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HOUSE BILL 3384

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State of Washington

60th Legislature

2008 Regular Session

By Representatives Hinkle, Bailey, Newhouse, Haler, Warnick, Schmick, Walsh, Schindler, Roach, Smith, Rodne, Crouse, Priest, Chandler, Alexander, Kristiansen, Herrera, Condotta, Ross, Ahern, Pearson, McCune, Skinner, Ericksen, McDonald, and Dunn

Read first time 03/06/08. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to implementing the recommendation of the blue  
2 ribbon commission on health care costs and access related to decreasing  
3 the number of the uninsured in the state; amending RCW 48.43.041,  
4 48.44.022, 48.46.064, 48.20.029, 48.21.045, 48.44.023, and 48.46.066;  
5 adding a new section to chapter 48.43 RCW; adding a new section to  
6 chapter 82.04 RCW; and creating a new section.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that in January 2007,  
9 the blue ribbon commission on health care costs and access issued their  
10 report which included a recommendation to give individuals and families  
11 more choice in selecting private insurance plans that work for them.  
12 This recommendation specifically stated, "Washington needs a  
13 multipronged approach to tackle the challenges facing our uninsured  
14 population. Over half of Washington's total uninsured population  
15 consists of young adults ages nineteen to thirty-four. In addition,  
16 fifty thousand are employees of small businesses who have incomes in  
17 excess of two hundred percent of the federal poverty level. Providing  
18 these and other individuals affordable insurance options on the private

1 market will go a long way in decreasing the number of uninsured in the  
2 state."

3 The legislature further finds that in the 2007 legislative session,  
4 Engrossed Second Substitute Senate Bill No. 5930 titled "an act  
5 relating to providing high quality, affordable health care to  
6 Washingtonians based on the recommendations of the blue ribbon  
7 commission on health care costs and access" was introduced and passed  
8 without any provisions related to the recommendation described in this  
9 section.

10 The legislature further finds that, according to the 2004  
11 Washington state population survey, self-employed individuals and their  
12 dependents account for thirty-three percent of the uninsured. These  
13 individuals must purchase health insurance through the individual  
14 health insurance market and they do not get the same tax benefits on  
15 health insurance costs as employers and their employees. The  
16 legislature intends to implement the recommendation of the blue ribbon  
17 commission on health care costs and access, and implement a  
18 multipronged approach that provides more affordable health insurance  
19 options in the private market to decrease the number of uninsured in  
20 Washington.

21 **Sec. 2.** RCW 48.43.041 and 2000 c 79 s 26 are each amended to read  
22 as follows:

23 (1) All individual health benefit plans, other than catastrophic  
24 health plans(~~(, offered or renewed on or after October 1, 2000)~~) and  
25 plans for young adults as described in subsection (3) of this section,  
26 shall include benefits described in this section. Nothing in this  
27 section shall be construed to require a carrier to offer an individual  
28 health benefit plan.

29 (a) Maternity services that include, with no enrollee cost-sharing  
30 requirements beyond those generally applicable cost-sharing  
31 requirements: Diagnosis of pregnancy; prenatal care; delivery; care  
32 for complications of pregnancy; physician services; hospital services;  
33 operating or other special procedure rooms; radiology and laboratory  
34 services; appropriate medications; anesthesia; and services required  
35 under RCW 48.43.115; and

36 (b) Prescription drug benefits with at least a two thousand dollar  
37 benefit payable by the carrier annually.

1 (2) If a carrier offers a health benefit plan that is not a  
2 catastrophic health plan to groups, and it chooses to offer a health  
3 benefit plan to individuals, it must offer at least one health benefit  
4 plan to individuals that is not a catastrophic health plan.

5 (3) Carriers may design and offer a separate health plan targeted  
6 at young adults between nineteen and thirty-four years of age. The  
7 plan may include the benefits required under subsections (1) and (2) of  
8 this section but is not required to include these benefits. The health  
9 plan designed for young adults may be exempt from the requirements of  
10 RCW 48.43.045(1), 48.43.515(5), 48.44.327, 48.20.392, and 48.46.277.

