

---

SENATE BILL 5419

---

State of Washington

54th Legislature

1995 Regular Session

By Senators Fairley and Quigley; by request of Department of Social and Health Services

Read first time 01/23/95. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to federal financial participation related to  
2 health insurer's and children's health care; amending RCW 48.01.180,  
3 and 48.41.100, and 26.18.170; adding new sections to chapter 48.01 RCW;  
4 and adding a new section to chapter 74.09 RCW.

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

6 NEW SECTION. **Sec. 1.** An insurer, health care service contractor,  
7 health maintenance organization, or certified health plan may not  
8 consider the availability of eligibility for medical assistance in this  
9 state under medical assistance, RCW 74.09.500, or any other state under  
10 42 U.S.C. Sec. 1396a, section 1902 of the social security act, in  
11 considering eligibility for coverage or making payments under its plan  
12 for eligible enrollees, subscribers, policyholders, or certificate  
13 holders.

14 NEW SECTION. **Sec. 2.** (1) An insurer, health care service  
15 contractor, health maintenance organization, or certified health plan  
16 may not deny enrollment of a child under the health plan of the child's  
17 parent on the grounds that:

18 (a) The child was born out of wedlock;

1 (b) The child is not claimed as a dependent on the parent's federal  
2 tax return; or

3 (c) The child does not reside with the parent or in the insurer's,  
4 health care service contractor's, health maintenance organization's, or  
5 certified health plan's service area.

6 (2) Where a child has health coverage through an insurer of a  
7 noncustodial parent the insurer shall:

8 (a) Provide such information to the custodial parent as may be  
9 necessary for the child to obtain benefits through that coverage;

10 (b) Permit the provider to submit claims for covered services  
11 without the approval of the noncustodial parent. The provider will  
12 obtain the custodial parent's assignment of insurance benefits or  
13 otherwise secure the custodial parent's approval.

14 For purposes of this subsection the department of social and health  
15 services as the state medicaid agency under RCW 74.09.500 may reassign  
16 medical insurance rights to the provider for custodial parents whose  
17 children are eligible for services under RCW 74.09.500; and

18 (c) Make payments on claims submitted in accordance with (b) of  
19 this subsection directly to the custodial parent, to the provider, or  
20 to the department of social and health services as the state medicaid  
21 agency under RCW 74.09.500.

22 (3) Where a parent is required by a court order to provide health  
23 coverage for a child, and the parent is eligible for family health  
24 coverage, the insurer, health care service contractor, health  
25 maintenance organization, or certified health plan shall:

26 (a) Permit the parent to enroll, under the family coverage, a child  
27 who is otherwise eligible for the coverage without regard to any  
28 enrollment season restrictions;

29 (b) Enroll the child under family coverage upon application of the  
30 child's other parent, department of social and health services as the  
31 state medicaid agency under RCW 74.09.500, or child support enforcement  
32 program as defined under RCW 26.18.170, if the parent is enrolled but  
33 fails to make application to obtain coverage for the child; and

34 (c) Not disenroll, or eliminate coverage of, the child unless the  
35 insurer is provided satisfactory written evidence that:

36 (i) The court order is no longer in effect; or

37 (ii) The child is or will be enrolled in comparable health coverage  
38 through another insurer which will take effect not later than the  
39 effective date of disenrollment.

1 (4) An insurer, health care service contractor, health maintenance  
2 organization, or certified health plan that has been assigned the  
3 rights of an individual eligible for medical assistance under medicaid  
4 and coverage for health benefits from the insurer, may not impose  
5 requirements on the department of social and health services that are  
6 different from requirements applicable to an agent or assignee of any  
7 other individual so covered.

8 Sec. 3. RCW 48.01.180 and 1986 c 140 s 1 are each amended to read  
9 as follows:

10 (1) A child of an insured, subscriber, or enrollee shall be  
11 considered a dependent child for insurance purposes under this title(~~(1)~~  
12 ~~Upon being physically placed with the insured, subscriber, or~~  
13 ~~enrollee for the purposes of adoption under the laws of the state in~~  
14 ~~which the insured, subscriber, or enrollee resides; and (2)) upon  
15 assumption by the insured, subscriber, or enrollee of (~~the financial~~  
16 ~~responsibility for the medical expenses~~) a legal obligation for total  
17 or partial support of a child in anticipation of adoption of the child.  
18 Upon the termination of such legal obligations, the child shall not be  
19 considered a dependent child for insurance purposes.~~

