

SHB 2052 - H AMD 278

By Representative Ericksen

OUT OF ORDER 03/10/2009

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 70.47A.010 and 2007 c 260 s 1 are each amended to  
4 read as follows:

5 (1) The legislature finds that many small employers struggle with  
6 the cost of providing employer-sponsored health insurance coverage to  
7 their employees, while others are unable to offer employer-sponsored  
8 health insurance due to its high cost. Low-wage workers also struggle  
9 with the burden of paying their share of the costs of  
10 employer-sponsored health insurance, while others turn down their  
11 employer's offer of coverage due to its costs.

12 (2) The legislature intends, through establishment of a health  
13 insurance partnership program, to remove economic barriers to health  
14 insurance coverage for smaller employers and their low-wage employees  
15 (~~((of small employers))~~) by (~~((building on))~~):

16 (a) Enacting reforms to the private sector ((health benefit plan  
17 system)) small group health insurance market to provide affordable  
18 health insurance options for employers and employees; and

19 (b) Encouraging employer and employee participation in  
20 employer-sponsored health benefit plan coverage by offering subsidies  
21 to low-wage employees of small employers.

22 **Sec. 2.** RCW 70.47A.020 and 2008 c 143 s 1 are each amended to read  
23 as follows:

24 The definitions in this section apply throughout this chapter  
25 unless the context clearly requires otherwise.

26 (1) "Administrator" means the administrator of the Washington state  
27 health care authority, established under chapter 41.05 RCW.

28 (2) (~~(( "Board" means the health insurance partnership board~~  
29 ~~established in RCW 70.47A.100.~~

1       ~~(3))~~ "Eligible partnership participant" means a partnership  
2 participant who:

3       (a) Is a resident of the state of Washington; ~~((and))~~

4       (b) Has family income that does not exceed two hundred percent of  
5 the federal poverty level, as determined annually by the federal  
6 department of health and human services; and

7       (c) Is employed by a small employer.

8       ~~((4))~~ (3) "Health benefit plan" has the same meaning as defined  
9 in RCW 48.43.005.

10       ~~((5) "Participating small employer" means a small employer that  
11 has entered into an agreement with the partnership to purchase health  
12 benefits through the partnership. To participate in the partnership,  
13 an employer must attest to the fact that (a) the employer does not  
14 currently offer health insurance to its employees, and (b) at least  
15 fifty percent of the employer's employees are low wage workers.~~

16       ~~(6))~~ (4) "Partnership" means the health insurance partnership  
17 established in RCW 70.47A.030.

18       ~~((7) "Partnership participant" means a participating small  
19 employer and employees of a participating small employer, and, except  
20 to the extent provided otherwise in RCW 70.47A.110(1)(e), a former  
21 employee of a participating small employer who chooses to continue  
22 receiving coverage through the partnership following separation from  
23 employment.~~

24       ~~(8))~~ (5) "Small employer" has the same meaning as defined in RCW  
25 48.43.005.

26       ~~((9))~~ (6) "Subsidy" or "premium subsidy" means payment or  
27 reimbursement to an eligible partnership participant toward the  
28 purchase of a health benefit plan, and may include a net billing  
29 arrangement with insurance carriers or a prospective or retrospective  
30 payment for health benefit plan premiums.

31       **Sec. 3.** RCW 70.47A.030 and 2008 c 143 s 2 are each amended to read  
32 as follows:

33       ~~((1))~~ The health insurance partnership is established. To the  
34 extent funding is appropriated in the operating budget for ((this  
35 purpose, the health insurance partnership is established.)) providing  
36 premium subsidies to eligible partnership participants, the  
37 administrator shall be responsible for ((the implementation and

1 operation of the health insurance partnership,)) determining  
2 eligibility for premium subsidies and administering subsidies directly  
3 or by contract((. The administrator shall offer premium subsidies to  
4 eligible partnership participants)) under RCW 70.47A.040. ((The  
5 partnership shall begin to offer coverage no later than March 1, 2009.

