

SENATE BILL REPORT

ESHB 1337

As Reported By Senate Committee On:
Health & Long-Term Care, April 1, 1997

Title: An act relating to authorizing providers and provider groups to offer health care coverage.

Brief Description: Authorizing providers and provider groups to offer health care coverage.

Sponsors: House Committee on Health Care (originally sponsored by Representatives Dyer, Backlund and Sherstad).

Brief History:

Committee Activity: Health & Long-Term Care: 4/1/97 [DPA].

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: Do pass as amended.

Signed by Senators Deccio, Chair; Wood, Vice Chair; Benton, Strannigan and Wojahn.

Staff: Jonathan Seib (786-7427)

Background: Current law states that when an organization accepts a prepayment in exchange for providing health services, it is engaging in the business of insurance and, therefore, is regulated by the Office of the Insurance Commissioner. A health care service contractor (HCSC), e.g., Blue Cross of Washington and Alaska or Unified Physicians of Washington, is defined as any corporation, cooperative group, or association which accepts prepayment for health care services from a group of individuals as consideration for providing such individuals with any health care services. Once certified, a HCSC is required to comply with laws regarding net worth, solvency, product design, rates, and consumer protection. Similar requirements exist for health maintenance organizations, e.g., Group Health Cooperative or Kaiser Permanente. A commercial carrier, e.g., Travelers or AETNA, that offers individual, group, or blanket disability (indemnity) coverage is not explicitly authorized to offer prepaid coverage.

Summary of Amended Bill: A health care provider, facility or provider network is not subject to state regulation for engaging in the business of insurance when compensated by a third-party payer on an at-risk basis, regardless of whether the provider or provider network accepts compensation which, in turn, is used to pay other providers or facilities for services.

A lawful third-party payer is defined as a health carrier regulated by state insurance law.

The authority of the state to regulate health care providers, facilities and provider networks as engaging in the business of insurance when dealing with self-funded third party payers

governed by the federal Employee Retirement Income Security Act of 1974 or the federal Labor Management Relations Act is governed by federal preemption law.

Amended Bill Compared to Substitute Bill: The proposed amendment removes language in one subsection of the bill which states that the listed entities shall not be subject to regulation "so long as a lawful third-party payer is ultimately financially responsible to the patient for the provision of the health care services contracted." The subsection on federal preemption is reworded.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: There currently is no need for downstream regulation of providers or provider groups contracting with third-party payers. It would be redundant. The bill clarifies that when a lawful third-party payer is in the mix, the payer, and not the provider, is the appropriate entity to regulate. The bill will allow providers to focus on providing quality care rather than meeting unnecessary regulatory requirements.

Testimony Against: We are opposed to any proposal which would unravel regulatory requirements. At best, this legislation simply reiterates existing law and is unnecessary. At worst, it is the first step in allowing those who are in effect engaging in the business of insurance to avoid the financial solvency and consumer protection requirements in law.

Testified: PRO: Representative Dyer, prime sponsor; Jeff Larsen, Washington Osteopathic Medical Association; Diane Stollenwerk, Providence Health System and PeaceHealth; Nancee Wildermuth, PacifiCare of WA; Andy Dolan, Washington State Medical Association; Jim Halstom, Health Care Purchasers Association; Andy Davidson, Washington State Hospital Association; CON: Ele Hamburger, Washington Citizen Action.