

HOUSE BILL REPORT

2SSB 5597

As Reported by House Committee On:
Health Care & Wellness
Appropriations

Title: An act relating to contracts with chiropractors.

Brief Description: Concerning contracts with chiropractors.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Franklin, Benton, Zarelli, Kauffman, Kline, Carrell, Poulsen, Keiser, Kohl-Welles, Delvin and Roach).

Brief History:

Committee Activity:

Health Care & Wellness: 3/15/07, 3/22/07 [DPA];

Appropriations: 3/28/07, 3/31/07 [DPA(APP w/o HCW)s].

**Brief Summary of Second Substitute Bill
(As Amended by House Committee)**

- Prohibits health carriers from refusing to reimburse a participating provider chiropractor for provision of health care services by certain employees of the chiropractor working at the same location, if specified conditions are met.
- Requires health carriers that offer a network provider contract to a chiropractic practice of two or more members to offer all chiropractors in the practice the opportunity to be participating providers.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: Do pass as amended. Signed by 10 members: Representatives Cody, Chair; Morrell, Vice Chair; Barlow, Campbell, Curtis, Green, Moeller, Pedersen, Schual-Berke and Seaquist.

Minority Report: Do not pass. Signed by 3 members: Representatives Hinkle, Ranking Minority Member; Alexander, Assistant Ranking Minority Member and Condotta.

Staff: Chris Cordes (786-7103).

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.

Background:

Washington law requires health plans, whether fee-for-service or managed care, to include every category of health care provider to provide services for conditions that are included in the Basic Health Plan services, as long as the service provided is within the provider's scope of practice. Enrollees in health plans must have an adequate choice among providers and, under Insurance Commissioner rules, a health plan network must have sufficient numbers of providers and facilities to make services accessible to covered persons without unreasonable delay. A carrier is not, however, required to contract with any particular provider.

Under rules of the Washington State Chiropractic Quality Assurance Commission (Commission), a chiropractor may delegate certain services to specified employees, including senior students or postgraduate trainees. These services must be performed under the direct supervision and control of the licensed chiropractor. Supervision means that the licensed chiropractor is on the premises and immediately available and has examined the patient prior to delegating the duties. Delegated services include:

- to senior students: detection of subluxation, exposure and analysis of radiographs, determining whether chiropractic care is necessary, and making orthopedic or neurological examinations; and
- to postgraduate trainees: the same services as are delegated to senior students, but trainees may also adjust or manipulate the articulations of the body.

Summary of Amended Bill:

Health carriers that execute or renew participating provider agreements on or after January 1, 2008, must comply with specific requirements related to contracting with chiropractors.

Reimbursement for Services Provided by Contracted Chiropractor Employees

Health carriers may not refuse to reimburse a participating provider chiropractor for provision of health care services if the following requirements are met:

- the health care service is medically necessary and within the scope of practice of the chiropractor;
- the health care service is provided by the chiropractor or the chiropractor's employees who work in the same location as the contracted chiropractor and are either licensed chiropractors or chiropractic students or post-graduate trainees to whom the work is delegated under rules of the Commission, and these employees meet reasonable qualification standards of the health carrier;
- the health care service is covered under the enrollee's health plan; and
- the chiropractor complies with the participating provider agreement, including cost containment and quality assurance requirements.

The chiropractor retains legal responsibility for delegated services performed by his or her employees.

Contracts with Chiropractic Group Practices

Health carriers that offer a plan network provider contract to a chiropractic practice of two or more members must offer all chiropractors in the practice the opportunity to be participating providers, as long as the chiropractors agree to comply with standards listed in statute, including cost containment, administrative procedures, and efficacious care. These agreements may be subject to termination without cause by either party.

Other Provisions

Contract terms that attempt to waive these provisions are invalid.

These provisions apply to disability insurers, health care service contractors, and health maintenance organizations.

Amended Bill Compared to Second Substitute Bill:

The striking amendment: (1) makes various technical and reorganizing changes, including deleting explicit provisions that would not have allowed contracts to prohibit delegation of duties or to require compliance with health care delivery standards conflicting with those adopted by the Commission; (2) adds the following conditions to the requirement that health carriers must reimburse participating chiropractors for provided health care services: (a) the services must be medically necessary and within the chiropractor's scope of practice; (b) the work must be performed by the chiropractor or by the chiropractor's employees who work in the same location and are either licensed chiropractors or are legally delegated the work as chiropractic students or post-graduate trainees, as long as the employees meet reasonable qualification standards of the health carrier; (c) the services must be a covered benefit; and (d) the chiropractor must comply with cost containment and quality assurance requirements of the provider agreement; and (3) adds that health carriers offering network provider contracts to a chiropractic practice of two or more members must offer all chiropractors in the practice the opportunity to be participating providers, as long as the chiropractors agree to comply with standards listed in statute, including cost containment, administrative procedures, and efficacious care.

Appropriation: None.

