

2SSB 5602 - H COMM AMD
By Committee on Appropriations

NOT ADOPTED 04/16/2019

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds and declares:

4 (1) It is the public policy of this state to provide the maximum
5 access to reproductive health care and reproductive health care
6 coverage for all people in Washington state.

7 (2) In 2018, the legislature passed Substitute Senate Bill No.
8 6219. Along with reproductive health care coverage requirements, the
9 bill mandated a literature review of barriers to reproductive health
10 care. As documented by the report submitted to the legislature on
11 January 1, 2019, young people, immigrants, people living in rural
12 communities, transgender and gender nonconforming people, and people
13 of color still face significant barriers to getting the reproductive
14 health care they need.

15 (3) Immigrants in Washington state are a vital contributor to the
16 culture, economy, and life of the people of Washington. Yet federal
17 law prohibits some immigrants, who would otherwise be eligible for
18 medical coverage, from receiving the health benefits and timely
19 access to health care provided through federally funded coverage
20 programs.

21 (4) This lack of coverage negatively affects the reproductive
22 health, family planning, and reproductive autonomy of excluded
23 immigrants living in Washington state.

24 (5) Washingtonians who are transgender and gender nonconforming
25 have important reproductive health care needs as well. These needs go
26 unmet when, in the process of seeking care, transgender and gender
27 nonconforming people are stigmatized or are denied critical health
28 services because of their gender identity or expression.

29 (6) The literature review mandated by Substitute Senate Bill No.
30 6219 found that, "[a]ccording to 2015 U.S. Transgender Survey data,
31 thirty-two percent of transgender respondents in Washington State

1 reported that in the previous year they did not see a doctor when
2 needed because they could not afford it."

3 (7) Existing state law should be enhanced to ensure greater
4 coverage of and timely access to reproductive health care for the
5 benefit of all Washingtonians, regardless of immigration status, or
6 gender identity or expression.

7 (8) Because stigma is also a key barrier to access to
8 reproductive health care, all Washingtonians, regardless of gender
9 identity or immigration status, should be free from discrimination in
10 the provision of health care services, health care plan coverage, and
11 in access to publicly funded health coverage.

12 (9) All people should have access to robust reproductive health
13 services to maintain and improve their reproductive health.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.09
15 RCW to read as follows:

16 (1) By January 1, 2020, the authority shall administer a program
17 for individuals over nineteen years of age who would be eligible for
18 the Washington state family planning waiver program, currently known
19 as the take charge program, if not for 8 U.S.C. Sec. 1611 or 1612.

20 (2) The program shall provide services identical to those
21 services covered by the Washington state family planning waiver
22 program as of August 2018.

23 (3) The authority shall establish a comprehensive community
24 education and outreach campaign, working with stakeholder and
25 community organizations, to provide culturally and linguistically
26 accessible information to facilitate participation in the program
27 including, but not limited to, enrollment procedures, program
28 services, and benefit utilization.

29 NEW SECTION. **Sec. 3.** A new section is added to chapter 74.09
30 RCW to read as follows:

31 (1) In the provision of reproductive health care services through
32 programs under this chapter, the authority, managed care plans, and
33 providers that administer or deliver such services may not
34 discriminate in the delivery of a service provided through a program
35 of the authority based on the covered person's gender identity or
36 expression.

37 (2) The authority and any managed care plans delivering or
38 administering services purchased or contracted for by the authority,

1 may not issue automatic initial denials of coverage for reproductive
2 health care services that are ordinarily or exclusively available to
3 individuals of one gender, based on the fact that the individual's
4 gender assigned at birth, gender identity, or gender otherwise
5 recorded in one or more government-issued documents, is different
6 from the one to which such health services are ordinarily or
7 exclusively available.

8 (3) Denials as described in subsection (2) of this section are
9 prohibited discrimination under chapter 49.60 RCW.

10 (4) The definitions in this subsection apply throughout this
11 section unless the context clearly requires otherwise.

12 (a) "Gender expression" means a person's gender-related
13 appearance and behavior, whether or not stereotypically associated
14 with the person's gender assigned at birth.

15 (b) "Gender identity" means a person's internal sense of the
16 person's own gender, regardless of the person's gender assigned at
17 birth.

18 (c) "Reproductive health care services" means any medical
19 services or treatments, including pharmaceutical and preventive care
20 service or treatments, directly involved in the reproductive system
21 and its processes, functions, and organs involved in reproduction, in
22 all stages of life. Reproductive health care services does not
23 include infertility treatment.

24 (d) "Reproductive system" includes, but is not limited to:
25 Genitals, gonads, the uterus, ovaries, fallopian tubes, and breasts.

26 (5) This section must not be construed to authorize
27 discrimination on the basis of a covered person's gender identity or
28 expression in the administration of any other medical assistance
29 programs administered by the authority.

