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**SUBSTITUTE HOUSE BILL 1387**

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**State of Washington**

**55th Legislature**

**1997 Regular Session**

**By** House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Zellinsky, K. Schmidt, L. Thomas, Johnson, Huff and Dyer)

Read first time 02/10/97.

1 AN ACT Relating to mandatory offering of basic health plan  
2 benefits; and amending RCW 48.20.028, 48.21.045, 48.44.022, 48.44.023,  
3 48.46.064, and 48.46.066.

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

5 **Sec. 1.** RCW 48.20.028 and 1995 c 265 s 13 are each amended to read  
6 as follows:

7 (1)(a) An insurer offering any health benefit plan to any  
8 individual shall offer and actively market to all individuals a health  
9 benefit plan providing benefits identical to the schedule of covered  
10 health services that are required to be delivered to an individual  
11 enrolled in the basic health plan. Nothing in this subsection shall  
12 preclude an insurer from offering, or an individual from purchasing,  
13 other health benefit plans that may have more or less comprehensive  
14 benefits than the basic health plan, provided such plans are in  
15 accordance with this chapter. An insurer offering a health benefit  
16 plan that does not include benefits provided in the basic health plan  
17 shall clearly disclose these differences to the individual in a  
18 brochure approved by the commissioner.

1 (b) A health benefit plan shall provide coverage for hospital  
2 expenses and services rendered by a physician licensed under chapter  
3 18.57 or 18.71 RCW but is not subject to the requirements of RCW  
4 48.20.390, 48.20.393, 48.20.395, 48.20.397, 48.20.410, 48.20.411,  
5 48.20.412, 48.20.416, and 48.20.420 if the health benefit plan is the  
6 mandatory offering under (a) of this subsection that provides benefits  
7 identical to the basic health plan, to the extent these requirements  
8 differ from the basic health plan.

9 (2) Premiums for health benefit plans for individuals shall be  
10 calculated using the adjusted community rating method that spreads  
11 financial risk across the carrier's entire individual product  
12 population. All such rates shall conform to the following:

13 (a) The insurer shall develop its rates based on an adjusted  
14 community rate and may only vary the adjusted community rate for:

- 15 (i) Geographic area;
- 16 (ii) Family size;
- 17 (iii) Age; and
- 18 (iv) Wellness activities.

19 (b) The adjustment for age in (a)(iii) of this subsection may not  
20 use age brackets smaller than five-year increments which shall begin  
21 with age twenty and end with age sixty-five. Individuals under the age  
22 of twenty shall be treated as those age twenty.

23 (c) The insurer shall be permitted to develop separate rates for  
24 individuals age sixty-five or older for coverage for which medicare is  
25 the primary payer and coverage for which medicare is not the primary  
26 payer. Both rates shall be subject to the requirements of this  
27 subsection.

28 (d) The permitted rates for any age group shall be no more than  
29 four hundred twenty-five percent of the lowest rate for all age groups  
30 on January 1, 1996, four hundred percent on January 1, 1997, and three  
31 hundred seventy-five percent on January 1, 2000, and thereafter.

32 (e) A discount for wellness activities shall be permitted to  
33 reflect actuarially justified differences in utilization or cost  
34 attributed to such programs not to exceed twenty percent.

35 (f) The rate charged for a health benefit plan offered under this  
36 section may not be adjusted more frequently than annually except that  
37 the premium may be changed to reflect:

- 38 (i) Changes to the family composition;

1 (ii) Changes to the health benefit plan requested by the  
2 individual; or

3 (iii) Changes in government requirements affecting the health  
4 benefit plan. This subsection does not limit the frequency of filing  
5 of rate adjustments for new and renewing individuals.

6 (g) For the purposes of this section, a health benefit plan that  
7 contains a restricted network provision shall not be considered similar  
8 coverage to a health benefit plan that does not contain such a  
9 provision, provided that the restrictions of benefits to network  
10 providers result in substantial differences in claims costs. This  
11 subsection does not restrict or enhance the portability of benefits as  
12 provided in RCW 48.43.015.

