
HOUSE BILL 2087

State of Washington

58th Legislature

2003 Regular Session

By Representative Benson

Read first time 02/25/2003. Referred to Committee on Health Care.

1 AN ACT Relating to the qualification of self-employed individuals
2 or sole proprietors as a small employer; and reenacting and amending
3 RCW 48.43.005.

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

5 **Sec. 1.** RCW 48.43.005 and 2001 c 196 s 5 and 2001 c 147 s 1 are
6 each reenacted and amended to read as follows:

7 Unless otherwise specifically provided, the definitions in this
8 section apply throughout this chapter.

9 (1) "Adjusted community rate" means the rating method used to
10 establish the premium for health plans adjusted to reflect actuarially
11 demonstrated differences in utilization or cost attributable to
12 geographic region, age, family size, and use of wellness activities.

13 (2) "Basic health plan" means the plan described under chapter
14 70.47 RCW, as revised from time to time.

15 (3) "Basic health plan model plan" means a health plan as required
16 in RCW 70.47.060(2)(d).

17 (4) "Basic health plan services" means that schedule of covered
18 health services, including the description of how those benefits are to

1 be administered, that are required to be delivered to an enrollee under
2 the basic health plan, as revised from time to time.

3 (5) "Catastrophic health plan" means:

4 (a) In the case of a contract, agreement, or policy covering a
5 single enrollee, a health benefit plan requiring a calendar year
6 deductible of, at a minimum, one thousand five hundred dollars and an
7 annual out-of-pocket expense required to be paid under the plan (other
8 than for premiums) for covered benefits of at least three thousand
9 dollars; and

10 (b) In the case of a contract, agreement, or policy covering more
11 than one enrollee, a health benefit plan requiring a calendar year
12 deductible of, at a minimum, three thousand dollars and an annual out-
13 of-pocket expense required to be paid under the plan (other than for
14 premiums) for covered benefits of at least five thousand five hundred
15 dollars; or

16 (c) Any health benefit plan that provides benefits for hospital
17 inpatient and outpatient services, professional and prescription drugs
18 provided in conjunction with such hospital inpatient and outpatient
19 services, and excludes or substantially limits outpatient physician
20 services and those services usually provided in an office setting.

21 (6) "Certification" means a determination by a review organization
22 that an admission, extension of stay, or other health care service or
23 procedure has been reviewed and, based on the information provided,
24 meets the clinical requirements for medical necessity, appropriateness,
25 level of care, or effectiveness under the auspices of the applicable
26 health benefit plan.

27 (7) "Concurrent review" means utilization review conducted during
28 a patient's hospital stay or course of treatment.

29 (8) "Covered person" or "enrollee" means a person covered by a
30 health plan including an enrollee, subscriber, policyholder,
31 beneficiary of a group plan, or individual covered by any other health
32 plan.

33 (9) "Dependent" means, at a minimum, the enrollee's legal spouse
34 and unmarried dependent children who qualify for coverage under the
35 enrollee's health benefit plan.

36 (10) "Eligible employee" means an employee who works on a full-time
37 basis with a normal work week of thirty or more hours. The term
38 includes a self-employed individual, including a sole proprietor, a

1 partner of a partnership, and may include an independent contractor, if
2 the self-employed individual, sole proprietor, partner, or independent
3 contractor is included as an employee under a health benefit plan of a
4 small employer, but does not work less than thirty hours per week and
5 derives at least seventy-five percent of his or her income from a trade
6 or business through which he or she has attempted to earn taxable
7 income and for which he or she has filed the appropriate internal
8 revenue service form. Persons covered under a health benefit plan
9 pursuant to the consolidated omnibus budget reconciliation act of 1986
10 shall not be considered eligible employees for purposes of minimum
11 participation requirements of chapter 265, Laws of 1995.

12 (11) "Emergency medical condition" means the emergent and acute
13 onset of a symptom or symptoms, including severe pain, that would lead
14 a prudent layperson acting reasonably to believe that a health
15 condition exists that requires immediate medical attention, if failure
16 to provide medical attention would result in serious impairment to
17 bodily functions or serious dysfunction of a bodily organ or part, or
18 would place the person's health in serious jeopardy.

19 (12) "Emergency services" means otherwise covered health care
20 services medically necessary to evaluate and treat an emergency medical
21 condition, provided in a hospital emergency department.

22 (13) "Enrollee point-of-service cost-sharing" means amounts paid to
23 health carriers directly providing services, health care providers, or
24 health care facilities by enrollees and may include copayments,
25 coinsurance, or deductibles.

26 (14) "Grievance" means a written complaint submitted by or on
27 behalf of a covered person regarding: (a) Denial of payment for
28 medical services or nonprovision of medical services included in the
29 covered person's health benefit plan, or (b) service delivery issues
30 other than denial of payment for medical services or nonprovision of
31 medical services, including dissatisfaction with medical care, waiting
32 time for medical services, provider or staff attitude or demeanor, or
33 dissatisfaction with service provided by the health carrier.

34 (15) "Health care facility" or "facility" means hospices licensed
35 under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW,
36 rural health care facilities as defined in RCW 70.175.020, psychiatric
37 hospitals licensed under chapter 71.12 RCW, nursing homes licensed
38 under chapter 18.51 RCW, community mental health centers licensed under

1 chapter 71.05 or 71.24 RCW, kidney disease treatment centers licensed
2 under chapter 70.41 RCW, ambulatory diagnostic, treatment, or surgical
3 facilities licensed under chapter 70.41 RCW, drug and alcohol treatment
4 facilities licensed under chapter 70.96A RCW, and home health agencies
5 licensed under chapter 70.127 RCW, and includes such facilities if
6 owned and operated by a political subdivision or instrumentality of the
7 state and such other facilities as required by federal law and
8 implementing regulations.

