H-0290.1

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**HOUSE BILL 1191**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Representatives Thai, Bateman, Ryu, Lovick, Kloba, Simmons, Gregerson, Valdez, Peterson, Santos, Fitzgibbon, Ramel, Goodman, Ortiz-Self, Macri, Slatter, Fey, Davis, Pollet, Callan, Harris-Talley, Frame, and Hackney

AN ACT Relating to ensuring equity in health coverage; amending RCW 43.71.065; adding a new section to chapter 74.09 RCW; adding a new section to chapter 43.71 RCW; creating new sections; providing a contingent effective date; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  The legislature finds the following:

(1) Washington is home to more than 1,000,000 immigrants who attend school, work, pay taxes, and contribute to our state's vibrant economy;

(2) Individuals with health insurance coverage have better health outcomes than those who lack coverage. Uninsured individuals are more likely to be in poor health and more likely to delay or forego needed health care services, which ultimately drives up the cost of care. Federal law unjustly excludes certain categories of immigrants from receiving affordable health coverage. As a result, immigrants are disproportionately uninsured and at risk for poor health outcomes. An estimated 46 percent of undocumented Washingtonians are uninsured, compared to just seven percent in the general population;

 (3) Washington state has a long history of working toward equity in immigrant health coverage. The state's basic health program successfully covered low-income residents without regard to immigration status until it was dismantled in anticipation of affordable care act reforms which have proven to be insufficient. By contrast, the state's cover all kids law was retained and continues to be successful in reducing immigration-related inequity among Washington's children;

(4) The COVID-19 pandemic has exacerbated existing inequities for immigrants, many of whom are performing jobs deemed essential, despite the risks to themselves and their families. COVID-19 infection rates in Native Hawaiian and other Pacific Islander and Latinx patients are five times higher than the rate in White counterparts, and twice as high in Black patients. Death rates for Native Hawaiian and other Pacific Islander patients are six times higher than the rate for White patients and four times as high in Latinx patients;

(5) There are opportunities for the state to seek federal flexibility to cover immigrants otherwise excluded from federal health programs; and

(6) As a matter of equity, the legislature therefore intends to improve the health of all people in this state by extending health coverage at parity to all Washington residents, regardless of immigration status by creating state lookalike programs for: Medicaid, accessible for free to people who otherwise meet eligibility for federal medicaid but for immigration status; and, qualified health plans and qualified dental plans, subsidized in cost to the same extent qualified health and dental plans on the exchange are subsidized.

NEW SECTION. **Sec.**  A new section is added to chapter 74.09 RCW to read as follows:

(1) The authority shall provide health coverage to individuals who:

(a) Are at least 19 years old;

(b) Have a countable income that is at or below 133 percent of the federal poverty level, adjusted for family size and determined annually by the federal department of health and human services using the income methodology of the applicable medical assistance program;

(c) Are not incarcerated; and

(d) Are not eligible for categorically needy medical assistance as defined in the social security Title XIX state plan.

(2) The amount, scope, and duration of health care services provided to individuals under this section must be the same as that provided to individuals eligible for categorically needy medical assistance. The authority shall ensure a seamless transition in coverage for individuals aging out of children's health coverage and use the same eligibility redetermination and appeals procedures as those provided for children's health coverage. The authority shall manage its application and renewal procedures to maximize enrollment of eligible individuals.

(3) The authority shall work in partnership with the Washington health benefit exchange on a transition plan to move those under 138 percent of the federal poverty level to the state-only apple health program.

NEW SECTION. **Sec.**  A new section is added to chapter 43.71 RCW to read as follows:

Consistent with applicable federal law and subject to the availability of funds appropriated for this specific purpose, the exchange shall:

(1) Establish a program to offer health and dental plans through or alongside the exchange that are identical to qualified health and dental plans, except that they are available only to individuals whose immigration status would otherwise preclude eligibility; and

(2) Make state-funded premium assistance and cost-sharing reduction assistance available for such individuals, commensurate with federal or state subsidies otherwise available to citizens and lawfully present immigrants.

