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SENATE BILL 6761

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State of Washington 57th Legislature

2002 Regular Session

By Senators West and Parlette

Read first time 02/01/2002. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to offering covered health services to employers  
2 with no more than fifty employees; amending RCW 48.21.045, 48.21.047,  
3 48.43.035, 48.44.023, 48.44.024, 48.46.066, and 48.46.068; and  
4 providing an effective date.

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

6 **Sec. 1.** RCW 48.21.045 and 1995 c 265 s 14 are each amended to read  
7 as follows:

8 (1)(a) An insurer (~~offering any~~) may offer a health benefit plan  
9 to a small employer (~~shall offer and actively market to the small~~  
10 ~~employer a health benefit plan providing benefits identical to the~~),  
11 as defined in RCW 48.43.005, featuring a limited schedule of covered  
12 health services (~~that are required to be delivered to an individual~~  
13 ~~enrolled in the basic health plan~~). Nothing in this subsection shall  
14 preclude an insurer from offering, or a small employer from purchasing,  
15 other health benefit plans that may have more (~~or less~~) comprehensive  
16 benefits than (~~the basic health plan, provided such plans are in~~  
17 ~~accordance with this chapter~~) those included in the product offered  
18 under this section. An insurer offering a health benefit plan (~~that~~  
19 ~~does not include benefits in the basic health plan~~) under this

1 subsection shall clearly disclose (~~these differences~~) all covered  
2 benefits to the small employer in a brochure approved by the  
3 commissioner.

4 (b) A health benefit plan offered under this subsection shall  
5 provide coverage for hospital expenses and services rendered by a  
6 physician licensed under chapter 18.57 or 18.71 RCW but (~~is not~~  
7 ~~subject to the requirements of~~) will not include the services  
8 identified in RCW 48.21.130, 48.21.140, 48.21.141, 48.21.142,  
9 48.21.144, 48.21.146, 48.21.148, 48.21.160 through 48.21.197,  
10 48.21.200, 48.21.220, 48.21.225, 48.21.230, 48.21.235, 48.21.240,  
11 48.21.244, 48.21.250, 48.21.300, 48.21.310, (~~or~~) 48.21.320 (~~if: (i)~~)  
12 ~~The health benefit plan is the mandatory offering under (a) of this~~  
13 ~~subsection that provides benefits identical to the basic health plan,~~  
14 ~~to the extent these requirements differ from the basic health plan; or~~  
15 ~~(ii))~~, 48.43.045(1), 48.43.125, or 48.43.180 if the health benefit  
16 plan is offered to employers with not more than (~~twenty-five~~) fifty  
17 employees.

18 (2)(a) Nothing in this section shall prohibit an insurer from  
19 offering, or a purchaser from seeking, benefits in excess of the  
20 (~~basic health plan services~~) health benefit plan offered under  
21 subsection (1) of this section.

22 (b) All forms, policies, and contracts shall be submitted for  
23 approval to the commissioner, and the rates of any plan offered under  
24 subsection (1) of this section shall be reasonable in relation to the  
25 (i) benefits thereto, and (ii) risks involved as determined by the  
26 insurer.

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

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

- 31 (i) ~~Geographic area;~~
- 32 (ii) ~~Family size;~~
- 33 (iii) ~~Age; and~~
- 34 (iv) ~~Wellness activities.~~

35 (b) ~~The adjustment for age in (a)(iii) of this subsection may not~~  
36 ~~use age brackets smaller than five year increments, which shall begin~~  
37 ~~with age twenty and end with age sixty five. Employees under the age~~  
38 ~~of twenty shall be treated as those age twenty.~~

1       ~~(c) The insurer shall be permitted to develop separate rates for~~  
2 ~~individuals age sixty five or older for coverage for which medicare is~~  
3 ~~the primary payer and coverage for which medicare is not the primary~~  
4 ~~payer. Both rates shall be subject to the requirements of this~~  
5 ~~subsection (3).~~

