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SECOND SUBSTITUTE HOUSE BILL 1738

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State of Washington

62nd Legislature

2011 Regular Session

By House Ways & Means (originally sponsored by Representatives Cody and Jinkins; by request of Governor Gregoire)

READ FIRST TIME 03/24/11.

1 AN ACT Relating to changing the designation of the medicaid single  
2 state agency from the department of social and health services to the  
3 health care authority and transferring the related powers, functions,  
4 and duties to the health care authority; amending RCW 74.09.037,  
5 74.09.050, 74.09.055, 74.09.075, 74.09.080, 74.09.120, 74.09.160,  
6 74.09.180, 74.09.185, 74.09.190, 74.09.200, 74.09.210, 74.09.240,  
7 74.09.260, 74.09.280, 74.09.290, 74.09.300, 74.09.470, 74.09.480,  
8 74.09.490, 74.09.500, 74.09.510, 74.09.515, 74.09.520, 74.09.521,  
9 74.09.5222, 74.09.5225, 74.09.530, 74.09.540, 74.09.555, 74.09.565,  
10 74.09.575, 74.09.585, 74.09.595, 74.09.655, 74.09.658, 74.09.659,  
11 74.09.700, 74.09.710, 74.09.715, 74.09.720, 74.09.725, 74.09.730,  
12 74.09.770, 74.09.790, 74.09.800, 74.09.810, 74.09.820, 41.05.011,  
13 41.05.015, 41.05.021, 41.05.036, 41.05.037, 41.05.140, 41.05.185,  
14 43.20A.365, 74.04.005, 74.04.015, 74.04.025, 74.04.050, 74.04.055,  
15 74.04.060, 74.04.062, 74.04.290, 7.68.080, 43.41.160, 43.41.260,  
16 43.70.670, 47.06B.020, 47.06B.060, 47.06B.070, 48.01.235, 48.43.008,  
17 48.43.517, 69.41.030, 69.41.190, 70.01.010, 70.47.010, 70.47.110,  
18 70.48.130, 70.168.040, 70.225.040, and 74.09.015; reenacting and  
19 amending RCW 74.09.010, 74.09.035, 74.09.522, and 70.47.020; adding new  
20 sections to chapter 74.09 RCW; adding a new section to chapter 43.20A  
21 RCW; adding a new chapter to Title 41 RCW; creating new sections;

1 recodifying RCW 43.20A.365; repealing RCW 74.09.085, 74.09.110,  
2 74.09.5221, 74.09.5227, 74.09.755, 43.20A.860, and 74.04.270; providing  
3 an effective date; providing an expiration date; and declaring an  
4 emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that:

7 (1) Washington state government must be organized to be efficient,  
8 cost-effective, and responsive to its residents;

9 (2) The cost of state-purchased health care continues to grow at an  
10 unsustainable rate, now representing nearly one-third of the state's  
11 budget and hindering our ability to invest in other essential services  
12 such as education and public safety;

13 (3) Responsibility for state health care purchasing is currently  
14 spread over multiple agencies, but successful interagency collaboration  
15 on quality and cost initiatives has helped demonstrate the benefits to  
16 the state of centralized health care purchasing;

17 (4) Consolidating the majority of state health care purchasing into  
18 a single state agency will best position the state to work with others,  
19 including private sector purchasers, health insurance carriers, health  
20 care providers, and consumers to increase the quality and affordability  
21 of health care for all state residents;

22 (5) The development and implementation of uniform state policies  
23 for all state-purchased health care is among the purposes for which the  
24 health care authority was originally created; and

25 (6) The state will be best able to take advantage of the  
26 opportunities and meet its obligations under the federal affordable  
27 care act, including establishment of a health benefit exchange and  
28 medicaid expansion, if primary responsibility for doing so rests with  
29 a single state agency.

30 The legislature therefore intends, where appropriate, to  
31 consolidate state health care purchasing within the health care  
32 authority, positioning the state to use its full purchasing power to  
33 get the greatest value for its money, and allowing other agencies to  
34 focus even more intently on their core missions.

1       **Sec. 2.** RCW 74.09.010 and 2010 1st sp.s. c 8 s 28 are each  
2 reenacted and amended to read as follows:

3       ~~((As used in this chapter:))~~ The definitions in this section apply  
4 throughout this chapter unless the context clearly requires otherwise.

5       (1) "Authority" means the Washington state health care authority.

6       (2) "Children's health program" means the health care services  
7 program provided to children under eighteen years of age and in  
8 households with incomes at or below the federal poverty level as  
9 annually defined by the federal department of health and human services  
10 as adjusted for family size, and who are not otherwise eligible for  
11 medical assistance or the limited casualty program for the medically  
12 needy.

13       ~~((2) "Committee" means the children's health services committee  
14 created in section 3 of this act.))~~

15       (3) "County" means the board of county commissioners, county  
16 council, county executive, or tribal jurisdiction, or its designee.  
17 ~~((A combination of two or more county authorities or tribal  
18 jurisdictions may enter into joint agreements to fulfill the  
19 requirements of RCW 74.09.415 through 74.09.435.))~~

20       (4) "Department" means the department of social and health  
21 services.

22       (5) "Department of health" means the Washington state department of  
23 health created pursuant to RCW 43.70.020.

24       (6) "Director" means the director of the Washington state health  
25 care authority.

26       (7) "Full benefit dual eligible beneficiary" means an individual  
27 who, for any month: Has coverage for the month under a medicare  
28 prescription drug plan or medicare advantage plan with part D coverage;  
29 and is determined eligible by the state for full medicaid benefits for  
30 the month under any eligibility category in the state's medicaid plan  
31 or a section 1115 demonstration waiver that provides pharmacy benefits.

32       ~~((7))~~ (8) "Internal management" means the administration of  
33 medical assistance, medical care services, the children's health  
34 program, and the limited casualty program.

35       ~~((8))~~ (9) "Limited casualty program" means the medical care  
36 program provided to medically needy persons as defined under Title XIX  
37 of the federal social security act, and to medically indigent persons

1 who are without income or resources sufficient to secure necessary  
2 medical services.

3 ((+9+)) (10) "Medical assistance" means the federal aid medical  
4 care program provided to categorically needy persons as defined under  
5 Title XIX of the federal social security act.

6 ((+10+)) (11) "Medical care services" means the limited scope of  
7 care financed by state funds and provided to disability lifeline  
8 benefits recipients, and recipients of alcohol and drug addiction  
9 services provided under chapter 74.50 RCW.

10 ((+11+)) (12) "Nursing home" means nursing home as defined in RCW  
11 18.51.010.

12 ((+12+)) (13) "Poverty" means the federal poverty level determined  
13 annually by the United States department of health and human services,  
14 or successor agency.

15 ((+13+)) (14) "Secretary" means the secretary of social and health  
16 services.

17 **Sec. 3.** RCW 74.09.035 and 2010 1st sp.s. c 8 s 29 and 2010 c 94 s  
18 22 are each reenacted and amended to read as follows:

19 (1) To the extent of available funds, medical care services may be  
20 provided to recipients of disability lifeline benefits, persons denied  
21 disability lifeline benefits under RCW 74.04.005(5)(b) or 74.04.655 who  
22 otherwise meet the requirements of RCW 74.04.005(5)(a), and recipients  
23 of alcohol and drug addiction services provided under chapter 74.50  
24 RCW, in accordance with medical eligibility requirements established by  
25 the ((department)) authority. To the extent authorized in the  
26 operating budget, upon implementation of a federal medicaid 1115 waiver  
27 providing federal matching funds for medical care services, these  
28 services also may be provided to persons who have been terminated from  
29 disability lifeline benefits under RCW 74.04.005(5)(h).

30 (2) Determination of the amount, scope, and duration of medical  
31 care services shall be limited to coverage as defined by the  
32 ((department)) authority, except that adult dental, and routine foot  
33 care shall not be included unless there is a specific appropriation for  
34 these services.

35 (3) The ((department)) authority shall enter into performance-based  
36 contracts with one or more managed health care systems for the

1 provision of medical care services to recipients of disability lifeline  
2 benefits. The contract must provide for integrated delivery of medical  
3 and mental health services.

4 (4) The ((~~department~~)) authority shall establish standards of  
5 assistance and resource and income exemptions, which may include  
6 deductibles and co-insurance provisions. In addition, the  
7 ((~~department~~)) authority may include a prohibition against the  
8 voluntary assignment of property or cash for the purpose of qualifying  
9 for assistance.

10 (5) Residents of skilled nursing homes, intermediate care  
11 facilities, and intermediate care facilities for ((~~the mentally~~  
12 ~~retarded~~)) persons with intellectual disabilities, as that term is  
13 described by federal law, who are eligible for medical care services  
14 shall be provided medical services to the same extent as provided to  
15 those persons eligible under the medical assistance program.

16 (6) Payments made by the ((~~department~~)) authority under this  
17 program shall be the limit of expenditures for medical care services  
18 solely from state funds.

19 (7) Eligibility for medical care services shall commence with the  
20 date of certification for disability lifeline benefits or the date of  
21 eligibility for alcohol and drug addiction services provided under  
22 chapter 74.50 RCW.

23 **Sec. 4.** RCW 74.09.037 and 2004 c 115 s 3 are each amended to read  
24 as follows:

25 Any card issued ((~~after December 31, 2005,~~)) by the ((~~department~~))  
26 authority or a managed health care system to a person receiving  
27 services under this chapter, that must be presented to providers for  
28 purposes of claims processing, may not display an identification number  
29 that includes more than a four-digit portion of the person's complete  
30 social security number.

31 **Sec. 5.** RCW 74.09.050 and 2000 c 5 s 15 are each amended to read  
32 as follows:

33 (1) The ((~~secretary~~)) director shall appoint such professional  
34 personnel and other assistants and employees, including professional  
35 medical screeners, as may be reasonably necessary to carry out the  
36 provisions of this chapter. The medical screeners shall be supervised

1 by one or more physicians who shall be appointed by the ((secretary))  
2 director or his or her designee. The ((secretary)) director shall  
3 appoint a medical director who is licensed under chapter 18.57 or 18.71  
4 RCW.

5 (2) Whenever the director's authority is not specifically limited  
6 by law, he or she has complete charge and supervisory powers over the  
7 authority. The director is authorized to create such administrative  
8 structures as deemed appropriate, except as otherwise specified by law.  
9 The director has the power to employ such assistants and personnel as  
10 may be necessary for the general administration of the authority.  
11 Except as elsewhere specified, such employment must be in accordance  
12 with the rules of the state civil service law, chapter 41.06 RCW.

13 **Sec. 6.** RCW 74.09.055 and 2006 c 24 s 1 are each amended to read  
14 as follows:

15 The ((department)) authority is authorized to establish copayment,  
16 deductible, or coinsurance, or other cost-sharing requirements for  
17 recipients of any medical programs defined in RCW 74.09.010, except  
18 that premiums shall not be imposed on children in households at or  
19 below two hundred percent of the federal poverty level.

20 **Sec. 7.** RCW 74.09.075 and 1979 c 141 s 337 are each amended to  
21 read as follows:

22 The department or authority, as appropriate, shall provide ((+a))  
23 (1) for evaluation of employability when a person is applying for  
24 public assistance representing a medical condition as a basis for need,  
25 and ((+b)) (2) for medical reports to be used in the evaluation of  
26 total and permanent disability. It shall further provide for medical  
27 consultation and assistance in determining the need for special diets,  
28 housekeeper and attendant services, and other requirements as found  
29 necessary because of the medical condition under the rules promulgated  
30 by the secretary or director.

31 **Sec. 8.** RCW 74.09.080 and 1979 c 141 s 338 are each amended to  
32 read as follows:

33 In carrying out the administrative responsibility of this chapter,  
34 the department or authority, as appropriate:

1       (1) May contract with an individual or a group, may utilize  
2 existing local state public assistance offices, or establish separate  
3 welfare medical care offices on a county or multicounty unit basis as  
4 found necessary; and

5       (2) Shall determine both financial and functional eligibility for  
6 persons applying for long-term care services under chapter 74.39 or  
7 74.39A RCW as a unified process in a single long-term care  
8 organizational unit.

9       **Sec. 9.** RCW 74.09.120 and 2010 c 94 s 23 are each amended to read  
10 as follows:

11       (~~The department shall purchase necessary physician and dentist~~  
12 ~~services by contract or "fee for service."~~) (1) The department shall  
13 purchase nursing home care by contract and payment for the care shall  
14 be in accordance with the provisions of chapter 74.46 RCW and rules  
15 adopted by the department (~~under the authority of RCW 74.46.800~~). No  
16 payment shall be made to a nursing home which does not permit  
17 inspection by the authority and the department (~~of social and health~~  
18 ~~services~~) of every part of its premises and an examination of all  
19 records, including financial records, methods of administration,  
20 general and special dietary programs, the disbursement of drugs and  
21 methods of supply, and any other records the authority or the  
22 department deems relevant to the regulation of nursing home operations,  
23 enforcement of standards for resident care, and payment for nursing  
24 home services.

25       (2) The department may purchase nursing home care by contract in  
26 veterans' homes operated by the state department of veterans affairs  
27 and payment for the care shall be in accordance with the provisions of  
28 chapter 74.46 RCW and rules adopted by the department under the  
29 authority of RCW 74.46.800.

30       (3) The department may purchase care in institutions for persons  
31 with intellectual disabilities, also known as intermediate care  
32 facilities for persons with intellectual disabilities. The department  
33 shall establish rules for reasonable accounting and reimbursement  
34 systems for such care. Institutions for persons with intellectual  
35 disabilities include licensed nursing homes, public institutions,  
36 licensed boarding homes with fifteen beds or less, and hospital  
37 facilities certified as intermediate care facilities for persons with

1 intellectual disabilities under the federal medicaid program to provide  
2 health, habilitative, or rehabilitative services and twenty-four hour  
3 supervision for persons with intellectual disabilities or related  
4 conditions and includes in the program "active treatment" as federally  
5 defined.

6 (4) The department may purchase care in institutions for mental  
7 diseases by contract. The department shall establish rules for  
8 reasonable accounting and reimbursement systems for such care.  
9 Institutions for mental diseases are certified under the federal  
10 medicaid program and primarily engaged in providing diagnosis,  
11 treatment, or care to persons with mental diseases, including medical  
12 attention, nursing care, and related services.

13 (5) Both the department and the authority may each purchase all  
14 other services provided under this chapter by contract or at rates  
15 established by the department or the authority respectively.

16 **Sec. 10.** RCW 74.09.160 and 1991 c 103 s 1 are each amended to read  
17 as follows:

18 Each vendor or group who has a contract and is rendering service to  
19 eligible persons as defined in this chapter shall submit such charges  
20 as agreed upon between the department or authority, as appropriate, and  
21 the individual or group no later than twelve months from the date of  
22 service. If the final charges are not presented within the twelve-  
23 month period, they shall not be a charge against the state. Said  
24 twelve-month period may also be extended by regulation, but only if  
25 required by applicable federal law or regulation, and to no more than  
26 the extension of time so required. ~~((For services rendered prior to  
27 July 28, 1991, final charges shall not be a charge against the state  
28 unless they are presented within one hundred twenty days from the date  
29 of service.))~~

30 **Sec. 11.** RCW 74.09.180 and 1997 c 236 s 1 are each amended to read  
31 as follows:

32 (1) The provisions of this chapter shall not apply to recipients  
33 whose personal injuries are occasioned by negligence or wrong of  
34 another: PROVIDED, HOWEVER, That the ~~((secretary))~~ director may  
35 furnish assistance, under the provisions of this chapter, for the  
36 results of injuries to or illness of a recipient, and the



1 ((department)) authority shall thereby be subrogated to the recipient's  
2 rights against the recovery had from any tort feisor or the tort  
3 feisor's insurer, or both, and shall have a lien thereupon to the  
4 extent of the value of the assistance furnished by the ((department))  
5 authority. To secure reimbursement for assistance provided under this  
6 section, the ((department)) authority may pursue its remedies under  
7 ((RCW 43.20B.060)) section 95 of this act.

8 (2) The rights and remedies provided to the ((department))  
9 authority in this section to secure reimbursement for assistance,  
10 including the ((department's)) authority's lien and subrogation rights,  
11 may be delegated to a managed health care system by contract entered  
12 into pursuant to RCW 74.09.522. A managed health care system may  
13 enforce all rights and remedies delegated to it by the ((department))  
14 authority to secure and recover assistance provided under a managed  
15 health care system consistent with its agreement with the  
16 ((department)) authority.

17 **Sec. 12.** RCW 74.09.185 and 1995 c 34 s 6 are each amended to read  
18 as follows:

19 To the extent that payment for covered expenses has been made under  
20 medical assistance for health care items or services furnished to an  
21 individual, in any case where a third party has a legal liability to  
22 make payments, the state is considered to have acquired the rights of  
23 the individual to payment by any other party for those health care  
24 items or services. Recovery pursuant to the subrogation rights,  
25 assignment, or enforcement of the lien granted to the ((department))  
26 authority by this section shall not be reduced, prorated, or applied to  
27 only a portion of a judgment, award, or settlement, except as provided  
28 in ((RCW 43.20B.050 and 43.20B.060)) sections 94 and 95 of this act.  
29 The doctrine of equitable subrogation shall not apply to defeat,  
30 reduce, or prorate recovery by the ((department)) authority as to its  
31 assignment, lien, or subrogation rights.

32 **Sec. 13.** RCW 74.09.190 and 1979 c 141 s 342 are each amended to  
33 read as follows:

34 Nothing in this chapter shall be construed as empowering the  
35 secretary or director to compel any recipient of public assistance and  
36 a medical indigent person to undergo any physical examination, surgical

1 operation, or accept any form of medical treatment contrary to the  
2 wishes of said person who relies on or is treated by prayer or  
3 spiritual means in accordance with the creed and tenets of any well  
4 recognized church or religious denomination.

5 **Sec. 14.** RCW 74.09.200 and 1979 ex.s. c 152 s 1 are each amended  
6 to read as follows:

7 The legislature finds and declares it to be in the public interest  
8 and for the protection of the health and welfare of the residents of  
9 the state of Washington that a proper regulatory and inspection program  
10 be instituted in connection with the providing of medical, dental, and  
11 other health services to recipients of public assistance and medically  
12 indigent persons. In order to effectively accomplish such purpose and  
13 to assure that the recipient of such services receives such services as  
14 are paid for by the state of Washington, the acceptance by the  
15 recipient of such services, and by practitioners of reimbursement for  
16 performing such services, shall authorize the secretary (~~of the~~  
17 ~~department of social and health services~~) or (~~his designee~~)  
18 director, to inspect and audit all records in connection with the  
19 providing of such services.

20 **Sec. 15.** RCW 74.09.210 and 1989 c 175 s 146 are each amended to  
21 read as follows:

22 (1) No person, firm, corporation, partnership, association, agency,  
23 institution, or other legal entity, but not including an individual  
24 public assistance recipient of health care, shall, on behalf of himself  
25 or others, obtain or attempt to obtain benefits or payments under this  
26 chapter in a greater amount than that to which entitled by means of:

27 (a) A willful false statement;  
28 (b) By willful misrepresentation, or by concealment of any material  
29 facts; or

30 (c) By other fraudulent scheme or device, including, but not  
31 limited to:

32 (i) Billing for services, drugs, supplies, or equipment that were  
33 unfurnished, of lower quality, or a substitution or misrepresentation  
34 of items billed; or

35 (ii) Repeated billing for purportedly covered items, which were not  
36 in fact so covered.

1 (2) Any person or entity knowingly violating any of the provisions  
2 of subsection (1) of this section shall be liable for repayment of any  
3 excess benefits or payments received, plus interest at the rate and in  
4 the manner provided in RCW 43.20B.695. Such person or other entity  
5 shall further, in addition to any other penalties provided by law, be  
6 subject to civil penalties. The secretary or director, as appropriate,  
7 may assess civil penalties in an amount not to exceed three times the  
8 amount of such excess benefits or payments: PROVIDED, That these civil  
9 penalties shall not apply to any acts or omissions occurring prior to  
10 September 1, 1979. RCW 43.20A.215 governs notice of a civil fine and  
11 provides the right to an adjudicative proceeding.

12 (3) A criminal action need not be brought against a person for that  
13 person to be civilly liable under this section.

14 (4) In all proceedings under this section, service, adjudicative  
15 proceedings, and judicial review of such determinations shall be in  
16 accordance with chapter 34.05 RCW, the administrative procedure act.

17 (5) Civil penalties shall be deposited in the general fund upon  
18 their receipt.

19 **Sec. 16.** RCW 74.09.240 and 1995 c 319 s 1 are each amended to read  
20 as follows:

21 (1) Any person, including any corporation, that solicits or  
22 receives any remuneration (including any kickback, bribe, or rebate)  
23 directly or indirectly, overtly or covertly, in cash or in kind

24 (a) in return for referring an individual to a person for the  
25 furnishing or arranging for the furnishing of any item or service for  
26 which payment may be made in whole or in part under this chapter, or

27 (b) in return for purchasing, leasing, ordering, or arranging for  
28 or recommending purchasing, leasing, or ordering any goods, facility,  
29 service, or item for which payment may be made in whole or in part  
30 under this chapter,

31 shall be guilty of a class C felony; however, the fine, if imposed,  
32 shall not be in an amount more than twenty-five thousand dollars,  
33 except as authorized by RCW 9A.20.030.

34 (2) Any person, including any corporation, that offers or pays any  
35 remuneration (including any kickback, bribe, or rebate) directly or  
36 indirectly, overtly or covertly, in cash or in kind to any person to  
37 induce such person

1 (a) to refer an individual to a person for the furnishing or  
2 arranging for the furnishing of any item or service for which payment  
3 may be made, in whole or in part, under this chapter, or

4 (b) to purchase, lease, order, or arrange for or recommend  
5 purchasing, leasing, or ordering any goods, facility, service, or item  
6 for which payment may be made in whole or in part under this chapter,  
7 shall be guilty of a class C felony; however, the fine, if imposed,  
8 shall not be in an amount more than twenty-five thousand dollars,  
9 except as authorized by RCW 9A.20.030.

10 (3)(a) Except as provided in 42 U.S.C. 1395 nn, physicians are  
11 prohibited from self-referring any client eligible under this chapter  
12 for the following designated health services to a facility in which the  
13 physician or an immediate family member has a financial relationship:

- 14 (i) Clinical laboratory services;
- 15 (ii) Physical therapy services;
- 16 (iii) Occupational therapy services;
- 17 (iv) Radiology including magnetic resonance imaging, computerized  
18 axial tomography, and ultrasound services;
- 19 (v) Durable medical equipment and supplies;
- 20 (vi) Parenteral and enteral nutrients equipment and supplies;
- 21 (vii) Prosthetics, orthotics, and prosthetic devices;
- 22 (viii) Home health services;
- 23 (ix) Outpatient prescription drugs;
- 24 (x) Inpatient and outpatient hospital services;
- 25 (xi) Radiation therapy services and supplies.

26 (b) For purposes of this subsection, "financial relationship" means  
27 the relationship between a physician and an entity that includes  
28 either:

- 29 (i) An ownership or investment interest; or
- 30 (ii) A compensation arrangement.

31 For purposes of this subsection, "compensation arrangement" means  
32 an arrangement involving remuneration between a physician, or an  
33 immediate family member of a physician, and an entity.

34 (c) The department or authority, as appropriate, is authorized to  
35 adopt by rule amendments to 42 U.S.C. 1395 nn enacted after July 23,  
36 1995.

37 (d) This section shall not apply in any case covered by a general  
38 exception specified in 42 U.S.C. Sec. 1395 nn.

1 (4) Subsections (1) and (2) of this section shall not apply to:  
2 (a) A discount or other reduction in price obtained by a provider  
3 of services or other entity under this chapter if the reduction in  
4 price is properly disclosed and appropriately reflected in the costs  
5 claimed or charges made by the provider or entity under this  
6 chapter(~~(7)~~); and  
7 (b) Any amount paid by an employer to an employee (who has a bona  
8 fide employment relationship with such employer) for employment in the  
9 provision of covered items or services.  
10 (5) Subsections (1) and (2) of this section, if applicable to the  
11 conduct involved, shall supersede the criminal provisions of chapter  
12 19.68 RCW, but shall not preclude administrative proceedings authorized  
13 by chapter 19.68 RCW.

14 **Sec. 17.** RCW 74.09.260 and 1991 sp.s. c 8 s 7 are each amended to  
15 read as follows:

16 Any person, including any corporation, that knowingly:

17 (1) Charges, for any service provided to a patient under any  
18 medical care plan authorized under this chapter, money or other  
19 consideration at a rate in excess of the rates established by the  
20 department (~~(of social and health services)~~) or authority, as  
21 appropriate; or

22 (2) Charges, solicits, accepts, or receives, in addition to any  
23 amount otherwise required to be paid under such plan, any gift, money,  
24 donation, or other consideration (other than a charitable, religious,  
25 or philanthropic contribution from an organization or from a person  
26 unrelated to the patient):

27 (a) As a precondition of admitting a patient to a hospital or  
28 nursing facility; or

29 (b) As a requirement for the patient's continued stay in such  
30 facility,

31 when the cost of the services provided therein to the patient is paid  
32 for, in whole or in part, under such plan, shall be guilty of a class  
33 C felony: PROVIDED, That the fine, if imposed, shall not be in an  
34 amount more than twenty-five thousand dollars, except as authorized by  
35 RCW 9A.20.030.

1       **Sec. 18.** RCW 74.09.280 and 1979 ex.s. c 152 s 9 are each amended  
2 to read as follows:

3       The secretary (~~(of social and health services)~~) or director may by  
4 rule require that any application, statement, or form filled out by  
5 suppliers of medical care under this chapter shall contain or be  
6 verified by a written statement that it is made under the penalties of  
7 perjury and such declaration shall be in lieu of any oath otherwise  
8 required, and each such paper shall in such event so state. The making  
9 or subscribing of any such papers or forms containing any false or  
10 misleading information may be prosecuted and punished under chapter  
11 9A.72 RCW.

12       **Sec. 19.** RCW 74.09.290 and 1994 sp.s. c 9 s 749 are each amended  
13 to read as follows:

14       The secretary (~~(of the department of social and health services)~~)  
15 or (~~(his authorized representative)~~) director shall have the authority  
16 to:

17       (1) Conduct audits and investigations of providers of medical and  
18 other services furnished pursuant to this chapter, except that the  
19 Washington state medical quality assurance commission shall generally  
20 serve in an advisory capacity to the secretary or director in the  
21 conduct of audits or investigations of physicians. Any overpayment  
22 discovered as a result of an audit of a provider under this authority  
23 shall be offset by any underpayments discovered in that same audit  
24 sample. In order to determine the provider's actual, usual, customary,  
25 or prevailing charges, the secretary or director may examine such  
26 random representative records as necessary to show accounts billed and  
27 accounts received except that in the conduct of such examinations,  
28 patient names, other than public assistance applicants or recipients,  
29 shall not be noted, copied, or otherwise made available to the  
30 department or authority. In order to verify costs incurred by the  
31 department or authority for treatment of public assistance applicants  
32 or recipients, the secretary or director may examine patient records or  
33 portions thereof in connection with services to such applicants or  
34 recipients rendered by a health care provider, notwithstanding the  
35 provisions of RCW 5.60.060, 18.53.200, 18.83.110, or any other statute  
36 which may make or purport to make such records privileged or  
37 confidential: PROVIDED, That no original patient records shall be

1 removed from the premises of the health care provider, and that the  
2 disclosure of any records or information by the department (~~(of social~~  
3 ~~and health services)) or the authority is prohibited and shall be  
4 punishable as a class C felony according to chapter 9A.20 RCW, unless  
5 such disclosure is directly connected to the official purpose for which  
6 the records or information were obtained: PROVIDED FURTHER, That the  
7 disclosure of patient information as required under this section shall  
8 not subject any physician or other health services provider to any  
9 liability for breach of any confidential relationship between the  
10 provider and the patient, but no evidence resulting from such  
11 disclosure may be used in any civil, administrative, or criminal  
12 proceeding against the patient unless a waiver of the applicable  
13 evidentiary privilege is obtained: PROVIDED FURTHER, That the  
14 secretary or director shall destroy all copies of patient medical  
15 records in their possession upon completion of the audit, investigation  
16 or proceedings;~~

17 (2) Approve or deny applications to participate as a provider of  
18 services furnished pursuant to this chapter;

19 (3) Terminate or suspend eligibility to participate as a provider  
20 of services furnished pursuant to this chapter; and

21 (4) Adopt, promulgate, amend, and repeal administrative rules, in  
22 accordance with the administrative procedure act, chapter 34.05 RCW, to  
23 carry out the policies and purposes of RCW 74.09.200 through 74.09.290.

