

# SENATE BILL REPORT

## SHB 1348

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As Passed Senate - Amended, April 10, 2021

**Title:** An act relating to the provision of medical assistance to incarcerated persons.

**Brief Description:** Providing medical assistance to incarcerated persons.

**Sponsors:** House Committee on Health Care & Wellness (originally sponsored by Representatives Davis, Schmick, Frame, Leavitt, Simmons, Valdez, Fitzgibbon, Orwall, Ortiz-Self, Slatter, Caldier, Stonier, Peterson, Ramel, Goodman, Taylor, Sutherland, Ryu, Hackney, Lovick, Barkis, Pollet, Macri, Callan, Santos, Ormsby, Tharinger, Riccelli, Lekanoff, Harris-Talley and Harris).

**Brief History:** Passed House: 2/26/21, 97-0.

**Committee Activity:** Human Services, Reentry & Rehabilitation: 3/11/21, 3/25/21 [DPA].

**Floor Activity:** Passed Senate - Amended: 4/10/21, 49-0.

### Brief Summary of Amended Bill

- Prohibits a person's incarceration status from affecting the person's Medicaid eligibility during the first 29 days of incarceration.
- Expands the Medicaid suspension policy to include correctional institutions, state hospitals, and other treatment facilities.
- Requires local jails to make reasonable efforts to collaborate with managed care organizations for care coordination and improving health care delivery and release planning.

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### SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

**Majority Report:** Do pass as amended.

Signed by Senators Darneille, Chair; Nguyen, Vice Chair; Gildon, Ranking Member; Dozier, McCune, Saldaña and Wilson, C.

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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 part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** Kelsey-anne Fung (786-7479)

**Background:** Suspension of Medicaid Benefits. The Health Care Authority (HCA) provides medical care services to eligible low-income state residents and their families, primarily through the Medicaid program. The State Medicaid Plan is an agreement between the state and the federal government controlling expenditures of Medicaid funds. Federal standards for the Medicaid program exclude payments for care or services for any person who is an inmate of a public institution, except for certain inpatient services at a hospital. Federal Medicaid standards also prohibit payment for care or services for individuals who are patients at an institution for mental diseases. An institution for mental diseases is a hospital, nursing facility, or other institution with more than 16 beds primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases.

Legislation enacted in 2016 requires HCA to suspend, rather than terminate, medical assistance for persons who have been incarcerated or committed to a state hospital, regardless of the person's release date. A person who has been incarcerated or committed to a state hospital must be able to apply for medical assistance in suspense status while incarcerated or committed.

Medicaid Waivers. Section 1115 of the Social Security Act gives the Secretary of Health and Human Services authority to grant waivers from certain Medicaid requirements to allow states to demonstrate innovative approaches in their Medicaid programs. The purpose of section 1115 demonstration projects is to demonstrate and evaluate policy approaches such as expanding eligibility, providing services not typically covered, and using innovative service delivery systems.

**Summary of Amended Bill:** Medicaid Suspension Policy. When HCA receives information a person enrolled in medical assistance is confined in a setting in which federal financial participation is not allowed by the state's agreements with the federal government, HCA must suspend rather than terminate medical assistance benefits for these persons, including those who are incarcerated in a correctional institution or committed to a state hospital or other treatment facility. A person who is not currently enrolled in medical assistance must be allowed to apply for medical assistance in suspense status during confinement, and the ability to apply may not depend upon knowledge of the release or discharge date of the person.

If a person was enrolled in Medicaid at the time of incarceration, the person's incarceration status may not affect their enrollment in Medicaid during the first 29 days of incarceration in a correctional institution.

If the person was not enrolled in Medicaid at the time of incarceration, they may apply for medical assistance during incarceration. If the person is enrolled during the first 29 days of incarceration, the person's incarceration status may not affect the person's enrollment in Medicaid.

After incarceration for 30 days or more, the person's Medicaid status is subject to suspension.

The Health Care Authority may seek any necessary state plan amendments or federal waivers to implement this requirement. A federal severability clause is included.

Local Jails. Local jails must make reasonable efforts to collaborate with managed care organizations for care coordination activities and improving health care delivery and release planning for persons confined in the jail.

**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 Substitute House Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: Currently, Medicaid is suspended on day one when a person enters custody, and when the person is released, it can take 48 to 72 hours to get Medicaid coverage reinstated. Persons who are recently released are not able to get prescriptions filled at a pharmacy or are not able to receive next day or same day services because of the gap in coverage. The bill directs HCA to suspend on day 30 instead of day one, and will affect 90 percent of individuals in local jails who typically have jail stays less than 30 days. The potential for local jails and local governments to save significant amounts of money is great because they can bill the federal government for healthcare costs. This bill is an additional tool to ensuring those who need care receive care as they successfully reenter society. If a waiver is granted, it would allow individuals in pretrial, who are awaiting trial and have not been found guilty, to maintain Medicaid benefits coverage for the first 29 days. This bill will reduce inequities in the state and save lives.

**Persons Testifying:** PRO: Representative Lauren Davis, Prime Sponsor; Marc Stern, Correctional Physician, UW School of Public Health/MD, MPH; Sanjay Walvekar, Washington Association of Sheriffs and Police Chiefs; Ethan Frenchman, Disability Rights Washington; Juliana Roe, Washington State Association of Counties; Chris Bandoli, Association of Washington Healthcare Plans.

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