6 (2) Consistent with policies adopted by the board under RCW  
7 70.47A.110, the administrator shall, directly or by contract:

8 (a) Establish and administer procedures for enrolling small  
9 employers in the partnership, including publicizing the existence of  
10 the partnership and disseminating information on enrollment, and  
11 establishing rules related to minimum participation of employees in  
12 small groups purchasing health insurance through the partnership.  
13 Opportunities to publicize the program for outreach and education of  
14 small employers on the value of insurance shall explore the use of  
15 online employer guides. As a condition of participating in the  
16 partnership, a small employer must agree to establish a cafeteria plan  
17 under section 125 of the federal internal revenue code that will enable  
18 employees to use pretax dollars to pay their share of their health  
19 benefit plan premium. The partnership shall provide technical  
20 assistance to small employers for this purpose;

21 (b) Establish and administer procedures for health benefit plan  
22 enrollment by employees of small employers during open enrollment  
23 periods and outside of open enrollment periods upon the occurrence of  
24 any qualifying event specified in the federal health insurance  
25 portability and accountability act of 1996 or applicable state law.  
26 Except to the extent authorized in RCW 70.47A.110(1)(e), neither the  
27 employer nor the partnership shall limit an employee's choice of  
28 coverage from among the health benefit plans offered through the  
29 partnership;

30 (c) Establish and manage a system of collecting and transmitting to  
31 the applicable carriers all premium payments or contributions made by  
32 or on behalf of partnership participants, including employer  
33 contributions, automatic payroll deductions for partnership  
34 participants, premium subsidy payments, and contributions from  
35 philanthropies;

36 (d) Establish and manage a system for determining eligibility for  
37 and making premium subsidy payments under chapter 259, Laws of 2007;

1       ~~(e) Establish a mechanism to apply a surcharge to each health~~  
2 ~~benefit plan purchased through the partnership, which shall be used~~  
3 ~~only to pay for administrative and operational expenses of the~~  
4 ~~partnership. The surcharge must be applied uniformly to all health~~  
5 ~~benefit plans purchased through the partnership. Any surcharge amount~~  
6 ~~may be added to the premium, but shall not be considered part of the~~  
7 ~~small group community rate, and shall be applied only to the coverage~~  
8 ~~purchased through the partnership. Surcharges may not be used to pay~~  
9 ~~any premium assistance payments under this chapter. The surcharge~~  
10 ~~shall reflect administrative and operational expenses remaining after~~  
11 ~~any appropriation provided by the legislature to support administrative~~  
12 ~~or operational expenses of the partnership during the year the~~  
13 ~~surcharge is assessed;~~

14       ~~(f) Design a schedule of premium subsidies that is based upon gross~~  
15 ~~family income, giving appropriate consideration to family size and the~~  
16 ~~ages of all family members based on a benchmark health benefit plan~~  
17 ~~designated by the board. The amount of an eligible partnership~~  
18 ~~participant's premium subsidy shall be determined by applying a sliding~~  
19 ~~scale subsidy schedule with the percentage of premium similar to that~~  
20 ~~developed for subsidized basic health plan enrollees under RCW~~  
21 ~~70.47.060. The subsidy shall be applied to the employee's premium~~  
22 ~~obligation for his or her health benefit plan, so that employees~~  
23 ~~benefit financially from any employer contribution to the cost of their~~  
24 ~~coverage through the partnership.~~

25       ~~(3) The administrator may enter into interdepartmental agreements~~  
26 ~~with the office of the insurance commissioner, the department of social~~  
27 ~~and health services, and any other state agencies necessary to~~  
28 ~~implement this chapter.))~~

29       **Sec. 4.** RCW 70.47A.040 and 2008 c 143 s 3 are each amended to read  
30 as follows:

31       (1) Beginning January 1, ((2009)) 2011, subject to sufficient state  
32 or federal funding being provided specifically for this purpose, the  
33 administrator shall accept applications from eligible partnership  
34 participants, on behalf of themselves, their spouses, and their  
35 dependent children, to receive premium subsidies through the health  
36 insurance partnership. Every effort shall be made to coordinate  
37 premium subsidies for dependent children with federal funding available

1 under Title XIX and Title XXI of the federal social security act,  
2 consistent with the requirements established in RCW 74.09.470(4) for  
3 the employer-sponsored insurance program at the department of social  
4 and health services.