24 **Sec. 20.** RCW 74.09.300 and 1979 ex.s. c 152 s 11 are each amended  
25 to read as follows:

26 Whenever the secretary (~~(of the department of social and health~~  
27 ~~services)) or director imposes a civil penalty under RCW 74.09.210, or  
28 terminates or suspends a provider's eligibility under RCW 74.09.290, he  
29 or she shall, if the provider is licensed pursuant to Titles 18, 70, or  
30 71 RCW, give written notice of such imposition, termination, or  
31 suspension to the appropriate licensing agency or disciplinary board.~~

32 **Sec. 21.** RCW 74.09.470 and 2009 c 463 s 2 are each amended to read  
33 as follows:

34 (1) Consistent with the goals established in RCW 74.09.402, through  
35 the apple health for kids program authorized in this section, the  
36 (~~department~~) authority shall provide affordable health care coverage

1 to children under the age of nineteen who reside in Washington state  
2 and whose family income at the time of enrollment is not greater than  
3 two hundred fifty percent of the federal poverty level as adjusted for  
4 family size and determined annually by the federal department of health  
5 and human services, and effective January 1, 2009, and only to the  
6 extent that funds are specifically appropriated therefor, to children  
7 whose family income is not greater than three hundred percent of the  
8 federal poverty level. In administering the program, the  
9 ((department)) authority shall take such actions as may be necessary to  
10 ensure the receipt of federal financial participation under the medical  
11 assistance program, as codified at Title XIX of the federal social  
12 security act, the state children's health insurance program, as  
13 codified at Title XXI of the federal social security act, and any other  
14 federal funding sources that are now available or may become available  
15 in the future. The ((department)) authority and the caseload forecast  
16 council shall estimate the anticipated caseload and costs of the  
17 program established in this section.

18 (2) The ((department)) authority shall accept applications for  
19 enrollment for children's health care coverage; establish appropriate  
20 minimum-enrollment periods, as may be necessary; and determine  
21 eligibility based on current family income. The ((department))  
22 authority shall make eligibility determinations within the time frames  
23 for establishing eligibility for children on medical assistance, as  
24 defined by RCW 74.09.510. The application and annual renewal processes  
25 shall be designed to minimize administrative barriers for applicants  
26 and enrolled clients, and to minimize gaps in eligibility for families  
27 who are eligible for coverage. If a change in family income results in  
28 a change in the source of funding for coverage, the ((department))  
29 authority shall transfer the family members to the appropriate source  
30 of funding and notify the family with respect to any change in premium  
31 obligation, without a break in eligibility. The ((department))  
32 authority shall use the same eligibility redetermination and appeals  
33 procedures as those provided for children on medical assistance  
34 programs. The ((department)) authority shall modify its eligibility  
35 renewal procedures to lower the percentage of children failing to  
36 annually renew. The ((department)) authority shall manage its  
37 outreach, application, and renewal procedures with the goals of: (a)  
38 Achieving year by year improvements in enrollment, enrollment rates,



1 renewals, and renewal rates; (b) maximizing the use of existing program  
2 databases to obtain information related to earned and unearned income  
3 for purposes of eligibility determination and renewals, including, but  
4 not limited to, the basic food program, the child care subsidy program,  
5 federal social security administration programs, and the employment  
6 security department wage database; (c) streamlining renewal processes  
7 to rely primarily upon data matches, online submissions, and telephone  
8 interviews; and (d) implementing any other eligibility determination  
9 and renewal processes to allow the state to receive an enhanced federal  
10 matching rate and additional federal outreach funding available through  
11 the federal children's health insurance program reauthorization act of  
12 2009 by January 2010. The department shall advise the governor and the  
13 legislature regarding the status of these efforts by September 30,  
14 2009. The information provided should include the status of the  
15 department's efforts, the anticipated impact of those efforts on  
16 enrollment, and the costs associated with that enrollment.

17 (3) To ensure continuity of care and ease of understanding for  
18 families and health care providers, and to maximize the efficiency of  
19 the program, the amount, scope, and duration of health care services  
20 provided to children under this section shall be the same as that  
21 provided to children under medical assistance, as defined in RCW  
22 74.09.520.

23 (4) The primary mechanism for purchasing health care coverage under  
24 this section shall be through contracts with managed health care  
25 systems as defined in RCW 74.09.522, subject to conditions,  
26 limitations, and appropriations provided in the biennial appropriations  
27 act. However, the ((department)) authority shall make every effort  
28 within available resources to purchase health care coverage for  
29 uninsured children whose families have access to dependent coverage  
30 through an employer-sponsored health plan or another source when it is  
31 cost-effective for the state to do so, and the purchase is consistent  
32 with requirements of Title XIX and Title XXI of the federal social  
33 security act. To the extent allowable under federal law, the  
34 ((department)) authority shall require families to enroll in available  
35 employer-sponsored coverage, as a condition of participating in the  
36 program established under this section, when it is cost-effective for  
37 the state to do so. Families who enroll in available employer-

1 sponsored coverage under this section shall be accounted for separately  
2 in the annual report required by RCW 74.09.053.

3 (5)(a) To reflect appropriate parental responsibility, the  
4 ((department)) authority shall develop and implement a schedule of  
5 premiums for children's health care coverage due to the ((department))  
6 authority from families with income greater than two hundred percent of  
7 the federal poverty level. For families with income greater than two  
8 hundred fifty percent of the federal poverty level, the premiums shall  
9 be established in consultation with the senate majority and minority  
10 leaders and the speaker and minority leader of the house of  
11 representatives. Premiums shall be set at a reasonable level that does  
12 not pose a barrier to enrollment. The amount of the premium shall be  
13 based upon family income and shall not exceed the premium limitations  
14 in Title XXI of the federal social security act. Premiums shall not be  
15 imposed on children in households at or below two hundred percent of  
16 the federal poverty level as articulated in RCW 74.09.055.

17 (b) Beginning no later than January 1, 2010, the ((department))  
18 authority shall offer families whose income is greater than three  
19 hundred percent of the federal poverty level the opportunity to  
20 purchase health care coverage for their children through the programs  
21 administered under this section without an explicit premium subsidy  
22 from the state. The design of the health benefit package offered to  
23 these children should provide a benefit package substantially similar  
24 to that offered in the apple health for kids program, and may differ  
25 with respect to cost-sharing, and other appropriate elements from that  
26 provided to children under subsection (3) of this section including,  
27 but not limited to, application of preexisting conditions, waiting  
28 periods, and other design changes needed to offer affordable coverage.  
29 The amount paid by the family shall be in an amount equal to the rate  
30 paid by the state to the managed health care system for coverage of the  
31 child, including any associated and administrative costs to the state  
32 of providing coverage for the child. Any pooling of the program  
33 enrollees that results in state fiscal impact must be identified and  
34 brought to the legislature for consideration.

35 (6) The ((department)) authority shall undertake and continue a  
36 proactive, targeted outreach and education effort with the goal of  
37 enrolling children in health coverage and improving the health literacy  
38 of youth and parents. The ((department)) authority shall collaborate

1 with the department of social and health services, department of  
2 health, local public health jurisdictions, the office of the  
3 superintendent of public instruction, the department of early learning,  
4 health educators, health care providers, health carriers, community-  
5 based organizations, and parents in the design and development of this  
6 effort. The outreach and education effort shall include the following  
7 components:

8 (a) Broad dissemination of information about the availability of  
9 coverage, including media campaigns;

10 (b) Assistance with completing applications, and community-based  
11 outreach efforts to help people apply for coverage. Community-based  
12 outreach efforts should be targeted to the populations least likely to  
13 be covered;

14 (c) Use of existing systems, such as enrollment information from  
15 the free and reduced-price lunch program, the department of early  
16 learning child care subsidy program, the department of health's women,  
17 infants, and children program, and the early childhood education and  
18 assistance program, to identify children who may be eligible but not  
19 enrolled in coverage;

20 (d) Contracting with community-based organizations and government  
21 entities to support community-based outreach efforts to help families  
22 apply for coverage. These efforts should be targeted to the  
23 populations least likely to be covered. The (~~department~~) authority  
24 shall provide informational materials for use by government entities  
25 and community-based organizations in their outreach activities, and  
26 should identify any available federal matching funds to support these  
27 efforts;

28 (e) Development and dissemination of materials to engage and inform  
29 parents and families statewide on issues such as: The benefits of  
30 health insurance coverage; the appropriate use of health services,  
31 including primary care provided by health care practitioners licensed  
32 under chapters 18.71, 18.57, 18.36A, and 18.79 RCW, and emergency  
33 services; the value of a medical home, well-child services and  
34 immunization, and other preventive health services with linkages to  
35 department of health child profile efforts; identifying and managing  
36 chronic conditions such as asthma and diabetes; and the value of good  
37 nutrition and physical activity;

1 (f) An evaluation of the outreach and education efforts, based upon  
2 clear, cost-effective outcome measures that are included in contracts  
3 with entities that undertake components of the outreach and education  
4 effort;

5 (g) An implementation plan to develop online application capability  
6 that is integrated with the (~~department's~~) automated client  
7 eligibility system, and to develop data linkages with the office of the  
8 superintendent of public instruction for free and reduced-price lunch  
9 enrollment information and the department of early learning for child  
10 care subsidy program enrollment information.

11 (7) The (~~department~~) authority shall take action to increase the  
12 number of primary care physicians providing dental disease preventive  
13 services including oral health screenings, risk assessment, family  
14 education, the application of fluoride varnish, and referral to a  
15 dentist as needed.

16 (8) The department shall monitor the rates of substitution between  
17 private-sector health care coverage and the coverage provided under  
18 this section (~~and shall report to appropriate committees of the~~  
19 ~~legislature by December 2010~~)).

20 **Sec. 22.** RCW 74.09.480 and 2009 c 463 s 4 are each amended to read  
21 as follows:

22 (1) The (~~department~~) authority, in collaboration with the  
23 department of health, department of social and health services, health  
24 carriers, local public health jurisdictions, children's health care  
25 providers including pediatricians, family practitioners, and pediatric  
26 subspecialists, community and migrant health centers, parents, and  
27 other purchasers, shall establish a concise set of explicit performance  
28 measures that can indicate whether children enrolled in the program are  
29 receiving health care through an established and effective medical  
30 home, and whether the overall health of enrolled children is improving.  
31 Such indicators may include, but are not limited to:

32 (a) Childhood immunization rates;

33 (b) Well child care utilization rates, including the use of  
34 behavioral and oral health screening, and validated, structured  
35 developmental screens using tools, that are consistent with nationally  
36 accepted pediatric guidelines and recommended administration schedule,  
37 once funding is specifically appropriated for this purpose;

1 (c) Care management for children with chronic illnesses;  
2 (d) Emergency room utilization;  
3 (e) Visual acuity and eye health;  
4 (f) Preventive oral health service utilization; and  
5 (g) Children's mental health status. In defining these measures  
6 the ((department)) authority shall be guided by the measures provided  
7 in RCW 71.36.025.

8 Performance measures and targets for each performance measure must  
9 be established and monitored each biennium, with a goal of achieving  
10 measurable, improved health outcomes for the children of Washington  
11 state each biennium.

12 (2) Beginning in calendar year 2009, targeted provider rate  
13 increases shall be linked to quality improvement measures established  
14 under this section. The ((department)) authority, in conjunction with  
15 those groups identified in subsection (1) of this section, shall  
16 develop parameters for determining criteria for increased payment,  
17 alternative payment methodologies, or other incentives for those  
18 practices and health plans that incorporate evidence-based practice and  
19 improve and achieve sustained improvement with respect to the measures.

20 (3) The department shall provide a report to the governor and the  
21 legislature related to provider performance on these measures,  
22 beginning in September 2010 for 2007 through 2009 and the authority  
23 shall provide the report biennially thereafter. ((The department shall  
24 advise the legislature as to its progress towards developing this  
25 biennial reporting system by September 30, 2009.))

26 **Sec. 23.** RCW 74.09.490 and 2007 c 359 s 5 are each amended to read  
27 as follows:

28 (1)((+a)) The ((department)) authority, in consultation with the  
29 evidence-based practice institute established in RCW 71.24.061, shall  
30 develop and implement policies to improve prescribing practices for  
31 treatment of emotional or behavioral disturbances in children, improve  
32 the quality of children's mental health therapy through increased use  
33 of evidence-based and research-based practices and reduced variation in  
34 practice, improve communication and care coordination between primary  
35 care and mental health providers, and prioritize care in the family  
36 home or care which integrates the family where out-of-home placement is  
37 required.

1 ((b)) (2) The ((department)) authority shall identify those  
2 children with emotional or behavioral disturbances who may be at high  
3 risk due to off-label use of prescription medication, use of multiple  
4 medications, high medication dosage, or lack of coordination among  
5 multiple prescribing providers, and establish one or more mechanisms to  
6 evaluate the appropriateness of the medication these children are  
7 using, including but not limited to obtaining second opinions from  
8 experts in child psychiatry.

9 ((c)) (3) The ((department)) authority shall review the  
10 psychotropic medications of all children under five and establish one  
11 or more mechanisms to evaluate the appropriateness of the medication  
12 these children are using, including but not limited to obtaining second  
13 opinions from experts in child psychiatry.

14 ((d)) (4) The ((department)) authority shall track prescriptive  
15 practices with respect to psychotropic medications with the goal of  
16 reducing the use of medication.

17 ((e)) (5) The ((department)) authority shall encourage the use of  
18 cognitive behavioral therapies and other treatments which are  
19 empirically supported or evidence-based, in addition to or in the place  
20 of prescription medication where appropriate.

21 ~~((2) The department shall convene a representative group of~~  
22 ~~regional support networks, community mental health centers, and managed~~  
23 ~~health care systems contracting with the department under RCW 74.09.522~~  
24 ~~to:~~

25 ~~(a) Establish mechanisms and develop contract language that ensures~~  
26 ~~increased coordination of and access to medicaid mental health benefits~~  
27 ~~available to children and their families, including ensuring access to~~  
28 ~~services that are identified as a result of a developmental screen~~  
29 ~~administered through early periodic screening, diagnosis, and~~  
30 ~~treatment;~~

31 ~~(b) Define managed health care system and regional support network~~  
32 ~~contractual performance standards that track access to and utilization~~  
33 ~~of services; and~~

34 ~~(c) Set standards for reducing the number of children that are~~  
35 ~~prescribed antipsychotic drugs and receive no outpatient mental health~~  
36 ~~services with their medication.~~

37 ~~(3) The department shall submit a report on progress and any~~  
38 ~~findings under this section to the legislature by January 1, 2009.))~~

1       **Sec. 24.** RCW 74.09.500 and 1979 c 141 s 343 are each amended to  
2 read as follows:

3       There is hereby established a new program of federal-aid assistance  
4 to be known as medical assistance to be administered by the ((state  
5 ~~department of social and health services~~)) authority. The ((department  
6 ~~of social and health services~~)) authority is authorized to comply with  
7 the federal requirements for the medical assistance program provided in  
8 the social security act and particularly Title XIX of Public Law (89-  
9 97), as amended, in order to secure federal matching funds for such  
10 program.

11       **Sec. 25.** RCW 74.09.510 and 2010 c 94 s 24 are each amended to read  
12 as follows:

13       Medical assistance may be provided in accordance with eligibility  
14 requirements established by the ((department)) authority, as defined in  
15 the social security Title XIX state plan for mandatory categorically  
16 needy persons and:

17       (1) Individuals who would be eligible for cash assistance except  
18 for their institutional status;

19       (2) Individuals who are under twenty-one years of age, who would be  
20 eligible for medicaid, but do not qualify as dependent children and who  
21 are in (a) foster care, (b) subsidized adoption, (c) a nursing facility  
22 or an intermediate care facility for persons with intellectual  
23 disabilities, or (d) inpatient psychiatric facilities;

24       (3) Individuals who:

25       (a) Are under twenty-one years of age;

26       (b) On or after July 22, 2007, were in foster care under the legal  
27 responsibility of the department or a federally recognized tribe  
28 located within the state; and

29       (c) On their eighteenth birthday, were in foster care under the  
30 legal responsibility of the department or a federally recognized tribe  
31 located within the state;

32       (4) Persons who are aged, blind, or disabled who: (a) Receive only  
33 a state supplement, or (b) would not be eligible for cash assistance if  
34 they were not institutionalized;

35       (5) Categorically eligible individuals who meet the income and  
36 resource requirements of the cash assistance programs;

1 (6) Individuals who are enrolled in managed health care systems,  
2 who have otherwise lost eligibility for medical assistance, but who  
3 have not completed a current six-month enrollment in a managed health  
4 care system, and who are eligible for federal financial participation  
5 under Title XIX of the social security act;

6 (7) Children and pregnant women allowed by federal statute for whom  
7 funding is appropriated;

8 (8) Working individuals with disabilities authorized under section  
9 1902(a)(10)(A)(ii) of the social security act for whom funding is  
10 appropriated;

11 (9) Other individuals eligible for medical services under RCW  
12 74.09.035 and 74.09.700 for whom federal financial participation is  
13 available under Title XIX of the social security act;

14 (10) Persons allowed by section 1931 of the social security act for  
15 whom funding is appropriated; and

16 (11) Women who: (a) Are under sixty-five years of age; (b) have  
17 been screened for breast and cervical cancer under the national breast  
18 and cervical cancer early detection program administered by the  
19 department of health or tribal entity and have been identified as  
20 needing treatment for breast or cervical cancer; and (c) are not  
21 otherwise covered by health insurance. Medical assistance provided  
22 under this subsection is limited to the period during which the woman  
23 requires treatment for breast or cervical cancer, and is subject to any  
24 conditions or limitations specified in the omnibus appropriations act.

25 **Sec. 26.** RCW 74.09.515 and 2007 c 359 s 8 are each amended to read  
26 as follows:

27 (1) The ((department)) authority shall adopt rules and policies  
28 providing that when youth who were enrolled in a medical assistance  
29 program immediately prior to confinement are released from confinement,  
30 their medical assistance coverage will be fully reinstated on the day  
31 of their release, subject to any expedited review of their continued  
32 eligibility for medical assistance coverage that is required under  
33 federal or state law.

34 (2) The ((department)) authority, in collaboration with the  
35 department, county juvenile court administrators, and regional support  
36 networks, shall establish procedures for coordination between  
37 department field offices, juvenile rehabilitation administration



1 institutions, and county juvenile courts that result in prompt  
2 reinstatement of eligibility and speedy eligibility determinations for  
3 youth who are likely to be eligible for medical assistance services  
4 upon release from confinement. Procedures developed under this  
5 subsection must address:

6 (a) Mechanisms for receiving medical assistance services'  
7 applications on behalf of confined youth in anticipation of their  
8 release from confinement;

9 (b) Expeditious review of applications filed by or on behalf of  
10 confined youth and, to the extent practicable, completion of the review  
11 before the youth is released; and

12 (c) Mechanisms for providing medical assistance services' identity  
13 cards to youth eligible for medical assistance services immediately  
14 upon their release from confinement.

15 (3) For purposes of this section, "confined" or "confinement" means  
16 detained in a facility operated by or under contract with the  
17 department of social and health services, juvenile rehabilitation  
18 administration, or detained in a juvenile detention facility operated  
19 under chapter 13.04 RCW.

20 (4) The (~~department~~) authority shall adopt standardized statewide  
21 screening and application practices and forms designed to facilitate  
22 the application of a confined youth who is likely to be eligible for a  
23 medical assistance program.

24 **Sec. 27.** RCW 74.09.520 and 2007 c 3 s 1 are each amended to read  
25 as follows:

26 (1) The term "medical assistance" may include the following care  
27 and services subject to available funds and subject to rules adopted by  
28 the authority or department, as appropriate: (a) Inpatient hospital  
29 services; (b) outpatient hospital services; (c) other laboratory and X-  
30 ray services; (d) nursing facility services; (e) physicians' services,  
31 which shall include prescribed medication and instruction on birth  
32 control devices; (f) medical care, or any other type of remedial care  
33 as may be established by the secretary or director; (g) home health  
34 care services; (h) private duty nursing services; (i) dental services;  
35 (j) physical and occupational therapy and related services; (k)  
36 prescribed drugs, dentures, and prosthetic devices; and eyeglasses  
37 prescribed by a physician skilled in diseases of the eye or by an

1 optometrist, whichever the individual may select; (l) personal care  
2 services, as provided in this section; (m) hospice services; (n) other  
3 diagnostic, screening, preventive, and rehabilitative services; and (o)  
4 like services when furnished to a child by a school district in a  
5 manner consistent with the requirements of this chapter. For the  
6 purposes of this section, neither the authority nor the department may  
7 ~~((not))~~ cut off any prescription medications, oxygen supplies,  
8 respiratory services, or other life-sustaining medical services or  
9 supplies.

10 "Medical assistance," notwithstanding any other provision of law,  
11 shall not include routine foot care, or dental services delivered by  
12 any health care provider, that are not mandated by Title XIX of the  
13 social security act unless there is a specific appropriation for these  
14 services.

15 ~~(2) ((The department shall amend the state plan for medical  
16 assistance under Title XIX of the federal social security act to  
17 include personal care services, as defined in 42 C.F.R. 440.170(f), in  
18 the categorically needy program.~~

19 ~~(3))~~ The department shall adopt, amend, or rescind such  
20 administrative rules as are necessary to ensure that Title XIX personal  
21 care services are provided to eligible persons in conformance with  
22 federal regulations.

23 (a) These administrative rules shall include financial eligibility  
24 indexed according to the requirements of the social security act  
25 providing for medicaid eligibility.

26 (b) The rules shall require clients be assessed as having a medical  
27 condition requiring assistance with personal care tasks. Plans of care  
28 for clients requiring health-related consultation for assessment and  
29 service planning may be reviewed by a nurse.

30 (c) The department shall determine by rule which clients have a  
31 health-related assessment or service planning need requiring registered  
32 nurse consultation or review. This definition may include clients that  
33 meet indicators or protocols for review, consultation, or visit.

34 ~~((4))~~ (3) The department shall design and implement a means to  
35 assess the level of functional disability of persons eligible for  
36 personal care services under this section. The personal care services  
37 benefit shall be provided to the extent funding is available according  
38 to the assessed level of functional disability. Any reductions in

1 services made necessary for funding reasons should be accomplished in  
2 a manner that assures that priority for maintaining services is given  
3 to persons with the greatest need as determined by the assessment of  
4 functional disability.

5 ~~((+5))~~ (4) Effective July 1, 1989, the ~~((department))~~ authority  
6 shall offer hospice services in accordance with available funds.

7 ~~((+6))~~ (5) For Title XIX personal care services administered by  
8 aging and disability services administration of the department, the  
9 department shall contract with area agencies on aging:

10 (a) To provide case management services to individuals receiving  
11 Title XIX personal care services in their own home; and

12 (b) To reassess and reauthorize Title XIX personal care services or  
13 other home and community services as defined in RCW 74.39A.009 in home  
14 or in other settings for individuals consistent with the intent of this  
15 section:

16 (i) Who have been initially authorized by the department to receive  
17 Title XIX personal care services or other home and community services  
18 as defined in RCW 74.39A.009; and

19 (ii) Who, at the time of reassessment and reauthorization, are  
20 receiving such services in their own home.

21 ~~((+7))~~ (6) In the event that an area agency on aging is unwilling  
22 to enter into or satisfactorily fulfill a contract or an individual  
23 consumer's need for case management services will be met through an  
24 alternative delivery system, the department is authorized to:

25 (a) Obtain the services through competitive bid; and

26 (b) Provide the services directly until a qualified contractor can  
27 be found.

28 ~~((+8))~~ (7) Subject to the availability of amounts appropriated for  
29 this specific purpose, ~~((effective July 1, 2007,))~~ the ~~((department))~~  
30 authority may offer medicare part D prescription drug copayment  
31 coverage to full benefit dual eligible beneficiaries.

32 **Sec. 28.** RCW 74.09.521 and 2009 c 388 s 1 are each amended to read  
33 as follows:

34 (1) To the extent that funds are specifically appropriated for this  
35 purpose the ~~((department))~~ authority shall revise its medicaid healthy  
36 options managed care and fee-for-service program standards under  
37 medicaid, Title XIX of the federal social security act to improve

1 access to mental health services for children who do not meet the  
2 regional support network access to care standards. (~~Effective July 1,~~  
3 ~~2008, the~~) The program standards shall be revised to allow outpatient  
4 therapy services to be provided by licensed mental health  
5 professionals, as defined in RCW 71.34.020, or by a mental health  
6 professional regulated under Title 18 RCW who is under the direct  
7 supervision of a licensed mental health professional, and up to twenty  
8 outpatient therapy hours per calendar year, including family therapy  
9 visits integral to a child's treatment. This section shall be  
10 administered in a manner consistent with federal early and periodic  
11 screening, diagnosis, and treatment requirements related to the receipt  
12 of medically necessary services when a child's need for such services  
13 is identified through developmental screening.

14 (2) The (~~department~~) authority and the children's mental health  
15 evidence-based practice institute established in RCW 71.24.061 shall  
16 collaborate to encourage and develop incentives for the use of  
17 prescribing practices and evidence-based and research-based treatment  
18 practices developed under RCW 74.09.490 by mental health professionals  
19 serving children under this section.

20 **Sec. 29.** RCW 74.09.522 and 1997 c 59 s 15 and 1997 c 34 s 1 are  
21 each reenacted and amended to read as follows:

22 (1) For the purposes of this section, "managed health care system"  
23 means any health care organization, including health care providers,  
24 insurers, health care service contractors, health maintenance  
25 organizations, health insuring organizations, or any combination  
26 thereof, that provides directly or by contract health care services  
27 covered under RCW 74.09.520 and rendered by licensed providers, on a  
28 prepaid capitated basis and that meets the requirements of section  
29 1903(m)(1)(A) of Title XIX of the federal social security act or  
30 federal demonstration waivers granted under section 1115(a) of Title XI  
31 of the federal social security act.

32 (2) The (~~department of social and health services~~) authority  
33 shall enter into agreements with managed health care systems to provide  
34 health care services to recipients of temporary assistance for needy  
35 families under the following conditions:

36 (a) Agreements shall be made for at least thirty thousand  
37 recipients statewide;

1 (b) Agreements in at least one county shall include enrollment of  
2 all recipients of temporary assistance for needy families;

3 (c) To the extent that this provision is consistent with section  
4 1903(m) of Title XIX of the federal social security act or federal  
5 demonstration waivers granted under section 1115(a) of Title XI of the  
6 federal social security act, recipients shall have a choice of systems  
7 in which to enroll and shall have the right to terminate their  
8 enrollment in a system: PROVIDED, That the ((department)) authority  
9 may limit recipient termination of enrollment without cause to the  
10 first month of a period of enrollment, which period shall not exceed  
11 twelve months: AND PROVIDED FURTHER, That the ((department)) authority  
12 shall not restrict a recipient's right to terminate enrollment in a  
13 system for good cause as established by the ((department)) authority by  
14 rule;

15 (d) To the extent that this provision is consistent with section  
16 1903(m) of Title XIX of the federal social security act, participating  
17 managed health care systems shall not enroll a disproportionate number  
18 of medical assistance recipients within the total numbers of persons  
19 served by the managed health care systems, except as authorized by the  
20 ((department)) authority under federal demonstration waivers granted  
21 under section 1115(a) of Title XI of the federal social security act;

22 (e) In negotiating with managed health care systems the  
23 ((department)) authority shall adopt a uniform procedure to negotiate  
24 and enter into contractual arrangements, including standards regarding  
25 the quality of services to be provided; and financial integrity of the  
26 responding system;

27 (f) The ((department)) authority shall seek waivers from federal  
28 requirements as necessary to implement this chapter;

29 (g) The ((department)) authority shall, wherever possible, enter  
30 into prepaid capitation contracts that include inpatient care.  
31 However, if this is not possible or feasible, the ((department))  
32 authority may enter into prepaid capitation contracts that do not  
33 include inpatient care;

34 (h) The ((department)) authority shall define those circumstances  
35 under which a managed health care system is responsible for out-of-plan  
36 services and assure that recipients shall not be charged for such  
37 services; and

1 (i) Nothing in this section prevents the ((department)) authority  
2 from entering into similar agreements for other groups of people  
3 eligible to receive services under this chapter.

4 (3) The ((department)) authority shall ensure that publicly  
5 supported community health centers and providers in rural areas, who  
6 show serious intent and apparent capability to participate as managed  
7 health care systems are seriously considered as contractors. The  
8 ((department)) authority shall coordinate its managed care activities  
9 with activities under chapter 70.47 RCW.

10 (4) The ((department)) authority shall work jointly with the state  
11 of Oregon and other states in this geographical region in order to  
12 develop recommendations to be presented to the appropriate federal  
13 agencies and the United States congress for improving health care of  
14 the poor, while controlling related costs.

15 (5) The legislature finds that competition in the managed health  
16 care marketplace is enhanced, in the long term, by the existence of a  
17 large number of managed health care system options for medicaid  
18 clients. In a managed care delivery system, whose goal is to focus on  
19 prevention, primary care, and improved enrollee health status,  
20 continuity in care relationships is of substantial importance, and  
21 disruption to clients and health care providers should be minimized.  
22 To help ensure these goals are met, the following principles shall  
23 guide the ((department)) authority in its healthy options managed  
24 health care purchasing efforts:

25 (a) All managed health care systems should have an opportunity to  
26 contract with the ((department)) authority to the extent that minimum  
27 contracting requirements defined by the ((department)) authority are  
28 met, at payment rates that enable the ((department)) authority to  
29 operate as far below appropriated spending levels as possible,  
30 consistent with the principles established in this section.

31 (b) Managed health care systems should compete for the award of  
32 contracts and assignment of medicaid beneficiaries who do not  
33 voluntarily select a contracting system, based upon:

34 (i) Demonstrated commitment to or experience in serving low-income  
35 populations;

36 (ii) Quality of services provided to enrollees;

37 (iii) Accessibility, including appropriate utilization, of services  
38 offered to enrollees;

1 (iv) Demonstrated capability to perform contracted services,  
2 including ability to supply an adequate provider network;

3 (v) Payment rates; and

4 (vi) The ability to meet other specifically defined contract  
5 requirements established by the ((department)) authority, including  
6 consideration of past and current performance and participation in  
7 other state or federal health programs as a contractor.

