
HOUSE BILL 2443

State of Washington

53rd Legislature

1994 Regular Session

By Representatives Dellwo, L. Johnson, Conway, Wineberry, Wolfe, J. Kohl, Veloria, Romero and King; by request of Health Services Commission and Governor Lowry

Read first time 01/14/94. Referred to Committee on Health Care.

1 AN ACT Relating to employer-sponsored health benefits coverage for
2 seasonal workers; amending RCW 43.72.010, 43.72.060, and 43.72.040; and
3 adding a new section to chapter 43.72 RCW.

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

5 **Sec. 1.** RCW 43.72.010 and 1993 c 494 s 1 are each amended to read
6 as follows:

7 In this chapter, unless the context otherwise requires:

8 (1) "Certified health plan" or "plan" means a disability insurer
9 regulated under chapter 48.20 or 48.21 RCW, a health care service
10 contractor as defined in RCW 48.44.010, a health maintenance
11 organization as defined in RCW 48.46.020, or an entity certified in
12 accordance with RCW 48.43.020 through 48.43.120.

13 (2) "Chair" means the presiding officer of the Washington health
14 services commission.

15 (3) "Commission" or "health services commission" means the
16 Washington health services commission.

17 (4) "Community rate" means the rating method used to establish the
18 premium for the uniform benefits package adjusted to reflect
19 actuarially demonstrated differences in utilization or cost

1 attributable to geographic region and family size as determined by the
2 commission.

3 (5) "Continuous quality improvement and total quality management"
4 means a continuous process to improve health services while reducing
5 costs.

6 (6) "Employee" means a resident who is in the employment of an
7 employer, as defined by chapter 50.04 RCW.

8 (7) "Enrollee" means any person who is a Washington resident
9 enrolled in a certified health plan.

10 (8) "Enrollee point of service cost-sharing" means amounts paid to
11 certified health plans directly providing services, health care
12 providers, or health care facilities by enrollees for receipt of
13 specific uniform benefits package services, and may include copayments,
14 coinsurance, or deductibles, that together must be actuarially
15 equivalent across plans and within overall limits established by the
16 commission.

17 (9) "Enrollee premium sharing" means that portion of the premium
18 that is paid by enrollees or their family members.

19 (10) "Federal poverty level" means the federal poverty guidelines
20 determined annually by the United States department of health and human
21 services or successor agency.

22 (11) "Health care facility" or "facility" means hospices licensed
23 under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW,
24 rural health (~~{care}~~) care facilities as defined in RCW 70.175.020,
25 psychiatric hospitals licensed under chapter 71.12 RCW, nursing homes
26 licensed under chapter 18.51 RCW, community mental health centers
27 licensed under chapter 71.05 or 71.24 RCW, kidney disease treatment
28 centers licensed under chapter 70.41 RCW, ambulatory diagnostic,
29 treatment or surgical facilities licensed under chapter 70.41 RCW, drug
30 and alcohol treatment facilities licensed under chapter 70.96A RCW, and
31 home health agencies licensed under chapter 70.127 RCW, and includes
32 such facilities if owned and operated by a political subdivision or
33 instrumentality of the state and such other facilities as required by
34 federal law and implementing regulations, but does not include
35 Christian Science sanatoriums operated, listed, or certified by the
36 First Church of Christ Scientist, Boston, Massachusetts.

37 (12) "Health care provider" or "provider" means:

1 (a) A person regulated under Title 18 RCW and chapter 70.127 RCW,
2 to practice health or health-related services or otherwise practicing
3 health care services in this state consistent with state law; or

4 (b) An employee or agent of a person described in (a) of this
5 subsection, acting in the course and scope of his or her employment.

6 (13) "Health insurance purchasing cooperative" or "cooperative"
7 means a member-owned and governed nonprofit organization certified in
8 accordance with RCW 43.72.080 and 48.43.160.

