

AMENDED IN SENATE AUGUST 30, 2011

AMENDED IN SENATE JULY 12, 2011

AMENDED IN ASSEMBLY MAY 27, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1059

Introduced by Assembly Member Huffman

February 18, 2011

An act to ~~add Section 1371.371 to~~ *amend and repeal Section 1371.37* of the Health and Safety Code, relating to health care service plans.

LEGISLATIVE COUNSEL'S DIGEST

AB 1059, as amended, Huffman. Health care service plans.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the regulation of health care service plans by the Department of Managed Health Care. Existing law requires a health care service plan to pay claims for provided health care services within a specified period of time and prohibits a health care service plan from engaging in an unfair payment pattern, as defined.

This bill would require the director, upon a final determination that a health care service plan has underpaid or failed to pay a provider, as specified, to require the plan to pay the provider the amount owed plus interest, as specified. The bill would also specify that a provider shall not be required to resubmit a claim to a plan unless the director makes a determination that an extraordinary circumstance exists and requires the plan to reimburse the provider for the cost of resubmission, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 1371.37 of the Health and Safety Code,
2 as added by Section 6 of Chapter 827 of the Statutes of 2000, is
3 amended to read:

4 1371.37. (a) A health care service plan is prohibited from
5 engaging in an unfair payment pattern, as defined in this section.

6 (b) Consistent with subdivision (a) of Section 1371.39, the
7 director may investigate a health care service plan to determine
8 whether it has engaged in an unfair payment pattern.

9 (c) An “unfair payment pattern,” as used in this section, means
10 any of the following:

11 (1) Engaging in a demonstrable and unjust pattern, as defined
12 by the department, of reviewing or processing complete and
13 accurate claims that results in payment delays.

14 (2) Engaging in a demonstrable and unjust pattern, as defined
15 by the department, of reducing the amount of payment or denying
16 complete and accurate claims.

17 (3) Failing on a repeated basis to pay the uncontested portions
18 of a claim within the timeframes specified in Section 1371, 1371.1,
19 or 1371.35.

20 (4) Failing on a repeated basis to automatically include the
21 interest due on claims pursuant to Section 1371.

22 (d) (1) Upon a final determination by the director that a health
23 care service plan has engaged in an unfair payment pattern, the
24 director may:

25 (A) Impose monetary penalties as permitted under this chapter.

26 (B) Require the health care service plan for a period of three
27 years from the date of the director’s determination, or for a shorter
28 period prescribed by the director, to pay complete and accurate
29 claims from the provider within a shorter period of time than that
30 required by Section 1371. The provisions of this subparagraph
31 shall not become operative until January 1, 2002.

32 (C) Include a claim for costs incurred by the department in any
33 administrative or judicial action, including investigative expenses
34 and the cost to monitor compliance by the plan.

35 (2) For any overpayment made by a health care service plan
36 while subject to the provisions of paragraph (1), the provider shall
37 remain liable to the plan for repayment pursuant to Section 1371.1.

1 (e) Upon a final determination by the director that a health care
2 service plan has engaged in an unfair payment pattern, the director
3 shall require the plan to pay the provider an amount that includes
4 the amount owed plus interest pursuant to subdivisions (b) and
5 (e) of Section 1371.35.

6 (f) Except as provided in subdivision (g), a provider shall not
7 be required to resubmit a claim to a health care service plan in
8 order to receive payment pursuant to this section.

9 (g) If the director makes a determination that an extraordinary
10 circumstance exists, the director may require a provider to
11 resubmit a claim to a health care service plan in order to receive
12 payment pursuant to this section, provided that the director also
13 requires the plan to add to the amount owed to the provider a
14 reasonable amount necessary to reimburse the provider for the
15 cost of resubmission.

16 ~~(e)~~

17 (h) The enforcement remedies provided in this section are not
18 exclusive and shall not limit or preclude the use of any otherwise
19 available criminal, civil, or administrative remedy.

20 ~~(f)~~

21 (i) The penalties set forth in this section shall not preclude,
22 suspend, affect, or impact any other duty, right, responsibility, or
23 obligation under a statute or under a contract between a health care
24 service plan and a provider.

25 ~~(g)~~

26 (j) A health care service plan may not delegate any statutory
27 liability under this section.

28 ~~(h)~~

29 (k) For the purposes of this section, “complete and accurate
30 claim” has the same meaning as that provided in the regulations
31 adopted by the department pursuant to subdivision (a) of Section
32 1371.38.

33 ~~(i)~~

34 (l) On or before December 31, 2001, the department shall report
35 to the Legislature and the Governor information regarding the
36 development of the definition of “unjust pattern” as used in this
37 section. This report shall include, but not be limited to, a
38 description of the process used and a list of the parties involved
39 in the department’s development of this definition as well as
40 recommendations for statutory adoption.

1 (j)
2 (m) The department shall make available upon request and on
3 its website, information regarding actions taken pursuant to this
4 section, including a description of the activities that were the basis
5 for the action.

