Senate Bill No. 296

CHAPTER 575

An act to amend Section 1368.015 of, and to add Sections 1367.29 and 1368.016 to, the Health and Safety Code, and to add Sections 10123.198 and 10123.199 to the Insurance Code, relating to health care coverage.

[Approved by Governor October 11, 2009. Filed with Secretary of State October 11, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

SB 296, Lowenthal. Mental health services.

Existing law provides for the licensing and regulation of health care service plans by the Department of Managed Health Care. Existing law provides for the regulation of health insurers by the Department of Insurance. A willful violation of provisions governing health care service plans is a crime. Existing law imposes certain requirements on health care service plans, specialized health care service plans, and health insurers that provide coverage for professional mental health services. Existing law also requires every health care service plan, other than a plan that primarily serves Medi-Cal or Healthy Family Program enrollees, to maintain an Internet Web site.

This bill would, on and after July 1, 2011, require every health care service plan, including a specialized health care service plan, and health insurer that provides professional mental health services to issue an identification card, as specified, to each enrollee in order to assist the enrollee with accessing health benefits coverage information and other information, with specified exceptions. The bill would require the identification card to be issued upon enrollment or commencement of coverage or upon any change in the enrollee's coverage that impacts the data content or format of the card. The bill would also require those plans and insurers to provide, on or before January 1, 2012, specified information on their Internet Web sites, to be updated as specified and made available in hard copy upon request, and would require those insurers to establish Internet Web sites for that purpose. The bill would exempt from those requirements specified plans or insurers that contract with another entity to provide coverage for mental health services, provided that the plan or insurer provides a link on its Internet Web site to the entity's Internet Web site and that entity complies with the above-described information requirements. The bill would also require the departments to include on their Internet Web sites a link to the Internet Web site of each of those plans or insurers. The bill would also make changes to related provisions.

By imposing new requirements on certain health care service plans, the willful violation of which 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.

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

SECTION 1. Section 1367.29 is added to the Health and Safety Code, to read:

1367.29. (a) On and after July 1, 2011, in accordance with the requirements of subdivision (b), every health care service plan that provides coverage for professional mental health services, including a specialized health care service plan that provides coverage for professional mental health services, shall issue an identification card to each enrollee in order to assist the enrollee with accessing health benefits coverage information, including, but not limited to, in-network provider access information, and claims processing purposes. The identification card, at a minimum, shall include all of the following information:

(1) The name of the health care service plan issuing the identification card.

(2) The enrollee's identification number.

(3) A telephone number that enrollees or providers may call for assistance with health benefits coverage information, in-network provider access information, and claims processing information, and when assessment services are provided by the health care service plan, access to assessment services for the purpose of referral to an appropriate level of care or an appropriate health care provider.

(4) The health care service plan's Internet Web site address.

(b) The identification card required by this section shall be issued by a health care service plan or a specialized health care service plan to an enrollee upon enrollment or upon any change in the enrollee's coverage that impacts the data content or format of the card.

(c) Nothing in this section requires a health care service plan to issue a separate identification card for professional mental health services coverage if the plan issues a card for health care coverage in general and the card provides the information required by this section.

(d) If a health care service plan or a specialized health care service plan, as described in subdivision (a), delegates responsibility for issuing the identification card to a contractor or an agent, the contractor or agent shall be required to comply with this section.

(e) Nothing in this section shall be construed to prohibit a health care service plan or a specialized health care service plan from meeting the

standards of the Workgroup for Electronic Data Interchange (WEDI) or other national uniform standards with respect to identification cards, and a health care service plan shall be deemed compliant with this section if the plan conforms with these standards, as long as the minimum requirements described in subdivision (a) have been met.

(f) For the purposes of this section, "identification card" includes other technology that performs substantially the same function as an identification card.

(g) (1) This section shall not apply to Medicare supplement insurance, Employee Assistance Programs, short-term limited duration health insurance, Champus-supplement insurance, or TRI-CARE supplement insurance, or to hospital indemnity, accident-only, and specified disease insurance. This section shall also not apply to specialized health care service plans, except behavioral health-only plans.