13 (3) Adjusted community rates established under this section shall  
14 pool the medical experience of all individuals purchasing coverage, and  
15 shall not be required to be pooled with the medical experience of  
16 health benefit plans offered to small employers under RCW 48.21.045.

17 (4) As used in this section, "health benefit plan," "basic health  
18 plan," "adjusted community rate," and "wellness activities" mean the  
19 same as defined in RCW 48.43.005.

20 **Sec. 2.** RCW 48.21.045 and 1995 c 265 s 14 are each amended to read  
21 as follows:

22 (1)(a) An insurer offering any health benefit plan to a small  
23 employer shall offer and actively market to the small employer a health  
24 benefit plan providing benefits identical to the schedule of covered  
25 health services that are required to be delivered to an individual  
26 enrolled in the basic health plan. Nothing in this subsection shall  
27 preclude an insurer from offering, or a small employer from purchasing,  
28 other health benefit plans that may have more or less comprehensive  
29 benefits than the basic health plan, provided such plans are in  
30 accordance with this chapter. An insurer offering a health benefit  
31 plan that does not include benefits in the basic health plan shall  
32 clearly disclose these differences to the small employer in a brochure  
33 approved by the commissioner.

34 (b) A health benefit plan shall provide coverage for hospital  
35 expenses and services rendered by a physician licensed under chapter  
36 18.57 or 18.71 RCW but is not subject to the requirements of RCW  
37 48.21.130, 48.21.140, 48.21.141, 48.21.142, 48.21.144, 48.21.146,  
38 48.21.160 through 48.21.197, 48.21.200, 48.21.220, 48.21.225,

1 48.21.230, 48.21.235, 48.21.240, 48.21.244, 48.21.250, 48.21.300,  
2 48.21.310, or 48.21.320 if: (i) The health benefit plan is the  
3 mandatory offering under (a) of this subsection that provides benefits  
4 identical to the basic health plan, to the extent these requirements  
5 differ from the basic health plan; or (ii) the health benefit plan is  
6 offered to employers with not more than twenty-five employees.

7 (2) Nothing in this section shall prohibit an insurer from  
8 offering, or a purchaser from seeking, benefits in excess of the basic  
9 health plan services. All forms, policies, and contracts shall be  
10 submitted for approval to the commissioner, and the rates of any plan  
11 offered under this section shall be reasonable in relation to the  
12 benefits thereto.

13 (3) Premium rates for health benefit plans for small employers as  
14 defined in this section shall be subject to the following provisions:

15 (a) The insurer shall develop its rates based on an adjusted  
16 community rate and may only vary the adjusted community rate for:

- 17 (i) Geographic area;
- 18 (ii) Family size;
- 19 (iii) Age; and
- 20 (iv) Wellness activities.

21 (b) The adjustment for age in (a)(iii) of this subsection may not  
22 use age brackets smaller than five-year increments, which shall begin  
23 with age twenty and end with age sixty-five. Employees under the age  
24 of twenty shall be treated as those age twenty.

25 (c) The insurer shall be permitted to develop separate rates for  
26 individuals age sixty-five or older for coverage for which medicare is  
27 the primary payer and coverage for which medicare is not the primary  
28 payer. Both rates shall be subject to the requirements of this  
29 subsection (3).

30 (d) The permitted rates for any age group shall be no more than  
31 four hundred twenty-five percent of the lowest rate for all age groups  
32 on January 1, 1996, four hundred percent on January 1, 1997, and three  
33 hundred seventy-five percent on January 1, 2000, and thereafter.

34 (e) A discount for wellness activities shall be permitted to  
35 reflect actuarially justified differences in utilization or cost  
36 attributed to such programs not to exceed twenty percent.

37 (f) The rate charged for a health benefit plan offered under this  
38 section may not be adjusted more frequently than annually except that  
39 the premium may be changed to reflect:

1 (i) Changes to the enrollment of the small employer;  
2 (ii) Changes to the family composition of the employee;  
3 (iii) Changes to the health benefit plan requested by the small  
4 employer; or

5 (iv) Changes in government requirements affecting the health  
6 benefit plan. This subsection does not limit the frequency of filing  
7 of rate adjustments for new and renewing small employers.

8 (g) Rating factors shall produce premiums for identical groups that  
9 differ only by the amounts attributable to plan design, with the  
10 exception of discounts for health improvement programs.

11 (h) For the purposes of this section, a health benefit plan that  
12 contains a restricted network provision shall not be considered similar  
13 coverage to a health benefit plan that does not contain such a  
14 provision, provided that the restrictions of benefits to network  
15 providers result in substantial differences in claims costs. This  
16 subsection does not restrict or enhance the portability of benefits as  
17 provided in RCW 48.43.015.

18 (i) Adjusted community rates established under this section shall  
19 pool the medical experience of all small groups purchasing coverage.

20 (4) The health benefit plans authorized by this section that are  
21 lower than the required offering shall not supplant or supersede any  
22 existing policy for the benefit of employees in this state. Nothing in  
23 this section shall restrict the right of employees to collectively  
24 bargain for insurance providing benefits in excess of those provided  
25 herein.

26 (5)(a) Except as provided in this subsection, requirements used by  
27 an insurer in determining whether to provide coverage to a small  
28 employer shall be applied uniformly among all small employers applying  
29 for coverage or receiving coverage from the carrier.

30 (b) An insurer shall not require a minimum participation level  
31 greater than:

32 (i) One hundred percent of eligible employees working for groups  
33 with three or less employees; and

34 (ii) Seventy-five percent of eligible employees working for groups  
35 with more than three employees.

36 (c) In applying minimum participation requirements with respect to  
37 a small employer, a small employer shall not consider employees or  
38 dependents who have similar existing coverage in determining whether  
39 the applicable percentage of participation is met.

1 (d) An insurer may not increase any requirement for minimum  
2 employee participation or modify any requirement for minimum employer  
3 contribution applicable to a small employer at any time after the small  
4 employer has been accepted for coverage.

5 (6) An insurer must offer coverage to all eligible employees of a  
6 small employer and their dependents. An insurer may not offer coverage  
7 to only certain individuals or dependents in a small employer group or  
8 to only part of the group. An insurer may not modify a health plan  
9 with respect to a small employer or any eligible employee or dependent,  
10 through riders, endorsements or otherwise, to restrict or exclude  
11 coverage or benefits for specific diseases, medical conditions, or  
12 services otherwise covered by the plan.

13 (7) As used in this section, "health benefit plan," "small  
14 employer," "basic health plan," "adjusted community rate," and  
15 "wellness activities" mean the same as defined in RCW 48.43.005.

16 **Sec. 3.** RCW 48.44.022 and 1995 c 265 s 15 are each amended to read  
17 as follows:

18 (1)(a) A health care service contractor offering any health benefit  
19 plan to any individual shall offer and actively market to all  
20 individuals a health benefit plan providing benefits identical to the  
21 schedule of covered health services that are required to be delivered  
22 to an individual enrolled in the basic health plan. Nothing in this  
23 subsection shall preclude a contractor from offering, or an individual  
24 from purchasing, other health benefit plans that may have more or less  
25 comprehensive benefits than the basic health plan, provided such plans  
26 are in accordance with this chapter. A contractor offering a health  
27 benefit plan that does not include benefits provided in the basic  
28 health plan shall clearly disclose these differences to the individual  
29 in a brochure approved by the commissioner.

