

**Introduced by Senators Kuehl and Florez**  
(Principal coauthor: Assembly Member Beall)  
**(Coauthor: Senator Wiggins)**  
(Coauthors: Assembly Members Hancock and Hernandez)

February 13, 2008

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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

SB 1198, as introduced, Kuehl. 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 offer coverage for durable medical equipment, as defined, as part of their group plan contracts or group policies.

Because the 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 basis that is issued, amended,  
6 received, or delivered on or after January 1, 2009, shall offer  
7 coverage for durable medical equipment (DME) and services under  
8 the terms and conditions that may be agreed upon between the  
9 group subscriber and the plan. Every plan shall communicate the  
10 availability of that coverage to all group contractholders and to all  
11 prospective group contractholders with whom they are negotiating.  
12 Any coverage for DME shall provide for coverage when the  
13 equipment, including original and replacement equipment, is  
14 prescribed by a physician and surgeon or doctor of podiatric  
15 medicine acting within the scope of his or her license, or is ordered  
16 by a licensed health care provider acting within the scope of his  
17 or her license. Every plan shall have the right to conduct a  
18 utilization review to determine medical necessity prior to  
19 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, 2009, every insurer  
7 issuing group health insurance shall offer coverage for durable  
8 medical equipment (DME) and services under the terms and  
9 conditions that may be agreed upon between the group policyholder  
10 and the insurer. Every insurer shall communicate the availability  
11 of that coverage to all group policyholders and to all prospective  
12 group policyholders with whom they are negotiating. Any coverage  
13 for DME shall provide for coverage when the equipment, including  
14 original and replacement equipment, is prescribed by a physician  
15 and 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 insurer shall  
18 have 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 all benefits in the policy. Any copayment, coinsurance,  
23 deductible, and maximum out-of-pocket amount applied to the  
24 benefit for DME and services shall be no more than the most  
25 common amounts contained in the policy.

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

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

38 SEC. 3. No reimbursement is required by this act pursuant to  
39 Section 6 of Article XIII B of the California Constitution because  
40 the only costs that may be incurred by a local agency or school

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

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