

E2SHB 1569 - S AMD 422

By Senators Keiser, Franklin

ADOPTED AS AMENDED 04/12/2007

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 70.47A.010 and 2006 c 255 s 1 are each amended to
4 read as follows:

5 (1) The legislature finds that many small employers struggle with
6 the cost of providing employer-sponsored health insurance coverage to
7 their employees, while others are unable to offer employer-sponsored
8 health insurance due to its high cost. Low-wage workers also struggle
9 with the burden of paying their share of the costs of
10 employer-sponsored health insurance, while others turn down their
11 employer's offer of coverage due to its costs.

12 (2) The legislature intends, through establishment of a ((small
13 employer)) health insurance partnership program, to remove economic
14 barriers to health insurance coverage for low-wage employees of small
15 employers by building on the private sector health benefit plan system
16 and encouraging employer and employee participation in
17 employer-sponsored health benefit plan coverage.

18 **Sec. 2.** RCW 70.47A.020 and 2006 c 255 s 2 are each amended to read
19 as follows:

20 The definitions in this section apply throughout this chapter
21 unless the context clearly requires otherwise.

22 (1) "Administrator" means the administrator of the Washington state
23 health care authority, established under chapter 41.05 RCW.

24 (2) "Board" means the health insurance partnership board
25 established in section 4 of this act.

26 (3) "Eligible ((employee)) partnership participant" means an
27 individual who:

28 (a) Is a resident of the state of Washington;

1 (b) Has family income (~~((less than))~~) that does not exceed two
2 hundred percent of the federal poverty level, as determined annually by
3 the federal department of health and human services; and

4 (c) Is employed by a participating small employer or is a former
5 employee of a participating small employer who chooses to continue
6 receiving coverage through the partnership following separation from
7 employment.

8 (~~((3))~~) (4) "Health benefit plan" has the same meaning as defined
9 in RCW 48.43.005 (~~((or any plan provided by a self-funded multiple~~
10 ~~employer welfare arrangement as defined in RCW 48.125.010 or by another~~
11 ~~benefit arrangement defined in the federal employee retirement income~~
12 ~~security act of 1974, as amended))~~).

13 (~~((4) "Program"))~~) (5) "Participating small employer" means a small
14 employer that employs at least one eligible partnership participant and
15 has entered into an agreement with the partnership for the partnership
16 to offer and administer the small employer's group health benefit plan,
17 as defined in federal law, Sec. 706 of ERISA (29 U.S.C. Sec. 1167), for
18 enrollees in the plan.

19 (6) "Partnership" means the (~~((small employer))~~) health insurance
20 partnership (~~((program))~~) established in RCW 70.47A.030.

21 (~~((5))~~) (7) "Partnership participant" means an employee of a
22 participating small employer, or a former employee of a participating
23 small employer who chooses to continue receiving coverage through the
24 partnership following separation from employment.

25 (8) "Small employer" has the same meaning as defined in RCW
26 48.43.005.

27 (~~((6))~~) (9) "Subsidy" or "premium subsidy" means payment or
28 reimbursement to an eligible (~~((employee))~~) partnership participant
29 toward the purchase of a health benefit plan, and may include a net
30 billing arrangement with insurance carriers or a prospective or
31 retrospective payment for health benefit plan premiums.

32 **Sec. 3.** RCW 70.47A.030 and 2006 c 255 s 3 are each amended to read
33 as follows:

34 (1) To the extent funding is appropriated in the operating budget
35 for this purpose, the (~~((small employer))~~) health insurance partnership
36 (~~((program))~~) is established. The administrator shall be responsible for
37 the implementation and operation of the (~~((small employer))~~) health

1 insurance partnership (~~program~~), directly or by contract. The
2 administrator shall offer premium subsidies to eligible (~~employees~~)
3 partnership participants under RCW 70.47A.040.

4 (2) Consistent with policies adopted by the board under section 4
5 of this act, the administrator shall, directly or by contract:

6 (a) Establish and administer procedures for enrolling small
7 employers in the partnership, including publicizing the existence of
8 the partnership and disseminating information on enrollment, and
9 establishing rules related to minimum participation of employees in
10 small groups purchasing health insurance through the partnership.
11 Opportunities to publicize the program for outreach and education of
12 small employers on the value of insurance shall explore the use of
13 online employer guides. As a condition of participating in the
14 partnership, a small employer must agree to establish a cafeteria plan
15 under section 125 of the federal internal revenue code that will enable
16 employees to use pretax dollars to pay their share of their health
17 benefit plan premium. The partnership shall provide technical
18 assistance to small employers for this purpose;

