

HOUSE BILL REPORT

ESHB 1046

As Amended by Senate

Title: An act relating to health care reform improvement.

Brief Description: Amending the health services act of 1993.

Sponsors: By House Committee on Health Care (originally sponsored by Representatives Dyer, Carlson, Kremen, Cooke, Horn, Schoesler, Buck, Johnson, Thompson, Beeksma, B. Thomas, Radcliff, Hickel, Chandler, Backlund, Mastin, Mitchell, Foreman, Sehlin, Ballasiotes, Clements, Campbell, Sheldon, L. Thomas, Huff, Mielke, Talcott, McMahan, Stevens and Lisk).

Brief History:

Committee Activity:

Health Care: 1/17/95, 1/19/95, 1/20/95, 1/23/95, 1/24/95, 1/31/95, 2/2/95, 2/3/95 [DPS].

Floor Activity:

Second Reading: 2/10/95;

Passed House: 2/13/95.

Senate Amended.

HOUSE COMMITTEE ON HEALTH CARE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Dyer, Chairman; Backlund, Vice Chairman; Hymes, Vice Chairman; Casada; Crouse; Sherstad and Skinner.

Minority Report: Do not pass. Signed by 4 members: Representatives Dellwo, Ranking Minority Member; Cody, Assistant Ranking Minority Member; Conway and Morris.

Staff: Bill Hagens (786-7131).

Background: The Washington Health Services Act was enacted into law in 1993 and includes the following elements: universal access by 1999; employer/individual mandates, which requires an exemption from the Federal Employee Retirement Income Security Act [ERISA] to implement; a uniform set of health services, including the Uniform Benefits Package [UBP] and population-based public health services; assistance for low-income persons through expansion of the Basic Health

Plan [BHP] and Medicaid; reformed insuring entities [Certified Health Plan's--CHP's] and health purchasing insurance cooperatives [HPIC's or Alliances]; capitated-managed care; a maximum premium [cap]; a state-wide health data system; a full-time Washington Health Service Commission to administer the act; taxes upon tobacco, alcohol, hospitals and certified health plans dedicated to the implementation of the act.

Concerns have been expressed about implementing the 1993 Act as passed, such as: failure to obtain an ERISA exemption renders the employer mandate "null and void" and thus could not be used to expand access; the proposed UBP is deemed too expensive and may encourage employers and individuals to drop or not seek coverage; the individual mandate is unenforceable; the rigidity of the community rate and point-of-service cost sharing requirements render coverage too expensive for many; the CHP certification is too cumbersome and confusing and may hamstring carriers that wanted to participate in the reform market; the July 1, 1995 effective date is deemed impractical; the maximum premium artificially controls costs; health care savings accounts are prohibited due to the limits upon deductions; powers and duties of key agencies, e.g., the commission, Office of Insurance Commissioner, and the Department of Health are not precise; and the HIPC structure is too rigid to help employers or individuals in purchasing health insurance.

SHB 1046 is one of a group of bills, entitled the Health Reform Improvement Package, being considered that modify the Washington Health Services Act of 1993.

Summary of Bill: In an effort to enhance enrollment in the Basic Health Plan [BHP] and related medical assistance (Medicaid) services, effective July 1, 1996, health care facilities, i.e., hospitals, rural health care facilities, and community and migrant health centers are permitted, at no remuneration, to assist patients and their families in applying for basic health plan or medical assistance coverage, and in submitting such applications directly to the Health Care Authority or the Department of Social and Health Services, which shall make every effort to simplify and expedite the application and enrollment process. Health insurance agencies and brokers are granted similar authority. Goals are set for enhanced enrollment at 130,000 adult enrollees in the Basic Health Plan and 130,000 children through expanded medical assistance services.

Health Care Savings Accounts (HCSA) are identified as an option to provide incentives for the consumer to be responsible for the use and cost of their health care services, to preserve provider choice, and to promote savings for long-term care needs and are authorized by law. The Governor is directed to seek necessary federal waivers and exemptions to allow contributions toward all health plans offered in the state to be fully tax deductible.

