
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2069

State of Washington

59th Legislature

2005 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Morrell, Hankins, Cody, Sells, Green, Kenney, Moeller, Conway and Chase; by request of Governor Gregoire)

READ FIRST TIME 03/07/05.

1 AN ACT Relating to expanding access to insurance coverage through
2 the small business assist program; amending RCW 70.47.010, 70.47.015,
3 70.47.020, 70.47.060, 70.47.100, 70.47.120, 70.47.160, and 41.05.140;
4 reenacting and amending RCW 43.79A.040; adding new sections to chapter
5 70.47 RCW; and adding a new section to chapter 74.09 RCW.

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

7 **Sec. 1.** RCW 70.47.010 and 2000 c 79 s 42 are each amended to read
8 as follows:

9 ~~(1)((a) The legislature finds that limitations on access to health
10 care services for enrollees in the state, such as in rural and
11 underserved areas, are particularly challenging for the basic health
12 plan. Statutory restrictions have reduced the options available to the
13 administrator to address the access needs of basic health plan
14 enrollees. It is the intent of the legislature to authorize the
15 administrator to develop alternative purchasing strategies to ensure
16 access to basic health plan enrollees in all areas of the state,
17 including: (i) The use of differential rating for managed health care
18 systems based on geographic differences in costs; and (ii) limited use~~

1 of self insurance in areas where adequate access cannot be assured
2 through other options.

3 ~~(b) In developing alternative purchasing strategies to address~~
4 ~~health care access needs, the administrator shall consult with~~
5 ~~interested persons including health carriers, health care providers,~~
6 ~~and health facilities, and with other appropriate state agencies~~
7 ~~including the office of the insurance commissioner and the office of~~
8 ~~community and rural health. In pursuing such alternatives, the~~
9 ~~administrator shall continue to give priority to prepaid managed care~~
10 ~~as the preferred method of assuring access to basic health plan~~
11 ~~enrollees followed, in priority order, by preferred providers, fee for~~
12 ~~service, and self funding.~~

13 ~~(2))~~ The legislature (~~(further)~~) finds that:

14 (a) A significant percentage of the population of this state does
15 not have reasonably available insurance or other coverage of the costs
16 of necessary basic health care services;

17 (b) This lack of basic health care coverage is detrimental to the
18 health of the individuals lacking coverage and to the public welfare,
19 and results in substantial expenditures for emergency and remedial
20 health care, often at the expense of health care providers, health care
21 facilities, and all purchasers of health care, including the state; and

22 (c) The use of managed health care systems has significant
23 potential to reduce the growth of health care costs incurred by the
24 people of this state generally, and by low-income pregnant women, and
25 at-risk children and adolescents who need greater access to managed
26 health care.

27 ~~((3))~~ (2) The purpose of this chapter is to provide or make more
28 readily available necessary basic health care services in an
29 appropriate setting to working persons and others who lack coverage, at
30 a cost to these persons that does not create barriers to the
31 utilization of necessary health care services. To that end, this
32 chapter establishes a program to be made available to those residents
33 not eligible for medicare who share in a portion of the cost or who pay
34 the full cost of receiving basic health care services from a managed
35 health care system.

36 (3) The legislature further finds that many small employers
37 struggle with the cost of providing employer-sponsored health insurance
38 coverage to their employees and their employees' families, while others

1 are unable to offer employer-sponsored health insurance due to its high
2 cost. Low-wage workers also struggle with the burden of paying their
3 share of the costs of employer-sponsored health insurance, while others
4 turn down their employer's offer of coverage due to its costs.

5 (4) It is not the intent of this chapter to provide health care
6 services for those persons who are presently covered through private
7 employer-based health plans, nor to replace employer-based health
8 plans. However, the legislature recognizes that cost-effective and
9 affordable health plans may not always be available to small business
10 employers. Further, it is the intent of the legislature to expand,
11 wherever possible, the availability of private health care coverage and
12 to discourage the decline of employer-based coverage.

13 (5)(a) It is the purpose of this chapter to acknowledge the initial
14 success of ~~((this))~~ the basic health plan program that has (i) assisted
15 thousands of families in their search for affordable health care; (ii)
16 demonstrated that low-income, uninsured families are willing to pay for
17 their own health care coverage to the extent of their ability to pay;
18 and (iii) proved that local health care providers are willing to enter
19 into a public-private partnership as a managed care system.

20 (b) As a consequence, the legislature intends to extend an option
21 to enroll to certain citizens above two hundred percent of the federal
22 poverty guidelines within the state who reside in communities where the
23 plan is operational and who collectively or individually wish to
24 exercise the opportunity to purchase health care coverage through the
25 basic health plan if the purchase is done at no cost to the state. It
26 is also the intent of the legislature to allow ~~((employers and other))~~
27 financial sponsors to financially assist such individuals to purchase
28 health care through the program so long as such purchase does not
29 result in a lower standard of coverage for employees.

30 (c) The legislature intends that, to the extent of available funds,
31 the programs administered under this chapter be available throughout
32 Washington state ~~((to subsidized and nonsubsidized enrollees))~~. It is
33 also the intent of the legislature to enroll subsidized enrollees
34 first, to the maximum extent feasible.

35 (d) The legislature directs that the basic health plan
36 administrator identify enrollees who are likely to be eligible for
37 medical assistance and assist these individuals in applying for and
38 receiving medical assistance. The administrator and the department of

1 social and health services shall implement a seamless system to
2 coordinate eligibility determinations and benefit coverage for
3 enrollees of the basic health plan and medical assistance recipients.