8 (c) Consideration should be given to using multiple year  
9 contracting periods.

10 (d) Quality, accessibility, and demonstrated commitment to serving  
11 low-income populations shall be given significant weight in the  
12 contracting, evaluation, and assignment process.

13 (e) All contractors that are regulated health carriers must meet  
14 state minimum net worth requirements as defined in applicable state  
15 laws. The ((department)) authority shall adopt rules establishing the  
16 minimum net worth requirements for contractors that are not regulated  
17 health carriers. This subsection does not limit the authority of the  
18 ((department)) Washington state health care authority to take action  
19 under a contract upon finding that a contractor's financial status  
20 seriously jeopardizes the contractor's ability to meet its contract  
21 obligations.

22 (f) Procedures for resolution of disputes between the  
23 ((department)) authority and contract bidders or the ((department))  
24 authority and contracting carriers related to the award of, or failure  
25 to award, a managed care contract must be clearly set out in the  
26 procurement document. ~~((In designing such procedures, the department  
27 shall give strong consideration to the negotiation and dispute  
28 resolution processes used by the Washington state health care authority  
29 in its managed health care contracting activities.))~~

30 (6) The ((department)) authority may apply the principles set forth  
31 in subsection (5) of this section to its managed health care purchasing  
32 efforts on behalf of clients receiving supplemental security income  
33 benefits to the extent appropriate.

34 **Sec. 30.** RCW 74.09.5222 and 2009 c 545 s 4 are each amended to  
35 read as follows:

36 (1) The ((department)) authority shall submit a section 1115  
37 demonstration waiver request to the federal department of health and

1 human services to expand and revise the medical assistance program as  
2 codified in Title XIX of the federal social security act. The waiver  
3 request should be designed to ensure the broadest federal financial  
4 participation under Title XIX and XXI of the federal social security  
5 act. To the extent permitted under federal law, the waiver request  
6 should include the following components:

7 (a) Establishment of a single eligibility standard for low-income  
8 persons, including expansion of categorical eligibility to include  
9 childless adults. The ((department)) authority shall request that the  
10 single eligibility standard be phased in such that incremental steps  
11 are taken to cover additional low-income parents and individuals over  
12 time, with the goal of offering coverage to persons with household  
13 income at or below two hundred percent of the federal poverty level;

14 (b) Establishment of a single seamless application and eligibility  
15 determination system for all state low-income medical programs included  
16 in the waiver. Applications may be electronic and may include an  
17 electronic signature for verification and authentication. Eligibility  
18 determinations should maximize federal financing where possible;

19 (c) The delivery of all low-income coverage programs as a single  
20 program, with a common core benefit package that may be similar to the  
21 basic health benefit package or an alternative benefit package approved  
22 by the secretary of the federal department of health and human  
23 services, including the option of supplemental coverage for select  
24 categorical groups, such as children, and individuals who are aged,  
25 blind, and disabled;

26 (d) A program design to include creative and innovative approaches  
27 such as: Coverage for preventive services with incentives to use  
28 appropriate preventive care; enhanced medical home reimbursement and  
29 bundled payment methodologies; cost-sharing options; use of care  
30 management and care coordination programs to improve coordination of  
31 medical and behavioral health services; application of an innovative  
32 predictive risk model to better target care management services; and  
33 mandatory enrollment in managed care, as may be necessary;

34 (e) The ability to impose enrollment limits or benefit design  
35 changes for eligibility groups that were not eligible under the Title  
36 XIX state plan in effect on the date of submission of the waiver  
37 application;



1 (f) A premium assistance program whereby employers can participate  
2 in coverage options for employees and dependents of employees otherwise  
3 eligible under the waiver. The waiver should make every effort to  
4 maximize enrollment in employer-sponsored health insurance when it is  
5 cost-effective for the state to do so, and the purchase is consistent  
6 with the requirements of Titles XIX and XXI of the federal social  
7 security act. To the extent allowable under federal law, the  
8 ((department)) authority shall require enrollment in available  
9 employer-sponsored coverage as a condition of eligibility for coverage  
10 under the waiver; and

11 (g) The ability to share savings that might accrue to the federal  
12 medicare program, Title XVIII of the federal social security act, from  
13 improved care management for persons who are eligible for both medicare  
14 and medicaid. Through the waiver application process, the  
15 ((department)) authority shall determine whether the state could serve,  
16 directly or by contract, as a medicare special needs plan for persons  
17 eligible for both medicare and medicaid.

18 (2) The ((department)) authority shall hold ongoing stakeholder  
19 discussions as it is developing the waiver request, and provide  
20 opportunities for public review and comment as the request is being  
21 developed.

22 (3) The ((~~department and the health care~~)) authority shall identify  
23 statutory changes that may be necessary to ensure successful and timely  
24 implementation of the waiver request as submitted to the federal  
25 department of health and human services as the apple health program for  
26 adults.

27 (4) The legislature must authorize implementation of any waiver  
28 approved by the federal department of health and human services under  
29 this section.

30 **Sec. 31.** RCW 74.09.5225 and 2005 c 383 s 1 are each amended to  
31 read as follows:

32 (1) Payments for recipients eligible for medical assistance  
33 programs under this chapter for services provided by hospitals,  
34 regardless of the beneficiary's managed care enrollment status, shall  
35 be made based on allowable costs incurred during the year, when  
36 services are provided by a rural hospital certified by the centers for  
37 medicare and medicaid services as a critical access hospital. Any

1 additional payments made by the (~~medical assistance administration~~)  
2 authority for the healthy options program shall be no more than the  
3 additional amounts per service paid under this section for other  
4 medical assistance programs.

5 (2) Beginning on July 24, 2005, a moratorium shall be placed on  
6 additional hospital participation in critical access hospital payments  
7 under this section. However, rural hospitals that applied for  
8 certification to the centers for medicare and medicaid services prior  
9 to January 1, 2005, but have not yet completed the process or have not  
10 yet been approved for certification, remain eligible for medical  
11 assistance payments under this section.

12 **Sec. 32.** RCW 74.09.530 and 2007 c 315 s 2 are each amended to read  
13 as follows:

14 (1)(a) The authority is designated as the single state agency for  
15 purposes of Title XIX of the federal social security act.

16 (b) The amount and nature of medical assistance and the  
17 determination of eligibility of recipients for medical assistance shall  
18 be the responsibility of the (~~department of social and health~~  
19 ~~services~~) authority.

20 (c) The (~~department~~) authority shall establish reasonable  
21 standards of assistance and resource and income exemptions which shall  
22 be consistent with the provisions of the social security act and (~~with~~  
23 ~~the~~) federal regulations (~~of the secretary of health, education and~~  
24 ~~welfare~~) for determining eligibility of individuals for medical  
25 assistance and the extent of such assistance to the extent that funds  
26 are available from the state and federal government. The  
27 (~~department~~) authority shall not consider resources in determining  
28 continuing eligibility for recipients eligible under section 1931 of  
29 the social security act.

30 (d) The authority is authorized to collaborate with other state or  
31 local agencies and nonprofit organizations in carrying out its duties  
32 under this chapter and, to the extent appropriate, may enter into  
33 agreements with such other entities.

34 (2) Individuals eligible for medical assistance under RCW  
35 74.09.510(3) shall be transitioned into coverage under that subsection  
36 immediately upon their termination from coverage under RCW  
37 74.09.510(2)(a). The (~~department~~) authority shall use income

1 eligibility standards and eligibility determinations applicable to  
2 children placed in foster care. The ((department, in consultation with  
3 the health care)) authority((7)) shall provide information regarding  
4 basic health plan enrollment and shall offer assistance with the  
5 application and enrollment process to individuals covered under RCW  
6 74.09.510(3) who are approaching their twenty-first birthday.

7 **Sec. 33.** RCW 74.09.540 and 2001 2nd sp.s. c 15 s 2 are each  
8 amended to read as follows:

9 (1) It is the intent of the legislature to remove barriers to  
10 employment for individuals with disabilities by providing medical  
11 assistance to ((the)) working ((disabled)) individuals with  
12 disabilities through a buy-in program in accordance with section  
13 1902(a)(10)(A)(ii) of the social security act and eligibility and cost-  
14 sharing requirements established by the ((department)) authority.

15 (2) The ((department)) authority shall establish income, resource,  
16 and cost-sharing requirements for the buy-in program in accordance with  
17 federal law and any conditions or limitations specified in the omnibus  
18 appropriations act. The ((department)) authority shall establish and  
19 modify eligibility and cost-sharing requirements in order to administer  
20 the program within available funds. The ((department)) authority shall  
21 make every effort to coordinate benefits with employer-sponsored  
22 coverage available to the working ((disabled)) individuals with  
23 disabilities receiving benefits under this chapter.

24 **Sec. 34.** RCW 74.09.555 and 2010 1st sp.s. c 8 s 30 are each  
25 amended to read as follows:

26 (1) The ((department)) authority shall adopt rules and policies  
27 providing that when persons with a mental disorder, who were enrolled  
28 in medical assistance immediately prior to confinement, are released  
29 from confinement, their medical assistance coverage will be fully  
30 reinstated on the day of their release, subject to any expedited review  
31 of their continued eligibility for medical assistance coverage that is  
32 required under federal or state law.

33 (2) The ((department)) authority, in collaboration with the  
34 Washington association of sheriffs and police chiefs, the department of  
35 corrections, and the regional support networks, shall establish  
36 procedures for coordination between the authority and department field

1 offices, institutions for mental disease, and correctional  
2 institutions, as defined in RCW 9.94.049, that result in prompt  
3 reinstatement of eligibility and speedy eligibility determinations for  
4 persons who are likely to be eligible for medical assistance services  
5 upon release from confinement. Procedures developed under this  
6 subsection must address:

7 (a) Mechanisms for receiving medical assistance services  
8 applications on behalf of confined persons in anticipation of their  
9 release from confinement;

10 (b) Expeditious review of applications filed by or on behalf of  
11 confined persons and, to the extent practicable, completion of the  
12 review before the person is released;

13 (c) Mechanisms for providing medical assistance services identity  
14 cards to persons eligible for medical assistance services immediately  
15 upon their release from confinement; and

16 (d) Coordination with the federal social security administration,  
17 through interagency agreements or otherwise, to expedite processing of  
18 applications for federal supplemental security income or social  
19 security disability benefits, including federal acceptance of  
20 applications on behalf of confined persons.

21 (3) Where medical or psychiatric examinations during a person's  
22 confinement indicate that the person is disabled, the correctional  
23 institution or institution for mental diseases shall provide the  
24 ((department)) authority with that information for purposes of making  
25 medical assistance eligibility and enrollment determinations prior to  
26 the person's release from confinement. The ((department)) authority  
27 shall, to the maximum extent permitted by federal law, use the  
28 examination in making its determination whether the person is disabled  
29 and eligible for medical assistance.

30 (4) For purposes of this section, "confined" or "confinement" means  
31 incarcerated in a correctional institution, as defined in RCW 9.94.049,  
32 or admitted to an institute for mental disease, as defined in 42 C.F.R.  
33 part 435, Sec. 1009 on July 24, 2005.

34 (5) For purposes of this section, "likely to be eligible" means  
35 that a person:

36 (a) Was enrolled in medicaid or supplemental security income or the  
37 disability lifeline program immediately before he or she was confined

1 and his or her enrollment was terminated during his or her confinement;  
2 or

3 (b) Was enrolled in medicaid or supplemental security income or the  
4 disability lifeline program at any time during the five years before  
5 his or her confinement, and medical or psychiatric examinations during  
6 the person's confinement indicate that the person continues to be  
7 disabled and the disability is likely to last at least twelve months  
8 following release.

9 (6) The economic services administration within the department  
10 shall adopt standardized statewide screening and application practices  
11 and forms designed to facilitate the application of a confined person  
12 who is likely to be eligible for medicaid.

13 **Sec. 35.** RCW 74.09.565 and 1989 c 87 s 4 are each amended to read  
14 as follows:

15 (1) An agreement between spouses transferring or assigning rights  
16 to future income from one spouse to the other shall be invalid for  
17 purposes of determining eligibility for medical assistance or the  
18 limited casualty program for the medically needy, but this subsection  
19 does not affect agreements between spouses transferring or assigning  
20 resources, and income produced by transferred or assigned resources  
21 shall continue to be recognized as the separate income of the  
22 transferee.

23 (2) In determining eligibility for medical assistance or the  
24 limited casualty program for the medically needy for a married person  
25 in need of institutional care, or care under home and community-based  
26 waivers as defined in Title XIX of the social security act, if the  
27 community income received in the name of the nonapplicant spouse  
28 exceeds the community income received in the name of the applicant  
29 spouse, the applicant's interest in that excess shall be considered  
30 unavailable to the applicant.

31 (3) The department or authority, as appropriate, shall adopt rules  
32 consistent with the provisions of section 1924 of the social security  
33 act entitled "Treatment of Income and Resources for Certain  
34 Institutionalized Spouses," in determining the allocation of income  
35 between an institutionalized and community spouse.

36 (4) The department or authority, as appropriate, shall establish  
37 the monthly maintenance needs allowance for the community spouse up to

1 the maximum amount allowed by state appropriation or within available  
2 funds and permitted in section 1924 of the social security act. The  
3 total monthly needs allowance shall not exceed one thousand five  
4 hundred dollars, subject to adjustment provided in section 1924 of the  
5 social security act.

6 **Sec. 36.** RCW 74.09.575 and 2003 1st sp.s. c 28 s 1 are each  
7 amended to read as follows:

8 (1) The department or authority, as appropriate, shall promulgate  
9 rules consistent with the treatment of resources provisions of section  
10 1924 of the social security act (~~entitled "Treatment of Income and~~  
11 ~~Resources for Certain Institutionalized Spouses,"~~) in determining the  
12 allocation of resources between the institutionalized and community  
13 spouse.

14 (2) In the interest of supporting the community spouse the  
15 department or authority, as appropriate, shall allow the maximum  
16 resource allowance amount permissible under the social security act for  
17 the community spouse for persons institutionalized before August 1,  
18 2003.

19 (3) For persons institutionalized on or after August 1, 2003, the  
20 department or authority, as appropriate, in the interest of supporting  
21 the community spouse, shall allow up to a maximum of forty thousand  
22 dollars in resources for the community spouse. For the fiscal biennium  
23 beginning July 1, 2005, and each fiscal biennium thereafter, the  
24 maximum resource allowance amount for the community spouse shall be  
25 adjusted for economic trends and conditions by increasing the amount  
26 allowable by the consumer price index as published by the federal  
27 bureau of labor statistics. However, in no case shall the amount  
28 allowable exceed the maximum resource allowance permissible under the  
29 social security act.

30 **Sec. 37.** RCW 74.09.585 and 1995 1st sp.s. c 18 s 81 are each  
31 amended to read as follows:

32 (1) The department or authority, as appropriate, shall establish  
33 standards consistent with section 1917 of the social security act in  
34 determining the period of ineligibility for medical assistance due to  
35 the transfer of resources.

1 (2) There shall be no penalty imposed for the transfer of assets  
2 that are excluded in a determination of the individual's eligibility  
3 for medicaid to the extent such assets are protected by the long-term  
4 care insurance policy or contract pursuant to chapter 48.85 RCW.

5 (3) The department or authority, as appropriate, may waive a period  
6 of ineligibility if the department or authority determines that denial  
7 of eligibility would work an undue hardship.

8 **Sec. 38.** RCW 74.09.595 and 1989 c 87 s 8 are each amended to read  
9 as follows:

10 The department or authority, as appropriate, shall in compliance  
11 with section 1924 of the social security act adopt procedures which  
12 provide due process for institutionalized or community spouses who  
13 request a fair hearing as to the valuation of resources, the amount of  
14 the community spouse resource allowance, or the monthly maintenance  
15 needs allowance.

16 **Sec. 39.** RCW 74.09.655 and 2008 c 245 s 1 are each amended to read  
17 as follows:

18 The ((department)) authority shall provide coverage under this  
19 chapter for smoking cessation counseling services, as well as  
20 prescription and nonprescription agents when used to promote smoking  
21 cessation, so long as such agents otherwise meet the definition of  
22 "covered outpatient drug" in 42 U.S.C. Sec. 1396r-8(k). However, the  
23 ((department)) authority may initiate an individualized inquiry and  
24 determine and implement by rule appropriate coverage limitations as may  
25 be required to encourage the use of effective, evidence-based services  
26 and prescription and nonprescription agents. The ((department))  
27 authority shall track per-capita expenditures for a cohort of clients  
28 that receive smoking cessation benefits, and submit a cost-benefit  
29 analysis to the legislature on or before January 1, 2012.

30 **Sec. 40.** RCW 74.09.658 and 2009 c 326 s 1 are each amended to read  
31 as follows:

32 (1) The home health program shall require registered nurse  
33 oversight and intervention, as appropriate. In-person contact between  
34 a home health care registered nurse and a patient is not required under  
35 the state's medical assistance program for home health services that

1 are: (a) Delivered with the assistance of telemedicine and (b)  
2 otherwise eligible for reimbursement as a medically necessary skilled  
3 home health nursing visit under the program.

4 (2) The department or authority, as appropriate, in consultation  
5 with home health care service providers shall develop reimbursement  
6 rules and, in rule, define the requirements that must be met for a  
7 reimbursable skilled nursing visit when services are rendered without  
8 a face-to-face visit and are assisted by telemedicine.

9 (3)(a) The department or authority, as appropriate, shall establish  
10 the reimbursement rate for skilled home health nursing services  
11 delivered with the assistance of telemedicine that meet the  
12 requirements of a reimbursable visit as defined by the department or  
13 authority, as appropriate.

14 (b) Reimbursement is not provided for purchase or lease of  
15 telemedicine equipment.

16 (4) Any home health agency licensed under chapter 70.127 RCW and  
17 eligible for reimbursement under the medical programs authorized under  
18 this chapter may be reimbursed for services under this section if the  
19 service meets the requirements for a reimbursable skilled nursing visit  
20 (~~(as defined by the department)~~).

21 (5) Nothing in this section shall be construed to alter the scope  
22 of practice of any home health care services provider or authorizes the  
23 delivery of home health care services in a setting or manner not  
24 otherwise authorized by law.

25 (6) The use of telemedicine is not intended to replace registered  
26 nurse health care (~~(visit[s])~~) visits when necessary.

27 (7) For the purposes of this section, "telemedicine" means the use  
28 of telemonitoring to enhance the delivery of certain home health  
29 medical services through:

30 (a) The provision of certain education related to health care  
31 services using audio, video, or data communication instead of a face-  
32 to-face visit; or

33 (b) The collection of clinical data and the transmission of such  
34 data between a patient at a distant location and the home health  
35 provider through electronic processing technologies. Objective  
36 clinical data that may be transmitted includes, but is not limited to,  
37 weight, blood pressure, pulse, respirations, blood glucose, and pulse  
38 oximetry.



1       **Sec. 41.** RCW 74.09.659 and 2009 c 545 s 5 are each amended to read  
2 as follows:

3       (1) The ~~((department))~~ authority shall continue to submit  
4 applications for the family planning waiver program.

5       (2) The ~~((department))~~ authority shall submit a request to the  
6 federal department of health and human services to amend the current  
7 family planning waiver program as follows:

8       (a) Provide coverage for sexually transmitted disease testing and  
9 treatment;

10       (b) Return to the eligibility standards used in 2005 including, but  
11 not limited to, citizenship determination based on declaration or  
12 matching with federal social security databases, insurance eligibility  
13 standards comparable to 2005, and confidential service availability for  
14 minors and survivors of domestic and sexual violence; and

15       (c) Within available funds, increase income eligibility to two  
16 hundred fifty percent of the federal poverty level, to correspond with  
17 income eligibility for publicly funded maternity care services.

18       **Sec. 42.** RCW 74.09.700 and 2010 c 94 s 25 are each amended to read  
19 as follows:

20       (1) To the extent of available funds and subject to any conditions  
21 placed on appropriations made for this purpose, medical care may be  
22 provided under the limited casualty program to persons not  
23 ~~((otherwise))~~ eligible for medical assistance or medical care services  
24 who are medically needy as defined in the social security Title XIX  
25 state plan and medical indigents in accordance with eligibility  
26 requirements established by the ~~((department))~~ authority. The  
27 eligibility requirements may include minimum levels of incurred medical  
28 expenses. This includes residents of nursing facilities, residents of  
29 intermediate care facilities for persons with intellectual  
30 disabilities, and individuals who are otherwise eligible for section  
31 1915(c) of the federal social security act home and community-based  
32 waiver services, administered by the department ~~((of social and health  
33 services aging and adult services administration,))~~ who are aged,  
34 blind, or disabled as defined in Title XVI of the federal social  
35 security act and whose income exceeds three hundred percent of the  
36 federal supplement security income benefit level.

1 (2) Determination of the amount, scope, and duration of medical  
2 coverage under the limited casualty program shall be the responsibility  
3 of the ((department)) authority, subject to the following:

4 (a) Only the following services may be covered:

5 (i) For persons who are medically needy as defined in the social  
6 security Title XIX state plan: Inpatient and outpatient hospital  
7 services, and home and community-based waiver services;

8 (ii) For persons who are medically needy as defined in the social  
9 security Title XIX state plan, and for persons who are medical  
10 indigents under the eligibility requirements established by the  
11 ((department)) authority: Rural health clinic services; physicians'  
12 and clinic services; prescribed drugs, dentures, prosthetic devices,  
13 and eyeglasses; nursing facility services; and intermediate care  
14 facility services for persons with intellectual disabilities; home  
15 health services; hospice services; other laboratory and X-ray services;  
16 rehabilitative services, including occupational therapy; medically  
17 necessary transportation; and other services for which funds are  
18 specifically provided in the omnibus appropriations act;

19 (b) Medical care services provided to the medically indigent and  
20 received no more than seven days prior to the date of application shall  
21 be retroactively certified and approved for payment on behalf of a  
22 person who was otherwise eligible at the time the medical services were  
23 furnished: PROVIDED, That eligible persons who fail to apply within  
24 the seven-day time period for medical reasons or other good cause may  
25 be retroactively certified and approved for payment.

26 (3) The ((department)) authority shall establish standards of  
27 assistance and resource and income exemptions. All nonexempt income  
28 and resources of limited casualty program recipients shall be applied  
29 against the cost of their medical care services.

30 **Sec. 43.** RCW 74.09.710 and 2007 c 259 s 4 are each amended to read  
31 as follows:

32 (1) The ((~~department of social and health services~~)) authority, in  
33 collaboration with the department of health and the department of  
34 social and health services, shall:

35 (a) Design and implement medical homes for its aged, blind, and  
36 disabled clients in conjunction with chronic care management programs  
37 to improve health outcomes, access, and cost-effectiveness. Programs

1 must be evidence based, facilitating the use of information technology  
2 to improve quality of care, must acknowledge the role of primary care  
3 providers and include financial and other supports to enable these  
4 providers to effectively carry out their role in chronic care  
5 management, and must improve coordination of primary, acute, and long-  
6 term care for those clients with multiple chronic conditions. The  
7 ((department)) authority shall consider expansion of existing medical  
8 home and chronic care management programs and build on the Washington  
9 state collaborative initiative. The ((department)) authority shall use  
10 best practices in identifying those clients best served under a chronic  
11 care management model using predictive modeling through claims or other  
12 health risk information; and

13 (b) Evaluate the effectiveness of current chronic care management  
14 efforts in the ((health and recovery services administration and the  
15 aging and disability services administration)) authority and the  
16 department, comparison to best practices, and recommendations for  
17 future efforts and organizational structure to improve chronic care  
18 management.

19 (2) For purposes of this section:

20 (a) "Medical home" means a site of care that provides comprehensive  
21 preventive and coordinated care centered on the patient needs and  
22 assures high quality, accessible, and efficient care.

23 (b) "Chronic care management" means the ((department's))  
24 authority's program that provides care management and coordination  
25 activities for medical assistance clients determined to be at risk for  
26 high medical costs. "Chronic care management" provides education and  
27 training and/or coordination that assist program participants in  
28 improving self-management skills to improve health outcomes and reduce  
29 medical costs by educating clients to better utilize services.

30 **Sec. 44.** RCW 74.09.715 and 2008 c 146 s 13 are each amended to  
31 read as follows:

32 Within funds appropriated for this purpose, the ((department))  
33 authority shall establish two dental access projects to serve seniors  
34 and other adults who are categorically needy blind or disabled. The  
35 projects shall provide:

36 (1) Enhanced reimbursement rates for certified dentists for  
37 specific procedures, to begin no sooner than July 1, 2009;

- 1 (2) Reimbursement for trained medical providers for preventive oral
- 2 health services, to begin no sooner than July 1, 2009;
- 3 (3) Training, development, and implementation through a partnership
- 4 with the University of Washington school of dentistry;
- 5 (4) Local program coordination including outreach and case
- 6 management; and
- 7 (5) An evaluation that measures the change in utilization rates and
- 8 cost savings.

9 **Sec. 45.** RCW 74.09.720 and 1983 c 194 s 26 are each amended to  
10 read as follows:

11 (1) A prevention of blindness program is hereby established in the  
12 (~~department of social and health services~~) authority to provide  
13 prompt, specialized medical eye care, including assistance with costs  
14 when necessary, for conditions in which sight is endangered or sight  
15 can be restored or significantly improved. The (~~department of social~~  
16 ~~and health services~~) authority shall adopt rules concerning program  
17 eligibility, levels of assistance, and the scope of services.

18 (2) The (~~department of social and health services~~) authority  
19 shall employ on a part-time basis an ophthalmological and/or an  
20 optometrical consultant to provide liaison with participating eye  
21 physicians and to review medical recommendations made by an applicant's  
22 eye physician to determine whether the proposed services meet program  
23 standards.

24 (3) The (~~department of social and health services~~) authority and  
25 the department of services for the blind shall formulate a cooperative  
26 agreement concerning referral of clients between the two agencies and  
27 the coordination of policies and services.

28 **Sec. 46.** RCW 74.09.725 and 2006 c 367 s 8 are each amended to read  
29 as follows:

30 (~~The department~~) Subject to available funds, the authority shall  
31 provide coverage for prostate cancer screening under this chapter,  
32 provided that the screening is delivered upon the recommendation of the  
33 patient's physician, advanced registered nurse practitioner, or  
34 physician assistant.

1       **Sec. 47.** RCW 74.09.730 and 2009 c 538 s 1 are each amended to read  
2 as follows:

3       In establishing Title XIX payments for inpatient hospital services:

4       (1) To the extent funds are appropriated specifically for this  
5 purpose, and subject to any conditions placed on appropriations made  
6 for this purpose, the (~~department of social and health services~~)  
7 authority shall provide a disproportionate share hospital adjustment  
8 considering the following components:

9       (a) A low-income care component based on a hospital's medicaid  
10 utilization rate, its low-income utilization rate, its provision of  
11 obstetric services, and other factors authorized by federal law;

12       (b) A medical indigency care component based on a hospital's  
13 services to persons who are medically indigent; and

14       (c) A state-only component, to be paid from available state funds  
15 to hospitals that do not qualify for federal payments under (b) of this  
16 subsection, based on a hospital's services to persons who are medically  
17 indigent;

18       (2) The payment methodology for disproportionate share hospitals  
19 shall be specified by the (~~department~~) authority in regulation.

20       (3) Nothing in this section shall be construed as a right or an  
21 entitlement by any hospital to any payment from the authority.

22       **Sec. 48.** RCW 74.09.770 and 1989 1st ex.s. c 10 s 2 are each  
23 amended to read as follows:

24       (1) The legislature finds that Washington state and the nation as  
25 a whole have a high rate of infant illness and death compared with  
26 other industrialized nations. This is especially true for minority and  
27 low-income populations. Premature and low weight births have been  
28 directly linked to infant illness and death. The availability of  
29 adequate maternity care throughout the course of pregnancy has been  
30 identified as a major factor in reducing infant illness and death.  
31 Further, the investment in preventive health care programs, such as  
32 maternity care, contributes to the growth of a healthy and productive  
33 society and is a sound approach to health care cost containment. The  
34 legislature further finds that access to maternity care for low-income  
35 women in the state of Washington has declined significantly in recent  
36 years and has reached a crisis level.

1 (2) It is the purpose of this (~~chapter~~~~[subchapter]~~) subchapter  
2 to provide, consistent with appropriated funds, maternity care  
3 necessary to ensure healthy birth outcomes for low-income families. To  
4 this end, a maternity care access system is established based on the  
5 following principles:

6 (a) The family is the fundamental unit in our society and should be  
7 supported through public policy.

8 (b) Access to maternity care for eligible persons to ensure healthy  
9 birth outcomes should be made readily available in an expeditious  
10 manner through a single service entry point.

11 (c) Unnecessary barriers to maternity care for eligible persons  
12 should be removed.

13 (d) Access to preventive and other health care services should be  
14 available for low-income children.

15 (e) Each woman should be encouraged to and assisted in making her  
16 own informed decisions about her maternity care.

17 (f) Unnecessary barriers to the provision of maternity care by  
18 qualified health professionals should be removed.

19 (g) The system should be sensitive to cultural differences among  
20 eligible persons.

21 (h) To the extent possible, decisions about the scope, content, and  
22 delivery of services should be made at the local level involving a  
23 broad representation of community interests.

24 (i) The maternity care access system should be evaluated at  
25 appropriate intervals to determine effectiveness and need for  
26 modification.

