
HOUSE BILL 2809

State of Washington

54th Legislature

1996 Regular Session

By Representatives Murray, Cody, Dickerson, Cole, Conway, Scheuerman, Chopp, Patterson, Dellwo and Mason; by request of Insurance Commissioner

Read first time 01/22/96. Referred to Committee on Health Care.

1 AN ACT Relating to expansion of the Washington state health
2 insurance coverage access act; and amending RCW 48.41.020, 48.41.030,
3 48.41.040, 48.41.050, 48.41.060, 48.41.070, 48.41.080, 48.41.090,
4 48.41.100, 48.41.120, 48.41.180, and 48.41.200.

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

6 **Sec. 1.** RCW 48.41.020 and 1987 c 431 s 2 are each amended to read
7 as follows:

8 It is the purpose and intent of the legislature to provide access
9 to health insurance coverage to all residents of Washington who are
10 denied adequate health insurance for any reason. It is the intent of
11 the legislature that adequate levels of health insurance coverage be
12 made available to residents of Washington who are otherwise considered
13 uninsurable or who are underinsured. It is the intent of the
14 Washington state health insurance coverage access act to provide a
15 mechanism to insure the availability of comprehensive health insurance
16 to persons unable to obtain such insurance coverage on either an
17 individual or group basis directly under any health plan. In addition,
18 it is also the intent of the legislature to expand the Washington state
19 health insurance coverage access act to include a reinsurance program

1 for individual health insurance to stabilize the rates for individual
2 health insurance.

3 **Sec. 2.** RCW 48.41.030 and 1989 c 121 s 1 are each amended to read
4 as follows:

5 As used in this chapter, the following terms have the meaning
6 indicated, unless the context requires otherwise:

7 (1) "Accounting year" means a twelve-month period determined by the
8 board for purposes of record-keeping and accounting. The first
9 accounting year may be more or less than twelve months and, from time
10 to time in subsequent years, the board may order an accounting year of
11 other than twelve months as may be required for orderly management and
12 accounting of the pool.

13 (2) "Administrator" means the entity chosen by the board to
14 administer the pool under RCW 48.41.080.

15 (3) "Board" means the board of directors of the pool.

16 (4) "Commissioner" means the insurance commissioner.

17 (5) "Health care facility" has the same meaning as in RCW
18 70.38.025.

19 (6) "Health care provider" means any physician, facility, or health
20 care professional, who is licensed in Washington state and entitled to
21 reimbursement for health care services.

22 (7) "Health care services" means services for the purpose of
23 preventing, alleviating, curing, or healing human illness or injury.

24 (8) "Health insurance" means any group or individual disability
25 insurance policy, health care service contract, and health maintenance
26 agreement, except those contracts entered into for the provision of
27 health care services pursuant to Title XVIII of the Social Security
28 Act, 42 U.S.C. Sec. 1395 et seq. The term does not include short-term
29 care, long-term care, dental, vision, accident, fixed indemnity,
30 disability income contracts, civilian health and medical program for
31 the uniform services (CHAMPUS), 10 U.S.C. 55, limited benefit or credit
32 insurance, coverage issued as a supplement to liability insurance,
33 insurance arising out of the worker's compensation or similar law,
34 automobile medical payment insurance, or insurance under which benefits
35 are payable with or without regard to fault and which is statutorily
36 required to be contained in any liability insurance policy or
37 equivalent self-insurance.

1 (9) "Health plan" means any arrangement by which persons, including
2 dependents or spouses, (~~covered or making application to be covered~~
3 ~~under this pool,~~) have access to hospital and medical benefits or
4 reimbursement including any group or individual disability insurance
5 policy; health care service contract; health maintenance agreement;
6 uninsured arrangements of group or group-type contracts including
7 employer self-insured, cost-plus, or other benefit methodologies not
8 involving insurance or not governed by Title 48 RCW; coverage under
9 group-type contracts which are not available to the general public and
10 can be obtained only because of connection with a particular
11 organization or group; and coverage by medicare or other governmental
12 benefits. This term includes coverage through "health insurance" as
13 defined under this section, and specifically excludes those types of
14 programs excluded under the definition of "health insurance" in
15 subsection (8) of this section.

16 (10) "Insured" means any individual resident of this state who is
17 eligible to receive benefits from any member, or other health plan.

18 (11) "Medical assistance" means coverage under Title XIX of the
19 federal Social Security Act (42 U.S.C., Sec. 1396 et seq.) and chapter
20 74.09 RCW.

