
SENATE BILL 5084

State of Washington

64th Legislature

2015 Regular Session

By Senators Becker, Frockt, Conway, Keiser, and Mullet; by request of Governor Inslee

Read first time 01/13/15. Referred to Committee on Health Care.

1 AN ACT Relating to clarifying the all payer claims database to
2 improve health care quality and cost transparency by changing certain
3 definitions regarding data, reporting and pricing of products,
4 responsibility of the office and lead organization, and parameters
5 for release of information; amending RCW 43.371.010, 43.371.020,
6 43.371.030, 43.371.040, 43.371.050, 43.371.060, and 43.371.070; and
7 adding a new section to chapter 43.371 RCW.

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

9 **Sec. 1.** RCW 43.371.010 and 2014 c 223 s 8 are each amended to
10 read as follows:

11 The definitions in this section apply throughout this chapter
12 unless the context clearly requires otherwise.

13 (1) "Authority" means the health care authority.

14 (2) "Carrier" and "health carrier" have the same meaning as in
15 RCW 48.43.005.

16 (3) "Claims data" means the data required by RCW 43.371.030 to be
17 submitted to the database, including billed, allowed and paid
18 amounts, and such additional information as defined by the director
19 in rule. (~~"Claims data" includes: (a) Claims data related to health~~
20 ~~care coverage and services funded, in whole or in part, in the~~
21 ~~omnibus appropriations act, including coverage and services funded by~~

1 ~~appropriated and nonappropriated state and federal moneys, for~~
2 ~~medicaid programs and the public employees benefits board program;~~
3 ~~and (b) claims data voluntarily provided by other data suppliers,~~
4 ~~including carriers and self-funded employers.))~~

5 (4) "Database" means the statewide all-payer health care claims
6 database established in RCW 43.371.020.

7 (5) "Director" means the director of financial management.

8 (6) "Lead organization" means the organization selected under RCW
9 43.371.020.

10 (7) "Office" means the office of financial management.

11 (8) "Data supplier" means: (a) A carrier that provides claims
12 data; and (b) a carrier, third-party administrator, or any other
13 entity that provides claims data to the database at the request of an
14 employer-sponsored self-funded health plan or Taft-Hartley trust
15 health plan pursuant to RCW 43.371.030(1).

16 (9) "Direct patient identifier" means a data variable that
17 directly identifies a patient.

18 (10) "Indirect patient identifier" means a data variable that may
19 identify a patient when combined with other information.

20 (11) "Proprietary financial information" means claims data or
21 reports that disclose or would allow the determination of specific
22 terms of contracts, discounts, or fixed reimbursement arrangements or
23 other specific reimbursement arrangements between an individual
24 health care facility or health care provider, as those terms are
25 defined in RCW 48.43.005, and a specific payer, or internal fee
26 schedule or other internal pricing mechanism of integrated delivery
27 systems owned by a carrier.

28 **Sec. 2.** RCW 43.371.020 and 2014 c 223 s 10 are each amended to
29 read as follows:

30 (1) The office shall establish a statewide all-payer health care
31 claims database to support transparent public reporting of health
32 care information. The database must improve transparency to: Assist
33 patients, providers, and hospitals to make informed choices about
34 care; enable providers, hospitals, and communities to improve by
35 benchmarking their performance against that of others by focusing on
36 best practices; enable purchasers to identify value, build
37 expectations into their purchasing strategy, and reward improvements
38 over time; and promote competition based on quality and cost.

