
SENATE BILL 5540

State of Washington

63rd Legislature

2013 Regular Session

By Senators Parlette, Schlicher, Becker, Bailey, Dammeier, Keiser, Rolfes, and Frockt

Read first time 02/01/13. Referred to Committee on Health Care .

1 AN ACT Relating to expanding opportunities to purchase health care
2 coverage from out-of-state carriers; amending RCW 48.05.070 and
3 48.21.047; adding new sections to chapter 48.21 RCW; and adding a new
4 section to chapter 43.71 RCW.

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

6 **Sec. 1.** RCW 48.05.070 and 1947 c 79 s .05.07 are each amended to
7 read as follows:

8 To apply for an original certificate of authority an insurer shall:

9 (1) File with the commissioner its request therefor showing:

10 (a) Its name, home office location, type of insurer, organization
11 date, and state or country of its domicile.

12 (b) The kinds of insurance it proposes to transact.

13 (c) Additional information as the commissioner may reasonably
14 require.

15 (2) File with the commissioner:

16 (a) A copy of its charter as amended, certified, if a foreign or
17 alien insurer, by the proper public officer of the state or country of
18 domicile.

19 (b) A copy of its bylaws, certified by its proper officer.

1 (c) A statement of its financial condition, management, and affairs
2 on a form satisfactory to or furnished by the commissioner.

3 (d) If a foreign or alien insurer, or a domestic reciprocal
4 insurer, an appointment of the commissioner as its attorney to receive
5 service of legal process.

6 (e) If an alien insurer, a copy of the appointment and authority of
7 its United States manager, certified by its proper officer.

8 (f) If a foreign or alien insurer, a certificate from the proper
9 public official of its state or country of domicile showing that it is
10 duly organized and is authorized to transact the kinds of insurance
11 proposed to be transacted.

12 (g) If a domestic reciprocal insurer, the declaration required by
13 RCW 48.10.090 of this code.

14 (h) Other documents or stipulations as the commissioner may
15 reasonably require to evidence compliance with the provisions of this
16 code.

17 (3) A foreign insurer is not required to comply with subsection
18 (2)(a), (b), (c), (e), or (g) of this section if it is a qualifying
19 reciprocal plan. A qualifying reciprocal plan is a foreign insurer
20 that:

21 (a) Is authorized in a state that is a member of the consortium
22 authorized in section 5 of this act;

23 (b) Proposes to sell in Washington only a health benefit plan that:

24 (i) Has benefits substantially equivalent to the essential health
25 benefits designated in Washington under P.L. 111-148 of 2010, as
26 amended;

27 (ii) Has been approved by a state with which the commissioner has
28 a reciprocity agreement; and

29 (iii) Is not a health savings account or qualified high deductible
30 health plan; and

31 (c) Has and maintains total adjusted capital that is greater than
32 three times its authorized control level risk-based capital.

33 (4) Deposit with the commissioner the fees required by this code to
34 be paid for filing the accompanying documents, and for the certificate
35 of authority, if granted.

36 **Sec. 2.** RCW 48.21.047 and 2010 c 292 s 8 are each amended to read
37 as follows:

1 (1) An insurer may not offer any health benefit plan to any small
2 employer without complying with RCW 48.21.045(3).

3 (2) Employers purchasing health plans provided through associations
4 or through member-governed groups formed specifically for the purpose
5 of purchasing health care are not small employers and the plans are not
6 subject to RCW 48.21.045(3).

7 (3) A qualifying reciprocal plan as set forth in RCW 48.05.070(3)
8 is not subject to RCW 48.21.045.

9 (4) For purposes of this section, "health benefit plan," "health
10 plan," and "small employer" mean the same as defined in RCW 48.43.005.

11 ((+4)) (5) For purposes of this section, "census date" has the
12 same meaning as defined in RCW 48.44.010.

13 NEW SECTION. Sec. 3. A new section is added to chapter 48.21 RCW
14 to read as follows:

15 (1) Each qualifying reciprocal plan issued or renewed pursuant to
16 RCW 48.05.070, 48.21.047, and sections 3 through 6 of this act must
17 contain the following declaration in bold face type at the beginning of
18 the document:

19 "The benefits in this policy do not include each of the benefits
20 required by the state of Washington. (Name of state) initially
21 approved this policy for sale, and the benefit requirements of that
22 state are reflected in the policy. The rates applied to calculate
23 premium were not approved by the state of Washington, but by (Name of
24 State). Those requirements may be different from the requirements for
25 policies approved by Washington. Please consult your insurance agent
26 or insurer to determine which health benefits are covered under the
27 policy."

28 (2) Each insurer and producer offering a qualifying reciprocal plan
29 pursuant to RCW 48.05.070, 48.21.047, and sections 3 through 6 of this
30 act must provide applicants with a written side-by-side comparison of
31 health benefits under the plan, including differences in definition of
32 each benefit between Washington law and the law of the approving state,
33 whether the benefit is required under Washington law, and the
34 difference in the premium rate due to the difference in state laws.

