HEALTH AND SAFETY CODE - HSC

DIVISION 2. LICENSING PROVISIONS [1200 - 1796.70] *(Division 2 enacted by Stats. 1939, Ch. 60.)*

CHAPTER 2.2. Health Care Service Plans [1340 - 1399.874] *(Chapter 2.2 added by Stats. 1975, Ch. 941.)*

ARTICLE 5.5. Health Care Service Plan Coverage Contract Changes [1374.20 - 1374.29] *(Heading of Article 5.5 amended by Stats. 2002, Ch. 336, Sec. 2.)*

1374.20. (a) No group health care service plan shall change the premium rates or applicable copayments or coinsurances or deductibles for the length of the contract, except as specified in subdivision (b), during any of the following time periods:

(1) After the group contractholder has delivered written notice of acceptance of the contract.

(2) After the start of the employer's annual open enrollment period.

(3) After the receipt of payment of the premium for the first month of coverage in accordance with the contract effective date.

(b) Changes to the premium rates or applicable copayments or coinsurances or deductibles of a contract shall, subject to the plan meeting the requirements of this article, be allowed in any of the following circumstances:

(1) When authorized or required in the group contract.

(2) When the contract was agreed to under a preliminary agreement that states that it is subject to execution of a definitive agreement.

(3) When the plan and contractholder mutually agree in writing.

(Added by Stats. 2002, Ch. 336, Sec. 4. Effective January 1, 2003.)

1374.21. (a) (1) A change in premium rates or changes in coverage stated in a small group health care service plan contract shall not become effective unless the plan has delivered in writing a notice indicating the change or changes at least 60 days prior to the contract renewal effective date.

(2) A change on premium rates or changes in coverage stated in a large group health care service plan contract shall not become effective unless the plan has delivered a written notice indicating the change or changes at least 120 days before the contract renewal effective date. The notice for large group health plans shall include the following information:

(A) Whether the rate proposed to be in effect is greater than the average rate increase for individual market products negotiated by the California Health Benefit Exchange for the most recent calendar year for which the rates are final.

(B) Whether the rate proposed to be in effect is greater than the average rate increase negotiated by the Board of Administration of the Public Employees' Retirement System for the most recent calendar year for which the rates are final or greater than the average rate increase for coverage offered in the large group market, as filed pursuant to Section 1385.045.

(C) Whether the rate change includes any portion of the excise tax paid by the health plan.

(D) How to obtain the rate filing required under Article 6.2 (commencing with Section 1385.01).

(E) How to apply to the department to have the proposed rate reviewed by the department if a request is made within 30 days of the notice.

(b) A health care service plan that declines to offer coverage to or denies enrollment for a large group applying for coverage shall, at the time of the denial of coverage, provide the applicant with the specific reason or reasons for the decision in writing, in clear, easily understandable language.

(c) (1) For group health care service plan contracts, if the department determines that a rate is unreasonable or not justified consistent with Article 6.2 (commencing with Section 1385.01), the plan shall notify the contractholder of this determination. This notification may be included in the notice required in subdivision (a).

(2) The notification to the contractholder shall be developed by the department and shall include the following statements in 14-point type:

(A) The Department of Managed Health Care has determined that the rate for this product is unreasonable or not justified after reviewing information submitted to it by the plan.

(B) The contractholder has the option to obtain other coverage from this plan or another plan, or to keep this coverage.

(C) Small business purchasers may want to contact Covered California at www.coveredca.com for help in understanding available options.

(3) In developing the notification, the department shall take into consideration that this notice is required to be provided to a small group applicant pursuant to subdivision (g) of Section 1385.03.

(4) The development of the notification required under this subdivision shall not be subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(5) The plan may include in the notification to the contractholder the internet website address at which the plan's final justification for implementing an increase that has been determined to be unreasonable by the director may be found pursuant to Section 154.230 of Title 45 of the Code of Federal Regulations.

(6) The notice shall also be provided to the solicitor for the contractholder, if any, so that the solicitor may assist the purchaser in finding other coverage.

(Amended by Stats. 2019, Ch. 807, Sec. 1. (AB 731) Effective January 1, 2020.)

1374.22. (a) The written notice described in subdivision (a) of Section 1374.21 shall be delivered by mail at the last known address at least 60 days prior to the renewal effective date to the group contract holder.

