

AMENDED IN ASSEMBLY AUGUST 24, 1998

SENATE BILL

No. 277

Introduced by Senator Maddy

February 6, 1997

An act to amend ~~Section~~ *Sections 1371.4 and 1797.98f* of the Health and Safety Code, relating to emergency medical services.

LEGISLATIVE COUNSEL'S DIGEST

SB 277, as amended, Maddy. Emergency medical services.

Existing

(1) Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans administered by the Commissioner of Corporations. Under existing law, willful violation of any of these provisions is punishable as either a felony or a misdemeanor.

Existing law requires a health care service plan to reimburse providers for emergency services and care provided to its enrollees until the care results in stabilization of the enrollee, except under certain conditions, and requires the health care service plan to assume responsibility for the care of the patient if there is a disagreement between the plan and the provider regarding the need for necessary medical care. Existing law exempts from these requirements both a provider with which the health care service plan has a contract that includes the provision of emergency services and care and necessary medical care and a health care service plan that has 3,500,000 enrollees and maintains a prior

authorization system that includes the availability by telephone within 30 minutes of an emergency physician who is on duty at an emergency department of a general acute care hospital.

This bill would instead exempt from these requirements only a nonprofit health care service plan that has 3,500,000 enrollees and maintains a prior authorization system that includes the availability by telephone within 30 minutes of a practicing emergency room physician. Since a willful violation of the provisions applicable to health care service plans is a crime, this bill, by changing the definition of a crime, would impose a state-mandated local program.

(2) Existing law authorizes each county to establish an Emergency Medical Services Fund to be available in each county for reimbursement of certain costs relating to emergency medical services pursuant to a prescribed schedule.

Existing law entitles a physician and surgeon with a gross billings arrangement with a hospital to receive reimbursement from the fund for services provided in that hospital if certain conditions are met, including, but not limited to, provision of the services in a basic or comprehensive general acute care hospital emergency department.

This bill would expand this reimbursement category to also include provision of services in a standby emergency department in a small and rural hospital, as defined. By expanding the scope of physicians and surgeons to whom the fund is required to provide reimbursement, this 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.~~

This bill would incorporate changes to Section 1371.4 of the Health and Safety Code made by AB 682 if both this bill and AB 682 are chaptered and this bill is chaptered last.



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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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 1371.4 of the Health and Safety*
2 *Code is amended to read:*
3 1371.4. (a) A health care service plan, or its
4 contracting medical providers, shall provide 24-hour
5 access for enrollees and providers to obtain timely
6 authorization for medically necessary care, for
7 circumstances where the enrollee has received
8 emergency services and care as defined in Section 1317.1,
9 is stabilized, but the treating provider believes that the
10 enrollee may not be transferred or discharged safely. A
11 physician and surgeon shall be available for consultation
12 and for resolving disputed requests for authorizations. A
13 health care service plan that does not require prior
14 authorization as a prerequisite for payment for necessary
15 medical care following stabilization of an emergency
16 condition need not satisfy the requirements of this
17 subdivision.
18 (b) A health care service plan shall reimburse
19 providers for emergency services and care, as defined in
20 Section 1317.1, provided to its enrollees, until the care



1 results in stabilization of the enrollee, except as provided
2 in subdivision (c).

3 (c) Payment for emergency services and care may be
4 denied only if the health care service plan reasonably
5 determines that the emergency services and care were
6 never performed; provided that a health care service
7 plan may deny reimbursement to a provider for a medical
8 screening examination in cases when the plan enrollee
9 did not require emergency services and care and the
10 enrollee reasonably should have known that an
11 emergency did not exist. As long as federal or state law
12 requires that emergency services and care be provided
13 without first questioning the patient's ability to pay, a
14 health care service plan shall not require a provider to
15 obtain authorization prior to the provision of emergency
16 services and care.

17 (d) If there is a disagreement between the health care
18 service plan and the provider regarding the need for
19 necessary medical care, the plan shall assume
20 responsibility for the care of the patient either by having
21 its medical personnel personally take over the case of the
22 patient within a reasonable amount of time after the
23 disagreement, or by having a general acute care hospital
24 under contract with the plan agree to accept the transfer
25 of the patient as provided in Section 1317.2, Section
26 1317.2a, or other pertinent statute. However, this
27 requirement shall not apply to necessary medical care
28 provided in hospitals outside the service area of the health
29 care service plan. If the health care service plan fails to
30 satisfy the requirements of this subdivision, further
31 necessary care shall be deemed to have been authorized
32 by the plan. Payment for this care may not be denied.

33 (e) A health care service plan may delegate the
34 responsibilities enumerated in this section to the plan's
35 contracting medical providers.