9 (14) "Long-term care" means institutional, residential, outpatient,
10 or community-based services that meet the individual needs of persons
11 of all ages who are limited in their functional capacities or have
12 disabilities and require assistance with performing two or more
13 activities of daily living for an extended or indefinite period of
14 time. These services include case management, protective supervision,
15 in-home care, nursing services, convalescent, custodial, chronic, and
16 terminally ill care.

17 (15) "Major capital expenditure" means any project or expenditure
18 for capital construction, renovations, or acquisition, including
19 medical technological equipment, as defined by the commission, costing
20 more than one million dollars.

21 (16) "Managed care" means an integrated system of insurance,
22 financing, and health services delivery functions that: (a) Assumes
23 financial risk for delivery of health services and uses a defined
24 network of providers; or (b) assumes financial risk for delivery of
25 health services and promotes the efficient delivery of health services
26 through provider assumption of some financial risk including
27 capitation, prospective payment, resource-based relative value scales,
28 fee schedules, or similar method of limiting payments to health care
29 providers.

30 (17) "Maximum enrollee financial participation" means the income-
31 related total annual payments that may be required of an enrollee per
32 family who chooses one of the three lowest priced uniform benefits
33 packages offered by plans in a geographic region including both premium
34 sharing and enrollee point of service cost-sharing.

35 (18) "Persons of color" means Asians/Pacific Islanders, African,
36 Hispanic, and Native Americans.

37 (19) "Premium" means all sums charged, received, or deposited by a
38 certified health plan as consideration for a uniform benefits package
39 or the continuance of a uniform benefits package. Any assessment, or

1 any "membership," "policy," "contract," "service," or similar fee or
2 charge made by the certified health plan in consideration for the
3 uniform benefits package is deemed part of the premium. "Premium"
4 shall not include amounts paid as enrollee point of service cost-
5 sharing.

6 (20) "Qualified employee" means an employee who is employed at
7 least thirty hours during a week or one hundred twenty hours during a
8 calendar month.

9 (21) "Registered employer health plan" means a health plan
10 established by a private employer of more than seven thousand active
11 employees in this state solely for the benefit of such employees and
12 their dependents and that meets the requirements of RCW 43.72.120.
13 Nothing contained in this subsection shall be deemed to preclude the
14 plan from providing benefits to retirees of the employer.

15 (~~(22) ("Seasonal employee" means any person who works:~~
16 ~~(a) For one or more employers during the calendar year;~~
17 ~~(b) For six months or less, per year; and~~
18 ~~(c) For at least half time per month, during a designated season,~~
19 ~~within the same industry sector, designated by the commission,~~
20 ~~including food processing, agricultural production, agricultural~~
21 ~~harvesting, plantation Christmas tree planting, and tree planting on~~
22 ~~timber land.~~

23 ~~(23))~~ "Supplemental benefits" means those appropriate and
24 effective health services that are not included in the uniform benefits
25 package or that expand the type or level of health services available
26 under the uniform benefits package and that are offered to all
27 residents in accordance with the provisions of RCW 43.72.160 and
28 43.72.170.

29 (~~(24))~~ (23) "Technology" means the drugs, devices, equipment, and
30 medical or surgical procedures used in the delivery of health services,
31 and the organizational or supportive systems within which such services
32 are provided. It also means sophisticated and complicated machinery
33 developed as a result of ongoing research in the basic biological and
34 physical sciences, clinical medicine, electronics, and computer
35 sciences, as well as specialized professionals, medical equipment,
36 procedures, and chemical formulations used for both diagnostic and
37 therapeutic purposes.

38 (~~(25))~~ (24) "Uniform benefits package" or "package" means those
39 appropriate and effective health services, defined by the commission

1 under RCW 43.72.130, that must be offered to all Washington residents
2 through certified health plans.

3 (~~((26))~~) (25) "Washington resident" or "resident" means a person
4 who intends to reside in the state permanently or indefinitely and who
5 did not move to Washington for the primary purpose of securing health
6 services under RCW 43.72.090 through 43.72.240, 43.72.300, 43.72.310,
7 43.72.800, and chapters 48.43 and 48.85 RCW. "Washington resident"
8 also includes people and their accompanying family members who are
9 residing in the state for the purpose of engaging in employment for at
10 least one month, who did not enter the state for the primary purpose of
11 obtaining health services. The confinement of a person in a nursing
12 home, hospital, or other medical institution in the state shall not by
13 itself be sufficient to qualify such person as a resident.

