S-2549.1

SENATE BILL 6154

State of Washington 61st Legislature 2009 Regular Session

By Senators Zarelli, Stevens, Becker, Delvin, Honeyford, Swecker, Schoesler, Hewitt, Parlette, Carrell, King, and Pflug

Read first time 04/10/09. Referred to Committee on Ways & Means.

1 AN ACT Relating to basic health plan eligibility; amending RCW
2 70.47.020 and 70.47.060; adding a new section to chapter 70.47 RCW;
3 repealing RCW 70.47.080 and 70.47.090; and declaring an emergency.

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

5 **Sec. 1.** RCW 70.47.020 and 2007 c 259 s 35 are each amended to read
6 as follows:
7 As used in this chapter:
8 (1) "Washington basic health plan" or "plan" means the system of
9 enrollment and payment for basic health care services, administered by
10 the plan administrator through participating managed health care
11 systems, created by this chapter.
12 (2) "Administrator" means the Washington basic health plan
13 administrator, who also holds the position of administrator of the
14 Washington state health care authority.
15 (3) "Health coverage tax credit program" means the program created
16 by the Trade Act of 2002 (P.L. 107-210) that provides a federal tax
17 credit that subsidizes private health insurance coverage for displaced
18 workers certified to receive certain trade adjustment assistance

benefits and for individuals receiving benefits from the pension benefit guaranty corporation.

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

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

(6) "Subsidized enrollee" means:

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

(i) Who is not eligible for medicare;

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

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

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

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

(vi) Who chooses to obtain basic health care coverage from a particular managed health care system in return for periodic payments to the plan;

(vii) Who is a United States citizen or legally admitted for permanent residence; and

(viii) Whose family liquid assets do not exceed an amount established by the administrator in rule;

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

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

(7) "Nonsubsidized enrollee" means an individual, or an individual plus the individual's spouse or dependent children: (a) Who is not eligible for medicare; (b) who is not confined or residing in a government-operated institution, unless he or she meets eligibility criteria adopted by the administrator; (c) who is accepted for enrollment by the administrator as provided in RCW 48.43.018, either because the potential enrollee cannot be required to complete the standard health questionnaire under RCW 48.43.018, or, based upon the results of the standard health questionnaire, the potential enrollee would not qualify for coverage under the Washington state health insurance pool; (d) who resides in an area of the state served by a managed health care system participating in the plan; (e) who chooses to obtain basic health care coverage from a particular managed health care system; and (f) who pays or on whose behalf is paid the full costs for participation in the plan, without any subsidy from the plan.

(8) "Subsidy" means the difference between the amount of periodic payment the administrator makes to a managed health care system on behalf of a subsidized enrollee plus the administrative cost to the

1 plan of providing the plan to that subsidized enrollee, and the amount
2 determined to be the subsidized enrollee's responsibility under RCW
3 70.47.060(2).

4 (9) "Premium" means a periodic payment, which an individual, their
5 employer or another financial sponsor makes to the plan as
6 consideration for enrollment in the plan as a subsidized enrollee, a
7 nonsubsidized enrollee, or a health coverage tax credit eligible
8 enrollee.

9 (10) "Rate" means the amount, negotiated by the administrator with
10 and paid to a participating managed health care system, that is based
11 upon the enrollment of subsidized, nonsubsidized, and health coverage
12 tax credit eligible enrollees in the plan and in that system.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 70.47 RCW
14 to read as follows:

15 The administrator shall establish a waiting period that subsidized
16 enrollee applicants must complete without private insurance before
17 enrolling in the program under this chapter. The waiting period shall
18 be at least four months and waived only when:

19 (1) The prospective enrollee has a medical condition that, without
20 treatment, would be life-threatening or cause serious disability; or

21 (2) The loss of employer-sponsored dependent coverage is due to
22 either loss of employment, the death of the employee, or the employer
23 discontinues the option of dependent coverage.

