

CERTIFICATION OF ENROLLMENT

SECOND ENGROSSED SENATE BILL 5773

Chapter 8, Laws of 2011

62nd Legislature
2011 1st Special Session

HEALTH SAVINGS ACCOUNT--HIGH DEDUCTIBLE HEALTH PLANS--DIRECT
PRACTICES--PUBLIC EMPLOYEES

EFFECTIVE DATE: 08/24/11

Passed by the Senate May 16, 2011
YEAS 32 NAYS 9

BRAD OWEN

President of the Senate

Passed by the House May 10, 2011
YEAS 80 NAYS 15

FRANK CHOPP

Speaker of the House of Representatives

Approved May 31, 2011, 2:23 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SECOND ENGROSSED SENATE BILL 5773** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

June 1, 2011

**Secretary of State
State of Washington**

SECOND ENGROSSED SENATE BILL 5773

AS AMENDED BY THE HOUSE

Passed Legislature - 2011 1st Special Session

State of Washington 62nd Legislature 2011 1st Special Session

By Senators Zarelli, Baumgartner, Hill, Parlette, Schoesler,
Ericksen, and Holmquist Newbry

Read first time 02/11/11. Referred to Committee on Ways & Means.

1 AN ACT Relating to making a health savings account option and high
2 deductible health plan option and a direct patient-provider primary
3 care practice option available to public employees; amending RCW
4 41.05.065; and adding a new section to chapter 41.05 RCW.

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

6 **Sec. 1.** RCW 41.05.065 and 2009 c 537 s 7 are each amended to read
7 as follows:

8 (1) The board shall study all matters connected with the provision
9 of health care coverage, life insurance, liability insurance,
10 accidental death and dismemberment insurance, and disability income
11 insurance or any of, or a combination of, the enumerated types of
12 insurance for employees and their dependents on the best basis possible
13 with relation both to the welfare of the employees and to the state.
14 However, liability insurance shall not be made available to dependents.

15 (2) The board shall develop employee benefit plans that include
16 comprehensive health care benefits for employees. In developing these
17 plans, the board shall consider the following elements:

18 (a) Methods of maximizing cost containment while ensuring access to
19 quality health care;

1 (b) Development of provider arrangements that encourage cost
2 containment and ensure access to quality care, including but not
3 limited to prepaid delivery systems and prospective payment methods;

4 (c) Wellness incentives that focus on proven strategies, such as
5 smoking cessation, injury and accident prevention, reduction of alcohol
6 misuse, appropriate weight reduction, exercise, automobile and
7 motorcycle safety, blood cholesterol reduction, and nutrition
8 education;

9 (d) Utilization review procedures including, but not limited to a
10 cost-efficient method for prior authorization of services, hospital
11 inpatient length of stay review, requirements for use of outpatient
12 surgeries and second opinions for surgeries, review of invoices or
13 claims submitted by service providers, and performance audit of
14 providers;

15 (e) Effective coordination of benefits; and

16 (f) Minimum standards for insuring entities.

17 (3) To maintain the comprehensive nature of employee health care
18 benefits, benefits provided to employees shall be substantially
19 equivalent to the state employees' health benefits plan in effect on
20 January 1, 1993. Nothing in this subsection shall prohibit changes or
21 increases in employee point-of-service payments or employee premium
22 payments for benefits or the administration of a high deductible health
23 plan in conjunction with a health savings account. The board may
24 establish employee eligibility criteria which are not substantially
25 equivalent to employee eligibility criteria in effect on January 1,
26 1993.