5 (2) The amount of an eligible partnership participant's premium  
6 subsidy shall be determined by applying the sliding scale subsidy  
7 schedule developed for the subsidized basic health plan enrollees under  
8 RCW 70.47.060 to the employee's premium obligation for his or her  
9 employer's health benefit plan.

10 (3) After an eligible partnership participant has enrolled in the  
11 partnership, the partnership shall issue subsidies in an amount  
12 determined pursuant to subsection (2) of this section to either the  
13 eligible employee or to the carrier designated by the eligible  
14 employee.

15 (4) An eligible partnership participant must agree to provide  
16 verification of continued enrollment in his or her small employer's  
17 health benefit plan on a semiannual basis or to notify the  
18 administrator whenever his or her enrollment status changes, whichever  
19 is earlier. Verification or notification may be made directly by the  
20 participant, or through his or her employer or the carrier providing  
21 the small employer health benefit plan. When necessary, the  
22 administrator has the authority to perform retrospective audits on  
23 premium subsidy accounts. The administrator may suspend or terminate  
24 a participant's participation in the partnership and seek repayment of  
25 any subsidy amounts paid due to the omission or misrepresentation of an  
26 applicant or enrolled employee. The administrator shall adopt rules to  
27 define the appropriate application of these sanctions and the processes  
28 to implement the sanctions provided in this subsection, within  
29 available resources.

30 **Sec. 5.** RCW 70.47A.070 and 2008 c 143 s 4 are each amended to read  
31 as follows:

32 ((The)) Upon implementation of the health insurance partnership  
33 program, the administrator shall report biennially((, beginning  
34 November 1, 2010,)) to the relevant policy and fiscal committees of the  
35 legislature on the effectiveness and efficiency of the health insurance  
36 partnership program, including enrollment trends, the services and

1 benefits covered under the purchased health benefit plans, consumer  
2 satisfaction, and other program operational issues.

3 **Sec. 6.** RCW 48.21.045 and 2008 c 143 s 6 are each amended to read  
4 as follows:

5 (1)((~~(a)~~)) An insurer offering any health benefit plan to a small  
6 employer, either directly or through an association or member-governed  
7 group formed specifically for the purpose of purchasing health care,  
8 may offer and actively market to the small employer a health benefit  
9 plan featuring a limited schedule of covered health care services.  
10 (~~Nothing in this subsection shall preclude an insurer from offering,~~  
11 ~~or a small employer from purchasing, other health benefit plans that~~  
12 ~~may have more comprehensive benefits than those included in the product~~  
13 ~~offered under this subsection. An insurer offering a health benefit~~  
14 ~~plan under this subsection shall clearly disclose all covered benefits~~  
15 ~~to the small employer in a 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 48.21.130, 48.21.140, 48.21.141, 48.21.142,~~  
20 ~~48.21.144, 48.21.146, 48.21.160 through 48.21.197, 48.21.200,~~  
21 ~~48.21.220, 48.21.225, 48.21.230, 48.21.235, 48.21.244, 48.21.250,~~  
22 ~~48.21.300, 48.21.310, or 48.21.320.~~

23 ~~(2))~~ (a) The plan offered under this subsection may be offered  
24 with a choice of cost-sharing arrangements, and may, but is not  
25 required to, comply with: RCW 48.21.130 through 48.21.241, 48.21.244  
26 through 48.21.280, 48.21.300 through 48.21.320, 48.43.045(1) except as  
27 required in (b) of this subsection, 48.43.093, 48.43.115 through  
28 48.43.185, 48.43.515(5), or 48.42.100.