4 (6) The legislature further finds that limitations on access to
5 health care services for enrollees in the state, such as in rural and
6 underserved areas, are particularly challenging. It is the intent of
7 the legislature to authorize the administrator to develop alternative
8 purchasing strategies to ensure access to enrollees of the programs
9 administered under this chapter in all areas of the state, including
10 but not limited to: (a) The use of differential rating for managed
11 health care systems based on geographic differences in costs; and (b)
12 self-insurance in areas where adequate access cannot be ensured through
13 other options.

14 NEW SECTION. Sec. 2. A new section is added to chapter 70.47 RCW
15 to read as follows:

16 (1) The small business assist program is hereby established, to be
17 separate and distinct from the Washington basic health plan. The
18 legislature intends that the small business assist program make health
19 care coverage more affordable to small employers, their employees, and
20 dependents. By blending private and public funds through the premium
21 assistance option authorized by this section, the legislature intends
22 to increase the number of low-income workers with health coverage in
23 Washington state. The administrator shall offer two coverage options
24 to small employers, their employees and dependents through the small
25 business assist program:

26 (a) Group enrollment in a small business assist health benefit plan
27 offered by the administrator under subsections (2) through (6) of this
28 section; and

29 (b) Premium assistance for low-income employees under subsections
30 (7) through (11) of this section.

31 (2) No later than January 1, 2007, the administrator may accept
32 applications from employers on behalf of themselves and their
33 employees, spouses, and dependent children, as small business assist
34 group enrollees. Small employers who have not provided
35 employer-sponsored health care coverage for at least six months prior
36 to the date of application may apply for enrollment as a group. For

1 purposes of this section, prior employer-sponsored coverage as a
2 subsidized enrollee in the basic health plan shall not be considered
3 employer-sponsored health coverage.

4 (3) The administrator may require all or the substantial majority
5 of the eligible employees of small employers to enroll and may
6 establish procedures necessary to facilitate the orderly enrollment of
7 small employer groups in the small business assist program and into a
8 managed health care system.

9 (4) The administrator shall design and from time to time revise one
10 or more health benefit plans to be provided to small business assist
11 group enrollees. Alternative health benefit plans may vary with
12 respect to services covered, deductibles, or other cost-sharing amounts
13 paid by enrollees. A high deductible health benefit plan option shall
14 be included if two or more health benefit plans are offered through the
15 small business assist group option. The structure of covered services
16 and cost-sharing shall discourage inappropriate enrollee utilization of
17 health care services. In designing and revising health benefit plans,
18 the administrator shall consider the guidelines for assessing health
19 services under RCW 48.47.030.

20 (5) The administrator shall determine the periodic premiums to be
21 paid by small business assist group enrollees. Premiums due from small
22 business assist group enrollees shall be in an amount equal to the
23 amount negotiated by the administrator with the participating managed
24 health care system or systems plus the administrative cost of providing
25 coverage to those enrollees and the premium tax under RCW 48.14.0201.
26 The administrator shall adjust the premium amount determined to be due
27 on behalf of or from all such enrollees whenever the amount negotiated
28 by the administrator with the participating managed health care system
29 or systems is modified or the administrative cost of providing coverage
30 to such enrollees changes.

31 (6) Small business assist group health benefit plans offered under
32 this section are subject to the requirements of Title 48 RCW.

33 (7) Beginning July 1, 2006, the administrator may accept
34 applications for premium assistance from individuals whose current
35 small employer has not offered health insurance within the last six
36 months, on behalf of themselves and their spouses and dependent
37 children. The administrator may determine the minimum premium

1 contribution to be paid by small employers whose employees are
2 participating in this premium assistance option.

3 (8) To the extent of funding provided in the biennial operating
4 budget, the administrator may make premium assistance payments to help
5 employees pay their premium obligation for their employer's health
6 benefit plan, including small business assist group enrollment under
7 this section. Premium assistance payments may be made when:

8 (a) The individual seeking premium assistance, plus the
9 individual's spouse and dependent children: (i) Is not confined or
10 residing in a government-operated institution, unless he or she meets
11 eligibility criteria adopted by the administrator; (ii) has gross
12 family income at the time of enrollment that does not exceed two
13 hundred percent of the federal poverty level as adjusted for family
14 size and determined annually by the federal department of health and
15 human services; (iii) resides within the state of Washington; and (iv)
16 meets the definition of eligible employee as defined in RCW 48.43.005;

17 (b) The premium assistance paid would be less than the subsidy that
18 would be paid if the individual, or the individual plus his or her
19 spouse and dependent children, were to enroll in the Washington basic
20 health plan under this chapter as subsidized enrollees. The amount of
21 an individual's premium assistance shall be determined by applying the
22 percent of premium subsidy paid for subsidized basic health plan
23 enrollees under RCW 70.47.060 to the employee's premium obligation for
24 his or her employer's health benefit plan;

25 (c) The premium assistance enrollee agrees to provide verification
26 of continued enrollment in his or her small employer's health benefit
27 plan on a semiannual basis, or to notify the administrator whenever his
28 or her enrollment status changes, whichever is earlier. Verification
29 or notification may be made directly by the employee, or through his or
30 her employer or the carrier providing the small employer health benefit
31 plan. When necessary, the administrator has the authority to perform
32 retrospective audits on premium assistance accounts.

33 (9) The administrator may adopt standards for minimum thresholds of
34 small employer health benefit plans for which premium assistance will
35 be paid under this section. The office of insurance commissioner under
36 Title 48 RCW shall certify that small employer health benefit plans
37 meet any standards developed under this subsection.