27 (4) Except if bargained for under chapter 41.80 RCW, the board
28 shall design benefits and determine the terms and conditions of
29 employee and retired employee participation and coverage, including
30 establishment of eligibility criteria subject to the requirements of
31 this chapter. Employer groups obtaining benefits through contractual
32 agreement with the authority for employees defined in RCW 41.05.011(6)
33 (a) through (d) may contractually agree with the authority to benefits
34 eligibility criteria which differs from that determined by the board.
35 The eligibility criteria established by the board shall be no more
36 restrictive than the following:

37 (a) Except as provided in (b) through (e) of this subsection, an
38 employee is eligible for benefits from the date of employment if the

1 employing agency anticipates he or she will work an average of at least
2 eighty hours per month and for at least eight hours in each month for
3 more than six consecutive months. An employee determined ineligible
4 for benefits at the beginning of his or her employment shall become
5 eligible in the following circumstances:

6 (i) An employee who works an average of at least eighty hours per
7 month and for at least eight hours in each month and whose anticipated
8 duration of employment is revised from less than or equal to six
9 consecutive months to more than six consecutive months becomes eligible
10 when the revision is made.

11 (ii) An employee who works an average of at least eighty hours per
12 month over a period of six consecutive months and for at least eight
13 hours in each of those six consecutive months becomes eligible at the
14 first of the month following the six-month averaging period.

15 (b) A seasonal employee is eligible for benefits from the date of
16 employment if the employing agency anticipates that he or she will work
17 an average of at least eighty hours per month and for at least eight
18 hours in each month of the season. A seasonal employee determined
19 ineligible at the beginning of his or her employment who works an
20 average of at least half-time, as defined by the board, per month over
21 a period of six consecutive months and at least eight hours in each of
22 those six consecutive months becomes eligible at the first of the month
23 following the six-month averaging period. A benefits-eligible seasonal
24 employee who works a season of less than nine months shall not be
25 eligible for the employer contribution during the off season, but may
26 continue enrollment in benefits during the off season by self-paying
27 for the benefits. A benefits-eligible seasonal employee who works a
28 season of nine months or more is eligible for the employer contribution
29 through the off season following each season worked.

30 (c) Faculty are eligible as follows:

31 (i) Faculty who the employing agency anticipates will work
32 half-time or more for the entire instructional year or equivalent nine-
33 month period are eligible for benefits from the date of employment.
34 Eligibility shall continue until the beginning of the first full month
35 of the next instructional year, unless the employment relationship is
36 terminated, in which case eligibility shall cease the first month
37 following the notice of termination or the effective date of the
38 termination, whichever is later.

1 (ii) Faculty who the employing agency anticipates will not work for
2 the entire instructional year or equivalent nine-month period are
3 eligible for benefits at the beginning of the second consecutive
4 quarter or semester of employment in which he or she is anticipated to
5 work, or has actually worked, half-time or more. Such an employee
6 shall continue to receive uninterrupted employer contributions for
7 benefits if the employee works at least half-time in a quarter or
8 semester. Faculty who the employing agency anticipates will not work
9 for the entire instructional year or equivalent nine-month period, but
10 who actually work half-time or more throughout the entire instructional
11 year, are eligible for summer or off-quarter coverage. Faculty who
12 have met the criteria of this subsection (4)(c)(ii), who work at least
13 two quarters of the academic year with an average academic year
14 workload of half-time or more for three quarters of the academic year,
15 and who have worked an average of half-time or more in each of the two
16 preceding academic years shall continue to receive uninterrupted
17 employer contributions for benefits if he or she works at least half-
18 time in a quarter or semester or works two quarters of the academic
19 year with an average academic workload each academic year of half-time
20 or more for three quarters. Eligibility under this section ceases
21 immediately if this criteria is not met.

22 (iii) Faculty may establish or maintain eligibility for benefits by
23 working for more than one institution of higher education. When
24 faculty work for more than one institution of higher education, those
25 institutions shall prorate the employer contribution costs, or if
26 eligibility is reached through one institution, that institution will
27 pay the full employer contribution. Faculty working for more than one
28 institution must alert his or her employers to his or her potential
29 eligibility in order to establish eligibility.

30 (iv) The employing agency must provide written notice to faculty
31 who are potentially eligible for benefits under this subsection (4)(c)
32 of their potential eligibility.

33 (v) To be eligible for maintenance of benefits through averaging
34 under (c)(ii) of this subsection, faculty must provide written
35 notification to his or her employing agency or agencies of his or her
36 potential eligibility.

