

AMENDED IN SENATE MAY 16, 2012

AMENDED IN ASSEMBLY JANUARY 23, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1000

Introduced by Assembly Member Perea

February 18, 2011

An act to add and repeal Section 1367.655 of to the Health and Safety Code, and to add and repeal Section 10123.205 of to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 1000, as amended, Perea. Health care coverage: cancer treatment.

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 health care service plan contracts and health insurance policies to provide coverage for all generally medically accepted cancer screening tests and requires those contracts and policies to also provide coverage for the treatment of breast cancer. Existing law imposes various requirements on contracts and policies that cover prescription drug benefits.

~~This bill, until January 1, 2016, would require health care service plan contracts and health insurance policies that provide coverage for cancer chemotherapy treatment to provide coverage for a prescribed, orally administered, nongeneric cancer medication, as specified. The bill would require a health care service plan or health insurer to review~~

~~the percentage cost share, as defined, for oral nongeneric cancer medications and intravenous or injected nongeneric cancer medications and to apply the lower of the 2 as the cost-sharing provision for oral nongeneric cancer medications. The bill would limit increases in cost sharing for nongeneric cancer medications, as specified. The bill would provide, however, that no benefits are required to be provided under its provisions that exceed the essential health benefits that will be required under specified federal law. The bill would also specify that its provisions do not apply to health care service plan contracts or health insurance policies that do not provide coverage for prescription drugs or to a health care benefit plan, contract, or health insurance policy with the Board of Administration of the Public Employees' Retirement System.~~

This bill would prohibit a health care service plan contract and a health insurance policy that provides coverage for cancer chemotherapy treatment from, directly or indirectly, requiring a higher copayment, deductible, or coinsurance amount for a prescribed, orally administered anticancer medication than the health care service plan or health insurer requires for an intravenously administered or injected cancer medication. The bill would prohibit a health care service plan or a health insurer from being deemed to have complied with these provisions by increasing the copayment, deductible, or coinsurance amount for an intravenously administered or injected cancer chemotherapy agent. The bill would specify that its provisions do not apply to a health care benefit plan, contract, or policy with the Board of Administration of the Public Employees' Retirement System. The bill would also provide that no benefits are required to be provided under its provisions that exceed the essential health benefits that will be required under specified federal law.

Because a willful violation of the bill's requirements relative to health care service plans 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 1367.655 is added to the Health and*
2 *Safety Code, to read:*

3 *1367.655. (a) Notwithstanding any other provision of law, a*
4 *health care service plan contract issued, amended, or renewed on*
5 *or after January 1, 2013, that provides coverage for cancer*
6 *chemotherapy treatment shall not, directly or indirectly, require*
7 *a higher copayment, deductible, or coinsurance amount for a*
8 *prescribed, orally administered anticancer medication that is used*
9 *to kill or slow the growth of cancerous cells than the health care*
10 *service plan requires for an intravenously administered or injected*
11 *cancer medication, regardless of formulation or benefit category*
12 *determination by the health care service plan.*

13 *(b) A health care service plan shall not be deemed to have*
14 *complied with this section by increasing the copayment, deductible,*
15 *or coinsurance amount for an intravenously administered or*
16 *injected cancer chemotherapy agent covered by the health care*
17 *service plan.*

18 *(c) Nothing in this section shall be interpreted to prohibit a*
19 *health care service plan from requiring prior authorization or*
20 *imposing other appropriate utilization controls in approving*
21 *coverage for any chemotherapy.*

22 *(d) This section shall not apply to a health care benefit plan or*
23 *contract entered into with the Board of Administration of the Public*
24 *Employees' Retirement System pursuant to the Public Employees'*
25 *Medical and Hospital Care Act (Part 5 (commencing with Section*
26 *22750) of Division 5 of Title 2 of the Government Code).*

