
HOUSE BILL 2069

State of Washington

59th Legislature

2005 Regular Session

By Representatives Morrell, Hankins, Cody and Sells; by request of Governor Gregoire

Read first time 02/16/2005. Referred to Committee on Health Care.

1 AN ACT Relating to expanding access to insurance coverage through
2 the small business assist program; amending RCW 70.47.010, 70.47.015,
3 70.47.020, 70.47.060, 70.47.100, 70.47.120, 70.47.130, 70.47.160, and
4 41.05.140; reenacting and amending RCW 43.79A.040; and adding new
5 sections to chapter 70.47 RCW.

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

7 **Sec. 1.** RCW 70.47.010 and 2000 c 79 s 42 are each amended to read
8 as follows:

9 ~~(1)((a) The legislature finds that limitations on access to health
10 care services for enrollees in the state, such as in rural and
11 underserved areas, are particularly challenging for the basic health
12 plan. Statutory restrictions have reduced the options available to the
13 administrator to address the access needs of basic health plan
14 enrollees. It is the intent of the legislature to authorize the
15 administrator to develop alternative purchasing strategies to ensure
16 access to basic health plan enrollees in all areas of the state,
17 including: (i) The use of differential rating for managed health care
18 systems based on geographic differences in costs; and (ii) limited use~~

1 of self insurance in areas where adequate access cannot be assured
2 through other options.

3 ~~(b) In developing alternative purchasing strategies to address~~
4 ~~health care access needs, the administrator shall consult with~~
5 ~~interested persons including health carriers, health care providers,~~
6 ~~and health facilities, and with other appropriate state agencies~~
7 ~~including the office of the insurance commissioner and the office of~~
8 ~~community and rural health. In pursuing such alternatives, the~~
9 ~~administrator shall continue to give priority to prepaid managed care~~
10 ~~as the preferred method of assuring access to basic health plan~~
11 ~~enrollees followed, in priority order, by preferred providers, fee for~~
12 ~~service, and self funding.~~

13 ~~(2))~~ The legislature (~~(further)~~) finds that:

14 (a) A significant percentage of the population of this state does
15 not have reasonably available insurance or other coverage of the costs
16 of necessary basic health care services;

17 (b) This lack of basic health care coverage is detrimental to the
18 health of the individuals lacking coverage and to the public welfare,
19 and results in substantial expenditures for emergency and remedial
20 health care, often at the expense of health care providers, health care
21 facilities, and all purchasers of health care, including the state; and

22 (c) The use of managed health care systems has significant
23 potential to reduce the growth of health care costs incurred by the
24 people of this state generally, and by low-income pregnant women, and
25 at-risk children and adolescents who need greater access to managed
26 health care.

27 ~~((3))~~ (2) The purpose of this chapter is to provide or make more
28 readily available necessary basic health care services in an
29 appropriate setting to working persons and others who lack coverage, at
30 a cost to these persons that does not create barriers to the
31 utilization of necessary health care services. To that end, this
32 chapter establishes a program to be made available to those residents
33 not eligible for medicare who share in a portion of the cost or who pay
34 the full cost of receiving basic health care services from a managed
35 health care system.

36 (3) The legislature further finds that many small employers
37 struggle with the cost of providing employer-sponsored health insurance
38 coverage to their employees and their employees' families, while others

1 are unable to offer employer-sponsored health insurance due to its high
2 cost. Low-wage workers also struggle with the burden of paying their
3 share of the costs of employer-sponsored health insurance, while others
4 turn down their employer's offer of coverage due to its costs.

5 ~~(4) ((It is not the intent of this chapter to provide health care~~
6 ~~services for those persons who are presently covered through private~~
7 ~~employer based health plans, nor to replace employer based health~~
8 ~~plans. However, the legislature recognizes that cost effective and~~
9 ~~affordable health plans may not always be available to small business~~
10 ~~employers. Further, it is the intent of the legislature to expand,~~
11 ~~wherever possible, the availability of private health care coverage and~~
12 ~~to discourage the decline of employer based coverage.~~

13 ~~(5))~~(a) It is the purpose of this chapter to acknowledge the
14 initial success of ~~((this))~~ the basic health plan program that has (i)
15 assisted thousands of families in their search for affordable health
16 care; (ii) demonstrated that low-income, uninsured families are willing
17 to pay for their own health care coverage to the extent of their
18 ability to pay; and (iii) proved that local health care providers are
19 willing to enter into a public-private partnership as a managed care
20 system.

21 (b) As a consequence, the legislature intends to extend an option
22 to enroll to certain citizens above two hundred percent of the federal
23 poverty guidelines within the state who reside in communities where the
24 plan is operational and who collectively or individually wish to
25 exercise the opportunity to purchase health care coverage through the
26 basic health plan if the purchase is done at no cost to the state. It
27 is also the intent of the legislature to allow ~~((employers and other))~~
28 financial sponsors to financially assist such individuals to purchase
29 health care through the program so long as such purchase does not
30 result in a lower standard of coverage for employees.

31 (c) The legislature intends that, to the extent of available funds,
32 the programs administered under this chapter be available throughout
33 Washington state ~~((to subsidized and nonsubsidized enrollees))~~. It is
34 also the intent of the legislature to give priority to preserving
35 subsidized basic health plan enrollment and to enroll subsidized
36 enrollees first, to the maximum extent feasible.

37 (d) The legislature directs that the basic health plan
38 administrator identify enrollees who are likely to be eligible for

1 medical assistance and assist these individuals in applying for and
2 receiving medical assistance. The administrator and the department of
3 social and health services shall implement a seamless system to
4 coordinate eligibility determinations and benefit coverage for
5 enrollees of the basic health plan and medical assistance recipients.