27 (j) Maternity care services should be delivered in a cost-effective  
28 manner.

29 **Sec. 49.** RCW 74.09.790 and 1993 c 407 s 9 are each amended to read  
30 as follows:

31 Unless the context clearly requires otherwise, the definitions in  
32 this section apply throughout RCW 74.09.760 through 74.09.820 and  
33 74.09.510:

34 (1) "At-risk eligible person" means an eligible person determined  
35 by the (~~department~~) authority to need special assistance in applying  
36 for and obtaining maternity care, including pregnant women who are

1 substance abusers, pregnant and parenting adolescents, pregnant  
2 minority women, and other eligible persons who need special assistance  
3 in gaining access to the maternity care system.

4 (2) "County authority" means the board of county commissioners,  
5 county council, or county executive having the authority to participate  
6 in the maternity care access program or its designee. Two or more  
7 county authorities may enter into joint agreements to fulfill the  
8 requirements of this chapter.

9 (3) "Department" means the department of social and health  
10 services.

11 (4) "Eligible person" means a woman in need of maternity care or  
12 a child, who is eligible for medical assistance pursuant to this  
13 chapter or the prenatal care program administered by the ((department))  
14 authority.

15 (5) "Maternity care services" means inpatient and outpatient  
16 medical care, case management, and support services necessary during  
17 prenatal, delivery, and postpartum periods.

18 (6) "Support services" means, at least, public health nursing  
19 assessment and follow-up, health and childbirth education,  
20 psychological assessment and counseling, outreach services, nutritional  
21 assessment and counseling, needed vitamin and nonprescriptive drugs,  
22 transportation, family planning services, and child care. Support  
23 services may include alcohol and substance abuse treatment for pregnant  
24 women who are addicted or at risk of being addicted to alcohol or drugs  
25 to the extent funds are made available for that purpose.

26 (7) "Family planning services" means planning the number of one's  
27 children by use of contraceptive techniques.

28 (8) "Authority" means the Washington state health care authority.

29 **Sec. 50.** RCW 74.09.800 and 1993 c 407 s 10 are each amended to  
30 read as follows:

31 The ((department)) authority shall, consistent with the state  
32 budget act and subject to available funds, develop a maternity care  
33 access program designed to ensure healthy birth outcomes as follows:

34 (1) Provide maternity care services to low-income pregnant women  
35 and health care services to children in poverty to the maximum extent  
36 allowable under the medical assistance program, Title XIX of the  
37 federal social security act;

1 (2) Provide maternity care services to low-income women who are not  
2 eligible to receive such services under the medical assistance program,  
3 Title XIX of the federal social security act;

4 (3) (~~By January 1, 1990,~~) Have the following procedures in place  
5 to improve access to maternity care services and eligibility  
6 determinations for pregnant women applying for maternity care services  
7 under the medical assistance program, Title XIX of the federal social  
8 security act:

9 (a) Use of a shortened and simplified application form;

10 (b) Outstationing (~~(department)~~) authority staff to make  
11 eligibility determinations;

12 (c) Establishing local plans at the county and regional level,  
13 coordinated by the (~~(department)~~) authority; and

14 (d) Conducting an interview for the purpose of determining medical  
15 assistance eligibility within five working days of the date of an  
16 application by a pregnant woman and making an eligibility determination  
17 within fifteen working days of the date of application by a pregnant  
18 woman;

19 (4) Establish a maternity care case management system that shall  
20 assist at-risk eligible persons with obtaining medical assistance  
21 benefits and receiving maternity care services, including  
22 transportation and child care services;

23 (5) Within available resources, establish appropriate reimbursement  
24 levels for maternity care providers;

25 (6) Implement a broad-based public education program that stresses  
26 the importance of obtaining maternity care early during pregnancy;

27 (7) Refer persons eligible for maternity care services under the  
28 program established by this section to persons, agencies, or  
29 organizations with maternity care service practices that primarily  
30 emphasize healthy birth outcomes;

31 (8) Provide family planning services including information about  
32 the synthetic progestin capsule implant form of contraception, for  
33 twelve months immediately following a pregnancy to women who were  
34 eligible for medical assistance under the maternity care access program  
35 during that pregnancy or who were eligible only for emergency labor and  
36 delivery services during that pregnancy; and

37 (9) Within available resources, provide family planning services to



1 women who meet the financial eligibility requirements for services  
2 under subsections (1) and (2) of this section.

3 **Sec. 51.** RCW 74.09.810 and 1989 1st ex.s. c 10 s 6 are each  
4 amended to read as follows:

5 (1) The ((~~department~~)) authority shall establish an alternative  
6 maternity care service delivery system, if it determines that a county  
7 or a group of counties is a maternity care distressed area. A  
8 maternity care distressed area shall be defined by the ((~~department~~))  
9 authority, in rule, as a county or a group of counties where eligible  
10 women are unable to obtain adequate maternity care. The ((~~department~~))  
11 authority shall include the following factors in its determination:

12 (a) Higher than average percentage of eligible persons in the  
13 distressed area who receive late or no prenatal care;

14 (b) Higher than average percentage of eligible persons in the  
15 distressed area who go out of the area to receive maternity care;

16 (c) Lower than average percentage of obstetrical care providers in  
17 the distressed area who provide care to eligible persons;

18 (d) Higher than average percentage of infants born to eligible  
19 persons per obstetrical care provider in the distressed area; and

20 (e) Higher than average percentage of infants that are of low birth  
21 weight, five and one-half pounds or two thousand five hundred grams,  
22 born to eligible persons in the distressed area.

23 (2) If the ((~~department~~)) authority determines that a maternity  
24 care distressed area exists, it shall notify the relevant county  
25 authority. The county authority shall, within one hundred twenty days,  
26 submit a brief report to the ((~~department~~)) authority recommending  
27 remedial action. The report shall be prepared in consultation with the  
28 ((~~department and its~~)) authority and with the department's local  
29 community service offices, the local public health officer, community  
30 health clinics, health care providers, hospitals, the business  
31 community, labor representatives, and low-income advocates in the  
32 distressed area. A county authority may contract with a local  
33 nonprofit entity to develop the report. If the county authority is  
34 unwilling or unable to develop the report, it shall notify the  
35 ((~~department~~)) authority within thirty days, and the ((~~department~~))  
36 authority shall develop the report for the distressed area.

1 (3) The ((department)) authority shall review the report and use  
2 it, to the extent possible, in developing strategies to improve  
3 maternity care access in the distressed area. The ((department))  
4 authority may contract with or directly employ qualified maternity care  
5 health providers to provide maternity care services, if access to such  
6 providers in the distressed area is not possible by other means. In  
7 such cases, the ((department)) authority is authorized to pay that  
8 portion of the health care providers' malpractice liability insurance  
9 that represents the percentage of maternity care provided to eligible  
10 persons by that provider through increased medical assistance payments.

11 **Sec. 52.** RCW 74.09.820 and 1989 1st ex.s. c 10 s 7 are each  
12 amended to read as follows:

13 To the extent that federal matching funds are available, the  
14 ((department)) authority or the department of health ((if one is  
15 created)) shall establish, in consultation with the health science  
16 programs of the state's colleges and universities, and community health  
17 clinics, a loan repayment program that will encourage maternity care  
18 providers to practice in medically underserved areas in exchange for  
19 repayment of part or all of their health education loans.

20 NEW SECTION. **Sec. 53.** A new section is added to chapter 74.09 RCW  
21 to read as follows:

22 (1) The following persons have the right to an adjudicative  
23 proceeding:

24 (a) Any applicant or recipient who is aggrieved by a decision of  
25 the authority or an authorized agency of the authority; or

26 (b) A current or former recipient who is aggrieved by the  
27 authority's claim that he or she owes a debt for overpayment of  
28 assistance.

29 (2) For purposes of this section:

30 (a) "Action" means a termination, suspension, reduction, or denial  
31 of eligibility or covered services for any medical services program  
32 established in this chapter;

33 (b) "Applicant" means a person who has submitted an application for  
34 benefits to the authority for any medical services program established  
35 in this chapter;

1 (c) "Recipient" means a person who is receiving benefits from the  
2 authority for any medical services program established in this chapter.

3 (3) An applicant or recipient has no right to an adjudicative  
4 proceeding when the sole basis for the authority's decision is a  
5 federal or state law requiring an assistance adjustment for some or all  
6 applicants or recipients.

7 (4) An applicant or recipient must file an application for an  
8 adjudicative proceeding with the authority within ninety calendar days  
9 after receiving notice of the aggrieving decision.

10 (5)(a) The adjudicative proceeding is governed by the  
11 administrative procedure act, chapter 34.05 RCW, and this subsection.

12 (b) The adjudicative proceeding shall be conducted at the local  
13 community services office or other location in Washington convenient to  
14 the applicant or recipient and, upon agreement by the applicant or  
15 recipient, may be conducted telephonically.

16 (c) The applicant or recipient, or his or her representative, has  
17 the right to inspect his or her file from the authority and, upon  
18 request, to receive copies of authority documents relevant to the  
19 proceedings free of charge.

20 (d) The applicant or recipient has the right to a copy of the audio  
21 recording of the adjudicative proceeding free of charge.

22 (e) If a final adjudicative order is issued in favor of an  
23 applicant, medical services benefits must be provided from the date of  
24 denial of the application for assistance or forty-five days following  
25 the date of application, whichever is sooner. If a final adjudicative  
26 order is issued in favor of a recipient, medical services benefits must  
27 be provided from the effective date of the authority's action.

28 (6) This subsection only applies to an adjudicative proceeding in  
29 which the appellant is an applicant for or recipient of medical  
30 services programs established under this chapter and the issue is his  
31 or her eligibility or ineligibility due to the assignment or transfer  
32 of a resource. The burden is on the authority or its authorized agency  
33 to prove by a preponderance of the evidence that the person knowingly  
34 and willingly assigned or transferred the resource at less than market  
35 value for the purpose of qualifying or continuing to qualify for  
36 medical services programs established under this chapter. If the  
37 prevailing party in the adjudicative proceeding is the applicant or  
38 recipient, he or she is entitled to reasonable attorneys' fees.

1 (7) When an applicant or recipient files a petition for judicial  
2 review as provided in RCW 34.05.514 of a final adjudicative order  
3 entered with respect to the medical services program, no filing fee may  
4 be collected from the person and no bond may be required on any appeal.  
5 In the event that the superior court, the court of appeals, or the  
6 supreme court renders a decision in favor of the applicant or  
7 recipient, the person is entitled to reasonable attorneys' fees and  
8 costs. If a final judicial decision is made in favor of an applicant,  
9 assistance must be paid from the date of the denial of the application  
10 for assistance or forty-five days following the date of application,  
11 whichever is sooner; or in the case of a recipient, from the effective  
12 date of the authority's action.

13 (8) The provisions of RCW 74.08.080 do not apply to adjudicative  
14 proceedings requested or conducted with respect to the medical services  
15 program pursuant to this section.

16 (9) The authority shall adopt any rules it deems necessary to  
17 implement this section.

18 **Sec. 54.** RCW 41.05.011 and 2009 c 537 s 3 are each amended to read  
19 as follows:

20 The definitions in this section apply throughout this chapter  
21 unless the context clearly requires otherwise.

22 (1) (~~("Administrator")~~) "Director" means the (~~(administrator)~~)  
23 director of the authority.

24 (2) "State purchased health care" or "health care" means medical  
25 and health care, pharmaceuticals, and medical equipment purchased with  
26 state and federal funds by the department of social and health  
27 services, the department of health, the basic health plan, the state  
28 health care authority, the department of labor and industries, the  
29 department of corrections, the department of veterans affairs, and  
30 local school districts.

31 (3) "Authority" means the Washington state health care authority.

32 (4) "Insuring entity" means an insurer as defined in chapter 48.01  
33 RCW, a health care service contractor as defined in chapter 48.44 RCW,  
34 or a health maintenance organization as defined in chapter 48.46 RCW.

35 (5) "Flexible benefit plan" means a benefit plan that allows  
36 employees to choose the level of health care coverage provided and the

1 amount of employee contributions from among a range of choices offered  
2 by the authority.

3 (6) "Employee" includes all employees of the state, whether or not  
4 covered by civil service; elected and appointed officials of the  
5 executive branch of government, including full-time members of boards,  
6 commissions, or committees; justices of the supreme court and judges of  
7 the court of appeals and the superior courts; and members of the state  
8 legislature. Pursuant to contractual agreement with the authority,  
9 "employee" may also include: (a) Employees of a county, municipality,  
10 or other political subdivision of the state and members of the  
11 legislative authority of any county, city, or town who are elected to  
12 office after February 20, 1970, if the legislative authority of the  
13 county, municipality, or other political subdivision of the state seeks  
14 and receives the approval of the authority to provide any of its  
15 insurance programs by contract with the authority, as provided in RCW  
16 41.04.205 and 41.05.021(1)(g); (b) employees of employee organizations  
17 representing state civil service employees, at the option of each such  
18 employee organization, and, effective October 1, 1995, employees of  
19 employee organizations currently pooled with employees of school  
20 districts for the purpose of purchasing insurance benefits, at the  
21 option of each such employee organization; (c) employees of a school  
22 district if the authority agrees to provide any of the school  
23 districts' insurance programs by contract with the authority as  
24 provided in RCW 28A.400.350; and (d) employees of a tribal government,  
25 if the governing body of the tribal government seeks and receives the  
26 approval of the authority to provide any of its insurance programs by  
27 contract with the authority, as provided in RCW 41.05.021(1) (f) and  
28 (g). "Employee" does not include: Adult family homeowners; unpaid  
29 volunteers; patients of state hospitals; inmates; employees of the  
30 Washington state convention and trade center as provided in RCW  
31 41.05.110; students of institutions of higher education as determined  
32 by their institution; and any others not expressly defined as employees  
33 under this chapter or by the authority under this chapter.

34 (7) "Seasonal employee" means an employee hired to work during a  
35 recurring, annual season with a duration of three months or more, and  
36 anticipated to return each season to perform similar work.

37 (8) "Faculty" means an academic employee of an institution of  
38 higher education whose workload is not defined by work hours but whose

1 appointment, workload, and duties directly serve the institution's  
2 academic mission, as determined under the authority of its enabling  
3 statutes, its governing body, and any applicable collective bargaining  
4 agreement.

5 (9) "Board" means the public employees' benefits board established  
6 under RCW 41.05.055.

7 (10) "Retired or disabled school employee" means:

8 (a) Persons who separated from employment with a school district or  
9 educational service district and are receiving a retirement allowance  
10 under chapter 41.32 or 41.40 RCW as of September 30, 1993;

11 (b) Persons who separate from employment with a school district or  
12 educational service district on or after October 1, 1993, and  
13 immediately upon separation receive a retirement allowance under  
14 chapter 41.32, 41.35, or 41.40 RCW;

15 (c) Persons who separate from employment with a school district or  
16 educational service district due to a total and permanent disability,  
17 and are eligible to receive a deferred retirement allowance under  
18 chapter 41.32, 41.35, or 41.40 RCW.

19 (11) "Premium payment plan" means a benefit plan whereby state and  
20 public employees may pay their share of group health plan premiums with  
21 pretax dollars as provided in the salary reduction plan under this  
22 chapter pursuant to 26 U.S.C. Sec. 125 or other sections of the  
23 internal revenue code.

24 (12) "Salary" means a state employee's monthly salary or wages.

25 (13) "Participant" means an individual who fulfills the eligibility  
26 and enrollment requirements under the salary reduction plan.

27 (14) "Plan year" means the time period established by the  
28 authority.

29 (15) "Separated employees" means persons who separate from  
30 employment with an employer as defined in:

31 (a) RCW 41.32.010(~~(+11)~~) (17) on or after July 1, 1996; or

32 (b) RCW 41.35.010 on or after September 1, 2000; or

33 (c) RCW 41.40.010 on or after March 1, 2002;

34 and who are at least age fifty-five and have at least ten years of  
35 service under the teachers' retirement system plan 3 as defined in RCW  
36 41.32.010(~~(+40)~~) (33), the Washington school employees' retirement  
37 system plan 3 as defined in RCW 41.35.010, or the public employees'  
38 retirement system plan 3 as defined in RCW 41.40.010.

1 (16) "Emergency service personnel killed in the line of duty" means  
2 law enforcement officers and firefighters as defined in RCW 41.26.030,  
3 members of the Washington state patrol retirement fund as defined in  
4 RCW 43.43.120, and reserve officers and firefighters as defined in RCW  
5 41.24.010 who die as a result of injuries sustained in the course of  
6 employment as determined consistent with Title 51 RCW by the department  
7 of labor and industries.

8 (17) "Employer" means the state of Washington.

9 (18) "Employing agency" means a division, department, or separate  
10 agency of state government, including an institution of higher  
11 education; a county, municipality, school district, educational service  
12 district, or other political subdivision; and a tribal government  
13 covered by this chapter.

14 (19) "Tribal government" means an Indian tribal government as  
15 defined in section 3(32) of the employee retirement income security act  
16 of 1974, as amended, or an agency or instrumentality of the tribal  
17 government, that has government offices principally located in this  
18 state.

19 (20) "Dependent care assistance program" means a benefit plan  
20 whereby state and public employees may pay for certain employment  
21 related dependent care with pretax dollars as provided in the salary  
22 reduction plan under this chapter pursuant to 26 U.S.C. Sec. 129 or  
23 other sections of the internal revenue code.

24 (21) "Salary reduction plan" means a benefit plan whereby state and  
25 public employees may agree to a reduction of salary on a pretax basis  
26 to participate in the dependent care assistance program, medical  
27 flexible spending arrangement, or premium payment plan offered pursuant  
28 to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

29 (22) "Medical flexible spending arrangement" means a benefit plan  
30 whereby state and public employees may reduce their salary before taxes  
31 to pay for medical expenses not reimbursed by insurance as provided in  
32 the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec.  
33 125 or other sections of the internal revenue code.

34 **Sec. 55.** RCW 41.05.015 and 2000 c 5 s 16 are each amended to read  
35 as follows:

36 The (~~administrator~~) director shall designate a medical director  
37 who is licensed under chapter 18.57 or 18.71 RCW. The director shall

1 also appoint such professional personnel and other assistants and  
2 employees, including professional medical screeners, as may be  
3 reasonably necessary to carry out the provisions of this chapter and  
4 chapter 74.09 RCW. The medical screeners must be supervised by one or  
5 more physicians whom the director or the director's designee shall  
6 appoint.

7 **Sec. 56.** RCW 41.05.021 and 2009 c 537 s 4 are each amended to read  
8 as follows:

9 (1) The Washington state health care authority is created within  
10 the executive branch. The authority shall have ~~((an administrator))~~ a  
11 director appointed by the governor, with the consent of the senate.  
12 The ~~((administrator))~~ director shall serve at the pleasure of the  
13 governor. The ~~((administrator))~~ director may employ ~~((up to seven~~  
14 ~~staff members))~~ a deputy director, and such assistant directors and  
15 special assistants as may be needed to administer the authority, who  
16 shall be exempt from chapter 41.06 RCW, and any additional staff  
17 members as are necessary to administer this chapter. The  
18 ~~((administrator))~~ director may delegate any power or duty vested in him  
19 or her by ~~((this chapter))~~ law, including authority to make final  
20 decisions and enter final orders in hearings conducted under chapter  
21 34.05 RCW. The primary duties of the authority shall be to:  
22 Administer state employees' insurance benefits and retired or disabled  
23 school employees' insurance benefits; administer the basic health plan  
24 pursuant to chapter 70.47 RCW; administer the children's health program  
25 pursuant to chapter 74.09 RCW; study state-purchased health care  
26 programs in order to maximize cost containment in these programs while  
27 ensuring access to quality health care; implement state initiatives,  
28 joint purchasing strategies, and techniques for efficient  
29 administration that have potential application to all state-purchased  
30 health services; and administer grants that further the mission and  
31 goals of the authority. The authority's duties include, but are not  
32 limited to, the following:

33 (a) To administer health care benefit programs for employees and  
34 retired or disabled school employees as specifically authorized in RCW  
35 41.05.065 and in accordance with the methods described in RCW  
36 41.05.075, 41.05.140, and other provisions of this chapter;



1 (b) To analyze state-purchased health care programs and to explore  
2 options for cost containment and delivery alternatives for those  
3 programs that are consistent with the purposes of those programs,  
4 including, but not limited to:

5 (i) Creation of economic incentives for the persons for whom the  
6 state purchases health care to appropriately utilize and purchase  
7 health care services, including the development of flexible benefit  
8 plans to offset increases in individual financial responsibility;

9 (ii) Utilization of provider arrangements that encourage cost  
10 containment, including but not limited to prepaid delivery systems,  
11 utilization review, and prospective payment methods, and that ensure  
12 access to quality care, including assuring reasonable access to local  
13 providers, especially for employees residing in rural areas;

14 (iii) Coordination of state agency efforts to purchase drugs  
15 effectively as provided in RCW 70.14.050;

16 (iv) Development of recommendations and methods for purchasing  
17 medical equipment and supporting services on a volume discount basis;

18 (v) Development of data systems to obtain utilization data from  
19 state-purchased health care programs in order to identify cost centers,  
20 utilization patterns, provider and hospital practice patterns, and  
21 procedure costs, utilizing the information obtained pursuant to RCW  
22 41.05.031; and

23 (vi) In collaboration with other state agencies that administer  
24 state purchased health care programs, private health care purchasers,  
25 health care facilities, providers, and carriers:

26 (A) Use evidence-based medicine principles to develop common  
27 performance measures and implement financial incentives in contracts  
28 with insuring entities, health care facilities, and providers that:

29 (I) Reward improvements in health outcomes for individuals with  
30 chronic diseases, increased utilization of appropriate preventive  
31 health services, and reductions in medical errors; and

32 (II) Increase, through appropriate incentives to insuring entities,  
33 health care facilities, and providers, the adoption and use of  
34 information technology that contributes to improved health outcomes,  
35 better coordination of care, and decreased medical errors;

36 (B) Through state health purchasing, reimbursement, or pilot  
37 strategies, promote and increase the adoption of health information

1 technology systems, including electronic medical records, by hospitals  
2 as defined in RCW 70.41.020(4), integrated delivery systems, and  
3 providers that:

- 4 (I) Facilitate diagnosis or treatment;
- 5 (II) Reduce unnecessary duplication of medical tests;
- 6 (III) Promote efficient electronic physician order entry;
- 7 (IV) Increase access to health information for consumers and their  
8 providers; and
- 9 (V) Improve health outcomes;

10 (C) Coordinate a strategy for the adoption of health information  
11 technology systems using the final health information technology report  
12 and recommendations developed under chapter 261, Laws of 2005;

13 (c) To analyze areas of public and private health care interaction;

14 (d) To provide information and technical and administrative  
15 assistance to the board;

16 (e) To review and approve or deny applications from counties,  
17 municipalities, and other political subdivisions of the state to  
18 provide state-sponsored insurance or self-insurance programs to their  
19 employees in accordance with the provisions of RCW 41.04.205 and (g) of  
20 this subsection, setting the premium contribution for approved groups  
21 as outlined in RCW 41.05.050;

22 (f) To review and approve or deny the application when the  
23 governing body of a tribal government applies to transfer their  
24 employees to an insurance or self-insurance program administered under  
25 this chapter. In the event of an employee transfer pursuant to this  
26 subsection (1)(f), members of the governing body are eligible to be  
27 included in such a transfer if the members are authorized by the tribal  
28 government to participate in the insurance program being transferred  
29 from and subject to payment by the members of all costs of insurance  
30 for the members. The authority shall: (i) Establish the conditions  
31 for participation; (ii) have the sole right to reject the application;  
32 and (iii) set the premium contribution for approved groups as outlined  
33 in RCW 41.05.050. Approval of the application by the authority  
34 transfers the employees and dependents involved to the insurance,  
35 self-insurance, or health care program approved by the authority;

36 (g) To ensure the continued status of the employee insurance or  
37 self-insurance programs administered under this chapter as a  
38 governmental plan under section 3(32) of the employee retirement income

1 security act of 1974, as amended, the authority shall limit the  
2 participation of employees of a county, municipal, school district,  
3 educational service district, or other political subdivision, or a  
4 tribal government, including providing for the participation of those  
5 employees whose services are substantially all in the performance of  
6 essential governmental functions, but not in the performance of  
7 commercial activities;

8 (h) To establish billing procedures and collect funds from school  
9 districts in a way that minimizes the administrative burden on  
10 districts;

11 (i) To publish and distribute to nonparticipating school districts  
12 and educational service districts by October 1st of each year a  
13 description of health care benefit plans available through the  
14 authority and the estimated cost if school districts and educational  
15 service district employees were enrolled;

16 (j) To apply for, receive, and accept grants, gifts, and other  
17 payments, including property and service, from any governmental or  
18 other public or private entity or person, and make arrangements as to  
19 the use of these receipts to implement initiatives and strategies  
20 developed under this section;

21 (k) To issue, distribute, and administer grants that further the  
22 mission and goals of the authority;

23 (l) To adopt rules consistent with this chapter as described in RCW  
24 41.05.160 including, but not limited to:

25 (i) Setting forth the criteria established by the board under RCW  
26 41.05.065 for determining whether an employee is eligible for benefits;

27 (ii) Establishing an appeal process in accordance with chapter  
28 34.05 RCW by which an employee may appeal an eligibility determination;

29 (iii) Establishing a process to assure that the eligibility  
30 determinations of an employing agency comply with the criteria under  
31 this chapter, including the imposition of penalties as may be  
32 authorized by the board;

33 (m)(i) To administer the medical services programs established  
34 under chapter 74.09 RCW as the designated single state agency for  
35 purposes of Title XIX of the federal social security act;

36 (ii) To administer the state children's health insurance program  
37 under chapter 74.09 RCW for purposes of Title XXI of the federal social  
38 security act;

1       (iii) To enter into agreements with the department of social and  
2 health services for administration of medical care services programs  
3 under Titles XIX and XXI of the social security act. The agreements  
4 shall establish the division of responsibilities between the authority  
5 and the department with respect to mental health, chemical dependency,  
6 and long-term care services, including services for persons with  
7 developmental disabilities. The agreements shall be revised as  
8 necessary, to comply with the final implementation plan adopted under  
9 section 117 of this act;

10       (iv) To adopt rules to carry out the purposes of chapter 74.09 RCW;

11       (v) To appoint such advisory committees or councils as may be  
12 required by any federal statute or regulation as a condition to the  
13 receipt of federal funds by the authority. The director may appoint  
14 statewide committees or councils in the following subject areas: (A)  
15 Health facilities; (B) children and youth services; (C) blind services;  
16 (D) medical and health care; (E) drug abuse and alcoholism; (F)  
17 rehabilitative services; and (G) such other subject matters as are or  
18 come within the authority's responsibilities. The statewide councils  
19 shall have representation from both major political parties and shall  
20 have substantial consumer representation. Such committees or councils  
21 shall be constituted as required by federal law or as the director in  
22 his or her discretion may determine. The members of the committees or  
23 councils shall hold office for three years except in the case of a  
24 vacancy, in which event appointment shall be only for the remainder of  
25 the unexpired term for which the vacancy occurs. No member shall serve  
26 more than two consecutive terms. Members of such state advisory  
27 committees or councils may be paid their travel expenses in accordance  
28 with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

29       (2) On and after January 1, 1996, the public employees' benefits  
30 board may implement strategies to promote managed competition among  
31 employee health benefit plans. Strategies may include but are not  
32 limited to:

33       (a) Standardizing the benefit package;

34       (b) Soliciting competitive bids for the benefit package;

35       (c) Limiting the state's contribution to a percent of the lowest  
36 priced qualified plan within a geographical area;

37       (d) Monitoring the impact of the approach under this subsection  
38 with regards to: Efficiencies in health service delivery, cost shifts

1 to subscribers, access to and choice of managed care plans statewide,  
2 and quality of health services. The health care authority shall also  
3 advise on the value of administering a benchmark employer-managed plan  
4 to promote competition among managed care plans.

5 **Sec. 57.** RCW 41.05.036 and 2009 c 300 s 2 are each amended to read  
6 as follows:

7 The definitions in this section apply throughout RCW 41.05.039  
8 through 41.05.046 unless the context clearly requires otherwise.

9 (1) (~~("Administrator")~~) "Director" means the (~~(administrator)~~)  
10 director of the state health care authority under this chapter.

11 (2) "Exchange" means the methods or medium by which health care  
12 information may be electronically and securely exchanged among  
13 authorized providers, payors, and patients within Washington state.

14 (3) "Health care provider" or "provider" has the same meaning as in  
15 RCW 48.43.005.

16 (4) "Health data provider" means an organization that is a primary  
17 source for health-related data for Washington residents, including but  
18 not limited to:

19 (a) The children's health immunizations linkages and development  
20 profile immunization registry provided by the department of health  
21 pursuant to chapter 43.70 RCW;

22 (b) Commercial laboratories providing medical laboratory testing  
23 results;

24 (c) Prescription drugs clearinghouses, such as the national patient  
25 health information network; and

26 (d) Diagnostic imaging centers.

27 (5) "Lead organization" means a private sector organization or  
28 organizations designated by the (~~(administrator)~~) director to lead  
29 development of processes, guidelines, and standards under chapter 300,  
30 Laws of 2009.

31 (6) "Payor" means public purchasers, as defined in this section,  
32 carriers licensed under chapters 48.20, 48.21, 48.44, 48.46, and 48.62  
33 RCW, and the Washington state health insurance pool established in  
34 chapter 48.41 RCW.