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

10       ~~(e) A discount for wellness activities shall be permitted to~~  
11 ~~reflect actuarially justified differences in utilization or cost~~  
12 ~~attributed to such programs not to exceed twenty percent.~~

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

16           ~~(i) Changes to the enrollment of the small employer;~~

17           ~~(ii) Changes to the family composition of the employee;~~

18           ~~(iii) Changes to the health benefit plan requested by the small~~  
19 ~~employer; or~~

20           ~~(iv) Changes in government requirements affecting the health~~  
21 ~~benefit plan.~~

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

25       ~~(h) For the purposes of this section, a health benefit plan that~~  
26 ~~contains a restricted network provision shall not be considered similar~~  
27 ~~coverage to a health benefit plan that does not contain such a~~  
28 ~~provision, provided that the restrictions of benefits to network~~  
29 ~~providers result in substantial differences in claims costs. This~~  
30 ~~subsection does not restrict or enhance the portability of benefits as~~  
31 ~~provided in RCW 48.43.015.~~

32       ~~(i) Adjusted community rates established under this section shall~~  
33 ~~pool the medical experience of all small groups purchasing coverage.~~

34       ~~(4) The health benefit plans authorized by this section that are~~  
35 ~~lower than the required offering shall not supplant or supersede any~~  
36 ~~existing policy for the benefit of employees in this state. Nothing in~~  
37 ~~this section shall restrict the right of employees to collectively~~  
38 ~~bargain for insurance providing benefits in excess of those provided~~  
39 ~~herein.~~

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

5       ~~(b) An insurer shall not require a minimum participation level~~  
6 ~~greater than:~~

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

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

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

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

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

27       ~~(7) As used in this section, "health benefit plan," "small~~  
28 ~~employer," "basic health plan," "adjusted community rate," and~~  
29 ~~"wellness activities" mean the same as defined in RCW 48.43.005.)~~

30       **Sec. 2.** RCW 48.21.047 and 1995 c 265 s 22 are each amended to read  
31 as follows:

32       (1) No insurer shall offer any health benefit plan to any small  
33 employer without complying with the provisions of RCW 48.21.045(~~(+5)~~)).

34       (2) Employers purchasing health plans provided through associations  
35 or through member-governed groups formed specifically for the purpose  
36 of purchasing health care shall not be considered small employers and  
37 such plans shall not be subject to the provisions of RCW  
38 48.21.045(~~(+5)~~)).

1 (3) For purposes of this section, "health benefit plan," "health  
2 plan," and "small employer" mean the same as defined in RCW 48.43.005.

3 **Sec. 3.** RCW 48.43.035 and 2000 c 79 s 24 are each amended to read  
4 as follows:

5 For group health benefit plans, the following shall apply:

6 (1) All health carriers shall accept for enrollment any state  
7 resident within the group to whom the plan is offered and within the  
8 carrier's service area and provide or assure the provision of all  
9 covered services regardless of age, sex, family structure, ethnicity,  
10 race, health condition, geographic location, employment status,  
11 socioeconomic status, other condition or situation, or the provisions  
12 of RCW 49.60.174(2). The insurance commissioner may grant a temporary  
13 exemption from this subsection, if, upon application by a health  
14 carrier the commissioner finds that the clinical, financial, or  
15 administrative capacity to serve existing enrollees will be impaired if  
16 a health carrier is required to continue enrollment of additional  
17 eligible individuals.

18 (2) Except as provided in subsection (5) of this section, all  
19 health plans shall contain or incorporate by endorsement a guarantee of  
20 the continuity of coverage of the plan. For the purposes of this  
21 section, a plan is "renewed" when it is continued beyond the earliest  
22 date upon which, at the carrier's sole option, the plan could have been  
23 terminated for other than nonpayment of premium. The carrier may  
24 consider the group's anniversary date as the renewal date for purposes  
25 of complying with the provisions of this section.