11 **Sec. 3.** RCW 48.44.022 and 2006 c 100 s 3 are each amended to read  
12 as follows:

13 (1) Except for health benefit plans covered under RCW 48.44.021,  
14 premium rates for health benefit plans for individuals shall be subject  
15 to the following provisions:

16 (a) The health care service contractor 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;
- 22 (iv) Tenure discounts; and
- 23 (v) Wellness activities.

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

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

33 (d) Except as provided in subsection (2) of this section, the  
34 permitted rates for any age group shall be no more than four hundred  
35 twenty-five percent of the lowest rate for all age groups on January 1,  
36 1996, four hundred percent on January 1, 1997, and three hundred  
37 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 family composition;

8 (ii) Changes to the health benefit plan requested by the  
9 individual; or

10 (iii) Changes in government requirements affecting the health  
11 benefit plan.

12 (g) For the purposes of this section, a health benefit plan that  
13 contains a restricted network provision shall not be considered similar  
14 coverage to a health benefit plan that does not contain such a  
15 provision, provided that the restrictions of benefits to network  
16 providers result in substantial differences in claims costs. This  
17 subsection does not restrict or enhance the portability of benefits as  
18 provided in RCW 48.43.015.

19 (h) A tenure discount for continuous enrollment in the health plan  
20 of two years or more may be offered, not to exceed ten percent.

21 (2) Adjusted community rates established under this section shall  
22 pool the medical experience of all individuals purchasing coverage,  
23 except individuals purchasing coverage under RCW 48.44.021, and shall  
24 not be required to be pooled with the medical experience of health  
25 benefit plans offered to small employers under RCW 48.44.023. Carriers  
26 may treat young adults, between twenty-one and thirty-four years of  
27 age, and products developed specifically for them as a single banded  
28 experience pool for purposes of establishing rates. The rates  
29 established for this age group are not subject to subsection (1)(d) of  
30 this section. After two years of experience with these products,  
31 carriers must report to the office of the insurance commissioner on the  
32 product rates, the number of newly insured young adults, and the impact  
33 on other segments of the market.

34 (3) As used in this section and RCW 48.44.023 "health benefit  
35 plan," "small employer," "adjusted community rates," and "wellness  
36 activities" mean the same as defined in RCW 48.43.005.

1       **Sec. 4.** RCW 48.46.064 and 2006 c 100 s 5 are each amended to read  
2 as follows:

3       (1) Except for health benefit plans covered under RCW 48.46.063,  
4 premium rates for health benefit plans for individuals shall be subject  
5 to the following provisions:

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

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

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

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

23       (d) Except as provided in subsection (2) of this section, the  
24 permitted rates for any age group shall be no more than four hundred  
25 twenty-five percent of the lowest rate for all age groups on January 1,  
26 1996, four hundred percent on January 1, 1997, and three hundred  
27 seventy-five percent on January 1, 2000, and thereafter.

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

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

- 34       (i) Changes to the family composition;
- 35       (ii) Changes to the health benefit plan requested by the  
36 individual; or
- 37       (iii) Changes in government requirements affecting the health  
38 benefit plan.

1 (g) For the purposes of this section, a health benefit plan that  
2 contains a restricted network provision shall not be considered similar  
3 coverage to a health benefit plan that does not contain such a  
4 provision, provided that the restrictions of benefits to network  
5 providers result in substantial differences in claims costs. This  
6 subsection does not restrict or enhance the portability of benefits as  
7 provided in RCW 48.43.015.

8 (h) A tenure discount for continuous enrollment in the health plan  
9 of two years or more may be offered, not to exceed ten percent.

10 (2) Adjusted community rates established under this section shall  
11 pool the medical experience of all individuals purchasing coverage,  
12 except individuals purchasing coverage under RCW 48.46.063, and shall  
13 not be required to be pooled with the medical experience of health  
14 benefit plans offered to small employers under RCW 48.46.066. Carriers  
15 may treat young adults, between twenty-one and thirty-four years of  
16 age, and products developed specifically for them as a single banded  
17 experience pool for purposes of establishing rates. The rates  
18 established for this age group are not subject to subsection (1)(d) of  
19 this section. After two years of experience with these products,  
20 carriers shall report to the office of the insurance commissioner on  
21 the product rates, the number of newly insured young adults, and the  
22 impact on other segments of the market.

23 (3) As used in this section and RCW 48.46.066, "health benefit  
24 plan," "adjusted community rate," "small employer," and "wellness  
25 activities" mean the same as defined in RCW 48.43.005.