9 (16) "Health care provider" or "provider" means:

10 (a) A person regulated under Title 18 or chapter 70.127 RCW, to
11 practice health or health-related services or otherwise practicing
12 health care services in this state consistent with state law; or

13 (b) An employee or agent of a person described in (a) of this
14 subsection, acting in the course and scope of his or her employment.

15 (17) "Health care service" means that service offered or provided
16 by health care facilities and health care providers relating to the
17 prevention, cure, or treatment of illness, injury, or disease.

18 (18) "Health carrier" or "carrier" means a disability insurer
19 regulated under chapter 48.20 or 48.21 RCW, a health care service
20 contractor as defined in RCW 48.44.010, or a health maintenance
21 organization as defined in RCW 48.46.020.

22 (19) "Health plan" or "health benefit plan" means any policy,
23 contract, or agreement offered by a health carrier to provide, arrange,
24 reimburse, or pay for health care services except the following:

25 (a) Long-term care insurance governed by chapter 48.84 RCW;

26 (b) Medicare supplemental health insurance governed by chapter
27 48.66 RCW;

28 (c) Limited health care services offered by limited health care
29 service contractors in accordance with RCW 48.44.035;

30 (d) Disability income;

31 (e) Coverage incidental to a property/casualty liability insurance
32 policy such as automobile personal injury protection coverage and
33 homeowner guest medical;

34 (f) Workers' compensation coverage;

35 (g) Accident only coverage;

36 (h) Specified disease and hospital confinement indemnity when
37 marketed solely as a supplement to a health plan;

38 (i) Employer-sponsored self-funded health plans;

1 (j) Dental only and vision only coverage; and

2 (k) Plans deemed by the insurance commissioner to have a short-term
3 limited purpose or duration, or to be a student-only plan that is
4 guaranteed renewable while the covered person is enrolled as a regular
5 full-time undergraduate or graduate student at an accredited higher
6 education institution, after a written request for such classification
7 by the carrier and subsequent written approval by the insurance
8 commissioner.

9 (20) "Material modification" means a change in the actuarial value
10 of the health plan as modified of more than five percent but less than
11 fifteen percent.

12 (21) "Preexisting condition" means any medical condition, illness,
13 or injury that existed any time prior to the effective date of
14 coverage.

15 (22) "Premium" means all sums charged, received, or deposited by a
16 health carrier as consideration for a health plan or the continuance of
17 a health plan. Any assessment or any "membership," "policy,"
18 "contract," "service," or similar fee or charge made by a health
19 carrier in consideration for a health plan is deemed part of the
20 premium. "Premium" shall not include amounts paid as enrollee point-
21 of-service cost-sharing.

22 (23) "Review organization" means a disability insurer regulated
23 under chapter 48.20 or 48.21 RCW, health care service contractor as
24 defined in RCW 48.44.010, or health maintenance organization as defined
25 in RCW 48.46.020, and entities affiliated with, under contract with, or
26 acting on behalf of a health carrier to perform a utilization review.

27 (24) "Small employer" or "small group" means any person, firm,
28 corporation, partnership, association, political subdivision, or self-
29 employed individual that is actively engaged in business that, on at
30 least fifty percent of its working days during the preceding calendar
31 quarter, employed no more than fifty eligible employees, with a normal
32 work week of thirty or more hours, the majority of whom were employed
33 within this state, and is not formed primarily for purposes of buying
34 health insurance and in which a bona fide employer-employee
35 relationship exists. In determining the number of eligible employees,
36 companies that are affiliated companies, or that are eligible to file
37 a combined tax return for purposes of taxation by this state, shall be
38 considered an employer. Subsequent to the issuance of a health plan to

1 a small employer and for the purpose of determining eligibility, the
2 size of a small employer shall be determined annually. Except as
3 otherwise specifically provided, a small employer shall continue to be
4 considered a small employer until the plan anniversary following the
5 date the small employer no longer meets the requirements of this
6 definition. The term "small employer" includes a self-employed
7 individual or sole proprietor. The term "small employer" also includes
8 a self-employed individual or sole proprietor who derives at least
9 seventy-five percent of his or her gross income from ((a)) one or more
10 trades or businesses through which the individual or sole proprietor
11 has attempted to earn taxable income and for which he or she has filed
12 the appropriate internal revenue service form ((1040, ~~schedule C or~~
13 ~~F7~~)) for the previous taxable year.

14 (25) "Utilization review" means the prospective, concurrent, or
15 retrospective assessment of the necessity and appropriateness of the
16 allocation of health care resources and services of a provider or
17 facility, given or proposed to be given to an enrollee or group of
18 enrollees.

19 (26) "Wellness activity" means an explicit program of an activity
20 consistent with department of health guidelines, such as, smoking
21 cessation, injury and accident prevention, reduction of alcohol misuse,
22 appropriate weight reduction, exercise, automobile and motorcycle
23 safety, blood cholesterol reduction, and nutrition education for the
24 purpose of improving enrollee health status and reducing health service
25 costs.

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