6 (5) The legislature further finds that limitations on access to
7 health care services for enrollees in the state, such as in rural and
8 underserved areas, are particularly challenging. It is the intent of
9 the legislature to authorize the administrator to develop alternative
10 purchasing strategies to ensure access to enrollees of the programs
11 administered under this chapter in all areas of the state, including
12 but not limited to: (a) The use of differential rating for managed
13 health care systems based on geographic differences in costs; and (b)
14 self-insurance in areas where adequate access cannot be ensured through
15 other options.

16 NEW SECTION. Sec. 2. A new section is added to chapter 70.47 RCW
17 to read as follows:

18 The small business assist program is hereby created under the
19 Washington state health care authority. The legislature intends that
20 the small business assist program offer affordable health care coverage
21 to small employers, their employees, and dependents if the employer has
22 not provided health care coverage for at least six months as of the
23 time of application. Prior employer-sponsored coverage as a subsidized
24 enrollee in the basic health plan shall not be considered employer
25 group coverage.

26 **Sec. 3.** RCW 70.47.015 and 1997 c 337 s 1 are each amended to read
27 as follows:

28 (1) The legislature finds that the basic health plan has been an
29 effective program in providing health coverage for uninsured residents.
30 Further, since 1993, substantial amounts of public funds have been
31 allocated for subsidized basic health plan enrollment.

32 (2) It is the intent of the legislature that the basic health plan
33 enrollment be expanded expeditiously, consistent with funds available
34 in the health services account, with the goal of two hundred thousand
35 adult subsidized basic health plan enrollees and one hundred thirty

1 thousand children covered through expanded medical assistance services
2 by June 30, 1997, with the priority of providing needed health services
3 to children in conjunction with other public programs.

4 (3) Effective January 1, 1996, basic health plan enrollees whose
5 income is less than one hundred twenty-five percent of the federal
6 poverty level shall pay at least a ten-dollar premium share.

7 (4) No later than July 1, 1996, the administrator shall implement
8 procedures whereby hospitals licensed under chapters 70.41 and 71.12
9 RCW, health carrier, rural health care facilities regulated under
10 chapter 70.175 RCW, and community and migrant health centers funded
11 under RCW 41.05.220, may expeditiously assist patients and their
12 families in applying for basic health plan or medical assistance
13 coverage, and in submitting such applications directly to the health
14 care authority or the department of social and health services. The
15 health care authority and the department of social and health services
16 shall make every effort to simplify and expedite the application and
17 enrollment process.

18 (5) ~~((No later than July 1, 1996,))~~ The administrator ~~((shall))~~ may
19 implement procedures whereby health insurance agents and brokers,
20 licensed under chapter 48.17 RCW, may expeditiously assist patients and
21 their families in applying for basic health plan or ~~((medical~~
22 ~~assistance coverage,))~~ small business assist coverage and in submitting
23 such applications directly to the health care authority ~~((or the~~
24 ~~department of social and health services))~~. Brokers and agents may
25 receive a commission for each individual sale of the basic health plan
26 or the small business assist program to anyone not signed up within the
27 previous five years ~~((and a commission for each group sale of the basic~~
28 ~~health plan))~~, if sufficient funding ~~((for this purpose is provided in~~
29 ~~a specific appropriation))~~ is appropriated to the health care authority
30 for marketing and administration. No commission shall be provided upon
31 a renewal. ~~((Commissions shall be determined based on the estimated~~
32 ~~annual cost of the basic health plan, however, commissions shall not~~
33 ~~result in a reduction in the premium amount paid to health carriers.))~~
34 For purposes of this section "health carrier" is as defined in RCW
35 48.43.005. The administrator may establish: (a) Minimum educational
36 requirements that must be completed by the agents or brokers; (b) an
37 appointment process for agents or brokers marketing the basic health
38 plan or the small business assist program; or (c) standards for

1 revocation of the appointment of an agent or broker to submit
2 applications for cause, including untrustworthy or incompetent conduct
3 or harm to the public. The health care authority and the department of
4 social and health services shall make every effort to simplify and
5 expedite the application and enrollment process.

6 **Sec. 4.** RCW 70.47.020 and 2004 c 192 s 1 are each amended to read
7 as follows:

8 As used in this chapter:

9 (1) "Washington basic health plan" or "plan" means the system of
10 enrollment and payment for basic health care services, administered by
11 the plan administrator through participating managed health care
12 systems, created by this chapter.

13 (2) "Administrator" means the Washington basic health plan
14 administrator, who also holds the position of administrator of the
15 Washington state health care authority.

16 (3) "Small employer" means the same as is defined in RCW
17 48.43.005(24).

18 (4) "Enrollee" means a subsidized enrollee, nonsubsidized enrollee,
19 health coverage tax credit eligible enrollee, or small business assist
20 enrollee.

21 (5) "Health coverage tax credit program" means the program created
22 by the Trade Act of 2002 (P.L. 107-210) that provides a federal tax
23 credit that subsidizes private health insurance coverage for displaced
24 workers certified to receive certain trade adjustment assistance
25 benefits and for individuals receiving benefits from the pension
26 benefit guaranty corporation.

27 ((+4)) (6) "Health coverage tax credit eligible enrollee" means
28 individual workers and their qualified family members who lose their
29 jobs due to the effects of international trade and are eligible for
30 certain trade adjustment assistance benefits; or are eligible for
31 benefits under the alternative trade adjustment assistance program; or
32 are people who receive benefits from the pension benefit guaranty
33 corporation and are at least fifty-five years old.

