CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5419

Chapter 34, Laws of 1995

54th Legislature
1995 Regular Session

Health insurance--Coverage of dependent children

EFFECTIVE DATE: 7/23/95

Passed by the Senate March 7, 1995
YEAS 46 NAYS 0

JOEL PRITCHARD
President of the Senate

Passed by the House April 4, 1995
YEAS 97 NAYS 0

CLYDE BALLARD
Speaker of the House of Representatives

Approved April 13, 1995

MARTY BROWN
Secretary

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is SUBSTITUTE SENATE BILL 5419 as passed by the Senate and the House of Representatives on the dates hereon set forth.

MIKE LOWRY
Governor of the State of Washington

Secretary of State
State of Washington

April 13, 1995 - 11:22 a.m.
AN ACT Relating to federal financial participation related to health insurer’s and children’s health care; amending RCW 48.01.180, and 48.41.100, and 26.18.170; adding new sections to chapter 48.01 RCW; and adding a new section to chapter 74.09 RCW.

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

NEW SECTION. Sec. 1. "Issuer" as used in this title and chapter 26.18 RCW means insurer, fraternal benefit society, certified health plan, health maintenance organization, and health care service contractor.

NEW SECTION. Sec. 2. An issuer and an employee welfare benefit plan, whether insured or self funded, as defined in the employee retirement income security act of 1974, 29 U.S.C. Sec. 1101 et seq. may not consider the availability of eligibility for medical assistance in this state under medical assistance, RCW 74.09.500, or any other state under 42 U.S.C. Sec. 1396a, section 1902 of the social security act, in considering eligibility for coverage or making payments under its plan for eligible enrollees, subscribers, policyholders, or certificate holders.
NEW SECTION. Sec. 3. (1) An issuer and an employee welfare benefit plan, whether insured or self funded, as defined in the employee retirement income security act of 1974, 29 U.S.C. Sec. 1101 et seq. may not deny enrollment of a child under the health plan of the child’s parent on the grounds that:

(a) The child was born out of wedlock;
(b) The child is not claimed as a dependent on the parent’s federal tax return; or
(c) The child does not reside with the parent or in the issuer’s, or insured or self funded employee welfare benefit plan’s service area.

(2) Where a child has health coverage through an issuer, or an insured or self funded employee welfare benefit plan of a noncustodial parent the issuer, or insured or self funded employee welfare benefit plan, shall:

(a) Provide such information to the custodial parent as may be necessary for the child to obtain benefits through that coverage;
(b) Permit the provider or the custodial parent to submit claims for covered services without the approval of the noncustodial parent. If the provider submits the claim, the provider will obtain the custodial parent’s assignment of insurance benefits or otherwise secure the custodial parent’s approval.

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

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

(3) Where a child does not reside in the issuer’s service area, an issuer shall cover no less than urgent and emergent care. Where the issuer offers broader coverage, whether by policy or reciprocal agreement, the issuer shall provide such coverage to any child otherwise covered that does not reside in the issuer’s service area.

(4) Where a parent is required by a court order to provide health coverage for a child, and the parent is eligible for family health coverage, the issuer, or insured or self funded employee welfare benefit plan, shall:
(a) Permit the parent to enroll, under the family coverage, a child who is otherwise eligible for the coverage without regard to any enrollment season restrictions;

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

(c) Not disenroll, or eliminate coverage of, such child who is otherwise eligible for the coverage unless the issuer or insured or self funded employee welfare benefit plan is provided satisfactory written evidence that:

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

(ii) The child is or will be enrolled in comparable health coverage through another issuer, or insured or self funded employee welfare benefit plan, which will take effect not later than the effective date of disenrollment.

(5) An issuer, or insured or self funded employee welfare benefit plan, that has been assigned the rights of an individual eligible for medical assistance under medicaid and coverage for health benefits from the issuer, or insured or self funded employee welfare benefit plan, may not impose requirements on the department of social and health services that are different from requirements applicable to an agent or assignee of any other individual so covered.

