
HOUSE BILL 2807

State of Washington 61st Legislature 2010 Regular Session

By Representatives Ericksen and Bailey

Read first time 01/14/10. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to basic health care coverage; amending RCW
2 48.41.060, 70.47.010, 70.47.015, 70.47.020, 70.47.030, 70.47.040,
3 70.47.060, 70.47.080, 70.47.090, and 70.47.150; and repealing RCW
4 70.47.070, 70.47.100, 70.47.110, 70.47.115, 70.47.120, 70.47.130,
5 70.47.160, 70.47.200, 70.47.201, 70.47.210, and 70.47.900.

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

7 **Sec. 1.** RCW 48.41.060 and 2009 c 555 s 2 are each amended to read
8 as follows:

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

14 (a) Designate or establish the standard health questionnaire to be
15 used under RCW 48.41.100 and 48.43.018, including the form and content
16 of the standard health questionnaire and the method of its application.
17 The questionnaire must provide for an objective evaluation of an
18 individual's health status by assigning a discreet measure, such as a
19 system of point scoring to each individual. The questionnaire must not

1 contain any questions related to pregnancy, and pregnancy shall not be
2 a basis for coverage by the pool. The questionnaire shall be designed
3 such that it is reasonably expected to identify the eight percent of
4 persons who are the most costly to treat who are under individual
5 coverage in health benefit plans, as defined in RCW 48.43.005, in
6 Washington state or are covered by the pool, if applied to all such
7 persons;

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

11 (c) Approve the standard health questionnaire and any modifications
12 needed to comply with this chapter. The standard health questionnaire
13 shall be submitted to an actuary for certification, modified as
14 necessary, and approved at least every thirty-six months. The
15 designation and approval of the standard health questionnaire by the
16 board shall not be subject to review and approval by the commissioner.
17 The standard health questionnaire or any modification thereto shall not
18 be used until ninety days after public notice of the approval of the
19 questionnaire or any modification thereto, except that the initial
20 standard health questionnaire approved for use by the board after March
21 23, 2000, may be used immediately following public notice of such
22 approval;

23 (d) Establish appropriate rates, rate schedules, rate adjustments,
24 expense allowances, claim reserve formulas and any other actuarial
25 functions appropriate to the operation of the pool. Rates shall not be
26 unreasonable in relation to the coverage provided, the risk experience,
27 and expenses of providing the coverage. Rates and rate schedules may
28 be adjusted for appropriate risk factors such as age and area variation
29 in claim costs and shall take into consideration appropriate risk
30 factors in accordance with established actuarial underwriting practices
31 consistent with Washington state individual plan rating requirements
32 under RCW 48.44.022 and 48.46.064;

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

1 (ii) Self-funded multiple employer welfare arrangements are subject
2 to assessment under this subsection only in the event that assessments
3 are not preempted by the employee retirement income security act of
4 1974, as amended, 29 U.S.C. Sec. 1001 et seq. The arrangements and the
5 commissioner shall initially request an advisory opinion from the
6 United States department of labor or obtain a declaratory ruling from
7 a federal court on the legality of imposing assessments on these
8 arrangements before imposing the assessment. Once the legality of the
9 assessments has been determined, the multiple employer welfare
10 arrangement certified by the insurance commissioner must begin payment
11 of these assessments.

12 (iii) If there has not been a final determination of the legality
13 of these assessments, then beginning on the earlier of (A) the date the
14 fourth multiple employer welfare arrangement has been certified by the
15 insurance commissioner, or (B) April 1, 2006, the arrangement shall
16 deposit the assessments imposed by this subsection into an interest
17 bearing escrow account maintained by the arrangement. Upon a final
18 determination that the assessments are not preempted by the employee
19 retirement income security act of 1974, as amended, 29 U.S.C. Sec. 1001
20 et seq., all funds in the interest bearing escrow account shall be
21 transferred to the board;

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

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

26 (h) Contract with the Washington state health care authority for
27 the administration of the premium discounts provided under RCW
28 48.41.200(3)(a) (i) and (ii);

29 (i) Set a reasonable fee to be paid to an insurance producer
30 licensed in Washington state for submitting an acceptable application
31 for enrollment in the pool; (~~and~~)

32 (j) Provide certification to the commissioner when assessments will
33 exceed the threshold level established in RCW 48.41.037; and

34 (k) Designate a health plan that meets the requirements of the
35 health coverage tax credit program created by the trade act of 2002
36 (P.L. 107-210) and adopt rules for the pool to administer the health
37 coverage tax credit program.

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

1 (a) Enter into contracts as are necessary or proper to carry out
2 the provisions and purposes of this chapter including the authority,
3 with the approval of the commissioner, to enter into contracts with
4 similar pools of other states for the joint performance of common
5 administrative functions, or with persons or other organizations for
6 the performance of administrative functions;

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

10 (c) Appoint appropriate legal, actuarial, and other committees as
11 necessary to provide technical assistance in the operation of the pool,
12 policy, and other contract design, and any other function within the
13 authority of the pool; and

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

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

20 **Sec. 2.** RCW 70.47.010 and 2009 c 568 s 1 are each amended to read
21 as follows:

22 ~~(1)((a) The legislature finds that limitations on access to health~~
23 ~~care services for enrollees in the state, such as in rural and~~
24 ~~underserved areas, are particularly challenging for the basic health~~
25 ~~plan. Statutory restrictions have reduced the options available to the~~
26 ~~administrator to address the access needs of basic health plan~~
27 ~~enrollees. It is the intent of the legislature to authorize the~~
28 ~~administrator to develop alternative purchasing strategies to ensure~~
29 ~~access to basic health plan enrollees in all areas of the state,~~
30 ~~including: (i) The use of differential rating for managed health care~~
31 ~~systems based on geographic differences in costs; and (ii) limited use~~
32 ~~of self insurance in areas where adequate access cannot be assured~~
33 ~~through other options.~~

34 ~~(b) In developing alternative purchasing strategies to address~~
35 ~~health care access needs, the administrator shall consult with~~
36 ~~interested persons including health carriers, health care providers,~~
37 ~~and health facilities, and with other appropriate state agencies~~

1 including the office of the insurance commissioner and the office of
2 community and rural health. In pursuing such alternatives, the
3 administrator shall continue to give priority to prepaid managed care
4 as the preferred method of assuring access to basic health plan
5 enrollees followed, in priority order, by preferred providers, fee for
6 service, and self-funding.