21 (12) "Medicare" means coverage under Title XVIII of the Social
22 Security Act, (42 U.S.C. Sec. 1395 et seq., as amended).

23 (13) "Member" means any commercial insurer which provides
24 disability insurance or stop-loss coverage, any health care service
25 contractor, and any health maintenance organization licensed under
26 Title 48 RCW. "Member" shall also mean, as soon as authorized by
27 federal law, employers and other entities, including a self-funding
28 entity and employee welfare benefit plans that provide health plan
29 benefits in this state on or after May 18, 1987. "Member" does not
30 include any insurer, health care service contractor, or health
31 maintenance organization whose products are exclusively dental products
32 or those products excluded from the definition of "health insurance"
33 set forth in subsection (8) of this section.

34 (14) "Plan of operation" means the pool, including articles, by-
35 laws, and operating rules, adopted by the board pursuant to RCW
36 48.41.050.

37 (15) "Pool" means the Washington state health insurance pool as
38 created in RCW 48.41.040.

1 (16) "Substantially equivalent health plan" means a "health plan"
2 as defined in subsection (9) of this section which, in the judgment of
3 the board or the administrator, offers persons including dependents or
4 spouses covered or making application to be covered by this pool an
5 overall level of benefits deemed approximately equivalent to the
6 minimum benefits available under this pool.

7 **Sec. 3.** RCW 48.41.040 and 1989 c 121 s 2 are each amended to read
8 as follows:

9 (1) There is hereby created a nonprofit entity to be known as the
10 Washington state health insurance pool. All members in this state on
11 or after May 18, 1987, shall be members of the pool. When authorized
12 by federal law, all self-insured employers shall also be members of the
13 pool.

14 (2) Pursuant to chapter 34.05 RCW the commissioner shall, within
15 ninety days after May 18, 1987, give notice to all members of the time
16 and place for the initial organizational meetings of the pool. A board
17 of directors shall be established, which shall be comprised of nine
18 members. The commissioner shall select three members of the board who
19 shall represent (a) the general public, (b) health care providers, and
20 (c) health insurance agents. The remaining members of the board shall
21 be selected by election from among the members of the pool. The
22 elected members shall, to the extent possible, include at least one
23 representative of health care service contractors, one representative
24 of health maintenance organizations, and one representative of
25 commercial insurers which provides disability insurance. When self-
26 insured organizations become eligible for participation in the pool,
27 the membership of the board shall be increased to eleven and at least
28 one member of the board shall represent the self-insurers.

29 (3) The original members of the board of directors shall be
30 appointed for intervals of one to three years. Thereafter, all board
31 members shall serve a term of three years. Board members shall receive
32 no compensation, but shall be reimbursed for all travel expenses as
33 provided in RCW 43.03.050 and 43.03.060.

34 (4) The board shall submit to the commissioner a plan of operation
35 for the pool and any amendments thereto necessary or suitable to assure
36 the fair, reasonable, and equitable administration of the pool. By
37 July 1, 1996, the board shall amend the plan to include operation of
38 the reinsurance program authorized by this chapter. The commissioner

1 shall, after notice and hearing pursuant to chapter 34.05 RCW, approve
2 the plan of operation if it is determined to assure the fair,
3 reasonable, and equitable administration of the pool and provides for
4 the sharing of pool losses on an equitable, proportionate basis among
5 the members of the pool. The plan of operation shall become effective
6 upon approval in writing by the commissioner consistent with the date
7 on which the coverage under this chapter must be made available. If
8 the board fails to submit a plan of operation within one hundred eighty
9 days after the appointment of the board or any time thereafter fails to
10 submit acceptable amendments to the plan, the commissioner shall,
11 within ninety days after notice and hearing pursuant to chapters 34.05
12 and 48.04 RCW, adopt such rules as are necessary or advisable to
13 effectuate this chapter. The rules shall continue in force until
14 modified by the commissioner or superseded by a plan submitted by the
15 board and approved by the commissioner.

