

AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1549

Introduced by Assembly Member ~~Frommer~~ Members *Frommer, Chan, and Laird*

February 21, 2003

~~An act to amend Section 104900 of the Health and Safety Code, relating to public health. An act to add Sections 1348.5 and 1367.27 to the Health and Safety Code, relating to health care service plans.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1549, as amended, Frommer. ~~Flu vaccines~~ *Asthma benefits.*

~~Existing law requires the State Department of Health Services to provide appropriate flu vaccine to local governmental or private, nonprofit agencies so that the agencies may provide the vaccine for all persons 60 years of age or older in this state and for other specified high-risk groups. Existing law requires the department and the California Department of Aging to prepare, publish, and disseminate information regarding the availability of the vaccine and its effectiveness in protecting the health of older persons, the Knox-Keene Health Care Service Plan Act of 1975, provides for the regulation and licensure of health care service plans by the Department of Managed Health Care and makes a violation of the act's requirements a crime. Under the act, a health care service plan contract that covers prescription drug benefits is required to provide coverage for specified medications.~~

~~This bill would require the department to make the above vaccine information available on the department's Internet Web site, in a~~

~~specified manner, and to distribute the information to local governmental or private, nonprofit agencies by any other means the department deems appropriate. convene a workgroup to develop a universal drug and device formulary to treat asthma in children and to adopt a regulation outlining that formulary. The bill would require a health care service plan to include coverage for medications to treat pediatric asthma and for associated training and education.~~

Because the bill would specify additional requirements for a health care service plan, the 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: ~~no~~ yes.

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

1 ~~SECTION 1. Section 104900 of the Health and Safety Code~~

2 *SECTION 1. Section 1348.5 is added to the Health and Safety*
 3 *Code, to read:*

4 *1348.5. (a) The department shall convene a workgroup to*
 5 *develop a universal drug and device formulary to treat asthma in*
 6 *children. In developing the formulary, the workgroup shall review*
 7 *and consider guidelines established by other jurisdictions for the*
 8 *treatment of asthma in children.*

9 *(b) The workgroup shall consist of no more than 10 members,*
 10 *including, but not limited to, representatives with experience in the*
 11 *treatment of pediatric asthma from all of the following groups:*

12 *(1) Patients and guardians of patients who have received*
 13 *asthma treatment.*

14 *(2) Pediatric physicians or clinicians.*

15 *(3) Health care service plan representatives.*

16 *(4) Pharmaceutical industry representatives.*

17 *(5) Public health officials.*

18 *(6) Department representatives.*

19 *(7) State Department of Health Services representatives.*



1 (c) In order to operate in as cost-effective a manner as possible,
2 the workgroup shall be subject to all of the following requirements:

3 (1) It shall meet as few times as necessary to perform its duties.

4 (2) Its members shall not be compensated or receive travel
5 allowances or other reimbursement.

6 (d) The department shall adopt a regulation outlining the drug
7 formulary developed under subdivision (a) and shall periodically
8 review its regulations adopted pursuant to this section.

9 SEC. 2. Section 1367.27 is added to the Health and Safety
10 Code, to read:

11 1367.27. (a) Each health care service plan, except a
12 specialized health care service plan, that is issued, amended,
13 delivered, or renewed in this state on or after January 1, 2005, and
14 that covers hospital, medical, or surgical expenses shall include
15 coverage for medications and devices for the management and
16 treatment of pediatric asthma as medically necessary. The
17 coverage shall include items that are available without a
18 prescription.

19 (b) Each plan described in subdivision (a) shall provide
20 coverage for asthma outpatient self-management training and
21 education necessary to enable an enrollee to properly use the
22 medications and devices identified by the department by
23 regulation under Section 1348.5 and additional pediatric asthma
24 outpatient self-management training and education upon the
25 direction or prescription of those services by the enrollee's
26 participating physician.

27 (c) The pediatric asthma outpatient self-management training
28 and education services identified in subdivision (b) shall be
29 provided under the supervision of an appropriately licensed or
30 registered health care professional as prescribed by a
31 participating health care professional legally authorized to
32 prescribe the service. If a plan delegates outpatient
33 self-management training to a contracting provider, the plan shall
34 require the contracting provider to ensure that pediatric asthma
35 outpatient self-management training and education are provided
36 under the supervision of an appropriately licensed or registered
37 health care professional. These benefits shall include, but not be
38 limited to, instruction that will enable pediatric asthmatic patients
39 and their families to gain an understanding of the disease process



1 and the daily management of asthma in order to avoid frequent
 2 hospitalizations and complications.

3 (d) The coverage required by this section shall be provided
 4 under the same general terms and conditions, including
 5 copayments and deductibles, applicable to all other benefits
 6 provided by the plan.