35 (3) An insurer offering qualifying reciprocal plans under RCW
36 48.05.070, 48.21.047, and sections 3 through 6 of this act must offer
37 the plan through producers who comply with the requirements of chapter

1 48.17 RCW. Electronic marketing and sales of out-of-state policies are
2 permitted if a producer is available in Washington with whom the
3 applicant can discuss the qualifying plan.

4 NEW SECTION. **Sec. 4.** A new section is added to chapter 48.21 RCW
5 to read as follows:

6 (1) A health benefit plan offered by a foreign insurer authorized
7 under RCW 48.05.070(3) is not required to include health benefit
8 mandates required under this title that are not included in the
9 qualifying reciprocal plan as defined in RCW 48.05.070(3).

10 (2) A qualifying reciprocal plan must be filed with the
11 commissioner for approval pursuant to RCW 48.18.100. The commissioner
12 must approve the plan for use in this state if the plan meets the
13 requirements in RCW 48.05.070(3), and must disapprove it if it does
14 not. The commissioner may, but is not required to, accept the
15 determination of a member consortium state as to whether or not the
16 qualifying reciprocal plan is substantially equivalent to the essential
17 health benefits in Washington.

18 (3) Other than as provided in this section, RCW 48.18.110 may not
19 be grounds for disapproval of a qualifying reciprocal plan.

20 (4) To the extent consistent with federal law, the requirements of
21 chapter 48.43 RCW do not apply to a qualifying reciprocal plan.

22 NEW SECTION. **Sec. 5.** A new section is added to chapter 48.21 RCW
23 to read as follows:

24 (1) Beginning July 1, 2014, the commissioner is authorized to
25 contract with other states to establish and operate a consortium
26 governing the sale to small groups of a qualifying reciprocal plan, as
27 defined in RCW 48.05.070(3), by insurers admitted to one of the states
28 in the consortium.

29 (2) By January 1, 2014, the commissioner must report to the
30 legislature which states have been identified, and include a plan for
31 seeking a reciprocity agreement with at least one state. The
32 commissioner may not enter into such an agreement until the
33 commissioner has identified a minimum of five states whose regulatory
34 requirements for the offer and issue of health benefit plans meets or
35 exceeds those of Washington in the areas of network adequacy, consumer

1 protection, marketing requirements, and claims adjudication and
2 processing. The reciprocity consortium may commence with an agreement
3 with just one of the states.

4 (3) A state may not join the consortium if it authorizes two or
5 more carriers domiciled in Washington that offer health benefit plans,
6 unless five or more other states have joined the consortium.

7 (4) The commissioner may enter into separate reciprocity
8 agreements, or one uniform agreement. Any reciprocity agreement must
9 establish rules for the management of consumer questions and complaints
10 related to health benefit plans approved by one member state but sold
11 in another. The commissioner may adopt rules to implement consortium
12 rules as necessary to comply with the consortium agreement.

13 (5) Reciprocity consortium states must agree to provide the
14 commissioner with a list of approved health benefit plans that meet the
15 standard under RCW 48.05.070, 48.21.047, and sections 3 through 6 of
16 this act, and their premium rate schedules as they are approved. If a
17 health benefit plan is disapproved or otherwise removed from the market
18 pursuant to regulatory action or order, a reciprocity consortium state
19 must notify the commissioner of this action.

20 (6) The reciprocity consortium agreement must establish a mechanism
21 for payment of premium tax pursuant to chapter 48.14 RCW, payment of
22 regulatory surcharge pursuant to RCW 48.02.190, and collection of any
23 reinsurance or risk adjustment assessments that would otherwise be
24 applicable but for the domicile of the selling insurer.

25 (7) Insurers must inform the consortium states in writing of their
26 intent to offer a qualifying reciprocal policy as set forth in RCW
27 48.05.070(3) in consortium states not less than sixty days prior to the
28 first date of offer. Reciprocity consortium member states may
29 establish their own requirements for notification and offer.

30 (8) The commissioner must report to the legislature by December 1st
31 of each year after the effective date of this section on the
32 reciprocity consortium's formation, membership, the number of health
33 benefit plans offered in Washington through the consortium, effect on
34 the marketplace in Washington, including the health benefits exchange,
35 and must recommend whether continuing reciprocity sales serves the
36 public health and welfare.

1 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.71 RCW
2 to read as follows:

3 A qualifying reciprocal plan offered by a foreign insurer
4 authorized under RCW 48.05.070(3) may be certified as a qualified
5 health plan through the exchange only if it, and its issuer, meet the
6 requirements of the exchange for certification as a qualified health
7 plan.

--- END ---