
Arnold Schwarzenegger
Governor

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LETTER No. 1-K

OB/GYN PARTICIPATING AS A PRIMARY CARE PHYSICIAN

The purpose of this letter is to remind health care service plans (health plans) about their obligations under Health and Safety Code Section 1367.69 because the Department has received inquiries about whether provider groups in a health plan network may prohibit all obstetrician-gynecologists (OB/GYNs) from participating as primary care physicians. For the reasons described below, this blanket prohibition would not be allowed under Section 1367.69.

Under Health and Safety Code Section 1367.69, every health care service plan contract that provides hospital, medical, or surgical coverage shall include OB/GYNs as eligible primary care physicians, provided they meet the plan's eligibility for all specialists seeking "primary care physician" status. For this purpose, a primary care physician means a physician, as defined in Section 14254 of the Welfare and Institutions Code¹, who has the responsibility for providing initial and primary care to patients, for maintaining the continuity of patient care, and for initiating referral of specialist care. This also means providing for the majority of health care problems, including, but not limited to, preventive services, acute and chronic conditions, and psychosocial issues.

Section 1367.69 was added several years ago by Assembly Bill 2493 (Speier - Chapter 759, Statutes of 1994). When the bill was passed, the legislative findings and declarations emphasized the need for this section including, but not limited to, the following:

¹ Welfare and Institutions Code 14254 defines a primary care physician as a physician who has responsibility for providing initial and primary care to patients, for maintaining the continuity of patient care, and for initiating referral for specialist care. A primary care physician shall be either a physician who has limited his or her practice of medicine to general practice or who is a board certified or board-eligible internist, pediatrician, obstetrician-gynecologist, or family practitioner. [Emphasis added.]

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- (a) The specialty of OB/GYN is devoted to primary-preventive health care of women throughout their lifetime.
- (b) Significant numbers of women view their OB/GYN as their primary or only physician.
- (c) A general medical examination was the second most frequently cited purpose for patient visits to OB/GYNs.
- (d) Women are opposed to restrictions in accessing OB/GYNs.
- (e) OB/GYNs refer their patients less frequently than other primary care physicians, thus avoiding costly and time-consuming referrals to specialists.
- (f) More than two-thirds of all visits to OB/GYNs were made by established patients of the physician returning for care of their condition.

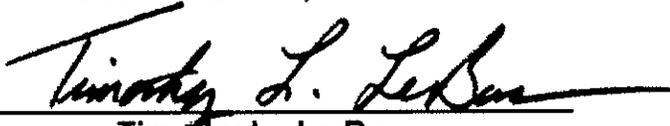
According to committee analyses of AB 2493, the bill was introduced to provide women with the option to choose an OB/GYN as their primary care physician.²

Section 1367.69 requires plan contracts with subscribers or enrollees to include OB/GYNs as eligible primary care physicians, as specified. In accordance with the law, Evidences of Coverage define a primary care physician to include an OB/GYN. Given the contractual expectations, and legal requirements and legislative findings described above, it is imperative that health plans continue to ensure that OB/GYNs are being allowed to serve as primary care physicians by their contracting provider groups.

In addition, Section 1367.695 provides a requirement of direct access for OB/GYN services, as specified. However, this direct access requirement for OB/GYN services is in addition to the health plan obligation to make OB/GYNs available for primary care services pursuant to Section 1367.69.³

Finally, please note that Section 1375.7(b)(4) prohibits contracts between a health plan and a provider from containing any provisions that waive or conflict with any provision of the Knox-Keene Health Care Service Plan Act of 1975 ("Act"), and Section 1367(h)(1) requires provider contracts to be consistent with the objectives of the Act.

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² See, for example, the committee analysis of Assembly Bill 2493 of the Senate Insurance, Claims, and Corporations Committee, dated July 6, 1994.

³ Section 1367.695 provides that it is not to be construed to diminish the provisions of Section 1367.69.