
HOUSE BILL 2631

State of Washington

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By Representatives Cody, Murray, Quall, Costa, Cole, Chopp, Veloria, Kenney, Dickerson, Anderson, Conway, O'Brien, Wood, Butler, Ogden, Regala, Gardner and Gombosky

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1 AN ACT Relating to health care access and preventative services;
2 amending RCW 82.24.020 and 43.72.900; reenacting and amending RCW
3 70.47.060 and 74.09.510; and adding a new section to chapter 43.88 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.88 RCW
6 to read as follows:

7 In addition to funds dedicated in RCW 66.24.290, 82.02.030,
8 82.04.260, 82.04.322, 82.04.4289, 82.08.150, 82.24.020, 82.24.080,
9 82.26.020, and 82.44.110, any financial claims due the state for losses
10 resulting from tobacco use pursuant to a legal settlement, an act of
11 the United State congress, or both, shall be deposited in the health
12 services account established by RCW 43.72.900 in a manner as set forth
13 by the state treasurer.

14 **Sec. 2.** RCW 82.24.020 and 1994 sp.s. c 7 s 904 are each amended to
15 read as follows:

16 (1) There is levied and there shall be collected as provided in
17 this chapter, a tax upon the sale, use, consumption, handling,

1 possession or distribution of all cigarettes, in an amount equal to the
2 rate of eleven and one-half mills per cigarette.

3 (2) An additional tax is imposed upon the sale, use, consumption,
4 handling, possession, or distribution of all cigarettes, in an amount
5 equal to the rate of five and one-fourth mills per cigarette. All
6 revenues collected during any month from this additional tax shall be
7 deposited in the violence reduction and drug enforcement account under
8 RCW 69.50.520 by the twenty-fifth day of the following month.

9 (3) An additional tax is imposed upon the sale, use, consumption,
10 handling, possession, or distribution of all cigarettes, in an amount
11 equal to the rate of ten mills per cigarette through June 30, 1994,
12 eleven and one-fourth mills per cigarette for the period July 1, 1994,
13 through June 30, 1995, twenty mills per cigarette for the period July
14 1, 1995, through June 30, 1996, twenty and one-half mills per cigarette
15 for the period July 1, 1996, through December 2, 1998, thirty-three
16 mills per cigarette January 1, 1999, through June 30, 1999 and
17 ~~((twenty))~~ forty-five and one-half mills per cigarette thereafter. All
18 revenues collected during any month from this additional tax shall be
19 deposited in the health services account created under RCW 43.72.900 by
20 the twenty-fifth day of the following month.

21 (4) Wholesalers and retailers subject to the payment of this tax
22 may, if they wish, absorb one-half mill per cigarette of the tax and
23 not pass it on to purchasers without being in violation of this section
24 or any other act relating to the sale or taxation of cigarettes.

25 (5) For purposes of this chapter, "possession" shall mean both (a)
26 physical possession by the purchaser and, (b) when cigarettes are being
27 transported to or held for the purchaser or his or her designee by a
28 person other than the purchaser, constructive possession by the
29 purchaser or his or her designee, which constructive possession shall
30 be deemed to occur at the location of the cigarettes being so
31 transported or held.

32 **Sec. 3.** RCW 70.47.060 and 1997 c 337 s 2, 1997 c 335 s 2, 1997 c
33 245 s 6, and 1997 c 231 s 206 are each reenacted and amended to read as
34 follows:

35 The administrator has the following powers and duties:

36 (1) To design and from time to time revise a schedule of covered
37 basic health care services, including physician services, inpatient and
38 outpatient hospital services, prescription drugs and medications,