37 (d) A legislator is eligible for benefits on the date his or her
38 term begins. All other elected and full-time appointed officials of

1 the legislative and executive branches of state government are eligible
2 for benefits on the date his or her term begins or they take the oath
3 of office, whichever occurs first.

4 (e) A justice of the supreme court and judges of the court of
5 appeals and the superior courts become eligible for benefits on the
6 date he or she takes the oath of office.

7 (f) Except as provided in (c)(i) and (ii) of this subsection,
8 eligibility ceases for any employee the first of the month following
9 termination of the employment relationship.

10 (g) In determining eligibility under this section, the employing
11 agency may disregard training hours, standby hours, or temporary
12 changes in work hours as determined by the authority under this
13 section.

14 (h) Insurance coverage for all eligible employees begins on the
15 first day of the month following the date when eligibility for benefits
16 is established. If the date eligibility is established is the first
17 working day of a month, insurance coverage begins on that date.

18 (i) Eligibility for an employee whose work circumstances are
19 described by more than one of the eligibility categories in (a) through
20 (e) of this subsection shall be determined solely by the criteria of
21 the category that most closely describes the employee's work
22 circumstances.

23 (j) Except for an employee eligible for benefits under (b) or
24 (c)(ii) of this subsection, an employee who has established eligibility
25 for benefits under this section shall remain eligible for benefits each
26 month in which he or she is in pay status for eight or more hours, if
27 (i) he or she remains in a benefits-eligible position and (ii) leave
28 from the benefits-eligible position is approved by the employing
29 agency. A benefits-eligible seasonal employee is eligible for the
30 employer contribution in any month of his or her season in which he or
31 she is in pay status eight or more hours during that month.
32 Eligibility ends if these conditions are not met, the employment
33 relationship is terminated, or the employee voluntarily transfers to a
34 noneligible position.

35 (k) For the purposes of this subsection:

36 (i) "Academic year" means summer, fall, winter, and spring quarters
37 or semesters;

1 (ii) "Half-time" means one-half of the full-time academic workload
2 as determined by each institution, except that half-time for community
3 and technical college faculty employees shall have the same meaning as
4 "part-time" under RCW 28B.50.489;

5 (iii) "Benefits-eligible position" shall be defined by the board.

6 (5) The board may authorize premium contributions for an employee
7 and the employee's dependents in a manner that encourages the use of
8 cost-efficient managed health care systems.

9 (6)(a) For any open enrollment period following the effective date
10 of this section, the board shall ((develop)) offer a health savings
11 account option for employees that conforms to section 223, Part VII of
12 subchapter B of chapter 1 of the internal revenue code of 1986. The
13 board shall comply with all applicable federal standards related to the
14 establishment of health savings accounts.

15 (b) By November 30, 2015, and each year thereafter, the authority
16 shall submit a report to the relevant legislative policy and fiscal
17 committees that includes the following:

18 (i) Public employees' benefits board health plan cost and service
19 utilization trends for the previous three years, in total and for each
20 health plan offered to employees;

21 (ii) For each health plan offered to employees, the number and
22 percentage of employees and dependents enrolled in the plan, and the
23 age and gender demographics of enrollees in each plan;

24 (iii) Any impact of enrollment in alternatives to the most
25 comprehensive plan, including the high deductible health plan with a
26 health savings account, upon the cost of health benefits for those
27 employees who have chosen to remain enrolled in the most comprehensive
28 plan.

29 (7) Notwithstanding any other provision of this chapter, for any
30 open enrollment period following the effective date of this section,
31 the board shall ((develop)) offer a high deductible health plan ((to be
32 offered)) in conjunction with a health savings account developed under
33 subsection (6) of this section.

34 (8) Employees shall choose participation in one of the health care
35 benefit plans developed by the board and may be permitted to waive
36 coverage under terms and conditions established by the board.

37 (9) The board shall review plans proposed by insuring entities that
38 desire to offer property insurance and/or accident and casualty

1 insurance to state employees through payroll deduction. The board may
2 approve any such plan for payroll deduction by insuring entities
3 holding a valid certificate of authority in the state of Washington and
4 which the board determines to be in the best interests of employees and
5 the state. The board shall adopt rules setting forth criteria by which
6 it shall evaluate the plans.