7 ~~(2))~~ The legislature ~~((further))~~ finds that:

8 (a) A significant percentage of the population of this state ~~((does~~
9 ~~not have reasonably available insurance or other coverage of the costs~~
10 ~~of necessary basic health care services))~~ cannot afford to purchase
11 health care coverage without financial assistance; and

12 (b) This lack of basic health care coverage is detrimental to the
13 health of the individuals lacking coverage and to the public welfare,
14 and results in substantial expenditures for emergency and remedial
15 health care, often at the expense of health care providers, health care
16 facilities, and all purchasers of health care, including the state~~((+~~
17 ~~and~~

18 ~~(c) The use of managed health care systems has significant~~
19 ~~potential to reduce the growth of health care costs incurred by the~~
20 ~~people of this state generally, and by low income pregnant women, and~~
21 ~~at-risk children and adolescents who need greater access to managed~~
22 ~~health care)).~~

23 ~~((+3))~~ (2) The purpose of this chapter is to provide ~~((or make~~
24 ~~more readily available necessary basic health care services in an~~
25 ~~appropriate setting))~~ a state subsidy to working persons and others who
26 lack coverage~~((, at a cost to these persons that does not create~~
27 ~~barriers to the utilization of necessary health care services. To that~~
28 ~~end, this chapter establishes a program to be made available to those~~
29 ~~residents not eligible for medicare who share in a portion of the cost~~
30 ~~or who pay the full cost of receiving basic health care services from~~
31 ~~a managed health care system))~~ to purchase health care coverage in the
32 private health insurance market or through an employer-based health
33 plan.

34 ~~((+4))~~ (3) It is not the intent of this chapter to provide health
35 care services for those persons who are presently covered through
36 private employer-based health plans, nor to replace employer-based
37 health plans. However, the legislature recognizes that cost-effective
38 and affordable health plans may not always be available to small

1 business employers. Further, it is the intent of the legislature to
2 expand, wherever possible, the availability of private health care
3 coverage and to discourage the decline of employer-based coverage.

4 ~~((5)(a) It is the purpose of this chapter to acknowledge the
5 initial success of this program that has (i) assisted thousands of
6 families in their search for affordable health care; (ii) demonstrated
7 that low-income, uninsured families are willing to pay for their own
8 health care coverage to the extent of their ability to pay; and (iii)
9 proved that local health care providers are willing to enter into a
10 public-private partnership as a managed care system.~~

11 ~~(b) As a consequence, the legislature intends to extend an option
12 to enroll to certain citizens above two hundred percent of the federal
13 poverty guidelines within the state who reside in communities where the
14 plan is operational and who collectively or individually wish to
15 exercise the opportunity to purchase health care coverage through the
16 basic health plan if the purchase is done at no cost to the state. It
17 is also the intent of the legislature to allow employers and other
18 financial sponsors to financially assist such individuals to purchase
19 health care through the program so long as such purchase does not
20 result in a lower standard of coverage for employees.~~

21 ~~(c) The legislature intends that, to the extent of available funds,
22 the program be available throughout Washington state to subsidized and
23 nonsubsidized enrollees. It is also the intent of the legislature to
24 enroll subsidized enrollees first, to the maximum extent feasible.~~

25 ~~(d))~~ (4) The legislature directs that the basic health plan
26 administrator identify enrollees who are likely to be eligible for
27 medical assistance and assist these individuals in applying for and
28 receiving medical assistance. The administrator and the department of
29 social and health services shall implement a seamless system to
30 coordinate eligibility determinations and benefit coverage for
31 enrollees of the basic health plan and medical assistance recipients.
32 Enrollees receiving medical assistance are not eligible for the
33 Washington basic health plan.

34 **Sec. 3.** RCW 70.47.015 and 2009 c 479 s 49 are each amended to read
35 as follows:

36 (1) ~~((The legislature finds that the basic health plan has been an~~

1 ~~effective program in providing health coverage for uninsured residents.~~
2 ~~Further, since 1993, substantial amounts of public funds have been~~
3 ~~allocated for subsidized basic health plan enrollment.~~

4 ~~(2) Effective January 1, 1996, basic health plan enrollees whose~~
5 ~~income is less than one hundred twenty five percent of the federal~~
6 ~~poverty level shall pay at least a ten-dollar premium share.~~

7 ~~(3))~~ No later than July 1, 1996, the administrator shall implement
8 procedures whereby hospitals licensed under chapters 70.41 and 71.12
9 RCW, health carrier, rural health care facilities regulated under
10 chapter 70.175 RCW, and community and migrant health centers funded
11 under RCW 41.05.220, may expeditiously assist patients and their
12 families in applying for basic health plan or medical assistance
13 coverage, and in submitting such applications directly to the health
14 care authority or the department of social and health services. The
15 health care authority and the department of social and health services
16 shall make every effort to simplify and expedite the application and
17 enrollment process.

18 ~~((+4))~~ (2) No later than July 1, 1996, the administrator shall
19 implement procedures whereby disability insurance producers, licensed
20 under chapter 48.17 RCW, may expeditiously assist patients and their
21 families in applying for basic health plan or medical assistance
22 coverage, and in submitting such applications directly to the health
23 care authority or the department of social and health services.

