SENATE BILL REPORT
SHB 1616

As Passed Senate - Amended, March 4, 2022

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: Passed House: 2/2/22, 63-33.
Committee Activity: Health & Long Term Care: 2/18/22, 2/23/22 [DPA-WM, DNP]. Ways & Means: 2/26/22, 2/28/22 [DPA (HLTC), DNP, w/oRec].
Floor Activity: Passed Senate - Amended: 3/4/22, 31-17.

Brief Summary of Bill
(As Amended by Senate)

- Modifies the existing charity care sliding fee schedule requirements by establishing two categories of hospitals with different income thresholds for patients to receive charity care.
- Increases the income threshold for patients to receive charity care.
- Allows hospitals to factor in a patient's assets when determining the amount of charity care a patient receives.
- Requires hospital charity care policies to include procedures for assisting patients with applying for Medicaid or coverage through the Washington Health Benefit Exchange.
- Directs the Office of the Insurance Commissioner, in consultation with the Health Benefit Exchange, to report to the Legislature the enrollment in health plans with high deductibles from January 1, 2023, to June 30, 2026.

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.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.
Signed by Senators Cleveland, Chair; Frockt, Vice Chair; Conway, Keiser, Randall, Robinson and Van De Wege.

Minority Report: Do not pass.
Signed by Senators Muzzall, Ranking Member; Holy, Padden, Rivers and Sefzik.

Staff: LeighBeth Merrick (786-7445)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended by Committee on Health & Long Term Care.
Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Capital; Robinson, Vice Chair, Operating & Revenue; Billig, Carlyle, Conway, Dhingra, Hasegawa, Hunt, Keiser, Mullet, Pedersen, Van De Wege and Wellman.

Minority Report: Do not pass.
Signed by Senators Wilson, L., Ranking Member; Brown, Assistant Ranking Member, Operating; Schoesler, Assistant Ranking Member, Capital; Honeyford, Ranking Minority Member, Capital; Braun, Gildon, Muzzall and Warnick.

Minority Report: That it be referred without recommendation.
Signed by Senators Rivers and Wagoner.

Staff: Sandy Stith (786-7710)

Background: State law prohibits hospitals from denying patients access to emergency care because of the inability to pay. Hospitals are required to have a charity care policy that allows individuals below the federal poverty level (FPL) to access appropriate, hospital-based medical services, and a sliding fee schedule for determining how much an individual receiving charity care pays for their hospital visit. Patients whose family income is below 100 percent of the FPL must receive charity care for the full amount of their 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 provide charity care to patients whose family income is over 200 percent of the FPL.

Summary of Amended Bill: The requirements for hospitals to have a sliding fee schedule and provide charity care for the full hospital charges to patients below 100 percent FPL are replaced with new minimum requirements. Two categories of hospitals are established, each with different minimum requirements for providing charity care. Individuals up to 300 percent of the FPL are required to receive some level of charity care.

The first category includes hospitals that are owned or operated by a health system that owns or operates three or more acute care hospitals in Washington; have over 300 licensed beds located in the most populous county in the state; or have 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 family income is:

- not more than 300 percent of the FPL receive charity care for the full amount of their portion of the hospital charges;
- between 301 percent and 350 percent of the FPL receive 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 receive 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 family income is:

- not more than 200 percent of the FPL receive charity care for the full amount of their portion of the hospital charges;
- between 201 percent and 250 percent of the FPL receive a 75 percent discount for the full amount of their portion of the hospital charges; and
- between 251 percent and 300 percent of the FPL receive a 50 percent discount for the full amount of their portion of the hospital charges

For patients who are not receiving charity care for the full amount of their charges, a hospital may reduce the patient's discount based on their 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 or $8,000 of monetary assets for a family of two and $1,500 of monetary assets for each additional family member any equity in a primary residence, retirement plans other than 401(k) plans, one motor vehicle and a second vehicle when it is used for employment or medical purposes, a prepaid burial contract or plot, and a life insurance policy of $10,000 or less. Any asset considered with an early withdrawal penalty must be the value after the penalty has been paid. A hospital may not impose application 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. A hospital is not obligated to provide charity to any patient or their guarantor if the patient or guarantor fails to make reasonable efforts to cooperate with the hospitals' efforts to assist them in applying for coverage. Hospitals may not impose application procedures for charity care or for assistance with retroactive coverage applications which place an unreasonable burden upon the patient or guarantor and must take into account any physical, mental, intellectual, sensory deficiencies, or language barriers which may hinder the patient or guarantor from applying for coverage. Hospitals may not require patients to apply for any state or federal program where the patient is obviously or categorically ineligible or has been deemed ineligible in the prior 12 months.

