SB-245 Health care coverage: abortion services: cost sharing. (2021-2022)

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CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

SENATE BILL NO. 245

Introduced by Senator Gonzalez
~~**(Principal coauthor: Senator Leyva)(Principal coauthor: Assembly Member Kamlager)**~~
~~**(Coauthor: Senator Durazo)**~~***(Principal coauthors: Senators Kamlager and Leyva)***
(Coauthors: Senators Durazo and Skinner)
(Coauthors: Assembly Members *Aguiar-Curry,* Bauer-Kahan, Boerner Horvath, Burke, Calderon, Cervantes, Friedman, and Cristina Garcia)

January 22, 2021

An act to add Section 1367.251 to the Health and Safety Code, and to add Section 10123.1961 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 245, as amended, Gonzalez. Health care coverage: abortion services: cost sharing.

Existing law, the Reproductive Privacy Act, prohibits the state from denying or interfering with a person's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the person. The act defines "abortion" as a medical treatment intended to induce the termination of a pregnancy except for the purpose of producing a live birth.

Existing law also establishes the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services through, among other things, managed care plans licensed under the act that contract with the State Department of Health Care Services.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, requires the Department of Managed Health Care to license and regulate health care service plans and makes a willful violation of the act a crime. Existing law also requires the Department of Insurance to regulate health insurers. Existing law requires group and individual health care service plan contracts and disability insurance policies to cover contraceptives, without cost sharing, as specified.

This bill would prohibit a health care service plan or an individual or group policy of disability insurance that is issued, amended, renewed, or delivered on or after January 1, 2022, from imposing a deductible, coinsurance,

copayment, or any other cost-sharing requirement on coverage for all abortion *and abortion-related* services, as ~~specified, and additionally would prohibit cost sharing from being imposed on a Medi-Cal beneficiary for those services. The bill would apply the same benefits with respect to an enrollee's or insured's covered spouse and covered nonspouse dependents.~~ *specified. The bill would prohibit a health care service plan and a health insurer from imposing utilization management or utilization review on the coverage for abortion services. The bill would require that for a health care service plan or health insurance policy that is a high deductible health plan, the cost-sharing prohibition would apply once the enrollee's or insured's deductible has been satisfied for the benefit year.* The bill would not require an individual or group health care service plan contract or disability insurance policy to cover an experimental or investigational treatment. *The bill's requirements would also apply to Medi-Cal managed care plans, providers, independent practice associations, preferred provider groups, and all delegated entities that provide physician services, utilization management, or utilization review.*

Because a violation of the bill by a health care service plan 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 Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1367.251 is added to the Health and Safety Code, to read:

1367.251. (a) (1) A health care service plan, except for a specialized health care service plan contract, that is issued, amended, renewed, or delivered on or after January 1, 2022, shall not impose a deductible, coinsurance, copayment, or any other cost-sharing requirement on coverage for all abortion *and abortion-related* services, including *preabortion and* followup services including, but not limited to, management of side effects and counseling. ~~Cost sharing shall not be imposed on a Medi-Cal beneficiary.~~

(2) Except as otherwise authorized by this section, a health care service plan shall not impose any ~~restriction or delay,~~ *utilization management or utilization review,* including prior authorization and annual or lifetime ~~limit,~~ *limits consistent with Sections 1367.001 and 1367.005,* on the coverage for abortion services.

~~(3)Benefits for an enrollee under this subdivision shall be the same for an enrollee's covered spouse and covered nonspouse dependents.~~

~~(4)For purposes of paragraphs (2) and (3) and subdivision (b), "health care service plan" includes~~

(3) Medi-Cal managed care plans that contract with the State Department of Health Care Services pursuant to Chapter 7 (commencing with Section 14000) and Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code, ~~risk-bearing organizations pursuant to this chapter and any other participating provider acting pursuant to a subcontract with a managed care plan.~~ *providers, independent practice associations, preferred provider groups, and all delegated entities that provide physician services, utilization management, or utilization review shall be subject to this section.*

(b) This section does not deny or restrict in any way the department's authority to ensure plan compliance with this chapter when a health care service plan provides coverage for abortion services.

(c) This section does not require an individual or group health care service plan contract to cover an experimental or investigational treatment.

(d) For purposes of this section, "abortion" means any medical treatment intended to induce the termination of a pregnancy except for the purpose of producing a live birth.

(e) For a health care service plan that is a high deductible health plan, as defined in Section 223(c)(2) of Title 26 of the United States Code, the cost-sharing limits in paragraph (1) of subdivision (a) shall apply once an enrollee's deductible has been satisfied for the benefit year.

SEC. 2. Section 10123.1961 is added to the Insurance Code, to read:

10123.1961. (a) (1) ~~A~~ *The requirements of this section shall apply to a* group or individual policy ~~of disability insurance, except for a specialized health insurance policy,~~ *or certificate of health insurance or student blanket disability insurance that provides coverage for hospital, medical, or surgical expenses* that is issued, amended, renewed, or delivered on or after January 1, ~~2022,~~ *2022. This section does not apply to a specialized health insurance policy. A policy or certificate subject to the requirements of this section* shall not impose a deductible, coinsurance, copayment, or other cost-sharing requirement on coverage for all abortion *and abortion-related* services, including *preabortion and* followup services including, but not limited to, management of side effects and counseling.

(2) Except as otherwise authorized by this section, an insurer shall not impose any ~~restrictions or delays,~~ *utilization management or utilization review,* including prior authorization and annual or lifetime ~~limit,~~ *limits consistent with Sections 10112.1 and 10112.27,* on the coverage for abortion services.

~~(3)Coverage with respect to an insured under this subdivision shall be the same for an insured's covered spouse and covered nonspouse dependents.~~

(b) This section does not deny or restrict in any way the department's authority to ensure an insurer's compliance with this chapter when the insurer provides coverage for abortion services.

(c) This section does not require an individual or group disability insurance policy to cover an experimental or investigational treatment.

(d) For purposes of this section, "abortion" means any medical treatment intended to induce the termination of a pregnancy except for the purpose of producing a live birth.

(e) For a group or individual policy or certificate of health insurance or student blanket disability insurance that is a high deductible health plan, as defined in Section 223(c)(2) of Title 26 of the United States Code, the cost-sharing limits in paragraph (1) of subdivision (a) shall apply once an insured's deductible has been satisfied for the benefit year.

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.