19 (b) Establish and administer procedures for health benefit plan
20 enrollment by employees of small employers during open enrollment
21 periods and outside of open enrollment periods upon the occurrence of
22 any qualifying event specified in the federal health insurance
23 portability and accountability act of 1996 or applicable state law.
24 Neither the employer nor the partnership shall limit an employee's
25 choice of coverage from among all the health benefit plans offered;

26 (c) Establish and manage a system for the partnership to be
27 designated as the sponsor or administrator of a participating small
28 employer health benefit plan and to undertake the obligations required
29 of a plan administrator under federal law;

30 (d) Establish and manage a system of collecting and transmitting to
31 the applicable carriers all premium payments or contributions made by
32 or on behalf of partnership participants, including employer
33 contributions, automatic payroll deductions for partnership
34 participants, premium subsidy payments, and contributions from
35 philanthropies;

36 (e) Establish and manage a system for determining eligibility for
37 and making premium subsidy payments under this act;

1 (f) Establish a mechanism to apply a surcharge to all health
2 benefit plans, which shall be used only to pay for administrative and
3 operational expenses of the partnership. The surcharge must be applied
4 uniformly to all health benefit plans offered through the partnership
5 and must be included in the premium for each health benefit plan.
6 Surcharges may not be used to pay any premium assistance payments under
7 this chapter;

8 (g) Design a schedule of premium subsidies that is based upon gross
9 family income, giving appropriate consideration to family size and the
10 ages of all family members based on a benchmark health benefit plan
11 designated by the board. The amount of an eligible partnership
12 participant's premium subsidy shall be determined by applying a sliding
13 scale subsidy schedule with the percentage of premium similar to that
14 developed for subsidized basic health plan enrollees under RCW
15 70.47.060. The subsidy shall be applied to the employee's premium
16 obligation for his or her health benefit plan, so that employees
17 benefit financially from any employer contribution to the cost of their
18 coverage through the partnership.

19 (3) The administrator may enter into interdepartmental agreements
20 with the office of the insurance commissioner, the department of social
21 and health services, and any other state agencies necessary to
22 implement this chapter.

23 NEW SECTION. Sec. 4. A new section is added to chapter 70.47A RCW
24 to read as follows:

25 (1) The health insurance partnership board is hereby established.
26 The governor shall appoint a nine-member board composed as follows:

- 27 (a) Two representatives of small employers;
28 (b) Two representatives of employees of small employers, one of
29 whom shall represent low-wage employees;
30 (c) Four employee health plan benefits specialists; and
31 (d) The administrator.

32 (2) The governor shall appoint the initial members of the board to
33 staggered terms not to exceed four years. Initial appointments shall
34 be made on or before June 1, 2007. Members appointed thereafter shall
35 serve two-year terms. Members of the board shall be compensated in
36 accordance with RCW 43.03.250 and shall be reimbursed for their travel
37 expenses while on official business in accordance with RCW 43.03.050

1 and 43.03.060. The board shall prescribe rules for the conduct of its
2 business. The administrator shall be the chair of the board. Meetings
3 of the board shall be at the call of the chair.

4 (3) The board may establish technical advisory committees or seek
5 the advice of technical experts when necessary to execute the powers
6 and duties included in this section.

7 (4) The board and employees of the board shall not be civilly or
8 criminally liable and shall not have any penalty or cause of action of
9 any nature arise against them for any action taken or not taken,
10 including any discretionary decision or failure to make a discretionary
11 decision, when the action or inaction is done in good faith and in the
12 performance of the powers and duties under this chapter. Nothing in
13 this section prohibits legal actions against the board to enforce the
14 board's statutory or contractual duties or obligations.

15 NEW SECTION. **Sec. 5.** A new section is added to chapter 70.47A RCW
16 to read as follows:

17 (1) The health insurance partnership board shall:

18 (a) Develop policies for enrollment of small employers in the
19 partnership, including minimum participation rules for small employer
20 groups. The small employer shall determine the criteria for
21 eligibility and enrollment in his or her plan and the terms and amounts
22 of the employer's contributions to that plan, consistent with any
23 minimum employer premium contribution level established by the board
24 under (d) of this subsection;

