

CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE SENATE BILL 5526

Chapter 364, Laws of 2019

66th Legislature
2019 Regular Session

INDIVIDUAL HEALTH INSURANCE MARKET--STANDARDIZED AND STATE-PROCURED
PLANS

EFFECTIVE DATE: July 28, 2019

Passed by the Senate April 27, 2019
Yeas 27 Nays 21

KAREN KEISER

President of the Senate

Passed by the House April 27, 2019
Yeas 56 Nays 41

FRANK CHOPP

Speaker of the House of Representatives

Approved May 13, 2019 3:25 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5526** as passed by the Senate and the House of Representatives on the dates hereon set forth.

BRAD HENDRICKSON

Secretary

FILED

May 16, 2019

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5526

AS AMENDED BY THE CONFERENCE COMMITTEE

Passed Legislature - 2019 Regular Session

State of Washington

66th Legislature

2019 Regular Session

By Senate Health & Long Term Care (originally sponsored by Senators Frockt, Cleveland, Kuderer, Randall, Keiser, Dhingra, Conway, Wellman, Darneille, Hunt, Hobbs, Das, Lias, Nguyen, Pedersen, Rolfes, Saldaña, and Van De Wege; by request of Office of the Governor)

READ FIRST TIME 02/21/19.

1 AN ACT Relating to increasing the availability of quality,
2 affordable health coverage in the individual market; adding a new
3 section to chapter 43.71 RCW; adding a new section to chapter 42.56
4 RCW; adding new sections to chapter 41.05 RCW; adding new sections to
5 chapter 48.43 RCW; adding a new section to chapter 82.04 RCW;
6 creating new sections; and providing expiration dates.

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

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.71
9 RCW to read as follows:

10 (1) The exchange, in consultation with the commissioner, the
11 authority, an independent actuary, and other stakeholders, must
12 establish up to three standardized health plans for each of the
13 bronze, silver, and gold levels.

14 (a) The standardized health plans must be designed to reduce
15 deductibles, make more services available before the deductible,
16 provide predictable cost sharing, maximize subsidies, limit adverse
17 premium impacts, reduce barriers to maintaining and improving health,
18 and encourage choice based on value, while limiting increases in
19 health plan premium rates.

20 (b) The exchange may update the standardized health plans
21 annually.

1 (c) The exchange must provide a notice and public comment period
2 before finalizing each year's standardized health plans.

3 (d) The exchange must provide written notice of the standardized
4 health plans to licensed health carriers by January 31st before the
5 year in which the health plans are to be offered on the exchange. The
6 exchange may make modifications to the standardized plans after
7 January 31st to comply with changes to state or federal law or
8 regulations.

9 (2)(a) Beginning January 1, 2021, any health carrier offering a
10 qualified health plan on the exchange must offer one silver
11 standardized health plan and one gold standardized health plan on the
12 exchange. If a health carrier offers a bronze health plan on the
13 exchange, it must offer one bronze standardized health plan on the
14 exchange.

15 (b)(i) A health plan offering a standardized health plan under
16 this section may also offer nonstandardized health plans on the
17 exchange.

18 (ii) The exchange, in consultation with the office of the
19 insurance commissioner, shall analyze the impact to exchange
20 consumers of offering only standard plans beginning in 2025 and
21 submit a report to the appropriate committees of the legislature by
22 December 1, 2023. The report must include an analysis of how plan
23 choice and affordability will be impacted for exchange consumers
24 across the state.

25 (iii) The actuarial value of nonstandardized silver health plans
26 offered on the exchange may not be less than the actuarial value of
27 the standardized silver health plan with the lowest actuarial value.

28 (c) A health carrier offering a standardized health plan on the
29 exchange under this section must continue to meet all requirements
30 for qualified health plan certification under RCW 43.71.065
31 including, but not limited to, requirements relating to rate review
32 and network adequacy.

