

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE HOUSE BILL 2408**

Chapter 219, Laws of 2018

65th Legislature  
2018 Regular Session

INDIVIDUAL MARKET HEALTH CARE COVERAGE--AVAILABILITY

EFFECTIVE DATE: June 7, 2018

Passed by the House March 8, 2018  
Yeas 58 Nays 40

FRANK CHOPP

**Speaker of the House of Representatives**

Passed by the Senate March 7, 2018  
Yeas 30 Nays 18

CYRUS HABIB

**President of the Senate**

Approved March 22, 2018 4:07 PM

JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 2408** as passed by House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

**Chief Clerk**

FILED

March 26, 2018

**Secretary of State  
State of Washington**

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ENGROSSED SUBSTITUTE HOUSE BILL 2408

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AS AMENDED BY THE SENATE

Passed Legislature - 2018 Regular Session

**State of Washington**                      **65th Legislature**                      **2018 Regular Session**

**By** House Health Care & Wellness (originally sponsored by Representatives Cody, Jinkins, Goodman, Johnson, Slatter, Tharinger, Stanford, Macri, Ormsby, Doglio, and Appleton)

READ FIRST TIME 02/02/18.

1            AN ACT Relating to preserving access to individual market health  
2 care coverage throughout Washington state; amending RCW 48.41.200 and  
3 48.41.090; adding a new section to chapter 41.05 RCW; creating a new  
4 section; and providing an expiration date.

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

6            NEW SECTION.    **Sec. 1.**    (1) The legislature finds that:

7            (a) Access to health care is fundamental to the health and safety  
8 of the citizens of Washington state;

9            (b) Health insurance coverage is necessary for most people to  
10 access health care;

11           (c) Due to uncertainty in the health insurance marketplace,  
12 volatility in the current federal regulatory environment, and rising  
13 health care costs, ensuring access to the private health insurance  
14 market in every county in Washington state is becoming more  
15 difficult;

16           (d) The consequences of losing private health insurance coverage  
17 in a county would be catastrophic, leading to deteriorating health  
18 outcomes, lost productivity, and lower quality of life; and

19           (e) If the private market fails to provide coverage in a county,  
20 the state must intervene.

21           (2) The legislature therefore intends to:

1 (a) Leverage the provider networks used by private insurers  
2 offering coverage to state and school employees to ensure private  
3 insurance coverage is available in all counties where those insurers  
4 offer coverage to state and school employees; and

5 (b) Until such coverage is available, make coverage in the  
6 Washington state health insurance pool more affordable to persons  
7 residing in counties where no private insurance is available.

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.05  
9 RCW to read as follows:

10 (1) For plan years beginning January 1, 2020, at least one health  
11 carrier in an insurance holding company system must offer in the  
12 exchange at least one silver and one gold qualified health plan in  
13 any county in which any health carrier in that insurance holding  
14 company system offers a fully insured health plan that was approved,  
15 on or after the effective date of this section, by the school  
16 employees' benefits board or the public employees' benefits board to  
17 be offered to employees and their covered dependents under this  
18 chapter.

19 (2) The rates for a health plan approved by the school employees'  
20 benefits board or the public employees' benefits board may not  
21 include the administrative costs or actuarial risks associated with a  
22 qualified health plan offered under subsection (1) of this section.

23 (3) The authority shall perform an actuarial review during the  
24 annual rate setting process for plans approved by the school  
25 employees' benefits board or the public employees' benefits board to  
26 ensure compliance with subsection (2) of this section.

27 (4) For purposes of this section, "exchange" and "health carrier"  
28 have the same meaning as in RCW 48.43.005.

29 (5) For purposes of this section, "insurance holding company  
30 system" has the same meaning as in RCW 48.31B.005.

