

SENATE BILL REPORT

SB 6474

As Reported by Senate Committee On:
Health Care, February 6, 2014

Title: An act relating to the furnishing of background check information by navigator applicants.

Brief Description: Requiring navigator applicants to furnish background check information.

Sponsors: Senator Rivers.

Brief History:

Committee Activity: Health Care: 2/03/14, 2/06/14 [DPS, DNP].

SENATE COMMITTEE ON HEALTH CARE

Majority Report: That Substitute Senate Bill No. 6474 be substituted therefor, and the substitute bill do pass.

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

Minority Report: Do not pass.

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

Staff: Mich'l Needham (786-7442)

Background: The federal Affordable Care Act established navigators to help consumers purchase coverage through the Health Benefit Exchanges. Navigators must conduct public education activities, distribute impartial information on the qualified health plans, facilitate enrollment, provide referrals for any enrollee with a grievance or complaint, and provide information that is culturally and linguistically appropriate. Under federal law, navigators may not receive any consideration from insurance carriers for the enrollment of individuals, and under state law, navigators are not considered agents or producers.

The Washington Health Benefit Exchange developed requirements for navigators, including training requirements and a requirement for a background check through the Washington State Patrol (WSP). Licensed insurance agents or producers submit fingerprints for a background check.

The Exchange navigators and in-person assisters are trained to provide individuals, families and small businesses in Washington State with impartial information to help them determine

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which health insurance option best fit their needs; identify eligibility for reduced premiums and assist in completing applications and enrollment through in-person meetings, phone calls, or interactive electronic communication; and offer tailored support for those with cultural, linguistic, disability-related, or other special needs. Certified application counselors also are trained to provide information to consumers and facilitate enrollment in qualified health plans and Washington Apple Health programs.

Navigators must be certified by the Exchange after successfully passing a certification exam. They must disclose any relationships they have with qualifying health plans and the Exchange; act in the best interest of the consumer and not steer or advise a consumer to select a particular plan; comply with nondiscrimination, privacy, and security standards established by the Exchange; refer individuals with cultural, language, or disability-related needs to other consumer assistance resources if the individual cannot be served directly; and provide assistance at no cost to consumers.

Navigators must sign confidentiality and non-disclosure agreements and agree to comply with a code of ethics that requires them to maintain their duty to the consumer.

Summary of Bill (Recommended Substitute): The application to become a navigator must include background information including fingerprints submitted to WSP, the Federal Bureau of Investigation, and any governmental agency authorized to receive the information for a state and national criminal history background check.

Navigators may only request health care information that is relevant to the specific assessment and recommendation of health plan options. Health care information received by the navigator may not be disclosed to any third party that is not part of the enrollment process and the information must be destroyed after enrollment has been completed.

If health care information is disclosed by the navigator, the navigator must inform the person of the breach. The Exchange must develop a policy to establish a reasonable notification period and what information must be included in the notice. The policy must be available on the Exchange's website.

EFFECT OF CHANGES MADE BY HEALTH CARE COMMITTEE (Recommended Substitute): Retains the original requirement in 6474 for submitting fingerprints for the background check and adds the language from SB 6354 on navigators. A navigator may only request health care information that is relevant to the specific assessment and a recommendation of health plan options. Any health care information received may not be disclosed to a third party that is not part of the enrollment process and must be destroyed after enrollment has been completed. If health care information is received and disclosed in violation of this act, the navigator must notify the person of the breach. The Exchange must develop a policy to establish a reasonable notification period and what information must be included in the notice, and the policy must be available on the Exchange website.

Appropriation: None.

Fiscal Note: Available.

[OFM requested ten-year cost projection pursuant to I-960.]

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: I first heard concerns raised last summer listening to a congressional hearing where a congress member raised a question about navigators potentially having access to personal information. It is important to sort out potential bad actors and keep them from getting personal information. Agents and brokers are licensed by the Office of Insurance Commissioner and held to a professional standard with background checks and fingerprinting, and we feel that is an appropriate standard to apply in this structure.

CON: We have a long history serving low-income clients and helping them find care, and we have continued that tradition with navigators across the state. They provide essential outreach to low-income populations and help them understand a lot of confusing information about their health plan options. We provide a background check for the navigators now that is the same as the background check completed by all the others that we hand off applications to within the Health Care Authority and the Department of Social and Health Services. There is a high demand for this in-person assistance, and we would hate to put additional hurdles in the way of providing assistance.

Persons Testifying: PRO: Senator Rivers, prime sponsor; Mel Sorensen, WA Assn. Health Underwriters, National Assn. of Insurance and Financial Advisors, Professional Insurance Agents.

CON: Kate White Tudor, WA Assn. of Community and Migrant Health Centers.