26 **Sec. 5.** RCW 48.20.029 and 2006 c 100 s 2 are each amended to read  
27 as follows:

28 (1) Premiums for health benefit plans for individuals who purchase  
29 the plan as a member of a purchasing pool:

30 (a) Consisting of five hundred or more individuals affiliated with  
31 a particular industry;

32 (b) To whom care management services are provided as a benefit of  
33 pool membership; and

34 (c) Which allows contributions from more than one employer to be  
35 used towards the purchase of an individual's health benefit plan;  
36 shall be calculated using the adjusted community rating method that

1 spreads financial risk across the entire purchasing pool of which the  
2 individual is a member. All such rates shall conform to the following:

3 (i) The insurer shall develop its rates based on an adjusted  
4 community rate and may only vary the adjusted community rate for:

- 5 (A) Geographic area;
- 6 (B) Family size;
- 7 (C) Age;
- 8 (D) Tenure discounts; and
- 9 (E) Wellness activities.

10 (ii) The adjustment for age in (c)(i)(C) of this subsection may not  
11 use age brackets smaller than five-year increments which shall begin  
12 with age twenty and end with age sixty-five. Individuals under the age  
13 of twenty shall be treated as those age twenty.

14 (iii) The insurer shall be permitted to develop separate rates for  
15 individuals age sixty-five or older for coverage for which medicare is  
16 the primary payer, and coverage for which medicare is not the primary  
17 payer. Both rates are subject to the requirements of this subsection.

18 (iv) Except as provided in subsection (2) of this section, the  
19 permitted rates for any age group shall be no more than four hundred  
20 twenty-five percent of the lowest rate for all age groups on January 1,  
21 1996, four hundred percent on January 1, 1997, and three hundred  
22 seventy-five percent on January 1, 2000, and thereafter.

23 (v) A discount for wellness activities shall be permitted to  
24 reflect actuarially justified differences in utilization or cost  
25 attributed to such programs not to exceed twenty percent.

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

- 29 (A) Changes to the family composition;
- 30 (B) Changes to the health benefit plan requested by the individual;

31 or

32 (C) Changes in government requirements affecting the health benefit  
33 plan.

34 (vii) For the purposes of this section, a health benefit plan that  
35 contains a restricted network provision shall not be considered similar  
36 coverage to a health benefit plan that does not contain such a  
37 provision, provided that the restrictions of benefits to network

1 providers result in substantial differences in claims costs. This  
2 subsection does not restrict or enhance the portability of benefits as  
3 provided in RCW 48.43.015.

4 (viii) A tenure discount for continuous enrollment in the health  
5 plan of two years or more may be offered, not to exceed ten percent.

6 (2) Adjusted community rates established under this section shall  
7 not be required to be pooled with the medical experience of health  
8 benefit plans offered to small employers under RCW 48.21.045. Carriers  
9 may treat young adults, between twenty-one and thirty-four years of  
10 age, and products developed specifically for them as a single banded  
11 experience pool for purposes of establishing rates. The rates  
12 established for this age group are not subject to subsection (1)(c)(iv)  
13 of this section. After two years of experience with these products,  
14 carriers shall report to the office of the insurance commissioner on  
15 the product rates, the number of newly insured young adults, and the  
16 impact on other segments of the market.

17 (3) As used in this section, "health benefit plan," "adjusted  
18 community rates," and "wellness activities" mean the same as defined in  
19 RCW 48.43.005.

20 NEW SECTION. Sec. 6. A new section is added to chapter 48.43 RCW  
21 to read as follows:

22 The office of the insurance commissioner shall make available  
23 educational and outreach materials targeted to young adults aged  
24 nineteen to thirty-four, as funding becomes available. Education and  
25 outreach efforts shall focus on educating young consumers on the  
26 importance and value of health insurance, including educational  
27 materials, public service messages, and other outreach activities. The  
28 commissioner is authorized to fund these activities with grants,  
29 donations, in-kind contributions, or other funding that may be  
30 available.

