
SENATE BILL 5298

State of Washington

55th Legislature

1997 Regular Session

By Senators Franklin, Kohl, Prentice, Wood, Spanel, Winsley, Wojahn, Sheldon, Snyder, Patterson, Brown, Heavey, Rasmussen, McAuliffe, Fairley and Goings

Read first time 01/22/97. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to health insurance discrimination on the basis of
2 genetic information; amending RCW 48.43.005; and adding a new section
3 to chapter 48.43 RCW.

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

5 **Sec. 1.** RCW 48.43.005 and 1995 c 265 s 4 are each amended to read
6 as follows:

7 Unless otherwise specifically provided, the definitions in this
8 section apply throughout this chapter.

9 (1) "Adjusted community rate" means the rating method used to
10 establish the premium for health plans adjusted to reflect actuarially
11 demonstrated differences in utilization or cost attributable to
12 geographic region, age, family size, and use of wellness activities.

13 (2) "Covered person" or "enrollee" means a person covered by a
14 health plan including an enrollee, subscriber, policyholder,
15 beneficiary of a group plan, or individual covered by any other health
16 plan.

17 (3) "Eligible employee" means an employee who works on a full-time
18 basis with a normal work week of thirty or more hours. The term
19 includes a self-employed individual, including a sole proprietor, a

1 partner of a partnership, and may include an independent contractor, if
2 the self-employed individual, sole proprietor, partner, or independent
3 contractor is included as an employee under a health benefit plan of a
4 small employer, but does not work less than thirty hours per week and
5 derives at least seventy-five percent of his or her income from a trade
6 or business through which he or she has attempted to earn taxable
7 income and for which he or she has filed the appropriate internal
8 revenue service form. Persons covered under a health benefit plan
9 pursuant to the consolidated omnibus budget reconciliation act of 1986
10 shall not be considered eligible employees for purposes of minimum
11 participation requirements of chapter 265, Laws of 1995.

12 (4) "Enrollee point-of-service cost-sharing" means amounts paid to
13 health carriers directly providing services, health care providers, or
14 health care facilities by enrollees and may include copayments,
15 coinsurance, or deductibles.

16 (5) "Genetic information" means information about genes, gene
17 products, or inherited characteristics.

18 (6) "Genetic services" means health services to obtain, assess, and
19 interpret genetic information for diagnostic and therapeutic purposes
20 and for genetic education and counselling.

21 (7) "Health care facility" or "facility" means hospices licensed
22 under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW,
23 rural health care facilities as defined in RCW 70.175.020, psychiatric
24 hospitals licensed under chapter 71.12 RCW, nursing homes licensed
25 under chapter 18.51 RCW, community mental health centers licensed under
26 chapter 71.05 or 71.24 RCW, kidney disease treatment centers licensed
27 under chapter 70.41 RCW, ambulatory diagnostic, treatment, or surgical
28 facilities licensed under chapter 70.41 RCW, drug and alcohol treatment
29 facilities licensed under chapter 70.96A RCW, and home health agencies
30 licensed under chapter 70.127 RCW, and includes such facilities if
31 owned and operated by a political subdivision or instrumentality of the
32 state and such other facilities as required by federal law and
33 implementing regulations.

34 ((+6+)) (8) "Health care provider" or "provider" means:

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

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

1 (~~(7)~~) (9) "Health care service" means that service offered or
2 provided by health care facilities and health care providers relating
3 to the prevention, cure, or treatment of illness, injury, or
4 disease.

5 (~~(8)~~) (10) "Health carrier" or "carrier" means a disability
6 insurer regulated under chapter 48.20 or 48.21 RCW, a health care
7 service contractor as defined in RCW 48.44.010, or a health maintenance
8 organization as defined in RCW 48.46.020.

9 (~~(9)~~) (11) "Health plan" or "health benefit plan" means any
10 policy, contract, or agreement offered by a health carrier to provide,
11 arrange, reimburse, or pay for health care service except the
12 following:

13 (a) Long-term care insurance governed by chapter 48.84 RCW;

14 (b) Medicare supplemental health insurance governed by chapter
15 48.66 RCW;

16 (c) Limited health care service offered by limited health care
17 service contractors in accordance with RCW 48.44.035;

18 (d) Disability income;

19 (e) Coverage incidental to a property/casualty liability insurance
20 policy such as automobile personal injury protection coverage and
21 homeowner guest medical;

22 (f) Workers' compensation coverage;

23 (g) Accident only coverage;

24 (h) Specified disease and hospital confinement indemnity when
25 marketed solely as a supplement to a health plan;

26 (i) Employer-sponsored self-funded health plans; and

27 (j) Dental only and vision only coverage.