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

33 (2) An insurer offering the plan under subsection (1) of this  
34 section must also offer and actively market to the small employer at  
35 least one additional health benefit plan.

36 (3) Nothing in this section shall prohibit an insurer from  
37 offering, or a purchaser from seeking, health benefit plans with

1 benefits in excess of the health benefit plan offered under subsection  
2 (1) of this section. All forms, policies, and contracts shall be  
3 submitted for approval to the commissioner, and the rates of any plan  
4 offered under this section shall be reasonable in relation to the  
5 benefits thereto.

6 ~~((3))~~ (4) Premium rates for health benefit plans for small  
7 employers as defined in this section shall be subject to the following  
8 provisions:

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

- 11 (i) Geographic area;
- 12 (ii) Family size;
- 13 (iii) Age; and
- 14 (iv) Wellness activities.

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

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

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

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

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

- 34 (i) Changes to the enrollment of the small employer;
- 35 (ii) Changes to the family composition of the employee;
- 36 (iii) Changes to the health benefit plan requested by the small  
37 employer; or

1 (iv) Changes in government requirements affecting the health  
2 benefit plan.

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

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

15 (i) Except for small group health benefit plans that qualify as  
16 insurance coverage combined with a health savings account as defined by  
17 the United States internal revenue service, adjusted community rates  
18 established under this section shall pool the medical experience of all  
19 small groups purchasing coverage, including the small group  
20 participants in the health insurance partnership established in RCW  
21 70.47A.030. However, annual rate adjustments for each small group  
22 health benefit plan may vary by up to plus or minus four percentage  
23 points from the overall adjustment of a carrier's entire small group  
24 pool(~~(, such overall adjustment to be approved by the commissioner,~~  
25 ~~upon a showing by the carrier, certified by a member of the American~~  
26 ~~academy of actuaries that: (i) The variation is a result of deductible~~  
27 ~~leverage, benefit design, or provider network characteristics; and (ii)~~  
28 ~~for a rate renewal period, the projected weighted average of all small~~  
29 ~~group benefit plans will have a revenue neutral effect on the carrier's~~  
30 ~~small group pool. Variations of greater than four percentage points~~  
31 ~~are subject to review by the commissioner, and must be approved or~~  
32 ~~denied within sixty days of submittal.)) if certified by a member of  
33 the American academy of actuaries, that: (i) The variation is a result  
34 of deductible leverage, benefit design, claims cost trend for the plan,  
35 or provider network characteristics; and (ii) for a rate renewal  
36 period, the projected weighted average of all small group benefit plans  
37 will have a revenue neutral effect on the carrier's small group pool.  
38 Variations of greater than eight percentage points are subject to~~



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

6 (j) For health benefit plans purchased through the health insurance  
7 partnership established in chapter 70.47A RCW(~~(+~~

8 ~~(i) Any surcharge established pursuant to RCW 70.47A.030(2)(e)~~  
9 ~~shall be applied only to health benefit plans purchased through the~~  
10 ~~health insurance partnership; and~~

11 ~~(ii))~~, risk adjustment or reinsurance mechanisms may be used by  
12 the health insurance partnership program to redistribute funds to  
13 carriers participating in the health insurance partnership based on  
14 differences in risk attributable to individual choice of health plans  
15 or other factors unique to health insurance partnership participation.  
16 Use of such mechanisms shall be limited to the partnership program and  
17 will not affect small group health plans offered outside the  
18 partnership.

19 ~~((+4))~~ (5) Nothing in this section shall restrict the right of  
20 employees to collectively bargain for insurance providing benefits in  
21 excess of those provided herein.

22 ~~((+5))~~ (6)(a) Except as provided in this subsection, requirements  
23 used by an insurer in determining whether to provide coverage to a  
24 small employer shall be applied uniformly among all small employers  
25 applying for coverage or receiving coverage from the carrier.

