
SENATE BILL 5789

State of Washington

60th Legislature

2007 Regular Session

By Senators Parlette, Haugen, Pflug, Rockefeller, Carrell, Kastama, Rasmussen, Schoesler, Berkey, Hewitt, Brandland, Morton, Swecker, Stevens, Clements, Benton, Sheldon, Holmquist, Shin and Roach

Read first time 01/31/2007. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to changing insurance requirements for small
2 employers; amending RCW 70.47A.040, 48.21.045, 48.44.023, 48.46.066,
3 48.21.047, 48.43.028, 48.44.024, and 48.46.068; and creating a new
4 section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that many small
7 employers struggle with the cost of providing employer-sponsored health
8 insurance coverage to their employees, while others are unable to offer
9 coverage due to its high cost. It is the intent of the legislature to
10 encourage the availability of less expensive health insurance plans,
11 and expand the flexibility of small employers to purchase less
12 expensive products.

13 **Sec. 2.** RCW 70.47A.040 and 2006 c 255 s 4 are each amended to read
14 as follows:

15 (1) Beginning July 1, 2007, the administrator shall accept
16 applications from eligible employees, on behalf of themselves, their
17 spouses, and their dependent children, to receive premium subsidies
18 through the small employer health insurance partnership program.

1 (2) Premium subsidy payments may be provided to eligible employees
2 (~~(if+)~~) or participating carriers on behalf of employees.

3 (a) The eligible employee (~~(is)~~) must be employed by a small
4 employer(~~(+)~~).

5 (b) (~~The actuarial value of the health benefit plan offered by the~~
6 ~~small employer is at least equivalent to that of the basic health plan~~
7 ~~benefit offered under chapter 70.47 RCW. The office of the insurance~~
8 ~~commissioner under Title 48 RCW shall certify those small employer~~
9 ~~health benefit plans that are at least actuarially equivalent to the~~
10 ~~basic health plan benefit; and~~) Small employers may offer any
11 available health benefit plan including health savings accounts.
12 Health savings account subsidy payments may be provided to eligible
13 employees if the eligible employee participates in an
14 employer-sponsored high deductible health plan and health savings
15 account that conforms to the requirements of the United States internal
16 revenue service.

17 (c) The small employer will pay at least forty percent of the
18 monthly premium cost for health benefit plan coverage of the eligible
19 employee.

20 (3) The amount of an eligible employee's premium subsidy shall be
21 determined by applying the sliding scale subsidy schedule developed for
22 subsidized basic health plan enrollees under RCW 70.47.060 to the
23 employee's premium obligation for his or her employer's health benefit
24 plan.

25 (4) After an eligible individual has enrolled in the program, the
26 program shall issue subsidies in an amount determined pursuant to
27 subsection (3) of this section to either the eligible employee or to
28 the carrier designated by the eligible employee.

29 (5) An eligible employee must agree to provide verification of
30 continued enrollment in his or her small employer's health benefit plan
31 on a semiannual basis or to notify the administrator whenever his or
32 her enrollment status changes, whichever is earlier. Verification or
33 notification may be made directly by the employee, or through his or
34 her employer or the carrier providing the small employer health benefit
35 plan. When necessary, the administrator has the authority to perform
36 retrospective audits on premium subsidy accounts. The administrator
37 may suspend or terminate an employee's participation in the program and
38 seek repayment of any subsidy amounts paid due to the omission or

1 misrepresentation of an applicant or enrolled employee. The
2 administrator shall adopt rules to define the appropriate application
3 of these sanctions and the processes to implement the sanctions
4 provided in this subsection, within available resources.

5 **Sec. 3.** RCW 48.21.045 and 2004 c 244 s 1 are each amended to read
6 as follows:

7 (1)~~((a))~~ An insurer offering any health benefit plan to a small
8 employer, either directly or through an association or member-governed
9 group formed specifically for the purpose of purchasing health care,
10 may offer and actively market to the small employer ((a)) no more than
11 one health benefit plan featuring a limited schedule of covered health
12 care services. ~~((Nothing in this subsection shall preclude an insurer~~
13 ~~from offering, or a small employer from purchasing, other health~~
14 ~~benefit plans that may have more comprehensive benefits than those~~
15 ~~included in the product offered under this subsection. An insurer~~
16 ~~offering a health benefit plan under this subsection shall clearly~~
17 ~~disclose all covered benefits to the small employer in a brochure filed~~
18 ~~with the commissioner.~~

19 ~~(b) A health benefit plan offered under this subsection shall~~
20 ~~provide coverage for hospital expenses and services rendered by a~~
21 ~~physician licensed under chapter 18.57 or 18.71 RCW but is not subject~~
22 ~~to the requirements of RCW 48.21.130, 48.21.140, 48.21.141, 48.21.142,~~
23 ~~48.21.144, 48.21.146, 48.21.160 through 48.21.197, 48.21.200,~~
24 ~~48.21.220, 48.21.225, 48.21.230, 48.21.235, 48.21.240, 48.21.244,~~
25 ~~48.21.250, 48.21.300, 48.21.310, or 48.21.320.~~

26 ~~(2))~~ (a) The plan offered under this subsection may be offered
27 with a choice of cost-sharing arrangements, and may, but is not
28 required to, comply with: RCW 48.21.130 through 48.21.240, 48.21.244
29 through 48.21.280, 48.21.300 through 48.21.320, 48.43.045(1) except as
30 required in (b) of this subsection, 48.43.093, 48.43.115 through
31 48.43.185, 48.43.515(5), or 48.42.100.

32 (b) In offering the plan under this subsection, the insurer must
33 offer the small employer the option of permitting every category of
34 health care provider to provide health services or care for conditions
35 covered by the plan pursuant to RCW 48.43.045(1).

36 (2) An insurer offering the plan under subsection (1) of this

1 section must also offer and actively market to the small employer at
2 least one additional health benefit plan.

3 (3) Nothing in this section shall prohibit an insurer from
4 offering, or a purchaser from seeking, health benefit plans with
5 benefits in excess of the health benefit plan offered under subsection
6 (1) of this section. All forms, policies, and contracts shall be
7 submitted for approval to the commissioner, and the rates of any plan
8 offered under this section shall be reasonable in relation to the
9 benefits thereto.

10 ~~((3))~~ (4) Premium rates for health benefit plans for small
11 employers as defined in this section shall be subject to the following
12 provisions:

13 (a) The insurer shall develop its rates based on an adjusted
14 community rate and may only vary the adjusted community rate for:

- 15 (i) Geographic area;
- 16 (ii) Family size;
- 17 (iii) Age; and
- 18 (iv) Wellness activities.

19 (b) The adjustment for age in (a)(iii) of this subsection may not
20 use age brackets smaller than five-year increments, which shall begin
21 with age twenty and end with age sixty-five. Employees under the age
22 of twenty shall be treated as those age twenty.

23 (c) The insurer shall be permitted to develop separate rates for
24 individuals age sixty-five or older for coverage for which medicare is
25 the primary payer and coverage for which medicare is not the primary
26 payer. Both rates shall be subject to the requirements of this
27 subsection ~~((3))~~ (4).

28 (d) The permitted rates for any age group shall be no more than
29 four hundred twenty-five percent of the lowest rate for all age groups
30 on January 1, 1996, four hundred percent on January 1, 1997, and three
31 hundred seventy-five percent on January 1, 2000, and thereafter.

32 (e) A discount for wellness activities shall be permitted to
33 reflect actuarially justified differences in utilization or cost
34 attributed to such programs.

35 (f) The rate charged for a health benefit plan offered under this
36 section may not be adjusted more frequently than annually except that
37 the premium may be changed to reflect:

- 38 (i) Changes to the enrollment of the small employer;

1 (ii) Changes to the family composition of the employee;
2 (iii) Changes to the health benefit plan requested by the small
3 employer; or
4 (iv) Changes in government requirements affecting the health
5 benefit plan.

6 (g) Rating factors shall produce premiums for identical groups that
7 differ only by the amounts attributable to plan design, with the
8 exception of discounts for health improvement programs.

9 (h) For the purposes of this section, a health benefit plan that
10 contains a restricted network provision shall not be considered similar
11 coverage to a health benefit plan that does not contain such a
12 provision, provided that the restrictions of benefits to network
13 providers result in substantial differences in claims costs. A carrier
14 may develop its rates based on claims costs (~~((due to network provider
15 reimbursement schedules or type of network))~~) for a plan. This
16 subsection does not restrict or enhance the portability of benefits as
17 provided in RCW 48.43.015.