20 (~~Eligibility for coverage of an adopted child is governed by~~  
21 ~~applicable contract, policy, or agreement provisions with respect to~~  
22 ~~dependent children, including any established underwriting~~  
23 ~~guidelines.)) (2) Every policy or contract providing coverage for  
24 health benefits to a resident of this state shall provide coverage for  
25 dependent children placed for adoption under the same terms and  
26 conditions as apply to the natural, dependent children of the insured,  
27 subscriber, or enrollee whether or not the adoption has become final.~~

28 (3) No policy or contract may restrict coverage of any dependent  
29 child adopted by, or placed for adoption with, an insured, subscriber,  
30 or enrollee solely on the basis of a preexisting condition of the child  
31 at the time that the child would otherwise become eligible for coverage  
32 under the plan if the adoption or placement for adoption occurs while  
33 the insured, subscriber, or enrollee is eligible for coverage under the  
34 plan.

35 Sec. 4. RCW 48.41.100 and 1989 c 121 s 7 are each amended to read  
36 as follows:

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

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

11 ~~((Any person who is at the time of pool application eligible  
12 for medical assistance;~~

13 ~~(b))~~ Any person having terminated coverage in the pool unless (i)  
14 twelve months have lapsed since termination, or (ii) that person can  
15 show continuous other coverage which has been involuntarily terminated  
16 for any reason other than nonpayment of premiums;

17 ~~((e))~~ (b) Any person on whose behalf the pool has paid out five  
18 hundred thousand dollars in benefits;

19 ~~((d))~~ (c) Inmates of public institutions and persons whose  
20 benefits are duplicated under public programs.

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

24 NEW SECTION. Sec. 5. No insurer, health care service contractor,  
25 or health maintenance organization, may reduce coverage for childhood  
26 immunizations below the level of such benefits an insurer, health care  
27 service contractor, or health maintenance organization included in its  
28 policies, contracts, or certificates for pediatric immunizations or  
29 vaccinations as of May 1, 1993.

30 NEW SECTION. Sec. 6. A new section is added to chapter 74.09 RCW  
31 to read as follows:

32 To the extent that payment for covered expenses has been made under  
33 medical assistance for health care items or services furnished to an  
34 individual, in any case where a third party has a legal liability to  
35 make payments, the state is considered to have acquired the rights of  
36 the individual to payment by any other party for those health care  
37 items or services. Recovery pursuant to the subrogation rights,

1 assignment, or enforcement of the lien granted to the department by  
2 this section shall not be reduced, prorated, or applied to only a  
3 portion of a judgment, award, or settlement, except as provided in RCW  
4 43.20B.050 and 43.20B.060. The doctrine of equitable subrogation shall  
5 not apply to defeat, reduce, or prorate recovery by the department as  
6 to its assignment, lien, or subrogation rights.

7 **Sec. 7.** RCW 26.18.170 and 1994 c 230 s 7 are each amended to read  
8 as follows:

9 (1) Whenever an obligor parent who has been ordered to provide  
10 health insurance coverage for a dependent child fails to provide such  
11 coverage or lets it lapse, the department or the obligee may seek  
12 enforcement of the coverage order as provided under this section.

13 (2)(a) If the obligor parent's order to provide health insurance  
14 coverage contains language notifying the obligor that failure to  
15 provide such coverage or proof that such coverage is unavailable may  
16 result in direct enforcement of the order and orders payments through,  
17 or has been submitted to, the Washington state support registry for  
18 enforcement, then the department may, without further notice to the  
19 obligor, send a notice of enrollment to the obligor's employer or union  
20 by certified mail, return receipt requested.

21 The notice shall require the employer or union to enroll the child  
22 in the health insurance plan as provided in subsection (3) of this  
23 section.

24 (b) If the obligor parent's order to provide health insurance  
25 coverage does not order payments through, and has not been submitted  
26 to, the Washington state support registry for enforcement:

27 (i) The obligee may, without further notice to the obligor send a  
28 certified copy of the order requiring health insurance coverage to the  
29 obligor's employer or union by certified mail, return receipt  
30 requested; and

31 (ii) The obligee shall attach a notarized statement to the order  
32 declaring that the order is the latest order addressing coverage  
33 entered by the court and require the employer or union to enroll the  
34 child in the health insurance plan as provided in subsection (3) of  
35 this section.

