HOUSE BILL REPORT
E2SSB 6067

As Passed House:
March 3, 2000

Title: An act relating to access to individual health insurance coverage.

Brief Description: Modifying provisions concerning access to individual health insurance coverage.

Sponsors: Senate Committee on Health & Long-Term Care (originally sponsored by Senator Thibaudeau).

Brief History:
Committee Activity:
Health Care: 3/2/00 [DP].
Floor Activity:
Passed House: 3/3/00, 86-12.

Brief Summary of Engrossed Second Substitute Bill

- Preexisting waiting periods in the individual and small group insurance markets are increased from three to nine months.
- Individuals applying for individual health plans will be covered by a private plan, or, if screened out by a health questionnaire, by the Washington health insurance pool.
- Consumers moving between comprehensive insurance plans will be given a health questionnaire unless they are moving out of the current plan's service area, following their doctor to a new plan, or moving to a plan with equal or greater benefits.
- Individuals may purchase health insurance through the Washington health insurance pool if they live in a county where no comprehensive health insurance is marketed, or they do not qualify for private insurance based on a health questionnaire screen.
- Assessments against health carriers to subsidize the cost of health coverage through the Washington health insurance pool will include stop loss insurers and the state Uniform Medical Plan.
- The eligibility for the Basic Health Plan is increased from 200 percent of the federal poverty level to 250 percent of the federal poverty level, if funds are appropriated for this purpose.

HOUSE COMMITTEE ON HEALTH CARE

Majority Report: Do pass. Signed by 9 members: Representatives Cody, Democratic Co-Chair; Parlette, Republican Co-Chair; Pflug, Republican Vice Chair; Alexander; Campbell; Edmonds; Mulliken; Pennington and Ruderman.

Minority Report: Do not pass. Signed by 3 members: Representatives Schual-Berke, Democratic Vice Chair; Conway and Edwards.

Staff: David Knutson (786-7146).

Background:

Most people in Washington who receive their health insurance through the private market do so through their employer in what is referred to as the group market.

However, individuals who are self-employed, or who are not provided coverage by their employers, must get insurance in the individual market. Approximately 200,000 - 250,000 state residents are currently insured through the individual market. There are also approximately 600,000 people without health insurance in the state for whom the individual market could potentially be a source of insurance.

Health plans in the individual market are governed by a set of state standards, many of which have been placed in statute or adopted in administrative rule since 1992. Among these are laws which: (1) prohibit a person from being denied enrollment in any individual health plan, regardless of his or her health status; (2) allow carriers to impose no more than a three-month waiting period for the coverage of any preexisting condition; (3) require that, under certain conditions, these waiting periods be waived for persons moving between plans; and (4) guarantee that once a person enrolls in a plan, that plan, or one with similar benefits, will be available to them on an on-going basis.

Health carriers are also required by law to include certain benefits in any health plan that is sold. In general, maternity services and prescription drug benefits are not among those items which state law mandates be covered. However, any carrier which offers coverage in the individual market must offer at least one plan modeled after the state's basic health plan. This plan does include maternity services and prescription drug benefits.

The premiums charged for individual health plans are also governed by state law. In general, it provides that "the benefits be reasonable in relation to the amount charged." In applying this standard to health maintenance organizations and health care service contractors, the Insurance Commissioner reviews requests for rate increases and disapproves those where the rate is based on a "loss ratio" (the percentage of premiums paid out in medical claims) of less than 80 percent. For disability insurers, the loss ratio standard is 60 percent. Rate denials may be appealed, but such appeals are handled through an internal appeals process, not by the Office of Administrative Hearings.

Between 1993 and 1995, enrollment in the individual market expanded by 40 percent. At the end of this period, however, carriers began reporting significant losses in the individual market, and individual market rates, which were relatively flat initially, began increasing. In September, 1999 the three major carriers that remained in the market announced they would no longer offer individual health insurance in thirty-one of Washington's thirty-nine counties.

The Washington State Health Insurance Pool (WSHIP) was created in 1988 to provide a fee-for-service health insurance product at 150 percent of average rates for individuals who had been denied "substantially equivalent" coverage by a carrier, usually because of serious medical conditions. In 1997, WSHIP was directed to

develop a managed care product to be available at 125 percent of average. However, because coverage can no longer be denied by carriers, WSHIP has been essentially dormant since 1993. It now provides coverage to approximately 800 people, most of whom receive a Medicare supplement policy. Any new entrants into the pool are subject to a three-month preexisting condition waiting period.

WSHIP is administered by a private insurer according to state specifications and is partially subsidized through an assessment on insurers. A board of directors, comprised mainly of insurance carriers, oversees its operation.

The Washington Basic Health Plan (BHP) is a state-sponsored health insurance program for any Washington resident who is not eligible for Medicare and not institutionalized at the time of enrollment. Every enrollee pays a monthly premium based on income, age, family size, and the health plan they choose. The state helps pay part of the premium for members who meet income guidelines.

The BHP is administered by the state Health Care Authority (HCA). It solicits bids from private health carriers to cover both subsidized and non-subsidized enrollees. Currently, there are about 127,500 persons whose enrollment in the BHP is subsidized, and 8,400 persons whose enrollment is not.

The enabling statute directs the BHP to provide coverage though contracts with "managed care health systems," defined to include organizations that provide health care services on a prepaid capitated basis. The HCA is not authorized to self-insure the BHP.

Summary of Bill:

The standards governing health benefit plans, primarily in the individual market, are changed as follows:

Each year, carriers as a whole may deny enrollment to up to 8 percent of those who apply for individual health plan coverage. The denial must be based on the results of a standard health questionnaire developed by the board of the WSHIP. Anyone denied coverage by a carrier may enroll in the WSHIP.

