ASSEMBLY BILL No. 8

Introduced by Assembly Member Cohn

December 6, 2004

An act to amend Section 1367.635 of the Health and Safety Code and to amend Section 10123.86 of the Insurance Code, relating to health coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 8, as introduced, Cohn. Health care coverage: mastectomies and lymph node dissections.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans and makes a violation of the act a crime. Existing law also provides for the regulation of health insurers by the Insurance Commissioner.

Existing law requires every health care service plan contract and every policy of health insurance that provides coverage for mastectomies and lymph node dissections to allow the length of a hospital stay associated with these procedures to be determined by the attending physician and surgeon in consultation with the patient and consistent with sound clinical principles and processes.

This bill would instead require health care service plans, other than specialized plans, and policies of health insurance to provide a minimum of 48 hours of inpatient care for a mastectomy and 24 hours of inpatient care for a lymph node dissection for the treatment of breast cancer, unless the physician and surgeon and the patient determine that a shorter period of inpatient care is appropriate. The bill would also require coverage to be provided for a followup visit with a licensed health care professional within 48 hours of the

patient's discharge from inpatient care. Because a willful violation of the provisions applicable 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. State-mandated local program: yes.

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

SECTION 1. Section 1367.635 of the Health and Safety Code is amended to read:

1367.635. (a) Every health care service plan contract that is issued, amended, renewed, or delivered on or after January 1, 1999, *except a specialized health care service plan contract,* that provides coverage for surgical procedures known as mastectomies and lymph node dissections, shall do all of the following:

(1) ~~Allow the length of a hospital stay associated with those procedures to be determined by the attending physician and surgeon in consultation with the patient, consistent with sound clinical principles and processes.~~ *On and after January 1, 2006, provide coverage for not less than 48 hours of inpatient care for a woman undergoing a mastectomy and not less than 24 hours of inpatient care for a woman undergoing a lymph node dissection for the treatment of breast cancer. Coverage shall also be provided for a followup visit with a licensed health care professional's office, or at the patient's home, within 48 hours of discharge from inpatient care for either surgical procedure. The inpatient care coverage requirements set forth in this paragraph are the minimum amounts of inpatient care required to be covered and any length of inpatient care determined appropriate by the patient's attending physician and surgeon, in consultation with the patient, shall be covered. Nothing in this section shall be construed to require the provision of inpatient care coverage if the attending*

physician and surgeon and the patient determine that a shorter period of inpatient care is appropriate. No health care service plan shall require a treating physician and surgeon to receive prior approval from the plan in determining the length of ~~hospital stay~~ *inpatient care* following those procedures.

(2) Cover prosthetic devices or reconstructive surgery, including devices or surgery to restore and achieve symmetry for the patient incident to the mastectomy. Coverage for prosthetic devices and reconstructive surgery shall be subject to the deductible and coinsurance conditions applicable to other benefits.

(3) Cover all complications from a mastectomy, including lymphedema.

(b) As used in this section, all of the following definitions apply:

(1) "Coverage for prosthetic devices or reconstructive surgery" means any initial and subsequent reconstructive surgeries or prosthetic devices, and followup care deemed necessary by the attending physician and surgeon.

(2) "Prosthetic devices" means and includes the provision of initial and subsequent prosthetic devices pursuant to an order of the patient's physician and surgeon.

(3) "Mastectomy" shall have the same meaning as in Section 1367.6.

(4) "To restore and achieve symmetry" means that, in addition to coverage of prosthetic devices and reconstructive surgery for the diseased breast on which the mastectomy was performed, prosthetic devices and reconstructive surgery for a healthy breast is also covered if, in the opinion of the attending physician and surgeon, this surgery is necessary to achieve normal symmetrical appearance.

(c) No individual, other than a licensed physician and surgeon competent to evaluate the specific clinical issues involved in the care requested, may deny requests for authorization of health care services pursuant to this section.

(d) No health care service plan shall do any of the following in providing the coverage described in subdivision (a):

(1) Reduce or limit the reimbursement of the attending provider for providing care to an individual enrollee or subscriber in accordance with the coverage requirements.

(2) Provide monetary or other incentives to an attending provider to induce the provider to provide care to an individual enrollee or subscriber in a manner inconsistent with the coverage requirements.