30 **Sec. 4.** RCW 48.43.072 and 2018 c 119 s 2 are each amended to
31 read as follows:

32 (1) A health plan (~~((issued or renewed on or after January 1,~~
33 ~~2019,))~~ or student health plan, including student health plans deemed
34 by the insurance commissioner to have a short-term limited purpose or
35 duration or to be guaranteed renewable while the covered person is
36 enrolled as a regular full-time undergraduate or graduate student at
37 an accredited higher education institution, shall provide coverage
38 for:

1 (a) All contraceptive drugs, devices, and other products,
2 approved by the federal food and drug administration, including
3 over-the-counter contraceptive drugs, devices, and products, approved
4 by the federal food and drug administration. This includes condoms,
5 regardless of the gender or sexual orientation of the covered person,
6 and regardless of whether they are to be used for contraception or
7 exclusively for the prevention of sexually transmitted infections;

8 (b) Voluntary sterilization procedures;

9 (c) The consultations, examinations, procedures, and medical
10 services that are necessary to prescribe, dispense, insert, deliver,
11 distribute, administer, or remove the drugs, devices, and other
12 products or services in (a) and (b) of this subsection(~~(c)~~);

13 (d) The following preventive services:

14 (i) Screening for physical, mental, sexual, and reproductive
15 health care needs that arise from a sexual assault; and

16 (ii) Well-person preventive visits;

17 (e) Medically necessary services and prescription medications for
18 the treatment of physical, mental, sexual, and reproductive health
19 care needs that arise from a sexual assault; and

20 (f) The following reproductive health-related over-the-counter
21 drugs and products approved by the federal food and drug
22 administration: Prenatal vitamins for pregnant persons; and breast
23 pumps for covered persons expecting the birth or adoption of a child.

24 (2) The coverage required by subsection (1) of this section:

25 (a) May not require copayments, deductibles, or other forms of
26 cost sharing(~~(c)~~):

27 (i) Except for:

28 (A) The medically necessary services and prescription medications
29 required by subsection (1)(e) of this section; and

30 (B) The drugs and products in subsection (1)(f) of this section;
31 or

32 (ii) Unless the health plan is offered as a qualifying health
33 plan for a health savings account. For such a qualifying health plan,
34 the carrier must establish the plan's cost sharing for the coverage
35 required by subsection (1) of this section at the minimum level
36 necessary to preserve the enrollee's ability to claim tax exempt
37 contributions and withdrawals from ((his or her)) the enrollee's
38 health savings account under internal revenue service laws and
39 regulations; and

1 (b) May not require a prescription to trigger coverage of
2 over-the-counter contraceptive drugs, devices, and products, approved
3 by the federal food and drug administration, except those
4 reproductive health related drugs and products as set forth in
5 subsection (1)(f) of this section.

6 (3) A health carrier may not deny the coverage required in
7 subsection (1) of this section because an enrollee changed (~~his or~~
8 ~~her~~) the enrollee's contraceptive method within a twelve-month
9 period.

10 (4) Except as otherwise authorized under this section, a health
11 benefit plan may not impose any restrictions or delays on the
12 coverage required under this section, such as medical management
13 techniques that limit enrollee choice in accessing the full range of
14 contraceptive drugs, devices, or other products, approved by the
15 federal food and drug administration.

16 (5) Benefits provided under this section must be extended to all
17 enrollees, enrolled spouses, and enrolled dependents.

18 (6) This section may not be construed to allow for denial of care
19 on the basis of race, color, national origin, sex, sexual
20 orientation, gender expression or identity, marital status, age,
21 citizenship, immigration status, or disability.

22 (7) A health plan or student health plan, including student
23 health plans deemed by the insurance commissioner to have a short-
24 term limited purpose or duration or to be guaranteed renewable while
25 the covered person is enrolled as a regular full-time undergraduate
26 or graduate student at an accredited higher education institution,
27 issued or renewed on or after January 1, 2021, may not issue
28 automatic initial denials of coverage for reproductive health care
29 services that are ordinarily or exclusively available to individuals
30 of one gender, based on the fact that the individual's gender
31 assigned at birth, gender identity, or gender otherwise recorded in
32 one or more government-issued documents, is different from the one to
33 which such health services are ordinarily or exclusively available.

34 (8) The definitions in this subsection apply throughout this
35 section unless the context clearly requires otherwise.

36 (a) "Gender expression" means a person's gender-related
37 appearance and behavior, whether or not stereotypically associated
38 with the person's gender assigned at birth.

1 (b) "Gender identity" means a person's internal sense of the
2 person's own gender, regardless of the person's gender assigned at
3 birth.

4 (c) "Reproductive health care services" means any medical
5 services or treatments, including pharmaceutical and preventive care
6 service or treatments, directly involved in the reproductive system
7 and its processes, functions, and organs involved in reproduction, in
8 all stages of life. Reproductive health care services does not
9 include infertility treatment.

10 (d) "Reproductive system" includes, but is not limited to:
11 Genitals, gonads, the uterus, ovaries, fallopian tubes, and breasts.

12 (e) "Well-person preventive visits" means the preventive annual
13 visits recommended by the federal health resources and services
14 administration women's preventive services guidelines, with the
15 understanding that those visits must be covered for women, and when
16 medically appropriate, for transgender, nonbinary, and intersex
17 individuals.