34 ((+5)) (7) "Managed health care system" means: (a) Any health
35 care organization, including health care providers, insurers, health
36 care service contractors, health maintenance organizations, or any
37 combination thereof, that provides directly or by contract ((basic))

1 health care services, as defined by the administrator and rendered by
2 duly licensed providers, to a defined patient population enrolled in
3 (~~the plan~~) a program administered under this chapter and in the
4 managed health care system; or (b) a self-funded or self-insured method
5 of providing insurance coverage to subsidized enrollees provided under
6 RCW 41.05.140 and subject to the limitations under RCW 70.47.100(7).

7 (~~(6)~~) (8) "Subsidized enrollee" means an individual, or an
8 individual plus the individual's spouse or dependent children: (a) Who
9 is not eligible for medicare; (b) who is not confined or residing in a
10 government-operated institution, unless he or she meets eligibility
11 criteria adopted by the administrator; (c) who resides in an area of
12 the state served by a managed health care system participating in the
13 plan; (d) whose gross family income at the time of enrollment does not
14 exceed two hundred percent of the federal poverty level as adjusted for
15 family size and determined annually by the federal department of health
16 and human services; and (e) who chooses to obtain basic health care
17 coverage from a particular managed health care system in return for
18 periodic payments to the plan. To the extent that state funds are
19 specifically appropriated for this purpose, with a corresponding
20 federal match, "subsidized enrollee" also means an individual, or an
21 individual's spouse or dependent children, who meets the requirements
22 in (a) through (c) and (e) of this subsection and whose gross family
23 income at the time of enrollment is more than two hundred percent, but
24 less than two hundred fifty-one percent, of the federal poverty level
25 as adjusted for family size and determined annually by the federal
26 department of health and human services.

27 (~~(7)~~) (9) "Nonsubsidized enrollee" means an individual, or an
28 individual plus the individual's spouse or dependent children: (a) Who
29 is not eligible for medicare; (b) who is not confined or residing in a
30 government-operated institution, unless he or she meets eligibility
31 criteria adopted by the administrator; (c) who resides in an area of
32 the state served by a managed health care system participating in the
33 plan; (d) who chooses to obtain basic health care coverage from a
34 particular managed health care system; and (e) who pays or on whose
35 behalf is paid the full costs for participation in the plan, without
36 any subsidy from the plan.

37 (~~(8)~~) (10) "Small business assist enrollee" means an employee who

1 is employed by a small employer and who resides or works in Washington
2 and enrolls in the small business assist program created under section
3 2 of this act.

4 (11) "Subsidy" means the difference between the amount of periodic
5 payment the administrator makes to a managed health care system on
6 behalf of a subsidized enrollee plus the administrative cost to the
7 plan of providing the plan to that subsidized enrollee, and the amount
8 determined to be the subsidized or small business assist enrollee's
9 responsibility under RCW 70.47.060(2).

10 ~~((+9))~~ (12) "Premium" means a periodic payment, based upon
11 ~~((gross))~~ family income which an individual, ~~((their))~~ an employer, or
12 ~~((another))~~ a financial sponsor makes to the ~~((plan))~~ administrator as
13 consideration for enrollment in ~~((the plan as a subsidized enrollee, a~~
14 ~~nonsubsidized enrollee, or a health coverage tax credit eligible~~
15 ~~enrollee))~~ a program administered under this chapter.

16 ~~((+10))~~ (13) "Rate" means the amount, negotiated by the
17 administrator with and paid to a participating managed health care
18 system, that is based upon the ~~((enrollment of subsidized,~~
19 ~~nonsubsidized, and health coverage tax credit eligible))~~ number of
20 enrollees in ~~((the plan and in))~~ that system.

21 **Sec. 5.** RCW 70.47.060 and 2004 c 192 s 3 are each amended to read
22 as follows:

23 The administrator has the following powers and duties:

24 (1) To design and from time to time revise a schedule of covered
25 basic health care services, including physician services, inpatient and
26 outpatient hospital services, prescription drugs and medications, and
27 other services that may be necessary for basic health care. In
28 addition, the administrator may, to the extent that funds are
29 available, offer as basic health plan services chemical dependency
30 services, mental health services and organ transplant services;
31 however, no one service or any combination of these three services
32 shall increase the actuarial value of the basic health plan benefits by
33 more than five percent excluding inflation, as determined by the office
34 of financial management. All subsidized and nonsubsidized enrollees in
35 any participating managed health care system under the Washington basic
36 health plan shall be entitled to receive covered basic health care
37 services in return for premium payments to the plan. The schedule of

1 services shall emphasize proven preventive and primary health care and
2 shall include all services necessary for prenatal, postnatal, and well-
3 child care. However, with respect to coverage for subsidized enrollees
4 who are eligible to receive prenatal and postnatal services through the
5 medical assistance program under chapter 74.09 RCW, the administrator
6 shall not contract for such services except to the extent that such
7 services are necessary over not more than a one-month period in order
8 to maintain continuity of care after diagnosis of pregnancy by the
9 managed care provider. The schedule of services shall also include a
10 separate schedule of basic health care services for children, eighteen
11 years of age and younger, for those subsidized or nonsubsidized
12 enrollees who choose to secure basic coverage through the plan only for
13 their dependent children. In designing and revising the schedule of
14 services, the administrator shall consider the guidelines for assessing
15 health services under the mandated benefits act of 1984, RCW 48.47.030,
16 and such other factors as the administrator deems appropriate.

17 (2)(a) To design and implement a structure of periodic premiums due
18 the administrator from subsidized enrollees that is based upon gross
19 family income, giving appropriate consideration to family size and the
20 ages of all family members. The enrollment of children shall not
21 require the enrollment of their parent or parents who are eligible for
22 the plan. The structure of periodic premiums shall be applied to
23 subsidized enrollees entering the plan (~~((as individuals))~~) pursuant to
24 subsection (11) of this section and to the share of the cost of the
25 plan due (~~((from subsidized enrollees entering the plan as employees~~
26 ~~pursuant to subsection (12) of this section))~~) for small business assist
27 enrollees determined by the administrator to be eligible for subsidies.

