

# HOUSE BILL REPORT

## ESSB 5741

**As Reported by House Committee On:**  
Innovation, Technology & Economic Development  
Appropriations

**Title:** An act relating to making changes to support future operations of the state all payer claims database by transferring the responsibility to the health care authority, partnering with a lead organization with broad data experience, including with self-insured employers, and other changes to improve and ensure successful and sustainable database operations for access to and use of the data to improve health care, providing consumers useful and consistent quality and cost measures, and assess total cost of care in Washington state.

**Brief Description:** Making changes to support future operations of the state all payer claims database by transferring the responsibility to the health care authority, partnering with a lead organization with broad data experience, including with self-insured employers, and other changes to improve and ensure successful and sustainable database operations for access to and use of the data to improve health care, providing consumers useful and consistent quality and cost measures, and assess total cost of care in Washington state.

**Sponsors:** Senate Committee on Health & Long Term Care (originally sponsored by Senators Keiser, Rivers, Frockt and Mullet; by request of Office of Financial Management and Health Care Authority).

**Brief History:**

**Committee Activity:**

Innovation, Technology & Economic Development: 3/26/19, 3/27/19 [DPA];  
Appropriations: 4/5/19, 4/8/19 [DPA(APP w/o ITED)].

**Brief Summary of Engrossed Substitute Bill  
(As Amended by Committee)**

- Transfers authority of the statewide, all-payer health care claims database (APCD) from the Office of Financial Management (OFM) to the Washington State Health Care Authority (HCA) on January 1, 2020.
- Requires the HCA to convene a state agency coordinating structure, with oversight from the OFM, to assess and improve APCD performance.
- Modifies the procurement process for selecting a lead organization to coordinate and manage the APCD.

*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.*

- Changes certain release of claims data and APCD management requirements.

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## HOUSE COMMITTEE ON INNOVATION, TECHNOLOGY & ECONOMIC DEVELOPMENT

**Majority Report:** Do pass as amended. Signed by 9 members: Representatives Hudgins, Chair; Kloba, Vice Chair; Smith, Ranking Minority Member; Boehnke, Assistant Ranking Minority Member; Morris, Slatter, Tarleton, Van Werven and Wylie.

**Staff:** Kyle Raymond (786-7190).

### **Background:**

In 2014 the Legislature directed the Office of Financial Management (OFM) to establish a statewide all-payer health care claims database (APCD) to support transparent public reporting of health care information.

### Lead Organization.

The OFM Director is required to select a lead organization to coordinate and manage the APCD. The lead organization is responsible for internal governance, management, funding, and operations of the database. At the direction of the OFM, the lead organization works with the data vendor to collect claims data, design data collection mechanisms, ensure protection of the data, provide reports from the database, develop protocols and policies, develop a plan for financial sustainability, charge fees for reports and data files, and convene advisory committees.

The OFM must initiate a competitive procurement process to select a lead organization, and the lead organization's proposal must be awarded additional scoring evaluation points for the organization's:

- degree of relevant experience in health care data collection, analysis, analytics, and security;
- long-term self-sustainable financial model;
- experience convening and effectively engaging stakeholders to develop reports;
- experience meeting budget and timelines for report generations; and
- ability to combine cost and quality data.

The lead organization must enter into a contract with a data vendor to perform data collection, processing, aggregation, extracts, and analytics.

In July 2016 the OFM Director selected the Center for Health Systems Effectiveness (CHSE) at the Oregon Health and Science University as the lead organization and Onpoint Health as the data vendor to coordinate and manage the APCD.

### Claims Data Management.

*Data Submission.* Data suppliers must submit claims data to the APCD within an established time frame. The state Medicaid program, the Public Employees' Benefits Board program,

state health carriers, third-party administrators, and the Department of Labor and Industries must submit their claims data to the database, and the CHSE must submit an annual status report to the OFM regarding their compliance. Claims data consists of all data required to be submitted to the database, which includes billed amounts, allowed amounts, paid amounts, and additional information defined in rule.

*Database Funding.* The CHSE, in conjunction with Onpoint Health, is required to develop a financial sustainability plan for the APCD, and the database must be self-sustaining. The CHSE is permitted to charge providers or other data suppliers fees directly related to data files.