24 **Sec. 3.** RCW 70.47.060 and 2007 c 259 s 36 are each amended to read
25 as follows:

26 The administrator has the following powers and duties:

27 (1) To design and from time to time revise a schedule of covered
28 basic health care services, including physician services, inpatient and
29 outpatient hospital services, prescription drugs and medications, and
30 other services that may be necessary for basic health care. In
31 addition, the administrator may, to the extent that funds are
32 available, offer as basic health plan services chemical dependency
33 services, mental health services and organ transplant services;
34 however, no one service or any combination of these three services
35 shall increase the actuarial value of the basic health plan benefits by
36 more than five percent excluding inflation, as determined by the office

of financial management. All subsidized and nonsubsidized enrollees in any participating managed health care system under the Washington basic health plan shall be entitled to receive covered basic health care services in return for premium payments to the plan. The schedule of services shall emphasize proven preventive and primary health care and shall include all services necessary for prenatal, postnatal, and well-child care. However, with respect to coverage for subsidized enrollees who are eligible to receive prenatal and postnatal services through the medical assistance program under chapter 74.09 RCW, the administrator shall not contract for such services except to the extent that such services are necessary over not more than a one-month period in order to maintain continuity of care after diagnosis of pregnancy by the managed care provider. The schedule of services shall also include a separate schedule of basic health care services for children, eighteen years of age and younger, for those subsidized or nonsubsidized enrollees who choose to secure basic coverage through the plan only for their dependent children. In designing and revising the schedule of services, the administrator shall consider the guidelines for assessing health services under the mandated benefits act of 1984, RCW 48.47.030, and such other factors as the administrator deems appropriate.

(2)(a) To design and implement a structure of periodic premiums due the administrator from subsidized enrollees that is based upon gross family income, giving appropriate consideration to family size and the ages of all family members. The enrollment of children shall not require the enrollment of their parent or parents who are eligible for the plan. The structure of periodic premiums shall be applied to subsidized enrollees entering the plan as individuals pursuant to subsection ((~~(11)~~)) (12) of this section and to the share of the cost of the plan due from subsidized enrollees entering the plan as employees pursuant to subsection ((~~(12)~~)) (13) of this section.

(b) To determine the periodic premiums due the administrator from subsidized enrollees under RCW 70.47.020(6)(b). Premiums due for foster parents with gross family income up to two hundred percent of the federal poverty level shall be set at the minimum premium amount charged to enrollees with income below sixty-five percent of the federal poverty level. Premiums due for foster parents with gross family income between two hundred percent and three hundred percent of

1 the federal poverty level shall not exceed one hundred dollars per
2 month.
3 (c) To determine the periodic premiums due the administrator from
4 nonsubsidized enrollees. Premiums due from nonsubsidized enrollees
5 shall be in an amount equal to the cost charged by the managed health
6 care system provider to the state for the plan plus the administrative
7 cost of providing the plan to those enrollees and the premium tax under
8 RCW 48.14.0201.
9 (d) To determine the periodic premiums due the administrator from
10 health coverage tax credit eligible enrollees. Premiums due from
11 health coverage tax credit eligible enrollees must be in an amount
12 equal to the cost charged by the managed health care system provider to
13 the state for the plan, plus the administrative cost of providing the
14 plan to those enrollees and the premium tax under RCW 48.14.0201. The
15 administrator will consider the impact of eligibility determination by
16 the appropriate federal agency designated by the Trade Act of 2002
17 (P.L. 107-210) as well as the premium collection and remittance
18 activities by the United States internal revenue service when
19 determining the administrative cost charged for health coverage tax
20 credit eligible enrollees.
21 (e) An employer or other financial sponsor may, with the prior
22 approval of the administrator, pay the premium, rate, or any other
23 amount on behalf of a subsidized or nonsubsidized enrollee, by
24 arrangement with the enrollee and through a mechanism acceptable to the
25 administrator. The administrator shall establish a mechanism for
26 receiving premium payments from the United States internal revenue
27 service for health coverage tax credit eligible enrollees.
28 (f) To develop, as an offering by every health carrier providing
29 coverage identical to the basic health plan, as configured on January
30 1, 2001, a basic health plan model plan with uniformity in enrollee
31 cost-sharing requirements.
32 (3) To evaluate, with the cooperation of participating managed
33 health care system providers, the impact on the basic health plan of
34 enrolling health coverage tax credit eligible enrollees. The
35 administrator shall issue to the appropriate committees of the
36 legislature preliminary evaluations on June 1, 2005, and January 1,
37 2006, and a final evaluation by June 1, 2006. The evaluation shall
38 address the number of persons enrolled, the duration of their

