

**ASSEMBLY BILL**

**No. 1084**

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**Introduced by Assembly Member Maddox**

February 20, 2003

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An act to amend Section 1373 of, and to add Section 1373.35 to, the Health and Safety Code, relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

AB 1084, as introduced, Maddox. Vision care benefits.

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. Under existing law, a plan may provide for coverage of, or exclusion of, vision care services.

This bill would instead require a plan that offers vision care benefits to contract with sufficient optometrists and physicians so that an enrollee has a choice between obtaining services from a physician or an optometrist. The bill would prohibit a plan from prohibiting an enrollee from selecting a provider from either profession to render vision care services. The bill would authorize a plan to require enrollees to select from a list of specified providers.

Because the bill would impose additional requirements on health care service plans, the willful violation of which is a crime, it 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.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1373 of the Health and Safety Code is  
2 amended to read:

3 1373. (a) A plan contract may not provide an exception for  
4 other coverage if the other coverage is entitlement to Medi-Cal  
5 benefits under Chapter 7 (commencing with Section 14000) or  
6 Chapter 8 (commencing with Section 14200) of Part 3 of Division  
7 9 of the Welfare and Institutions Code, or medicaid benefits under  
8 Subchapter 19 (commencing with Section 1396) of Chapter 7 of  
9 Title 42 of the United States Code.

10 Each plan contract shall be interpreted not to provide an  
11 exception for the Medi-Cal or medicaid benefits.

12 A plan contract shall not provide an exemption for enrollment  
13 because of an applicant’s entitlement to Medi-Cal benefits under  
14 Chapter 7 (commencing with Section 14000) or Chapter 8  
15 (commencing with Section 14200) of Part 3 of Division 9 of the  
16 Welfare and Institutions Code, or medicaid benefits under  
17 Subchapter 19 (commencing with Section 1396) of Chapter 7 of  
18 Title 42 of the United States Code.

19 A plan contract may not provide that the benefits payable  
20 thereunder are subject to reduction if the individual insured has  
21 entitlement to the Medi-Cal or medicaid benefits.

22 (b) A plan contract that provides coverage, whether by specific  
23 benefit or by the effect of general wording, for sterilization  
24 operations or procedures shall not impose any disclaimer,  
25 restriction on, or limitation of, coverage relative to the covered  
26 individual’s reason for sterilization.

27 As used in this section, “sterilization operations or procedures”  
28 shall have the same meaning as that specified in Section 10120 of  
29 the Insurance Code.

30 (c) Every plan contract that provides coverage to the spouse or  
31 dependents of the subscriber or spouse shall grant immediate  
32 accident and sickness coverage, from and after the moment of  
33 birth, to each newborn infant of any subscriber or spouse covered  
34 and to each minor child placed for adoption from and after the date  
35 on which the adoptive child’s birth parent or other appropriate



1 legal authority signs a written document, including, but not limited  
2 to, a health facility minor release report, a medical authorization  
3 form, or a relinquishment form, granting the subscriber or spouse  
4 the right to control health care for the adoptive child or, absent this  
5 written document, on the date there exists evidence of the  
6 subscriber's or spouse's right to control the health care of the child  
7 placed for adoption. No plan may be entered into or amended if it  
8 contains any disclaimer, waiver, or other limitation of coverage  
9 relative to the coverage or insurability of newborn infants of, or  
10 children placed for adoption with, a subscriber or spouse covered  
11 as required by this subdivision.

12 (d) Every plan contract that provides that coverage of a  
13 dependent child of a subscriber shall terminate upon attainment of  
14 the limiting age for dependent children specified in the plan, shall  
15 also provide in substance that attainment of the limiting age shall  
16 not operate to terminate the coverage of the child while the child  
17 is and continues to be both (1) incapable of self-sustaining  
18 employment by reason of mental retardation or physical handicap  
19 and (2) chiefly dependent upon the subscriber for support and  
20 maintenance, provided proof of the incapacity and dependency is  
21 furnished to the plan by the member within 31 days of the request  
22 for the information by the plan or group plan contractholder and  
23 subsequently as may be required by the plan or group plan  
24 contractholder, but not more frequently than annually after the  
25 two-year period following the child's attainment of the limiting  
26 age.