26 (3) The guarantee of continuity of coverage required in health  
27 plans shall not prevent a carrier from canceling or nonrenewing a  
28 health plan for:

29 (a) Nonpayment of premium;

30 (b) Violation of published policies of the carrier approved by the  
31 insurance commissioner;

32 (c) Covered persons entitled to become eligible for medicare  
33 benefits by reason of age who fail to apply for a medicare supplement  
34 plan or medicare cost, risk, or other plan offered by the carrier  
35 pursuant to federal laws and regulations;

36 (d) Covered persons who fail to pay any deductible or copayment  
37 amount owed to the carrier and not the provider of health care  
38 services;

- 1 (e) Covered persons committing fraudulent acts as to the carrier;
- 2 (f) Covered persons who materially breach the health plan; or
- 3 (g) Change or implementation of federal or state laws that no
- 4 longer permit the continued offering of such coverage.

5 (4) (~~The provisions of~~) This section (~~do~~) does not apply in the

6 following cases:

7 (a) A carrier has zero enrollment on a product; or

8 (b) For group health plans sold to groups other than small employer

9 groups, a carrier replaces a product and the replacement product is

10 provided to all covered persons within that class or line of business,

11 includes all of the services covered under the replaced product, and

12 does not significantly limit access to the kind of services covered

13 under the replaced product. The health plan may also allow

14 unrestricted conversion to a fully comparable product; or

15 (c) For group health plans offered to small employer groups, no

16 sooner than October 1, 2002, a carrier discontinues offering a

17 particular type of health benefit plan if: (i) The carrier provides

18 notice to each group provided coverage of this type of the

19 discontinuation at least ninety days prior to the date of the

20 discontinuation; (ii) the carrier offers to each group provided

21 coverage of this type the option to enroll in any other small employer

22 group health benefit plan currently being offered by the carrier; and

23 (iii) in exercising the option to discontinue coverage of this type and

24 in offering the option of coverage under (c)(ii) of this subsection,

25 the carrier acts uniformly without regard to any health status-related

26 factor of individuals enrolled through the small employer group,

27 individuals who may become eligible for such coverage, or the

28 collective health status of groups enrolled in coverage of this type;

29 or

30 (d) A carrier discontinues offering all small employer group health

31 coverage in the state and discontinues coverage under all existing

32 small employer group health benefit plans if: (i) The carrier provides

33 notice to the commissioner of its intent to discontinue offering all

34 small employer group health coverage in the state and its intent to

35 discontinue coverage under all existing health benefit plans at least

36 one hundred eighty days prior to the date of the discontinuation of

37 coverage under all existing health benefit plans; and (ii) the carrier

38 provides notice to each covered small employer group of the intent to

39 discontinue his or her existing health benefit plan at least one

1 hundred eighty days prior to the date of the discontinuation and  
2 includes information in the notice that can help the small employer  
3 group identify alternative sources of coverage. In the case of  
4 discontinuation under this subsection, the carrier may not issue any  
5 small employer group health coverage in this state for a five-year  
6 period beginning on the date of the discontinuation of the last health  
7 plan not so renewed. Nothing in this subsection (4) may be construed  
8 to require a carrier to provide notice to the commissioner of its  
9 intent to discontinue offering a health benefit plan to new applicants  
10 where the carrier does not discontinue coverage of existing enrollees  
11 under that health benefit plan; or

12 (e) A carrier is withdrawing from a service area or from a segment  
13 of its service area because the carrier has demonstrated to the  
14 insurance commissioner that the carrier's clinical, financial, or  
15 administrative capacity to serve enrollees would be exceeded.

16 (5) The provisions of this section do not apply to health plans  
17 deemed by the insurance commissioner to be unique or limited or have a  
18 short-term purpose, after a written request for such classification by  
19 the carrier and subsequent written approval by the insurance  
20 commissioner.

