
**Labor & Workplace Standards
Committee**

ESB 5632

Brief Description: Protecting the health care of workers participating in a labor dispute.

Sponsors: Senators Keiser, Cleveland, Conway, Hasegawa, Hunt, Kuderer, Lovelett, Stanford, Valdez and Wilson, C..

Brief Summary of Engrossed Bill

- Requires the Health Benefit Exchange to administer a health care plan access assistance program for employees who lose employer-provided health care coverage as a result of a labor dispute.

Hearing Date: 2/20/24

Staff: Trudes Tango (786-7384).

Background:

The Affordable Care Act and the Washington Health Benefit Exchange.

Under the federal Patient Protection and Affordable Care Act (ACA), each state must establish a health benefit exchange through which consumers may compare and purchase individual and small group coverage, access premium and cost-sharing subsidies, and apply for Medicaid coverage. Qualified health plans (QHPs) sold in an exchange must meet certain standardized actuarial values. The tiers of coverage are based on how much of the health care costs the insurer is required to cover: Bronze—60 percent, Silver—70 percent, Gold—80 percent, and Platinum—90 percent. The ACA also requires all U.S. citizens and legal residents to have health insurance coverage that meets the ACA's requirements. In general, under the ACA, employers with 50 or more full-time employees are required to offer minimum essential coverage to their full-time employees.

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.

Washington's health benefit exchange (HBE) is responsible for operating the Washington Healthplanfinder, which is an online marketplace for individuals and families to find and enroll in QHPs and Apple Health (Medicaid).

Health Insurance Coverage and Labor Disputes.

In general, there is no requirement that an employer continue health insurance coverage for striking employees. Under National Labor Relations Board precedent, employers are prohibited from unilaterally changing the terms of employee health insurance for striking employees, but the employer is not obligated to provide compensation, such as insurance coverage, during a strike. However, the employer must maintain any accrued benefits to strikers once they return to work.

The federal Consolidated Omnibus Budget Reconciliation Act requires employers with more than 20 employees who provide group health insurance to give employees the option to purchase continued coverage for a limited time under the plan if they are separated from work.

Summary of Bill:

By January 1, 2025, the HBE must administer a worker health plan access assistance program to help Washingtonians who lose health care covered provided by an employer or joint labor management trust fund (JLMT) as a result of an active strike, lockout, or other labor dispute.

Subject to the availability of state funding appropriated for the specific purposes of the bill, individuals and their dependents are eligible for the program if the individual:

- provides a self-attestation regarding loss of minimum essential health care coverage from an employer or JLMT as a result of an active strike, lockout, or other labor dispute;
- enrolls in a Silver standardized health plan under the HBE;
- applies for and accepts all applicable federal and state subsidies for which the household may be eligible;
- is ineligible for minimum essential coverage through Medicare, a federal or state medical assistance program, or for premium assistance under the program for citizens of the islands under the Compact of Free Association; and
- is eligible to purchase a qualified health plan through the HBE.

The HBE may disqualify a participant from the program if the participant:

- no longer meets the eligibility criteria;
- fails, without good cause, to comply with procedural or documentation requirements;
- fails, without good cause, to notify the health benefit exchange when the minimum essentials coverage provided by the employer or JLMT fund is reinstated;
- voluntarily withdraws from the program; or
- performs an act, practice, or omission that constitutes fraud.

The HBE may request information to determine the status of a strike, lockout, or labor dispute,

its impact to coverage, and any other information it determines is necessary to determine eligibility for financial assistance. The HBE must establish requirements for the program that include, but are not limited to:

- procedural requirements for eligibility and continued participation;
- procedural requirements for facilitating payments to and from carriers; and
- a process for providing enrollment assistance.

Appropriation: None.

Fiscal Note: Available.

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