28 (b) To determine the periodic premiums due the administrator from
29 nonsubsidized enrollees. Premiums due from nonsubsidized enrollees
30 shall be in an amount equal to the cost charged by the managed health
31 care system provider to the state for the plan plus the administrative
32 cost of providing the plan to those enrollees and the premium tax under
33 RCW 48.14.0201.

34 (c) To determine the periodic premiums due the administrator from
35 health coverage tax credit eligible enrollees. Premiums due from
36 health coverage tax credit eligible enrollees must be in an amount
37 equal to the cost charged by the managed health care system provider to
38 the state for the plan, plus the administrative cost of providing the

1 plan to those enrollees and the premium tax under RCW 48.14.0201. The
2 administrator will consider the impact of eligibility determination by
3 the appropriate federal agency designated by the Trade Act of 2002
4 (P.L. 107-210) as well as the premium collection and remittance
5 activities by the United States internal revenue service when
6 determining the administrative cost charged for health coverage tax
7 credit eligible enrollees.

8 (d) (~~(An employer or other)~~) A financial sponsor may, with the
9 prior approval of the administrator, pay the premium, rate, or any
10 other amount on behalf of a subsidized or nonsubsidized enrollee, by
11 arrangement with the enrollee and through a mechanism acceptable to the
12 administrator. The administrator shall establish a mechanism for
13 receiving premium payments from the United States internal revenue
14 service for health coverage tax credit eligible enrollees.

15 (e) To develop, as an offering by every health carrier providing
16 coverage identical to the basic health plan, as configured on January
17 1, 2001, a basic health plan model plan with uniformity in enrollee
18 cost-sharing requirements.

19 (3) To evaluate, with the cooperation of participating managed
20 health care system providers, the impact on the basic health plan of
21 enrolling health coverage tax credit eligible enrollees. The
22 administrator shall issue to the appropriate committees of the
23 legislature preliminary evaluations on June 1, 2005, and January 1,
24 2006, and a final evaluation by June 1, 2006. The evaluation shall
25 address the number of persons enrolled, the duration of their
26 enrollment, their utilization of covered services relative to other
27 basic health plan enrollees, and the extent to which their enrollment
28 contributed to any change in the cost of the basic health plan.

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

33 (5) To design and implement a structure of enrollee cost-sharing
34 due a managed health care system from subsidized, nonsubsidized, small
35 business assist, and health coverage tax credit eligible enrollees.
36 The structure shall discourage inappropriate enrollee utilization of
37 health care services, and may utilize copayments, deductibles, and

1 other cost-sharing mechanisms, but shall not be so costly to enrollees
2 as to constitute a barrier to appropriate utilization of necessary
3 health care services.

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

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

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

21 (9) To solicit and accept applications from managed health care
22 systems, as defined in this chapter, for inclusion as eligible basic
23 health care providers under (~~the plan for subsidized enrollees,~~
24 ~~nonsubsidized enrollees~~) the programs administered under this chapter,
25 or health coverage tax credit eligible enrollees. The administrator
26 shall endeavor to assure that covered basic health care services are
27 available to any enrollee of the basic health plan from among a
28 selection of two or more participating managed health care systems. In
29 adopting any rules or procedures applicable to managed health care
30 systems and in its dealings with such systems, the administrator shall
31 consider and make suitable allowance for the need for health care
32 services and the differences in local availability of health care
33 resources, along with other resources, within and among the several
34 areas of the state. Contracts with participating managed health care
35 systems shall ensure that basic health plan enrollees who become
36 eligible for medical assistance may, at their option, continue to
37 receive services from their existing providers within the managed

1 health care system if such providers have entered into provider
2 agreements with the department of social and health services.

3 (10) To receive periodic premiums from or on behalf of subsidized,
4 nonsubsidized, and health coverage tax credit eligible enrollees,
5 deposit them in the basic health plan operating account, keep records
6 of enrollee status, and authorize periodic payments to managed health
7 care systems on the basis of the number of enrollees participating in
8 the respective managed health care systems.

9 (11) To accept applications from individuals residing in areas
10 served by the plan, on behalf of themselves and their spouses and
11 dependent children, for enrollment in the Washington basic health plan
12 as subsidized, nonsubsidized, or health coverage tax credit eligible
13 enrollees, to establish appropriate minimum-enrollment periods for
14 enrollees as may be necessary, and to determine, upon application and
15 on a reasonable schedule defined by the authority, or at the request of
16 any enrollee, eligibility due to current gross family income for
17 sliding scale premiums. Funds received by a family as part of
18 participation in the adoption support program authorized under RCW
19 26.33.320 and 74.13.100 through 74.13.145 shall not be counted toward
20 a family's current gross family income for the purposes of this
21 chapter. When an enrollee fails to report income or income changes
22 accurately, the administrator shall have the authority either to bill
23 the enrollee for the amounts overpaid by the state or to impose civil
24 penalties of up to two hundred percent of the amount of subsidy
25 overpaid due to the enrollee incorrectly reporting income. The
26 administrator shall adopt rules to define the appropriate application
27 of these sanctions and the processes to implement the sanctions
28 provided in this subsection, within available resources. No subsidy
29 may be paid with respect to any enrollee whose current gross family
30 income exceeds twice the federal poverty level or, subject to RCW
31 70.47.110, who is a recipient of medical assistance or medical care
32 services under chapter 74.09 RCW. If a number of enrollees drop their
33 enrollment for no apparent good cause, the administrator may establish
34 appropriate rules or requirements that are applicable to such
35 individuals before they will be allowed to reenroll in the plan.

