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SB-386 Dental providers: fee-based payments. (2025-2026)

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Senate Bill No. 386

CHAPTER 219

An act to add Section 1371.11 to the Health and Safety Code, and to add Section 10123.146 to the Insurance Code, relating to health care coverage.

[Approved by Governor October 01, 2025. Filed with Secretary of State October 01, 2025.]

LEGISLATIVE COUNSEL'S DIGEST

SB 386, Limón. Dental providers: fee-based payments.

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's requirements a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law imposes specified coverage and disclosure requirements on health care service plans and health insurers, including specialized plans and insurers, that cover dental services.

This bill would require a health care service plan or health insurer that provides payment directly or through a contracted vendor to a dental provider to have a non-fee-based default method of payment, as specified. The bill would require a health care service plan, health insurer, or contracted vendor to obtain affirmative consent from a dental provider who opts in to a fee-based payment method before the plan or vendor provides a fee-based payment method to the provider. The bill would authorize a dental provider to opt out of a fee-based payment method at any time by providing affirmative consent to the health care service plan, health insurer, or contracted vendor. The bill would require a health care service plan, health insurer, or contracted vendor that obtains affirmative consent to opt in or opt out of fee-based payment to apply the decision to include both the dental provider's entire practice and all products or services covered pursuant to a contract with the dental provider, as specified. The bill would specify that its provisions do not apply if a health care service plan or health insurer has a direct contract with a provider that allows the provider to choose payment methods, including a non-fee-based payment method for services rendered. The bill would make its provisions operative on April 1, 2026, and apply to health care service plan contracts and health insurance policies issued, amended, or renewed on or after that date.

Because a violation of the bill's requirements 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 1371.11 is added to the Health and Safety Code, to read:

1371.11. (a) The following definitions shall apply for purposes of this section:

(1) (A) "Affirmative consent" means a dental provider's express consent to opt in or opt out of receiving fee-based payment. Affirmative consent requires a dental provider's signature. The terms of the affirmative consent shall be clear and readily understandable.

(B) Affirmative consent may be given through email.

(C) A provider accessing funds does not constitute affirmative consent to receive a fee-based payment.

(2) "Contracted vendor" means a third party facilitating payment processing on behalf of the health care service plan.

(3) "Dental provider" means an individual or group of individuals licensed under Chapter 4 (commencing with Section 1600) of Division 2 of the Business and Professions Code.

(4) "Fee-based payment" refers to any payment type that requires the dental provider to incur a fee from the health care service plan or its contracted vendor to access payment from a plan or its contracted vendor.

(5) "Health care service plan" or "plan" means a health care service plan defined in paragraph (2) of subdivision (a) of Section 1374.194.

(6) "Signature" includes an electronic or digital signature if the form of the signature is recognized as a valid signature under applicable federal or state law, including, but not limited to, checking a box indicating affirmative consent.

(b) (1) A health care service plan that provides payment directly, or through a contracted vendor, to a dental provider shall have a non-fee-based default method of payment.

(2) The health care service plan shall remit or associate with each payment the claims and claim details associated with payment.

(c) (1) A health care service plan or its contracted vendor shall obtain affirmative consent from a dental provider who opts in to a fee-based payment method before the plan or vendor provides a fee-based payment method to the provider.

(2) At the time a dental provider opts in to a fee-based payment method, the health care service plan or its contracted vendor shall provide information on the payment method, including a notice of the fees charged by the plan or contracted vendor, alternative methods of payment, instructions on how to opt out of the fee-based payment method, and a notice of the dental provider's ability to opt out of the fee-based payment method at any time.

(3) Upon receipt of the dental provider's affirmative consent, the health care service plan or its contracted vendor subsequently may issue payments to the dental provider using a fee-based payment method.

(4) The health care service plan also shall notify the dental provider if its contracted vendor is sharing a part of the profit, fee arrangement, or board composition with the plan.

(d) (1) A dental provider may opt out of a fee-based payment method and opt in to a non-fee-based payment method at any time by providing affirmative consent to the health care service plan or its contracted vendor.