35 (7) "Public purchaser" means the department of social and health  
36 services, the department of labor and industries, and the health care  
37 authority.

1 (8) "Secretary" means the secretary of the department of health.

2 **Sec. 58.** RCW 41.05.037 and 2007 c 259 s 15 are each amended to  
3 read as follows:

4 To the extent that ((sufficient)) funding is provided specifically  
5 for this purpose, the ((administrator, in collaboration with the  
6 department of social and health services,)) director shall provide all  
7 persons enrolled in health plans under this chapter and chapters 70.47  
8 and 74.09 RCW with access to a twenty-four hour, seven day a week nurse  
9 hotline.

10 **Sec. 59.** RCW 41.05.140 and 2000 c 80 s 5 are each amended to read  
11 as follows:

12 (1) Except for property and casualty insurance, the authority may  
13 self-fund, self-insure, or enter into other methods of providing  
14 insurance coverage for insurance programs under its jurisdiction,  
15 including the basic health plan as provided in chapter 70.47 RCW. The  
16 authority shall contract for payment of claims or other administrative  
17 services for programs under its jurisdiction. If a program does not  
18 require the prepayment of reserves, the authority shall establish such  
19 reserves within a reasonable period of time for the payment of claims  
20 as are normally required for that type of insurance under an insured  
21 program. The authority shall endeavor to reimburse basic health plan  
22 health care providers under this section at rates similar to the  
23 average reimbursement rates offered by the statewide benchmark plan  
24 determined through the request for proposal process.

25 (2) Reserves established by the authority for employee and retiree  
26 benefit programs shall be held in a separate trust fund by the state  
27 treasurer and shall be known as the public employees' and retirees'  
28 insurance reserve fund. The state investment board shall act as the  
29 investor for the funds and, except as provided in RCW 43.33A.160 and  
30 43.84.160, one hundred percent of all earnings from these investments  
31 shall accrue directly to the public employees' and retirees' insurance  
32 reserve fund.

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

1 (4) Reserves established by the authority to provide insurance  
2 coverage for the basic health plan under chapter 70.47 RCW shall be  
3 held in a separate trust account in the custody of the state treasurer  
4 and shall be known as the basic health plan self-insurance reserve  
5 account. The state investment board shall act as the investor for the  
6 funds as set forth in RCW 43.33A.230 and, except as provided in RCW  
7 43.33A.160 and 43.84.160, one hundred percent of all earnings from  
8 these investments shall accrue directly to the basic health plan self-  
9 insurance reserve account.

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

14 (6) The authority shall keep full and adequate accounts and records  
15 of the assets, obligations, transactions, and affairs of any program  
16 created under this section.

17 (7) The authority shall file a quarterly statement of the financial  
18 condition, transactions, and affairs of any program created under this  
19 section in a form and manner prescribed by the insurance commissioner.  
20 The statement shall contain information as required by the commissioner  
21 for the type of insurance being offered under the program. A copy of  
22 the annual statement shall be filed with the speaker of the house of  
23 representatives and the president of the senate.

24 (8) The provisions of this section do not apply to the  
25 administration of chapter 74.09 RCW.

26 **Sec. 60.** RCW 41.05.185 and 1997 c 276 s 1 are each amended to read  
27 as follows:

28 The legislature finds that diabetes imposes a significant health  
29 risk and tremendous financial burden on the citizens and government of  
30 the state of Washington, and that access to the medically accepted  
31 standards of care for diabetes, its treatment and supplies, and self-  
32 management training and education is crucial to prevent or delay the  
33 short and long-term complications of diabetes and its attendant costs.

34 (1) The definitions in this subsection apply throughout this  
35 section unless the context clearly requires otherwise.

36 (a) "Person with diabetes" means a person diagnosed by a health

1 care provider as having insulin using diabetes, noninsulin using  
2 diabetes, or elevated blood glucose levels induced by pregnancy; and

3 (b) "Health care provider" means a health care provider as defined  
4 in RCW 48.43.005.

5 (2) All state-purchased health care purchased or renewed after  
6 January 1, 1998, except the basic health plan described in chapter  
7 70.47 RCW and services provided under chapter 74.09 RCW, shall provide  
8 benefits for at least the following services and supplies for persons  
9 with diabetes:

10 (a) For state-purchased health care that includes coverage for  
11 pharmacy services, appropriate and medically necessary equipment and  
12 supplies, as prescribed by a health care provider, that includes but is  
13 not limited to insulin, syringes, injection aids, blood glucose  
14 monitors, test strips for blood glucose monitors, visual reading and  
15 urine test strips, insulin pumps and accessories to the pumps, insulin  
16 infusion devices, prescriptive oral agents for controlling blood sugar  
17 levels, foot care appliances for prevention of complications associated  
18 with diabetes, and glucagon emergency kits; and

19 (b) For all state-purchased health care, outpatient self-management  
20 training and education, including medical nutrition therapy, as ordered  
21 by the health care provider. Diabetes outpatient self-management  
22 training and education may be provided only by health care providers  
23 with expertise in diabetes. Nothing in this section prevents any state  
24 agency purchasing health care according to this section from  
25 restricting patients to seeing only health care providers who have  
26 signed participating provider agreements with that state agency or an  
27 insuring entity under contract with that state agency.

28 (3) Coverage required under this section may be subject to  
29 customary cost-sharing provisions established for all other similar  
30 services or supplies within a policy.

31 (4) Health care coverage may not be reduced or eliminated due to  
32 this section.

33 (5) Services required under this section shall be covered when  
34 deemed medically necessary by the medical director, or his or her  
35 designee, subject to any referral and formulary requirements.

36 **Sec. 61.** RCW 43.20A.365 and 1997 c 430 s 2 are each amended to  
37 read as follows:



1 A committee or council required by federal law, within the  
2 (~~department of social and health services~~) health care authority,  
3 that makes policy recommendations regarding reimbursement for drugs  
4 under the requirements of federal law or regulations is subject to  
5 chapters 42.30 and 42.32 RCW.

6 **Sec. 62.** RCW 74.04.005 and 2010 1st sp.s. c 8 s 4 are each amended  
7 to read as follows:

8 For the purposes of this title, unless the context indicates  
9 otherwise, the following definitions shall apply:

10 (1) "Public assistance" or "assistance"--Public aid to persons in  
11 need thereof for any cause, including services, medical care,  
12 assistance grants, disbursing orders, work relief, disability lifeline  
13 benefits and federal aid assistance.

14 (2) "Department"--The department of social and health services.

15 (3) "County or local office"--The administrative office for one or  
16 more counties or designated service areas.

17 (4) (~~"Director" or~~) "Secretary" means the secretary of social and  
18 health services.

19 (5) "Disability lifeline program" means a program that provides aid  
20 and support in accordance with the conditions set out in this  
21 subsection.

22 (a) Aid and assistance shall be provided to persons who are not  
23 eligible to receive federal aid assistance, other than basic food  
24 benefits transferred electronically and medical assistance and meet one  
25 of the following conditions:

26 (i) Are pregnant and in need, based upon the current income and  
27 resource requirements of the federal temporary assistance for needy  
28 families program; or

29 (ii) Are incapacitated from gainful employment by reason of bodily  
30 or mental infirmity that will likely continue for a minimum of ninety  
31 days as determined by the department. The standard for incapacity in  
32 this subsection, as evidenced by the ninety-day duration standard, is  
33 not intended to be as stringent as federal supplemental security income  
34 disability standards; and

35 (A) Are citizens or aliens lawfully admitted for permanent  
36 residence or otherwise residing in the United States under color of  
37 law;

1 (B) Have furnished the department their social security number. If  
2 the social security number cannot be furnished because it has not been  
3 issued or is not known, an application for a number shall be made prior  
4 to authorization of benefits, and the social security number shall be  
5 provided to the department upon receipt;

6 (C) Have not refused or failed without good cause to participate in  
7 drug or alcohol treatment if an assessment by a certified chemical  
8 dependency counselor indicates a need for such treatment. Good cause  
9 must be found to exist when a person's physical or mental condition, as  
10 determined by the department, prevents the person from participating in  
11 drug or alcohol dependency treatment, when needed outpatient drug or  
12 alcohol treatment is not available to the person in the county of his  
13 or her residence or when needed inpatient treatment is not available in  
14 a location that is reasonably accessible for the person; and

15 (D) Have not refused or failed without good cause to participate in  
16 vocational rehabilitation services, if an assessment conducted under  
17 RCW 74.04.655 indicates that the person might benefit from such  
18 services. Good cause must be found to exist when a person's physical  
19 or mental condition, as determined by the department, prevents the  
20 person from participating in vocational rehabilitation services, or  
21 when vocational rehabilitation services are not available to the person  
22 in the county of his or her residence.

23 (b)(i) Persons who initially apply and are found eligible for  
24 disability lifeline benefits based upon incapacity from gainful  
25 employment under (a) of this subsection on or after September 2, 2010,  
26 who are homeless and have been assessed as needing chemical dependency  
27 or mental health treatment or both, must agree, as a condition of  
28 eligibility for the disability lifeline program, to accept a housing  
29 voucher in lieu of a cash grant if a voucher is available. The  
30 department shall establish the dollar value of the housing voucher.  
31 The dollar value of the housing voucher may differ from the value of  
32 the cash grant. Persons receiving a housing voucher under this  
33 subsection also shall receive a cash stipend of fifty dollars per  
34 month.

35 (ii) If the department of commerce has determined under RCW  
36 43.330.175 that sufficient housing is not available, persons described  
37 in this subsection who apply for disability lifeline benefits during

1 the time period that housing is not available shall receive a cash  
2 grant in lieu of a cash stipend and housing voucher.

3 (iii) Persons who refuse to accept a housing voucher under this  
4 subsection but otherwise meet the eligibility requirements of (a) of  
5 this subsection are eligible for medical care services benefits under  
6 RCW 74.09.035, subject to the time limits in (h) of this subsection.

7 (c) The following persons are not eligible for the disability  
8 lifeline program:

9 (i) Persons who are unemployable due primarily to alcohol or drug  
10 addiction. These persons shall be referred to appropriate assessment,  
11 treatment, shelter, or supplemental security income referral services  
12 as authorized under chapter 74.50 RCW. Referrals shall be made at the  
13 time of application or at the time of eligibility review. This  
14 subsection shall not be construed to prohibit the department from  
15 granting disability lifeline benefits to alcoholics and drug addicts  
16 who are incapacitated due to other physical or mental conditions that  
17 meet the eligibility criteria for the disability lifeline program;

18 (ii) Persons who refuse or fail to cooperate in obtaining federal  
19 aid assistance, without good cause.

20 (d) Disability lifeline benefits shall be provided only to persons  
21 who are not members of assistance units receiving federal aid  
22 assistance, except as provided in (a) of this subsection, and who will  
23 accept available services that can reasonably be expected to enable the  
24 person to work or reduce the need for assistance unless there is good  
25 cause to refuse. Failure to accept such services shall result in  
26 termination until the person agrees to cooperate in accepting such  
27 services and subject to the following maximum periods of ineligibility  
28 after reapplication:

29 (i) First failure: One week;

30 (ii) Second failure within six months: One month;

31 (iii) Third and subsequent failure within one year: Two months.

32 (e) Persons who are likely eligible for federal supplemental  
33 security income benefits shall be moved into the disability lifeline  
34 expedited component of the disability lifeline program. Persons placed  
35 in the expedited component of the program may, if otherwise eligible,  
36 receive disability lifeline benefits pending application for federal  
37 supplemental security income benefits. The monetary value of any  
38 disability lifeline benefit that is subsequently duplicated by the

1 person's receipt of supplemental security income for the same period  
2 shall be considered a debt due the state and shall by operation of law  
3 be subject to recovery through all available legal remedies.

4 (f) For purposes of determining whether a person is incapacitated  
5 from gainful employment under (a) of this subsection:

6 (i) The department shall adopt by rule medical criteria for  
7 disability lifeline incapacity determinations to ensure that  
8 eligibility decisions are consistent with statutory requirements and  
9 are based on clear, objective medical information; and

10 (ii) The process implementing the medical criteria shall involve  
11 consideration of opinions of the treating or consulting physicians or  
12 health care professionals regarding incapacity, and any eligibility  
13 decision which rejects uncontroverted medical opinion must set forth  
14 clear and convincing reasons for doing so.

15 (g) Persons receiving disability lifeline benefits based upon a  
16 finding of incapacity from gainful employment who remain otherwise  
17 eligible shall have their benefits discontinued unless the recipient  
18 demonstrates no material improvement in their medical or mental health  
19 condition. The department may discontinue benefits when there was  
20 specific error in the prior determination that found the person  
21 eligible by reason of incapacitation.

22 (h)(i) Beginning September 1, 2010, no person who is currently  
23 receiving or becomes eligible for disability lifeline program benefits  
24 shall be eligible to receive benefits under the program for more than  
25 twenty-four months in a sixty-month period. For purposes of this  
26 subsection, months of receipt of general assistance-unemployable  
27 benefits count toward the twenty-four month limit. Months during which  
28 a person received benefits under the expedited component of the  
29 disability lifeline or general assistance program or under the aged,  
30 blind, or disabled component of the disability lifeline or general  
31 assistance program shall not be included when determining whether a  
32 person has been receiving benefits for more than twenty-four months.  
33 On or before July 1, 2010, the department must review the cases of all  
34 persons who have received disability lifeline benefits or general  
35 assistance unemployable benefits for at least twenty months as of that  
36 date. On or before September 1, 2010, the department must review the  
37 cases of all remaining persons who have received disability lifeline  
38 benefits for at least twelve months as of that date. The review should

1 determine whether the person meets the federal supplemental security  
2 income disability standard and, if the person does not meet that  
3 standard, whether the receipt of additional services could lead to  
4 employability. If a need for additional services is identified, the  
5 department shall provide case management services, such as assistance  
6 with arranging transportation or locating stable housing, that will  
7 facilitate the person's access to needed services. A person may not be  
8 determined ineligible due to exceeding the time limit unless he or she  
9 has received a case review under this subsection finding that the  
10 person does not meet the federal supplemental security income  
11 disability standard.

12 (ii) The time limits established under this subsection expire June  
13 30, 2013.

14 (i) No person may be considered an eligible individual for  
15 disability lifeline benefits with respect to any month if during that  
16 month the person:

17 (i) Is fleeing to avoid prosecution of, or to avoid custody or  
18 confinement for conviction of, a felony, or an attempt to commit a  
19 felony, under the laws of the state of Washington or the place from  
20 which the person flees; or

21 (ii) Is violating a condition of probation, community supervision,  
22 or parole imposed under federal or state law for a felony or gross  
23 misdemeanor conviction.

24 (6) "Disability lifeline expedited" means a component of the  
25 disability lifeline program under which persons receiving disability  
26 lifeline benefits have been determined, after examination by an  
27 appropriate health care provider, to be likely to be eligible for  
28 federal supplemental security income benefits based on medical and  
29 behavioral health evidence that meets the disability standards used for  
30 the federal supplemental security income program.

31 (7) "Federal aid assistance"--The specific categories of assistance  
32 for which provision is made in any federal law existing or hereafter  
33 passed by which payments are made from the federal government to the  
34 state in aid or in respect to payment by the state for public  
35 assistance rendered to any category of needy persons for which  
36 provision for federal funds or aid may from time to time be made, or a  
37 federally administered needs-based program.

1 (8) "Applicant"--Any person who has made a request, or on behalf of  
2 whom a request has been made, to any county or local office for  
3 assistance.

4 (9) "Recipient"--Any person receiving assistance and in addition  
5 those dependents whose needs are included in the recipient's  
6 assistance.

7 (10) "Standards of assistance"--The level of income required by an  
8 applicant or recipient to maintain a level of living specified by the  
9 department.

10 (11) "Resource"--Any asset, tangible or intangible, owned by or  
11 available to the applicant at the time of application, which can be  
12 applied toward meeting the applicant's need, either directly or by  
13 conversion into money or its equivalent. The department may by rule  
14 designate resources that an applicant may retain and not be ineligible  
15 for public assistance because of such resources. Exempt resources  
16 shall include, but are not limited to:

17 (a) A home that an applicant, recipient, or their dependents is  
18 living in, including the surrounding property;

19 (b) Household furnishings and personal effects;

20 (c) A motor vehicle, other than a motor home, used and useful  
21 having an equity value not to exceed five thousand dollars;

22 (d) A motor vehicle necessary to transport a household member with  
23 a physical disability. This exclusion is limited to one vehicle per  
24 person with a physical disability;

25 (e) All other resources, including any excess of values exempted,  
26 not to exceed one thousand dollars or other limit as set by the  
27 department, to be consistent with limitations on resources and  
28 exemptions necessary for federal aid assistance. The department shall  
29 also allow recipients of temporary assistance for needy families to  
30 exempt savings accounts with combined balances of up to an additional  
31 three thousand dollars;

32 (f) Applicants for or recipients of disability lifeline benefits  
33 shall have their eligibility based on resource limitations consistent  
34 with the temporary assistance for needy families program rules adopted  
35 by the department; and

36 (g) If an applicant for or recipient of public assistance possesses  
37 property and belongings in excess of the ceiling value, such value  
38 shall be used in determining the need of the applicant or recipient,

1 except that: (i) The department may exempt resources or income when  
2 the income and resources are determined necessary to the applicant's or  
3 recipient's restoration to independence, to decrease the need for  
4 public assistance, or to aid in rehabilitating the applicant or  
5 recipient or a dependent of the applicant or recipient; and (ii) the  
6 department may provide grant assistance for a period not to exceed nine  
7 months from the date the agreement is signed pursuant to this section  
8 to persons who are otherwise ineligible because of excess real property  
9 owned by such persons when they are making a good faith effort to  
10 dispose of that property: PROVIDED, That:

11 (A) The applicant or recipient signs an agreement to repay the  
12 lesser of the amount of aid received or the net proceeds of such sale;

13 (B) If the owner of the excess property ceases to make good faith  
14 efforts to sell the property, the entire amount of assistance may  
15 become an overpayment and a debt due the state and may be recovered  
16 pursuant to RCW 43.20B.630;

17 (C) Applicants and recipients are advised of their right to a fair  
18 hearing and afforded the opportunity to challenge a decision that good  
19 faith efforts to sell have ceased, prior to assessment of an  
20 overpayment under this section; and

21 (D) At the time assistance is authorized, the department files a  
22 lien without a sum certain on the specific property.

23 (12) "Income"--(a) All appreciable gains in real or personal  
24 property (cash or kind) or other assets, which are received by or  
25 become available for use and enjoyment by an applicant or recipient  
26 during the month of application or after applying for or receiving  
27 public assistance. The department may by rule and regulation exempt  
28 income received by an applicant for or recipient of public assistance  
29 which can be used by him or her to decrease his or her need for public  
30 assistance or to aid in rehabilitating him or her or his or her  
31 dependents, but such exemption shall not, unless otherwise provided in  
32 this title, exceed the exemptions of resources granted under this  
33 chapter to an applicant for public assistance. In addition, for cash  
34 assistance the department may disregard income pursuant to RCW  
35 74.08A.230 and 74.12.350.

36 (b) If, under applicable federal requirements, the state has the  
37 option of considering property in the form of lump sum compensatory

1 awards or related settlements received by an applicant or recipient as  
2 income or as a resource, the department shall consider such property to  
3 be a resource.

4 (13) "Need"--The difference between the applicant's or recipient's  
5 standards of assistance for himself or herself and the dependent  
6 members of his or her family, as measured by the standards of the  
7 department, and value of all nonexempt resources and nonexempt income  
8 received by or available to the applicant or recipient and the  
9 dependent members of his or her family.

10 (14) "Authority" means the health care authority.

11 (15) "Director" means the director of the health care authority.

12 (16) For purposes of determining eligibility for public assistance  
13 and participation levels in the cost of medical care, the department  
14 shall exempt restitution payments made to people of Japanese and Aleut  
15 ancestry pursuant to the Civil Liberties Act of 1988 and the Aleutian  
16 and Pribilof Island Restitution Act passed by congress, P.L. 100-383,  
17 including all income and resources derived therefrom.

18 ~~((+15))~~ (17) In the construction of words and phrases used in this  
19 title, the singular number shall include the plural, the masculine  
20 gender shall include both the feminine and neuter genders and the  
21 present tense shall include the past and future tenses, unless the  
22 context thereof shall clearly indicate to the contrary.

23 **Sec. 63.** RCW 74.04.015 and 1981 1st ex.s. c 6 s 2 are each amended  
24 to read as follows:

25 (1) The secretary of social and health services shall be the  
26 responsible state officer for the administration ~~((of))~~ and ~~((the))~~  
27 disbursement of all funds, goods, commodities, and services, which may  
28 be received by the state in connection with programs of public  
29 assistance or services related directly or indirectly to assistance  
30 programs, and all other matters included in the federal social security  
31 act ~~((approved August 14, 1935))~~ as amended, or any other federal act  
32 or as the same may be amended ~~((excepting those specifically required~~  
33 ~~to be administered by other entities))~~ except as otherwise provided by  
34 law.

35 (2) The director shall be the responsible state officer for the  
36 administration and disbursement of funds that the state receives in



1 connection with the medical services programs established under chapter  
2 74.09 RCW, including the state children's health insurance program,  
3 Titles XIX and XXI of the social security act of 1935, as amended.

4 ((He)) (3) The department and the authority, as appropriate, shall  
5 make such reports and render such accounting as may be required by  
6 ((the)) federal ((~~agency having authority in the premises~~)) law.

7 **Sec. 64.** RCW 74.04.025 and 2010 c 296 s 7 are each amended to read  
8 as follows:

9 (1) The department, the authority, and the office of administrative  
10 hearings shall ensure that bilingual services are provided to non-  
11 English speaking applicants and recipients. The services shall be  
12 provided to the extent necessary to assure that non-English speaking  
13 persons are not denied, or unable to obtain or maintain, services or  
14 benefits because of their inability to speak English.

15 (2) If the number of non-English speaking applicants or recipients  
16 sharing the same language served by any community service office client  
17 contact job classification equals or exceeds fifty percent of the  
18 average caseload of a full-time position in such classification, the  
19 department shall, through attrition, employ bilingual personnel to  
20 serve such applicants or recipients.

21 (3) Regardless of the applicant or recipient caseload of any  
22 community service office, each community service office shall ensure  
23 that bilingual services required to supplement the community service  
24 office staff are provided through contracts with language access  
25 providers, local agencies, or other community resources.

26 (4) The department shall certify, authorize, and qualify language  
27 access providers as needed to maintain an adequate pool of providers.

28 (5) The department shall require compliance with RCW 41.56.113(2)  
29 through its contracts with third parties.

30 (6) Initial client contact materials shall inform clients in all  
31 primary languages of the availability of interpretation services for  
32 non-English speaking persons. Basic informational pamphlets shall be  
33 translated into all primary languages.

34 (7) To the extent all written communications directed to applicants  
35 or recipients are not in the primary language of the applicant or  
36 recipient, the department and the office of administrative hearings  
37 shall include with the written communication a notice in all primary

1 languages of applicants or recipients describing the significance of  
2 the communication and specifically how the applicants or recipients may  
3 receive assistance in understanding, and responding to if necessary,  
4 the written communication. The department shall assure that sufficient  
5 resources are available to assist applicants and recipients in a timely  
6 fashion with understanding, responding to, and complying with the  
7 requirements of all such written communications.

8 (8) As used in this section:

9 (a) "Language access provider" means any independent contractor who  
10 provides spoken language interpreter services for department  
11 appointments or medicaid enrollee appointments, or provided these  
12 services on or after January 1, 2009, and before June 10, 2010, whether  
13 paid by a broker, language access agency, or the department. "Language  
14 access provider" does not mean an owner, manager, or employee of a  
15 broker or a language access agency.

16 (b) "Primary languages" includes but is not limited to Spanish,  
17 Vietnamese, Cambodian, Laotian, and Chinese.

18 **Sec. 65.** RCW 74.04.050 and 1981 1st ex.s. c 6 s 3 are each amended  
19 to read as follows:

20 (1) The department ((shall serve)) is designated as the single  
21 state agency to administer the following public assistance((. The  
22 department is hereby empowered and authorized to cooperate in the  
23 administration of such federal laws, consistent with the public  
24 assistance laws of this state, as may be necessary to qualify for  
25 federal funds for:

- 26 ~~(1) Medical assistance;~~
- 27 ~~(2) Aid to dependent children;~~
- 28 ~~(3))~~ programs:

- 29 (a) Temporary assistance to needy families;
- 30 (b) Child welfare services; and

31 ~~((4))~~ (c) Any other programs of public assistance for which  
32 provision for federal grants or funds may from time to time be made,  
33 except as otherwise provided by law.

34 (2) The authority is hereby designated as the single state agency  
35 to administer the medical services programs established under chapter  
36 74.09 RCW, including the state children's health insurance program,

1 Titles XIX and XXI of the federal social security act of 1935, as  
2 amended.

3 (3) The department and the authority are hereby empowered and  
4 authorized to cooperate in the administration of such federal laws,  
5 consistent with the public assistance laws of this state, as may be  
6 necessary to qualify for federal funds.

7 (4) The state hereby accepts and assents to all the present  
8 provisions of the federal law under which federal grants or funds,  
9 goods, commodities, and services are extended to the state for the  
10 support of programs (~~administered by the department~~) referenced in  
11 this section, and to such additional legislation as may subsequently be  
12 enacted as is not inconsistent with the purposes of this title,  
13 authorizing public welfare and assistance activities. The provisions  
14 of this title shall be so administered as to conform with federal  
15 requirements with respect to eligibility for the receipt of federal  
16 grants or funds.

17 (5) The department and the authority shall periodically make  
18 application for federal grants or funds and submit such plans, reports  
19 and data, as are required by any act of congress as a condition  
20 precedent to the receipt of federal funds for such assistance. The  
21 department and the authority shall make and enforce such rules and  
22 regulations as shall be necessary to insure compliance with the terms  
23 and conditions of such federal grants or funds.

24 **Sec. 66.** RCW 74.04.055 and 1991 c 126 s 2 are each amended to read  
25 as follows:

26 In furtherance of the policy of this state to cooperate with the  
27 federal government in the programs included in this title the secretary  
28 or director, as appropriate, shall issue such rules and regulations as  
29 may become necessary to entitle this state to participate in federal  
30 grants-in-aid, goods, commodities and services unless the same be  
31 expressly prohibited by this title. Any section or provision of this  
32 title which may be susceptible to more than one construction shall be  
33 interpreted in favor of the construction most likely to satisfy federal  
34 laws entitling this state to receive federal matching or other funds  
35 for the various programs of public assistance. If any part of this  
36 chapter is found to be in conflict with federal requirements which are  
37 a prescribed condition to the receipts of federal funds to the state,

1 the conflicting part of this chapter is hereby inoperative solely to  
2 the extent of the conflict with respect to the agencies directly  
3 affected, and such finding or determination shall not affect the  
4 operation of the remainder of this chapter.

5 **Sec. 67.** RCW 74.04.060 and 2006 c 259 s 5 are each amended to read  
6 as follows:

7 (1)(a) For the protection of applicants and recipients, the  
8 department, the authority, and the county offices and their respective  
9 officers and employees are prohibited, except as hereinafter provided,  
10 from disclosing the contents of any records, files, papers and  
11 communications, except for purposes directly connected with the  
12 administration of the programs of this title. In any judicial  
13 proceeding, except such proceeding as is directly concerned with the  
14 administration of these programs, such records, files, papers and  
15 communications, and their contents, shall be deemed privileged  
16 communications and except for the right of any individual to inquire of  
17 the office whether a named individual is a recipient of welfare  
18 assistance and such person shall be entitled to an affirmative or  
19 negative answer.

20 (b) Upon written request of a parent who has been awarded  
21 visitation rights in an action for divorce or separation or any parent  
22 with legal custody of the child, the department shall disclose to him  
23 or her the last known address and location of his or her natural or  
24 adopted children. The secretary shall adopt rules which establish  
25 procedures for disclosing the address of the children and providing,  
26 when appropriate, for prior notice to the custodian of the children.  
27 The notice shall state that a request for disclosure has been received  
28 and will be complied with by the department unless the department  
29 receives a copy of a court order which enjoins the disclosure of the  
30 information or restricts or limits the requesting party's right to  
31 contact or visit the other party or the child. Information supplied to  
32 a parent by the department shall be used only for purposes directly  
33 related to the enforcement of the visitation and custody provisions of  
34 the court order of separation or decree of divorce. No parent shall  
35 disclose such information to any other person except for the purpose of  
36 enforcing visitation provisions of the said order or decree.

1 (c) The department shall review methods to improve the protection  
2 and confidentiality of information for recipients of welfare assistance  
3 who have disclosed to the department that they are past or current  
4 victims of domestic violence or stalking.

5 (2) The county offices shall maintain monthly at their offices a  
6 report showing the names and addresses of all recipients in the county  
7 receiving public assistance under this title, together with the amount  
8 paid to each during the preceding month.

9 (3) The provisions of this section shall not apply to duly  
10 designated representatives of approved private welfare agencies, public  
11 officials, members of legislative interim committees and advisory  
12 committees when performing duties directly connected with the  
13 administration of this title, such as regulation and investigation  
14 directly connected therewith: PROVIDED, HOWEVER, That any information  
15 so obtained by such persons or groups shall be treated with such degree  
16 of confidentiality as is required by the federal social security law.