1 (2) Commencing no sooner than July 1, 2015, the director shall
2 ~~((select))~~ utilize a competitive process as set forth in subsection
3 (4) of this section to select an organization for the initial
4 contract term that is composed of health care purchasers, state
5 licensed insurers, union trusts, providers, and consumers as a lead
6 organization to coordinate and manage the database. The lead
7 organization is responsible for internal governance, management,
8 funding, and operations of the database. At the direction of the
9 office, the lead organization shall:

10 (a) Collect claims data from data suppliers as provided in RCW
11 43.371.030;

12 (b) Design data collection mechanisms with consideration for the
13 time and cost ~~((involved))~~ incurred by data suppliers and others in
14 submission, collection, and the benefits that measurement would
15 achieve;

16 (c) Ensure protection of collected data and store and use any
17 data with patient-specific or proprietary financial information in a
18 manner that protects patient privacy and complies with this section;

19 (d) Consistent with the requirements of this chapter, make
20 information from the database available as a resource for public and
21 private entities, including carriers, employers, providers,
22 hospitals, and purchasers of health care;

23 (e) Report performance on cost and quality pursuant to RCW
24 43.371.060 using, but not limited to, the performance measures
25 developed under RCW 41.05.690;

26 (f) Develop protocols and policies, including prerelease peer
27 review by data suppliers, to ensure the quality of data releases and
28 reports;

29 (g) Develop a plan for the financial sustainability of the
30 database and charge fees ~~((not to exceed five thousand dollars unless~~
31 ~~otherwise negotiated))~~ for reports and data files as needed to fund
32 the database. Any fees must be approved by the office and ~~((must))~~
33 should be comparable, accounting for relevant differences across data
34 ~~((requesters and users))~~ requests and uses; and

35 (h) Convene advisory committees with the approval and
36 participation of the office, including: (i) A committee on data
37 policy development; and (ii) a committee to establish a data release
38 process consistent with the requirements of this chapter and to
39 provide advice regarding formal data release requests. The advisory
40 committees must include in-state representation from key provider,

1 hospital, (~~payer,~~) public health, health maintenance organization,
2 large and small private purchasers, (~~and~~) consumer organizations,
3 and the two largest carriers supplying claims data to the database.

4 (3) The lead organization governance structure and advisory
5 committees for this database must include representation of the
6 third-party administrator of the uniform medical plan. A payer,
7 health maintenance organization, or third-party administrator must be
8 a data supplier to the all-payer health care claims database to be
9 represented on the lead organization governance structure or advisory
10 committees.

11 (4) The office shall follow a competitive procurement process
12 including a request for information prior to issuing a request for
13 proposal. All documents including the procurement documents, the
14 contract, and any amendments must be posted on the office's web site
15 available to the legislature and public.

16 **Sec. 3.** RCW 43.371.030 and 2014 c 223 s 11 are each amended to
17 read as follows:

18 (1) (~~Data suppliers must~~) The state medicaid program, public
19 employees' benefits board programs, and all health carriers operating
20 in this state must submit claims data to the database within the time
21 frames established by the director in rule and in accordance with
22 procedures established by the lead organization. The director may
23 expand this requirement by rule to include any health plans or health
24 benefit plans defined in RCW 48.43.005(26) (a) through (i) to
25 accomplish the goals of this chapter set forth in RCW 43.371.020(1).
26 Employer-sponsored self-funded health plans and Taft-Hartley trust
27 health plans may voluntarily provide claims data to the database
28 within the time frames and in accordance with procedures established
29 by the lead organization.

30 (2) (~~An entity that is not a data supplier but that chooses to~~
31 ~~participate in the database shall require any third-party~~
32 ~~administrator utilized by the entity's plan to release any claims~~
33 ~~data related to persons receiving health coverage from the plan.))
34 Any data supplier used by an entity that voluntarily participates in
35 the database must provide claims data to the lead organization upon
36 request of the entity.~~

37 (3) (~~Each data supplier~~) The lead organization shall submit an
38 annual status report to the office regarding (~~its~~) compliance with

1 this section. (~~The report to the legislature required by section 2~~
2 ~~of this act must include a summary of these status reports.~~)

3 **Sec. 4.** RCW 43.371.040 and 2014 c 223 s 12 are each amended to
4 read as follows:

5 (1) The claims data provided to the database, the database
6 itself, including the data compilation, and any raw data received
7 from the database are not public records and are exempt from public
8 disclosure under chapter 42.56 RCW.