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

33 (1)((~~a~~)) An insurer offering any health benefit plan to a small  
34 employer, either directly or through an association or member-governed  
35 group formed specifically for the purpose of purchasing health care,  
36 may offer and actively market to the small employer ((~~a~~)) no more than



1 one health benefit plan featuring a limited schedule of covered health  
2 care services. ~~((Nothing in this subsection shall preclude an insurer  
3 from offering, or a small employer from purchasing, other health  
4 benefit plans that may have more comprehensive benefits than those  
5 included in the product offered under this subsection. An insurer  
6 offering a health benefit plan under this subsection shall clearly  
7 disclose all covered benefits to the small employer in a brochure filed  
8 with the commissioner.~~

9 ~~(b) A health benefit plan offered under this subsection shall  
10 provide coverage for hospital expenses and services rendered by a  
11 physician licensed under chapter 18.57 or 18.71 RCW but is not subject  
12 to the requirements of RCW 48.21.130, 48.21.140, 48.21.141, 48.21.142,  
13 48.21.144, 48.21.146, 48.21.160 through 48.21.197, 48.21.200,  
14 48.21.220, 48.21.225, 48.21.230, 48.21.235, 48.21.240, 48.21.244,  
15 48.21.250, 48.21.300, 48.21.310, or 48.21.320.~~

16 ~~(2))~~ (a) The plan offered under this subsection may be offered  
17 with a choice of cost-sharing arrangements, and may, but need not,  
18 comply with: RCW 48.21.130 through 48.21.240, 48.21.244 through  
19 48.21.280, 48.21.300 through 48.21.320, 48.43.045(1) except as required  
20 in (b) of this subsection, 48.43.093, 48.43.115 through 48.43.185,  
21 48.43.515(5), or 48.42.100.

22 (b) In offering the plan under this subsection, the insurer must  
23 offer the small employer the option of permitting every category of  
24 health care provider to provide health services or care for conditions  
25 covered by the plan pursuant to RCW 48.43.045(1).

26 (2) An insurer offering the plan under subsection (1) of this  
27 section must also offer and actively market to the small employer at  
28 least one additional health benefit plan.

29 (3) Nothing in this section shall prohibit an insurer from  
30 offering, or a purchaser from seeking, health benefit plans with  
31 benefits in excess of the health benefit plan offered under subsection  
32 (1) of this section. All forms, policies, and contracts shall be  
33 submitted for approval to the commissioner, and the rates of any plan  
34 offered under this section shall be reasonable in relation to the  
35 benefits thereto.

36 ~~((3))~~ (4) Premium rates for health benefit plans for small  
37 employers as defined in this section shall be subject to the following  
38 provisions:

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

- 3 (i) Geographic area;
- 4 (ii) Family size;
- 5 (iii) Age; and
- 6 (iv) Wellness activities.

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

11 (c) The insurer shall be permitted to develop separate rates for  
12 individuals age sixty-five or older for coverage for which medicare is  
13 the primary payer and coverage for which medicare is not the primary  
14 payer. Both rates shall be subject to the requirements of this  
15 subsection (~~((+3))~~) (4).

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

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

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

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

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

35 (h) For the purposes of this section, a health benefit plan that  
36 contains a restricted network provision shall not be considered similar  
37 coverage to a health benefit plan that does not contain such a  
38 provision, provided that the restrictions of benefits to network

1 providers result in substantial differences in claims costs. A carrier  
2 may develop its rates based on claims costs (~~(due to network provider~~  
3 ~~reimbursement schedules or type of network))~~ for a plan. This  
4 subsection does not restrict or enhance the portability of benefits as  
5 provided in RCW 48.43.015.

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

36 (~~(+4)~~) (5) Nothing in this section shall restrict the right of  
37 employees to collectively bargain for insurance providing benefits in  
38 excess of those provided herein.

1 ((+5+)) (6)(a) Except as provided in this subsection, requirements  
2 used by an insurer in determining whether to provide coverage to a  
3 small employer shall be applied uniformly among all small employers  
4 applying for coverage or receiving coverage from the carrier.

5 (b) An insurer shall not require a minimum participation level  
6 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) An insurer may not increase any requirement for minimum  
16 employee participation or modify any requirement for minimum employer  
17 contribution applicable to a small employer at any time after the small  
18 employer has been accepted for coverage.

