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**AB-2157 Health care coverage: independent dispute resolution process. (2019-2020)**

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Date Published: 09/30/2020 09:00 PM

**Assembly Bill No. 2157**

**CHAPTER 278**

An act to amend Section 1371.30 of the Health and Safety Code, and to amend Section 10112.81 of the Insurance Code, relating to health care coverage.

[ Approved by Governor September 29, 2020. Filed with Secretary of State September 29, 2020. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 2157, Wood. Health care coverage: independent dispute resolution process.

Existing law provides for the licensure and regulation of health care service plans by the Department of Managed Health Care, and provides for the regulation of health insurers by the Department of Insurance. Existing law requires each department to establish an independent dispute resolution process to resolve a claim dispute between a health care service plan or health insurer, as appropriate, and a noncontracting individual health professional, and sets forth requirements and guidelines for that process, including contracting with an independent organization for the purpose of conducting the review process. Existing law requires each department to establish uniform written procedures for the submission, receipt, processing, and resolution of these disputes, as specified. Existing law requires the independent organization, in deciding the dispute, to base its decision regarding the appropriate reimbursement on all relevant information.

This bill would require the procedures established by each department to include a process for each party to submit into evidence information that will be kept confidential from the other party, in order to preserve the confidentiality of the source contract. The bill would specifically require the independent organization to conduct a de novo review of the claim dispute, based solely on the information and documents timely submitted into evidence by the parties. The bill would require the independent organization to assign reviewers to each case based on their relevant education, background, and medical claims payment and clinical experience.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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

**SECTION 1.** Section 1371.30 of the Health and Safety Code is amended to read:

**1371.30.** (a) (1) By September 1, 2017, the department shall establish an independent dispute resolution process for the purpose of processing and resolving a claim dispute between a health care service plan and a noncontracting individual health professional for services subject to subdivision (a) of Section 1371.9.

(2) Prior to initiating the independent dispute resolution process, the parties shall complete the plan's internal process.

(3) If either the noncontracting individual health professional or the plan appeals a claim to the department's independent dispute resolution process, the other party shall participate in the appeal process as described in this section.

(b) (1) The department shall establish uniform written procedures for the submission, receipt, processing, and resolution of claim payment disputes pursuant to this section and any other guidelines for implementing this section. These procedures shall include a process for each party to submit into evidence information that will be kept confidential from the other party, in order to preserve the confidentiality of the source contract.

(2) The department shall establish reasonable and necessary fees for the purpose of administering this section, to be paid by both parties.

(3) In establishing the independent dispute resolution process, the department shall permit the bundling of claims submitted to the same plan or the same delegated entity for the same or similar services by the same noncontracting individual health professional.

(4) The department shall permit a physician group, independent practice association, or other entity authorized to act on behalf of a noncontracting individual health professional to initiate and participate in the independent dispute resolution process.

(5) (A) In deciding the dispute, the independent organization shall conduct a de novo review and base its decision regarding the appropriate reimbursement solely on the information and documents timely submitted into evidence by the parties to the dispute.

(B) The independent organization shall assign reviewers to each case based on their relevant education, background, and medical claims payment and clinical experience.

(c) (1) The department may contract with one or more independent organizations to conduct the proceedings. The independent organization handling a dispute shall be independent of either party to the dispute.

(2) The department shall establish conflict-of-interest standards, consistent with the purposes of this section, that an organization shall meet in order to qualify to administer the independent dispute resolution program. The conflict-of-interest standards shall be consistent with the standards pursuant to subdivisions (c) and (d) of Section 1374.32.

(3) The department may contract with the same independent organization or organizations as the Department of Insurance.

(4) The department shall provide, upon the request of an interested person, a copy of all nonproprietary information, as determined by the director, filed with the department by an independent organization seeking to contract with the department to administer the independent dispute resolution process pursuant to this section. The department may charge a nominal fee to cover the costs of providing a copy of the information pursuant to this paragraph.

(5) The independent organization retained to conduct proceedings shall be deemed to be consultants for purposes of Section 43.98 of the Civil Code.

(6) Contracts entered into pursuant to the authority in this subdivision shall be exempt from Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code, Section 19130 of the Government Code, and Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of the Government Code and shall be exempt from the review or approval of any division of the Department of General Services.

(d) The decision obtained through the department's independent dispute resolution process shall be binding on both parties. The plan shall implement the decision obtained through the independent dispute resolution process. If dissatisfied, either party may pursue any right, remedy, or penalty established under any other applicable law.

(e) This section shall not apply to a Medi-Cal managed health care service plan or any entity that enters into a contract with the State Department of Health Care Services pursuant to Chapter 7 (commencing with Section 14000), Chapter 8 (commencing with Section 14200), and Chapter 8.75 (commencing with Section 14591) of Part 3 of Division 9 of the Welfare and Institutions Code.