1 (10) The administrator, in consultation with small employers,
2 carriers, and the office of insurance commissioner under Title 48 RCW,
3 shall determine an effective and efficient method for the payment of
4 premium assistance and adopt rules necessary for its implementation.

5 (11) Funds received by a family as part of participation in the
6 adoption support program authorized under RCW 26.33.320 and 74.13.100
7 through 74.13.145 may not be counted toward a family's current gross
8 family income for the purposes of this act. No premium assistance may
9 be paid to an employee whose current gross family income exceeds twice
10 the federal poverty level or who is a recipient of medical assistance
11 or medical care services under chapter 74.09 RCW.

12 (12) Administrative functions necessary to implement this section
13 may be carried out by staff of the Washington basic health plan in
14 order to minimize administrative costs of operating the small business
15 assist program.

16 **Sec. 3.** RCW 70.47.015 and 1997 c 337 s 1 are each amended to read
17 as follows:

18 (1) The legislature finds that the basic health plan has been an
19 effective program in providing health coverage for uninsured residents.
20 Further, since 1993, substantial amounts of public funds have been
21 allocated for subsidized basic health plan enrollment.

22 ~~(2) ((It is the intent of the legislature that the basic health
23 plan enrollment be expanded expeditiously, consistent with funds
24 available in the health services account, with the goal of two hundred
25 thousand adult subsidized basic health plan enrollees and one hundred
26 thirty thousand children covered through expanded medical assistance
27 services by June 30, 1997, with the priority of providing needed health
28 services to children in conjunction with other public programs.~~

29 ~~(3))~~ Effective January 1, 1996, basic health plan enrollees whose
30 income is less than one hundred twenty-five percent of the federal
31 poverty level shall pay at least a ten-dollar premium share.

32 ~~((4))~~ (3) No later than July 1, 1996, the administrator shall
33 implement procedures whereby hospitals licensed under chapters 70.41
34 and 71.12 RCW, health carrier, rural health care facilities regulated
35 under chapter 70.175 RCW, and community and migrant health centers
36 funded under RCW 41.05.220, may expeditiously assist patients and their
37 families in applying for basic health plan or medical assistance

1 coverage, and in submitting such applications directly to the health
2 care authority or the department of social and health services. The
3 health care authority and the department of social and health services
4 shall make every effort to simplify and expedite the application and
5 enrollment process.

6 ~~((5) No later than July 1, 1996,))~~ (4) The administrator ~~((shall))~~
7 may implement procedures whereby health insurance agents and brokers,
8 licensed under chapter 48.17 RCW, may expeditiously assist patients and
9 their families in applying for basic health plan or ~~((medical~~
10 ~~assistance coverage,))~~ small business assist coverage and in submitting
11 such applications directly to the health care authority ~~((or the~~
12 ~~department of social and health services))~~. Brokers and agents may
13 receive a commission for each individual sale of the basic health plan
14 or small business assist group enrollment to anyone not signed up
15 within the previous five years ~~((and a commission for each group sale~~
16 ~~of the basic health plan)),~~ if sufficient funding ~~((for this purpose is~~
17 ~~provided in a specific appropriation))~~ is appropriated to the health
18 care authority for marketing and administration. No commission shall
19 be provided upon a renewal. ~~((Commissions shall be determined based on~~
20 ~~the estimated annual cost of the basic health plan, however,~~
21 ~~commissions shall not result in a reduction in the premium amount paid~~
22 ~~to health carriers.))~~ For purposes of this section "health carrier" is
23 as defined in RCW 48.43.005. The administrator may establish: (a)
24 Minimum educational requirements that must be completed by the agents
25 or brokers; (b) an appointment process for agents or brokers marketing
26 the basic health plan or the small business assist program; or (c)
27 standards for revocation of the appointment of an agent or broker to
28 submit applications for cause, including untrustworthy or incompetent
29 conduct or harm to the public. The health care authority and the
30 department of social and health services shall make every effort to
31 simplify and expedite the application and enrollment process.

32 **Sec. 4.** RCW 70.47.020 and 2004 c 192 s 1 are each amended to read
33 as follows:

34 As used in this chapter:

35 (1) "Washington basic health plan" or "plan" means the system of
36 enrollment and payment for basic health care services, administered by

1 the plan administrator through participating managed health care
2 systems, created by this chapter.

3 (2) "Administrator" means the Washington basic health plan
4 administrator, who also holds the position of administrator of the
5 Washington state health care authority.

6 (3) "Small employer" means the same as is defined in RCW
7 48.43.005(24).

8 (4) "Enrollee" means a subsidized enrollee, nonsubsidized enrollee,
9 health coverage tax credit eligible enrollee, or small business assist
10 group enrollee.

11 (5) "Health coverage tax credit program" means the program created
12 by the Trade Act of 2002 (P.L. 107-210) that provides a federal tax
13 credit that subsidizes private health insurance coverage for displaced
14 workers certified to receive certain trade adjustment assistance
15 benefits and for individuals receiving benefits from the pension
16 benefit guaranty corporation.

17 ((+4)) (6) "Health coverage tax credit eligible enrollee" means
18 individual workers and their qualified family members who lose their
19 jobs due to the effects of international trade and are eligible for
20 certain trade adjustment assistance benefits; or are eligible for
21 benefits under the alternative trade adjustment assistance program; or
22 are people who receive benefits from the pension benefit guaranty
23 corporation and are at least fifty-five years old.