14 **Sec. 2.** RCW 43.72.060 and 1993 c 492 s 404 are each amended to
15 read as follows:

16 (1)(a) The chair shall appoint an advisory committee with balanced
17 representation from consumers, business, government, labor, certified
18 health plans, practicing health care providers, health care facilities,
19 and health services researchers reflecting ethnic and racial diversity.
20 In addition, the chair may appoint special committees for specified
21 periods of time.

22 (b) The chair shall also appoint a five-member health services
23 effectiveness committee whose members possess a breadth of experience
24 and knowledge in the treatment, research, and public and private
25 funding of health care services. The committee shall meet at the call
26 of the chair. The health services effectiveness committee shall advise
27 the commission on: (i) Those health services that may be determined by
28 the commission to be appropriate and effective; (ii) use of technology
29 and practice indicators; (iii) the uniform benefits package; and (iv)
30 rules that insurers and certified health plans must use to determine
31 whether a procedure, treatment, drug, or other health service is no
32 longer experimental or investigative.

33 (c) The commission shall also appoint a small business advisory
34 committee composed of seven owners of businesses with twenty-five or
35 fewer full-time equivalent employees reflecting ethnic and racial
36 diversity, to assist the commission in development of the small
37 business economic impact statement and the small business assistance
38 program, as provided in RCW 43.72.140 and 43.72.240.

1 (d) The commission shall also appoint an organized labor advisory
2 committee composed of seven representatives of employee organizations
3 representing employees of public or private employers. The committee
4 shall assist the commission in conducting the evaluation of Taft-
5 Hartley health care trusts and self-insured employee health benefits
6 plans, as provided in RCW 43.72.040(26), and shall advise the
7 commission on issues related to the impact of chapter 492, Laws of 1993
8 on negotiated health benefits agreements and other employee health
9 benefits plans.

10 (e) The commission shall appoint a seasonal employment advisory
11 committee composed of representatives of employees and employers of
12 seasonal work forces to assist the commission in development of
13 coverage mechanisms for seasonal workers and employers and other
14 related health insurance issues as provided in RCW 43.72.040(27).

15 (2) Members of committees and panels shall serve without
16 compensation for their services but shall be reimbursed for their
17 expenses while attending meetings on behalf of the commission in
18 accordance with RCW 43.03.050 and 43.03.060.

19 **Sec. 3.** RCW 43.72.040 and 1993 c 494 s 2 are each amended to read
20 as follows:

21 The commission has the following powers and duties:

22 (1) Ensure that all residents of Washington state are enrolled in
23 a certified health plan to receive the uniform benefits package,
24 regardless of age, sex, family structure, ethnicity, race, health
25 condition, geographic location, employment, or economic status.

26 (2) Endeavor to ensure that all residents of Washington state have
27 access to appropriate, timely, confidential, and effective health
28 services, and monitor the degree of access to such services. If the
29 commission finds that individuals or populations lack access to
30 certified health plan services, the commission shall:

31 (a) Authorize appropriate state agencies, local health departments,
32 community or migrant health clinics, public hospital districts, or
33 other nonprofit health service entities to take actions necessary to
34 assure such access. This includes authority to contract for or
35 directly deliver services described within the uniform benefits package
36 to special populations; or

37 (b) Notify appropriate certified health plans and the insurance
38 commissioner of such findings. The commission shall adopt by rule

1 standards by which the insurance commissioner may, in such event,
2 require certified health plans in closest proximity to such individuals
3 and populations to extend their catchment areas to those individuals
4 and populations and offer them enrollment.

