
Housing Committee

ESB 5632

Brief Description: Protecting the health care of workers participating in a labor dispute.

Sponsors: Senators Keiser, Cleveland, Conway, Hasegawa, Hunt, Kuderer, Lovelett, Stanford, Valdez and Wilson, C..

Brief Summary of Engrossed Bill

- Requires the Health Benefit Exchange to administer a health care premium assistance program for employees who lose employer-provided health care coverage as a result of a labor dispute.

Hearing Date:

Staff: Yelena Baker (786-7301).

Background:

The Affordable Care Act and the Washington Health Benefit Exchange.

Under the federal Patient Protection and Affordable Care Act (ACA), each state must establish a health benefit exchange through which consumers may compare and purchase individual and small group coverage and access premium and cost-sharing subsidies. Qualified health plans (QHPs) sold in an exchange must meet certain standardized actuarial values. The tiers of coverage are based on how much of the health care costs the insurer is required to cover: bronze, 60 percent; silver, 70 percent; gold, 80 percent; and platinum, 90 percent. Washington's Health Benefit Exchange (Exchange) is a public-private partnership governed by a board consisting of members with expertise in the health care system and health care coverage.

Federal premium subsidies, in the form of tax credits, are available for individuals purchasing QHPs through the Exchange on a sliding scale based on the individual's income. Under the

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ACA, individuals between 100 percent and 400 percent of the federal poverty level are eligible for such subsidies.

Standard Plans and Washington State Premium Assistance.

Health carriers offering a QHP on the Exchange must offer the silver and gold standardized plans designed by the Exchange known as Cascade Plans, and if a carrier offers a bronze plan, it must offer the bronze standardized plans designed by the Exchange. In 2021 the Legislature directed the Exchange to establish a state premium assistance program for Washington residents, named Cascade Care Savings. The 2021-23 State Operating Budget provided funding to offer premium assistance to Washington residents earning up to 250 percent of the federal poverty level beginning in 2023. To be eligible for the program, an individual must:

- have income up to a threshold determined through appropriation or by the Exchange if no threshold is determined;
- be enrolled in a silver or gold standardized plan;
- apply for and accept all advanced premium tax credits for which they are eligible;
- be ineligible for minimum essential coverage through Medicare, Medicaid, or Compact of Free Association islander premium assistance; and
- meet other criteria established by the Exchange.

Health Insurance Coverage and Labor Disputes.

In general, there is no requirement that an employer continue health insurance coverage for striking employees. Under National Labor Relations Board precedent, employers are prohibited from unilaterally changing the terms of employee health insurance for striking employees, but the employer is not obligated to provide compensation, such as insurance coverage, during a strike. However, the employer must maintain any accrued benefits to strikers once they return to work.

The federal Consolidated Omnibus Budget Reconciliation Act (COBRA) requires employers with more than 20 employees who provide group health insurance to give employees the option to purchase continued coverage for a limited time under the plan if they are separated from work. Under COBRA, the employee pays the full premium and the employer may charge the employee up to 102 percent of the cost of the plan, 2 percent of which covers administrative costs.

Summary of Bill:

By January 1, 2024, the Health Benefit Exchange (Exchange) must administer a worker health care premium assistance program (program) for individuals who lost employer-provided health care coverage as a result of a labor dispute. Subject to the availability of state funding appropriated for this purpose, a worker is eligible for the program if the individual:

- provides a self-attestation regarding loss of minimum essential health care coverage from an employer or joint labor management trust fund as a result of a strike, lockout, or other labor dispute;
- enrolls in a silver standardized health care plan;

- applies for and accepts all federal advance premium tax credits for which the individual may be eligible before receiving any state premium assistance;
- is ineligible for minimum essential coverage through Medicare, Medicaid, or for Compact of Free Association premium assistance; and
- is otherwise eligible to purchase a qualified health plan through the Exchange.

Subject to the state funding appropriated for this purpose, the Exchange must pay the total premium for individuals eligible for the program, after all applicable federal and state subsidies are applied.

The Exchange may disqualify a participant from the program if the participant:

- no longer meets the eligibility criteria;
- fails, without good cause, to comply with procedural or documentation requirements established by the Exchange or to notify the Exchange of a change of address in a timely manner;
- voluntarily withdraws from the program; or
- performs an act, practice, or omission that constitutes fraud.

The Exchange must establish the procedural requirement for eligibility and continued participating in any premium assistance program, including documentation requirements necessary to implement the program and for facilitating payments to and from carriers. This act may be known and cited as the Worker Health Care Protection Act.

Appropriation:

Fiscal Note:

Effective Date: