HOUSE BILL REPORT
SHB 1616

As Amended by the Senate

Title: An act relating to the charity care act.

Brief Description: Concerning the charity care act.

Sponsors: House Committee on Health Care & Wellness (originally sponsored by Representatives Simmons, Cody, Bateman, Valdez, Davis, Macri, Slatter, Pollet and Taylor; by request of Attorney General).

Brief History:

Committee Activity:

Health Care & Wellness: 1/13/22, 1/19/22 [DPS].

Floor Activity:

Passed House: 2/2/22, 63-33.

Senate Amended.

Passed Senate: 3/4/22, 31-17.

Brief Summary of Substitute Bill

- Establishes two categories of hospitals for the purposes of charity care requirements and increases the existing income threshold for patients to receive charity care for the full amount of their charges, as well as the threshold to receive a discount on their charges.
- Allows hospitals to reduce the amount of a discount provided to a charity care patient based on the person's assets.
- Requires hospital charity care policies to include procedures for identifying patients who may be eligible for health care coverage through public medical assistance programs or the Washington Health Benefit Exchange and assisting them in applying for available coverage.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Cody, Chair; Bateman, Vice Chair; Caldier, Assistant Ranking Minority Member; Bronoske, Davis, Macri, Riccelli, Simmons, Stonier and Tharinger.

Minority Report: Do not pass. Signed by 5 members: Representatives Schmick, Ranking Minority Member; Harris, Maycumber, Rude and Ybarra.

Staff: Christopher Blake (786-7392).

Background:

Each hospital must develop, implement, and maintain: (1) a charity care policy to enable persons below the federal poverty level (FPL) to access appropriate, hospital-based medical services; and (2) a sliding fee schedule for determining discounts for qualifying patients. "Charity care" is defined as medically necessary hospital care provided to indigent persons to the extent that they are unable to pay for the care or the deductibles or coinsurance amounts required by a third-party payer.

The charity care standards require that a patient whose family income is at or below 100 percent of the FPL must receive charity care for the full amount of hospital charges, unless third-party coverage applies. Under Department of Health regulations, a patient whose family income is 101 to 200 percent of the FPL qualifies for discounts based on the hospital's sliding fee schedule. Hospitals may classify a person whose family income is over 200 percent of the FPL as indigent based on the person's financial circumstances.

Summary of Substitute Bill:

The requirements that: (1) hospitals develop, implement, and maintain a sliding fee schedule for providing charity care; (2) the Department of Health develop guidelines for the development of sliding fee schedules; and (3) persons with incomes below 100 percent of the federal poverty level (FPL) receive charity care for the full amount of hospital charges are replaced with new charity care policy standards. The new minimum standards for hospital charity care policies categorize hospitals into two different groups, each with different standards.

The first category includes: (1) acute care hospitals owned or operated by a health system that owns or operates three or more acute care hospitals in Washington; (2) acute care hospitals with over 300 licensed beds located in the most populous county in the state; and (3) acute care hospitals with over 200 licensed beds located in a county with at least 450,000 residents and located on Washington's southern border. For hospitals in this category, the minimum standards require patients and their guarantors whose income is:

- not more than 300 percent of the FPL, adjusted for family size, be deemed charity care patients for the full amount of their portion of the hospital charges;

- between 301 percent and 350 percent of the FPL, adjusted for family size, be entitled to a 75 percent discount for the full amount of their portion of the hospital charges; and
- between 351 percent and 400 percent of the FPL, adjusted for family size, be entitled to a 50 percent discount for the full amount of their portion of the hospital charges.

The second category includes all hospitals that do not meet the criteria for the first category. For these hospitals, the minimum standards require patients and their guarantors whose income is:

- not more than 200 percent of the FPL, adjusted for family size, be deemed charity care patients for the full amount of their portion of the hospital charges;
- between 201 percent and 300 percent of the FPL, adjusted for family size, be entitled to a 75 percent discount for the full amount of their portion of the hospital charges;
- between 301 percent and 350 percent of the FPL, adjusted for family size, be entitled to a 50 percent discount for the full amount of their portion of the hospital charges; and
- between 351 percent and 400 percent of the FPL, adjusted for family size, be entitled to a 25 percent discount for the full amount of their portion of the hospital charges.

A hospital may reduce the amount of the discount, except for patients receiving the full amount of their charges, by giving consideration to the existence, availability, and value of a person's assets. The hospital must maintain a policy regarding such asset consideration and corresponding discounts, and make it publicly available. A hospital may not consider a minimum of $5,000 of monetary assets, any equity in a primary residence, retirement plans other than 401(k) plans, and one motor vehicle. A hospital may not impose procedures that are an unreasonable burden on the responsible person. Information requests to verify assets are limited to those reasonably necessary and readily available, and may not be used to discourage applications. When considering monetary assets, one current account statement is sufficient for asset verification. If no documentation for an asset is available, a written and signed statement from the party is adequate. The hospital may not use asset information for collection activities.

