S-2236.1

SUBSTITUTE SENATE BILL 5722

State of Washington 59th Legislature 2005 Regular Session

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Keiser, Thibaudeau, McAuliffe, Kline, Franklin, Prentice, Kastama, Rasmussen and Kohl-Welles)

READ FIRST TIME 03/02/05.

AN ACT Relating to expanding access to insurance coverage through the small business assist program; amending RCW 70.47.010, 70.47.015, 70.47.020, 70.47.060, 70.47.100, 70.47.120, 70.47.130, 48.41.090, 70.47.160, and 41.05.140; reenacting and amending RCW 43.79A.040; adding new sections to chapter 70.47 RCW; adding a new section to chapter 74.09 RCW; and making an appropriation.

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

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

(1)(((~~(a) The legislature finds that limitations on access to health care services for enrollees in the state, such as in rural and underserved areas, are particularly challenging for the basic health plan. Statutory restrictions have reduced the options available to the administrator to address the access needs of basic health plan enrollees. It is the intent of the legislature to authorize the administrator to develop alternative purchasing strategies to ensure access to basic health plan enrollees in all areas of the state, including: (i) The use of differential rating for managed health care~~

~~systems based on geographic differences in costs; and (ii) limited use of self-insurance in areas where adequate access cannot be assured through other options.~~

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

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

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

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

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

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

(3) The legislature further finds that many small employers struggle with the cost of providing employer-sponsored health insurance

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

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

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

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

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

(d) The legislature directs that the basic health plan administrator identify enrollees who are likely to be eligible for medical assistance and assist these individuals in applying for and

receiving medical assistance. The administrator and the department of social and health services shall implement a seamless system to coordinate eligibility determinations and benefit coverage for enrollees of the basic health plan and medical assistance recipients.

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

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

(1) The small business assist program is hereby established. The legislature intends that the small business assist program make health care coverage more affordable to small employers, their employees, and dependents. By blending private and public funds through the premium assistance option authorized by this section, the legislature intends to increase the number of low-income workers with health coverage in Washington state. The administrator shall offer two options to small employers:

(a) Enrollment as a group in a small business assist plan offered by the administrator under subsections (2) through (6) of this section; and

(b) Enrollment of low-income employees in the premium assistance option authorized in subsections (7) through (11) of this section.

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

subsidized enrollee in the basic health plan shall not be considered employer-sponsored health coverage.

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

(4) The initial benefit option offered through the small business assist plan option shall be the schedule of basic health care services established under RCW 70.47.060(1). The administrator may design and from time to time revise one or more additional schedules of covered services to be provided to small business assist plan enrollees. Additional schedules of covered services may vary with respect to services covered, deductibles, or other cost-sharing amounts paid by enrollees. A high deductible health plan option shall be included among any additional schedules of covered services offered through the small business assist plan option. The structure shall discourage inappropriate enrollee utilization of health care services. In designing and revising the schedule of services, the administrator shall consider the guidelines for assessing health services under RCW 48.47.030.

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

(6) Small business assist plan enrollees shall be included in the basic health plan subsidized risk pool for purposes of contracting with managed health care systems. The administrator shall monitor the impact of inclusion of small business assist plan enrollees on the risk profile and claims experience of the basic health plan subsidized risk pool, and on the costs of basic health plan subsidized coverage. If

significant impacts are identified, the administrator shall report such impacts to the governor and to relevant policy and fiscal committees of the legislature.

(7) Beginning July 1, 2006, the administrator may accept applications from individuals whose current small employer has not offered health insurance within the last six months, on behalf of themselves and their spouses and dependent children, for assistance in paying premiums to health plans as defined in RCW 48.43.005. The administrator may determine the minimum premium contribution to be paid by small employers whose employees are participating in this premium assistance option.