19 ((+6+)) (7) An insurer must offer coverage to all eligible  
20 employees of a small employer and their dependents. An insurer may not  
21 offer coverage to only certain individuals or dependents in a small  
22 employer group or to only part of the group. An insurer may not modify  
23 a health plan with respect to a small employer or any eligible employee  
24 or dependent, through riders, endorsements or otherwise, to restrict or  
25 exclude coverage or benefits for specific diseases, medical conditions,  
26 or services otherwise covered by the plan.

27 ((+7+)) (8) As used in this section, "health benefit plan," "small  
28 employer," "adjusted community rate," and "wellness activities" mean  
29 the same as defined in RCW 48.43.005.

30 **Sec. 8.** RCW 48.44.023 and 2007 c 260 s 8 are each amended to read  
31 as follows:

32 (1)((+a+)) A health care services contractor offering any health  
33 benefit plan to a small employer, either directly or through an  
34 association or member-governed group formed specifically for the  
35 purpose of purchasing health care, may offer and actively market to the  
36 small employer ((a)) no more than one health benefit plan featuring a  
37 limited schedule of covered health care services. ((Nothing in this

1 ~~subsection shall preclude a contractor from offering, or a small~~  
2 ~~employer from purchasing, other health benefit plans that may have more~~  
3 ~~comprehensive benefits than those included in the product offered under~~  
4 ~~this subsection. A contractor offering a health benefit plan under~~  
5 ~~this subsection shall clearly disclose all covered benefits to the~~  
6 ~~small employer in a brochure filed with the commissioner.~~

7 ~~(b) A health benefit plan offered under this subsection shall~~  
8 ~~provide coverage for hospital expenses and services rendered by a~~  
9 ~~physician licensed under chapter 18.57 or 18.71 RCW but is not subject~~  
10 ~~to the requirements of RCW 48.44.225, 48.44.240, 48.44.245, 48.44.290,~~  
11 ~~48.44.300, 48.44.310, 48.44.320, 48.44.325, 48.44.330, 48.44.335,~~  
12 ~~48.44.340, 48.44.344, 48.44.360, 48.44.400, 48.44.440, 48.44.450, and~~  
13 ~~48.44.460.~~

14 ~~(2)) (a) The plan offered under this subsection may be offered~~  
15 ~~with a choice of cost-sharing arrangements, and may, but is not~~  
16 ~~required to, comply with: RCW 48.44.210, 48.44.212, 48.44.225,~~  
17 ~~48.44.240 through 48.44.245, 48.44.290 through 48.44.340, 48.44.344,~~  
18 ~~48.44.360 through 48.44.380, 48.44.400, 48.44.420, 48.44.440 through~~  
19 ~~48.44.460, 48.44.500, 48.43.045(1) except as required in (b) of this~~  
20 ~~subsection, 48.43.093, 48.43.115 through 48.43.185, 48.43.515(5), or~~  
21 ~~48.42.100.~~

22 ~~(b) In offering the plan under this subsection, the health care~~  
23 ~~service contractor must offer the small employer the option of~~  
24 ~~permitting every category of health care provider to provide health~~  
25 ~~services or care for conditions covered by the plan pursuant to RCW~~  
26 ~~48.43.045(1).~~

27 ~~(2) A health care service contractor offering the plan under~~  
28 ~~subsection (1) of this section must also offer and actively market to~~  
29 ~~the small employer at least one additional health benefit plan.~~

30 ~~(3) Nothing in this section shall prohibit a health care service~~  
31 ~~contractor from offering, or a purchaser from seeking, health benefit~~  
32 ~~plans with benefits in excess of the health benefit plan offered under~~  
33 ~~subsection (1) of this section. All forms, policies, and contracts~~  
34 ~~shall be submitted for approval to the commissioner, and the rates of~~  
35 ~~any plan offered under this section shall be reasonable in relation to~~  
36 ~~the benefits thereto.~~

37 ~~((3)) (4) Premium rates for health benefit plans for small~~

1 employers as defined in this section shall be subject to the following  
2 provisions:

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

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

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

13 (c) The contractor shall be permitted to develop separate rates for  
14 individuals age sixty-five or older for coverage for which medicare is  
15 the primary payer and coverage for which medicare is not the primary  
16 payer. Both rates shall be subject to the requirements of this  
17 subsection (~~((+3))~~) (4).