24 ((+5)) (7) "Managed health care system" means: (a) Any health
25 care organization, including health care providers, insurers, health
26 care service contractors, health maintenance organizations, or any
27 combination thereof, that provides directly or by contract ((basic))
28 health care services, as defined by the administrator and rendered by
29 duly licensed providers, to a defined patient population enrolled in
30 ((the plan)) a program administered under this chapter and in the
31 managed health care system; or (b) a self-funded or self-insured method
32 of providing insurance coverage to ((subsidized)) enrollees provided
33 under RCW 41.05.140 and subject to the limitations under RCW
34 70.47.100(7).

35 ((+6)) (8) "Subsidized enrollee" means an individual, or an
36 individual plus the individual's spouse or dependent children: (a) Who
37 is not eligible for medicare; (b) who is not confined or residing in a
38 government-operated institution, unless he or she meets eligibility

1 criteria adopted by the administrator; (c) who resides in an area of
2 the state served by a managed health care system participating in the
3 plan; (d) whose gross family income at the time of enrollment does not
4 exceed two hundred percent of the federal poverty level as adjusted for
5 family size and determined annually by the federal department of health
6 and human services; and (e) who chooses to obtain basic health care
7 coverage from a particular managed health care system in return for
8 periodic payments to the plan. To the extent that state funds are
9 specifically appropriated for this purpose, with a corresponding
10 federal match, "subsidized enrollee" also means an individual, or an
11 individual's spouse or dependent children, who meets the requirements
12 in (a) through (c) and (e) of this subsection and whose gross family
13 income at the time of enrollment is more than two hundred percent, but
14 less than two hundred fifty-one percent, of the federal poverty level
15 as adjusted for family size and determined annually by the federal
16 department of health and human services.

17 ~~((+7))~~ (9) "Nonsubsidized enrollee" means an individual, or an
18 individual plus the individual's spouse or dependent children: (a) Who
19 is not eligible for medicare; (b) who is not confined or residing in a
20 government-operated institution, unless he or she meets eligibility
21 criteria adopted by the administrator; (c) who resides in an area of
22 the state served by a managed health care system participating in the
23 plan; (d) who chooses to obtain basic health care coverage from a
24 particular managed health care system; and (e) who pays or on whose
25 behalf is paid the full costs for participation in the plan, without
26 any subsidy from the plan.

27 ~~((+8))~~ (10) "Small business assist group enrollee" means an
28 employee who is employed by a small employer and who resides or works
29 in Washington and enrolls in the small business assist program through
30 the group enrollment option created under section 2 of this act.

31 (11) "Subsidy" means the difference between the amount of periodic
32 payment the administrator makes to a managed health care system on
33 behalf of a subsidized enrollee plus the administrative cost to the
34 plan of providing the plan to that subsidized enrollee, and the amount
35 determined to be the subsidized enrollee's responsibility under RCW
36 70.47.060(2).

37 ~~((+9))~~ (12) "Premium" means a periodic payment(~~(, based upon gross~~
38 ~~family income))~~ which an individual, ~~((their))~~ an employer, or

1 ((another)) a financial sponsor makes to the ((plan)) administrator as
2 consideration for ((enrollment in the plan as a subsidized enrollee, a
3 nonsubsidized enrollee, or a health coverage tax credit eligible
4 enrollee)) health care coverage through small business assist group
5 enrollment or a program administered under this chapter.

6 ((+10)) (13) "Rate" means the amount, negotiated by the
7 administrator with and paid to a participating managed health care
8 system, that is based upon the ((enrollment of subsidized,
9 nonsubsidized, and health coverage tax credit eligible)) number of
10 enrollees in ((the plan and in)) that system.

11 **Sec. 5.** RCW 70.47.060 and 2004 c 192 s 3 are each amended to read
12 as follows:

13 The administrator has the following powers and duties:

14 (1) To design and from time to time revise a schedule of covered
15 basic health care services, including physician services, inpatient and
16 outpatient hospital services, prescription drugs and medications, and
17 other services that may be necessary for basic health care. In
18 addition, the administrator may, to the extent that funds are
19 available, offer as basic health plan services chemical dependency
20 services, mental health services and organ transplant services;
21 however, no one service or any combination of these three services
22 shall increase the actuarial value of the basic health plan benefits by
23 more than five percent excluding inflation, as determined by the office
24 of financial management. All subsidized and nonsubsidized enrollees in
25 any participating managed health care system under the Washington basic
26 health plan shall be entitled to receive covered basic health care
27 services in return for premium payments to the plan. The schedule of
28 services shall emphasize proven preventive and primary health care and
29 shall include all services necessary for prenatal, postnatal, and well-
30 child care. However, with respect to coverage for subsidized enrollees
31 who are eligible to receive prenatal and postnatal services through the
32 medical assistance program under chapter 74.09 RCW, the administrator
33 shall not contract for such services except to the extent that such
34 services are necessary over not more than a one-month period in order
35 to maintain continuity of care after diagnosis of pregnancy by the
36 managed care provider. The schedule of services shall also include a
37 separate schedule of basic health care services for children, eighteen

1 years of age and younger, for those subsidized or nonsubsidized
2 enrollees who choose to secure basic coverage through the plan only for
3 their dependent children. In designing and revising the schedule of
4 services, the administrator shall consider the guidelines for assessing
5 health services under the mandated benefits act of 1984, RCW 48.47.030,
6 and such other factors as the administrator deems appropriate.