5 (3) Adopt necessary rules in accordance with chapter 34.05 RCW to
6 carry out the purposes of chapter 492, Laws of 1993. An initial set of
7 draft rules establishing at least the commission's organization
8 structure, the uniform benefits package, and standards for certified
9 health plan certification, must be submitted in draft form to
10 appropriate committees of the legislature by December 1, 1994.

11 (4) Establish and modify as necessary, in consultation with the
12 state board of health and the department of health, and coordination
13 with the planning process set forth in RCW 43.70.520 a uniform set of
14 health services based on the recommendations of the health care cost
15 control and access commission established under House Concurrent
16 Resolution No. 4443 adopted by the legislature in 1990.

17 (5) Establish and modify as necessary the uniform benefits package
18 as provided in RCW 43.72.130, which shall be offered to enrollees of a
19 certified health plan. The benefit package shall be provided at no
20 more than the maximum premium specified in subsection (6) of this
21 section.

22 (6)(a) Establish for each year a community-rated maximum premium
23 for the uniform benefits package that shall operate to control overall
24 health care costs. The maximum premium cost of the uniform benefits
25 package in the base year 1995 shall be established upon an actuarial
26 determination of the costs of providing the uniform benefits package
27 and such other cost impacts as may be deemed relevant by the
28 commission. Beginning in 1996, the growth rate of the premium cost of
29 the uniform benefits package for each certified health plan shall be
30 allowed to increase by a rate no greater than the average growth rate
31 in the cost of the package between 1990 and 1993 as actuarially
32 determined, reduced by two percentage points per year until the growth
33 rate is no greater than the five-year rolling average of growth in
34 Washington per capita personal income, as determined by the office of
35 financial management.

36 (b) In establishing the community-rated maximum premium under this
37 subsection, the commission shall review various methods for
38 establishing the community-rated maximum premium and shall recommend
39 such methods to the legislature by December 1, 1994.

1 The commission may develop and recommend a rate for employees that
2 provides nominal, if any, variance between the rate for individual
3 employees and employees with dependents to minimize any economic
4 incentive to an employer to discriminate between prospective employees
5 based upon whether or not they have dependents for whom coverage would
6 be required.

7 (c) If the commission adds or deletes services or benefits to the
8 uniform benefits package in subsequent years, it may increase or
9 decrease the maximum premium to reflect the actual cost experience of
10 a broad sample of providers of that service in the state, considering
11 the factors enumerated in (a) of this subsection and adjusted
12 actuarially. The addition of services or benefits shall not result in
13 a redetermination of the entire cost of the uniform benefits package.

14 (d) The level of state expenditures for the uniform benefits
15 package shall be limited to the appropriation of funds specifically for
16 this purpose.

17 (7) Determine the need for medical risk adjustment mechanisms to
18 minimize financial incentives for certified health plans to enroll
19 individuals who present lower health risks and avoid enrolling
20 individuals who present higher health risks, and to minimize financial
21 incentives for employer hiring practices that discriminate against
22 individuals who present higher health risks. In the design of medical
23 risk distribution mechanisms under this subsection, the commission
24 shall (a) balance the benefits of price competition with the need to
25 protect certified health plans from any unsustainable negative effects
26 of adverse selection; (b) consider the development of a system that
27 creates a risk profile of each certified health plan's enrollee
28 population that does not create disincentives for a plan to control
29 benefit utilization, that requires contributions from plans that enjoy
30 a low-risk enrollee population to plans that have a high-risk enrollee
31 population, and that does not permit an adjustment of the premium
32 charged for the uniform benefits package or supplemental coverage based
33 upon either receipt or contribution of assessments; and (c) consider
34 whether registered employer health plans should be included in any
35 medical risk adjustment mechanism. Proposed medical risk adjustment
36 mechanisms shall be submitted to the legislature as provided in RCW
37 43.72.180.

1 (8) Design a mechanism to assure minors have access to confidential
2 health care services as currently provided in RCW 70.24.110 and
3 71.34.030.

4 (9) Monitor the actual growth in total annual health services
5 costs.

6 (10) Monitor the increased application of technology as required by
7 chapter 492, Laws of 1993 and take necessary action to ensure that such
8 application is made in a cost-effective and efficient manner and
9 consistent with existing laws that protect individual privacy.

