
HOUSE BILL 2121

State of Washington

59th Legislature

2005 Regular Session

By Representatives DeBolt, Holmquist, Haigh, Campbell, Miloscia, Crouse, Hankins, Buri, Ericksen, Buck, Wallace, Dunn, Woods, Priest and Serben

Read first time 02/18/2005. Referred to Committee on Health Care.

1 AN ACT Relating to health benefit plans; and amending RCW
2 48.21.045, 48.44.023, and 48.46.066.

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

4 **Sec. 1.** RCW 48.21.045 and 2004 c 244 s 1 are each amended to read
5 as follows:

6 (1) Notwithstanding any other provision of this section, an insurer
7 offering any health benefit plan to a small employer may offer small
8 group health benefit plans that provide coverage for fifteen mandated
9 benefits required under this chapter. An employee covered by such a
10 small group health benefit plan may select the fifteen mandated
11 benefits to be covered. If an employee requests a small group benefit
12 plan with more than fifteen mandated benefits, the additional cost of
13 such coverage must be split equally between the employer and the
14 employee.

15 (2)(a) An insurer offering any health benefit plan to a small
16 employer, either directly or through an association or member-governed
17 group formed specifically for the purpose of purchasing health care,
18 may offer and actively market to the small employer a health benefit
19 plan featuring a limited schedule of covered health care services.

1 Nothing in this subsection shall preclude an insurer from offering, or
2 a small employer from purchasing, other health benefit plans that may
3 have more comprehensive benefits than those included in the product
4 offered under this subsection. An insurer offering a health benefit
5 plan under this subsection shall clearly disclose all covered benefits
6 to the small employer in a brochure filed with the commissioner.

7 (b) A health benefit plan offered under this subsection shall
8 provide coverage for hospital expenses and services rendered by a
9 physician licensed under chapter 18.57 or 18.71 RCW but is not subject
10 to the requirements of RCW 48.21.130, 48.21.140, 48.21.141, 48.21.142,
11 48.21.144, 48.21.146, 48.21.160 through 48.21.197, 48.21.200,
12 48.21.220, 48.21.225, 48.21.230, 48.21.235, 48.21.240, 48.21.244,
13 48.21.250, 48.21.300, 48.21.310, or 48.21.320.

14 ~~((+2))~~ (3) Nothing in this section shall prohibit an insurer from
15 offering, or a purchaser from seeking, health benefit plans with
16 benefits in excess of the health benefit plan offered under subsection
17 ~~((+1))~~ (2) of this section. All forms, policies, and contracts shall
18 be submitted for approval to the commissioner, and the rates of any
19 plan offered under this section shall be reasonable in relation to the
20 benefits thereto.

21 ~~((+3))~~ (4) Premium rates for health benefit plans for small
22 employers as defined in this section shall be subject to the following
23 provisions:

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

- 26 (i) Geographic area;
- 27 (ii) Family size;
- 28 (iii) Age; and
- 29 (iv) Wellness activities.

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

34 (c) The insurer shall be permitted to develop separate rates for
35 individuals age sixty-five or older for coverage for which medicare is
36 the primary payer and coverage for which medicare is not the primary
37 payer. Both rates shall be subject to the requirements of this
38 subsection ~~((+3))~~ (4).

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

5 (e) A discount for wellness activities shall be permitted to
6 reflect actuarially justified differences in utilization or cost
7 attributed to such programs.

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

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

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

13 (iii) Changes to the health benefit plan requested by the small
14 employer; or

15 (iv) Changes in government requirements affecting the health
16 benefit plan.

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

20 (h) For the purposes of this section, a health benefit plan that
21 contains a restricted network provision shall not be considered similar
22 coverage to a health benefit plan that does not contain such a
23 provision, provided that the restrictions of benefits to network
24 providers result in substantial differences in claims costs. A carrier
25 may develop its rates based on claims costs due to network provider
26 reimbursement schedules or type of network. This subsection does not
27 restrict or enhance the portability of benefits as provided in RCW
28 48.43.015.