7 (2)(a) To design and implement a structure of periodic premiums due
8 the administrator from subsidized enrollees that is based upon gross
9 family income, giving appropriate consideration to family size and the
10 ages of all family members. The enrollment of children shall not
11 require the enrollment of their parent or parents who are eligible for
12 the plan. The structure of periodic premiums shall be applied to
13 subsidized enrollees entering the plan (~~(as individuals)~~) pursuant to
14 subsection (11) of this section (~~(and to the share of the cost of the~~
15 ~~plan due from subsidized enrollees entering the plan as employees~~
16 ~~pursuant to subsection (12) of this section)~~).

17 (b) To determine the periodic premiums due the administrator from
18 nonsubsidized enrollees. Premiums due from nonsubsidized enrollees
19 shall be in an amount equal to the cost charged by the managed health
20 care system provider to the state for the plan plus the administrative
21 cost of providing the plan to those enrollees and the premium tax under
22 RCW 48.14.0201.

23 (c) To determine the periodic premiums due the administrator from
24 health coverage tax credit eligible enrollees. Premiums due from
25 health coverage tax credit eligible enrollees must be in an amount
26 equal to the cost charged by the managed health care system provider to
27 the state for the plan, plus the administrative cost of providing the
28 plan to those enrollees and the premium tax under RCW 48.14.0201. The
29 administrator will consider the impact of eligibility determination by
30 the appropriate federal agency designated by the Trade Act of 2002
31 (P.L. 107-210) as well as the premium collection and remittance
32 activities by the United States internal revenue service when
33 determining the administrative cost charged for health coverage tax
34 credit eligible enrollees.

35 (d) (~~(An employer or other)~~) A financial sponsor may, with the
36 prior approval of the administrator, pay the premium, rate, or any
37 other amount on behalf of a subsidized or nonsubsidized enrollee, by
38 arrangement with the enrollee and through a mechanism acceptable to the

1 administrator. The administrator shall establish a mechanism for
2 receiving premium payments from the United States internal revenue
3 service for health coverage tax credit eligible enrollees.

4 ~~((e) To develop, as an offering by every health carrier providing
5 coverage identical to the basic health plan, as configured on January
6 1, 2001, a basic health plan model plan with uniformity in enrollee
7 cost-sharing requirements.))~~

8 (3) To evaluate, with the cooperation of participating managed
9 health care system providers, the impact on the basic health plan of
10 enrolling health coverage tax credit eligible enrollees. The
11 administrator shall issue to the appropriate committees of the
12 legislature preliminary evaluations on June 1, 2005, and January 1,
13 2006, and a final evaluation by June 1, 2006. The evaluation shall
14 address the number of persons enrolled, the duration of their
15 enrollment, their utilization of covered services relative to other
16 basic health plan enrollees, and the extent to which their enrollment
17 contributed to any change in the cost of the basic health plan.

18 (4) To end the participation of health coverage tax credit eligible
19 enrollees in the basic health plan if the federal government reduces or
20 terminates premium payments on their behalf through the United States
21 internal revenue service.

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

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

1 (7) To limit the payment of subsidies to subsidized enrollees, as
2 defined in RCW 70.47.020. The level of subsidy provided to persons who
3 qualify may be based on the lowest cost plans, as defined by the
4 administrator.

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

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

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

35 (11) To accept applications from individuals residing in areas
36 served by the plan, on behalf of themselves and their spouses and
37 dependent children, for enrollment in the Washington basic health plan
38 as subsidized, nonsubsidized, or health coverage tax credit eligible

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

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

1 ~~the amount negotiated by the administrator with the participating~~
2 ~~managed health care system or systems is modified or the administrative~~
3 ~~cost of providing the plan to such enrollees changes.~~

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

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

29 ~~((15))~~ (14) To evaluate the effects this chapter has on private
30 employer-based health care coverage and to take appropriate measures
31 consistent with state and federal statutes that will discourage the
32 reduction of such coverage in the state.

33 ~~((16))~~ (15) To develop a program of proven preventive health
34 measures and to integrate it into the plan wherever possible and
35 consistent with this chapter.

36 ~~((17))~~ (16) To provide, consistent with available funding,
37 assistance for rural residents, underserved populations, and persons of
38 color.

1 (~~(18)~~) (17) In consultation with appropriate state and local
2 government agencies, to establish criteria defining eligibility for
3 persons confined or residing in government-operated institutions.

4 (~~(19)~~) (18) To administer the premium discounts provided under
5 RCW 48.41.200(3)(a) (i) and (ii) pursuant to a contract with the
6 Washington state health insurance pool.

7 **Sec. 6.** RCW 70.47.100 and 2004 c 192 s 4 are each amended to read
8 as follows:

9 (1) A managed health care system participating in (~~the plan~~) a
10 program administered under this chapter shall do so by contract with
11 the administrator and shall provide, directly or by contract with other
12 health care providers, covered (~~basic~~) health care services to each
13 enrollee covered by its contract with the administrator as long as
14 payments from the administrator on behalf of the enrollee are current.
15 A participating managed health care system may offer, without
16 additional cost, health care benefits or services not included in the
17 schedule of covered services under the plan. A participating managed
18 health care system shall not give preference in enrollment to enrollees
19 who accept such additional health care benefits or services.
20 Participating managed health care systems (~~(participating in the plan)~~)
21 shall not discriminate against any potential or current enrollee based
22 upon health status, sex, race, ethnicity, or religion. The
23 administrator may receive and act upon complaints from enrollees
24 regarding failure to provide covered services or efforts to obtain
25 payment, other than authorized copayments, for covered services
26 directly from enrollees, but nothing in this chapter empowers the
27 administrator to impose any sanctions under Title 18 RCW or any other
28 professional or facility licensing statute.