17 (4) It shall be unlawful, except as provided in this section, for  
18 any person, body, association, firm, corporation or other agency to  
19 solicit, publish, disclose, receive, make use of, or to authorize,  
20 knowingly permit, participate in or acquiesce in the use of any lists  
21 or names for commercial or political purposes of any nature. The  
22 violation of this section shall be a gross misdemeanor.

23 **Sec. 68.** RCW 74.04.062 and 1997 c 58 s 1006 are each amended to  
24 read as follows:

25 Upon written request of a person who has been properly identified  
26 as an officer of the law or a properly identified United States  
27 immigration official the department or authority shall disclose to such  
28 officer the current address and location of a recipient of public  
29 welfare if the officer furnishes the department or authority with such  
30 person's name and social security account number and satisfactorily  
31 demonstrates that such recipient is a fugitive, that the location or  
32 apprehension of such fugitive is within the officer's official duties,  
33 and that the request is made in the proper exercise of those duties.

34 When the department or authority becomes aware that a public  
35 assistance recipient is the subject of an outstanding warrant, the  
36 department or authority may contact the appropriate law enforcement

1 agency and, if the warrant is valid, provide the law enforcement agency  
2 with the location of the recipient.

3 **Sec. 69.** RCW 74.04.290 and 1983 1st ex.s. c 41 s 22 are each  
4 amended to read as follows:

5 In carrying out any of the provisions of this title, the secretary,  
6 the director, county administrators, hearing examiners, or other duly  
7 authorized officers of the department or authority shall have power to  
8 subpoena witnesses, administer oaths, take testimony and compel the  
9 production of such papers, books, records and documents as they may  
10 deem relevant to the performance of their duties. Subpoenas issued  
11 under this power shall be under RCW 43.20A.605.

12 **Sec. 70.** RCW 7.68.080 and 1990 c 3 s 503 are each amended to read  
13 as follows:

14 The provisions of chapter 51.36 RCW as now or hereafter amended  
15 govern the provision of medical aid under this chapter to victims  
16 injured as a result of a criminal act, including criminal acts  
17 committed between July 1, 1981, and January 1, 1983, except that:

18 (1) The provisions contained in RCW 51.36.030, 51.36.040, and  
19 51.36.080 as now or hereafter amended do not apply to this chapter;

20 (2) The specific provisions of RCW 51.36.020 as now or hereafter  
21 amended relating to supplying emergency transportation do not apply:  
22 PROVIDED, That:

23 (a) When the injury to any victim is so serious as to require the  
24 victim's being taken from the place of injury to a place of treatment,  
25 reasonable transportation costs to the nearest place of proper  
26 treatment shall be reimbursed from the fund established pursuant to RCW  
27 7.68.090; and

28 (b) In the case of alleged rape or molestation of a child the  
29 reasonable costs of a colposcope examination shall be reimbursed from  
30 the fund pursuant to RCW 7.68.090. Hospital, clinic, and medical  
31 charges along with all related fees under this chapter shall conform to  
32 regulations promulgated by the director. The director shall set these  
33 service levels and fees at a level no lower than those established by  
34 the ((~~department of social and health services~~)) health care authority  
35 under Title 74 RCW. In establishing fees for medical and other health  
36 care services, the director shall consider the director's duty to

1 purchase health care in a prudent, cost-effective manner. The director  
2 shall establish rules adopted in accordance with chapter 34.05 RCW.  
3 Nothing in this chapter may be construed to require the payment of  
4 interest on any billing, fee, or charge.

5 **Sec. 71.** RCW 43.41.160 and 1986 c 303 s 11 are each amended to  
6 read as follows:

7 (1) It is the purpose of this section to ensure implementation and  
8 coordination of chapter 70.14 RCW as well as other legislative and  
9 executive policies designed to contain the cost of health care that is  
10 purchased or provided by the state. In order to achieve that purpose,  
11 the director may:

12 (a) Establish within the (~~office of financial management~~) health  
13 care authority a health care cost containment program in cooperation  
14 with all state agencies;

15 (b) Implement lawful health care cost containment policies that  
16 have been adopted by the legislature or the governor, including  
17 appropriation provisos;

18 (c) Coordinate the activities of all state agencies with respect to  
19 health care cost containment policies;

20 (d) Study and make recommendations on health care cost containment  
21 policies;

22 (e) Monitor and report on the implementation of health care cost  
23 containment policies;

24 (f) Appoint a health care cost containment technical advisory  
25 committee that represents state agencies that are involved in the  
26 direct purchase, funding, or provision of health care; and

27 (g) Engage in other activities necessary to achieve the purposes of  
28 this section.

29 (2) All state agencies shall cooperate with the director in  
30 carrying out the purpose of this section.

31 **Sec. 72.** RCW 43.41.260 and 2009 c 479 s 28 are each amended to  
32 read as follows:

33 The health care authority(~~(7)~~) and the office of financial  
34 management(~~(7 and the department of social and health services)~~) shall  
35 together monitor the enrollee level in the basic health plan and the  
36 medicaid caseload of children. The office of financial management

1 shall adjust the funding levels by interagency reimbursement of funds  
2 between the basic health plan and medicaid and adjust the funding  
3 levels (~~(between)~~) for the health care authority (~~(and the medical~~  
4 ~~assistance administration of the department of social and health~~  
5 ~~services)~~) to maximize combined enrollment.

6 **Sec. 73.** RCW 43.70.670 and 2007 c 259 s 38 are each amended to  
7 read as follows:

8 (1) "Human immunodeficiency virus insurance program," as used in  
9 this section, means a program that provides health insurance coverage  
10 for individuals with human immunodeficiency virus, as defined in RCW  
11 70.24.017(7), who are not eligible for medical assistance programs from  
12 the (~~department of social and health services~~) health care authority  
13 as defined in RCW 74.09.010(~~(+8)~~) (10) and meet eligibility  
14 requirements established by the department of health.

15 (2) The department of health may pay for health insurance coverage  
16 on behalf of persons with human immunodeficiency virus, who meet  
17 department eligibility requirements, and who are eligible for  
18 "continuation coverage" as provided by the federal consolidated omnibus  
19 budget reconciliation act of 1985, group health insurance policies, or  
20 individual policies.

21 **Sec. 74.** RCW 47.06B.020 and 2009 c 515 s 4 are each amended to  
22 read as follows:

23 (1) The agency council on coordinated transportation is created.  
24 The purpose of the council is to advance and improve accessibility to  
25 and coordination of special needs transportation services statewide.  
26 The council is composed of fourteen voting members and four nonvoting,  
27 legislative members.

28 (2) The fourteen voting members are the superintendent of public  
29 instruction or a designee, the secretary of transportation or a  
30 designee, the (~~secretary of the department of social and health~~  
31 ~~services~~) director of the health care authority or a designee, and  
32 eleven members appointed by the governor as follows:

33 (a) One representative from the office of the governor;

34 (b) Three persons who are consumers of special needs transportation  
35 services, which must include:



1 (i) One person designated by the executive director of the  
2 governor's committee on disability issues and employment; and  
3 (ii) One person who is designated by the executive director of the  
4 developmental disabilities council;  
5 (c) One representative from the Washington association of pupil  
6 transportation;  
7 (d) One representative from the Washington state transit  
8 association;  
9 (e) One of the following:  
10 (i) A representative from the community transportation association  
11 of the Northwest; or  
12 (ii) A representative from the community action council  
13 association;  
14 (f) One person who represents regional transportation planning  
15 organizations and metropolitan planning organizations;  
16 (g) One representative of brokers who provide nonemergency,  
17 medically necessary trips to persons with special transportation needs  
18 under the medicaid program administered by the (~~department of social~~  
19 ~~and health services~~) health care authority;  
20 (h) One representative from the Washington state department of  
21 veterans affairs; and  
22 (i) One representative of the state association of counties.  
23 (3) The four nonvoting members are legislators as follows:  
24 (a) Two members from the house of representatives, one from each of  
25 the two largest caucuses, appointed by the speaker of the house of  
26 representatives, including at least one member from the house  
27 transportation policy and budget committee or the house appropriations  
28 committee; and  
29 (b) Two members from the senate, one from each of the two largest  
30 caucuses, appointed by the president of the senate, including at least  
31 one member from the senate transportation committee or the senate ways  
32 and means committee.  
33 (4) Gubernatorial appointees of the council will serve two-year  
34 terms. Members may not receive compensation for their service on the  
35 council, but will be reimbursed for actual and necessary expenses  
36 incurred in performing their duties as members as set forth in RCW  
37 43.03.220.

1 (5) The council shall vote on an annual basis to elect one of its  
2 voting members to serve as chair. The position of chair must rotate  
3 among the represented agencies, associations, and interest groups at  
4 least every two years. If the position of chair is vacated for any  
5 reason, the secretary of transportation or the secretary's designee  
6 shall serve as acting chair until the next regular meeting of the  
7 council, at which time the members will elect a chair.

8 (6) The council shall periodically assess its membership to ensure  
9 that there exists a balanced representation of persons with special  
10 transportation needs and providers of special transportation needs  
11 services. Recommendations for modifying the membership of the council  
12 must be included in the council's biennial report to the legislature as  
13 provided in RCW 47.06B.050.

14 (7) The department of transportation shall provide necessary staff  
15 support for the council.

16 (8) The council may receive gifts, grants, or endowments from  
17 public or private sources that are made from time to time, in trust or  
18 otherwise, for the use and benefit of the purposes of the council and  
19 spend gifts, grants, or endowments or income from the public or private  
20 sources according to their terms, unless the receipt of the gifts,  
21 grants, or endowments violates RCW 42.17.710.

22 (9) The meetings of the council must be open to the public, with  
23 the agenda published in advance, and minutes kept and made available to  
24 the public. The public notice of the meetings must indicate that  
25 accommodations for persons with disabilities will be made available  
26 upon request.

27 (10) All meetings of the council must be held in locations that are  
28 readily accessible to public transportation, and must be scheduled for  
29 times when public transportation is available.

30 (11) The council shall make an effort to include presentations by  
31 and work sessions including persons with special transportation needs.

32 **Sec. 75.** RCW 47.06B.060 and 2009 c 515 s 1 are each amended to  
33 read as follows:

34 (1) In 2007, the legislature directed the joint transportation  
35 committee to conduct a study of special needs transportation to examine  
36 and evaluate the effectiveness of special needs transportation in the  
37 state. A particular goal of the study was to explore opportunities to

1 enhance coordination of special needs transportation programs to ensure  
2 that they are delivered efficiently and result in improved access and  
3 increased mobility options for their clients. It is the intent of the  
4 legislature to further consider some of the recommendations, and to  
5 implement many of these recommendations in the form of two pilot  
6 projects that will test the potential for applying these  
7 recommendations statewide in the future.

8 (2) The legislature is aware that the department of social and  
9 health services submitted an application in December of 2008 to the  
10 federal centers for medicare and medicaid services, seeking approval to  
11 use the medical match system, a federal funding system that has  
12 different requirements from the federal administrative match system  
13 currently used by the department. It is the intent of the legislature  
14 to advance the goals of chapter 515, Laws of 2009 and the  
15 recommendations of the study identified in subsection (1) of this  
16 section without jeopardizing the application made by the department.

17 (3) By August 15, 2009, the agency council on coordinated  
18 transportation shall appoint a work group for the purpose of  
19 identifying relevant federal requirements related to special needs  
20 transportation, and identifying solutions to streamline the  
21 requirements and increase efficiencies in transportation services  
22 provided for persons with special transportation needs. To advance its  
23 purpose, the work group shall work with relevant federal  
24 representatives and agencies to identify and address various challenges  
25 and barriers.

26 (4) Membership of the work group must include, but not be limited  
27 to, one or more representatives from:

28 (a) The departments of transportation, veterans affairs, health,  
29 and (~~social and health services~~) the health care authority;

30 (b) Medicaid nonemergency medical transportation brokers;

31 (c) Public transit agencies;

32 (d) Regional and metropolitan transportation planning  
33 organizations, including a representative of the regional  
34 transportation planning organization or organizations that provide  
35 staff support to the local coordinating coalition established under RCW  
36 47.06B.070;

37 (e) Indian tribes;

38 (f) The agency council on coordinated transportation;

1 (g) The local coordinating coalitions established under RCW  
2 47.06B.070; and

3 (h) The office of the superintendent of public instruction.

4 (5) The work group shall elect one or more of its members to  
5 service as chair or cochairs.

6 (6) The work group shall immediately contact representatives of the  
7 federal congressional delegation for Washington state and the relevant  
8 federal agencies and coordinating authorities including, but not  
9 limited to, the federal transit administration, the United States  
10 department of health and human services, and the interagency  
11 transportation coordinating council on access and mobility, and invite  
12 the federal representatives to work collaboratively to:

13 (a) Identify transportation definitions and terminology used in the  
14 various relevant state and federal programs, and establish consistent  
15 transportation definitions and terminology. For purposes of this  
16 subsection, relevant state definitions exclude terminology that  
17 requires a medical determination, including whether a trip or service  
18 is medically necessary;

19 (b) Identify restrictions or barriers that preclude federal, state,  
20 and local agencies from sharing client lists or other client  
21 information, and make progress towards removing any restrictions or  
22 barriers;

23 (c) Identify relevant state and federal performance and cost  
24 reporting systems and requirements, and work towards establishing  
25 consistent and uniform performance and cost reporting systems and  
26 requirements; and

27 (d) Explore, subject to federal approval, opportunities to test  
28 cost allocation models, including the pilot projects established in RCW  
29 47.06B.080, that:

30 (i) Allow for cost sharing among public paratransit and medicaid  
31 nonemergency medical trips; and

32 (ii) Capture the value of medicaid trips provided by public transit  
33 agencies for which they are not currently reimbursed with a funding  
34 match by federal medicaid dollars.

35 (7) By December 1, 2009, the work group shall submit a report to  
36 the joint transportation committee that explains the progress made  
37 towards the goals of this section and identifies any necessary  
38 legislative action that must be taken to implement all the provisions

1 of this section. A second progress report must be submitted to the  
2 joint transportation committee by June 1, 2010, and a final report must  
3 be submitted to the joint transportation committee by December 1, 2010.

4 **Sec. 76.** RCW 47.06B.070 and 2009 c 515 s 9 are each amended to  
5 read as follows:

6 (1) A local coordinating coalition is created in each nonemergency  
7 medical transportation brokerage region, as designated by the  
8 (~~department of social and health services~~) health care authority,  
9 that encompasses:

10 (a) A single county that has a population of more than seven  
11 hundred fifty thousand but less than one million; and

12 (b) Five counties, and is comprised of at least one county that has  
13 a population of more than four hundred thousand.

14 (2) The purpose of a local coordinating coalition is to advance  
15 local efforts to coordinate and maximize efficiencies in special needs  
16 transportation programs and services, contributing to the overall  
17 objectives and goals of the agency council on coordinated  
18 transportation. The local coordinating coalition shall serve in an  
19 advisory capacity to the agency council on coordinated transportation  
20 by providing the council with a focused and ongoing assessment of the  
21 special transportation needs and services provided within its region.

22 (3) The composition and size of each local coordinating coalition  
23 may vary by region. Local coordinating coalition members, appointed by  
24 the chair of the agency council on coordinated transportation to two-  
25 year terms, must reflect a balanced representation of the region's  
26 providers of special needs transportation services and must include:

27 (a) Members of existing local coordinating coalitions, with  
28 approval by those members;

29 (b) One or more representatives of the public transit agency or  
30 agencies serving the region;

31 (c) One or more representatives of private service providers;

32 (d) A representative of civic or community-based service providers;

33 (e) A consumer of special needs transportation services;

34 (f) A representative of nonemergency medical transportation  
35 medicaid brokers;

36 (g) A representative of social and human service programs;

37 (h) A representative of local high school districts; and

1 (i) A representative from the Washington state department of  
2 veterans affairs.

3 (4) Each coalition shall vote on an annual basis to elect one of  
4 its members to serve as chair. The position of chair must rotate among  
5 the represented members at least every two years. If the position of  
6 chair is vacated for any reason, the member representing the regional  
7 transportation planning organization described in subsection (6) of  
8 this section shall serve as acting chair until the next regular meeting  
9 of the coalition, at which time the members will elect a chair.

10 (5) Regular meetings of the local coordinating coalition may be  
11 convened at the call of the chair or by a majority of the members.  
12 Meetings must be open to the public, and held in locations that are  
13 readily accessible to public transportation.

14 (6) The regional transportation planning organization, as described  
15 in chapter 47.80 RCW, serving the region in which the local  
16 coordinating coalition is created shall provide necessary staff support  
17 for the local coordinating coalition. In regions served by more than  
18 one regional transportation planning organization, unless otherwise  
19 agreed to by the relevant planning organizations, the regional  
20 transportation planning organization serving the largest population  
21 within the region shall provide the necessary staff support.

22 **Sec. 77.** RCW 48.01.235 and 2003 c 248 s 2 are each amended to read  
23 as follows:

24 (1) An issuer and an employee welfare benefit plan, whether insured  
25 or self funded, as defined in the employee retirement income security  
26 act of 1974, 29 U.S.C. Sec. 1101 et seq. may not deny enrollment of a  
27 child under the health plan of the child's parent on the grounds that:

28 (a) The child was born out of wedlock;

29 (b) The child is not claimed as a dependent on the parent's federal  
30 tax return; or

31 (c) The child does not reside with the parent or in the issuer's,  
32 or insured or self funded employee welfare benefit plan's service area.

33 (2) Where a child has health coverage through an issuer, or an  
34 insured or self funded employee welfare benefit plan of a noncustodial  
35 parent, the issuer, or insured or self funded employee welfare benefit  
36 plan, shall:

1 (a) Provide such information to the custodial parent as may be  
2 necessary for the child to obtain benefits through that coverage;

3 (b) Permit the provider or the custodial parent to submit claims  
4 for covered services without the approval of the noncustodial parent.  
5 If the provider submits the claim, the provider will obtain the  
6 custodial parent's assignment of insurance benefits or otherwise secure  
7 the custodial parent's approval.

8 For purposes of this subsection the (~~department of social and~~  
9 ~~health services~~) health care authority as the state medicaid agency  
10 under RCW 74.09.500 may reassign medical insurance rights to the  
11 provider for custodial parents whose children are eligible for services  
12 under RCW 74.09.500; and

13 (c) Make payments on claims submitted in accordance with (b) of  
14 this subsection directly to the custodial parent, to the provider, or  
15 to the (~~department of social and health services~~) health care  
16 authority as the state medicaid agency under RCW 74.09.500.

17 (3) Where a child does not reside in the issuer's service area, an  
18 issuer shall cover no less than urgent and emergent care. Where the  
19 issuer offers broader coverage, whether by policy or reciprocal  
20 agreement, the issuer shall provide such coverage to any child  
21 otherwise covered that does not reside in the issuer's service area.

22 (4) Where a parent is required by a court order to provide health  
23 coverage for a child, and the parent is eligible for family health  
24 coverage, the issuer, or insured or self funded employee welfare  
25 benefit plan, shall:

26 (a) Permit the parent to enroll, under the family coverage, a child  
27 who is otherwise eligible for the coverage without regard to any  
28 enrollment season restrictions;

29 (b) Enroll the child under family coverage upon application of the  
30 child's other parent, (~~department of social and health services~~)  
31 health care authority as the state medicaid agency under RCW 74.09.500,  
32 or child support enforcement program, if the parent is enrolled but  
33 fails to make application to obtain coverage for such child; and

34 (c) Not disenroll, or eliminate coverage of, such child who is  
35 otherwise eligible for the coverage unless the issuer or insured or  
36 self funded employee welfare benefit plan is provided satisfactory  
37 written evidence that:

38 (i) The court order is no longer in effect; or

1 (ii) The child is or will be enrolled in comparable health coverage  
2 through another issuer, or insured or self funded employee welfare  
3 benefit plan, which will take effect not later than the effective date  
4 of disenrollment.

5 (5) An issuer, or insured or self funded employee welfare benefit  
6 plan, that has been assigned the rights of an individual eligible for  
7 medical assistance under medicaid and coverage for health benefits from  
8 the issuer, or insured or self funded employee welfare benefit plan,  
9 may not impose requirements on the (~~department of social and health~~  
10 ~~services~~) health care authority that are different from requirements  
11 applicable to an agent or assignee of any other individual so covered.

12 **Sec. 78.** RCW 48.43.008 and 2007 c 259 s 24 are each amended to  
13 read as follows:

14 When the (~~department of social and health services~~) health care  
15 authority determines that it is cost-effective to enroll a person  
16 eligible for medical assistance under chapter 74.09 RCW in an  
17 employer-sponsored health plan, a carrier shall permit the enrollment  
18 of the person in the health plan for which he or she is otherwise  
19 eligible without regard to any open enrollment period restrictions.

20 **Sec. 79.** RCW 48.43.517 and 2007 c 5 s 7 are each amended to read  
21 as follows:

22 When the (~~department of social and health services~~) health care  
23 authority has determined that it is cost-effective to enroll a child  
24 participating in a medical assistance program under chapter 74.09 RCW  
25 in an employer-sponsored health plan, the carrier shall permit the  
26 enrollment of the participant who is otherwise eligible for coverage in  
27 the health plan without regard to any open enrollment restrictions.  
28 The request for special enrollment shall be made by the (~~department~~)  
29 authority or participant within sixty days of the (~~department's~~)  
30 authority's determination that the enrollment would be cost-effective.

31 **Sec. 80.** RCW 69.41.030 and 2010 c 83 s 1 are each amended to read  
32 as follows:

33 (1) It shall be unlawful for any person to sell, deliver, or  
34 possess any legend drug except upon the order or prescription of a  
35 physician under chapter 18.71 RCW, an osteopathic physician and surgeon



1 under chapter 18.57 RCW, an optometrist licensed under chapter 18.53  
2 RCW who is certified by the optometry board under RCW 18.53.010, a  
3 dentist under chapter 18.32 RCW, a podiatric physician and surgeon  
4 under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a  
5 commissioned medical or dental officer in the United States armed  
6 forces or public health service in the discharge of his or her official  
7 duties, a duly licensed physician or dentist employed by the veterans  
8 administration in the discharge of his or her official duties, a  
9 registered nurse or advanced registered nurse practitioner under  
10 chapter 18.79 RCW when authorized by the nursing care quality assurance  
11 commission, an osteopathic physician assistant under chapter 18.57A RCW  
12 when authorized by the board of osteopathic medicine and surgery, a  
13 physician assistant under chapter 18.71A RCW when authorized by the  
14 medical quality assurance commission, or any of the following  
15 professionals in any province of Canada that shares a common border  
16 with the state of Washington or in any state of the United States: A  
17 physician licensed to practice medicine and surgery or a physician  
18 licensed to practice osteopathic medicine and surgery, a dentist  
19 licensed to practice dentistry, a podiatric physician and surgeon  
20 licensed to practice podiatric medicine and surgery, a licensed  
21 advanced registered nurse practitioner, or a veterinarian licensed to  
22 practice veterinary medicine: PROVIDED, HOWEVER, That the above  
23 provisions shall not apply to sale, delivery, or possession by drug  
24 wholesalers or drug manufacturers, or their agents or employees, or to  
25 any practitioner acting within the scope of his or her license, or to  
26 a common or contract carrier or warehouseman, or any employee thereof,  
27 whose possession of any legend drug is in the usual course of business  
28 or employment: PROVIDED FURTHER, That nothing in this chapter or  
29 chapter 18.64 RCW shall prevent a family planning clinic that is under  
30 contract with the (~~department of social and health services~~) health  
31 care authority from selling, delivering, possessing, and dispensing  
32 commercially prepackaged oral contraceptives prescribed by authorized,  
33 licensed health care practitioners.

34 (2)(a) A violation of this section involving the sale, delivery, or  
35 possession with intent to sell or deliver is a class B felony  
36 punishable according to chapter 9A.20 RCW.

37 (b) A violation of this section involving possession is a  
38 misdemeanor.

1       **Sec. 81.** RCW 69.41.190 and 2009 c 575 s 1 are each amended to read  
2 as follows:

3       (1)(a) Except as provided in subsection (2) of this section, any  
4 pharmacist filling a prescription under a state purchased health care  
5 program as defined in RCW 41.05.011(2) shall substitute, where  
6 identified, a preferred drug for any nonpreferred drug in a given  
7 therapeutic class, unless the endorsing practitioner has indicated on  
8 the prescription that the nonpreferred drug must be dispensed as  
9 written, or the prescription is for a refill of an antipsychotic,  
10 antidepressant, antiepileptic, chemotherapy, antiretroviral, or  
11 immunosuppressive drug, or for the refill of a  
12 immunomodulator/antiviral treatment for hepatitis C for which an  
13 established, fixed duration of therapy is prescribed for at least  
14 twenty-four weeks but no more than forty-eight weeks, in which case the  
15 pharmacist shall dispense the prescribed nonpreferred drug.

16       (b) When a substitution is made under (a) of this subsection, the  
17 dispensing pharmacist shall notify the prescribing practitioner of the  
18 specific drug and dose dispensed.

19       (2)(a) A state purchased health care program may impose limited  
20 restrictions on an endorsing practitioner's authority to write a  
21 prescription to dispense as written only under the following  
22 circumstances:

23       (i) There is statistical or clear data demonstrating the endorsing  
24 practitioner's frequency of prescribing dispensed as written for  
25 nonpreferred drugs varies significantly from the prescribing patterns  
26 of his or her peers;

27       (ii) The medical director of a state purchased health program has:  
28 (A) Presented the endorsing practitioner with data that indicates the  
29 endorsing practitioner's prescribing patterns vary significantly from  
30 his or her peers, (B) provided the endorsing practitioner an  
31 opportunity to explain the variation in his or her prescribing patterns  
32 to those of his or her peers, and (C) if the variation in prescribing  
33 patterns cannot be explained, provided the endorsing practitioner  
34 sufficient time to change his or her prescribing patterns to align with  
35 those of his or her peers; and

36       (iii) The restrictions imposed under (a) of this subsection (2)  
37 must be limited to the extent possible to reduce variation in

1 prescribing patterns and shall remain in effect only until such time as  
2 the endorsing practitioner can demonstrate a reduction in variation in  
3 line with his or her peers.

4 (b) A state purchased health care program may immediately designate  
5 an available, less expensive, equally effective generic product in a  
6 previously reviewed drug class as a preferred drug, without first  
7 submitting the product to review by the pharmacy and therapeutics  
8 committee established pursuant to RCW 70.14.050.

9 (c) For a patient's first course of treatment within a therapeutic  
10 class of drugs, a state purchased health care program may impose  
11 limited restrictions on endorsing practitioners' authority to write a  
12 prescription to dispense as written, only under the following  
13 circumstances:

14 (i) There is a less expensive, equally effective therapeutic  
15 alternative generic product available to treat the condition;

16 (ii) The drug use review board established under WAC 388-530-4000  
17 reviews and provides recommendations as to the appropriateness of the  
18 limitation;

19 (iii) Notwithstanding the limitation set forth in (c)(ii) of this  
20 subsection (2), the endorsing practitioner shall have an opportunity to  
21 request as medically necessary, that the brand name drug be prescribed  
22 as the first course of treatment;

23 (iv) The state purchased health care program may provide, where  
24 available, prescription, emergency room, diagnosis, and hospitalization  
25 history with the endorsing practitioner; and

26 (v) Specifically for antipsychotic restrictions, the state  
27 purchased health care program shall effectively guide good practice  
28 without interfering with the timeliness of clinical decision making.  
29 (~~Department of social and health services~~) Health care authority  
30 prior authorization programs must provide for responses within  
31 twenty-four hours and at least a seventy-two hour emergency supply of  
32 the requested drug.

33 (d) If, within a therapeutic class, there is an equally effective  
34 therapeutic alternative over-the-counter drug available, a state  
35 purchased health care program may designate the over-the-counter drug  
36 as the preferred drug.

37 (e) A state purchased health care program may impose limited

1 restrictions on endorsing practitioners' authority to prescribe  
2 pharmaceuticals to be dispensed as written for a purpose outside the  
3 scope of their approved labels only under the following circumstances:

4 (i) There is a less expensive, equally effective on-label product  
5 available to treat the condition;

6 (ii) The drug use review board established under WAC 388-530-4000  
7 reviews and provides recommendations as to the appropriateness of the  
8 limitation; and

9 (iii) Notwithstanding the limitation set forth in (e)(ii) of this  
10 subsection (2), the endorsing practitioner shall have an opportunity to  
11 request as medically necessary, that the drug be prescribed for a  
12 covered off-label purpose.

13 (f) The provisions of this subsection related to the definition of  
14 medically necessary, prior authorization procedures and patient appeal  
15 rights shall be implemented in a manner consistent with applicable  
16 federal and state law.

17 (3) Notwithstanding the limitations in subsection (2) of this  
18 section, for refills for an antipsychotic, antidepressant,  
19 antiepileptic, chemotherapy, antiretroviral, or immunosuppressive drug,  
20 or for the refill of an immunomodulator antiviral treatment for  
21 hepatitis C for which an established, fixed duration of therapy is  
22 prescribed for at least twenty-four weeks by no more than forty-eight  
23 weeks, the pharmacist shall dispense the prescribed nonpreferred drug.

