Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Health Care & Wellness Committee

HB 1740

Brief Description: Establishing a health benefit exchange.

Sponsors: Representatives Cody, Schmick, Jinkins and Hinkle; by request of Governor Gregoire.

Brief Summary of Bill

- Requires the state to establish a health benefit exchange.
- Establishes a Health Benefit Development Board to help complete implementation of federal planning and establishment grants relating to health benefit exchanges.

Hearing Date: 2/7/11

Staff: Jim Morishima (786-7191).

Background:

Health Benefit Exchanges.

The federal Patient Protection and Affordable Care Act (PPACA) requires every state to establish an "American Health Benefit Exchange" (Exchange) no later than January 1, 2014. The Exchange must serve both small groups (in a so-called SHOP Exchange) and individuals and must be self-sustaining by January 1, 2015. If a state chooses not to establish an Exchange, the federal government will operate an Exchange either directly or through an agreement with a non-profit entity.

Under the PPACA, an Exchange's functions include:

- facilitating the purchase of qualified health plans by individuals and small groups;
- certifying health plans as qualified health plans based on federal guidelines;
- providing information to individuals about their eligibility for public programs like Medicaid and the Children's Health Insurance Program and enrolling eligible individuals in those programs;

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- operating a telephone hotline and website to assist consumers in the Exchange; and
- establishing navigator programs to help inform consumers and facilitate their enrollment in qualified health plans in the Exchange.

Health plans in the Exchange will be available in four different levels based on the percentage of costs the plan will pay: Bronze (60 percent), Silver (70 percent), Gold (80 percent), and Platinum (90 percent). In order to be qualified to sell insurance in an Exchange, a carrier must:

- be certified as a qualified health plan based on federal guidelines;
- provide coverage for essential health benefits, as defined by the federal government;
- offer at least one silver and one gold plan in the Exchange; and
- charge the same premium, both inside and outside the Exchange.

Premium subsidies on a sliding scale will be available in the Exchange for persons between 133 percent and 400 percent of the federal poverty level (FPL) in the form of advanceable, refundable tax credits. Depending on a person's income level, the subsidies will ensure that the premium's the person pays will be no greater than a certain percentage of the person's income: under 133 percent FPL = 2 percent of income; 133-149 percent FPL = 3-4 percent of income; 150-199 percent FPL = 4-6.3 percent of income; 200-249 percent FPL = 6.3-8.05 percent of income; 250-299 percent FPL = 8.05-9.5 percent of income; 300-399 percent FPL = 9.5 percent of income.

The PPACA provides states with some flexibility when implementing the Exchanges. For example:

- Administration: the Exchange may be administered by the state itself or a non-profit entity;
- Basic Health Option (BHO): the state may contract with private insurers to provide coverage for low-income individuals between 133 and 200 percent FPL, similar to Washington's existing Basic Health Plan. Individuals in the BHO will not participate in the Exchange, but the state will receive federal funding for the BHO equal to 95 percent of the tax credits and cost-sharing reductions the individuals would have received in the Exchange.
- Regional or Interstate Exchanges: an Exchange may operate in more than one state. A state may also establish subsidiary Exchanges to serve geographically distinct areas within the state.
- One Exchange or Two: the state may operate separate Exchanges for the individual and small group markets, or may operate on Exchange that serves both (this is a separate issue from combining risk pools).
- Combining Risk Pools: the state may merge the individual and small group markets.
- Essential Health Benefits: the state may require insurers to offer benefits beyond what is required by federal law, but must pay for the increased costs of such benefits.

State Planning Activities.

In 2010 there was a variety of planning activities relating to Exchanges. For example, the Legislature established the Joint Select Committee on Health Reform Implementation, which established an advisory group to considers issues relating to establishing an Exchange. The Office of the Insurance Commissioner established a Realization Committee, which also made

recommendations relating to an Exchange. Finally, the Health Care Authority received a planning grant, which it used, in part, to develop several issue briefs relating to Exchanges.