29 (2) The plan shall allow, at least annually, an opportunity for
30 enrollees to transfer their enrollments among participating managed
31 health care systems serving their respective areas. The administrator
32 shall establish a period of at least twenty days in a given year when
33 this opportunity is afforded enrollees, and in those areas served by
34 more than one participating managed health care system the
35 administrator shall endeavor to establish a uniform period for such
36 opportunity. The plan shall allow enrollees to transfer their

1 enrollment to another participating managed health care system at any
2 time upon a showing of good cause for the transfer.

3 (3) Prior to negotiating with any managed health care system, the
4 administrator shall determine, on an actuarially sound basis, the
5 reasonable cost of providing the schedule of ((basic)) health care
6 services, expressed in terms of upper and lower limits, and recognizing
7 variations in the cost of providing the services through the various
8 systems and in different areas of the state.

9 (4) In negotiating with managed health care systems for
10 participation ((in the plan)), the administrator shall adopt a uniform
11 procedure that includes at least the following:

12 (a) The administrator shall issue a request for proposals,
13 including standards regarding the quality of services to be provided;
14 financial integrity of the responding systems; and responsiveness to
15 the unmet health care needs of the local communities or populations
16 that may be served;

17 (b) The administrator shall then review responsive proposals and
18 may negotiate with respondents to the extent necessary to refine any
19 proposals;

20 (c) The administrator may then select one or more systems to
21 provide the covered services within a local area; and

22 (d) The administrator may adopt a policy that gives preference to
23 respondents, such as nonprofit community health clinics, that have a
24 history of providing quality health care services to low-income
25 persons.

26 (5) The administrator may contract with a managed health care
27 system to provide covered ((basic)) health care services to subsidized
28 enrollees, nonsubsidized enrollees, health coverage tax credit eligible
29 enrollees, small business assist group enrollees, or any combination
30 thereof.

31 (6) The administrator may establish procedures and policies to
32 further negotiate and contract with managed health care systems
33 following completion of the request for proposal process in subsection
34 (4) of this section, upon a determination by the administrator that it
35 is necessary to provide access, as defined in the request for proposal
36 documents, to covered ((basic)) health care services for enrollees.

37 (7)((a)) The administrator ((shall)) may implement a self-funded

1 or self-insured method of providing insurance coverage to
2 (~~(subsidized)~~) enrollees, as provided under RCW 41.05.140, if (~~one of~~
3 ~~the following conditions is met:~~

4 ~~(i) The authority):~~

5 (a) The administrator determines that no managed health care system
6 other than the authority is willing and able to provide access (~~(, as~~
7 ~~defined in the request for proposal documents,)~~) to covered (~~(basic)~~)
8 health care services (~~(for all subsidized enrollees)~~) in (~~(an)~~) a given
9 area (~~(; or~~

10 ~~(ii) The authority determines that no other managed health care~~
11 ~~system is willing to provide access, as defined in the request for~~
12 ~~proposal documents, for one hundred thirty three percent of the~~
13 ~~statewide benchmark price or less, and the authority is able to offer~~
14 ~~such coverage at a price that is less than the lowest price at which~~
15 ~~any other managed health care system is willing to provide such access~~
16 ~~in an area.~~

17 ~~(b) The authority shall initiate steps to provide the coverage~~
18 ~~described in (a) of this subsection within ninety days of making its~~
19 ~~determination that the conditions for providing a self-funded or self-~~
20 ~~insured method of providing insurance have been met.~~

21 ~~(c) The administrator may not implement a self-funded or self-~~
22 ~~insured method of providing insurance in an area unless)) for~~

23 subsidized enrollees at a rate consistent with the appropriation and
24 enrollment levels assumed in the biennial operating budget, and for
25 other enrollees, at a rate consistent with the cost of comparable
26 health benefit plans in the commercial market; and

27 (b) The administrator has received a certification from a member of
28 the American academy of actuaries that the funding available in the
29 basic health plan or small business assist self-insurance reserve
30 account is sufficient for the self-funded or self-insured risk assumed,
31 or expected to be assumed, by the administrator.

32 **Sec. 7.** RCW 70.47.120 and 1997 c 337 s 7 are each amended to read
33 as follows:

34 In addition to the powers and duties specified in RCW 70.47.040 and
35 70.47.060, the administrator has the power to enter into contracts for
36 the following functions and services:

1 (1) With public or private agencies, to assist the administrator in
2 her or his duties to design or revise the schedule of covered (~~basic~~
3 ~~health care~~) services for a program administered under this chapter,
4 and/or to monitor or evaluate the performance of participating managed
5 health care systems.

6 (2) With public or private agencies, to provide technical or
7 professional assistance to health care providers, particularly public
8 or private nonprofit organizations and providers serving rural areas,
9 who show serious intent and apparent capability to participate in (~~the~~
10 ~~plan~~) a program administered under this chapter as managed health care
11 systems.

12 (3) With public or private agencies, including health care service
13 contractors registered under RCW 48.44.015, and doing business in the
14 state, for marketing and administrative services in connection with
15 participation of managed health care systems, enrollment of enrollees,
16 billing and collection services to the administrator, and other
17 administrative functions ordinarily performed by health care service
18 contractors, other than insurance. Any activities of a health care
19 service contractor pursuant to a contract with the administrator under
20 this section shall be exempt from the provisions and requirements of
21 Title 48 RCW except that persons appointed or authorized to solicit
22 applications for enrollment in (~~the basic health plan~~) a program
23 administered under this chapter shall comply with chapter 48.17 RCW.

