

# SENATE BILL REPORT

## ESB 5773

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As Passed Senate, March 7, 2011

**Title:** An act relating to making a health savings account option and high deductible health plan option and a direct patient-provider primary care practice option available to public employees.

**Brief Description:** Making a health savings account option and high deductible health plan option and a direct patient-provider primary care practice option available to public employees.

**Sponsors:** Senators Zarelli, Baumgartner, Hill, Parlette, Schoesler, Ericksen and Holmquist Newbry.

**Brief History:**

**Committee Activity:** Ways & Means: 2/22/11, 2/25/11 [DP, w/oRec].

Passed Senate: 3/07/11, 42-7.

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass.

Signed by Senators Kilmer, Vice Chair, Capital Budget Chair; Zarelli, Ranking Minority Member; Parlette, Ranking Minority Member Capital; Baumgartner, Baxter, Brown, Fraser, Hewitt, Holmquist Newbry, Honeyford, Kastama, Kohl-Welles, Pflug, Regala, Rockefeller and Tom.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Conway and Keiser.

**Staff:** Erik Sund (786-7454)

**Background:** In 2003 Congress enacted section 223 of the Medicare Modernization Act which allows people to establish health savings accounts (HSAs) to work in combination with qualifying high-deductible health plans (HDHP) to help finance medical expenses. A health plan qualifies as an HDHP if it has an annual deductible of at least \$1,200 for individuals and annual out-of-pocket expenses (not premiums) that do not exceed \$5,950. HSAs are tax-free accounts that can be set up by individuals or employers. They are personal accounts that are owned by individuals, even when employers establish and contribute to

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them. Interest earned is not taxed, and funds that are not used may carry over to the following year.

Under Chapter 299, Laws of 2006 (EHB 1383) the Health Care Authority (HCA) is directed to develop a Health Savings Account option for covered employees. A Health Savings Account option is not currently available to employees enrolled in HCA-administered health plans.

Chapter 257, Laws of 2007 (E2SSB 5958) created a statutory framework for direct patient-provider primary health care practices. Direct practices were explicitly exempted from the definition of health care service contractors in insurance law. Direct practices furnish primary care services in exchange for a direct fee from a patient. Services are limited to primary care, including screening, assessment, diagnosis, and treatment for the purpose of promotion of health, and detection and management of disease or injury. Direct practices are also allowed to pay for charges associated with routine lab and imaging services. Direct practices are prevented from accepting payments for services provided to direct care patients from regulated insurance carriers, all insurance programs administered by the Washington State Health Care Authority (Authority), or self-insured plans. Direct practices may accept payment of direct fees directly or indirectly from non-employer third parties, but are prevented from selling their direct practice agreements directly to employer groups.

**Summary of Engrossed Bill:** The Health Care Authority (HCA) is directed to offer a high-deductible health plan with a health savings account as an option alongside its traditional comprehensive medical insurance offerings during the open enrollment period in November 2011 for the 2012 plan year.

The HCA must include in its provider network for 2013 and 2014 for the Uniform Medical Plan (UMP) a direct practice and attempt to enroll at least 1,000 members in the practice in King, Pierce, or Thurston counties. To participate in the UMP network, a practice must have prior experience providing primary care for at least 2,000 patients and meet certain standards for the production and use of medical data. The HCA must evaluate the performance of direct practice performance within the UMP, including the quality of care and its cost effectiveness, and report its findings to the legislature no later than November 30, 2015. Funding for services provided through the direct practice must not increase employer funding requirements.

Direct practices may contract with and accept direct fee payments from plans administered by the HCA.

**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:** CON: Rather than reducing medical care costs, high deductible health plans shift costs to plan participants. Younger and healthier workers will enroll in HSAs and older workers' insurance costs will be driven up by this adverse selection. This undermines the basic concepts of insurance. Instead, insurance coverage should focus on providing more coverage earlier rather than later. This is a better approach to saving money. The use of medical homes and other approaches will catch and prevent problems before hospitalization is required.

**Persons Testifying:** CON: Greg Devereux, Washington Federation of State Employees.