24 ~~((Insurance producers may receive a commission for each individual sale~~
25 ~~of the basic health plan to anyone not signed up within the previous~~
26 ~~five years and a commission for each group sale of the basic health~~
27 ~~plan, if funding for this purpose is provided in a specific~~
28 ~~appropriation to the health care authority. No commission shall be~~
29 ~~provided upon a renewal. Commissions shall be determined based on the~~
30 ~~estimated annual cost of the basic health plan, however, commissions~~
31 ~~shall not result in a reduction in the premium amount paid to health~~
32 ~~carriers. For purposes of this section "health carrier" is as defined~~
33 ~~in RCW 48.43.005. The administrator may establish: (a) Minimum~~
34 ~~educational requirements that must be completed by the insurance~~
35 ~~producers; (b) an appointment process for insurance producers marketing~~
36 ~~the basic health plan; or (c) standards for revocation of the~~
37 ~~appointment of an insurance producer to submit applications for cause,~~
38 ~~including untrustworthy or incompetent conduct or harm to the public.~~

1 ~~The health care authority and the department of social and health~~
2 ~~services shall make every effort to simplify and expedite the~~
3 ~~application and enrollment process.))~~

4 **Sec. 4.** RCW 70.47.020 and 2009 c 568 s 2 are each amended to read
5 as follows:

6 As used in this chapter:

7 (1) "Administrator" means the Washington basic health plan
8 administrator, who also holds the position of administrator of the
9 Washington state health care authority.

10 (2) (~~"Health coverage tax credit eligible enrollee" means~~
11 ~~individual workers and their qualified family members who lose their~~
12 ~~jobs due to the effects of international trade and are eligible for~~
13 ~~certain trade adjustment assistance benefits; or are eligible for~~
14 ~~benefits under the alternative trade adjustment assistance program; or~~
15 ~~are people who receive benefits from the pension benefit guaranty~~
16 ~~corporation and are at least fifty five years old.~~

17 (3) ~~"Health coverage tax credit program" means the program created~~
18 ~~by the Trade Act of 2002 (P.L. 107-210) that provides a federal tax~~
19 ~~credit that subsidizes private health insurance coverage for displaced~~
20 ~~workers certified to receive certain trade adjustment assistance~~
21 ~~benefits and for individuals receiving benefits from the pension~~
22 ~~benefit guaranty corporation.~~

23 (4) ~~"Managed health care system" means: (a) Any health care~~
24 ~~organization, including health care providers, insurers, health care~~
25 ~~service contractors, health maintenance organizations, or any~~
26 ~~combination thereof, that provides directly or by contract basic health~~
27 ~~care services, as defined by the administrator and rendered by duly~~
28 ~~licensed providers, to a defined patient population enrolled in the~~
29 ~~plan and in the managed health care system; or (b) a self-funded or~~
30 ~~self-insured method of providing insurance coverage to subsidized~~
31 ~~enrollees provided under RCW 41.05.140 and subject to the limitations~~
32 ~~under RCW 70.47.100(7).~~

33 (5) ~~"Nonsubsidized enrollee" means an individual, or an individual~~
34 ~~plus the individual's spouse or dependent children: (a) Who is not~~
35 ~~eligible for medicare; (b) who is not confined or residing in a~~
36 ~~government operated institution, unless he or she meets eligibility~~
37 ~~criteria adopted by the administrator; (c) who is accepted for~~

1 enrollment by the administrator as provided in RCW 48.43.018, either
2 because the potential enrollee cannot be required to complete the
3 standard health questionnaire under RCW 48.43.018, or, based upon the
4 results of the standard health questionnaire, the potential enrollee
5 would not qualify for coverage under the Washington state health
6 insurance pool; (d) who resides in an area of the state served by a
7 managed health care system participating in the plan; (e) who chooses
8 to obtain basic health care coverage from a particular managed health
9 care system; and (f) who pays or on whose behalf is paid the full costs
10 for participation in the plan, without any subsidy from the plan.

11 ~~(6))~~ "Health benefit plan" has the same meaning as defined in RCW
12 48.43.005 or any plan provided by a self-funded multiple employer
13 welfare arrangement as defined in RCW 48.125.010 or by another benefit
14 arrangement defined in the federal employee retirement income security
15 act of 1974, as amended.

16 (3) "Premium" means a periodic payment, which an individual, their
17 employer, or another financial sponsor makes to ((the)) a health
18 benefit plan as consideration for enrollment in the health benefit plan
19 ((as a subsidized enrollee, a nonsubsidized enrollee, or a health
20 coverage tax credit eligible enrollee.

21 ~~(7) "Rate" means the amount, negotiated by the administrator with~~
22 ~~and paid to a participating managed health care system, that is based~~
23 ~~upon the enrollment of subsidized, nonsubsidized, and health coverage~~
24 ~~tax credit eligible enrollees in the plan and in that system)).~~

25 ~~((+8))~~ (4) "Subsidy" means ((the difference between the amount of
26 periodic payment the administrator makes to a managed health care
27 system on behalf of a subsidized enrollee plus the administrative cost
28 to the plan of providing the plan to that subsidized enrollee, and the
29 amount determined to be the subsidized enrollee's responsibility under
30 RCW 70.47.060(2)) payment or reimbursement to an enrollee toward the
31 purchase of a health benefit plan, and may include a net billing
32 arrangement with insurance carriers or a prospective or retrospective
33 payment for health benefit plan premiums.