1 medical rehabilitation services, and other services that may be
2 necessary for basic health care. In addition, the administrator may,
3 to the extent that funds are available, offer as basic health plan
4 services chemical dependency services, mental health services and organ
5 transplant services; however, no one service or any combination of
6 these three services shall increase the actuarial value of the basic
7 health plan benefits by more than five percent excluding inflation, as
8 determined by the office of financial management. All subsidized and
9 nonsubsidized enrollees in any participating managed health care system
10 under the Washington basic health plan shall be entitled to receive
11 covered basic health care services in return for premium payments to
12 the plan. The schedule of services shall emphasize proven preventive
13 and primary health care and shall include all services necessary for
14 prenatal, postnatal, and well-child care. However, with respect to
15 coverage for groups of subsidized enrollees who are eligible to receive
16 prenatal and postnatal services through the medical assistance program
17 under chapter 74.09 RCW, the administrator shall not contract for such
18 services except to the extent that such services are necessary over not
19 more than a one-month period in order to maintain continuity of care
20 after diagnosis of pregnancy by the managed care provider. The
21 schedule of services shall also include a separate schedule of basic
22 health care services for children, eighteen years of age and younger,
23 for those subsidized or nonsubsidized enrollees who choose to secure
24 basic coverage through the plan only for their dependent children. In
25 designing and revising the schedule of services, the administrator
26 shall consider the guidelines for assessing health services under the
27 mandated benefits act of 1984, RCW ((~~48.42.080~~) 48.47.030), and such
28 other factors as the administrator deems appropriate.

29 However, with respect to coverage for subsidized enrollees who are
30 eligible to receive prenatal and postnatal services through the medical
31 assistance program under chapter 74.09 RCW, the administrator shall not
32 contract for such services except to the extent that the services are
33 necessary over not more than a one-month period in order to maintain
34 continuity of care after diagnosis of pregnancy by the managed care
35 provider.

36 (2)(a) To design and implement, consistent with subsections (17),
37 (18), and (19) of this section, a structure of periodic premiums due
38 the administrator from subsidized enrollees that is based upon gross
39 family income, giving appropriate consideration to family size and the

1 ages of all family members. The enrollment of children shall not
2 require the enrollment of their parent or parents who are eligible for
3 the plan. The structure of periodic premiums shall be applied to
4 subsidized enrollees entering the plan as individuals pursuant to
5 subsection (9) of this section and to the share of the cost of the plan
6 due from subsidized enrollees entering the plan as employees pursuant
7 to subsection (10) of this section.

8 (b) To determine the periodic premiums due the administrator from
9 nonsubsidized enrollees. Premiums due from nonsubsidized enrollees
10 shall be in an amount equal to the cost charged by the managed health
11 care system provider to the state for the plan plus the administrative
12 cost of providing the plan to those enrollees and the premium tax under
13 RCW 48.14.0201.

14 (c) An employer or other financial sponsor may, with the prior
15 approval of the administrator, pay the premium, rate, or any other
16 amount on behalf of a subsidized or nonsubsidized enrollee, by
17 arrangement with the enrollee and through a mechanism acceptable to the
18 administrator.

19 (d) To develop, as an offering by every health carrier providing
20 coverage identical to the basic health plan, as configured on January
21 1, 1996, a basic health plan model plan with uniformity in enrollee
22 cost-sharing requirements.

23 (3) To design and implement, consistent with subsections (17),
24 (18), and (19) of this section, a structure of enrollee cost sharing
25 due a managed health care system from subsidized and nonsubsidized
26 enrollees. The structure shall discourage inappropriate enrollee
27 utilization of health care services, and may utilize copayments,
28 deductibles, and other cost-sharing mechanisms, but shall not be so
29 costly to enrollees as to constitute a barrier to appropriate
30 utilization of necessary health care services.

31 (4) To limit enrollment of persons who qualify for subsidies so as
32 to prevent an overexpenditure of appropriations for such purposes.
33 Whenever the administrator finds that there is danger of such an
34 overexpenditure, the administrator shall close enrollment until the
35 administrator finds the danger no longer exists.

36 (5) To limit the payment of subsidies to subsidized enrollees, as
37 defined in RCW 70.47.020. The level of subsidy provided to persons who
38 qualify may be based on the lowest cost plans, as defined by the
39 administrator.

1 (6) To adopt a schedule for the orderly development of the delivery
2 of services and availability of the plan to residents of the state,
3 subject to the limitations contained in RCW 70.47.080 or any act
4 appropriating funds for the plan.