Summary of Bill:

The state must establish an Exchange no later than January 1, 2014. The Exchange is intended to:

- increase access to quality, affordable health care coverage and reduce the number of uninsured people in Washington;
- recognize the need for a private health care market outside of the Exchange and the need for a regulatory framework both inside and outside the Exchange, to be performed by the Insurance Commissioner;
- create an organized, transparent, and accountable health insurance marketplace for people to:
    - purchase affordable, quality health care coverage;
    - claim available premium tax credits and cost-sharing subsidies; and
    - meet the federal personal responsibility requirements for minimum essential coverage;
- strengthen the state health care delivery system and maximize existing efficiencies within the system;
- promote quality improvement, cost containment, and innovative payment structures;
- increase the availability of health care coverage through the private health insurance market;
- create a health insurance market that competes on the basis of price, quality, service, and innovation, not on risk selection;
- promote consumer literacy and empower consumers to compare plans and make informed decisions about coverage;
- effectively and efficiently administer health care subsidies and determination of eligibility for publicly-subsidized health care programs;
- seamlessly direct consumers to information about, and enrollment in, other programs that are available to low-income individuals; and
- create opportunities and flexibility to address possible future changes in federal law and funding challenges.

The Health Benefit Exchange Development Board (Board) is created. The Board must consist of seven people with expertise in Washington's health care system and private and public health care coverage. Five members of the Board must be appointed by the Governor and two members must be appointed by the Insurance Commissioner. The Administrator of the Health Care Authority (HCA) serves as chair of the Board. The Board may establish subcommittees or seek the advice of experts when necessary. Members of the Board are immune from civil or criminal liability for actions taken in good faith in the performance of their duties.

The Board must coordinate with the Administrator of the HCA to complete the implementation of federal planning and establishment grants. The Administrator of the HCA must consult with the Board when submitting and implementing these grants. By January 1, 2012, the Board must develop a business plan and timeline for establishing the Exchange, which must include an analysis and recommendations regarding:

- the governance, operations, and administration of the Exchange, including:

        - the goals and principles of governing the Exchange;
        - the creation and implementation of a single, state-administered Exchange for all geographic areas of the state that operates for both individual and small group markets;
        - whether and under what circumstances the state should consider establishing a multi-state Exchange;
        - whether the Exchange should serve as an aggregator of funds that compromise the premium for a health plan in the Exchange;
        - the administrative, fiduciary, accounting, contracting, and other services to be provided by the Exchange;
        - coordination with other state programs; and
        - development of sustainable funding as of January 1, 2015;
    - whether to adopt and implement the BHO, whether the BHO should be administered by the entity that administers the Exchange, and whether the BHO should merge risk pools with any portion of the state's Medicaid program;
    - individual and small group market impacts, including whether to:
        - merge the risk pools in the individual and small group markets; and
        - increase the small group market to firms with up to 100 employees;
    - creation of a competitive purchasing environment for qualified health plans in the Exchange;
    - certifying, selecting, and facilitating the offer of individual and small group plans in the Exchange;
    - the role of navigators;
    - effective implementation of risk management methods, including reinsurance, risk corridors, and risk adjustment;
    - participating in innovative cost-containment efforts;
    - providing federal refundable premium tax credits and reduced cost-sharing subsidies through the Exchange, including the processing and entity responsible for determining eligibility; and
    - the staff, resources, and revenues necessary to operate and administer the Exchange for the first two years.

The Board must consult with stakeholders when carrying out its responsibilities, including consumers; individuals and entities with experience facilitating enrollment in health insurance coverage; representatives of small businesses, employees of small businesses, and self-employed individuals; advocates for enrolling hard-to-reach populations and populations enrolled in publicly subsidized health programs; the Office of the Insurance Commissioner; publicly subsidized health care programs; and members of the American Academy of Actuaries.

The Administrator of the HCA may enter into information sharing agreements with federal and state agencies and interdepartmental agreements with other state agencies. The Administrator of the HCA must also provide staff and resources to assist the Board, apply for federal grants, manage grant and other funds, expend appropriated funds, and adopt necessary rules.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.