28 (~~(10)~~) (12) "Basic health plan services" means that schedule of
29 covered health services, including the description of how those
30 benefits are to be administered, that are required to be delivered to
31 an enrollee under the basic health plan, as revised from time to time.

32 (~~(11)~~) (13) "Preexisting condition" means any medical condition,
33 illness, or injury that existed any time prior to the effective date of
34 coverage.

35 (~~(12)~~) (14) "Premium" means all sums charged, received, or
36 deposited by a health carrier as consideration for a health plan or the
37 continuance of a health plan. Any assessment or any "membership,"
38 "policy," "contract," "service," or similar fee or charge made by a
39 health carrier in consideration for a health plan is deemed part of the

1 premium. "Premium" shall not include amounts paid as enrollee point-
2 of-service cost-sharing.

3 ~~((13))~~ (15) "Small employer" means any person, firm, corporation,
4 partnership, association, political subdivision except school
5 districts, or self-employed individual that is actively engaged in
6 business that, on at least fifty percent of its working days during the
7 preceding calendar quarter, employed no more than fifty eligible
8 employees, with a normal work week of thirty or more hours, the
9 majority of whom were employed within this state, and is not formed
10 primarily for purposes of buying health insurance and in which a bona
11 fide employer-employee relationship exists. In determining the number
12 of eligible employees, companies that are affiliated companies, or that
13 are eligible to file a combined tax return for purposes of taxation by
14 this state, shall be considered an employer. Subsequent to the
15 issuance of a health plan to a small employer and for the purpose of
16 determining eligibility, the size of a small employer shall be
17 determined annually. Except as otherwise specifically provided, a
18 small employer shall continue to be considered a small employer until
19 the plan anniversary following the date the small employer no longer
20 meets the requirements of this definition. The term "small employer"
21 includes a self-employed individual or sole proprietor. The term
22 "small employer" also includes a self-employed individual or sole
23 proprietor who derives at least seventy-five percent of his or her
24 income from a trade or business through which the individual or sole
25 proprietor has attempted to earn taxable income and for which he or she
26 has filed the appropriate internal revenue service form 1040, schedule
27 C or F, for the previous taxable year.

28 ~~((14))~~ (16) "Wellness activity" means an explicit program of an
29 activity consistent with department of health guidelines, such as,
30 smoking cessation, injury and accident prevention, reduction of alcohol
31 misuse, appropriate weight reduction, exercise, automobile and
32 motorcycle safety, blood cholesterol reduction, and nutrition education
33 for the purpose of improving enrollee health status and reducing health
34 service costs.

35 ~~((15))~~ (17) "Basic health plan" means the plan described under
36 chapter 70.47 RCW, as revised from time to time.

37 NEW SECTION. **Sec. 2.** A new section is added to chapter 48.43 RCW
38 to read as follows:

1 (1) A health carrier may not deny or cancel health plan coverage,
2 or vary the premiums, terms, or conditions for health plan coverage,
3 for an individual or a family member of an individual:

4 (a) On the basis of genetic information; or

5 (b) Because the individual or family member of an individual has
6 requested or received genetic services.

7 (2)(a) A health carrier may not request or require an individual to
8 whom the carrier provides health plan coverage, or an individual who
9 desires the carrier to provide health plan coverage, to disclose to the
10 carrier genetic information about the individual or family member of
11 the individual.

12 (b) A health carrier may not disclose genetic information about an
13 individual without the prior written authorization of the individual or
14 legal representative of the individual. Authorization is required for
15 each disclosure and must include an identification of the person to
16 whom the disclosure is to be made.

17 (3) The insurance commissioner shall enforce the requirements
18 established under subsections (1) and (2) of this section.

19 (4) A person may bring a civil action:

20 (a) To enjoin any act or practice that violates subsection (1) or
21 (2) of this section;

22 (b) To obtain other appropriate equitable relief: (i) To redress
23 such violations; or (ii) to enforce subsection (1) or (2) of this
24 section; or

25 (c) To obtain other legal relief, including monetary damages.

26 (5) The insurance commissioner may adopt rules necessary or
27 appropriate to carry out this section.

28 (6) Nothing in this section is to be construed as requiring a
29 health plan to provide benefits to a particular participant or
30 beneficiary.

--- END ---