30 (b) A health benefit plan shall provide coverage for hospital  
31 expenses and services rendered by a physician licensed under chapter  
32 18.57 or 18.71 RCW but is not subject to the requirements of RCW  
33 48.44.225, 48.44.240, 48.44.245, 48.44.290, 48.44.300, 48.44.310,  
34 48.44.320, 48.44.325, 48.44.330, 48.44.335, 48.44.340, 48.44.344,  
35 48.44.360, 48.44.400, 48.44.440, 48.44.450, and 48.44.460 if the health  
36 benefit plan is the mandatory offering under (a) of this subsection  
37 that provides benefits identical to the basic health plan, to the  
38 extent these requirements differ from the basic health plan.

1 (2) Premium rates for health benefit plans for individuals shall be  
2 subject to the following provisions:

3 (a) The health care service contractor shall develop its rates  
4 based on an adjusted community rate and may only vary the adjusted  
5 community rate for:

- 6 (i) Geographic area;
- 7 (ii) Family size;
- 8 (iii) Age; and
- 9 (iv) Wellness activities.

10 (b) The adjustment for age in (a)(iii) of this subsection may not  
11 use age brackets smaller than five-year increments which shall begin  
12 with age twenty and end with age sixty-five. Individuals under the age  
13 of twenty shall be treated as those age twenty.

14 (c) The health care service contractor shall be permitted to  
15 develop separate rates for individuals age sixty-five or older for  
16 coverage for which medicare is the primary payer and coverage for which  
17 medicare is not the primary payer. Both rates shall be subject to the  
18 requirements of this subsection.

19 (d) The permitted rates for any age group shall be no more than  
20 four hundred twenty-five percent of the lowest rate for all age groups  
21 on January 1, 1996, four hundred percent on January 1, 1997, and three  
22 hundred seventy-five percent on January 1, 2000, and thereafter.

23 (e) A discount for wellness activities shall be permitted to  
24 reflect actuarially justified differences in utilization or cost  
25 attributed to such programs not to exceed twenty percent.

26 (f) The rate charged for a health benefit plan offered under this  
27 section may not be adjusted more frequently than annually except that  
28 the premium may be changed to reflect:

- 29 (i) Changes to the family composition;
- 30 (ii) Changes to the health benefit plan requested by the  
31 individual; or

32 (iii) Changes in government requirements affecting the health  
33 benefit plan. This subsection does not limit the frequency of filing  
34 of rate adjustments for new and renewing individuals.

35 (g) For the purposes of this section, a health benefit plan that  
36 contains a restricted network provision shall not be considered similar  
37 coverage to a health benefit plan that does not contain such a  
38 provision, provided that the restrictions of benefits to network  
39 providers result in substantial differences in claims costs. This

1 subsection does not restrict or enhance the portability of benefits as  
2 provided in RCW 48.43.015.

3 (3) Adjusted community rates established under this section shall  
4 pool the medical experience of all individuals purchasing coverage, and  
5 shall not be required to be pooled with the medical experience of  
6 health benefit plans offered to small employers under RCW 48.44.023.

7 (4) As used in this section and RCW 48.44.023 "health benefit  
8 plan," "small employer," "basic health plan," "adjusted community  
9 rates," and "wellness activities" mean the same as defined in RCW  
10 48.43.005.

11 **Sec. 4.** RCW 48.44.023 and 1995 c 265 s 16 are each amended to read  
12 as follows:

13 (1)(a) A health care services contractor offering any health  
14 benefit plan to a small employer shall offer and actively market to the  
15 small employer a health benefit plan providing benefits identical to  
16 the schedule of covered health services that are required to be  
17 delivered to an individual enrolled in the basic health plan. Nothing  
18 in this subsection shall preclude a contractor from offering, or a  
19 small employer from purchasing, other health benefit plans that may  
20 have more or less comprehensive benefits than the basic health plan,  
21 provided such plans are in accordance with this chapter. A contractor  
22 offering a health benefit plan that does not include benefits in the  
23 basic health plan shall clearly disclose these differences to the small  
24 employer in a brochure approved by the commissioner.

