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SENATE BILL 5253

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State of Washington

65th Legislature

2017 Regular Session

By Senators Cleveland, Rivers, Kuderer, Keiser, Conway, Becker, and Hasegawa

Read first time 01/18/17. Referred to Committee on Health Care.

1 AN ACT Relating to the Washington state health insurance pool;  
2 and amending RCW 48.41.100 and 48.41.160.

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

4 **Sec. 1.** RCW 48.41.100 and 2013 c 279 s 3 are each amended to  
5 read as follows:

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

8 (i) Any resident of the state not eligible for medicare coverage  
9 or medicaid coverage, and residing in a county where an individual  
10 health plan other than a catastrophic health plan as defined in RCW  
11 48.43.005 is not offered to the resident during defined open  
12 enrollment or special enrollment periods at the time of application  
13 to the pool, whether through the health benefit exchange operated  
14 pursuant to chapter 43.71 RCW or in the private insurance market(  
15 ~~and who makes application to the pool for coverage prior to December~~  
16 ~~31, 2017));~~

17 (ii) Any resident of the state not eligible for medicare  
18 coverage, enrolled in the pool prior to December 31, 2013, shall  
19 remain eligible for pool coverage except as provided in subsections  
20 (2) and (3) of this section (~~through December 31, 2017));~~

1 (iii) Any person becoming eligible for medicare before August 1,  
2 2009, who provides evidence of (A) a rejection for medical reasons,  
3 (B) a requirement of restrictive riders, (C) an up-rated premium, (D)  
4 a preexisting conditions limitation, or (E) lack of access to or for  
5 a comprehensive medicare supplemental insurance policy under chapter  
6 48.66 RCW, the effect of any of which is to substantially reduce  
7 coverage from that received by a person considered a standard risk by  
8 at least one member within six months of the date of application; and

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

20 (b) For purposes of (a)(i) of this subsection, by December 1,  
21 2013, the board shall develop and implement a process to determine an  
22 applicant's eligibility based on the criteria specified in (a)(i) of  
23 this subsection.

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

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

3 (a) Any person having terminated coverage in the pool unless (i)  
4 twelve months have lapsed since termination, or (ii) that person can  
5 show continuous other coverage which has been involuntarily  
6 terminated for any reason other than nonpayment of premiums. However,  
7 these exclusions do not apply to eligible individuals as defined in  
8 section 2741(b) of the federal health insurance portability and  
9 accountability act of 1996 (42 U.S.C. Sec. 300gg-41(b));

10 (b) Inmates of public institutions and those persons who become  
11 eligible for medical assistance after June 30, 2008, as defined in  
12 RCW 74.09.010. However, these exclusions do not apply to eligible  
13 individuals as defined in section 2741(b) of the federal health  
14 insurance portability and accountability act of 1996 (42 U.S.C. Sec.  
15 300gg-41(b)).

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

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

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

33 **Sec. 2.** RCW 48.41.160 and 2013 c 279 s 4 are each amended to  
34 read as follows:

35 (1) On or before December 31, 2007, the pool shall cancel all  
36 existing pool policies and replace them with policies that are  
37 identical to the existing policies except for the inclusion of a  
38 provision providing for a guarantee of the continuity of coverage  
39 consistent with this section. As a means to minimize the number of

1 policy changes for enrollees, replacement policies provided under  
2 this subsection also may include the plan modifications authorized in  
3 RCW 48.41.100, 48.41.110, and 48.41.120.

4 (2) A pool policy shall contain a guarantee of the individual's  
5 right to continued coverage, subject to the provisions of subsections  
6 (4)((~~7~~)) and (5)((~~7~~), ~~and~~ (~~8~~)) of this section.

7 (3) The guarantee of continuity of coverage required by this  
8 section shall not prevent the pool from canceling or nonrenewing a  
9 policy for:

10 (a) Nonpayment of premium;

11 (b) Violation of published policies of the pool;

12 (c) Failure of a covered person who becomes eligible for medicare  
13 benefits by reason of age to apply for a pool medical supplement  
14 plan, or a medicare supplement plan or other similar plan offered by  
15 a carrier pursuant to federal laws and regulations;

16 (d) Failure of a covered person to pay any deductible or  
17 copayment amount owed to the pool and not the provider of health care  
18 services;

19 (e) Covered persons committing fraudulent acts as to the pool;

20 (f) Covered persons materially breaching the pool policy; or

21 (g) Changes adopted to federal or state laws when such changes no  
22 longer permit the continued offering of such coverage.

23 (4)(a) The guarantee of continuity of coverage provided by this  
24 section requires that if the pool replaces a plan, it must make the  
25 replacement plan available to all individuals in the plan being  
26 replaced. The replacement plan must include all of the services  
27 covered under the replaced plan, and must not significantly limit  
28 access to the kind of services covered under the replacement plan  
29 through unreasonable cost-sharing requirements or otherwise. The pool  
30 may also allow individuals who are covered by a plan that is being  
31 replaced an unrestricted right to transfer to a fully comparable  
32 plan.

33 (b) The guarantee of continuity of coverage provided by this  
34 section requires that if the pool discontinues offering a plan: (i)  
35 The pool must provide notice to each individual of the  
36 discontinuation at least ninety days prior to the date of the  
37 discontinuation; (ii) the pool must offer to each individual provided  
38 coverage under the discontinued plan the option to enroll in any  
39 other plan currently offered by the pool for which the individual is  
40 otherwise eligible; and (iii) in exercising the option to discontinue

1 a plan and in offering the option of coverage under (b)(ii) of this  
2 subsection, the pool must act uniformly without regard to any health  
3 status-related factor of enrolled individuals or individuals who may  
4 become eligible for this coverage.

5 (c) The pool cannot replace or discontinue a plan under this  
6 subsection (4) until it has completed an evaluation of the impact of  
7 replacing the plan upon:

8 (i) The cost and quality of care to pool enrollees;

9 (ii) Pool financing and enrollment;

10 (iii) The board's ability to offer comprehensive and other plans  
11 to its enrollees;

12 (iv) Other items identified by the board.

13 In its evaluation, the board must request input from the  
14 constituents represented by the board members.

15 (d) The guarantee of continuity of coverage provided by this  
16 section does not apply if the pool has zero enrollment in a plan.

17 (5) The pool may not change the rates for pool policies except on  
18 a class basis, with a clear disclosure in the policy of the pool's  
19 right to do so.

20 (6) A pool policy offered under this chapter shall provide that,  
21 upon the death of the individual in whose name the policy is issued,  
22 every other individual then covered under the policy may elect,  
23 within a period specified in the policy, to continue coverage under  
24 the same or a different policy.

25 (7) All pool policies issued on or after January 1, 2014, must  
26 reflect the new eligibility requirements of RCW 48.41.100 ((and  
27 contain a statement of the intent to discontinue the pool coverage on  
28 December 31, 2017, under pool nonmedicare plans.

29 ~~(8) Pool policies issued prior to January 1, 2014, shall be~~  
30 ~~modified effective January 1, 2013, consistent with subsection (3)(g)~~  
31 ~~of this section, and contain a statement of the intent to discontinue~~  
32 ~~pool coverage on December 31, 2017, under pool nonmedicare plans.~~

33 ~~(9) The pool shall discontinue all nonmedicare pool plans~~  
34 ~~effective December 31, 2017)).~~

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