# HOUSE BILL REPORT
# 2ESB 6089

**As Passed House:**
June 29, 2015

**Title**: An act relating to health benefit exchange sustainability.

**Brief Description**: Concerning the health benefit exchange.

**Sponsors**: Senator Hill.

**Brief History:**
**Committee Activity:**
None.
**Third Special Session**
**Floor Activity:**
Passed House: 6/29/15, 96-2.

**Brief Summary of Second Engrossed Bill**

- Requires the Washington Healthplanfinder to prepare a five-year spending plan.
- Requires the Washington Healthplanfinder to develop metrics and benchmarks.
- Requires the Washington Healthplanfinder to track and report enrollment data.
- Requires the Washington Healthplanfinder to prepare and annually update a strategic plan.
- Requires the Washington Healthplanfinder to verify enrollees' eligibility for special enrollment periods.
- Requires the Washington Healthplanfinder to perform Medicaid eligibility checks on enrollees in the grace period.
- Requires the Washington Healthplanfinder, providers, and qualified health plans to provide information to enrollees in the grace period.

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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.*

**Background**:

Under the federal Patient Protection and Affordable Care Act (ACA), every state must establish a health benefit exchange through which consumers may compare and purchase individual and small group market health coverage, access premium and cost-sharing subsidies, and apply for Medicaid coverage. If a state does not establish a health benefit exchange, the federal government will operate one for the state. Washington established its health benefit exchange, known as the Washington Healthplanfinder, in 2011 as a public-private partnership. The Washington Healthplanfinder is governed by a board (Board) consisting of members with expertise in the health care system and health care coverage.

I. Washington Healthplanfinder Funding.

The Washington Healthplanfinder is funded by a combination of federal funds and revenues for premium taxes levied on health plans sold through the Washington Healthplanfinder (qualified health plans). If these funds are insufficient to cover the expenditure level for the Washington Healthplanfinder as determined by the Legislature, the Washington Healthplanfinder may levy an assessment on the qualified health plans to make up the difference.

The Washington Healthplanfinder is authorized to aggregate or delegate the aggregation of funds that comprise the premium for a health plan. Consumers make payments to the Washington Healthplanfinder, which then transmits the payments to the qualified health plans. In 2014, the Board voted to cease premium aggregation in the individual market beginning with the 2016 plan year and to allow the qualified health plans to bill consumers directly.

II. Special Enrollment Periods.

Generally, consumers may only purchase coverage from the Washington Healthplanfinder during an open enrollment period (the open enrollment period for the 2016 plan year will take place from November 1, 2015, to January 31, 2016). However, consumers may purchase outside of an open enrollment period upon the occurrence of a qualifying event. Examples of qualifying events include marriage, having a child, permanently moving, losing health care coverage, and becoming a United States citizen.

III. Grace Period.

Under federal law, a qualified health plan must provide a grace period of three consecutive months if an enrollee receiving advance payments of the premium tax credit has previously paid at least one full month's premium during the benefit year. During the grace period, the qualified health plan must pay all appropriate claims for services rendered during the first month, but may pend claims for services rendered during the second or third month. The qualified health plan is required to notify the enrollee that he or she is delinquent on payment of the premium, notify the U.S. Department of Health and Human Services of the enrollee's non-payment, and notify providers of the possibility for denied claims when the enrollee is in the second or third month of the grace period. If the enrollee exhausts the grace period

without paying all outstanding premiums, the qualified health plan must terminate his or her coverage effective the last day of the first month of the grace period.

Under Washington law, for an enrollee who is in the second or third month of the grace period, the qualified health plan must: (1) provide real-time information regarding the enrollee's eligibility status upon request by a health care provider or facility; and (2) notify a health care provider or facility that an enrollee is in the grace period within three business days after submittal of a claim or status request for services provided. The information must indicate "grace period" or an appropriate national coding standard as the reason for pending the claim if the claim is pended due to the enrollee's grace period status. Unless sent electronically, the notification must indicate that the enrollee is in the second or third month of the grace period.