36 ~~(12) ((To accept applications from business owners on behalf of~~
37 ~~themselves and their employees, spouses, and dependent children, as~~
38 ~~subsidized or nonsubsidized enrollees, who reside in an area served by~~

1 ~~the plan. The administrator may require all or the substantial~~
2 ~~majority of the eligible employees of such businesses to enroll in the~~
3 ~~plan and establish those procedures necessary to facilitate the orderly~~
4 ~~enrollment of groups in the plan and into a managed health care system.~~
5 ~~The administrator may require that a business owner pay at least an~~
6 ~~amount equal to what the employee pays after the state pays its portion~~
7 ~~of the subsidized premium cost of the plan on behalf of each employee~~
8 ~~enrolled in the plan. Enrollment is limited to those not eligible for~~
9 ~~medicare who wish to enroll in the plan and choose to obtain the basic~~
10 ~~health care coverage and services from a managed care system~~
11 ~~participating in the plan. The administrator shall adjust the amount~~
12 ~~determined to be due on behalf of or from all such enrollees whenever~~
13 ~~the amount negotiated by the administrator with the participating~~
14 ~~managed health care system or systems is modified or the administrative~~
15 ~~cost of providing the plan to such enrollees changes.~~

16 ~~(13))~~ To determine the rate to be paid to each participating
17 managed health care system in return for the provision of covered basic
18 health care services to enrollees in the system. Although the schedule
19 of covered basic health care services will be the same or actuarially
20 equivalent for similar enrollees, the rates negotiated with
21 participating managed health care systems may vary among the systems.
22 In negotiating rates with participating systems, the administrator
23 shall consider the characteristics of the populations served by the
24 respective systems, economic circumstances of the local area, the need
25 to conserve the resources of the basic health plan trust account, and
26 other factors the administrator finds relevant.

27 ~~((14))~~ (13) To monitor the provision of covered services to
28 enrollees by participating managed health care systems in order to
29 assure enrollee access to good quality basic health care, to require
30 periodic data reports concerning the utilization of health care
31 services rendered to enrollees in order to provide adequate information
32 for evaluation, and to inspect the books and records of participating
33 managed health care systems to assure compliance with the purposes of
34 this chapter. In requiring reports from participating managed health
35 care systems, including data on services rendered enrollees, the
36 administrator shall endeavor to minimize costs, both to the managed
37 health care systems and to the plan. The administrator shall

1 coordinate any such reporting requirements with other state agencies,
2 such as the insurance commissioner and the department of health, to
3 minimize duplication of effort.

4 ~~((+15+))~~ (14) To evaluate the effects this chapter has on private
5 employer-based health care coverage and to take appropriate measures
6 consistent with state and federal statutes that will discourage the
7 reduction of such coverage in the state.

8 ~~((+16+))~~ (15) To develop a program of proven preventive health
9 measures and to integrate it into the plan wherever possible and
10 consistent with this chapter.

11 ~~((+17+))~~ (16) To provide, consistent with available funding,
12 assistance for rural residents, underserved populations, and persons of
13 color.

14 ~~((+18+))~~ (17) In consultation with appropriate state and local
15 government agencies, to establish criteria defining eligibility for
16 persons confined or residing in government-operated institutions.

17 ~~((+19+))~~ (18) To administer the premium discounts provided under
18 RCW 48.41.200(3)(a) (i) and (ii) pursuant to a contract with the
19 Washington state health insurance pool.

20 **Sec. 6.** RCW 70.47.100 and 2004 c 192 s 4 are each amended to read
21 as follows:

22 (1) A managed health care system participating in ~~((the plan))~~ a
23 program administered under this chapter shall do so by contract with
24 the administrator and shall provide, directly or by contract with other
25 health care providers, covered basic health care services to each
26 enrollee covered by its contract with the administrator as long as
27 payments from the administrator on behalf of the enrollee are current.
28 A participating managed health care system may offer, without
29 additional cost, health care benefits or services not included in the
30 schedule of covered services under the plan. A participating managed
31 health care system shall not give preference in enrollment to enrollees
32 who accept such additional health care benefits or services. Managed
33 health care systems participating in the plan shall not discriminate
34 against any potential or current enrollee based upon health status,
35 sex, race, ethnicity, or religion. The administrator may receive and
36 act upon complaints from enrollees regarding failure to provide covered
37 services or efforts to obtain payment, other than authorized

1 copayments, for covered services directly from enrollees, but nothing
2 in this chapter empowers the administrator to impose any sanctions
3 under Title 18 RCW or any other professional or facility licensing
4 statute.

5 (2) The plan shall allow, at least annually, an opportunity for
6 enrollees to transfer their enrollments among participating managed
7 health care systems serving their respective areas. The administrator
8 shall establish a period of at least twenty days in a given year when
9 this opportunity is afforded enrollees, and in those areas served by
10 more than one participating managed health care system the
11 administrator shall endeavor to establish a uniform period for such
12 opportunity. The plan shall allow enrollees to transfer their
13 enrollment to another participating managed health care system at any
14 time upon a showing of good cause for the transfer.

15 (3) Prior to negotiating with any managed health care system, the
16 administrator shall determine, on an actuarially sound basis, the
17 reasonable cost of providing the schedule of (~~basic health care~~)
18 services, expressed in terms of upper and lower limits, and recognizing
19 variations in the cost of providing the services through the various
20 systems and in different areas of the state.

21 (4) In negotiating with managed health care systems for
22 participation (~~in the plan~~), the administrator shall adopt a uniform
23 procedure that includes at least the following:

24 (a) The administrator shall issue a request for proposals,
25 including standards regarding the quality of services to be provided;
26 financial integrity of the responding systems; and responsiveness to
27 the unmet health care needs of the local communities or populations
28 that may be served;

29 (b) The administrator shall then review responsive proposals and
30 may negotiate with respondents to the extent necessary to refine any
31 proposals;

32 (c) The administrator may then select one or more systems to
33 provide the covered services within a local area; and

34 (d) The administrator may adopt a policy that gives preference to
35 respondents, such as nonprofit community health clinics, that have a
36 history of providing quality health care services to low-income
37 persons.

