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**HOUSE BILL 1191**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** Representatives Thai and Bateman

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

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

6 NEW SECTION. **Sec. 1.** The legislature finds the following:

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

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

19 (3) Washington state has a long history of working toward equity  
20 in immigrant health coverage. The state's basic health program  
21 successfully covered low-income residents without regard to

1 immigration status until it was dismantled in anticipation of  
2 affordable care act reforms which have proven to be insufficient. By  
3 contrast, the state's cover all kids law was retained and continues  
4 to be successful in reducing immigration-related inequity among  
5 Washington's children;

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

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

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

27 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.09  
28 RCW to read as follows:

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

31 (a) Are at least 19 years old;

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

36 (c) Are not incarcerated; and

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

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

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

14 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.71  
15 RCW to read as follows:

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

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

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

27 **Sec. 4.** RCW 43.71.065 and 2018 c 44 s 5 are each amended to read  
28 as follows:

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

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

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

36 (c) Board to include tribal clinics and urban Indian clinics as  
37 essential community providers in the plan's provider network  
38 consistent with federal law. If consistent with federal law,

1 integrated delivery systems shall be exempt from the requirement to  
2 include essential community providers in the provider network.

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

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

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

17 ~~((4))~~ (5) Upon request by the board, a state agency shall  
18 provide information to the board for its use in determining if the  
19 requirements under subsection (1)(b) or (c) of this section have been  
20 met. Unless the agency and the board agree to a later date, the  
21 agency shall provide the information within sixty days of the  
22 request. The exchange shall reimburse the agency for the cost of  
23 compiling and providing the requested information within one hundred  
24 eighty days of its receipt.

25 ~~((5))~~ (6) A decision by the board denying a request to certify  
26 or recertify a plan as a qualified health plan may be appealed  
27 according to procedures adopted by the board.

28 NEW SECTION. Sec. 5. (1) In collaboration with the health care  
29 authority, the health benefit exchange shall apply for a waiver under  
30 42 U.S.C. Sec. 18052 to allow Washington state residents to apply for  
31 and access health coverage using the health benefit exchange  
32 regardless of immigration status. The waiver application must also  
33 seek authority to cover lawfully present individuals with a countable  
34 income that is at or below 133 percent of the federal poverty level  
35 through the health care authority.

36 (2) The health benefit exchange must submit the waiver  
37 application to the United States secretary of health and human  
38 services and secretary of treasury on or before January 15, 2022. A  
39 draft application must be made available for tribal consultation and

1 for public review and comment by November 15, 2021. The exchange must  
2 notify the chairs and ranking minority members of the relevant  
3 committees of the legislature of any federal actions regarding the  
4 waiver request.

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

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

11 NEW SECTION. **Sec. 6.** The health care authority and the health  
12 benefit exchange shall establish and maintain a comprehensive  
13 community education and outreach campaign, working with stakeholder  
14 and community organizations, to provide culturally and linguistically  
15 accessible information to facilitate participation in the programs  
16 created in sections 2 and 3 of this act, including enrollment  
17 procedures, program services, and benefit utilization. The community  
18 education and outreach campaign must begin no later than November 1,  
19 2021, for the program created in section 2 of this act and no later  
20 than November 1, 2022, for the program created in section 3 of this  
21 act.

22 NEW SECTION. **Sec. 7.** The health care authority and the health  
23 benefit exchange shall appoint an advisory committee to advise in the  
24 development, implementation, and operation of the state-only apple  
25 health and state-only qualified health and dental plan programs  
26 created in sections 2 and 3 of this act. The advisory committee must  
27 exist until at least December 31st of the year the program is  
28 implemented and must include: Consumers, community-based  
29 organizations that are led by and serve immigrants, health advocates,  
30 and health care providers.

31 NEW SECTION. **Sec. 8.** Beginning January 1, 2022, the health care  
32 authority and the health benefit exchange shall submit annual  
33 progress reports to the appropriate committees of the legislature and  
34 the office of financial management regarding implementation of the  
35 programs created in sections 2 and 3 of this act. The report must  
36 identify any barriers encountered and describe stakeholder outreach  
37 and engagement.

1        NEW SECTION.    **Sec. 9.**    (1) Sections 3 and 4 of this act take  
2 effect only if the waiver requested as required by section 5 of this  
3 act is granted.

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

9        NEW SECTION.    **Sec. 10.**    Except for sections 3 and 4 of this act,  
10 this act is necessary for the immediate preservation of the public  
11 peace, health, or safety, or support of the state government and its  
12 existing public institutions, and takes effect immediately.

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