2009 State & Federal Health Care Legislation Summary

Blue Shield of California and Blue Shield of California Life & Health Insurance Company (Blue Shield) have a team of professionals that monitor healthcare legislation and ensure our compliance with the law. Here is a summary of some 2009 legislation that could impact your business as well as our health care plans and health insurance policies.

**Bill Number:** AB 1150  
**Topic:** Underwriting Practices  
**Statute(s) Impacted:** Added §1389.6 to the Health & Safety Code and §10385 to the Insurance Code  
**Effective Date:** January 1, 2009

**Summary:** This bill makes it illegal for a carrier to compensate any contracted or employed person or entity in a manner that is in any way related to the number of contracts rescinded, cancelled or limited, or to the cost savings from the rescinded/cancelled contracts. This bill also prohibits establishing any kind of performance goals relating to the number of contracts rescinded, cancelled or limited, or to the cost savings from the rescinded/cancelled contracts.

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**Bill Number:** AB 1203  
**Topic:** Post-Stabilization Services, Non-Contracting Hospitals  
**Statute(s) Impacted:** Amended §1317.1, §1371.4 and §1386 of, and Repealed and Added §1262.8 of the Health & Safety Code  
**Effective Date:** January 1, 2009

**Summary:** This bill imposes some significant obligations on non-contracting hospitals which treat enrollees of health plans underwritten by the Department of Managed Health Care (DMHC) if the plan requires prior-authorization for services once an emergency medical condition is stabilized.
Bill Number: **AB 1894**  
Topic: HIV Testing  
Statute(s) Impacted: Added §1367.46 to the Health & Safety Code and §10123.91 to the Insurance Code  
Effective Date: January 1, 2009  
Summary: This bill requires health care plans and health insurance carriers to provide coverage for human immunodeficiency virus (HIV) testing regardless of whether the testing is related to a primary diagnosis.

Bill Number: **AB 2569**  
Topic: Individual Plan Rescissions  
Statute(s) Impacted: Added §1389.7 and §1389.8 to the Health & Safety Code and §10119.2 and §10119.3 to the Insurance Code  
Effective Date: January 1, 2009  
Summary: This bill requires health care plans and insurance carriers to offer the individuals remaining on the individual contract under which coverage for one enrollee is being rescinded the right to continue to be covered on the same coverage or one with equal benefits without additional medical underwriting. It also requires any solicitor, broker, agent or plan representatives who assist an applicant in submitting an application for individual coverage to attest in writing on the application that (1) to the best of their knowledge the information is true, accurate and complete, and (2) they told the applicant of the risk in providing inaccurate information and the applicant understood the explanation. Plans/carriers must include on the enrollment application an advisory to the agents/brokers/representatives of the potential civil penalty for providing a false attestation.

Bill Number: **AB 2598**  
Topic: Reporting to Public Agencies  
Statute(s) Impacted: Added §1389.7 and §1389.8 to the Health & Safety Code and §10119.2 and §10119.3 to the Insurance Code  
Effective Date: January 1, 2009  
Summary: This bill requires health plan/insurance carriers to annually disclose to public agencies commissions and fees paid by a carrier to agents, brokers or other individuals involved in transactions with the public agency.
Bill Number: SB 697  
Topic: Provider Balance Billing for Members of Healthy Families and AIM  
Statute(s) Impacted: Added §12693.55 and §12698.26 to the Insurance Code  
Effective Date: January 1, 2009  

Summary: This bill prohibits providers of health care from seeking to collect any amounts from Healthy Families and Aid for Infants and Mothers Program enrollees for covered services, except authorized copayments. Blue Shield’s identification cards identify members who are covered under Healthy Families plans.

Bill Number: SB 1168  
Topic: Full Time Students, Medical Leave of Absence  
Statute(s) Impacted: Amended §1373 of the Health & Safety Code and §10277 and §10278 of the Insurance Code  
Effective Date: January 1, 2009  

Bill Number: HR 2851  
Topic: Full Time Students, Medical Leave of Absence  
Statute(s) Impacted: Amends the Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code of 1986  
Effective Date: October 1, 2009  

Summary: The provisions of SB 1168 and HR 2851 are almost identical and apply to those dependents granted extended coverage when a full time student. Health plans and policies that provide coverage for dependents over the age of 18 are required to:

- continue coverage when there is a break in the school calendar year or when a student takes a medical leave of absence from school;
- extend coverage for 12 months or until the coverage would have otherwise lapsed pursuant to the terms and conditions of the policy, whichever comes first;
- support the need for a medical leave of absence with a clinical certification of need from a licensed physician; and
- disclose LOA rights in notices sent by the plan/insurer confirming student status of overage dependents.
SB 1168 / HR 2851 continued...

