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**AB-2941 Health care coverage: state of emergency.** (2017-2018)

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**Assembly Bill No. 2941**

**CHAPTER 196**

An act to add Section 1368.7 to the Health and Safety Code, and to add Section 10112.95 to the Insurance Code, relating to health care coverage.

[ Approved by Governor August 24, 2018. Filed with Secretary of State August 24, 2018. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 2941, Berman. Health care coverage: state of emergency.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene), 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 the Department of Managed Health Care and the Insurance Commissioner to adopt regulations to ensure enrollees and insureds have access to needed health care services in a timely manner, and requires a health care service plan contract or health insurance policy to provide information to an enrollee or insured regarding the standards for timely access to care.

This bill would require a health care service plan or health insurer to provide its enrollees or insureds who have been displaced by a state of emergency, as defined, access to medically necessary health care services, as specified. The bill would require a health care service plan or health insurer, within 48 hours of a declaration of emergency by the Governor that displaces or has the immediate potential to displace enrollees or insureds, to file a notification with the appropriate department, containing specified information regarding how the plan or insurer is addressing the needs of its enrollees or insureds during the state of emergency. 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 Local Program: yes

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

**SECTION 1.** Section 1368.7 is added to the Health and Safety Code, to read:

**1368.7.** (a) A health care service plan shall provide an enrollee who has been displaced by a state of emergency, as declared by the Governor pursuant to Section 8625 of the Government Code, access to medically necessary health care services.

(b) Within 48 hours of a declaration by the Governor of a state of emergency that displaces or has the immediate potential to displace enrollees, a health care service plan operating in the county or counties included in the declaration shall file with the department a notification describing whether the plan has experienced or expects to experience any disruption to the operation of the plan, explaining how the plan is communicating with potentially impacted enrollees, and summarizing the actions the plan has taken or is in the process of taking to ensure that the health care needs of enrollees are met. This may require the plan to take actions, including, but not limited to, the following:

- (1) Relax time limits for prior authorization, precertification, or referrals.
- (2) Extend filing deadlines for claims.
- (3) Suspend prescription refill limitations and allow an impacted enrollee to refill his or her prescriptions at an out-of-network pharmacy.
- (4) Authorize an enrollee to replace medical equipment or supplies.
- (5) Allow an enrollee to access an appropriate out-of-network provider if an in-network provider is unavailable due to the state of emergency or if the enrollee is out of the area due to displacement.
- (6) Have a toll-free telephone number that an affected enrollee may call for answers to questions, including questions about the loss of health insurance identification cards, access to prescription refills, or how to access health care.

(c) This section shall not be construed to limit the Governor's authority under the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code), or the director's authority under any provision of this chapter.

**SEC. 2.** Section 10112.95 is added to the Insurance Code, to read:

**10112.95.** (a) A health insurer shall provide an insured who has been displaced by a state of emergency, as declared by the Governor pursuant to Section 8625 of the Government Code, access to medically necessary health care services.

(b) Within 48 hours of a declaration by the Governor of a state of emergency that displaces or has the immediate potential to displace insureds, a health insurer operating in the county or counties included in the declaration shall file with the department a notification describing whether the insurer has experienced or expects to experience any disruption to the operation of the insurer, explaining how the insurer is communicating with potentially impacted insureds, and summarizing the actions the insurer has taken or is in the process of taking to ensure that the health care needs of insureds are met. This may require the insurer to take actions, including, but not limited to, the following:

- (1) Relax time limits for prior authorization, precertification, or referrals.
- (2) Extend filing deadlines for claims.
- (3) Suspend prescription refill limitations and allow an impacted insured to refill his or her prescriptions at an out-of-network pharmacy.
- (4) Authorize an insured to replace medical equipment or supplies.
- (5) Allow an insured to access an appropriate out-of-network provider if an in-network provider is unavailable due to the state of emergency or if the insured is out of the area due to displacement.
- (6) Have a toll-free telephone number that an affected insured may call for answers to questions, including questions about the loss of health insurance identification cards, access to prescription refills, or how to access health care.

(c) This section shall not be construed to limit the Governor's authority under the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code), or the commissioner's authority under any provision of this part.

**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.