
HOUSE BILL 2199

State of Washington

59th Legislature

2005 Regular Session

By Representatives Linville, Kessler, Condotta, Grant, Bailey, Pettigrew, Wallace, Morrell, Morris, Nixon, Campbell, Ericks, McDonald, Talcott, Armstrong, Woods, Kristiansen, Serben, Holmquist, Roach, Newhouse, McCune, Tom, Strow, Priest, Rodne and Ahern

Read first time 02/23/2005. Referred to Committee on Health Care.

1 AN ACT Relating to health savings accounts; 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 qualify as insurance coverage combined
9 with a health savings account as defined by the United States internal
10 revenue service.

11 (2)(a) An insurer offering any health benefit plan to a small
12 employer, either directly or through an association or member-governed
13 group formed specifically for the purpose of purchasing health care,
14 may offer and actively market to the small employer a health benefit
15 plan featuring a limited schedule of covered health care services.
16 Nothing in this subsection shall preclude an insurer from offering, or
17 a small employer from purchasing, other health benefit plans that may
18 have more comprehensive benefits than those included in the product

1 offered under this subsection. An insurer offering a health benefit
2 plan under this subsection shall clearly disclose all covered benefits
3 to the small employer in a brochure filed with the commissioner.

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

11 ~~((2))~~ (3) Nothing in this section shall prohibit an insurer from
12 offering, or a purchaser from seeking, health benefit plans with
13 benefits in excess of the health benefit plan offered under subsection
14 ~~((1))~~ (2) of this section. All forms, policies, and contracts shall
15 be submitted for approval to the commissioner, and the rates of any
16 plan offered under this section shall be reasonable in relation to the
17 benefits thereto.

18 ~~((3))~~ (4) Premium rates for health benefit plans for small
19 employers as defined in this section shall be subject to the following
20 provisions:

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

- 23 (i) Geographic area;
- 24 (ii) Family size;
- 25 (iii) Age; and
- 26 (iv) Wellness activities.

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

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

36 (d) The permitted rates for any age group shall be no more than
37 four hundred twenty-five percent of the lowest rate for all age groups

1 on January 1, 1996, four hundred percent on January 1, 1997, and three
2 hundred seventy-five percent on January 1, 2000, and thereafter.

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

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

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

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

11 (iii) Changes to the health benefit plan requested by the small
12 employer; or

13 (iv) Changes in government requirements affecting the health
14 benefit plan.

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

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

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

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

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

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

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

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

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

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

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

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

1 (~~(7)~~) (8) As used in this section, "health benefit plan," "small
2 employer," "adjusted community rate," and "wellness activities" mean
3 the same as defined in RCW 48.43.005.

4 **Sec. 2.** RCW 48.44.023 and 2004 c 244 s 7 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 qualify as insurance coverage combined
9 with a health savings account as defined by the United States internal
10 revenue service.

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

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

30 (~~(2)~~) (3) Nothing in this section shall prohibit a health care
31 service contractor from offering, or a purchaser from seeking, health
32 benefit plans with benefits in excess of the health benefit plan
33 offered under subsection (~~(1)~~) (2) of this section. All forms,
34 policies, and contracts shall be submitted for approval to the
35 commissioner, and the rates of any plan offered under this section
36 shall be reasonable in relation to the benefits thereto.

1 (~~(3)~~) (4) Premium rates for health benefit plans for small
2 employers as defined in this section shall be subject to the following
3 provisions:

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

- 6 (i) Geographic area;
- 7 (ii) Family size;
- 8 (iii) Age; and
- 9 (iv) Wellness activities.

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

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

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

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

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

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

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

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

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

28 (2)(a) A health maintenance organization offering any health
29 benefit plan to a small employer, either directly or through an
30 association or member-governed group formed specifically for the
31 purpose of purchasing health care, may offer and actively market to the
32 small employer a health benefit plan featuring a limited schedule of
33 covered health care services. Nothing in this subsection shall
34 preclude a health maintenance organization from offering, or a small
35 employer from purchasing, other health benefit plans that may have more
36 comprehensive benefits than those included in the product offered under
37 this subsection. A health maintenance organization offering a health

1 benefit plan under this subsection shall clearly disclose all the
2 covered benefits to the small employer in a brochure filed with the
3 commissioner.

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

10 ~~((+2))~~ (3) Nothing in this section shall prohibit a health
11 maintenance organization from offering, or a purchaser from seeking,
12 health benefit plans with benefits in excess of the health benefit plan
13 offered under subsection ~~((+1))~~ (2) of this section. All forms,
14 policies, and contracts shall be submitted for approval to the
15 commissioner, and the rates of any plan offered under this section
16 shall be reasonable in relation to the benefits thereto.

17 ~~((+3))~~ (4) Premium rates for health benefit plans for small
18 employers as defined in this section shall be subject to the following
19 provisions:

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

- 23 (i) Geographic area;
- 24 (ii) Family size;
- 25 (iii) Age; and
- 26 (iv) Wellness activities.

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

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

36 (d) The permitted rates for any age group shall be no more than
37 four hundred twenty-five percent of the lowest rate for all age groups

1 on January 1, 1996, four hundred percent on January 1, 1997, and three
2 hundred seventy-five percent on January 1, 2000, and thereafter.

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

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

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

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

11 (iii) Changes to the health benefit plan requested by the small
12 employer; or

13 (iv) Changes in government requirements affecting the health
14 benefit plan.

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

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

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

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

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

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

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

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

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

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

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

32 ~~((6))~~ (7) A health maintenance organization must offer coverage
33 to all eligible employees of a small employer and their dependents. A
34 health maintenance organization may not offer coverage to only certain
35 individuals or dependents in a small employer group or to only part of
36 the group. A health maintenance organization may not modify a health
37 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.

--- END ---