
THIRD READING

Bill No: SB 595
Author: Roth (D)
Amended: 4/13/23
Vote: 21

SENATE HEALTH COMMITTEE: 11-0, 3/22/23
AYES: Eggman, Nguyen, Glazer, Gonzalez, Hurtado, Limón, Menjivar, Roth,
Rubio, Wahab, Wiener
NO VOTE RECORDED: Grove

SENATE JUDICIARY COMMITTEE: 10-0, 4/11/23
AYES: Umberg, Wilk, Allen, Ashby, Durazo, Laird, McGuire, Min, Niello,
Wiener
NO VOTE RECORDED: Stern

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Covered California: data sharing

SOURCE: California Pan-Ethnic Health Network
Health Access California
Western Center on Law and Poverty

DIGEST: This bill clarifies that Covered California is only prohibited from disclosing personal information obtained from the Employment Development Department without first obtaining consent of the applicant when disclosure is to a certified insurance agent or a certified enrollment counselor for the purpose of communicating about the availability of health coverage through Covered California. This bill requires a person or entity that receives this personal information take reasonable measures to safeguard the confidentiality of any personal information prohibits use or disclose for any purpose other than to market and publicize the availability of health care coverage through Covered California to individuals, as directed by Covered California.

ANALYSIS:

Existing law:

- 1) Establishes Covered California as California's health benefit exchange for individual and small business purchasers as authorized under the federal Patient Protection and Affordable Care Act (ACA). [GOV §100500 -100522]
- 2) Establishes a system of unemployment administered by the Employment Development Department (EDD). [UIC §100, et seq.]
- 3) Requires the EDD director to permit the use of any information in the director's possession to the extent necessary to enable federal, state, or local governmental departments or agencies, to verify or determine the eligibility or entitlement of any applicant for, or a recipient of, public social services, as specified, when the verification or determination is directly connected with, and limited to, the administration of public social services. [UIC §1095]
- 4) Requires Covered California to request information, on at least a monthly basis, from EDD for each new applicant for unemployment compensation, state disability, and paid family leave so that Covered California can communicate with and inform those individuals of available health care coverage options through Covered California and assist those individuals in obtaining health care coverage. [GOV §100503.9]
- 5) Prohibits Covered California from disclosing personal information obtained from EDD without the consent of the applicant. Requires Covered California to at all times take reasonable measures to safeguard the confidentiality of any personal information obtained by EDD and not disclose that information for any purposes other than to market and publicize the availability of health care coverage, and, requires this personal information to at all times be subject to applicable privacy and information security-related requirements arising under federal and state law. [GOV §100503.9]

This bill:

- 1) Clarifies that Covered California is only prohibited from disclosing personal information obtained from EDD without consent of the applicant when disclosing the information to a certified insurance agent or enrollment counselor for the purposes of communicating about the availability of health coverage through Covered California.

- 2) Requires a person or entity that receives personal information from Covered California pursuant to this bill to at all times take reasonable measures to safeguard the confidentiality of any personal information obtained from Covered California and is prohibited from using or disclosing that information for any purpose other than to market and publicize the availability of health care coverage through the Exchange to individuals, as directed by the Exchange.

Comments

Author's statement. According to the author, access to information regarding health insurance options is one of the primary barriers to achieving universal healthcare coverage in the state, especially as Californians experience transitions in employment and income. Last year, SB 644 (Leyva, Chapter 983, Statutes of 2022) was passed and established a vital partnership between Covered California and EDD for the purpose of conducting direct outreach on affordable healthcare coverage options to community members who applied for unemployment insurance, or other EDD programs. However, after signing SB 644 into law, the Governor called on the Legislature to introduce follow-up legislation to ensure that the provisions of the bill enable timely communication to individuals to reduce burdens of applying for health insurance and to minimize gaps in coverage. This bill will do just that. This bill will ensure greater accessibility to health insurance for Californians, regardless of their employment status.

SB 644. SB 644 required Covered California to request information from the EDD for each applicant for unemployment compensation, state disability, paid family leave, or any other program administered by EDD so that Covered California can communicate with and inform those individuals of available health care coverage options through Covered California and assist those individuals in obtaining health care coverage. SB 644 contained a provision that requires consent of the applicant prior to disclosing applicant information for the purposes of the bill. The Governor's signing message associated with SB 644 states:

I am signing Senate Bill 644, which enhances partnership between Covered California and the Employment Development Department by enabling Covered California to conduct proactive and targeted outreach to applicants of unemployment insurance and other benefits. In doing so, this legislation provides Californians with important and timely information about affordable health coverage options when they may need it the most.

To ensure Covered California can effectively reach Californians, and to maximize the important impact SB 644 can have to keep Californians in need

covered, I strongly encourage Covered California and the Legislature to work together on subsequent legislation next year to ensure that the provisions of the bill enable timely communication to individuals to reduce burdens of applying for health care and minimize gaps in coverage.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

SUPPORT: (Verified 4/24/23)

California Pan-Ethnic Health Network (co-source)
Health Access California (co-source)
Western Center on Law and Poverty (co-source)
Coalition of California Welfare Rights Organizations
Courage California
Latino Coalition for a Healthy California
Maternal and Child Health Access
National Health Law Program
Small Business Majority
The Children's Partnership

OPPOSITION: (Verified 4/24/23)

Electronic Frontier Foundation
Oakland Privacy

ARGUMENTS IN SUPPORT: This bill's sponsors and proponents write that current statute limits Covered California's ability to send outreach materials to Californians in need, as it would require the agency's contracted vendors to obtain individual consent prior to contacting individuals. This bill adds clarifying language that allows Covered California to outreach while protecting individuals from receiving cold calls from insurance agents and enrollment counselors without individual consent. The National Health Law Program writes one of the top hurdles to achieving universal health coverage is making sure Californians are aware of their insurance options, especially as they experience transitions in employment. Last year, SB 644 (Leyva) was passed and established a vital partnership between Covered California and the EDD for the purpose of conducting direct outreach on affordable health coverage options to community members who applied for unemployment insurance or other EDD programs. However, current statute limits Covered California's ability to send outreach materials to Californians in need, as it would require the agency's contracted vendors to obtain individual consent prior to contacting individuals. This bill adds

clarifying language that allows Covered California to outreach while protecting individuals from receiving cold calls from insurance agents and enrollment counselors who do not have individual consent.

ARGUMENTS IN OPPOSITION: Oakland Privacy writes that unspecified flexibility with personal information that is being forwarded by EDD without the consent of the applicant, who may or may not be interested in securing health insurance via the Exchange, is not consistent with the intent of SB 644. It is also not consistent with fundamental privacy protection practices. The state has a responsibility to only share personal information without consent for specific and narrowly tailored purposes that are clearly defined and not excessively flexible. Oakland Privacy will not be able to move to a neutral position on this bill until the exclusive “everybody but the two parties we mention is allowed” prohibition is changed to an inclusive prohibition that forbids sharing EDD data with all parties but those specifically allowed for the stated outreach purpose and who maintain an enforceable contractual relationship as marketing and outreach vendors with Covered California. The Electronic Frontier Foundation writes rather than make a small, specific carveout, this bill instead removes the prohibition on sharing with any and all parties and replaces it with a specific prohibition of just two certified insurance agents and certified enrollment counselors. We understand the author has amended the bill in response to Oakland Privacy's concerns, and we appreciate his willingness to address these concerns. Unfortunately, the language as written is not sufficient.

Prepared by: Teri Boughton / HEALTH / (916) 651-4111
4/26/23 15:11:53

**** END ****