

2SHB 2537 - S COMM AMD

By Committee on Health & Long-Term Care

OUT OF ORDER 03/07/2008

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.

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

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

9 (8) "Small employer" has the same meaning as defined in RCW  
10 48.43.005.

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

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

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

25 (2) Consistent with policies adopted by the board under (~~(section~~  
26 ~~59 of this act)~~) RCW 70.47A.110, the administrator shall, directly or  
27 by contract:

28 (a) Establish and administer procedures for enrolling small  
29 employers in the partnership, including publicizing the existence of  
30 the partnership and disseminating information on enrollment, and  
31 establishing rules related to minimum participation of employees in  
32 small groups purchasing health insurance through the partnership.  
33 Opportunities to publicize the program for outreach and education of  
34 small employers on the value of insurance shall explore the use of  
35 online employer guides. As a condition of participating in the  
36 partnership, a small employer must agree to establish a cafeteria plan  
37 under section 125 of the federal internal revenue code that will enable

1 employees to use pretax dollars to pay their share of their health  
2 benefit plan premium. The partnership shall provide technical  
3 assistance to small employers for this purpose;

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

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

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

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

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

1 support administrative or operational expenses of the partnership  
2 during the year the surcharge is assessed;

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

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

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

20 Beginning ((~~September 1, 2008~~)) January 1, 2009, the administrator  
21 shall accept applications from eligible partnership participants, on  
22 behalf of themselves, their spouses, and their dependent children, to  
23 receive premium subsidies through the health insurance partnership.

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

26 The administrator shall report biennially, beginning November 1,  
27 2010, to the relevant policy and fiscal committees of the legislature  
28 on the effectiveness and efficiency of the ((~~small employer~~)) health  
29 insurance partnership program, including enrollment trends, the  
30 services and benefits covered under the purchased health benefit plans,  
31 consumer satisfaction, and other program operational issues.

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

34 (1) The health insurance partnership board shall:

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

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

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

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

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

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

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

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

12       ~~((+f))~~ (g) Determine whether the partnership should be designated  
13       as the administrator of a participating small employer health benefit  
14       plan and undertake the obligations required of a plan administrator  
15       under federal law in order to minimize administrative burdens on  
16       participating small employers;

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

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

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

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

30       (1)(a) An insurer offering any health benefit plan to a small  
31       employer, either directly or through an association or member-governed  
32       group formed specifically for the purpose of purchasing health care,  
33       may offer and actively market to the small employer a health benefit  
34       plan featuring a limited schedule of covered health care services.  
35       Nothing in this subsection shall preclude an insurer from offering, or  
36       a small employer from purchasing, other health benefit plans that may  
37       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 (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 an insurer 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) An insurer 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) An insurer 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) An insurer must offer coverage to all eligible employees of a  
7 small employer and their dependents. An insurer may not offer coverage  
8 to only certain individuals or dependents in a small employer group or  
9 to only part of the group. An insurer may not modify a health plan  
10 with respect to a small employer or any eligible employee or dependent,  
11 through riders, endorsements or otherwise, to restrict or exclude  
12 coverage or benefits for specific diseases, medical conditions, or  
13 services otherwise covered by the plan.

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

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

19       (1)(a) A health care services contractor 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 contractor from offering, or a small employer from  
26 purchasing, other health benefit plans that may have more comprehensive  
27 benefits than those included in the product offered under this  
28 subsection. A contractor offering a health benefit plan under this  
29 subsection shall clearly disclose all covered benefits to the small  
30 employer in a brochure filed with the commissioner.

31       (b) A health benefit plan offered under this subsection shall  
32 provide coverage for hospital expenses and services rendered by a  
33 physician licensed under chapter 18.57 or 18.71 RCW but is not subject  
34 to the requirements of RCW 48.44.225, 48.44.240, 48.44.245, 48.44.290,  
35 48.44.300, 48.44.310, 48.44.320, 48.44.325, 48.44.330, 48.44.335,  
36 (~~48.44.340~~) 48.44.344, 48.44.360, 48.44.400, 48.44.440, 48.44.450,  
37 and 48.44.460.

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

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

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

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

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

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

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

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

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

- 35 (i) Changes to the enrollment of the small employer;
- 36 (ii) Changes to the family composition of the employee;
- 37 (iii) Changes to the health benefit plan requested by the small  
38 employer; or

1 (iv) Changes in government requirements affecting the health  
2 benefit plan.