36 (f) Subdivisions (b), (c), (d), and (g) shall not apply
37 with respect to either a provider with which the health
38 care service plan has a contract that includes the
39 provision of emergency services and care and necessary
40 medical care or to a *nonprofit* health care service plan



1 that has 3,500,000 enrollees and maintains a prior
2 authorization system ~~which that~~ includes the availability
3 by telephone within 30 minutes of ~~an emergency a~~
4 *practicing emergency department* physician ~~who is on~~
5 ~~duty at an emergency department of a general acute care~~
6 ~~hospital.~~

7 (g) The Department of Corporations shall adopt by
8 July 1, 1995, on an emergency basis, regulations governing
9 instances when an enrollee requires medical care
10 following stabilization of an emergency condition,
11 including appropriate time frames for a health care
12 service plan to respond to requests for treatment
13 authorization.

14 *SEC. 2. Section 1371.4 of the Health and Safety Code*
15 *is amended to read:*

16 1371.4. (a) A health care service plan, or its
17 contracting medical providers, shall provide 24-hour
18 access for enrollees and providers to obtain timely
19 authorization for medically necessary care, for
20 circumstances where the enrollee has received
21 emergency services and care ~~as defined in Section 1317.1,~~
22 is stabilized, but the treating provider believes that the
23 enrollee may not be ~~transferred or~~ discharged safely. A
24 physician and surgeon shall be available for consultation
25 and for resolving disputed requests for authorizations. A
26 health care service plan that does not require prior
27 authorization as a prerequisite for payment for necessary
28 medical care following stabilization of an emergency
29 *medical condition or active labor* need not satisfy the
30 requirements of this subdivision.

31 (b) A health care service plan shall reimburse
32 providers for emergency services and care, ~~as defined in~~
33 ~~Section 1317.1,~~ provided to its enrollees, until the care
34 results in stabilization of the enrollee, except as provided
35 in subdivision (c). *As long as federal or state law requires*
36 *that emergency services and care be provided without*
37 *first questioning the patient's ability to pay, a health care*
38 *service plan shall not require a provider to obtain*
39 *authorization prior to the provision of emergency*



1 *services and care necessary to stabilize the enrollee's*
2 *emergency medical condition.*

3 (c) Payment for emergency services and care may be
4 denied only if the health care service plan reasonably
5 determines that the emergency services and care were
6 never performed; provided that a health care service
7 plan may deny reimbursement to a provider for a medical
8 screening examination in cases when the plan enrollee
9 did not require emergency services and care and the
10 enrollee reasonably should have known that an
11 emergency did not exist. ~~As long as federal or state law~~
12 ~~requires that emergency services and care be provided~~
13 ~~without first questioning the patient's ability to pay, a~~ A
14 health care service plan shall not require a provider to
15 ~~obtain authorization prior to the provision of emergency~~
16 ~~services and care may require prior authorization as a~~
17 *prerequisite for payment for necessary medical care*
18 *following stabilization of an emergency medical*
19 *condition.*

20 (d) If there is a disagreement between the health care
21 service plan and the provider regarding the need for
22 necessary medical care, *following stabilization of the*
23 *enrollee*, the plan shall assume responsibility for the care
24 of the patient either by having ~~its~~ medical personnel
25 *contracting with the plan* personally take over the ~~care~~
26 *care* of the patient within a reasonable amount of time
27 after the disagreement, or by having a *another* general
28 acute care hospital under contract with the plan agree to
29 accept the transfer of the patient as provided in Section
30 1317.2, Section 1317.2a, or other pertinent statute.
31 However, this requirement shall not apply to necessary
32 medical care provided in hospitals outside the service
33 area of the health care service plan. If the health care
34 service plan fails to satisfy the requirements of this
35 subdivision, further necessary care shall be deemed to
36 have been authorized by the plan. Payment for this care
37 may not be denied.

38 (e) A health care service plan may delegate the
39 responsibilities enumerated in this section to the plan's
40 contracting medical providers.



1 (f) Subdivisions (b), (c), (d), ~~and~~ (g), *and (h)* shall
 2 not apply with respect to ~~either a provider with which the~~
 3 ~~health care service plan has a contract that includes the~~
 4 ~~provision of emergency services and care and necessary~~
 5 ~~medical care or a nonprofit health care service plan that~~
 6 has 3,500,000 enrollees and maintains a prior
 7 authorization system ~~which that~~ includes the availability
 8 by telephone within 30 minutes of ~~an emergency a~~
 9 *practicing emergency department* physician ~~who is on~~
 10 ~~duty at an emergency department of a general acute care~~
 11 ~~hospital.~~

12 (g) The Department of Corporations shall adopt by
 13 July 1, 1995, on an emergency basis, regulations governing
 14 instances when an enrollee requires medical care
 15 following stabilization of an emergency *medical*
 16 condition, including appropriate ~~time frames~~ *timeframes*
 17 for a health care service plan to respond to requests for
 18 treatment authorization.

