

SENATE BILL REPORT

ESB 5518

As Amended by House, February 28, 2018

Title: An act relating to fair reimbursement for chiropractic services.

Brief Description: Requiring fair reimbursement for chiropractic services.

Sponsors: Senators Miloscia, Cleveland, Keiser, O'Ban and Fortunato.

Brief History:

Committee Activity: Health Care: 2/07/17, 2/16/17 [DP-WM, w/oRec].

Ways & Means: 1/23/18, 1/31/18 [w/oRec].

Floor Activity:

Passed Senate: 2/07/18, 45-3.

Passed House: 2/28/18, 86-12.

Brief Summary of Engrossed Bill

- Requires health insurance carriers to pay chiropractors the same as they pay other providers for a spinal manipulation code.

SENATE COMMITTEE ON HEALTH CARE

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Rivers, Chair; Becker, Vice Chair; Cleveland, Ranking Minority Member; Kuderer, Assistant Ranking Minority Member; Bailey, Conway, Keiser, Miloscia, O'Ban and Walsh.

Minority Report: That it be referred without recommendation.

Signed by Senators Fain and Mullet.

Staff: Evan Klein (786-7483)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That it be referred without recommendation.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair; Braun, Ranking Member; Honeyford, Assistant Ranking Member; Bailey, Becker, Billig, Brown, Carlyle, Conway,

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Darneille, Fain, Hasegawa, Hunt, Keiser, Mullet, Palumbo, Pedersen, Ranker, Rivers, Schoesler, Van De Wege, Wagoner and Warnick.

Staff: Sandy Stith (786-7710)

Background: The legislation passed in 2008 placed limitations on health insurance carriers' payment methodologies for chiropractic services. Health carriers may not use a payment method that pays chiropractors less than another type of provider for the same physical medicine and rehabilitation code or evaluation and management code. The carrier may not circumvent the requirement by creating a chiropractor-specific code not listed in the nationally recognized code book otherwise used by the carrier for provider payment.

Summary of Engrossed Bill: Beginning January 1, 2019, regulated health insurance carriers must not pay a chiropractor less than another type of provider for the same or substantially similar physical medicine and rehabilitation code, evaluation and management code, or spinal manipulation code.

The section does not affect a carrier's authority to pay a chiropractor less based on differences in maintaining a practice or carrying malpractice insurance, under a nationally accepted payment methodology.

The Office of the Insurance Commissioner may adopt rules to implement this requirement.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Section 1 of the bill takes effect on January 1, 2018.

Staff Summary of Public Testimony (Health Care): *Testimony from 2017 Regular Session.*
PRO: We are not concerned with other providers but with the formulas used for reimbursement. There is a significant payment disparity, nearing 90 percent difference in reimbursement for the same service. Chiropractors are not able to negotiate with carriers for reimbursement rates. The contracts are take it or leave it contracts and we simply want to eliminate the disparity in payment for the same services. The resource based relative value system (RBRVS) is designed to provide a value scale as a national standard that allows an apple to apple comparison for the same procedure. We are reimbursed 90 percent less than other providers for the same service and this disparity needs to be addressed at the state level.

CON: Plans set reimbursement rates to keep premiums affordable for consumers. Payments should be based on costs to provide the services and these providers have lower costs. There is long standing antidiscrimination language in the insurance code that ensures plans cannot discriminate. The fiscal note concerns expressed by the state plans reflect the concerns from the private plans that this will add to premium costs. We have concern with plans paying all providers the same rate for the same codes since the codes reflect additional costs for providers, with practice expense, work component, and liability insurance built into the rate

assumptions. Plans set reimbursement where we can leverage cost savings for customers but this bill drives cost up for customers.

Persons Testifying (Health Care): PRO: Lori Grassi, Washington State Chiropractic Association; Dr. Austin McMillin, Washington State Chiropractic Association.

CON: Steve Gano, Premera Blue Cross; Mel Sorensen, America's Health Insurance Plans; David Knutson, Washington Osteopathic Medical Association; Zach Snyder, Regence Blue Shield.

Persons Signed In To Testify But Not Testifying (Health Care): No one.

Staff Summary of Public Testimony (Ways & Means): PRO: The goal is not only to have a just system, but to make sure we save money in the long run. It is important to understand how the relative value works. When you multiply relative value by the conversion factor, which is the geographic dollars for the state, it does not equal the pay that chiropractors are receiving from insurers. Chiropractors are being paid less than their relative value while other providers that do the same service are being paid more than their relative value. The goal is for the Legislature to tell insurers to stop the unfair payment practice. What is happening is that the co-pay exceeds the allowed amount, so the patient is paying the chiropractor out of pocket. There is no benefit. This is a discount plan. Two other issues that were not addressed are that benefits would increase. This is not true. Benefits were not addressed in the bill. Insurers set those. The other issue is that premiums go up. That is not true either. Insurers can lower other payments to compensate. As a doctor, I served as part of a group that served to set the rates part of resource-based relative value, fees, and reasonable reimbursement. I sat on the original American Medical Association panel that set the chiropractic spinal manipulation codes that were modeled after osteopathic spinal manipulation codes. They are basically able to be cross-walked to each other. Procedure codes are independent of provider type. The problem with what is going on now is that insurers are not providing the relative value ratio. Insurers are not following that ratio. For chiropractors it is about 10 percent less. Insurers are paying about 50 percent less. This is an unreasonable practice and this disadvantages their patients. It also keeps chiropractors from accessing continuing education. This bill sets a level playing field. RBRVS has been the standard for over 20 years. Our talks with the insurance companies have gone nowhere. There have been at least three studies that have shown that the use of chiropractors saves insurance plans money in unnecessary imaging, surgery, and medication. We also have a great record of helping with pain management. We encourage your support of this bill.

CON: We cover over 6.9 million members in the state. We oppose this bill because it increases costs. Whenever we have to pay more for coverage this gets passed on to consumers. We have to bill our consumers for the services they receive. This bill removes the ability of issuers to negotiate effectively. Therefore we are unable to negotiate for appropriate reimbursement levels. We cover over 1 million lives. We use our bargaining position in order to deliver the most affordable care possible. This bill artificially raises chiropractic rates to the level of osteopaths. This will increase our costs by millions of dollars, which will be passed on to consumers. In 2018, we saw rates go up by 36 percent. This would be another cost driver. In 2018, we did not see a single chiropractor request their contract be terminated for rates that were too low. I ask that you oppose this bill.

Persons Testifying (Ways & Means): PRO: Senator Mark Miloscia, Prime Sponsor; Austin McMillin, DC, Washington State Chiropractic Association; Lori Grassi, Washington State Chiropractic Association.

CON: Meg Jones, Association of Washington Health Plans; Zach Snyder, Regence BlueShield.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.

EFFECT OF HOUSE AMENDMENT(S):

- Clarifies that a health carrier's authority to pay a chiropractor less than another provider for procedures or services under the same or substantially similar code is not affected, as opposed to the same or an equivalent code not being affected.