HOUSE BILL REPORT
HB 2326

As Passed House:
February 11, 2016

Title: An act relating to streamlining the independent review organization process by transferring regulatory authority over independent review organizations from the department of health to the insurance commissioner and requiring independent review organizations to report decisions and associated information directly to the insurance commissioner.

Brief Description: Transferring regulatory authority over independent review organizations to the insurance commissioner.

Sponsors: Representatives Moeller and Appleton.

Brief History:
Committee Activity:
Health Care & Wellness: 1/12/16, 1/15/16 [DP];
Appropriations: 1/27/16, 1/28/16 [DP].
Floor Activity:
Passed House: 2/11/16, 77-20.

Brief Summary of Bill

- Transfers regulatory authority over independent review organizations to the Office of the Insurance Commissioner.
- Requires independent review organizations to report decisions directly to the Insurance Commissioner.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: Do pass. Signed by 11 members: Representatives Cody, Chair; Riccelli, Vice Chair; Harris, Assistant Ranking Minority Member; Caldier, Jinkins, Johnson, Moeller, Robinson, Short, Tharinger and Van De Wege.

Minority Report: Do not pass. Signed by 2 members: Representatives Schmick, Ranking Minority Member; DeBolt.

Staff: Kelly Holler (786-7290) and Jim Morishima (786-7191).

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HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass. Signed by 22 members: Representatives Dunshee, Chair; Ormsby, Vice Chair; Wilcox, Assistant Ranking Minority Member; Cody, Fitzgibbon, Hansen, Hudgins, S. Hunt, Jinkins, Kagi, Lytton, MacEwen, Pettigrew, Robinson, Sawyer, Senn, Springer, Stokesbary, Sullivan, Tharinger, Van Werven and Walkinshaw.

Minority Report: Do not pass. Signed by 7 members: Representatives Chandler, Ranking Minority Member; Buys, Dent, Haler, Schmick, Taylor and G. Hunt.

Minority Report: Without recommendation. Signed by 3 members: Representatives Parker, Assistant Ranking Minority Member; Condotta and Magendanz.

Staff: Linda Merelle (786-7092).

Background:

A health plan enrollee may seek review by a certified independent review organization (IRO) of a carrier's adverse benefit determination. A carrier's decision to deny, modify, reduce, or terminate coverage of, or payment for, an enrollee's health care services may be reviewed by an IRO if: (1) the enrollee has exhausted the carrier's grievance process and received a final decision unfavorable to the enrollee; or (2) the carrier has exceeded the timeline for grievance resolution without good cause and without reaching a decision. Reviewers for the IRO make determinations regarding the medical necessity or appropriateness of, and the application of plan provisions to, health care services for an enrollee. The Department of Health (Department) certifies IROs, and the Office of the Insurance Commissioner (OIC) maintains a rotational registry system to assign IROs to specific disputes.

The Department adopts rules providing a procedure and criteria for certifying and regulating IROs. The rules must ensure:

- the confidentiality of medical records transmitted to IROs during the review process;
- the qualifications of each individual making independent review determinations;
- the absence of actual or potential conflicts of interest or bias of IROs;
- the fairness of IROs decision-making procedures;
- the timeliness of IRO decisions;
- the timely notice of IRO decisions to enrollees;
- the presence of quality assurance mechanisms in IRO processes; and
- IRO compliance with any other reasonable requirements established by the Department.

The rules must also include provisions for termination of IRO certification if an organization fails to comply with certification requirements. The Department has authority to review the operation and performance of IROs in response to complaints or other concerns about compliance.

The OIC establishes and administers a rotational registry system to assign certified IROs to each dispute. The system is designed to ensure that assigned IROs have the necessary expertise to review the medical condition or procedure underlying the dispute and that IRO's

are free of any conflicts of interest or bias that would jeopardize their ability to make independent decisions. Carriers must select IROs in the rotational manner described in the online registry system. Agency rules also require that health plan carriers submit final IRO decisions to the OIC's online database within three business days of receipt of the final IRO decision.

Summary of Bill:

Regulatory authority over independent review organizations (IROs) is transferred from the Department of Health (Department) to the Office of the Insurance Commissioner. The Insurance Commissioner (Commissioner) is responsible for certifying IROs and must adopt rules by January 1, 2017, providing a procedure and criteria for IRO certification. The Commissioner must adopt rules consistent with statutory requirements previously administered by the Department. In addition, the Commissioner must adopt rules requiring IROs to report decisions and associated information directly to the Commissioner.

Independent Review Organizations remain subject to rules adopted by the Department through December 31, 2016. Beginning January 1, 2017, the Commissioner has sole authority to certify IRO's and must automatically certify each IRO that was certified in good standing by the Department on December 31, 2016.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony (Health Care & Wellness):

(In support) The bill represents a collaborative effort of all involved parties and streamlines the independent review process. The bill ensures efficiency, fairness, and transparency in our health system by providing a more end-to-end look and review of appeals. Consumers of health care plans will be helped by any quickening of the process. It is efficient for independent review organizations (IROs) to report directly to the Insurance Commissioner (Commissioner) because they are separate entities and should be responsible for reporting their own decisions and rationale to the Commissioner rather than having a carrier step in and complete that work.

The regulatory expertise and consumer focus of the Commissioner will ensure decisions made by IROs are consistent with consumer coverage policy and also state statutory coverage requirements.

The Office of the Insurance Commissioner already maintains a database designed with consumers and issuers in mind to make information about IROs more accessible and centralized. Prior to creation of the database, it was more difficult to access IRO decisions. Now, with the database in place and direct IRO reporting that would be enabled by this bill,

the process is more straightforward. The bill will have no effect on what data is collected; it will just make the data more accessible.

(Opposed) None.

Staff Summary of Public Testimony (Appropriations):

(In support) The funds for implementation of this bill would be from the Insurance Commissioner's Regulatory Account. The fiscal note reflects the cost to get computers in line and to have the sufficient Office of the Insurance Commissioner (OIC) staff to oversee the independent review organizations (IROs). The OIC wants to make sure that it is appropriately staffing its oversight and credentialing responsibilities. This transfer to the OIC will provide a more complete end-to-end process because the functions will be housed in one agency. Under the bill, the IROs must report their own decisions rather having the carrier report them. Since the IROs are independent, they should be reporting their own decisions.

(Opposed) None.

Persons Testifying (Health Care & Wellness): Representative Moeller, prime sponsor; Sheri Nelson, Association of Washington Business; Lonnie Johns-Brown, Office of the Insurance Commissioner; Sydney Smith Zvara, Association of Washington Healthcare Plans; and Sheela Tallman, Premera Blue Cross.

Persons Testifying (Appropriations): Lonnie Johns-Brown, Office of the Insurance Commissioner; and Sheela Tallman, Premera Blue Cross.

Persons Signed In To Testify But Not Testifying (Health Care & Wellness): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.