*Release of Claims Data.* Data from the APCD is available for retrieval by public and private requesters, and requested data must be made available within a reasonable time after the request. Requests for claims data must include information about: the requester's identity; the purpose for the request; the proposed methodology with specific variables intended for use; the requester intended data handling practices and safety measures; the data privacy and confidentiality protection; and consent to penalties for inappropriate disclosures or uses of direct patient identifiers and proprietary financial information. The requesters must also include a description of the method by which the data will be stored, destroyed, or returned to the CHSE at the conclusion of the data agreement.

The CHSE may deny a request for data if the request does not include the required information or meet established criteria. In conjunction with the OFM and the data vendor, the CHSE must develop a process to govern levels of access to, as well as use of, data. Data that includes proprietary financial information, direct patient identifiers, or indirect patient identifiers may only be released to researchers to the extent necessary to achieve the goals of the APCD. The OFM is required to adopt procedures for data release, penalties associated with inappropriate disclosures, and uses of patient identifiers and proprietary financial information.

*Confidentiality.* The CHSE and the data vendor must maintain confidentiality of claims or other data it collects, and confidentiality extends to any entity that receives data. Data recipients may only release data approved as part of the data request, which must not include proprietary financial information, direct patient identifiers, or indirect patient identifiers. Recipients of data must agree to the conditions in a data use or confidentiality agreement.

#### Reporting Requirements.

Under the supervision of the OFM, the CHSE is required to prepare data reports using the APCD and the Statewide Health Performance and Quality Measure to promote awareness and transparency in the health care market. The CHSE must submit a list of reports it anticipates producing during the following year to the OFM, who must submit the report to the Legislature with public comment.

The OFM is required to submit a report to the Legislature every six months detailing all grants it receives or extends. The OFM must also report the cost, performance, and effectiveness of the APCD and the performance of the CHSE to the Legislature biennially. The report must use independent economic expertise to evaluate the lead organization's performance and whether the APCD has advanced its stated goals. The report must also

make recommendations on: (1) how the database could be improved; (2) whether the contract with the lead organization should be modified, renewed, or terminated; and (3) the impact the database has had on competition.

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### **Summary of Amended Bill:**

#### Statewide Health Care Database Transfer.

The OFM must transfer authority and oversight of the APCD to the HCA on January 1, 2020. The OFM and the HCA are required to develop a transition plan by July 1, 2019, that sustains operations.

The OFM must deliver all materials necessary for the HCA to transfer the database, including reports, documents, records, and other written materials. All OFM funds, credits, or specific appropriations that are solely for the purpose of coordinating or managing the APCD must be assigned to the HCA.

The HCA will continue to act on all OFM rules, pending business, and existing contracts and obligations. The transfer of the powers, duties, and functions to the HCA does not affect the validity of any OFM act performed.

The OFM Director must make final determination on any questions that arise related to the APCD transfer, and the OFM Director must also certify any budgeted fund allotments required as a result of the transfer to the agencies affected, the Washington State Auditor, and the Office of the State Treasurer.

The HCA maintains the OFM requirement to biennially report the cost, performance, and effectiveness of the APCD and the lead organization's performance under its contract with the HCA. The HCA grant reporting requirement to the Legislature is extended from six months to one year.

#### Lead Organization Procurement.

The HCA's procurement process for selecting a lead organization to coordinate and manage the database is modified to:

- remove the requirement that the HCA select from the best potential bidders;
- authorize the lead organization to contract with multiple data vendors; and
- require the HCA to give strong consideration to, rather than award extra evaluation points for, the lead organization's procurement criteria.

The HCA must also give preference, when evaluating potential lead organizations, to organizations that have: (1) experience in convening and effectively engaging stakeholders to develop reports among health providers, carriers, and self-insured purchasers in the state; and (2) the ability to combine cost and quality data among health providers, carriers, and self-insured purchasers in the state.

The HCA is prohibited from selecting a health plan, hospital, health care provider, third-party administrator, or any third party with a controlling interest in any of the aforementioned entities as the lead organization for the APCD.

Claims Data Management.

