SENATE BILL REPORT
SSB 5436

As Amended by House, April 8, 2009

Title: An act relating to payment arrangements involving direct practices.

Brief Description: Concerning direct patient-provider primary care practice arrangements.

Sponsors: Senate Committee on Health & Long-Term Care (originally sponsored by Senators Murray, Keiser, Pflug, Marr, Parlette, Kastama and Roach).

Brief History:
Committee Activity: Health & Long-Term Care: 2/02/09, 2/12/09 [DPS].
Passed Senate: 3/03/09, 47-0.

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: That Substitute Senate Bill No. 5436 be substituted therefor, and the substitute bill do pass.

Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug, Ranking Minority Member; Fairley, Marr, Murray and Parlette.

Staff: Mich'l Needham (786-7442)

Background: Legislation passed in 2007 created a new chapter in Title 48 for direct patient-provider primary health care practices. The direct practices were explicitly exempted from the definition of health care service contractors in insurance law. Direct practices furnish primary care services in exchange for a direct fee from a patient. Services are limited to primary care including screening, assessment, diagnosis, and treatment for the purpose of promotion of health, and detection and management of disease or injury. Direct practices are allowed to pay for charges associated with routine lab and imaging services provided in connection with wellness physical examinations. Direct practices are prevented from accepting payments for services provided to direct care patients from regulated insurance carriers, all insurance programs administered by the Health Care Authority, or self-insured plans. Direct practices may accept payment of direct fees directly or indirectly from non-employer third parties, but are prevented from selling their direct practice agreements directly to employer groups.

Beginning December 1, 2009, the Office of Insurance Commissioner (OIC) must begin reporting to the Legislature annually on direct practices, including participation trends and

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complaints received. By December 1, 2012, the OIC must submit a study of direct care practices including the impact on access to primary health care services, premium costs for traditional health insurance, and network adequacy.

Summary of Substitute Bill: Direct practices furnishing primary care are allowed to pay for charges associated with routine lab and imaging services. The restriction that these services be limited to wellness examinations is removed. The restrictions on accepting payments for services from insurers is lifted in part, and direct practices are allowed to accept payments from self-insured plans. The limit on direct practices accepting payment of direct fees from employer third parties is lifted, and direct practices are allowed to accept payment for direct fees directly or indirectly from all third parties.

A direct practice may accept a direct fee paid by an employer; however, the agreements between the practice and employer must be limited to the timing and method of payment.

The OIC must work with health maintenance organizations to determine how they can operate as a direct practice. Recommendations for statutory changes are due to the Legislature by December 1, 2009.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: These direct practices are innovative and creative. The Qliance direct practice is providing unrestricted access to the clinic services and seeing an increase in interest from employers that want to help their employees that have no insurance have access to something. The direct primary care is seen as an inexpensive way to provide some basic access to care. The method available for employers to contribute through a health reimbursement account is seen as too costly to set up and carries additional administrative cost.

CON: The legislative changes made in 2007 included specific limitations on these direct practices to ensure they are not insurance and not competing directly with the insurance products sold by regulated insurance carriers. The proposed changes would move the direct practices into direct competition selling their product to employer groups and accepting payments from self-insured carriers. They are not on a level playing field with insurance carriers that are subject to a number of requirements, including high risk pool assessments, premium tax, financial requirements, patient bill of rights, benefit mandates, etc. Insurance carriers would like the same opportunity to provide this product in an affordable manner but are prohibited from offering these direct practice arrangements.

OTHER: There are nine practices in Washington providing direct care with these arrangements, and there have been no complaints received at the OIC yet. There is some concern with the language in the bill that allows employer sponsors to pay the fees. This

moves away from the original intent to preserve the direct patient-provider relationship, and prevent outside influence by an employer contract or other group sponsor of a contract. Amendatory language is being prepared that will seek to allow some additional third party payment while preserving the direct patient relationship.

Persons Testifying: PRO: Senator Murray, prime sponsor; Chapin Henry, Lisa Thatcher, Qliance.

CON: Sydney Smith Zvarra, Association of Washington Healthcare Plans; Carrie Tellefon, Regence; Mel Sorenson, America's Health Insurance Plans.

OTHER: Beth Berendt, OIC.

House Amendment(s): The restriction on accepting payments for services from all insurers is maintained. The limit on direct practices accepting payment of direct fees from employer third parties is maintained. Direct practices may be a medical home payment pilot site, as established in SSB 5891, and may accept payment from insurance carriers or public coverage programs as a pilot site.