In an effort to establish portability of benefits from job to job, health carriers are required to waive preexisting condition exclusions or limitations for persons or groups who had similar health coverage under a different health plan (including self-funded plans) at any time during the three-month period immediately preceding the date of application for the new health plan if such person was continuously covered under the immediately preceding health plan. If the person was continuously covered for at least three months under the immediately preceding health plan, the carrier may not impose a waiting period for coverage of preexisting conditions. If the person was continuously covered for less than three months under the immediately preceding health plan, the carrier must credit any waiting period under the immediately preceding health plan toward the new health plan.

In an effort to preclude the inappropriate use of preexisting condition limitations, health carriers cannot reject, exclude, or deny a person coverage because of preexisting conditions, but they are permitted to impose a three-month benefit waiting period for preexisting conditions for which medical advice was given, or for which a health care provider recommended or provided treatment within three months before the effective date of coverage.

In an effort to guarantee appropriate issue and renewability of health insurance, all health carriers must guarantee continuity of coverage of their health plans, however, cancellation and nonrenewal are permitted for: nonpayment of premium; violation of published policies of the carrier; covered persons entitled to become eligible for medicare benefits by reason of age who fail to apply for a medicare supplement plan or medicare cost, risk, or other plan offered by the carrier pursuant to federal laws and regulations; covered persons who fail to pay any deductible or copayment amount owed to the carrier and not the provider of health care services; covered persons committing fraudulent acts as to the carrier; covered persons who materially breach the health plan; or change or implementation of federal or state laws that no longer permit the continued offering of such coverage.

A referendum clause is included, that if passed, the bill would not require the Governor's approval. The measure would be placed on the November 7, 1995, ballot and if adopted, would be certified and deemed effective sometime during the first week of December 1995.

Several major elements of the act are terminated or repealed, they are: Washington Health Services Commission and its powers and duties; employer and individual mandates; maximum premium [cap]; maximum enrollee financial participation; mandatory managed care requirement; the statutory limitations on the legislative UBP approval process; uniform benefits package and community rating; anti-trust provisions; point-of-service cost-sharing; small business assistance program; Health Service Information System; ERISA waiver request; Registered Employer Health

Plan; premium depository for part-time workers; seasonal workers benefits; and limited dental health plan.

The following sections of RCW are repealed:

- 18.130.320 Provider investments and referrals--Conflict of interest standards.
- 18.130.330 Malpractice insurance coverage mandate--Rules--Report.
- 43.72.005 Intent.
- 43.72.010 Definitions.

- 43.72.020 Washington health services commission--Generally.
- 43.72.030 Chair--Powers and duties.
- 43.72.040 Commission powers and duties.
- 43.72.050 Economic viability of certified health plans threatened--Modification of maximum premium--Submission to legislature.
- 43.72.060 Advisory committees and special committees.
- 43.72.070 Continuous quality improvement and total quality management.
- 43.72.080 Health insurance purchasing cooperatives--Designation of regions by commission--Information systems--Minimum standards and rules.
- 43.72.090 Uniform or supplemental benefits--Provision by certified health plan only--Uniform benefits package as minimum.
- 43.72.100 Certified health plans--Duties.
- 43.72.110 Limited certified dental plan.
- 43.72.120 Registered employer health plans.
- 43.72.130 Uniform benefits package design.
- 43.72.140 Small business economic impact statement.
- 43.72.150 Household income analysis.
- 43.72.160 Certified health plan benefit packages--Offering, filing, and approval of forms.
- 43.72.170 Uniform and supplemental benefits--Rates--Filing and approval.
- 43.72.180 Legislative approval--Uniform benefits package and medical risk adjustment mechanisms.
- 43.72.190 Supplemental and additional benefits negotiation.
- 43.72.210 Individual participation.
- 43.72.220 Employer participation.
- 43.72.225 Seasonal employment.
- 43.72.230 Depository.
- 43.72.240 Small firm financial assistance.
- 43.72.300 Managed competition--Findings and intent.
- 43.72.310 Managed competition--Competitive oversight--Attorney general duties--Anti-trust immunity.
- 43.72.800 Long-term care integration plan.
- 43.72.810 Code revisions and waivers.
- 43.72.820 Reports of health care cost control and access commission.