16 **Sec. 4.** RCW 48.41.050 and 1987 c 431 s 5 are each amended to read
17 as follows:

18 The plan of operation submitted by the board to the commissioner
19 shall:

20 (1) Establish procedures for the handling and accounting of assets
21 and moneys of the pool;

22 (2) Establish regular times and places for meetings of the board of
23 directors;

24 (3) Establish procedures for records to be kept of all financial
25 transactions and for an annual fiscal reporting to the commissioner;

26 (4) Contain additional provisions necessary and proper for the
27 execution of the powers and duties of the pool;

28 (5) Establish procedures for the collection of assessments from all
29 members to provide for claims paid under the plan and for
30 administrative expenses incurred or estimated to be incurred during the
31 period for which the assessment is made;

32 (6) Establish the amount of assessment pursuant to RCW 48.41.060
33 for both reinsurance and health insurance, which shall occur after
34 March 1st of each calendar year, and which shall be due and payable
35 within thirty days of the receipt of the assessment notice;

36 (7) Select an administrator in accordance with RCW 48.41.080;

1 (8) Develop and implement a program to publicize the existence of
2 the plan, the eligibility requirements and procedures for enrollment,
3 and to maintain public awareness of the plan; and

4 (9) Establish procedures under which applicants and participants
5 may have grievances reviewed by an impartial body and reported to the
6 board.

7 **Sec. 5.** RCW 48.41.060 and 1989 c 121 s 3 are each amended to read
8 as follows:

9 The board shall have the general powers and authority granted under
10 the laws of this state to insurance companies licensed to transact the
11 kinds of insurance defined under this title. In addition thereto, the
12 board may:

13 (1) Enter into contracts as are necessary or proper to carry out
14 the provisions and purposes of this chapter including the authority,
15 with the approval of the commissioner, to enter into contracts with
16 similar pools of other states for the joint performance of common
17 administrative functions, or with persons or other organizations for
18 the performance of administrative functions;

19 (2) Sue or be sued, including taking any legal action as necessary
20 to avoid the payment of improper claims against the pool or the
21 coverage provided by or through the pool;

22 (3) Establish appropriate rates, rate schedules, rate adjustments,
23 expense allowances, agent referral fees, claim reserve formulas and any
24 other actuarial functions appropriate to the operation of the pool.
25 Rates shall not be unreasonable in relation to the coverage provided,
26 the risk experience, and expenses of providing the coverage. Rates and
27 rate schedules may be adjusted for appropriate risk factors such as age
28 and area variation in claim costs and shall take into consideration
29 appropriate risk factors in accordance with established actuarial
30 underwriting practices;

31 (4) Assess members of the pool in accordance with the provisions of
32 this chapter, and make advance interim assessments as may be reasonable
33 and necessary for the organizational or interim operating expenses.
34 Any interim assessments will be credited as offsets against any regular
35 assessments due following the close of the year;

36 (5) Issue policies of insurance and reinsurance in accordance with
37 the requirements of this chapter;

1 (6) Appoint appropriate legal, actuarial and other committees as
2 necessary to provide technical assistance in the operation of the pool,
3 policy, and other contract design, and any other function within the
4 authority of the pool; and

5 (7) Conduct periodic audits to assure the general accuracy of the
6 financial data submitted to the pool, and the board shall cause the
7 pool to have an annual audit of its operations by an independent
8 certified public accountant.

9 **Sec. 6.** RCW 48.41.070 and 1989 c 121 s 4 are each amended to read
10 as follows:

11 The pool programs shall be subject to examination by the
12 commissioner as provided under chapter 48.03 RCW. The board of
13 directors shall submit to the commissioner, not later than one hundred
14 twenty days after the end of each accounting year, a financial report
15 for the year in a form approved by the commissioner. The board of
16 directors shall further report to the appropriate standing committees
17 of each house of the legislature by March 1st of each year.

18 **Sec. 7.** RCW 48.41.080 and 1989 c 121 s 5 are each amended to read
19 as follows:

20 The board shall select an administrator from the membership of the
21 pool whether domiciled in this state or another state through a
22 competitive bidding process to administer the pool programs.

23 (1) The board shall evaluate bids based upon criteria established
24 by the board, which shall include:

25 (a) The administrator's proven ability to handle reinsurance,
26 accident, and health insurance;

27 (b) The efficiency of the administrator's claim-paying procedures;

28 (c) An estimate of the total charges for administering the plan;
29 and

30 (d) The administrator's ability to administer the pool in a cost-
31 effective manner.

32 (2) The administrator shall serve for a period of three years
33 subject to removal for cause. At least six months prior to the
34 expiration of each three-year period of service by the administrator,
35 the board shall invite all interested parties, including the current
36 administrator, to submit bids to serve as the administrator for the
37 succeeding three-year period. Selection of the administrator for this

1 succeeding period shall be made at least three months prior to the end
2 of the current three-year period.