*Data Submission.* The School Employees Benefit Board (SEBB) is added to the list of entities that must provide data to the APCD.

*Database Funding.* The requirement that the financial sustainability plan be self-sustaining is removed. Instead, the plan must be reasonable and customary as compared to other states' databases.

*Release of Claims Data.* Claims or data recipients are required to destroy the data they obtain at the conclusion of the data agreement. The release of claims requirement for requesters to identify the method by which data will be sorted and returned is removed.

Claims or other data that do not contain direct patient identifiers, but that may contain proprietary information, indirect patient identifiers, and unique identifiers may be released to the Washington Health Benefit Exchange upon receipt of a signed data use agreement with the HCA and the lead organization, as directed by HCA rules.

The HCA must adopt rules to establish a minimum threshold below which the data supplier is not required to submit data.

State Agency Coordinating Structure.

The HCA must convene a state agency coordinating structure to assess and improve APCD performance by state agencies. The structure must consist of state agencies with related data needs, as well as the Washington Health Benefit Exchange, to ensure effectiveness of the database and the agencies' programs. The structure must consult with the HCA in developing APCD policies and rules, including ensuring agency access to the database. The coordinating structure must also collaborate, both publicly and privately, with the lead organization and other partners.

The OFM must participate as a key part of the coordinating structure and evaluate progress towards meeting the APCD's goals. The OFM may recommend strategies for maintaining and promoting the progress of the database as needed and report its findings to the Legislature annually. The OFM must have all necessary access to APCD processes, procedures, methodologies, and outcomes to perform these functions. The annual review shall, at a minimum, assess the:

- list of approved agency case projects and related data requirements;
- successful and unsuccessful data requests and outcomes related to health researchers;
- online data portal access and effectiveness related to research requests and data provider review and reconsideration;
- adequacy of data security and the consistency of security policy with the Office of the Chief Information Officer;
- timeliness, adequacy, and responsiveness of the database requests; and
- potential improvements in data sharing, data processing, and communication.

The OFM and the HCA must jointly develop an effectiveness review process for the HCA Statewide Common Measure Set, and the OFM may make recommendations for improvements, as needed.

### **Amended Bill Compared to Engrossed Substitute Bill:**

The amended bill changes the underlying engrossed substitute bill by:

- removing a requirement for the HCA to select a lead organization from among the best potential bidders;
- prohibiting the HCA from selecting a lead organization that is, or has a controlling interest in, a health plan, hospital, health care provider, or certain third-party administrators working on behalf of a health care purchaser or health insurer;
- removing the requirement that the HCA must ensure no state officer or state employee participating in the procurement process: (a) has a conflict with the proper discharge of their duties; or (b) is a member of a bidding organization's board of directors, advisory committee, or similar group;
- adding a requirement that the HCA give preference to lead organization applicants that have experience working with health providers, carriers, and self-insured purchasers in the state;
- removing a provision specifying claims data collected in the database is owned by the state;
- removing a requirement that the lead organization may not publish any Medicaid data that is in conflict with the biannual Medicaid forecast;
- removing the July 1, 2020, effective date for the School Employees Benefits Board to begin providing data to the database;
- removing a requirement that the lead organization and the HCA must provide any person or entity with a signed data use agreement in effect on June 1, 2019, with an option to extend the agreement through June 30, 2020;
- directing the HCA, rather than the OFM, to convene the state agency coordinating structure;
- providing that the state agency coordinating structure will only provide APCD oversight for state agencies, rather than both state agencies and data users;
- requiring the coordinating structure to consult with HCA, rather than the OFM, in the development of database policies and rules; and
- removing the provision that lists Accountable Communities of Health as a partner that the state agency coordinating structure must collaborate with.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Amended Bill:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony:**

(In support) There is a lack of transparency regarding the payment of claims for medical and health care services, and the APCD was created to increase transparency. This bill transfers the administration of the APCD from the OFM to the HCA, and the two agencies have worked together extensively on the bill.

The Washington Health Alliance (Alliance) has been running a separate all-payer claims database since 2007 that includes claims data from self-insurers and the commercial market. The Alliance looks forward to the opportunity to combine the two databases. The Alliance prefers the language in the House bill and will continue to discuss the changes made to the Senate bill.

