

# HOUSE BILL REPORT

## EHB 1890

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**As Passed House:**  
March 9, 2015

**Title:** An act relating to a second-party payment process for paying insurers.

**Brief Description:** Concerning a second-party payment process for paying issuer.

**Sponsors:** Representatives Schmick and Cody.

**Brief History:**

**Committee Activity:**

Health Care & Wellness: 2/11/15, 2/18/15 [DP].

**Floor Activity:**

Passed House: 3/9/15, 98-0.

**Brief Summary of Engrossed Bill**

- Requires issuers to accept payments made by a second-party payment process.

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### HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

**Majority Report:** Do pass. Signed by 15 members: Representatives Cody, Chair; Riccelli, Vice Chair; Schmick, Ranking Minority Member; Harris, Assistant Ranking Minority Member; Caldier, Clibborn, DeBolt, Jinkins, Johnson, Moeller, Robinson, Rodne, Short, Tharinger and Van De Wege.

**Staff:** Alexa Silver (786-7190).

**Background:**

An individual enrolled in a qualified health plan (QHP) through the Health Benefit Exchange (Exchange) is responsible for making premium and cost-sharing payments to the issuer. In Washington, the Exchange currently collects premium payments from enrollees and transmits them to issuers, but when the Exchange ceases to aggregate premiums, enrollees will pay issuers directly.

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*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.*

The Centers for Medicare and Medicaid Services (CMS) have issued guidance related to premium and cost-sharing payments made by third parties on behalf of QHP enrollees. The CMS discourages issuers from accepting third-party payments from hospitals, health care providers, and other commercial entities due to concerns that the practice could skew the insurance risk pool and create an unlevel field in the Exchange.

By CMS rule, however, an issuer that offers a QHP in the individual market is required to accept premium and cost-sharing payments on behalf of an enrollee if the payment is made by: the Ryan White HIV/AIDS Program; other state and federal government programs that provide premium and cost-sharing support for individuals; or Indian tribes, tribal organizations, or urban Indian national organizations.

### **Summary of Engrossed Bill:**

Issuers must accept payments made by a second-party payment process, and these payments may be made with any legal tender denominated in U.S. dollars. "Second-party payment process" means a process in which:

- an individual has an account in his or her name at a financial institution that is managed by either the institution or an entity that has established the account on the individual's behalf and with his or her express agreement;
- the account is funded with funds from the individual or his or her family members or in a manner otherwise consistent with federal law; and
- the account is under the control of the covered person so that he or she may authorize payments from the account.

An issuer is not required to accept payment by a second-party payment process if the second-party payer is controlled by, or receives funding from, an entity that may be reimbursed by an issuer for providing health care services, or if the account is funded by such an entity, except for the third-party entities from which federal law requires the issuer to accept payment.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

### **Staff Summary of Public Testimony:**

(In support) Clarification is needed in the law to allow employers to make partial payments or defined payments each month to help people afford health insurance. A problem has arisen related to a rule by the federal Department of Health and Human Services requiring carriers to accept payment from certain third parties, but discouraging payments from other commercial entities. In response, at least one carrier has adopted a policy of refusing to accept payments from any third parties from whom they are not required to accept payment.

This bill does not address third-party payment processes. It narrowly defines a new second-party payment process as a process in which an individual who owns an account directs a

second-party agent to make payments on his or her behalf. Companies that provide this service collect wage deductions and deposit them in an account owned and controlled by the individual. The individual then directs the company to make premium payments on his or her behalf through electronic payment methods. This allows the company to collect and aggregate funds from multiple employers and continue to pay individuals' premiums, which keeps customers' policies intact. Many customers in this arrangement are unbanked.

(With concerns) There are concerns with parts of this bill, but it may be a matter of clarifying the intent of the language.

(Opposed) This bill is a step in the wrong direction because it narrows, rather than broadens, the people who can get health insurance. Even with federal subsidies, patients are unable to afford their premiums without some premium support. This bill would strengthen health plans' ability to exclude enrollees based on their ability to pay or their potential medical needs. It would allow carriers to reject enrollees because the funds supporting their premiums come from providers that might receive insurance payments. For example, this bill would prohibit a hospital from donating money to a private foundation to provide sponsorship of premiums.

**Persons Testifying:** (In support) Representative Schmick, prime sponsor; Lee Brillhart and Michele Payton, Lyfebank; and Ross Baker, Virginia Mason.

(With concerns) Sean Graham, Washington State Medical Association.

(Opposed) Len McComb, Washington State Hospital Association.

**Persons Signed In To Testify But Not Testifying:** None.