

HOUSE BILL REPORT

HB 2102

As Reported by House Committee On:
Health Care & Wellness

Title: An act relating to establishing requirements for the disclosure of health care information for qualifying persons to receive paid family and medical leave benefits.

Brief Description: Establishing requirements for the disclosure of health care information for qualifying persons to receive paid family and medical leave benefits.

Sponsors: Representatives Berry, Reed, Ormsby, Nance and Pollet.

Brief History:

Committee Activity:

Health Care & Wellness: 1/16/24, 1/24/24 [DPS].

Brief Summary of Substitute Bill

- Requires health care providers to provide a certification of a serious health condition required for benefits eligibility under the Paid Family and Medical Leave (PFML) Program within seven calendar days of receiving patient authorization.
- Prohibits health care providers and health care facilities from charging a fee for a certification of a serious health condition in connection with applications for PFML benefits.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Riccelli, Chair; Bateman, Vice Chair; Schmick, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Bronoske, Caldier, Davis, Graham, Harris, Macri, Maycumber, Mosbrucker, Orwall, Simmons, Stonier, Thai and Tharinger.

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: Emily Poole (786-7106).

Background:

Paid Family and Medical Leave.

The state Paid Family and Medical Leave (PFML) Program, administered by the Employment Security Department (Department), provides paid family and medical leave for eligible workers who have worked at least 820 hours during a qualifying period. The PFML benefits are generally provided: when an employee is bonding after the birth or placement of a child, because of an employee's or family member's serious health condition, or for a military exigency. Under the PFML Program, a "serious health condition" generally means an illness, injury, impairment, or physical or mental condition that involves: (1) inpatient hospital, hospice, or residential medical care; or (2) continuing treatment by a health care provider for periods of incapacity, pregnancy, or certain chronic conditions causing incapacity.

To receive PFML benefits, among other requirements, the employee must provide a document authorizing the family member's or employee's health care provider, as applicable, to disclose the family member's or employee's health care information in the form of the certification of a serious health condition.

Fees for Providing Health Care Information.

Under the Uniform Health Care Information Act, a patient may authorize a health care provider or health care facility to disclose the patient's health care information. A health care provider or health care facility must generally honor such an authorization and, if requested, provide a copy of the recorded health care information. Subject to certain exceptions, health care providers may charge a reasonable fee for providing copies of health care records.

Summary of Substitute Bill:

A health care provider must provide a certification of a serious health condition as required by the PFML Program for qualifying a patient for PFML benefits within seven calendar days of receipt of a request and authorization from the patient. If a health care facility requires administrative review before allowing a provider to provide a certification of a serious health condition, the administrative review process must comply with this timing requirement.

A health care provider or health care facility may not charge a fee for the execution of a certification of a serious health condition, but a health care provider may charge a fee associated with any office visit necessary for evaluating the patient.

Substitute Bill Compared to Original Bill:

The substitute bill:

- specifies that a health care provider is required to provide a "certification of a serious health condition" for qualifying a patient for PFML benefits, instead of being required to "disclose health care information" for that purpose;
- narrows the requirement to provide a certification of a serious health condition for qualifying a patient for PFML benefits so that it applies just to the patient, instead of the patient or the patient's family member;
- removes the requirement for a health care provider to provide the requested information directly to the Department, with a copy remitted to the patient;
- modifies the timing requirement for a health care provider to provide the requested information from five working days to seven calendar days of receipt of a request and authorization from the patient;
- specifies that a provider is not required to complete a certification for a serious health condition for which the provider does not have the necessary patient information; and
- specifies that a health care provider is not prohibited from charging a fee associated with any office visit necessary for evaluating a patient.

Appropriation: None.

Fiscal Note: Requested on January 25, 2024.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The Paid Family and Medical Leave Program (PFML) is a lifeline for a lot of Washington families, particularly lower-income families. It is important for people to be able to access benefits in a timely way if they have a new child or a serious health care condition. Before a worker can access benefits related to a serious health condition, a provider must sign a certification form. Workers often face a process delay due to the frequent difficulty in getting a provider to sign a certification of a serious health condition in a timely manner. Sometimes it can take weeks to have a provider sign the certification form, or the provider charges a fee for signing the form, both of which defeat the purpose of the PFML Program. Requiring providers to fill out the form in five business days will help ensure access to benefits. This bill will help streamline the process for applying for benefits.

(Opposed) None.

(Other) The bill should be amended so that it does not require providers to send the certification forms directly to the Department. The bill should be amended to clarify the circumstances under which a provider would be required to meet the five day deadline, such

as when a relationship has already been established between the provider and patient. There are already a lot of constraints on primary care professionals, and this bill could produce the unintended consequence of diverting primary care professionals' attention from other pressing matters.

Persons Testifying: (In support) Representative Liz Berry, prime sponsor; Carrie Glover, WithinReach; Joe Kendo, Washington State Labor Council, American Federation of Labor and Congress of Industrial Organizations; and Gabriela Quintana, Economic Opportunity Institute.

(Other) Caitlyn Jekel, Employment Security Department; Kate White Tudor, Washington Association for Community Health; and Sean Graham, Washington State Medical Association.

Persons Signed In To Testify But Not Testifying: None.