1 (5) The administrator may contract with a managed health care
2 system to provide covered basic health care services to subsidized
3 enrollees, nonsubsidized enrollees, health coverage tax credit eligible
4 enrollees, small business assist enrollees, or any combination thereof.

5 (6) The administrator may establish procedures and policies to
6 further negotiate and contract with managed health care systems
7 following completion of the request for proposal process in subsection
8 (4) of this section, upon a determination by the administrator that it
9 is necessary to provide access, as defined in the request for proposal
10 documents, to covered ~~((basic health care))~~ services for enrollees.

11 (7)~~((a))~~ The administrator ~~((shall))~~ may implement a self-funded
12 or self-insured method of providing insurance coverage to
13 ~~((subsidized))~~ enrollees, as provided under RCW 41.05.140, if ~~((one of~~
14 ~~the following conditions is met:~~

15 ~~((i) The authority))~~ the administrator determines that no managed
16 health care system other than the authority is willing and able to
17 provide access~~((, as defined in the request for proposal documents,))~~
18 to covered ~~((basic health care))~~ services ~~((for all subsidized~~
19 ~~enrollees))~~ in ~~((an))~~ a given area~~((; or~~

20 ~~((ii) The authority determines that no other managed health care~~
21 ~~system is willing to provide access, as defined in the request for~~
22 ~~proposal documents, for one hundred thirty three percent of the~~
23 ~~statewide benchmark price or less, and the authority is able to offer~~
24 ~~such coverage at a price that is less than the lowest price at which~~
25 ~~any other managed health care system is willing to provide such access~~
26 ~~in an area.~~

27 ~~((b) The authority shall initiate steps to provide the coverage~~
28 ~~described in (a) of this subsection within ninety days of making its~~
29 ~~determination that the conditions for providing a self-funded or self-~~
30 ~~insured method of providing insurance have been met.~~

31 ~~((c) The administrator may not implement a self-funded or self-~~
32 ~~insured method of providing insurance in an area unless)), and the~~
33 administrator has received a certification from a member of the
34 American academy of actuaries that the funding available in the basic
35 health plan or small business assist self-insurance reserve account is
36 sufficient for the self-funded or self-insured risk assumed, or
37 expected to be assumed, by the administrator.

1 **Sec. 7.** RCW 70.47.120 and 1997 c 337 s 7 are each amended to read
2 as follows:

3 In addition to the powers and duties specified in RCW 70.47.040 and
4 70.47.060, the administrator has the power to enter into contracts for
5 the following functions and services:

6 (1) With public or private agencies, to assist the administrator in
7 her or his duties to design or revise the schedule of covered (~~basic~~
8 ~~health care~~) services for a program administered under this chapter,
9 and/or to monitor or evaluate the performance of participating managed
10 health care systems.

11 (2) With public or private agencies, to provide technical or
12 professional assistance to health care providers, particularly public
13 or private nonprofit organizations and providers serving rural areas,
14 who show serious intent and apparent capability to participate in the
15 plan as managed health care systems.

16 (3) With public or private agencies, including health care service
17 contractors registered under RCW 48.44.015, and doing business in the
18 state, for marketing and administrative services in connection with
19 participation of managed health care systems, enrollment of enrollees,
20 billing and collection services to the administrator, and other
21 administrative functions ordinarily performed by health care service
22 contractors, other than insurance. Any activities of a health care
23 service contractor pursuant to a contract with the administrator under
24 this section shall be exempt from the provisions and requirements of
25 Title 48 RCW except that persons appointed or authorized to solicit
26 applications for enrollment in (~~the basic health plan~~) a program
27 administered under this chapter shall comply with chapter 48.17 RCW.

28 **Sec. 8.** RCW 70.47.130 and 2004 c 115 s 2 are each amended to read
29 as follows:

30 (1) The activities and operations of the Washington basic health
31 plan and the small business assist program under this chapter,
32 including those of managed health care systems to the extent of their
33 participation in the plan, are exempt from the provisions and
34 requirements of Title 48 RCW except:

35 (a) Benefits as provided in RCW 70.47.070;

36 (b) Managed health care systems are subject to the provisions of

1 RCW 48.43.022, 48.43.500, 70.02.045, 48.43.505 through 48.43.535,
2 43.70.235, 48.43.545, 48.43.550, 70.02.110, and 70.02.900;

3 (c) Persons appointed or authorized to solicit applications for
4 enrollment in the ~~((basic health plan, including employees of the~~
5 ~~health care authority,))~~ programs administered under this chapter must
6 comply with chapter 48.17 RCW. For purposes of this subsection (1)(c),
7 "solicit" does not include distributing information and applications
8 for the basic health plan and responding to questions; and

9 (d) Amounts paid to a managed health care system by the basic
10 health plan for participating in the basic health plan and providing
11 health care services for nonsubsidized enrollees in the basic health
12 plan must comply with RCW 48.14.0201.

13 (2) The purpose of the 1994 amendatory language to this section in
14 chapter 309, Laws of 1994 is to clarify the intent of the legislature
15 that premiums paid on behalf of nonsubsidized enrollees in the basic
16 health plan are subject to the premium and prepayment tax. The
17 legislature does not consider this clarifying language to either raise
18 existing taxes nor to impose a tax that did not exist previously.