(b) The written notice shall state in italics and in 12-point type the actual dollar amount and the specific percentage of the premium rate increase. Further, the notice shall describe in plain understandable English and highlighted in italics any changes in the plan design or change in benefits with reduction in benefits, waivers, exclusions, or conditions.

(c) The written notice shall specify in a minimum of 10-point bold typeface the reason or reasons for premium rate changes, plan design, or plan benefit changes.

(Amended by Stats. 2010, Ch. 661, Sec. 3. (SB 1163) Effective January 1, 2011.)

1374.23. Notwithstanding subdivision (a) of Section 1374.22, if the plan does not guarantee either premium rates or plan design or benefits for any specified time period greater than 180 days, it shall deliver the written notice by mail to the group contract holder at least 30 days prior to the group contract renewal effective date.

(Added by Stats. 1990, Ch. 949, Sec. 1.)

1374.24. There shall be no liability on the part of, and no cause of action of any nature shall arise against, any health care service plan required to provide the notice or its authorized representatives, or agents, for any statement made, unless shown to have been made with malice in fact, by any of them in (a) any written notice or in any other oral or written communication specifying the reasons for the notice, (b) any communication providing information pertaining to that notice, or (c) evidence submitted at any court proceeding or informal inquiry in which that notice is at issue.

(Added by Stats. 1990, Ch. 949, Sec. 1.)

1374.25. Proof of mailing a notice and the reason therefor to the appropriate entity or individual at the most current policy or plan address shall be sufficient proof of the notice required by this chapter.

(Added by Stats. 1990, Ch. 949, Sec. 1.)

1374.255. (a) This section shall apply to grandfathered health care service plan contracts and nongrandfathered health care service plan contracts in the individual or small group markets that are issued, amended, or renewed on or after January 1, 2017.

(b) Notwithstanding paragraph (1) of subdivision (b) of Section 1374.20, a health care service plan contract shall not change the cost-sharing design during the plan year, except when required by state or federal law.

(c) For purposes of this section, the following definitions shall apply:

(1) “Cost sharing” includes any copayment, coinsurance, deductible, or any other form of cost sharing by the enrollee other than the premium or share of premium.

(2) “Plan year” has the meaning set forth in Section 144.103 of Title 45 of the Code of Federal Regulations. For nongrandfathered health care service plan contracts in the individual market, “plan year” means the calendar year.

(3) “Cost-sharing design” means the amount or proportion of cost sharing applied to a covered benefit.

(Added by Stats. 2016, Ch. 192, Sec. 1. (SB 923) Effective January 1, 2017.)

1374.26. The director may, as required by this article, or from time to time as conditions warrant, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, adopt reasonable regulations, and amendments and additions thereto, as are necessary to administer this article.

(Amended by Stats. 1999, Ch. 525, Sec. 112. Effective January 1, 2000. Operative July 1, 2000, or sooner, by Sec. 214 of Ch. 525.)

1374.27. The director may levy administrative penalties and may suspend or revoke the license or licenses issued to any health care service plan, after notice and hearing, to have violated this article or a regulation adopted pursuant to the authority of this article. Notice of hearing shall be accomplished and a hearing conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director shall have all of the powers granted therein.

The remedies available to the director pursuant to this article are not exclusive, and may be sought and employed in any combination with other remedies deemed advisable by the director to enforce the provisions of this article.

(Amended by Stats. 1999, Ch. 525, Sec. 113. Effective January 1, 2000. Operative July 1, 2000, or sooner, by Sec. 214 of Ch. 525.)

1374.28. In addition to any other penalty provided by law or the availability of any administrative procedure, if a health care service plan, after notice and hearing, is found to have violated this article, or regulations adopted pursuant to this article, or knowingly permits any person to do so, the director may suspend the authority of the plan to transact business.

(Amended by Stats. 1999, Ch. 525, Sec. 114. Effective January 1, 2000. Operative July 1, 2000, or sooner, by Sec. 214 of Ch. 525.)

1374.29. The purpose of this article is to promote the public interest, to prevent unfair and unlawful health care business practices, and to promote adequate consumer and employer advance notice of changes in the cost of health coverage in order to allow for comparative shopping and to reduce the cost of health coverage.

(Added by renumbering Section 1374.20 by Stats. 2002, Ch. 336, Sec. 3. Effective January 1, 2003.)