27 (e) A plan contract that provides coverage, whether by specific  
28 benefit or by the effect of general wording, for both an employee  
29 and one or more covered persons dependent upon the employee  
30 and provides for an extension of the coverage for any period  
31 following a termination of employment of the employee shall also  
32 provide that this extension of coverage shall apply to dependents  
33 upon the same terms and conditions precedent as applied to the  
34 covered employee, for the same period of time, subject to payment  
35 of premiums, if any, as required by the terms of the policy and  
36 subject to any applicable collective bargaining agreement.

37 (f) A group contract shall not discriminate against handicapped  
38 persons or against groups containing handicapped persons.  
39 Nothing in this subdivision shall preclude reasonable provisions  
40 in a plan contract against liability for services or reimbursement



1 of the handicap condition or conditions relating thereto, as may be  
2 allowed by rules of the director.

3 (g) Every group contract shall set forth the terms and  
4 conditions under which subscribers and enrollees may remain in  
5 the plan in the event the group ceases to exist, the group contract  
6 is terminated or an individual subscriber leaves the group, or the  
7 enrollees' eligibility status changes.

8 (h) (1) A health care service plan or specialized health care  
9 service plan may provide for coverage of, or for payment for,  
10 professional mental health services, ~~or vision care services~~, or for  
11 the exclusion of ~~these services~~ *this service*. If the terms and  
12 conditions include coverage for services provided in a general  
13 acute care hospital or an acute psychiatric hospital as defined in  
14 Section 1250 and do not restrict or modify the choice of providers,  
15 the coverage shall extend to care provided by a psychiatric health  
16 facility as defined in Section 1250.2 operating pursuant to  
17 licensure by the State Department of Mental Health. A health care  
18 service plan that offers outpatient mental health services but does  
19 not cover these services in all of its group contracts shall  
20 communicate to prospective group contractholders as to the  
21 availability of outpatient coverage for the treatment of mental or  
22 nervous disorders.

23 (2) No plan shall prohibit the member from selecting any  
24 psychologist who is licensed pursuant to the Psychology Licensing  
25 Law (Chapter 6.6 (commencing with Section 2900) of Division 2  
26 of the Business and Professions Code), ~~any optometrist who is the~~  
27 ~~holder of a certificate issued pursuant to Chapter 7 (commencing~~  
28 ~~with Section 3000) of Division 2 of the Business and Professions~~  
29 ~~Code or~~, upon referral by a physician and surgeon licensed  
30 pursuant to the Medical Practice Act (Chapter 5 (commencing  
31 with Section 2000) of Division 2 of the Business and Professions  
32 Code), (i) any marriage and family therapist who is the holder of  
33 a license under Section 4980.50 of the Business and Professions  
34 Code, (ii) any licensed clinical social worker who is the holder of  
35 a license under Section 4996 of the Business and Professions  
36 Code, (iii) any registered nurse licensed pursuant to Chapter 6  
37 (commencing with Section 2700) of Division 2 of the Business and  
38 Professions Code, who possesses a master's degree in  
39 psychiatric-mental health nursing and is listed as a  
40 psychiatric-mental health nurse by the Board of Registered



1 Nursing, or (iv) any advanced practice registered nurse certified  
2 as a clinical nurse specialist pursuant to Article 9 (commencing  
3 with Section 2838) of Chapter 6 of Division 2 of the Business and  
4 Professions Code who participates in expert clinical practice in the  
5 specialty of psychiatric-mental health nursing, to perform the  
6 particular services covered under the terms of the plan, and the  
7 certificate holder is expressly authorized by law to perform these  
8 services.

