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HOUSE BILL 2189

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State of Washington

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By Representatives Campbell, Morris, Patterson, Smith, McMahan, Sheldon, Conway, Kessler, Hymes, Basich, Costa, Goldsmith and Hargrove

Read first time 01/08/96. Referred to Committee on Health Care.

1 AN ACT Relating to consumer choice of health care providers;  
2 amending RCW 48.43.005 and 48.43.045; adding a new section to chapter  
3 48.43 RCW; and adding a new section to chapter 43.70 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 48.43 RCW  
6 to read as follows:

7 It is the intent of this act to expand access to health care  
8 providers so that Washington state residents, not the government or the  
9 health insurance companies, select health care providers for themselves  
10 and their families. It is also the intent of this act to provide a  
11 fair and reasonable system of consumer protection to the residents of  
12 this state who purchase health insurance, consistent with the best  
13 principles of quality assurance, cost efficiency, and market  
14 competition.

15 **Sec. 2.** RCW 48.43.005 and 1995 c 265 s 4 are each amended to read  
16 as follows:

17 Unless otherwise specifically provided, the definitions in this  
18 section apply throughout this chapter.

1 (1) "Adjusted community rate" means the rating method used to  
2 establish the premium for health plans adjusted to reflect actuarially  
3 demonstrated differences in utilization or cost attributable to  
4 geographic region, age, family size, and use of wellness activities.

5 (2) "Covered person" or "enrollee" means a person covered by a  
6 health plan including an enrollee, subscriber, policyholder,  
7 beneficiary of a group plan, or individual covered by any other health  
8 plan.

9 (3) "Eligible employee" means an employee who works on a full-time  
10 basis with a normal work week of thirty or more hours. The term  
11 includes a self-employed individual, including a sole proprietor, a  
12 partner of a partnership, and may include an independent contractor, if  
13 the self-employed individual, sole proprietor, partner, or independent  
14 contractor is included as an employee under a health benefit plan of a  
15 small employer, but does not work less than thirty hours per week and  
16 derives at least seventy-five percent of his or her income from a trade  
17 or business through which he or she has attempted to earn taxable  
18 income and for which he or she has filed the appropriate internal  
19 revenue service form. Persons covered under a health benefit plan  
20 pursuant to the consolidated omnibus budget reconciliation act of 1986  
21 shall not be considered eligible employees for purposes of minimum  
22 participation requirements of chapter 265, Laws of 1995.

23 (4) "Enrollee point-of-service cost-sharing" means amounts paid to  
24 health carriers directly providing services, health care providers, or  
25 health care facilities by enrollees and may include copayments,  
26 coinsurance, or deductibles.

27 (5) "Health care facility" or "facility" means hospices licensed  
28 under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW,  
29 rural health care facilities as defined in RCW 70.175.020, psychiatric  
30 hospitals licensed under chapter 71.12 RCW, nursing homes licensed  
31 under chapter 18.51 RCW, community mental health centers licensed under  
32 chapter 71.05 or 71.24 RCW, kidney disease treatment centers licensed  
33 under chapter 70.41 RCW, ambulatory diagnostic, treatment, or surgical  
34 facilities licensed under chapter 70.41 RCW, drug and alcohol treatment  
35 facilities licensed under chapter 70.96A RCW, and home health agencies  
36 licensed under chapter 70.127 RCW, and includes such facilities if  
37 owned and operated by a political subdivision or instrumentality of the  
38 state and such other facilities as required by federal law and  
39 implementing regulations.

1 (6) "Health care provider" or "provider" means:  
2 (a) A person regulated under Title 18 or chapter 70.127 RCW, to  
3 practice health or health-related services or otherwise practicing  
4 health care services in this state consistent with state law; or  
5 (b) An employee or agent of a person described in (a) of this  
6 subsection, acting in the course and scope of his or her employment.  
7 (7) "Health care service" means that service offered or provided by  
8 health care facilities and health care providers relating to the  
9 prevention, cure, or treatment of illness, injury, or disease.  
10 (8) "Health carrier" or "carrier" means a disability insurer  
11 regulated under chapter 48.20 or 48.21 RCW, a health care service  
12 contractor as defined in RCW 48.44.010, ~~((or))~~ a health maintenance  
13 organization as defined in RCW 48.46.020, plans operating under the  
14 state health care authority under chapter 41.05 RCW, the state health  
15 insurance pool operating under chapter 48.41 RCW, and insuring entities  
16 regulated under this chapter.  
17 (9) "Health plan" or "health benefit plan" means any policy,  
18 contract, or agreement offered by a health carrier to provide, arrange,  
19 reimburse, or pay for health care service except the following:  
20 (a) Long-term care insurance governed by chapter 48.84 RCW;  
21 (b) Medicare supplemental health insurance governed by chapter  
22 48.66 RCW;  
23 (c) Limited health care service offered by limited health care  
24 service contractors in accordance with RCW 48.44.035;  
25 (d) Disability income;  
26 (e) Coverage incidental to a property/casualty liability insurance  
27 policy such as automobile personal injury protection coverage and  
28 homeowner guest medical;  
29 (f) Workers' compensation coverage;  
30 (g) Accident only coverage;  
31 (h) Specified disease and hospital confinement indemnity when  
32 marketed solely as a supplement to a health plan;  
33 (i) Employer-sponsored self-funded health plans; and  
34 (j) Dental only and vision only coverage.  
35 (10) "Basic health plan services" means that schedule of covered  
36 health services, including the description of how those benefits are to  
37 be administered, that are required to be delivered to an enrollee under  
38 the basic health plan, as revised from time to time.