25 (b) A health benefit plan shall provide coverage for hospital  
26 expenses and services rendered by a physician licensed under chapter  
27 18.57 or 18.71 RCW but is not subject to the requirements of RCW  
28 48.44.225, 48.44.240, 48.44.245, 48.44.290, 48.44.300, 48.44.310,  
29 48.44.320, 48.44.325, 48.44.330, 48.44.335, 48.44.340, 48.44.344,  
30 48.44.360, 48.44.400, 48.44.440, 48.44.450, and 48.44.460 if: (i) The  
31 health benefit plan is the mandatory offering under (a) of this  
32 subsection that provides benefits identical to the basic health plan,  
33 to the extent these requirements differ from the basic health plan; or  
34 (ii) the health benefit plan is offered to employers with not more than  
35 twenty-five employees.

36 (2) Nothing in this section shall prohibit a health care service  
37 contractor from offering, or a purchaser from seeking, benefits in  
38 excess of the basic health plan services. All forms, policies, and



1 contracts shall be submitted for approval to the commissioner, and the  
2 rates of any plan offered under this section shall be reasonable in  
3 relation to the benefits thereto.

4 (3) Premium rates for health benefit plans for small employers as  
5 defined in this section shall be subject to the following provisions:

6 (a) The contractor shall develop its rates based on an adjusted  
7 community rate and may only vary the adjusted community rate for:

8 (i) Geographic area;

9 (ii) Family size;

10 (iii) Age; and

11 (iv) Wellness activities.

12 (b) The adjustment for age in (a)(iii) of this subsection may not  
13 use age brackets smaller than five-year increments, which shall begin  
14 with age twenty and end with age sixty-five. Employees under the age  
15 of twenty shall be treated as those age twenty.

16 (c) The contractor shall be permitted to develop separate rates for  
17 individuals age sixty-five or older for coverage for which medicare is  
18 the primary payer and coverage for which medicare is not the primary  
19 payer. Both rates shall be subject to the requirements of this  
20 subsection (3).

21 (d) The permitted rates for any age group shall be no more than  
22 four hundred twenty-five percent of the lowest rate for all age groups  
23 on January 1, 1996, four hundred percent on January 1, 1997, and three  
24 hundred seventy-five percent on January 1, 2000, and thereafter.

25 (e) A discount for wellness activities shall be permitted to  
26 reflect actuarially justified differences in utilization or cost  
27 attributed to such programs not to exceed twenty percent.

28 (f) The rate charged for a health benefit plan offered under this  
29 section may not be adjusted more frequently than annually except that  
30 the premium may be changed to reflect:

31 (i) Changes to the enrollment of the small employer;

32 (ii) Changes to the family composition of the employee;

33 (iii) Changes to the health benefit plan requested by the small  
34 employer; or

35 (iv) Changes in government requirements affecting the health  
36 benefit plan. This subsection does not limit the frequency of filing  
37 of rate adjustments for new and renewing small employers.

1 (g) Rating factors shall produce premiums for identical groups that  
2 differ only by the amounts attributable to plan design, with the  
3 exception of discounts for health improvement programs.

4 (h) For the purposes of this section, a health benefit plan that  
5 contains a restricted network provision shall not be considered similar  
6 coverage to a health benefit plan that does not contain such a  
7 provision, provided that the restrictions of benefits to network  
8 providers result in substantial differences in claims costs. This  
9 subsection does not restrict or enhance the portability of benefits as  
10 provided in RCW 48.43.015.

11 (i) Adjusted community rates established under this section shall  
12 pool the medical experience of all groups purchasing coverage.

13 (4) The health benefit plans authorized by this section that are  
14 lower than the required offering shall not supplant or supersede any  
15 existing policy for the benefit of employees in this state. Nothing in  
16 this section shall restrict the right of employees to collectively  
17 bargain for insurance providing benefits in excess of those provided  
18 herein.