3 (3) The administrator shall perform such duties as may be assigned
4 by the board including:

5 (a) All eligibility and administrative claim payment functions
6 relating to the pool;

7 (b) Establishing a premium billing procedure for collection of
8 premiums from insured persons and reinsured companies. Billings shall
9 be made on a periodic basis as determined by the board, which shall not
10 be more frequent than a monthly billing;

11 (c) Performing all necessary functions to assure timely payment of
12 benefits to covered persons under the pool including:

13 (i) Making available information relating to the proper manner of
14 submitting a claim for benefits to the pool, and distributing forms
15 upon which submission shall be made; and

16 (ii) Evaluating the eligibility of each claim for payment by the
17 pool;

18 (d) Submission of regular reports to the board regarding the
19 operation of the pool. The frequency, content, and form of the report
20 shall be as determined by the board;

21 (e) Following the close of each accounting year, determination of
22 net paid and earned premiums, the expense of administration, and the
23 paid and incurred losses for the year and reporting this information to
24 the board and the commissioner on a form as prescribed by the
25 commissioner.

26 (4) The administrator shall be paid as provided in the contract
27 between the board and the administrator for its expenses incurred in
28 the performance of its services.

29 **Sec. 8.** RCW 48.41.090 and 1989 c 121 s 6 are each amended to read
30 as follows:

31 (1) Following the close of each accounting year, the pool
32 administrator shall determine the net premium (premiums less
33 administrative expense allowances), the pool expenses of
34 administration, and incurred losses for the year, taking into account
35 investment income and other appropriate gains and losses for all
36 programs administered by the board.

37 (2)(a) Each member's proportion of participation in the pool shall
38 be determined annually by the board based on annual statements and

1 other reports deemed necessary by the board and filed by the member
2 with the commissioner; and shall be determined by multiplying the total
3 cost of pool operation by a fraction, the numerator of which equals
4 that member's total number of resident insured persons, including
5 spouse and dependents under the member's health plan in the state
6 during the preceding calendar year, and the denominator of which equals
7 the total number of resident insured persons including spouses and
8 dependents insured under all health plans in the state by pool members.
9 In calculating assessments for reinsurance, the numerator for reinsured
10 members shall not include any business reinsured with the pool.

11 (b) Any deficit incurred by the pool shall be recouped by
12 assessments among members apportioned under this subsection pursuant to
13 the formula set forth by the board among members.

14 (3) The board may abate or defer, in whole or in part, the
15 assessment of a member if, in the opinion of the board, payment of the
16 assessment would endanger the ability of the member to fulfill its
17 contractual obligations. If an assessment against a member is abated
18 or deferred in whole or in part, the amount by which such assessment is
19 abated or deferred may be assessed against the other members in a
20 manner consistent with the basis for assessments set forth in
21 subsection (2) of this section. The member receiving such abatement or
22 deferment shall remain liable to the pool for the deficiency.

23 (4) If assessments exceed actual losses and administrative expenses
24 of the pool, the excess shall be held at interest and used by the board
25 to offset future losses or to reduce pool premiums. As used in this
26 subsection, "future losses" includes reserves for incurred but not
27 reported claims.

28 **Sec. 9.** RCW 48.41.100 and 1995 c 34 s 5 are each amended to read
29 as follows:

30 (1) Any individual person who is a resident of this state is
31 eligible for coverage upon providing evidence of rejection for medical
32 reasons, a requirement of restrictive riders, an up-rated premium, or
33 a preexisting conditions limitation on health insurance, the effect of
34 which is to substantially reduce coverage from that received by a
35 person considered a standard risk, by at least one member within six
36 months of the date of application. Evidence of rejection may be waived
37 in accordance with rules adopted by the board.

1 (2) The following persons are not eligible for coverage by the
2 pool:

3 (a) Any person having terminated coverage in the pool unless (i)
4 twelve months have lapsed since termination, or (ii) that person can
5 show continuous other coverage which has been involuntarily terminated
6 for any reason other than nonpayment of premiums;

7 (b) Any person on whose behalf the pool has paid out five hundred
8 thousand dollars in benefits;

9 (c) Inmates of public institutions and persons whose benefits are
10 duplicated under public programs.

11 (3) Any person whose health insurance coverage is involuntarily
12 terminated for any reason other than nonpayment of premium may apply
13 for coverage under the plan.

14 (4) For reinsurance coverage, any member offering individual health
15 insurance equal to or greater in benefits than those offered by the
16 state basic health plan may apply for and obtain reinsurance of such
17 benefits in accordance with the standards established by the board.

