

Assembly Bill No. 929

CHAPTER 812

An act to amend Section 100508 of, and to add Sections 100503.7 and 100503.8 to, the Government Code, relating to health care coverage.

[Approved by Governor October 12, 2019. Filed with Secretary of State October 12, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 929, Luz Rivas. California Health Benefit Exchange: data collection.

Existing federal law, the Patient Protection and Affordable Care Act (PPACA), requires each state to establish an American Health Benefit Exchange to facilitate the purchase of qualified health benefit plans by qualified individuals and qualified small employers. Existing state law creates the California Health Benefit Exchange (Exchange), also known as Covered California, to facilitate the enrollment of qualified individuals and qualified small employers in qualified health plans as required under PPACA. Existing law prescribes the duties of the board of the Exchange, including requiring a health plan seeking certification as a qualified health plan to submit specified data to the board.

This bill would require the board, if it requires or has previously required a qualified health plan to report on cost reduction efforts, quality improvements, or disparity reductions, to make public plan-specific data on cost reduction efforts, quality improvements, and disparity reductions. The bill would require the board to post that data and information to the internet website of the Exchange no less than annually and in a way that demonstrates the compliance and performance of a health plan, but protects the personal information of an enrollee. The bill would require a qualified health plan to provide enrollee data and other information on quality measures to the board, as specified, and would require information to be provided by product type. The bill would exempt Exchange records that reveal specified claims and rate data from disclosure under the California Public Records Act. The bill would delete an existing requirement that the portion of a contract or amendment containing rates of payment be open to inspection 3 years after the contract or amendment is open to inspection. The bill would also require the board to engage in health oversight activities relating to Exchange operations, including audits, investigations, evaluations, analyses, data collection through routine reporting, and any other activities for oversight of the Exchange, including qualified health plan contracts with health care service plans and health insurers.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public

officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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

SECTION 1. (a) The Legislature finds and declares that since the enactment of Assembly Bill 1602 (Ch. 655, Stats. 2010) and Senate Bill 900 (Ch. 659, Stats. 2010), Covered California, California's health benefit exchange, has used its authority to negotiate qualified health plan contracts with health plans and health insurers that have moderated rate increases for individual consumers, while holding health plans and insurers accountable for improving the quality of care and reducing health disparities.

(b) It is, therefore, the intent of the Legislature in enacting this act to ensure that Covered California is able to obtain from health plans and insurers information on cost, quality, and disparities useful in evaluating the impact of Covered California on the health delivery system and health coverage in California, including information from qualified health plan contracts since the inception of Covered California.

SEC. 2. Section 100503.7 is added to the Government Code, to read:

100503.7. (a) (1) If the board requires, or has previously required in its contracts with qualified health plans, a qualified health plan to report on cost reduction efforts, quality improvements, or disparity reductions, the board shall make public on the internet website of the Exchange plan-specific data on cost reduction efforts, quality improvements, and disparity reductions.

(2) Data and information posted on the internet website of the Exchange pursuant to paragraph (1) shall be posted in a way that demonstrates the compliance and performance of a qualified health plan with respect to cost reduction efforts, quality improvement, or disparity reduction reporting, but protects the personal information of an enrollee. Comparison among qualified health plans shall contribute to the understanding of the data and progress in achieving goals established by the Exchange through qualified health plan contracts.

(3) The board shall post information on the internet website of the Exchange pursuant to paragraphs (1) and (2) no less than annually.

(b) (1) A qualified health plan shall provide data on enrollees to the Exchange in a form, manner, and frequency specified by the Exchange.

(2) Data and information made public by the Exchange shall be disclosed in a manner that protects the personal information of an enrollee, pursuant to state and federal privacy laws, including the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code) and the federal Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191).

(3) Records that reveal contracted rates paid by qualified health plans to providers and enrollee coinsurance that can be used to determine contracted rates paid by plans to providers shall not be subject to public disclosure.

(c) (1) A qualified health plan shall provide to the Exchange information that the board identifies as necessary to conduct its duties or exercise its oversight powers.

(2) The information shall be furnished in the form, manner, and frequency specified by the Exchange.