19 (5)(a) Except as provided in this subsection, requirements used by  
20 a contractor in determining whether to provide coverage to a small  
21 employer shall be applied uniformly among all small employers applying  
22 for coverage or receiving coverage from the carrier.

23 (b) A contractor shall not require a minimum participation level  
24 greater than:

25 (i) One hundred percent of eligible employees working for groups  
26 with three or less employees; and

27 (ii) Seventy-five percent of eligible employees working for groups  
28 with more than three employees.

29 (c) In applying minimum participation requirements with respect to  
30 a small employer, a small employer shall not consider employees or  
31 dependents who have similar existing coverage in determining whether  
32 the applicable percentage of participation is met.

33 (d) A contractor may not increase any requirement for minimum  
34 employee participation or modify any requirement for minimum employer  
35 contribution applicable to a small employer at any time after the small  
36 employer has been accepted for coverage.

37 (6) A contractor must offer coverage to all eligible employees of  
38 a small employer and their dependents. A contractor may not offer  
39 coverage to only certain individuals or dependents in a small employer

1 group or to only part of the group. A contractor may not modify a  
2 health plan with respect to a small employer or any eligible employee  
3 or dependent, through riders, endorsements or otherwise, to restrict or  
4 exclude coverage or benefits for specific diseases, medical conditions,  
5 or services otherwise covered by the plan.

6 **Sec. 5.** RCW 48.46.064 and 1995 c 265 s 17 are each amended to read  
7 as follows:

8 (1)(a) A health maintenance organization offering any health  
9 benefit plan to any individual shall offer and actively market to all  
10 individuals a health benefit plan providing benefits identical to the  
11 schedule of covered health services that are required to be delivered  
12 to an individual enrolled in the basic health plan. Nothing in this  
13 subsection shall preclude a health maintenance organization from  
14 offering, or an individual from purchasing, other health benefit plans  
15 that may have more or less comprehensive benefits than the basic health  
16 plan, provided such plans are in accordance with this chapter. A  
17 health maintenance organization offering a health benefit plan that  
18 does not include benefits provided in the basic health plan shall  
19 clearly disclose these differences to the individual in a brochure  
20 approved by the commissioner.

21 (b) A health benefit plan shall provide coverage for hospital  
22 expenses and services rendered by a physician licensed under chapter  
23 18.57 or 18.71 RCW but is not subject to the requirements of RCW  
24 48.46.275, ((48.26.280-[48.46.280])) 48.46.280, 48.46.285, 48.46.290,  
25 48.46.350, 48.46.355, 48.46.375, 48.46.440, 48.46.480, 48.46.510,  
26 48.46.520, and 48.46.530 if the health benefit plan is the mandatory  
27 offering under (a) of this subsection that provides benefits identical  
28 to the basic health plan, to the extent these requirements differ from  
29 the basic health plan.

30 (2) Premium rates for health benefit plans for individuals shall be  
31 subject to the following provisions:

32 (a) The health maintenance organization shall develop its rates  
33 based on an adjusted community rate and may only vary the adjusted  
34 community rate for:

- 35 (i) Geographic area;
- 36 (ii) Family size;
- 37 (iii) Age; and
- 38 (iv) Wellness activities.

1 (b) The adjustment for age in (a)(iii) of this subsection may not  
2 use age brackets smaller than five-year increments which shall begin  
3 with age twenty and end with age sixty-five. Individuals under the age  
4 of twenty shall be treated as those age twenty.

5 (c) The health maintenance organization shall be permitted to  
6 develop separate rates for individuals age sixty-five or older for  
7 coverage for which medicare is the primary payer and coverage for which  
8 medicare is not the primary payer. Both rates shall be subject to the  
9 requirements of this subsection.