26 (b) An insurer shall not require a minimum participation level  
27 greater than:

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

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

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

36 (d) An insurer may not increase any requirement for minimum  
37 employee participation or modify any requirement for minimum employer

1 contribution applicable to a small employer at any time after the small  
2 employer has been accepted for coverage.

3 ~~((e) Minimum participation requirements and employer premium  
4 contribution requirements adopted by the health insurance partnership  
5 board under RCW 70.47A.110 shall apply only to the employers and  
6 employees who purchase health benefit plans through the health  
7 insurance partnership.~~

8 ~~(6))~~ (7) An insurer must offer coverage to all eligible employees  
9 of a small employer and their dependents. An insurer may not offer  
10 coverage to only certain individuals or dependents in a small employer  
11 group or to only part of the group. An insurer may not modify a health  
12 plan with respect to a small employer or any eligible employee or  
13 dependent, through riders, endorsements or otherwise, to restrict or  
14 exclude coverage or benefits for specific diseases, medical conditions,  
15 or services otherwise covered by the plan.

16 ~~((7))~~ (8) As used in this section, "health benefit plan," "small  
17 employer," "adjusted community rate," and "wellness activities" mean  
18 the same as defined in RCW 48.43.005.

19 **Sec. 7.** RCW 48.44.023 and 2008 c 143 s 7 are each amended to read  
20 as follows:

21 (1)~~((a))~~ A health care services contractor offering any health  
22 benefit plan to a small employer, either directly or through an  
23 association or member-governed group formed specifically for the  
24 purpose of purchasing health care, may offer and actively market to the  
25 small employer ~~((a))~~ no more than one health benefit plan featuring a  
26 limited schedule of covered health care services. ~~((Nothing in this  
27 subsection shall preclude a contractor from offering, or a small  
28 employer from purchasing, other health benefit plans that may have more  
29 comprehensive benefits than those included in the product offered under  
30 this subsection. A contractor offering a health benefit plan under  
31 this subsection shall clearly disclose all covered benefits to the  
32 small employer in a brochure filed with the commissioner.~~

33 ~~(b) A health benefit plan offered under this subsection shall  
34 provide coverage for hospital expenses and services rendered by a  
35 physician licensed under chapter 18.57 or 18.71 RCW but is not subject  
36 to the requirements of RCW 48.44.225, 48.44.240, 48.44.245, 48.44.290,~~

1 ~~48.44.300, 48.44.310, 48.44.320, 48.44.325, 48.44.330, 48.44.335,~~  
2 ~~48.44.344, 48.44.360, 48.44.400, 48.44.440, 48.44.450, and 48.44.460.~~

3 ~~(2)) (a) The plan offered under this subsection may be offered~~  
4 ~~with a choice of cost-sharing arrangements, and may, but is not~~  
5 ~~required to, comply with: RCW 48.44.210, 48.44.212, 48.44.225,~~  
6 ~~48.44.240 through 48.44.245, 48.44.290 through 48.44.341, 48.44.344,~~  
7 ~~48.44.360 through 48.44.380, 48.44.400, 48.44.420, 48.44.440 through~~  
8 ~~48.44.460, 48.44.500, 48.43.045(1) except as required in (b) of this~~  
9 ~~subsection, 48.43.093, 48.43.115 through 48.43.185, 48.43.515(5), or~~  
10 ~~48.42.100.~~

11 ~~(b) In offering the plan under this subsection, the health care~~  
12 ~~service contractor must offer the small employer the option of~~  
13 ~~permitting every category of health care provider to provide health~~  
14 ~~services or care for conditions covered by the plan pursuant to RCW~~  
15 ~~48.43.045(1).~~

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

19 ~~(3) Nothing in this section shall prohibit a health care service~~  
20 ~~contractor from offering, or a purchaser from seeking, health benefit~~  
21 ~~plans with benefits in excess of the health benefit plan offered under~~  
22 ~~subsection (1) of this section. All forms, policies, and contracts~~  
23 ~~shall be submitted for approval to the commissioner, and the rates of~~  
24 ~~any plan offered under this section shall be reasonable in relation to~~  
25 ~~the benefits thereto.~~