Sec. 4. RCW 48.01.180 and 1986 c 140 s 1 are each amended to read as follows:

(1) A child of an insured, subscriber, or enrollee shall be considered a dependent child for insurance purposes under this title:(+)

(1) Upon being physically placed with the insured, subscriber, or enrollee for the purposes of adoption under the laws of the state in which the insured, subscriber, or enrollee resides; and (2)) upon assumption by the insured, subscriber, or enrollee of (the financial responsibility for the medical expenses)) a legal obligation for total or partial support of a child in anticipation of adoption of the child. Upon the termination of such legal obligations, the child shall not be considered a dependent child for insurance purposes.

((Eligibility for coverage of an adopted child is governed by applicable contract, policy, or agreement provisions with respect to

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dependent children, including any established underwriting guidelines.) (2) Every policy or contract providing coverage for health benefits to a resident of this state shall provide coverage for dependent children placed for adoption under the same terms and conditions as apply to the natural, dependent children of the insured, subscriber, or enrollee whether or not the adoption has become final.

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

Sec. 5. RCW 48.41.100 and 1989 c 121 s 7 are each amended to read as follows:

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

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

(a) ((Any person who is at the time of pool application eligible for medical assistance;)
   (e))) Any person having terminated coverage in the pool unless (i) twelve months have lapsed since termination, or (ii) that person can show continuous other coverage which has been involuntarily terminated for any reason other than nonpayment of premiums;

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

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

(3) Any person whose health insurance coverage is involuntarily terminated for any reason other than nonpayment of premium may apply for coverage under the plan.
NEW SECTION. Sec. 6. A new section is added to chapter 74.09 RCW to read as follows:

To the extent that payment for covered expenses has been made under medical assistance for health care items or services furnished to an individual, in any case where a third party has a legal liability to make payments, the state is considered to have acquired the rights of the individual to payment by any other party for those health care items or services. Recovery pursuant to the subrogation rights, assignment, or enforcement of the lien granted to the department by this section shall not be reduced, prorated, or applied to only a portion of a judgment, award, or settlement, except as provided in RCW 43.20B.050 and 43.20B.060. The doctrine of equitable subrogation shall not apply to defeat, reduce, or prorate recovery by the department as to its assignment, lien, or subrogation rights.

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

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

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

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

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

(i) The obligee may, without further notice to the obligor send a certified copy of the order requiring health insurance coverage to the obligor’s employer or union by certified mail, return receipt requested; and
The obligee shall attach a notarized statement to the order declaring that the order is the latest order addressing coverage entered by the court and require the employer or union to enroll the child in the health insurance plan as provided in subsection (3) of this section.

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

(a) The obligor’s employer or union shall answer the party who sent the order or notice within thirty-five days and confirm that the child:
   (i) Has been enrolled in the health insurance plan;
   (ii) Will be enrolled (in the next open enrollment period); or
   (iii) Cannot be covered, stating the reasons why such coverage cannot be provided;

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

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

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

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

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

(6) If the department serves a notice under subsection (5) of this
section the obligor shall, within twenty days of the date of service:
(a) File an application for an adjudicative proceeding; or
(b) Provide written proof to the department that the obligor has
either applied for, or obtained, coverage accessible to the child.

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

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

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

(10) This section shall not be construed to limit the right of the
obligor or the obligee to bring an action in superior court at any time
to enforce, modify, or clarify the original support order.
Nothing in this section shall be construed to require a health maintenance organization, or health care service contractor, to extend coverage to a child who resides outside its service area.

Where a child does not reside in the issuer’s service area, an issuer shall cover no less than urgent and emergent care. Where the issuer offers broader coverage, whether by policy or reciprocal agreement, the issuer shall provide such coverage to any child otherwise covered that does not reside in the issuer’s service area.

If an obligor fails to pay his or her portion of any deductible required under the health insurance coverage or fails to pay his or her portion of medical expenses incurred in excess of the coverage provided under the plan, the department or the obligee may enforce collection of the obligor’s portion of the deductible or the additional medical expenses through a wage assignment order. The amount of the deductible or additional medical expenses shall be added to the support debt and be collectible without further notice if the obligor’s share of the amount of the deductible or additional expenses is reduced to a sum certain in a court order.

NEW SECTION. Sec. 8. Sections 1 through 3 of this act are each added to chapter 48.01 RCW.

Passed the Senate March 7, 1995.
Passed the House April 4, 1995.
Approved by the Governor April 13, 1995.
Filed in Office of Secretary of State April 13, 1995.