19 **Sec. 9.** RCW 70.47.160 and 1995 c 266 s 3 are each amended to read
20 as follows:

21 (1) The legislature recognizes that every individual possesses a
22 fundamental right to exercise their religious beliefs and conscience.
23 The legislature further recognizes that in developing public policy,
24 conflicting religious and moral beliefs must be respected. Therefore,
25 while recognizing the right of conscientious objection to participating
26 in specific health services, the state shall also recognize the right
27 of individuals enrolled with ~~((the basic health plan))~~ a program
28 administered under this chapter to receive the full range of services
29 covered under ~~((the basic health plan))~~ that program.

30 (2)(a) No individual health care provider, religiously sponsored
31 health carrier, or health care facility may be required by law or
32 contract in any circumstances to participate in the provision of or
33 payment for a specific service if they object to so doing for reason of
34 conscience or religion. No person may be discriminated against in
35 employment or professional privileges because of such objection.

36 (b) The provisions of this section are not intended to result in an

1 enrollee being denied timely access to any service included in ((the
2 ~~basic health plan~~)) their benefits package. Each health carrier shall:

3 (i) Provide written notice to enrollees, upon enrollment with the
4 plan, listing services that the carrier refuses to cover for reason of
5 conscience or religion;

6 (ii) Provide written information describing how an enrollee may
7 directly access services in an expeditious manner; and

8 (iii) Ensure that enrollees refused services under this section
9 have prompt access to the information developed pursuant to (b)(ii) of
10 this subsection.

11 (c) The administrator shall establish a mechanism or mechanisms to
12 recognize the right to exercise conscience while ensuring enrollees
13 timely access to services and to assure prompt payment to service
14 providers.

15 (3)(a) No individual or organization with a religious or moral
16 tenet opposed to a specific service may be required to purchase
17 coverage for that service or services if they object to doing so for
18 reason of conscience or religion.

19 (b) The provisions of this section shall not result in an enrollee
20 being denied coverage of, and timely access to, any service or services
21 excluded from their benefits package as a result of their employer's or
22 another individual's exercise of the conscience clause in (a) of this
23 subsection.

24 (c) The administrator shall define the process through which health
25 carriers may offer the ((~~basic health plan~~)) programs administered
26 under this chapter to individuals and organizations identified in (a)
27 and (b) of this subsection in accordance with the provisions of
28 subsection (2)(c) of this section.

29 (4) Nothing in this section requires the health care authority,
30 health carriers, health care facilities, or health care providers to
31 provide any ((~~basic health plan~~)) service without payment of
32 appropriate premium share or enrollee cost sharing.

33 **Sec. 10.** RCW 41.05.140 and 2000 c 80 s 5 are each amended to read
34 as follows:

35 (1) Except for property and casualty insurance, the authority may
36 self-fund, self-insure, or enter into other methods of providing
37 insurance coverage for insurance programs under its jurisdiction,

1 including the basic health plan as provided in chapter 70.47 RCW. The
2 authority shall contract for payment of claims or other administrative
3 services for programs under its jurisdiction. If a program does not
4 require the prepayment of reserves, the authority shall establish such
5 reserves within a reasonable period of time for the payment of claims
6 as are normally required for that type of insurance under an insured
7 program. The authority shall endeavor to reimburse basic health plan
8 health care providers under this section at rates similar to the
9 average reimbursement rates offered by the statewide benchmark plan
10 determined through the request for proposal process.

11 (2) Reserves established by the authority for employee and retiree
12 benefit programs shall be held in a separate trust fund by the state
13 treasurer and shall be known as the public employees' and retirees'
14 insurance reserve fund. The state investment board shall act as the
15 investor for the funds and, except as provided in RCW 43.33A.160 and
16 43.84.160, one hundred percent of all earnings from these investments
17 shall accrue directly to the public employees' and retirees' insurance
18 reserve fund.

19 (3) Any savings realized as a result of a program created for
20 employees and retirees under this section shall not be used to increase
21 benefits unless such use is authorized by statute.

22 (4) Reserves established by the authority to provide insurance
23 coverage for the basic health plan under chapter 70.47 RCW shall be
24 held in a separate trust account in the custody of the state treasurer
25 and shall be known as the basic health plan self-insurance reserve
26 account. The state investment board shall act as the investor for the
27 funds as set forth in RCW 43.33A.230 and, except as provided in RCW
28 43.33A.160 and 43.84.160, one hundred percent of all earnings from
29 these investments shall accrue directly to the basic health plan self-
30 insurance reserve account.

31 (5) Reserves established by the authority to provide insurance
32 coverage for the small business assist program under chapter 70.47 RCW
33 shall be held in a separate trust account in the custody of the state
34 treasurer and shall be known as the small business assist self-
35 insurance reserve account. The state investment board shall act as the
36 investor for the funds as set forth in RCW 43.33A.230 and, except as
37 provided in RCW 43.33A.160 and 43.84.160, one hundred percent of all

1 earnings from these investments shall accrue directly to the small
2 business assist self-insurance reserve account.

3 (6) Any program created under this section shall be subject to the
4 examination requirements of chapter 48.03 RCW as if the program were a
5 domestic insurer. In conducting an examination, the commissioner shall
6 determine the adequacy of the reserves established for the program.

7 ~~((+6))~~ (7) The authority shall keep full and adequate accounts and
8 records of the assets, obligations, transactions, and affairs of any
9 program created under this section.

10 ~~((+7))~~ (8) The authority shall file a quarterly statement of the
11 financial condition, transactions, and affairs of any program created
12 under this section in a form and manner prescribed by the insurance
13 commissioner. The statement shall contain information as required by
14 the commissioner for the type of insurance being offered under the
15 program. A copy of the annual statement shall be filed with the
16 speaker of the house of representatives and the president of the
17 senate.