(2) Notwithstanding paragraph (1), this section shall not apply to a behavioral health-only plan that provides coverage for professional mental health services pursuant to a contract with a health care service plan or insurer if that plan or insurer issues an identification card to its subscribers or insureds pursuant to this section or Section 10123.198 of the Insurance Code.

SEC. 2. Section 1368.015 of the Health and Safety Code is amended to read:

1368.015. (a) Effective July 1, 2003, every plan with an Internet Web site shall provide an online form through its Internet Web site that subscribers or enrollees can use to file with the plan a grievance, as described in Section 1368, online.

(b) The Internet Web site shall have an easily accessible online grievance submission procedure that shall be accessible through a hyperlink on the Internet Web site's home page or member services portal clearly identified as "GRIEVANCE FORM." All information submitted through this process shall be processed through a secure server.

(c) The online grievance submission process shall be approved by the Department of Managed Health Care and shall meet the following requirements:

(1) It shall utilize an online grievance form in HTML format that allows the user to enter required information directly into the form.

(2) It shall allow the subscriber or enrollee to preview the grievance that will be submitted, including the opportunity to edit the form prior to submittal.

(3) It shall include a current hyperlink to the California Department of Managed Health Care Internet Web site, and shall include a statement in a legible font that is clearly distinguishable from other content on the page and is in a legible size and type, containing the following language:

"The California Department of Managed Health Care is responsible for regulating health care service plans. If you have a grievance against your health plan, you should first telephone your health plan at (insert health

plan's telephone number) and use your health plan's grievance process before contacting the department. Utilizing this grievance procedure does not prohibit any potential legal rights or remedies that may be available to you. If you need help with a grievance involving an emergency, a grievance that has not been satisfactorily resolved by your health plan, or a grievance that has remained unresolved for more than 30 days, you may call the department for assistance. You may also be eligible for an Independent Medical Review (IMR). If you are eligible for IMR, the IMR process will provide an impartial review of medical decisions made by a health plan related to the medical necessity of a proposed service or treatment, coverage decisions for treatments that are experimental or investigational in nature and payment disputes for emergency or urgent medical services. The department also has a toll-free telephone number (1-888-HMO-2219) and a TDD line (1-877-688-9891) for the hearing and speech impaired. The department's Internet Web site http://www.hmohelp.ca.gov has complaint forms, IMR application forms and instructions online."

The plan shall update the URL, hyperlink, and telephone numbers in this statement as necessary.

(d) A plan that utilizes a hardware system that does not have the minimum system requirements to support the software necessary to meet the requirements of this section is exempt from these requirements until January 1, 2006.

(e) For purposes of this section, the following terms shall have the following meanings:

(1) "Homepage" means the first page or welcome page of an Internet Web site that serves as a starting point for navigation of the Internet Web site.

(2) "HTML" means Hypertext Markup Language, the authoring language used to create documents on the World Wide Web, which defines the structure and layout of a Web document.

(3) "Hyperlink" means a special HTML code that allows text or graphics to serve as a link that, when clicked on, takes a user to another place in the same document, to another document, or to another Internet Web site or Web page.

(4) "Member services portal" means the first page or welcome page of an Internet Web site that can be reached directly by the Internet Web site's homepage and that serves as a starting point for a navigation of member services available on the Internet Web site.

(5) "Secure server" means an Internet connection to an Internet Web site that encrypts and decrypts transmissions, protecting them against third-party tampering and allowing for the secure transfer of data.

(6) "URL" or "Uniform Resource Locator" means the address of an Internet Web site or the location of a resource on the World Wide Web that allows a browser to locate and retrieve the Internet Web site or the resource.

(7) "Internet Web site" means a site or location on the World Wide Web.