10 (11) Establish reporting requirements for certified health plans
11 that own or manage health care facilities, health care facilities, and
12 health care providers to periodically report to the commission
13 regarding major capital expenditures of the plans. The commission
14 shall review and monitor such reports and shall report to the
15 legislature regarding major capital expenditures on at least an annual
16 basis. The Washington health care facilities authority and the
17 commission shall develop standards jointly for evaluating and approving
18 major capital expenditure financing through the Washington health care
19 facilities authority, as authorized pursuant to chapter 70.37 RCW. By
20 December 1, 1994, the commission and the authority shall submit jointly
21 to the legislature such proposed standards. The commission and the
22 authority shall, after legislative review, but no later than June 1,
23 1995, publish such standards. Upon publication, the authority may not
24 approve financing for major capital expenditures unless approved by the
25 commission.

26 (12) Establish maximum enrollee financial participation levels.
27 The levels shall be related to enrollee household income.

28 (13) For health services provided under the uniform benefits
29 package and supplemental benefits, adopt standards for enrollment, and
30 standardized billing and claims processing forms. The standards shall
31 ensure that these procedures minimize administrative burdens on health
32 care providers, health care facilities, certified health plans, and
33 consumers. Subject to federal approval or phase-in schedules whenever
34 necessary or appropriate, the standards also shall apply to state-
35 purchased health services, as defined in RCW 41.05.011.

36 (14) Propose that certified health plans adopt certain practice
37 indicators or risk management protocols for quality assurance,
38 utilization review, or provider payment. The commission may consider

1 indicators or protocols recommended according to RCW 43.70.500 for
2 these purposes.

3 (15) Propose other guidelines to certified health plans for
4 utilization management, use of technology and methods of payment, such
5 as diagnosis-related groups and a resource-based relative value scale.
6 Such guidelines shall be voluntary and shall be designed to promote
7 improved management of care, and provide incentives for improved
8 efficiency and effectiveness within the delivery system.

9 (16) Adopt standards and oversee and develop policy for personal
10 health data and information system as provided in chapter 70.170 RCW.

11 (17) Adopt standards that prevent conflict of interest by health
12 care providers as provided in RCW 18.130.320.

13 (18) At the appropriate juncture and in the fullness of time,
14 consider the extent to which medical research and health professions
15 training activities should be included within the health service system
16 set forth in chapter 492, Laws of 1993.

17 (19) Evaluate and monitor the extent to which racial and ethnic
18 minorities have access ~~((and to [to and]))~~ to and receive health
19 services within the state, and develop strategies to address barriers
20 to access.

21 (20) Develop standards for the certification process to certify
22 health plans and employer health plans to provide the uniform benefits
23 package, according to the provisions for certified health plans and
24 registered employer health plans under chapter 492, Laws of 1993.

25 (21) Develop rules for implementation of individual and employer
26 participation under RCW 43.72.210 and 43.72.220 specifically applicable
27 to persons who work in this state but do not live in the state or
28 persons who live in this state but work outside of the state. The
29 rules shall be designed so that these persons receive coverage and
30 financial requirements that are comparable to that received by persons
31 who both live and work in the state.

32 (22) After receiving advice from the health services effectiveness
33 committee, adopt rules that must be used by certified health plans,
34 disability insurers, health care service contractors, and health
35 maintenance organizations to determine whether a procedure, treatment,
36 drug, or other health service is no longer experimental or
37 investigative.

38 (23) Establish a process for purchase of uniform benefits package
39 services by enrollees when they are out-of-state.

1 (24) Develop recommendations to the legislature as to whether state
2 and school district employees, on whose behalf health benefits are or
3 will be purchased by the health care authority pursuant to chapter
4 41.05 RCW, should have the option to purchase health benefits through
5 health insurance purchasing cooperatives on and after July 1, 1997. In
6 developing its recommendations, the commission shall consider:

7 (a) The impact of state or school district employees purchasing
8 through health insurance purchasing cooperatives on the ability of the
9 state to control its health care costs; and

10 (b) Whether state or school district employees purchasing through
11 health insurance purchasing cooperatives will result in inequities in
12 health benefits between or within groups of state and school district
13 employees.