31 **Sec. 3.** RCW 48.41.200 and 2007 c 259 s 28 are each amended to  
32 read as follows:

33 (1) The pool shall determine the standard risk rate by  
34 calculating the average individual standard rate charged for coverage  
35 comparable to pool coverage by the five largest members, measured in  
36 terms of individual market enrollment, offering such coverages in the  
37 state. In the event five members do not offer comparable coverage,  
38 the standard risk rate shall be established using reasonable

1 actuarial techniques and shall reflect anticipated experience and  
2 expenses for such coverage in the individual market.

3 (2) Subject to subsection (3) of this section, maximum rates for  
4 pool coverage shall be as follows:

5 (a) Maximum rates for a pool indemnity health plan shall be one  
6 hundred fifty percent of the rate calculated under subsection (1) of  
7 this section;

8 (b) Maximum rates for a pool care management plan shall be one  
9 hundred twenty-five percent of the rate calculated under subsection  
10 (1) of this section; and

11 (c) Maximum rates for a person eligible for pool coverage  
12 pursuant to RCW 48.41.100(1)(a) who was enrolled at any time during  
13 the sixty-three day period immediately prior to the date of  
14 application for pool coverage in a group health benefit plan or an  
15 individual health benefit plan other than a catastrophic health plan  
16 as defined in RCW 48.43.005, where such coverage was continuous for  
17 at least eighteen months, shall be:

18 (i) For a pool indemnity health plan, one hundred twenty-five  
19 percent of the rate calculated under subsection (1) of this section;  
20 and

21 (ii) For a pool care management plan, one hundred ten percent of  
22 the rate calculated under subsection (1) of this section.

23 (3)(a) Subject to (b) and (c) of this subsection:

24 (i) The rate for any person, other than a person eligible for a  
25 rate reduction under subsection (4) of this section, whose current  
26 gross family income is less than two hundred fifty-one percent of the  
27 federal poverty level shall be reduced by thirty percent from what it  
28 would otherwise be;

29 (ii) The rate for any person, other than a person eligible for a  
30 rate reduction under subsection (4) of this section, whose current  
31 gross family income is more than two hundred fifty but less than  
32 three hundred one percent of the federal poverty level shall be  
33 reduced by fifteen percent from what it would otherwise be;

34 (iii) The rate for any person who has been enrolled in the pool  
35 for more than thirty-six months shall be reduced by five percent from  
36 what it would otherwise be.

37 (b) In no event shall the rate for any person be less than one  
38 hundred ten percent of the rate calculated under subsection (1) of  
39 this section.

1 (c) Rate reductions under (a)(i) and (ii) of this subsection  
2 shall be available only to the extent that funds are specifically  
3 appropriated for this purpose in the omnibus appropriations act.

4 (4) The rate for any person eligible for pool coverage under RCW  
5 48.41.100(1)(a)(i) shall be reduced as follows:

6 (a) The rate for a person whose current modified adjusted gross  
7 income is less than or equal to two hundred percent of the federal  
8 poverty level must be reduced by eighty percent from what it  
9 otherwise would be;

10 (b) The rate for a person whose current modified adjusted gross  
11 income is more than two hundred percent, but less than or equal to  
12 three hundred percent of the federal poverty level must be reduced by  
13 sixty percent from what it otherwise would be;

14 (c) The rate for a person whose current modified adjusted gross  
15 income is more than three hundred percent, but less than or equal to  
16 four hundred percent of the federal poverty level must be reduced by  
17 fifty percent from what it otherwise would be; and

18 (d) The rate for a person whose current modified adjusted gross  
19 income is more than four hundred percent of the federal poverty level  
20 must be reduced by thirty percent from what it otherwise would be.

