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HOUSE BILL 2797

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State of Washington

58th Legislature

2004 Regular Session

By Representatives Morrell, Cody, Linville, Simpson, G., Edwards, Kenney and Ormsby; by request of Insurance Commissioner

Read first time 01/21/2004. Referred to Committee on Health Care.

1 AN ACT Relating to providing access to the basic health plan for  
2 individuals eligible for the health coverage tax credit under the Trade  
3 Act of 2002 (P.L. 107-210); and amending RCW 70.47.020, 70.47.030, and  
4 70.47.060.

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

6 **Sec. 1.** RCW 70.47.020 and 2000 c 79 s 43 are each amended to read  
7 as follows:

8 As used in this chapter:

9 (1) "Washington basic health plan" or "plan" means the system of  
10 enrollment and payment for basic health care services, administered by  
11 the plan administrator through participating managed health care  
12 systems, created by this chapter.

13 (2) "Administrator" means the Washington basic health plan  
14 administrator, who also holds the position of administrator of the  
15 Washington state health care authority.

16 (3) "Health coverage tax credit program" means the program created  
17 by the Trade Act of 2002 (P.L. 107-210) that provides a federal tax  
18 credit that subsidizes private health insurance coverage for displaced

1 workers certified to receive certain trade adjustment assistance  
2 benefits and for individuals receiving benefits from the pension  
3 benefit guaranty corporation.

4 (4) "Health coverage tax credit eligible enrollee" means individual  
5 workers and their qualified family members who lose their jobs due to  
6 the effects of international trade and are eligible for certain trade  
7 adjustment assistance benefits; or are eligible for benefits under the  
8 alternative trade adjustment assistance program; or are people who  
9 receive benefits from the pension benefit guaranty corporation and are  
10 at least fifty-five years old.

11 (5) "Managed health care system" means: (a) Any health care  
12 organization, including health care providers, insurers, health care  
13 service contractors, health maintenance organizations, or any  
14 combination thereof, that provides directly or by contract basic health  
15 care services, as defined by the administrator and rendered by duly  
16 licensed providers, to a defined patient population enrolled in the  
17 plan and in the managed health care system; or (b) a self-funded or  
18 self-insured method of providing insurance coverage to subsidized  
19 enrollees provided under RCW 41.05.140 and subject to the limitations  
20 under RCW 70.47.100(7).

21 ~~((4))~~ (6) "Subsidized enrollee" means an individual, or an  
22 individual plus the individual's spouse or dependent children: (a) Who  
23 is not eligible for medicare; (b) who is not confined or residing in a  
24 government-operated institution, unless he or she meets eligibility  
25 criteria adopted by the administrator; (c) who resides in an area of  
26 the state served by a managed health care system participating in the  
27 plan; (d) whose gross family income at the time of enrollment does not  
28 exceed two hundred percent of the federal poverty level as adjusted for  
29 family size and determined annually by the federal department of health  
30 and human services; and (e) who chooses to obtain basic health care  
31 coverage from a particular managed health care system in return for  
32 periodic payments to the plan. To the extent that state funds are  
33 specifically appropriated for this purpose, with a corresponding  
34 federal match, "subsidized enrollee" also means an individual, or an  
35 individual's spouse or dependent children, who meets the requirements  
36 in (a) through (c) and (e) of this subsection and whose gross family  
37 income at the time of enrollment is more than two hundred percent, but

1 less than two hundred fifty-one percent, of the federal poverty level  
2 as adjusted for family size and determined annually by the federal  
3 department of health and human services.

4 ~~((+5))~~ (7) "Nonsubsidized enrollee" means an individual, or an  
5 individual plus the individual's spouse or dependent children: (a) Who  
6 is not eligible for medicare; (b) who is not confined or residing in a  
7 government-operated institution, unless he or she meets eligibility  
8 criteria adopted by the administrator; (c) who resides in an area of  
9 the state served by a managed health care system participating in the  
10 plan; (d) who chooses to obtain basic health care coverage from a  
11 particular managed health care system; and (e) who pays or on whose  
12 behalf is paid the full costs for participation in the plan, without  
13 any subsidy from the plan.