18 (i) Except for small group health benefit plans that qualify as
19 insurance coverage combined with a health savings account defined by
20 the United States internal revenue service, adjusted community rates
21 established under this section shall pool the medical experience of all
22 small groups purchasing coverage. However, annual rate adjustments for
23 each small group health benefit plan may vary by up to plus or minus
24 (~~((four))~~) eight percentage points from the overall adjustment of a
25 carrier's entire small group pool, (~~((such overall adjustment to be
26 approved by the commissioner, upon a showing by the carrier, certified
27 by a member of the American academy of actuaries that: (i) The
28 variation is a result of deductible leverage, benefit design, or
29 provider network characteristics; and (ii) for a rate renewal period,
30 the projected weighted average of all small group benefit plans will
31 have a revenue neutral effect on the carrier's small group pool.
32 Variations of greater than four percentage points are subject to review
33 by the commissioner, and must be approved or denied within sixty days
34 of submittal))~~) if certified by a member of the American academy of
35 actuaries, that: (i) The variation is a result of deductible leverage,
36 benefit design, claims cost trend for the plan, or provider network
37 characteristics; and (ii) for a rate renewal period, the projected
38 weighted average of all small group benefit plans will have a revenue

1 neutral effect on the carrier's small group pool. Variations of
2 greater than eight percentage points are subject to review by the
3 commissioner and must be approved or denied within thirty days of
4 submittal. A variation that is not denied within (~~sixty~~) thirty days
5 shall be deemed approved. The commissioner must provide to the carrier
6 a detailed actuarial justification for any denial (~~within thirty~~
7 ~~days~~) at the time of the denial.

8 (~~(4)~~) (5) Nothing in this section shall restrict the right of
9 employees to collectively bargain for insurance providing benefits in
10 excess of those provided herein.

11 (~~(5)~~) (6)(a) Except as provided in this subsection, requirements
12 used by an insurer in determining whether to provide coverage to a
13 small employer shall be applied uniformly among all small employers
14 applying for coverage or receiving coverage from the carrier.

15 (b) An insurer shall not require a minimum participation level
16 greater than:

17 (i) One hundred percent of eligible employees working for groups
18 with three or less employees; and

19 (ii) Seventy-five percent of eligible employees working for groups
20 with more than three employees.

21 (c) In applying minimum participation requirements with respect to
22 a small employer, a small employer shall not consider employees or
23 dependents who have similar existing coverage in determining whether
24 the applicable percentage of participation is met.

25 (d) An insurer may not increase any requirement for minimum
26 employee participation or modify any requirement for minimum employer
27 contribution applicable to a small employer at any time after the small
28 employer has been accepted for coverage.

29 (~~(6)~~) (7) An insurer must offer coverage to all eligible
30 employees of a small employer and their dependents. An insurer may not
31 offer coverage to only certain individuals or dependents in a small
32 employer group or to only part of the group. An insurer may not modify
33 a health plan with respect to a small employer or any eligible employee
34 or dependent, through riders, endorsements or otherwise, to restrict or
35 exclude coverage or benefits for specific diseases, medical conditions,
36 or services otherwise covered by the plan.

37 (~~(7)~~) (8) As used in this section, "health benefit plan," "small

1 employer," "adjusted community rate," and "wellness activities" mean
2 the same as defined in RCW 48.43.005.

3 **Sec. 4.** RCW 48.44.023 and 2004 c 244 s 7 are each amended to read
4 as follows:

5 (1)((~~a~~)) A health care services contractor offering any health
6 benefit plan to a small employer, either directly or through an
7 association or member-governed group formed specifically for the
8 purpose of purchasing health care, may offer and actively market to the
9 small employer ((~~a~~)) no more than one health benefit plan featuring a
10 limited schedule of covered health care services. ((~~Nothing in this~~
11 ~~subsection shall preclude a contractor from offering, or a small~~
12 ~~employer from purchasing, other health benefit plans that may have more~~
13 ~~comprehensive benefits than those included in the product offered under~~
14 ~~this subsection. A contractor offering a health benefit plan under~~
15 ~~this subsection shall clearly disclose all covered benefits to the~~
16 ~~small employer in a brochure filed with the commissioner.~~

17 (~~b~~) A health benefit plan offered under this subsection shall
18 provide coverage for hospital expenses and services rendered by a
19 physician licensed under chapter 18.57 or 18.71 RCW but is not subject
20 to the requirements of RCW 48.44.225, 48.44.240, 48.44.245, 48.44.290,
21 48.44.300, 48.44.310, 48.44.320, 48.44.325, 48.44.330, 48.44.335,
22 48.44.340, 48.44.344, 48.44.360, 48.44.400, 48.44.440, 48.44.450, and
23 48.44.460.

24 (~~2~~) (a) The plan offered under this subsection may be offered
25 with a choice of cost-sharing arrangements, and may, but is not
26 required to, comply with: RCW 48.44.210, 48.44.212, 48.44.225,
27 48.44.240 through 48.44.245, 48.44.290 through 48.44.340, 48.44.344,
28 48.44.360 through 48.44.380, 48.44.400, 48.44.420, 48.44.440 through
29 48.44.460, 48.44.500, 48.43.045(1) except as required in (b) of this
30 subsection, 48.43.093, 48.43.115 through 48.43.185, 48.43.515(5), or
31 48.42.100.

32 (b) In offering the plan under this subsection, the health care
33 service contractor must offer the small employer the option of
34 permitting every category of health care provider to provide health
35 services or care for conditions covered by the plan pursuant to RCW
36 48.43.045(1).

1 (2) A health care service contractor offering the plan under
2 subsection (1) of this section must also offer and actively market to
3 the small employer at least one additional health benefit plan.

4 (3) Nothing in this section shall prohibit a health care service
5 contractor from offering, or a purchaser from seeking, health benefit
6 plans with benefits in excess of the health benefit plan offered under
7 subsection (1) of this section. All forms, policies, and contracts
8 shall be submitted for approval to the commissioner, and the rates of
9 any plan offered under this section shall be reasonable in relation to
10 the benefits thereto.

11 ~~((3))~~ (4) Premium rates for health benefit plans for small
12 employers as defined in this section shall be subject to the following
13 provisions:

14 (a) The contractor shall develop its rates based on an adjusted
15 community rate and may only vary the adjusted community rate for:

- 16 (i) Geographic area;
- 17 (ii) Family size;
- 18 (iii) Age; and
- 19 (iv) Wellness activities.

20 (b) The adjustment for age in (a)(iii) of this subsection may not
21 use age brackets smaller than five-year increments, which shall begin
22 with age twenty and end with age sixty-five. Employees under the age
23 of twenty shall be treated as those age twenty.

24 (c) The contractor shall be permitted to develop separate rates for
25 individuals age sixty-five or older for coverage for which medicare is
26 the primary payer and coverage for which medicare is not the primary
27 payer. Both rates shall be subject to the requirements of this
28 subsection ~~((3))~~ (4).

29 (d) The permitted rates for any age group shall be no more than
30 four hundred twenty-five percent of the lowest rate for all age groups
31 on January 1, 1996, four hundred percent on January 1, 1997, and three
32 hundred seventy-five percent on January 1, 2000, and thereafter.

33 (e) A discount for wellness activities shall be permitted to
34 reflect actuarially justified differences in utilization or cost
35 attributed to such programs.

36 (f) The rate charged for a health benefit plan offered under this
37 section may not be adjusted more frequently than annually except that
38 the premium may be changed to reflect:

- 1 (i) Changes to the enrollment of the small employer;
- 2 (ii) Changes to the family composition of the employee;
- 3 (iii) Changes to the health benefit plan requested by the small
4 employer; or
- 5 (iv) Changes in government requirements affecting the health
6 benefit plan.

7 (g) Rating factors shall produce premiums for identical groups that
8 differ only by the amounts attributable to plan design, with the
9 exception of discounts for health improvement programs.

10 (h) For the purposes of this section, a health benefit plan that
11 contains a restricted network provision shall not be considered similar
12 coverage to a health benefit plan that does not contain such a
13 provision, provided that the restrictions of benefits to network
14 providers result in substantial differences in claims costs. A carrier
15 may develop its rates based on claims costs (~~(due to network provider
16 reimbursement schedules or type of network))~~ for a plan. This
17 subsection does not restrict or enhance the portability of benefits as
18 provided in RCW 48.43.015.

