
HOUSE BILL 2222

State of Washington 65th Legislature 2017 2nd Special Session

By Representatives Cody and Manweller; by request of Insurance
Commissioner

Read first time 06/12/17. Referred to Committee on Health Care &
Wellness.

1 AN ACT Relating to protection of information obtained to develop
2 or implement an individual health insurance market stability program;
3 reenacting and amending RCW 42.56.400; adding a new section to
4 chapter 48.02 RCW; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 48.02
7 RCW to read as follows:

8 (1) For the purposes of developing or implementing an individual
9 health insurance market stability program, any reports, data,
10 documents, or materials that health carriers submit to or receive
11 from the United States department of human and health services as
12 part of any human and health services operated risk adjustment or
13 reinsurance program, or that the Washington state health insurance
14 pool, established under chapter 48.41 RCW, prepares for purposes of
15 this section that are obtained by, disclosed to, or in the custody of
16 the commissioner, regardless of the form or medium, are confidential
17 and are not subject to public disclosure under chapter 42.56 RCW. The
18 commissioner shall not disclose these reports, data, documents, or
19 materials except in the furtherance of developing and implementing an
20 individual health insurance market stability program.

21 (2) For the purposes of this section:

1 (a) A human and health services operated risk adjustment or
2 reinsurance program is any of the health insurance risk adjustment or
3 reinsurance programs established under 42 U.S.C. Secs. 18061 and
4 18063. The reports, data, documents, and materials that are
5 confidential under this section include all data and information
6 carriers are required to provide to human and health services through
7 the dedicated data environments required by 45 C.F.R. Sec. 153.700 et
8 seq. for all health carriers participating in any human and health
9 services health insurance risk adjustment or reinsurance program; and

10 (b) "Health carrier" has the same meaning as in RCW 48.43.005.

11 (3) The commissioner may:

12 (a) Share documents, materials, or other information, including
13 the confidential documents, materials, or information subject to
14 subsection (1) of this section, with contractors conducting
15 actuarial, economic, or other analyses necessary to develop or
16 implement an individual health insurance market stability program.

17 (b) Enter into agreements governing the sharing and use of
18 information consistent with this subsection.

19 (4) No waiver of an existing claim of confidentiality or
20 privilege in the documents, materials, or information may occur as a
21 result of disclosure to the commissioner under this section or as a
22 result of sharing as authorized in subsection (3) of this section.

23 (5) Reports, data, documents, and materials subject to this
24 section are those obtained by the commissioner as of December 31,
25 2019.

26 **Sec. 2.** RCW 42.56.400 and 2016 c 142 s 20, 2016 c 142 s 19, and
27 2016 c 122 s 4 are each reenacted and amended to read as follows:

28 The following information relating to insurance and financial
29 institutions is exempt from disclosure under this chapter:

30 (1) Records maintained by the board of industrial insurance
31 appeals that are related to appeals of crime victims' compensation
32 claims filed with the board under RCW 7.68.110;

33 (2) Information obtained and exempted or withheld from public
34 inspection by the health care authority under RCW 41.05.026, whether
35 retained by the authority, transferred to another state purchased
36 health care program by the authority, or transferred by the authority
37 to a technical review committee created to facilitate the
38 development, acquisition, or implementation of state purchased health
39 care under chapter 41.05 RCW;

1 (3) The names and individual identification data of either all
2 owners or all insureds, or both, received by the insurance
3 commissioner under chapter 48.102 RCW;

4 (4) Information provided under RCW 48.30A.045 through 48.30A.060;

5 (5) Information provided under RCW 48.05.510 through 48.05.535,
6 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and
7 48.46.600 through 48.46.625;

8 (6) Examination reports and information obtained by the
9 department of financial institutions from banks under RCW 30A.04.075,
10 from savings banks under RCW 32.04.220, from savings and loan
11 associations under RCW 33.04.110, from credit unions under RCW
12 31.12.565, from check cashers and sellers under RCW 31.45.030(3), and
13 from securities brokers and investment advisers under RCW 21.20.100,
14 all of which is confidential and privileged information;

