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SB-245 Health care coverage: abortion services: cost sharing. (2021-2022)

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Senate Bill No. 245

CHAPTER 11

An act to add Section 1367.251 to the Health and Safety Code, and to add Section 10123.1961 to the Insurance Code, relating to health care coverage.

[Approved by Governor March 22, 2022. Filed with Secretary of State March 22, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 245, Gonzalez. Health care coverage: abortion services: cost sharing.

Existing law, the Reproductive Privacy Act, prohibits the state from denying or interfering with a person's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the person. The act defines "abortion" as a medical treatment intended to induce the termination of a pregnancy except for the purpose of producing a live birth.

Existing law also establishes the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services through, among other things, managed care plans licensed under the act that contract with the State Department of Health Care Services.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, requires the Department of Managed Health Care to license and regulate health care service plans and makes a willful violation of the act a crime. Existing law also requires the Department of Insurance to regulate health insurers. Existing law requires group and individual health care service plan contracts and disability insurance policies to cover contraceptives, without cost sharing, as specified.

This bill would prohibit a health care service plan or an individual or group policy or certificate of health insurance or student blanket disability insurance that is issued, amended, renewed, or delivered on or after January 1, 2023, from imposing a deductible, coinsurance, copayment, or any other cost-sharing requirement on coverage for all abortion and abortion-related services, as specified. The bill would prohibit a health care service plan and an insurer subject to these requirements from imposing utilization management or utilization review on the coverage for outpatient abortion services. The bill would require that for a contract, certificate, or policy that is a high deductible health plan, the cost-sharing prohibition would apply once the enrollee's or insured's deductible has been satisfied for the benefit year. The bill would not require an individual or group contract or policy to cover an experimental or investigational treatment. The bill's requirements would also apply to Medi-Cal managed care plans and their providers, independent practice associations, preferred provider groups, and all delegated entities that provide physician services, utilization management, or utilization review. The bill would require the Department of Managed Health Care and the Department of Insurance to adopt related regulations on or before January 1, 2026.

Because a violation of the bill by a health care service plan 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 1367.251 is added to the Health and Safety Code, to read:

1367.251. (a) (1) A health care service plan, except for a specialized health care service plan contract, that is issued, amended, renewed, or delivered on or after January 1, 2023, shall not impose a deductible, coinsurance, copayment, or any other cost-sharing requirement on coverage for all abortion and abortion-related services, including preabortion and followup services.

(2) Except as otherwise authorized by this section, a health care service plan shall not impose any utilization management or utilization review, including prior authorization and annual or lifetime limits consistent with Sections 1367.001 and 1367.005, on the coverage for outpatient abortion services.

(3) Medi-Cal managed care plans that contract with the State Department of Health Care Services pursuant to Chapter 7 (commencing with Section 14000) and Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code and their contracting providers, independent practice associations, preferred provider groups, and all delegated entities that provide physician services, utilization management, or utilization review shall be subject to this section.

(4) If a health care service plan delegates responsibilities under this section to a contracted entity, including a medical group or independent practice association, the delegated entity shall comply with this section.

(b) This section does not deny or restrict in any way the department's authority to ensure plan compliance with this chapter when a health care service plan provides coverage for abortion services.

(c) This section does not require an individual or group health care service plan contract to cover an experimental or investigational treatment.

(d) For purposes of this section, "abortion" means any medical treatment intended to induce the termination of a pregnancy except for the purpose of producing a live birth.

(e) For a health care service plan contract that is a high deductible health plan, as defined in Section 223(c)(2) of Title 26 of the United States Code, the cost-sharing limits in paragraph (1) of subdivision (a) shall apply once an enrollee's deductible has been satisfied for the benefit year.

(f) (1) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may interpret and implement this section, in consultation with the State Department of Health Care Services and the Department of Insurance, by means of plan letters or similar guidance without taking any further regulatory action. The department shall adopt regulations on or before January 1, 2026, in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the State Department of Health Care Services may implement this section, consistent with any guidance issued by the department pursuant to paragraph (1), to the extent that guidance does not exceed Medi-Cal program coverage of abortion and abortion-related services, by means of plan letters, plan or provider bulletins, or similar guidance issued to Medi-Cal managed care plans that contract with the State Department of Health Care Services pursuant to Chapter 7 (commencing with Section 14000) and Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code, without taking any further regulatory action.

SEC. 2. Section 10123.1961 is added to the Insurance Code, to read:

10123.1961. (a) (1) The requirements of this section shall apply to a group or individual policy or certificate of health insurance or student blanket disability insurance that provides coverage for hospital, medical, or surgical expenses that is issued, amended, renewed, or delivered on or after January 1, 2023. This section does not apply to a specialized health insurance policy. A policy or certificate subject to the requirements of this section shall not impose a deductible, coinsurance, copayment, or other cost-sharing requirement on coverage for all abortion and abortion-related services, including preabortion and followup services.

(2) Except as otherwise authorized by this section, an insurer shall not impose any utilization management or utilization review, including prior authorization and annual or lifetime limits consistent with Sections 10112.1 and 10112.27, on the coverage for

outpatient abortion services.

(b) This section does not deny or restrict in any way the department's authority to ensure an insurer's compliance with this chapter when the insurer provides coverage for abortion services.

(c) This section does not require an individual or group disability insurance policy to cover an experimental or investigational treatment.

(d) For purposes of this section, "abortion" means any medical treatment intended to induce the termination of a pregnancy except for the purpose of producing a live birth.

(e) For a group or individual policy or certificate of health insurance or student blanket disability insurance that is a high deductible health plan, as defined in Section 223(c)(2) of Title 26 of the United States Code, the cost-sharing limits in paragraph (1) of subdivision (a) shall apply once an insured's deductible has been satisfied for the benefit year.

(f) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the commissioner may interpret and implement this section by issuing guidance without taking any further regulatory action. The commissioner shall consult with the Department of Managed Health Care in issuing guidance under this section. The department shall adopt regulations on or before January 1, 2026, in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government 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.