33 NEW SECTION. **Sec. 2.** A new section is added to chapter 42.56
34 RCW to read as follows:

35 (1) Any data submitted by health carriers to the health benefit
36 exchange for purposes of establishing standardized health plans under
37 section 1 of this act are exempt from disclosure under this chapter.
38 This subsection applies to health carrier data in the custody of the

1 insurance commissioner for purposes of consulting with the health
2 benefit exchange under section 1(1) of this act.

3 (2) Any data submitted by health carriers to the health care
4 authority for purposes of section 3 of this act are exempt from
5 disclosure under this chapter.

6 NEW SECTION. **Sec. 3.** A new section is added to chapter 41.05
7 RCW to read as follows:

8 (1) The authority, in consultation with the health benefit
9 exchange, must contract with one or more health carriers to offer
10 qualified health plans on the Washington health benefit exchange for
11 plan years beginning in 2021. A health carrier contracting with the
12 authority under this section must offer at least one bronze, one
13 silver, and one gold qualified health plan in a single county or in
14 multiple counties. The goal of the procurement conducted under this
15 section is to have a choice of qualified health plans under this
16 section offered in every county in the state. The authority may not
17 execute a contract with an apparently successful bidder under this
18 section until after the insurance commissioner has given final
19 approval of the health carrier's rates and forms pertaining to the
20 health plan to be offered under this section and certification of the
21 health plan under RCW 43.71.065.

22 (2) A qualified health plan offered under this section must meet
23 the following criteria:

24 (a) The qualified health plan must be a standardized health plan
25 established under section 1 of this act;

26 (b) The qualified health plan must meet all requirements for
27 qualified health plan certification under RCW 43.71.065 including,
28 but not limited to, requirements relating to rate review and network
29 adequacy;

30 (c) The qualified health plan must incorporate recommendations of
31 the Robert Bree collaborative and the health technology assessment
32 program;

33 (d) The qualified health plan may use an integrated delivery
34 system or a managed care model that includes care coordination or
35 care management to enrollees as appropriate;

36 (e) The qualified health plan must meet additional participation
37 requirements to reduce barriers to maintaining and improving health
38 and align to state agency value-based purchasing. These requirements
39 may include, but are not limited to, standards for population health

1 management; high-value, proven care; health equity; primary care;
2 care coordination and chronic disease management; wellness and
3 prevention; prevention of wasteful and harmful care; and patient
4 engagement;

5 (f) To reduce administrative burden and increase transparency,
6 the qualified health plan's utilization review processes must:

7 (i) Be focused on care that has high variation, high cost, or low
8 evidence of clinical effectiveness; and

9 (ii) Meet national accreditation standards;

10 (g)(i) The total amount the qualified health plan reimburses
11 providers and facilities for all covered benefits in the statewide
12 aggregate, excluding pharmacy benefits, may not exceed one hundred
13 sixty percent of the total amount medicare would have reimbursed
14 providers and facilities for the same or similar services in the
15 statewide aggregate;

16 (ii) Beginning in calendar year 2023, if the authority determines
17 that selective contracting will result in actuarially sound premium
18 rates that are no greater than the qualified health plan's previous
19 plan year rates adjusted for inflation using the consumer price
20 index, the director may, in consultation with the health benefit
21 exchange, waive (g)(i) of this subsection as a requirement of the
22 contracting process under this section;

23 (h) For services provided by rural hospitals certified by the
24 centers for medicare and medicaid services as critical access
25 hospitals or sole community hospitals, the rates may not be less than
26 one hundred one percent of allowable costs as defined by the United
27 States centers for medicare and medicaid services for purposes of
28 medicare cost reporting;

29 (i) Reimbursement for primary care services, as defined by the
30 authority, provided by a physician with a primary specialty
31 designation of family medicine, general internal medicine, or
32 pediatric medicine, may not be less than one hundred thirty-five
33 percent of the amount that would have been reimbursed under the
34 medicare program for the same or similar services; and

35 (j) The qualified health plan must comply with any requirements
36 established by the authority to address amounts expended on pharmacy
37 benefits including, but not limited to, increasing generic
38 utilization and use of evidence-based formularies.

1 (3) Nothing in this section prohibits a health carrier offering
2 qualified health plans under this section from offering other health
3 plans in the individual market.

