

# SENATE BILL REPORT

## SB 5169

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As Reported by Senate Committee On:  
Health & Long Term Care, January 29, 2021

**Title:** An act relating to provider reimbursement for personal protective equipment during the state of emergency related to COVID-19.

**Brief Description:** Concerning provider reimbursement for personal protective equipment during the state of emergency related to COVID-19.

**Sponsors:** Senators Frockt, Holy, Carlyle, Das, Hunt, Kuderer, Lias, Randall, Robinson and Wilson, C..

**Brief History:**

**Committee Activity:** Health & Long Term Care: 1/25/21, 1/29/21 [DPS, w/oRec].

**Brief Summary of First Substitute Bill**

- Requires health benefit plans to reimburse health care providers a set amount for personal protective equipment for the duration of the COVID-19 emergency.

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### SENATE COMMITTEE ON HEALTH & LONG TERM CARE

**Majority Report:** That Substitute Senate Bill No. 5169 be substituted therefor, and the substitute bill do pass.

Signed by Senators Cleveland, Chair; Frockt, Vice Chair; Muzzall, Ranking Member; Conway, Holy, Keiser, Padden, Randall, Rivers, Robinson and Van De Wege.

**Minority Report:** That it be referred without recommendation.

Signed by Senator Wilson, J..

**Staff:** Greg Attanasio (786-7410)

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

**Background:** In response to the COVID-19 pandemic, the Centers for Disease Control issued guidance on the use of personal protective equipment (PPE) in health care delivery. This guidance included implementing universal use of PPE, including increased use of masks, gloves, and eye protection, by the patient and provider to reduce the risk of COVID-19 transmission.

Increased demand for PPE led to global supply chains being overwhelmed since the COVID-19 pandemic began. This resulted in shortages and price increases of PPE.

**Summary of Bill (First Substitute):** For the duration of the federal public health state of emergency related to COVID-19, a health benefit plan must reimburse a health care provider who bills for incurred PPE expenses as a separate expense, using the American Medical Association's current procedural terminology code 99072 or as subsequently amended, \$6.57 for each individual patient encounter. This act is not intended to apply to health care services not provided in person.

Enrollee cost sharing is limited to the covered service according to the terms and conditions of the health benefit plan and does not apply to an expense for PPE.

This act expires upon the termination of the federal public health state emergency related to COVID-19 as declared by the United States Department of Health and Human Services.

**EFFECT OF CHANGES MADE BY HEALTH & LONG TERM CARE COMMITTEE (First Substitute):**

- Ties the duration of the reimbursement requirement to the federal COVID-19 public health emergency instead of the state emergency.
- Changes reference to health carrier to health benefit plan.
- Clarifies that providers can only bill for incurred PPE expenses and the act is not intended to apply to health care services not provided in person.
- Removes provision making the act retroactive to January 1, 2021.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony on Original Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: Providers have not been compensated for additional PPE that they have had to purchase during the pandemic and some supplies have gone up in cost 1000 percent. Physicians can not access free supplies

and cannot pass the extra cost on to patients. Provider payments are designed to pay for the average cost of supplies, but this is not covering the current costs.

OTHER: Carriers could support the bill without the retroactivity provision and clarification on what type of services would be eligible for the reimbursement. Reimbursement should only apply for in person encounters when a provider actually needs and uses the PPE. Medicaid behavioral health providers would like to be able to bill for this reimbursement but cannot under the current language. These providers did not receive additional funding from the state or federal government during the COVID-19 emergency.

**Persons Testifying:** PRO: Senator David Frockt, Prime Sponsor; Sean Graham, Washington State Medical Association; James Hudson, Woodcreek Provider Services.

OTHER: Sarah Kwiatkowski, Premera Blue Cross; Andrew B. Oliveira, Regence & Asuris Health Plans; Abby Moore, Washington Council for Behavioral Health.

**Persons Signed In To Testify But Not Testifying:** No one.