enrollment, their utilization of covered services relative to other basic health plan enrollees, and the extent to which their enrollment contributed to any change in the cost of the basic health plan.

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

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

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

(7) Subject to subsection (6) of this section and section 2 of this act, to enroll any person who meets the eligibility standards in RCW 70.47.020 and for whom a completed application is submitted. In determining eligibility, the administrator shall require submission of income tax returns, or verification that income tax returns were not filed, and recent income history for any applicant, the applicant's spouse, and his or her dependents.

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

((~~(8)~~)) (9) To adopt a schedule for the orderly development of the delivery of services and availability of the plan to residents of the state, subject to the limitations ((~~contained in RCW 70.47.080~~)) in this chapter or any act appropriating funds for the plan.

1 ((~~(9)~~)) (10) To solicit and accept applications from managed health
2 care systems, as defined in this chapter, for inclusion as eligible
3 basic health care providers under the plan for subsidized enrollees,
4 nonsubsidized enrollees, or health coverage tax credit eligible
5 enrollees. The administrator shall endeavor to assure that covered
6 basic health care services are available to any enrollee of the plan
7 from among a selection of two or more participating managed health care
8 systems. In adopting any rules or procedures applicable to managed
9 health care systems and in its dealings with such systems, the
10 administrator shall consider and make suitable allowance for the need
11 for health care services and the differences in local availability of
12 health care resources, along with other resources, within and among the
13 several areas of the state. Contracts with participating managed
14 health care systems shall ensure that basic health plan enrollees who
15 become eligible for medical assistance may, at their option, continue
16 to receive services from their existing providers within the managed
17 health care system if such providers have entered into provider
18 agreements with the department of social and health services.
19 ((~~(10)~~)) (11) To receive periodic premiums from or on behalf of
20 subsidized, nonsubsidized, and health coverage tax credit eligible
21 enrollees, deposit them in the basic health plan operating account,
22 keep records of enrollee status, and authorize periodic payments to
23 managed health care systems on the basis of the number of enrollees
24 participating in the respective managed health care systems.
25 ((~~(11)~~)) (12) To accept applications from individuals residing in
26 areas served by the plan, on behalf of themselves and their spouses and
27 dependent children, for enrollment in the Washington basic health plan
28 as subsidized, nonsubsidized, or health coverage tax credit eligible
29 enrollees, to give priority to members of the Washington national guard
30 and reserves who served in Operation Enduring Freedom, Operation Iraqi
31 Freedom, or Operation Noble Eagle, and their spouses and dependents,
32 for enrollment in the Washington basic health plan, to establish
33 appropriate minimum-enrollment periods for enrollees as may be
34 necessary, and to determine, upon application and on a reasonable
35 schedule defined by the authority, or at the request of any enrollee,
36 eligibility due to current gross family income for sliding scale
37 premiums. Funds received by a family as part of participation in the
38 adoption support program authorized under RCW 26.33.320 and 74.13.100

through 74.13.145 shall not be counted toward a family's current gross family income for the purposes of this chapter. When an enrollee fails to report income or income changes accurately, the administrator shall have the authority either to bill the enrollee for the amounts overpaid by the state or to impose civil penalties of up to two hundred percent of the amount of subsidy overpaid due to the enrollee incorrectly reporting income. The administrator shall adopt rules to define the appropriate application of these sanctions and the processes to implement the sanctions provided in this subsection, within available resources. No subsidy may be paid with respect to any enrollee whose current gross family income exceeds twice the federal poverty level or, subject to RCW 70.47.110, who is a recipient of medical assistance or medical care services under chapter 74.09 RCW. If a number of enrollees drop their enrollment for no apparent good cause, the administrator may establish appropriate rules or requirements that are applicable to such individuals before they will be allowed to reenroll in the plan.