27 *(e) Notwithstanding subdivision (a), as of the date that proposed*
28 *final rulemaking for essential health benefits is issued, this section*
29 *does not require any benefits to be provided that exceed the*
30 *essential health benefits that all health plans will be required by*
31 *federal regulations to provide under Section 1302(b) of the federal*
32 *Patient Protection and Affordable Care Act (Public Law 111-148),*
33 *as amended by the federal Health Care and Education*
34 *Reconciliation Act of 2010 (Public Law 111-152).*

35 *SEC. 2. Section 10123.205 is added to the Insurance Code, to*
36 *read:*

37 *10123.205. (a) Notwithstanding any other provision of law,*
38 *a health insurance policy issued, amended, or renewed on or after*

1 *January 1, 2013, that provides coverage for cancer chemotherapy*
 2 *treatment shall not, directly or indirectly, require a higher*
 3 *copayment, deductible, or coinsurance amount for a prescribed,*
 4 *orally administered anticancer medication that is used to kill or*
 5 *slow the growth of cancerous cells than the health insurer requires*
 6 *for an intravenously administered or injected cancer medication,*
 7 *regardless of formulation or benefit category determination by the*
 8 *health insurer.*

9 *(b) A health insurer shall not be deemed to have complied with*
 10 *this section by increasing the copayment, deductible, or*
 11 *coinsurance amount for an intravenously administered or injected*
 12 *cancer chemotherapy agent covered by the health insurer.*

13 *(c) Nothing in this section shall be interpreted to prohibit a*
 14 *health insurer from requiring prior authorization or imposing*
 15 *other appropriate utilization controls in approving coverage for*
 16 *any chemotherapy.*

17 *(d) This section shall not apply to a health care benefit plan or*
 18 *policy entered into with the Board of Administration of the Public*
 19 *Employees' Retirement System pursuant to the Public Employees'*
 20 *Medical and Hospital Care Act (Part 5 (commencing with Section*
 21 *22750) of Division 5 of Title 2 of the Government Code).*

22 *(e) Notwithstanding subdivision (a), as of the date that proposed*
 23 *final rulemaking for essential health benefits is issued, this section*
 24 *does not require any benefits to be provided that exceed the*
 25 *essential health benefits that all health plans will be required by*
 26 *federal regulations to provide under Section 1302(b) of the federal*
 27 *Patient Protection and Affordable Care Act (Public Law 111-148),*
 28 *as amended by the federal Health Care and Education*
 29 *Reconciliation Act of 2010 (Public Law 111-152).*

30 ~~SECTION 1. Section 1367.655 is added to the Health and~~
 31 ~~Safety Code, to read:~~

32 ~~1367.655. (a) A health care service plan contract issued,~~
 33 ~~amended, or renewed on or after January 1, 2013, that provides~~
 34 ~~coverage for cancer chemotherapy treatment shall provide coverage~~
 35 ~~for a prescribed, orally administered, nongeneric cancer medication~~
 36 ~~used to kill or slow the growth of cancerous cells and shall review~~
 37 ~~the percentage cost share for oral nongeneric cancer medications~~
 38 ~~and intravenous or injected nongeneric cancer medications and~~
 39 ~~apply the lower of the two as the cost-sharing provision for oral~~
 40 ~~nongeneric cancer medications. A health care service plan contract~~

1 shall not provide for an increase in enrollee cost sharing for
2 nongeneric cancer medications to any greater extent than the
3 contract provides for an increase in enrollee cost sharing for other
4 nongeneric covered medications.

5 (b) For purposes of this section, “cost share” means copayment,
6 coinsurance, or deductible provisions applicable to coverage for
7 oral, intravenous, or injected nongeneric cancer medications.

8 (c) Nothing in this section shall be construed to require a health
9 care service plan contract to provide coverage for any additional
10 medication not otherwise required by law.

11 (d) Nothing in this section shall prohibit a health care service
12 plan from removing a prescription drug from its formulary of
13 covered prescription drugs.

14 (e) This section shall not apply to a health care service plan
15 contract that does not provide coverage for prescription drugs.