24 NEW SECTION. Sec. 8. A new section is added to chapter 74.09 RCW
25 to read as follows:

26 (1) The department shall make every effort to maximize
27 opportunities to blend public and private funds through subsidization
28 of small employer health benefit plan premiums on behalf of individuals
29 eligible for medical assistance and children eligible for the state
30 children's health insurance program when such subsidization is cost-
31 effective for the state. In developing policies under this section,
32 the department shall consult with the health care authority and, to the
33 extent allowed by federal law, develop policies that are consistent
34 with those policies developed by the health care authority under the
35 premium assistance option in section 2 of this act so that entire
36 families have the opportunity to enroll in the same small employer
37 health benefit plan.

1 (2) If a federal waiver is necessary to achieve consistency with
2 health care authority policies under section 2 of this act, the
3 department shall notify the relevant fiscal and policy committees of
4 the legislature on or before December 1, 2005. The notification must
5 include recommendations regarding federal waiver options that would
6 provide the flexibility needed to optimize the use of medical
7 assistance and state children's health insurance program funds to
8 subsidize small employer health benefit plan premiums on behalf of low-
9 income families.

10 **Sec. 9.** RCW 70.47.160 and 1995 c 266 s 3 are each amended to read
11 as follows:

12 (1) The legislature recognizes that every individual possesses a
13 fundamental right to exercise their religious beliefs and conscience.
14 The legislature further recognizes that in developing public policy,
15 conflicting religious and moral beliefs must be respected. Therefore,
16 while recognizing the right of conscientious objection to participating
17 in specific health services, the state shall also recognize the right
18 of individuals enrolled with (~~the basic health plan~~) a program
19 administered under this chapter to receive the full range of services
20 covered under (~~the basic health plan~~) that program.

21 (2)(a) No individual health care provider, religiously sponsored
22 health carrier, or health care facility may be required by law or
23 contract in any circumstances to participate in the provision of or
24 payment for a specific service if they object to so doing for reason of
25 conscience or religion. No person may be discriminated against in
26 employment or professional privileges because of such objection.

27 (b) The provisions of this section are not intended to result in an
28 enrollee being denied timely access to any service included in (~~the~~
29 ~~basic health plan~~) their benefits package. Each health carrier shall:

30 (i) Provide written notice to enrollees, upon enrollment with the
31 plan, listing services that the carrier refuses to cover for reason of
32 conscience or religion;

33 (ii) Provide written information describing how an enrollee may
34 directly access services in an expeditious manner; and

35 (iii) Ensure that enrollees refused services under this section
36 have prompt access to the information developed pursuant to (b)(ii) of
37 this subsection.

1 (c) The administrator shall establish a mechanism or mechanisms to
2 recognize the right to exercise conscience while ensuring enrollees
3 timely access to services and to assure prompt payment to service
4 providers.

5 (3)(a) No individual or organization with a religious or moral
6 tenet opposed to a specific service may be required to purchase
7 coverage for that service or services if they object to doing so for
8 reason of conscience or religion.

9 (b) The provisions of this section shall not result in an enrollee
10 being denied coverage of, and timely access to, any service or services
11 excluded from their benefits package as a result of their employer's or
12 another individual's exercise of the conscience clause in (a) of this
13 subsection.

14 (c) The administrator shall define the process through which health
15 carriers may offer the ((~~basic health plan~~)) programs administered
16 under this chapter to individuals and organizations identified in (a)
17 and (b) of this subsection in accordance with the provisions of
18 subsection (2)(c) of this section.

19 (4) Nothing in this section requires the health care authority,
20 health carriers, health care facilities, or health care providers to
21 provide any ((~~basic health plan~~)) service without payment of
22 appropriate premium share or enrollee cost sharing.

23 **Sec. 10.** RCW 41.05.140 and 2000 c 80 s 5 are each amended to read
24 as follows:

25 (1) Except for property and casualty insurance, the authority may
26 self-fund, self-insure, or enter into other methods of providing
27 insurance coverage for insurance programs under its jurisdiction,
28 including the basic health plan and the small business assist group
29 enrollment option as provided in chapter 70.47 RCW. The authority
30 shall contract for payment of claims or other administrative services
31 for programs under its jurisdiction. If a program does not require the
32 prepayment of reserves, the authority shall establish such reserves
33 within a reasonable period of time for the payment of claims as are
34 normally required for that type of insurance under an insured program.
35 The authority shall endeavor to reimburse basic health plan health care
36 providers under this section at rates similar to the average

1 reimbursement rates offered by the statewide benchmark plan determined
2 through the request for proposal process.

3 (2) Reserves established by the authority for employee and retiree
4 benefit programs shall be held in a separate trust fund by the state
5 treasurer and shall be known as the public employees' and retirees'
6 insurance reserve fund. The state investment board shall act as the
7 investor for the funds and, except as provided in RCW 43.33A.160 and
8 43.84.160, one hundred percent of all earnings from these investments
9 shall accrue directly to the public employees' and retirees' insurance
10 reserve fund.

11 (3) Any savings realized as a result of a program created for
12 employees and retirees under this section shall not be used to increase
13 benefits unless such use is authorized by statute.

14 (4) Reserves established by the authority to provide insurance
15 coverage for the basic health plan under chapter 70.47 RCW shall be
16 held in a separate trust account in the custody of the state treasurer
17 and shall be known as the basic health plan self-insurance reserve
18 account. The state investment board shall act as the investor for the
19 funds as set forth in RCW 43.33A.230 and, except as provided in RCW
20 43.33A.160 and 43.84.160, one hundred percent of all earnings from
21 these investments shall accrue directly to the basic health plan self-
22 insurance reserve account.