21 **Sec. 4.** RCW 48.44.023 and 1995 c 265 s 16 are each amended to read  
22 as follows:

23 (1)(a) A health care services contractor (~~((offering any))~~) may offer  
24 a health benefit plan to a small employer (~~((shall offer and actively~~  
25 ~~market to the small employer a health benefit plan providing benefits~~  
26 ~~identical to the))~~), as defined in RCW 48.43.005, featuring a limited  
27 schedule of covered health services (~~((that are required to be delivered~~  
28 ~~to an individual enrolled in the basic health plan))~~). Nothing in this  
29 subsection shall preclude a contractor from offering, or a small  
30 employer from purchasing, other health benefit plans that may have more  
31 (~~((or less))~~) comprehensive benefits than (~~((the basic health plan,~~  
32 ~~provided such plans are in accordance with this chapter))~~) those  
33 included in the product offered under this section. A contractor  
34 offering a health benefit plan (~~((that does not include benefits in the~~  
35 ~~basic health plan))~~) under this subsection shall clearly disclose  
36 (~~((these differences))~~) all covered benefits to the small employer in a  
37 brochure approved by the commissioner.

1 (b) A health benefit plan offered under this subsection shall  
2 provide coverage for hospital expenses and services rendered by a  
3 physician licensed under chapter 18.57 or 18.71 RCW but (~~is not~~  
4 ~~subject to the requirements of~~) will not include the services  
5 identified in RCW 48.44.225, 48.44.240, 48.44.245, 48.44.290,  
6 48.44.300, 48.44.310, 48.44.315, 48.44.320, 48.44.325, 48.44.330,  
7 48.44.335, 48.44.340, 48.44.344, 48.44.360, 48.44.400, 48.44.440,  
8 48.44.450, (~~and~~) 48.44.460 (~~if: (i) The health benefit plan is the~~  
9 ~~mandatory offering under (a) of this subsection that provides benefits~~  
10 ~~identical to the basic health plan, to the extent these requirements~~  
11 ~~differ from the basic health plan; or (ii)~~), 48.44.500, 48.43.045(1),  
12 48.43.125, or 48.43.180 if the health benefit plan is offered to  
13 employers with not more than (~~twenty-five~~) fifty employees.

14 (2)(a) Nothing in this section shall prohibit a health care service  
15 contractor from offering, or a purchaser from seeking, benefits in  
16 excess of the (~~basic health plan services~~) health benefit plan  
17 offered under subsection (1) of this section.

18 (b) All forms, policies, and contracts shall be submitted for  
19 approval to the commissioner, and the rates of any plan offered under  
20 subsection (1) of this section shall be reasonable in relation to the  
21 (i) benefits thereto, and (ii) risks involved as determined by the  
22 insurer.

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

25 (a) ~~The contractor shall develop its rates based on an adjusted~~  
26 ~~community rate and may only vary the adjusted 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 contractor shall be permitted to develop separate rates for~~  
36 ~~individuals age sixty five or older for coverage for which medicare is~~  
37 ~~the primary payer and coverage for which medicare is not the primary~~  
38 ~~payer. Both rates shall be subject to the requirements of this~~  
39 ~~subsection (3).~~

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

5       ~~(e) A discount for wellness activities shall be permitted to~~  
6 ~~reflect actuarially justified differences in utilization or cost~~  
7 ~~attributed to such programs not to exceed twenty percent.~~

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

11       ~~(i) Changes to the enrollment of the small employer;~~

12       ~~(ii) Changes to the family composition of the employee;~~

13       ~~(iii) Changes to the health benefit plan requested by the small~~  
14 ~~employer; or~~

15       ~~(iv) Changes in government requirements affecting the health~~  
16 ~~benefit plan.~~

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

20       ~~(h) For the purposes of this section, a health benefit plan that~~  
21 ~~contains a restricted network provision shall not be considered similar~~  
22 ~~coverage to a health benefit plan that does not contain such a~~  
23 ~~provision, provided that the restrictions of benefits to network~~  
24 ~~providers result in substantial differences in claims costs. This~~  
25 ~~subsection does not restrict or enhance the portability of benefits as~~  
26 ~~provided in RCW 48.43.015.~~