6 *SEC. 2. Section 1371.37 of the Health and Safety Code, as*
7 *added by Section 6 of Chapter 825 of the Statutes of 2000, is*
8 *repealed.*

9 ~~1371.37. (a) A health care service plan is prohibited from~~
10 ~~engaging in an unfair payment pattern, as defined in this section.~~

11 ~~(b) Consistent with subdivision (a) of Section 1371.39, the~~
12 ~~director may investigate a health care service plan to determine~~
13 ~~whether it has engaged in an unfair payment pattern.~~

14 ~~(c) An “unfair payment pattern,” as used in this section, means~~
15 ~~any of the following:~~

16 ~~(1) Engaging in a demonstrable and unjust pattern, as defined~~
17 ~~by the department, of reviewing or processing complete and~~
18 ~~accurate claims that results in payment delays.~~

19 ~~(2) Engaging in a demonstrable and unjust pattern, as defined~~
20 ~~by the department, of reducing the amount of payment or denying~~
21 ~~complete and accurate claims.~~

22 ~~(3) Failing on a repeated basis to pay the uncontested portions~~
23 ~~of a claim within the timeframes specified in Section 1371, 1371.1,~~
24 ~~or 1371.35.~~

25 ~~(4) Failing on a repeated basis to automatically include the~~
26 ~~interest due on claims pursuant to Section 1371.~~

27 ~~(d) (1) Upon a final determination by the director that a health~~
28 ~~care service plan has engaged in an unfair payment pattern, the~~
29 ~~director may:~~

30 ~~(A) Impose monetary penalties as permitted under this chapter.~~

31 ~~(B) Require the health care service plan for a period of three~~
32 ~~years from the date of the director’s determination, or for a shorter~~
33 ~~period prescribed by the director, to pay complete and accurate~~
34 ~~claims from the provider within a shorter period of time than that~~
35 ~~required by Section 1371. The provisions of this subparagraph~~
36 ~~shall not become operative until January 1, 2002.~~

37 ~~(C) Include a claim for costs incurred by the department in any~~
38 ~~administrative or judicial action, including investigative expenses~~
39 ~~and the cost to monitor compliance by the plan.~~

1 ~~(2) For any overpayment made by a health care service plan~~
2 ~~while subject to the provisions of paragraph (1), the provider shall~~
3 ~~remain liable to the plan for repayment pursuant to Section 1371.1.~~

4 ~~(e) The enforcement remedies provided in this section are not~~
5 ~~exclusive and shall not limit or preclude the use of any otherwise~~
6 ~~available criminal, civil, or administrative remedy.~~

7 ~~(f) The penalties set forth in this section shall not preclude,~~
8 ~~suspend, affect, or impact any other duty, right, responsibility, or~~
9 ~~obligation under a statute or under a contract between a health care~~
10 ~~service plan and a provider.~~

11 ~~(g) A health care service plan may not delegate any statutory~~
12 ~~liability under this section.~~

13 ~~(h) For the purposes of this section, “complete and accurate~~
14 ~~claim” has the same meaning as that provided in the regulations~~
15 ~~adopted by the department pursuant to subdivision (a) of Section~~
16 ~~1371.38.~~

17 ~~(i) On or before December 31, 2001, the department shall report~~
18 ~~to the Legislature and the Governor information regarding the~~
19 ~~development of the definition of “unjust pattern” as used in this~~
20 ~~section. This report shall include, but not be limited to, a~~
21 ~~description of the process used and a list of the parties involved~~
22 ~~in the department’s development of this definition as well as~~
23 ~~recommendations for statutory adoption.~~

24 ~~(j) The department shall make available upon request and on~~
25 ~~its web site, information regarding actions taken pursuant to this~~
26 ~~section, including a description of the activities that were the basis~~
27 ~~for the action.~~

28 ~~SECTION 1. Section 1371.371 is added to the Health and~~
29 ~~Safety Code, to read:~~

30 ~~1371.371. (a) Upon a final determination by the director that~~
31 ~~a health care service plan has underpaid or failed to pay a provider~~
32 ~~in violation of Section 1371.37, the director shall require the health~~
33 ~~care service plan to pay the provider an amount to include the~~
34 ~~amount owed plus interest pursuant to subdivisions (b) and (c) of~~
35 ~~Section 1371.35.~~

36 ~~(b) Except as provided in subdivision (c), a provider shall not~~
37 ~~be required to resubmit a claim to a health care service plan in~~
38 ~~order to receive payment pursuant to this section.~~

39 ~~(c) If the director makes a determination that an extraordinary~~
40 ~~circumstance exists, the director may require a provider to resubmit~~

1 a claim to a health care service plan in order to receive payment
2 pursuant to this section, provided that the director also requires
3 the plan to add to the amount owed to the provider a reasonable
4 amount necessary to reimburse the provider for the cost of
5 resubmission.

6 (d) ~~The remedies provided by this section are not exclusive, and
7 may be sought and employed in any combination with civil,
8 criminal, and other administrative remedies deemed warranted by
9 the director to enforce this chapter.~~

10 (e) ~~Notwithstanding the date on which the director makes a final
11 determination specified in subdivision (a), the calculation of the
12 amount of the remedy imposed pursuant to subdivision (a) shall
13 be based on the date on which the plan committed the violation
14 specified in that subdivision.~~

15 (f) ~~Notwithstanding the provisions of subdivision (a), a plan
16 shall not be required to pay a provider more than the amount owed
17 plus interest on a claim, and the department may take into account
18 any other payments that have been made on that same claim.~~

19 (g) ~~The provisions set forth in this section shall not preclude,
20 suspend, affect, or impact any other duty, right, responsibility, or
21 obligation under any other statute or under a contract between a
22 health care service plan and a provider.~~

23 (h) ~~A health care service plan may not delegate a statutory
24 liability under this section.~~

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