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

((~~(13)~~)) (14) To determine the rate to be paid to each participating managed health care system in return for the provision of covered basic health care services to enrollees in the system.

1 Although the schedule of covered basic health care services will be the
2 same or actuarially equivalent for similar enrollees, the rates
3 negotiated with participating managed health care systems may vary
4 among the systems. In negotiating rates with participating systems,
5 the administrator shall consider the characteristics of the populations
6 served by the respective systems, economic circumstances of the local
7 area, the need to conserve the resources of the basic health plan trust
8 account, and other factors the administrator finds relevant.

9 ((~~(14)~~)) (15) To monitor the provision of covered services to
10 enrollees by participating managed health care systems in order to
11 assure enrollee access to good quality basic health care, to require
12 periodic data reports concerning the utilization of health care
13 services rendered to enrollees in order to provide adequate information
14 for evaluation, and to inspect the books and records of participating
15 managed health care systems to assure compliance with the purposes of
16 this chapter. In requiring reports from participating managed health
17 care systems, including data on services rendered enrollees, the
18 administrator shall endeavor to minimize costs, both to the managed
19 health care systems and to the plan. The administrator shall
20 coordinate any such reporting requirements with other state agencies,
21 such as the insurance commissioner and the department of health, to
22 minimize duplication of effort.

23 ((~~(15)~~)) (16) To evaluate the effects this chapter has on private
24 employer-based health care coverage and to take appropriate measures
25 consistent with state and federal statutes that will discourage the
26 reduction of such coverage in the state.

27 ((~~(16)~~)) (17) To develop a program of proven preventive health
28 measures and to integrate it into the plan wherever possible and
29 consistent with this chapter.

30 ((~~(17)~~)) (18) To provide, consistent with available funding,
31 assistance for rural residents, underserved populations, and persons of
32 color.

33 ((~~(18)~~)) (19) In consultation with appropriate state and local
34 government agencies, to establish criteria defining eligibility for
35 persons confined or residing in government-operated institutions.

36 ((~~(19)~~)) (20) To administer the premium discounts provided under
37 RCW 48.41.200(3)(a) (i) and (ii) pursuant to a contract with the
38 Washington state health insurance pool.

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

(22)(a) To disenroll any enrollee:

(i) Whose premium payments to the plan are delinquent, except that an enrollee whose premium is the responsibility of the department of social and health services under RCW 70.47.110 may not be dropped solely because of nonpayment by the department;

(ii) Who, as reported by health care providers and confirmed by the administrator, repeatedly fails to pay the required copayments or coinsurance in full on a timely basis;

(iii) Who does not meet the criteria for a "subsidized enrollee" under RCW 70.47.020; or

(iv) As necessary to meet the requirements of subsection (6) of this section;

(b) To verify continued eligibility, check employment security payroll records at least once every twelve months on all enrollees; require any enrollee whose family income, as indicated by payroll records, exceeds that upon which his or her enrollment and subsidy level is based to document his or her current family income as a condition of continued eligibility; and require any enrollee for whom employment security payroll records cannot be obtained to document his or her current family income at least once every six months;

(c) To provide an enrollee subject to disenrollment with advance written notice. Upon disenrollment, the administrator shall promptly notify the managed health care system in which the enrollee has been enrolled, and shall not be responsible for payment of health care services provided to the enrollee, including if applicable members of the enrollee's family, after the date of notification.

NEW SECTION. **Sec. 4.** The following acts or parts of acts are each repealed:

(1) RCW 70.47.080 (Enrollment of applicants--Participation limitations) and 1993 c 492 s 213 & 1987 1st ex.s. c 5 s 10; and

(2) RCW 70.47.090 (Removal of enrollees) and 1987 1st ex.s. c 5 s 11.

1 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and takes effect
4 immediately.

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