18 **Sec. 10.** RCW 48.41.120 and 1989 c 121 s 8 are each amended to read
19 as follows:

20 (1) Subject to the limitation provided in subsection (3) of this
21 section, a pool policy offered in accordance with this chapter shall
22 impose a deductible. Deductibles of five hundred dollars and one
23 thousand dollars on a per person per calendar year basis shall
24 initially be offered. The board may authorize deductibles in other
25 amounts. The deductible shall be applied to the first five hundred
26 dollars, one thousand dollars, or other authorized amount of eligible
27 expenses incurred by the covered person.

28 (2) Subject to the limitations provided in subsection (3) of this
29 section, a mandatory coinsurance requirement shall be imposed at the
30 rate of twenty percent of eligible expenses in excess of the mandatory
31 deductible.

32 (3) The maximum aggregate out of pocket payments for eligible
33 expenses by the insured in the form of deductibles and coinsurance
34 shall not exceed in a calendar year:

35 (a) One thousand five hundred dollars per individual, or three
36 thousand dollars per family, per calendar year for the five hundred
37 dollar deductible policy;

1 (b) Two thousand five hundred dollars per individual, or five
2 thousand dollars per family per calendar year for the one thousand
3 dollar deductible policy; or

4 (c) An amount authorized by the board for any other deductible
5 policy.

6 (4) Eligible expenses incurred by a covered person in the last
7 three months of a calendar year, and applied toward a deductible, shall
8 also be applied toward the deductible amount in the next calendar year.

9 (5) A pool reinsurance policy offered in accordance with this
10 chapter shall impose a deductible of five thousand dollars for each
11 person covered under the reinsured plan per calendar year. In
12 addition, the reinsured member shall be responsible for ten percent of
13 the next fifty thousand dollars of claims during the calendar year and
14 the remainder may be reinsured. The reinsured member's liability for
15 covered health benefit costs shall not exceed a maximum limit of ten
16 thousand dollars in any one calendar year with respect to any person
17 covered under the reinsured plan. The board shall annually adjust the
18 initial level of claims and the maximum limit to be retained by the
19 carrier to reflect increases in the costs and utilization of benefits.
20 The adjustment shall be not less than the annual change in the medical
21 component of the "Consumer Price Index for All Urban Consumers" of the
22 United States department of labor, bureau of statistics, unless the
23 board proposes and the commissioner approves a lower adjustment factor.
24 The pool shall apply all managed care and claims handling techniques,
25 including utilization review, individual case management, preferred
26 provider provisions, and other managed care provisions and methods of
27 operation consistently with respect to the reinsured member.

28 **Sec. 11.** RCW 48.41.180 and 1987 c 431 s 18 are each amended to
29 read as follows:

30 (1) Commencing with May 18, 1987, every member shall provide a
31 notice and an application for coverage by the pool to any person who
32 receives a rejection of coverage for health insurance or health care
33 services, or has any health condition limited or excluded. The notice
34 shall state that the person is eligible to apply for health insurance
35 provided by the pool.

36 (2) Members of the pool shall provide the brochure outlining the
37 benefits and exclusions of the pool policy to any person who is
38 rejected by a member or who is offered a policy containing restrictive

1 riders, up-rated premiums, or a preexisting conditions limitation on a
2 health insurance plan.

3 (3) Commencing with July 1, 1996, every member who offers or
4 provides group health insurance shall actively market to small groups
5 and individuals the model basic health plan. Rates for individual
6 plans established by the member shall not exceed one hundred five
7 percent of the rate charged for small group plans by the member. The
8 health care authority shall ensure that its model basic health plan is
9 designed to permit both managed care and indemnity type benefit plans.

10 **Sec. 12.** RCW 48.41.200 and 1987 c 431 s 20 are each amended to
11 read as follows:

12 The pool shall determine the standard risk rate by calculating the
13 average group standard rate for groups comprised of up to ten persons
14 charged by the five largest members offering coverages in the state
15 comparable to the pool coverage. In the event five members do not
16 offer comparable coverage, the standard risk rate shall be established
17 using reasonable actuarial techniques and shall reflect anticipated
18 experience and expenses for such coverage. Maximum rates for pool
19 coverage shall be one hundred fifty percent of the rates established as
20 applicable for group standard risks in groups comprised of up to ten
21 persons. The pool shall also determine the standard risk rate for
22 reinsurance of individual health insurance in a manner that ensures the
23 affordability of individual health insurance while encouraging
24 reinsured members to employ effective risk management techniques. All
25 rates and rate schedules shall be submitted to the commissioner for
26 approval.

27 NEW SECTION. **Sec. 13.** If any provision of this act or its
28 application to any person or circumstance is held invalid, the
29 remainder of the act or the application of the provision to other
30 persons or circumstances is not affected.

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