

# SENATE BILL REPORT

## EHB 1890

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As Reported by Senate Committee On:  
Health Care, March 30, 2015

**Title:** An act relating to a second-party payment process for paying insurers.

**Brief Description:** Concerning a second-party payment process for paying issuer.

**Sponsors:** Representatives Schmick and Cody.

**Brief History:** Passed House: 3/09/15, 98-0.

**Committee Activity:** Health Care: 3/19/15, 3/30/15 [DP].

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### SENATE COMMITTEE ON HEALTH CARE

**Majority Report:** Do pass.

Signed by Senators Becker, Chair; Dammeier, Vice Chair; Frockt, Ranking Minority Member; Angel, Bailey, Brown, Cleveland, Conway, Jayapal, Keiser, Parlette and Rivers.

**Staff:** Mich'l Needham (786-7442)

**Background:** An individual enrolled in a qualified health plan (QHP) through the Health Benefit Exchange (Exchange) is responsible for making premium and cost-sharing payments to the issuer. In Washington the Exchange currently collects premium payments from enrollees and transmits them to issuers, but when the Exchange ceases to aggregate premiums, enrollees will pay issuers directly.

The Centers for Medicare and Medicaid Services (CMS) have issued guidance related to premium and cost-sharing payments made by third parties on behalf of QHP enrollees. CMS discourages issuers from accepting third-party payments from hospitals, health care providers, and other commercial entities due to concerns that the practice could skew the insurance risk pool and create an unlevel field in the Exchange.

By CMS rule, however, an issuer that offers a QHP in the individual market must accept premium and cost-sharing payments on behalf of an enrollee if the payment is made by the Ryan White HIV/AIDS Program; other state and federal government programs that provide premium and cost-sharing support for individuals; or Indian tribes, tribal organizations, or urban Indian national organizations.

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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 a part of the legislation nor does it constitute a statement of legislative intent.*

**Summary of Bill:** Issuers must accept payments made by a second-party payment process, and these payments may be made with any legal tender denominated in U.S. dollars.

Second-party payment process means a process in which:

- an individual has an account in the individual's name at a financial institution that is managed by either the institution or an entity that establishes the account on the individual's behalf and with the individual's express agreement;
- the account is funded with funds from the individual or the individual's family members, or in a manner otherwise consistent with federal law; and
- the account is under the control of the covered person so that the person may authorize payments from the account.

An issuer is not required to accept payment by a second-party payment process if the second-party payer is controlled by, or receives funding from, an entity that may be reimbursed by an issuer for providing health care services, or if the account is funded by such an entity, except for the third-party entities from which federal law requires the issuer to accept payment.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: It is a confusing bill but the intent is to allow small business owners that can't afford to offer insurance to have a defined contribution to a special account the employee can use for coverage. Some carriers will not accept second-party payment today but this language would require them to accept the payment. Our business is focused on health care financial transactions for small employers and employees that work on a part-time or seasonal basis, for those employers not required to provide coverage under the federal law. It is an approach that allows employees to authorize a wage deduction to the special account and then the account can be used to pay premiums to the carriers. CMS has not allowed third-party payments, nor any employer contributions to health care accounts, and rather than creating an exemption for their party payments this creates a new second-party payment approach. The program first started as an employer program, but due to CMS regulations it has moved to an employee program until there is a fix to the federal law.

**Persons Testifying:** PRO: Representative Schmick, prime sponsor; Lee Brillhart, LyfeBank; Randy Ray, AEQUUS Corp.

**Persons Signed in to Testify But Not Testifying:** No one.