24 **Sec. 82.** RCW 70.01.010 and 1985 c 213 s 14 are each amended to  
25 read as follows:

26 In furtherance of the policy of this state to cooperate with the  
27 federal government in the public health programs, the department of  
28 social and health services and the health care authority, as  
29 appropriate, shall adopt such rules and regulations as may become  
30 necessary to entitle this state to participate in federal funds unless  
31 the same be expressly prohibited by law. Any section or provision of  
32 the public health laws of this state which may be susceptible to more  
33 than one construction shall be interpreted in favor of the construction  
34 most likely to satisfy federal laws entitling this state to receive  
35 federal funds for the various programs of public health.

1       **Sec. 83.** RCW 70.47.010 and 2009 c 568 s 1 are each amended to read  
2 as follows:

3       (1)(a) The legislature finds that limitations on access to health  
4 care services for enrollees in the state, such as in rural and  
5 underserved areas, are particularly challenging for the basic health  
6 plan. Statutory restrictions have reduced the options available to the  
7 (~~administrator~~) director to address the access needs of basic health  
8 plan enrollees. It is the intent of the legislature to authorize the  
9 (~~administrator~~) director to develop alternative purchasing strategies  
10 to ensure access to basic health plan enrollees in all areas of the  
11 state, including: (i) The use of differential rating for managed  
12 health care systems based on geographic differences in costs; and (ii)  
13 limited use of self-insurance in areas where adequate access cannot be  
14 assured through other options.

15       (b) In developing alternative purchasing strategies to address  
16 health care access needs, the (~~administrator~~) director shall consult  
17 with interested persons including health carriers, health care  
18 providers, and health facilities, and with other appropriate state  
19 agencies including the office of the insurance commissioner and the  
20 office of community and rural health. In pursuing such alternatives,  
21 the (~~administrator~~) director shall continue to give priority to  
22 prepaid managed care as the preferred method of assuring access to  
23 basic health plan enrollees followed, in priority order, by preferred  
24 providers, fee for service, and self-funding.

25       (2) The legislature further finds that:

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

29       (b) This lack of basic health care coverage is detrimental to the  
30 health of the individuals lacking coverage and to the public welfare,  
31 and results in substantial expenditures for emergency and remedial  
32 health care, often at the expense of health care providers, health care  
33 facilities, and all purchasers of health care, including the state; and

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

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

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

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

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

34 (c) The legislature intends that, to the extent of available funds,  
35 the program be available throughout Washington state to subsidized and  
36 nonsubsidized enrollees. It is also the intent of the legislature to  
37 enroll subsidized enrollees first, to the maximum extent feasible.

1 (d) The legislature directs that the basic health plan  
2 (~~administrator~~) director identify enrollees who are likely to be  
3 eligible for medical assistance and assist these individuals in  
4 applying for and receiving medical assistance. (~~The administrator and~~  
5 ~~the department of social and health services shall implement a seamless~~  
6 ~~system to coordinate eligibility determinations and benefit coverage~~  
7 ~~for enrollees of the basic health plan and medical assistance~~  
8 ~~recipients.~~) Enrollees receiving medical assistance are not eligible  
9 for the Washington basic health plan.

10 **Sec. 84.** RCW 70.47.020 and 2009 c 568 s 2 are each reenacted and  
11 amended to read as follows:

12 As used in this chapter:

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

17 (2) "Health coverage tax credit eligible enrollee" means individual  
18 workers and their qualified family members who lose their jobs due to  
19 the effects of international trade and are eligible for certain trade  
20 adjustment assistance benefits; or are eligible for benefits under the  
21 alternative trade adjustment assistance program; or are people who  
22 receive benefits from the pension benefit guaranty corporation and are  
23 at least fifty-five years old.

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

30 (4) "Managed health care system" means: (a) Any health care  
31 organization, including health care providers, insurers, health care  
32 service contractors, health maintenance organizations, or any  
33 combination thereof, that provides directly or by contract basic health  
34 care services, as defined by the (~~administrator~~) director and  
35 rendered by duly licensed providers, to a defined patient population  
36 enrolled in the plan and in the managed health care system; or (b) a

1 self-funded or self-insured method of providing insurance coverage to  
2 subsidized enrollees provided under RCW 41.05.140 and subject to the  
3 limitations under RCW 70.47.100(7).

4 (5) "Nonsubsidized enrollee" means an individual, or an individual  
5 plus the individual's spouse or dependent children: (a) Who is not  
6 eligible for medicare; (b) who is not confined or residing in a  
7 government-operated institution, unless he or she meets eligibility  
8 criteria adopted by the ((~~administrator~~)) director; (c) who is accepted  
9 for enrollment by the ((~~administrator~~)) director as provided in RCW  
10 48.43.018, either because the potential enrollee cannot be required to  
11 complete the standard health questionnaire under RCW 48.43.018, or,  
12 based upon the results of the standard health questionnaire, the  
13 potential enrollee would not qualify for coverage under the Washington  
14 state health insurance pool; (d) who resides in an area of the state  
15 served by a managed health care system participating in the plan; (e)  
16 who chooses to obtain basic health care coverage from a particular  
17 managed health care system; and (f) who pays or on whose behalf is paid  
18 the full costs for participation in the plan, without any subsidy from  
19 the plan.

20 (6) "Premium" means a periodic payment, which an individual, their  
21 employer or another financial sponsor makes to the plan as  
22 consideration for enrollment in the plan as a subsidized enrollee, a  
23 nonsubsidized enrollee, or a health coverage tax credit eligible  
24 enrollee.

25 (7) "Rate" means the amount, negotiated by the ((~~administrator~~))  
26 director with and paid to a participating managed health care system,  
27 that is based upon the enrollment of subsidized, nonsubsidized, and  
28 health coverage tax credit eligible enrollees in the plan and in that  
29 system.

30 (8) "Subsidy" means the difference between the amount of periodic  
31 payment the ((~~administrator~~)) director makes to a managed health care  
32 system on behalf of a subsidized enrollee plus the administrative cost  
33 to the plan of providing the plan to that subsidized enrollee, and the  
34 amount determined to be the subsidized enrollee's responsibility under  
35 RCW 70.47.060(2).

36 (9) "Subsidized enrollee" means:

37 (a) An individual, or an individual plus the individual's spouse or  
38 dependent children:



1 (i) Who is not eligible for medicare;  
2 (ii) Who is not confined or residing in a government-operated  
3 institution, unless he or she meets eligibility criteria adopted by the  
4 (~~administrator~~) director;  
5 (iii) Who is not a full-time student who has received a temporary  
6 visa to study in the United States;  
7 (iv) Who resides in an area of the state served by a managed health  
8 care system participating in the plan;  
9 (v) Whose gross family income at the time of enrollment does not  
10 exceed two hundred percent of the federal poverty level as adjusted for  
11 family size and determined annually by the federal department of health  
12 and human services;  
13 (vi) Who chooses to obtain basic health care coverage from a  
14 particular managed health care system in return for periodic payments  
15 to the plan; and  
16 (vii) Who is not receiving medical assistance administered by the  
17 (~~department of social and health services~~) authority;  
18 (b) An individual who meets the requirements in (a)(i) through  
19 (iv), (vi), and (vii) of this subsection and who is a foster parent  
20 licensed under chapter 74.15 RCW and whose gross family income at the  
21 time of enrollment does not exceed three hundred percent of the federal  
22 poverty level as adjusted for family size and determined annually by  
23 the federal department of health and human services; and  
24 (c) To the extent that state funds are specifically appropriated  
25 for this purpose, with a corresponding federal match, an individual, or  
26 an individual's spouse or dependent children, who meets the  
27 requirements in (a)(i) through (iv), (vi), and (vii) of this subsection  
28 and whose gross family income at the time of enrollment is more than  
29 two hundred percent, but less than two hundred fifty-one percent, of  
30 the federal poverty level as adjusted for family size and determined  
31 annually by the federal department of health and human services.  
32 (10) "Washington basic health plan" or "plan" means the system of  
33 enrollment and payment for basic health care services, administered by  
34 the plan (~~administrator~~) director through participating managed  
35 health care systems, created by this chapter.

36 **Sec. 85.** RCW 70.47.110 and 1991 sp.s. c 4 s 3 are each amended to  
37 read as follows:

1       The (~~department of social and health services~~) health care  
2 authority may make payments to (~~the administrator or to~~)  
3 participating managed health care systems on behalf of any enrollee who  
4 is a recipient of medical care under chapter 74.09 RCW, at the maximum  
5 rate allowable for federal matching purposes under Title XIX of the  
6 social security act. Any enrollee on whose behalf the (~~department of~~  
7 ~~social and health services~~) health care authority makes such payments  
8 may continue as an enrollee, making premium payments based on the  
9 enrollee's own income as determined under the sliding scale, after  
10 eligibility for coverage under chapter 74.09 RCW has ended, as long as  
11 the enrollee remains eligible under this chapter. Nothing in this  
12 section affects the right of any person eligible for coverage under  
13 chapter 74.09 RCW to receive the services offered to other persons  
14 under that chapter but not included in the schedule of basic health  
15 care services covered by the plan. The (~~administrator~~) director  
16 shall seek to determine which enrollees or prospective enrollees may be  
17 eligible for medical care under chapter 74.09 RCW and may require these  
18 individuals to complete the eligibility determination process under  
19 chapter 74.09 RCW prior to enrollment or continued participation in the  
20 plan. The (~~administrator and the department of social and health~~  
21 ~~services~~) director shall (~~cooperatively~~) adopt procedures to  
22 facilitate the transition of plan enrollees and payments on their  
23 behalf between the plan and the programs established under chapter  
24 74.09 RCW.

25       **Sec. 86.** RCW 70.48.130 and 1993 c 409 s 1 are each amended to read  
26 as follows:

27       (1) It is the intent of the legislature that all jail inmates  
28 receive appropriate and cost-effective emergency and necessary medical  
29 care. Governing units, the (~~department of social and health~~  
30 ~~services~~) health care authority, and medical care providers shall  
31 cooperate to achieve the best rates consistent with adequate care.

32       (2) Payment for emergency or necessary health care shall be by the  
33 governing unit, except that the (~~department of social and health~~  
34 ~~services~~) health care authority shall directly reimburse the provider  
35 pursuant to chapter 74.09 RCW, in accordance with the rates and  
36 benefits established by the (~~department~~) authority, if the confined  
37 person is eligible under the (~~department's~~) authority's medical care

1 programs as authorized under chapter 74.09 RCW. After payment by the  
2 ((department)) authority, the financial responsibility for any  
3 remaining balance, including unpaid client liabilities that are a  
4 condition of eligibility or participation under chapter 74.09 RCW,  
5 shall be borne by the medical care provider and the governing unit as  
6 may be mutually agreed upon between the medical care provider and the  
7 governing unit. In the absence of mutual agreement between the medical  
8 care provider and the governing unit, the financial responsibility for  
9 any remaining balance shall be borne equally between the medical care  
10 provider and the governing unit. Total payments from all sources to  
11 providers for care rendered to confined persons eligible under chapter  
12 74.09 RCW shall not exceed the amounts that would be paid by the  
13 ((department)) authority for similar services provided under Title XIX  
14 medicaid, unless additional resources are obtained from the confined  
15 person.

16 (3) As part of the screening process upon booking or preparation of  
17 an inmate into jail, general information concerning the inmate's  
18 ability to pay for medical care shall be identified, including  
19 insurance or other medical benefits or resources to which an inmate is  
20 entitled. This information shall be made available to the  
21 ((department)) authority, the governing unit, and any provider of  
22 health care services.

23 (4) The governing unit or provider may obtain reimbursement from  
24 the confined person for the cost of health care services not provided  
25 under chapter 74.09 RCW, including reimbursement from any insurance  
26 program or from other medical benefit programs available to the  
27 confined person. Nothing in this chapter precludes civil or criminal  
28 remedies to recover the costs of medical care provided jail inmates or  
29 paid for on behalf of inmates by the governing unit. As part of a  
30 judgment and sentence, the courts are authorized to order defendants to  
31 repay all or part of the medical costs incurred by the governing unit  
32 or provider during confinement.

33 (5) To the extent that a confined person is unable to be  
34 financially responsible for medical care and is ineligible for the  
35 ((department's)) authority's medical care programs under chapter 74.09  
36 RCW, or for coverage from private sources, and in the absence of an  
37 interlocal agreement or other contracts to the contrary, the governing  
38 unit may obtain reimbursement for the cost of such medical services

1 from the unit of government whose law enforcement officers initiated  
2 the charges on which the person is being held in the jail: PROVIDED,  
3 That reimbursement for the cost of such services shall be by the state  
4 for state prisoners being held in a jail who are accused of either  
5 escaping from a state facility or of committing an offense in a state  
6 facility.

7 (6) There shall be no right of reimbursement to the governing unit  
8 from units of government whose law enforcement officers initiated the  
9 charges for which a person is being held in the jail for care provided  
10 after the charges are disposed of by sentencing or otherwise, unless by  
11 intergovernmental agreement pursuant to chapter 39.34 RCW.

12 (7) Under no circumstance shall necessary medical services be  
13 denied or delayed because of disputes over the cost of medical care or  
14 a determination of financial responsibility for payment of the costs of  
15 medical care provided to confined persons.

16 (8) Nothing in this section shall limit any existing right of any  
17 party, governing unit, or unit of government against the person  
18 receiving the care for the cost of the care provided.

19 **Sec. 87.** RCW 70.168.040 and 2010 c 161 s 1158 are each amended to  
20 read as follows:

21 The emergency medical services and trauma care system trust account  
22 is hereby created in the state treasury. Moneys shall be transferred  
23 to the emergency medical services and trauma care system trust account  
24 from the public safety education account or other sources as  
25 appropriated, and as collected under RCW 46.63.110(7) and 46.68.440.  
26 Disbursements shall be made by the department subject to legislative  
27 appropriation. Expenditures may be made only for the purposes of the  
28 state trauma care system under this chapter, including emergency  
29 medical services, trauma care services, rehabilitative services, and  
30 the planning and development of related services under this chapter and  
31 for reimbursement by the (~~department of social and health services~~)  
32 health care authority for trauma care services provided by designated  
33 trauma centers.

34 **Sec. 88.** RCW 70.225.040 and 2007 c 259 s 45 are each amended to  
35 read as follows:

36 (1) Prescription information submitted to the department shall be

1 confidential, in compliance with chapter 70.02 RCW and federal health  
2 care information privacy requirements and not subject to disclosure,  
3 except as provided in subsections (3) and (4) of this section.

4 (2) The department shall maintain procedures to ensure that the  
5 privacy and confidentiality of patients and patient information  
6 collected, recorded, transmitted, and maintained is not disclosed to  
7 persons except as in subsections (3) and (4) of this section.

8 (3) The department may provide data in the prescription monitoring  
9 program to the following persons:

10 (a) Persons authorized to prescribe or dispense controlled  
11 substances, for the purpose of providing medical or pharmaceutical care  
12 for their patients;

13 (b) An individual who requests the individual's own prescription  
14 monitoring information;

15 (c) Health professional licensing, certification, or regulatory  
16 agency or entity;

17 (d) Appropriate local, state, and federal law enforcement or  
18 prosecutorial officials who are engaged in a bona fide specific  
19 investigation involving a designated person;

20 (e) Authorized practitioners of the department of social and health  
21 services and the health care authority regarding medicaid program  
22 recipients;

23 (f) The director or director's designee within the department of  
24 labor and industries regarding workers' compensation claimants;

25 (g) The director or the director's designee within the department  
26 of corrections regarding offenders committed to the department of  
27 corrections;

28 (h) Other entities under grand jury subpoena or court order; and

29 (i) Personnel of the department for purposes of administration and  
30 enforcement of this chapter or chapter 69.50 RCW.

31 (4) The department may provide data to public or private entities  
32 for statistical, research, or educational purposes after removing  
33 information that could be used to identify individual patients,  
34 dispensers, prescribers, and persons who received prescriptions from  
35 dispensers.

36 (5) A dispenser or practitioner acting in good faith is immune from  
37 any civil, criminal, or administrative liability that might otherwise

1 be incurred or imposed for requesting, receiving, or using information  
2 from the program.

3 NEW SECTION. **Sec. 89.** The purpose of this chapter is to provide  
4 the health care authority with the powers, duties, and authority with  
5 respect to the collection of overpayments and the coordination of  
6 benefits that are currently provided to the department of social and  
7 health services in chapter 43.20B RCW. Providing the health care  
8 authority with these powers is necessary for the authority to  
9 administer medical services programs established under chapter 74.09  
10 RCW currently administered by the department of social and health  
11 services programs but transferred to the authority under this act. The  
12 authority is authorized to collaborate with other state agencies in  
13 carrying out its duties under this chapter and, to the extent  
14 appropriate, may enter into agreements with such other agencies.  
15 Nothing in this chapter may be construed as diminishing the powers,  
16 duties, and authority granted to the department of social and health  
17 services in chapter 43.20B RCW with respect to the programs that will  
18 remain under its jurisdiction following enactment of this act.

19 NEW SECTION. **Sec. 90.** The definitions in this section apply  
20 throughout this chapter unless the context clearly requires otherwise:

- 21 (1) "Assistance" means all programs administered by the authority.  
22 (2) "Authority" means the Washington state health care authority.  
23 (3) "Director" means the director of the Washington state health  
24 care authority.  
25 (4) "Overpayment" means any payment or benefit to a recipient or to  
26 a vendor in excess of that to which is entitled by law, rule, or  
27 contract, including amounts in dispute.  
28 (5) "Vendor" means a person or entity that provides goods or  
29 services to or for clientele of the authority and that controls  
30 operational decisions.

31 NEW SECTION. **Sec. 91.** The authority is authorized to charge fees  
32 for services provided unless otherwise prohibited by law. The fees may  
33 be sufficient to cover the full cost of the service provided if  
34 practical or may be charged on an ability-to-pay basis if practical.  
35 This section does not supersede other statutory authority enabling the

1 assessment of fees by the authority. Whenever the authority is  
2 authorized by law to collect total or partial reimbursement for the  
3 cost of its providing care of or exercising custody over any person,  
4 the authority shall collect the reimbursement to the extent practical.

5 NEW SECTION. **Sec. 92.** (1) Except as otherwise provided by law,  
6 including subsection (2) of this section, there may be no collection of  
7 overpayments and other debts due the authority after the expiration of  
8 six years from the date of notice of such overpayment or other debt  
9 unless the authority has commenced recovery action in a court of law or  
10 unless an administrative remedy authorized by statute is in place.  
11 However, any amount due in a case thus extended ceases to be a debt due  
12 the authority at the expiration of ten years from the date of the  
13 notice of the overpayment or other debt unless a court-ordered remedy  
14 would be in effect for a longer period.

15 (2) There may be no collection of debts due the authority after the  
16 expiration of twenty years from the date a lien is recorded pursuant to  
17 section 97 of this act.

18 (3) The authority, at any time, may accept offers of compromise of  
19 disputed claims or may grant partial or total write-off of any debt due  
20 the authority if it is no longer cost-effective to pursue. The  
21 authority shall adopt rules establishing the considerations to be made  
22 in the granting or denial of a partial or total write-off of debts.

23 NEW SECTION. **Sec. 93.** The form of the lien in section 95 of this  
24 act must be substantially as follows:

25 STATEMENT OF LIEN

26 Notice is hereby given that the State of Washington, Health Care  
27 Authority, has rendered assistance to . . . . ., a person who was  
28 injured on or about the . . . . . day of . . . . . in the county of  
29 . . . . . state of . . . . ., and the said authority hereby asserts  
30 a lien, to the extent provided in section 95 of this act, for the  
31 amount of such assistance, upon any sum due and owing . . . . . (name  
32 of injured person) from . . . . ., alleged to have caused the injury,  
33 and/or his or her insurer and from any other person or insurer liable  
34 for the injury or obligated to compensate the injured person on account  
35 of such injuries by contract or otherwise.

1 STATE OF WASHINGTON, HEALTH

2 CARE AUTHORITY

3 By: ..... (Title)

4 STATE OF WASHINGTON }  
5 } ss.  
6 COUNTY OF }

7 I, ....., being first duly sworn, on oath state: That I  
8 am ..... (title); that I have read the foregoing Statement  
9 of Lien, know the contents thereof, and believe the same to  
10 be true.

11 .....  
12 Signed and sworn to or affirmed before me this ....  
13 day of .....,....

14 by .....  
15 (name of person making statement).  
16 (Seal or stamp)

17 .....  
18 Notary Public in and for the State  
19 of Washington  
20 My appointment expires: .....

21 NEW SECTION. **Sec. 94.** (1) No settlement made by and between a  
22 recipient and either the tort feisor or insurer, or both, discharges or  
23 otherwise compromises the lien created in section 95 of this act  
24 without the express written consent of the director or the director's  
25 designee. Discretion to compromise such liens rests solely with the  
26 director or the director's designee.

27 (2) No settlement or judgment may be entered purporting to  
28 compromise the lien created by section 95 of this act without the  
29 express written consent of the director or the director's designee.

30 NEW SECTION. **Sec. 95.** (1) To secure reimbursement of any  
31 assistance paid as a result of injuries to or illness of a recipient  
32 caused by the negligence or wrong of another, the authority is



1 subrogated to the recipient's rights against a tort feisor or the tort  
2 feisor's insurer, or both.

3 (2) The authority has the right to file a lien upon any recovery by  
4 or on behalf of the recipient from such tort feisor or the tort  
5 feisor's insurer, or both, to the extent of the value of the assistance  
6 paid by the authority: PROVIDED, That such lien is not effective  
7 against recoveries subject to wrongful death when there are surviving  
8 dependents of the deceased. The lien becomes effective upon filing  
9 with the county auditor in the county where the assistance was  
10 authorized or where any action is brought against the tort feisor or  
11 insurer. The lien may also be filed in any other county or served upon  
12 the recipient in the same manner as a civil summons if, in the  
13 authority's discretion, such alternate filing or service is necessary  
14 to secure the authority's interest. The additional lien is effective  
15 upon filing or service.

16 (3) The lien of the authority may be against any claim, right of  
17 action, settlement proceeds, money, or benefits arising from an  
18 insurance program to which the recipient might be entitled (a) against  
19 the tort feisor or insurer of the tort feisor, or both, and (b) under  
20 any contract of insurance purchased by the recipient or by any other  
21 person providing coverage for the illness or injuries for which the  
22 assistance is paid or provided by the authority.

23 (4) If recovery is made by the authority under this section and the  
24 subrogation is fully or partially satisfied through an action brought  
25 by or on behalf of the recipient, the amount paid to the authority must  
26 bear its proportionate share of attorneys' fees and costs.

27 (a) The determination of the proportionate share to be borne by the  
28 authority must be based upon:

29 (i) The fees and costs approved by the court in which the action  
30 was initiated; or

31 (ii) The written agreement between the attorney and client which  
32 establishes fees and costs when fees and costs are not addressed by the  
33 court.

34 (b) When fees and costs have been approved by a court, after notice  
35 to the authority, the authority has the right to be heard on the matter  
36 of attorneys' fees and costs or its proportionate share.

37 (c) When fees and costs have not been addressed by the court, the  
38 authority shall receive at the time of settlement a copy of the written

1 agreement between the attorney and client which establishes fees and  
2 costs and may request and examine documentation of fees and costs  
3 associated with the case. The authority may bring an action in  
4 superior court to void a settlement if it believes the attorneys'  
5 calculation of its proportionate share of fees and costs is  
6 inconsistent with the written agreement between the attorney and client  
7 which establishes fees and costs or if the fees and costs associated  
8 with the case are exorbitant in relation to cases of a similar nature.

9 (5) The rights and remedies provided to the authority in this  
10 section to secure reimbursement for assistance, including the  
11 authority's lien and subrogation rights, may be delegated to a managed  
12 health care system by contract entered into pursuant to RCW 74.09.522.  
13 A managed health care system may enforce all rights and remedies  
14 delegated to it by the authority to secure and recover assistance  
15 provided under a managed health care system consistent with its  
16 agreement with the authority.

17 NEW SECTION. **Sec. 96.** (1) An attorney representing a person who,  
18 as a result of injuries or illness sustained through the negligence or  
19 wrong of another, has received, is receiving, or has applied to receive  
20 shall:

21 (a) Notify the authority at the time of filing any claim against a  
22 third party, commencing an action at law, negotiating a settlement, or  
23 accepting a settlement offer from the tort feisor or the tort feisor's  
24 insurer, or both; and

25 (b) Give the authority thirty days' notice before any judgment,  
26 award, or settlement may be satisfied in any action or any claim by the  
27 applicant or recipient to recover damages for such injuries or illness.

28 (2) The proceeds from any recovery made pursuant to any action or  
29 claim described in section 95 of this act that is necessary to fully  
30 satisfy the authority's lien against recovery must be placed in a trust  
31 account or in the registry of the court until the authority's lien is  
32 satisfied.

33 NEW SECTION. **Sec. 97.** (1) The authority shall file liens, seek  
34 adjustment, or otherwise effect recovery for assistance correctly paid  
35 on behalf of an individual consistent with 42 U.S.C. Sec. 1396p. The

1 authority shall adopt a rule providing for prior notice and hearing  
2 rights to the record title holder or purchaser under a land sale  
3 contract.

4 (2) Liens may be adjusted by foreclosure in accordance with chapter  
5 61.12 RCW.

6 (3) In the case of an individual who was fifty-five years of age or  
7 older when the individual received assistance, the authority shall seek  
8 adjustment or recovery from the individual's estate, and from  
9 nonprobate assets of the individual as defined by RCW 11.02.005, but  
10 only for assistance consisting of services that the authority  
11 determines to be appropriate, and related hospital and prescription  
12 drug services. Recovery from the individual's estate, including  
13 foreclosure of liens imposed under this section, must be undertaken as  
14 soon as practicable, consistent with 42 U.S.C. Sec. 1396p.

15 (4) The authority shall apply the assistance estate recovery law as  
16 it existed on the date that benefits were received when calculating an  
17 estate's liability to reimburse the authority for those benefits.

18 (5)(a) The authority shall establish procedures consistent with  
19 standards established by the federal department of health and human  
20 services and pursuant to 42 U.S.C. Sec. 1396p to waive recovery when  
21 such recovery would work an undue hardship. The authority shall  
22 recognize an undue hardship for a surviving domestic partner whenever  
23 recovery would not have been permitted if he or she had been a  
24 surviving spouse. The authority is not authorized to pursue recovery  
25 under such circumstances.

26 (b) Recovery of assistance from a recipient's estate may not  
27 include property made exempt from claims by federal law or treaty,  
28 including exemption for tribal artifacts that may be held by individual  
29 Native Americans.

30 (6) A lien authorized under this section relates back to attach to  
31 any real property that the decedent had an ownership interest in  
32 immediately before death and is effective as of that date or date of  
33 recording, whichever is earlier.

34 (7) The authority may enforce a lien authorized under this section  
35 against a decedent's life estate or joint tenancy interest in real  
36 property held by the decedent immediately prior to his or her death.  
37 Such a lien enforced under this subsection may not end and must

1 continue as provided in this subsection until the authority's lien has  
2 been satisfied.

3 (a) The value of the life estate subject to the lien is the value  
4 of the decedent's interest in the property subject to the life estate  
5 immediately prior to the decedent's death.

6 (b) The value of the joint tenancy interest subject to the lien is  
7 the value of the decedent's fractional interest the recipient would  
8 have owned in the jointly held interest in the property had the  
9 recipient and the surviving joint tenants held title to the property as  
10 tenants in common on the date of the recipient's death.

11 (c) The authority may not enforce the lien provided by this  
12 subsection against a bona fide purchaser or encumbrancer that obtains  
13 an interest in the property after the death of the recipient and before  
14 the authority records either its lien or the request for notice of  
15 transfer or encumbrance as provided by section 116 of this act.

16 (d) The authority may not enforce a lien provided by this  
17 subsection against any property right that vested prior to July 1,  
18 2005.

19 (8)(a) Subject to the requirements of 42 U.S.C. Sec. 1396p(a) and  
20 the conditions of this subsection (8), the authority is authorized to  
21 file a lien against the property of an individual prior to his or her  
22 death, and to seek adjustment and recovery from the individual's estate  
23 or sale of the property subject to the lien, if:

24 (i) The individual is an inpatient in a nursing facility,  
25 intermediate care facility for persons with intellectual disabilities,  
26 or other medical institution; and

27 (ii) The authority has determined after notice and opportunity for  
28 a hearing that the individual cannot reasonably be expected to be  
29 discharged from the medical institution and to return home.

30 (b) If the individual is discharged from the medical facility and  
31 returns home, the authority shall dissolve the lien.

32 (9) The authority is authorized to adopt rules to effect recovery  
33 under this section. The authority may adopt by rule later enactments  
34 of the federal laws referenced in this section.

35 (10) It is the responsibility of the authority to fully disclose in  
36 advance verbally and in writing, in easy to understand language, the  
37 terms and conditions of estate recovery to all persons offered care  
38 subject to recovery of payments.

1 (11) In disclosing estate recovery costs to potential clients, and  
2 to family members at the consent of the client, the authority shall  
3 provide a written description of the community service options.

4 NEW SECTION. **Sec. 98.** (1) Overpayments of assistance become a  
5 lien against the real and personal property of the recipient from the  
6 time of filing by the authority with the county auditor of the county  
7 in which the recipient resides or owns property, and the lien claim has  
8 preference over the claims of all unsecured creditors.

9 (2) Debts due the state for overpayments of assistance may be  
10 recovered by the state by deduction from the subsequent assistance  
11 payments to such persons, lien and foreclosure, or order to withhold  
12 and deliver, or may be recovered by civil action.

