

ASSEMBLY BILL

No. 214

Introduced by Assembly Member Chesbro

February 3, 2009

An act to add Section 1367.27 to the Health and Safety Code, and to add Section 10123.24 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 214, as introduced, Chesbro. Health care coverage: durable medical equipment.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act), provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of that act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Under existing law, health care service plans and health insurers are required to offer specified types of coverage as part of their group plan contracts or group policies.

This bill would require a health care service plan and a health insurer to provide coverage for durable medical equipment, as defined, as part of their plan contracts or health insurance policies.

Because this bill would specify additional requirements under the Knox-Keene Act, the willful violation of which would be a crime, it 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 1367.27 is added to the Health and Safety
2 Code, to read:

3 1367.27. (a) Every health care service plan, except a
4 specialized health care service plan, that covers hospital, medical,
5 or surgical expenses on a group or individual basis that is issued,
6 amended, received, or delivered on or after January 1, 2010, shall
7 provide coverage for durable medical equipment (DME) and
8 services under the terms and conditions that may be agreed upon
9 between the subscriber and the plan. Every plan shall communicate
10 the availability of that coverage to all group or individual
11 contractholders and to all prospective group or individual
12 contractholders with whom they are negotiating. Coverage for
13 DME shall provide for coverage when the equipment, including
14 original and replacement devices, is prescribed by a physician and
15 surgeon or doctor of podiatric medicine acting within the scope
16 of his or her license, or is ordered by a licensed health care provider
17 acting within the scope of his or her license. Every plan shall have
18 the right to conduct a utilization review to determine medical
19 necessity prior to authorizing these services.

20 (b) The amount of the benefit for DME and services shall be
21 no less than the annual and lifetime benefit maximums applicable
22 to the basic health care services required to be provided under
23 Section 1367. If the contract does not include any annual or lifetime
24 benefit maximums applicable to basic health care services, the
25 amount of the benefit for DME and services shall not be subject
26 to an annual or lifetime maximum benefit level. Any copayment,
27 coinsurance, deductible, and maximum out-of-pocket amount
28 applied to the benefit for DME and services shall be no more than
29 the most common amounts applied to the basic health care services
30 required to be provided under Section 1367.

31 (c) “Durable medical equipment” consists of equipment that is
32 used for the treatment of a medical condition or injury or to
33 preserve the patient’s functioning and that is designed for repeated

1 use and includes, but is not limited to, manual and motorized
2 wheelchairs, scooters, oxygen equipment, crutches, walkers,
3 electric beds, shower and bath seats, and mechanical patient lifts.

4 SEC. 2. Section 10123.24 is added to the Insurance Code, to
5 read:

6 10123.24. (a) On and after January 1, 2010, every insurer
7 issuing group or individual health insurance shall provide coverage
8 for durable medical equipment (DME) and services under the terms
9 and conditions that may be agreed upon between the policyholder
10 and the insurer. Every insurer shall communicate the availability
11 of that coverage to all group or individual policyholders and to all
12 prospective group or individual policyholders with whom they are
13 negotiating. Coverage for DME shall provide for coverage when
14 the equipment, including original and replacement devices, is
15 prescribed by a physician and surgeon or doctor of podiatric
16 medicine acting within the scope of his or her license, or is ordered
17 by a licensed health care provider acting within the scope of his
18 or her license. Every insurer shall have the right to conduct a
19 utilization review to determine medical necessity prior to
20 authorizing these services.

21 (b) The amount of the benefit for DME and services shall be
22 no less than the annual and lifetime benefit maximums applicable
23 to all benefits in the policy. Any copayment, coinsurance,
24 deductible, and maximum out-of-pocket amount applied to the
25 benefit for DME and services shall be no more than the most
26 common amounts contained in the policy.

27 (c) “Durable medical equipment” consists of equipment that is
28 used for the treatment of a medical condition or injury or to
29 preserve the patient’s functioning and that is designed for repeated
30 use and includes, but is not limited to, manual and motorized
31 wheelchairs, scooters, oxygen equipment, crutches, walkers,
32 electric beds, shower and bath seats, and mechanical patient lifts.

33 (d) This section shall not apply to Medicare supplement,
34 short-term limited duration health insurance, vision-only,
35 dental-only, or CHAMPUS supplement insurance, or to hospital
36 indemnity, hospital-only, accident-only, or specified disease
37 insurance that does not pay benefits on a fixed benefit, cash
38 payment only basis.

39 SEC. 3. No reimbursement is required by this act pursuant to
40 Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school
2 district will be incurred because this act creates a new crime or
3 infraction, eliminates a crime or infraction, or changes the penalty
4 for a crime or infraction, within the meaning of Section 17556 of
5 the Government Code, or changes the definition of a crime within
6 the meaning of Section 6 of Article XIII B of the California
7 Constitution.

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