10 (d) The permitted rates for any age group shall be no more than  
11 four hundred twenty-five percent of the lowest rate for all age groups  
12 on January 1, 1996, four hundred percent on January 1, 1997, and three  
13 hundred seventy-five percent on January 1, 2000, and thereafter.

14 (e) A discount for wellness activities shall be permitted to  
15 reflect actuarially justified differences in utilization or cost  
16 attributed to such programs not to exceed twenty percent.

17 (f) The rate charged for a health benefit plan offered under this  
18 section may not be adjusted more frequently than annually except that  
19 the premium may be changed to reflect:

20 (i) Changes to the family composition;

21 (ii) Changes to the health benefit plan requested by the  
22 individual; or

23 (iii) Changes in government requirements affecting the health  
24 benefit plan. This subsection does not limit the frequency of filing  
25 of rate adjustments for new and renewing individuals.

26 (g) For the purposes of this section, a health benefit plan that  
27 contains a restricted network provision shall not be considered similar  
28 coverage to a health benefit plan that does not contain such a  
29 provision, provided that the restrictions of benefits to network  
30 providers result in substantial differences in claims costs. This  
31 subsection does not restrict or enhance the portability of benefits as  
32 provided in RCW 48.43.015.

33 (3) Adjusted community rates established under this section shall  
34 pool the medical experience of all individuals purchasing coverage, and  
35 shall not be required to be pooled with the medical experience of  
36 health benefit plans offered to small employers under RCW 48.46.066.

37 (4) As used in this section and RCW 48.46.066, "health benefit  
38 plan," "basic health plan," "adjusted community rate," "small

1 employer," and "wellness activities" mean the same as defined in RCW  
2 48.43.005.

3 **Sec. 6.** RCW 48.46.066 and 1995 c 265 s 18 are each amended to read  
4 as follows:

5 (1)(a) A health maintenance organization offering any health  
6 benefit plan to a small employer shall offer and actively market to the  
7 small employer a health benefit plan providing benefits identical to  
8 the schedule of covered health services that are required to be  
9 delivered to an individual enrolled in the basic health plan. Nothing  
10 in this subsection shall preclude a health maintenance organization  
11 from offering, or a small employer from purchasing, other health  
12 benefit plans that may have more or less comprehensive benefits than  
13 the basic health plan, provided such plans are in accordance with this  
14 chapter. A health maintenance organization offering a health benefit  
15 plan that does not include benefits in the basic health plan shall  
16 clearly disclose these differences to the small employer in a brochure  
17 approved by the commissioner.

18 (b) A health benefit plan shall provide coverage for hospital  
19 expenses and services rendered by a physician licensed under chapter  
20 18.57 or 18.71 RCW but is not subject to the requirements of RCW  
21 48.46.275, 48.46.280, 48.46.285, 48.46.290, 48.46.350, 48.46.355,  
22 48.46.375, 48.46.440, 48.46.480, 48.46.510, 48.46.520, and 48.46.530  
23 if: (i) The health benefit plan is the mandatory offering under (a) of  
24 this subsection that provides benefits identical to the basic health  
25 plan, to the extent these requirements differ from the basic health  
26 plan; or (ii) the health benefit plan is offered to employers with not  
27 more than twenty-five employees.

28 (2) Nothing in this section shall prohibit a health maintenance  
29 organization from offering, or a purchaser from seeking, benefits in  
30 excess of the basic health plan services. All forms, policies, and  
31 contracts shall be submitted for approval to the commissioner, and the  
32 rates of any plan offered under this section shall be reasonable in  
33 relation to the benefits thereto.

34 (3) Premium rates for health benefit plans for small employers as  
35 defined in this section shall be subject to the following provisions:

36 (a) The health maintenance organization shall develop its rates  
37 based on an adjusted community rate and may only vary the adjusted  
38 community rate for:

- 1 (i) Geographic area;
- 2 (ii) Family size;
- 3 (iii) Age; and
- 4 (iv) Wellness activities.

