

HOUSE BILL REPORT

ESHB 1401

As Passed House:
February 23, 2009

Title: An act relating to the standard health questionnaire.

Brief Description: Concerning the standard health questionnaire.

Sponsors: House Committee on Health Care & Wellness (originally sponsored by Representatives Cody, Hinkle, Morrell, Ericksen, Green, Moeller and Kelley).

Brief History:

Committee Activity:

Health Care & Wellness: 1/27/09, 1/30/09 [DPS].

Floor Activity

Passed House: 2/23/09, 97-0.

Brief Summary of Engrossed Substitute Bill

- Individuals who are eligible to purchase Consolidated Omnibus Budget Reconciliation Act (COBRA) continuation coverage or who drop COBRA continuation coverage are not required to take the Standard Health Questionnaire when they apply for individual health insurance coverage.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Cody, Chair; Driscoll, Vice Chair; Ericksen, Ranking Minority Member; Bailey, Campbell, Green, Herrera, Hinkle, Kelley, Moeller, Morrell and Pedersen.

Staff: Dave Knutson (786-7146)

Background:

Congress passed the Consolidated Omnibus Budget Reconciliation Act (COBRA) health benefit provisions in 1986. The law amends the Employee Retirement Income Security Act (ERISA), the Internal Revenue Code and the Public Health Service Act to provide

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continuation of group health coverage that otherwise would be terminated.

The COBRA contains provisions giving certain former employees, retirees, spouses and dependent children the right to temporary continuation of health coverage at group rates. This coverage, however, is only available in specific instances. Group health coverage for COBRA participants is usually more expensive than health coverage for active employees, since usually the employer formerly paid a part of the premium. It is ordinarily less expensive, though, than individual health coverage.

The law generally covers group health plans maintained by employers with 20 or more employees in the prior year. It applies to plans in the private sector and those sponsored by state and local governments. The law does not, however, apply to plans sponsored by the federal government and certain church-related organizations.

Group health plans sponsored by private – sector employers generally are welfare benefit plans governed by ERISA and subject to its requirements for reporting and disclosure, fiduciary standards and enforcement. The ERISA neither establishes minimum standards or benefit eligibility for welfare plans nor mandates the type or level of benefits offered to plan participants. It does, though, require that these plans have rules outlining how workers become entitled to benefits.

Under COBRA, a group health plan ordinarily is defined as a plan that provides medical benefits for the employer's own employees and their dependents through insurance or otherwise (such as a trust, health maintenance organization, self-funded pay-as-you-go basis, reimbursement, or combination of these). Medical benefits provided under the terms of the plan and available to COBRA beneficiaries may include:

- inpatient and outpatient hospital care;
- physician care;
- surgery and other major medical benefits;
- prescription drugs; and
- any other medical benefits, such as dental and vision care.

A recent analysis from The Commonwealth Fund finds that few laid-off workers, only 9 percent, took up coverage under COBRA in 2006. Unemployed workers who also lose their health insurance would need substantial financial assistance, covering 75 to 85 percent of their health insurance premiums, for their premium contributions to remain at the levels they paid while they were working, according to the report, "Maintaining Health Insurance During a Recession: Likely COBRA Eligibility," by Michelle M. Doty, Director of Survey Research at The Commonwealth Fund.

The report also found that low-wage workers are at a particular disadvantage – with only 38 percent eligible to receive COBRA benefits – because they don't receive health insurance through their jobs, work for small firms that aren't required to offer COBRA, or are uninsured to begin with. Sixty-six percent of all current workers, if laid off, would be eligible to extend their health insurance under COBRA. For most people, COBRA payments are unaffordable, about four to six times higher than the amount of money they contributed to their health insurance when they were employed. According to The Commonwealth Fund report, millions of the eligible could keep their coverage if they could

get assistance with their premiums, which average \$4,704 per year for an individual and \$12,680 a year for a family.

Summary of Engrossed Substitute Bill:

Individuals who are eligible to purchase the Consolidated Omnibus Budget Reconciliation Act (COBRA) continuation coverage or who drop COBRA continuation coverage are not required to take the standard health questionnaire when they apply for individual health insurance coverage. Individuals who do not qualify for COBRA coverage because their employer employs fewer than 20 employees do not have to complete the Standard Health Questionnaire if they apply for an individual health care policy within 90 days of a federally defined qualifying event.

Appropriation: None.

Fiscal Note: Not requested.

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

Staff Summary of Public Testimony:

(In support) Health care coverage available to unemployed workers through the federal Consolidated Omnibus Budget Reconciliation Act (COBRA) program is too expensive. It is not a viable option for the unemployed. Allowing unemployed workers to avoid answering the Standard Health Questionnaire and apply directly for individual health insurance will provide them with a more affordable health care coverage option.

(With concerns) The federal government is discussing options to make COBRA coverage for unemployed workers more affordable. It is premature to make changes in our individual health insurance market. Allowing individuals to avoid taking the Standard Health Questionnaire raises the cost of individual health policies by not screening out high-cost cases.

(Opposed) None.

Persons Testifying: (In support) Representative Cody, prime sponsor; and Randy Ray, Lyfesystems.

(With concerns) Nancy Ellison and Carrie Tellefson, Regence; and Sydney Zvara, Association of Washington Insurance Plans.

Persons Signed In To Testify But Not Testifying: None.