
SENATE BILL 6488

State of Washington

64th Legislature

2016 Regular Session

By Senators Becker, Parlette, Dammeier, Schoesler, Brown, Bailey, Honeyford, and King

Read first time 01/22/16. Referred to Committee on Health Care.

1 AN ACT Relating to seeking a federal innovation waiver to expand
2 an employer-based coverage option with a portable health care
3 account; adding a new section to chapter 41.05 RCW; and creating new
4 sections.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that section
7 1332 of the patient protection and affordable care act provides the
8 secretary of health and human services and the secretary of the
9 treasury with the discretion to approve a state's proposal to waive
10 specific provisions of the federal law, provided the proposal meets
11 certain requirements. The agencies may exercise their discretion to
12 approve a request for a state innovation waiver only if they
13 determine the proposal meets the following four requirements: (a) The
14 proposal will provide coverage to at least a comparable number of the
15 state's residents as would be provided absent the waiver; (b) the
16 proposal will provide coverage and cost-sharing protections against
17 excessive out-of-pocket spending that are at least as affordable for
18 the state's residents as would be provided absent the waiver; (c) the
19 proposal will provide coverage that is at least as comprehensive for
20 the state's residents as would be provided absent the waiver; and (d)
21 the proposal will not increase the federal deficit.

1 (2) The legislature therefore intends to apply for a waiver to
2 permit the state to innovatively expand health care coverage for
3 individuals with employer-provided portable health care accounts and
4 seek opportunities to expand financing of the innovative coverage
5 approach and integrate the arrangements with the health benefit
6 exchange coverage and financing options.

7 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.05
8 RCW to read as follows:

9 (1)(a) The authority, in consultation with the office of the
10 insurance commissioner, shall apply to the federal government for a
11 waiver to permit employers in this state to integrate certain
12 employer health care arrangements with individual market policies.
13 For purposes of this section, an employer health care arrangement
14 must be an account-based plan that:

15 (i) Requires transfer of employer and employee contributions to
16 an account owned or controlled by the employee with the account being
17 portable from employer to employer;

18 (ii) Ensures the accounts are maintained or operated in a way
19 that account funds are used to pay only qualified medical expenses
20 under section 213(d) of the internal revenue code, to the extent
21 account funds are tax deductible pursuant to federal law;

22 (iii) Authorizes any funds in the account to be used to pay any
23 share of the premium for a policy purchased through a health benefit
24 exchange for which a refundable credit is paid pursuant to the
25 affordable care act, or any individual market policy available
26 outside the health benefit exchange;

27 (iv) Provides that all employees and employee family members for
28 whom an employer is not providing coverage are eligible to make tax
29 deductible contributions and receive employer contributions to the
30 account, including all part-time and seasonal employees;

31 (v) Authorizes the account to be combined with other accounts
32 established on behalf of a family to make premium payments and other
33 health care expenditures;

34 (vi) Requires the account to be structured to receive funds
35 electronically, including funds from multiple employers on behalf of
36 an individual or family and to aggregate funds for paying premiums
37 and other health care expenses;

38 (vii) Requires the electronic payment process to include an audit
39 trail to track and verify premium payments and is reconciled no less

1 frequently than monthly to ensure that funds received from employers
2 and employees are properly credited to accounts; and

3 (viii) Requires payments made from the accounts be considered
4 second-party payments consistent with requirements established in RCW
5 48.43.059.

6 (b) In preparing the application, the authority must provide
7 actuarial analyses and actuarial certifications, economic analyses,
8 data and assumptions, targets, an implementation timeline, a ten-year
9 budget, and other documentation necessary to support the estimates
10 included in the waiver. Documentation requirements include the
11 following:

12 (i) The proposal must assess whether a comparable number of
13 individuals will have coverage, including low-income individuals,
14 elderly individuals, and those with serious health issues. The
15 analysis and supporting data must include information on the number
16 of individuals covered by income, health status, and age groups,
17 under current law and under the waiver, including year-by-year
18 estimates;

19 (ii) The affordability of coverage for state residents must
20 compare residents' net out-of-pocket expenses including premium
21 contributions and any cost sharing, such as deductibles, copays, and
22 coinsurance. Spending on health care services that are not covered by
23 a plan may also be taken into account if they are affected by the
24 waiver proposal. The assessment of the affordability must also take
25 into account the effects across different groups of state residents,
26 including vulnerable residents, low-income individuals, elderly
27 individuals, and those with serious health issues. The information
28 must include estimated individual out-of-pocket costs by income,
29 health status, and age groups, absent the waiver and with the waiver;

30 (iii) To meet the requirement for comprehensiveness under the
31 waiver, the application must compare coverage under the waiver to the
32 state's essential health benefits benchmark plan, and the application
33 must demonstrate the number of individuals with coverage that
34 satisfies the essential health benefit requirements is not reduced;
35 and

36 (iv) To meet the requirement for deficit neutrality for the
37 federal spending, the application must demonstrate the net federal
38 spending under the waiver is equal to or lower than projected federal
39 spending in the absence of the waiver. Estimated impacts may include
40 changes in the premium tax credit and health coverage tax credit,

1 individual shared responsibility payments, employer shared
2 responsibility payments, the excise tax on high-cost employer
3 sponsored plans, the credit for small businesses offering health
4 insurance, and changes in income and payroll taxes. Waivers must not
5 increase the federal deficit over the five-year period of the waiver
6 or in total over the ten-year budget plan that is required to be
7 submitted with the waiver application.

8 (c) In preparing the application, the authority must provide
9 public notice and a comment period prior to submitting the
10 application. As required by federal regulation, the process must
11 include a separate process for meaningful consultation with the
12 federally recognized tribes.

13 (2) Upon receipt of the waiver, the authority shall promptly
14 notify in writing the governor and the appropriate committees of the
15 legislature.

16 (3) The authority shall provide status reports to the joint
17 select committee on health care oversight, as requested by the
18 committee.

19 NEW SECTION. **Sec. 3.** If specific funding for the purposes of
20 this act, referencing this act by bill or chapter number, is not
21 provided by July 1, 2016, in the omnibus operating appropriations
22 act, this act is null and void.

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