

# SENATE BILL REPORT

## SB 5338

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As Reported by Senate Committee On:  
Health & Long Term Care, January 24, 2023

**Title:** An act relating to a review of the state's essential health benefits.

**Brief Description:** Reviewing the state's essential health benefits.

**Sponsors:** Senators Cleveland, Muzzall, Conway and Randall.

**Brief History:**

**Committee Activity:** Health & Long Term Care: 1/20/23, 1/24/23 [DPS-WM].

**Brief Summary of First Substitute Bill**

- Directs the Office of the Insurance Commissioner to review the state's essential health benefits and determine whether to request federal approval to update those benefits.

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### SENATE COMMITTEE ON HEALTH & LONG TERM CARE

**Majority Report:** That Substitute Senate Bill No. 5338 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Cleveland, Chair; Robinson, Vice Chair; Rivers, Ranking Member; Muzzall, Assistant Ranking Member; Conway, Dhingra, Holy, Padden, Randall and Van De Wege.

**Staff:** Greg Attanasio (786-7410)

**Background:** Under the Affordable Care Act, each state must designate an Essential Health Benefits benchmark plan to serve as a benchmark for all individual and small group health plans offered in the state. Washington's most recent designation of the essential health benefits benchmark plan was in 2016.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

In 2019, the Department of Health and Human Services issued a notice of benefits and payment parameters that gives states an opportunity to update their essential health benefit benchmark plans for 2020 and beyond. The deadline for submission of a request and supporting documents for a future plan year is May two years before the plan year the essential health benefits update would take effect. The submission must include an actuarial analysis and description of the new benchmark plan, include a description of benefits and limits.

**Summary of Bill (First Substitute):** The Office of the Insurance Commissioner (OIC), in consultation with relevant interested persons and entities, must review Washington's benchmark health plan establishing the state's essential health benefits to determine whether to request approval to modify the state's essential health benefits benchmark plan.

As part of this review, OIC must determine the potential impacts on individual and small group health plan design, actuarial values, and premium rates if coverage for each of the following was included as an essential health benefit:

- hearing instruments and associated services;
- fertility services;
- biomarker testing;
- contralateral prophylactic mastectomies; and
- magnetic resonance imaging for breast cancer screening.

Any update of the state's essential health benefits benchmark plan must also include coverage for human donor milk.

By December 1, 2023, OIC must report the results of the review to the relevant committees of the Legislature, including any findings related to modifying the state's essential health benefits.

**EFFECT OF CHANGES MADE BY HEALTH & LONG TERM CARE COMMITTEE (First Substitute):**

- Adds biomarker testing to the list of services to review for inclusion as an essential health benefit.
- Changes the term "qualified health plan" to "individual and small group health plan" to ensure application of an EHB update to the small group market.

**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 on Original Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: The state's essential health benefits were set a decade ago and it's time for a review. Engaging stakeholders and performing actuarial analyses will allow the state to make an informed decision. It is time to add hearing aid coverage to provide language access to all.

**Persons Testifying:** PRO: Senator Annette Cleveland, Prime Sponsor; Jane Beyer, Office of the Insurance Commissioner; Jennifer Ziegler, Association of Washington Health Care Plans; Stephanie Simpson, Bleeding Disorder Foundation of Washington; Jill Bujnevicie; Alex Wehinger, WA State Medical Association (WSMA).

**Persons Signed In To Testify But Not Testifying:** No one.