(3) Provide monetary payments or rebates to an individual enrollee or subscriber to encourage acceptance of less than the coverage requirements.

(e) On or after July 1, 1999, every health care service plan shall include notice of the coverage required by this section in the plan's evidence of coverage.

(f) Nothing in this section shall be construed to limit retrospective utilization review and quality assurance activities by the plan.

SEC. 2. Section 10123.86 of the Insurance Code is amended to read:

10123.86. (a) Every policy of ~~disability~~ *health* insurance covering hospital, surgical, or medical expenses that is issued, amended, renewed, or delivered on or after January 1, 1999, that provides coverage for surgical procedures known as mastectomies and lymph node dissections, shall do all of the following:

(1) ~~Allow the length of a hospital stay associated with those procedures to be determined by the attending physician and surgeon in consultation with the patient, consistent with sound clinical principles and processes.~~ *On and after January 1, 2006, provide coverage for not less than 48 hours of inpatient care for a woman undergoing a mastectomy and not less than 24 hours of inpatient care for a woman undergoing a lymph node dissection for the treatment of breast cancer. Coverage shall also be provided for a followup visit with a licensed health care professional in the health care professional's office, or at the patient's home, within 48 hours of discharge from inpatient care for either surgical procedure. The inpatient care coverage requirements set forth in this paragraph are the minimum amounts of inpatient care required to be covered and any length of inpatient care determined appropriate by the patient's attending physician and surgeon, in consultation with the patient, shall be covered. Nothing in this section shall be construed to require the provision of inpatient care coverage if the attending physician and surgeon and the patient determine that a shorter*

period of inpatient care is appropriate. No disability insurer shall require a treating physician and surgeon to receive prior approval in determining the length of ~~hospital stay~~ *inpatient care* following those procedures.

(2) Cover prosthetic devices or reconstructive surgery, including devices or surgery to restore and achieve symmetry for the patient incident to the mastectomy. Coverage for prosthetic devices and reconstructive surgery shall be subject to the deductible and coinsurance conditions applicable to other benefits.

(3) Cover all complications from a mastectomy, including lymphedema.

(b) As used in this section, all of the following definitions apply:

(1) "Coverage for prosthetic devices or reconstructive surgery" means any initial and subsequent reconstructive surgeries or prosthetic devices, and followup care deemed necessary by the attending physician and surgeon.

(2) "Prosthetic devices" means and includes the provision of initial and subsequent prosthetic devices pursuant to an order of the patient's physician and surgeon.

(3) "Mastectomy" shall have the same meaning as in Section 10123.8.

(4) "To restore and achieve symmetry" means that, in addition to coverage of prosthetic devices and reconstructive surgery for the diseased breast on which the mastectomy was performed, prosthetic devices and reconstructive surgery for a healthy breast is also covered if, in the opinion of the attending physician and surgeon, this surgery is necessary to achieve normal symmetrical appearance.

(c) No individual, other than a licensed physician and surgeon competent to evaluate the specific clinical issues involved in the care requested, may deny requests for authorization of health care services pursuant to this section.

(d) No insurer shall do any of the following in providing the coverage described in subdivision (a):

(1) Reduce or limit the reimbursement of the attending provider for providing care to an insured in accordance with the coverage requirements.

(2) Provide monetary or other incentives to an attending provider to induce the provider to provide care to an insured in a manner inconsistent with the coverage requirements.

(3) Provide monetary payments or rebates to an insured to encourage acceptance of less than the coverage requirements.

(e) On or after July 1, 1999, every insurer shall include notice of the coverage required by this section in the insurer's evidence of coverage or certificate of insurance.

(f) Nothing in this section shall be construed to limit retrospective utilization review and quality assurance activities by the insurer.

(g) This section shall only apply to health benefit plans, as defined in subdivision (a) of Section 10198.6, except that for accident only, specified disease, or hospital indemnity insurance, coverage for benefits under this section shall apply to the extent that the benefits are covered under the general terms and conditions that apply to all other benefits under the policy. Nothing in this section shall be construed as imposing a new benefit mandate on accident only, specified disease, or hospital indemnity insurance.

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.

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