18 **Sec. 11.** RCW 43.79A.040 and 2004 c 246 s 8 and 2004 c 58 s 10 are
19 each reenacted and amended to read as follows:

20 (1) Money in the treasurer's trust fund may be deposited, invested,
21 and reinvested by the state treasurer in accordance with RCW 43.84.080
22 in the same manner and to the same extent as if the money were in the
23 state treasury.

24 (2) All income received from investment of the treasurer's trust
25 fund shall be set aside in an account in the treasury trust fund to be
26 known as the investment income account.

27 (3) The investment income account may be utilized for the payment
28 of purchased banking services on behalf of treasurer's trust funds
29 including, but not limited to, depository, safekeeping, and
30 disbursement functions for the state treasurer or affected state
31 agencies. The investment income account is subject in all respects to
32 chapter 43.88 RCW, but no appropriation is required for payments to
33 financial institutions. Payments shall occur prior to distribution of
34 earnings set forth in subsection (4) of this section.

35 (4)(a) Monthly, the state treasurer shall distribute the earnings
36 credited to the investment income account to the state general fund
37 except under (b) and (c) of this subsection.

1 (b) The following accounts and funds shall receive their
2 proportionate share of earnings based upon each account's or fund's
3 average daily balance for the period: The Washington promise
4 scholarship account, the college savings program account, the
5 Washington advanced college tuition payment program account, the
6 agricultural local fund, the American Indian scholarship endowment
7 fund, the students with dependents grant account, the basic health plan
8 self-insurance reserve account, the small business assist self-
9 insurance reserve account, the contract harvesting revolving account,
10 the Washington state combined fund drive account, the Washington
11 international exchange scholarship endowment fund, the developmental
12 disabilities endowment trust fund, the energy account, the fair fund,
13 the fruit and vegetable inspection account, the future teachers
14 conditional scholarship account, the game farm alternative account, the
15 grain inspection revolving fund, the juvenile accountability incentive
16 account, the law enforcement officers' and fire fighters' plan 2
17 expense fund, the local tourism promotion account, the produce railcar
18 pool account, the rural rehabilitation account, the stadium and
19 exhibition center account, the youth athletic facility account, the
20 self-insurance revolving fund, the sulfur dioxide abatement account,
21 the children's trust fund, the Washington horse racing commission
22 Washington bred owners' bonus fund account, the Washington horse racing
23 commission class C purse fund account, and the Washington horse racing
24 commission operating account (earnings from the Washington horse racing
25 commission operating account must be credited to the Washington horse
26 racing commission class C purse fund account). However, the earnings
27 to be distributed shall first be reduced by the allocation to the state
28 treasurer's service fund pursuant to RCW 43.08.190.

29 (c) The following accounts and funds shall receive eighty percent
30 of their proportionate share of earnings based upon each account's or
31 fund's average daily balance for the period: The advanced right of way
32 revolving fund, the advanced environmental mitigation revolving
33 account, the city and county advance right-of-way revolving fund, the
34 federal narcotics asset forfeitures account, the high occupancy vehicle
35 account, the local rail service assistance account, and the
36 miscellaneous transportation programs account.

37 (5) In conformance with Article II, section 37 of the state

1 Constitution, no trust accounts or funds shall be allocated earnings
2 without the specific affirmative directive of this section.

3 NEW SECTION. **Sec. 12.** A new section is added to chapter 70.47 RCW
4 to read as follows:

5 The small business assist trust account is hereby established in
6 the state treasury. Any nongeneral fund--state funds collected for
7 this program shall be deposited in the small business assist trust
8 account and may be expended without further appropriation. Moneys in
9 the account shall be used exclusively for the purposes of administering
10 the small business assist program, including payments to participating
11 managed health care systems on behalf of small business assist
12 enrollees.

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

15 (1) No later than January 1, 2007, the administrator may accept
16 applications from employers on behalf of themselves and their
17 employees, spouses, and dependent children, as small business assist
18 enrollees. The administrator may require all or a substantial majority
19 of the eligible employees of such employers to enroll in the small
20 business assist program.

21 (2) The administrator may require all or the substantial majority
22 of the eligible employees of small employers to enroll in the plan and
23 establish those procedures necessary to facilitate the orderly
24 enrollment of small employer groups in the small business assist
25 program and into a managed health care system.

26 (3) The administrator may design and from time to time revise one
27 or more schedules of covered benefits to be provided to small business
28 assist enrollees. When designing the schedule of benefits, alternative
29 options may be provided, with differences in covered benefits or in the
30 structure of cost sharing. The structure shall discourage
31 inappropriate enrollee utilization of health care services. In
32 designing and revising the schedule of services, the administrator
33 shall consider the guidelines for assessing health services under RCW
34 48.47.030. However, the schedule of benefits for small business assist
35 enrollees shall be exempt from the requirements of Title 48 RCW.

1 (4) The administrator shall determine the periodic premiums to be
2 paid by small business assist enrollees. The administrator shall
3 determine premium cost-sharing requirements for employers applying for
4 group coverage under this program. To the extent that funds are
5 appropriated for this purpose by the legislature, the administrator
6 shall establish an option for small business assist enrollees to
7 receive a state subsidy towards the cost of their coverage. No subsidy
8 may be paid to small business assist enrollees whose gross family
9 income is more than two hundred percent of the federal poverty level as
10 adjusted for family size and determined annually by the federal
11 department of health and human services. The administrator shall
12 adjust the premium amount determined to be due on behalf of or from all
13 such enrollees whenever the amount negotiated by the administrator with
14 the participating managed health care system or systems is modified or
15 the administrative cost of providing the plan to such enrollees
16 changes.

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

19 The administrator may adopt rules to carry out the purposes of this
20 act. All rules shall be adopted in accordance with chapter 34.05 RCW.

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