14 ~~((+6))~~ (8) "Subsidy" means the difference between the amount of  
15 periodic payment the administrator makes to a managed health care  
16 system on behalf of a subsidized enrollee plus the administrative cost  
17 to the plan of providing the plan to that subsidized enrollee, and the  
18 amount determined to be the subsidized enrollee's responsibility under  
19 RCW 70.47.060(2).

20 ~~((+7))~~ (9) "Premium" means a periodic payment, based upon gross  
21 family income which an individual, their employer or another financial  
22 sponsor makes to the plan as consideration for enrollment in the plan  
23 as a subsidized enrollee ~~((or))~~, a nonsubsidized enrollee, or a health  
24 coverage tax credit eligible enrollee.

25 ~~((+8))~~ (10) "Rate" means the amount, negotiated by the  
26 administrator with and paid to a participating managed health care  
27 system, that is based upon the enrollment of subsidized ~~((and))~~,  
28 nonsubsidized, and health coverage tax credit eligible enrollees in the  
29 plan and in that system.

30 **Sec. 2.** RCW 70.47.030 and 1995 2nd sp.s. c 18 s 913 are each  
31 amended to read as follows:

32 (1) The basic health plan trust account is hereby established in  
33 the state treasury. Any nongeneral fund-state funds collected for this  
34 program shall be deposited in the basic health plan trust account and  
35 may be expended without further appropriation. Moneys in the account  
36 shall be used exclusively for the purposes of this chapter, including

1 payments to participating managed health care systems on behalf of  
2 enrollees in the plan and payment of costs of administering the plan.

3 During the 1995-97 fiscal biennium, the legislature may transfer  
4 funds from the basic health plan trust account to the state general  
5 fund.

6 (2) The basic health plan subscription account is created in the  
7 custody of the state treasurer. All receipts from amounts due from or  
8 on behalf of nonsubsidized enrollees and health coverage tax credit  
9 eligible enrollees shall be deposited into the account. Funds in the  
10 account shall be used exclusively for the purposes of this chapter,  
11 including payments to participating managed health care systems on  
12 behalf of nonsubsidized enrollees and health coverage tax credit  
13 eligible enrollees in the plan and payment of costs of administering  
14 the plan. The account is subject to allotment procedures under chapter  
15 43.88 RCW, but no appropriation is required for expenditures.

16 (3) The administrator shall take every precaution to see that none  
17 of the funds in the separate accounts created in this section or that  
18 any premiums paid either by subsidized or nonsubsidized enrollees are  
19 commingled in any way, except that the administrator may combine funds  
20 designated for administration of the plan into a single administrative  
21 account.

22 **Sec. 3.** RCW 70.47.060 and 2001 c 196 s 13 are each amended to read  
23 as follows:

24 The administrator has the following powers and duties:

25 (1) To design and from time to time revise a schedule of covered  
26 basic health care services, including physician services, inpatient and  
27 outpatient hospital services, prescription drugs and medications, and  
28 other services that may be necessary for basic health care. In  
29 addition, the administrator may, to the extent that funds are  
30 available, offer as basic health plan services chemical dependency  
31 services, mental health services and organ transplant services;  
32 however, no one service or any combination of these three services  
33 shall increase the actuarial value of the basic health plan benefits by  
34 more than five percent excluding inflation, as determined by the office  
35 of financial management. All subsidized and nonsubsidized enrollees in  
36 any participating managed health care system under the Washington basic  
37 health plan shall be entitled to receive covered basic health care

