Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Ways & Means Committee

HB 2330

Brief Description: Concerning primacy of insurance coverage.

Sponsors: Representatives Cody and Hinkle.

Brief Summary of Bill

- The Department of Social and Health Services (DSHS) and the Health Care Authority (HCA) must send automated eligibility inquiry messages to third party insurers for purposes of determining eligibility for medical assistance and the Basic Health Plan and benefits provided by the Public Employees Benefits Board and the Health Insurance Partnership.
- Third party insurers must respond within 24 hours to automated eligibility inquiries.
- When an insurer fails or refuses to comply with these requirements, the Attorney General must subpoena the insurer's enrollment data and commence civil and criminal prosecution under state and federal law.
- Courts may order injunctive relief, costs, and damages, including up to $1,000 for each eligibility inquiry message that an insurer fails or refuses to respond to.
- The Insurance Commission may suspend, revoke, or refuse to renew an insurer's Certificate of Authority for failing or refusing to respond to automated eligibility inquiries.
- The DSHS must examine all claims paid from January 1, 2004, to July 1, 2009 to determine which claims were eligible for payment by a third party and take action to recover the costs associated with those claims.
- Eligibility, coverage, employment, and income data shared under this act are exempt from federal and state privacy and confidentiality laws.

Hearing Date: 4/4/09

Staff: Erik Cornellier (786-7116)

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:

Medical assistance is available to eligible low-income state residents and their families from the Department of Social and Health Services (DSHS), primarily through the Medicaid program. Most of the state medical assistance programs are funded with matching federal funds in various percentages. Federal funding for the Medicaid program is conditioned on the state having an approved Medicaid state plan and related state laws to enforce the plan.

If a recipient of state medical assistance is also covered by another health care plan (a third party plan), the recipient is a joint beneficiary. The third party is liable for payment of the recipient's health care services or items covered by its plan and paid for by the DSHS. States are required to have these coordination of benefits provisions in their Medicaid state plans and to have laws in effect granting the state the right to acquire those payments from any liable third party.

The DSHS is required to provide routine and periodic computerized information to insurers regarding client eligibility and coverage information. Health insurers use this information to identify joint beneficiaries, and they transmit information on joint beneficiaries to the DSHS. Health insurers must provide this information to the DSHS as a condition of doing business in Washington.

The DSHS can recover a payment from a liable third party when the DSHS submits a claim within three years of the date when the item or service was furnished, and action by the DSHS to enforce its rights is commenced within six years of the department's submission of the claim.

The Health Care Authority (HCA) administers the Basic Health Plan (BHP), the Public Employees Benefits Board (PEBB), and the Health Insurance Partnership (HIP). The BHP is a state-sponsored program that provides coverage to low-income Washington residents. Through the PEBB, Washington provides medical, dental, life, and long-term disability coverage through private health insurance plans to eligible state and higher-education employees as a benefit of employment. The HIP provides Washington small employers access to health insurance coverage at a lower employer contribution rate than in the traditional small group health insurance market. The HIP also offers a premium subsidy to eligible employees based on their family income.

Summary of Bill:

For purposes of determining the eligibility of persons claiming benefits under Medicaid, the DSHS or its agent must send automated eligibility inquiry messages to insurers providing health insurance or health care coverage, workers compensation, auto insurance, or homeowner's insurance to Washington residents. Insurers must respond to the DSHS inquiry messages with information on coverage and benefits within 24 hours or upload their responses to a centralized database. The HCA must take similar action for determining eligibility for benefits under the BHP, PEBB, and HIP.

The DSHS and HCA administrators, through the Attorney General, are authorized to enforce these requirements against noncompliant insurers. When an insurer fails to comply with these requirements, the Attorney General must subpoena the enrollment data of the insurer, commence a complaint for administrative sanctions against the insurer under federal law, commence a

criminal prosecution under federal law, and commence an action in state court to enjoin the insurer from nonperformance of its duty.

Courts may order injunctive relief, costs, and damages, including penalties of up to $1,000 for each eligibility inquiry message that an insurer fails or refuses to respond to. The Insurance Commissioner may also suspend, revoke, or refuse to renew an insurer's certificate of authority based on failure or refusal to comply.

The DSHS must examine all Medicaid claims paid from January 1, 2004, to July 1, 2009, to determine which claims were eligible for payment by a third party. The DSHS must recover the costs associated with those claims.

Eligibility, coverage, employment, and income data shared under this act are exempt from federal and state privacy and confidentiality laws. Persons receiving data for these purposes may not use the data for any other purpose.

Appropriation: None.

Fiscal Note: Requested on March 31, 2009.

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