(d) (1) A qualified health plan shall provide enrollee data and other information on quality measures, including contract compliance with measures that affect individual and population health, as well as improvements in care coordination and patient safety, in a manner that allows for an analysis by demographic subpopulations.

(2) A qualified health plan shall provide enrollee data, encounter data, and other information on quality measures, performance improvement strategies, payment methods, and other information necessary to monitor adherence to contract provisions designed to improve health equity and reduce health disparities on an individual and population health basis.

(3) A qualified health plan shall also provide financial data and information, including cost detail, claims data, encounter data, and payment methods to evaluate cost and utilization experience for enrollees. Enrollment data and information shall include demographic, coverage, premium, product, network, and benefit design detail for each enrollee.

(e) A health care service plan or health insurer contracted with the Exchange to offer a qualified health plan shall disclose to the board the following information:

(1) Nongrandfathered individual market products, whether offered through the Exchange or otherwise.

(2) Nongrandfathered small group products, whether offered through the Exchange or otherwise.

(f) A health care service plan or health insurer contracted with the Exchange to offer a qualified health plan shall also disclose to the board, at the request of the board, quality and disparity data and information for all of the enrollees and insureds of the carrier in the individual and small group markets, but not including large group, Medi-Cal, or Medicare.

(g) In order to permit the Exchange to implement the provisions of subdivision (c) of Section 100503 and Section 2 of Chapter 655 of the Statutes of 2010, a health care service plan or health insurer contracted with the Exchange to offer a qualified health plan shall also disclose to the board data and information required by this section for each of the plan years in which the qualified health plan is or has been contracted with the Exchange, including prior years.

(h) For purposes of this section:

(1) “Disparity reduction” means a reduction in variation in disease occurrence, including communicable diseases and chronic conditions, as well as health outcomes between population groups by age, geographic area,

primary language, race, ethnicity, sex, gender identity, sexual orientation, and disability status.

(2) “Financial data and information” means cost detail, including enrollee cost sharing, allowed amounts, fee schedules, and fee-for-service equivalent amounts.

(3) “Personal information” has the same meaning as set forth in Section 1798.3 of the Civil Code.

SEC. 3. Section 100503.8 is added to the Government Code, to read:

100503.8. The board shall engage in health oversight activities relating to Exchange operations, including, but not limited to, audits, investigations, inspections, evaluations, analyses, data collection through routine reporting, and any other activities for oversight of the Exchange, including qualified health plan contracts with health care service plans and health insurers. In performing those duties, the board may exercise its authority directly or through its designees, and shall be acting as a health oversight agency, as defined in Section 164.501 of Title 45 of the Code of Federal Regulations.

SEC. 4. Section 100508 of the Government Code is amended to read:

100508. (a) Notwithstanding subdivision (b), records of the Exchange that reveal either of the following shall be exempt from disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1):

(1) The deliberative processes, discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the Exchange, entities with which the Exchange is considering a contract, or entities with which the Exchange is considering or enters into any other arrangement under which the Exchange provides, receives, or arranges services or reimbursement.

(2) Records that reveal claims data, encounter data, cost detail, information about payment methods, contracted rates paid by qualified health plans to providers, and enrollee coinsurance or other cost sharing that can be used to determine contracted rates paid by plans to providers.

(b) Subject to subdivision (a), the following records of the Exchange shall be exempt from disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) as follows:

(1) Contracts with participating carriers entered into pursuant to this title on or after October 1, 2013, shall be open to inspection one year after the effective dates of the contracts.

(2) If contracts with participating carriers entered into pursuant to this title are amended, the amendments shall be open to inspection one year after the effective date of the amendments.

(c) Notwithstanding any other law, entire contracts with participating carriers or amendments to contracts with participating carriers shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments until the contracts or amendments to a contract are open to inspection pursuant to subdivision (b).

SEC. 5. The Legislature finds and declares that Section 4 of this act, which amends Section 100508 of the Government Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to protect confidential and proprietary information submitted to the California Health Benefit Exchange, it is necessary for that information to remain confidential.