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

6 (h) For the purposes of this section, a health benefit plan that  
7 contains a restricted network provision shall not be considered similar  
8 coverage to a health benefit plan that does not contain such a  
9 provision, provided that the restrictions of benefits to network  
10 providers result in substantial differences in claims costs. A carrier  
11 may develop its rates based on claims costs due to network provider  
12 reimbursement schedules or type of network. This subsection does not  
13 restrict or enhance the portability of benefits as provided in RCW  
14 48.43.015.

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

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

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

1        (ii) Risk adjustment or reinsurance mechanisms may be used by the  
2 health insurance partnership program to redistribute funds to carriers  
3 participating in the health insurance partnership based on differences  
4 in risk attributable to individual choice of health plans or other  
5 factors unique to health insurance partnership participation. Use of  
6 such mechanisms shall be limited to the partnership program and will  
7 not affect small group health plans offered outside the partnership.

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

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

15        (b) A contractor shall not require a minimum participation level  
16 greater than:

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

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

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

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

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

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

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

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

19 (b) A health benefit plan offered under this subsection shall  
20 provide coverage for hospital expenses and services rendered by a  
21 physician licensed under chapter 18.57 or 18.71 RCW but is not subject  
22 to the requirements of RCW 48.46.275, 48.46.280, 48.46.285,  
23 (~~48.46.290~~), 48.46.350, 48.46.355, 48.46.375, 48.46.440, 48.46.480,  
24 48.46.510, 48.46.520, and 48.46.530.

25 (2) Nothing in this section shall prohibit a health maintenance  
26 organization from offering, or a purchaser from seeking, health benefit  
27 plans with benefits in excess of the health benefit plan offered under  
28 subsection (1) of this section. All forms, policies, and contracts  
29 shall be submitted for approval to the commissioner, and the rates of  
30 any plan offered under this section shall be reasonable in relation to  
31 the benefits thereto.

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

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

37 (i) Geographic area;

- 1 (ii) Family size;
- 2 (iii) Age; and
- 3 (iv) Wellness activities.

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

8 (c) The health maintenance organization shall be permitted to  
9 develop separate rates for individuals age sixty-five or older for  
10 coverage for which medicare is the primary payer and coverage for which  
11 medicare is not the primary payer. Both rates shall be subject to the  
12 requirements of this subsection (3).

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

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

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

- 23 (i) Changes to the enrollment of the small employer;
- 24 (ii) Changes to the family composition of the employee;
- 25 (iii) Changes to the health benefit plan requested by the small  
26 employer; or
- 27 (iv) Changes in government requirements affecting the health  
28 benefit plan.

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

32 (h) For the purposes of this section, a health benefit plan that  
33 contains a restricted network provision shall not be considered similar  
34 coverage to a health benefit plan that does not contain such a  
35 provision, provided that the restrictions of benefits to network  
36 providers result in substantial differences in claims costs. A carrier  
37 may develop its rates based on claims costs due to network provider

1 reimbursement schedules or type of network. This subsection does not  
2 restrict or enhance the portability of benefits as provided in RCW  
3 48.43.015.

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

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

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

28 (ii) Risk adjustment or reinsurance mechanisms may be used by the  
29 health insurance partnership program to redistribute funds to carriers  
30 participating in the health insurance partnership based on differences  
31 in risk attributable to individual choice of health plans or other  
32 factors unique to health insurance partnership participation. Use of  
33 such mechanisms shall be limited to the partnership program and will  
34 not affect small group health plans offered outside the partnership.

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



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

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

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

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

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

15 (d) A health maintenance organization may not increase any  
16 requirement for minimum employee participation or modify any  
17 requirement for minimum employer contribution applicable to a small  
18 employer at any time after the small employer has been accepted for  
19 coverage.

20 (e) Minimum participation requirements and employer premium  
21 contribution requirements adopted by the health insurance partnership  
22 board under RCW 70.47A.110 shall apply only to the employers and  
23 employees who purchase health benefit plans through the health  
24 insurance partnership.

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

34 NEW SECTION. Sec. 9. If specific funding for the purposes of this  
35 act, referencing this act by bill or chapter number, is not provided by  
36 June 30, 2008, in the omnibus appropriations act, this act is null and  
37 void."

**2SHB 2537** - S COMM AMD

By Committee on Health & Long-Term Care

**OUT OF ORDER 03/07/2008**

1        On page 1, line 3 of the title, after "partnership;" strike the  
2 remainder of the title and insert "amending RCW 70.47A.020, 70.47A.030,  
3 70.47A.040, 70.47A.070, 70.47A.110, 48.21.045, 48.44.023, and  
4 48.46.066; and creating a new section."

**--- END ---**