

HB 1523 and SB 5526, to impose a public option in the Washington state health care exchange

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Key Findings

1. **Governor Inslee has proposed legislation to require a standardized public option health insurance plan in the Washington State Health Benefit Exchange.**
2. **The exchange is designed to allow patients to purchase health insurance plans using taxpayer subsidies in the individual market.**
3. **Since 2014, the exchanges in Washington state and nationally have suffered from adverse patient selection leading to instability in the exchanges.**
4. **HB 1523 and SB 5526 would impose a public option in the Washington State Health Benefit Exchange and would ban private insurance in the Exchange by 2025. A public option is a health insurance plan that is designed by government bureaucrats and largely financed by taxpayers.**
5. **Provider payments would be at Medicare rates, which are too low to provide timely access for patients to health care, resulting in waiting lists.**
6. **Many politicians want government-imposed, universal health insurance coverage. Just having insurance, however, does not equate to timely access to health care and treatments.**
7. **The public option is an incremental step toward a single-payer health care system.**
8. **Without a fiscal note, the cost of these bills is unknown to Washington state taxpayers.**

Introduction

Governor Inslee has proposed legislation to establish a standardized public option health insurance plan in the Washington State Health Benefit Exchange and to ban private insurance plans in the exchange in 2025. A public option is a health insurance plan that is designed by government bureaucrats and largely financed by taxpayers. In announcing the bill the governor said

...we're going to do all we can to protect health care for Washingtonians. This public option will ensure consumers in every part of the state will have an option for high-quality, affordable coverage.¹

The bills to implement the governor's proposal are HB 1523 in the House and its companion in the Senate, SB 5526.

Background

The Affordable Care Act (ACA), also known as Obamacare, became law in 2010 with no Republican votes. Although taxes began in 2010, the main two benefit payouts of Medicaid expansion and taxpayer subsidies in the ACA exchanges did not begin until 2014. Washington state is one of 12 states that established its own exchange. The exchanges in the other states are either partially or totally run by the federal government.

The exchanges are designed to allow patients to purchase health insurance plans using taxpayer subsidies in the individual market. Plans are grouped in four tier levels, based on the cost of the monthly premium and

1 "Inslee announces public option legislation to promote health care for all," Office of the Governor, Washington state, January 8, 2019, at <https://medium.com/wagovernor/inslee-announces-public-option-legislation-to-promote-health-care-for-all-47bd01010a82>.

the number of offered benefits.²
Governor Inslee says that:

Under the Obama administration and the Affordable Care Act, Washington was able to make tremendous progress in expanding coverage and start bringing down costs in our health care system. Under the Trump administration, all that progress is at risk. Because of the instability they've brought to the system, consumers in 14 counties have only one option for coverage and our ability to rein in costs has been stymied.

The failures of the state ACA exchanges

Actually, the “instability in the system” the governor mentions has nothing to do with the Trump Administration. Since 2014, long before Mr. Trump became president, the exchanges in Washington state and nationally have suffered from adverse patient selection. Young, healthy individuals have chosen to forgo health insurance because of ever-rising premium costs, even with the subsidies. Young people have made a reasonable economic decision to not purchase insurance until they become ill.

This adverse selection has left older, sicker people in the exchanges, which has resulted in insurance companies either raising their rates or leaving the exchanges. As health care policy, the state exchange has failed to lower costs and increase choices for health care consumers.

The governor also claims that 800,000 Washingtonians are newly insured under the ACA. He neglects to point out that 85 percent of those newly insured are in the expanded Medicaid entitlement, not in the exchange.

The ACA provides taxpayer subsidies in the exchange for individuals and families who earn up to 400 percent of the federal poverty

level. For a family of four, that is \$100,400 in 2019.³

What HB 1523 and SB 5526 would do⁴

The two bills have essentially the same language and the sponsors are all Democrats. The basics of the bills are:

- The exchange would establish up to three standardized health insurance plans for each of the three lowest tiers. There are four tiers altogether.
- The standardized plans would be designed to reduce deductibles, make more services available before the deductible, provide predictable cost sharing, maximize subsidies, limit adverse premium impacts, reduce barriers to maintaining and improving health, and encourage choice based on value, while limiting increases in health plan premium rates.
- Insurance companies may offer non-standardized plans, but their value could not be less than the standardized plan.
- For plan years 2021 and 2022, a health plan could offer an unlimited number of non-standardized plans.
- For plan years 2023 and 2024, a health plan could offer no more than three non-standardized plans in each of the three lower tier levels.
- For plan years beginning 2025, a health plan could not offer non-standardized plans on the exchange.
- The standardized plans would pay fee-for-service provider rates that do not exceed Medicare rates for the same or similar

² “The impact of the Affordable Care Act in Washington state,” by Roger Stark, MD, Policy Brief, Washington Policy Center, January 21, 2014, at <https://www.washingtonpolicy.org/publications/detail/the-impact-of-the-affordable-care-act-in-washington-state>.

