
HOUSE BILL 1865

State of Washington 61st Legislature 2009 Regular Session

By Representatives Ericksen, Hinkle, and Condotta

Read first time 01/30/09. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to health insurance; and amending RCW 48.21.045,
2 48.44.023, 48.46.066, and 48.43.041.

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

4 **Sec. 1.** RCW 48.21.045 and 2008 c 143 s 6 are each amended to read
5 as follows:

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

17 (b) A health benefit plan offered under this subsection shall
18 provide coverage for hospital expenses and services rendered by a
19 physician licensed under chapter 18.57 or 18.71 RCW but is not subject

1 to the requirements of RCW 48.21.130, 48.21.140, 48.21.141, 48.21.142,
2 48.21.144, 48.21.146, 48.21.160 through 48.21.197, 48.21.200,
3 48.21.220, 48.21.225, 48.21.230, 48.21.235, 48.21.244, 48.21.250,
4 48.21.300, 48.21.310, (~~or~~) 48.21.320, or 48.43.045(1).

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

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

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

- 16 (i) Geographic area;
- 17 (ii) Family size;
- 18 (iii) Age; and
- 19 (iv) Wellness activities.

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

24 (c) The insurer shall be permitted to develop separate rates for
25 individuals age sixty-five or older for coverage for which medicare is
26 the primary payer and coverage for which medicare is not the primary
27 payer. Both rates shall be subject to the requirements of this
28 subsection (3).

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

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

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

1 (i) Changes to the enrollment of the small employer;
2 (ii) Changes to the family composition of the employee;
3 (iii) Changes to the health benefit plan requested by the small
4 employer; or
5 (iv) Changes in government requirements affecting the health
6 benefit plan.

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

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

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

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

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

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

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

16 (5)(a) Except as provided in this subsection, requirements used by
17 an insurer in determining whether to provide coverage to a small
18 employer shall be applied uniformly among all small employers applying
19 for coverage or receiving coverage from the carrier.

20 (b) An insurer shall not require a minimum participation level
21 greater than:

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

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

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

30 (d) An insurer may not increase any requirement for minimum
31 employee participation or modify any requirement for minimum employer
32 contribution applicable to a small employer at any time after the small
33 employer has been accepted for coverage.

34 (e) Minimum participation requirements and employer premium
35 contribution requirements adopted by the health insurance partnership
36 board under RCW 70.47A.110 shall apply only to the employers and
37 employees who purchase health benefit plans through the health
38 insurance partnership.

1 (6) An insurer must offer coverage to all eligible employees of a
2 small employer and their dependents. An insurer may not offer coverage
3 to only certain individuals or dependents in a small employer group or
4 to only part of the group. An insurer may not modify a health plan
5 with respect to a small employer or any eligible employee or dependent,
6 through riders, endorsements or otherwise, to restrict or exclude
7 coverage or benefits for specific diseases, medical conditions, or
8 services otherwise covered by the plan.

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

12 **Sec. 2.** RCW 48.44.023 and 2008 c 143 s 7 are each amended to read
13 as follows:

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

26 (b) A health benefit plan offered under this subsection shall
27 provide coverage for hospital expenses and services rendered by a
28 physician licensed under chapter 18.57 or 18.71 RCW but is not subject
29 to the requirements of RCW 48.43.045(1), 48.44.225, 48.44.240,
30 48.44.245, 48.44.290, 48.44.300, 48.44.310, 48.44.320, 48.44.325,
31 48.44.330, 48.44.335, 48.44.344, 48.44.360, 48.44.400, 48.44.440,
32 48.44.450, and 48.44.460.

33 (2) Nothing in this section shall prohibit a health care service
34 contractor from offering, or a purchaser from seeking, health benefit
35 plans with benefits in excess of the health benefit plan offered under
36 subsection (1) of this section. All forms, policies, and contracts

1 shall be submitted for approval to the commissioner, and the rates of
2 any plan offered under this section shall be reasonable in relation to
3 the benefits thereto.

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

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

- 8 (i) Geographic area;
- 9 (ii) Family size;
- 10 (iii) Age; and
- 11 (iv) Wellness activities.

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

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

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

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

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

- 31 (i) Changes to the enrollment of the small employer;
- 32 (ii) Changes to the family composition of the employee;
- 33 (iii) Changes to the health benefit plan requested by the small
34 employer; or
- 35 (iv) Changes in government requirements affecting the health
36 benefit plan.

37 (g) Rating factors shall produce premiums for identical groups that

1 differ only by the amounts attributable to plan design, with the
2 exception of discounts for health improvement programs.

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

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

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

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

36 (ii) Risk adjustment or reinsurance mechanisms may be used by the
37 health insurance partnership program to redistribute funds to carriers
38 participating in the health insurance partnership based on differences

1 in risk attributable to individual choice of health plans or other
2 factors unique to health insurance partnership participation. Use of
3 such mechanisms shall be limited to the partnership program and will
4 not affect small group health plans offered outside the partnership.

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

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

12 (b) A contractor shall not require a minimum participation level
13 greater than:

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

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

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

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

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

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

1 **Sec. 3.** RCW 48.46.066 and 2008 c 143 s 8 are each amended to read
2 as follows:

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

16 (b) A health benefit plan offered under this subsection shall
17 provide coverage for hospital expenses and services rendered by a
18 physician licensed under chapter 18.57 or 18.71 RCW but is not subject
19 to the requirements of RCW 48.43.045(1), 48.46.275, 48.46.280,
20 48.46.285, 48.46.350, 48.46.355, 48.46.375, 48.46.440, 48.46.480,
21 48.46.510, 48.46.520, and 48.46.530.

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

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

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

- 34 (i) Geographic area;
- 35 (ii) Family size;
- 36 (iii) Age; and
- 37 (iv) Wellness activities.

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

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

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

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

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

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

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

22 (iii) Changes to the health benefit plan requested by the small
23 employer; or

24 (iv) Changes in government requirements affecting the health
25 benefit plan.

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

29 (h) For the purposes of this section, a health benefit plan that
30 contains a restricted network provision shall not be considered similar
31 coverage to a health benefit plan that does not contain such a
32 provision, provided that the restrictions of benefits to network
33 providers result in substantial differences in claims costs. A carrier
34 may develop its rates based on claims costs due to network provider
35 reimbursement schedules or type of network. This subsection does not
36 restrict or enhance the portability of benefits as provided in RCW
37 48.43.015.

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

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

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

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

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

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

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

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

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

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

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

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

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

30 **Sec. 4.** RCW 48.43.041 and 2000 c 79 s 26 are each amended to read
31 as follows:

32 (1) All individual health benefit plans, other than catastrophic
33 health plans, offered or renewed on or after October 1, 2000, shall
34 include benefits described in this section. Nothing in this section
35 shall be construed to require a carrier to offer an individual health
36 benefit plan.

1 (a) Maternity services that include, with no enrollee cost-sharing
2 requirements beyond those generally applicable cost-sharing
3 requirements: Diagnosis of pregnancy; prenatal care; delivery; care
4 for complications of pregnancy; physician services; hospital services;
5 operating or other special procedure rooms; radiology and laboratory
6 services; appropriate medications; anesthesia; and services required
7 under RCW 48.43.115; and

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

10 (2) If a carrier offers a health benefit plan that is not a
11 catastrophic health plan to groups, and it chooses to offer a health
12 benefit plan to individuals, it must offer at least one health benefit
13 plan to individuals that is not a catastrophic health plan.

14 (3) Carriers offering an individual health benefit plan under this
15 section may also offer an individual health benefit plan that is not
16 subject to the requirements of RCW 48.43.045(1).

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