

AMENDED IN ASSEMBLY APRIL 1, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1927

Introduced by Assembly Member Cohn

February 10, 2004

An act to amend Section 1373 of, and to add Sections 1373.35 and 1373.45 to, the Health and Safety Code, relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

AB 1927, as amended, Cohn. Vision care 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 violation of the act a crime. Under existing law, a plan may provide for coverage of, or exclusion of, vision care services, and prohibits a plan from prohibiting a member from selecting an optometrist for vision care services.

This bill would instead require a plan that offers vision care benefits to contract with both optometrists and physicians and surgeons. The bill would prohibit a plan that provides for coverage of vision care services from discriminating against or refusing to contract with a clinic that provides vision care services, and would make a plan that violates that provision ineligible for any contract *or to receive any funds* under the Healthy Families or Medi-Cal programs.

Because a willful violation of the bill's requirements with respect to health care service plans would be a crime, it would impose a state-mandated local program by creating new crimes.

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 1373 of the Health and Safety Code is
2 amended to read:

3 1373. (a) A plan contract may not provide an exception for
4 other coverage if the other coverage is entitlement to Medi-Cal
5 benefits under Chapter 7 (commencing with Section 14000) or
6 Chapter 8 (commencing with Section 14200) of Part 3 of Division
7 9 of the Welfare and Institutions Code, or medicaid benefits under
8 Subchapter 19 (commencing with Section 1396) of Chapter 7 of
9 Title 42 of the United States Code.

10 Each plan contract shall be interpreted not to provide an
11 exception for the Medi-Cal or medicaid benefits.

12 A plan contract shall not provide an exemption for enrollment
13 because of an applicant’s entitlement to Medi-Cal benefits under
14 Chapter 7 (commencing with Section 14000) or Chapter 8
15 (commencing with Section 14200) of Part 3 of Division 9 of the
16 Welfare and Institutions Code, or medicaid benefits under
17 Subchapter 19 (commencing with Section 1396) of Chapter 7 of
18 Title 42 of the United States Code.

19 A plan contract may not provide that the benefits payable
20 thereunder are subject to reduction if the individual insured has
21 entitlement to the Medi-Cal or medicaid benefits.

22 (b) A plan contract that provides coverage, whether by specific
23 benefit or by the effect of general wording, for sterilization
24 operations or procedures shall not impose any disclaimer,
25 restriction on, or limitation of, coverage relative to the covered
26 individual’s reason for sterilization.

27 As used in this section, “sterilization operations or procedures”
28 shall have the same meaning as that specified in Section 10120 of
29 the Insurance Code.

30 (c) Every plan contract that provides coverage to the spouse or
31 dependents of the subscriber or spouse shall grant immediate



1 accident and sickness coverage, from and after the moment of
2 birth, to each newborn infant of any subscriber or spouse covered
3 and to each minor child placed for adoption from and after the date
4 on which the adoptive child's birth parent or other appropriate
5 legal authority signs a written document, including, but not limited
6 to, a health facility minor release report, a medical authorization
7 form, or a relinquishment form, granting the subscriber or spouse
8 the right to control health care for the adoptive child or, absent this
9 written document, on the date there exists evidence of the
10 subscriber's or spouse's right to control the health care of the child
11 placed for adoption. No plan may be entered into or amended if it
12 contains any disclaimer, waiver, or other limitation of coverage
13 relative to the coverage or insurability of newborn infants of, or
14 children placed for adoption with, a subscriber or spouse covered
15 as required by this subdivision.

16 (d) Every plan contract that provides that coverage of a
17 dependent child of a subscriber shall terminate upon attainment of
18 the limiting age for dependent children specified in the plan, shall
19 also provide in substance that attainment of the limiting age shall
20 not operate to terminate the coverage of the child while the child
21 is and continues to be both (1) incapable of self-sustaining
22 employment by reason of mental retardation or physical handicap
23 and (2) chiefly dependent upon the subscriber for support and
24 maintenance, provided proof of the incapacity and dependency is
25 furnished to the plan by the member within 31 days of the request
26 for the information by the plan or group plan contractholder and
27 subsequently as may be required by the plan or group plan
28 contractholder, but not more frequently than annually after the
29 two-year period following the child's attainment of the limiting
30 age.