9 (3) Nothing in this section shall be construed to allow any  
10 certificate holder or licensee enumerated in this section to perform  
11 professional mental health services beyond his or her field or fields  
12 of competence as established by his or her education, training and  
13 experience.

14 (4) For the purposes of this section, “marriage and family  
15 therapist” means a licensed marriage and family therapist who has  
16 received specific instruction in assessment, diagnosis, prognosis,  
17 and counseling, and psychotherapeutic treatment of premarital,  
18 marriage, family, and child relationship dysfunctions which is  
19 equivalent to the instruction required for licensure on January 1,  
20 1981.

21 (5) Nothing in this section shall be construed to allow a member  
22 to select and obtain mental health or psychological ~~or vision care~~  
23 services from a certificate or license holder who is not directly  
24 affiliated with or under contract to the health care service plan or  
25 specialized health care service plan to which the member belongs.  
26 All health care service plans and individual practice associations  
27 that offer mental health benefits shall make reasonable efforts to  
28 make available to their members the services of licensed  
29 psychologists. However, a failure of a plan or association to  
30 comply with the requirements of the preceding sentence shall not  
31 constitute a misdemeanor.

32 (6) As used in this subdivision, “individual practice  
33 association” means an entity as defined in subsection (5) of  
34 Section 1307 of the federal Public Health Service Act (42 U.S.C.  
35 Sec. 300e-1, subsec. (5)).

36 (7) Health care service plan coverage for professional mental  
37 health services may include community residential treatment  
38 services that are alternatives to inpatient care and that are directly  
39 affiliated with the plan or to which enrollees are referred by  
40 providers affiliated with the plan.



1 (i) If the plan utilizes arbitration to settle disputes, the plan  
2 contracts shall set forth the type of disputes subject to arbitration,  
3 the process to be utilized, and how it is to be initiated.

4 (j) A plan contract that provides benefits that accrue after a  
5 certain time of confinement in a health care facility shall specify  
6 what constitutes a day of confinement or the number of  
7 consecutive hours of confinement that are requisite to the  
8 commencement of benefits.

9 SEC. 2. Section 1373.35 is added to the Health and Safety  
10 Code, to read:

11 1373.35. (a) For purposes of this section, ‘vision care’  
12 includes, but is not limited to, comprehensive primary eye care  
13 services, medical eye conditions, and emergency care.

14 (b) A health care service plan that offers vision care benefits  
15 shall contract with sufficient providers to offer enrollees a  
16 meaningful, accessible, and adequate choice between an  
17 optometrist licensed pursuant to Chapter 7 (commencing with  
18 Section 3000) of Division 2 of the Business and Professions Code  
19 and a physician and surgeon licensed pursuant to the Medical  
20 Practice Act in Chapter 5 (commencing with Section 2000) of  
21 Division 2 of the Business and Professions Code for services  
22 within the scope of the provider’s license.

23 (c) A plan may not prohibit an enrollee who is entitled to vision  
24 care that may be rendered by either an optometrist or a physician  
25 and surgeon within the scope of the provider’s license from  
26 selecting a provider from either profession to render the service as  
27 long as the provider has not been removed or suspended from  
28 participation in the plan for cause.

29 (d) A plan may prepare a list of providers and require enrollees  
30 to select a provider on the list as a condition of payment by the plan  
31 for the services. If a particular service may be performed by either  
32 an optometrist or a physician and surgeon, the list shall contain a  
33 sufficient number of both types of providers to assure enrollees an  
34 adequate choice.

35 SEC. 3. No reimbursement is required by this act pursuant to  
36 Section 6 of Article XIII B of the California Constitution because  
37 the only costs that may be incurred by a local agency or school  
38 district will be incurred because this act creates a new crime or  
39 infraction, eliminates a crime or infraction, or changes the penalty  
40 for a crime or infraction, within the meaning of Section 17556 of



1 the Government Code, or changes the definition of a crime within  
2 the meaning of Section 6 of Article XIII B of the California  
3 Constitution.

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