New enrollees in individual health benefit plans, or group plans for 50 persons or less, may be subject to a preexisting condition waiting period of no more than nine months. Prenatal care may not be subject to any waiting period in the individual market. The pre-existing condition waiting period for pregnancy in group plans must comply with the federal Health Insurance Portability and Accountability Act.

A person moving between individual plans will receive credit for any "time served" against any preexisting condition waiting period if the plan to which he or she is moving includes benefits which are equal to or greater than the plan from which he or she is moving. However, in most cases, the person can be required to take the health questionnaire and possibly be referred to WSHIP. Exceptions to this are provided for a person who moves, or who switches plans to follow his or her doctor.

Once enrolled in a health plan, a person must be allowed to renew coverage in that plan, or, if that plan is discontinued, in any other plan offered to individuals by his or her health carrier. In such cases, they may not be required to take the health questionnaire. Carriers must give 90 days notice of the discontinuation of any plan.

The requirement that health carriers in the individual market offer the BHP model plan is removed. However, carriers are required to provide coverage of maternity services and at least a $2000 prescription drug benefit in any comprehensive individual policy.

For purposes of establishing rates, a loss ratio standard of 74 percent minus the premium tax percentage rate (currently 2 percent) is set in statute. Carriers are allowed to charge rates in the individual market as long as they are targeted to this loss ratio. If, in the following year, it is determined that the carrier's actual loss ratio was lower than the loss ratio standard, the carrier must remit the difference to the WSHIP. Any appeals of rate review issues is presided over by an administrative law judge from the Office of Administrative Hearings.

The Washington State Health Insurance Pool is changed as follows: A person may receive coverage through the pool if: (1) he or she applied for individual coverage from a carrier, but did not get coverage as a result of the health questionnaire; or (2) no private individual comprehensive plan is being marketed in his or her county, and he or she applies directly to the pool.

Premiums for pool coverage are set at 150 percent of the average market rate of comparable individual insurance for the fee-for-service plan, and 125 percent of that rate for a care management plan. Reduced premiums are provided for those who have been in a comprehensive plan for 18 months or more prior to their being screened into the WSHIP. A tenure discount, and discounts for those aged 50-64 whose family income is below 301 percent of the federal poverty level, are provided. The latter discounts are dependent on state funding.

In addition to health carriers, stop loss insurers and the state Health Care Authority (only for purposes of the Uniform Medical Plan) are added as members of the pool against whom assessments are made to cover the pool's losses. Both, however, are assessed at a lower rate than other carriers. A fund is also established into which state dollars may be appropriated. The fund is drawn upon to cover pool losses only

if the assessments required of pool members reach 70 percent per insured person per month.

The pool board of directors is reconfigured to include a total of 10 members, six of whom are appointed by the Governor and four of whom are appointed by the carriers. The Insurance Commissioner is a nonvoting member.

The preexisting condition waiting period in WSHIP is changed from three to six months.

To the extent state funds are specifically provided for this purpose, the Health Care Authority is directed to offer a catastrophic-type health plan. The plan is available to any person who resides in a county where no comprehensive private individual coverage is offered, until such coverage is offered.

The subsidized and the unsubsidized Basic Health Plan are "de-linked" through language which explicitly allows them to be bid separately by the health carriers.

In addition, the requirement that the BHP be delivered on a prepaid capitated basis is removed.

BHP benefits need not be the same, but must be actuarially equivalent, for similar enrollees.

The BHP administrator is authorized to negotiate additional contracts after the request for proposal process is completed if doing so is necessary to meet the access needs of BHP enrollees.

The Health Care Authority is explicitly authorized to self-insure the Basic Health Plan. A Basic Health Plan self-insurance reserve account is created and rules governing its operation are established.

The BHP is to continue to give priority to prepaid managed care as the preferred method of assuring access. The use of a self-insured, self-funded option is limited to the subsidized BHP enrollees and only if funding is available in the BHP self-insurance reserve account and specified conditions are met regarding price.

An executive/legislative task force is created to monitor the provisions of the act and its effect on carriers and consumers in the individual and small group markets, and on the WSHIP and the BHP. The task force is also to study the feasibility of reinsurance as a method of health insurance market stability and, if appropriate, develop a reinsurance system implementation plan. It is to submit preliminary reports to the Governor and the Legislature each year, and a final report by December 2002.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill contains an emergency clause and takes effect immediately except for sections 26, 38, and 39 (please refer to sections 49 and 50 of the bill).

Testimony For: If this legislation passes, private health insurance carriers will reenter in the individual health insurance market and sell insurance policies to consumers. Consumers living in counties without access to individual health insurance will again be able to purchase health insurance for themselves and their families.

Testimony Against: Consumers will lose statutory protections in current law. A nine-month preexisting waiting period for individual and small group policies, and a six-month preexisting waiting period for the health insurance pool are too long for consumers who may be sick. Sick people screened in the health insurance pool will have to pay very high premiums to maintain health coverage.

Testified: (In support) Senator Thibaudeau, prime sponsor; Senator Deccio; Jim Halstrom, Master Builders of King and Snohomish County and Health Care Purchasers Association; John Vipond, Association of Washington Business; Julie Murray, Washington Farm Bureau; Basil Badley, Health Insurance Association of America; Trent House, Association of Washington Health Plans; and Gary Smith, Independent Business Association.

(Neutral) Robert Harkins, Office of the Insurance Commissioner.

(Opposed) Sherry Appleton, Washington Citizen Action, League of Women Voters, and Coalition for a Jewish Voice; Robby Stern, Washington State Labor Council; and Nick Federici, American Lung Association of Washington.

(Concerns) Andrea Stephenson, The Empower Alliance; Majken Ryherd, Friends of the Basic Health Plan; and Mary Jo Wilcox, Parent Coalition for Developmental Disabilities.