

SENATE BILL REPORT

ESSB 6127

As Amended by House, February 27, 2024

Title: An act relating to increasing access to human immunodeficiency virus postexposure prophylaxis drugs or therapies.

Brief Description: Increasing access to human immunodeficiency virus postexposure prophylaxis drugs or therapies.

Sponsors: Senate Committee on Health & Long Term Care (originally sponsored by Senators Lias, Rivers, Muzzall, Randall, Frame, Hasegawa, Kuderer, Lovick, Nobles and Pedersen).

Brief History:

Committee Activity: Health & Long Term Care: 1/18/24, 1/26/24 [DPS].

Floor Activity: Passed Senate: 2/7/24, 49-0.

Passed House: 2/27/24, 95-0.

Brief Summary of Engrossed First Substitute Bill

- Requires hospitals to adopt policies dispensing post-exposure prophylaxis (PEP) human immunodeficiency virus drugs.
- Prohibits health plans and Medicaid from imposing cost-sharing or prior authorization requirements for at least one of each required PEP drug.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Majority Report: That Substitute Senate Bill No. 6127 be substituted therefor, and the substitute bill do pass.

Signed by Senators Cleveland, Chair; Robinson, Vice Chair; Muzzall, Assistant Ranking Member; Conway, Dhingra, Padden, Randall and Van De Wege.

Staff: Greg Attanasio (786-7410)

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.

Background: Post-exposure prophylaxis, or PEP, is the commonly used term for a drug regime taken within 72 hours after a possible exposure to human immunodeficiency virus (HIV) to prevent HIV infection. The Centers for Disease Control and Prevention (CDC) has developed guidelines for the administration of PEP, which includes prescribing a 28-day course of treatment after a patient reports exposure to bodily fluids, the source of which is known to be HIV positive, within the last 72 hours and that exposure presents a substantial risk for transmission. A case-by-case determination is recommended when the HIV infection status of the source of the body fluids is unknown and the circumstances of the reported exposure presents a substantial risk for transmission.

Summary of Engrossed First Substitute Bill: Hospitals must adopt a policy, consistent with CDC guidelines, for the dispensing of PEP. This policy must ensure that hospital staff dispense to a patient, with a patient's informed consent, a 5-day supply of PEP drugs or therapies following the patient's possible exposure to HIV, unless medically contraindicated, inconsistent with care and treatment standards, or inconsistent with CDC guidelines. . This requirement does not affect reimbursement for PEP drugs though the Crime Victims Compensation Program or the Industrial Insurance Act.

Beginning in 2025 non-grandfathered health plans, including those offered to public employees , and Medicaid may not impose cost sharing or require prior authorization for the drugs that comprise at least one regimen recommended by the CDC for HIV PEP drugs. . For health plans with a health savings account (HSA) the carrier must set the cost-sharing amount at the minimum level necessary to preserve the enrollee's ability to claim tax exempt contributions and withdrawals from the HSA.

Notwithstanding the coverage requirements, health plans, including those offered the public employees, and Medicaid, must reimburse hospitals, as a separate expense, for a 5-day supply of any PEP drugs or therapies dispensed or delivered to a patient in the emergency department for take-home use.

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 Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: There are proven treatments to prevent infection of HIV, but you must get access to the drugs within 72 hours so it is important for them to be widely available. This is especially important for sexual assault survivors and frontline medical workers. There is a lack of meaningful access because of cost or lack of supply in certain areas. Obtaining, filling, and paying for drugs are often

problems.

OTHER: The use of prior authorization is vital for cost control, and drugs can be approved through prior authorization in one day for an expedited request. There are outstanding questions about reimbursement for hospitals. The bill lacks clarity for related to distribution to critical access hospitals. These drugs are very fragile and must be dispensed in original their container, so repackaging is not practical or safe. The crime victims fund could be used to help cover costs.

Persons Testifying: PRO: Senator Marko Liias, Prime Sponsor; Dr. Erin Berry, Planned Parenthood Greater Northwest; Jonathan Frochtzwajg, Cascade AIDS Project; Joanna Shelton.

OTHER: Jenny Arnold, Washington State Pharmacy Association; Jennifer Ziegler, Association of Washington Health Care Plans; Katie Kolan, Washington State Hospital Association (WSHA).

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

EFFECT OF HOUSE AMENDMENT(S):

- Modifies the requirement for hospitals to dispense or deliver PEP drugs or therapies and the corresponding reimbursement provisions from a five-day supply to a 28-day supply.
- Modifies the circumstances in which a hospital is not required to dispense PEP drugs or therapies by replacing "when inconsistent with care and treatment standards" with "when inconsistent with accepted standards of care."
- Applies the prior authorization prohibition and the requirement to separately reimburse hospitals for dispensing PEP to the Health Care Authority.
- Defines "dispense" and "deliver."