13 NEW SECTION. **Sec. 99.** (1) Any person who owes a debt to the state  
14 for an overpayment of assistance must be notified of that debt by  
15 either personal service or certified mail, return receipt requested.  
16 Personal service, return of the requested receipt, or refusal by the  
17 debtor of such notice is proof of notice to the debtor of the debt  
18 owed. Service of the notice must be in the manner prescribed for the  
19 service of a summons in a civil action. The notice must include a  
20 statement of the debt owed; a statement that the property of the debtor  
21 will be subject to collection action after the debtor terminates from  
22 assistance; a statement that the property will be subject to lien and  
23 foreclosure, distraint, seizure and sale, or order to withhold and  
24 deliver; and a statement that the net proceeds will be applied to the  
25 satisfaction of the overpayment debt. Action to collect the debt by  
26 lien and foreclosure, distraint, seizure and sale, or order to withhold  
27 and deliver, is lawful after ninety days from the debtor's termination  
28 from assistance or the receipt of the notice of debt, whichever is  
29 later. This does not preclude the authority from recovering  
30 overpayments by deduction from subsequent assistance payments, not  
31 exceeding deductions as authorized under federal law with regard to  
32 financial assistance programs: PROVIDED, That subject to federal legal  
33 requirement, deductions may not exceed five percent of the grant  
34 payment standard if the overpayment resulted from error on the part of  
35 the authority or error on the part of the recipient without willful or

1 knowing intent of the recipient in obtaining or retaining the  
2 overpayment.

3 (2) A current or former recipient who is aggrieved by a claim that  
4 he or she owes a debt for an overpayment of assistance has the right to  
5 an adjudicative proceeding pursuant to section 53 of this act. If no  
6 application is filed, the debt is subject to collection action as  
7 authorized under this chapter. If a timely application is filed, the  
8 execution of collection action on the debt is stayed pending the final  
9 adjudicative order or termination of the debtor from assistance,  
10 whichever occurs later.

11 NEW SECTION. **Sec. 100.** (1) After service of a notice of debt for  
12 an overpayment as provided for in section 99 of this act, stating the  
13 debt accrued, the director may issue to any person, firm, corporation,  
14 association, political subdivision, or department of the state an order  
15 to withhold and deliver property of any kind including, but not  
16 restricted to, earnings which are due, owing, or belonging to the  
17 debtor, when the director has reason to believe that there is in the  
18 possession of such person, firm, corporation, association, political  
19 subdivision, or department of the state property which is due, owing,  
20 or belonging to the debtor. The order to withhold and deliver must  
21 state the amount of the debt, and must state in summary the terms of  
22 this section, RCW 6.27.150 and 6.27.160, chapters 6.13 and 6.15 RCW, 15  
23 U.S.C. Sec. 1673, and other state or federal exemption laws applicable  
24 generally to debtors. The order to withhold and deliver must be served  
25 in the manner prescribed for the service of a summons in a civil action  
26 or by certified mail, return receipt requested. Any person, firm,  
27 corporation, association, political subdivision, or department of the  
28 state upon whom service has been made shall answer the order to  
29 withhold and deliver within twenty days, exclusive of the day of  
30 service, under oath and in writing, and shall make true answers to the  
31 matters inquired of therein. The director may require further and  
32 additional answers to be completed by the person, firm, corporation,  
33 association, political subdivision, or department of the state. If any  
34 such person, firm, corporation, association, political subdivision, or  
35 department of the state possesses any property which may be subject to  
36 the claim of the authority, such property must be withheld immediately  
37 upon receipt of the order to withhold and deliver and must, after the

1 twenty-day period, upon demand, be delivered forthwith to the director.  
2 The director shall hold the property in trust for application on the  
3 indebtedness involved or for return, without interest, in accordance  
4 with final determination of liability or nonliability. In the  
5 alternative, there may be furnished to the director a good and  
6 sufficient bond, satisfactory to the director, conditioned upon final  
7 determination of liability. Where money is due and owing under any  
8 contract of employment, express or implied, or is held by any person,  
9 firm, corporation, association, political subdivision, or department of  
10 the state subject to withdrawal by the debtor, such money must be  
11 delivered by remittance payable to the order of the director. Delivery  
12 to the director, subject to the exemptions under RCW 6.27.150 and  
13 6.27.160, chapters 6.13 and 6.15 RCW, 15 U.S.C. Sec. 1673, and other  
14 state or federal law applicable generally to debtors, of the money or  
15 other property held or claimed satisfies the requirement of the order  
16 to withhold and deliver. Delivery to the director serves as full  
17 acquittance, and the state warrants and represents that it shall defend  
18 and hold harmless for such actions persons delivering money or property  
19 to the director pursuant to this chapter. The state also warrants and  
20 represents that it shall defend and hold harmless for such actions  
21 persons withholding money or property pursuant to this chapter.

22 (2) The director shall also, on or before the date of service of  
23 the order to withhold and deliver, mail or cause to be mailed by  
24 certified mail a copy of the order to withhold and deliver to the  
25 debtor at the debtor's last known post office address or, in the  
26 alternative, a copy of the order to withhold and deliver must be served  
27 on the debtor in the same manner as a summons in a civil action on or  
28 before the date of service of the order or within two days thereafter.  
29 The copy of the order must be mailed or served together with a concise  
30 explanation of the right to petition for a hearing on any issue related  
31 to the collection. This requirement is not jurisdictional, but, if the  
32 copy is not mailed or served as provided in this section, or if any  
33 irregularity appears with respect to the mailing or service, the  
34 superior court, on its discretion on motion of the debtor promptly made  
35 and supported by affidavit showing that the debtor has suffered  
36 substantial injury due to the failure to mail the copy, may set aside  
37 the order to withhold and deliver and award to the debtor an amount

1 equal to the damages resulting from the director's failure to serve on  
2 or mail to the debtor the copy.

3 NEW SECTION. **Sec. 101.** If any person, firm, corporation,  
4 association, political subdivision, or department of the state fails to  
5 answer an order to withhold and deliver within the time prescribed in  
6 section 100 of this act, or fails or refuses to deliver property  
7 pursuant to the order, or after actual notice of filing of a lien as  
8 provided for in this chapter, pays over, releases, sells, transfers, or  
9 conveys real or personal property subject to such lien to or for the  
10 benefit of the debtor or any other person, or fails or refuses to  
11 surrender upon demand property distrained under section 100 of this  
12 act, or fails or refuses to honor an assignment of wages presented by  
13 the director, such person, firm, corporation, association, political  
14 subdivision, or department of the state is liable to the authority in  
15 an amount equal to one hundred percent of the value of the debt which  
16 is the basis of the lien, order to withhold and deliver, distraint, or  
17 assignment of wages, together with costs, interest, and reasonable  
18 attorneys' fees.

19 NEW SECTION. **Sec. 102.** Any person, firm, corporation,  
20 association, political subdivision, or department employing a person  
21 owing a debt for overpayment of assistance received shall honor,  
22 according to its terms, a duly executed assignment of earnings  
23 presented to the employer by the director as a plan to satisfy or  
24 retire an overpayment debt. This requirement to honor the assignment  
25 of earnings is applicable whether the earnings are to be paid presently  
26 or in the future and continues in force and effect until released in  
27 writing by the director. Payment of moneys pursuant to an assignment  
28 of earnings presented to the employer by the director serves as full  
29 acquittance under any contract of employment, and the state warrants  
30 and represents it shall defend and hold harmless such action taken  
31 pursuant to the assignment of earnings. The director is released from  
32 liability for improper receipt of moneys under assignment of earnings  
33 upon return of any moneys so received.

34 NEW SECTION. **Sec. 103.** If an improper real property transfer is  
35 made as defined in RCW 74.08.331 through 74.08.338, the authority may



1 request the attorney general to file suit to rescind the transaction  
2 except as to subsequent bona fide purchasers for value. If it is  
3 established by judicial proceedings that a fraudulent conveyance  
4 occurred, the value of any assistance which has been furnished may be  
5 recovered in any proceedings from the recipient or the recipient's  
6 estate.

7 NEW SECTION. **Sec. 104.** When the authority provides assistance to  
8 persons who possess excess real property under RCW 74.04.005(11)(g),  
9 the authority may file a lien against or otherwise perfect its interest  
10 in such real property as a condition of granting such assistance, and  
11 the authority has the status of a secured creditor.

12 NEW SECTION. **Sec. 105.** (1) When the authority determines that a  
13 vendor was overpaid by the authority for either goods or services, or  
14 both, provided to authority clients, except nursing homes under chapter  
15 74.46 RCW, the authority shall give written notice to the vendor. The  
16 notice must include the amount of the overpayment, the basis for the  
17 claim, and the rights of the vendor under this section.

18 (2) The notice may be served upon the vendor in the manner  
19 prescribed for the service of a summons in civil action or be mailed to  
20 the vendor at the last known address by certified mail, return receipt  
21 requested, demanding payment within twenty days of the date of receipt.

22 (3) The vendor has the right to an adjudicative proceeding governed  
23 by the administrative procedure act, chapter 34.05 RCW, and the rules  
24 of the authority. The vendor's application for an adjudicative  
25 proceeding must be in writing, state the basis for contesting the  
26 overpayment notice, and include a copy of the authority's notice. The  
27 application must be served on and received by the authority within  
28 twenty-eight days of the vendor's receipt of the notice of overpayment.  
29 The vendor must serve the authority in a manner providing proof of  
30 receipt.

31 (4) Where an adjudicative proceeding has been requested, the  
32 presiding or reviewing office shall determine the amount, if any, of  
33 the overpayment received by the vendor.

34 (5) If the vendor fails to attend or participate in the  
35 adjudicative proceeding, upon a showing of valid service, the presiding

1 or reviewing officer may enter an administrative order declaring the  
2 amount claimed in the notice to be assessed against the vendor and  
3 subject to collection action by the authority.

4 (6) Failure to make an application for an adjudicative proceeding  
5 within twenty-eight days of the date of notice results in the  
6 establishment of a final debt against the vendor in the amount asserted  
7 by the authority and that amount is subject to collection action. The  
8 authority may also charge the vendor with any costs associated with the  
9 collection of any final overpayment or debt established against the  
10 vendor.

11 (7) The authority may enforce a final overpayment or debt through  
12 lien and foreclosure, distraint, seizure and sale, order to withhold  
13 and deliver, or other collection action available to the authority to  
14 satisfy the debt due.

15 (8) Debts determined under this chapter are subject to collection  
16 action without further necessity of action by a presiding or reviewing  
17 officer. The authority may collect the debt in accordance with  
18 sections 100, 101, and 106 of this act. In addition, a vendor lien may  
19 be subject to distraint and seizure and sale in the same manner as  
20 prescribed for support liens in RCW 74.20A.130.

21 (9) Chapter 66, Laws of 1998 applies to overpayments for goods or  
22 services provided on or after July 1, 1998.

23 (10) The authority may adopt rules consistent with this section.

24 NEW SECTION. **Sec. 106.** (1) The authority may, at the director's  
25 discretion, secure the repayment of any outstanding overpayment, plus  
26 interest, if any, through the filing of a lien against the vendor's  
27 real property, or by requiring the posting of a bond, assignment of  
28 deposit, or some other form of security acceptable to the authority, or  
29 by doing both.

30 (a) Any lien is effective from the date of filing for record with  
31 the county auditor of the county in which the property is located and  
32 the lien claim has preference over the claims of all unsecured  
33 creditors.

34 (b) The authority shall review and determine the acceptability of  
35 all other forms of security.

36 (c) Any bond must be issued by a company licensed as a surety in  
37 the state of Washington.

1 (d) This subsection does not apply to nursing homes licensed under  
2 chapter 18.51 RCW or portions of hospitals licensed under chapter 70.41  
3 RCW and operating as a nursing home, if those facilities are subject to  
4 chapter 74.46 RCW.

5 (2) The authority may recover any overpayment, plus interest, if  
6 any, by setoff or recoupment against subsequent payments to the vendor.

7 NEW SECTION. **Sec. 107.** Liens created under section 106 of this  
8 act bind the affected property for a period of ten years after the lien  
9 has been recorded or ten years after the resolution of all good faith  
10 disputes as to the overpayment, whichever is later. Any civil action  
11 by the authority to enforce such lien must be timely commenced before  
12 the ten-year period expires or the lien is released. A civil action to  
13 enforce such lien is not timely commenced unless the summons and  
14 complaint are filed within the ten-year period in a court having  
15 jurisdiction and service of the summons and complaint is made upon all  
16 parties in the manner prescribed by appropriate civil court rules.

17 NEW SECTION. **Sec. 108.** Any action to enforce a vendor overpayment  
18 debt must be commenced within six years from the date of the  
19 authority's notice to the vendor.

20 NEW SECTION. **Sec. 109.** The remedies under sections 106 and 107 of  
21 this act are nonexclusive and nothing contained in this chapter may be  
22 construed to impair or affect the right of the authority to maintain a  
23 civil action or to pursue any other remedies available to it under the  
24 laws of this state to recover such debt.

25 NEW SECTION. **Sec. 110.** (1) Except as provided in subsection (4)  
26 of this section, vendors shall pay interest on overpayments at the rate  
27 of one percent per month or portion thereof. Where partial repayment  
28 of an overpayment is made, interest accrues on the remaining balance.  
29 Interest must not accrue when the overpayment occurred due to authority  
30 error.

31 (2) If the overpayment is discovered by the vendor prior to  
32 discovery and notice by the authority, the interest begins accruing  
33 ninety days after the vendor notifies the authority of such  
34 overpayment.

1 (3) If the overpayment is discovered by the authority prior to  
2 discovery and notice by the vendor, the interest begins accruing thirty  
3 days after the date of notice by the authority to the vendor.

4 (4) This section does not apply to:

5 (a) Interagency or intergovernmental transactions; and

6 (b) Contracts for public works, goods and services procured for the  
7 exclusive use of the authority, equipment, or travel.

8 NEW SECTION. **Sec. 111.** (1) To avoid a duplicate payment of  
9 benefits, a recipient of assistance from the authority is deemed to  
10 have subrogated the authority to the recipient's right to recover  
11 temporary total disability compensation due to the recipient and the  
12 recipient's dependents under Title 51 RCW, to the extent of such  
13 assistance or compensation, whichever is less. However, the amount to  
14 be repaid to the authority must bear its proportionate share of  
15 attorneys' fees and costs, if any, incurred under Title 51 RCW by the  
16 recipient or the recipient's dependents.

17 (2) The authority may assert and enforce a lien and notice to  
18 withhold and deliver to secure reimbursement. The authority shall  
19 identify in the lien and notice to withhold and deliver the recipient  
20 of assistance and temporary total disability compensation and the  
21 amount claimed by the authority.

22 NEW SECTION. **Sec. 112.** The effective date of the lien and notice  
23 to withhold and deliver provided in section 111 of this act is the day  
24 that it is received by the department of labor and industries or a  
25 self-insurer as defined in chapter 51.08 RCW. Service of the lien and  
26 notice to withhold and deliver may be made personally, by regular mail  
27 with postage prepaid, or by electronic means. A statement of lien and  
28 notice to withhold and deliver must be mailed to the recipient at the  
29 recipient's last known address by certified mail, return receipt  
30 requested, no later than two business days after the authority mails,  
31 delivers, or transmits the lien and notice to withhold and deliver to  
32 the department of labor and industries or a self-insurer.

33 NEW SECTION. **Sec. 113.** The director of labor and industries or  
34 the director's designee, or a self-insurer as defined in chapter 51.08  
35 RCW, following receipt of the lien and notice to withhold and deliver,

1 shall deliver to the director of the authority or the director's  
2 designee any temporary total disability compensation payable to the  
3 recipient named in the lien and notice to withhold and deliver up to  
4 the amount claimed. The director of labor and industries or  
5 self-insurer shall withhold and deliver from funds currently in the  
6 director's or self-insurer's possession or from any funds that may at  
7 any time come into the director's or self-insurer's possession on  
8 account of temporary total disability compensation payable to the  
9 recipient named in the lien and notice to withhold and deliver.

10 NEW SECTION. **Sec. 114.** (1) A recipient feeling aggrieved by the  
11 action of the authority in recovering his or her temporary total  
12 disability compensation as provided in sections 111 through 115 of this  
13 act has the right to an adjudicative proceeding.

14 (2) A recipient seeking an adjudicative proceeding shall file an  
15 application with the director within twenty-eight days after the  
16 statement of lien and notice to withhold and deliver was mailed to the  
17 recipient. If the recipient files an application more than  
18 twenty-eight days after, but within one year of, the date the statement  
19 of lien and notice to withhold and deliver was mailed, the recipient is  
20 entitled to a hearing if the recipient shows good cause for the  
21 recipient's failure to file a timely application. The filing of a late  
22 application does not affect prior collection action pending the final  
23 adjudicative order. Until good cause for failure to file a timely  
24 application is decided, the authority may continue to collect under the  
25 lien and notice to withhold and deliver.

26 (3) The proceeding shall be governed by chapter 34.05 RCW, the  
27 administrative procedure act.

28 NEW SECTION. **Sec. 115.** Sections 111 through 114 of this act and  
29 this section do not apply to persons whose eligibility for benefits  
30 under Title 51 RCW is based upon an injury or illness occurring prior  
31 to July 1, 1972.

32 NEW SECTION. **Sec. 116.** (1) When an individual receives assistance  
33 subject to recovery under this chapter and the individual is the holder  
34 of record title to real property or the purchaser under a land sale  
35 contract, the authority may present to the county auditor for recording

1 in the deed and mortgage records of a county a request for notice of  
2 transfer or encumbrance of the real property. The authority shall  
3 adopt a rule providing prior notice and hearing rights to the record  
4 title holder or purchaser under a land sale contract.

5 (2) The authority shall present to the county auditor for recording  
6 a termination of request for notice of transfer or encumbrance when, in  
7 the judgment of the authority, it is no longer necessary or appropriate  
8 for the authority to monitor transfers or encumbrances related to the  
9 real property.

10 (3) The authority shall adopt by rule a form for the request for  
11 notice of transfer or encumbrance and the termination of request for  
12 notice of transfer or encumbrance that, at a minimum:

13 (a) Contains the name of the assistance recipient and a case  
14 identifier or other appropriate information that links the individual  
15 who is the holder of record title to real property or the purchaser  
16 under a land sale contract to the individual's assistance records;

17 (b) Contains the legal description of the real property;

18 (c) Contains a mailing address for the authority to receive the  
19 notice of transfer or encumbrance; and

20 (d) Complies with the requirements for recording in RCW 36.18.010  
21 for those forms intended to be recorded.

22 (4) The authority shall pay the recording fee required by the  
23 county clerk under RCW 36.18.010.

24 (5) The request for notice of transfer or encumbrance described in  
25 this section does not affect title to real property and is not a lien  
26 on, encumbrance of, or other interest in the real property.

27 NEW SECTION. **Sec. 117.** (1) By December 10, 2011, the department  
28 of social and health services and the health care authority shall  
29 provide a preliminary report, and by December 1, 2012, provide a final  
30 implementation plan, to the governor and the legislature with  
31 recommendations regarding the role of the health care authority in the  
32 state's purchasing of mental health treatment, substance abuse  
33 treatment, and long-term care services, including services for those  
34 with developmental disabilities.

35 (2) The reports shall:

36 (a) Consider options for effectively coordinating the purchase and  
37 delivery of care for people who need long-term care, developmental

1 disabilities, mental health, or chemical dependency services. Options  
2 considered may include, but are not limited to, transitioning purchase  
3 of these services from the department of social and health services to  
4 the health care authority, and strategies for the agencies to  
5 collaborate seamlessly while purchasing services separately; and

6 (b) Address the following components:

7 (i) Incentives to improve prevention efforts;

8 (ii) Service delivery approaches, including models for care  
9 management and care coordination and benefit design;

10 (iii) Rules to assure that those requiring long-term care services  
11 and supports receive that care in the least restrictive setting  
12 appropriate to their needs;

13 (iv) Systems to measure cost savings;

14 (v) Mechanisms to measure health outcomes and consumer  
15 satisfaction;

16 (vi) The designation of a single point of entry for financial and  
17 functional eligibility determinations for long-term care services; and

18 (vii) Process for collaboration with local governments.

19 (3) In developing these recommendations, the agencies shall:

20 (a) Consult with tribal governments and with interested  
21 stakeholders, including consumers, health care and other service  
22 providers, health insurance carriers, and local governments; and

23 (b) Cooperate with the joint select committee on health reform  
24 implementation established in House Concurrent Resolution No. 4404 and  
25 any of its advisory committees. The agencies shall strongly consider  
26 the guidance and input received from these forums in the development of  
27 its recommendations.

28 (4) The agencies shall submit a progress report to the governor and  
29 the legislature by November 15, 2013, that provides details on the  
30 agencies' progress on purchasing coordination to date.

31 NEW SECTION. **Sec. 118.** The following acts or parts of acts are  
32 each repealed:

33 (1) RCW 74.09.085 (Contracts--Performance measures--Financial  
34 incentives) and 2005 c 446 s 3;

35 (2) RCW 74.09.110 (Administrative personnel--Professional  
36 consultants and screeners) and 1979 c 141 s 339 & 1959 c 26 s  
37 74.09.110;

- 1 (3) RCW 74.09.5221 (Medical assistance--Federal standards--  
2 Waivers--Application) and 1997 c 231 s 112;
- 3 (4) RCW 74.09.5227 (Implementation date--Payments for services  
4 provided by rural hospitals) and 2001 2nd sp.s. c 2 s 3;
- 5 (5) RCW 74.09.755 (AIDS--Community-based care--Federal social  
6 security act waiver) and 1989 c 427 s 12;
- 7 (6) RCW 43.20A.860 (Requirement to seek federal waivers and state  
8 law changes to medical assistance program) and 1995 c 265 s 26; and
- 9 (7) RCW 74.04.270 (Audit of accounts--Uniform accounting system)  
10 and 1979 c 141 s 304 & 1959 c 26 s 74.04.270.

11 **Sec. 119.** RCW 74.09.015 and 2007 c 259 s 16 are each amended to  
12 read as follows:

13 To the extent that sufficient funding is provided specifically for  
14 this purpose, the (~~department, in collaboration with the health care~~)  
15 authority(~~( $\tau$ )~~) shall provide all persons receiving services under this  
16 chapter with access to a twenty-four hour, seven day a week nurse  
17 hotline. The (~~health care~~) authority (~~(and the department of social  
18 and health services)~~) shall determine the most appropriate way to  
19 provide the nurse hotline under RCW 41.05.037 and this section, which  
20 may include use of the 211 system established in chapter 43.211 RCW.

21 NEW SECTION. **Sec. 120.** A new section is added to chapter 43.20A  
22 RCW to read as follows:

23 The secretary shall enter into agreements with the director of the  
24 health care authority, in his or her capacity as the director of the  
25 designated single state agency to administer medical services programs  
26 under Titles XIX and XXI of the social security act, to establish the  
27 division of responsibilities between the agencies with respect to  
28 mental health, chemical dependency, and long-term care services,  
29 including services for people with developmental disabilities. The  
30 agreements shall be revised, as necessary, to comply with the final  
31 implementation plan adopted in section 117 of this act.

32 NEW SECTION. **Sec. 121.** (1) All powers, duties, and functions of  
33 the department of social and health services pertaining to the medical  
34 assistance program and the medicaid purchasing administration are  
35 transferred to the health care authority to the extent necessary to



1 carry out the purposes of this act. All references to the secretary or  
2 the department of social and health services in the Revised Code of  
3 Washington shall be construed to mean the director or the health care  
4 authority when referring to the functions transferred in this section.

5 (2)(a) All reports, documents, surveys, books, records, files,  
6 papers, or written material in the possession of the department of  
7 social and health services pertaining to the powers, functions, and  
8 duties transferred shall be delivered to the custody of the health care  
9 authority. All cabinets, furniture, office equipment, motor vehicles,  
10 and other tangible property employed by the department of social and  
11 health services in carrying out the powers, functions, and duties  
12 transferred shall be made available to the health care authority. All  
13 funds, credits, or other assets held in connection with the powers,  
14 functions, and duties transferred shall be assigned to the health care  
15 authority.

16 (b) Any appropriations made to the department of social and health  
17 services for carrying out the powers, functions, and duties transferred  
18 shall, on the effective date of this section, be transferred and  
19 credited to the health care authority.

20 (c) Whenever any question arises as to the transfer of any  
21 personnel, funds, books, documents, records, papers, files, equipment,  
22 or other tangible property used or held in the exercise of the powers  
23 and the performance of the duties and functions transferred, the  
24 director of financial management shall make a determination as to the  
25 proper allocation and certify the same to the state agencies concerned.

26 (3) All employees of the medicaid purchasing administration at the  
27 department of social and health services are transferred to the  
28 jurisdiction of the health care authority. All employees classified  
29 under chapter 41.06 RCW, the state civil service law, are assigned to  
30 the health care authority to perform their usual duties upon the same  
31 terms as formerly, without any loss of rights, subject to any action  
32 that may be appropriate thereafter in accordance with the laws and  
33 rules governing state civil service.

34 (4) All rules and all pending business before the department of  
35 social and health services pertaining to the powers, functions, and  
36 duties transferred shall be continued and acted upon by the health care  
37 authority. All existing contracts and obligations shall remain in full  
38 force and shall be performed by the health care authority.

1 (5) The transfer of the powers, duties, functions, and personnel of  
2 the department of social and health services shall not affect the  
3 validity of any act performed before the effective date of this  
4 section.

5 (6) If apportionments of budgeted funds are required because of the  
6 transfers directed by this section, the director of financial  
7 management shall certify the apportionments to the agencies affected,  
8 the state auditor, and the state treasurer. Each of these shall make  
9 the appropriate transfer and adjustments in funds and appropriation  
10 accounts and equipment records in accordance with the certification.

11 (7) A nonsupervisory medicaid purchasing unit bargaining unit is  
12 created at the health care authority. All nonsupervisory civil service  
13 employees of the medicaid purchasing administration at the department  
14 of social and health services assigned to the health care authority  
15 under this section whose positions are within the existing bargaining  
16 unit description at the department of social and health services shall  
17 become a part of the nonsupervisory medicaid purchasing unit bargaining  
18 unit at the health care authority under the provisions of chapter 41.80  
19 RCW. The exclusive bargaining representative of the existing  
20 bargaining unit at the department of social and health services is  
21 certified as the exclusive bargaining representative of the  
22 nonsupervisory medicaid purchasing unit bargaining unit at the health  
23 care authority without the necessity of an election.

24 (8) A supervisory medicaid purchasing unit bargaining unit is  
25 created at the health care authority. All supervisory civil service  
26 employees of the medicaid purchasing administration at the department  
27 of social and health services assigned to the health care authority  
28 under this section whose positions are within the existing bargaining  
29 unit description at the department of social and health services shall  
30 become a part of the supervisory medicaid purchasing unit bargaining  
31 unit at the health care authority under the provisions of chapter 41.80  
32 RCW. The exclusive bargaining representative of the existing  
33 bargaining unit at the department of social and health services is  
34 certified as the exclusive bargaining representative of the supervisory  
35 medicaid purchasing unit bargaining unit at the health care authority  
36 without the necessity of an election.

37 (9) The bargaining units of employees created under this section  
38 are appropriate units under the provisions of chapter 41.80 RCW.

1 However, nothing contained in this section shall be construed to alter  
2 the authority of the public employment relations commission under the  
3 provisions of chapter 41.80 RCW to amend or modify the bargaining  
4 units.

5 (10) Positions from the department of social and health services  
6 central administration are transferred to the jurisdiction of the  
7 health care authority. Employees classified under chapter 41.06 RCW,  
8 the state civil service law, are assigned to the health care authority  
9 to perform their usual duties upon the same terms as formerly, without  
10 any loss of rights, subject to any action that may be appropriate  
11 thereafter in accordance with the laws and rules governing state civil  
12 service.

13 (11) All classified employees of the department of social and  
14 health services central administration assigned to the health care  
15 authority under subsection (10) of this section whose positions are  
16 within an existing bargaining unit description at the health care  
17 authority shall become a part of the existing bargaining unit at the  
18 health care authority and shall be considered an appropriate inclusion  
19 or modification of the existing bargaining unit under the provisions of  
20 chapter 41.80 RCW.

21 NEW SECTION. **Sec. 122.** The code reviser shall note wherever  
22 "administrator" is used or referred to in the Revised Code of  
23 Washington as the head of the health care authority that the title of  
24 the agency head has been changed to "director." The code reviser shall  
25 prepare legislation for the 2012 regular session that changes all  
26 statutory references to "administrator" of the health care authority to  
27 "director" of the health care authority.

28 NEW SECTION. **Sec. 123.** RCW 43.20A.365 is recodified as a section  
29 in chapter 74.09 RCW.

30 NEW SECTION. **Sec. 124.** Sections 89 through 116 of this act  
31 constitute a new chapter in Title 41 RCW, to be codified as chapter  
32 41.05A RCW.

33 NEW SECTION. **Sec. 125.** Sections 74 through 76 of this act expire  
34 June 30, 2012.

1        NEW SECTION.    **Sec. 126.**    If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 remainder of the act or the application of the provision to other  
4 persons or circumstances is not affected.

5        NEW SECTION.    **Sec. 127.**    This act is necessary for the immediate  
6 preservation of the public peace, health, or safety, or support of the  
7 state government and its existing public institutions, and takes effect  
8 July 1, 2011.

--- END ---