1 services in return for premium payments to the plan. The schedule of  
2 services shall emphasize proven preventive and primary health care and  
3 shall include all services necessary for prenatal, postnatal, and well-  
4 child care. However, with respect to coverage for subsidized enrollees  
5 who are eligible to receive prenatal and postnatal services through the  
6 medical assistance program under chapter 74.09 RCW, the administrator  
7 shall not contract for such services except to the extent that such  
8 services are necessary over not more than a one-month period in order  
9 to maintain continuity of care after diagnosis of pregnancy by the  
10 managed care provider. The schedule of services shall also include a  
11 separate schedule of basic health care services for children, eighteen  
12 years of age and younger, for those subsidized or nonsubsidized  
13 enrollees who choose to secure basic coverage through the plan only for  
14 their dependent children. In designing and revising the schedule of  
15 services, the administrator shall consider the guidelines for assessing  
16 health services under the mandated benefits act of 1984, RCW 48.47.030,  
17 and such other factors as the administrator deems appropriate.

18 (2)(a) To design and implement a structure of periodic premiums due  
19 the administrator from subsidized enrollees that is based upon gross  
20 family income, giving appropriate consideration to family size and the  
21 ages of all family members. The enrollment of children shall not  
22 require the enrollment of their parent or parents who are eligible for  
23 the plan. The structure of periodic premiums shall be applied to  
24 subsidized enrollees entering the plan as individuals pursuant to  
25 subsection (9) of this section and to the share of the cost of the plan  
26 due from subsidized enrollees entering the plan as employees pursuant  
27 to subsection (10) of this section.

28 (b) To determine the periodic premiums due the administrator from  
29 nonsubsidized enrollees. Premiums due from nonsubsidized enrollees  
30 shall be in an amount equal to the cost charged by the managed health  
31 care system provider to the state for the plan plus the administrative  
32 cost of providing the plan to those enrollees and the premium tax under  
33 RCW 48.14.0201.

34 (c) To determine the periodic premiums due the administrator from  
35 health coverage tax credit eligible enrollees. Premiums due from  
36 health coverage tax credit eligible enrollees must be in an amount  
37 equal to the cost charged by the managed health care system provider to  
38 the state for the plan, plus the administrative cost of providing the

1 plan to those enrollees and the premium tax under RCW 48.14.0201. The  
2 administrator will consider the impact of eligibility determination by  
3 the appropriate federal agency designated by the Trade Act of 2002  
4 (P.L. 107-210) as well as the premium collection and remittance  
5 activities by the United States internal revenue service when  
6 determining the administrative cost charged for health coverage tax  
7 credit eligible enrollees.

8 (d) An employer or other financial sponsor may, with the prior  
9 approval of the administrator, pay the premium, rate, or any other  
10 amount on behalf of a subsidized or nonsubsidized enrollee, by  
11 arrangement with the enrollee and through a mechanism acceptable to the  
12 administrator. The administrator shall establish a mechanism for  
13 receiving premium payments from the United States internal revenue  
14 service for health coverage tax credit eligible enrollees.

15 ~~((d))~~ (e) To develop, as an offering by every health carrier  
16 providing coverage identical to the basic health plan, as configured on  
17 January 1, 2001, a basic health plan model plan with uniformity in  
18 enrollee cost-sharing requirements.

19 (3) To design and implement a structure of enrollee cost-sharing  
20 due a managed health care system from subsidized ~~((and))~~,  
21 nonsubsidized, and health coverage tax credit eligible enrollees. The  
22 structure shall discourage inappropriate enrollee utilization of health  
23 care services, and may utilize copayments, deductibles, and other cost-  
24 sharing mechanisms, but shall not be so costly to enrollees as to  
25 constitute a barrier to appropriate utilization of necessary health  
26 care services.

27 (4) To limit enrollment of persons who qualify for subsidies so as  
28 to prevent an overexpenditure of appropriations for such purposes.  
29 Whenever the administrator finds that there is danger of such an  
30 overexpenditure, the administrator shall close enrollment until the  
31 administrator finds the danger no longer exists. Such a closure does  
32 not apply to health coverage tax credit eligible enrollees who receive  
33 a premium subsidy from the United States internal revenue service as  
34 long as the enrollees qualify for the health coverage tax credit  
35 program.