³ “U.S. Federal Poverty Guidelines for 2019,” Office of the Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services, January 11, 2019, at <https://aspe.hhs.gov/poverty-guidelines>.

⁴ HB 1523, Increasing the availability of quality, affordable health coverage in the individual market,” Washington state legislature, January 23, 2019, at <https://app.leg.wa.gov/billsummary?BillNumber=1523&Year=2019&initiative=>, and companion bill SB 5526, at <https://app.leg.wa.gov/bills/summary?BillNumber=1523&Year=2019&initiative=>.

covered service in the same or similar geographic area. (Medicare rates are, on average, 30 percent lower than what private insurance pays.)

- For non-fee-for-service reimbursement methodologies, the aggregate amount paid to providers and facilities would not exceed the equivalent of the aggregate amount the plan would have reimbursed providers and facilities using fee-for-service Medicare rates.
- Subsidies would be available to anyone earning less than 500 percent of the federal poverty level, or \$125,500 in 2019 for a family of four.
- Participants would pay no more than 10 percent of their income on premiums.
- The public option would only be available to people purchasing a plan in the individual market within the state health benefit exchange.
- The bills do not contain a fiscal note or funding mechanism, so their true cost is unknown.

Policy analysis

When the Affordable Care Act was debated in 2009, the idea of a public option in the ACA exchanges was championed by elected officials who wanted more government involvement in the health care system.

A government public option would compete with private insurance plans. Customers who would choose a public option would pay less in premiums and have smaller co-pays and deductibles. Taxpayers or health insurance companies would pick up the difference in costs between the public option and a private plan.

The public option was not included in the ACA because Republicans and many centrist Democrats saw it as government over-reach and too close to a single-payer system. As the country learned from Medicare, it is impossible for private companies to compete with the government. Today, Medicare is the only option for major medical health

insurance for seniors and has driven private insurers out of the senior market.

Public option is an effort to save the ACA

Governor Inslee's motivation for proposing a public option is because the ACA is failing. He blames the Trump Administration for the Obamacare failure. The reality is that the ACA, as written, was doomed from the beginning. Young, healthy people made a realistic and ethical economic decision and opted out, leaving older, sicker individuals in the exchanges with ever-increasing premium costs. This trend happened during the Obama Administration, long before Trump became president.

Lower payments to doctors and hospitals

The governor proposes that provider reimbursement in the public option plans would be "consistent" with Medicare payments. Medicare payments to physicians average only about 70 percent of what private insurance pays for the same treatment or procedure. These low payments have forced many doctors, especially in primary care specialties, to limit the number of older patients they will treat because the government's reimbursements do not cover basic overhead costs.

Banning health care choices

Governor Inslee wants to require all companies that sell plans in the state exchange to offer one "standardized" public option plan by 2021. By 2025, only these standardized plans would be offered in the exchange, all other options would be banned. As the country learned from Medicare, the private individual market outside of the exchange would collapse, leaving only the government-approved and taxpayer-funded health insurance plan.

The goal of many politicians is universal health insurance coverage. Just having insurance, however, does not equate to timely access to health care and treatments. Average

waiting times for treatment in the Canadian single-payer system averaged 20 weeks in 2018.⁵

Conclusion

Legislation that reflects the governor's proposal is now being debated during this legislative session. Hopefully, the staff will be able to complete a fiscal note analysis so state taxpayers can see the true costs of a public option and how much in extra taxes and funding would be required.

Washington state officials who want to impose a public option in the state exchange and ban all competing individual plans, no doubt hope the federal government, possibly under a future Democratic administration, will provide a bailout when the state plan runs short of money.

Although a single-payer, government-run health care system is now being hotly debated, an incremental approach to a totally socialized system is more insidious and politically possible. By allowing a Medicare or Medicaid buy-in for everyone, by increasing enrollment in the Medicaid entitlement, and by instituting a public option in the health benefit exchanges, some politicians believe they can impose a single-payer system without a formal declaration, an open and honest debate, or a formal vote.

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construed as an attempt to
aid or hinder the passage of
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⁵ "Waiting your turn: wait times for health care in Canada, 2018 report," by B. Barua, D. Jacques, and A. Collyer, Fraser Institute, December 4, 2018, at <https://www.fraserinstitute.org/studies/waiting-your-turn-wait-times-for-health-care-in-canada-2018>.