25 (b) Designate health benefit plans that are currently offered in
26 the small group market that will qualify for premium subsidy payments.
27 At least four health benefit plans shall be chosen, with multiple
28 deductible and point-of-service cost-sharing options. The health
29 benefit plans shall range from catastrophic to comprehensive coverage,
30 and one health benefit plan shall be a high deductible health plan.
31 Every effort shall be made to include health benefit plans that include
32 components to maximize the quality of care provided and result in
33 improved health outcomes, such as preventive care, wellness incentives,
34 chronic care management services, and provider network development and
35 payment policies related to quality of care;

36 (c) Approve a mid-range benefit plan from those selected to be used
37 as a benchmark plan for calculating premium subsidies;

1 (d) Determine whether there should be a minimum employer premium
2 contribution on behalf of employees, and if so, how much;

3 (e) Determine appropriate health benefit plan rating methodologies.
4 The methodologies shall be based on the small group adjusted community
5 rate as defined in Title 48 RCW. The board shall evaluate the impact
6 of applying the small group community rating with the partnership
7 principle of allowing each employee to choose their health benefit
8 plan, and consider options to reduce uncertainty for carriers and
9 provide for efficient risk management of high-cost enrollees through
10 risk adjustment, reinsurance, or other mechanisms;

11 (f) Conduct analyses and provide recommendations as requested by
12 the legislature and the governor, with the assistance of staff from the
13 health care authority and the office of the insurance commissioner.

14 (2) The board may authorize one or more limited health care service
15 plans for dental care services to be offered by limited health care
16 service contractors under RCW 48.44.035. However, such plan shall not
17 qualify for subsidy payments.

18 (3) In fulfilling the requirements of this section, the board shall
19 consult with small employers, the office of the insurance commissioner,
20 members in good standing of the American academy of actuaries, health
21 carriers, agents and brokers, and employees of small business.

22 **Sec. 6.** RCW 70.47A.040 and 2006 c 255 s 4 are each amended to read
23 as follows:

24 ~~((1))~~ Beginning ~~((July 1, 2007))~~ September 1, 2008, the
25 administrator shall accept applications from eligible ~~((employees))~~
26 partnership participants, on behalf of themselves, their spouses, and
27 their dependent children, to receive premium subsidies through the
28 ~~((small employer))~~ health insurance partnership ~~((program))~~.

29 ~~((2) Premium subsidy payments may be provided to eligible
30 employees if:~~

31 ~~(a) The eligible employee is employed by a small employer;~~

32 ~~(b) The actuarial value of the health benefit plan offered by the
33 small employer is at least equivalent to that of the basic health plan
34 benefit offered under chapter 70.47 RCW. The office of the insurance
35 commissioner under Title 48 RCW shall certify those small employer
36 health benefit plans that are at least actuarially equivalent to the
37 basic health plan benefit; and~~

1 ~~(c) The small employer will pay at least forty percent of the~~
2 ~~monthly premium cost for health benefit plan coverage of the eligible~~
3 ~~employee.~~

4 ~~(3) The amount of an eligible employee's premium subsidy shall be~~
5 ~~determined by applying the sliding scale subsidy schedule developed for~~
6 ~~subsidized basic health plan enrollees under RCW 70.47.060 to the~~
7 ~~employee's premium obligation for his or her employer's health benefit~~
8 ~~plan.~~

9 ~~(4) After an eligible individual has enrolled in the program, the~~
10 ~~program shall issue subsidies in an amount determined pursuant to~~
11 ~~subsection (3) of this section to either the eligible employee or to~~
12 ~~the carrier designated by the eligible employee.~~

13 ~~(5) An eligible employee must agree to provide verification of~~
14 ~~continued enrollment in his or her small employer's health benefit plan~~
15 ~~on a semiannual basis or to notify the administrator whenever his or~~
16 ~~her enrollment status changes, whichever is earlier. Verification or~~
17 ~~notification may be made directly by the employee, or through his or~~
18 ~~her employer or the carrier providing the small employer health benefit~~
19 ~~plan. When necessary, the administrator has the authority to perform~~
20 ~~retrospective audits on premium subsidy accounts. The administrator~~
21 ~~may suspend or terminate an employee's participation in the program and~~
22 ~~seek repayment of any subsidy amounts paid due to the omission or~~
23 ~~misrepresentation of an applicant or enrolled employee. The~~
24 ~~administrator shall adopt rules to define the appropriate application~~
25 ~~of these sanctions and the processes to implement the sanctions~~
26 ~~provided in this subsection, within available resources.))~~

27 **Sec. 7.** RCW 48.21.045 and 2004 c 244 s 1 are each amended to read
28 as follows:

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

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

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

11 (2) Nothing in this section shall prohibit an insurer from
12 offering, or a purchaser from seeking, health benefit plans with
13 benefits in excess of the health benefit plan offered under subsection
14 (1) of this section. All forms, policies, and contracts shall be
15 submitted for approval to the commissioner, and the rates of any plan
16 offered under this section shall be reasonable in relation to the
17 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 insurer shall develop its rates based on an adjusted
21 community rate and may only vary the adjusted community rate for:

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

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

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

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

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

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

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

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

9 (iii) Changes to the health benefit plan requested by the small
10 employer; or

11 (iv) Changes in government requirements affecting the health
12 benefit plan.