15 (7) Information provided to the insurance commissioner under RCW
16 48.110.040(3);

17 (8) Documents, materials, or information obtained by the
18 insurance commissioner under RCW 48.02.065, all of which are
19 confidential and privileged;

20 (9) Documents, materials, or information obtained by the
21 insurance commissioner under RCW 48.31B.015(2) (l) and (m),
22 48.31B.025, 48.31B.030, and 48.31B.035, all of which are confidential
23 and privileged;

24 (10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and
25 7.70.140 that, alone or in combination with any other data, may
26 reveal the identity of a claimant, health care provider, health care
27 facility, insuring entity, or self-insurer involved in a particular
28 claim or a collection of claims. For the purposes of this subsection:

29 (a) "Claimant" has the same meaning as in RCW 48.140.010(2).

30 (b) "Health care facility" has the same meaning as in RCW
31 48.140.010(6).

32 (c) "Health care provider" has the same meaning as in RCW
33 48.140.010(7).

34 (d) "Insuring entity" has the same meaning as in RCW
35 48.140.010(8).

36 (e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

37 (11) Documents, materials, or information obtained by the
38 insurance commissioner under RCW 48.135.060;

39 (12) Documents, materials, or information obtained by the
40 insurance commissioner under RCW 48.37.060;

- 1 (13) Confidential and privileged documents obtained or produced
2 by the insurance commissioner and identified in RCW 48.37.080;
- 3 (14) Documents, materials, or information obtained by the
4 insurance commissioner under RCW 48.37.140;
- 5 (15) Documents, materials, or information obtained by the
6 insurance commissioner under RCW 48.17.595;
- 7 (16) Documents, materials, or information obtained by the
8 insurance commissioner under RCW 48.102.051(1) and 48.102.140 (3) and
9 (7)(a)(ii);
- 10 (17) Documents, materials, or information obtained by the
11 insurance commissioner in the commissioner's capacity as receiver
12 under RCW 48.31.025 and 48.99.017, which are records under the
13 jurisdiction and control of the receivership court. The commissioner
14 is not required to search for, log, produce, or otherwise comply with
15 the public records act for any records that the commissioner obtains
16 under chapters 48.31 and 48.99 RCW in the commissioner's capacity as
17 a receiver, except as directed by the receivership court;
- 18 (18) Documents, materials, or information obtained by the
19 insurance commissioner under RCW 48.13.151;
- 20 (19) Data, information, and documents provided by a carrier
21 pursuant to section 1, chapter 172, Laws of 2010;
- 22 (20) Information in a filing of usage-based insurance about the
23 usage-based component of the rate pursuant to RCW 48.19.040(5)(b);
- 24 (21) Data, information, and documents, other than those described
25 in RCW 48.02.210(2), that are submitted to the office of the
26 insurance commissioner by an entity providing health care coverage
27 pursuant to RCW 28A.400.275 and 48.02.210;
- 28 (22) Data, information, and documents obtained by the insurance
29 commissioner under RCW 48.29.017;
- 30 (23) Information not subject to public inspection or public
31 disclosure under RCW 48.43.730(5);
- 32 (24) Documents, materials, or information obtained by the
33 insurance commissioner under chapter 48.05A RCW; ~~((and))~~
- 34 (25) Documents, materials, or information obtained by the
35 insurance commissioner under RCW 48.74.025, 48.74.028, 48.74.100(6),
36 48.74.110(2) (b) and (c), and 48.74.120 to the extent such documents,
37 materials, or information independently qualify for exemption from
38 disclosure as documents, materials, or information in possession of
39 the commissioner pursuant to a financial conduct examination and
40 exempt from disclosure under RCW 48.02.065; and

1 (26) Data, information, and documents obtained by the insurance
2 commissioner under section 1 of this act.

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

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