

SSB 5777 - H COMM AMD

By Committee on Health Care & Wellness

ADOPTED 04/14/2009

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

3 "**Sec. 1.** RCW 48.41.060 and 2008 c 217 s 47 are each amended to
4 read as follows:

5 (1) The board shall have the general powers and authority granted
6 under the laws of this state to insurance companies, health care
7 service contractors, and health maintenance organizations, licensed or
8 registered to offer or provide the kinds of health coverage defined
9 under this title. In addition thereto, the board shall:

10 (a) Designate or establish the standard health questionnaire to be
11 used under RCW 48.41.100 and 48.43.018, including the form and content
12 of the standard health questionnaire and the method of its application.
13 The questionnaire must provide for an objective evaluation of an
14 individual's health status by assigning a discreet measure, such as a
15 system of point scoring to each individual. The questionnaire must not
16 contain any questions related to pregnancy, and pregnancy shall not be
17 a basis for coverage by the pool. The questionnaire shall be designed
18 such that it is reasonably expected to identify the eight percent of
19 persons who are the most costly to treat who are under individual
20 coverage in health benefit plans, as defined in RCW 48.43.005, in
21 Washington state or are covered by the pool, if applied to all such
22 persons;

23 (b) Obtain from a member of the American academy of actuaries, who
24 is independent of the board, a certification that the standard health
25 questionnaire meets the requirements of (a) of this subsection;

26 (c) Approve the standard health questionnaire and any modifications
27 needed to comply with this chapter. The standard health questionnaire
28 shall be submitted to an actuary for certification, modified as
29 necessary, and approved at least every (~~eighteen~~) thirty-six months.
30 The designation and approval of the standard health questionnaire by

1 the board shall not be subject to review and approval by the
2 commissioner. The standard health questionnaire or any modification
3 thereto shall not be used until ninety days after public notice of the
4 approval of the questionnaire or any modification thereto, except that
5 the initial standard health questionnaire approved for use by the board
6 after March 23, 2000, may be used immediately following public notice
7 of such approval;

8 (d) Establish appropriate rates, rate schedules, rate adjustments,
9 expense allowances, claim reserve formulas and any other actuarial
10 functions appropriate to the operation of the pool. Rates shall not be
11 unreasonable in relation to the coverage provided, the risk experience,
12 and expenses of providing the coverage. Rates and rate schedules may
13 be adjusted for appropriate risk factors such as age and area variation
14 in claim costs and shall take into consideration appropriate risk
15 factors in accordance with established actuarial underwriting practices
16 consistent with Washington state individual plan rating requirements
17 under RCW 48.44.022 and 48.46.064;

18 (e)(i) Assess members of the pool in accordance with the provisions
19 of this chapter, and make advance interim assessments as may be
20 reasonable and necessary for the organizational or interim operating
21 expenses. Any interim assessments will be credited as offsets against
22 any regular assessments due following the close of the year.

23 (ii) Self-funded multiple employer welfare arrangements are subject
24 to assessment under this subsection only in the event that assessments
25 are not preempted by the employee retirement income security act of
26 1974, as amended, 29 U.S.C. Sec. 1001 et seq. The arrangements and the
27 commissioner shall initially request an advisory opinion from the
28 United States department of labor or obtain a declaratory ruling from
29 a federal court on the legality of imposing assessments on these
30 arrangements before imposing the assessment. Once the legality of the
31 assessments has been determined, the multiple employer welfare
32 arrangement certified by the insurance commissioner must begin payment
33 of these assessments.