27       ~~(i) Adjusted community rates established under this section shall~~  
28 ~~pool the medical experience of all groups purchasing coverage.~~

29       ~~(4) The health benefit plans authorized by this section that are~~  
30 ~~lower than the required offering shall not supplant or supersede any~~  
31 ~~existing policy for the benefit of employees in this state. Nothing in~~  
32 ~~this section shall restrict the right of employees to collectively~~  
33 ~~bargain for insurance providing benefits in excess of those provided~~  
34 ~~herein.~~

35       ~~(5)(a) Except as provided in this subsection, requirements used by~~  
36 ~~a contractor in determining whether to provide coverage to a small~~  
37 ~~employer shall be applied uniformly among all small employers applying~~  
38 ~~for coverage or receiving coverage from the carrier.~~

1       ~~(b) A contractor shall not require a minimum participation level~~  
2 ~~greater than:~~

3       ~~(i) One hundred percent of eligible employees working for groups~~  
4 ~~with three or less employees; and~~

5       ~~(ii) Seventy five percent of eligible employees working for groups~~  
6 ~~with more than three employees.~~

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

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

15       ~~(6) A contractor must offer coverage to all eligible employees of~~  
16 ~~a small employer and their dependents. A contractor may not offer~~  
17 ~~coverage to only certain individuals or dependents in a small employer~~  
18 ~~group or to only part of the group. A contractor may not modify a~~  
19 ~~health plan with respect to a small employer or any eligible employee~~  
20 ~~or 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       **Sec. 5.** RCW 48.44.024 and 1995 c 265 s 23 are each amended to read  
24 as follows:

25       (1) No health care service contractor shall offer any health  
26 benefit plan to any small employer without complying with the  
27 provisions of RCW 48.44.023(~~(+5)~~)).

28       (2) Employers purchasing health plans provided through associations  
29 or through member-governed groups formed specifically for the purpose  
30 of purchasing health care shall not be considered small employers and  
31 such plans shall not be subject to the provisions of RCW  
32 48.44.023(~~(+5)~~)).

33       (3) For purposes of this section, "health benefit plan," "health  
34 plan," and "small employer" mean the same as defined in RCW 48.43.005.

35       **Sec. 6.** RCW 48.46.066 and 1995 c 265 s 18 are each amended to read  
36 as follows:

1 (1)(a) A health maintenance organization (~~offering any~~) may offer  
2 a health benefit plan to a small employer (~~shall offer and actively~~  
3 ~~market to the small employer a health benefit plan providing benefits~~  
4 ~~identical to the~~), as defined in RCW 48.43.005, featuring a limited  
5 schedule of covered health services (~~that are required to be delivered~~  
6 ~~to an individual enrolled in the basic health plan~~). Nothing in this  
7 subsection shall preclude a health maintenance organization from  
8 offering, or a small employer from purchasing, other health benefit  
9 plans that may have more (~~or less~~) comprehensive benefits than (~~the~~  
10 ~~basic health plan, provided such plans are in accordance with this~~  
11 ~~chapter~~) those included in the product offered under this section. A  
12 health maintenance organization offering a health benefit plan (~~that~~  
13 ~~does not include benefits in the basic health plan~~) under this  
14 subsection shall clearly disclose (~~these differences~~) all covered  
15 benefits to the small employer in a brochure approved by the  
16 commissioner.

