
HOUSE BILL 2221

State of Washington 63rd Legislature 2014 Regular Session

By Representatives Manweller and Vick

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

1 AN ACT Relating to broadening health insurance coverage options for
2 the citizens of Washington; amending RCW 48.43.700, 48.43.705, and
3 48.43.715; adding new sections to chapter 48.43 RCW; and creating a new
4 section.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

7 (a) Because of the federal patient protection and affordable care
8 act, also known as Obamacare, millions of Americans, many of whom live
9 in Washington, had their health insurance plans canceled despite
10 President Obama's promise that they could keep the coverage they had.

11 (b) The Obama administration responded to this problem in the
12 following ways:

13 (i) Allowing state insurance commissioners, for a period of one
14 year, to approve plans that do not meet the requirements of Obamacare;

15 (ii) Suspending the individual mandate for persons whose insurance
16 was canceled due to Obamacare; and

17 (iii) Allowing persons whose insurance was canceled due to
18 Obamacare to purchase catastrophic insurance, regardless of age.

1 (c) The solutions offered by the Obama administration are
2 insufficient for Washington citizens due to:

3 (i) The Washington insurance commissioner's refusal to approve
4 plans that do not meet the requirements of Obamacare; and

5 (ii) The nonexistence or limited availability of the coverage
6 alternatives proposed by the Obama administration in response to the
7 crisis.

8 (2) The legislature, therefore, intends to expand affordable
9 coverage options for Washington citizens by:

10 (a) Allowing health carriers to continue to offer certain
11 individual or small group health plans in the market outside of the
12 exchange, regardless of whether the plans meet the requirements of
13 Obamacare; and

14 (b) Allowing out-of-state carriers to offer insurance products in
15 Washington.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 48.43 RCW
17 to read as follows:

18 (1) A health carrier may continue to offer an individual or small
19 group health plan in the market outside of the exchange, regardless of
20 whether the plan meets any state or federal requirements applicable to
21 individual or small group plans offered on or after October 1, 2013,
22 if:

23 (a) The health plan was offered in the individual or small group
24 market in Washington on October 1, 2013; and

25 (b) The purchaser of the health plan was actually enrolled in the
26 plan on October 1, 2013.

27 (2) A health carrier choosing to continue to offer an individual or
28 small group health plan under subsection (1) of this section, shall
29 send written notice to all enrollees of that plan who have received a
30 cancellation or termination notice regarding the plan, or who otherwise
31 should have received such notice, informing them of:

32 (a) Any changes in the options available to them;

33 (b) Which market reforms would not be reflected in any continued
34 coverage;

35 (c) Their potential right to enroll in a qualified health plan
36 offered through the exchange and possibly qualify for financial
37 assistance;

1 (d) How to access such coverage through the exchange; and
2 (e) Their right to enroll in health insurance coverage outside of
3 the exchange that complies with the market reforms identified in (b) of
4 this subsection.

5 (3) The commissioner may not adopt any rules or policies that would
6 prohibit or inhibit continuing coverage under this section.

7 **Sec. 3.** RCW 48.43.700 and 2012 c 87 s 6 are each amended to read
8 as follows:

9 (1) For plan or policy years beginning January 1, 2014, a carrier
10 must offer individual or small group health benefit plans that meet the
11 definition of silver and gold level plans in section 1302 of P.L. 111-
12 148 of 2010, as amended, in any market outside the exchange in which it
13 offers a plan that meets the definition of bronze level in section 1302
14 of P.L. 111-148 of 2010, as amended.

15 (2) Except as provided in section 2 of this act, a health benefit
16 plan meeting the definition of a catastrophic plan in RCW
17 48.43.005(8)(c)(i) may only be sold through the exchange.

18 (3) By December 1, 2016, the exchange board, in consultation with
19 the commissioner, must complete a review of the impact of this section
20 on the health and viability of the markets inside and outside the
21 exchange and submit the recommendations to the legislature on whether
22 to maintain the market rules or let them expire.

