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SB-979 Health emergencies. (2021-2022)

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Senate Bill No. 979

CHAPTER 421

An act to amend Section 1368.7 of the Health and Safety Code, and to amend Section 10112.95 of the Insurance Code, relating to health emergencies.

[Approved by Governor September 18, 2022. Filed with Secretary of State September 18, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 979, Dodd. Health emergencies.

Existing law authorizes the Governor to declare a state of emergency, as specified, and the State Public Health Officer to declare a health emergency under certain circumstances, such as the imminent or proximate threat of the introduction of an infectious or communicable disease.

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 provides for the regulation of health insurers by the Department of Insurance.

When the Governor declares a state of emergency, existing law requires a health care service plan and a health insurer to provide an enrollee or insured who has been displaced or has the immediate potential to be displaced by that emergency access to medically necessary health care services. Existing law requires health care service plans and health insurers operating in a county included in a declaration of emergency to notify the Department of Managed Health Care and the Department of Insurance whether the plan has experienced or expects to experience a disruption to its operation, among other things. Existing law provides for health care service plans and health insurers to take specified actions, including relaxing time limits for prior authorization, precertification, or referrals.

This bill would revise those provisions to specifically apply to a declaration by the Governor of a state of emergency, or a health emergency declared by the State Public Health Officer, that displaces, or has the immediate potential to displace, enrollees, insureds, or health care providers, that otherwise affects the health of enrollees or insureds, or that otherwise affects or that may affect health care providers. The bill would authorize the Director of the Department of Managed Care and the Insurance Commissioner to issue guidance to health care service plans and health insurers regarding compliance with the bill's requirements during the first 3 years following the declaration of emergency, or until the emergency is terminated, as specified.

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

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

SECTION 1. Section 1368.7 of the Health and Safety Code is amended to read:

1368.7. (a) A health care service plan shall provide an enrollee who has been displaced or whose health may otherwise be affected by a state of emergency, as declared by the Governor pursuant to Section 8625 of the Government Code, or a health emergency, as declared by the State Public Health Officer pursuant to Section 101080, access to medically necessary health care services.

(b) Within 48 hours of a declaration by the Governor of a state of emergency or a declaration by the State Public Health Officer of a health emergency that displaces, or has the immediate potential to displace, enrollees or health care providers, or that otherwise affects, or may affect, health care providers or the health of 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. The department may require the plan to take actions, including, but not limited to, the following:

(1) Shorten time limits for health care service plans to approve prior authorization, precertification, or referrals, and extend the time that prior authorizations, precertifications, and referrals remain valid.

(2) Extend filing deadlines for claims.

(3) Suspend prescription refill limitations and allow an impacted enrollee to refill their 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.

(d) The director may issue guidance in the form of all-plan letters to health care service plans regarding compliance with this section during the first three years following the declaration of emergency, or until the emergency is terminated, whichever occurs first. This 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).

SEC. 2. Section 10112.95 of the Insurance Code is amended to read:

10112.95. (a) A health insurer shall provide an insured who has been displaced or whose health otherwise may be affected by a state of emergency, as declared by the Governor pursuant to Section 8625 of the Government Code, or a health emergency, as declared by the State Public Health Officer pursuant to Section 101080 of the Health and Safety Code, access to medically necessary health care services.

(b) Within 48 hours of a declaration by the Governor of a state of emergency or a declaration by the State Public Health Officer of a health emergency that displaces, or has the immediate potential to displace, insureds or health care providers, or that otherwise affects, or may affect, health care providers or the health of 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. The department may require the insurer to take actions, including, but not limited to, the following:

(1) Shorten time limits for health insurers to approve prior authorization, precertification, or referrals, and extend the time that prior authorizations, precertifications, and referrals remain valid.

(2) Extend filing deadlines for claims.

(3) Suspend prescription refill limitations and allow an impacted insured to refill their 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.

(d) The commissioner may issue guidance to insurers regarding compliance with this section during the first three years following the declaration of emergency, or until the emergency is terminated, whichever occurs first. This 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).