AMENDED IN SENATE APRIL 14, 2009

SENATE BILL No. 196

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 amended, 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~~ *specified*, 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:

SECTION 1. Section 1367.49 is added to the Health and Safety Code, to read:

1367.49. (a) A contract between a health care service plan and a health care provider that is issued, amended, renewed, or delivered on or after January 1, 2010, shall not contain any provision that restricts the ability of the health care service plan to furnish information on the cost of procedures or information about health care quality to subscribers or enrollees of the plan.

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

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

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

(3) The health care service plan shall, prior to furnishing the information to its enrollees or subscribers, do both of the following:

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

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

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

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

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

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

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

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

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

(1) "Information on the cost of procedures" means information that an enrollee or subscriber of a health care service plan may use to make comparisons among individual health care providers or health care facilities concerning the cost to the enrollee or subscriber of health care treatment options. ~~A health care service plan shall, to the extent possible, display inpatient facility treatment costs that are associated with a given episode of care, including, but not limited to, diagnostic tests, prescription drugs, hospital days, and physician fees.~~ *Information on the cost of procedures shall be displayed as an episode of care, unless an episode of care is not applicable, and shall include, but not be limited to, applicable diagnostic tests, prescription drugs, hospital days, and physician fees that are associated with a typical procedure or illness.*

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

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

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

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

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

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

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

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

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

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

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

(iii) An explanation to the provider that he or she has the right to correct errors and seek review of the data and that he or she may

submit any additional information for consideration. The health insurer shall provide a reasonable, prompt, and transparent appeal process. If a provider makes a timely appeal, the insurer shall make no changes to its current information about the provider until the appeal is completed.

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

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

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

(1) "Information on the cost of procedures" means information that a policyholder or insured of a health insurer may use to make comparisons among individual health care providers or health care facilities concerning the cost to the policyholder or insured of health care treatment options. ~~A health insurer shall, to the extent possible, display inpatient facility treatment costs that are associated with a given episode of care, including, but not limited to, diagnostic tests, prescription drugs, hospital days, and physician fees.~~ *Information on the cost of procedures shall be displayed as an episode of care, unless an episode of care is not applicable, and shall include, but not be limited to, applicable diagnostic tests, prescription drugs, hospital days, and physician fees that are associated with a typical procedure or illness.*

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

SEC. 3. 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.

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