ASSEMBLY BILL No. 2418

Introduced by Assembly Members Bonilla and Skinner

February 21, 2014

An act to add Section 1367.247 to the Health and Safety Code, and to add Section 10123.192 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL’S DIGEST

AB 2418, as introduced, Bonilla. Health care coverage: prescription drug refills.

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 imposes various requirements on contracts and policies that cover prescription drug benefits. Existing law, the Pharmacy Law, provides for the licensure and regulation of pharmacists by the California State Board of Pharmacy and prohibits the refilling of a prescription without the authorization of the prescriber, except as specified.

This bill would require a health care service plan contract or health insurance policy issued, amended, or renewed on or after January 1, 2015, that provides prescription drug benefits and imposes a mandatory mail order restriction for all or some covered prescription drugs to establish a process allowing enrollees and insureds to opt out of the restriction, as specified. This bill would prohibit a health care service plan contract or a health insurance policy issued, amended, or renewed on or after January 1, 2015, that provides prescription drug benefits
from denying coverage for the refill of an otherwise covered drug when
the refill is ordered for the purpose of placing all of the enrollee’s or
insured’s medications on the same schedule for refill. The bill would
also prohibit the contract or policy from denying coverage for the refill
of covered topical ophthalmic products at 70% of the predicted days of
use. Because a willful violation of the bill’s requirements 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.

State-mandated local program: yes.

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

SECTION 1. Section 1367.247 is added to the Health and
Safety Code, to read:

1367.247. (a) (1) A health care service plan contract issued,
amended, or renewed on or after January 1, 2015, that provides
prescription drug benefits and that imposes a mandatory mail order
restriction for some or all covered prescription drugs shall establish
a process for enrollees to opt out of that restriction. The opt out
process shall comply with all of the following requirements:

(A) Not impose conditions or restrictions on an enrollee opting
out of the mandatory mail order restriction. For purposes of this
subparagraph, “conditions or restrictions” include, but are not
limited to, requiring prescriber approval or submission of
documentation by the enrollee or prescriber.

(B) Allow an enrollee to opt out of the mandatory mail order
restriction, and revoke his or her prior opt out of the restriction, at
any time.

(C) The choice by an enrollee to opt out shall be valid for as
long as the enrollee remains enrolled in the plan contract or elects
to revoke the opt out.

(D) A health care service plan shall provide an enrollee who
obtains a covered prescription drug that is subject to the mandatory
mail order restriction with a separate written notice of the
restriction no less than 30 days prior to the restriction taking effect
for each drug subject to the restriction. This written notice shall
be in addition to any information contained in the plan’s evidence
of coverage or evidence of benefits. The notice shall inform the
enrollee of the right to opt out of the mandatory mail order
restriction and instructions on how to do so, including designating
a mailing address, electronic mail address, and, if the plan chooses
to receive opt out elections by telephone or facsimile, a toll-free
telephone or facsimile number, to which the enrollee may deliver
his or her opt out election.

(2) This subdivision shall not apply to drugs that are not
available at an in-network community pharmacy due to a
manufacturer’s instructions or restrictions, or due to any risk
evaluation and management strategy approved by the federal Food
and Drug Administration.

(b) A health care service plan contract issued, amended, or
renewed on or after January 1, 2015, that provides prescription
drug benefits shall not deny coverage for the refill of an otherwise
covered drug when the refill is ordered for the purpose of placing
all of the enrollee’s medications on the same schedule for refill.

(c) A health care service plan contract issued, amended, or
renewed on or after January 1, 2015, that provides prescription
drug benefits shall not deny coverage for the refill of covered
topical ophthalmic products at 70 percent of the predicted days of
use.

(d) Nothing in this section shall be construed to establish a new
mandated benefit or to prevent the application of deductible or
copayment provisions in a plan contract.

SEC. 2. Section 10123.192 is added to the Insurance Code, to
read:

10123.192. (a) (1) A health insurance policy issued, amended,
or renewed on or after January 1, 2015, that provides prescription
drug benefits and that imposes a mandatory mail order restriction
for some or all covered prescription drugs shall establish a process
for insureds to opt out of that restriction. The opt out process shall
comply with all of the following requirements:

(A) Not impose conditions or restrictions on an insured opting
out of the mandatory mail order restriction. For purposes of this
subparagraph, “conditions or restrictions” include, but are not
limited to, requiring prescriber approval or submission of
documentation by the insured or prescriber.

(B) Allow an insured to opt out of the mandatory mail order
restriction, and revoke his or her prior opt out of the restriction, at
any time.

(C) The choice by an insured to opt out shall be valid for as
long as the insured remains covered under the policy or elects to
revoke the opt out.

(D) A health insurer shall provide an insured who obtains a
covered prescription drug that is subject to the mandatory mail
order restriction with a separate written notice of the restriction
no less than 30 days prior to the restriction taking effect for each
drug subject to the restriction. This written notice shall be in
addition to any information contained in the insurer’s evidence of
coverage or evidence of benefits. The notice shall inform the
insured of the right to opt out of the mandatory mail order
restriction and instructions on how to do so, including designating
a mailing address, electronic mail address, and, if the insurer
chooses to receive opt out elections by telephone or facsimile, a
toll-free telephone or facsimile number, to which the insured may
deliver his or her opt out election.

(2) This subdivision shall not apply to drugs that are not
available at an in-network community pharmacy due to a
manufacturer’s instructions or restrictions, or due to any risk
evaluation and management strategy approved by the federal Food
and Drug Administration.

(b) A health insurance policy issued, amended, or renewed on
or after January 1, 2015, that provides prescription drug benefits
shall not deny coverage for the refill of an otherwise covered drug
when the refill is ordered for the purpose of placing all of the
insured’s medications on the same schedule for refill.

(c) A health insurance policy issued, amended, or renewed on
or after January 1, 2015, that provides prescription drug benefits
shall not deny coverage for the early refill of covered topical
ophthalmic products at 70 percent of the predicted days of use.

(d) Nothing in this section shall be construed to establish a new
mandated benefit or to prevent the application of deductible or
copayment provisions in a policy.

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