
ENGROSSED SUBSTITUTE HOUSE BILL 2408

State of Washington

65th Legislature

2018 Regular Session

By House Health Care & Wellness (originally sponsored by Representatives Cody, Jenkins, Goodman, Johnson, Slatter, Tharinger, Stanford, Macri, Ormsby, Doglio, and Appleton)

READ FIRST TIME 02/02/18.

1 AN ACT Relating to preserving access to individual market health
2 care coverage throughout Washington state; amending RCW 48.41.100;
3 adding a new section to chapter 41.05 RCW; adding a new section to
4 chapter 48.43 RCW; adding a new section to chapter 43.71 RCW;
5 creating a new section; and providing an expiration date.

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

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

8 (a) Access to health care is fundamental to the health and safety
9 of the citizens of Washington state;

10 (b) Health insurance coverage is necessary for most people to
11 access health care;

12 (c) Due to uncertainty in the health insurance marketplace,
13 volatility in the current federal regulatory environment, and rising
14 health care costs, ensuring access to the private health insurance
15 market in every county in Washington state is becoming more
16 difficult;

17 (d) The consequences of losing private health insurance coverage
18 in a county would be catastrophic, leading to deteriorating health
19 outcomes, lost productivity, and lower quality of life; and

20 (e) If the private market fails to provide coverage in a county,
21 the state must intervene.

1 (2) The legislature therefore intends to:

2 (a) Leverage the provider networks used by private insurers
3 offering coverage to state and school employees to ensure private
4 insurance coverage is available in all counties where those insurers
5 offer coverage to state and school employees; and

6 (b) Until such coverage is available, allow persons residing in
7 counties where no private insurance is available to purchase health
8 coverage outside their counties of residence.

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.05
10 RCW to read as follows:

11 (1) For plan years beginning January 1, 2020, a health carrier
12 must offer in the exchange at least one silver and one gold qualified
13 health plan in any county in which it offers a fully insured health
14 plan that was approved, on or after the effective date of this
15 section, by the school employees' benefits board or the public
16 employees' benefits board to be offered to employees and their
17 covered dependents under this chapter.

18 (2) The rates for a health plan approved by the school employees'
19 benefits board or the public employees' benefits board may not
20 include the administrative costs or actuarial risks associated with a
21 qualified health plan offered under subsection (1) of this section.

22 (3) The authority shall perform an actuarial review during the
23 annual rate setting process for plans approved by the school
24 employees' benefits board or the public employees' benefits board to
25 ensure compliance with subsection (2) of this section.

26 (4) For purposes of this section, "exchange" and "health carrier"
27 have the same meaning as in RCW 48.43.005.

28 NEW SECTION. **Sec. 3.** A new section is added to chapter 48.43
29 RCW to read as follows:

30 (1) A health carrier shall allow an individual to purchase an
31 individual market health plan offered by the carrier outside of the
32 individual's county of residence if:

33 (a) There are no individual health plans, other than catastrophic
34 plans, offered within the individual's county of residence; and

35 (b) The individual's county of residence is in the same
36 geographic rating area as the health plan he or she is purchasing.

37 (2) When evaluating the adequacy of the provider networks in a
38 county where a health carrier is required to offer plans under this

1 section to enrollees who are not residents of that county, if the
2 carrier did not participate in the individual market in 2018 in that
3 county, the commissioner shall take into account the availability of
4 telemedicine services and shall consider all reasonable requests to
5 allow the health carrier to deliver services using all access points
6 in the neighboring counties.

7 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.71
8 RCW to read as follows:

9 The exchange shall allow an individual to purchase a qualified
10 health plan being offered outside his or her county residence as
11 provided in section 3 of this act.

12 **Sec. 5.** RCW 48.41.100 and 2017 c 110 s 2 are each amended to
13 read as follows:

14 (1)(a) The following persons who are residents of this state are
15 eligible for pool coverage:

16 (i) Any resident of the state not eligible for medicare coverage
17 or medicaid coverage(~~(, and residing)~~) who:

18 (A) Resides in a county where an individual health plan other
19 than a catastrophic health plan as defined in RCW 48.43.005 is not
20 offered to the resident during defined open enrollment or special
21 enrollment periods at the time of application to the pool, whether
22 through the health benefit exchange operated pursuant to chapter
23 43.71 RCW or in the private insurance market(~~(, and who)~~);

24 (B) Is not eligible to purchase a health plan in a county outside
25 of his or her county of residence under section 3 of this act; and

26 (C) Makes application to the pool for coverage prior to December
27 31, 2022;

