

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE HOUSE BILL 2537

Chapter 143, Laws of 2008

60th Legislature
2008 Regular Session

HEALTH INSURANCE PARTNERSHIP

EFFECTIVE DATE: 06/12/08

Passed by the House March 10, 2008
Yeas 63 Nays 32

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 7, 2008
Yeas 27 Nays 22

BRAD OWEN

President of the Senate

Approved March 25, 2008, 1:32 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 2537** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

March 25, 2008

**Secretary of State
State of Washington**

SECOND SUBSTITUTE HOUSE BILL 2537

AS AMENDED BY THE SENATE

Passed Legislature - 2008 Regular Session

State of Washington 60th Legislature 2008 Regular Session

By House Appropriations (originally sponsored by Representatives
Cody, Hasegawa, Kenney, Morrell, Green, and Loomis)

READ FIRST TIME 02/12/08.

1 AN ACT Relating to modifications to the health insurance
2 partnership statute necessary for timely implementation of the health
3 insurance partnership; amending RCW 70.47A.020, 70.47A.030, 70.47A.040,
4 70.47A.070, 70.47A.110, 48.21.045, 48.44.023, and 48.46.066; and
5 creating a new section.

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

7 **Sec. 1.** RCW 70.47A.020 and 2007 c 260 s 2 are each amended to read
8 as follows:

9 The definitions in this section apply throughout this chapter
10 unless the context clearly requires otherwise.

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

13 (2) "Board" means the health insurance partnership board
14 established in RCW 70.47A.100.

15 (3) "Eligible partnership participant" means (~~(an individual)~~) a
16 partnership participant who:

17 (a) Is a resident of the state of Washington; and

18 (b) Has family income that does not exceed two hundred percent of

1 the federal poverty level, as determined annually by the federal
2 department of health and human services(~~(; and~~

3 ~~(c) Is employed by a participating small employer or is a former~~
4 ~~employee of a participating small employer who chooses to continue~~
5 ~~receiving coverage through the partnership following separation from~~
6 ~~employment)).~~

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

9 (5) "Participating small employer" means a small employer that
10 ~~((employs at least one eligible partnership participant and))~~ has
11 entered into an agreement with the partnership ~~((for the partnership to~~
12 ~~offer and administer the small employer's group health benefit plan, as~~
13 ~~defined in federal law, Sec. 706 of ERISA (29 U.S.C. Sec. 1167), for~~
14 ~~enrollees in the plan))~~ to purchase health benefits through the
15 partnership. To participate in the partnership, an employer must
16 attest to the fact that (a) the employer does not currently offer
17 health insurance to its employees, and (b) at least fifty percent of
18 the employer's employees are low-wage workers.

19 (6) "Partnership" means the health insurance partnership
20 established in RCW 70.47A.030.

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

27 (8) "Small employer" has the same meaning as defined in RCW
28 48.43.005.

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

34 **Sec. 2.** RCW 70.47A.030 and 2007 c 259 s 58 are each amended to
35 read as follows:

36 (1) To the extent funding is appropriated in the operating budget
37 for this purpose, the health insurance partnership is established. The

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

6 (2) Consistent with policies adopted by the board under (~~section~~
7 ~~59 of this act~~)) RCW 70.47A.110, the administrator shall, directly or
8 by contract:

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

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

31 (~~Establish and manage a system for the partnership to be~~
32 ~~designated as the sponsor or administrator of a participating small~~
33 ~~employer health benefit plan and to undertake the obligations required~~
34 ~~of a plan administrator under federal law~~;

35 (~~d~~)) Establish and manage a system of collecting and transmitting
36 to the applicable carriers all premium payments or contributions made
37 by or on behalf of partnership participants, including employer

1 contributions, automatic payroll deductions for partnership
2 participants, premium subsidy payments, and contributions from
3 philanthropies;

4 ~~((e))~~ (d) Establish and manage a system for determining
5 eligibility for and making premium subsidy payments under chapter 259,
6 Laws of 2007;

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

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

32 (3) The administrator may enter into interdepartmental agreements
33 with the office of the insurance commissioner, the department of social
34 and health services, and any other state agencies necessary to
35 implement this chapter.

36 **Sec. 3.** RCW 70.47A.040 and 2007 c 260 s 6 are each amended to read
37 as follows:

1 Beginning (~~September 1, 2008~~) January 1, 2009, the administrator
2 shall accept applications from eligible partnership participants, on
3 behalf of themselves, their spouses, and their dependent children, to
4 receive premium subsidies through the health insurance partnership.
5 Every effort shall be made to coordinate premium subsidies for
6 dependent children with federal funding available under Title XIX and
7 Title XXI of the federal social security act, consistent with the
8 requirements established in RCW 74.09.470(4) for the employer-sponsored
9 insurance program at the department of social and health services.

