plan has compiled,
- 12 all of the following requirements shall be satisfied:
- 13 (1) The information shall be based on nationally recognized
- 14 evidence-based or consensus-based clinical recommendations or
- 15 guidelines. When available, a plan shall use measures endorsed
- 16 by the National Quality Forum or other entities whose work in the
- 17 area of quality performance is generally accepted in the health care
- 18 industry. A plan shall utilize risk adjustment factors, with
- 19 appropriate and transparent statistical techniques, to account for
- 20 differences in the use of health care resources among individual
- 21 health care providers.
- 22 (2) The information shall be updated at appropriate intervals.
- 23 (3) The health care service plan shall, prior to furnishing the
- 24 information to its enrollees or subscribers, do both of the following:
- 25 (A) Involve health care providers in the development of the
- 26 information.

1 (B) Provide all of the following to any affected health care
2 provider:

3 (i) At least 45 days written notice to review the information.

4 (ii) The criteria used in the development and evaluation of
5 quality measurements. The criteria shall be sufficiently detailed
6 and reasonably understandable to allow the provider to verify the
7 data against his or her records.

8 (iii) An explanation to the provider that he or she has the right
9 to correct errors and seek review of the data and that he or she may
10 submit any additional information for consideration. The health
11 care service plan shall provide a reasonable, prompt, and
12 transparent appeal process. If a provider makes a timely appeal,
13 the plan shall make no changes to its current information about
14 the provider until the appeal is completed.

15 (c) A health care service plan or health care provider shall not
16 disclose negotiated capitation rates or other prepaid arrangements
17 to subscribers or enrollees of the plan.

18 (d) Nothing in this section shall apply to specialized health care
19 service plans covering dental benefits.

20 (e) Any contractual provision inconsistent with this section shall
21 be void and unenforceable.

22 (f) For purposes of this section, the following definitions shall
23 apply:

24 (1) "Information on the cost of procedures" means information
25 that an enrollee or subscriber of a health care service plan may use
26 to make comparisons among individual health care providers or
27 health care facilities concerning the cost to the enrollee or
28 subscriber of health care treatment options. A health care service
29 plan shall, to the extent possible, display inpatient facility treatment
30 costs that are associated with a given episode of care, including,
31 but not limited to, diagnostic tests, prescription drugs, hospital
32 days, and physician fees.

33 (2) "Health care provider" means any professional person,
34 medical group, independent practice association, organization,
35 health facility, other than a long-term health care facility as defined
36 in Section 1418, or other person or institution licensed or
37 authorized by the state to deliver or furnish health care services.

38 SEC. 2. Section 10117.6 is added to the Insurance Code, to
39 read:

1 10117.6. (a) A contract between a health insurer and a health
2 care provider that is issued, amended, renewed, or delivered on or
3 after January 1, 2010, shall not contain any provision that restricts
4 the ability of the health insurer to furnish information on the cost
5 of procedures or information about health care quality to
6 policyholders or insureds of the insurer.

7 (b) If the health care quality information that the health insurer
8 proposes to disclose pursuant to subdivision (a) is quality of care
9 data that the health insurer has compiled, all of the following
10 requirements shall be satisfied:

11 (1) The information shall be based on nationally recognized
12 evidence-based or consensus-based clinical recommendations or
13 guidelines. When available, an insurer shall use measures endorsed
14 by the National Quality Forum or other entities whose work in the
15 area of quality performance is generally accepted in the health care
16 industry. An insurer shall utilize risk adjustment factors, with
17 appropriate and transparent statistical techniques, to account for
18 differences in the use of health care resources among individual
19 health care providers.

20 (2) The information shall be updated at appropriate intervals.

21 (3) The health insurer shall, prior to furnishing the information
22 to its policyholders or insureds, do both of the following:

23 (A) Involve health care providers in the development of the
24 information.

25 (B) Provide all of the following to any affected health care
26 provider:

27 (i) At least 45 days written notice to review the information.

28 (ii) The criteria used in the development and evaluation of
29 quality measurements. The criteria shall be sufficiently detailed
30 and reasonably understandable to allow the provider to verify the
31 data against his or her records.

32 (iii) An explanation to the provider that he or she has the right
33 to correct errors and seek review of the data and that he or she may
34 submit any additional information for consideration. The health
35 insurer shall provide a reasonable, prompt, and transparent appeal
36 process. If a provider makes a timely appeal, the insurer shall make
37 no changes to its current information about the provider until the
38 appeal is completed.

39 (c) Nothing in this section shall apply to dental insurers.

1 (d) Any contractual provision inconsistent with this section shall
2 be void and unenforceable.

3 (e) For purposes of this section, the following definitions shall
4 apply:

5 (1) “Information on the cost of procedures” means information
6 that a policyholder or insured of a health insurer may use to make
7 comparisons among individual health care providers or health care
8 facilities concerning the cost to the policyholder or insured of
9 health care treatment options. A health insurer shall, to the extent
10 possible, display inpatient facility treatment costs that are
11 associated with a given episode of care, including, but not limited
12 to, diagnostic tests, prescription drugs, hospital days, and physician
13 fees.

14 (2) “Health care provider” means any professional person,
15 medical group, independent practice association, organization,
16 health facility, other than a long-term health care facility as defined
17 in Section 1418 of the Health and Safety Code, or other person or
18 institution licensed or authorized by the state to deliver or furnish
19 health care services.

20 SEC. 3. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the penalty
25 for a crime or infraction, within the meaning of Section 17556 of
26 the Government Code, or changes the definition of a crime within
27 the meaning of Section 6 of Article XIII B of the California
28 Constitution.