The OFM supports the amendments made to the bill in the Senate, and the changes made ensure the lead organization procurement process will be competitive and ethical. In addition, the Senate amendments clarify that the state owns the data contained in the database, which is a step towards increasing data privacy. The Senate amendment also clarifies the coordination between the HCA and the OFM, and an agreement has been reached on amendatory language that changes the OFM oversight role for the APCD.

(Opposed) None.

**Persons Testifying:** Senator Keiser, prime sponsor; Amy Brackenbury, Washington Health Alliance; Shawn O'Neill, Washington State Health Care Authority; and Scott Merriman, Office of Financial Management.

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

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** Do pass as amended by Committee on Appropriations and without amendment by Committee on Innovation, Technology & Economic Development. Signed by 28 members: Representatives Ormsby, Chair; Bergquist, 2nd Vice Chair; Robinson, 1st Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Caldier, Cody, Dolan, Dye, Fitzgibbon, Hansen, Hoff, Hudgins, Jinkins, Macri, Mosbrucker, Pettigrew, Pollet, Ryu, Senn, Springer, Stanford, Steele, Sullivan, Sutherland, Tarleton, Tharinger and Ybarra.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Rude, Assistant Ranking Minority Member; Chandler, Kraft and Schmick.

**Staff:** Catrina Lucero (786-7192).

### **Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Innovation, Technology & Economic Development:**

The striking amendment makes a number of changes. The striking amendment:

- restores the requirement that the lead organization must be selected from among the best potential bidders;

- requires the Health Care Authority to ensure no state officer or state employee participating in the procurement process: (a) has a conflict with the proper discharge of their duties; or (b) is a member of a bidding organization's board of directors or advisory committee. Any officer or employee with a prohibited relationship must withdraw from the procurement process;
- removes the in-state preference for lead organization bidders that have experience engaging stakeholders with health providers, carriers, and self-insured purchasers;
- removes the preference for lead organization bidders with experience combining cost and quality with health providers, carriers, and self-insured purchasers in state. Instead, preference is given to bidders with the ability to combine cost and quality data to assess the total cost of care;
- clarifies that any mandated claims data collected in the database is owned by the state, and claims data ownership may not be transferred to the lead organization or the data vendor. The lead organization may retain copies of the information;
- delays the effective date for the School Employees Benefits Board program to provide data to the database until July 1, 2020;
- prohibits the lead organization from publishing any Medicaid data that is in conflict with the biannual Medicaid forecast;
- requires the lead organization and the HCA to provide any person or entity with a signed data use agreement in effect on June 1, 2019, an option to extend the agreement at the same fee schedule through June 30, 2020;
- specifies that Accountable Communities of Health must be included as a collaborating partner with the state agency coordinating structure;
- modifies the purpose of the state agency coordinating structure such that the structure is responsible for ensuring the database is meeting the needs of state agencies and other data users, rather than being responsible for assessing and improving database performance by state agencies;
- modifies the role of the state agency coordinating structure such that the structure is responsible for advising the HCA and lead organization on the development of agency-relevant database policies and rules, rather than requiring the structure to consult with the HCA to develop database policies and rules;
- requires the Office of Financial Management (OFM) database progress evaluation report to be submitted biennially, rather than annually, and the report must be submitted to the Governor, in addition to the Legislature;
- requires the HCA to provide the OFM with the necessary information needed to complete the database progress evaluation report in an efficient and not overly burdensome manner;
- provides that the HCA will make State Common Measure Set effectiveness improvement recommendations to the Washington State Performance Measurement Coordinating Committee in consultation with the OFM, rather than the HCA and the OFM jointly developing an effectiveness review process for the State Common Measure Set; and
- adds a null and void clause making the bill null and void unless funded in the omnibus appropriations act.

**Appropriation:** None.

**Fiscal Note:** Available.



**Effective Date of Amended Bill:** The bill contains an emergency clause and takes effect immediately. However, the bill is null and void unless funded in the budget.

**Staff Summary of Public Testimony:**

(In support) None.

(Opposed) None.

**Persons Testifying:** None.

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