

ASSEMBLY BILL

No. 460

Introduced by Assembly Member Ammiano

February 19, 2013

An act to amend Section 1374.55 of the Health and Safety Code, and to amend Section 10119.6 of the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 460, as introduced, Ammiano. Health care coverage: infertility.

(1) Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the 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 provides for the regulation of health insurers by the Department of Insurance. Existing law also imposes various requirements and restrictions on health care service plans and health insurers, including, among other things, a requirement that every health care service plan contract or health insurance policy that is issued, amended, or renewed on or after January 1, 1990, offer coverage for the treatment of infertility, except in vitro fertilization, under those terms and conditions as may be agreed upon between the group subscriber or the group policyholder and the plan or the insurer, except as provided.

This bill would require that the coverage for the treatment of infertility be offered and provided without discrimination on the basis of age, ancestry, color, disability, domestic partner status, gender, gender expression, gender identity, genetic information, marital status, national origin, race, religion, sex, or sexual orientation. Because a willful

violation of the bill’s provisions by a health care service plan would be a crime, the bill would impose a state-mandated local program.

(2) 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 1374.55 of the Health and Safety Code
2 is amended to read:

3 1374.55. (a) On and after January 1, 1990, every health care
4 service plan contract ~~which~~ *that* is issued, amended, or renewed
5 that covers hospital, medical, or surgical expenses on a group basis,
6 where the plan is not a health maintenance organization as defined
7 in Section 1373.10, shall offer coverage for the treatment of
8 infertility, except in vitro fertilization, under those terms and
9 conditions as may be agreed upon between the group subscriber
10 and the plan. Every plan shall communicate the availability of that
11 coverage to all group contractholders and to all prospective group
12 contractholders with whom they are negotiating.

13 (b) For purposes of this section, “infertility” means either (1)
14 the presence of a demonstrated condition recognized by a licensed
15 physician and surgeon as a cause of infertility, or (2) the inability
16 to conceive a pregnancy or to carry a pregnancy to a live birth after
17 a year or more of regular sexual relations without contraception.
18 “Treatment for infertility” means procedures consistent with
19 established medical practices in the treatment of infertility by
20 licensed physicians and surgeons including, but not limited to,
21 diagnosis, diagnostic tests, medication, surgery, and gamete
22 intrafallopian transfer. “In vitro fertilization” means the laboratory
23 medical procedures involving the actual in vitro fertilization
24 process.

25 (c) On and after January 1, 1990, every health care service plan
26 ~~which~~ *that* is a health maintenance organization, as defined in
27 Section 1373.10, and ~~which~~ *that* issues, renews, or amends a health
28 care service plan contract that provides group coverage for hospital,

1 medical, or surgical expenses shall offer the coverage specified in
2 subdivision (a), according to the terms and conditions that may be
3 agreed upon between the group subscriber and the plan to group
4 contractholders with at least 20 employees to whom the plan is
5 offered. The plan shall communicate the availability of the
6 coverage to those group contractholders and prospective group
7 contractholders with whom the plan is negotiating.

8 (d) ~~Nothing in this~~ This section shall *not* be construed to deny
9 or restrict in any way any existing right or benefit to coverage and
10 treatment of infertility under an existing law, plan, or policy.

11 (e) ~~Nothing in this~~ This section shall *not* be construed to require
12 any employer that is a religious organization to offer coverage for
13 forms of treatment of infertility in a manner inconsistent with the
14 religious organization’s religious and ethical principles.

15 (f) ~~Nothing in this~~ This section shall *not* be construed to require
16 any plan, which is a subsidiary of an entity whose owner or
17 corporate member is a religious organization, to offer coverage
18 for treatment of infertility in a manner inconsistent with that
19 religious organization’s religious and ethical principles.

20 For purposes of this subdivision, “subsidiary” of a specified
21 corporation means a corporation more than 45 percent of the voting
22 power of which is owned directly, or indirectly through one or
23 more subsidiaries, by the specified corporation.

24 (g) *Coverage for the treatment of infertility shall be offered and*
25 *provided without discrimination on the basis of age, ancestry,*
26 *color, disability, domestic partner status, gender, gender*
27 *expression, gender identity, genetic information, marital status,*
28 *national origin, race, religion, sex, or sexual orientation.*

29 SEC. 2. Section 10119.6 of the Insurance Code is amended to
30 read:

31 10119.6. (a) On and after January 1, 1990, every insurer
32 issuing, renewing, or amending a policy of disability insurance
33 ~~which~~ *that* covers hospital, medical, or surgical expenses on a
34 group basis shall offer coverage of infertility treatment, except in
35 vitro fertilization, under those terms and conditions as may be
36 agreed upon between the group policyholder and the insurer. Every
37 insurer shall communicate the availability of that coverage to all
38 group policyholders and to all prospective group policyholders
39 with whom they are negotiating.

1 (b) For purposes of this section, “infertility” means either (1)
2 the presence of a demonstrated condition recognized by a licensed
3 physician and surgeon as a cause of infertility, or (2) the inability
4 to conceive a pregnancy or to carry a pregnancy to a live birth after
5 a year or more of regular sexual relations without contraception.
6 “Treatment for infertility” means procedures consistent with
7 established medical practices in the treatment of infertility by
8 licensed physicians and surgeons, including, but not limited to,
9 diagnosis, diagnostic tests, medication, surgery, and gamete
10 intrafallopian transfer. “In vitro fertilization” means the laboratory
11 medical procedures involving the actual in vitro fertilization
12 process.

13 (c) ~~Nothing in this~~ This section shall *not* be construed to deny
14 or restrict in any way any existing right or benefit to coverage and
15 treatment of infertility under an existing law, plan, or policy.

16 (d) ~~Nothing in this~~ This section shall *not* be construed to require
17 any employer that is a religious organization to offer coverage for
18 forms of treatment of infertility in a manner inconsistent with the
19 religious organization’s religious and ethical principles.

20 (e) ~~Nothing in this section~~ This section shall *not* be construed
21 to require any insurer, which is a subsidiary of an entity whose
22 owner or corporate member is a religious organization, to offer
23 coverage for treatment of infertility in a manner inconsistent with
24 that religious organization’s religious and ethical principles.

25 For purposes of this subdivision, “subsidiary” of a specified
26 corporation means a corporation more than 45 percent of the voting
27 power of which is owned directly, or indirectly through one or
28 more subsidiaries, by the specified corporation.

29 (f) This section applies to every disability insurance policy
30 ~~which~~ that is issued, amended, or renewed to residents of this state
31 regardless of the situs of the contract.

32 (g) *Coverage for the treatment of infertility shall be offered and*
33 *provided without discrimination on the basis of age, ancestry,*
34 *color, disability, domestic partner status, gender, gender*
35 *expression, gender identity, genetic information, marital status,*
36 *national origin, race, religion, sex, or sexual orientation.*

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

1 infraction, eliminates a crime or infraction, or changes the penalty
2 for a crime or infraction, within the meaning of Section 17556 of
3 the Government Code, or changes the definition of a crime within
4 the meaning of Section 6 of Article XIII B of the California
5 Constitution.

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