

2SHB 2537 - S COMM AMD

By Committee on Ways & Means

ADOPTED AND ENGROSSED 03/07/08

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

3 "Sec. 1. RCW 70.47A.020 and 2007 c 260 s 2 are each amended to
4 read as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

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

9 (2) "Board" means the health insurance partnership board
10 established in RCW 70.47A.100.

11 (3) "Eligible partnership participant" means ~~((an individual))~~ a
12 partnership participant who:

13 (a) Is a resident of the state of Washington; and

14 (b) Has family income that does not exceed two hundred percent of
15 the federal poverty level, as determined annually by the federal
16 department of health and human services(~~(; and~~

17 ~~(c) Is employed by a participating small employer or is a former~~
18 ~~employee of a participating small employer who chooses to continue~~
19 ~~receiving coverage through the partnership following separation from~~
20 ~~employment)).~~

21 (4) "Health benefit plan" has the same meaning as defined in RCW
22 48.43.005.

23 (5) "Participating small employer" means a small employer that
24 ~~((employs at least one eligible partnership participant and))~~ has
25 entered into an agreement with the partnership ~~((for the partnership to~~
26 ~~offer and administer the small employer's group health benefit plan, as~~
27 ~~defined in federal law, Sec. 706 of ERISA (29 U.S.C. Sec. 1167), for~~
28 ~~enrollees in the plan))~~ to purchase health benefits through the
29 partnership. To participate in the partnership, an employer must

1 attest to the fact that (a) the employer does not currently offer
2 health insurance to its employees, and (b) at least fifty percent of
3 the employer's employees are low-wage workers.

4 (6) "Partnership" means the health insurance partnership
5 established in RCW 70.47A.030.

6 (7) "Partnership participant" means (~~(an employee)~~) a participating
7 small employer and employees of a participating small employer, (~~(or)~~)
8 and, except to the extent provided otherwise in RCW 70.47A.110(1)(e),
9 a former employee of a participating small employer who chooses to
10 continue receiving coverage through the partnership following
11 separation from employment.

12 (8) "Small employer" has the same meaning as defined in RCW
13 48.43.005.

14 (9) "Subsidy" or "premium subsidy" means payment or reimbursement
15 to an eligible partnership participant toward the purchase of a health
16 benefit plan, and may include a net billing arrangement with insurance
17 carriers or a prospective or retrospective payment for health benefit
18 plan premiums.

19 **Sec. 2.** RCW 70.47A.030 and 2007 c 259 s 58 are each amended to
20 read as follows:

21 (1) To the extent funding is appropriated in the operating budget
22 for this purpose, the health insurance partnership is established. The
23 administrator shall be responsible for the implementation and operation
24 of the health insurance partnership, directly or by contract. The
25 administrator shall offer premium subsidies to eligible partnership
26 participants under RCW 70.47A.040. The partnership shall begin to
27 offer coverage no later than March 1, 2009.

28 (2) Consistent with policies adopted by the board under (~~section~~
29 ~~59 of this act~~)) RCW 70.47A.110, the administrator shall, directly or
30 by contract:

31 (a) Establish and administer procedures for enrolling small
32 employers in the partnership, including publicizing the existence of
33 the partnership and disseminating information on enrollment, and
34 establishing rules related to minimum participation of employees in
35 small groups purchasing health insurance through the partnership.
36 Opportunities to publicize the program for outreach and education of
37 small employers on the value of insurance shall explore the use of

1 online employer guides. As a condition of participating in the
2 partnership, a small employer must agree to establish a cafeteria plan
3 under section 125 of the federal internal revenue code that will enable
4 employees to use pretax dollars to pay their share of their health
5 benefit plan premium. The partnership shall provide technical
6 assistance to small employers for this purpose;

7 (b) Establish and administer procedures for health benefit plan
8 enrollment by employees of small employers during open enrollment
9 periods and outside of open enrollment periods upon the occurrence of
10 any qualifying event specified in the federal health insurance
11 portability and accountability act of 1996 or applicable state law.
12 ~~((Neither))~~ Except to the extent authorized in RCW 70.47A.110(1)(e),
13 neither the employer nor the partnership shall limit an employee's
14 choice of coverage from among ~~((all))~~ the health benefit plans offered
15 through the partnership;

16 ~~((c))~~ ~~((Establish and manage a system for the partnership to be~~
17 ~~designated as the sponsor or administrator of a participating small~~
18 ~~employer health benefit plan and to undertake the obligations required~~
19 ~~of a plan administrator under federal law;~~