5 (7) To solicit and accept applications from managed health care
6 systems, as defined in this chapter, for inclusion as eligible basic
7 health care providers under the plan. The administrator shall endeavor
8 to assure that covered basic health care services are available to any
9 enrollee of the plan from among a selection of two or more
10 participating managed health care systems. In adopting any rules or
11 procedures applicable to managed health care systems and in its
12 dealings with such systems, the administrator shall consider and make
13 suitable allowance for the need for health care services and the
14 differences in local availability of health care resources, along with
15 other resources, within and among the several areas of the state.
16 Contracts with participating managed health care systems shall ensure
17 that basic health plan enrollees who become eligible for medical
18 assistance may, at their option, continue to receive services from
19 their existing providers within the managed health care system if such
20 providers have entered into provider agreements with the department of
21 social and health services.

22 (8) To receive periodic premiums from or on behalf of subsidized
23 and nonsubsidized enrollees, deposit them in the basic health plan
24 operating account, keep records of enrollee status, and authorize
25 periodic payments to managed health care systems on the basis of the
26 number of enrollees participating in the respective managed health care
27 systems.

28 (9) To accept applications from individuals residing in areas
29 served by the plan, on behalf of themselves and their spouses and
30 dependent children, for enrollment in the Washington basic health plan
31 as subsidized or nonsubsidized enrollees, to establish appropriate
32 minimum-enrollment periods for enrollees as may be necessary, and to
33 determine, upon application and on a reasonable schedule defined by the
34 authority, or at the request of any enrollee, eligibility due to
35 current gross family income for sliding scale premiums. No subsidy may
36 be paid with respect to any enrollee whose current gross family income
37 exceeds twice the federal poverty level or, subject to RCW 70.47.110,
38 who is a recipient of medical assistance or medical care services under
39 chapter 74.09 RCW. If, as a result of an eligibility review, the

1 administrator determines that a subsidized enrollee's income exceeds
2 twice the federal poverty level and that the enrollee knowingly failed
3 to inform the plan of such increase in income, the administrator may
4 bill the enrollee for the subsidy paid on the enrollee's behalf during
5 the period of time that the enrollee's income exceeded twice the
6 federal poverty level. If a number of enrollees drop their enrollment
7 for no apparent good cause, the administrator may establish appropriate
8 rules or requirements that are applicable to such individuals before
9 they will be allowed to reenroll in the plan.

10 (10) To accept applications from business owners on behalf of
11 themselves and their employees, spouses, and dependent children, as
12 subsidized or nonsubsidized enrollees, who reside in an area served by
13 the plan. The administrator may require all or the substantial
14 majority of the eligible employees of such businesses to enroll in the
15 plan and establish those procedures necessary to facilitate the orderly
16 enrollment of groups in the plan and into a managed health care system.
17 The administrator may require that a business owner pay at least an
18 amount equal to what the employee pays after the state pays its portion
19 of the subsidized premium cost of the plan on behalf of each employee
20 enrolled in the plan. Enrollment is limited to those not eligible for
21 medicare who wish to enroll in the plan and choose to obtain the basic
22 health care coverage and services from a managed care system
23 participating in the plan. The administrator shall adjust the amount
24 determined to be due on behalf of or from all such enrollees whenever
25 the amount negotiated by the administrator with the participating
26 managed health care system or systems is modified or the administrative
27 cost of providing the plan to such enrollees changes.

28 (11) To determine the rate to be paid to each participating managed
29 health care system in return for the provision of covered basic health
30 care services to enrollees in the system. Although the schedule of
31 covered basic health care services will be the same for similar
32 enrollees, the rates negotiated with participating managed health care
33 systems may vary among the systems. In negotiating rates with
34 participating systems, the administrator shall consider the
35 characteristics of the populations served by the respective systems,
36 economic circumstances of the local area, the need to conserve the
37 resources of the basic health plan trust account, and other factors the
38 administrator finds relevant.

1 (12) To monitor the provision of covered services to enrollees by
2 participating managed health care systems in order to assure enrollee
3 access to good quality basic health care, to require periodic data
4 reports concerning the utilization of health care services rendered to
5 enrollees in order to provide adequate information for evaluation, and
6 to inspect the books and records of participating managed health care
7 systems to assure compliance with the purposes of this chapter. In
8 requiring reports from participating managed health care systems,
9 including data on services rendered enrollees, the administrator shall
10 endeavor to minimize costs, both to the managed health care systems and
11 to the plan. The administrator shall coordinate any such reporting
12 requirements with other state agencies, such as the insurance
13 commissioner and the department of health, to minimize duplication of
14 effort.

