
SENATE BILL 5869

State of Washington**62nd Legislature****2011 Regular Session****By** Senators Tom, Becker, and Erickson

Read first time 03/08/11. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to requiring insurance benefits with wellness
2 incentives for public employees; amending RCW 41.05.065 and
3 28A.400.350; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature recognizes the value of
6 strategies that improve employee health and encourage long-term cost
7 containment. Employee wellness projects in state agencies and with
8 private employers have demonstrated use of health assessments to
9 identify and monitor health improvement opportunities, improvements in
10 employee productivity, weight reduction, and cholesterol and blood
11 pressure management. It is the intent of the legislature that the
12 wellness demonstrations move to a more population-based approach with
13 implementation, incorporating worksite efforts with further expansion
14 of high value services encouraged through the health benefit design to
15 improve the health of all state, higher education, and school district
16 employees.

17 **Sec. 2.** RCW 41.05.065 and 2009 c 537 s 7 are each amended to read
18 as follows:

1 (1) The board shall study all matters connected with the provision
2 of health care coverage, life insurance, liability insurance,
3 accidental death and dismemberment insurance, and disability income
4 insurance or any of, or a combination of, the enumerated types of
5 insurance for employees and their dependents on the best basis possible
6 with relation both to the welfare of the employees and to the state.
7 However, liability insurance shall not be made available to dependents.

8 (2) The board shall develop employee benefit plans that include
9 comprehensive health care benefits for employees. In developing these
10 plans, the board shall consider the following elements:

11 (a) Methods of maximizing cost containment while ensuring access to
12 quality health care;

13 (b) Development of provider arrangements that encourage cost
14 containment and ensure access to quality care, including but not
15 limited to prepaid delivery systems and prospective payment methods;

16 (c) ~~((Wellness incentives that focus on proven strategies, such as~~
17 ~~smoking cessation, injury and accident prevention, reduction of alcohol~~
18 ~~misuse, appropriate weight reduction, exercise, automobile and~~
19 ~~motorcycle safety, blood cholesterol reduction, and nutrition~~
20 ~~education;~~

21 (d)) Utilization review procedures including, but not limited to
22 a cost-efficient method for prior authorization of services, hospital
23 inpatient length of stay review, requirements for use of outpatient
24 surgeries and second opinions for surgeries, review of invoices or
25 claims submitted by service providers, and performance audit of
26 providers;

27 ((e)) (d) Effective coordination of benefits; and

28 ((f)) (e) Minimum standards for insuring entities.

29 (3) The employee benefit design shall incorporate wellness
30 incentives that encourage health-focused activities such as better
31 nutrition and physical activity, use of health screening services, and
32 routine completion of health assessments.

33 (a) Incentives must include, but are not limited to, copayment or
34 coinsurance adjustments, or other rebates established to meet defined
35 health indicators such as body mass index, blood pressure, cholesterol
36 levels, and smoking cessation;

37 (b) Whenever possible, incentives must be actuarially based and

1 reflect the true costs associated with obesity, smoking, and high blood
2 pressure;

3 (c) In addition to the health indicator for body mass index, the
4 program should include an alternative measure for some individuals
5 using a percentage of body fat test. The cost of the test will be
6 waived if the alternative measure indicates the enrollee is not obese.

7 (4) To maintain the comprehensive nature of employee health care
8 benefits, benefits provided to employees shall be substantially
9 equivalent to the state employees' health benefits plan in effect on
10 January 1, 1993. Nothing in this subsection shall prohibit changes or
11 increases in employee point-of-service payments or employee premium
12 payments for benefits or the administration of a high deductible health
13 plan in conjunction with a health savings account. The board may
14 establish employee eligibility criteria which are not substantially
15 equivalent to employee eligibility criteria in effect on January 1,
16 1993.

17 ((+4))) (5) Except if bargained for under chapter 41.80 RCW, the
18 board shall design benefits and determine the terms and conditions of
19 employee and retired employee participation and coverage, including
20 establishment of eligibility criteria subject to the requirements of
21 this chapter. Employer groups obtaining benefits through contractual
22 agreement with the authority for employees defined in RCW 41.05.011(6)
23 (a) through (d) may contractually agree with the authority to benefits
24 eligibility criteria which differs from that determined by the board.
25 The eligibility criteria established by the board shall be no more
26 restrictive than the following:

27 (a) Except as provided in (b) through (e) of this subsection, an
28 employee is eligible for benefits from the date of employment if the
29 employing agency anticipates he or she will work an average of at least
30 eighty hours per month and for at least eight hours in each month for
31 more than six consecutive months. An employee determined ineligible
32 for benefits at the beginning of his or her employment shall become
33 eligible in the following circumstances:

34 (i) An employee who works an average of at least eighty hours per
35 month and for at least eight hours in each month and whose anticipated
36 duration of employment is revised from less than or equal to six
37 consecutive months to more than six consecutive months becomes eligible
38 when the revision is made.