29 (i) Adjusted community rates established under this section shall
30 pool the medical experience of all small groups purchasing coverage.
31 However, annual rate adjustments for each small group health benefit
32 plan may vary by up to plus or minus four percentage points from the
33 overall adjustment of a carrier's entire small group pool, such overall
34 adjustment to be approved by the commissioner, upon a showing by the
35 carrier, certified by a member of the American academy of actuaries
36 that: (i) The variation is a result of deductible leverage, benefit
37 design, or provider network characteristics; and (ii) for a rate
38 renewal period, the projected weighted average of all small group

1 benefit plans will have a revenue neutral effect on the carrier's small
2 group pool. Variations of greater than four percentage points are
3 subject to review by the commissioner, and must be approved or denied
4 within sixty days of submittal. A variation that is not denied within
5 sixty days shall be deemed approved. The commissioner must provide to
6 the carrier a detailed actuarial justification for any denial within
7 thirty days of the denial.

8 ~~((4))~~ (5) Nothing in this section shall restrict the right of
9 employees to collectively bargain for insurance providing benefits in
10 excess of those provided herein.

11 ~~((5))~~ (6)(a) Except as provided in this subsection, requirements
12 used by an insurer in determining whether to provide coverage to a
13 small employer shall be applied uniformly among all small employers
14 applying for coverage or receiving coverage from the carrier.

15 (b) An insurer shall not require a minimum participation level
16 greater than:

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

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

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

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

29 ~~((6))~~ (7) An insurer must offer coverage to all eligible
30 employees of a small employer and their dependents. An insurer may not
31 offer coverage to only certain individuals or dependents in a small
32 employer group or to only part of the group. An insurer may not modify
33 a health plan with respect to a small employer or any eligible employee
34 or dependent, through riders, endorsements or otherwise, to restrict or
35 exclude coverage or benefits for specific diseases, medical conditions,
36 or services otherwise covered by the plan.

37 ~~((7))~~ (8) As used in this section, "health benefit plan," "small

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

3 **Sec. 2.** RCW 48.44.023 and 2004 c 244 s 7 are each amended to read
4 as follows:

5 (1) Notwithstanding any other provision of this section, an insurer
6 offering any health benefit plan to a small employer may offer small
7 group health benefit plans that provide coverage for fifteen mandated
8 benefits required under this chapter. An employee covered by such a
9 small group health benefit plan may select the fifteen mandated
10 benefits to be covered. If an employee requests a small group benefit
11 plan with more than fifteen mandated benefits, the additional cost of
12 such coverage must be split equally between the employer and the
13 employee.

14 (2)(a) A health care services contractor offering any health
15 benefit plan to a small employer, either directly or through an
16 association or member-governed group formed specifically for the
17 purpose of purchasing health care, may offer and actively market to the
18 small employer a health benefit plan featuring a limited schedule of
19 covered health care services. Nothing in this subsection shall
20 preclude a contractor from offering, or a small employer from
21 purchasing, other health benefit plans that may have more comprehensive
22 benefits than those included in the product offered under this
23 subsection. A contractor offering a health benefit plan under this
24 subsection shall clearly disclose all covered benefits to the small
25 employer in a brochure filed with the commissioner.

26 (b) A health benefit plan offered under this subsection shall
27 provide coverage for hospital expenses and services rendered by a
28 physician licensed under chapter 18.57 or 18.71 RCW but is not subject
29 to the requirements of RCW 48.44.225, 48.44.240, 48.44.245, 48.44.290,
30 48.44.300, 48.44.310, 48.44.320, 48.44.325, 48.44.330, 48.44.335,
31 48.44.340, 48.44.344, 48.44.360, 48.44.400, 48.44.440, 48.44.450, and
32 48.44.460.

33 ~~((+2))~~ (3) Nothing in this section shall prohibit a health care
34 service contractor from offering, or a purchaser from seeking, health
35 benefit plans with benefits in excess of the health benefit plan
36 offered under subsection ~~((+1))~~ (2) of this section. All forms,

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

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

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

- 9 (i) Geographic area;
10 (ii) Family size;
11 (iii) Age; and
12 (iv) Wellness activities.

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

17 (c) The contractor shall be permitted to develop separate rates for
18 individuals age sixty-five or older for coverage for which medicare is
19 the primary payer and coverage for which medicare is not the primary
20 payer. Both rates shall be subject to the requirements of this
21 subsection ~~((3))~~ (4).

