

# HOUSE BILL REPORT

## ESHB 1099

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### As Passed Legislature

**Title:** An act relating to providing notice about network adequacy to consumers.

**Brief Description:** Providing notice about network adequacy to consumers.

**Sponsors:** House Committee on Health Care & Wellness (originally sponsored by Representatives Jinkins, Cody, Tharinger, Robinson and Reeves).

#### **Brief History:**

##### **Committee Activity:**

Health Care & Wellness: 1/23/19, 2/8/19 [DPS].

##### **Floor Activity:**

Passed House: 3/8/19, 97-0.

Passed Senate: 3/27/19, 45-0.

Passed Legislature.

#### **Brief Summary of Engrossed Substitute Bill**

- Requires the Insurance Commissioner's rules to be amended to require each health carrier to include in its electronic provider directory a notation of any mental health or substance abuse provider whose practice is closed to new patients.
- Requires the Insurance Commissioner to publish an annual report on consumer complaints regarding network access to mental health treatment and substance abuse treatment providers.
- Requires a health carrier to publish certain information about network access on its website.

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### HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Cody, Chair; Macri, Vice Chair; Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Chambers, Davis, DeBolt, Harris, Jinkins, Maycumber, Riccelli, Robinson, Stonier, Thai and Tharinger.

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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.*

**Staff:** Jim Morishima (786-7191).

### **Background:**

Health carriers are required by federal and state law to maintain provider networks that provide enrollees reasonable access to covered services. Under rules adopted by the Insurance Commissioner (Commissioner), health carriers must meet requirements related to provider directories and timely access to covered services.

#### Provider Directories.

A health carrier must post its provider directories on its website. Provider directories must include the following information for each provider:

- the specialty area for which the provider is licensed to practice and included in the carrier's network;
- whether the provider may be accessed without referral; and
- any languages, other than English, spoken by the provider.

The carrier must include in its electronic posting of a health plan's provider directory a notation of any primary care provider, chiropractor, women's health care provider, or pediatrician whose practice is closed to new patients.

#### Timeliness Requirements.

Health carriers are subject to various timeliness requirements for urgent and nonurgent appointments. For example, an enrollee must have access within 48 hours to urgent appointments that do not require prior authorization. For urgent appointments that require prior authorization, an enrollee must have access within 96 hours. For nonurgent primary care appointments, an enrollee must have access within 10 business days. For nonurgent specialty care appointments, an enrollee must have access within 15 days.

### **Summary of Engrossed Substitute Bill:**

The Insurance Commissioner (Commissioner) must amend his rules on electronic provider directories to require health carriers to include a notation when any mental health provider or substance abuse provider is closed to new patients.

The Commissioner must annually publish on the Commissioner's website a report on the number of consumer complaints per licensed health carrier the Commissioner received in the previous calendar year regarding consumers who were not able to access covered mental health treatment or substance abuse treatment services within time limits established by the Commissioner for primary or specialty care.

Beginning January 1, 2020, a health carrier must prominently post the following information on its website:

- whether the health carrier classifies mental health treatment or substance abuse treatment as primary care or specialty care;

- the number of business days within which an enrollee must have access to covered mental health treatment or substance abuse treatment services under the Commissioner's network access standards pertaining to primary care or specialty care, as applicable;
- information on actions an enrollee may take if he or she is unable to access covered mental health treatment or substance abuse treatment services within the requisite number of business days, including any tools or resources the carrier makes available to enrollees to assist them in finding available providers and how to file a complaint with the Office of the Insurance Commissioner;
- any instances where the Commissioner has taken disciplinary action against the health carrier for failing to comply with network access standards for covered mental health treatment or substance abuse treatment services;
- a link to the Commissioner's report on consumer complaints regarding network access to covered mental health treatment or substance abuse treatment services; and
- resources for persons who are experiencing a mental health crisis, including information on the National Suicide Prevention Lifeline.

The Commissioner must, by rule, specify a model format for the information to be posted on the carrier's website. The Commissioner may audit the information posted on the carrier's website for accuracy.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) This bill is about transparency and making sure consumers have the information they need when purchasing coverage. Health carriers promise consumers that they will receive care when they need it. Nevertheless, enrollees often have to wait weeks for appointments for covered services and are given the runaround when they contact the carrier for assistance. This can lead to serious consequences, including death by suicide. If consumers were given information on how often carriers are meeting their internal standards on timeliness, they could make informed coverage decisions during open enrollment periods. Purchasing insurance on the individual market is complicated; consumers have lots of choices. Consumers have the right to understand the coverage they are purchasing and this bill is an important tool for the toolbox.

(Opposed) None.

(Other) This is an important bill. The Insurance Commissioner has been working on network access and has adopted standards that have been in place for a short time. This bill should be amended so it can be operationalized and to avoid unintended consequences. Consumers should be able to access care and select a plan based on the network they prefer. This type of

transparency has value to consumers. This information should be provided to consumers in a form that is easy to digest.

**Persons Testifying:** (In support) Representative Jenkins, prime sponsor; Rachel Smith; and Melanie Smith, National Alliance on Mental Illness.

(Other) Lonnie Johns-Brown, Office of the Insurance Commissioner; Meg Jones, Association of Washington Healthcare Plans; and Zach Snyder, Regence Blue Shield.

**Persons Signed In To Testify But Not Testifying:** None.