

**RCW 48.43.715 Individual and small group market—Selection of benchmark plan—Minimum requirements—Criteria—List of state-mandated health benefits.** (1) Until the effective date of an updated essential health benefits benchmark plan submitted under section 1, chapter 87, Laws of 2023, the commissioner, in consultation with the board and the health care authority, shall, by rule, select the largest small group plan in the state by enrollment as the benchmark plan for the individual and small group market for purposes of establishing the essential health benefits in Washington state.

(2) If the essential health benefits benchmark plan for the individual and small group market does not include all of the 10 essential health benefits categories, the commissioner, in consultation with the board and the health care authority, shall, by rule, supplement the benchmark plan benefits as needed.

(3) All individual and small group health plans must cover the 10 essential health benefits categories, other than a health plan offered through the federal basic health program, a grandfathered health plan, or medicaid. Such a health plan may not be offered in the state unless the commissioner finds that it is substantially equal to the benchmark plan. When making this determination, the commissioner:

(a) Must ensure that the plan covers the 10 essential health benefits categories;

(b) May consider whether the health plan has a benefit design that would create a risk of biased selection based on health status and whether the health plan contains meaningful scope and level of benefits in each of the ten essential health benefits categories;

(c) Notwithstanding (a) and (b) of this subsection, for benefit years beginning January 1, 2015, must establish by rule the review and approval requirements and procedures for pediatric oral services when offered in stand-alone dental plans in the nongrandfathered individual and small group markets outside of the exchange; and

(d) Must allow health carriers to also offer pediatric oral services within the health benefit plan in the nongrandfathered individual and small group markets outside of the exchange.

(4) Beginning December 15, 2012, and every year thereafter, the commissioner shall submit to the legislature a list of state-mandated health benefits, the enforcement of which will result in federally imposed costs to the state related to the plans sold through the exchange because the benefits are not included in the essential health benefits designated under federal law. The list must include the anticipated costs to the state of each state-mandated health benefit on the list and any statutory changes needed if funds are not appropriated to defray the state costs for the listed mandate. The commissioner may enforce a mandate on the list for the entire market only if funds are appropriated in an omnibus appropriations act specifically to pay the state portion of the identified costs.

(5) The commissioner shall include coverage for donor human milk as provided in RCW 48.43.815 and hearing instruments and associated services as described in RCW 48.43.135, in any update of the state's essential health benefits benchmark plan submitted to the centers for medicare and medicaid services under section 1, chapter 87, Laws of 2023. [2023 c 87 s 2; 2022 c 236 s 2; 2019 c 33 s 9; 2013 c 325 s 1; 2012 c 87 s 13.]

**Effective date—2023 c 87:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or

support of the state government and its existing public institutions,  
and takes effect immediately [April 13, 2023]." [2023 c 87 s 3.]

**Effective date—2019 c 33:** See note following RCW 48.43.005.

**Spiritual care services—2012 c 87:** See RCW 43.71.901.