20 ~~((d))~~ Establish and manage a system of collecting and transmitting
21 to the applicable carriers all premium payments or contributions made
22 by or on behalf of partnership participants, including employer
23 contributions, automatic payroll deductions for partnership
24 participants, premium subsidy payments, and contributions from
25 philanthropies;

26 ~~((e))~~ (d) Establish and manage a system for determining
27 eligibility for and making premium subsidy payments under chapter 259,
28 Laws of 2007;

29 ~~((f))~~ (e) Establish a mechanism to apply a surcharge to ~~((all))~~
30 each health benefit plan~~((s))~~ purchased through the partnership, which
31 shall be used only to pay for administrative and operational expenses
32 of the partnership. The surcharge must be applied uniformly to all
33 health benefit plans ~~((offered))~~ purchased through the partnership
34 ~~((and must be included in the premium for each health benefit plan))~~.
35 Any surcharge amount may be added to the premium, but shall not be
36 considered part of the small group community rate, and shall be applied
37 only to the coverage purchased through the partnership. Surcharges may
38 not be used to pay any premium assistance payments under this chapter.

1 The surcharge shall reflect administrative and operational expenses
2 remaining after any appropriation provided by the legislature to
3 support administrative or operational expenses of the partnership
4 during the year the surcharge is assessed;

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

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

20 **Sec. 3.** RCW 70.47A.040 and 2007 c 260 s 6 are each amended to read
21 as follows:

22 Beginning ((~~September 1, 2008~~)) January 1, 2009, the administrator
23 shall accept applications from eligible partnership participants, on
24 behalf of themselves, their spouses, and their dependent children, to
25 receive premium subsidies through the health insurance partnership.
26 Every effort shall be made to coordinate premium subsidies for
27 dependent children with federal funding available under Title XIX and
28 Title XXI of the federal social security act, consistent with the
29 requirements established in RCW 74.09.470(4) for the employer-sponsored
30 insurance program at the department of social and health services.

31 **Sec. 4.** RCW 70.47A.070 and 2006 c 255 s 7 are each amended to read
32 as follows:

33 The administrator shall report biennially, beginning November 1,
34 2010, to the relevant policy and fiscal committees of the legislature
35 on the effectiveness and efficiency of the ((~~small employer~~)) health

1 insurance partnership program, including enrollment trends, the
2 services and benefits covered under the purchased health benefit plans,
3 consumer satisfaction, and other program operational issues.

4 **Sec. 5.** RCW 70.47A.110 and 2007 c 260 s 5 are each amended to read
5 as follows:

6 (1) The health insurance partnership board shall:

7 (a) Develop policies for enrollment of small employers in the
8 partnership, including minimum participation rules for small employer
9 groups. The small employer shall determine the criteria for
10 eligibility and enrollment in his or her plan and the terms and amounts
11 of the employer's contributions to that plan, consistent with any
12 minimum employer premium contribution level established by the board
13 under (d) of this subsection;

14 (b) Designate health benefit plans that are currently offered in
15 the small group market that will be offered to participating small
16 employers through the health insurance partnership and those plans that
17 will qualify for premium subsidy payments. (~~At least four~~) Up to
18 five health benefit plans shall be chosen, with multiple deductible and
19 point-of-service cost-sharing options. The health benefit plans shall
20 range from catastrophic to comprehensive coverage, and one health
21 benefit plan shall be a high deductible health plan accompanied by a
22 health savings account. Every effort shall be made to include health
23 benefit plans that include components to maximize the quality of care
24 provided and result in improved health outcomes, such as preventive
25 care, wellness incentives, chronic care management services, and
26 provider network development and payment policies related to quality of
27 care;

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

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

32 (e) Develop policies related to partnership participant enrollment
33 in health benefit plans. The board may focus its initial efforts on
34 access to coverage and affordability of coverage for participating
35 small employers and their employees. To the extent necessary for
36 successful implementation of the partnership, during a start-up phase
37 of partnership operation, the board may:

1 (i) Limit partnership participant health benefit plan choice; and
2 (ii) Offer former employees of participating small employers the
3 opportunity to continue coverage after separation from employment to
4 the extent that a former employee is eligible for continuation coverage
5 under 29 U.S.C. Sec. 1161 et seq.