34 (iii) If there has not been a final determination of the legality
35 of these assessments, then beginning on the earlier of (A) the date the
36 fourth multiple employer welfare arrangement has been certified by the
37 insurance commissioner, or (B) April 1, 2006, the arrangement shall
38 deposit the assessments imposed by this subsection into an interest

1 bearing escrow account maintained by the arrangement. Upon a final
2 determination that the assessments are not preempted by the employee
3 retirement income security act of 1974, as amended, 29 U.S.C. Sec. 1001
4 et seq., all funds in the interest bearing escrow account shall be
5 transferred to the board;

6 (f) Issue policies of health coverage in accordance with the
7 requirements of this chapter;

8 (g) Establish procedures for the administration of the premium
9 discount provided under RCW 48.41.200(3)(a)(iii);

10 (h) Contract with the Washington state health care authority for
11 the administration of the premium discounts provided under RCW
12 48.41.200(3)(a) (i) and (ii);

13 (i) Set a reasonable fee to be paid to an insurance producer
14 licensed in Washington state for submitting an acceptable application
15 for enrollment in the pool; and

16 (j) Provide certification to the commissioner when assessments will
17 exceed the threshold level established in RCW 48.41.037.

18 (2) In addition thereto, the board may:

19 (a) Enter into contracts as are necessary or proper to carry out
20 the provisions and purposes of this chapter including the authority,
21 with the approval of the commissioner, to enter into contracts with
22 similar pools of other states for the joint performance of common
23 administrative functions, or with persons or other organizations for
24 the performance of administrative functions;

25 (b) Sue or be sued, including taking any legal action as necessary
26 to avoid the payment of improper claims against the pool or the
27 coverage provided by or through the pool;

28 (c) Appoint appropriate legal, actuarial, and other committees as
29 necessary to provide technical assistance in the operation of the pool,
30 policy, and other contract design, and any other function within the
31 authority of the pool; and

32 (d) Conduct periodic audits to assure the general accuracy of the
33 financial data submitted to the pool, and the board shall cause the
34 pool to have an annual audit of its operations by an independent
35 certified public accountant.

36 (3) Nothing in this section shall be construed to require or
37 authorize the adoption of rules under chapter 34.05 RCW.

1 **Sec. 2.** RCW 48.41.100 and 2007 c 259 s 30 are each amended to read
2 as follows:

3 (1) The following persons who are residents of this state are
4 eligible for pool coverage:

5 (a) Any person who provides evidence of a carrier's decision not to
6 accept him or her for enrollment in an individual health benefit plan
7 as defined in RCW 48.43.005 based upon, and within ninety days of the
8 receipt of, the results of the standard health questionnaire designated
9 by the board and administered by health carriers under RCW 48.43.018;

10 (b) Any person who continues to be eligible for pool coverage based
11 upon the results of the standard health questionnaire designated by the
12 board and administered by the pool administrator pursuant to subsection
13 (3) of this section;

14 (c) Any person who resides in a county of the state where no
15 carrier or insurer eligible under chapter 48.15 RCW offers to the
16 public an individual health benefit plan other than a catastrophic
17 health plan as defined in RCW 48.43.005 at the time of application to
18 the pool, and who makes direct application to the pool; and

19 (d) Any medicare eligible person upon providing evidence of a
20 rejection for medical reasons, a requirement of restrictive riders, an
21 up-rated premium, or a preexisting conditions limitation on a medicare
22 supplemental insurance policy under chapter 48.66 RCW, the effect of
23 which is to substantially reduce coverage from that received by a
24 person considered a standard risk by at least one member within six
25 months of the date of application.

26 (2) The following persons are not eligible for coverage by the
27 pool:

28 (a) Any person having terminated coverage in the pool unless (i)
29 twelve months have lapsed since termination, or (ii) that person can
30 show continuous other coverage which has been involuntarily terminated
31 for any reason other than nonpayment of premiums. However, these
32 exclusions do not apply to eligible individuals as defined in section
33 2741(b) of the federal health insurance portability and accountability
34 act of 1996 (42 U.S.C. Sec. 300gg-41(b));

35 (b) Any person on whose behalf the pool has paid out two million
36 dollars in benefits;

37 (c) Inmates of public institutions and those persons (~~whose~~
38 ~~benefits are duplicated under public programs~~) who become eligible for

1 medical assistance after June 30, 2008, as defined in RCW 74.09.010.
2 However, these exclusions do not apply to eligible individuals as
3 defined in section 2741(b) of the federal health insurance portability
4 and accountability act of 1996 (42 U.S.C. Sec. 300gg-41(b));

5 (d) Any person who resides in a county of the state where any
6 carrier or insurer regulated under chapter 48.15 RCW offers to the
7 public an individual health benefit plan other than a catastrophic
8 health plan as defined in RCW 48.43.005 at the time of application to
9 the pool and who does not qualify for pool coverage based upon the
10 results of the standard health questionnaire, or pursuant to subsection
11 (1)(d) of this section.