43.72.830 Legislative budget committee evaluations, plans, and studies.
 43.72.840 Reform effort evaluation.
 43.72.850 Workers' compensation medical benefits.
 43.72.860 Managed care pilot projects.
 43.72.870 Tax credits--Recommend legislation.
 48.01.200 Washington health services act of 1993--Conflict with Title 48 RCW.
 48.01.210 Coverage for dental services--Uniform benefits package--Certified health plan.
 48.20.540 Preexisting condition exclusion or limitation.
 48.21.340 Preexisting condition exclusion or limitation.
 48.42.060 Mandated health coverage--Legislative finding.
 48.42.070 Mandated health coverage--Reports and recommendations.
 48.42.080 Mandated health coverage--Guidelines for assessing impact.
 48.43.010 Certified health plans--Registration required--Penalty.
 48.43.020 Eligibility requirements for certificate of registration--Application requirements.
 48.43.030 Issuance of certificate--Grounds for refusal.
 48.43.040 Premiums and enrollee payment amounts--Verification--Filing of premium schedules and cost-sharing amounts--Additional charges prohibited.
 48.43.050 Annual financial statement filing--Penalty.
 48.43.060 Provider contracts to be in writing--Enrollee liability--Commissioner's review.
 48.43.070 Minimum net worth--Requirements.
 48.43.080 Funded reserve requirements.
 48.43.090 Examination of certified health plans--Independent audit reports.
 48.43.100 Insolvency--Equitable distribution of insolvent plan's enrollees--Continuation of benefits, allocation of coverage.
 48.43.110 Financial failure, supervision by commissioner--Priority of distribution of assets.
 48.43.120 Grievance procedure.
 48.43.130 Application--Certified health plans.
 48.43.140 Enforcement authority of commissioner.
 48.43.150 Annual report to the health services commission.
 48.43.160 Health insurance purchasing cooperatives-Certification.
 48.43.170 Health care providers--Opportunity for inclusion.
 48.44.480 Preexisting condition exclusion or limitation.
 48.44.490 Unfair practices.
 48.46.550 Preexisting condition exclusion or limitation.
 48.46.560 Unfair practices.
 70.170.100 State-wide health care data system--Design requirements--Reporting requirements--Data availability.
 70.170.110 Analyses, reports, and studies.
 70.170.120 Confidentiality of data.

- 70.170.130 Health services commission access to data.
70.170.140 Personal health services data and information system.

EFFECT OF SENATE AMENDMENT(S):

The Washington Health Services Commission is replaced by the Washington Health Care Policy Board, with five full-time citizen members and four legislators. The board's role is advisory only and will be "sunsetted" in 1999.

The access expansion goal is set at 200,000 adult Basic Health Plan enrollees.

Health carriers are required to permit every category of health care provider to provide health services or care for conditions included in the Basic Health Plan services, providing such providers comply with established conditions.

A whistleblower law is established to permit workers to report improper quality of care without fear of reprisal or retaliatory action.

Health carriers are required to establish explicit process to deal with enrollee complaints.

The conscience clause in the 1993 act is clarified to permit providers not to provide, carriers not to cover, and employers not to purchase health services that conflict with religious or moral beliefs.

Adjusted community rating based on geography, family size, age, and wellness activities is permitted.

Insurance coverage requirements are established whereby:

Individuals are offered the Basic Health Plan as a mandatory offering, but can purchase any insurance coverage that includes a limited number of mandated benefits (current law).

Employers of 1 to 25 can purchase any insurance coverage, and are exempt from mandated benefits.

Employers of 26 to 50 are offered the Basic Health Plan as a mandatory offering, but can purchase any insurance coverage that includes a limited number of mandated benefits (current law).

Employers of more than 50 can purchase any insurance coverage that includes a limited number of mandated benefits (current law).

All groups and individuals purchasing insurance coverage (not self-funded) must comply with the adjusted community rating provisions.

Appropriation: None.

Fiscal Note: Requested on January 23, 1995.

Effective Date of Bill: The bill takes effect on January 1, 1996.