10 **Sec. 4.** RCW 70.47A.070 and 2006 c 255 s 7 are each amended to read
11 as follows:

12 The administrator shall report biennially, beginning November 1,
13 2010, to the relevant policy and fiscal committees of the legislature
14 on the effectiveness and efficiency of the (~~small employer~~) health
15 insurance partnership program, including enrollment trends, the
16 services and benefits covered under the purchased health benefit plans,
17 consumer satisfaction, and other program operational issues.

18 **Sec. 5.** RCW 70.47A.110 and 2007 c 260 s 5 are each amended to read
19 as follows:

20 (1) The health insurance partnership board shall:

21 (a) Develop policies for enrollment of small employers in the
22 partnership, including minimum participation rules for small employer
23 groups. The small employer shall determine the criteria for
24 eligibility and enrollment in his or her plan and the terms and amounts
25 of the employer's contributions to that plan, consistent with any
26 minimum employer premium contribution level established by the board
27 under (d) of this subsection;

28 (b) Designate health benefit plans that are currently offered in
29 the small group market that will be offered to participating small
30 employers through the health insurance partnership and those plans that
31 will qualify for premium subsidy payments. (~~At least four~~) Up to
32 five health benefit plans shall be chosen, with multiple deductible and
33 point-of-service cost-sharing options. The health benefit plans shall
34 range from catastrophic to comprehensive coverage, and one health
35 benefit plan shall be a high deductible health plan accompanied by a
36 health savings account. Every effort shall be made to include health

1 benefit plans that include components to maximize the quality of care
2 provided and result in improved health outcomes, such as preventive
3 care, wellness incentives, chronic care management services, and
4 provider network development and payment policies related to quality of
5 care;

6 (c) Approve a mid-range benefit plan from those selected to be used
7 as a benchmark plan for calculating premium subsidies;

8 (d) Determine whether there should be a minimum employer premium
9 contribution on behalf of employees, and if so, how much;

10 (e) Develop policies related to partnership participant enrollment
11 in health benefit plans. The board may focus its initial efforts on
12 access to coverage and affordability of coverage for participating
13 small employers and their employees. To the extent necessary for
14 successful implementation of the partnership, during a start-up phase
15 of partnership operation, the board may:

16 (i) Limit partnership participant health benefit plan choice; and

17 (ii) Offer former employees of participating small employers the
18 opportunity to continue coverage after separation from employment to
19 the extent that a former employee is eligible for continuation coverage
20 under 29 U.S.C. Sec. 1161 et seq.

21 The start-up phase may not exceed two years from the date the
22 partnership begins to offer coverage;

23 (f) Determine appropriate health benefit plan rating methodologies.
24 The methodologies shall be based on the small group adjusted community
25 rate as defined in Title 48 RCW. The board shall evaluate the impact
26 of applying the small group adjusted community rating ~~((with))~~
27 methodology to health benefit plans purchased through the partnership
28 on the ~~((partnership))~~ principle of allowing each ~~((employee))~~
29 partnership participant to choose ~~((their))~~ his or her health benefit
30 plan, and ~~((consider options))~~ may implement one or more risk
31 adjustment or reinsurance mechanisms to reduce uncertainty for carriers
32 and provide for efficient risk management of high-cost enrollees
33 ~~((through risk adjustment, reinsurance, or other mechanisms));~~

34 ~~((+f))~~ (g) Determine whether the partnership should be designated
35 as the administrator of a participating small employer health benefit
36 plan and undertake the obligations required of a plan administrator
37 under federal law in order to minimize administrative burdens on
38 participating small employers;

1 (h) Conduct analyses and provide recommendations as requested by
2 the legislature and the governor, with the assistance of staff from the
3 health care authority and the office of the insurance commissioner.

4 (2) The board may authorize one or more limited health care service
5 plans for dental care services to be offered by limited health care
6 service contractors under RCW 48.44.035. However, such plan shall not
7 qualify for subsidy payments.

8 (3) In fulfilling the requirements of this section, the board shall
9 consult with small employers, the office of the insurance commissioner,
10 members in good standing of the American academy of actuaries, health
11 carriers, agents and brokers, and employees of small business.