12 (3) When a carrier or insurer regulated under chapter 48.15 RCW
13 begins to offer an individual health benefit plan in a county where no
14 carrier had been offering an individual health benefit plan:

15 (a) If the health benefit plan offered is other than a catastrophic
16 health plan as defined in RCW 48.43.005, any person enrolled in a pool
17 plan pursuant to subsection (1)(c) of this section in that county shall
18 no longer be eligible for coverage under that plan pursuant to
19 subsection (1)(c) of this section, but may continue to be eligible for
20 pool coverage based upon the results of the standard health
21 questionnaire designated by the board and administered by the pool
22 administrator. The pool administrator shall offer to administer the
23 questionnaire to each person no longer eligible for coverage under
24 subsection (1)(c) of this section within thirty days of determining
25 that he or she is no longer eligible;

26 (b) Losing eligibility for pool coverage under this subsection (3)
27 does not affect a person's eligibility for pool coverage under
28 subsection (1)(a), (b), or (d) of this section; and

29 (c) The pool administrator shall provide written notice to any
30 person who is no longer eligible for coverage under a pool plan under
31 this subsection (3) within thirty days of the administrator's
32 determination that the person is no longer eligible. The notice shall:
33 (i) Indicate that coverage under the plan will cease ninety days from
34 the date that the notice is dated; (ii) describe any other coverage
35 options, either in or outside of the pool, available to the person;
36 (iii) describe the procedures for the administration of the standard
37 health questionnaire to determine the person's continued eligibility

1 for coverage under subsection (1)(b) of this section; and (iv) describe
2 the enrollment process for the available options outside of the pool.

3 (4) The board shall ensure that an independent analysis of the
4 eligibility standards for the pool coverage is conducted, including
5 examining the eight percent eligibility threshold, eligibility for
6 medicaid enrollees and other publicly sponsored enrollees, and the
7 impacts on the pool and the state budget. The board shall report the
8 findings to the legislature by December 1, 2007.

9 **Sec. 3.** RCW 48.41.100 and 2008 c 317 s 4 are each amended to read
10 as follows:

11 (1) The following persons who are residents of this state are
12 eligible for pool coverage:

13 (a) Any person who provides evidence of a carrier's decision not to
14 accept him or her for enrollment in an individual health benefit plan
15 as defined in RCW 48.43.005 based upon, and within ninety days of the
16 receipt of, the results of the standard health questionnaire designated
17 by the board and administered by health carriers under RCW 48.43.018;

18 (b) Any person who continues to be eligible for pool coverage based
19 upon the results of the standard health questionnaire designated by the
20 board and administered by the pool administrator pursuant to subsection
21 (3) of this section;

22 (c) Any person who resides in a county of the state where no
23 carrier or insurer eligible under chapter 48.15 RCW offers to the
24 public an individual health benefit plan other than a catastrophic
25 health plan as defined in RCW 48.43.005 at the time of application to
26 the pool, and who makes direct application to the pool; and

27 (d) Any medicare eligible person upon providing evidence of a
28 rejection for medical reasons, a requirement of restrictive riders, an
29 up-rated premium, or a preexisting conditions limitation on a medicare
30 supplemental insurance policy under chapter 48.66 RCW, the effect of
31 which is to substantially reduce coverage from that received by a
32 person considered a standard risk by at least one member within six
33 months of the date of application.

