

HOUSE BILL REPORT

SHB 1967

As Passed House:
March 9, 2015

Title: An act relating to creating flexibility in health care coverage by seeking federal waivers.

Brief Description: Directing the health care authority to apply for federal waivers concerning health care coverage.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Cody, Schmick and Jinkins).

Brief History:

Committee Activity:

Health Care & Wellness: 2/11/15, 2/17/15 [DP];
Appropriations: 2/26/15, 2/27/15 [DPS].

Floor Activity:

Passed House: 3/9/15, 60-38.

Brief Summary of Substitute Bill

- Directs the Health Care Authority to apply to the federal government for a waiver to permit employers to integrate employer health care arrangements with individual market policies, and to authorize alternative structures for those participating in medical assistance.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: Do pass. Signed by 15 members: Representatives Cody, Chair; Riccelli, Vice Chair; Schmick, Ranking Minority Member; Harris, Assistant Ranking Minority Member; Caldier, Clibborn, DeBolt, Jinkins, Johnson, Moeller, Robinson, Rodne, Short, Tharinger and Van De Wege.

Staff: Alexa Silver (786-7190).

HOUSE COMMITTEE ON 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: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 22 members: Representatives Hunter, Chair; Ormsby, Vice Chair; Carlyle, Cody, Dunshee, Haler, Hansen, Hudgins, S. Hunt, Jinkins, Kagi, Lytton, MacEwen, Magendanz, Pettigrew, Sawyer, Schmick, Senn, Springer, Sullivan, Tharinger and Walkinshaw.

Minority Report: Do not pass. Signed by 10 members: Representatives Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys, Condotta, Dent, G. Hunt, Stokesbary, Taylor and Van Werven.

Minority Report: Without recommendation. Signed by 1 member: Representative Fagan.

Staff: Erik Cornellier (786-7116).

Background:

Employer Health Care Arrangements.

An employer payment plan, which is a type of employer health care arrangement, involves an employer reimbursing employees for their purchase of individual market policies. Guidance issued by several federal agencies indicates that employer health care arrangements are considered to be group health plans and are therefore subject to market reforms under the Affordable Care Act (ACA), including the prohibition on annual limits for essential health benefits and the requirement to provide preventive services without cost-sharing. These arrangements may satisfy the market reforms if they are integrated with a group health plan, but they may not be integrated with individual market policies to satisfy the market reforms.

In addition, an employee who participates in this type of arrangement would be ineligible for premium tax credits, because he or she would be covered by a group health plan.

Medical Assistance.

The Health Care Authority administers the Medicaid program, which is a state-federal program that pays for health care for low-income state residents who meet certain eligibility criteria. Medicaid eligibility is based upon income or a combination of income and other criteria such as age, disability, or pregnancy. Medicaid benefits cover a range of health services, generally provided through managed care plans, including health professional services, prescription medications, hospital services, durable medical equipment, mental health services, and some dental and vision services.

Federal Waivers.

Section 1332 of the ACA authorizes states to apply to the Secretary of Health and Human Services (HHS) and the Secretary of the Treasury for a waiver from certain provisions of the ACA for plan years beginning in 2017. A waiver may be granted if the state plan will provide coverage that is at least as comprehensive and affordable as coverage under the ACA to at least a comparable number of people, without increasing the federal deficit. The application must include a description of the state legislation and program to implement a

plan meeting the requirements for a waiver, as well as a 10-year budget plan that is budget neutral for the federal government.

In addition, under section 1115 of the Social Security Act, the Secretary of HHS has authority to grant waivers from certain Medicaid requirements to allow states to demonstrate innovative approaches in their Medicaid programs. The purpose of section 1115 demonstration projects is to demonstrate and evaluate policy approaches such as expanding eligibility, providing services not typically covered, and using innovative service delivery systems.

Summary of Substitute Bill:

By January 1, 2016, the Health Care Authority (HCA) must apply to the federal government for a waiver to:

- permit employers to integrate employer health care arrangements, such as health reimbursement arrangements and employer payment plans, with individual market policies; and
- authorize alternative structures for enrollee eligibility, provider payment, and plan design for those participating in medical assistance to tailor the program to the needs of Washington residents.

The HCA must provide a process for public notice and comment, notify the Governor and the Legislature upon receipt of a waiver, and provide status reports, as requested, to the Joint Select Committee on Health Care Oversight.

The bill is null and void unless funded in the budget.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

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

(In support) This bill is a work in progress. Several legislators have committed to figuring out what to include for a waiver request in 2017. This bill is an opportunity to make health insurance more affordable and accessible for small business. Less than 40 percent of small businesses are able to offer health insurance. Small businesses want flexibility to provide assistance to employees. Under current law, the only way to accomplish this is a pay increase, which is eroded by taxes, and there is no guarantee that money is used to purchase health insurance.

(Neutral) The federal government has provided guidance on the process for section 1332 waivers, but has not provided information about what strings might be attached.

(Opposed) None.

Staff Summary of Public Testimony (Appropriations):

(In support) Next year is the first time the state can apply for a waiver under the Affordable Care Act, so this is a bill to get a conversation started. The fiscal note is obtuse because the bill does not provide a lot of specificity about what the waiver does.

(Opposed) None.

(Information only) There is a lot more work in progress to understand the full scope of the bill. Conversations will continue and the fiscal note will be adjusted accordingly as the details emerge.

Persons Testifying (Health Care & Wellness): (In support) Representative Cody, prime sponsor; and Patrick Connor, National Federation of Independent Business.

(Neutral) Jenny Hamilton, Health Care Authority.

Persons Testifying (Appropriations): (In support) Representative Cody, prime sponsor.

(Information only) Jenny Hamilton, Health Care Authority.

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

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