
SUBSTITUTE HOUSE BILL 2537

State of Washington 60th Legislature 2008 Regular Session

By House Health Care & Wellness (originally sponsored by Representatives Cody, Hasegawa, Kenney, Morrell, Green, and Loomis)

READ FIRST TIME 01/28/08.

1 AN ACT Relating to modifications to the health insurance
2 partnership statute necessary for timely implementation of the health
3 insurance partnership; and amending RCW 70.47A.020, 70.47A.030,
4 70.47A.040, 70.47A.070, 70.47A.110, 48.21.045, 48.44.023, and
5 48.46.066.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 70.47A.020 and 2007 c 260 s 2 are each amended to read
8 as follows:

9 The definitions in this section apply throughout this chapter
10 unless the context clearly requires otherwise.

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

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

15 (3) "Eligible partnership participant" means ~~((an individual))~~ a
16 partnership participant who:

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

18 (b) Has family income that does not exceed two hundred percent of

1 the federal poverty level, as determined annually by the federal
2 department of health and human services(~~(; and~~

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

7 (4) "Health benefit plan" has the same meaning as defined in RCW
8 48.43.005.

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

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

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

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

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

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

33 (1) To the extent funding is appropriated in the operating budget
34 for this purpose, the health insurance partnership is established. The
35 administrator shall be responsible for the implementation and operation
36 of the health insurance partnership, directly or by contract. The

1 administrator shall offer premium subsidies to eligible partnership
2 participants under RCW 70.47A.040. The partnership shall begin to
3 offer coverage no later than March 1, 2009.

4 (2) Consistent with policies adopted by the board under (~~section~~
5 ~~59 of this act~~)) RCW 70.47A.110, the administrator shall, directly or
6 by contract:

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

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

29 (~~Establish and manage a system for the partnership to be~~
30 ~~designated as the sponsor or administrator of a participating small~~
31 ~~employer health benefit plan and to undertake the obligations required~~
32 ~~of a plan administrator under federal law;~~

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

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

4 ~~((f))~~ (e) Establish a mechanism to apply a surcharge to ~~((all))~~
5 each health benefit plan~~((s))~~ purchased through the partnership, which
6 shall be used only to pay for administrative and operational expenses
7 of the partnership. The surcharge must be applied uniformly to all
8 health benefit plans ~~((offered))~~ purchased through the partnership
9 ~~((and must be included in the premium for each health benefit plan))~~.
10 Any surcharge amount may be added to the premium, but shall not be
11 considered part of the small group community rate, and shall be applied
12 only to the coverage purchased through the partnership. Surcharges may
13 not be used to pay any premium assistance payments under this chapter.
14 The surcharge shall reflect administrative and operational expenses
15 remaining after any appropriation provided by the legislature to
16 support administrative or operational expenses of the partnership
17 during the year the surcharge is assessed;

18 ~~((g))~~ (f) Design a schedule of premium subsidies that is based
19 upon gross family income, giving appropriate consideration to family
20 size and the ages of all family members based on a benchmark health
21 benefit plan designated by the board. The amount of an eligible
22 partnership participant's premium subsidy shall be determined by
23 applying a sliding scale subsidy schedule with the percentage of
24 premium similar to that developed for subsidized basic health plan
25 enrollees under RCW 70.47.060. The subsidy shall be applied to the
26 employee's premium obligation for his or her health benefit plan, so
27 that employees benefit financially from any employer contribution to
28 the cost of their coverage through the partnership.

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

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

35 Beginning ~~((September 1, 2008))~~ January 1, 2009, the administrator
36 shall accept applications from eligible partnership participants, on

1 behalf of themselves, their spouses, and their dependent children, to
2 receive premium subsidies through the health insurance partnership.

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

5 The administrator shall report biennially, beginning November 1,
6 2010, to the relevant policy and fiscal committees of the legislature
7 on the effectiveness and efficiency of the ((small-employer)) health
8 insurance partnership program, including enrollment trends, the
9 services and benefits covered under the purchased health benefit plans,
10 consumer satisfaction, and other program operational issues.