34 ~~((+9) "Subsidized"))~~ (5) "Enrollee" means:

35 (a) An individual, or an individual plus the individual's spouse
36 ((or dependent children)):

37 (i) Who is not eligible for medicare;

1 (ii) Who is not confined or residing in a government-operated
2 institution, unless he or she meets eligibility criteria adopted by the
3 administrator;

4 (iii) Who is a legal resident of the United States;

5 (iv) Who is not a full-time student who has received a temporary
6 visa to study in the United States;

7 ~~((iv) Who resides in an area of the state served by a managed~~
8 ~~health care system participating in the plan;))~~

9 (v) Whose gross family income at the time of enrollment does not
10 exceed two hundred percent of the federal poverty level as adjusted for
11 family size and determined annually by the federal department of health
12 and human services;

13 (vi) Who ~~((chooses to obtain basic health care coverage from a~~
14 ~~particular managed health care system in return for periodic payments~~
15 ~~to the plan))~~ is at least thirty-five years of age; and

16 (vii) Who is not receiving medical assistance administered by the
17 department of social and health services; and

18 (b) An individual who meets the requirements in (a)(i) through
19 (iv), (vi), and (vii) of this subsection and who is a foster parent
20 licensed under chapter 74.15 RCW and whose gross family income at the
21 time of enrollment does not exceed three hundred percent of the federal
22 poverty level as adjusted for family size and determined annually by
23 the federal department of health and human services~~((; and~~

24 ~~(c) To the extent that state funds are specifically appropriated~~
25 ~~for this purpose, with a corresponding federal match, an individual, or~~
26 ~~an individual's spouse or dependent children, who meets the~~
27 ~~requirements in (a)(i) through (iv), (vi), and (vii) of this subsection~~
28 ~~and whose gross family income at the time of enrollment is more than~~
29 ~~two hundred percent, but less than two hundred fifty one percent, of~~
30 ~~the federal poverty level as adjusted for family size and determined~~
31 ~~annually by the federal department of health and human services)).~~

32 ~~((+10))~~ (6) "Washington basic health plan" or "plan" means the
33 system of enrollment and payment for ((basic health care services))
34 health insurance subsidies, administered by the plan administrator
35 ((through participating managed health care systems, created by this
36 chapter)).

1 **Sec. 5.** RCW 70.47.030 and 2004 c 192 s 2 are each amended to read
2 as follows:

3 ~~((1))~~ The basic health plan trust account is hereby established
4 in the state treasury. Any nongeneral fund-state funds collected for
5 this program shall be deposited in the basic health plan trust account
6 and may be expended without further appropriation. Moneys in the
7 account shall be used exclusively for the purposes of this chapter,
8 including payments to ~~((participating managed health care systems))~~
9 health benefit plans on behalf of enrollees in the plan and payment of
10 costs of administering the plan.

11 ~~((During the 1995-97 fiscal biennium, the legislature may transfer
12 funds from the basic health plan trust account to the state general
13 fund.~~

14 ~~(2) The basic health plan subscription account is created in the
15 custody of the state treasurer. All receipts from amounts due from or
16 on behalf of nonsubsidized enrollees and health coverage tax credit
17 eligible enrollees shall be deposited into the account. Funds in the
18 account shall be used exclusively for the purposes of this chapter,
19 including payments to participating managed health care systems on
20 behalf of nonsubsidized enrollees and health coverage tax credit
21 eligible enrollees in the plan and payment of costs of administering
22 the plan. The account is subject to allotment procedures under chapter
23 43.88 RCW, but no appropriation is required for expenditures.~~

24 ~~(3) The administrator shall take every precaution to see that none
25 of the funds in the separate accounts created in this section or that
26 any premiums paid either by subsidized or nonsubsidized enrollees are
27 commingled in any way, except that the administrator may combine funds
28 designated for administration of the plan into a single administrative
29 account.)~~

30 **Sec. 6.** RCW 70.47.040 and 1993 c 492 s 211 are each amended to
31 read as follows:

32 (1) The Washington basic health plan is created as a program within
33 the Washington state health care authority. The administrative head
34 and appointing authority of the plan shall be the administrator of the
35 Washington state health care authority. The administrator shall
36 appoint a medical director. The medical director and up to five other

1 employees of the plan shall be exempt from the civil service law,
2 chapter 41.06 RCW.

3 (2) The administrator shall employ such other staff as are
4 necessary to fulfill the responsibilities and duties of the
5 administrator, such staff to be subject to the civil service law,
6 chapter 41.06 RCW. In addition, the administrator may contract with
7 third parties for services necessary to carry out its activities where
8 this will promote economy, avoid duplication of effort, and make best
9 use of available expertise. Any such contractor or consultant shall be
10 prohibited from releasing, publishing, or otherwise using any
11 information made available to it under its contractual responsibility
12 without specific permission of the plan. The administrator may call
13 upon other agencies of the state to provide available information as
14 necessary to assist the administrator in meeting its responsibilities
15 under this chapter, which information shall be supplied as promptly as
16 circumstances permit.

17 (3) The administrator may appoint such technical or advisory
18 committees as he or she deems necessary. (~~The administrator shall
19 appoint a standing technical advisory committee that is representative
20 of health care professionals, health care providers, and those directly
21 involved in the purchase, provision, or delivery of health care
22 services, as well as consumers and those knowledgeable of the ethical
23 issues involved with health care public policy.~~) Individuals
24 appointed to any technical or other advisory committee shall serve
25 without compensation for their services as members, but may be
26 reimbursed for their travel expenses pursuant to RCW 43.03.050 and
27 43.03.060.

28 (4) The administrator may apply for, receive, and accept grants,
29 gifts, and other payments, including property and service, from any
30 governmental or other public or private entity or person, and may make
31 arrangements as to the use of these receipts, including the undertaking
32 of special studies and other projects relating to health care costs and
33 access to health care.

34 (5) Whenever feasible, the administrator shall reduce the
35 administrative cost of operating the program by adopting joint policies
36 or procedures applicable to both the basic health plan and employee
37 health plans.