19 (h) *The Department of Corporations shall adopt, by*
 20 *July 1, 1999, on an emergency basis, regulations governing*
 21 *instances when an enrollee in the opinion of the treating*
 22 *provider requires necessary medical care following*
 23 *stabilization of an emergency medical condition,*
 24 *including appropriate timeframes for a health care*
 25 *service plan to respond to a request for treatment*
 26 *authorization from a treating provider who has a contract*
 27 *with a plan.*

28 (i) *The definitions set forth in Section 1317.1 shall*
 29 *control the construction of this section.*

30 SEC. 3. Section 1797.98f of the Health and Safety
 31 Code is amended to read:

32 1797.98f. Notwithstanding any other provision of this
 33 chapter, an emergency physician and surgeon, or an
 34 emergency physician group, with a gross billings
 35 arrangement with a hospital shall be entitled to receive
 36 reimbursement from the Emergency Medical Services
 37 Fund for services provided in that hospital, if all of the
 38 following conditions are met:

39 (a) The services are provided in a basic or
 40 comprehensive general acute care hospital emergency



1 department, or in a standby emergency department in a
2 small and rural hospital as defined in Section 124840.

3 (b) The physician and surgeon is not an employee of
4 the hospital.

5 (c) All provisions of Section 1797.98c are satisfied,
6 except that payment to the emergency physician and
7 surgeon, or an emergency physician group, by a hospital
8 pursuant to a gross billings arrangement shall not be
9 interpreted to mean that payment for a patient is made
10 by a responsible third party.

11 (d) Reimbursement from the Emergency Medical
12 Services Fund is sought by the hospital or the hospital's
13 designee, as the billing and collection agent for the
14 emergency physician and surgeon, or an emergency
15 physician group.

16 For purposes of this section, a "gross billings
17 arrangement" is an arrangement whereby a hospital
18 serves as the billing and collection agent for the
19 emergency physician and surgeon, or an emergency
20 physician group, and pays the emergency physician and
21 surgeon, or emergency physician group, a percentage of
22 the emergency physician and surgeon's or group's gross
23 billings for all patients.

24 ~~SEC. 2. No reimbursement is required by this act~~
25 ~~pursuant to Section 6 of Article XIII B of the California~~
26 ~~Constitution because a local agency or school district has~~
27 ~~the authority to levy service charges, fees, or assessments~~
28 ~~sufficient to pay for the program or level of service~~
29 ~~mandated by this act, within the meaning of Section 17556~~
30 ~~of the Government Code.~~

31 ~~Notwithstanding Section 17580 of the Government~~
32 ~~Code, unless otherwise specified, the provisions of this act~~
33 ~~shall become operative on the same date that the act~~
34 ~~takes effect pursuant to the California Constitution.~~

35 *SEC. 4. Section 2 of this bill incorporates amendments*
36 *to Section 1371.4 of the Health and Safety Code proposed*
37 *by both this bill and AB 682. It shall only become*
38 *operative if (1) both bills are enacted and become*
39 *effective on January 1, 1999, (2) each bill amends Section*
40 *1371.4 of the Health and Safety Code, and (3) this bill is*



1 enacted after AB 682, in which case Section 1 of this bill
2 shall not become operative.

3 SEC. 5. No reimbursement is required by this act
4 pursuant to Section 6 of Article XIII B of the California
5 Constitution for certain costs that may be incurred by a
6 local agency or school district because in that regard this
7 act creates a new crime or infraction, eliminates a crime
8 or infraction, or changes the penalty for a crime or
9 infraction, within the meaning of Section 17556 of the
10 Government Code, or changes the definition of a crime
11 within the meaning of Section 6 of Article XIII B of the
12 California Constitution.

13 However, notwithstanding Section 17610 of the
14 Government Code, if the Commission on State Mandates
15 determines that this act contains other costs mandated by
16 the state, reimbursement to local agencies and school
17 districts for those costs shall be made pursuant to Part 7
18 (commencing with Section 17500) of Division 4 of Title
19 2 of the Government Code. If the statewide cost of the
20 claim for reimbursement does not exceed one million
21 dollars (\$1,000,000), reimbursement shall be made from
22 the State Mandates Claims Fund.

23 Notwithstanding Section 17580 of the Government
24 Code, unless otherwise specified, the provisions of this act
25 shall become operative on the same date that the act
26 takes effect pursuant to the California Constitution.

