HOUSE BILL REPORT
ESSB 6127

As Passed House - Amended:
February 27, 2024

Title: An act relating to increasing access to human immunodeficiency virus postexposure prophylaxis drugs or therapies.

Brief Description: Increasing access to human immunodeficiency virus postexposure prophylaxis drugs or therapies.

Sponsors: Senate Committee on Health & Long Term Care (originally sponsored by Senators Liias, Rivers, Muzzall, Randall, Frame, Hasegawa, Kuderer, Lovick, Nobles and Pedersen).

Brief History:
Committee Activity:
Health Care & Wellness: 2/14/24, 2/20/24 [DPA].
Floor Activity:
Passed House: 2/27/24, 95-0.

Brief Summary of Engrossed Substitute Bill
(As Amended by House)

- Requires hospitals to adopt policies for dispensing post-exposure prophylaxis (PEP) human immunodeficiency virus drugs that ensure patients meeting certain criteria are provided a 28-day supply.
- Prohibits health plans from imposing cost-sharing and health plans, the Health Care Authority, and Medicaid from imposing prior authorization requirements for at least one of each required PEP drug.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: Do pass as amended. Signed by 16 members: Representatives Riccelli, Chair; Bateman, Vice Chair; Schmick, Ranking Minority Member; Hutchins, Assistant

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Ranking Minority Member; Bronoske, Caldier, Davis, Graham, Harris, Macri, Maycumber, Mosbrucker, Orwall, Simmons, Stonier and Tharinger.

Staff: Kim Weidenaar (786-7120).

Background:

Human Immunodeficiency Virus Post-Exposure Prophylaxis.
Human immunodeficiency virus (HIV) post-exposure prophylaxis (PEP) is used when an HIV-negative person believes that they may have been exposed to HIV. Human immunodeficiency virus PEP consists of taking HIV medications once or twice a day for 28 days to prevent becoming infected and must be started within 72 hours of possible exposure. The Centers for Disease Control and Prevention (CDC) has developed guidelines for the administration of PEP, which includes prescribing a 28-day course of treatment after a patient reports exposure to bodily fluids, the source of which is known to be HIV-positive, within the last 72 hours and that exposure presents a substantial risk for transmission.

Prepackaged Medications.
A hospital may allow prepackaged emergency medications for patients being discharged from the emergency department to be prescribed by practitioners with prescriptive authority and distributed by these practitioners and registered nurses when: (1) community pharmacies and outpatient hospital services are not available within 15 miles by road; or (2) in the judgment of a practitioner and consistent with hospital policies, the patient has no reasonable ability to reach a local community or outpatient pharmacy. The director of the hospital pharmacy must develop policies and procedures regarding: (1) the types of emergency medications to be prepackaged; (2) the preparation of the emergency medications by, or under the supervision of, a pharmacist; (3) the criteria under which prepackaged emergency medications may be prescribed and distributed; (4) the training requirements for staff; (5) the maintenance of prescriptions; (6) the storage of the medications; and (7) patient counseling on the medications. In addition, the policies must establish a limit of a 48-hour supply of emergency medications, except when a community pharmacy or the hospital pharmacy will not be available within 48 hours, in which case up to a 96-hour supply may be dispensed. The delivery of a single dose of medication for immediate administration is exempt from the requirements.

Summary of Amended Bill:

A hospital must adopt a policy and have procedures in place, that conform with the guidelines issued by the CDC, for the dispensing of PEP drugs or therapies. This policy must ensure that hospital staff dispense or deliver to a patient, with a patient's informed consent, a 28-day supply of PEP following the patient's possible exposure to HIV, unless medically contraindicated, inconsistent with accepted standards, or inconsistent with CDC guidelines. When available, hospitals must dispense or deliver generic PEP drugs or therapies. This requirement does not affect reimbursement for PEP drugs through the

Crime Victims Compensation Program or the Industrial Insurance Act.

Hospitals are authorized to allow a practitioner to prescribe PEP as a prepacked emergency medication and allow a practitioner or registered nurse to distribute PEP to patients being discharged from a hospital emergency department when a patient is identified as needing HIV PEP drugs or therapies. The limitation on when emergency medications can be provided by a hospital is modified to include when antibiotics or PEP drugs or therapies are required and the prohibition on supplying more than 96 hours of an emergency medication is removed.

Nongrandfathered health plans issued or renewed on or after January 1, 2025, and health plans offered to public and school employees may not impose cost-sharing and these plans, Medicaid, and the Health Care Authority (HCA) may not require prior authorization for the drugs that comprise at least one regimen recommended by the CDC for PEP. For health plans that are a qualifying health plan for a health savings account (HSA), the carrier must set the cost-sharing amount at the minimum level necessary to preserve the enrollee's ability to claim tax-exempt contributions and withdrawals from the HSA.

Health plans, including those offered to public and school employees, Medicaid, and the HCA must reimburse hospitals, as a separate expense, for a 28-day supply of any PEP drugs or therapies dispensed or delivered to a patient in the emergency department for take-home use.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on January 1, 2025.

Staff Summary of Public Testimony:

(In support) Currently, there are significant barriers to getting PEP, particularly in rural areas. Individuals are forced to scramble to get this important HIV prevention tool within the required 72-hour period. This bill helps reduce these obstacles.

The time period to obtain PEP is very strict and few pharmacies stock PEP. Today hospitals do provide individuals with the first few days of PEP, but it is still often difficult to obtain in rural or isolated areas. While many plans cover PEP in Washington, it can still be difficult to fill these prescriptions. This bill is a step in the right direction and would prohibit out-of-pocket costs for PEP. This creates equitable access to PEP across Washington.

This bill ensures that there is access to emergency HIV medication. When people are living with HIV or AIDS and have access to medications, they can remain healthy and

productive.

This is not an easy ask for emergency departments. These drugs and therapies expire six weeks after they are opened and so it is vital that payers reimburse hospitals for this medication. While it is appreciated that the state has a crime victim fund, it needs to be better funded.

(Opposed) None.

(Other) While small changes should be made to this bill, there is appreciation for where the bill is now. This bill presents an opportunity to make additional changes to the medications that can be dispensed by hospitals for more than a 48-hour supply. Fee for service reimbursement for Medicaid should also be included.

The language should be reverted back to the full 28-day supply. Someone should not leave the emergency department thinking that they have all the medication they need. Additionally, carriers are worried that they may have to pay for the medication twice. First, for the five days from the hospital and then for the rest of the 28 days from the pharmacy.

Persons Testifying: (In support) Jonathan Frochtzwajg, Cascade AIDS Project; Joanna Shelton; Erin Berry, Planned Parenthood Greater Northwest; Gabriel Neuman, GSBA; and Jenny Arnold, Washington State Pharmacy Association.

(Other) Katie Kolan, Washington State Hospital Association; and Evan Klein, Health Care Authority.

Persons Signed In To Testify But Not Testifying: None.