

CONCURRENCE IN SENATE AMENDMENTS

AB 2530 (Wood)

As Amended August 18, 2022

Majority vote

SUMMARY

Requires California's state based exchange (the Exchange or Covered California), upon appropriation by the Legislature, to administer a financial assistance program to help Californians obtain and maintain health benefits through the Exchange if the individual loses employer health care coverage as a result of a labor dispute, beginning July 1, 2023. Designates an individual who has lost minimum essential coverage from an employer or joint labor management trust fund as a result of a strike, lockout, or other labor dispute, and who meets all eligibility requirements under specified federal law, to receive the same premium assistance and cost-sharing reductions (CSRs) as an individual with a household income of 138.1% of the federal poverty level (FPL), and not subject to a deductible for any covered benefit.

Senate Amendments

- 1) Change FPL to 138.1%.
- 2) Add implementation date of July 1, 2023.
- 3) Clarify that eligible individuals must meet all eligible requirements for federal subsidies, except for income requirements, as specified.
- 4) Specify that, consistent with existing federal law and rules, an individual be screened for eligibility for the federal Medicaid program.
- 5) Add implementation date of January 1, 2024 for zero deductible program design.
- 6) Delete provision that specify that the state funded advance premium tax credit be reconciled.
- 7) Add information on potential state and federal income tax consequences of any amount received as a subsidy under this bill.
- 8) Specify that the Exchange use state affordability assistance funds for financial assistance not otherwise available under federal law.
- 9) Delete description of "members of the tax household" also known as family glitch from this bill.
- 10) Exclude from gross income any amount received as a state subsidy provided under this bill.

COMMENTS

- 1) *The federal Patient Protection and Affordable Care Act (ACA)*. Enacted in March 2010, the ACA provides the framework, policies, regulations and guidelines for the implementation of comprehensive health care reform by the states and expands access to quality, affordable insurance and health care. Under the ACA, qualified individuals are able to obtain financial assistance, also known as advance premium tax credit (APTC) and CSRs for health insurance

purchased on the Exchange. A person must be a citizen or lawfully present, must have qualifying income, and not be eligible for government programs or not have affordable coverage through an employer (which is considered affordable for the employee only, not including dependents). This bill requires Covered California to administer a financial assistance program for workers without employer sponsored health insurance coverage due to a labor dispute.

- 2) *Coverage Options for Employees on Strike.* No federal or state law requires an employer to continue employee health insurance coverage for unionized employees while they are out on strike. Workers on strike have the following health care coverage options:
 - a) **COBRA:** The Consolidated Omnibus Budget Reconciliation Act (COBRA) gives workers and their families who lose their health benefits the right to choose to continue group health benefits provided by their group health plan for limited periods of time under certain circumstances such as voluntary or involuntary job loss, reduction in the hours worked, transition between jobs, death, divorce, and other life events. Qualified individuals may be required to pay the entire premium for coverage up to 102% of the cost to the plan. Under COBRA, group health plans must provide temporary continuation of group health coverage that might otherwise end (for example, through layoffs or voluntarily leaving job). COBRA continuation coverage is available to covered employees and their spouses, former spouses and dependent children if certain events would otherwise end their group health coverage. Costs vary and are often more expensive than what is paid before, since the employer no longer covers any part of the cost. An individual generally must apply within 60 days of receiving a COBRA election notice;
 - b) **Medi-Cal:** If a worker loses employer coverage, the individual may be eligible for Medi-Cal for income under \$17,000 and based on family income at the time of application. Unlike Covered California, there is no reconciliation and potential to pay back APTC based on changes of income; and,
 - c) **Covered California:** While a worker who loses employer coverage is eligible for Covered California subsidies, according to the sponsors of this bill, this coverage may be much less affordable than union benefits. There may also be potential delays in coverage as coverage does not kick in until the first of the next month (or even the first of the month after that depending on when you sign up). APTCs are available in advance, based on income information provided to Covered California, household size, age, and the cost of coverage in the area where individuals live. APTCs are reconciled based on actual income when a person files income taxes. Eligibility under the ACA is calculated by the household modified adjusted gross income which is governed by the Internal Revenue Service, Medicaid, and Treasury regulations. If the worker's income goes up (when the strike ends), the worker may owe money on their federal income taxes.
- 3) *Federal proposals.* Earlier this year, a federal bill was introduced which would make it illegal for employers to cut off healthcare benefits to striking workers. The Striking Workers Healthcare Protection Act would subject employers to a fine, which could be doubled by the National Labor Relations Board for employers who have been in violation of the policy within the past five years. If passed, the legislation could better position workers to negotiate with their employers for better wages, benefits and working conditions. In October 2021,

10,000 members of the United Auto Workers (UAW) went on strike at John Deere for the first time in 35 years, demanding better salaries and overtime pay while opposing proposed increased healthcare premiums and a two-tiered wage system. The company threatened to eliminate healthcare benefits for workers and their families over the duration of the strike, before ultimately reversing course. Had John Deere cut workers off from their healthcare, the UAW promised to pick up the cost of COBRA payments, but members would have lost coverage for dental and vision. The UAW has a strike fund, while other striking workers are not always afforded this benefit. Nearly 25,000 workers went out on strike last October across a range of industries, including healthcare, steel, telecommunications, coal mining, production plants and carpentry. The 1,400 striking workers in Kellogg's production plants lost their healthcare for the duration of their 11 week strike, and were left with COBRA payments of up to \$2,980, with one workers' daughter undergoing open-heart surgery during this period.