15 (13) To evaluate the effects this chapter has on private employer-
16 based health care coverage and to take appropriate measures consistent
17 with state and federal statutes that will discourage the reduction of
18 such coverage in the state.

19 (14) To develop a program of proven preventive health measures and
20 to integrate it into the plan wherever possible and consistent with
21 this chapter.

22 (15) To provide, consistent with available funding, assistance for
23 rural residents, underserved populations, and persons of color.

24 (16) In consultation with appropriate state and local government
25 agencies, to establish criteria defining eligibility for persons
26 confined or residing in government-operated institutions.

27 (17) As of January 1, 1999, to limit enrollee premium contributions
28 to those requirements established by the administrator in compliance
29 with the 1995-97 biennial omnibus operating budget authorized by
30 chapter 18, Laws of 1995 2nd sp. sess.

31 (18) To adjust enrollee premium contribution and cost-sharing
32 requirements, as necessary. However, increases may not be made more
33 frequently than every two years, nor in an amount in excess of the
34 consumer price increase rate for the previous two years.

35 (19) To permit organizations and individuals that are paid to
36 deliver basic health plan services to sponsor an individual's
37 enrollment in the subsidized basic health plan. However, the cost of
38 sponsorship shall not exceed enrollee premium contributions.

1 **Sec. 4.** RCW 43.72.900 and 1993 c 492 s 469 are each amended to
2 read as follows:

3 (1) The health services account is created in the state treasury.
4 Moneys in the account may be spent only after appropriation. Moneys in
5 the account may be expended only for maintaining and expanding health
6 services access for low-income residents(~~(,)~~) and maintaining and
7 expanding the public health system(~~(, maintaining and improving the~~
8 ~~capacity of the health care system, containing health care costs, and~~
9 ~~the regulation, planning, and administering of the health care~~
10 ~~system))~~).

11 (2) Funds dedicated to the health services account pursuant to
12 section 1 of this act and RCW 82.24.020 shall be appropriated only for
13 Washington basic health plan enrollment, pursuant to chapter 70.47 RCW,
14 and the antitobacco use programs.

15 **Sec. 5.** RCW 74.09.510 and 1997 c 58 s 201 and 1997 c 59 s 14 are
16 each reenacted and amended to read as follows:

17 Medical assistance may be provided in accordance with eligibility
18 requirements established by the department, as defined in the social
19 security Title XIX state plan for mandatory categorically needy persons
20 and: (1) Individuals who would be eligible for cash assistance except
21 for their institutional status; (2) individuals who are under twenty-
22 one years of age, who would be eligible for temporary assistance for
23 needy families, but do not qualify as dependent children and who are in
24 (a) foster care, (b) subsidized adoption, (c) a nursing facility or an
25 intermediate care facility for the mentally retarded, or (d) inpatient
26 psychiatric facilities; (3) the aged, blind, and disabled who: (a)
27 Receive only a state supplement, or (b) would not be eligible for cash
28 assistance if they were not institutionalized; (4) categorically
29 eligible individuals who meet the income and resource requirements of
30 the cash assistance programs; (5) individuals who are enrolled in
31 managed health care systems, who have otherwise lost eligibility for
32 medical assistance, but who have not completed a current six-month
33 enrollment in a managed health care system, and who are eligible for
34 federal financial participation under Title XIX of the social security
35 act; (6) (~~children and~~) pregnant women allowed by federal statute for
36 whom funding is appropriated; (7) other individuals eligible for
37 medical services under RCW 74.09.035 and 74.09.700 for whom federal
38 financial participation is available under Title XIX of the social

1 security act; and (8) persons allowed by section 1931 of the social
2 security act for whom funding is appropriated. Consistent with Title
3 XXI of the social security act, medical assistance shall be provided to
4 children with household income at or below two hundred fifty percent of
5 the federal poverty level.

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