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**SB-242 Health care provider reimbursements.** (2021-2022)

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**Senate Bill No. 242**

**CHAPTER 538**

An act to add Section 1374.192 to the Health and Safety Code, and to add Section 10120.35 to the Insurance Code, relating to health care.

[ Approved by Governor October 05, 2021. Filed with Secretary of State October 05, 2021. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 242, Newman. Health care provider reimbursements.

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 authorizes a health care service plan or health insurer to contract with a provider for alternative rates of payment.

This bill would require a health care service plan or health insurer, but not a Medi-Cal managed care plan, to reimburse contracting health care providers for their business expenses to prevent the spread of respiratory-transmitted infectious diseases causing public health emergencies declared on or after January 1, 2022. 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 1374.192 is added to the Health and Safety Code, to read:

**1374.192.** (a) Notwithstanding any other law, a health care service plan, including a specialized health care service plan and a health care service plan that issues, sells, renews, or offers a contract covering dental services, shall reimburse its contracting health care providers for business expenses to prevent the spread of diseases causing public health emergencies declared on or after January 1, 2022. For purposes of this subdivision, "business expenses" means personal protective equipment, additional supplies, materials, and clinical staff time over and above those expenses usually included in an office visit or other nonfacility service or services if performed during a public health emergency, as defined by law, due to respiratory-transmitted infectious disease and pursuant to subdivision (b).

(b) A health care service plan shall reimburse a contracting health care provider pursuant to subdivision (a) for each individual patient encounter, limited to one encounter per day per enrollee for the duration of the public health emergency.

(c) A change to a contract between a health care service plan and a health care provider that delegates financial risk for testing, including related items and services, related to a public health emergency declared pursuant to Section 8558 of the Government Code is a material change to the parties' contract. A health care service plan shall not delegate the financial risk to a contracted health care provider for the cost of enrollee services provided under this section unless the parties have negotiated and agreed upon a new contract provision pursuant to Section 1375.7.

(d) The department shall ensure a health care service plan provides timely reimbursement to its contracting health care providers pursuant to subdivision (a). The department may adopt guidance to implement this section. The guidance 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).

(e) For purposes of this section, "contracting health care provider" means a physician and surgeon, dentist, or doctor of podiatric medicine who is licensed by the state to deliver or furnish health care services, who owns or operates a practice, and who is contracted with the enrollee's health care service plan. The term "contracting health care provider" only applies to a dentist if the enrollee is covered by a health care service plan contract or specialized health care service plan contract that includes dental benefits.

(f) This section does not apply to the state of emergency declared by the Governor on March 4, 2020, relating to the coronavirus 2019 (COVID-19) pandemic.

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

**SEC. 2.** Section 10120.35 is added to the Insurance Code, to read:

**10120.35.** (a) Notwithstanding any other law, a health insurer, including a specialized health insurer and a health insurer that issues, sells, renews, or offers a contract covering dental services, shall reimburse its contracting health care providers for business expenses to prevent the spread of diseases causing public health emergencies declared on or after January 1, 2022. For purposes of this subdivision, "business expenses" means personal protective equipment, additional supplies, materials, and clinical staff time over and above those expenses usually included in an office visit or other nonfacility service or services if performed during a public health emergency, as defined by law, due to respiratory-transmitted infectious disease and pursuant to subdivision (b).

(b) A health insurer shall reimburse a contracting health care provider pursuant to subdivision (a) for each individual patient encounter, limited to one encounter per day per insured for the duration of the public health emergency.

(c) The department shall ensure a health insurer provides timely reimbursement to its contracting health care providers pursuant to subdivision (a). The department may adopt guidance to implement this section. The guidance 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).

(d) For purposes of this section, "contracting health care provider" means a physician and surgeon, dentist, or doctor of podiatric medicine who is licensed by the state to deliver or furnish health care services, who owns or operates a practice, and who is contracted with the insured's health insurer. The term "contracting health care provider" only applies to a dentist if the insured is covered by a health insurance policy or specialized health insurance policy that includes dental benefits.

(e) This section does not apply to the state of emergency declared by the Governor on March 4, 2020, relating to the coronavirus 2019 (COVID-19) pandemic.

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

**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.