1 (ii) An employee who works an average of at least eighty hours per
2 month over a period of six consecutive months and for at least eight
3 hours in each of those six consecutive months becomes eligible at the
4 first of the month following the six-month averaging period.

5 (b) A seasonal employee is eligible for benefits from the date of
6 employment if the employing agency anticipates that he or she will work
7 an average of at least eighty hours per month and for at least eight
8 hours in each month of the season. A seasonal employee determined
9 ineligible at the beginning of his or her employment who works an
10 average of at least half-time, as defined by the board, per month over
11 a period of six consecutive months and at least eight hours in each of
12 those six consecutive months becomes eligible at the first of the month
13 following the six-month averaging period. A benefits-eligible seasonal
14 employee who works a season of less than nine months shall not be
15 eligible for the employer contribution during the off season, but may
16 continue enrollment in benefits during the off season by self-paying
17 for the benefits. A benefits-eligible seasonal employee who works a
18 season of nine months or more is eligible for the employer contribution
19 through the off season following each season worked.

20 (c) Faculty are eligible as follows:

21 (i) Faculty who the employing agency anticipates will work
22 half-time or more for the entire instructional year or equivalent nine-
23 month period are eligible for benefits from the date of employment.
24 Eligibility shall continue until the beginning of the first full month
25 of the next instructional year, unless the employment relationship is
26 terminated, in which case eligibility shall cease the first month
27 following the notice of termination or the effective date of the
28 termination, whichever is later.

29 (ii) Faculty who the employing agency anticipates will not work for
30 the entire instructional year or equivalent nine-month period are
31 eligible for benefits at the beginning of the second consecutive
32 quarter or semester of employment in which he or she is anticipated to
33 work, or has actually worked, half-time or more. Such an employee
34 shall continue to receive uninterrupted employer contributions for
35 benefits if the employee works at least half-time in a quarter or
36 semester. Faculty who the employing agency anticipates will not work
37 for the entire instructional year or equivalent nine-month period, but
38 who actually work half-time or more throughout the entire instructional

1 year, are eligible for summer or off-quarter coverage. Faculty who
2 have met the criteria of this subsection ((+4)) (5)(c)(ii), who work
3 at least two quarters of the academic year with an average academic
4 year workload of half-time or more for three quarters of the academic
5 year, and who have worked an average of half-time or more in each of
6 the two preceding academic years shall continue to receive
7 uninterrupted employer contributions for benefits if he or she works at
8 least half-time in a quarter or semester or works two quarters of the
9 academic year with an average academic workload each academic year of
10 half-time or more for three quarters. Eligibility under this section
11 ceases immediately if this criteria is not met.

12 (iii) Faculty may establish or maintain eligibility for benefits by
13 working for more than one institution of higher education. When
14 faculty work for more than one institution of higher education, those
15 institutions shall prorate the employer contribution costs, or if
16 eligibility is reached through one institution, that institution will
17 pay the full employer contribution. Faculty working for more than one
18 institution must alert his or her employers to his or her potential
19 eligibility in order to establish eligibility.

20 (iv) The employing agency must provide written notice to faculty
21 who are potentially eligible for benefits under this subsection ((+4))
22 (5)(c) of their potential eligibility.

23 (v) To be eligible for maintenance of benefits through averaging
24 under (c)(ii) of this subsection, faculty must provide written
25 notification to his or her employing agency or agencies of his or her
26 potential eligibility.

27 (d) A legislator is eligible for benefits on the date his or her
28 term begins. All other elected and full-time appointed officials of
29 the legislative and executive branches of state government are eligible
30 for benefits on the date his or her term begins or they take the oath
31 of office, whichever occurs first.

32 (e) A justice of the supreme court and judges of the court of
33 appeals and the superior courts become eligible for benefits on the
34 date he or she takes the oath of office.

35 (f) Except as provided in (c)(i) and (ii) of this subsection,
36 eligibility ceases for any employee the first of the month following
37 termination of the employment relationship.

1 (g) In determining eligibility under this section, the employing
2 agency may disregard training hours, standby hours, or temporary
3 changes in work hours as determined by the authority under this
4 section.

5 (h) Insurance coverage for all eligible employees begins on the
6 first day of the month following the date when eligibility for benefits
7 is established. If the date eligibility is established is the first
8 working day of a month, insurance coverage begins on that date.