1 **Sec. 7.** RCW 70.47.060 and 2009 c 568 s 3 are each amended to read
2 as follows:

3 The administrator has the following powers and duties:

4 (1) ~~((To design and from time to time revise a schedule of covered~~
5 ~~basic health care services, including physician services, inpatient and~~
6 ~~outpatient hospital services, prescription drugs and medications, and~~
7 ~~other services that may be necessary for basic health care. In~~
8 ~~addition, the administrator may, to the extent that funds are~~
9 ~~available, offer as basic health plan services chemical dependency~~
10 ~~services, mental health services, and organ transplant services. All~~
11 ~~subsidized and nonsubsidized enrollees in any participating managed~~
12 ~~health care system under the Washington basic health plan shall be~~
13 ~~entitled to receive covered basic health care services in return for~~
14 ~~premium payments to the plan. The schedule of services shall emphasize~~
15 ~~proven preventive and primary health care and shall include all~~
16 ~~services necessary for prenatal, postnatal, and well-child care.~~
17 ~~However, with respect to coverage for subsidized enrollees who are~~
18 ~~eligible to receive prenatal and postnatal services through the medical~~
19 ~~assistance program under chapter 74.09 RCW, the administrator shall not~~
20 ~~contract for such services except to the extent that such services are~~
21 ~~necessary over not more than a one-month period in order to maintain~~
22 ~~continuity of care after diagnosis of pregnancy by the managed care~~
23 ~~provider. The schedule of services shall also include a separate~~
24 ~~schedule of basic health care services for children, eighteen years of~~
25 ~~age and younger, for those subsidized or nonsubsidized enrollees who~~
26 ~~choose to secure basic coverage through the plan only for their~~
27 ~~dependent children. In designing and revising the schedule of~~
28 ~~services, the administrator shall consider the guidelines for assessing~~
29 ~~health services under the mandated benefits act of 1984, RCW 48.47.030,~~
30 ~~and such other factors as the administrator deems appropriate. The~~
31 ~~administrator shall encourage enrollees who have been continually~~
32 ~~enrolled on basic health for a period of one year or more to complete~~
33 ~~a health risk assessment and participate in programs approved by the~~
34 ~~administrator that may include wellness, smoking cessation, and chronic~~
35 ~~disease management programs. In approving programs, the administrator~~
36 ~~shall consider evidence that any such programs are proven to improve~~
37 ~~enrollee health status.~~

1 ~~(2)(a) To design and implement a structure of periodic premiums due~~
2 ~~the administrator from subsidized enrollees that is based upon gross~~
3 ~~family income, giving appropriate consideration to family size and the~~
4 ~~ages of all family members. The enrollment of children shall not~~
5 ~~require the enrollment of their parent or parents who are eligible for~~
6 ~~the plan. The structure of periodic premiums shall be applied to~~
7 ~~subsidized enrollees entering the plan as individuals pursuant to~~
8 ~~subsection (11) of this section and to the share of the cost of the~~
9 ~~plan due from subsidized enrollees entering the plan as employees~~
10 ~~pursuant to subsection (12) of this section.~~

11 ~~(b) To determine the periodic premiums due the administrator from~~
12 ~~subsidized enrollees under RCW 70.47.020(6)(b). Premiums due for~~
13 ~~foster parents with gross family income up to two hundred percent of~~
14 ~~the federal poverty level shall be set at the minimum premium amount~~
15 ~~charged to enrollees with income below sixty five percent of the~~
16 ~~federal poverty level. Premiums due for foster parents with gross~~
17 ~~family income between two hundred percent and three hundred percent of~~
18 ~~the federal poverty level shall not exceed one hundred dollars per~~
19 ~~month.~~

20 ~~(c) To determine the periodic premiums due the administrator from~~
21 ~~nonsubsidized enrollees. Premiums due from nonsubsidized enrollees~~
22 ~~shall be in an amount equal to the cost charged by the managed health~~
23 ~~care system provider to the state for the plan plus the administrative~~
24 ~~cost of providing the plan to those enrollees and the premium tax under~~
25 ~~RCW 48.14.0201.~~

26 ~~(d) To determine the periodic premiums due the administrator from~~
27 ~~health coverage tax credit eligible enrollees. Premiums due from~~
28 ~~health coverage tax credit eligible enrollees must be in an amount~~
29 ~~equal to the cost charged by the managed health care system provider to~~
30 ~~the state for the plan, plus the administrative cost of providing the~~
31 ~~plan to those enrollees and the premium tax under RCW 48.14.0201. The~~
32 ~~administrator will consider the impact of eligibility determination by~~
33 ~~the appropriate federal agency designated by the Trade Act of 2002~~
34 ~~(P.L. 107-210) as well as the premium collection and remittance~~
35 ~~activities by the United States internal revenue service when~~
36 ~~determining the administrative cost charged for health coverage tax~~
37 ~~credit eligible enrollees.~~

1 ~~(e) An employer or other financial sponsor may, with the prior~~
2 ~~approval of the administrator, pay the premium, rate, or any other~~
3 ~~amount on behalf of a subsidized or nonsubsidized enrollee, by~~
4 ~~arrangement with the enrollee and through a mechanism acceptable to the~~
5 ~~administrator. The administrator shall establish a mechanism for~~
6 ~~receiving premium payments from the United States internal revenue~~
7 ~~service for health coverage tax credit eligible enrollees.~~

8 ~~(f) To develop, as an offering by every health carrier providing~~
9 ~~coverage identical to the basic health plan, as configured on January~~
10 ~~1, 2001, a basic health plan model plan with uniformity in enrollee~~
11 ~~cost-sharing requirements.~~

