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SECOND SUBSTITUTE HOUSE BILL 2537

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State of Washington                      60th Legislature                      2008 Regular Session

By House Appropriations (originally sponsored by Representatives  
Cody, Hasegawa, Kenney, Morrell, Green, and Loomis)

READ FIRST TIME 02/12/08.

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

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.

15       NEW SECTION. Sec. 9. If specific funding for the purposes of this  
16 act, referencing this act by bill or chapter number, is not provided by  
17 June 30, 2008, in the omnibus appropriations act, this act is null and  
18 void.

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