**Sec.**  RCW 43.71.065 and 2018 c 44 s 5 are each amended to read as follows:

(1) The board shall certify a plan as a qualified health plan to be offered through the exchange if the plan is determined by the:

(a) Insurance commissioner to meet the requirements of Title 48 RCW and rules adopted by the commissioner pursuant to chapter 34.05 RCW to implement the requirements of Title 48 RCW;

(b) Board to meet the requirements of applicable federal law for certification as a qualified health plan; and

(c) Board to include tribal clinics and urban Indian clinics as essential community providers in the plan's provider network consistent with federal law. If consistent with federal law, integrated delivery systems shall be exempt from the requirement to include essential community providers in the provider network.

(2) Consistent with applicable federal law, the board shall allow stand-alone dental plans to offer coverage in the exchange beginning January 1, 2014. Dental benefits offered in the exchange must be offered and priced separately to assure transparency for consumers.

(3) Consistent with applicable federal law, the board shall allow state-only qualified health and dental plans to offer coverage in or alongside the exchange beginning January 1, 2023. These state-only plans must be identical to qualified health and dental plans available under subsections (1) and (2) of this section, but may only be offered to individuals who are not eligible for qualified health and dental plans due to immigration status.

(4) The board may permit direct primary care medical home plans, consistent with applicable federal law, to be offered in the exchange.

((~~(4)~~)) (5) Upon request by the board, a state agency shall provide information to the board for its use in determining if the requirements under subsection (1)(b) or (c) of this section have been met. Unless the agency and the board agree to a later date, the agency shall provide the information within sixty days of the request. The exchange shall reimburse the agency for the cost of compiling and providing the requested information within one hundred eighty days of its receipt.

((~~(5)~~)) (6) A decision by the board denying a request to certify or recertify a plan as a qualified health plan may be appealed according to procedures adopted by the board.

NEW SECTION. **Sec.**  (1) In collaboration with the health care authority, the health benefit exchange shall apply for a waiver under 42 U.S.C. Sec. 18052 to allow Washington state residents to apply for and access health coverage using the health benefit exchange regardless of immigration status. The waiver application must also seek authority to cover lawfully present individuals with a countable income that is at or below 133 percent of the federal poverty level through the health care authority.

(2) The health benefit exchange must submit the waiver application to the United States secretary of health and human services and secretary of treasury on or before January 15, 2022. A draft application must be made available for tribal consultation and for public review and comment by November 15, 2021. The exchange must notify the chairs and ranking minority members of the relevant committees of the legislature of any federal actions regarding the waiver request.

(3) The health benefit exchange must post on its website any reports submitted to the federal government on the implementation of a waiver granted under this section.

(4) Upon receipt of the waiver, the health benefit exchange shall promptly notify in writing the office of the code reviser, the governor, and the appropriate committees of the legislature.

NEW SECTION. **Sec.**  The health care authority and the health benefit exchange shall establish and maintain a comprehensive community education and outreach campaign, working with stakeholder and community organizations, to provide culturally and linguistically accessible information to facilitate participation in the programs created in sections 2 and 3 of this act, including enrollment procedures, program services, and benefit utilization. The community education and outreach campaign must begin no later than November 1, 2021, for the program created in section 2 of this act and no later than November 1, 2022, for the program created in section 3 of this act.

NEW SECTION. **Sec.**  The health care authority and the health benefit exchange shall appoint an advisory committee to advise in the development, implementation, and operation of the state-only apple health and state-only qualified health and dental plan programs created in sections 2 and 3 of this act. The advisory committee must exist until at least December 31st of the year the program is implemented and must include: Consumers, community-based organizations that are led by and serve immigrants, health advocates, and health care providers.

NEW SECTION. **Sec.**  Beginning January 1, 2022, the health care authority and the health benefit exchange shall submit annual progress reports to the appropriate committees of the legislature and the office of financial management regarding implementation of the programs created in sections 2 and 3 of this act. The report must identify any barriers encountered and describe stakeholder outreach and engagement.

NEW SECTION. **Sec.**  (1) Sections 3 and 4 of this act take effect only if the waiver requested as required by section 5 of this act is granted.

(2) The health benefit exchange shall provide written notice of the effective date of sections 3 and 4 of this act to the affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others deemed appropriate by the exchange.

NEW SECTION. **Sec.**  Except for sections 3 and 4 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

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