12 ~~(g) To collect from all public employees a voluntary opt-in~~
13 ~~donation of varying amounts through a monthly or one-time payroll~~
14 ~~deduction as provided for in RCW 41.04.230. The donation must be~~
15 ~~deposited in the health services account established in RCW 43.72.900~~
16 ~~to be used for the sole purpose of maintaining enrollment capacity in~~
17 ~~the basic health plan.~~

18 ~~The administrator shall send an annual notice to state employees~~
19 ~~extending the opportunity to participate in the opt-in donation program~~
20 ~~for the purpose of saving enrollment slots for the basic health plan.~~
21 ~~The first such notice shall be sent to public employees no later than~~
22 ~~June 1, 2009.~~

23 ~~The notice shall include monthly sponsorship levels of fifteen~~
24 ~~dollars per month, thirty dollars per month, fifty dollars per month,~~
25 ~~and any other amounts deemed reasonable by the administrator. The~~
26 ~~sponsorship levels shall be named "safety net contributor," "safety net~~
27 ~~hero," and "safety net champion" respectively. The donation amounts~~
28 ~~provided shall be tied to the level of coverage the employee will be~~
29 ~~purchasing for a working poor individual without access to health care~~
30 ~~coverage.~~

31 ~~The administrator shall ensure that employees are given an~~
32 ~~opportunity to establish a monthly standard deduction or a one-time~~
33 ~~deduction towards the basic health plan donation program. The basic~~
34 ~~health plan donation program shall be known as the "save the safety net~~
35 ~~program."~~

36 ~~The donation permitted under this subsection may not be collected~~
37 ~~from any public employee who does not actively opt in to the donation~~

1 program. ~~Written notification of intent to discontinue participation~~
2 ~~in the donation program must be provided by the public employee at~~
3 ~~least fourteen days prior to the next standard deduction.~~

4 ~~(3) To evaluate, with the cooperation of participating managed~~
5 ~~health care system providers, the impact on the basic health plan of~~
6 ~~enrolling health coverage tax credit eligible enrollees. The~~
7 ~~administrator shall issue to the appropriate committees of the~~
8 ~~legislature preliminary evaluations on June 1, 2005, and January 1,~~
9 ~~2006, and a final evaluation by June 1, 2006. The evaluation shall~~
10 ~~address the number of persons enrolled, the duration of their~~
11 ~~enrollment, their utilization of covered services relative to other~~
12 ~~basic health plan enrollees, and the extent to which their enrollment~~
13 ~~contributed to any change in the cost of the basic health plan.~~

14 ~~(4) To end the participation of health coverage tax credit eligible~~
15 ~~enrollees in the basic health plan if the federal government reduces or~~
16 ~~terminates premium payments on their behalf through the United States~~
17 ~~internal revenue service.~~

18 ~~(5) To design and implement a structure of enrollee cost sharing~~
19 ~~due a managed health care system from subsidized, nonsubsidized, and~~
20 ~~health coverage tax credit eligible enrollees. The structure shall~~
21 ~~discourage inappropriate enrollee utilization of health care services,~~
22 ~~and may utilize copayments, deductibles, and other cost sharing~~
23 ~~mechanisms, but shall not be so costly to enrollees as to constitute a~~
24 ~~barrier to appropriate utilization of necessary health care services.~~

25 ~~(6)) To limit enrollment of persons who qualify for subsidies so~~
26 ~~as to prevent an overexpenditure of appropriations for such purposes.~~
27 ~~Whenever the administrator finds that there is danger of such an~~
28 ~~overexpenditure, the administrator shall close enrollment until the~~
29 ~~administrator finds the danger no longer exists(. Such a closure does~~
30 ~~not apply to health coverage tax credit eligible enrollees who receive~~
31 ~~a premium subsidy from the United States internal revenue service as~~
32 ~~long as the enrollees qualify for the health coverage tax credit~~
33 ~~program.))~~

34 (2) To prevent the risk of overexpenditure, the administrator may
35 disenroll persons receiving subsidies from the program based on
36 criteria adopted by the administrator. The criteria may include:
37 Length of continual enrollment on the program, income level, or
38 eligibility for other coverage. The administrator shall first attempt

1 to identify enrollees who are eligible for other coverage, and, working
2 with the department of social and health service as provided in RCW
3 70.47.010(~~(+5)(d)~~) (4), transition enrollees eligible for medical
4 assistance to that coverage. The administrator shall develop criteria
5 for persons disenrolled under this subsection to reapply for the
6 program(~~(-)~~);

7 ~~((7) To limit the payment of subsidies to subsidized enrollees, as
8 defined in RCW 70.47.020. The level of subsidy provided to persons who
9 qualify may be based on the lowest cost plans, as defined by the
10 administrator.~~

11 ~~(8) To adopt a schedule for the orderly development of the delivery
12 of services and availability of the plan to residents of the state,
13 subject to the limitations contained in RCW 70.47.080 or any act
14 appropriating funds for the plan.~~

15 ~~(9) To solicit and accept applications from managed health care
16 systems, as defined in this chapter, for inclusion as eligible basic
17 health care providers under the plan for subsidized enrollees,
18 nonsubsidized enrollees, or health coverage tax credit eligible
19 enrollees. The administrator shall endeavor to assure that covered
20 basic health care services are available to any enrollee of the plan
21 from among a selection of two or more participating managed health care
22 systems. In adopting any rules or procedures applicable to managed
23 health care systems and in its dealings with such systems, the
24 administrator shall consider and make suitable allowance for the need
25 for health care services and the differences in local availability of
26 health care resources, along with other resources, within and among the
27 several areas of the state. Contracts with participating managed
28 health care systems shall ensure that basic health plan enrollees who
29 become eligible for medical assistance may, at their option, continue
30 to receive services from their existing providers within the managed
31 health care system if such providers have entered into provider
32 agreements with the department of social and health services.~~

