

SENATE BILL REPORT

SSB 6397

As Amended by House, March 4, 2020

Title: An act relating to nonparticipating providers.

Brief Description: Concerning nonparticipating providers.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Frockt, Rolfes and Keiser; by request of Health Care Authority).

Brief History:

Committee Activity: Ways & Means: 1/30/20, 2/04/20 [DPS].

Floor Activity:

Passed Senate: 2/14/20, 47-0.

Passed House: 3/04/20, 97-0.

<p style="text-align: center;">Brief Summary of First Substitute Bill</p> <ul style="list-style-type: none">• Extends the expiration date to July 1, 2031.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 6397 be substituted therefor, and the substitute bill do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Operating, Capital Lead; Mullet, Capital Budget Cabinet; Braun, Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Becker, Billig, Carlyle, Conway, Darneille, Dhingra, Hasegawa, Hunt, Keiser, Liias, Muzzall, Pedersen, Schoesler, Van De Wege, Wagoner, Warnick and Wilson, L..

Staff: Sandy Stith (786-7710)

Background: The 2011 Legislature passed SB 5927 to require the Medicaid-managed care plans to pay a nonparticipating provider no more than the lowest amount paid for that service under the managed care system's contracts with similar providers in the state. Nonparticipating providers must accept the amount paid by the managed care plan as payment in full, except for any deductible, co-insurance, or co-payment due from the enrollee.

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.

The Medicaid-managed care plans must meet federal requirements to maintain a network of appropriate providers sufficient to provide adequate access to all covered services. The 2011 legislation required the Health Care Authority to monitor and report on the proportion of services provided by contracted providers and nonparticipating providers, by county, for each managed care plan to ensure the network adequacy requirements were met.

Prior to passage of the 2011 legislation, a Snohomish County Superior Court decision indicated a managed care plan should pay a non-contracted practitioner the full amount billed by the practitioner. There were estimates for significant impact to the managed care rates, and the state budget, if the ruling was applied statewide.

These provisions were to expire July 1, 2016.

The 2015 Legislature passed HB 1652 that required Medicaid-managed care plans to pay a nonparticipating provider no more than the lowest amount paid for that service under the managed care system's contracts with similar providers in the state if the managed care plan made good faith efforts to contract with the nonparticipating provider.

This legislation extended the expiration date to July 1, 2021.

Summary of First Substitute Bill: The expiration date is extended to July 1, 2031.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: We all want to find a way to get our Medicaid rates up for our providers. We continue to work through these issues. However, this is current policy and we need to continue to work on this. If we did not assume this bill would go forward, we would need to adjust the forecast to reflect the difference in paying for billed charges in the underlying budget. This is why there is not a savings to take. This bill assumes rates as we currently pay them. We derive the estimate in the fiscal note based on paid claims, then extrapolate to billed charges. There is no way to be precise. We can only estimate. We do not know what billed charges will be. We just know they are generally a lot more than the Medicaid rate. For the sake of fiscal stability and predictability, we request that the sunset date be removed. We also believe there needs to be further discussion about Medicaid rates and reimbursement, but we do not believe extending this policy is the way to do that.

CON: We appreciate the sponsor's comments about Medicaid reimbursement. We are not advocating for billed charges in Medicaid, nor or we advocating to be able to balance bill. Our interest is that there is a broad conversation about Medicaid reimbursement. It is widely

acknowledged that Medicaid rates in the state are subpar in ensuring access to care. Until Medicaid reimbursement is meaningfully addressed, we believe this policy should be part of that conversation. We would advocate that the sunset date be extended rather than making this permanent state law.

Persons Testifying: PRO: Senator David Frockt, Prime Sponsor; Chris Bandoli, Association of Washington Healthcare Plans; Jason McGill, Health Care Authority.

CON: Sean Graham, Washington State Medical Association.

Persons Signed In To Testify But Not Testifying: No one.

EFFECT OF HOUSE AMENDMENT(S): Removes the expiration date.