
SENATE BILL 5980

State of Washington

59th Legislature

2005 Regular Session

By Senators Parlette, Deccio, Mulliken, Schmidt and Oke

Read first time 02/17/2005. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to small business health savings accounts; and
2 amending RCW 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)(a) An insurer offering any health benefit plan to a small
7 employer, either directly or through an association or member-governed
8 group formed specifically for the purpose of purchasing health care,
9 may offer and actively market to the small employer a health benefit
10 plan featuring a limited schedule of covered health care services.
11 Nothing in this subsection shall preclude an insurer from offering, or
12 a small employer from purchasing, other health benefit plans that may
13 have more comprehensive benefits than those included in the product
14 offered under this subsection. An insurer offering a health benefit
15 plan under this subsection shall clearly disclose all covered benefits
16 to the small employer in a brochure filed with the commissioner.

17 (b) A health benefit plan offered under this subsection shall
18 provide coverage for hospital expenses and services rendered by a
19 physician licensed under chapter 18.57 or 18.71 RCW but is not subject

1 to the requirements of RCW 48.21.130, 48.21.140, 48.21.141, 48.21.142,
2 48.21.144, 48.21.146, 48.21.160 through 48.21.197, 48.21.200,
3 48.21.220, 48.21.225, 48.21.230, 48.21.235, 48.21.240, 48.21.244,
4 48.21.250, 48.21.300, 48.21.310, or 48.21.320.

5 (c)(i) In lieu of a plan offered under (b) of this subsection, an
6 insurer may offer a health benefit plan that meets the insurance plan
7 requirements for a health savings account, as defined by the United
8 States internal revenue service, and that is not required to comply
9 with: RCW 48.21.130 through 48.21.240, 48.21.244 through 48.21.280,
10 48.21.300 through 48.21.320, 48.43.045(1) except as required in (c)(ii)
11 of this subsection, 48.43.093, 48.43.115 through 48.43.185,
12 48.43.515(5), 48.42.100, or 48.21.045(3) (a), (d), or (i).

13 (ii) In offering the plan under this subsection (1)(c), the insurer
14 must offer the small employer the option of permitting every category
15 of health care provider to provide health services or care for
16 conditions covered by the plan under RCW 48.43.045(1).

17 (iii) An insurer offering the plan under this subsection (1)(c)
18 must also offer and actively market at least one additional health
19 benefit plan to the small employer.

20 (2) Nothing in this section shall prohibit an insurer from
21 offering, or a purchaser from seeking, health benefit plans with
22 benefits in excess of the health benefit plan offered under subsection
23 (1) of this section. All forms, policies, and contracts shall be
24 submitted for approval to the commissioner, and the rates of any plan
25 offered under this section shall be reasonable in relation to the
26 benefits thereto.

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

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

- 31 (i) Geographic area;
- 32 (ii) Family size;
- 33 (iii) Age; and
- 34 (iv) Wellness activities.

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

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

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

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

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

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

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

18 (iii) Changes to the health benefit plan requested by the small
19 employer; or

20 (iv) Changes in government requirements affecting the health
21 benefit plan.

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

25 (h) For the purposes of this section, a health benefit plan that
26 contains a restricted network provision shall not be considered similar
27 coverage to a health benefit plan that does not contain such a
28 provision, provided that the restrictions of benefits to network
29 providers result in substantial differences in claims costs. A carrier
30 may develop its rates based on claims costs due to network provider
31 reimbursement schedules or type of network. This subsection does not
32 restrict or enhance the portability of benefits as provided in RCW
33 48.43.015.

34 (i) Adjusted community rates established under this section shall
35 pool the medical experience of all small groups purchasing coverage.
36 However, annual rate adjustments for each small group health benefit
37 plan may vary by up to plus or minus four percentage points from the
38 overall adjustment of a carrier's entire small group pool, such overall

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

13 (4) Nothing in this section shall restrict the right of employees
14 to collectively bargain for insurance providing benefits in excess of
15 those provided herein.

16 (5)(a) Except as provided in this subsection, requirements used by
17 an insurer in determining whether to provide coverage to a small
18 employer shall be applied uniformly among all small employers applying
19 for coverage or receiving coverage from the carrier.

20 (b) An insurer shall not require a minimum participation level
21 greater than:

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

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

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

30 (d) An insurer may not increase any requirement for minimum
31 employee participation or modify any requirement for minimum employer
32 contribution applicable to a small employer at any time after the small
33 employer has been accepted for coverage.

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

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

4 (7) As used in this section, "health benefit plan," "small
5 employer," "adjusted community rate," and "wellness activities" mean
6 the same as defined in RCW 48.43.005.

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

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

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

28 (c)(i) In lieu of a plan offered under (b) of this subsection, an
29 insurer may offer a health benefit plan that meets the insurance plan
30 requirements for a health savings account, as defined by the United
31 States internal revenue service, and that is not required to comply
32 with: RCW 48.44.210, 48.44.212, 48.44.225, 48.44.240 through
33 48.44.245, 48.44.290 through 48.44.340, 48.44.344, 48.44.360 through
34 48.44.380, 48.44.400, 48.44.420, 48.44.440 through 48.44.460,
35 48.44.500, 48.43.045(1) except as required in (b) of this subsection,
36 48.43.093, 48.43.115 through 48.43.185, 48.43.515(5), 48.42.100, or
37 48.44.023(3) (a), (d), or (i).