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

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

25 (i) Adjusted community rates established under this section shall
26 pool the medical experience of all small groups purchasing coverage,
27 including the small group participants in the health insurance
28 partnership established in RCW 70.47A.030. However, annual rate
29 adjustments for each small group health benefit plan may vary by up to
30 plus or minus four percentage points from the overall adjustment of a
31 carrier's entire small group pool, such overall adjustment to be
32 approved by the commissioner, upon a showing by the carrier, certified
33 by a member of the American academy of actuaries that: (i) The
34 variation is a result of deductible leverage, benefit design, or
35 provider network characteristics; and (ii) for a rate renewal period,
36 the projected weighted average of all small group benefit plans will
37 have a revenue neutral effect on the carrier's small group pool.
38 Variations of greater than four percentage points are subject to review

1 by the commissioner, and must be approved or denied within sixty days
2 of submittal. A variation that is not denied within sixty days shall
3 be deemed approved. The commissioner must provide to the carrier a
4 detailed actuarial justification for any denial within thirty days of
5 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 an insurer in determining whether to provide coverage to a small
11 employer shall be applied uniformly among all small employers applying
12 for coverage or receiving coverage from the carrier.

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

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

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

1 **Sec. 8.** 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 (2) Nothing in this section shall prohibit a health care service
23 contractor from offering, or a purchaser from seeking, health benefit
24 plans with benefits in excess of the health benefit plan offered under
25 subsection (1) of this section. All forms, policies, and contracts
26 shall be submitted for approval to the commissioner, and the rates of
27 any plan offered under this section shall be reasonable in relation to
28 the benefits thereto.

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

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

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

37 (b) The adjustment for age in (a)(iii) of this subsection may not

1 use age brackets smaller than five-year increments, which shall begin
2 with age twenty and end with age sixty-five. Employees under the age
3 of twenty shall be treated as those age twenty.

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

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

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

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

- 19 (i) Changes to the enrollment of the small employer;
- 20 (ii) Changes to the family composition of the employee;
- 21 (iii) Changes to the health benefit plan requested by the small
22 employer; or
- 23 (iv) Changes in government requirements affecting the health
24 benefit plan.

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

28 (h) For the purposes of this section, a health benefit plan that
29 contains a restricted network provision shall not be considered similar
30 coverage to a health benefit plan that does not contain such a
31 provision, provided that the restrictions of benefits to network
32 providers result in substantial differences in claims costs. A carrier
33 may develop its rates based on claims costs due to network provider
34 reimbursement schedules or type of network. This subsection does not
35 restrict or enhance the portability of benefits as provided in RCW
36 48.43.015.

37 (i) Adjusted community rates established under this section shall
38 pool the medical experience of all groups purchasing coverage.

1 including the small group participants in the health insurance
2 partnership established in RCW 70.47A.030. However, annual rate
3 adjustments for each small group health benefit plan may vary by up to
4 plus or minus four percentage points from the overall adjustment of a
5 carrier's entire small group pool, such overall adjustment to be
6 approved by the commissioner, upon a showing by the carrier, certified
7 by a member of the American academy of actuaries that: (i) The
8 variation is a result of deductible leverage, benefit design, or
9 provider network characteristics; and (ii) for a rate renewal period,
10 the projected weighted average of all small group benefit plans will
11 have a revenue neutral effect on the carrier's small group pool.
12 Variations of greater than four percentage points are subject to review
13 by the commissioner, and must be approved or denied within sixty days
14 of submittal. A variation that is not denied within sixty days shall
15 be deemed approved. The commissioner must provide to the carrier a
16 detailed actuarial justification for any denial within thirty days of
17 the denial.

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

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

25 (b) A contractor shall not require a minimum participation level
26 greater than:

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

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

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

35 (d) A contractor may not increase any requirement for minimum
36 employee participation or modify any requirement for minimum employer
37 contribution applicable to a small employer at any time after the small
38 employer has been accepted for coverage.