According to the Author

This bill would provide workers who lose health benefits due to a labor dispute a slightly improved version of the most affordable coverage package offered by Covered California. This is similar to what the ARP has done for those on unemployment insurance during the COVID-19 pandemic, providing premium subsidies and cost-sharing assistance as if the worker's income was just over the Medi-Cal eligibility level. Additionally, this bill would eliminate any waiting periods associated with signing up through Covered California.

Arguments in Support

California Labor Federation (CLF) and the Los Angeles County Federation of Labor, co-sponsors of this bill, write that this bill will ensure that no worker who exercises their legal right to strike will lose access to health coverage. According to CLF, the Governor signed AB 237 (Gray), Chapter 740, Statutes of 2021, the Public Employee Health Protection Act, which prohibits public employers from terminating the health care coverage of employees and their families during a strike. However, AB 237 only applies to public employers. The right to strike is embodied in several areas of law, most notably in Section 7 of the National Labor Relations Act (NLRA). Under the NLRA, workers may lawfully strike on economic grounds (higher wages, shorter hours, better working conditions) or unfair labor practice grounds. Strikes are a tool of last resort and inflict significant hardship on the workers and their families. Last year, workers from all over the country exercised this right to ensure workplace safety and fair wages. In Iowa, John Deere threatened to take away the health care benefits from the 10,000 members of the UAW and their families who were on strike last fall. Similarly, companies like Kellogg's used this strike-breaking tactic among the 1,400 striking workers at their cereal plants last year. It is a matter of statewide concern that access to health and other medical care continue, particularly in the wake of a worldwide pandemic. The temporary loss of coverage during a strike harms not only the striking worker, but also harms dependent family members, and further strains the public social safety net. Employers weaponize health benefits to discourage workers from going on strike or to push workers to end a strike without winning needed concessions. Although striking workers are eligible to apply for health insurance through Covered California, many barriers remain including, delays in coverage and affordability. Covered California provides a subsidy to cover the cost of monthly premiums, this means that if the worker's income goes up following a strike, the worker may owe money on their federal income taxes. If a family member has an offer of "affordable" coverage from the family member's employer, then the worker is locked out of Covered California. This bill will make coverage under Covered California more accessible and affordable by allowing workers who lose coverage as a result of a labor dispute to

receive the same premium assistance and cost-sharing reductions as an individual with a household income of 133% of the FPL, with no deductibles, and make coverage available immediately upon application. The COVID-19 pandemic demonstrated unmistakably that public health impacts everyone. There should never be any incentive to eject people from their health coverage because the consequences, to them, to their families, and to the entire population, can be disastrous.

Arguments in Opposition Unless Amended

There is no known opposition to this bill. The California Association of Health Plans was opposed unless amended on a previous version of this bill and have since confirmed no opposition.

FISCAL COMMENTS

According to the Senate Appropriations Committee:

- 1) Covered California indicates unknown costs to provide the financial assistance. Costs would depend on the number of enrollees participating and the cost per enrollee.
- 2) Covered California estimates \$1.4 million (health plan assessment funds) in operational costs.

VOTES:

ASM HEALTH: 9-1-5

YES: Wood, Aguiar-Curry, Arambula, Carrillo, Maienschein, Nazarian, Luz Rivas, Rodriguez, Santiago

NO: Waldron

ABS, ABST OR NV: Bigelow, Flora, Mayes, McCarty, Kalra

ASM APPROPRIATIONS: 12-4-0

YES: Holden, Bryan, Calderon, Carrillo, Mike Fong, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, Wilson

NO: Bigelow, Megan Dahle, Davies, Fong

ASSEMBLY FLOOR: 53-15-10

YES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cooper, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO: Bigelow, Choi, Megan Dahle, Davies, Fong, Gallagher, Kiley, Lackey, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron

ABS, ABST OR NV: Berman, Mia Bonta, Chen, Cunningham, Daly, Flora, Mathis, Mayes, O'Donnell, Blanca Rubio

SENATE FLOOR: 31-9-0

YES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener

NO: Bates, Borgeas, Dahle, Grove, Jones, Melendez, Nielsen, Ochoa Bogh, Wilk

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