34 (2) The following persons are not eligible for coverage by the
35 pool:

36 (a) Any person having terminated coverage in the pool unless (i)
37 twelve months have lapsed since termination, or (ii) that person can

1 show continuous other coverage which has been involuntarily terminated
2 for any reason other than nonpayment of premiums. However, these
3 exclusions do not apply to eligible individuals as defined in section
4 2741(b) of the federal health insurance portability and accountability
5 act of 1996 (42 U.S.C. Sec. 300gg-41(b));

6 (b) Any person on whose behalf the pool has paid out two million
7 dollars in benefits;

8 (c) Inmates of public institutions, and those persons who become
9 eligible for medical assistance after June 30, 2008, as defined in RCW
10 74.09.010. However, these exclusions do not apply to eligible
11 individuals as defined in section 2741(b) of the federal health
12 insurance portability and accountability act of 1996 (42 U.S.C. Sec.
13 300gg-41(b));

14 (d) Any person who resides in a county of the state where any
15 carrier or insurer regulated under chapter 48.15 RCW offers to the
16 public an individual health benefit plan other than a catastrophic
17 health plan as defined in RCW 48.43.005 at the time of application to
18 the pool and who does not qualify for pool coverage based upon the
19 results of the standard health questionnaire, or pursuant to subsection
20 (1)(d) of this section.

21 (3) When a carrier or insurer regulated under chapter 48.15 RCW
22 begins to offer an individual health benefit plan in a county where no
23 carrier had been offering an individual health benefit plan:

24 (a) If the health benefit plan offered is other than a catastrophic
25 health plan as defined in RCW 48.43.005, any person enrolled in a pool
26 plan pursuant to subsection (1)(c) of this section in that county shall
27 no longer be eligible for coverage under that plan pursuant to
28 subsection (1)(c) of this section, but may continue to be eligible for
29 pool coverage based upon the results of the standard health
30 questionnaire designated by the board and administered by the pool
31 administrator. The pool administrator shall offer to administer the
32 questionnaire to each person no longer eligible for coverage under
33 subsection (1)(c) of this section within thirty days of determining
34 that he or she is no longer eligible;

35 (b) Losing eligibility for pool coverage under this subsection (3)
36 does not affect a person's eligibility for pool coverage under
37 subsection (1)(a), (b), or (d) of this section; and

1 (c) The pool administrator shall provide written notice to any
2 person who is no longer eligible for coverage under a pool plan under
3 this subsection (3) within thirty days of the administrator's
4 determination that the person is no longer eligible. The notice shall:
5 (i) Indicate that coverage under the plan will cease ninety days from
6 the date that the notice is dated; (ii) describe any other coverage
7 options, either in or outside of the pool, available to the person;
8 (iii) describe the procedures for the administration of the standard
9 health questionnaire to determine the person's continued eligibility
10 for coverage under subsection (1)(b) of this section; and (iv) describe
11 the enrollment process for the available options outside of the pool.

12 (4) The board shall ensure that an independent analysis of the
13 eligibility standards for the pool coverage is conducted, including
14 examining the eight percent eligibility threshold, eligibility for
15 medicaid enrollees and other publicly sponsored enrollees, and the
16 impacts on the pool and the state budget. The board shall report the
17 findings to the legislature by December 1, 2007.

18 NEW SECTION. **Sec. 4.** The board of the Washington state health
19 insurance pool shall conduct a study of options for equitable, stable,
20 and broad-based funding sources for the operation of the pool. The
21 board is authorized to solicit funds to conduct the study. The board
22 shall report its findings and recommendations to the appropriate
23 committees of the senate and house of representatives by December 15,
24 2009.

25 NEW SECTION. **Sec. 5.** Section 2 of this act takes effect if
26 section 4, chapter 317, Laws of 2008 is null and void on the effective
27 date of this act; otherwise section 2 of this act is null and void.

28 NEW SECTION. **Sec. 6.** Section 3 of this act takes effect if
29 section 4, chapter 317, Laws of 2008 is in effect on the effective date
30 of this act; otherwise section 3 of this act is null and void."

31 Correct the title.

EFFECT: The provision is deleted that a person who is Medicare-

eligible will also be eligible for WSHIP coverage if they do not have access to a reasonable choice of more than one Medicare Advantage plan.

--- END ---