1 (6) A contractor must offer coverage to all eligible employees of
2 a small employer and their dependents. A contractor may not offer
3 coverage to only certain individuals or dependents in a small employer
4 group or to only part of the group. A contractor may not modify a
5 health plan with respect to a small employer or any eligible employee
6 or dependent, through riders, endorsements or otherwise, to restrict or
7 exclude coverage or benefits for specific diseases, medical conditions,
8 or services otherwise covered by the plan.

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

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

24 (b) A health benefit plan offered under this subsection shall
25 provide coverage for hospital expenses and services rendered by a
26 physician licensed under chapter 18.57 or 18.71 RCW but is not subject
27 to the requirements of RCW 48.46.275, 48.46.280, 48.46.285, 48.46.290,
28 48.46.350, 48.46.355, 48.46.375, 48.46.440, 48.46.480, 48.46.510,
29 48.46.520, and 48.46.530.

30 (2) Nothing in this section shall prohibit a health maintenance
31 organization from offering, or a purchaser from seeking, health benefit
32 plans with benefits in excess of the health benefit plan offered under
33 subsection (1) of this section. All forms, policies, and contracts
34 shall be submitted for approval to the commissioner, and the rates of
35 any plan offered under this section shall be reasonable in relation to
36 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 health maintenance organization shall develop its rates
4 based on an adjusted community rate and may only vary the adjusted
5 community rate for:

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

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

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

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

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

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

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

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

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

10 (i) Adjusted community rates established under this section shall
11 pool the medical experience of all groups purchasing coverage,
12 including the small group participants in the health insurance
13 partnership established in RCW 70.47A.030. However, annual rate
14 adjustments for each small group health benefit plan may vary by up to
15 plus or minus four percentage points from the overall adjustment of a
16 carrier's entire small group pool, such overall adjustment to be
17 approved by the commissioner, upon a showing by the carrier, certified
18 by a member of the American academy of actuaries that: (i) The
19 variation is a result of deductible leverage, benefit design, or
20 provider network characteristics; and (ii) for a rate renewal period,
21 the projected weighted average of all small group benefit plans will
22 have a revenue neutral effect on the carrier's small group pool.
23 Variations of greater than four percentage points are subject to review
24 by the commissioner, and must be approved or denied within sixty days
25 of submittal. A variation that is not denied within sixty days shall
26 be deemed approved. The commissioner must provide to the carrier a
27 detailed actuarial justification for any denial within thirty days of
28 the denial.

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

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

36 (b) A health maintenance organization shall not require a minimum
37 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.

23 NEW SECTION. **Sec. 10.** On or before December 1, 2008, the health
24 insurance partnership board shall submit a report to the governor and
25 the legislature that includes an implementation plan to incorporate the
26 individual and small group health insurance markets into the
27 partnership program. In preparing the report, the board shall examine
28 at least the following issues:

29 (1) The impact of these markets being incorporated into the
30 partnership, with respect to the utilization of services and cost of
31 health plans offered through the partnership;

32 (2) The impact of applying small group health benefit plan
33 regulations on access to health services and the cost of coverage for
34 these markets; and

35 (3) How the composition of the board should be modified to reflect
36 the incorporation of the individual and small group markets in the
37 partnership.

1 NEW SECTION. **Sec. 11.** On or before December 1, 2009, the health
2 insurance partnership board shall submit a report and recommendations
3 to the governor and the legislature regarding:

4 (1) The risks and benefits of additional markets participating in
5 the partnership:

6 (a) The report shall examine the following markets:

7 (i) Washington state health insurance pool under chapter 48.41 RCW;

8 (ii) Basic health plan under chapter 70.47 RCW;

9 (iii) Public employees' benefits board enrollees under chapter
10 41.05 RCW; and

11 (iv) Public school employees; and

12 (b) The report shall examine at least the following issues:

13 (i) The impact of these markets participating in the partnership,
14 with respect to the utilization of services and cost of health plans
15 offered through the partnership;

16 (ii) Whether any distinction should be made in participation
17 between active and retired employees enrolled in public employees'
18 benefits board plans, giving consideration to the implicit subsidy that
19 nonmedicare-eligible retirees currently benefit from by being pooled
20 with active employees, and how medicare-eligible retirees would be
21 affected;

22 (iii) The impact of applying small group health benefit plan
23 regulations on access to health services and the cost of coverage for
24 these markets; and

25 (iv) If the board recommends the inclusion of additional markets,
26 how the composition of the board should be modified to reflect the
27 participation of these markets; and

28 (2) The risks and benefits of establishing a requirement that
29 residents of the state of Washington age eighteen and over obtain and
30 maintain affordable creditable coverage, as defined in the federal
31 health insurance portability and accountability act of 1996 (42 U.S.C.
32 Sec. 300gg(c)). The report shall address the question of how a
33 requirement that residents maintain coverage could be enforced in the
34 state of Washington.

