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**SUBSTITUTE SENATE BILL 5344**

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**State of Washington 69th Legislature 2025 Regular Session**

**By** Senate Health & Long-Term Care (originally sponsored by Senators Riccelli, Harris, Lovick, Cleveland, Lovelett, Liias, Saldaña, Frame, Hasegawa, Nobles, Trudeau, Valdez, and C. Wilson)

AN ACT Relating to establishing the essential worker health care program; adding new sections to chapter 43.20A RCW; adding new sections to chapter 48.02 RCW; creating a new section; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  (1) The legislature finds:

(a) That there is a workforce crisis in Washington's nursing homes where the majority of workers are older women and disproportionately women of color and immigrants. Overwhelmingly nursing home workers live at or near poverty levels;

(b) Workers in nursing homes are essential health care workers who provide hands-on personal care, supervision, nursing care services, and emotional support to thousands of elderly and younger people with chronic illnesses and disabilities, yet continue to struggle for recognition and compensation even as the demand for long-term care services increases;

(c) Investments in worker benefits and wages have improved stability in the Washington in-home workforce by providing access to affordable and high quality employee health care benefits that help stem turnover;

(d) Access to high quality and affordable health care would help address staff turnover, stabilize the workforce, and improve the quality of nursing home care.

(2) Therefore, the legislature intends to address this crisis by:

(a) Offering increased funding to nursing home operators who commit to offering high quality and affordable health care to their employees;

(b) Encouraging nursing home operators to offer health care in the most cost-effective way possible, through large-scale, multiemployer plans; and

(c) Requiring that funds appropriated for this purpose are spent as intended and that these funds supplement rather than supplant existing health care funding for employee health care coverage.

NEW SECTION. **Sec.**  A new section is added to chapter 43.20A RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the essential worker health care program shall be established within the department to help provide nursing home workers with high quality, affordable health coverage through participating nursing home employers. Subject to the availability of amounts appropriated for this specific purpose, referencing this act by bill or chapter number, in the omnibus appropriations act, the department shall:

(a) Distribute funding through a supplemental payment to participating nursing home employers;

(b) Distribute the supplemental payment annually in proportion to each participating nursing home employer's medicaid bed days in the previous calendar year; and

(c) Seek any necessary approvals from the centers for medicare and medicaid services to provide this supplemental payment as provided in section 6 of this act.

(2) To offer employee health care benefits through a qualified health fund in the essential worker health care program, employers must operate at least one nursing home licensed under chapter 18.51 RCW in Washington that participates in medicaid and enter into a memorandum of understanding with the department committing to:

(a) Participate in a qualified health fund certified by the office of the insurance commissioner;

(b) Allocate substantially all of the funds distributed through this program to the qualified health fund;

(c) Provide documentation to the department of its spending on employee health care benefits in Washington in the two years prior to its entry into the program;

(d) Maintain spending on employee health care benefits in the first year of its participation in the program at least equal to the average of its spending in the two years prior to its entry into the program and maintain spending in subsequent years at least equal to this level plus the consumer price index for health insurance maintained by the United States bureau of labor statistics. Spending to meet this requirement must flow through the certified qualified health fund. For qualified health funds offered through a Taft-Hartley fund in which union representatives occupy at least 50 percent of board seats, a certification from each participating union is sufficient to comply with this requirement;

(e) Provide the department with information concerning its employee health care benefits, covered employee uptake of the employer's health plan, cost to the employer and covered employees, and employer retention of employees in the two years prior to its entry into the program, and provide updates to this information at the end of each year of participation in the program;

(f) Demonstrate at least annually or more frequently at the request of the department that it has used all of the supplemental payments received through the program to significantly improve the quality of employee health care benefits offered to covered employees; and

(g) Meet any other conditions or requirements specified by the department in rule to achieve the goals of this program.

(3) Only covered employees may participate in the program. A "covered employee" is any permanent employee of a company that operates a participating facility who works primarily in the state of Washington including, but not limited to, employees providing direct care to nursing home residents; employees indirectly involved in resident care; employees providing dietary, housekeeping, laundry, or environmental services on location; administrative employees and management; and corporate office employees, or any subcontractor of such a company who works on a full-time, permanent basis in a nursing home.

(4) The department may take any enforcement action authorized under this chapter or terminate any participating employer that fails to comply with the requirements established in the memorandum of understanding, sections 2 and 3 of this act, and any related rules adopted by the department.

(5) Subject to the availability of amounts appropriated for this specific purpose, the department may adopt rules to administer and implement this act.