1 (11) "Preexisting condition" means any medical condition, illness,  
2 or injury that existed any time prior to the effective date of  
3 coverage.

4 (12) "Premium" means all sums charged, received, or deposited by a  
5 health carrier as consideration for a health plan or the continuance of  
6 a health plan. Any assessment or any "membership," "policy,"  
7 "contract," "service," or similar fee or charge made by a health  
8 carrier in consideration for a health plan is deemed part of the  
9 premium. "Premium" shall not include amounts paid as enrollee point-  
10 of-service cost-sharing.

11 (13) "Small employer" means any person, firm, corporation,  
12 partnership, association, political subdivision except school  
13 districts, or self-employed individual that is actively engaged in  
14 business that, on at least fifty percent of its working days during the  
15 preceding calendar quarter, employed no more than fifty eligible  
16 employees, with a normal work week of thirty or more hours, the  
17 majority of whom were employed within this state, and is not formed  
18 primarily for purposes of buying health insurance and in which a bona  
19 fide employer-employee relationship exists. In determining the number  
20 of eligible employees, companies that are affiliated companies, or that  
21 are eligible to file a combined tax return for purposes of taxation by  
22 this state, shall be considered an employer. Subsequent to the  
23 issuance of a health plan to a small employer and for the purpose of  
24 determining eligibility, the size of a small employer shall be  
25 determined annually. Except as otherwise specifically provided, a  
26 small employer shall continue to be considered a small employer until  
27 the plan anniversary following the date the small employer no longer  
28 meets the requirements of this definition. The term "small employer"  
29 includes a self-employed individual or sole proprietor. The term  
30 "small employer" also includes a self-employed individual or sole  
31 proprietor who derives at least seventy-five percent of his or her  
32 income from a trade or business through which the individual or sole  
33 proprietor has attempted to earn taxable income and for which he or she  
34 has filed the appropriate internal revenue service form 1040, schedule  
35 C or F, for the previous taxable year.

36 (14) "Wellness activity" means an explicit program of an activity  
37 consistent with department of health guidelines, such as, smoking  
38 cessation, injury and accident prevention, reduction of alcohol misuse,  
39 appropriate weight reduction, exercise, automobile and motorcycle

1 safety, blood cholesterol reduction, and nutrition education for the  
2 purpose of improving enrollee health status and reducing health service  
3 costs.

4 (15) "Basic health plan" means the plan described under chapter  
5 70.47 RCW, as revised from time to time.

6 (16) "Point-of-service option" means a health plan option offered  
7 by a carrier that permits an enrollee to receive health care from a  
8 provider or at a facility chosen by the enrollee, with or without  
9 point-of-service cost-sharing.

10 (17) "Standards of patient care" means rules adopted pursuant to  
11 section 4 of this act to assure that appropriate health care is  
12 provided in the appropriate setting.

13 **Sec. 3.** RCW 48.43.045 and 1995 c 265 s 8 are each amended to read  
14 as follows:

15 (1) Every carrier, with respect to every health plan delivered,  
16 issued for delivery, or renewed ((by a health carrier)) on and after  
17 January 1, ((1996)) 1997, shall:

18 ((+1)) (a) Permit every enrollee to choose a health care provider  
19 without referral from another provider or from a carrier employee or  
20 contract administrator.

21 (b) Include enrollee point-of-service cost-sharing requirements  
22 only to assure efficient and effective delivery of health care  
23 services, as determined by the insurance commissioner. Such  
24 requirements may not discriminate against any type of provider included  
25 in the plan and must be written and applied on a substantially fair and  
26 uniform basis among all health care providers.

