

Introduced by Senator SteinbergFebruary 22, 2008

An act to amend Section 1367.63 of the Health and Safety Code, and to amend Section 10123.88 of the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 1634, as introduced, Steinberg. Health care coverage: cleft palates.

Existing law provides for the regulation of health care service plans by the Department of Managed Health Care. Existing law provides for the regulation of health insurers by the Insurance Commissioner. A willful violation of the provisions governing health care service plans is a crime.

Existing law requires health care service plan contracts and every policy of health insurance covering hospital, medical, or surgical expenses to cover reconstructive surgery, as defined.

On and after January 1, 2009, this bill would require specified health care service plan contracts and the above-described insurance policies to cover orthodontic services deemed necessary for medical reasons by a cleft palate or craniofacial team, as specified. Because the bill would impose new requirements on health care service plans, the willful violation of which would be 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. The Legislature finds and declares all of the
2 following:

3 (a) There are over 1,000 cleft palate procedures performed
4 annually in California.

5 (b) Children with cleft palates may have special problems related
6 to missing, malformed, or misplaced teeth that require orthodontic
7 procedures.

8 (c) The orthodontic procedures for cleft palate children to correct
9 these problems are needed for medical reasons to improve speech,
10 eating, and the general health of a child's mouth.

11 (d) Currently, multiple states require health plans to cover
12 orthodontic care needed for medical reasons as a result of a cleft
13 palate.

14 SEC. 2. Section 1367.63 of the Health and Safety Code is
15 amended to read:

16 1367.63. (a) Every health care service plan contract, except a
17 specialized health care service plan contract, that is issued,
18 amended, renewed, or delivered in this state on or after July 1,
19 1999, shall cover reconstructive surgery, as defined in subdivision
20 (c), that is necessary to achieve the purposes specified in paragraphs
21 (1) or (2) of subdivision (c). Nothing in this section shall be
22 construed to require a plan to provide coverage for cosmetic
23 surgery, as defined in subdivision (d).

24 (b) No individual, other than a licensed physician competent to
25 evaluate the specific clinical issues involved in the care requested,
26 may deny initial requests for authorization of coverage for
27 treatment pursuant to this section. For a treatment authorization
28 request submitted by a podiatrist or an oral and maxillofacial
29 surgeon, the request may be reviewed by a similarly licensed
30 individual, competent to evaluate the specific clinical issues
31 involved in the care requested.

32 (c) "Reconstructive surgery" means surgery performed to correct
33 or repair abnormal structures of the body caused by congenital
34 defects, developmental abnormalities, trauma, infection, tumors,
35 or disease to do either of the following:

1 (1) To improve function.

2 (2) To create a normal appearance, to the extent possible.

3 (d) “Cosmetic surgery” means surgery that is performed to alter
4 or reshape normal structures of the body in order to improve
5 appearance.

6 (e) In interpreting the definition of reconstructive surgery, a
7 health care service plan may utilize prior authorization and
8 utilization review that may include, but need not be limited to, any
9 of the following:

10 (1) Denial of the proposed surgery if there is another more
11 appropriate surgical procedure that will be approved for the
12 enrollee.

13 (2) Denial of the proposed surgery or surgeries if the procedure
14 or procedures, in accordance with the standard of care as practiced
15 by physicians specializing in reconstructive surgery, offer only a
16 minimal improvement in the appearance of the enrollee.

17 (3) Denial of payment for procedures performed without prior
18 authorization.

19 (4) For services provided under the Medi-Cal program (Chapter
20 7 (commencing with Section 14000) of Part 3 of Division 9 of the
21 Welfare and Institutions Code), denial of the proposed surgery if
22 the procedure offers only a minimal improvement in the appearance
23 of the enrollee, as may be defined in any regulations that may be
24 promulgated by the State Department of Health Care Services.