Testimony For: The Washington Health Services Act was summarily rebuked in the November 1994 elections. The people want to reform health care in a more rational way, one which will limit government's intrusion in their lives, one which will not sacrifice jobs for unneeded health benefits, one that will not limit peoples' choice of providers and facilities, one that does not move the entire state health system precipitously into an unmanageable bureaucracy. This bill is a "no nonsense" approach to reform. It keeps the provisions of the original act that are needed, jettisons the unworkable parts, and gives policy-makers adequate time to complete the reform. Major issues not addressed in HB 1046 will be addressed in the other parts of the Health Reform Improvement Package.

Testimony Against: This measure repeals the Washington Health Services Act of 1993--an act that was five years in the making--and replaces it with practically nothing. Expansion of the Basic Health Plan and Medicaid was encompassed in the current act and could be done without additional legislation. Authorization of Health Care Savings Accounts is unnecessary because they are permitted by law presently. The portability, preexisting conditions, and guarantee issue provisions are greatly limited because of the lack of a uniform benefits package. The repeal of the Anti-trust provisions places an unfair advantage with the insurance industry which will be especially difficult for rural communities that are attempting to put in place an adequate network of providers. It is foolhardy to adopt this measure with no assurance that the other parts of the act will be addressed.

Testified: Stephen Barchet, WA Medical Savings Account Project; Tony Lee, WA Association of Churches (con); Bernie Dochnahl, Pam MacEwan, and Don Brennan, WA Health Services Commission (con); Greg Tisdell, Tiz's Doors (pro); Jeff Selburg, WA State Hospital Association; Lis Merten, WA Retail Association; John Britton, Les Schwab; Dr. Peter McGough, WA State Medical Association; Cassie Sauer, Children's Alliance (con); Laura Groshong, WA State Coalition of Mental Health Consumers; Mary Lou Bresee, Home Care Association of WA; Dr. Michael Schlitt, Association of American Physicians & Surgeons (pro); Jim Halstrom, Health Care Purchasers Association (pro); Cliff Slade, Simpson Investment Company (pro); Greg Devereaux, WA Federation of State Employees (con); Steven Aldrdich, WA State Labor Council AFL-CIO (con); Pete Spiller, Fire Districts (pro); Mel Sorensen, WA Physicians' Service and Blue Cross/Blue Shield (pro); Scott DeNies, Pierce County

Medical Association; Bill Waterworth, Heal Washington (pro); Vito Chiechi, WA State Licensed Beverage Association; Carolyn Logue, National Federation of Independent Business (pro); Gary Smith, Independent Business Association; Dr. Eckstoo (con); Carol Monohon, Association of WA Business; Mr. Wilson; Ray Hardee, Engineered Software (pro); Gloria McBain, P. Robert Brown, Inc. (con); Priscilla Terry, Prime Locations, Inc. (pro); Susan Morehead (con); David and Patty Mock (pro); Thomas P. Knorr (con); Bill Sellars, The Assembly (con); Kit Hawkins, Restaurant Association (pro); Jim Justin, Association of Washington Cities; Jim McGatlin (pro); Mary Iverson (pro); Steve Wehrly, Chiropractors (pro); Melanie Stewart and Frank Morrison, WA State Podiatric Medical Association; David and Charlotte Geddis; Bob First, American Association of Retired Persons (con); Krista Eichler, Seattle Chamber of Commerce (pro); Randy Scott, Quinault Indian Tribe; Margaret Stanley, Health Care Authority (con/Amendment #17); Ken Bertrand, Group Health Cooperative (con/Amendment #17); Andy Dolan, WA State Medical Association (pro/Amendment #16); and Verne Gibbs, Department of Health.

Votes on Final Passage:

Yeas 71; Nays 27

Nays: Appelwick, Brown, Chopp, Cody, Cole, Conway, Costa, Dellwo, Dickerson, Ebersole, R. Fisher, Hatfield, Jacobsen, Kessler, Mason, Ogden, Patterson, Poulsen, Regala, Romero, Rust, Sommers, Thibaudeau, Tokuda, Valle, Veloria, Wolfe