(f) (1) Every health care service plan, except a plan that primarily serves Medi-Cal or Healthy Families Program enrollees, shall maintain an Internet Web site. For a health care service plan that provides coverage for professional mental health services, the Internet Web site shall include, but not be limited to, providing information to subscribers, enrollees, and providers that will assist subscribers and enrollees in accessing mental health services as well as the information described in Section 1368.016.

(2) The provision in paragraph (1) that requires compliance with Section 1368.016 shall not apply to a health care service plan that contracts with a specialized health care service plan, insurer, or other entity to cover professional mental health services for its enrollees, provided that the health care service plan provides a link on its Internet Web site to an Internet Web site operated by the specialized health care service plan, insurer, or other entity with which it contracts, and that plan, insurer, or other entity complies with Section 1368.016.

SEC. 3. Section 1368.016 is added to the Health and Safety Code, to read:

1368.016. (a) On or before January 1, 2012, every health care service plan that provides coverage for professional mental health services, including a specialized health care service plan that provides coverage for professional mental health services, shall, pursuant to subdivision (f) of Section 1368.015, include on its Internet Web site, or provide a link to, the following information:

(1) A telephone number that the enrollee or provider can call, during normal business hours, for assistance obtaining mental health benefits coverage information, including the extent to which benefits have been exhausted, in-network provider access information, and claims processing information.

(2) A link to prescription drug formularies or instructions on how to obtain the formulary, as described in Section 1367.20.

(3) A detailed summary that describes the process by which the plan reviews and authorizes or approves, modifies, or denies requests for health care services as described in Sections 1363.5 and 1367.01.

(4) Lists of providers or instructions on how to obtain the provider list, as required by Section 1367.26.

(5) A detailed summary of the enrollee grievance process as described in Sections 1368 and 1368.015.

(6) A detailed description of how an enrollee may request continuity of care pursuant to subdivisions (a) and (b) of Section 1373.95.

(7) Information concerning the right, and applicable procedure, of an enrollee to request an independent medical review pursuant to Section 1374.30.

(b) Any modified material described in subdivision (a) shall be updated at least quarterly.

(c) The information described in subdivision (a) may be made available through a secured Internet Web site that is only accessible to enrollees.

(d) The material described in subdivision (a) shall also be made available to enrollees in hard copy upon request.

(e) Nothing in this article shall preclude a health care service plan from including additional information on its Internet Web site for applicants, enrollees or subscribers, or providers, including, but not limited to, the cost of procedures or services by health care providers in a plan's network.

(f) The department shall include on the department's Internet Web site a link to the Internet Web site of each health care service plan and specialized health care service plan described in subdivision (a).

(g) This section shall not apply to Medicare supplement insurance, Employee Assistance Programs, short-term limited duration health insurance, Champus-supplement insurance, or TRI-CARE supplement insurance, or to hospital indemnity, accident-only, and specified disease insurance. This section shall also not apply to specialized health care service plans, except behavioral health-only plans.

(h) This section shall not apply to a health care service plan that contracts with a specialized health care service plan, insurer, or other entity to cover professional mental health services for its enrollees, provided that the health care service plan provides a link on its Internet Web site to an Internet Web site operated by the specialized health care service plan, insurer, or other entity with which it contracts, and that plan, insurer, or other entity complies with this section or Section 10123.199 of the Insurance Code.

SEC. 4. Section 10123.198 is added to the Insurance Code, to read:

10123.198. (a) On and after July 1, 2011, in accordance with the requirements of subdivision (b), every health insurer that provides coverage for professional mental health services shall issue an identification card to each insured in order to assist the insured with accessing health benefits coverage information, including, but not limited to, in-network provider access information, and claims processing purposes. The identification card, at a minimum, shall include all of the following information:

(1) The name of the health insurer issuing the identification card.

(2) The insured's identification number.

(3) A telephone number that insureds or providers may call for assistance with health benefits coverage information, in-network provider access information, and claims processing information, and when assessment services are provided by the health insurer, access to assessment services for the purpose of referral to an appropriate level of care or an appropriate health care provider.