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

13 (1) The health insurance partnership board shall:

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

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

34 (c) Approve a mid-range benefit plan from those selected to be used
35 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) Develop policies related to partnership participant enrollment
4 in health benefit plans. The board may focus its initial efforts on
5 access to coverage and affordability of coverage for participating
6 small employers and their employees. To the extent necessary for
7 successful implementation of the partnership, during a start-up phase
8 of partnership operation, the board may:

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

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

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

27 ~~((+f))~~ (g) Determine whether the partnership should be designated
28 as the administrator of a participating small employer health benefit
29 plan and undertake the obligations required of a plan administrator
30 under federal law in order to minimize administrative burdens on
31 participating small employers;

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

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

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

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

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

18 (b) A health benefit plan offered under this subsection shall
19 provide coverage for hospital expenses and services rendered by a
20 physician licensed under chapter 18.57 or 18.71 RCW but is not subject
21 to the requirements of RCW 48.21.130, 48.21.140, 48.21.141, 48.21.142,
22 48.21.144, 48.21.146, 48.21.160 through 48.21.197, 48.21.200,
23 48.21.220, 48.21.225, 48.21.230, 48.21.235, (~~48.21.240,~~) 48.21.244,
24 48.21.250, 48.21.300, 48.21.310, or 48.21.320.

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

36 (i) Geographic area;

37 (ii) Family size;

1 (iii) Age; and

2 (iv) Wellness activities.

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

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

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

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

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

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

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

24 (iii) Changes to the health benefit plan requested by the small
25 employer; or

26 (iv) Changes in government requirements affecting the health
27 benefit plan.

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

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

1 restrict or enhance the portability of benefits as provided in RCW
2 48.43.015.

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

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

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

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

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

37 (5)(a) Except as provided in this subsection, requirements used by

1 an insurer in determining whether to provide coverage to a small
2 employer shall be applied uniformly among all small employers applying
3 for coverage or receiving coverage from the carrier.

4 (b) An insurer shall not require a minimum participation level
5 greater than:

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

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

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

14 (d) An insurer may not increase any requirement for minimum
15 employee participation or modify any requirement for minimum employer
16 contribution applicable to a small employer at any time after the small
17 employer has been accepted for coverage.

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

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

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

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

36 (1)(a) A health care services contractor offering any health
37 benefit plan to a small employer, either directly or through an

1 association or member-governed group formed specifically for the
2 purpose of purchasing health care, may offer and actively market to the
3 small employer a health benefit plan featuring a limited schedule of
4 covered health care services. Nothing in this subsection shall
5 preclude a contractor from offering, or a small employer from
6 purchasing, other health benefit plans that may have more comprehensive
7 benefits than those included in the product offered under this
8 subsection. A contractor offering a health benefit plan under this
9 subsection shall clearly disclose all covered benefits to the small
10 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 48.44.225, 48.44.240, 48.44.245, 48.44.290,
15 48.44.300, 48.44.310, 48.44.320, 48.44.325, 48.44.330, 48.44.335,
16 ((48.44.340,)) 48.44.344, 48.44.360, 48.44.400, 48.44.440, 48.44.450,
17 and 48.44.460.

18 (2) Nothing in this section shall prohibit a health care service
19 contractor from offering, or a purchaser from seeking, health benefit
20 plans with benefits in excess of the health benefit plan offered under
21 subsection (1) of this section. All forms, policies, and contracts
22 shall be submitted for approval to the commissioner, and the rates of
23 any plan offered under this section shall be reasonable in relation to
24 the 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 contractor 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 contractor 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 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 a contractor in determining whether to provide coverage to a small
30 employer shall be applied uniformly among all small employers applying
31 for coverage or receiving coverage from the carrier.

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

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

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

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

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

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

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

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

1 (b) A health benefit plan offered under this subsection shall
2 provide coverage for hospital expenses and services rendered by a
3 physician licensed under chapter 18.57 or 18.71 RCW but is not subject
4 to the requirements of RCW 48.46.275, 48.46.280, 48.46.285,
5 (~~48.46.290~~) 48.46.350, 48.46.355, 48.46.375, 48.46.440, 48.46.480,
6 48.46.510, 48.46.520, and 48.46.530.

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

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

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

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

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

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

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

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

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

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

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

6 (iii) Changes to the health benefit plan requested by the small
7 employer; or

8 (iv) Changes in government requirements affecting the health
9 benefit plan.

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (d) A health maintenance organization may not increase any
34 requirement for minimum employee participation or modify any
35 requirement for minimum employer contribution applicable to a small
36 employer at any time after the small employer has been accepted for
37 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 health maintenance organization must offer coverage to all
7 eligible employees of a small employer and their dependents. A health
8 maintenance organization may not offer coverage to only certain
9 individuals or dependents in a small employer group or to only part of
10 the group. A health maintenance organization may not modify a health
11 plan with respect to a small employer or any eligible employee or
12 dependent, through riders, endorsements or otherwise, to restrict or
13 exclude coverage or benefits for specific diseases, medical conditions,
14 or services otherwise covered by the plan.

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