9 (2) Claims data obtained, distributed, or reported in the course
10 of activities undertaken pursuant to or supported under this chapter
11 are not subject to subpoena or similar compulsory process in any
12 civil or criminal, judicial, or administrative proceeding, nor may
13 any individual or organization with lawful access to data under this
14 chapter be compelled to provide such information pursuant to subpoena
15 or testify with regard to such data, except that data pertaining to a
16 party in litigation may be subject to subpoena or similar compulsory
17 process in an action brought by or on behalf of such individual to
18 enforce any liability arising under this chapter.

19 **Sec. 5.** RCW 43.371.050 and 2014 c 223 s 13 are each amended to
20 read as follows:

21 (1) Except as otherwise required by law, claims or other data
22 from the database shall only be available for retrieval in original
23 or processed form to public and private requesters, other than the
24 organization selected and acting as the lead organization under RCW
25 43.371.060, pursuant to this section and shall be made available
26 within a reasonable time after the request. Each request for claims
27 data must include, at a minimum, the following information:

28 (a) The identity of any entities that will analyze the data in
29 connection with the request;

30 (b) The stated purpose of the request and an explanation of how
31 the request supports the goals of this chapter set forth in RCW
32 43.371.020(1);

33 (c) A description of the proposed methodology;

34 (d) The specific variables requested and an explanation of how
35 the data is necessary to achieve the stated purpose described
36 pursuant to (b) of this subsection;

1 (e) How the requester will ensure all requested data is handled
2 in accordance with the privacy and confidentiality protections
3 required under this chapter and any other applicable law;

4 (f) The method by which the data will be stored, destroyed, or
5 returned to the lead organization at the conclusion of the proposed
6 analysis; and

7 (g) The protections that will be utilized to keep the data from
8 being used for any purposes not authorized by the requester's
9 approved application.

10 (2) The lead organization may decline a request that does not
11 include the information set forth in subsection (1) of this section,
12 that does not meet the criteria established by the lead
13 organization's data release advisory committee, or for reasons
14 established by rule.

15 (3) Except as otherwise required by law, the office shall direct
16 the lead organization to maintain the confidentiality of claims or
17 other data it collects for the database that include proprietary
18 financial information or direct ((and)) or indirect patient
19 identifiers. Any ((agency, researcher, or other person)) entity that
20 receives claims or other data ((under this section containing direct
21 or indirect patient identifiers)) must also maintain confidentiality
22 and may ((not)) only release such claims ((or other data except as
23 consistent with this section. The office shall oversee the lead
24 organization's release of data as follows)) data or any part of the
25 claims data if:

26 (a) The claims data does not contain proprietary financial
27 information or direct or indirect patient identifiers; and

28 (b) The release is described and approved as part of the request
29 in subsection (1) of this section.

30 (4) The lead organization shall, in conjunction with the office,
31 create and implement a process to govern levels of access to and use
32 of data from the database consistent with the following:

33 (a) Claims or other data that include proprietary financial
34 information or direct ((or indirect)) patient identifiers, ((as
35 specifically defined in rule,)) may be released only to the extent
36 such information is necessary to achieve the goals of this chapter
37 set forth in RCW 43.371.020(1) to:

38 (i) Federal, state, and local government agencies upon receipt of
39 a signed data use and confidentiality agreement with ((the office
40 and)) the lead organization. Federal, state, and local government

1 agencies that obtain claims data pursuant to this section are
2 prohibited from using such data in the purchase or procurement of
3 health benefits for their employees; and

4 (ii) Researchers with approval of an institutional review board
5 upon receipt of a signed data use and confidentiality agreement with
6 ~~((the office and))~~ the lead organization. A researcher or research
7 organization that obtains claims data pursuant to this section must
8 agree in writing not to disclose such data or parts of the data set
9 to any other party, including affiliated entities.

10 (b) Claims or other data that do not contain proprietary
11 financial information or direct patient identifiers but that may
12 contain indirect patient identifiers may be released to agencies,
13 researchers, and other ~~((persons))~~ entities as approved by the lead
14 organization upon receipt of a signed data use agreement with the
15 lead organization.