6 The start-up phase may not exceed two years from the date the
7 partnership begins to offer coverage;

8 (f) Determine appropriate health benefit plan rating methodologies.
9 The methodologies shall be based on the small group adjusted community
10 rate as defined in Title 48 RCW. The board shall evaluate the impact
11 of applying the small group adjusted community rating ~~((with))~~
12 methodology to health benefit plans purchased through the partnership
13 on the ~~((partnership))~~ principle of allowing each ~~((employee))~~
14 partnership participant to choose ~~((their))~~ his or her health benefit
15 plan, and ~~((consider options))~~ may implement one or more risk
16 adjustment or reinsurance mechanisms to reduce uncertainty for carriers
17 and provide for efficient risk management of high-cost enrollees
18 ~~((through risk adjustment, reinsurance, or other mechanisms));~~

19 ~~((+f))~~ (g) Determine whether the partnership should be designated
20 as the administrator of a participating small employer health benefit
21 plan and undertake the obligations required of a plan administrator
22 under federal law in order to minimize administrative burdens on
23 participating small employers;

24 (h) Conduct analyses and provide recommendations as requested by
25 the legislature and the governor, with the assistance of staff from the
26 health care authority and the office of the insurance commissioner.

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

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

35 **Sec. 6.** RCW 48.21.045 and 2007 c 260 s 7 are each amended to read
36 as follows:

37 (1)(a) An insurer offering any health benefit plan to a small

1 employer, either directly or through an association or member-governed
2 group formed specifically for the purpose of purchasing health care,
3 may offer and actively market to the small employer a health benefit
4 plan featuring a limited schedule of covered health care services.
5 Nothing in this subsection shall preclude an insurer from offering, or
6 a small employer from purchasing, other health benefit plans that may
7 have more comprehensive benefits than those included in the product
8 offered under this subsection. An insurer offering a health benefit
9 plan under this subsection shall clearly disclose all covered benefits
10 to the small employer in a brochure filed with the 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 48.21.130, 48.21.140, 48.21.141, 48.21.142,
15 48.21.144, 48.21.146, 48.21.160 through 48.21.197, 48.21.200,
16 48.21.220, 48.21.225, 48.21.230, 48.21.235, ((48.21.240,)) 48.21.244,
17 48.21.250, 48.21.300, 48.21.310, or 48.21.320.

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

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

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

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

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

37 (c) The insurer shall be permitted to develop separate rates for
38 individuals age sixty-five or older for coverage for which medicare is

1 the primary payer and coverage for which medicare is not the primary
2 payer. Both rates shall be subject to the requirements of this
3 subsection (3).

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

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

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

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

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

16 (iii) Changes to the health benefit plan requested by the small
17 employer; or

18 (iv) Changes in government requirements affecting the health
19 benefit plan.

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

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

32 (i) Adjusted community rates established under this section shall
33 pool the medical experience of all small groups purchasing coverage,
34 including the small group participants in the health insurance
35 partnership established in RCW 70.47A.030. However, annual rate
36 adjustments for each small group health benefit plan may vary by up to
37 plus or minus four percentage points from the overall adjustment of a
38 carrier's entire small group pool, such overall adjustment to be

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

13 (j) For health benefit plans purchased through the health insurance
14 partnership established in chapter 70.47A RCW:

15 (i) Any surcharge established pursuant to RCW 70.47A.030(2)(e)
16 shall be applied only to health benefit plans purchased through the
17 health insurance partnership; and

18 (ii) Risk adjustment or reinsurance mechanisms may be used by the
19 health insurance partnership program to redistribute funds to carriers
20 participating in the health insurance partnership based on differences
21 in risk attributable to individual choice of health plans or other
22 factors unique to health insurance partnership participation. Use of
23 such mechanisms shall be limited to the partnership program and will
24 not affect small group health plans offered outside the partnership.

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 an insurer 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) An insurer 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) An insurer 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) Minimum participation requirements and employer premium
10 contribution requirements adopted by the health insurance partnership
11 board under RCW 70.47A.110 shall apply only to the employers and
12 employees who purchase health benefit plans through the health
13 insurance partnership.

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

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

25 **Sec. 7.** RCW 48.44.023 and 2007 c 260 s 8 are each amended to read
26 as follows:

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

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

3 (b) A health benefit plan offered under this subsection shall
4 provide coverage for hospital expenses and services rendered by a
5 physician licensed under chapter 18.57 or 18.71 RCW but is not subject
6 to the requirements of RCW 48.44.225, 48.44.240, 48.44.245, 48.44.290,
7 48.44.300, 48.44.310, 48.44.320, 48.44.325, 48.44.330, 48.44.335,
8 (~~48.44.340,~~) 48.44.344, 48.44.360, 48.44.400, 48.44.440, 48.44.450,
9 and 48.44.460.

