2018-S
Sponsor(s): House Committee on Health Care (originally sponsored by Representatives Dyer, Grant, Backlund, Quall, Zellinsky, Sheldon, Sherstad, Morris, Parlette, Scott and Skinner)

Brief Title: Enacting health insurance reform.

HB 2018-S.E - DIGEST

(DIGEST AS ENACTED)

Provides for health insurance reform.

VETO MESSAGE ON HB 2018-S

April 26, 1997

To the Honorable Speaker and Members,
The House of Representatives of the State of Washington
Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 201, 203, 204, 216, 217, 218, 219, 220, and 221, Engrossed Substitute House Bill No. 2018 entitled:

"AN ACT Relating to health insurance reform;"

For the following reasons, I have vetoed sections 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 201, 203, 204, 216, 217, 218, 219, 220 and 221 of Engrossed Substitute House Bill No. 2018:

ESHB 2018 is entitled the "Consumer Assistance and Insurance Market Stabilization Act". I believe strongly in both concepts reflected in that title, but I do not think that this bill would effectively achieve either of those goals. It is in everyone's interests to have a strong, viable private health insurance market, but it is equally important to maintain the commitments that were previously made by the legislature to guarantee access to insurance for the people of this state.

I believe our goal must be to have a wide range of options to those in all health insurance markets. I commit to work with consumers, insurance companies, health care providers and other interested parties to develop meaningful solutions that will increase the availability of a wide range of choices in the individual market, while promoting stability.

The viability of the individual insurance market is critical, but we must consider other options that do not roll back the progress we have made in access to health care in this state. A comprehensive solution must include the Washington State Health Insurance Pool (WSHIP) (the state's high-risk pool), the Basic Health Plan, predictable rate review in a stable regulatory environment, and the involvement of consumers, health care providers, health insurers and others. I commit to work with interested parties to develop equitable solutions to these complex problems.

I have vetoed sections 101 through 108 and section 111 which create standards for grievance procedures, utilization review and

access plans for health carriers. Those sections "deem" compliance with the national organization standards of the National Commission on Quality Assurance (NCQA) to be sufficient to meet the standards contained in the bill. This would be a direct violation of Woodson v. State, 95 Wn.2d 257 (1980) which prohibits delegation of legislative power to non-governmental entities. NCQA is a private organization that can change standards at any time. I would hope that by working together, we can develop or appropriately adopt standards to protect consumers and achieve stability for managed care plans. I am not opposed to looking at the use of national standards on these issues in a constitutional manner.

ESHB 2018 directs the Health Care Authority, along with state agencies, consumers, carriers and providers to review the need for network adequacy requirements. While there may be a need for such a study, no funding is provided for the Health Care Authority to conduct the study. Therefore, I have vetoed sections 109 and 110.

Section 203 creates a two-month (July and August) open enrollment period and, during the rest of the year, allows insurance carriers to deny applicants based on medical conditions. Those who enter during the two-month period would still be subject to the three-month pre-existing condition waiting period. Such individuals could find themselves waiting as long as 13 months for regular coverage. Those denied coverage the rest of the year would have access to the state's high risk pool at higher rates than individual plans, an unaffordable option for many. Section 203 represents a significant change from current policy, which provides that no one may be denied health insurance coverage for any reason.

In section 204, health carriers are given the option to discontinue or modify a particular plan with ninety days' notice to enrollees. While carriers must make available all other plans currently offered, there is no requirement that comparable benefits be offered in those plans. This proposes significant change from current law which requires that carriers may not discontinue a plan unless the carrier offers a comparable product as an alternative.

Section 201 expresses legislative intent to preserve guaranteed issue and renewability, portability and limitations on the use of pre-existing condition exclusions. This bill represents an attempt to significantly limit those reforms. There is no objective data to support the claim that the "lack of incentives" to purchase health care in a timely manner is contributing significantly to the costs of health insurance. We want to encourage coverage by having a choice of affordable products available to consumers, ranging from comprehensive to basic benefits.

I have vetoed sections 216 through 221 because I believe rate review standards are more appropriately dealt with in the administrative rule making process. I believe there must be reasonable standards for rate regulation that protect consumers from excessive charges while, and at the same time allow predictability for insurance companies in the rate review process.

I encourage the development of standards that meet both of these objectives and stand ready to work with interested parties to achieve such a compromise. The language in sections 218 through 221 is currently included in Washington Administrative Code and is

therefore unnecessary in statute. Further, the language of the bill is ambiguous as to loss ratios for health maintenance organizations and health care service contractors.

There are many aspects of the bill that I support. For example, the changes in sections 210 through 215 to the WSHIP are positive. The bill allows the plan to develop a managed care program at a lower premium than the current fee-for-service plan. It also expands coverage to include maternity benefits and eliminates gender rating for pool insurance products. This makes WSHIP a better plan. However, with current law in effect, very few have access to it. We must look at WSHIP as a part of the solution to broadening coverage options in the individual market.

Section 301 creates a standard for health plan coverage of emergency room care, when a reasonable person would have believed that an emergency medical condition exists. This is a very positive move for consumers who find themselves in a perceived medical crisis forcing them to seek services in an emergency room. In a medical crisis, families should not be forced to worry about whether or not their health insurance plan will pay for the needed services.

With the exception of sections 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 201, 203, 204, 216, 217, 218, 219, 220 and 221, I am approving Engrossed Substitute House Bill No. 2018.

Respectfully submitted,
Gary Locke
Governor