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

1 qualify may be based on the lowest cost plans, as defined by the  
2 administrator.

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

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

26 (8) To receive periodic premiums from or on behalf of subsidized  
27 ~~((and))~~, nonsubsidized, and health coverage tax credit eligible  
28 enrollees, deposit them in the basic health plan operating account,  
29 keep records of enrollee status, and authorize periodic payments to  
30 managed health care systems on the basis of the number of enrollees  
31 participating in the respective managed health care systems.

32 (9) To accept applications from individuals residing in areas  
33 served by the plan, on behalf of themselves and their spouses and  
34 dependent children, for enrollment in the Washington basic health plan  
35 as subsidized ~~((or))~~, nonsubsidized, or health coverage tax credit  
36 eligible enrollees, to establish appropriate minimum-enrollment periods  
37 for enrollees as may be necessary, and to determine, upon application  
38 and on a reasonable schedule defined by the authority, or at the

1 request of any enrollee, eligibility due to current gross family income  
2 for sliding scale premiums. Funds received by a family as part of  
3 participation in the adoption support program authorized under RCW  
4 26.33.320 and 74.13.100 through 74.13.145 shall not be counted toward  
5 a family's current gross family income for the purposes of this  
6 chapter. When an enrollee fails to report income or income changes  
7 accurately, the administrator shall have the authority either to bill  
8 the enrollee for the amounts overpaid by the state or to impose civil  
9 penalties of up to two hundred percent of the amount of subsidy  
10 overpaid due to the enrollee incorrectly reporting income. The  
11 administrator shall adopt rules to define the appropriate application  
12 of these sanctions and the processes to implement the sanctions  
13 provided in this subsection, within available resources. No subsidy  
14 may be paid with respect to any enrollee whose current gross family  
15 income exceeds twice the federal poverty level or, subject to RCW  
16 70.47.110, who is a recipient of medical assistance or medical care  
17 services under chapter 74.09 RCW. If a number of enrollees drop their  
18 enrollment for no apparent good cause, the administrator may establish  
19 appropriate rules or requirements that are applicable to such  
20 individuals before they will be allowed to reenroll in the plan.

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



1 (11) To determine the rate to be paid to each participating managed  
2 health care system in return for the provision of covered basic health  
3 care services to enrollees in the system. Although the schedule of  
4 covered basic health care services will be the same or actuarially  
5 equivalent for similar enrollees, the rates negotiated with  
6 participating managed health care systems may vary among the systems.  
7 In negotiating rates with participating systems, the administrator  
8 shall consider the characteristics of the populations served by the  
9 respective systems, economic circumstances of the local area, the need  
10 to conserve the resources of the basic health plan trust account, and  
11 other factors the administrator finds relevant.

12 (12) To monitor the provision of covered services to enrollees by  
13 participating managed health care systems in order to assure enrollee  
14 access to good quality basic health care, to require periodic data  
15 reports concerning the utilization of health care services rendered to  
16 enrollees in order to provide adequate information for evaluation, and  
17 to inspect the books and records of participating managed health care  
18 systems to assure compliance with the purposes of this chapter. In  
19 requiring reports from participating managed health care systems,  
20 including data on services rendered enrollees, the administrator shall  
21 endeavor to minimize costs, both to the managed health care systems and  
22 to the plan. The administrator shall coordinate any such reporting  
23 requirements with other state agencies, such as the insurance  
24 commissioner and the department of health, to minimize duplication of  
25 effort.

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

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

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

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

1           (17) To administer the premium discounts provided under RCW  
2 48.41.200(3)(a) (i) and (ii) pursuant to a contract with the Washington  
3 state health insurance pool.

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