**Summary of Bill**:

I. Washington Healthplanfinder Funding.

By January 1, 2016, the Washington Healthplanfinder must submit a five-year spending plan to the Legislature, the Office of the Governor, and the Board. The plan must identify potential reductions in per-member per-month spending below levels in the 2015-2017 biennium. The plan must identify specific reductions in the following areas: call center, information technology, and staffing. The Board must provide annual updates on the spending plan.

By January 1, 2016, the Washington Healthplanfinder must develop metrics that capture current spending levels including: a per-member per-month metric; establish five-year benchmarks for spending reductions; monitor ongoing progress toward achieving those benchmarks; and post progress to date toward achieving established benchmarks on the Washington Healthplanfinder's website. The metrics must be developed with actuarial support and input from the Health Care Authority, the Office of the Insurance Commissioner, the Office of Financial Management, and other relevant agencies. Quarterly updates must be provided to the relevant legislative committees and the Board.

For biennia after 2015-2017, the Washington Healthplanfinder must include additional detail capturing the annual cost of operations, per qualified health plan enrollee and per Medicaid enrollee. The detail must be calculated by dividing funds allocated for Washington Healthplanfinder over the 2015-2017 biennium by the number of enrollees in both qualified health plans and Medicaid during the year. The data must be tracked and reported to the Legislature and the Board annually.

Beginning September 30, 2015, the Washington Healthplanfinder must prepare and annually update a strategic plan for the development, maintenance, and improvement of operations for the purpose of assisting the establishment of priorities to better serve the needs of its constituency and the public in general. The strategic plan must be the Washington Healthplanfinder's process for defining its methodology for achieving optimal outcomes, for complying with state and federal laws and policies, and for guaranteeing an appropriate level of transparency. The strategic plan must include:

- comprehensive five-year and ten-year plans for direction with clearly defined outcomes and goals;
- concrete plans for achieving or surpassing desired outcomes and goals;
- strategy for achieving enrollment and re-enrollment targets;
- detailed stakeholder and external communication plans;
- identification of funding sources and a plan for funding and allocation of resources to pursue desired goals and outcomes; and
- a detailed report, including salary information, expense information, beginning and ending fund balances, any contracts or contract amendments signed by the Washington Healthplanfinder, and an accounting of staff required to operate the Washington Healthplanfinder. The report on expenses must be submitted quarterly to the appropriate committees of the Legislature.

Upon the transfer of premium collection to the qualified health plans, each qualified health plan must provide detailed reports to the Washington Healthplanfinder to support legislative reporting requirements.

II. Special Enrollment Periods.

As part of eligibility responsibilities, the Washington Healthplanfinder must verify that a person seeking to enroll in a qualified health plan or qualified dental plan during a special enrolment period has experienced a qualifying event. The Washington Healthplanfinder must require reasonable proof or documentation of the qualifying event.

III. Grace Period.

The Washington Healthplanfinder must perform eligibility checks on enrollees in the grace period to determine if they are eligible for Medicaid. The Washington Healthplanfinder must, in collaboration with the Health Care Authority, conduct outreach to eligible individuals regarding Medicaid.

If a health care provider or health care facility is providing care to an enrollee in the grace period, it must, whenever possible, encourage the enrollee to pay delinquent premiums to the qualified health plan and provide information regarding the impact of non-payment of premiums on access to services.

No earlier than January 1, 2016, once the Washington Healthplanfinder has stopped aggregating premiums and qualified health plans are billing enrollees directly, a qualified health plan must:

- include a statement in a delinquency notice sent to an enrollee in the grace period that explains the impact of non-payment of premiums on access to coverage and health services, encourages the enrollee to contact the qualified health plan regarding coverage options, and informs the enrollee: (1) on how to report changes in income or circumstances to the Washington Healthplanfinder; (2) any deadline for making the report; and (3) explaining that the report may result in a change in premium, cost-sharing amount, or program eligibility; and
- include a statement in a termination notice sent to an enrollee who has exhausted the grace period informing the enrollee that other coverage options such as Medicaid may

be available and to contact the qualified health plan or the Washington Healthplanfinder for additional information.

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**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.