19 (i) Except for small group health benefit plans that qualify as
20 insurance coverage combined with a health savings account as defined by
21 the United States internal revenue service, adjusted community rates
22 established under this section shall pool the medical experience of all
23 groups purchasing coverage. However, annual rate adjustments for each
24 small group health benefit plan may vary by up to plus or minus
25 (~~four~~) eight percentage points from the overall adjustment of a
26 carrier's entire small group pool(~~(, such overall adjustment to be
27 approved by the commissioner, upon a showing by the carrier, certified
28 by a member of the American academy of actuaries that: (i) The
29 variation is a result of deductible leverage, benefit design, or
30 provider network characteristics; and (ii) for a rate renewal period,
31 the projected weighted average of all small group benefit plans will
32 have a revenue neutral effect on the carrier's small group pool.
33 Variations of greater than four percentage points are subject to review
34 by the commissioner, and must be approved or denied within sixty days
35 of submittal))~~ if certified by a member of the American academy of
36 actuaries, that: (i) The variation is a result of deductible leverage,
37 benefit design, claims cost trend for the plan, or provider network
38 characteristics; and (ii) for a rate renewal period, the projected

1 weighted average of all small group benefit plans will have a revenue
2 neutral effect on the carrier's small group pool. Variations of
3 greater than eight percentage points are subject to review by the
4 commissioner and must be approved or denied within thirty days of
5 submittal. A variation that is not denied within (~~sixty~~) thirty days
6 shall be deemed approved. The commissioner must provide to the carrier
7 a detailed actuarial justification for any denial (~~within thirty~~
8 ~~days~~) at the time of the denial.

9 (~~(+4)~~) (5) Nothing in this section shall restrict the right of
10 employees to collectively bargain for insurance providing benefits in
11 excess of those provided herein.

12 (~~(+5)~~) (6)(a) Except as provided in this subsection, requirements
13 used by a contractor in determining whether to provide coverage to a
14 small employer shall be applied uniformly among all small employers
15 applying for coverage or receiving coverage from the carrier.

16 (b) A contractor shall not require a minimum participation level
17 greater than:

18 (i) One hundred percent of eligible employees working for groups
19 with three or less employees; and

20 (ii) Seventy-five percent of eligible employees working for groups
21 with more than three employees.

22 (c) In applying minimum participation requirements with respect to
23 a small employer, a small employer shall not consider employees or
24 dependents who have similar existing coverage in determining whether
25 the applicable percentage of participation is met.

26 (d) A contractor may not increase any requirement for minimum
27 employee participation or modify any requirement for minimum employer
28 contribution applicable to a small employer at any time after the small
29 employer has been accepted for coverage.

30 (~~(+6)~~) (7) A contractor must offer coverage to all eligible
31 employees of a small employer and their dependents. A contractor may
32 not offer coverage to only certain individuals or dependents in a small
33 employer group or to only part of the group. A contractor may not
34 modify a health plan with respect to a small employer or any eligible
35 employee or dependent, through riders, endorsements or otherwise, to
36 restrict or exclude coverage or benefits for specific diseases, medical
37 conditions, or services otherwise covered by the plan.

1 **Sec. 5.** RCW 48.46.066 and 2004 c 244 s 9 are each amended to read
2 as follows:

3 (1)~~((a))~~ A health maintenance organization offering any health
4 benefit plan to a small employer, either directly or through an
5 association or member-governed group formed specifically for the
6 purpose of purchasing health care, may offer and actively market to the
7 small employer ~~((a))~~ no more than one health benefit plan featuring a
8 limited schedule of covered health care services. ~~((Nothing in this~~
9 ~~subsection shall preclude a health maintenance organization from~~
10 ~~offering, or a small employer from purchasing, other health benefit~~
11 ~~plans that may have more comprehensive benefits than those included in~~
12 ~~the product offered under this subsection. A health maintenance~~
13 ~~organization offering a health benefit plan under this subsection shall~~
14 ~~clearly disclose all the covered benefits to the small employer in a~~
15 ~~brochure filed with the commissioner.~~

16 ~~(b) A health benefit plan offered under this subsection shall~~
17 ~~provide coverage for hospital expenses and services rendered by a~~
18 ~~physician licensed under chapter 18.57 or 18.71 RCW but is not subject~~
19 ~~to the requirements of RCW 48.46.275, 48.46.280, 48.46.285, 48.46.290,~~
20 ~~48.46.350, 48.46.355, 48.46.375, 48.46.440, 48.46.480, 48.46.510,~~
21 ~~48.46.520, and 48.46.530.~~

22 ~~(2))~~ (a) The plan offered under this subsection may be offered
23 with a choice of cost-sharing arrangements, and may, but is not
24 required to, comply with: RCW 48.46.250, 48.46.272 through 48.46.290,
25 48.46.320, 48.46.350, 48.46.375, 48.46.440 through 48.46.460,
26 48.46.480. 48.46.490, 48.46.510, 48.46.520, 48.46.530, 48.46.565,
27 48.46.570, 48.46.575, 48.43.045(1) except as required in (b) of this
28 subsection, 48.43.093, 48.43.115 through 48.43.185, 48.43.515(5), or
29 48.42.100.