17 (b) A health benefit plan offered under this subsection shall  
18 provide coverage for hospital expenses and services rendered by a  
19 physician licensed under chapter 18.57 or 18.71 RCW but (~~is not~~  
20 ~~subject to the requirements of~~) will not include the services  
21 identified in RCW 48.46.272, 48.46.275, 48.46.280, 48.46.285,  
22 48.46.290, 48.46.350, 48.46.355, 48.46.375, 48.46.440, 48.46.480,  
23 48.46.510, 48.46.520, (and) 48.46.530 (if: (i) The health benefit  
24 plan is the mandatory offering under (a) of this subsection that  
25 provides benefits identical to the basic health plan, to the extent  
26 these requirements differ from the basic health plan; or (ii)),  
27 48.46.565, 48.46.570, 48.43.045(1), 48.43.125, or 48.43.180 if the  
28 health benefit plan is offered to employers with not more than  
29 (twenty-five) fifty employees.

30 (2)(a) Nothing in this section shall prohibit a health maintenance  
31 organization from offering, or a purchaser from seeking, benefits in  
32 excess of the (~~basic health plan services~~) health benefit plan  
33 offered under subsection (1) of this section.

34 (b) All forms, policies, and contracts shall be submitted for  
35 approval to the commissioner, and the rates of any plan offered under  
36 subsection (1) of this section shall be reasonable in relation to the  
37 (i) benefits thereto, and (ii) risks involved as determined by the  
38 insurer.

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

3       ~~(a) The health maintenance organization shall develop its rates~~  
4 ~~based on an adjusted community rate and may only vary the adjusted~~  
5 ~~community rate for:~~

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

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

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

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

23       ~~(e) A discount for wellness activities shall be permitted to~~  
24 ~~reflect actuarially justified differences in utilization or cost~~  
25 ~~attributed to such programs not to exceed twenty percent.~~

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

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

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

38       ~~(h) For the purposes of this section, a health benefit plan that~~  
39 ~~contains a restricted network provision shall not be considered similar~~

1 coverage to a health benefit plan that does not contain such a  
2 provision, provided that the restrictions of benefits to network  
3 providers result in substantial differences in claims costs. This  
4 subsection does not restrict or enhance the portability of benefits as  
5 provided in RCW 48.43.015.

6 (i) Adjusted community rates established under this section shall  
7 pool the medical experience of all groups purchasing coverage.

8 (4) The health benefit plans authorized by this section that are  
9 lower than the required offering shall not supplant or supersede any  
10 existing policy for the benefit of employees in this state. Nothing in  
11 this section shall restrict the right of employees to collectively  
12 bargain for insurance providing benefits in excess of those provided  
13 herein.

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

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

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

22 (ii) Seventy five percent of eligible employees working for groups  
23 with more than three employees.

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

28 (d) A health maintenance organization may not increase any  
29 requirement for minimum employee participation or modify any  
30 requirement for minimum employer contribution applicable to a small  
31 employer at any time after the small employer has been accepted for  
32 coverage.

33 (6) A health maintenance organization must offer coverage to all  
34 eligible employees of a small employer and their dependents. A health  
35 maintenance organization may not offer coverage to only certain  
36 individuals or dependents in a small employer group or to only part of  
37 the group. A health maintenance organization may not modify a health  
38 plan with respect to a small employer or any eligible employee or  
39 dependent, through riders, endorsements or otherwise, to restrict or

1 ~~exclude coverage or benefits for specific diseases, medical conditions,~~  
2 ~~or services otherwise covered by the plan.))~~

3       **Sec. 7.** RCW 48.46.068 and 1995 c 265 s 24 are each amended to read  
4 as follows:

5       (1) No health maintenance organization shall offer any health  
6 benefit plan to any small employer without complying with the  
7 provisions of RCW 48.46.066(~~(+5)~~)).

8       (2) Employers purchasing health plans provided through associations  
9 or through member-governed groups formed specifically for the purpose  
10 of purchasing health care shall not be considered small employers and  
11 such plans shall not be subject to the provisions of RCW  
12 48.46.066(~~(+5)~~)).

13       (3) For purposes of this section, "health benefit plan," "health  
14 plan," and "small employer" mean the same as defined in RCW 48.43.005.

15       NEW SECTION.   **Sec. 8.** Section 3 of this act takes effect January  
16 1, 2004.

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