

HOUSE BILL REPORT

ESB 5518

As Reported by House Committee On:
Health Care & Wellness

Title: An act relating to fair reimbursement for chiropractic services.

Brief Description: Requiring fair reimbursement for chiropractic services.

Sponsors: Senators Miloscia, Cleveland, Keiser, O'Ban and Fortunato.

Brief History:

Committee Activity:

Health Care & Wellness: 2/20/18, 2/21/18 [DPA].

Brief Summary of Engrossed Bill
(As Amended by Committee)

- Requires health insurance carriers to pay chiropractors the same as they pay other providers for a spinal manipulation code.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: Do pass as amended. Signed by 13 members: Representatives Cody, Chair; Macri, Vice Chair; Schmick, Ranking Minority Member; Caldier, Clibborn, DeBolt, Harris, Jinkins, Riccelli, Robinson, Slatter, Stonier and Tharinger.

Minority Report: Do not pass. Signed by 3 members: Representatives Graves, Assistant Ranking Minority Member; Maycumber and Rodne.

Minority Report: Without recommendation. Signed by 1 member: Representative MacEwen.

Staff: Kim Weidenaar (786-7120).

Background:

Health carriers are prohibited from using a payment method that pays chiropractors less than another type of provider licensed under RCW Title 18 for the same physical medicine and

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rehabilitation code or evaluation and management code as listed in a nationally recognized code book such as the American Medical Association Current Procedural Terminology Code Book. The carrier may not circumvent the requirement by creating a chiropractor-specific code not listed in the nationally recognized code book otherwise used by the carrier for provider payment.

Health carriers are permitted to:

- implement a health care quality improvement program, including pay-for-performance payment methods and other programs fairly applied to all health care providers to promote evidence-based practice;
- contract to comply with network adequacy standards;
- pay in-network and out-of-network providers differently; and
- pay differently based on geographic differences in practice costs.

Summary of Amended Bill:

Beginning January 1, 2019, health carriers may not pay a chiropractor less than another type of provider for the same or substantially similar spinal manipulation code. The prohibition against paying a chiropractor less than another type of provider for the same physical medicine and rehabilitation code or evaluation and management code is expanded to include substantially similar codes.

A health carrier's authority to pay a chiropractor less than another provider for services provided under the same or a substantially similar code based on differences in the cost of maintaining a practice or carrying malpractice insurance, under a nationally accepted payment methodology are not affected.

The Office of the Insurance Commissioner may adopt rules to implement this requirement.

Amended Bill Compared to Engrossed Bill:

The amended bill makes a technical change replacing "an equivalent code" with a "substantially similar code" so that the language is consistent throughout the bill.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 1, relating to the prohibition against health carriers paying a chiropractor less than another type of provider for the same or substantially similar manipulation code or for a substantially similar physical medicine and rehabilitation code or an evaluation and management code, which takes effect January 1, 2019.

Staff Summary of Public Testimony:

(In support) This bill corrects an unfair process that is just one of many unfair processes that carriers use against chiropractors. Most insurers acknowledge and use the Resource Based Relative Value Scale, which determines the payment for each health care service. The amounts are based on the relative value unit (RVU) that weighs the effort required to provide the service, the expenses related to maintaining a practice, and malpractice insurance costs. The RVUs are updated each year and do not take into account experience or education. However, carriers manipulate the RVUs when it comes to chiropractors, pay them significantly less than the RVU, and do not update their rates. The payments to Osteopathic Physicians (DOs) are far above the RVU for spinal manipulation codes, whereas chiropractors receive payments 50 percent less than their value. It is appalling to say that one profession is more valuable than another.

Carriers say that chiropractors can negotiate rates, but that is not true. The carriers control everything. Finally, carriers argue that raising the chiropractic reimbursement rates will increase premium costs, but that is a red herring.

(Opposed) Osteopathic Physicians are essential primary care providers and are reimbursed at higher rates for spinal manipulation than chiropractors because they provide a broader scope of services and so the rate negotiation encompasses their full scope of practice. This bill would either require carriers to increase a chiropractor's rate to meet that of a DO or to lower the DO rate to that of a chiropractor. Raising the chiropractor rates to that of DOs alone would cost \$28 million a year, raising insurance rates across the state. Lowering the DO rate to that of a chiropractor would undermine what DOs do and would make it harder to attract DOs, who are primary care providers. It is already very difficult to attract primary care providers, particularly to rural areas, and many areas already have shortages.

There are a number of other reasons to pay chiropractors and DOs at different rates. Generally, DOs spend more time with patients during visits. They also provide fewer treatments, which are spaced out over longer periods of time compared to chiropractic visits.

Finally, chiropractors have the ability to negotiate rates with carriers. Currently, chiropractors are the only providers that have payment parity in statute, and they should not be allowed to extend the parity. It is bad public policy.

Persons Testifying: (In support) Lori Grasi and Austin McMillin, Washington State Chiropractic Association.

(Opposed) Dave Knutson, Washington Osteopathic Medical Association; Zach Snyder, Regence Blue Shield; Meg Jones, Association of Washington Healthcare Plans; and Len Sorrin, Premera Blue Cross.

Persons Signed In To Testify But Not Testifying: None.