The new charity care requirements only apply to care provided on or after July 1, 2022, and care provided before that date is governed by the previous charity care requirements.

By November 1, 2026, the Office of the Insurance Commissioner, in consultation with the Health Benefit Exchange, must submit a report to the health care committees of the Legislature about the enrollment trends in health plans with high deductibles from January 1, 2023, to June 30, 2026. The one-time report must include the number of individuals enrolled in high deductible plans for each year and by each county.

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 (Health & Long Term Care): *The committee recommended a different version of the bill than what was heard.* PRO: This is request legislation from the Office of the Attorney General which has been heavily negotiated with the hospital association. The current charity care laws are inadequate. The bill expands the social safety net to ensure no one goes bankrupt or has their credit destroyed because they require hospital care. Many hardworking people do not have adequate insurance coverage. There are health care providers, teachers, and grocery store clerks who have served the front lines during the pandemic, have caught COVID, and aren't able to afford their hospital stays because they can't afford their deductibles and co-payments. Access to charity care is an equity issue because communities of color are often under insured. The levels of charity care hospitals provide varies. People shouldn't have to rely on luck or balance the need for care with acquiring debt. Charity care should not be a replacement for insurance and we need to make sure that the bill provides levels of charity care that are sustainable for all hospitals to support. The bill addresses the financial needs of smaller hospitals by putting them in the second tier and not requiring them to provide the same level of discounts as bigger tier 1 hospitals. We are concerned that more hospitals are included in tier 2 than should be. This allows hospitals with more resources to do less.

Only critical access hospitals, sole community hospitals, and hospitals with less than 25 beds should be included in tier 2. From a rural hospital perspective who relies heavily on public payers, we request that the discount levels not extend beyond 200 percent FPL for tier 2 hospitals. Medicare does not cover all health care costs and many Medicare beneficiaries are financially burdened by health care, which is why we request that all retirement accounts, including 401ks, be excluded from the asset determination.

Persons Testifying (Health & Long Term Care): PRO: Representative Tarra Simmons, Prime Sponsor; Cindi Laws, Health Care for All Washington; Zosia Stanley, Washington State Hospital Association; Shane McGuire, Columbia County Health System; Joyce Bruce, WA State Attorney General's Office; Cathy Maccaul, AARP; Sybill Hyppolite, Washington State Labor Council, AFL-CIO.

Persons Signed In To Testify But Not Testifying (Health & Long Term Care): PRO: Consuelo Echeverria; Betty Lucas, Select...; Glen Anderson; Vivian Morrison; E Ellis; Albert Sardinas, WA Build Back Black Alliance (WBBA); Tony Gonzalez, Columbia Legal Services; Annie Fadley, Civic Action; Walt Bowen, Washington State Senior Citizen's Lobby.

Staff Summary of Public Testimony on Bill as Amended by Health & Long Term Care (Ways & Means): PRO: This is request legislation from the Office of the Attorney General which has been heavily negotiated with the hospital association. The current charity care laws are inadequate. The bill expands the social safety net to ensure no one goes bankrupt or has their credit destroyed because they require hospital care. Many hardworking people do not have adequate insurance coverage. Access to charity care is an equity issue because communities of color are often under insured. The levels of charity care hospitals provide varies. People shouldn't have to rely on luck or balance the need for care with acquiring debt. Charity care should not be a replacement for insurance and we need to make sure that the bill provides levels of charity care that are sustainable for all hospitals to support. The bill addresses the financial needs of smaller hospitals by putting them in the second tier and not requiring them to provide the same level of discounts as bigger tier 1 hospitals. Medicare does not cover all health care costs and many Medicare beneficiaries are financially burdened by health care, which is why we request that all retirement accounts, including 401ks, be excluded from the asset determination.

Persons Testifying (Ways & Means): PRO: Cindi Laws, Health Care for All Washington; Joyce Bruce, WA State Attorney General's Office; Chelene Whiteaker, Washington State Hospital Association; Cathy MacCaul, AARP Washington State.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.