

AMENDED IN SENATE MAY 5, 2021

SENATE BILL

No. 568

Introduced by Senator Pan

February 18, 2021

An act to add Section 1342.75 to the Health and Safety Code, and to add Section 10123.1934 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 568, as amended, Pan. Deductibles: chronic disease management.

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, and makes a willful violation of the act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law, in accordance with the federal Patient Protection and Affordable Care Act, requires a health care service plan or health insurance issuer offering coverage in the individual or small group market to ensure that the coverage includes the essential health benefits package and defines this package to mean coverage that, among other requirements, includes preventive and wellness services and chronic disease management. Existing law, with respect to those individual or group health care service plan contracts and health insurance policies, prohibits the copayment, coinsurance, or any other form of cost sharing for a covered outpatient prescription drug for an individual prescription from exceeding \$250, as specified. Existing law requires a health care service plan contract that covers hospital, medical, or surgical expenses to include coverage for certain equipment and supplies for the management

and treatment of various types of diabetes as medically necessary, even if those items are available without a prescription.

This bill would prohibit a health care service plan contract or health insurance policy *that is* issued, amended, or renewed on or after January 1, ~~2022, 2023~~, from imposing a deductible requirement for a covered prescription drug ~~and or the above equipment and supplies, and supplies used to treat a chronic disease, as defined.~~ *The bill would limit the amount paid for the benefit by an enrollee, subscriber, policyholder, or insured to no more than the amount of copayment or coinsurance specified in the ~~applicable summary of benefits and coverage, health care service plan contract or disability insurance policy for a covered prescription drug or similar benefit that is not used to treat a chronic disease,~~ as specified. This bill would prohibit a health care service plan contract or ~~health disability~~ insurance policy that meets the definition of a “high deductible health plan” under specified federal law from imposing a deductible requirement with respect to any covered benefit for preventive care, in accordance with that ~~law~~. *law, and is not subject to the other deductible restrictions imposed by the bill. The bill would authorize the Insurance Commissioner to implement, interpret, or make specific its provisions by issuing guidance, without taking regulatory action, until regulations are adopted.* Because a violation of the requirements of the bill by a health care service plan 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:

- 1 SECTION 1. Section 1342.75 is added to the Health and Safety
- 2 Code, to read:
- 3 1342.75. (a) Notwithstanding subdivision (a) of Section
- 4 1342.73 with respect to deductibles, an individual or group health
- 5 care service plan contract issued, amended, or renewed on or after
- 6 January 1, ~~2022, 2023~~, shall not impose a deductible requirement
- 7 for a covered prescription drug ~~and for~~ or a benefit described in

1 subdivision (a) of Section 1367.51 *that is* used to treat a chronic
2 disease. The amount of cost sharing, if any, paid by an enrollee or
3 a subscriber for those drugs and benefits shall not exceed the
4 amount of copayment or coinsurance specified in the ~~summary of~~
5 ~~benefits and coverage~~ *health care service plan contract for a*
6 *covered prescription drug or similar benefit that is not used to*
7 *treat a chronic disease*, and shall be consistent with other
8 applicable provisions of this article.

9 (b) A state-regulated “high deductible health plan,” under the
10 definition set forth in Section 223 of Title 26 of the United States
11 Code, shall not impose a deductible requirement with respect to
12 any covered benefit for preventive care identified by the Internal
13 Revenue Service, in accordance with Section 223(c)(2)(C) of Title
14 26 of the United States Code. *The deductible restrictions described*
15 *in subdivision (a) do not apply to a plan that is subject to this*
16 *subdivision.*

17 (c) This section does not require cost sharing for care that state
18 or federal law otherwise requires to be provided without cost
19 sharing.

20 (d) For purposes of this section, “chronic disease” means a
21 *physical or behavioral health* condition that lasts one year or longer
22 and requires ongoing medical attention, limits activities of daily
23 living, or both. A “*behavioral health condition*” *includes a mental*
24 *health or substance use disorder, as defined in Section 1374.72.*

25 SEC. 2. Section 10123.1934 is added to the Insurance Code,
26 to read:

27 10123.1934. (a) Notwithstanding subdivision (a) of Section
28 10123.1932 with respect to deductibles, ~~an individual or group~~
29 ~~health~~ *a disability insurance policy that covers hospital, medical,*
30 *or surgical expenses that is issued, amended, or renewed on or*
31 *after January 1, 2022, 2023,* shall not impose a deductible
32 requirement for any covered prescription drug ~~and for a benefits~~
33 *or a benefit* described in subdivision (a) of Section 10176.61 *that*
34 *is used to treat a chronic disease.* The amount of cost sharing, if
35 any, paid by a policyholder or an insured for those drugs and
36 benefits shall not exceed the amount of copayment or coinsurance
37 specified in the ~~summary of benefits and coverage~~ *policy for a*
38 *covered prescription drug or similar benefit that is not used to*
39 *treat a chronic disease*, and shall be consistent with other
40 applicable provisions of this article.

1 (b) A state-regulated “high deductible health plan,” under the
2 definition set forth in Section 223 of Title 26 of the United States
3 Code, shall not impose a deductible requirement with respect to
4 any covered benefit for preventive care identified by the Internal
5 Revenue Service, in accordance with Section 223(c)(2)(C) of Title
6 26 of the United States Code. *The deductible restrictions described*
7 *in subdivision (a) do not apply to a plan that is subject to this*
8 *subdivision.*

9 (c) This section does not require cost sharing for care that state
10 or federal law otherwise requires to be provided without cost
11 sharing.

12 (d) For purposes of this section, “chronic disease” means a
13 *physical or behavioral health* condition that lasts one year or longer
14 and requires ongoing medical attention, limits activities of daily
15 living, or both. A *“behavioral health condition” includes a mental*
16 *health or substance use disorder, as defined in Section 10144.5.*

17 (e) *Notwithstanding Chapter 3.5 (commencing with Section*
18 *11340) of Part 1 of Division 3 of Title 2 of the Government Code,*
19 *the commissioner may implement, interpret, or make specific this*
20 *section by issuing guidance, without taking regulatory action, until*
21 *the time regulations are adopted.*

22 SEC. 3. No reimbursement is required by this act pursuant to
23 Section 6 of Article XIII B of the California Constitution because
24 the only costs that may be incurred by a local agency or school
25 district will be incurred because this act creates a new crime or
26 infraction, eliminates a crime or infraction, or changes the penalty
27 for a crime or infraction, within the meaning of Section 17556 of
28 the Government Code, or changes the definition of a crime within
29 the meaning of Section 6 of Article XIII B of the California
30 Constitution.