1 (ii) In offering the plan under this subsection (1)(c), the health
2 care service contractor must offer the small employer the option of
3 permitting every category of health care provider to provide health
4 services or care for conditions covered by the plan under RCW
5 48.43.045(1).

6 (iii) A health care service contractor offering the plan under this
7 subsection (1)(c) must also offer and actively market at least one
8 additional health benefit plan to the small employer.

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

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

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

- 20 (i) Geographic area;
- 21 (ii) Family size;
- 22 (iii) Age; and
- 23 (iv) Wellness activities.

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

28 (c) The contractor shall be permitted to develop separate rates for
29 individuals age sixty-five or older for coverage for which medicare is
30 the primary payer and coverage for which medicare is not the primary
31 payer. Both rates shall be subject to the requirements of this
32 subsection (3).

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

37 (e) A discount for wellness activities shall be permitted to

1 reflect actuarially justified differences in utilization or cost
2 attributed to such programs.

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

- 6 (i) Changes to the enrollment of the small employer;
- 7 (ii) Changes to the family composition of the employee;
- 8 (iii) Changes to the health benefit plan requested by the small
9 employer; or
- 10 (iv) Changes in government requirements affecting the health
11 benefit plan.

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

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

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

1 sixty days shall be deemed approved. The commissioner must provide to
2 the carrier a detailed actuarial justification for any denial within
3 thirty days of the denial.

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

7 (5)(a) Except as provided in this subsection, requirements used by
8 a contractor in determining whether to provide coverage to a small
9 employer shall be applied uniformly among all small employers applying
10 for coverage or receiving coverage from the carrier.

11 (b) A contractor shall not require a minimum participation level
12 greater than:

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

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

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

21 (d) A contractor may not increase any requirement for minimum
22 employee participation or modify any requirement for minimum employer
23 contribution applicable to a small employer at any time after the small
24 employer has been accepted for coverage.

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

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

35 (1)(a) A health maintenance organization offering any health
36 benefit plan to a small employer, either directly or through an
37 association or member-governed group formed specifically for the

1 purpose of purchasing health care, may offer and actively market to the
2 small employer a health benefit plan featuring a limited schedule of
3 covered health care services. Nothing in this subsection shall
4 preclude a health maintenance organization from offering, or a small
5 employer from purchasing, other health benefit plans that may have more
6 comprehensive benefits than those included in the product offered under
7 this subsection. A health maintenance organization offering a health
8 benefit plan under this subsection shall clearly disclose all the
9 covered benefits to the small employer in a brochure filed with the
10 commissioner.

11 (b) A health benefit plan offered under this subsection shall
12 provide coverage for hospital expenses and services rendered by a
13 physician licensed under chapter 18.57 or 18.71 RCW but is not subject
14 to the requirements of RCW 48.46.275, 48.46.280, 48.46.285, 48.46.290,
15 48.46.350, 48.46.355, 48.46.375, 48.46.440, 48.46.480, 48.46.510,
16 48.46.520, and 48.46.530.

17 (c)(i) In lieu of a plan offered under (b) of this subsection, a
18 health maintenance organization may offer a health benefit plan that
19 meets the insurance plan requirements for a health savings account, as
20 defined by the United States internal revenue service, and that is not
21 required to comply with: RCW 48.46.250, 48.46.272 through 48.46.290,
22 48.46.320, 48.46.350, 48.46.375, 48.46.440 through 48.46.460,
23 48.46.480, 48.46.490, 48.46.510 through 48.46.530, 48.46.565 through
24 48.46.575, 48.43.045(1) except as required in (b) of this subsection,
25 48.43.093, 48.43.115 through 48.43.185, 48.43.515(5), 48.42.100, or
26 48.46.066(3) (a), (d), or (i).

27 (ii) In offering the plan under this subsection (1)(c), the health
28 maintenance organization must offer the small employer the option of
29 permitting every category of health care provider to provide health
30 services or care for conditions covered by the plan under RCW
31 48.43.045(1).

32 (iii) A health maintenance organization offering the plan under
33 this subsection (1)(c) must also offer and actively market at least one
34 additional health benefit plan to the small employer.

35 (2) Nothing in this section shall prohibit a health maintenance
36 organization from offering, or a purchaser from seeking, health benefit
37 plans with benefits in excess of the health benefit plan offered under
38 subsection (1) of this section. All forms, policies, and contracts

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

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

6 (a) The health maintenance organization shall develop its rates
7 based on an adjusted community rate and may only vary the adjusted
8 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 health maintenance organization shall be permitted to
18 develop separate rates for individuals age sixty-five or older for
19 coverage for which medicare is the primary payer and coverage for which
20 medicare is not the primary payer. Both rates shall be subject to the
21 requirements of this subsection (3).

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

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

37 (b) A health maintenance organization shall not require a minimum
38 participation level 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 health maintenance organization may not increase any
10 requirement for minimum employee participation or modify any
11 requirement for minimum employer contribution applicable to a small
12 employer at any time after the small employer has been accepted for
13 coverage.

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

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