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

26 (e) A discount for wellness activities shall be permitted to
27 reflect actuarially justified differences in utilization or cost
28 attributed to such programs.

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

- 32 (i) Changes to the enrollment of the small employer;
33 (ii) Changes to the family composition of the employee;
34 (iii) Changes to the health benefit plan requested by the small
35 employer; or
36 (iv) Changes in government requirements affecting the health
37 benefit plan.

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

4 (h) For the purposes of this section, a health benefit plan that
5 contains a restricted network provision shall not be considered similar
6 coverage to a health benefit plan that does not contain such a
7 provision, provided that the restrictions of benefits to network
8 providers result in substantial differences in claims costs. A carrier
9 may develop its rates based on claims costs due to network provider
10 reimbursement schedules or type of network. This subsection does not
11 restrict or enhance the portability of benefits as provided in RCW
12 48.43.015.

13 (i) Adjusted community rates established under this section shall
14 pool the medical experience of all groups purchasing coverage.
15 However, annual rate adjustments for each small group health benefit
16 plan may vary by up to plus or minus four percentage points from the
17 overall adjustment of a carrier's entire small group pool, such overall
18 adjustment to be approved by the commissioner, upon a showing by the
19 carrier, certified by a member of the American academy of actuaries
20 that: (i) The variation is a result of deductible leverage, benefit
21 design, or provider network characteristics; and (ii) for a rate
22 renewal period, the projected weighted average of all small group
23 benefit plans will have a revenue neutral effect on the carrier's small
24 group pool. Variations of greater than four percentage points are
25 subject to review by the commissioner, and must be approved or denied
26 within sixty days of submittal. A variation that is not denied within
27 sixty days shall be deemed approved. The commissioner must provide to
28 the carrier a detailed actuarial justification for any denial within
29 thirty days of the denial.

30 ~~((4))~~ (5) Nothing in this section shall restrict the right of
31 employees to collectively bargain for insurance providing benefits in
32 excess of those provided herein.

33 ~~((5))~~ (6)(a) Except as provided in this subsection, requirements
34 used by a contractor in determining whether to provide coverage to a
35 small employer shall be applied uniformly among all small employers
36 applying for coverage or receiving coverage from the carrier.

37 (b) A contractor shall not require a minimum participation level
38 greater than:

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

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

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

9 (d) A contractor may not increase any requirement for minimum
10 employee participation or modify any requirement for minimum employer
11 contribution applicable to a small employer at any time after the small
12 employer has been accepted for coverage.

13 ~~((+6))~~ (7) A contractor must offer coverage to all eligible
14 employees of a small employer and their dependents. A contractor may
15 not offer coverage to only certain individuals or dependents in a small
16 employer group or to only part of the group. A contractor may not
17 modify a health plan with respect to a small employer or any eligible
18 employee or dependent, through riders, endorsements or otherwise, to
19 restrict or exclude coverage or benefits for specific diseases, medical
20 conditions, or services otherwise covered by the plan.

21 **Sec. 3.** RCW 48.46.066 and 2004 c 244 s 9 are each amended to read
22 as follows:

23 (1) Notwithstanding any other provision of this section, an insurer
24 offering any health benefit plan to a small employer may offer small
25 group health benefit plans that provide coverage for fifteen mandated
26 benefits required under this chapter. An employee covered by such a
27 small group health benefit plan may select the fifteen mandated
28 benefits to be covered. If an employee requests a small group benefit
29 plan with more than fifteen mandated benefits, the additional cost of
30 such coverage must be split equally between the employer and the
31 employee.

32 (2)(a) A health maintenance organization offering any health
33 benefit plan to a small employer, either directly or through an
34 association or member-governed group formed specifically for the
35 purpose of purchasing health care, may offer and actively market to the
36 small employer a health benefit plan featuring a limited schedule of
37 covered health care services. Nothing in this subsection shall

1 preclude a health maintenance organization from offering, or a small
2 employer from purchasing, other health benefit plans that may have more
3 comprehensive benefits than those included in the product offered under
4 this subsection. A health maintenance organization offering a health
5 benefit plan under this subsection shall clearly disclose all the
6 covered benefits to the small employer in a brochure filed with the
7 commissioner.

