
SENATE BILL 6049

State of Washington

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2005 Regular Session

By Senators Parlette, Sheldon, Benton, Benson, Zarelli, Brandland, Carrell, Deccio, Hewitt, Johnson, Oke, Schoesler, Morton, Roach, Esser, Schmidt, Finkbeiner, Swecker, Honeyford, McCaslin and Mulliken

Read first time 02/24/2005. 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) 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 (2) Nothing in this section shall prohibit an insurer from
14 offering, or a purchaser from seeking, health benefit plans with
15 benefits in excess of the health benefit plan offered under subsection
16 (1) of this section. All forms, policies, and contracts shall be
17 submitted for approval to the commissioner, and the rates of any plan
18 offered under this section shall be reasonable in relation to the
19 benefits thereto.

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

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

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

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

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

37 (d) The permitted rates for any age group shall be no more than

1 four hundred twenty-five percent of the lowest rate for all age groups
2 on January 1, 1996, four hundred percent on January 1, 1997, and three
3 hundred seventy-five percent on January 1, 2000, and thereafter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (b) A health benefit plan offered under this subsection shall
16 provide coverage for hospital expenses and services rendered by a
17 physician licensed under chapter 18.57 or 18.71 RCW but is not subject
18 to the requirements of RCW 48.44.225, 48.44.240, 48.44.245, 48.44.290,
19 48.44.300, 48.44.310, 48.44.320, 48.44.325, 48.44.330, 48.44.335,
20 48.44.340, 48.44.344, 48.44.360, 48.44.400, 48.44.440, 48.44.450, and
21 48.44.460.

22 (c) In lieu of a plan offered under (b) of this subsection, an
23 insurer may offer a health benefit plan that meets the insurance plan
24 requirements for a health savings account, as defined by the United
25 States internal revenue service, and that is not required to comply
26 with: RCW 48.44.210, 48.44.212, 48.44.225, 48.44.240 through
27 48.44.245, 48.44.290 through 48.44.340, 48.44.344, 48.44.360 through
28 48.44.380, 48.44.400, 48.44.420, 48.44.440 through 48.44.460,
29 48.44.500, 48.43.045(1) except as required in (b) of this subsection,
30 48.43.093, 48.43.115 through 48.43.185, 48.43.515(5), 48.42.100, or
31 48.44.023(3) (a), (d), or (i).

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

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

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

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

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

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

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

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

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

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

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

37 (h) For the purposes of this section, a health benefit plan that
38 contains a restricted network provision shall not be considered similar

1 coverage to a health benefit plan that does not contain such a
2 provision, provided that the restrictions of benefits to network
3 providers result in substantial differences in claims costs. A carrier
4 may develop its rates based on claims costs due to network provider
5 reimbursement schedules or type of network. This subsection does not
6 restrict or enhance the portability of benefits as provided in RCW
7 48.43.015.

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

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

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

32 (b) A contractor shall not require a minimum participation level
33 greater than:

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

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

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

5 (d) A contractor may not increase any requirement for minimum
6 employee participation or modify any requirement for minimum employer
7 contribution applicable to a small employer at any time after the small
8 employer has been accepted for coverage.

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

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

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

32 (b) A health benefit plan offered under this subsection shall
33 provide coverage for hospital expenses and services rendered by a
34 physician licensed under chapter 18.57 or 18.71 RCW but is not subject
35 to the requirements of RCW 48.46.275, 48.46.280, 48.46.285, 48.46.290,
36 48.46.350, 48.46.355, 48.46.375, 48.46.440, 48.46.480, 48.46.510,
37 48.46.520, and 48.46.530.

1 (c) In lieu of a plan offered under (b) of this subsection, a
2 health maintenance organization may offer a health benefit plan that
3 meets the insurance plan requirements for a health savings account, as
4 defined by the United States internal revenue service, and that is not
5 required to comply with: RCW 48.46.250, 48.46.272 through 48.46.290,
6 48.46.320, 48.46.350, 48.46.375, 48.46.440 through 48.46.460,
7 48.46.480, 48.46.490, 48.46.510 through 48.46.530, 48.46.565 through
8 48.46.575, 48.43.045(1) except as required in (b) of this subsection,
9 48.43.093, 48.43.115 through 48.43.185, 48.43.515(5), 48.42.100, or
10 48.46.066(3) (a), (d), or (i).

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

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

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. This subsection does not
25 restrict or enhance the portability of benefits as provided in RCW
26 48.43.015.

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

1 subject to review by the commissioner, and must be approved or denied
2 within sixty days of submittal. A variation that is not denied within
3 sixty days shall be deemed approved. The commissioner must provide to
4 the carrier a detailed actuarial justification for any denial within
5 thirty days of the denial.

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

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

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

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

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

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

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

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

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