33 ~~(10) To receive periodic premiums from or on behalf of subsidized,
34 nonsubsidized, and health coverage tax credit eligible enrollees,
35 deposit them in the basic health plan operating account, keep records
36 of enrollee status, and authorize periodic payments to managed health
37 care systems on the basis of the number of enrollees participating in
38 the respective managed health care systems.~~

1 ~~(11))~~ (3) To design a sliding scale schedule of monthly subsidies
2 to be provided to enrollees based upon enrollees' gross family income,
3 giving appropriate consideration to family size and age of enrollees;
4 (4) To administer directly or by contract a system of distributing
5 subsidies directly to enrollees or to health benefit plans on behalf of
6 enrollees;
7 (5) To accept applications from individuals (~~residing in areas~~
8 served by the plan,) on behalf of themselves and their spouses (~~and~~
9 dependent children), for enrollment in the Washington basic health
10 plan (~~as subsidized, nonsubsidized, or health coverage tax credit~~
11 eligible enrollees), to give priority to members of the Washington
12 national guard and reserves who served in Operation Enduring Freedom,
13 Operation Iraqi Freedom, or Operation Noble Eagle, and their spouses
14 and dependents, for enrollment in the Washington basic health plan, to
15 establish appropriate minimum-enrollment periods for enrollees as may
16 be necessary, and to determine, upon application and on a reasonable
17 schedule defined by the authority, or at the request of any enrollee,
18 eligibility due to current gross family income for sliding scale
19 (~~premiums~~) subsidies. Funds received by a family as part of
20 participation in the adoption support program authorized under RCW
21 26.33.320 and (~~74.13.100 through 74.13.145~~) 74.13A.005 through
22 74.13A.080 shall not be counted toward a family's current gross family
23 income for the purposes of this chapter. When an enrollee fails to
24 report income or income changes accurately, the administrator shall
25 have the authority either to bill the enrollee for the amounts overpaid
26 by the state or to impose civil penalties of up to two hundred percent
27 of the amount of subsidy overpaid due to the enrollee incorrectly
28 reporting income. The administrator shall adopt rules to define the
29 appropriate application of these sanctions and the processes to
30 implement the sanctions provided in this subsection, within available
31 resources. No subsidy may be paid with respect to any enrollee whose
32 current gross family income exceeds twice the federal poverty level
33 or(~~, subject to RCW 70.47.110,~~) who is a recipient of medical
34 assistance or medical care services under chapter 74.09 RCW. If a
35 number of enrollees drop their enrollment for no apparent good cause,
36 the administrator may establish appropriate rules or requirements that
37 are applicable to such individuals before they will be allowed to
38 reenroll in the plan(~~-~~

1 ~~(12) To accept applications from business owners on behalf of~~
2 ~~themselves and their employees, spouses, and dependent children, as~~
3 ~~subsidized or nonsubsidized enrollees, who reside in an area served by~~
4 ~~the plan. The administrator may require all or the substantial~~
5 ~~majority of the eligible employees of such businesses to enroll in the~~
6 ~~plan and establish those procedures necessary to facilitate the orderly~~
7 ~~enrollment of groups in the plan and into a managed health care system.~~
8 ~~The administrator may require that a business owner pay at least an~~
9 ~~amount equal to what the employee pays after the state pays its portion~~
10 ~~of the subsidized premium cost of the plan on behalf of each employee~~
11 ~~enrolled in the plan. Enrollment is limited to those not eligible for~~
12 ~~medicare who wish to enroll in the plan and choose to obtain the basic~~
13 ~~health care coverage and services from a managed care system~~
14 ~~participating in the plan. The administrator shall adjust the amount~~
15 ~~determined to be due on behalf of or from all such enrollees whenever~~
16 ~~the amount negotiated by the administrator with the participating~~
17 ~~managed health care system or systems is modified or the administrative~~
18 ~~cost of providing the plan to such enrollees changes.~~

19 ~~(13) To determine the rate to be paid to each participating managed~~
20 ~~health care system in return for the provision of covered basic health~~
21 ~~care services to enrollees in the system. Although the schedule of~~
22 ~~covered basic health care services will be the same or actuarially~~
23 ~~equivalent for similar enrollees, the rates negotiated with~~
24 ~~participating managed health care systems may vary among the systems.~~
25 ~~In negotiating rates with participating systems, the administrator~~
26 ~~shall consider the characteristics of the populations served by the~~
27 ~~respective systems, economic circumstances of the local area, the need~~
28 ~~to conserve the resources of the basic health plan trust account, and~~
29 ~~other factors the administrator finds relevant.~~

30 ~~(14) To monitor the provision of covered services to enrollees by~~
31 ~~participating managed health care systems in order to assure enrollee~~
32 ~~access to good quality basic health care, to require periodic data~~
33 ~~reports concerning the utilization of health care services rendered to~~
34 ~~enrollees in order to provide adequate information for evaluation, and~~
35 ~~to inspect the books and records of participating managed health care~~
36 ~~systems to assure compliance with the purposes of this chapter. In~~
37 ~~requiring reports from participating managed health care systems,~~
38 ~~including data on services rendered enrollees, the administrator shall~~

1 endeavor to minimize costs, both to the managed health care systems and
2 to the plan. The administrator shall coordinate any such reporting
3 requirements with other state agencies, such as the insurance
4 commissioner and the department of health, to minimize duplication of
5 effort.);

6 ((+15)) (6) To evaluate the effects this chapter has on private
7 employer-based health care coverage and to take appropriate measures
8 consistent with state and federal statutes that will discourage the
9 reduction of such coverage in the state((-));

10 ((+16) To develop a program of proven preventive health measures
11 and to integrate it into the plan wherever possible and consistent with
12 this chapter.

13 (+17) To provide, consistent with available funding, assistance for
14 rural residents, underserved populations, and persons of color.

