SENATE BILL REPORT
SB 5122

As Reported by Senate Committee On:
Health & Long-Term Care, February 7, 2011

Title: An act relating to health care insurance.

Brief Description: Regulating health care insurance.

Sponsors: Senators Keiser and Kline; by request of Insurance Commissioner.

Brief History:
Committee Activity: Health & Long-Term Care: 1/26/11, 2/07/11 [DPS].

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: That Substitute Senate Bill No. 5122 be substituted therefor, and the substitute bill do pass.

Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker, Ranking Minority Member; Carrell, Kline, Murray, Parlette, Pflug and Pridemore.

Staff: Mich'l Needham (786-7442)

Background: The federal Patient Protection and Affordability Care Act (PPACA), passed in March 2010, includes a number of provisions that impact medical insurance plans or insurance carriers. A number of provisions have early implementation dates, some are effective for policies issued on or after September 23, 2010.

The state insurance statutes codified in Title 48 RCW, which apply to regulated insurance carriers, need modification to reflect the federal requirements that are in place now. The early implementation insurance changes include extending coverage to dependents to age 26 for all plans that offer dependent coverage; elimination of lifetime benefit maximums; prohibition of rescission of coverage; elimination of pre-existing condition waiting period for persons under 19; coverage changes for emergency services; enhanced consumer information including appeals requirements; and reporting of medical loss ratios (the percent of premium spent on medical expenses) with a requirement for rebates to enrollees triggered by certain medical loss ratios.

Summary of Bill (Recommended Substitute): The state insurance statutes are modified to reflect the PPACA insurance provisions with early implementation. Coverage for dependents

---

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

is extended to age 26. Lifetime benefit maximums are removed. Policies for persons under 19 may not include pre-existing condition exclusions.

Federal definitions are inserted for adverse benefit determination; emergency medical conditions and services; final external review decision; and final internal adverse benefit determination and grandfathered health plan.

Federal standards for emergency services are inserted to require coverage of emergency services with the same copayments or coinsurance for in-network and out-of-network emergency services, and to allow services without prior authorization. Other cost-sharing, such as a deductible or out-of-pocket maximum, may be imposed for emergency services provided out-of-network only if the cost-sharing generally applies to all out-of-network benefits.

The grievance process required for each plan may reflect differences for grandfathered health plans and approval of HHS.

Independent reviews of appeals must be completed by an organization that does not have a conflict of interest. Enrollees must have at least five business days to submit additional information to the independent review organization. The independent review organization must forward any additional information within one business day. A benefit decision must be provided within 45 days of the request for external review. Expedited review must be completed within 72 hours.

The rate information for individual health benefit plans is modified to remove the calculation of the remittance to the high risk pool that is based on the declination rate (rate of declining applicants due to health screening), to ensure health insurance carriers do not pay the current remittance and the new federal rebate to enrollees that is triggered if the individual plan's medial loss ratio is less than 80 percent. The remittance calculation is removed effective January 1, 2012.

Changes are made for the Washington State Health Insurance Pool (WSHIP), removing the lifetime maximum on benefits of $2 million, extending dependents eligibility to age 26, and allowing the pool to waive the recertification of the standard health questionnaire and the rebidding of the pool if the program is discontinued during the 36-month review cycle.

EFFECT OF CHANGES MADE BY HEALTH & LONG-TERM CARE COMMITTEE (Recommended Substitute): Modifies the definition of adverse benefit determination, removes additional references to unmarried dependents, modifies the definition of emergency medical condition consistent with the federal law, adds a definition for grandfathered health plan, removes emergency services language detailing the payment formulas for nonparticipating providers and leaves the language in federal rule, removes modifications to the grievance and appeals information to allow rules to differentiate between grandfathered plans and new plans and allows grandfathered plans to have plans approved by HHS, modifies WSHIP eligibility by removing the lifetime benefit cap of $2 million and extends WSHIP eligibility for dependents to age 26, removes the requirement for WSHIP to rebid the pool or recertify the standard health questionnaire if the pool is closed during the required

timeframe, modifies the title to more clearly reflect the purpose is to make changes related to the Affordable Care Act.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: This reflects changes in federal law and we are continuing to work with carriers and others on potential refinements to the language.

CON: We are opposed to the changes in emergency services. We believe our current state law provides greater protection than the federal language, and we should retain the current state language.

Persons Testifying: PRO: Drew Bouton, Office of Insurance Commissioner.

CON: Tim Layton, Washington State Medical Association.