9 (i) Eligibility for an employee whose work circumstances are
10 described by more than one of the eligibility categories in (a) through
11 (e) of this subsection shall be determined solely by the criteria of
12 the category that most closely describes the employee's work
13 circumstances.

14 (j) Except for an employee eligible for benefits under (b) or
15 (c)(ii) of this subsection, an employee who has established eligibility
16 for benefits under this section shall remain eligible for benefits each
17 month in which he or she is in pay status for eight or more hours, if
18 (i) he or she remains in a benefits-eligible position and (ii) leave
19 from the benefits-eligible position is approved by the employing
20 agency. A benefits-eligible seasonal employee is eligible for the
21 employer contribution in any month of his or her season in which he or
22 she is in pay status eight or more hours during that month.
23 Eligibility ends if these conditions are not met, the employment
24 relationship is terminated, or the employee voluntarily transfers to a
25 noneligible position.

26 (k) For the purposes of this subsection:

27 (i) "Academic year" means summer, fall, winter, and spring quarters
28 or semesters;

29 (ii) "Half-time" means one-half of the full-time academic workload
30 as determined by each institution, except that half-time for community
31 and technical college faculty employees shall have the same meaning as
32 "part-time" under RCW 28B.50.489;

33 (iii) "Benefits-eligible position" shall be defined by the board.

34 ((+5+)) (6) The board may authorize premium contributions for an
35 employee and the employee's dependents in a manner that encourages the
36 use of cost-efficient managed health care systems.

37 ((+6+)) (7) The board shall develop a health savings account option
38 for employees that conform to section 223, Part VII of subchapter B of

1 chapter 1 of the internal revenue code of 1986. The board shall comply
2 with all applicable federal standards related to the establishment of
3 health savings accounts.

4 ((+7)) (8) Notwithstanding any other provision of this chapter,
5 the board shall develop a high deductible health plan to be offered in
6 conjunction with a health savings account developed under subsection
7 ((+6)) (7) of this section.

8 ((+8)) (9) Employees shall choose participation in one of the
9 health care benefit plans developed by the board and may be permitted
10 to waive coverage under terms and conditions established by the board.

11 ((+9)) (10) The board shall review plans proposed by insuring
12 entities that desire to offer property insurance and/or accident and
13 casualty insurance to state employees through payroll deduction. The
14 board may approve any such plan for payroll deduction by insuring
15 entities holding a valid certificate of authority in the state of
16 Washington and which the board determines to be in the best interests
17 of employees and the state. The board shall adopt rules setting forth
18 criteria by which it shall evaluate the plans.

19 ((+10)) (11) Before January 1, 1998, the public employees'
20 benefits board shall make available one or more fully insured long-term
21 care insurance plans that comply with the requirements of chapter 48.84
22 RCW. Such programs shall be made available to eligible employees,
23 retired employees, and retired school employees as well as eligible
24 dependents which, for the purpose of this section, includes the parents
25 of the employee or retiree and the parents of the spouse of the
26 employee or retiree. Employees of local governments, political
27 subdivisions, and tribal governments not otherwise enrolled in the
28 public employees' benefits board sponsored medical programs may enroll
29 under terms and conditions established by the administrator, if it does
30 not jeopardize the financial viability of the public employees'
31 benefits board's long-term care offering.

32 (a) Participation of eligible employees or retired employees and
33 retired school employees in any long-term care insurance plan made
34 available by the public employees' benefits board is voluntary and
35 shall not be subject to binding arbitration under chapter 41.56 RCW.
36 Participation is subject to reasonable underwriting guidelines and
37 eligibility rules established by the public employees' benefits board
38 and the health care authority.

1 (b) The employee, retired employee, and retired school employee are
2 solely responsible for the payment of the premium rates developed by
3 the health care authority. The health care authority is authorized to
4 charge a reasonable administrative fee in addition to the premium
5 charged by the long-term care insurer, which shall include the health
6 care authority's cost of administration, marketing, and consumer
7 education materials prepared by the health care authority and the
8 office of the insurance commissioner.

9 (c) To the extent administratively possible, the state shall
10 establish an automatic payroll or pension deduction system for the
11 payment of the long-term care insurance premiums.

12 (d) The public employees' benefits board and the health care
13 authority shall establish a technical advisory committee to provide
14 advice in the development of the benefit design and establishment of
15 underwriting guidelines and eligibility rules. The committee shall
16 also advise the board and authority on effective and cost-effective
17 ways to market and distribute the long-term care product. The
18 technical advisory committee shall be comprised, at a minimum, of
19 representatives of the office of the insurance commissioner, providers
20 of long-term care services, licensed insurance agents with expertise in
21 long-term care insurance, employees, retired employees, retired school
22 employees, and other interested parties determined to be appropriate by
23 the board.