7 (10) Before January 1, 1998, the public employees' benefits board
8 shall make available one or more fully insured long-term care insurance
9 plans that comply with the requirements of chapter 48.84 RCW. Such
10 programs shall be made available to eligible employees, retired
11 employees, and retired school employees as well as eligible dependents
12 which, for the purpose of this section, includes the parents of the
13 employee or retiree and the parents of the spouse of the employee or
14 retiree. Employees of local governments, political subdivisions, and
15 tribal governments not otherwise enrolled in the public employees'
16 benefits board sponsored medical programs may enroll under terms and
17 conditions established by the administrator, if it does not jeopardize
18 the financial viability of the public employees' benefits board's long-
19 term care offering.

20 (a) Participation of eligible employees or retired employees and
21 retired school employees in any long-term care insurance plan made
22 available by the public employees' benefits board is voluntary and
23 shall not be subject to binding arbitration under chapter 41.56 RCW.
24 Participation is subject to reasonable underwriting guidelines and
25 eligibility rules established by the public employees' benefits board
26 and the health care authority.

27 (b) The employee, retired employee, and retired school employee are
28 solely responsible for the payment of the premium rates developed by
29 the health care authority. The health care authority is authorized to
30 charge a reasonable administrative fee in addition to the premium
31 charged by the long-term care insurer, which shall include the health
32 care authority's cost of administration, marketing, and consumer
33 education materials prepared by the health care authority and the
34 office of the insurance commissioner.

35 (c) To the extent administratively possible, the state shall
36 establish an automatic payroll or pension deduction system for the
37 payment of the long-term care insurance premiums.

1 (d) The public employees' benefits board and the health care
2 authority shall establish a technical advisory committee to provide
3 advice in the development of the benefit design and establishment of
4 underwriting guidelines and eligibility rules. The committee shall
5 also advise the board and authority on effective and cost-effective
6 ways to market and distribute the long-term care product. The
7 technical advisory committee shall be comprised, at a minimum, of
8 representatives of the office of the insurance commissioner, providers
9 of long-term care services, licensed insurance agents with expertise in
10 long-term care insurance, employees, retired employees, retired school
11 employees, and other interested parties determined to be appropriate by
12 the board.

13 (e) The health care authority shall offer employees, retired
14 employees, and retired school employees the option of purchasing long-
15 term care insurance through licensed agents or brokers appointed by the
16 long-term care insurer. The authority, in consultation with the public
17 employees' benefits board, shall establish marketing procedures and may
18 consider all premium components as a part of the contract negotiations
19 with the long-term care insurer.

20 (f) In developing the long-term care insurance benefit designs, the
21 public employees' benefits board shall include an alternative plan of
22 care benefit, including adult day services, as approved by the office
23 of the insurance commissioner.

24 (g) The health care authority, with the cooperation of the office
25 of the insurance commissioner, shall develop a consumer education
26 program for the eligible employees, retired employees, and retired
27 school employees designed to provide education on the potential need
28 for long-term care, methods of financing long-term care, and the
29 availability of long-term care insurance products including the
30 products offered by the board.

31 (11) The board may establish penalties to be imposed by the
32 authority when the eligibility determinations of an employing agency
33 fail to comply with the criteria under this chapter.

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

36 (1) The Washington state health care authority shall develop a plan
37 to incorporate direct patient-provider primary care practices as

1 provided in chapter 48.150 RCW into one or more of the choices of
2 health benefit programs made available to participants in the public
3 employees' benefits board system beginning no later than the open
4 enrollment period beginning November 1, 2012.

5 (2) The plan will be developed in consultation with the board and
6 interested parties, will identify statutory barriers to implementation,
7 and will include proposed legislation to address those barriers and
8 implement the plan. The plan will be submitted to the board and to the
9 house of representatives and senate health care committees by December
10 1, 2011.

Passed by the Senate May 16, 2011.

Passed by the House May 10, 2011.

Approved by the Governor May 31, 2011.

Filed in Office of Secretary of State June 1, 2011.