12 **Sec. 6.** RCW 48.21.045 and 2007 c 260 s 7 are each amended to read
13 as follows:

14 (1)(a) An insurer offering any health benefit plan to a small
15 employer, either directly or through an association or member-governed
16 group formed specifically for the purpose of purchasing health care,
17 may offer and actively market to the small employer a health benefit
18 plan featuring a limited schedule of covered health care services.
19 Nothing in this subsection shall preclude an insurer from offering, or
20 a small employer from purchasing, other health benefit plans that may
21 have more comprehensive benefits than those included in the product
22 offered under this subsection. An insurer offering a health benefit
23 plan under this subsection shall clearly disclose all covered benefits
24 to the small employer in a brochure filed with the commissioner.

25 (b) A health benefit plan offered under this subsection shall
26 provide coverage for hospital expenses and services rendered by a
27 physician licensed under chapter 18.57 or 18.71 RCW but is not subject
28 to the requirements of RCW 48.21.130, 48.21.140, 48.21.141, 48.21.142,
29 48.21.144, 48.21.146, 48.21.160 through 48.21.197, 48.21.200,
30 48.21.220, 48.21.225, 48.21.230, 48.21.235, ((48.21.240,)) 48.21.244,
31 48.21.250, 48.21.300, 48.21.310, or 48.21.320.

32 (2) Nothing in this section shall prohibit an insurer from
33 offering, or a purchaser from seeking, health benefit plans with
34 benefits in excess of the health benefit plan offered under subsection
35 (1) of this section. All forms, policies, and contracts shall be
36 submitted for approval to the commissioner, and the rates of any plan

1 offered under this section shall be reasonable in relation to the
2 benefits thereto.

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

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

- 7 (i) Geographic area;
- 8 (ii) Family size;
- 9 (iii) Age; and
- 10 (iv) Wellness activities.

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

15 (c) The insurer shall be permitted to develop separate rates for
16 individuals age sixty-five or older for coverage for which medicare is
17 the primary payer and coverage for which medicare is not the primary
18 payer. Both rates shall be subject to the requirements of this
19 subsection (3).

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

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

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

- 30 (i) Changes to the enrollment of the small employer;
- 31 (ii) Changes to the family composition of the employee;
- 32 (iii) Changes to the health benefit plan requested by the small
33 employer; or
- 34 (iv) Changes in government requirements affecting the health
35 benefit plan.

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

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

10 (i) Adjusted community rates established under this section shall
11 pool the medical experience of all small groups purchasing coverage,
12 including the small group participants in the health insurance
13 partnership established in RCW 70.47A.030. However, annual rate
14 adjustments for each small group health benefit plan may vary by up to
15 plus or minus four percentage points from the overall adjustment of a
16 carrier's entire small group pool, such overall adjustment to be
17 approved by the commissioner, upon a showing by the carrier, certified
18 by a member of the American academy of actuaries that: (i) The
19 variation is a result of deductible leverage, benefit design, or
20 provider network characteristics; and (ii) for a rate renewal period,
21 the projected weighted average of all small group benefit plans will
22 have a revenue neutral effect on the carrier's small group pool.
23 Variations of greater than four percentage points are subject to review
24 by the commissioner, and must be approved or denied within sixty days
25 of submittal. A variation that is not denied within sixty days shall
26 be deemed approved. The commissioner must provide to the carrier a
27 detailed actuarial justification for any denial within thirty days of
28 the denial.

29 (j) For health benefit plans purchased through the health insurance
30 partnership established in chapter 70.47A RCW:

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

34 (ii) Risk adjustment or reinsurance mechanisms may be used by the
35 health insurance partnership program to redistribute funds to carriers
36 participating in the health insurance partnership based on differences
37 in risk attributable to individual choice of health plans or other

1 factors unique to health insurance partnership participation. Use of
2 such mechanisms shall be limited to the partnership program and will
3 not affect small group health plans offered outside the partnership.

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

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

11 (b) An insurer shall not require a minimum participation level
12 greater than:

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

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

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

21 (d) An insurer may not increase any requirement for minimum
22 employee participation or modify any requirement for minimum employer
23 contribution applicable to a small employer at any time after the small
24 employer has been accepted for coverage.

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

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

1 (7) As used in this section, "health benefit plan," "small
2 employer," "adjusted community rate," and "wellness activities" mean
3 the same as defined in RCW 48.43.005.

