SENATE BILL REPORT
HB 2326

As of February 25, 2016

Title: An act relating to streamlining the independent review organization process by transferring regulatory authority over independent review organizations from the department of health to the insurance commissioner and requiring independent review organizations to report decisions and associated information directly to the insurance commissioner.

Brief Description: Transferring regulatory authority over independent review organizations to the insurance commissioner.

Sponsors: Representatives Moeller and Appleton.

Brief History: Passed House: 2/11/16, 77-20.
Committee Activity: Health Care: 2/25/16.

SENATE COMMITTEE ON HEALTH CARE

Staff: Mich'l Needham (786-7442)

Background: A health plan enrollee may seek review by a certified independent review organization (IRO) of a health insurance carrier's adverse benefit determination. A carrier's decision to deny, modify, reduce, or terminate coverage of, or payment for, an enrollee's health care services may be reviewed by an IRO if: (1) the enrollee has exhausted the carrier's grievance process and received a final decision unfavorable to the enrollee; or (2) the carrier has exceeded the timeline for grievance resolution without good cause and without reaching a decision. Reviewers for the IRO make determinations regarding the medical necessity or appropriateness of, and the application of plan provisions to, health care services for an enrollee. The Department of Health (Department) certifies IROs, and the Office of the Insurance Commissioner (OIC) maintains a rotational registry system to assign IROs to specific disputes.

The Department adopts rules providing a procedure and criteria for certifying and regulating IROs. The rules must ensure:

- the confidentiality of medical records transmitted to IROs during the review process;
- the qualifications of each individual making independent review determinations;
- the absence of actual or potential conflicts of interest or bias of IROs;
- the fairness of IRO decision-making procedures;
- the timeliness of IRO decisions;

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- the timely notice of IRO decisions to enrollees;
- the presence of quality assurance mechanisms in IRO processes; and
- IRO compliance with any other reasonable requirements established by the Department.

The rules must also include provisions for termination of IRO certification if an organization fails to comply with certification requirements. The Department has authority to review the operation and performance of IROs in response to complaints or other concerns about compliance.

The OIC establishes and administers a rotational registry system to assign certified IROs to each dispute. The system is designed to ensure that assigned IROs have the necessary expertise to review the medical condition or procedure underlying the dispute and that IROs are free of any conflicts of interest or bias that would jeopardize their ability to make independent decisions. Carriers must select IROs in the rotational manner described in the online registry system. Agency rules also require that health plan carriers submit final IRO decisions to the OIC's online database within three business days of receipt of the final IRO decision.

Summary of Bill: Regulatory authority over IROs is transferred from the Department to the OIC. The Insurance Commissioner (Commissioner) is responsible for certifying IROs and must adopt rules by January 1, 2017, providing a procedure and criteria for IRO certification. The Commissioner must adopt rules consistent with statutory requirements previously administered by the Department. In addition, the Commissioner must adopt rules requiring IROs to report decisions and associated information directly to the Commissioner.

IROs remain subject to rules adopted by the Department through December 31, 2016. Beginning January 1, 2017, the Commissioner has sole authority to certify IROs and must automatically certify each IRO that was certified in good standing by the Department on December 31, 2016.

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: PRO: We worked this language out over the interim and it now provides important streamlining of the process with IROs. This will have them report direct to the OIC rather than to the carriers. OIC has already created the database that will allow the decisions to be tracked for patterns. The OIC already has a good part of the responsibility and the bill transfers the rest but it does not add authority to change the current process or functions.

Persons Testifying: PRO: Sydney Smith Zvara, Association of Washington Healthcare Plans; Lonnie Johns-Brown, Office of the Insurance Commissioner; kathy Gano , Premera Blue cross.

Persons Signed In To Testify But Not Testifying: No one.