23 (5) Reserves established by the authority to provide insurance
24 coverage for the small business assist plan option under chapter 70.47
25 RCW shall be held in a separate trust account in the custody of the
26 state treasurer and shall be known as the small business assist self-
27 insurance reserve account. The state investment board shall act as the
28 investor for the funds as set forth in RCW 43.33A.230 and, except as
29 provided in RCW 43.33A.160 and 43.84.160, one hundred percent of all
30 earnings from these investments shall accrue directly to the small
31 business assist self-insurance reserve account.

32 (6) Any program created under this section shall be subject to the
33 examination requirements of chapter 48.03 RCW as if the program were a
34 domestic insurer. In conducting an examination, the commissioner shall
35 determine the adequacy of the reserves established for the program.

36 ((+6+)) (7) The authority shall keep full and adequate accounts and
37 records of the assets, obligations, transactions, and affairs of any
38 program created under this section.

1 (~~(7)~~) (8) The authority shall file a quarterly statement of the
2 financial condition, transactions, and affairs of any program created
3 under this section in a form and manner prescribed by the insurance
4 commissioner. The statement shall contain information as required by
5 the commissioner for the type of insurance being offered under the
6 program. A copy of the annual statement shall be filed with the
7 speaker of the house of representatives and the president of the
8 senate.

9 **Sec. 11.** RCW 43.79A.040 and 2004 c 246 s 8 and 2004 c 58 s 10 are
10 each reenacted and amended to read as follows:

11 (1) Money in the treasurer's trust fund may be deposited, invested,
12 and reinvested by the state treasurer in accordance with RCW 43.84.080
13 in the same manner and to the same extent as if the money were in the
14 state treasury.

15 (2) All income received from investment of the treasurer's trust
16 fund shall be set aside in an account in the treasury trust fund to be
17 known as the investment income account.

18 (3) The investment income account may be utilized for the payment
19 of purchased banking services on behalf of treasurer's trust funds
20 including, but not limited to, depository, safekeeping, and
21 disbursement functions for the state treasurer or affected state
22 agencies. The investment income account is subject in all respects to
23 chapter 43.88 RCW, but no appropriation is required for payments to
24 financial institutions. Payments shall occur prior to distribution of
25 earnings set forth in subsection (4) of this section.

26 (4)(a) Monthly, the state treasurer shall distribute the earnings
27 credited to the investment income account to the state general fund
28 except under (b) and (c) of this subsection.

29 (b) The following accounts and funds shall receive their
30 proportionate share of earnings based upon each account's or fund's
31 average daily balance for the period: The Washington promise
32 scholarship account, the college savings program account, the
33 Washington advanced college tuition payment program account, the
34 agricultural local fund, the American Indian scholarship endowment
35 fund, the students with dependents grant account, the basic health plan
36 self-insurance reserve account, the small business assist self-
37 insurance reserve account, the contract harvesting revolving account,

1 the Washington state combined fund drive account, the Washington
2 international exchange scholarship endowment fund, the developmental
3 disabilities endowment trust fund, the energy account, the fair fund,
4 the fruit and vegetable inspection account, the future teachers
5 conditional scholarship account, the game farm alternative account, the
6 grain inspection revolving fund, the juvenile accountability incentive
7 account, the law enforcement officers' and fire fighters' plan 2
8 expense fund, the local tourism promotion account, the produce railcar
9 pool account, the rural rehabilitation account, the stadium and
10 exhibition center account, the youth athletic facility account, the
11 self-insurance revolving fund, the sulfur dioxide abatement account,
12 the children's trust fund, the Washington horse racing commission
13 Washington bred owners' bonus fund account, the Washington horse racing
14 commission class C purse fund account, and the Washington horse racing
15 commission operating account (earnings from the Washington horse racing
16 commission operating account must be credited to the Washington horse
17 racing commission class C purse fund account). However, the earnings
18 to be distributed shall first be reduced by the allocation to the state
19 treasurer's service fund pursuant to RCW 43.08.190.

20 (c) The following accounts and funds shall receive eighty percent
21 of their proportionate share of earnings based upon each account's or
22 fund's average daily balance for the period: The advanced right of way
23 revolving fund, the advanced environmental mitigation revolving
24 account, the city and county advance right-of-way revolving fund, the
25 federal narcotics asset forfeitures account, the high occupancy vehicle
26 account, the local rail service assistance account, and the
27 miscellaneous transportation programs account.

28 (5) In conformance with Article II, section 37 of the state
29 Constitution, no trust accounts or funds shall be allocated earnings
30 without the specific affirmative directive of this section.

31 NEW SECTION. **Sec. 12.** A new section is added to chapter 70.47 RCW
32 to read as follows:

33 The small business assist trust account is hereby established in
34 the state treasury. Any nongeneral fund--state funds collected for the
35 small business assist group enrollment option shall be deposited in the
36 small business assist trust account and may be expended without further
37 appropriation. Moneys in the account shall be used exclusively for the

1 purposes of administering the small business assist group enrollment
2 option, including payments to participating managed health care systems
3 on behalf of small business assist enrollees.

4 NEW SECTION. **Sec. 13.** A new section is added to chapter 70.47 RCW
5 to read as follows:

6 The administrator may adopt rules to carry out the purposes of this
7 act. All rules shall be adopted in accordance with chapter 34.05 RCW.

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