

ASSEMBLY BILL

No. 1859

Introduced by Assembly Member Levine

February 8, 2022

An act to add Section 1367.014 to the Health and Safety Code, and to add Section 10112.34 to the Insurance Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1859, as introduced, Levine. Mental health services.

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 also provides for the regulation of health insurers by the Department of Insurance. Existing law requires an individual or small group health care service plan contract or health insurance policy issued, amended, or renewed on or after January 1, 2017, to include coverage for essential health benefits, which include mental health services.

Existing law, the Lanterman-Petris-Short Act, sets forth procedures for the involuntary detention, for up to 72 hours for evaluation and treatment, of a person who, as a result of a mental health disorder, is a danger to others or to themselves or is gravely disabled.

This bill would require a health care service plan or a health insurance policy issued, amended, or renewed on or after January 1, 2023, that includes coverage for mental health services to, among other things, approve the provision of mental health services for persons who are detained for 72-hour treatment and evaluation under the Lanterman-Petris-Short Act and to schedule an initial outpatient appointment for that person with a licensed mental health professional

on a date that is within 48 hours of the person’s release from detention. The bill would prohibit a noncontracting provider of covered mental health services from billing the previously described enrollee or insured more than the cost-sharing amount the enrollee or insured would pay to a contracting provider for those services. Because a willful violation of the bill’s requirement 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. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1367.014 is added to the Health and
- 2 Safety Code, to read:
- 3 1367.014. (a) A health care service plan contract issued,
- 4 amended, or renewed on or after January 1, 2023, that includes
- 5 coverage for mental health services shall do all of the following:
- 6 (1) Approve the provision of mental health services for enrollees
- 7 under the plan who are detained for 72-hour treatment and
- 8 evaluation pursuant to Article 1 (commencing with Section 5150)
- 9 of Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions
- 10 Code.
- 11 (2) Schedule an initial outpatient appointment for the enrollee
- 12 described in paragraph (1) with a licensed mental health
- 13 professional. The appointment shall be scheduled for a date that
- 14 is within 48 hours of the enrollee’s release from detention.
- 15 (3) Ensure that the location of facilities providing the covered
- 16 mental health services for the enrollee described in paragraph (1)
- 17 be within reasonable proximity of the business or personal
- 18 residences of the enrollee, and so located as to not result in
- 19 unreasonable barriers to accessibility.
- 20 (4) (A) Provide that if an enrollee described in paragraph (1)
- 21 receives covered mental health services from a noncontracting
- 22 provider, the enrollee shall pay no more than the same cost-sharing
- 23 amount that the enrollee would pay for the same covered services

1 received from a contracting provider. This amount shall be referred
2 to as the “in-network cost-sharing amount.”

3 (B) An enrollee shall not owe the noncontracting provider more
4 than the in-network cost-sharing amount for covered mental health
5 services. At the time of payment by the plan to the noncontracting
6 provider, the plan shall inform the enrollee and the noncontracting
7 provider of the in-network cost-sharing amount owed by the
8 enrollee.

9 (C) A noncontracting provider shall not bill or collect any
10 amount from the enrollee for covered mental health services, except
11 for the in-network cost-sharing amount.

12 (D) For purposes of this paragraph, covered mental health
13 services are mental health services that are urgently needed to
14 prevent serious deterioration of the enrollee’s health resulting from
15 unforeseen illness or injury for which treatment cannot be delayed
16 until the enrollee can receive services from a contracting provider.

17 (b) This section does not apply to Medi-Cal managed care plans
18 that contract with the State Department of Health Care Services
19 pursuant to Chapter 7 (commencing with Section 14000) of,
20 Chapter 8 (commencing with Section 14200) of, or Chapter 8.75
21 (commencing with Section 14591) of, Part 3 of Division 9 of the
22 Welfare and Institutions Code.

23 SEC. 2. Section 10112.34 is added to the Insurance Code, to
24 read:

25 10112.34. (a) A health insurance policy issued, amended, or
26 renewed on or after January 1, 2023, that includes coverage for
27 mental health services shall do all of the following:

28 (1) Approve the provision of mental health services for insureds
29 under the policy who are detained for 72-hour treatment and
30 evaluation pursuant to Article 1 (commencing with Section 5150)
31 of Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions
32 Code.

33 (2) Schedule an initial outpatient appointment for the insured
34 described in subdivision (a) with a licensed mental health
35 professional. The appointment shall be scheduled for a date that
36 is within 48 hours of the insured’s release from detention.

37 (3) Ensure that the location of facilities providing the covered
38 mental health services for the insured described in paragraph (1)
39 be within reasonable proximity of the business or personal

1 residences of insureds, and so located as to not result in
2 unreasonable barriers to accessibility.

3 (4) (A) Provide that if an insured described in paragraph (1)
4 receives covered mental health services from a noncontracting
5 provider, the insured shall pay no more than the same cost-sharing
6 amount that the insured would pay for the same covered services
7 received from a contracting provider. This amount shall be referred
8 to as the “in-network cost-sharing amount.”

9 (B) An insured shall not owe the noncontracting provider more
10 than the in-network cost-sharing amount for covered mental health
11 services. At the time of payment by the insurer to the
12 noncontracting provider, the insurer shall inform the insured and
13 the noncontracting provider of the in-network cost-sharing amount
14 owed by the insured.

15 (C) A noncontracting provider shall not bill or collect any
16 amount from the insured for covered mental health services, except
17 for the in-network cost-sharing amount.

18 (D) For purposes of this paragraph, covered mental health
19 services are mental health services that are urgently needed to
20 prevent serious deterioration of the insured’s health resulting from
21 unforeseen illness or injury for which treatment cannot be delayed
22 until the insured can receive services from a contracting provider.

23 (b) This section does not apply to an insurance policy issued,
24 sold, renewed, or offered for health care services or coverage
25 provided in the Medi-Cal program (Chapter 7 (commencing with
26 Section 14000), Chapter 8 (commencing with Section 14200), or
27 Chapter 8.75 (commencing with Section 14591) of Part 3 of
28 Division 9 of the Welfare and Institutions Code).

29 SEC. 3. No reimbursement is required by this act pursuant to
30 Section 6 of Article XIII B of the California Constitution because
31 the only costs that may be incurred by a local agency or school
32 district will be incurred because this act creates a new crime or
33 infraction, eliminates a crime or infraction, or changes the penalty
34 for a crime or infraction, within the meaning of Section 17556 of
35 the Government Code, or changes the definition of a crime within
36 the meaning of Section 6 of Article XIII B of the California
37 Constitution.

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