(4) The health insurer's Internet Web site address.

(b) The identification card required by this section shall be issued by a health insurer to an insured upon commencement of coverage or upon any change in the insured's coverage that impacts the data content or format of the card.

(c) Nothing in this section requires a health insurer to issue a separate identification card for professional mental health coverage if the insurer issues a card for health care coverage in general and the card provides the information required by this section.

(d) If a health insurer, as described in subdivision (a), delegates responsibility for issuing the card to a contractor or agent, the contractor or agent shall be required to comply with this section.

(e) Nothing in this section shall be construed to prohibit a health insurer from meeting the standards of the Workgroup for Electronic Data Interchange (WEDI) or other national uniform standards with respect to identification cards, and a health insurer shall be deemed compliant with this section if the insurer conforms with these standards, as long as the minimum requirements described in subdivision (a) have been met.

(f) For the purposes of this section, "identification card" includes other technology that performs substantially the same function as an identification card.

(g) (1) This section shall not apply to Medicare supplement insurance, Employee Assistance Programs, short-term limited duration health insurance, Champus-supplement insurance, or TRI-CARE supplement insurance, or to hospital indemnity, accident-only, and specified disease insurance. This section shall also not apply to specialized health insurance policies, except behavioral health-only policies.

(2) Notwithstanding paragraph (1), this section shall not apply to a behavioral health-only policy that provides coverage for professional mental health services pursuant to a contract with a health care service plan or insurer if that plan or insurer issues an identification card to its subscribers or insureds pursuant to this section or Section 1367.29 of the Health and Safety Code.

SEC. 5. Section 10123.199 is added to the Insurance Code, to read:

10123.199. (a) On or before January 1, 2012, every health insurer that provides coverage for professional mental health services shall establish an Internet Web site. Each Internet Web site shall include, or provide a link to, the following information:

(1) A telephone number that the insured or provider can call, during normal business hours, for assistance obtaining mental health benefits coverage information, including the extent to which benefits have been exhausted, in-network provider access information, and claims processing information.

(2) A link to prescription drug formularies or instructions on how to obtain formulary information.

(3) A detailed summary description of the process by which the insurer reviews and approves, modifies, or denies requests for health care services as described in Section 10123.135.

(4) Lists of providers or instructions on how to obtain a provider list as required by Section 10133.1.

(5) A detailed summary of the health insurer's grievance process.

(6) A detailed description of how the insured may request continuity of care as described in Section 10133.55.

(7) Information concerning the right, and applicable procedure, of the insured to request an independent medical review pursuant to subdivision (i) of Section 10169.

(b) Except as otherwise specified, the material described in subdivision (a) shall be updated at least quarterly.

(c) The information described in subdivision (a) may be made available through a secured Internet Web site that is only accessible to the insured.

(d) The material described in subdivision (a) shall also be made available to insureds in hard copy upon request.

(e) Nothing in this article shall preclude an insurer from including additional information on its Internet Web site for applicants or insureds, including, but not limited to, the cost of procedures or services by health care providers in an insurer's network.

(f) The department shall include on the department's Internet Web site, a link to the Internet Web site of each health insurer described in subdivision (a).

(g) This section shall not apply to Medicare supplement insurance, Employee Assistance Programs, short-term limited duration health insurance, Champus-supplement insurance, or TRI-CARE supplement insurance, or to hospital indemnity, accident-only, and specified disease insurance. This section shall also not apply to specialized health insurance policies, except behavioral health-only policies.

(h) This section shall not apply to a health insurer that contracts with a specialized health care service plan, insurer, or other entity to cover professional mental health services for its insureds, provided that the health insurer provides a link on its Internet Web site to an Internet Web site operated by the specialized health care service plan, insurer, or other entity with which it contracts, and that plan, insurer, or other entity complies with this section or Section 1368.016 of the Health and Safety Code.

SEC. 6. 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.

O