

HOUSE BILL REPORT

SSB 5480

As Passed House:

April 13, 2009

Title: An act relating to creating the Washington health care discount plan organization act.

Brief Description: Creating the Washington health care discount plan organization act.

Sponsors: Senate Committee on Health & Long-Term Care (originally sponsored by Senators Delvin, Franklin, Fairley, Keiser and Shin; by request of Insurance Commissioner).

Brief History:

Committee Activity:

Health Care & Wellness: 3/24/09, 3/26/09 [DP];

General Government Appropriations: 4/1/09, 4/3/09 [DP].

Floor Activity

Passed House: 4/13/09, 69-29.

Brief Summary of Substitute Bill

- Regulates discount health plans that charge a fee for a list of providers that offer discounted health care services or products through the Office of the Insurance Commissioner.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: Do pass. Signed by 12 members: Representatives Cody, Chair; Driscoll, Vice Chair; Bailey, Campbell, Clibborn, Green, Herrera, Hinkle, Kelley, Moeller, Morrell and Pedersen.

Minority Report: Do not pass. Signed by 1 member: Representative Ericksen, Ranking Minority Member.

Staff: Dave Knutson (786-7146)

HOUSE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: Do pass. Signed by 10 members: Representatives Darneille, Chair; Takko, Vice Chair; Armstrong, Blake, Dunshee, Hudgins, Kenney, Pedersen, Sells and Williams.

Minority Report: Do not pass. Signed by 4 members: Representatives McCune, Ranking Minority Member; Hinkle, Assistant Ranking Minority Member; Crouse and Short.

Staff: Serah Stetson (786-7109)

Background:

Discount health plans are membership organizations that charge a fee for a list of providers that offers discounted health care services or products. The discount plans are not insurance products, but many consumers have been confused by the product marketing, as evidenced by increasing consumer complaints to the Office of the Insurance Commissioner (OIC). The discount health plans are currently unregulated and have no disclosure or marketing standards to ensure consumer protection.

Summary of Bill:

A new chapter is added to Title 48 RCW requiring discount plans to obtain a license from the OIC to do business in Washington. Discount plan means a business arrangement or contract in which a person or organization provides discounts on charges by providers for health care services in exchange for fees or dues. Newly defined discount plans do not include discount plans offered by regulated insurance carriers, a Medicare prescription drug plan, or a patient access program sponsored by a pharmaceutical manufacturer that provides free or discounted products to the low-income or uninsured. Each application for a license to operate as a discount plan organization requires an application fee of \$250 and business documentation including copies of contracts with providers or health care provider networks, contracts with persons or firms that will market each plan or administer any functions, a description of the marketing methods, a description of the member complaint procedures, and other information the OIC may require. Upon receipt of a complete application packet, the OIC must issue a license within 90 days if the OIC is satisfied the application conditions have been met. The license is effective for one year unless suspended or revoked. The OIC may suspend or revoke a license if the organization falls out of compliance, does not have the minimum net worth required, has misrepresented its services or engages in deceptive, misleading, or unfair advertising, or the continued operation would be hazardous to its members. The OIC may conduct investigations to ensure discount organizations are in compliance.

Marketing standards for discount plans are established. Marketing materials must disclose all charges that a member must pay for each discount plan. If a member cancels his or her membership within the first 30 days, a full reimbursement of all charges must be provided. If notice of cancellation is made later, the discount plan must return any charges collected after the notice of cancellation. Discount organizations may market directly to consumers or contract with marketers. All advertising materials must be truthful and not misleading in fact or implication. The products may not be described as insurance nor use terms commonly associated with insurance, such as "health plan," "coverage," and "copay," etc. Each discount

plan organization must have a written agreement with all health care providers for whom the discount offers services. The agreement must detail the list of services or products to be provided at a discount, the amount of the discount, and a requirement that the provider may not charge members more than the discounted rates.

In lieu of or in addition to suspending or revoking a discount plan organization's license, the OIC may issue a cease and desist order if there is cause to believe there is a violation of this act. After a hearing, the OIC may impose a penalty of \$100 to \$10,000 per violation. A person that collects fees for membership as a discount plan but willfully fails to provide the promised benefits commits a theft and is subject to the Washington Criminal Code in Title 9A RCW.

The OIC may seek both temporary and permanent injunctive relief when a discount plan is being operated by an unlicensed person or entity, or if a discount plan has engaged in any activity prohibited by this act. The OIC may adopt rules to implement this chapter. Discount plans in operation prior to the effective date of this act have six months following the effective date to submit a substantially complete application for a license and to come into compliance with requirements of this chapter.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony (Health Care & Wellness):

(In support) This is an area where state regulation is needed. Many consumers assume they are purchasing health insurance when they buy these health care discount plans. The Insurance Commissioner has no legal authority to pursue consumer complaints with these businesses.

(With concerns) This may be a large financial burden on businesses that provide these services. Most businesses providing this service operate in a truthful and straightforward manner.

(Opposed) None.

Staff Summary of Public Testimony (General Government Appropriations):

(In support) This bill puts a regulatory framework around discount health plan entities that are not currently regulated. There was a stakeholder process that was open and transparent. It is in the best interest of these entities to have a regulatory framework so that there is differentiation between the good guys and the bad players. Licensed health insurance agents and brokers frequently receive questions from confused members of the public who, in receiving solicitations from these entities, do not understand the difference between discount plans and actual health insurance. This is because some of these entities represent

themselves as health plans. Now more than ever it is important that the state makes sure that these entities are playing fair because given the economic situation, people are going to become desperate in looking for health care coverage. People will look to these kinds of entities because even a discount plan is better than nothing. This bill has the goal to make sure that whatever the public buys, they are delivered what is promised. This is an important consumer protection bill and does not impact the State General Fund.

(Opposed) None.

Persons Testifying (Health Care & Wellness): (In support) Senator Delvin, prime sponsor; Carol Sureau, Office of the Insurance Commissioner; and Mel Sorensen, Washington Association of Health Underwriters.

(With concerns) Steve Lindstrom, CHP Plans, Inc.

Persons Testifying (General Government Appropriations): Mary Clogston, Office of the Insurance Commissioner; and Mel Sorensen, Washington Association of Health Underwriters.

Persons Signed In To Testify But Not Testifying (Health Care & Wellness): None.

Persons Signed In To Testify But Not Testifying (General Government Appropriations): None.