31 (e) A plan contract that provides coverage, whether by specific
32 benefit or by the effect of general wording, for both an employee
33 and one or more covered persons dependent upon the employee
34 and provides for an extension of the coverage for any period
35 following a termination of employment of the employee shall also
36 provide that this extension of coverage shall apply to dependents
37 upon the same terms and conditions precedent as applied to the
38 covered employee, for the same period of time, subject to payment
39 of premiums, if any, as required by the terms of the policy and
40 subject to any applicable collective bargaining agreement.



1 (f) A group contract shall not discriminate against handicapped
2 persons or against groups containing handicapped persons.
3 Nothing in this subdivision shall preclude reasonable provisions
4 in a plan contract against liability for services or reimbursement
5 of the handicap condition or conditions relating thereto, as may be
6 allowed by rules of the director.

7 (g) Every group contract shall set forth the terms and
8 conditions under which subscribers and enrollees may remain in
9 the plan in the event the group ceases to exist, the group contract
10 is terminated or an individual subscriber leaves the group, or the
11 enrollees' eligibility status changes.

12 (h) (1) A health care service plan or specialized health care
13 service plan may provide for coverage of, or for payment for,
14 professional mental health services or for the exclusion of these
15 services. If the terms and conditions include coverage for services
16 provided in a general acute care hospital or an acute psychiatric
17 hospital as defined in Section 1250 and do not restrict or modify
18 the choice of providers, the coverage shall extend to care provided
19 by a psychiatric health facility as defined in Section 1250.2
20 operating pursuant to licensure by the State Department of Mental
21 Health. A health care service plan that offers outpatient mental
22 health services but does not cover these services in all of its group
23 contracts shall communicate to prospective group contractholders
24 as to the availability of outpatient coverage for the treatment of
25 mental or nervous disorders.

26 (2) No plan shall prohibit the member from selecting any
27 psychologist who is licensed pursuant to the Psychology Licensing
28 Law (Chapter 6.6 (commencing with Section 2900) of Division 2
29 of the Business and Professions Code) or, upon referral by a
30 physician and surgeon licensed pursuant to the Medical Practice
31 Act (Chapter 5 (commencing with Section 2000) of Division 2 of
32 the Business and Professions Code), (i) any marriage and family
33 therapist who is the holder of a license under Section 4980.50 of
34 the Business and Professions Code, (ii) any licensed clinical social
35 worker who is the holder of a license under Section 4996 of the
36 Business and Professions Code, (iii) any registered nurse licensed
37 pursuant to Chapter 6 (commencing with Section 2700) of
38 Division 2 of the Business and Professions Code, who possesses
39 a master's degree in psychiatric-mental health nursing and is listed
40 as a psychiatric-mental health nurse by the Board of Registered



1 Nursing, or (iv) any advanced practice registered nurse certified
2 as a clinical nurse specialist pursuant to Article 9 (commencing
3 with Section 2838) of Chapter 6 of Division 2 of the Business and
4 Professions Code who participates in expert clinical practice in the
5 specialty of psychiatric-mental health nursing, to perform the
6 particular services covered under the terms of the plan, and the
7 certificate holder is expressly authorized by law to perform these
8 services.

9 (3) Nothing in this section shall be construed to allow any
10 certificate holder or licensee enumerated in this section to perform
11 professional mental health services beyond his or her field or fields
12 of competence as established by his or her education, training and
13 experience.

14 (4) For the purposes of this section, “marriage and family
15 therapist” means a licensed marriage and family therapist who has
16 received specific instruction in assessment, diagnosis, prognosis,
17 and counseling, and psychotherapeutic treatment of premarital,
18 marriage, family, and child relationship dysfunctions which is
19 equivalent to the instruction required for licensure on January 1,
20 1981.

21 (5) Nothing in this section shall be construed to allow a member
22 to select and obtain mental health or psychological services from
23 a certificate or licenseholder who is not directly affiliated with or
24 under contract to the health care service plan or specialized health
25 care service plan to which the member belongs. All health care
26 service plans and individual practice associations that offer mental
27 health benefits shall make reasonable efforts to make available to
28 their members the services of licensed psychologists. However, a
29 failure of a plan or association to comply with the requirements of
30 the preceding sentence shall not constitute a misdemeanor.

31 (6) As used in this subdivision, “individual practice
32 association” means an entity as defined in subsection (5) of
33 Section 1307 of the federal Public Health Service Act (42 U.S.C.
34 Sec. 300e-1, subsec. (5)).

35 (7) Health care service plan coverage for professional mental
36 health services may include community residential treatment
37 services that are alternatives to inpatient care and that are directly
38 affiliated with the plan or to which enrollees are referred by
39 providers affiliated with the plan.



