

AMENDED IN SENATE APRIL 15, 2008

AMENDED IN SENATE APRIL 7, 2008

SENATE BILL

No. 1440

Introduced by Senator Kuehl

February 21, 2008

An act to add Section 1378.1 to the Health and Safety Code, and to add Section 10113.11 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 1440, as amended, Kuehl. Health care coverage: benefits.

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. Under existing law, a health care service plan is prohibited from expending for administrative costs, as defined, an excessive amount of the payments it receives for providing health care services to its subscribers and enrollees.

This bill would require full service health care service plans and health insurers to expend on health care benefits no less than 85% of the aggregate dues, fees, premiums, and other periodic payments they receive with respect to plan contracts or policies issued, amended, or renewed on or after January 1, 2009, as specified. The bill would require those plans and insurers to annually, commencing June 1, 2009, provide written affirmation of compliance with that requirement to the Department of Managed Health Care or the Department of Insurance. The bill would authorize the Director of the Department of Managed Health Care and the Insurance Commissioner to take specified actions

if the director or commissioner determines that a plan or insurer has failed to comply with ~~these requirements~~ *that requirement*.

Because a willful violation of the bill's requirements with respect 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:

1 SECTION 1. Section 1378.1 is added to the Health and Safety
2 Code, to read:
3 1378.1. (a) Notwithstanding any other provision of law, a full
4 service health care service plan shall expend no less than 85 percent
5 of the aggregate dues, fees, premiums, and other periodic payments
6 received by the plan on health care benefits. This subdivision shall
7 apply to all health care service plan contracts issued, amended, or
8 renewed in California on or after January 1, 2009.
9 (b) For purposes of this section, "health care benefits" shall
10 include, but shall not be limited to, all of the following:
11 (1) Health care services that are either provided or reimbursed
12 by the plan or its contracted providers as covered benefits.
13 (2) Disease management expenses using cost-effective
14 evidence-based guidelines.
15 (3) Payments to providers.
16 (4) Plan medical advice by telephone.
17 (5) Prescription drug management programs.
18 (c) For purposes of this section, "health care benefits" shall not
19 include administrative costs listed in Section 1300.78 of Title 28
20 of the California Code of Regulations in effect on January 1, 2007,
21 agent and broker commission and solicitation costs associated with
22 the issuance of individual and group health care service plan
23 contracts, dividends, profits, stock options, income tax or any other
24 tax the plan expensed, assessments or fines levied by the

1 Department of Managed Health Care, or *administrative* costs
2 associated with existing or new regulatory requirements.

3 (d) Commencing June 1, 2009, and annually thereafter, a full
4 service health care service plan licensed to operate in California
5 shall provide written affirmation to the department that it meets
6 the requirements of this section.

7 (e) The director may disapprove a health care service plan's use
8 of a plan contract, issue a fine or assessment against a health care
9 service plan, suspend or revoke the license issued to a health care
10 service plan under this chapter, or take any other action the director
11 deems appropriate if the director determines that the plan has failed
12 to comply with this section.

13 SEC. 2. Section 10113.11 is added to the Insurance Code, to
14 read:

15 10113.11. (a) Notwithstanding any other provision of law, a
16 health insurer shall expend no less than 85 percent of the aggregate
17 dues, fees, premiums, and other periodic payments received by
18 the insurer on health care benefits. This subdivision shall apply to
19 all health insurance policies issued, amended, or renewed in
20 California on or after January 1, 2009.

21 (b) For purposes of this section, "health care benefits" shall
22 include, but shall not be limited to, all of the following:

23 (1) Health care services that are either provided or reimbursed
24 by the insurer or its contracted providers as covered benefits.

25 (2) Disease management expenses using cost-effective
26 evidence-based guidelines.

27 (3) Payments to providers.

28 (4) Plan medical advice by telephone.

29 (5) Prescription drug management programs.

30 (c) For purposes of this section, "health care benefits" shall not
31 include administrative costs listed in Section 1300.78 of Title 28
32 of the California Code of Regulations in effect on January 1, 2007,
33 agent and broker commission and solicitation costs associated with
34 the issuance of individual and group health insurance policies,
35 dividends, profits, stock options, income tax or any other tax the
36 insurer expensed, assessments or fines levied by the Department
37 of Insurance, or *administrative* costs associated with existing or
38 new regulatory requirements.

39 (d) Commencing June 1, 2009, and annually thereafter, a health
40 insurer holding a certificate of authority to do business in California

1 shall provide written affirmation to the department that it meets
2 the requirements of this section.

3 (e) The commissioner may disapprove a health insurer's use of
4 a health insurance policy, revoke or suspend the certificate of
5 authority of a health insurer, issue a fine or assessment against a
6 health insurer, or take any other action the commissioner deems
7 appropriate if the commissioner determines that the health insurer
8 has failed to comply with this section.

9 SEC. 3. No reimbursement is required by this act pursuant to
10 Section 6 of Article XIII B of the California Constitution because
11 the only costs that may be incurred by a local agency or school
12 district will be incurred because this act creates a new crime or
13 infraction, eliminates a crime or infraction, or changes the penalty
14 for a crime or infraction, within the meaning of Section 17556 of
15 the Government Code, or changes the definition of a crime within
16 the meaning of Section 6 of Article XIII B of the California
17 Constitution.