26 ~~((3)) (4) Premium rates for health benefit plans for small~~  
27 ~~employers as defined in this section shall be subject to the following~~  
28 ~~provisions:~~

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

- 31 ~~(i) Geographic area;~~
- 32 ~~(ii) Family size;~~
- 33 ~~(iii) Age; and~~
- 34 ~~(iv) Wellness activities.~~

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

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

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

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

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

16 (i) Changes to the enrollment of the small employer;

17 (ii) Changes to the family composition of the employee;

18 (iii) Changes to the health benefit plan requested by the small  
19 employer; or

20 (iv) Changes in government requirements affecting the health  
21 benefit plan.

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

25 (h) For the purposes of this section, a health benefit plan that  
26 contains a restricted network provision shall not be considered similar  
27 coverage to a health benefit plan that does not contain such a  
28 provision, provided that the restrictions of benefits to network  
29 providers result in substantial differences in claims costs. A carrier  
30 may develop its rates based on claims costs (~~((due to network provider  
31 reimbursement schedules or type of network))~~) for a plan. This  
32 subsection does not restrict or enhance the portability of benefits as  
33 provided in RCW 48.43.015.

34 (i) Except for small group health benefit plans that qualify as  
35 insurance coverage combined with a health savings account as defined by  
36 the United States internal revenue service, adjusted community rates  
37 established under this section shall pool the medical experience of all  
38 groups purchasing coverage, including the small group participants in

1 the health insurance partnership established in RCW 70.47A.030.  
2 However, annual rate adjustments for each small group health benefit  
3 plan may vary by up to plus or minus (~~four~~) eight percentage points  
4 from the overall adjustment of a carrier's entire small group pool(~~(-~~  
5 ~~such overall adjustment to be approved by the commissioner, upon a~~  
6 ~~showing by the carrier, certified by a member of the American academy~~  
7 ~~of actuaries that: (i) The variation is a result of deductible~~  
8 ~~leverage, benefit design, or provider network characteristics; and (ii)~~  
9 ~~for a rate renewal period, the projected weighted average of all small~~  
10 ~~group benefit plans will have a revenue neutral effect on the carrier's~~  
11 ~~small group pool. Variations of greater than four percentage points~~  
12 ~~are subject to review by the commissioner, and must be approved or~~  
13 ~~denied within sixty days of submittal)) if certified by a member of the  
14 American academy of actuaries, that: (i) The variation is a result of  
15 deductible leverage, benefit design, claims cost trend for the plan, or  
16 provider network characteristics; and (ii) for a rate renewal period,  
17 the projected weighted average of all small group benefit plans will  
18 have a revenue neutral effect on the carrier's small group pool.  
19 Variations of greater than eight percentage points are subject to  
20 review by the commissioner, and must be approved or denied within  
21 thirty days of submittal. A variation that is not denied within  
22 (~~sixty~~) thirty days shall be deemed approved. The commissioner must  
23 provide to the carrier a detailed actuarial justification for any  
24 denial (~~within thirty days~~) at the time of the denial.~~

25 (j) For health benefit plans purchased through the health insurance  
26 partnership established in chapter 70.47A RCW(~~(+~~

27 ~~(i) Any surcharge established pursuant to RCW 70.47A.030(2)(e)~~  
28 ~~shall be applied only to health benefit plans purchased through the~~  
29 ~~health insurance partnership; and~~

30 ~~(ii))~~, risk adjustment or reinsurance mechanisms may be used by  
31 the health insurance partnership program to redistribute funds to  
32 carriers participating in the health insurance partnership based on  
33 differences in risk attributable to individual choice of health plans  
34 or other factors unique to health insurance partnership participation.  
35 Use of such mechanisms shall be limited to the partnership program and  
36 will not affect small group health plans offered outside the  
37 partnership.

1 ((+4)) (5) Nothing in this section shall restrict the right of  
2 employees to collectively bargain for insurance providing benefits in  
3 excess of those provided herein.

