Councilmember Yvette Alexander

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend, on an emergency basis, the Health Benefit Exchange Authority Establishment Act of 2011 to promote meaningful choice, provide enhanced benefits, and build a competitive private insurance marketplace for the residents and small business owners of the District of Columbia.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Better Prices, Better Quality, Better Choices for Health Coverage Emergency Amendment Act of 2013".

Sec. 2. The Health Benefit Exchange Authority Establishment Act of 2011, effective March 2, 2012 (D.C. Law 19-94; D.C. Official Code § 31-3171.01 *et seq.*) ("Act"), is amended as follows:

(a) Section 2 of the Act (D.C. Official Code § 31-3171.01) is amended as follows:

(1) Paragraphs (9) through (17) are redesignated as paragraphs (11) through (19), respectively.

(2) A new paragraph (4a) is added to read as follows:

"(4a) "Habilitative services" means health care services that help a person keep, learn, or improve skills and functioning for daily living, including, but not limited to, applied behavioral analysis for the treatment of autism spectrum disorder.

(3) A new paragraph (9) is added to read as follows:

"(9) "Metal level" means the bronze, silver, gold, and platinum levels of coverage as defined in section 1302(d)(1) of the Federal Act."

(4) A new paragraph (10) is added to read as follows:

"(10) "Navigator" refers to the entities described in section 1311(i) of the Federal Act.

(b) Section 10 of the Act (D.C. Official Code § 31-3171.09) is amended as follows:

(1) Subsection (a) is amended as follows:

(A) Sub-subparagraph (5)(B)(i) is amended by striking the phrase "at least one qualified health plan at the silver level and at least one plan at the gold level" and inserting the phrase "at least one qualified health plan at the bronze level, at least one qualified health plan at the silver level, and at least one qualified health plan at the gold level" in its place.

(B) Paragraph (7) is amended by striking the period at the end of the paragraph and inserting a semi-colon in its place.

(C) New paragraphs (8), (9), (10), (11), (12), and (13) are added following paragraph (7), to read as follows:

"(8) Provide accurate attestations as required in the initial certification process;

"(9) Offer one or more standardized plan(s) as approved by the Executive Board for the Authority, at each metal level in which the carrier is participating, in addition to other plans the carrier may offer;

"(10)(A) Offer plans subject to a meaningful difference standard;

"(B) The meaningful difference standard is as defined in Chapter 1, section 4(ii) of "Affordable Exchanges Guidance" dated March 1, 2013, by the Centers for Consumer Information and Insurance Oversight at the Centers for Medicare and Medicaid Services in the U.S. Department of Health and Human Services, or as may be defined by the Executive Board for the Authority;

"(11) Comply with the Mental Health Parity and Addiction Equity Act of 2008 as applied to the Federal Act, including, but not limited to, covering behavioral health inpatient and outpatient services for mental health and substance use disorders without day or visit limitations;

"(12) Provide a drug formulary that includes, at a minimum, the greater of either the number of drugs listed in each category and class found in the District's base-benchmark plan formulary, or the minimum number of drugs, by category and class, as established by the Center for Consumer Information and Insurance Oversight in the Centers for Medicare and Medicaid Services at the U.S. Department of Health and Human Services; and

"(13) Provide benefits identical to the essential health benefits package as defined by the District without benefit substitution."

(2) Subsection (b) is amended as follows:

(A) Paragraph (2) is amended by striking "or".

(B) Paragraph (3) is amended by striking the period at the end of the paragraph and inserting "; or" in its place.

(C) A new paragraph (4) is added to read as follows:

"(4) On the basis of the number of qualified health plans being offered."

(3) A new subsection (g) is added to read as follows:

"(g) A qualified health plan may provide additional services that are not in the essential health benefits package required in paragraph (a)(1), only if such services are eligible for claims submission and reimbursement."

(c) A new section 10a is added to read as follows:

"Sec. 10a. Distribution of individual and small group health benefit plans.

"(a) A carrier that offers individual or small group health benefit plans shall offer such plans solely through the District's American Health Benefit Exchange, as established pursuant to section 5(a) subject to the following transition:

"(1) Individual health benefit plans with plan years beginning on or after January 1, 2014, shall be offered solely through the District's American Health Benefit Exchange;

"(2) On or after January 1, 2014, small group health benefit plans offered to any small business that was not insured as of December 31, 2013, shall be offered and issued solely through the District's American Health Benefit Exchange;

"(3) Small group health benefit plans offered to or renewed by any small business that was insured as of December 31, 2013, may be issued or renewed during calendar year 2014 through existing distribution channels with the same carrier or a new carrier, except that such plans shall meet the qualifications for certification of a qualified health plan as provided in section 10; and

"(4) Unless the Council acts by October 1, 2014 to change the date that all small group health plans shall be offered, issued, or renewed through the District's American Health Benefit Exchange, on or after January 1, 2015, all small group health benefit plans shall be offered and issued or renewed solely through the District's American Health Benefit Exchange.

"(b) The requirements of this section shall not apply to grandfathered health plans as defined in section 1251 of the Federal Act."

(c) A new section 10b is added to read as follows:

"Sec. 10b. Sale, solicitation, and negotiation by insurance producers.

"(a) An insurance producer who is licensed in the District and authorized by the Commissioner to sell, solicit, or negotiate health insurance pursuant to Chapter 11A of this Title, may sell any qualified health plan offered in the American Health Benefit Exchange.

"(b) An insurance producer shall be compensated directly by a health carrier for the sale of a qualified health plan offered in the American Health Benefit Exchange."

Sec. 3. Fiscal impact.

The Council adopts the fiscal impact statement provided by the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).