

SB 223 (Atkins)

Strengthening Nondiscrimination and Consumer Notification Rights in Health

Summary

This bill aligns the Affordable Care Act's (ACA) federal nondiscrimination regulations (Section 1557) with state laws and regulations governing nondiscrimination protections and language assistance services. The bill adopts important federal consumer notification requirements and clarifies state notification requirements regarding civil rights protections and access to language assistance services. Additionally, the bill aligns and strengthens state standards for skilled interpreter services for individuals with Limited English Proficiency and individuals with disabilities, across all sources of coverage in California.

Background

In May 2016, the Department of Health and Human Services (HHS) issued the Final Rule on Nondiscrimination in Health Programs and Activities, implementing Section 1557 of the Affordable Care Act (ACA). This federal regulation sets a standard for nondiscrimination in health and prohibits discrimination based on race, color, national origin, sex, age or disability for certain health programs and activities. Specifically, the regulation also guarantees consumers an explanation of their rights and protections under the law and where to file a complaint.

The regulation extends to nearly every avenue where consumers receive health coverage, including health plans sold through Covered California and other sources of coverage regulated by the Department of Managed Health Care and the California Department of Insurance. The implementation of the federal nondiscrimination regulations offers the opportunity to “level up” the playing field, ensuring consumer protections for language access, interpreter services, and notification of consumer rights, are equal and robust, regardless of how a consumer receives their coverage.

Problem

Existing law in California establishes strong nondiscrimination protections in health, standards for language access, and notification to consumers of their rights. The federal nondiscrimination regulations provide a set of directives that strengthen several aspects of these consumer protections but do not necessarily align with all of California's strongest existing practices. For instance, while the federal regulation requires translation of notices to be available in the top 15 languages of the state, existing California language access law requires fewer languages but defines more specifically the instances in which consumers should receive those notices.¹ Because the federal nondiscrimination regulations are part of the Affordable Care Act, any new protections offered to consumers remain at risk as long as the threat of repeal exists, unless the state affirmatively embeds these new rules into California law.

Solution

This bill would require all health plans to meet the highest standards for providing notification of consumer rights, oral interpretation, written translations, and standards for skilled interpreter services. It would:

- Codify stronger federal requirements for notices of consumer protections and language access in healthcare;
- Clarify that existing state notification requirements must ensure consumers are aware of their rights to oral interpretation in a timely manner;
- Align and strengthen state standards for skilled interpreter services for individuals with Limited English Proficiency and individuals with disabilities, across all sources of coverage in California.

Since 2003, California has required all health care plans to provide language assistance services including access to oral interpretation in any language and written translations of vital documents in a plan's threshold languages. This proposal would strengthen California's longstanding consumer protections and the progress the Affordable Care Act made in ensuring equal access to affordable health care for individuals regardless of race, religion, national origin, ethnicity, age, sex, sexual orientation, or disabilities.

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ⁱ SB 853 (Escutia, Chaptered 2003)