18 (9) This section may not be construed to authorize discrimination
19 on the basis of gender identity or expression, or perceived gender
20 identity or expression, in the provision of nonreproductive health
21 care services.

22 (10) The commissioner, under RCW 48.30.300, and the human rights
23 commission, under chapter 49.60 RCW shall share enforcement authority
24 over complaints of discrimination under this section as set forth in
25 RCW 49.60.178.

26 (11) The commissioner may adopt rules to implement this section.

27 NEW SECTION. Sec. 5. A new section is added to chapter 74.09
28 RCW to read as follows:

29 Beginning January 1, 2021, the authority shall provide coverage
30 under this chapter for:

31 (1) Screening for gonorrhea, chlamydia, syphilis, and human
32 immunodeficiency virus;

33 (2) Pre-exposure prophylaxis and postexposure prophylaxis; and

34 (3) Condoms, regardless of the gender or sexual orientation of
35 the covered person, and regardless of whether they are used for
36 contraception or exclusively for the prevention of sexually
37 transmitted infections.

1 NEW SECTION. **Sec. 6.** A new section is added to chapter 41.05
2 RCW to read as follows:

3 (1) A health plan offered to employees, school employees, and
4 their covered dependents under this chapter issued or renewed on or
5 after January 1, 2021, shall provide coverage for:

6 (a) Screening for gonorrhea, chlamydia, syphilis, and human
7 immunodeficiency virus;

8 (b) Pre-exposure prophylaxis and postexposure prophylaxis; and

9 (c) Condoms, regardless of the gender or sexual orientation of
10 the covered person, and regardless of whether they are used for
11 contraception or exclusively for the prevention of sexually
12 transmitted infections.

13 (2) The coverage required by this section may not require
14 copayments, deductibles, or other forms of cost sharing, unless the
15 health plan is offered as a qualifying health plan for a health
16 savings account. For such qualifying health plan, the plan's cost
17 sharing for the coverage required by this section must be established
18 at the minimum level necessary to preserve the enrollee's ability to
19 claim tax exempt contributions and withdrawals from the enrollee's
20 health savings account under internal revenue service laws and
21 regulations.

22 NEW SECTION. **Sec. 7.** A new section is added to chapter 48.43
23 RCW to read as follows:

24 (1) The legislature intends to codify the state's current
25 practice of requiring health carriers to bill enrollees with a single
26 invoice and to segregate into a separate account the premium
27 attributable to abortion services for which federal funding is
28 prohibited. Washington has achieved full compliance with section 1303
29 of the federal patient protection and affordable care act by
30 requiring health carriers to submit a single invoice to enrollees and
31 to segregate into a separate account the premium amounts attributable
32 to coverage of abortion services for which federal funding is
33 prohibited. Further, section 1303 states that the act does not
34 preempt or otherwise have any effect on state laws regarding the
35 prohibition of, or requirement of, coverage, funding, or procedural
36 requirements on abortions.

37 (2) In accordance with RCW 48.43.073 related to requirements for
38 coverage and funding of abortion services, an issuer offering a
39 qualified health plan must:

1 (a) Bill enrollees and collect payment through a single invoice
2 that includes all benefits and services covered by the qualified
3 health plan; and

4 (b) Include in the segregation plan required under applicable
5 federal and state law a certification that the issuer's billing and
6 payment processes meet the requirements of this section.

7 NEW SECTION. **Sec. 8.** If specific funding for the purposes of
8 this act, referencing this act by bill or chapter number, is not
9 provided by June 30, 2019, in the omnibus appropriations act, this
10 act is null and void.

11 NEW SECTION. **Sec. 9.** This act may be known and cited as the
12 reproductive health care access for all act.

13 NEW SECTION. **Sec. 10.** (1) Sections 2 and 3 of this act take
14 effect January 1, 2020.

15 (2) Section 4 of this act takes effect January 1, 2021.

16 NEW SECTION. **Sec. 11.** Section 7 of this act is necessary for
17 the immediate preservation of the public peace, health, or safety, or
18 support of the state government and its existing public institutions,
19 and takes effect immediately."

20 Correct the title.

EFFECT: Requires health carriers offering a qualified health plan to bill enrollees and collect payment through a single invoice that includes all benefits and services covered by the qualified health plan. Requires that the segregation plans of health carriers include a certification that the health carrier's billing and payment processes meet the Office of the Insurance Commissioner's requirements for the segregation of premiums.

Changes the term "body parts" to "reproductive system" and eliminates the endocrine system from the definition. Specifies that the term "reproductive health care services" includes medical services (rather than only medical treatments) which include preventive care services and treatments. Specifies that the term "reproductive health care services" does not include infertility treatment. Specifies that the term "well-person preventive visits" applies to women and, when medically appropriate, to transgender, nonbinary, and intersex individuals.

Removes the requirement that health plans and student health plans cover: (1) Screening for gonorrhea, chlamydia, syphilis, and human immunodeficiency virus; and (2) pre-exposure prophylaxis and postexposure prophylaxis.

Corrects the statutory location of provisions related to the public employees' benefits board and school employees' benefits board.

Adds a null and void clause. The bill is null and void unless funded in the budget.

--- END ---