

ASSEMBLY BILL

No. 137

Introduced by Assembly Member Portantino

January 12, 2011

An act to amend Section 1367.65 of, and to add Section 1367.651 to, the Health and Safety Code, and to amend Section 10123.81 of, and to add Section 10123.815 to, the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 137, as introduced, Portantino. Health care coverage: mammographies.

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. Under existing law, a health care service plan contract, except a specialized health care service plan contract, that is issued, amended, delivered, or renewed on or after January 1, 2000, is deemed to provide coverage for mammography for screening or diagnostic purposes upon referral by a participating nurse practitioner, participating certified nurse-midwife, or participating physician, providing care to the patient and operating within the scope of practice provided under existing law. Under existing law, an individual or group policy of disability insurance that is issued, amended, delivered, or renewed on or after January 1, 2000, is deemed to provide specified coverage based upon age for mammography for screening or diagnostic purposes upon referral by a participating nurse practitioner, participating certified nurse-midwife, or participating

physician, providing care to the patient and operating within the scope of practice provided under existing law.

This bill would provide that health care service plan contracts and individual or group policies of health insurance issued, amended, delivered, or renewed on or after July 1, 2012, shall be deemed to provide coverage for mammographies for screening or diagnostic purposes upon referral of a participating nurse practitioner, participating certified nurse-midwife, participating physician assistant, or participating physician, as specified. The bill would, commencing July 1, 2012, require plans and insurers subject to these provisions to provide subscribers or policyholders with information regarding recommended timelines for an individual to undergo tests for the screening or diagnosis of breast cancer, as specified.

Because this bill would specify additional requirements for health care service plans, 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 1367.65 of the Health and Safety Code
2 is amended to read:
3 1367.65. (a) *Until June 30, 2012, every health care service*
4 *plan contract, except a specialized health care service plan*
5 *contract, that is issued, amended, delivered, or renewed shall be*
6 *deemed to provide coverage for mammography for screening or*
7 *diagnostic purposes upon referral by a participating nurse*
8 *practitioner, participating certified nurse-midwife, or participating*
9 *physician, providing care to the patient and operating within the*
10 *scope of practice provided under existing law.*
11 (b) On or after ~~January~~ July 1, ~~2000~~ 2012, every health care
12 service plan contract, except a specialized health care service plan
13 contract, that is issued, amended, delivered, or renewed shall be
14 deemed to provide coverage for mammography for screening or

1 diagnostic purposes upon referral by a participating nurse
2 practitioner, participating certified nurse-midwife, *nurse-midwife*,
3 *participating physician assistant*, or participating physician,
4 providing care to the patient and operating within the scope of
5 practice provided under existing law.

6 ~~(b)~~

7 (c) Nothing in this section shall be construed to prevent
8 application of copayment or deductible provisions in a plan, nor
9 shall this section be construed to require that a plan be extended
10 to cover any other procedures under an individual or a group health
11 care service plan contract. Nothing in this section shall be construed
12 to authorize a plan enrollee to receive the services required to be
13 covered by this section if those services are furnished by a
14 nonparticipating provider, unless the plan enrollee is referred to
15 that provider by a participating physician, nurse, practitioner, or
16 certified nurse-midwife *provider identified in subdivision (a) or*
17 *(b), as applicable, providing care to the patient.*

18 SEC. 2. Section 1367.651 is added to the Health and Safety
19 Code, to read:

20 1367.651. Commencing July 1, 2012, a health care service
21 plan subject to Section 1367.6 or 1367.65 shall provide a subscriber
22 with information regarding recommended timelines for an
23 individual to undergo tests for the screening or diagnosis of breast
24 cancer. This information may be provided by written letter sent to
25 the subscriber, by publication in a newsletter sent to the subscriber,
26 by publication in evidence of coverage, by direct telephone call
27 to the subscriber, by electronic transmission, by Web-based portal
28 containing various plan and benefit information if the subscriber
29 has access to that portal, or by any other means that will reasonably
30 notify the subscriber of the recommended timelines for testing.
31 Communications made by a plan's contracted providers that satisfy
32 the requirements of this section shall constitute compliance by the
33 plan with this section.