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

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

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

- 28 (i) Changes to the enrollment of the small employer;
- 29 (ii) Changes to the family composition of the employee;
- 30 (iii) Changes to the health benefit plan requested by the small  
31 employer; or

32 (iv) Changes in government requirements affecting the health  
33 benefit plan.

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

37 (h) For the purposes of this section, a health benefit plan that  
38 contains a restricted network provision shall not be considered similar

1 coverage to a health benefit plan that does not contain such a  
2 provision, provided that the restrictions of benefits to network  
3 providers result in substantial differences in claims costs. A carrier  
4 may develop its rates based on claims costs (~~(due to network provider~~  
5 ~~reimbursement schedules or type of network))~~ for a plan. This  
6 subsection does not restrict or enhance the portability of benefits as  
7 provided in RCW 48.43.015.

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

37 (~~(+4))~~ (5) Nothing in this section shall restrict the right of

1 employees to collectively bargain for insurance providing benefits in  
2 excess of those provided herein.

3 ((+5+)) (6)(a) Except as provided in this subsection, requirements  
4 used by a contractor in determining whether to provide coverage to a  
5 small employer shall be applied uniformly among all small employers  
6 applying for coverage or receiving coverage from the carrier.

7 (b) A contractor shall not require a minimum participation level  
8 greater than:

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

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

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

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

21 ((+6+)) (7) A contractor must offer coverage to all eligible  
22 employees of a small employer and their dependents. A contractor may  
23 not offer coverage to only certain individuals or dependents in a small  
24 employer group or to only part of the group. A contractor may not  
25 modify a health plan with respect to a small employer or any eligible  
26 employee or dependent, through riders, endorsements or otherwise, to  
27 restrict or exclude coverage or benefits for specific diseases, medical  
28 conditions, or services otherwise covered by the plan.

29 **Sec. 9.** RCW 48.46.066 and 2007 c 260 s 9 are each amended to read  
30 as follows:

31 (1)((+a+)) A health maintenance organization offering any health  
32 benefit plan to a small employer, either directly or through an  
33 association or member-governed group formed specifically for the  
34 purpose of purchasing health care, may offer and actively market to the  
35 small employer ((a)) no more than one health benefit plan featuring a  
36 limited schedule of covered health care services. ((~~Nothing in this~~  
37 ~~subsection shall preclude a health maintenance organization from~~



1 offering, or a small employer from purchasing, other health benefit  
2 plans that may have more comprehensive benefits than those included in  
3 the product offered under this subsection. A health maintenance  
4 organization offering a health benefit plan under this subsection shall  
5 clearly disclose all the covered benefits to the small employer in a  
6 brochure filed with the commissioner.

7 (b) A health benefit plan offered under this subsection shall  
8 provide coverage for hospital expenses and services rendered by a  
9 physician licensed under chapter 18.57 or 18.71 RCW but is not subject  
10 to the requirements of RCW 48.46.275, 48.46.280, 48.46.285, 48.46.290,  
11 48.46.350, 48.46.355, 48.46.375, 48.46.440, 48.46.480, 48.46.510,  
12 48.46.520, and 48.46.530.

13 ~~(2))~~ (a) The plan offered under this subsection may be offered  
14 with a choice of cost-sharing arrangements, and may, but is not  
15 required to, comply with: RCW 48.46.250, 48.46.272 through 48.46.290,  
16 48.46.320, 48.46.350, 48.46.375, 48.46.440 through 48.46.460,  
17 48.46.480, 48.46.490, 48.46.510, 48.46.520, 48.46.530, 48.46.565,  
18 48.46.570, 48.46.575, 48.43.045(1) except as required in (b) of this  
19 subsection, 48.43.093, 48.43.115 through 48.43.185, 48.43.515(5), or  
20 48.42.100.

21 (b) In offering the plan under this subsection, the health  
22 maintenance organization must offer the small employer the option of  
23 permitting every category of health care provider to provide health  
24 services or care for conditions covered by the plan pursuant to RCW  
25 48.43.045(1).

26 (2) A health maintenance organization offering the plan under  
27 subsection (1) of this section must also offer and actively market to  
28 the small employer at least one additional health benefit plan.