36 (3) Upon receipt of an order that provides for health insurance  
37 coverage, or a notice of enrollment:

1 (a) The obligor's employer or union shall answer the party who sent  
2 the order or notice within thirty-five days and confirm that the child:

3 (i) Has been enrolled in the health insurance plan;

4 (ii) Will be enrolled (~~(in the next open enrollment period)~~); or

5 (iii) Cannot be covered, stating the reasons why such coverage  
6 cannot be provided;

7 (b) The employer or union shall withhold any required premium from  
8 the obligor's income or wages;

9 (c) If more than one plan is offered by the employer or union, and  
10 each plan may be extended to cover the child, then the child shall be  
11 enrolled in the obligor's plan. If the obligor's plan does not provide  
12 coverage which is accessible to the child, the child shall be enrolled  
13 in the least expensive plan otherwise available to the obligor parent;

14 (d) The employer or union shall provide information about the name  
15 of the health insurance coverage provider or insurer and the extent of  
16 coverage available to the obligee or the department and shall make  
17 available any necessary claim forms or enrollment membership cards.

18 (4) If the order for coverage contains no language notifying the  
19 obligor that failure to provide health insurance coverage or proof that  
20 such coverage is unavailable may result in direct enforcement of the  
21 order, the department or the obligee may serve a written notice of  
22 intent to enforce the order on the obligor by certified mail, return  
23 receipt requested, or by personal service. If the obligor fails to  
24 provide written proof that such coverage has been obtained or applied  
25 for or fails to provide proof that such coverage is unavailable within  
26 twenty days of service of the notice, the department or the obligee may  
27 proceed to enforce the order directly as provided in subsection (2) of  
28 this section.

29 (5) If the obligor ordered to provide health insurance coverage  
30 elects to provide coverage that will not be accessible to the child  
31 because of geographic or other limitations when accessible coverage is  
32 otherwise available, the department or the obligee may serve a written  
33 notice of intent to purchase health insurance coverage on the obligor  
34 by certified mail, return receipt requested. The notice shall also  
35 specify the type and cost of coverage.

36 (6) If the department serves a notice under subsection (5) of this  
37 section the obligor shall, within twenty days of the date of service:

38 (a) File an application for an adjudicative proceeding; or

1 (b) Provide written proof to the department that the obligor has  
2 either applied for, or obtained, coverage accessible to the child.

3 (7) If the obligee serves a notice under subsection (5) of this  
4 section, within twenty days of the date of service the obligor shall  
5 provide written proof to the obligee that the obligor has either  
6 applied for, or obtained, coverage accessible to the child.

7 (8) If the obligor fails to respond to a notice served under  
8 subsection (5) of this section to the party who served the notice, the  
9 party who served the notice may purchase the health insurance coverage  
10 specified in the notice directly. The amount of the monthly premium  
11 shall be added to the support debt and be collectible without further  
12 notice. The amount of the monthly premium may be collected or accrued  
13 until the obligor provides proof of the required coverage.

14 (9) The signature of the obligee or of a department employee shall  
15 be a valid authorization to the coverage provider or insurer for  
16 purposes of processing a payment to the child's health services  
17 provider. An order for health insurance coverage shall operate as an  
18 assignment of all benefit rights to the obligee or to the child's  
19 health services provider, and in any claim against the coverage  
20 provider or insurer, the obligee or the obligee's assignee shall be  
21 subrogated to the rights of the obligor. Notwithstanding the  
22 provisions of this section regarding assignment of benefits, this  
23 section shall not require a health care service contractor authorized  
24 under chapter 48.44 RCW or a health maintenance organization authorized  
25 under chapter 48.46 RCW to deviate from their contractual provisions  
26 and restrictions regarding reimbursement for covered services. If the  
27 coverage is terminated, the employer shall mail a notice of termination  
28 to the department or the obligee at the obligee's last known address  
29 within thirty days of the termination date.

30 (10) This section shall not be construed to limit the right of the  
31 obligor or the obligee to bring an action in superior court at any time  
32 to enforce, modify, or clarify the original support order.

33 ~~(11) ((Nothing in this section shall be construed to require a  
34 health maintenance organization, or health care service contractor, to  
35 extend coverage to a child who resides outside its service area.~~

36 ~~(12))~~) If an obligor fails to pay his or her portion of any  
37 deductible required under the health insurance coverage or fails to pay  
38 his or her portion of medical expenses incurred in excess of the  
39 coverage provided under the plan, the department or the obligee may

1 enforce collection of the obligor's portion of the deductible or the  
2 additional medical expenses through a wage assignment order. The  
3 amount of the deductible or additional medical expenses shall be added  
4 to the support debt and be collectible without further notice if the  
5 obligor's share of the amount of the deductible or additional expenses  
6 is reduced to a sum certain in a court order.

7 NEW SECTION. **Sec. 8.** Sections 1, 2, and 5 of this act are each  
8 added to chapter 48.01 RCW.

--- END ---