4 **Sec. 7.** RCW 48.44.023 and 2007 c 260 s 8 are each amended to read
5 as follows:

6 (1)(a) A health care services contractor offering any health
7 benefit plan to a small employer, either directly or through an
8 association or member-governed group formed specifically for the
9 purpose of purchasing health care, may offer and actively market to the
10 small employer a health benefit plan featuring a limited schedule of
11 covered health care services. Nothing in this subsection shall
12 preclude a contractor from offering, or a small employer from
13 purchasing, other health benefit plans that may have more comprehensive
14 benefits than those included in the product offered under this
15 subsection. A contractor offering a health benefit plan under this
16 subsection shall clearly disclose all covered benefits to the small
17 employer in a brochure filed with the commissioner.

18 (b) A health benefit plan offered under this subsection shall
19 provide coverage for hospital expenses and services rendered by a
20 physician licensed under chapter 18.57 or 18.71 RCW but is not subject
21 to the requirements of RCW 48.44.225, 48.44.240, 48.44.245, 48.44.290,
22 48.44.300, 48.44.310, 48.44.320, 48.44.325, 48.44.330, 48.44.335,
23 (~~48.44.340~~), 48.44.344, 48.44.360, 48.44.400, 48.44.440, 48.44.450,
24 and 48.44.460.

25 (2) Nothing in this section shall prohibit a health care service
26 contractor from offering, or a purchaser from seeking, health benefit
27 plans with benefits in excess of the health benefit plan offered under
28 subsection (1) of this section. All forms, policies, and contracts
29 shall be submitted for approval to the commissioner, and the rates of
30 any plan offered under this section shall be reasonable in relation to
31 the benefits thereto.

32 (3) Premium rates for health benefit plans for small employers as
33 defined in this section shall be subject to the following provisions:

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

- 36 (i) Geographic area;
- 37 (ii) Family size;

1 (iii) Age; and

2 (iv) Wellness activities.

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

7 (c) The contractor shall be permitted to develop separate rates for
8 individuals age sixty-five or older for coverage for which medicare is
9 the primary payer and coverage for which medicare is not the primary
10 payer. Both rates shall be subject to the requirements of this
11 subsection (3).

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

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

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

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

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

24 (iii) Changes to the health benefit plan requested by the small
25 employer; or

26 (iv) Changes in government requirements affecting the health
27 benefit plan.

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

31 (h) For the purposes of this section, a health benefit plan that
32 contains a restricted network provision shall not be considered similar
33 coverage to a health benefit plan that does not contain such a
34 provision, provided that the restrictions of benefits to network
35 providers result in substantial differences in claims costs. A carrier
36 may develop its rates based on claims costs due to network provider
37 reimbursement schedules or type of network. This subsection does not

1 restrict or enhance the portability of benefits as provided in RCW
2 48.43.015.

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

22 (j) For health benefit plans purchased through the health insurance
23 partnership established in chapter 70.47A RCW:

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

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

34 (4) Nothing in this section shall restrict the right of employees
35 to collectively bargain for insurance providing benefits in excess of
36 those provided herein.

37 (5)(a) Except as provided in this subsection, requirements used by

1 a contractor in determining whether to provide coverage to a small
2 employer shall be applied uniformly among all small employers applying
3 for coverage or receiving coverage from the carrier.

4 (b) A contractor shall not require a minimum participation level
5 greater than:

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

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

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

14 (d) A contractor may not increase any requirement for minimum
15 employee participation or modify any requirement for minimum employer
16 contribution applicable to a small employer at any time after the small
17 employer has been accepted for coverage.

18 (e) Minimum participation requirements and employer premium
19 contribution requirements adopted by the health insurance partnership
20 board under RCW 70.47A.110 shall apply only to the employers and
21 employees who purchase health benefit plans through the health
22 insurance partnership.

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

31 **Sec. 8.** RCW 48.46.066 and 2007 c 260 s 9 are each amended to read
32 as follows:

33 (1)(a) A health maintenance organization offering any health
34 benefit plan to a small employer, either directly or through an
35 association or member-governed group formed specifically for the
36 purpose of purchasing health care, may offer and actively market to the
37 small employer a health benefit plan featuring a limited schedule of

1 covered health care services. Nothing in this subsection shall
2 preclude a health maintenance organization from offering, or a small
3 employer from purchasing, other health benefit plans that may have more
4 comprehensive benefits than those included in the product offered under
5 this subsection. A health maintenance organization offering a health
6 benefit plan under this subsection shall clearly disclose all the
7 covered benefits to the small employer in a brochure filed with the
8 commissioner.