27 (c) Permit every ((category of)) individual health care provider  
28 licensed or certified under Title 18 RCW or chapter 70.127 RCW to  
29 provide health services or care for conditions ((included in the basic  
30 health plan services)) to the extent that:

31 ((+a)) (i) The plan covers the condition or provides the service;

32 (ii) The provision of such health services or care is within the  
33 health care providers' permitted scope of practice; and

34 ((+b)) (iii) The providers agree to abide by standards related to:

35 ((+i)) (A) Provision, utilization review, and cost containment of  
36 health services;

37 ((+ii)) (B) Management and administrative procedures; and

1       (~~(iii)~~) (C) Provision of cost-effective and clinically  
2 efficacious health services.

3       (~~(2)~~) (d) Annually report the names and addresses of all  
4 officers, directors, or trustees of the health carrier during the  
5 preceding year, and the amount of wages, expense reimbursements, or  
6 other payments to such individuals.

7       (e) Provide to health plan enrollees using the point-of-service  
8 option a level of payment for health care services at an amount no less  
9 than that established by the United States health care financing  
10 administration's resource-based relative value scale for the  
11 substantial similar health care service.

12       (2) Subsection (1)(c) of this section does not apply to:

13       (a) Any provider whose license, certification, or registration has  
14 been suspended or revoked within five years prior to the provider's  
15 application to contract with a carrier to provide health care services;  
16 or

17       (b) Any provider who violates the terms and conditions of the  
18 provider's contract with the carrier, but only after the grievance and  
19 dispute resolution procedures of the contract and of the insurance  
20 commissioner adopted pursuant to subsection (4) of this section have  
21 been complied with and only for a maximum period of five years.

22       (3) A health maintenance organization, to the extent that it  
23 directly employs providers, is in compliance with this section so long  
24 as the health maintenance organization:

25       (a) Permits every category of health care provider regulated under  
26 chapter 18.130 RCW to provide health services or care for conditions to  
27 the extent that:

28       (i) The plan covers the condition or provides the service or care;

29       (ii) The provision of such health services or care is within the  
30 health care provider's permitted scope of practice; and

31       (iii) The provider agrees to abide by standards related to:

32       (A) Provision, utilization review, and cost-containment of health  
33 services;

34       (B) Management and administrative procedures; and

35       (C) Provision of cost-effective and clinically efficacious health  
36 services; and

37       (b) Complies with section 4 of this act.

38       (4) The insurance commissioner shall adopt such rules as are  
39 appropriate and necessary to give full effect to the provisions and

1 intent of this act, including but not limited to rules defining unfair  
2 practices, grievance and dispute resolution procedures, provider  
3 selection and termination criteria, reasonable contracting terms and  
4 conditions, and fair and reasonable cost-sharing requirements.

5 (5) No provider or facility may enter into an agreement or contract  
6 in violation of this act.

7 NEW SECTION. Sec. 4. A new section is added to chapter 43.70 RCW  
8 to read as follows:

9 (1) Any quality assurance commission, professional regulatory  
10 board, committee, or professional association for professions subject  
11 to the secretary's authority under chapter 18.130 RCW may recommend to  
12 the secretary the adoption of rules providing for standards of patient  
13 care with respect to the terms and conditions of a contract or  
14 agreement between a licensee and a payer of health care services.  
15 Recommendations shall be considered by the secretary only if the  
16 proposed rule would foster strict compliance with standards of patient  
17 care, professional conduct, and scopes of practice; would promote  
18 quality medical and health practice to improve the public's health  
19 status; would prevent unreasonable interference with patient access to  
20 needed health services; and would protect the public health and safety.

21 (2) The secretary is authorized to adopt rules based upon  
22 recommendations made in accordance with subsection (1) of this section.  
23 When practical and appropriate, and with the approval of the  
24 appropriate commission, board, or committee, the secretary shall apply  
25 the rules to all licensees to promote consistent standards for  
26 contracting between licensees and payers of health services. The costs  
27 of developing and adopting rules pursuant to this section shall be  
28 borne by the profession affected.

29 (3) Beginning one year after the promulgation of standards of  
30 patient care under this section, the secretary may impose such  
31 standards of patient care as a condition of licensure, certification,  
32 or registration. Entering into a contract with a health carrier or  
33 other purchaser of health care services that does not meet such  
34 standards shall constitute a violation of practice requirements.

35 (4) If standards applicable to a given profession are not developed  
36 by that profession or adopted by the secretary, any standards developed  
37 or used by a carrier or others in connection with provision of health  
38 care services by that profession must be consistent with this act and

1 are subject to review and approval by the insurance commissioner in  
2 consultation with the secretary.

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