NEW SECTION. **Sec.**  A new section is added to chapter 48.02 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the office of the insurance commissioner shall annually certify a proposed health care benefit arrangement as a qualified health fund if it meets the requirements of this section. Supplemental payments to participating employers may be disbursed by the department of social and health services only to employers that offer employee health care benefits solely through a qualified health fund that:

(a) Includes at least two distinct and unrelated employers in each year of the program. For the initial plan year of operation, the entity seeking certification must provide sufficient information to the commissioner to confirm that at least two distinct and unrelated employers will be offering employee health care benefits through the fund. For subsequent years, the entity seeking certification must provide information showing that at least two distinct and unrelated employers participated in the fund during the previous plan year;

(b)(i) Operates or provides health coverage through a fully insured multiple employer welfare arrangement, as described in RCW 48.125.020, or an association health plan; or

(ii) Operates as a self-insured Taft-Hartley fund with equal union and employer participation;

(c) For a qualified health fund operated under (b)(i) of this subsection, during the previous plan year, offered benefits to at least 5,000 employees in the long-term care industry in Washington state. For the initial plan year of operation, the entity seeking certification shall provide sufficient information to the commissioner to confirm anticipated enrollment of at least 5,000 long-term care employees;

(d) Offers a benefit package that is either equivalent to an affordable care act platinum plan in actuarial value, covered benefits and cost sharing, or, if the plan is offered by a Taft-Hartley trust, a plan approved by the board of the trust;

(e) Certifies each year that participating employers are complying with the terms of the program, including the maintenance of spending requirement provided in section 2(2)(d) of this act;

(f) Except for Taft-Hartley plans, demonstrates for the initial year of operation and annually that it has provided the opportunity for substantive input on plan design, including covered services and how they will be delivered from substantially all covered employees;

(g) Except for Taft-Hartley plans, demonstrates for the initial year of operation and annually that it has a robust enrollment process in place to ensure that covered employees fully understand their benefits; and

(h) Complies with any other requirements determined by the commissioner in rule to further the goals of the program.

(2) Subject to the availability of amounts appropriated for this specific purpose, the commissioner may adopt rules to administer and implement this act.

(3) For the purposes of this section, "employees in the long-term care industry" includes but is not limited to any individual that qualifies as a long-term care worker as defined in RCW 74.39A.009 and any individual who is employed by a nursing home as licensed under chapter 18.51 RCW.

(4) For the purposes of this section, "association health plan" means a bona fide group or association of employers to whom a health plan is issued that constitutes an employer under section 3(5) of the employee retirement income security act of 1974, 29 U.S.C. Sec. 1002(5), and United States department of labor guidance related to association health plans.

NEW SECTION. **Sec.**  A new section is added to chapter 48.02 RCW to read as follows:

(1) The commissioner may take any enforcement action authorized under RCW 48.02.080 or revoke certification for a qualified health fund that fails to meet the requirements of section 3 of this act or any related rules adopted by the office of the insurance commissioner.

(2) If the office of the insurance commissioner takes any enforcement action, revokes a certification, or terminates or is considering terminating a qualified health fund, the office of the insurance commissioner shall notify the department of social and health services.

NEW SECTION. **Sec.**  A new section is added to chapter 43.20A RCW to read as follows:

(1) For employers participating in a qualified health fund that loses certified qualified health fund status for noncompliance, the department shall recoup any supplemental payments received under this program during the period in which the qualified health fund was out of compliance with the requirements established in section 3 of this act and any related rules adopted by the department or the office of the insurance commissioner.

(2) For participating employers that are terminated by the department for noncompliance, the department shall recoup any supplemental payments from the participating employer that was out of compliance with requirements established in section 2 of this act and any related rules adopted by the department for the fiscal years in which the employer was out of compliance.

(3) The department shall establish and administer a process for the recoupment of supplemental payments disbursed under the essential worker health care program established under section 2 of this act.

(4) The recoupment process must include:

(a) A review and audit of expenditures by participating employers and qualified health funds at least once every two years;

(b) Written notice to employers or funds found noncompliant, detailing the reasons for recoupment and providing an opportunity for appeal within 30 days;

(c) Recovery of funds by offsetting future payments, direct reimbursement to the department, or other means as determined by the department in rule; and

(d) Reporting all recoupment activities to the legislature annually, including details of amounts recovered and the basis for recoupment.

NEW SECTION. **Sec.**  A new section is added to chapter 43.20A RCW to read as follows:

(1) The implementation of the essential worker health care program established in section 2 of this act is contingent upon the approval of a state plan amendment or waiver by the centers for medicare and medicaid services providing federal financial participation for supplemental payments under this program.

(2) The department shall submit the necessary state plan amendment or waiver application to the centers for medicare and medicaid services no later than six months after state funds are appropriated for section 2 of this act.

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