14 (25) Establish guidelines for providers dealing with terminal or
15 static conditions, taking into consideration the ethics of providers,
16 patient and family wishes, costs, and survival possibilities.

17 (26) Evaluate the extent to which Taft-Hartley health care trusts
18 provide benefits to certain individuals in the state; review the
19 federal laws under which these trusts are organized; and make
20 appropriate recommendations to the governor and the legislature on or
21 before December 1, 1994, as to whether these trusts should be brought
22 under the provisions of chapter 492, Laws of 1993 when it is fully
23 implemented, and if the commission recommends inclusion of the trusts,
24 how to implement such inclusion.

25 ~~(27) ((Make appropriate recommendations to the governor and the~~
26 ~~legislature on or before December 1, 1994, as to how seasonal workers~~
27 ~~and their employers may be brought under the provisions of chapter 492,~~
28 ~~Laws of 1993 when it is fully implemented, and with particular~~
29 ~~attention to the financial impact on seasonal workers and their~~
30 ~~employers. Until such time this study has been completed and the~~
31 ~~legislature has taken affirmative action, RCW 43.72.220 shall not apply~~
32 ~~to seasonal workers or their employers.~~

33 ~~(28))~~ Evaluate whether Washington is experiencing a higher
34 percentage in in-migration of residents from other states and
35 territories than would be expected by normal trends as a result of the
36 availability of unsubsidized and subsidized health care benefits for
37 all residents and report to the governor and the legislature their
38 findings.

1 (~~(29)~~) (28) In developing the uniform benefits package and other
2 standards pursuant to this section, consider the likelihood of the
3 establishment of a national health services plan adopted by the federal
4 government and its implications.

5 (~~(30)~~) (29) Evaluate the effect of reforms under chapter 492,
6 Laws of 1993 on access to care and economic development in rural areas.

7 To the extent that the exercise of any of the powers and duties
8 specified in this section may be inconsistent with the powers and
9 duties of other state agencies, offices, or commissions, the authority
10 of the commission shall supersede that of such other state agency,
11 office, or commission, except in matters of personal health data, where
12 the commission shall have primary data system policy-making authority
13 and the department of health shall have primary responsibility for the
14 maintenance and routine operation of personal health data systems.

15 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.72 RCW
16 to read as follows:

17 (1) The commission shall, in consultation with the seasonal
18 employment advisory committee established pursuant to RCW
19 43.72.060(1)(e):

20 (a) Define seasonal employment;

21 (b) Conduct an analysis of the financial impact of health insurance
22 coverage on seasonal employees and their employers, including analysis
23 of the extent to which existing funding sources that currently
24 subsidize health services costs for low-income seasonal workers can be
25 utilized, and the feasibility of establishing a centralized pool or
26 depository to finance such coverage;

27 (c) Determine the extent to which the coverage mechanisms of this
28 chapter should be modified, if at all, to meet the unique
29 characteristics and needs of the seasonal work force and their
30 employers. Seasonal workers should have the same base level of
31 benefits as other workers and the same point-of-service cost-sharing,
32 equivalent to the income-sensitive requirements the commission develops
33 under RCW 43.72.130. The committee should also review and make
34 recommendations to the commission on service delivery and access
35 issues.

36 (2) In undertaking these tasks, the commission shall give strong
37 consideration to the following principles:

1 (a) Employers and employees should contribute to the costs of
2 health benefits coverage for seasonal employees and their dependents at
3 a rate that is as affordable for both seasonal employees and their
4 employers as for nonseasonal employers and employees. The employer
5 contribution mechanism should assess employers for their share of
6 health insurance coverage in proportion to the time each employee
7 actually works;
8 (b) The administrative burden on employers and employees should be
9 as minimal as possible; and
10 (c) No new state agency should be created.

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