A hospital's charity care policy must include procedures for identifying patients who may be eligible for health care coverage through public medical assistance programs or the Washington Health Benefit Exchange. The hospital must actively assist patients to apply for any available coverage. If the hospital has identified the patient as potentially eligible for retroactive health care coverage through medical assistance programs and the patient or the patient's guarantor refuses to apply for the coverage, the hospital is not obligated to provide any charity care to the patient.

The requirement that hospitals develop, implement, and maintain a charity care policy to enable persons below the FPL to access appropriate, hospital-based medical services is changed to apply to indigent persons accessing charity care, rather than persons below the FPL accessing hospital-based medical services. The term "indigent person" is defined as a

patient, or the patient's guarantor, whose income is no more than 400 percent of the FPL, adjusted for family size. In addition to applying to hospitals, the term "charity care" is expanded to also apply to health care provided to indigent persons at a clinic affiliated with a hospital.

The new charity care standards only apply to care provided on or after July 1, 2022, and care provided before that date is governed by the section as it previously existed.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment removes the express income threshold of 400 percent of the Federal Poverty Level (FPL) from the definition of "indigent person." The charity care standard for hospitals owned or operated by a health care system that owns or operates three or more hospitals in Washington is not limited to only acute care hospitals. The charity care standard for hospitals, other than those owned or operated by a health care system that owns or operates three or more hospitals in Washington, is modified so that patients and their guarantors whose income is: (1) between 201 and 250 percent of the FPL, rather than between 201 and 300 percent, are entitled to a 75 percent discount for the full amount of their portion of the hospital charges; (2) between 251 and 300 percent of the FPL, rather than between 301 and 350 percent, are entitled to a 50 percent discount for the full amount of their portion of their hospital charges; and (3) over 300 percent of the FPL are not entitled to a discount from the full amount of their portion of the their hospital charges.

The Senate amendment modifies the monetary assets excluded from charity care considerations so that the first $5,000 is excluded for an individual, the first $8,000 is excluded for a family of two, and an additional $1,500 is excluded for each family member beyond the first two persons in a family. A second motor vehicle may be excluded from charity care considerations if it is necessary for employment or medical purposes. Exclusions may also apply to prepaid burial contracts or burial plots, as well as life insurance policies of $10,000 or less.

The Senate amendment requires that hospitals assist patients and their guarantors with the medical assistance application process for those patients and guarantors who have been determined by the hospital to qualify for retroactive medical assistance coverage. Patients and their guarantors who qualify for retroactive medical assistance coverage must make reasonable efforts to cooperate with the hospital's efforts to assist them in applying for the coverage. Hospitals are prohibited from adopting application procedures for charity care or for assistance in applying for retroactive medical assistance coverage that place an undue burden on the patient or guarantor with respect to physical, mental, intellectual, or sensory conditions, as well as language barriers. It is declared to be an unreasonable burden to require a patient to apply for coverage that the patient is obviously or categorically ineligible for or has been deemed ineligible for within the prior 12 months.

The Senate amendment directs the Office of the Insurance Commissioner (Office), in

consultation with the Washington Health Benefit Exchange, to study how increasing eligibility for charity care may impact enrollment in health plans with high deductibles. By November 1, 2026, the Office must submit a report to the health care committees of the Legislature on enrollment trends in health plans with high deductibles between January 1, 2023, and June 30, 2026.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 24, 2022.

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 will bring uniformity to charity policies across the state and give Washington the most expansive charity care policy in the nation at no cost to taxpayers. This bill will expand eligibility to more than 3 million Washingtonians who are not currently eligible for charity care and give 4 million Washingtonians a legal right to affordable hospital care. The proposed substitute bill will strengthen the social safety net for Washington patients and takes an approach that is financially sustainable for hospitals and is equitable across the health care system. Access to care is an issue of equity and communities of color are disproportionately underinsured. Rural areas stand to benefit the most from this bill. This legislation will provide peace of mind to millions that they will not be bankrupted or have their credit destroyed by an unexpected health emergency.

(Opposed) None.

(Other) There is support for the underlying bill, but the proposed substitute bill does not divide the large multi-hospital systems and small rural hospitals into two tiers. If the intent is to capture rural hospitals, it is more accurate to consider the delineation as critical access hospitals, sole community hospitals, and hospitals with 25 beds or less.

Persons Testifying: (In support) Representative Tarra Simmons, prime sponsor; Sherry Jones; Joyce Bruce, Office of the Attorney General; and Zosia Stanley, Washington State Hospital Association.

(Other) Lindsey Grad, Service Employees International Union Healthcare 1199NW.

Persons Signed In To Testify But Not Testifying: None.