

---

HOUSE BILL 2330

---

State of Washington

61st Legislature

2009 Regular Session

By Representatives Cody and Hinkle

1 AN ACT Relating to enforcing primacy of insurance coverage when  
2 third-party liability exists regarding claims under state-purchased  
3 health care programs; adding new sections to chapter 48.05 RCW; adding  
4 a new section to chapter 41.05 RCW; and creating a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that the citizens of  
7 the state of Washington benefit from the efficient and effective  
8 resolution of claims for benefits under health plans administered, in  
9 whole or in part, by the state. The legislature recognizes a public  
10 interest in injured citizens' certainty in determining whether and to  
11 what extent their treatment is covered by various insurers. The  
12 legislature further recognizes the public's interest in the state's  
13 administration of programs that is as efficient as possible, in light  
14 of technological advances.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 48.05 RCW  
16 to read as follows:

17 (1)(a) For the purpose of determining the eligibility of persons  
18 claiming benefits under medicaid, the department of social and health

1 services or its agent shall send automated eligibility inquiry messages  
2 to insurers providing health insurance or health care coverage, workers  
3 compensation, auto insurance, or homeowner's insurance to persons  
4 residing in the state.

5 (b) The department of social and health services or its agent is  
6 authorized to transmit, and shall transmit, automated eligibility  
7 inquiries to insurers to resolve the primacy of claims for benefits  
8 under health plans administered, in whole or in part, by the state.  
9 The eligibility inquiries may include the minimum human identifiers in  
10 ANSI X.12 270, such as the name, gender, and date of birth of a person.

11 (2) In addition to their obligations under RCW 74.09A.030, insurers  
12 must respond within twenty-four hours to the department's eligibility  
13 inquiry messages or upload to a centralized database information on  
14 coverage and benefits, as required by the state of Washington.

15 (3) Before January 1, 2010, the department of social and health  
16 services shall:

17 (a) Examine all medicaid claims paid after January 1, 2004, and  
18 before July 1, 2009;

19 (b) Determine which of those claims were eligible for payment by a  
20 third party other than medicaid; and

21 (c) Recover the costs associated with the claims that were eligible  
22 for payment by a third party other than medicaid.

23 (4) The department of social and health services is authorized to  
24 enforce this section against an insurer that fails to comply with the  
25 requirements of this section.

26 (a) In a case in which an insurer fails to comply with the  
27 requirements of this section, the attorney general shall:

28 (i) Subpoena the enrollment data of the insurer;

29 (ii) Commence a complaint under 42 U.S.C. Sec. 1320(d) for  
30 administrative sanctions under the health insurance portability and  
31 accountability act;

32 (iii) Commence a prosecution under 18 U.S.C. Sec. 1035; or

33 (iv) Commence an action in state court to enjoin the insurer from  
34 nonperformance of its duty under this section.

35 (b)(i) A court may order injunctive relief and costs, including  
36 attorney fees; or

37 (ii) A court may order damages, including penalties of up to one  
38 thousand dollars for each eligibility inquiry message to which the

1 insurer has failed or refused to respond. An attempt to impose data  
2 elements or other burdens not expressly authorized by this statute upon  
3 the content, terms, or execution of the response must be construed as  
4 a failure or refusal to comply.

5 (c) The insurance commissioner may suspend, revoke, or refuse to  
6 renew an insurer's certificate of authority, based upon failure or  
7 refusal to comply with this section.

8 (5) For purposes of this section, "insurer" has the same meaning as  
9 in RCW 48.01.050.

10 NEW SECTION. **Sec. 3.** A new section is added to chapter 41.05 RCW  
11 to read as follows:

12 (1)(a) For the purpose of determining the eligibility of persons  
13 claiming benefits under the public employees' benefits board, the basic  
14 health plan, or the health insurance partnership, the administrator of  
15 the Washington state health care authority or his or her agent may send  
16 automated eligibility inquiry messages to insurers providing health  
17 insurance or health care coverage, workers compensation, auto  
18 insurance, or homeowner's insurance to persons residing in the state.

19 (b) The administrator or his or her agent is authorized to transmit  
20 automated eligibility inquiries to insurers to resolve the primacy of  
21 claims for benefits under health plans administered, in whole or in  
22 part, by the state. The eligibility inquiries may include the minimum  
23 human identifiers in ANSI X.12 270, such as the name, gender, and date  
24 of birth of a person.

25 (2) In addition to their obligations under RCW 74.09A.030, insurers  
26 must respond within twenty-four hours to the administrator's  
27 eligibility inquiry messages or upload to a centralized database  
28 information on coverage and benefits, as required by the state of  
29 Washington.

30 (3) The administrator may:

31 (a) Examine any claims paid;

32 (b) Determine which of those claims were eligible for payment by a  
33 third party other than those programs administered by the  
34 administrator; and

35 (c) Recover the costs associated with the claims that were eligible  
36 for payment by a third party other than those programs administered by  
37 the administrator.

1 (4) The administrator is authorized to enforce this section against  
2 an insurer that fails to comply with the requirements of this section.

3 (a) In a case in which an insurer fails to comply with the  
4 requirements of this section, the attorney general shall:

5 (i) Subpoena the enrollment data of the insurer;

6 (ii) Commence a complaint under 42 U.S.C. Sec. 1320(d) for  
7 administrative sanctions under the health insurance portability and  
8 accountability act;

9 (iii) Commence a prosecution under applicable law; or

10 (iv) Commence an action in state court to enjoin the insurer from  
11 nonperformance of its duty under this section.

12 (b)(i) A court may order injunctive relief and costs, including  
13 attorney fees; or

14 (ii) A court may order damages, including penalties of up to one  
15 thousand dollars for each eligibility inquiry message to which the  
16 insurer has failed or refused to respond. An attempt to impose data  
17 elements or other burdens not expressly authorized by this statute upon  
18 the content, terms, or execution of the response must be construed as  
19 a failure or refusal to comply.

20 (c) The insurance commissioner may suspend, revoke, or refuse to  
21 renew an insurer's certificate of authority, based upon failure or  
22 refusal to comply with this section.

23 (5) For purposes of this section, "insurer" has the same meaning as  
24 in RCW 48.01.050.

25 NEW SECTION. **Sec. 4.** A new section is added to chapter 48.05 RCW  
26 to read as follows:

27 Eligibility, coverage, employment, and income data that is shared  
28 under this act in the process of determining primacy must be construed  
29 as an element of data used in the process of billing for medical  
30 services rendered and is expressly exempt from the privacy and  
31 confidentiality provisions of 42 U.S.C. Sec. 1320 and state law. A  
32 person receiving data for that purpose may not use the data for any  
33 other purpose.

--- END ---