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AB-2863 Health care coverage: prescriptions. (2017-2018)

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Assembly Bill No. 2863

CHAPTER 770

An act to add Section 4079 to the Business and Professions Code, to add Section 1367.47 to the Health and Safety Code, and to add Section 10123.65 to the Insurance Code, relating to prescription drugs.

[Approved by Governor September 26, 2018. Filed with Secretary of State September 26, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2863, Nazarian. Health care coverage: prescriptions.

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 provides for the regulation of health insurers by the Department of Insurance. Existing law requires a health care service plan or health insurer that covers outpatient prescription drug benefits to provide coverage for specified prescription drugs, and requires cost sharing for outpatient prescription drugs to be reasonable so as to allow access to medically necessary outpatient prescription drugs.

This bill would limit the amount a health care service plan or health insurer may require an enrollee or insured to pay at the point of sale for a covered prescription to the lesser of the applicable cost-sharing amount or the retail price. The bill would prohibit a health care service plan or health insurer from requiring a pharmacy to charge or collect a cost-sharing amount from an enrollee or insured that exceeds the total retail price for the prescription drug, and would provide that the payment rendered by an enrollee or insured would constitute the applicable cost sharing, as specified.

The bill would require a pharmacy to inform a customer whether the retail price for a covered prescription is lower than the applicable cost-sharing amount, unless the pharmacy automatically charges the customer the lower price. If the customer pays the retail price, the bill would require the pharmacy to submit the claim to the health care service plan or health insurer in the same manner as if the customer had purchased the prescription drug by paying the cost-sharing amount when submitted by the network pharmacy. The bill would make a contract provision that is inconsistent with these provisions void and unenforceable.

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 Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 4079 is added to the Business and Professions Code, immediately following Section 4078, to read:

4079. (a) A pharmacy shall inform a customer at the point of sale for a covered prescription drug whether the retail price is lower than the applicable cost-sharing amount for the prescription drug, unless the pharmacy automatically charges the customer the lower price.

(b) If the customer pays the retail price, the pharmacy shall submit the claim to the health care service plan or health insurer in the same manner as if the customer had purchased the prescription drug by paying the cost-sharing amount when submitted by the network pharmacy.

(c) The payment rendered shall constitute the applicable cost sharing and shall apply to the deductible, if any, and also to the maximum out-of-pocket limit in the same manner as if the enrollee had purchased the prescription drug by paying the cost-sharing amount.

(d) A contract provision that is inconsistent with this section is void and unenforceable.

(e) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(f) A violation of this provision shall not be grounds for disciplinary action or a criminal action.

SEC. 2. Section 1367.47 is added to the Health and Safety Code, to read:

1367.47. (a) The maximum amount a health care service plan may require an enrollee to pay at the point of sale for a covered prescription drug is the lesser of the following:

(1) The applicable cost-sharing amount for the prescription drug.

(2) The retail price.

(b) A health care service plan shall not require a pharmacist or pharmacy to charge or collect from an enrollee a cost-sharing amount that exceeds the total retail price for the prescription drug.

(c) The payment rendered shall constitute the applicable cost sharing and shall apply to the deductible, if any, and also to the maximum out-of-pocket limit in the same manner as if the enrollee had purchased the prescription drug by paying the cost-sharing amount.

SEC. 3. Section 10123.65 is added to the Insurance Code, to read:

10123.65. (a) The maximum amount a health insurer may require an insured to pay at the point of sale for a covered prescription drug is the lesser of the following:

(1) The applicable cost-sharing amount for the prescription drug.

(2) The retail price.

(b) A health insurer shall not require a pharmacist or pharmacy to charge or collect from an insured a cost-sharing amount that exceeds the total retail price for the prescription drug.

(c) The payment rendered shall constitute the applicable cost sharing and shall apply to the deductible, if any, and also to the maximum out-of-pocket limit in the same manner as if the insured had purchased the prescription drug by paying the cost-sharing amount.

SEC. 4. 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.