16 (f) This section shall not apply to a health care benefit plan or
17 contract entered into with the Board of Administration of the Public
18 Employees’ Retirement System pursuant to the Public Employees’
19 Medical and Hospital Care Act (Part 5 (commencing with Section
20 22750) of Division 5 of Title 2 of the Government Code).

21 (g) Notwithstanding subdivision (a), as of the date that proposed
22 final rulemaking for essential health benefits is issued, this section
23 does not require any benefits to be provided that exceed the
24 essential health benefits that all health plans will be required by
25 federal regulations to provide under Section 1302(b) of the federal
26 Patient Protection and Affordable Care Act (Public Law 111-148),
27 as amended by the federal Health Care and Education
28 Reconciliation Act of 2010 (Public Law 111-152).

29 (h) This section shall remain in effect only until January 1, 2016,
30 and as of that date is repealed, unless a later enacted statute, that
31 is enacted before January 1, 2016, deletes or extends that date.

32 SEC. 2. Section 10123.205 is added to the Insurance Code, to
33 read:

34 10123.205. (a) A health insurance policy issued, amended, or
35 renewed on or after January 1, 2013, that provides coverage for
36 cancer chemotherapy treatment shall provide coverage for a
37 prescribed, orally administered, nongeneric cancer medication
38 used to kill or slow the growth of cancerous cells and shall review
39 the percentage cost share for oral nongeneric cancer medications
40 and intravenous or injected nongeneric cancer medications and

1 ~~apply the lower of the two as the cost-sharing provision for oral~~
2 ~~nongeneric cancer medications. A health insurance policy shall~~
3 ~~not provide for an increase in insured cost sharing for nongeneric~~
4 ~~cancer medications to any greater extent than the policy provides~~
5 ~~for an increase in an insured's cost sharing for other nongeneric~~
6 ~~covered medications.~~

7 ~~(b) For purposes of this section, "cost share" means copayment,~~
8 ~~coinsurance, or deductible provisions applicable to coverage for~~
9 ~~oral, intravenous, or injected nongeneric cancer medications.~~

10 ~~(c) Nothing in this section shall be construed to require a health~~
11 ~~insurance policy to provide coverage for any additional medication~~
12 ~~not otherwise required by law.~~

13 ~~(d) Nothing in this section shall prohibit a health insurer from~~
14 ~~removing a prescription drug from its formulary of covered~~
15 ~~prescription drugs.~~

16 ~~(e) This section shall not apply to a health insurance policy that~~
17 ~~does not provide coverage for prescription drugs.~~

18 ~~(f) This section shall not apply to a policy of health insurance~~
19 ~~purchased by the Board of Administration of the Public Employees'~~
20 ~~Retirement System pursuant to the Public Employees' Medical~~
21 ~~and Hospital Care Act (Part 5 (commencing with Section 22750)~~
22 ~~of Division 5 of Title 2 of the Government Code).~~

23 ~~(g) Notwithstanding subdivision (a), as of the date that proposed~~
24 ~~final rulemaking for essential health benefits is issued, this section~~
25 ~~does not require any benefits to be provided that exceed the~~
26 ~~essential health benefits that all health plans will be required by~~
27 ~~federal regulations to provide under Section 1302(b) of the federal~~
28 ~~Patient Protection and Affordable Care Act (Public Law 111-148),~~
29 ~~as amended by the federal Health Care and Education~~
30 ~~Reconciliation Act of 2010 (Public Law 111-152).~~

31 ~~(h) This section shall remain in effect only until January 1, 2016,~~
32 ~~and as of that date is repealed, unless a later enacted statute, that~~
33 ~~is enacted before January 1, 2016, deletes or extends that date.~~

34 SEC. 3. No reimbursement is required by this act pursuant to
35 Section 6 of Article XIII B of the California Constitution because
36 the only costs that may be incurred by a local agency or school
37 district will be incurred because this act creates a new crime or
38 infraction, eliminates a crime or infraction, or changes the penalty
39 for a crime or infraction, within the meaning of Section 17556 of
40 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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