24 (e) The health care authority shall offer employees, retired
25 employees, and retired school employees the option of purchasing long-
26 term care insurance through licensed agents or brokers appointed by the
27 long-term care insurer. The authority, in consultation with the public
28 employees' benefits board, shall establish marketing procedures and may
29 consider all premium components as a part of the contract negotiations
30 with the long-term care insurer.

31 (f) In developing the long-term care insurance benefit designs, the
32 public employees' benefits board shall include an alternative plan of
33 care benefit, including adult day services, as approved by the office
34 of the insurance commissioner.

35 (g) The health care authority, with the cooperation of the office
36 of the insurance commissioner, shall develop a consumer education
37 program for the eligible employees, retired employees, and retired
38 school employees designed to provide education on the potential need

1 for long-term care, methods of financing long-term care, and the
2 availability of long-term care insurance products including the
3 products offered by the board.

4 ((+11))) (12) The board may establish penalties to be imposed by
5 the authority when the eligibility determinations of an employing
6 agency fail to comply with the criteria under this chapter.

7 **Sec. 3.** RCW 28A.400.350 and 2001 c 266 s 2 are each amended to
8 read as follows:

9 (1) The board of directors of any of the state's school districts
10 or educational service districts may make available liability, life,
11 health, health care, accident, disability and salary protection or
12 insurance or any one of, or a combination of the enumerated types of
13 insurance, or any other type of insurance or protection, for the
14 members of the boards of directors, the students, and employees of the
15 school district or educational service district, and their dependents.
16 Such coverage may be provided by contracts with private carriers, with
17 the state health care authority after July 1, 1990, pursuant to the
18 approval of the authority administrator, or through self-insurance or
19 self-funding pursuant to chapter 48.62 RCW, or in any other manner
20 authorized by law.

21 (2) Whenever funds are available for these purposes the board of
22 directors of the school district or educational service district may
23 contribute all or a part of the cost of such protection or insurance
24 for the employees of their respective school districts or educational
25 service districts and their dependents. The premiums on such liability
26 insurance shall be borne by the school district or educational service
27 district.

28 After October 1, 1990, school districts may not contribute to any
29 employee protection or insurance other than liability insurance unless
30 the district's employee benefit plan conforms to RCW 28A.400.275 and
31 28A.400.280.

32 (3) For school board members, educational service district board
33 members, and students, the premiums due on such protection or insurance
34 shall be borne by the assenting school board member, educational
35 service district board member, or student. The school district or
36 educational service district may contribute all or part of the costs,
37 including the premiums, of life, health, health care, accident or

1 disability insurance which shall be offered to all students
2 participating in interschool activities on the behalf of or as
3 representative of their school, school district, or educational service
4 district. The school district board of directors and the educational
5 service district board may require any student participating in
6 extracurricular interschool activities to, as a condition of
7 participation, document evidence of insurance or purchase insurance
8 that will provide adequate coverage, as determined by the school
9 district board of directors or the educational service district board,
10 for medical expenses incurred as a result of injury sustained while
11 participating in the extracurricular activity. In establishing such a
12 requirement, the district shall adopt regulations for waiving or
13 reducing the premiums of such coverage as may be offered through the
14 school district or educational service district to students
15 participating in extracurricular activities, for those students whose
16 families, by reason of their low income, would have difficulty paying
17 the entire amount of such insurance premiums. The district board shall
18 adopt regulations for waiving or reducing the insurance coverage
19 requirements for low-income students in order to assure such students
20 are not prohibited from participating in extracurricular interschool
21 activities.

22 (4) All contracts for insurance or protection written to take
23 advantage of the provisions of this section shall provide that the
24 beneficiaries of such contracts may utilize on an equal participation
25 basis the services of those practitioners licensed pursuant to chapters
26 18.22, 18.25, 18.53, 18.57, and 18.71 RCW.

27 (5) All contracts for employee health benefits shall incorporate
28 wellness incentives that encourage health-focused activities such as
29 better nutrition and physical activity, use of health screening
30 services, and routine completion of health assessments.

31 (a) Incentives must include, but are not limited to, copayment or
32 coinsurance adjustments, or other rebates established to meet defined
33 health indicators such as body mass index, blood pressure, cholesterol
34 levels, and smoking cessation;

35 (b) Whenever possible, incentives must be actuarially based and
36 reflect the true costs associated with obesity, smoking, and high blood
37 pressure;

1 (c) In addition to the health indicator for body mass index, the
2 program should include an alternative measure for some individuals
3 using a percentage of body fat test. The cost of the test will be
4 waived if the alternative measure indicates the enrollee is not obese.

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