15 (+18)) (7) In consultation with appropriate state and local
16 government agencies, to establish criteria defining eligibility for
17 persons confined or residing in government-operated institutions((-));

18 ((+19) To administer the premium discounts provided under RCW
19 48.41.200(3)(a) (i) and (ii) pursuant to a contract with the Washington
20 state health insurance pool.

21 (+20)) (8) To give priority in enrollment to persons who
22 disenrolled from the program in order to enroll in medicaid, and
23 subsequently became ineligible for medicaid coverage.

24 **Sec. 8.** RCW 70.47.080 and 1993 c 492 s 213 are each amended to
25 read as follows:

26 ((On and after July 1, 1988, the administrator shall accept for
27 enrollment applicants eligible to receive covered basic health care
28 services from the respective managed health care systems which are then
29 participating in the plan.

30 Thereafter,)) Effective January 1, 2011, the administrator shall
31 accept for enrollment applicants eligible for a health benefit plan
32 subsidy. The total ((subsidized)) enrollment shall not result in
33 expenditures that exceed the total amount that has been made available
34 by the legislature in any act appropriating funds to the plan. ((To
35 the extent that new funding is appropriated for expansion, the
36 administrator shall endeavor to secure participation contracts from
37 managed health care systems in geographic areas of the state that are

1 unserved by the plan at the time at which the new funding is
2 appropriated. In the selection of any such areas the administrator
3 shall take into account the levels and rates of unemployment in
4 different areas of the state, the need to provide basic health care
5 coverage to a population reasonably representative of the portion of
6 the state's population that lacks such coverage, and the need for
7 geographic, demographic, and economic diversity.

8 The administrator shall at all times closely monitor growth
9 patterns of enrollment so as not to exceed that consistent with the
10 orderly development of the plan as a whole, in any area of the state or
11 in any participating managed health care system. The annual or
12 biennial enrollment limitations derived from operation of the plan
13 under this section do not apply to nonsubsidized enrollees as defined
14 in RCW 70.47.020(5).))

15 **Sec. 9.** RCW 70.47.090 and 1987 1st ex.s. c 5 s 11 are each amended
16 to read as follows:

17 Any enrollee whose ((premium payments to the plan are delinquent or
18 who moves his or her residence out of an area served by the plan))
19 subsidy is not applied towards a health benefit plan may be dropped
20 from enrollment status. ((An enrollee whose premium is the
21 responsibility of the department of social and health services under
22 RCW 70.47.110 may not be dropped solely because of nonpayment by the
23 department.)) The administrator shall provide ((delinquent)) enrollees
24 with advance written notice of their removal from the plan and shall
25 provide for a hearing under chapters 34.05 and 34.12 RCW for any
26 enrollee who contests the decision to drop the enrollee from the plan.
27 ((Upon removal of an enrollee from the plan, the administrator shall
28 promptly notify the managed health care system in which the enrollee
29 has been enrolled, and shall not be responsible for payment for health
30 care services provided to the enrollee (including, if applicable,
31 members of the enrollee's family) after the date of notification. A
32 managed health care system may contest the denial of payment for
33 coverage of an enrollee through a hearing under chapters 34.05 and
34 34.12 RCW.))

35 **Sec. 10.** RCW 70.47.150 and 2005 c 274 s 336 are each amended to
36 read as follows:

1 Notwithstanding the provisions of chapter 42.56 RCW, (~~(1)~~)
2 records obtained, reviewed by, or on file with the plan containing
3 information concerning medical treatment of individuals shall be exempt
4 from public inspection and copying(~~(; and (2) actuarial formulas,~~
5 ~~statistics, and assumptions submitted in support of a rate filing by a~~
6 ~~managed health care system or submitted to the administrator upon his~~
7 ~~or her request shall be exempt from public inspection and copying in~~
8 ~~order to preserve trade secrets or prevent unfair competition)).~~

9 NEW SECTION. **Sec. 11.** The following acts or parts of acts are
10 each repealed:

11 (1) RCW 70.47.070 (Benefits from other coverages not reduced) and
12 2009 c 568 s 4 & 1987 1st ex.s. c 5 s 9;

13 (2) RCW 70.47.100 (Participation by a managed health care system)
14 and 2009 c 568 s 5, 2004 c 192 s 4, 2000 c 79 s 35, & 1987 1st ex.s. c
15 5 s 12;

16 (3) RCW 70.47.110 (Enrollment of medical assistance recipients) and
17 1991 sp.s. c 4 s 3 & 1987 1st ex.s. c 5 s 13;

18 (4) RCW 70.47.115 (Enrollment of persons in timber impact areas)
19 and 1992 c 21 s 7 & 1991 c 315 s 22;

20 (5) RCW 70.47.120 (Administrator--Contracts for services) and 1997
21 c 337 s 7 & 1987 1st ex.s. c 5 s 14;

22 (6) RCW 70.47.130 (Exemption from insurance code) and 2009 c 298 s
23 4, 2004 c 115 s 2, 2000 c 5 s 21, 1997 c 337 s 8, 1994 c 309 s 6, &
24 1987 1st ex.s. c 5 s 15;

25 (7) RCW 70.47.160 (Right of individuals to receive services--Right
26 of providers, carriers, and facilities to refuse to participate in or
27 pay for services for reason of conscience or religion--Requirements)
28 and 1995 c 266 s 3;

29 (8) RCW 70.47.200 (Mental health services--Definition--Coverage
30 required, when) and 2005 c 6 s 6;

31 (9) RCW 70.47.201 (Mental health services--Rules) and 2005 c 6 s
32 11;

33 (10) RCW 70.47.210 (Prostate cancer screening) and 2006 c 367 s 7;
34 and

35 (11) RCW 70.47.900 (Short title) and 1987 1st ex.s. c 5 s 1.

--- END ---