7 (e) Each health care service plan shall disclose the benefits
 8 under this section in its evidence of coverage and disclosure forms.

9 (f) A health care service plan may not reduce or eliminate
 10 coverage as a result of the requirements of this section.

11 (g) Nothing in this section shall be construed to deny or restrict
 12 in any way the department's authority to ensure plan compliance
 13 with this chapter if a plan provides coverage for prescription
 14 drugs.

15 SEC. 3. No reimbursement is required by this act pursuant to
 16 Section 6 of Article XIII B of the California Constitution because
 17 the only costs that may be incurred by a local agency or school
 18 district will be incurred because this act creates a new crime or
 19 infraction, eliminates a crime or infraction, or changes the penalty
 20 for a crime or infraction, within the meaning of Section 17556 of
 21 the Government Code, or changes the definition of a crime within
 22 the meaning of Section 6 of Article XIII B of the California
 23 Constitution.

24 is amended to read:

25 ~~104900. (a) (1) The department shall provide appropriate~~
 26 ~~flu vaccine to local governmental or private, nonprofit agencies at~~
 27 ~~no charge in order that the agencies may provide the vaccine, at a~~
 28 ~~minimal cost, at accessible locations in the order of priority first,~~
 29 ~~for all persons 60 years of age or older in this state and then to any~~
 30 ~~other high risk groups identified by the United States Public~~
 31 ~~Health Service.~~

32 ~~(2) (A) The department and the California Department of~~
 33 ~~Aging shall prepare, publish, and disseminate information~~
 34 ~~regarding the availability of the vaccine and the effectiveness of~~
 35 ~~the vaccine in protecting the health of older persons.~~

36 ~~(B) The department shall make the information available on its~~
 37 ~~Internet Web site and shall distribute the information by any other~~
 38 ~~means the department deems appropriate, to local governmental~~
 39 ~~or private, nonprofit agencies. The information shall be posted on~~
 40 ~~the department's Internet Web site in a format that may be easily~~



1 downloaded in portable document format (PDF), text format, and
2 other commonly used formats.

3 (b) The department may provide appropriate pneumonia
4 vaccine to local governmental or private, nonprofit agencies at no
5 charge in order that the agencies may provide the vaccine, at a
6 minimal cost, at accessible locations for groups identified as high
7 risk by the United States Public Health Service.

8 (c) The program shall be designed to utilize voluntary
9 assistance from public or private sectors in administering the
10 vaccines. However, local governmental or private, nonprofit
11 agencies may charge and retain a fee not exceeding two dollars
12 (\$2) per person to offset administrative operating costs.

13 (d) Except when the department determines that it is not
14 feasible to utilize federal funds due to excessive administrative
15 costs, the department shall seek and utilize available federal funds
16 to the maximum extent possible for the cost of the vaccine, the cost
17 of administering the vaccine and the minimal fee charged under
18 this section, including reimbursement under the Medi-Cal
19 program for persons eligible therefor to the extent permitted by
20 federal law.

21 (e) Administration of the vaccine shall be performed either by
22 a physician, a registered nurse, or a licensed vocational nurse
23 acting within the scope of their professional practice acts. The
24 physician under whose direction the registered nurse or a licensed
25 vocational nurse is acting shall require the nurse to satisfactorily
26 demonstrate familiarity with (1) contraindication for the
27 administration of such immunizing agents, (2) treatment of
28 possible anaphylactic reactions, and (3) the administration of
29 treatment, and reactions to such immunizing agents.

30 (f) No private, nonprofit volunteer agency whose involvement
31 with an immunization program governed by this section is limited
32 to the provision of a clinic site or promotional and logistical
33 support pursuant to subdivision (e), or any employee or member
34 thereof, shall be liable for any injury caused by an act or omission
35 in the administration of the vaccine or other immunizing agent to
36 a person 60 years of age or older or to members of high-risk groups
37 identified by the United States Public Health Service, if the
38 immunization is performed pursuant to this section in conformity
39 with applicable federal, state, or local governmental standards and
40 the act or omission does not constitute willful misconduct or gross



1 ~~negligence. As used in this subdivision, “injury” includes the~~
2 ~~residual effects of the vaccine or other immunizing agent. It is the~~
3 ~~intent of the Legislature in adding this subdivision to affect only~~
4 ~~the liability of private, nonprofit volunteer agencies and their~~
5 ~~members that are not health facilities as defined in Section 1250.~~
6 ~~(g) Nothing in this section shall be construed to require~~
7 ~~physical presence of a directing or supervising physician, or the~~
8 ~~examination by a physician of persons to be tested or immunized.~~
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