21 **Sec. 4.** RCW 48.41.090 and 2013 2nd sp.s. c 6 s 7 are each  
22 amended to read as follows:

23 (1) Following the close of each accounting year, the pool  
24 administrator shall determine the total net cost of pool operation  
25 which shall include:

26 (a) Net premium (premiums less administrative expense  
27 allowances), the pool expenses of administration, and incurred losses  
28 for the year, taking into account investment income and other  
29 appropriate gains and losses; ~~((and))~~

30 (b) The amount of pool contributions specified in the state  
31 omnibus appropriations act for deposit into the health benefit  
32 exchange account under RCW 43.71.060, to assist with the transition  
33 of enrollees from the pool into the health benefit exchange created  
34 by chapter 43.71 RCW; and

35 (c) Any rate reductions received by individuals under RCW  
36 48.41.200(4).

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

1 member with the commissioner; and shall be determined by multiplying  
2 the total cost of pool operation by a fraction. The numerator of the  
3 fraction equals that member's total number of resident insured  
4 persons, including spouse and dependents, covered under all health  
5 plans in the state by that member during the preceding calendar year.  
6 The denominator of the fraction equals the total number of resident  
7 insured persons, including spouses and dependents, covered under all  
8 health plans in the state by all pool members during the preceding  
9 calendar year.

10 (b) For purposes of calculating the numerator and the denominator  
11 under (a) of this subsection:

12 (i) All health plans in the state by the state health care  
13 authority include only the uniform medical plan;

14 (ii) Each ten resident insured persons, including spouse and  
15 dependents, under a stop loss plan or the uniform medical plan shall  
16 count as one resident insured person;

17 (iii) Health plans serving medical care services program clients  
18 under RCW 74.09.035 are exempted from the calculation; and

19 (iv) Health plans established to serve elderly clients or  
20 medicaid clients with disabilities under chapter 74.09 RCW when the  
21 plan has been implemented on a demonstration or pilot project basis  
22 are exempted from the calculation until July 1, 2009.

23 (c) Except as provided in RCW 48.41.037, any deficit incurred by  
24 the pool, including pool contributions for deposit into the health  
25 benefit exchange account, shall be recouped by assessments among  
26 members apportioned under this subsection pursuant to the formula set  
27 forth by the board among members. The monthly per member assessment  
28 may not exceed the 2013 assessment level. If the maximum assessment  
29 is insufficient to cover a pool deficit the assessment shall be used  
30 first to pay all incurred losses and pool administrative expenses,  
31 with the remainder being available for deposit in the health benefit  
32 exchange account.

33 (3) The board may abate or defer, in whole or in part, the  
34 assessment of a member if, in the opinion of the board, payment of  
35 the assessment would endanger the ability of the member to fulfill  
36 its contractual obligations. If an assessment against a member is  
37 abated or deferred in whole or in part, the amount by which such  
38 assessment is abated or deferred may be assessed against the other  
39 members in a manner consistent with the basis for assessments set  
40 forth in subsection (2) of this section. The member receiving such

1 abatement or deferment shall remain liable to the pool for the  
2 deficiency.

3 (4) Subject to the limitation imposed in subsection (2)(c) of  
4 this section, the pool administrator shall transfer the assessments  
5 for pool contributions for the operation of the health benefit  
6 exchange to the treasurer for deposit into the health benefit  
7 exchange account with the quarterly assessments for 2014 as specified  
8 in the state omnibus appropriations act. If assessments exceed actual  
9 losses and administrative expenses of the pool and pool contributions  
10 for deposit into the health benefit exchange account, the excess  
11 shall be held at interest and used by the board to offset future  
12 losses or to reduce pool premiums. As used in this subsection,  
13 "future losses" includes reserves for incurred but not reported  
14 claims.

15 NEW SECTION. **Sec. 5.** Sections 3 and 4 of this act expire  
16 December 31, 2019.

17 NEW SECTION. **Sec. 6.** If any provision of this act or its  
18 application to any person or circumstance is held invalid, the  
19 remainder of the act or the application of the provision to other  
20 persons or circumstances is not affected.

Passed by the House March 8, 2018.

Passed by the Senate March 7, 2018.

Approved by the Governor March 22, 2018.

Filed in Office of Secretary of State March 26, 2018.

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