

SENATE BILL REPORT

ESHB 1523

As Passed Senate, February 27, 2018

Title: An act relating to requiring health plans to cover, with no cost sharing, all preventive services required to be covered under federal law as of December 31, 2016.

Brief Description: Requiring health plans to cover, with no cost sharing, all preventive services required to be covered under federal law as of December 31, 2016.

Sponsors: House Committee on Health Care & Wellness (originally sponsored by Representatives Robinson, Johnson, Cody, Harris, Pollet, Doglio, Appleton, Fitzgibbon, Tharinger, Farrell, McBride, Fey and Macri).

Brief History: Passed House: 3/01/17, 70-28; 1/31/18, 56-38.

Committee Activity: Health Care: 3/14/17.

Health & Long Term Care: 2/15/18, 2/22/18 [DP, DNP, w/oRec].

Floor Activity:

Passed Senate: 2/27/18, 27-22.

Brief Summary of Bill

- Requires regulated health plans to cover the same preventive services required by federal law as of December 31, 2016.

SENATE COMMITTEE ON HEALTH CARE

Staff: Mich'l Needham (786-7442)

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Majority Report: Do pass.

Signed by Senators Cleveland, Chair; Kuderer, Vice Chair; Conway, Keiser, Mullet and Van De Wege.

Minority Report: Do not pass.

Signed by Senator Becker.

Minority Report: That it be referred without recommendation.

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.

Signed by Senators Rivers, Ranking Member; Bailey and Fain.

Staff: Evan Klein (786-7483)

Background: The federal Patient Protection and Affordable Care Act (ACA) requires health plans to cover the following preventive services with no cost sharing:

- items or services with an A or B rating from the United States Preventive Services Task Force;
- immunizations recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention;
- preventive care and screenings for children recommended by the United States Health Resources and Services Administration's (HRSA) Bright Futures Project; and
- additional services supported by the HRSA.

Preventive services covered by this requirement include the following:

- immunizations for certain diseases, including diphtheria, hepatitis, influenza, and measles;
- autism screening for children aged 18-24 months;
- blood pressure and cholesterol screenings;
- screenings for certain diseases, including diabetes, colorectal cancer, and HIV; and
- contraception for women—this requirement is limited under some circumstances by federal rule and Supreme Court precedent.

Summary of Bill: A regulated health plan must, at a minimum, provide coverage for the same preventive services required by the ACA and any federal rules or guidance in effect on December 31, 2016, implementing the ACA's preventive services requirement. The health plan may not impose cost-sharing requirements for these preventive services. The insurance commissioner must enforce the requirement consistent with federal rules, guidance, and case law in effect on December 31, 2016, applicable to the preventive services requirement in the ACA.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony (Health Care): *Testimony from 2017 Regular Session.*

PRO: This is a proposal to ensure the preventive services that are already covered remain covered with no cost sharing. These preventive screenings, like cancer screenings and diabetes screenings, help people stay healthy and save lives. Ninety-eight percent of women will use contraception at some point in their lives. On average, a woman may use contraceptives for 30 years, which can add up to considerable cost.

CON: We oppose this on religious grounds. This mandate violates our religious freedom and forces those who object to coverage of certain devices and drugs to cover them. Of the

20 drugs and devices required there are four that can kill an embryo. The case law does not apply in Washington. This coercive mandate forces everyone to pay for drugs that cause abortions. Increased government mandates increase the cost of health plan coverage. Businesses and individuals do not want to facilitate violating religious freedom. This forces health plans to cover abortifacients and there is not an effective conscience clause. The federal law is incomplete and forces faith based employers to cover items they object to.

Persons Testifying (Health Care): PRO: Representative June Robinson, Prime Sponsor; Mary McHale, American Cancer Society, Cancer Action Network; Kathryn Kolan, Washington State Medical Association; Melanie Smith, NARAL Pro-Choice Washington.

CON: Michael Pauley, Human Life of Washington; Chris Plante, Family Policy Institute of Washington; Camille Pauley, Healing the Culture; Theresa Schrempp, citizen.

Persons Signed In To Testify But Not Testifying (Health Care): No one.

Staff Summary of Public Testimony (Health & Long Term Care): PRO: As the state and country struggles with health care costs, it is important that we emphasize prevention. This will help bend the cost curve for health care. This bill says that we as a state will continue to provide access to preventive health care with no out of pocket costs to patients. Since implementation of the ACA, there has been a decrease in socioeconomic discrepancies in cancer screenings. The bill speaks to preventive services already being covered with no cost sharing, and the evidence is clear that preventive services work. There is a lot of time spent talking about reducing unnecessary care and hospitalizations. One of the best ways to keep patients out of the emergency room is to utilize preventive care.

CON: We are completely in favor of preventive care, but are opposed to contraception and abortifacient contraception. This law would be asking people of faith to participate in remote mediate material cooperation, which could constitute a mortal sin. People should not be put in a position that goes against their deeply held philosophical and moral beliefs. There is a loophole in the conscience clause created by the attorney general. Conscience clauses were all put into effect at the federal level in January 2017, so they are not included in rules and laws codified by this bill. The question is, who is the intended target of this law? The military allows conscientious objectors, but this bill does not. This bill is really about business owners opposed to abortion inducing drugs being forced to cover them. If this bill were to pass the Catholic Church would be required to stop covering health insurance. Persons and institutions should not be required to provide coverage for Food and Drug Administration contraceptives that could kill an embryo. The date in this bill cuts off very real findings from the U.S. Supreme Court about how the contraceptive mandate is applied.

Persons Testifying (Health & Long Term Care): PRO: Representative June Robinson, Prime Sponsor; Mary McHale, American Cancer Society Cancer Action Network, American Heart Association, American Lung Association, Komen, Bleeding Disorders Foundation of Washington; Chris Bandoli, Washington State Hospital Association; Katie Kolan, Washington State Medical Association; Lauren Baba, Seattle Cancer Care Alliance.

CON: Dr. Sarah Bartel, citizen; Lt. Col. (Ret.) Kimberly Wendt; citizen; Allison Verhofstadt, citizen; Chris Plante, Policy Director, Family Policy Institute of Washington.

Persons Signed In To Testify But Not Testifying (Health & Long Term Care): No one.