

# SENATE BILL REPORT

## ESSB 5449

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As Amended by House, April 16, 2013

**Title:** An act relating to modification of the Washington state health insurance pool.

**Brief Description:** Addressing the Washington state health insurance pool.

**Sponsors:** Senate Committee on Health Care (originally sponsored by Senators Parlette, Keiser, Becker, Bailey, Dammeier, Frockt, Ericksen and Schlicher).

**Brief History:**

**Committee Activity:** Health Care: 2/11/13, 2/21/13 [DPS, w/oRec].

Passed Senate: 2/27/13, 49-0.

Passed House: 4/16/13, 96-0.

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### SENATE COMMITTEE ON HEALTH CARE

**Majority Report:** That Substitute Senate Bill No. 5449 be substituted therefor, and the substitute bill do pass.

Signed by Senators Becker, Chair; Dammeier, Vice Chair; Bailey, Ericksen, Parlette and Schlicher.

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

Signed by Senators Keiser, Ranking Member; Cleveland and Frockt.

**Staff:** Mich'l Needham (786-7442)

**Background:** The Washington State Health Insurance Pool (WSHIP) is the state's high-risk pool. Currently, individuals must complete a health screening questionnaire to purchase individual health insurance and may be rejected and referred to the high-risk pool. Effective January 1, 2014, the federal Affordable Care Act (ACA) requires individual insurance plans to be available without a health screen, with no pre-existing condition exclusions.

In anticipation of the insurance changes coming in 2014, the 2012 Legislature directed WSHIP to complete a study to assess the populations that may need ongoing access to coverage through the pool and may be excluded from other coverage options. The WSHIP Board was asked to submit recommendations for eligibility modifications, changes to the standard health questionnaire or other eligibility screening tool, and on whether the

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assessments that fund the program should be adjusted to make the assessment fair and equitable among all payers.

The WSHIP report was submitted to the Legislature in November 2012. The Board found that the majority of persons currently covered by WSHIP will be eligible for comprehensive coverage through the commercial market or the ACA-mandated Health Benefit Exchange, and others may be eligible for coverage through the Medicaid Expansion. However, several populations were identified that may need ongoing access to WSHIP, and the Board submitted recommendations for program changes that reflect the expected need.

**Summary of Engrossed Substitute Bill:** The requirement for WSHIP to maintain and update the standard health questionnaire is removed, and all references to use of the questionnaire are removed. Eligibility for WSHIP is modified. Applications for new enrollees will be accepted through December 31, 2016, for any resident not eligible for Medicare or Medicaid coverage residing in a county where there is not access to a comprehensive individual plan either through the Health Benefit Exchange or the private insurance market. Non-Medicare individuals enrolled in the pool prior to December 31, 2013, remain eligible for the pool coverage through December 31, 2017. The pool coverage for all Non-Medicare enrollees must be discontinued, effective December 31, 2017.

Medicare-eligible individuals remain eligible for the pool coverage if they do not have access to a reasonable choice of comprehensive Medicare Part C plans and provide evidence of a rejection for coverage, a restrictive rider, an up-rated premium, a pre-existing condition limitation, or lack of access to a Medicare Supplemental Insurance Policy. The Medicare pool coverage does not have a termination date.

The WSHIP Board must complete a study by November 1, 2015, with a review of the populations that may need on-going access to the pool coverage. The eligibility study must include the non-Medicare population and Medicare populations, and consider whether the enrollees have access to comprehensive coverage alternatives that include appropriate pharmacy coverage. The study must include recommendations to address any barriers in eligibility that remain in accessing other coverage such as Medicare supplemental coverage or comprehensive pharmacy coverage, with suggestions for financing changes and recommendations on a future expiration of the pool.

**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: WSHIP has been working well. We want to make sure the options under the ACA are fully available and it may be a question of the best timing. The WSHIP study is available on the legislative website and it provides extensive background about the potential gaps in access. We believe WSHIP is better equipped to complete the eligibility study instead of JLARC and support moving the

date up slightly, perhaps to 2015, but we need to leave some time to ensure some additional Medicare options may be available before we study it again. We know that there are gaps in accessing Medicare options today for certain populations. Washington is a bit of an outlier with the limited Medicare access but leaving WSHIP open to Medicare enrollees indefinitely while other states close access may make Washington a magnet for those high-risk enrollees. We have submitted suggested amendments to the study to have WSHIP complete the study instead of JLARC and to move the date up to 2014. We could also explore an option in the amendment that would close Medicare in 2016 with a trigger if the Legislature did not take action on study recommendations. WSHIP was created to be a solution for the individual market not as a Medicare gap filler – keeping the Medicare policies seems inequitable.

CON: We support the intent of the bill to coordinate the coverage options under the ACA. It is important to monitor the development for individuals with HIV/AIDS. We are concerned about closing the enrollment until we know more about what coverage is available in 2014, in particular we do not have enough information about the pharmacy coverage that will be included in the coverage in the Exchange. These patients need access to life-sustaining drugs. We recommend that leaving the Non-Medicare enrollment open and not closing the pool. We also recommend the study include a review of both populations. This coverage is very important to the MS community and we want to be careful with the transition and remove the end date for the pool coverage.

OTHER: We are very appreciative of the approach for the Medicare populations. Individuals with end-stage renal disease have only one source of Medicare supplement coverage – through WSHIP and it is important to maintain. If comprehensive coverage options become available it may be possible to revisit the pool at that time but not before. Non-Medicare populations have concerns with the adequacy of the coverage that will be available. We would caution any termination date. We would like the study to include both populations and be done earlier. WSHIP was created for those that did not have access to coverage. Before we see a clear path to ensuring everyone does have coverage, we should keep coverage available.

**Persons Testifying:** PRO: Senator Parlette, prime sponsor; Karen Larson, Lisa Matthews, WSHIP; Sheela Tallman, Premera Blue Cross; Chris Bandoli, Regence Blue Shield.

CON: Laura Treadway, Lifelong AIDS Alliance; Jim Freeburg, National Multiple Sclerosis Society.

OTHER: Gail McGaffick, Fresenius Medical Care North America; Roman Daniels-Brown, DaVita; Linda Hull, NW Kidney Centers.

**House Amendment(s):** Clarifies that a person ineligible for Medicaid or Medicare is eligible for WSHIP if that person lives in a county where an individual health plan, other than a catastrophic plan, is not offered to the person during defined open enrollment or special enrollment periods. The WSHIP Board must develop a process to determine when the open enrollment periods are available for determining eligibility.