25 (f) (1) *Every health care service plan contract that is issued,
26 amended, renewed, or delivered in this state on or after January
27 1, 2009, shall cover orthodontic services deemed necessary for
28 medical reasons by a cleft palate or craniofacial team that is
29 identified by the Cleft Palate Foundation for cleft palate
30 procedures.*

31 (2) *This subdivision shall not apply to contracts entered into
32 pursuant to Chapter 7 (commencing with Section 14000) or
33 Chapter 8 (commencing with Section 14200) of Part 3 of Division
34 9 of the Welfare and Institutions Code, between the State
35 Department of Health Care Services and a health care service
36 plan for enrolled Medi-Cal beneficiaries.*

37 SEC. 3. Section 10123.88 of the Insurance Code is amended
38 to read:

39 10123.88. (a) Every policy of ~~disability~~ *health* insurance
40 covering hospital, medical, or surgical expenses that is issued,

1 amended, renewed, or delivered in this state on or after July 1,
2 1999, shall cover reconstructive surgery, as defined in subdivision
3 (c), that is necessary to achieve the purposes specified in paragraphs
4 (1) or (2) of subdivision (c). Nothing in this section shall be
5 construed to require a policy to provide coverage for cosmetic
6 surgery, as defined in subdivision (d). This section shall only apply
7 to health benefit plans, as defined in subdivision (a) of Section
8 10198.6, except that for accident only, specified disease, or hospital
9 indemnity insurance, coverage for benefits under this section shall
10 apply to the extent that the benefits are covered under the general
11 terms and conditions that apply to all other benefits under the
12 policy. Nothing in this section shall be construed as imposing a
13 new benefit mandate on accident only, specified disease, or hospital
14 indemnity insurance.

15 (b) No individual, other than a licensed physician competent to
16 evaluate the specific clinical issues involved in the care requested,
17 may deny initial requests for authorization of coverage for
18 treatment pursuant to this section. For a treatment authorization
19 request submitted by a podiatrist or an oral and maxillofacial
20 surgeon, the request may be reviewed by a similarly licensed
21 individual, competent to evaluate the specific clinical issues
22 involved in the care requested.

23 (c) “Reconstructive surgery” means surgery performed to correct
24 or repair abnormal structures of the body caused by congenital
25 defects, developmental abnormalities, trauma, infection, tumors,
26 or disease to do either of the following:

27 (1) To improve function.

28 (2) To create a normal appearance, to the extent possible.

29 (d) Nothing in this section shall be construed to require an
30 insurer to provide coverage for cosmetic surgery. “Cosmetic
31 surgery” means surgery that is performed to alter or reshape normal
32 structures of the body in order to improve the patient’s appearance.

33 (e) In interpreting the definition of reconstructive surgery, an
34 insurer may utilize prior authorization and utilization review that
35 may include, but need not be limited to, any of the following:

36 (1) Denial of the proposed surgery if there is another more
37 appropriate surgical procedure that will be approved for the
38 enrollee.

39 (2) Denial of the proposed surgery or surgeries if the procedure
40 or procedures, in accordance with the standard of care as practiced

1 by physicians specializing in reconstructive surgery, offer only a
2 minimal improvement in the appearance of the enrollee.

3 (3) Denial of payment for procedures performed without prior
4 authorization.

5 (f) *Every policy of health insurance covering hospital, medical,*
6 *or surgical expenses that is issued, amended, renewed, or delivered*
7 *in this state on or after January 1, 2009, shall cover orthodontic*
8 *services deemed necessary for medical reasons by a cleft palate*
9 *or craniofacial team that is identified by the Cleft Palate*
10 *Foundation for cleft palate procedures.*

11 SEC. 4. No reimbursement is required by this act pursuant to
12 Section 6 of Article XIII B of the California Constitution because
13 the only costs that may be incurred by a local agency or school
14 district will be incurred because this act creates a new crime or
15 infraction, eliminates a crime or infraction, or changes the penalty
16 for a crime or infraction, within the meaning of Section 17556 of
17 the Government Code, or changes the definition of a crime within
18 the meaning of Section 6 of Article XIII B of the California
19 Constitution.