4 ((+5)) (6)(a) Except as provided in this subsection, requirements  
5 used by a contractor in determining whether to provide coverage to a  
6 small employer shall be applied uniformly among all small employers  
7 applying for coverage or receiving coverage from the carrier.

8 (b) A contractor shall not require a minimum participation level  
9 greater than:

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

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

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

18 (d) A contractor may not increase any requirement for minimum  
19 employee participation or modify any requirement for minimum employer  
20 contribution applicable to a small employer at any time after the small  
21 employer has been accepted for coverage.

22 ~~((e) Minimum participation requirements and employer premium  
23 contribution requirements adopted by the health insurance partnership  
24 board under RCW 70.47A.110 shall apply only to the employers and  
25 employees who purchase health benefit plans through the health  
26 insurance partnership.~~

27 (+6)) (7) A contractor must offer coverage to all eligible  
28 employees of a small employer and their dependents. A contractor may  
29 not offer coverage to only certain individuals or dependents in a small  
30 employer group or to only part of the group. A contractor may not  
31 modify a health plan with respect to a small employer or any eligible  
32 employee or dependent, through riders, endorsements or otherwise, to  
33 restrict or exclude coverage or benefits for specific diseases, medical  
34 conditions, or services otherwise covered by the plan.

35 **Sec. 8.** RCW 48.46.066 and 2008 c 143 s 8 are each amended to read  
36 as follows:

37 (1)((+a)) A health maintenance organization offering any health

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

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

19 (2)) (a) The plan offered under this subsection may be offered  
20 with a choice of cost-sharing arrangements, and may, but is not  
21 required to, comply with: RCW 48.46.250, 48.46.272 through 48.46.291,  
22 48.46.320, 48.46.350, 48.46.375, 48.46.440 through 48.46.460,  
23 48.46.480, 48.46.490, 48.46.510, 48.46.520, 48.46.530, 48.46.565,  
24 48.46.570, 48.46.575, 48.43.045(1) except as required in (b) of this  
25 subsection, 48.43.093, 48.43.115 through 48.43.185, 48.43.515(5), or  
26 48.42.100.

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

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

35 (3) Nothing in this section shall prohibit a health maintenance  
36 organization from offering, or a purchaser from seeking, health benefit  
37 plans with benefits in excess of the health benefit plan offered under  
38 subsection (1) of this section. All forms, policies, and contracts

1 shall be submitted for approval to the commissioner, and the rates of  
2 any plan offered under this section shall be reasonable in relation to  
3 the benefits thereto.

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

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

- 10 (i) Geographic area;
- 11 (ii) Family size;
- 12 (iii) Age; and
- 13 (iv) Wellness activities.

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

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

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

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

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

- 33 (i) Changes to the enrollment of the small employer;
- 34 (ii) Changes to the family composition of the employee;
- 35 (iii) Changes to the health benefit plan requested by the small  
36 employer; or

37 (iv) Changes in government requirements affecting the health  
38 benefit plan.



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

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

13 (i) Except for small group health benefit plans that qualify as  
14 insurance coverage combined with a health savings account as defined by  
15 the United States internal revenue service, adjusted community rates  
16 established under this section shall pool the medical experience of all  
17 groups purchasing coverage, including the small group participants in  
18 the health insurance partnership established in RCW 70.47A.030.  
19 However, annual rate adjustments for each small group health benefit  
20 plan may vary by up to plus or minus (~~(four)~~) eight percentage points  
21 from the overall adjustment of a carrier's entire small group pool(~~(~~  
22 ~~such overall adjustment to be approved by the commissioner, upon a~~  
23 ~~showing by the carrier, certified by a member of the American academy~~  
24 ~~of actuaries that: (i) The variation is a result of deductible~~  
25 ~~leverage, benefit design, or provider network characteristics; and (ii)~~  
26 ~~for a rate renewal period, the projected weighted average of all small~~  
27 ~~group benefit plans will have a revenue neutral effect on the carrier's~~  
28 ~~small group pool. Variations of greater than four percentage points~~  
29 ~~are subject to review by the commissioner, and must be approved or~~  
30 ~~denied within sixty days of submittal)~~) if certified by a member of the  
31 American academy of actuaries, that: (i) The variation is a result of  
32 deductible leverage, benefit design, claims cost trend for the plan, or  
33 provider network characteristics; and (ii) for a rate renewal period,  
34 the projected weighted average of all small group benefit plans will  
35 have a revenue neutral effect on the health maintenance organization's  
36 small group pool. Variations of greater than eight percentage points  
37 are subject to review by the commissioner, and must be approved or  
38 denied within thirty days of submittal. A variation that is not denied