(8) To the extent of funding provided in section 17 of this act, the administrator may make premium assistance payments when:

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

(b) The cost of paying the premium assistance employee's employer health benefit plan premium obligation would be less than the subsidy that would be paid if the individual, or the individual plus his or her spouse and dependent children, were to enroll in the Washington basic health plan under this chapter as subsidized enrollees. The amount of an individual's premium assistance shall be determined by applying the sliding scale subsidy schedule developed for subsidized basic health plan enrollees under RCW 70.47.060 to the employee's premium obligation for his or her employer's health benefit plan;

(c) The premium assistance enrollee agrees to provide verification of continued enrollment in his or her small employer's health benefit plan on a semiannual basis, or to notify the administrator whenever his or her enrollment status changes, whichever is earlier. Verification or notification may be made directly by the employee, or through his or her employer or the carrier providing the small employer health benefit

plan. When necessary, the administrator has the authority to perform retrospective audits on premium assistance accounts.

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

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

(11) Funds received by a family as part of participation in the adoption support program authorized under RCW 26.33.320 and 74.13.100 through 74.13.145 may not be counted toward a family's current gross family income for the purposes of this act. No premium assistance may be paid to an employee whose current gross family income exceeds twice the federal poverty level or, subject to RCW 70.47.110, who is a recipient of medical assistance or medical care services under chapter 74.09 RCW.

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

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

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

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

((~~(4)~~)) (3) No later than July 1, 1996, the administrator shall implement procedures whereby hospitals licensed under chapters 70.41

and 71.12 RCW, health carrier, rural health care facilities regulated under chapter 70.175 RCW, and community and migrant health centers funded under RCW 41.05.220, may expeditiously assist patients and their families in applying for basic health plan or medical assistance coverage, and in submitting such applications directly to the health care authority or the department of social and health services. The health care authority and the department of social and health services shall make every effort to simplify and expedite the application and enrollment process.

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

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

As used in this chapter:

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

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

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

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

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

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

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

((~~(6)~~)) (8) "Subsidized enrollee" means an individual, or an individual plus the individual's spouse or dependent children: (a) Who

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

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

((~~(8)~~)) (10) "Small business assist plan enrollee" means an employee who is employed by a small employer and who resides or works in Washington and enrolls in the small business assist program created under section 2 of this act.

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

((~~(9)~~)) (12) "Premium" means a periodic payment, based upon ((~~gross~~)) family income which an individual, ((~~their~~)) an employer, or ((~~another~~)) a financial sponsor makes to the ((~~plan~~)) administrator as consideration for enrollment in ((~~the plan as a subsidized enrollee, a nonsubsidized enrollee, or a health coverage tax credit eligible enrollee~~)) a program administered under this chapter.

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

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

The administrator has the following powers and duties:

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

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

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

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

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

(d) ((~~An employer or other~~)) A financial sponsor may, with the prior approval of the administrator, pay the premium, rate, or any other amount on behalf of a subsidized or nonsubsidized enrollee, by

arrangement with the enrollee and through a mechanism acceptable to the administrator. The administrator shall establish a mechanism for receiving premium payments from the United States internal revenue service for health coverage tax credit eligible enrollees.

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

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

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

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

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

long as the enrollees qualify for the health coverage tax credit program.

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

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

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

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

(11) To accept applications from individuals residing in areas served by the plan, on behalf of themselves and their spouses and

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

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

~~participating in the plan. The administrator shall adjust the amount determined to be due on behalf of or from all such enrollees whenever the amount negotiated by the administrator with the participating managed health care system or systems is modified or the administrative cost of providing the plan to such enrollees changes.~~

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

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

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

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

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

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

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

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

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

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

administrator shall endeavor to establish a uniform period for such opportunity. The plan shall allow enrollees to transfer their enrollment to another participating managed health care system at any time upon a showing of good cause for the transfer.