30 (b) In offering the plan under this subsection, the health
31 maintenance organization must offer the small employer the option of
32 permitting every category of health care provider to provide health
33 services or care for conditions covered by the plan pursuant to RCW
34 48.43.045(1).

35 (2) A health maintenance organization offering the plan under
36 subsection (1) of this section must also offer and actively market to
37 the small employer at least one additional health benefit plan.

1 (3) Nothing in this section shall prohibit a health maintenance
2 organization from offering, or a purchaser from seeking, health benefit
3 plans with benefits in excess of the health benefit plan offered under
4 subsection (1) of this section. All forms, policies, and contracts
5 shall be submitted for approval to the commissioner, and the rates of
6 any plan offered under this section shall be reasonable in relation to
7 the benefits thereto.

8 ~~((+3+))~~ (4) Premium rates for health benefit plans for small
9 employers as defined in this section shall be subject to the following
10 provisions:

11 (a) The health maintenance organization shall develop its rates
12 based on an adjusted community rate and may only vary the adjusted
13 community rate for:

- 14 (i) Geographic area;
- 15 (ii) Family size;
- 16 (iii) Age; and
- 17 (iv) Wellness activities.

18 (b) The adjustment for age in (a)(iii) of this subsection may not
19 use age brackets smaller than five-year increments, which shall begin
20 with age twenty and end with age sixty-five. Employees under the age
21 of twenty shall be treated as those age twenty.

22 (c) The health maintenance organization shall be permitted to
23 develop separate rates for individuals age sixty-five or older for
24 coverage for which medicare is the primary payer and coverage for which
25 medicare is not the primary payer. Both rates shall be subject to the
26 requirements of this subsection ~~((+3+))~~ (4).

27 (d) The permitted rates for any age group shall be no more than
28 four hundred twenty-five percent of the lowest rate for all age groups
29 on January 1, 1996, four hundred percent on January 1, 1997, and three
30 hundred seventy-five percent on January 1, 2000, and thereafter.

31 (e) A discount for wellness activities shall be permitted to
32 reflect actuarially justified differences in utilization or cost
33 attributed to such programs.

34 (f) The rate charged for a health benefit plan offered under this
35 section may not be adjusted more frequently than annually except that
36 the premium may be changed to reflect:

- 37 (i) Changes to the enrollment of the small employer;
- 38 (ii) Changes to the family composition of the employee;

1 (iii) Changes to the health benefit plan requested by the small
2 employer; or
3 (iv) Changes in government requirements affecting the health
4 benefit plan.
5 (g) Rating factors shall produce premiums for identical groups that
6 differ only by the amounts attributable to plan design, with the
7 exception of discounts for health improvement programs.
8 (h) For the purposes of this section, a health benefit plan that
9 contains a restricted network provision shall not be considered similar
10 coverage to a health benefit plan that does not contain such a
11 provision, provided that the restrictions of benefits to network
12 providers result in substantial differences in claims costs. A carrier
13 may develop its rates based on claims costs (~~(due to network provider~~
14 ~~reimbursement schedules or type of network)) for a plan. This~~
15 subsection does not restrict or enhance the portability of benefits as
16 provided in RCW 48.43.015.
17 (i) Except for small group health benefit plans that qualify as
18 insurance coverage combined with a health savings account as defined by
19 the United States internal revenue service, adjusted community rates
20 established under this section shall pool the medical experience of all
21 groups purchasing coverage. However, annual rate adjustments for each
22 small group health benefit plan may vary by up to plus or minus
23 (~~four~~) eight percentage points from the overall adjustment of a
24 carrier's entire small group pool(~~(, such overall adjustment to be~~
25 ~~approved by the commissioner, upon a showing by the carrier, certified~~
26 ~~by a member of the American academy of actuaries that: (i) The~~
27 ~~variation is a result of deductible leverage, benefit design, or~~
28 ~~provider network characteristics; and (ii) for a rate renewal period,~~
29 ~~the projected weighted average of all small group benefit plans will~~
30 ~~have a revenue neutral effect on the carrier's small group pool.~~
31 ~~Variations of greater than four percentage points are subject to review~~
32 ~~by the commissioner, and must be approved or denied within sixty days~~
33 ~~of submittal)) if certified by a member of the American academy of
34 actuaries, that: (i) The variation is a result of deductible leverage,
35 benefit design, claims cost trend for the plan, or provider network
36 characteristics; and (ii) for a rate renewal period, the projected
37 weighted average of all small group benefit plans will have a revenue
38 neutral effect on the health maintenance organization's small group~~