8 (b) A health benefit plan offered under this subsection shall
9 provide coverage for hospital expenses and services rendered by a
10 physician licensed under chapter 18.57 or 18.71 RCW but is not subject
11 to the requirements of RCW 48.46.275, 48.46.280, 48.46.285, 48.46.290,
12 48.46.350, 48.46.355, 48.46.375, 48.46.440, 48.46.480, 48.46.510,
13 48.46.520, and 48.46.530.

14 ~~((+2))~~ (3) Nothing in this section shall prohibit a health
15 maintenance organization from offering, or a purchaser from seeking,
16 health benefit plans with benefits in excess of the health benefit plan
17 offered under subsection ~~((+1))~~ (2) of this section. All forms,
18 policies, and contracts shall be submitted for approval to the
19 commissioner, and the rates of any plan offered under this section
20 shall be reasonable in relation to the benefits thereto.

21 ~~((+3))~~ (4) Premium rates for health benefit plans for small
22 employers as defined in this section shall be subject to the following
23 provisions:

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

- 27 (i) Geographic area;
- 28 (ii) Family size;
- 29 (iii) Age; and
- 30 (iv) Wellness activities.

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

35 (c) The health maintenance organization shall be permitted to
36 develop separate rates for individuals age sixty-five or older for
37 coverage for which medicare is the primary payer and coverage for which

1 medicare is not the primary payer. Both rates shall be subject to the
2 requirements of this subsection (~~(3)~~) (4).

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

7 (e) A discount for wellness activities shall be permitted to
8 reflect actuarially justified differences in utilization or cost
9 attributed to such programs.

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

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

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

15 (iii) Changes to the health benefit plan requested by the small
16 employer; or

17 (iv) Changes in government requirements affecting the health
18 benefit plan.

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

22 (h) For the purposes of this section, a health benefit plan that
23 contains a restricted network provision shall not be considered similar
24 coverage to a health benefit plan that does not contain such a
25 provision, provided that the restrictions of benefits to network
26 providers result in substantial differences in claims costs. A carrier
27 may develop its rates based on claims costs due to network provider
28 reimbursement schedules or type of network. This subsection does not
29 restrict or enhance the portability of benefits as provided in RCW
30 48.43.015.

31 (i) Adjusted community rates established under this section shall
32 pool the medical experience of all groups purchasing coverage.
33 However, annual rate adjustments for each small group health benefit
34 plan may vary by up to plus or minus four percentage points from the
35 overall adjustment of a carrier's entire small group pool, such overall
36 adjustment to be approved by the commissioner, upon a showing by the
37 carrier, certified by a member of the American academy of actuaries
38 that: (i) The variation is a result of deductible leverage, benefit

1 design, or provider network characteristics; and (ii) for a rate
2 renewal period, the projected weighted average of all small group
3 benefit plans will have a revenue neutral effect on the carrier's small
4 group pool. Variations of greater than four percentage points are
5 subject to review by the commissioner, and must be approved or denied
6 within sixty days of submittal. A variation that is not denied within
7 sixty days shall be deemed approved. The commissioner must provide to
8 the carrier a detailed actuarial justification for any denial within
9 thirty days of the denial.

10 ~~((4))~~ (5) Nothing in this section shall restrict the right of
11 employees to collectively bargain for insurance providing benefits in
12 excess of those provided herein.

13 ~~((5))~~ (6)(a) Except as provided in this subsection, requirements
14 used by a health maintenance organization in determining whether to
15 provide coverage to a small employer shall be applied uniformly among
16 all small employers applying for coverage or receiving coverage from
17 the carrier.

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

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

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

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

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

33 ~~((6))~~ (7) A health maintenance organization must offer coverage
34 to all eligible employees of a small employer and their dependents. A
35 health maintenance organization may not offer coverage to only certain
36 individuals or dependents in a small employer group or to only part of
37 the group. A health maintenance organization may not modify a health
38 plan with respect to a small employer or any eligible employee or

1 dependent, through riders, endorsements or otherwise, to restrict or
2 exclude coverage or benefits for specific diseases, medical conditions,
3 or services otherwise covered by the plan.

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