SENATE BILL REPORT
SB 5351

As Reported by Senate Committee On:
Health & Long-Term Care, February 21, 2025

Title: An act relating to ensuring patient choice and access to care by prohibiting unfair and deceptive dental insurance practices.

Brief Description: Ensuring patient choice and access to care by prohibiting unfair and deceptive dental insurance practices. [**Revised for 1st Substitute:**]

Sponsors: Senators King, Chapman, Cleveland, Muzzall, Orwall, Christian, Nobles, Harris, Salomon, Conway, Frame, Hasegawa, Holy, Shewmake and Trudeau.

Brief History:
Committee Activity: Health & Long-Term Care: 1/30/25, 2/21/25 [DPS, w/oRec].

Brief Summary of First Substitute Bill

- Prohibits dental insurers from denying for multiple procedures solely on the basis that they were provided on the same day.
- Provides circumstances in which a dental insurer may include a processing fee or similar charge when paying a claim to a provider.
- Directs the Office of the Insurance Commissioner to contract with the Ruckelhaus Center to convene a forum to discuss dental loss ratio and payment to in and out of network providers.

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: That Substitute Senate Bill No. 5351 be substituted therefor, and the substitute bill do pass.
Signed by Senators Cleveland, Chair; Orwall, Vice Chair; Muzzall, Ranking Member; Bateman, Chapman, Christian, Holy, Riccelli, Robinson and Slatter.

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.

Minority Report: That it be referred without recommendation.
Signed by Senator Harris.

Staff: Greg Attanasio (786-7410)

Background: The Affordable Care Act requires fully-insured commercial market health carriers to pay a minimum amount of the premium collected toward medical care or quality improvement initiatives. In the individual and small group markets, this threshold is 80 percent and in the large group market it is 85 percent. This percentage is known as the medical loss ratio. If expenses and profit exceed these thresholds, the difference must be returned to customers as refunds or rebates.

Health carriers offering dental-only plans must submit annual data on the plans, including the total number of members, the total revenue, the total amount of payments, and the dental loss ratio. There is not a minimum dental loss ratio threshold for dental-only plans, however, the Office of the Insurance Commissioner (OIC) does publish data on the dental loss ratios for carriers that operate in Washington State.

OIC reviews health plan rates for all individual and small-group health plans to determine if the rate change is reasonable in relation to the plan's benefits. If OIC determines the rate request is justified, state law requires OIC to approve the increase. If OIC determines the rate increase is not justified, it will be denied. The carrier can then revise its rate-increase request or it can request a hearing. OIC also reviews and approves pediatric dental-only plans offered as an essential health benefit on the individual and small group plan markets.

"Limited health care service contractor" means a health care service contractor that offers one and only one limited health care service, including dental care services, vision care services, mental health services, chemical dependency services, pharmaceutical services, podiatric care services, and such other services determined by OIC.

Summary of Bill (First Substitute): A carrier or limited health service contractor may not deny coverage for procedures on the basis that the procedures were performed on the same day.

<u>Claims Payment.</u> A carrier, limited health service contractor, or third-party administrator, or vendor contracted with the insurer or third-party administrator, may pay a claim for reimbursement made by a dental care provider using a credit card if:

- the payor notifies the provider in advance of the potential fees or charges;
- the payor offers the provider an alternative payment method that does not impose a fee; and
- the payor advises the provider of available methods of payment and provides clear instructions to the provider as to how to select an alternative payment method.

OIC must contract withe the Ruckelshaus Center (Center) to host a forum with the

Washington State Dental Association, Washington Denturist Association, dental carrier, consumer representative, OIC, and other relevant parties to discuss dental loss ratio and relative payment for dentists or denturists based upon their provider network status including, but not limited to, payment based on the usual and customary rate. The Center must submit a report to the Legislature with any policy recommendations by June 30, 2026.

Data submitted to OIC on dental only plan membership, revenue, payments, dental loss ratio, and premiums must be based on Washington data and may not include data from any other state.

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

- Prohibits carriers from denying a claim based solely on the fact that the procedures were performed on the same day.
- Requires carriers or a vendor to notify providers of fees associated with credit card payments and offer an alternative payment method.
- Directs OIC to contract with the Center to convene a forum with relevant stakeholders to discuss dental loss ratio and payments to in and out of network dental providers.

Appropriation: None.

Fiscal Note: Available.

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

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

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: It is important to let dentists direct the care for their patients. Rules can be too restrictive on care and patients should be able to see their provider of choice. Access to care is limited if the only dentist in the community is not in the network. Providing multiple services in a single visit is often the best way to treat a patient. There is no medical justification for prohibiting same day procedures. There should be a set dental loss ratio just like medical loss ratio. Delta Dental WA reimburses far lower for out of network than other states.

CON: Dental benefits make dental care affordable. Clinical review would be gutted by the bill and there would be increases to patient out of pocket costs. The dental loss ratio in the bill is not based on research and will destabilize the dental insurance market. This will force carriers into an untenable financial model. This bill will remove balance billing protections. The bill will likely drive up premiums and make coverage out of reach. Other states have seen negative impacts from adopting similar legislation.

OTHER: OIC not opposed to having a set dental loss ratio but the details are important. The out of network coverage requirements in the bill are concerning and could lead to balance billing. The bill should include denturists.

Persons Testifying: PRO: Senator Curtis King, Prime Sponsor; Rose Gundersen; Ellen McBride Lowe, N/A; Kjersten Otterholt, WSDA; Chester Baldwin, WSDA; Mamiko Kuriya, WSDA; Cynthia Pauley, WSDA; Chris Dorow, WSDA; Lisa Buttaro, WSDA; Brittany Dean, WSDA; John Gibbons, WSDA; Kevin Schilling, WSDA.

CON: Carol Nelson, Delta Dental of WA; Harpreet Kaur; Gary Renville, Project Access NW; Chris Bandoli, America's Health Insurance Plans; Dr. Cyrus Lee, PDA is Permanente Dental Associates; Katie Hakes, Delta Dental of WA; Steve DiPietro, Alliant Employee Benefits; Andrew Lofton, The Arcora Foundation; Jim Freeburg, Patient Coalition of Washington.

OTHER: Carolyn Logue, Washington Denturist Association; Jane Beyer, Office of the Insurance Commissioner.

Persons Signed In To Testify But Not Testifying:

OTHER: Linda Seltzer.