4 NEW SECTION. **Sec. 4.** A new section is added to chapter 41.05
5 RCW to read as follows:

6 The director may, in his or her sole discretion, waive the
7 requirements of section 3(2)(g)(i) of this act if he or she finds
8 that:

9 (1) A health carrier offering a qualified health plan under
10 section 3 of this act is unable to form a provider network that meets
11 the network access standards adopted by the insurance commissioner
12 due to the requirements of section 3(2)(g)(i) of this act; and

13 (2) The health carrier is able to achieve actuarially sound
14 premiums that are ten percent lower than the previous plan year
15 through other means.

16 NEW SECTION. **Sec. 5.** (1) The health care authority, in
17 consultation with the insurance commissioner and the Washington
18 health benefit exchange, must submit a report and recommendations to
19 the legislature by December 1, 2022, regarding:

20 (a) The impact on qualified health plan choice, affordability,
21 and market stability of linking offering a qualified health plan
22 under section 3 of this act with participation in programs
23 administered by the public employees' benefits board, the school
24 employees' benefits board, or the health care authority;

25 (b) The impact on qualified health plan choice, qualified health
26 plan provider networks, affordability, and market stability of
27 linking provider participation in the provider networks of qualified
28 health plans offered under section 3 of this act with provider
29 participation in provider networks of programs administered by the
30 public employees' benefits board, the school employees' benefits
31 board, or the health care authority;

32 (c) Whether the utilization review processes employed by a health
33 carrier offering a qualified health plan under section 3 of this act
34 should align with clinical criteria published by the health care
35 authority; and

36 (d) Other issues the health care authority deems relevant to the
37 successful implementation of this act.

38 (2) This section expires January 1, 2023.

1 NEW SECTION. **Sec. 6.** (1) The Washington health benefit
2 exchange, in consultation with the health care authority and the
3 insurance commissioner, must develop a plan to implement and fund
4 premium subsidies for individuals whose modified adjusted gross
5 incomes are less than five hundred percent of the federal poverty
6 level and who are purchasing individual market coverage on the
7 exchange. The goal of the plan is to enable participating individuals
8 to spend no more than ten percent of their modified adjusted gross
9 incomes on premiums. The plan must also include an assessment of
10 providing cost-sharing reductions to plan participants and must
11 assess the impact of premium subsidies on the uninsured rate.

12 (2) The Washington health benefit exchange must submit the plan,
13 along with proposed implementing legislation, to the appropriate
14 committees of the legislature by November 15, 2020.

15 (3) This section expires January 1, 2021.

16 NEW SECTION. **Sec. 7.** A new section is added to chapter 48.43
17 RCW to read as follows:

18 The commissioner shall submit an annual report to the appropriate
19 committees of the legislature on the number of health plans available
20 per county in the individual market.

21 NEW SECTION. **Sec. 8.** A new section is added to chapter 48.43
22 RCW to read as follows:

23 A carrier may not require a provider or facility participating in
24 a qualified health plan under section 3 of this act to, as a
25 condition of participation in a qualified health plan under section 3
26 of this act, accept a reimbursement rate for other health plans
27 offered by the carrier at the same rate as the provider or facility
28 is reimbursed for a qualified health plan under section 3 of this
29 act.

30 NEW SECTION. **Sec. 9.** A new section is added to chapter 82.04
31 RCW to read as follows:

32 This chapter does not apply to amounts received by a health care
33 provider for services performed on patients covered by a qualified
34 health plan offered under section 3 of this act, including
35 reimbursement from the qualified health plan and any amounts
36 collected from the patient as part of his or her cost-sharing
37 obligation.

1 NEW SECTION. **Sec. 10.** If specific funding for the purposes of
2 this act, referencing this act by bill or chapter number, is not
3 provided by June 30, 2019, in the omnibus appropriations act, this
4 act is null and void.

Passed by the Senate April 27, 2019.

Passed by the House April 27, 2019.

Approved by the Governor May 13, 2019.

Filed in Office of Secretary of State May 16, 2019.

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