SB 1168 applies to underwritten health insurance plans/policies written in California and is effective 1/1/2009. HR 2851 applies to all plans, including ASO groups, and is effective 10/1/2009. Blue Shield will implement both of these laws effective 1/1/2009 for all health care service plans and insurance policies.

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**Bill Number:** SB 1379  
**Topic:** DMHC Fines and Penalties  
**Statute(s) Impacted:** Amended §1356, §1367.01, §1367.03, §1368, §1368.04, §1374.9, §1393.6, §128555 of, and Added §1341.45 to the Health & Safety Code; Added §12739.05 to the Insurance Code  
**Effective Date:** September 30, 2008  
**Summary:** This bill requires the Department of Managed Health Care to separate and deposit fines and penalties collected in a separate fund to be used as prescribed. The first $1M to be transferred to the California Medical Association’s Medically Underserved Account for Physicians, and the balance to be transferred to MRMIP to be used to fund MRMIP coverage.

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**Bill Number:** SB 1387  
**Topic:** Overpayments to Dentists  
**Statute(s) Impacted:** Added §1371.1 to the Health & Safety Code and §10123.145(b) to the Insurance Code  
**Effective Date:** January 1, 2009  
**Summary:** This bill requires health plans/insurers that pay and recover overpayments directly to/from dentists to notify the dental provider about how to access the plan’s/insurer’s dispute resolution mechanism and to include specific information identifying the claim and patient, as well as a notice informing the provider that interest shall accrue at a rate of 10% per annum if the provider does not make reimbursement of an uncontested overpayment within 30 working days after receipt of the notice.
Bill Number: SB 1406  
**Topic:** Optometrist Scope of Practice  
**Statute(s) Impacted:** Amended §3041 & §3152; Added and Repealed §3041.10 of the Business & Professions Code  
**Effective Date:** January 1, 2009  
**Summary:** This bill expands the pharmaceutical agents that can be used and/or prescribed by a certified optometrist and expands the treatment and testing they can perform.

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Bill Number: SB 1553  
**Topic:** Mental Health Services  
**Statute(s) Impacted:** Amended §1368.015 and Added §1367.015 of the Health & Safety Code  
**Effective Date:** January 1, 2009  
**Summary:** This bill prohibits health plans from basing medical necessity denials on whether the admission for mental health services was voluntary or involuntary, or on the method of transportation of the patient to the health facility. This bill also requires plans that offer mental health services to have information on their website that will assist enrollees in accessing mental health services.

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Bill Number: HR 1424  
**Topic:** Federal Mental Health Parity  
**Statute(s) Impacted:** Mental Health Parity and Addiction Equity Act of 2008  
**Effective Date:** January 1, 2009  
**Summary:** This Act requires all employer group coverage (except small employers with 50 or fewer employees), to the extent the benefit plan provides coverage for mental health or substance abuse disorders, to provide those benefits in full parity with the medical benefits of the plan.  
**Note:** California’s mandate that all underwritten groups (including small employers) and individual plans provide mental health benefits for severe mental illnesses or serious emotional disturbances of a child in parity with medical benefits is not changed by this law. Additionally, California’s mandate that all underwritten groups (including small employers) must offer coverage for alcoholism is not changed by this law.
Bill Number: Pursuant to AB 1455 (2000)
Topic: DMHC Balance Billing Regulations
Statute(s) Impacted: Added §1371.39 to the Health & Safety Code;
                    Added §1300.71 to Title 28, California Code of Regulations
Effective Date: October 15, 2008

Summary: These regulations state that balance billing by emergency services providers (hospital and defined hospital-based physicians) is an “unfair billing pattern.” Unfair billing pattern means engaging in a demonstrable and unjust pattern of unbundling of claims, up-coding of claims, or other demonstrable and unjustified billing patterns, as defined by the Department. These regulations do not apply to ambulance services.

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Topic: Final Regulations
Statute(s) Impacted: Newborn’s and Mother’s Health Protection Act of 1996 (the “Newborn Act”)
Effective Date: October 21, 2008

Summary: The Newborn Act was first implemented in 1996 and interim rules were issued in 1998. States with mandates to cover at least a 48 hour hospital stay following a routine delivery and 96 hours following a caesarian section (c-section) are exempt from anything different in the federal law. California is among those states that mandate such coverage.