34 SEC. 3. Section 10123.81 of the Insurance Code is amended
35 to read:

36 ~~10123.81. On or after January 1, 2000,~~

37 *10123.81. (a) Until June 30, 2012*, every individual or group
38 policy of disability insurance or self-insured employee welfare
39 benefit plan that is issued, amended, or renewed, shall be deemed
40 to provide coverage for at least the following, upon the referral of

1 a nurse practitioner, certified ~~nurse-midwife~~ *nurse-midwife*, or
2 physician, providing care to the patient and operating within the
3 scope of practice provided under existing law for breast cancer
4 screening or diagnostic purposes:

5 (a)
6 (1) A baseline mammogram for women age 35 to 39, inclusive.

7 (b)
8 (2) A mammogram for women age 40 to 49, inclusive, every
9 two years or more frequently based on the women’s physician’s
10 recommendation.

11 (c)
12 (3) A mammogram every year for women age 50 and over.

13 (b) *On or after July 1, 2012, every individual or group policy*
14 *of health insurance that is issued, amended, delivered, or renewed*
15 *shall be deemed to provide coverage for mammography for*
16 *screening or diagnostic purposes upon referral by a participating*
17 *nurse practitioner, participating certified nurse-midwife,*
18 *participating physician assistant, or participating physician,*
19 *providing care to the patient and operating within the scope of*
20 *practice provided under existing law.*

21 ~~Nothing~~
22 (c) *Nothing* in this section shall be construed to require an
23 individual or group policy to cover the surgical procedure known
24 as mastectomy or to prevent application of deductible or copayment
25 provisions contained in the policy or plan, nor shall this section
26 be construed to require that coverage under an individual or group
27 policy be extended to any other procedures.

28 ~~Nothing~~
29 (d) *Nothing* in this section shall be construed to authorize an
30 insured or plan member to receive the coverage required by this
31 section if that coverage is furnished by a nonparticipating provider,
32 unless the insured or plan member is referred to that provider by
33 a participating ~~physician, nurse practitioner, or certified nurse~~
34 ~~midwife~~ *provider identified in subdivision (a) or (b), as applicable,*
35 *providing care to the patient.*

36 (e) *This section shall not apply to specialized health insurance,*
37 *Medicare supplement insurance, short-term limited duration health*
38 *insurance, CHAMPUS supplement insurance, TRI-CARE*
39 *supplement insurance, or to hospital indemnity, accident-only, or*
40 *specified disease insurance.*

1 SEC. 4. Section 10123.815 is added to the Insurance Code, to
2 read:

3 10123.815. (a) Commencing July 1, 2012, a health insurer
4 subject to Section 10123.8 or 10123.81 shall provide a policyholder
5 with information regarding recommended timelines for an
6 individual to undergo tests for the screening or diagnosis of breast
7 cancer. This information may be provided by written letter sent to
8 the policyholder, by publication in a newsletter sent to the
9 policyholder, by publication in evidence of coverage, by direct
10 telephone call to the policyholder, by electronic transmission, by
11 Web-based portal containing various plan or policy and benefit
12 information if the policyholder has access to that portal, or by any
13 other means that will reasonably notify the policyholder of the
14 recommended timelines for testing. Communications made by an
15 insurer's contracted providers that satisfy the requirements of this
16 section shall constitute compliance by the insurer with this section.

17 (b) This section shall not apply to specialized health insurance,
18 Medicare supplement insurance, short-term limited duration health
19 insurance, CHAMPUS supplement insurance, TRI-CARE
20 supplement insurance, or to hospital indemnity, accident-only, or
21 specified disease insurance.

22 SEC. 5. No reimbursement is required by this act pursuant to
23 Section 6 of Article XIII B of the California Constitution because
24 the only costs that may be incurred by a local agency or school
25 district will be incurred because this act creates a new crime or
26 infraction, eliminates a crime or infraction, or changes the penalty
27 for a crime or infraction, within the meaning of Section 17556 of
28 the Government Code, or changes the definition of a crime within
29 the meaning of Section 6 of Article XIII B of the California
30 Constitution.