28 (ii) Any resident of the state not eligible for medicare
29 coverage, enrolled in the pool prior to December 31, 2013, shall
30 remain eligible for pool coverage except as provided in subsections
31 (2) and (3) of this section through December 31, 2022;

32 (iii) Any person becoming eligible for medicare before August 1,
33 2009, who provides evidence of (A) a rejection for medical reasons,
34 (B) a requirement of restrictive riders, (C) an up-rated premium, (D)
35 a preexisting conditions limitation, or (E) lack of access to or for
36 a comprehensive medicare supplemental insurance policy under chapter
37 48.66 RCW, the effect of any of which is to substantially reduce

1 coverage from that received by a person considered a standard risk by
2 at least one member within six months of the date of application; and

3 (iv) Any person becoming eligible for medicare on or after August
4 1, 2009, who does not have access to a reasonable choice of
5 comprehensive medicare part C plans, as defined in (b) of this
6 subsection, and who provides evidence of (A) a rejection for medical
7 reasons, (B) a requirement of restrictive riders, (C) an up-rated
8 premium, (D) a preexisting conditions limitation, or (E) lack of
9 access to or for a comprehensive medicare supplemental insurance
10 policy under chapter 48.66 RCW, the effect of any of which is to
11 substantially reduce coverage from that received by a person
12 considered a standard risk by at least one member within six months
13 of the date of application.

14 (b) For purposes of (a)(i) of this subsection, by December 1,
15 2013, the board shall develop and implement a process to determine an
16 applicant's eligibility based on the criteria specified in (a)(i) of
17 this subsection.

18 (c) For purposes of (a)(iv) of this subsection (1), a person does
19 not have access to a reasonable choice of plans unless the person has
20 a choice of health maintenance organization or preferred provider
21 organization medicare part C plans offered by at least three
22 different carriers that have had provider networks in the person's
23 county of residence for at least five years. The plan options must
24 include coverage at least as comprehensive as a plan F medicare
25 supplement plan combined with medicare parts A and B. The plan
26 options must also provide access to adequate and stable provider
27 networks that make up-to-date provider directories easily accessible
28 on the carrier web site, and will provide them in hard copy, if
29 requested. In addition, if no health maintenance organization or
30 preferred provider organization plan includes the health care
31 provider with whom the person has an established care relationship
32 and from whom he or she has received treatment within the past twelve
33 months, the person does not have reasonable access.

34 (2) The following persons are not eligible for coverage by the
35 pool:

36 (a) Any person having terminated coverage in the pool unless (i)
37 twelve months have lapsed since termination, or (ii) that person can
38 show continuous other coverage which has been involuntarily
39 terminated for any reason other than nonpayment of premiums. However,
40 these exclusions do not apply to eligible individuals as defined in

1 section 2741(b) of the federal health insurance portability and
2 accountability act of 1996 (42 U.S.C. Sec. 300gg-41(b));

3 (b) Inmates of public institutions and those persons who become
4 eligible for medical assistance after June 30, 2008, as defined in
5 RCW 74.09.010. However, these exclusions do not apply to eligible
6 individuals as defined in section 2741(b) of the federal health
7 insurance portability and accountability act of 1996 (42 U.S.C. Sec.
8 300gg-41(b)).

9 (3) When a carrier or insurer regulated under chapter 48.15 RCW
10 begins to offer an individual health benefit plan in a county where
11 no carrier had been offering an individual health benefit plan:

12 (a) If the health benefit plan offered is other than a
13 catastrophic health plan as defined in RCW 48.43.005, any person
14 enrolled in a pool plan pursuant to subsection (1)(a)(i) of this
15 section in that county shall no longer be eligible for coverage under
16 that plan pursuant to subsection (1)(a)(i) of this section; and

17 (b) The pool administrator shall provide written notice to any
18 person who is no longer eligible for coverage under a pool plan under
19 this subsection (3) within thirty days of the administrator's
20 determination that the person is no longer eligible. The notice
21 shall: (i) Indicate that coverage under the plan will cease ninety
22 days from the date that the notice is dated; (ii) describe any other
23 coverage options, either in or outside of the pool, available to the
24 person; and (iii) describe the enrollment process for the available
25 options outside of the pool.

26 NEW SECTION. **Sec. 6.** Sections 3 through 5 of this act expire
27 December 31, 2019.

28 NEW SECTION. **Sec. 7.** If any provision of this act or its
29 application to any person or circumstance is held invalid, the
30 remainder of the act or the application of the provision to other
31 persons or circumstances is not affected.

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