9 (b) A health benefit plan offered under this subsection shall
10 provide coverage for hospital expenses and services rendered by a
11 physician licensed under chapter 18.57 or 18.71 RCW but is not subject
12 to the requirements of RCW 48.46.275, 48.46.280, 48.46.285,
13 (~~48.46.290~~) 48.46.350, 48.46.355, 48.46.375, 48.46.440, 48.46.480,
14 48.46.510, 48.46.520, and 48.46.530.

15 (2) Nothing in this section shall prohibit a health maintenance
16 organization from offering, or a purchaser from seeking, health benefit
17 plans with benefits in excess of the health benefit plan offered under
18 subsection (1) of this section. All forms, policies, and contracts
19 shall be submitted for approval to the commissioner, and the rates of
20 any plan offered under this section shall be reasonable in relation to
21 the benefits thereto.

22 (3) Premium rates for health benefit plans for small employers as
23 defined in this section shall be subject to the following provisions:

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

- 27 (i) Geographic area;
- 28 (ii) Family size;
- 29 (iii) Age; and
- 30 (iv) Wellness activities.

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

35 (c) The health maintenance organization shall be permitted to
36 develop separate rates for individuals age sixty-five or older for
37 coverage for which medicare is the primary payer and coverage for which

1 medicare is not the primary payer. Both rates shall be subject to the
2 requirements of this subsection (3).

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

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

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

- 13 (i) Changes to the enrollment of the small employer;
- 14 (ii) Changes to the family composition of the employee;
- 15 (iii) Changes to the health benefit plan requested by the small
16 employer; or
- 17 (iv) Changes in government requirements affecting the health
18 benefit plan.

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

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

31 (i) Adjusted community rates established under this section shall
32 pool the medical experience of all groups purchasing coverage,
33 including the small group participants in the health insurance
34 partnership established in RCW 70.47A.030. However, annual rate
35 adjustments for each small group health benefit plan may vary by up to
36 plus or minus four percentage points from the overall adjustment of a
37 carrier's entire small group pool, such overall adjustment to be
38 approved by the commissioner, upon a showing by the carrier, certified

1 by a member of the American academy of actuaries that: (i) The
2 variation is a result of deductible leverage, benefit design, or
3 provider network characteristics; and (ii) for a rate renewal period,
4 the projected weighted average of all small group benefit plans will
5 have a revenue neutral effect on the carrier's small group pool.
6 Variations of greater than four percentage points are subject to review
7 by the commissioner, and must be approved or denied within sixty days
8 of submittal. A variation that is not denied within sixty days shall
9 be deemed approved. The commissioner must provide to the carrier a
10 detailed actuarial justification for any denial within thirty days of
11 the denial.

12 (j) For health benefit plans purchased through the health insurance
13 partnership established in chapter 70.47A RCW:

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

17 (ii) Risk adjustment or reinsurance mechanisms may be used by the
18 health insurance partnership program to redistribute funds to carriers
19 participating in the health insurance partnership based on differences
20 in risk attributable to individual choice of health plans or other
21 factors unique to health insurance partnership participation. Use of
22 such mechanisms shall be limited to the partnership program and will
23 not affect small group health plans offered outside the partnership.

24 (4) Nothing in this section shall restrict the right of employees
25 to collectively bargain for insurance providing benefits in excess of
26 those provided herein.

27 (5)(a) Except as provided in this subsection, requirements used by
28 a health maintenance organization in determining whether to provide
29 coverage to a small employer shall be applied uniformly among all small
30 employers applying for coverage or receiving coverage from the carrier.

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

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

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

37 (c) In applying minimum participation requirements with respect to

1 a small employer, a small employer shall not consider employees or
2 dependents who have similar existing coverage in determining whether
3 the applicable percentage of participation is met.

4 (d) A health maintenance organization may not increase any
5 requirement for minimum employee participation or modify any
6 requirement for minimum employer contribution applicable to a small
7 employer at any time after the small employer has been accepted for
8 coverage.

9 (e) Minimum participation requirements and employer premium
10 contribution requirements adopted by the health insurance partnership
11 board under RCW 70.47A.110 shall apply only to the employers and
12 employees who purchase health benefit plans through the health
13 insurance partnership.

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

23 NEW SECTION. Sec. 9. If specific funding for the purposes of this
24 act, referencing this act by bill or chapter number, is not provided by
25 June 30, 2008, in the omnibus appropriations act, this act is null and
26 void.

Passed by the House March 10, 2008.

Passed by the Senate March 7, 2008.

Approved by the Governor March 25, 2008.

Filed in Office of Secretary of State March 25, 2008.