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

36 ~~((3))~~ (4) Premium rates for health benefit plans for small  
37 employers as defined in this section shall be subject to the following  
38 provisions:

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

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

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

12 (c) The health maintenance organization shall be permitted to  
13 develop separate rates for individuals age sixty-five or older for  
14 coverage for which medicare is the primary payer and coverage for which  
15 medicare is not the primary payer. Both rates shall be subject to the  
16 requirements of this subsection (~~((3))~~) (4).

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

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

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

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

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

36 (h) For the purposes of this section, a health benefit plan that  
37 contains a restricted network provision shall not be considered similar  
38 coverage to a health benefit plan that does not contain such a

1 provision, provided that the restrictions of benefits to network  
2 providers result in substantial differences in claims costs. A carrier  
3 may develop its rates based on claims costs (~~(due to network provider~~  
4 ~~reimbursement schedules or type of network))~~ for a plan. This  
5 subsection does not restrict or enhance the portability of benefits as  
6 provided in RCW 48.43.015.

7 (i) Except for small group health benefit plans that qualify as  
8 insurance coverage combined with a health savings account as defined by  
9 the United States internal revenue service, adjusted community rates  
10 established under this section shall pool the medical experience of all  
11 groups purchasing coverage, including the small group participants in  
12 the health insurance partnership established in RCW 70.47A.030.  
13 However, annual rate adjustments for each small group health benefit  
14 plan may vary by up to plus or minus (~~(four))~~ eight percentage points  
15 from the overall adjustment of a carrier's entire small group pool(~~(~~  
16 ~~such overall adjustment to be approved by the commissioner, upon a~~  
17 ~~showing by the carrier, certified by a member of the American academy~~  
18 ~~of actuaries that: (i) The variation is a result of deductible~~  
19 ~~leverage, benefit design, or provider network characteristics; and (ii)~~  
20 ~~for a rate renewal period, the projected weighted average of all small~~  
21 ~~group benefit plans will have a revenue neutral effect on the carrier's~~  
22 ~~small group pool. Variations of greater than four percentage points~~  
23 ~~are subject to review by the commissioner, and must be approved or~~  
24 ~~denied within sixty days of submittal))~~ if certified by a member of the  
25 American academy of actuaries, that: (i) The variation is a result of  
26 deductible leverage, benefit design, claims cost trend for the plan, or  
27 provider network characteristics; and (ii) for a rate renewal period,  
28 the projected weighted average of all small group benefit plans will  
29 have a revenue neutral effect on the health maintenance organization's  
30 small group pool. Variations of greater than eight percentage points  
31 are subject to review by the commissioner, and must be approved or  
32 denied within thirty days of submittal. A variation that is not denied  
33 within (~~(sixty))~~ thirty days shall be deemed approved. The  
34 commissioner must provide to the carrier a detailed actuarial  
35 justification for any denial (~~(within thirty days))~~ at the time of the  
36 denial.

37 (~~(+4))~~ (5) Nothing in this section shall restrict the right of

1 employees to collectively bargain for insurance providing benefits in  
2 excess of those provided herein.

3 ~~((+5+))~~ (6)(a) Except as provided in this subsection, requirements  
4 used by a health maintenance organization in determining whether to  
5 provide coverage to a small employer shall be applied uniformly among  
6 all small employers applying for coverage or receiving coverage from  
7 the carrier.

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

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

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

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

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

23 ~~((+6+))~~ (7) A health maintenance organization must offer coverage  
24 to all eligible employees of a small employer and their dependents. A  
25 health maintenance organization may not offer coverage to only certain  
26 individuals or dependents in a small employer group or to only part of  
27 the group. A health maintenance organization may not modify a health  
28 plan with respect to a small employer or any eligible employee or  
29 dependent, through riders, endorsements or otherwise, to restrict or  
30 exclude coverage or benefits for specific diseases, medical conditions,  
31 or services otherwise covered by the plan.

32 NEW SECTION. **Sec. 10.** A new section is added to chapter 82.04 RCW  
33 to read as follows:

34 A person who conducts business as a sole proprietorship may credit  
35 against the tax imposed by this chapter, fifty percent of the value  
36 paid during the reporting period for health insurance premiums. The  
37 credit may not exceed the tax otherwise due under this chapter for the

1 reporting period. Unused credit may be carried over and used in  
2 subsequent tax reporting periods. No refunds are granted for credits  
3 under this section.

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