16 (c) Claims or other data that do not contain direct or indirect
17 patient identifiers and proprietary financial information may be
18 released upon request.

19 ~~((+3))~~ (5) Reports utilizing data obtained under this section
20 may not contain proprietary financial information, direct patient
21 identifiers, or indirect patient identifiers.

22 (6) Reports issued by the lead organization at the request of
23 providers, facilities, employers, health plans, and other entities as
24 approved by the lead organization may utilize proprietary financial
25 information to calculate aggregate cost data for display in such
26 reports. The office will approve by rule a format for the calculation
27 and display of aggregate cost data consistent with this act that will
28 prevent the disclosure or determination of proprietary financial
29 information. In developing the rule, the office shall solicit
30 feedback from the stakeholders, including those listed in RCW
31 43.371.020(2)(h), and must consider, at a minimum, data presented as
32 proportions, ranges, averages, and medians, as well as the
33 differences in types of data gathered and submitted by data
34 suppliers.

35 (7) Recipients of claims or other data under subsection ~~((+2)(a)~~
36 ~~or (b))~~ (4) of this section must agree in a data use agreement or a
37 confidentiality agreement to, at a minimum:

38 (a) Take steps to protect data containing direct and indirect
39 patient ~~((identifying))~~ identifiers or proprietary financial
40 information as described in the agreement; ~~((and))~~

1 (b) Not redisclose the claims data except (~~as authorized in the~~
2 ~~agreement consistent with the purpose of the agreement or as~~
3 ~~otherwise required by law.~~

4 ~~(4) Recipients of the claims or other data under subsection~~
5 ~~(2)(b) of this section must not attempt to determine the identity of~~
6 ~~persons whose information is included in the data set or use the~~
7 ~~claims or other data in any manner that identifies the individuals or~~
8 ~~their families.~~

9 ~~(5) For purposes of this section, the following definitions apply~~
10 ~~unless the context clearly requires otherwise.~~

11 ~~(a) "Direct patient identifier" means information that identifies~~
12 ~~a patient.~~

13 ~~(b) "Indirect patient identifier" means information that may~~
14 ~~identify a patient when combined with other information)) pursuant to~~
15 ~~subsection (3) of this section;~~

16 (c) Not attempt to determine the identity of any person whose
17 information is included in the data set or use the claims or other
18 data in any manner that identifies any individual or their family;
19 and

20 (d) Store, destroy, or return claims data to the lead
21 organization at the conclusion of the data use agreement.

22 **Sec. 6.** RCW 43.371.060 and 2014 c 223 s 14 are each amended to
23 read as follows:

24 (1)(a) Under the supervision of and through contract with the
25 office, the lead organization shall prepare health care data reports
26 using the database and the statewide health performance and quality
27 measure set(~~(, including only those measures that can be completed~~
28 ~~with readily available claims data)). Prior to the lead organization~~
29 releasing any health care data reports that use claims data, the lead
30 organization must submit the reports to the office for review (~~and~~
31 ~~approval)).~~

32 (b) By October 31st of each year, the lead organization shall
33 submit to the director a list of reports it anticipates producing
34 during the following calendar year. The director may establish a
35 public comment period not to exceed thirty days, and shall submit the
36 list and any comment to the appropriate committees of the legislature
37 for review.

38 (2)(a) Health care data reports that use claims data prepared by
39 the lead organization (~~that use claims data must assist)) for the~~

1 legislature and the public ~~((with))~~ should promote awareness and
2 ~~((promotion-of))~~ transparency in the health care market by reporting
3 on:

4 (i) Whether providers and health systems deliver efficient, high
5 quality care; and

6 (ii) Geographic and other variations in medical care and costs as
7 demonstrated by data available to the lead organization.

8 (b) Measures in the health care data reports should be stratified
9 by demography, income, language, health status, and geography when
10 feasible with available data to identify disparities in care and
11 successful efforts to reduce disparities.