(2) If a dental provider opts in or opts out of a fee-based method of payment pursuant to this subdivision, the provider's payment method decision shall remain in effect until the provider informs the plan or contracted vendor of another preferred method of payment, including fee-based or non-fee-based methods.

(e) A health care service plan or its contracted vendor that obtains a dental provider's affirmative consent to opt in or opt out of a fee-based payment method shall apply the decision to include both of the following:

(1) The dental provider's entire practice.

(2) To all products or services covered by the health care service plan pursuant to a contract with the dental provider, including network provider contracts, as described in Section 1374.193.

(f) This section does not apply if a health care service plan has a direct contract with a provider that allows the provider to choose payment methods, including a non-fee-based payment method for services rendered.

(g) This section does not change, alter, or extend the scope of Section 1367.

(h) This section shall become operative on April 1, 2026, and apply to all health care service plan contracts issued, amended, or renewed on or after that date.

SEC. 2. Section 10123.146 is added to the Insurance Code, to read:

10123.146. (a) The following definitions shall apply for purposes of this section:

(1) (A) "Affirmative consent" means a dental provider's express consent to opt in or opt out of receiving fee-based payment. Affirmative consent requires a dental provider's signature. The terms of the affirmative consent shall be clear and readily understandable.

(B) Affirmative consent may be given through email.

(C) A provider accessing funds does not constitute affirmative consent to receive a fee-based payment.

(2) "Contracted vendor" means a third party facilitating payment processing on behalf of the health insurer.

(3) "Dental provider" means an individual or group of individuals licensed under Chapter 4 (commencing with Section 1600) of Division 2 of the Business and Professions Code.

(4) "Fee-based payment" refers to any payment type that requires the dental provider to incur a fee from the health insurer or its contracted vendor to access payment from a plan or its contracted vendor.

(5) "Health insurer" has the same meaning as defined in paragraph (2) of subdivision (a) of Section 10120.41.

(6) "Signature" includes an electronic or digital signature if the form of the signature is recognized as a valid signature under applicable federal or state law, including, but not limited to, checking a box indicating affirmative consent.

(b) (1) A health insurer that provides payment directly, or through a contracted vendor, to a dental provider shall have a non-fee-based default method of payment.

(2) The health insurer shall remit or associate with each payment the claims and claim details associated with payment.

(c) (1) A health insurer or its contracted vendor shall obtain affirmative consent from a dental provider who opts in to a fee-based payment method before the insurer or vendor provides a fee-based payment method to the provider.

(2) At the time a dental provider opts in to a fee-based payment method, the health insurer or its contracted vendor shall provide information on the payment method, including a notice of the fees charged by the health insurer or contracted vendor, alternative methods of payment, instructions on how to opt out of the fee-based payment method, and a notice of the dental provider's ability to opt out of the fee-based payment method at any time.

(3) Upon receipt of the dental provider's affirmative consent, the health insurer or its contracted vendor subsequently may issue payments to the dental provider using a fee-based payment method.

(4) The health insurer also shall notify the dental provider if its contracted vendor is sharing a part of the profit, fee arrangement, or board composition with the health insurer.

(d) (1) A dental provider may opt out of a fee-based payment method and opt in to a non-fee-based payment method at any time by providing affirmative consent to the health insurer or its contracted vendor.

(2) If a dental provider opts in or opts out of a method of payment pursuant to this subdivision, the provider's payment method decision shall remain in effect until the provider informs the health insurer or contracted vendor of another preferred method of payment, including fee-based or non-fee-based methods.

(e) A health insurer or its contracted vendor that obtains a dental provider's affirmative consent to opt in or opt out of a fee-based payment method shall apply the decision to include both of the following:

(1) The dental provider's entire practice.

(2) To all products or services covered by the health insurer pursuant to a contract with the dental provider, including network provider contracts, as described in Section 10120.4.

(f) This section does not apply if a health insurer has a direct contract with a provider that allows the provider to choose payment methods, including a non-fee-based payment method for services rendered.

(g) This section shall become operative on April 1, 2026, and apply to all health insurance policies issued, amended, or renewed on or after that date.

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.