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

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

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

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

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

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

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

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

(7)((~~(a)~~)) The administrator ((~~shall~~)) may implement a self-funded or self-insured method of providing insurance coverage to ((~~subsidized~~)) enrollees, as provided under RCW 41.05.140, if ((~~one of the following conditions is met:~~

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

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

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

~~(c) The administrator may not implement a self-funded or self-insured method of providing insurance in an area unless~~)), and the administrator has received a certification from a member of the American academy of actuaries that the funding available in the basic health plan or small business assist plan self-insurance reserve account is sufficient for the self-funded or self-insured risk assumed, or expected to be assumed, by the administrator.

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

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

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

(2) With public or private agencies, to provide technical or professional assistance to health care providers, particularly public or private nonprofit organizations and providers serving rural areas, who show serious intent and apparent capability to participate in the plan as managed health care systems.

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

Sec. 8. RCW 70.47.130 and 2004 c 115 s 2 are each amended to read as follows:

(1) The activities and operations of the Washington basic health plan under this chapter, including those of managed health care systems to the extent of their participation in the plan, are exempt from the provisions and requirements of Title 48 RCW except:

(a) Benefits as provided in RCW 70.47.070;

(b) Managed health care systems are subject to the provisions of RCW 48.43.022, 48.43.500, 70.02.045, 48.43.505 through 48.43.535, 43.70.235, 48.43.545, 48.43.550, 70.02.110, and 70.02.900;

(c) Persons appointed or authorized to solicit applications for enrollment in the ((~~basic health plan, including employees of the health care authority,~~)) programs administered under this chapter must comply with chapter 48.17 RCW. For purposes of this subsection (1)(c), "solicit" does not include distributing information and applications for the basic health plan and responding to questions; and

(d) Amounts paid to a managed health care system by the basic health plan for participating in the basic health plan and providing health care services for nonsubsidized enrollees in the basic health plan must comply with RCW 48.14.0201.

(2) The purpose of the 1994 amendatory language to this section in chapter 309, Laws of 1994 is to clarify the intent of the legislature that premiums paid on behalf of nonsubsidized enrollees in the basic health plan are subject to the premium and prepayment tax. The legislature does not consider this clarifying language to either raise existing taxes nor to impose a tax that did not exist previously.

Sec. 9. RCW 48.41.090 and 2000 c 79 s 11 are each amended to read as follows:

(1) Following the close of each accounting year, the pool administrator shall determine the net premium (premiums less administrative expense allowances), the pool expenses of administration, and incurred losses for the year, taking into account investment income and other appropriate gains and losses.

(2)(a) Each member's proportion of participation in the pool shall be determined annually by the board based on annual statements and other reports deemed necessary by the board and filed by the member with the commissioner; and shall be determined by multiplying the total cost of pool operation by a fraction. The numerator of the fraction equals that member's total number of resident insured persons, including spouse and dependents, covered under all health plans in the state by that member during the preceding calendar year. The denominator of the fraction equals the total number of resident insured persons, including spouses and dependents, covered under all health plans in the state by all pool members during the preceding calendar year.

(b) For purposes of calculating the numerator and the denominator under (a) of this subsection:

(i) All health plans in the state by the state health care authority include only the uniform medical plan and the small business assist plan option established under section 2 of this act; and

(ii) Each ten resident insured persons, including spouse and dependents, under a stop loss plan or the uniform medical plan shall count as one resident insured person.

(c) Except as provided in RCW 48.41.037, any deficit incurred by the pool shall be recouped by assessments among members apportioned under this subsection pursuant to the formula set forth by the board among members.

(3) The board may abate or defer, in whole or in part, the assessment of a member if, in the opinion of the board, payment of the assessment would endanger the ability of the member to fulfill its contractual obligations. If an assessment against a member is abated or deferred in whole or in part, the amount by which such assessment is abated or deferred may be assessed against the other members in a manner consistent with the basis for assessments set forth in subsection (2) of this section. The member receiving such abatement or deferment shall remain liable to the pool for the deficiency.