(f) If a health care service plan delegates payment functions to a contracted entity, including, but not limited to, a medical group or independent practice association, then the delegated entity shall comply with this section.

(g) This section shall not apply to emergency services and care, as defined in Section 1317.1.

(h) The definitions in subdivision (f) of Section 1371.9 shall apply for purposes of this section.

(i) This section shall not be construed to alter a health care service plan's obligations pursuant to Sections 1371 and 1371.4.

(j) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section by means of all-plan letters or similar instructions, without taking regulatory action, until the time regulations are adopted.

(k) By January 1, 2019, the department shall provide a report to the Governor, the President pro Tempore of the Senate, the Speaker of the Assembly, and the Senate and Assembly Committees on Health of the data and information provided in the independent dispute resolution process in a manner and format specified by the Legislature.

**SEC. 2.** Section 10112.81 of the Insurance Code is amended to read:

**10112.81.** (a) (1) By September 1, 2017, the commissioner shall establish an independent dispute resolution process for the purpose of processing and resolving a claim dispute between a health insurer and a noncontracting individual health professional for services subject to subdivision (a) of Section 10112.8.

(2) Prior to initiating the independent dispute resolution process, the parties shall complete the insurer's internal process.

(3) If either the noncontracting individual health professional or the insurer appeals a claim to the department's independent dispute resolution process, the other party shall participate in the appeal process as described in this section.

(b) (1) The commissioner shall establish uniform written procedures for the submission, receipt, processing, and resolution of claim payment disputes pursuant to this section and any other guidelines for implementing this section. These procedures shall include a process for each party to submit into evidence information that will be kept confidential from the other party, in order to preserve the confidentiality of the source contract.

(2) The commissioner shall establish reasonable and necessary fees for the purpose of administering this section, to be paid by both parties.

(3) In establishing the independent dispute resolution process, the commissioner shall permit the bundling of claims submitted to the same insurer or the same delegated entity for the same or similar services by the same noncontracting individual health professional.

(4) The commissioner shall permit a physician group, independent practice association, or other entity authorized to act on behalf of a noncontracting individual health professional to initiate and participate in the independent dispute resolution process.

(5) (A) In deciding the dispute, the independent organization shall conduct a de novo review and base its decision regarding the appropriate reimbursement on the information and documents timely submitted into evidence by the parties to the dispute.

(B) The independent organization shall assign reviewers to each case based on their relevant education, background, and medical claims payment and clinical experience.

(c) (1) The commissioner may contract with one or more independent organizations to conduct the proceedings. The independent organization handling a dispute shall be independent of either party to the dispute.

(2) The commissioner shall establish conflict-of-interest standards, consistent with the purposes of this section, that an organization shall meet in order to qualify to administer the independent dispute resolution program. The conflict-of-interest standards shall be consistent with the standards pursuant to subdivisions (c) and (d) of Section 10169.2.

(3) The commissioner may contract with the same independent organization or organizations as the State Department of Managed Health Care.

(4) The commissioner shall provide, upon the request of an interested person, a copy of all nonproprietary information, as determined by the commissioner, filed with the department by an independent organization seeking to contract with the department to administer the independent dispute resolution process pursuant to this section. The department may charge a nominal fee to cover the costs of providing a copy of the information pursuant to this paragraph.

(5) Contracts entered into pursuant to the authority in this subdivision shall be exempt from Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code, Section 19130 of the Government Code, and Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of the Government Code and shall be exempt from the review or approval of any division of the Department of General Services.

(d) The decision obtained through the commissioner's independent dispute resolution process shall be binding on both parties. The insurer shall implement the decision obtained through the independent dispute resolution process. If dissatisfied, either party may pursue any right, remedy, or penalty established under any other applicable law.

(e) If a health insurer delegates payment functions to a contracted entity, including, but not limited to, a medical group or independent practice association, then the delegated entity shall comply with this section.

(f) This section shall not apply to emergency services and care, as defined in Section 1317.1 of the Health and Safety Code.

(g) The definitions in subdivision (f) of Section 10112.8 shall apply for purposes of this section.

(h) This section shall not be construed to alter a health insurer's obligations pursuant to Section 10123.13.

(i) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the commissioner may implement, interpret, or make specific this section by issuing guidance, without taking regulatory action, until the time regulations are adopted.

(j) By January 1, 2019, the commissioner shall provide a report to the Governor, the President pro Tempore of the Senate, the Speaker of the Assembly, and the Senate and Assembly Committees on Health of the data and information provided in the independent dispute resolution process in a manner and format specified by the Legislature.