1 pool. Variations of greater than eight percentage points are subject
2 to review by the commissioner and must be approved or denied within
3 thirty days of submittal. A variation that is not denied within
4 ~~((sixty))~~ thirty days shall be deemed approved. The commissioner must
5 provide to the carrier a detailed actuarial justification for any
6 denial ~~((within thirty days))~~ at the time of the denial.

7 ~~((4))~~ (5) Nothing in this section shall restrict the right of
8 employees to collectively bargain for insurance providing benefits in
9 excess of those provided herein.

10 ~~((5))~~ (6)(a) Except as provided in this subsection, requirements
11 used by a health maintenance organization in determining whether to
12 provide coverage to a small employer shall be applied uniformly among
13 all small employers applying for coverage or receiving coverage from
14 the carrier.

15 (b) A health maintenance organization shall not require a minimum
16 participation level greater than:

17 (i) One hundred percent of eligible employees working for groups
18 with three or less employees; and

19 (ii) Seventy-five percent of eligible employees working for groups
20 with more than three employees.

21 (c) In applying minimum participation requirements with respect to
22 a small employer, a small employer shall not consider employees or
23 dependents who have similar existing coverage in determining whether
24 the applicable percentage of participation is met.

25 (d) A health maintenance organization may not increase any
26 requirement for minimum employee participation or modify any
27 requirement for minimum employer contribution applicable to a small
28 employer at any time after the small employer has been accepted for
29 coverage.

30 ~~((6))~~ (7) A health maintenance organization must offer coverage
31 to all eligible employees of a small employer and their dependents. A
32 health maintenance organization may not offer coverage to only certain
33 individuals or dependents in a small employer group or to only part of
34 the group. A health maintenance organization may not modify a health
35 plan with respect to a small employer or any eligible employee or
36 dependent, through riders, endorsements or otherwise, to restrict or
37 exclude coverage or benefits for specific diseases, medical conditions,
38 or services otherwise covered by the plan.

1 **Sec. 6.** RCW 48.21.047 and 2005 c 223 s 11 are each amended to read
2 as follows:

3 (1) An insurer may not offer any health benefit plan to any small
4 employer without complying with RCW 48.21.045(~~((3))~~) (4).

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

9 (3) 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 **Sec. 7.** RCW 48.43.028 and 2001 c 196 s 10 are each amended to read
12 as follows:

13 To the extent required of the federal health insurance portability
14 and accountability act of 1996, the eligibility of an employer or group
15 to purchase a health benefit plan set forth in RCW 48.21.045(1)(~~((b))~~),
16 48.44.023(1)(~~((b))~~), and 48.46.066(1)(~~((b))~~) must be extended to all
17 small employers and small groups as defined in RCW 48.43.005.

18 **Sec. 8.** RCW 48.44.024 and 2003 c 248 s 15 are each amended to read
19 as follows:

20 (1) A health care service contractor may not offer any health
21 benefit plan to any small employer without complying with RCW
22 48.44.023(~~((3))~~) (4).

23 (2) Employers purchasing health plans provided through associations
24 or through member-governed groups formed specifically for the purpose
25 of purchasing health care are not small employers and the plans are not
26 subject to RCW 48.44.023(~~((3))~~) (4).

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

29 **Sec. 9.** RCW 48.46.068 and 2003 c 248 s 16 are each amended to read
30 as follows:

31 (1) A health maintenance organization may not offer any health
32 benefit plan to any small employer without complying with RCW
33 48.46.066(~~((3))~~) (4).

34 (2) Employers purchasing health plans provided through associations

1 or through member-governed groups formed specifically for the purpose
2 of purchasing health care are not small employers and are not subject
3 to RCW 48.46.066(~~(3)~~) (4).

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

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