1 (i) If the plan utilizes arbitration to settle disputes, the plan
2 contracts shall set forth the type of disputes subject to arbitration,
3 the process to be utilized, and how it is to be initiated.

4 (j) A plan contract that provides benefits that accrue after a
5 certain time of confinement in a health care facility shall specify
6 what constitutes a day of confinement or the number of
7 consecutive hours of confinement that are requisite to the
8 commencement of benefits.

9 SEC. 2. Section 1373.35 is added to the Health and Safety
10 Code, to read:

11 1373.35. (a) Except for specialized health care service plans,
12 every health care service plan entered into, amended, or renewed
13 on or after January 1, 2005, that provides vision or medical eye
14 care services or procedures, shall contract with both optometrists
15 licensed pursuant to Chapter 7 (commencing with Section 3000)
16 of Division 2 of the Business and Professions Code and physicians
17 and surgeons licensed pursuant to Chapter 5 (commencing with
18 Section 2000) of Division 2 of the Business and Professions Code.

19 (b) A health care service plan shall allow contracting
20 optometrists to provide vision and medical eye care services and
21 procedures and to participate to the full extent of their license.
22 Vision and medical care services and procedures include, but are
23 not limited to, comprehensive primary eye care services, treatment
24 of medical eye conditions, and emergency care.

25 (c) A plan may require an optometrist to do the following:

26 (1) Abide by the terms and conditions of the health care service
27 plan contract.

28 (2) Comply with the plan's credentialing standards for
29 optometrists.

30 (3) Provide evidence of current licensure in good standing.

31 SEC. 3. Section 1373.45 is added to the Health and Safety
32 Code, to read:

33 1373.45. (a) A health care service plan or specialized health
34 care service plan that provides for coverage of, or for payment for,
35 vision care services shall not discriminate against ~~or refuse to~~
36 ~~contract with~~ a clinic that provides vision care services consisting
37 ~~of vision examination and the prescribing and dispensing of~~
38 ~~ophthalmic materials~~ *of the provision of any good or services, the*
39 *delivery of which is within the scope of practice of an optometrist,*
40 ~~provided that all other reasonable plan requirements are satisfied.~~



1 ~~A plan that violates this section shall be ineligible for any contract~~
2 ~~under the Healthy Families and Medi-Cal programs. requirements~~
3 ~~are satisfied.~~

4 (b) For purposes of this section, ~~“clinic”~~ *the following terms*
5 *have the following meanings:*

6 (1) *“Clinic” means a clinic that is operated under subdivision*
7 *(a) of Section 1204, or is exempt from licensure under subdivision*
8 *(b), (c), or (h) of Section 1206.*

9 (2) *“Discriminate” means either of the following:*

10 (A) *A repeated failure to comply with subdivision (a), (b), or (d)*
11 *of Section 14087.325 of the Welfare and Institutions Code,*
12 *subdivision (a) or (b) of Section 12693.515 of the Insurance Code,*
13 *or subsection (m) of Section 233 of Title 42 of the United States*
14 *Code.*

15 (B) *The adoption or utilization of a policy under which the plan*
16 *will not contract with a clinic for optometry services, or assign*
17 *patients to a clinic having a contract with the plan or a*
18 *subcontractor of the plan to provide optometry services, unless one*
19 *of the following conditions apply:*

20 (i) *The optometrist owns the equipment, facilities, dispensary,*
21 *books, records, trade name, or inventory relating to the provision*
22 *of optometry services.*

23 (ii) *The optometrist is either a majority owner of the clinic or*
24 *an employee of another optometrist.*

25 (iii) *The optometrist provides proof of professional liability*
26 *insurance coverage with respect to the provision of services that*
27 *are covered by the Federal Tort Claims Act (28 U.S.C. Sec. 2671).*

28 (c) *A plan that is found by the director, after notice and an*
29 *opportunity to be heard, to have violated this section shall be*
30 *ineligible to receive funds, either directly or under a subcontract*
31 *with another plan, under the Healthy Families and Medi-Cal*
32 *programs.*

33 SEC. 4. No reimbursement is required by this act pursuant to
34 Section 6 of Article XIII B of the California Constitution because
35 the only costs that may be incurred by a local agency or school
36 district will be incurred because this act creates a new crime or
37 infraction, eliminates a crime or infraction, or changes the penalty
38 for a crime or infraction, within the meaning of Section 17556 of
39 the Government Code, or changes the definition of a crime within



- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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