1 within (~~sixty~~) thirty days shall be deemed approved. The  
2 commissioner must provide to the carrier a detailed actuarial  
3 justification for any denial (~~within thirty days~~) at the time of the  
4 denial.

5 (j) For health benefit plans purchased through the health insurance  
6 partnership established in chapter 70.47A RCW(~~(+~~

7 ~~(i) Any surcharge established pursuant to RCW 70.47A.030(2)(e)~~  
8 ~~shall be applied only to health benefit plans purchased through the~~  
9 ~~health insurance partnership; and~~

10 ~~(ii))~~, risk adjustment or reinsurance mechanisms may be used by  
11 the health insurance partnership program to redistribute funds to  
12 carriers participating in the health insurance partnership based on  
13 differences in risk attributable to individual choice of health plans  
14 or other factors unique to health insurance partnership participation.  
15 Use of such mechanisms shall be limited to the partnership program and  
16 will not affect small group health plans offered outside the  
17 partnership.

18 (~~(+4)~~) (5) Nothing in this section shall restrict the right of  
19 employees to collectively bargain for insurance providing benefits in  
20 excess of those provided herein.

21 (~~(+5)~~) (6)(a) Except as provided in this subsection, requirements  
22 used by a health maintenance organization in determining whether to  
23 provide coverage to a small employer shall be applied uniformly among  
24 all small employers applying for coverage or receiving coverage from  
25 the carrier.

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

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

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

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

36 (d) A health maintenance organization may not increase any  
37 requirement for minimum employee participation or modify any

1 requirement for minimum employer contribution applicable to a small  
2 employer at any time after the small employer has been accepted for  
3 coverage.

4 ~~((e) Minimum participation requirements and employer premium  
5 contribution requirements adopted by the health insurance partnership  
6 board under RCW 70.47A.110 shall apply only to the employers and  
7 employees who purchase health benefit plans through the health  
8 insurance partnership.~~

9 ~~(6))~~ (7) A health maintenance organization must offer coverage to  
10 all eligible employees of a small employer and their dependents. A  
11 health maintenance organization may not offer coverage to only certain  
12 individuals or dependents in a small employer group or to only part of  
13 the group. A health maintenance organization may not modify a health  
14 plan with respect to a small employer or any eligible employee or  
15 dependent, through riders, endorsements or otherwise, to restrict or  
16 exclude coverage or benefits for specific diseases, medical conditions,  
17 or services otherwise covered by the plan.

18 NEW SECTION. **Sec. 9.** The following acts or parts of acts are each  
19 repealed:

20 (1) RCW 70.47A.100 (Health insurance partnership board) and 2007 c  
21 260 s 4;

22 (2) RCW 70.47A.110 (Health insurance partnership board--Duties) and  
23 2008 c 143 s 5 & 2007 c 260 s 5; and

24 (3) 2007 c 260 s 11 (uncodified)."

25 Correct the title.

EFFECT: Authorizes the health insurance partnership to provide  
premium subsidies to low-income employees so they can purchase their  
employer's health coverage. Authorizes health carriers to offer small  
group insurance coverage that does not comply with all requirements of  
Title 48 RCW. Permits changes in small group rating rules designed to  
permit more affordable small group health coverage to be offered.

--- END ---