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

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

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

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

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

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

34 (d) The permitted rates for any age group shall be no more than
35 four hundred twenty-five percent of the lowest rate for all age groups
36 on January 1, 1996, four hundred percent on January 1, 1997, and three
37 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 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 (j) For health benefit plans purchased through the health insurance
7 partnership established in chapter 70.47A RCW:

8 (i) Any surcharge established pursuant to RCW 70.47A.030(2)(e)
9 shall be applied only to health benefit plans purchased through the
10 health insurance partnership; and

11 (ii) Risk adjustment or reinsurance mechanisms may be used by the
12 health insurance partnership program to redistribute funds to carriers
13 participating in the health insurance partnership based on differences
14 in risk attributable to individual choice of health plans or other
15 factors unique to health insurance partnership participation. Use of
16 such mechanisms shall be limited to the partnership program and will
17 not affect small group health plans offered outside the partnership.

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 (e) Minimum participation requirements and employer premium
2 contribution requirements adopted by the health insurance partnership
3 board under RCW 70.47A.110 shall apply only to the employers and
4 employees who purchase health benefit plans through the health
5 insurance partnership.

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

14 **Sec. 8.** RCW 48.46.066 and 2007 c 260 s 9 are each amended to read
15 as follows:

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

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

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

1 subsection (1) of this section. All forms, policies, and contracts
2 shall be submitted for approval to the commissioner, and the rates of
3 any plan offered under this section shall be reasonable in relation to
4 the benefits thereto.

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

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

- 10 (i) Geographic area;
- 11 (ii) Family size;
- 12 (iii) Age; and
- 13 (iv) Wellness activities.

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

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

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

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

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

- 33 (i) Changes to the enrollment of the small employer;
- 34 (ii) Changes to the family composition of the employee;
- 35 (iii) Changes to the health benefit plan requested by the small
36 employer; or
- 37 (iv) Changes in government requirements affecting the health
38 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 including the small group participants in the health insurance
16 partnership established in RCW 70.47A.030. However, annual rate
17 adjustments for each small group health benefit plan may vary by up to
18 plus or minus four percentage points from the overall adjustment of a
19 carrier's entire small group pool, such overall adjustment to be
20 approved by the commissioner, upon a showing by the carrier, certified
21 by a member of the American academy of actuaries that: (i) The
22 variation is a result of deductible leverage, benefit design, or
23 provider network characteristics; and (ii) for a rate renewal period,
24 the projected weighted average of all small group benefit plans will
25 have a revenue neutral effect on the carrier's small group pool.
26 Variations of greater than four percentage points are subject to review
27 by the commissioner, and must be approved or denied within sixty days
28 of submittal. A variation that is not denied within sixty days shall
29 be deemed approved. The commissioner must provide to the carrier a
30 detailed actuarial justification for any denial within thirty days of
31 the denial.

32 (j) For health benefit plans purchased through the health insurance
33 partnership established in chapter 70.47A RCW:

34 (i) Any surcharge established pursuant to RCW 70.47A.030(2)(e)
35 shall be applied only to health benefit plans purchased through the
36 health insurance partnership; and

37 (ii) Risk adjustment or reinsurance mechanisms may be used by the
38 health insurance partnership program to redistribute funds to carriers

1 participating in the health insurance partnership based on differences
2 in risk attributable to individual choice of health plans or other
3 factors unique to health insurance partnership participation. Use of
4 such mechanisms shall be limited to the partnership program and will
5 not affect small group health plans offered outside the partnership.

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 (e) Minimum participation requirements and employer premium
29 contribution requirements adopted by the health insurance partnership
30 board under RCW 70.47A.110 shall apply only to the employers and
31 employees who purchase health benefit plans through the health
32 insurance partnership.

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

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

4 NEW SECTION. **Sec. 9.** If specific funding for the purposes of this
5 act, referencing this act by bill or chapter number, is not provided by
6 June 30, 2008, in the omnibus appropriations act, this act is null and
7 void."

2SHB 2537 - S COMM AMD
By Committee on Ways & Means

ADOPTED 03/07/08

8 On page 1, line 3 of the title, after "partnership;" strike the
9 remainder of the title and insert "amending RCW 70.47A.020, 70.47A.030,
10 70.47A.040, 70.47A.070, 70.47A.110, 48.21.045, 48.44.023, and
11 48.46.066; and creating a new section."

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