23 (4) The commissioner shall evaluate plans offered at each actuarial
24 value defined in section 1302 of P.L. 111-148 of 2010, as amended, and
25 determine whether variation in prescription drug benefit cost-sharing,
26 both inside and outside the exchange in both the individual and small
27 group markets results in adverse selection. If so, the commissioner
28 may adopt rules to assure substantial equivalence of prescription drug
29 cost-sharing. Any rules adopted under this subsection do not apply to
30 health plans offered under section 2 of this act.

31 **Sec. 4.** RCW 48.43.705 and 2012 c 87 s 7 are each amended to read
32 as follows:

33 Except as provided in section 2 of this act, all health plans,
34 other than catastrophic health plans, offered outside of the exchange
35 must conform with the actuarial value tiers specified in section 1302

1 of P.L. 111-148 of 2010, as amended, as bronze, silver, gold, or
2 platinum.

3 **Sec. 5.** RCW 48.43.715 and 2013 c 325 s 1 are each amended to read
4 as follows:

5 (1) Consistent with federal law, the commissioner, in consultation
6 with the board and the health care authority, shall, by rule, select
7 the largest small group plan in the state by enrollment as the
8 benchmark plan for the individual and small group market for purposes
9 of establishing the essential health benefits in Washington state under
10 P.L. 111-148 of 2010, as amended.

11 (2) If the essential health benefits benchmark plan for the
12 individual and small group market does not include all of the ten
13 benefit categories specified by section 1302 of P.L. 111-148, as
14 amended, the commissioner, in consultation with the board and the
15 health care authority, shall, by rule, supplement the benchmark plan
16 benefits as needed to meet the minimum requirements of section 1302.

17 (3) Except as provided in section 2 of this act, a health plan
18 required to offer the essential health benefits, other than a health
19 plan offered through the federal basic health program or medicaid,
20 under P.L. 111-148 of 2010, as amended, may not be offered in the state
21 unless the commissioner finds that it is substantially equal to the
22 benchmark plan. When making this determination, the commissioner:

23 (a) Must ensure that the plan covers the ten essential health
24 benefits categories specified in section 1302 of P.L. 111-148 of 2010,
25 as amended;

26 (b) May consider whether the health plan has a benefit design that
27 would create a risk of biased selection based on health status and
28 whether the health plan contains meaningful scope and level of benefits
29 in each of the ten essential health benefit categories specified by
30 section 1302 of P.L. 111-148 of 2010, as amended;

31 (c) Notwithstanding (~~the foregoing~~) this subsection, for benefit
32 years beginning January 1, 2015, and only to the extent permitted by
33 federal law and guidance, must establish by rule the review and
34 approval requirements and procedures for pediatric oral services when
35 offered in stand-alone dental plans in the nongrandfathered individual
36 and small group markets outside of the exchange; and

1 (d) Unless prohibited by federal law and guidance, must allow
2 health carriers to also offer pediatric oral services within the health
3 benefit plan in the nongrandfathered individual and small group markets
4 outside of the exchange.

5 (4) Beginning December 15, 2012, and every year thereafter, the
6 commissioner shall submit to the legislature a list of state-mandated
7 health benefits, the enforcement of which will result in federally
8 imposed costs to the state related to the plans sold through the
9 exchange because the benefits are not included in the essential health
10 benefits designated under federal law. The list must include the
11 anticipated costs to the state of each state-mandated health benefit on
12 the list and any statutory changes needed if funds are not appropriated
13 to defray the state costs for the listed mandate. The commissioner may
14 enforce a mandate on the list for the entire market only if funds are
15 appropriated in an omnibus appropriations act specifically to pay the
16 state portion of the identified costs.

17 NEW SECTION. **Sec. 6.** A new section is added to chapter 48.43 RCW
18 to read as follows:

19 A health carrier from another state may offer individual or small
20 group health plans in Washington, regardless of whether the plans meet
21 the requirements of this title or any rules adopted by the
22 commissioner, if the plans meet all applicable requirements in the
23 carrier's home state.

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