Fiscal Note: Requested on March 22, 2007.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) The issue is reimbursing for services that are legally provided by chiropractors' employees. Other professions are allowed to delegate to employees. This issue is important for quality and continuity of care for patients' good health outcomes. Health carriers don't allow negotiated contracts for individual chiropractors like they do for group practices, but

instead the contracts are "take it or leave it." When a clinic hires a postgraduate trainee, the carrier won't look at a group agreement, saying that the panel is closed. This also happens when a small clinic loses a credentialed provider. Most carriers won't provide a group agreement for fewer than 20 providers in a clinic. Group agreements allow negotiation over who is a provider and the volume of cases. The Office of the Insurance Commissioner has agreed to look at a rule on coverage during vacations, but not at the other issues raised by the chiropractors, including small group practices. If massage therapy is indicated for a patient, it does require a referral by the chiropractor. Chiropractors remain responsible for the quality of care. Chiropractic benefits are generally limited and controlled by the carriers. Chiropractic care fits very well within several proposals of the Blue Ribbon Commission.

(With concerns) What is required by the bill contradicts the effort to improve the quality of care. It will also limit the ability to contract for services by volume and to control where enrollees get their care. The bill introduced the concept of setting reimbursement rates by the Commission. It would be a problem if all providers sought reimbursement for care provided by their employees. Each revision of the bill reduces costs for the state's self-insured plan, but the changes do not reduce costs for the health carriers generally. The state's self-insured plan usually follows the requirements for health carriers.

(Opposed) A recent Rand study shows that patients get the recommended care only about 55 percent of the time. We need to reward good practice habits, not more care. This bill runs counter to the proposals of the Blue Ribbon Commission. Some carriers have good relationships with chiropractors, with large network panels and payments that exceed other specialties. But the carrier has a responsibility to manage the size and quality of the provider network. The chiropractor's employee is not subject to a credential review, and there is no recourse for quality of care problems by an employee except to terminate the chiropractor's contract. Nothing prevents that employee from moving to another practice. There is a large cost associated with this bill. The extra cost for the Basic Health Plan reduces the number of slots that can be filled.

Persons Testifying: (In support) Senator Franklin, prime sponsor; Lori Bielinski, Washington State Chiropractic Association; and Gary Baldwin, Baldwin Chiropractic.

(With concerns) Steve Hill, Health Care Authority.

(Opposed) Nancee Wildermuth, Regence Blue Shield, PacifiCare, and Aetna; Paul Baron, Regence Blue Shield; and Ken Bertrand, Group Health Cooperative.

Persons Signed In To Testify But Not Testifying: Andrew Busz, Community Health Plan; and Mellani McAleenan, Association of Washington Business.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Appropriations and without amendment by Committee on Health Care & Wellness. Signed by 20 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Cody, Conway, Darneille, Fromhold,

Haigh, Hunt, Hunter, Kagi, Kenney, Kessler, McDermott, McIntire, Morrell, Pettigrew, Priest, Schual-Berke, Seaquist and P. Sullivan.

Minority Report: Do not pass. Signed by 13 members: Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Haler, Assistant Ranking Minority Member; Anderson, Buri, Chandler, Dunn, Ericks, Grant, Hinkle, Kretz, Linville and McDonald.

Staff: David Pringle (786-7310).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Health Care & Wellness:

Language was added to clarify that reimbursement for chiropractic services delegated to other employees is required only when those delegated services are medically necessary. All state employee health plans, including the Uniform Medical Plan operated by the Health Care Authority, are made subject to the contract and reimbursement provisions of the bill.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) The bill improves the continuity of care delivered in clinics, as well as quality and affordability. Parity with medical clinics is provided by the bill, and the fiscal note makes assumptions about increased utilization that we disagree with. Chiropractic care saves money when available within plans - there are already visitation limits in most plans. This is about treating chiropractors equally.

(Opposed) We do not like the "any willing provider" aspects of the bill. It makes it more difficult for plans to contain costs and differentiate the cost, quality, and effectiveness of the treatment provided by different chiropractors or employees, regardless of how effective the practitioners are in delivering care. This contradicts the Blue Ribbon Commission recommendations on cost, quality, and standards. It was too expensive to be applied to the Uniform Medical Plan, and it is too expensive for the private sector as well. This will be a big impact on state programs, even though the Uniform Medical Plan was written out of the bill. It provides special treatment for chiropractors, not parity. The bill was improved in the Health Care Committee, but the best mechanism to ensure efficiency in the system is contracting control. This bill eliminates that mechanism, and is a poor use of the funds necessary for it. The provisions will cost Regence millions of dollars every year, and Group Health \$3.5-\$4 million per year. If the delegation to other employees language was tightened up, then this might be a better bill. Permit the carriers to determine medical necessity.

Persons Testifying: (In support) Lori Bielinski, Washington State Chiropractic Association.

(Opposed) Steve Hill, Health Care Authority; Len McComb, Community Health Plan, Washington State Hospital Association; Nancee Wildermuth, Regence Blue Shield, AETNA, and PacificCare; Diane Giese, Puget Sound Health Alliance; Mellani McAleenan, Association of Washington Business; and Mel Sorensen, America's Health Insurance Plan.

Persons Signed In To Testify But Not Testifying: None.