(4) If assessments exceed actual losses and administrative expenses of the pool, the excess shall be held at interest and used by the board to offset future losses or to reduce pool premiums. As used in this subsection, "future losses" includes reserves for incurred but not reported claims.

NEW SECTION. **Sec. 10.** A new section is added to chapter 70.47 RCW to read as follows:

On or before December 15, 2006, the administrator shall provide a report to the governor and relevant policy and fiscal committees of the senate and the house of representatives. The report shall present options for providing a subsidy to small business assist plan enrollees or their employers to help pay the cost of their coverage. The options shall limit subsidies to enrollees with household income up to two hundred percent of the federal poverty level as adjusted for family size and determined annually by the federal department of health and human services.

NEW SECTION. **Sec. 11.** A new section is added to chapter 74.09 RCW to read as follows:

(1) The department shall make every effort to maximize opportunities to blend public and private funds through subsidization of small employer health benefit plan premiums on behalf of individuals eligible for medical assistance and children eligible for the state children's health insurance program when such subsidization is cost-effective for the state. In developing policies under this section, the department shall consult with the health care authority and, to the extent allowed by federal law, develop policies that are consistent with those policies developed by the health care authority under the

premium assistance option in section 2 of this act so that entire families have the opportunity to enroll in the same small employer health benefit plan.

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

Sec. 12. RCW 70.47.160 and 1995 c 266 s 3 are each amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

Sec. 13. RCW 41.05.140 and 2000 c 80 s 5 are each amended to read as follows:

(1) Except for property and casualty insurance, the authority may self-fund, self-insure, or enter into other methods of providing insurance coverage for insurance programs under its jurisdiction, including the basic health plan and the small business assist plan option as provided in chapter 70.47 RCW. The authority shall contract for payment of claims or other administrative services for programs under its jurisdiction. If a program does not require the prepayment of reserves, the authority shall establish such reserves within a reasonable period of time for the payment of claims as are normally required for that type of insurance under an insured program. The

authority shall endeavor to reimburse basic health plan health care providers under this section at rates similar to the average reimbursement rates offered by the statewide benchmark plan determined through the request for proposal process.

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

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

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

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

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

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

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

Sec. 14. RCW 43.79A.040 and 2004 c 246 s 8 and 2004 c 58 s 10 are each reenacted and amended to read as follows:

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

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

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

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

(b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the college savings program account, the Washington advanced college tuition payment program account, the agricultural local fund, the American Indian scholarship endowment

fund, the students with dependents grant account, the basic health plan self-insurance reserve account, the small business assist self-insurance reserve account, the contract harvesting revolving account, the Washington state combined fund drive account, the Washington international exchange scholarship endowment fund, the developmental disabilities endowment trust fund, the energy account, the fair fund, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the grain inspection revolving fund, the juvenile accountability incentive account, the law enforcement officers' and fire fighters' plan 2 expense fund, the local tourism promotion account, the produce railcar pool account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the sulfur dioxide abatement account, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund account, the Washington horse racing commission class C purse fund account, and the Washington horse racing commission operating account (earnings from the Washington horse racing commission operating account must be credited to the Washington horse racing commission class C purse fund account). However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

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

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

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

The small business assist trust account is hereby established in the state treasury. Any nongeneral fund--state funds collected for the

small business assist plan option shall be deposited in the small business assist trust account and may be expended without further appropriation. Moneys in the account shall be used exclusively for the purposes of administering the small business assist plan option, including payments to participating managed health care systems on behalf of small business assist plan enrollees.

NEW SECTION. **Sec. 16.** A new section is added to chapter 70.47 RCW to read as follows:

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

NEW SECTION. **Sec. 17.** For the fiscal year beginning July 1, 2006, the sum of two million dollars from the health services account - state is provided solely for premium assistance payments under section 2 of this act. This funding is provided in lieu of enrollment of one thousand persons in the basic health plan subsidized program during state fiscal year 2007.

--- END ---