5 (b) The adjustment for age in (a)(iii) of this subsection may not  
6 use age brackets smaller than five-year increments, which shall begin  
7 with age twenty and end with age sixty-five. Employees under the age  
8 of twenty shall be treated as those age twenty.

9 (c) The health maintenance organization shall be permitted to  
10 develop separate rates for individuals age sixty-five or older for  
11 coverage for which medicare is the primary payer and coverage for which  
12 medicare is not the primary payer. Both rates shall be subject to the  
13 requirements of this subsection (3).

14 (d) The permitted rates for any age group shall be no more than  
15 four hundred twenty-five percent of the lowest rate for all age groups  
16 on January 1, 1996, four hundred percent on January 1, 1997, and three  
17 hundred seventy-five percent on January 1, 2000, and thereafter.

18 (e) A discount for wellness activities shall be permitted to  
19 reflect actuarially justified differences in utilization or cost  
20 attributed to such programs not to exceed twenty percent.

21 (f) The rate charged for a health benefit plan offered under this  
22 section may not be adjusted more frequently than annually except that  
23 the premium may be changed to reflect:

- 24 (i) Changes to the enrollment of the small employer;
- 25 (ii) Changes to the family composition of the employee;
- 26 (iii) Changes to the health benefit plan requested by the small  
27 employer; or

28 (iv) Changes in government requirements affecting the health  
29 benefit plan. This subsection does not limit the frequency of filing  
30 of rate adjustments for new and renewing small employers.

31 (g) Rating factors shall produce premiums for identical groups that  
32 differ only by the amounts attributable to plan design, with the  
33 exception of discounts for health improvement programs.

34 (h) For the purposes of this section, a health benefit plan that  
35 contains a restricted network provision shall not be considered similar  
36 coverage to a health benefit plan that does not contain such a  
37 provision, provided that the restrictions of benefits to network  
38 providers result in substantial differences in claims costs. This

1 subsection does not restrict or enhance the portability of benefits as  
2 provided in RCW 48.43.015.

3 (i) Adjusted community rates established under this section shall  
4 pool the medical experience of all groups purchasing coverage.

5 (4) The health benefit plans authorized by this section that are  
6 lower than the required offering shall not supplant or supersede any  
7 existing policy for the benefit of employees in this state. Nothing in  
8 this section shall restrict the right of employees to collectively  
9 bargain for insurance providing benefits in excess of those provided  
10 herein.

11 (5)(a) Except as provided in this subsection, requirements used by  
12 a health maintenance organization in determining whether to provide  
13 coverage to a small employer shall be applied uniformly among all small  
14 employers applying for coverage or receiving coverage from the carrier.

15 (b) A health maintenance organization shall not require a minimum  
16 participation level greater than:

17 (i) One hundred percent of eligible employees working for groups  
18 with three or less employees; and

19 (ii) Seventy-five percent of eligible employees working for groups  
20 with more than three employees.

21 (c) In applying minimum participation requirements with respect to  
22 a small employer, a small employer shall not consider employees or  
23 dependents who have similar existing coverage in determining whether  
24 the applicable percentage of participation is met.

25 (d) A health maintenance organization may not increase any  
26 requirement for minimum employee participation or modify any  
27 requirement for minimum employer contribution applicable to a small  
28 employer at any time after the small employer has been accepted for  
29 coverage.

30 (6) A health maintenance organization must offer coverage to all  
31 eligible employees of a small employer and their dependents. A health  
32 maintenance organization may not offer coverage to only certain  
33 individuals or dependents in a small employer group or to only part of  
34 the group. A health maintenance organization may not modify a health  
35 plan with respect to a small employer or any eligible employee or  
36 dependent, through riders, endorsements or otherwise, to restrict or

- 1 exclude coverage or benefits for specific diseases, medical conditions,
- 2 or services otherwise covered by the plan.

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