12 (c) Comparisons of costs among providers and health care systems
13 must account for differences in ~~((acuity))~~ the case mix and severity
14 of illness of patients and populations, as appropriate and feasible,
15 and must take into consideration the cost impact of subsidization for
16 uninsured and ~~((governmental))~~ government-sponsored patients, as well
17 as teaching expenses, when feasible with available data.

18 (3) The lead organization may not publish any data or health care
19 data reports that:

20 (a) Directly or indirectly ~~((identify))~~ identifies individual
21 patients;

22 (b) ~~((Disclose specific terms of contracts, discounts, or fixed~~
23 ~~reimbursement arrangements or other specific reimbursement~~
24 ~~arrangements between an individual provider and a specific payer))~~
25 Discloses a carrier's proprietary financial information; or

26 (c) Compares performance in a report generated for the general
27 public that includes any provider in a practice with fewer than
28 ~~((five))~~ four providers.

29 (4) The lead organization may not release a report that compares
30 and identifies providers, hospitals, or data suppliers unless ~~((it))~~:

31 (a) It allows the data supplier, the hospital, or the provider to
32 verify the accuracy of the information submitted to the lead
33 organization, comment on the reasonableness of conclusions reached,
34 and submit to the lead organization any corrections of errors with
35 supporting evidence and comments within ~~((forty-five))~~ thirty days of
36 receipt of the report; ~~((and))~~

37 (b) It corrects data found to be in error within a reasonable
38 amount of time; and

39 The report otherwise complies with this chapter.

1 (5) The office and the lead organization may use claims data to
2 identify and make available information on payers, providers, and
3 facilities, but may not use claims data to recommend or incentivize
4 direct contracting between providers and employers.

5 (6) The lead organization shall ~~((ensure that no individual data
6 supplier comprises more than twenty five percent of the claims data
7 used in any report or other analysis generated from the database. For
8 purposes of this subsection, a "data supplier" means a carrier and
9 any self-insured employer that uses the carrier's provider
10 contracts))~~ distinguish in advance to the office when it is operating
11 in its capacity as the lead organization and when it is operating in
12 its capacity as a private entity. Where the lead organization acts in
13 its capacity as a private entity, it may only access data pursuant to
14 RCW 43.371.050.

15 **Sec. 7.** RCW 43.371.070 and 2014 c 223 s 15 are each amended to
16 read as follows:

17 (1) The director shall adopt any rules necessary to implement
18 this chapter, including:

19 (a) Definitions of claim and data files that data suppliers must
20 submit to the database, including: Files for covered medical
21 services, pharmacy claims, and dental claims; member eligibility and
22 enrollment data; and provider data with necessary identifiers;

23 (b) Deadlines for submission of claim files;

24 (c) Penalties for failure to submit claim files as required;

25 (d) Procedures for ensuring that all data received from data
26 suppliers are securely collected and stored in compliance with state
27 and federal law; ~~((and))~~

28 (e) Procedures for ensuring compliance with state and federal
29 privacy laws;

30 (f) Procedures for establishing appropriate fees; and

31 (g) Procedures for data release.

32 (2) The director may not adopt rules, policies, or procedures
33 beyond the authority granted in this chapter.

34 NEW SECTION. **Sec. 8.** A new section is added to chapter 43.371
35 RCW to read as follows:

36 (1) By December 1st of 2016 and 2017, the office shall report to
37 the appropriate committees of the legislature regarding the
38 development and implementation of the database, including but not

1 limited to budget and cost detail, technical progress, and work plan
2 metrics.

3 (2) Every two years commencing two years following the year in
4 which the first report is issued or the first release of data is
5 provided from the database, the office shall report to the
6 appropriate committees of the legislature regarding the cost,
7 performance, and effectiveness of the database and the performance of
8 the lead organization under its contract with the office. Using
9 independent economic expertise, the report must evaluate whether the
10 database has advanced the goals set forth in RCW 43.371.020(1), as
11 well as the performance of the lead organization. The report must
12 also make recommendations regarding but not limited to how the
13 database can be improved, whether the contract for the lead
14 organization should be modified, renewed, or terminated, and the
15 impact the database has had on competition between and among
16 providers, purchasers, and payers.

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