35 **Sec. 12.** RCW 70.47A.050 and 2006 c 255 s 5 are each amended to
36 read as follows:

37 Enrollment in the ((small-employer)) health insurance partnership

1 ((program)) is not an entitlement and shall not result in expenditures
2 that exceed the amount that has been appropriated for the program in
3 the operating budget. If it appears that continued enrollment will
4 result in expenditures exceeding the appropriated level for a
5 particular fiscal year, the administrator may freeze new enrollment in
6 the program and establish a waiting list of eligible employees who
7 shall receive subsidies only when sufficient funds are available.

8 **Sec. 13.** RCW 70.47A.060 and 2006 c 255 s 6 are each amended to
9 read as follows:

10 The administrator shall adopt all rules necessary for the
11 implementation and operation of the ((small-employer)) health insurance
12 partnership ((program)). As part of the rule development process, the
13 administrator shall consult with small employers, carriers, employee
14 organizations, and the office of the insurance commissioner under Title
15 48 RCW to determine an effective and efficient method for the payment
16 of subsidies under this chapter. All rules shall be adopted in
17 accordance with chapter 34.05 RCW.

18 **Sec. 14.** RCW 70.47A.080 and 2006 c 255 s 8 are each amended to
19 read as follows:

20 The ((small-employer)) health insurance partnership ((program))
21 account is hereby established in the custody of the state treasurer.
22 Any nongeneral fund--state funds collected for the ((small-employer))
23 health insurance partnership ((program)) shall be deposited in the
24 ((small-employer)) health insurance partnership ((program)) account.
25 Moneys in the account shall be used exclusively for the purposes of
26 administering the ((small-employer)) health insurance partnership
27 ((program)), including payments to ((participating managed health care
28 systems)) insurance carriers on behalf of ((small-employer)) health
29 insurance partnership enrollees. Only the administrator of the health
30 care authority or his or her designee may authorize expenditures from
31 the account. The account is subject to allotment procedures under
32 chapter 43.88 RCW, but an appropriation is not required for
33 expenditures.

34 NEW SECTION. **Sec. 15.** (1) The office of the insurance
35 commissioner shall contract for an independent study of health benefit

1 mandates, rating requirements, and insurance statutes and rules to
2 determine the impact on premiums and individuals' health if those
3 statutes or rules were amended or repealed.

4 (2) The office of the insurance commissioner shall submit an
5 interim report to the governor and appropriate committees of the
6 legislature by December 1, 2007, and a final report by December 1,
7 2008.

8 NEW SECTION. **Sec. 16.** 2006 c 255 s 10 (uncodified) is repealed.

9 NEW SECTION. **Sec. 17.** Sections 1 through 6 of this act are
10 necessary for the immediate preservation of the public peace, health,
11 or safety, or support of the state government and its existing public
12 institutions, and take effect July 1, 2007.

13 NEW SECTION. **Sec. 18.** If specific funding for the purposes of the
14 following sections of this act, referencing the section of this act by
15 bill or chapter number and section number, is not provided by June 30,
16 2007, in the omnibus appropriations act, the section is null and void:

- 17 (1) Section 5 (health insurance partnership board);
- 18 (2) Section 15 (office of insurance commissioner independent
19 study)."

E2SHB 1569 - S AMD
By Senators Keiser, Franklin

ADOPTED AS AMENDED 04/12/2007

20 On page 1, line 1 of the title, after "Relating to" strike the
21 remainder of the title and insert "improving health insurance coverage
22 by establishing a health insurance partnership for the purchase of
23 small employer health insurance coverage, evaluating the inclusion of
24 additional health insurance markets in the health insurance
25 partnership, and studying the impact of health insurance mandates;
26 amending RCW 70.47A.010, 70.47A.020, 70.47A.030, 70.47A.040, 48.21.045,
27 48.44.023, 48.46.066, 70.47A.050, 70.47A.060, and 70.47A.080; adding

1 new sections to chapter 70.47A RCW; creating new sections; repealing
2 2006 c 255 s 10 (uncodified); providing an effective date; and
3 declaring an emergency."

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