

E2SHB 1569 - S AMD 487
By Senator Keiser

ADOPTED AND ENGROSSED 4/12/07

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 70.47A.010 and 2006 c 255 s 1 are each amended to
4 read as follows:

5 (1) The legislature finds that many small employers struggle with
6 the cost of providing employer-sponsored health insurance coverage to
7 their employees, while others are unable to offer employer-sponsored
8 health insurance due to its high cost. Low-wage workers also struggle
9 with the burden of paying their share of the costs of
10 employer-sponsored health insurance, while others turn down their
11 employer's offer of coverage due to its costs.

12 (2) The legislature intends, through establishment of a ((small
13 employer)) health insurance partnership program, to remove economic
14 barriers to health insurance coverage for low-wage employees of small
15 employers by building on the private sector health benefit plan system
16 and encouraging employer and employee participation in
17 employer-sponsored health benefit plan coverage.

18 **Sec. 2.** RCW 70.47A.020 and 2006 c 255 s 2 are each amended to read
19 as follows:

20 The definitions in this section apply throughout this chapter
21 unless the context clearly requires otherwise.

22 (1) "Administrator" means the administrator of the Washington state
23 health care authority, established under chapter 41.05 RCW.

24 (2) "Board" means the health insurance partnership board
25 established in section 4 of this act.

26 (3) "Eligible ((employee)) partnership participant" means an
27 individual who:

28 (a) Is a resident of the state of Washington;

1 (b) Has family income (~~((less than))~~) that does not exceed two
2 hundred percent of the federal poverty level, as determined annually by
3 the federal department of health and human services; and

4 (c) Is employed by a participating small employer or is a former
5 employee of a participating small employer who chooses to continue
6 receiving coverage through the partnership following separation from
7 employment.

8 (~~((3))~~) (4) "Health benefit plan" has the same meaning as defined
9 in RCW 48.43.005 (~~((or any plan provided by a self-funded multiple~~
10 ~~employer welfare arrangement as defined in RCW 48.125.010 or by another~~
11 ~~benefit arrangement defined in the federal employee retirement income~~
12 ~~security act of 1974, as amended))~~).

13 (~~((4) "Program"))~~) (5) "Participating small employer" means a small
14 employer that employs at least one eligible partnership participant and
15 has entered into an agreement with the partnership for the partnership
16 to offer and administer the small employer's group health benefit plan,
17 as defined in federal law, Sec. 706 of ERISA (29 U.S.C. Sec. 1167), for
18 enrollees in the plan.

19 (6) "Partnership" means the (~~((small employer))~~) health insurance
20 partnership (~~((program))~~) established in RCW 70.47A.030.

21 (~~((5))~~) (7) "Partnership participant" means an employee of a
22 participating small employer, or a former employee of a participating
23 small employer who chooses to continue receiving coverage through the
24 partnership following separation from employment.

25 (8) "Small employer" has the same meaning as defined in RCW
26 48.43.005.

27 (~~((6))~~) (9) "Subsidy" or "premium subsidy" means payment or
28 reimbursement to an eligible (~~((employee))~~) partnership participant
29 toward the purchase of a health benefit plan, and may include a net
30 billing arrangement with insurance carriers or a prospective or
31 retrospective payment for health benefit plan premiums.

32 **Sec. 3.** RCW 70.47A.030 and 2006 c 255 s 3 are each amended to read
33 as follows:

34 (1) To the extent funding is appropriated in the operating budget
35 for this purpose, the (~~((small employer))~~) health insurance partnership
36 (~~((program))~~) is established. The administrator shall be responsible for
37 the implementation and operation of the (~~((small employer))~~) health

1 insurance partnership (~~program~~), directly or by contract. The
2 administrator shall offer premium subsidies to eligible (~~employees~~)
3 partnership participants under RCW 70.47A.040.

4 (2) Consistent with policies adopted by the board under section 4
5 of this act, the administrator shall, directly or by contract:

6 (a) Establish and administer procedures for enrolling small
7 employers in the partnership, including publicizing the existence of
8 the partnership and disseminating information on enrollment, and
9 establishing rules related to minimum participation of employees in
10 small groups purchasing health insurance through the partnership.
11 Opportunities to publicize the program for outreach and education of
12 small employers on the value of insurance shall explore the use of
13 online employer guides. As a condition of participating in the
14 partnership, a small employer must agree to establish a cafeteria plan
15 under section 125 of the federal internal revenue code that will enable
16 employees to use pretax dollars to pay their share of their health
17 benefit plan premium. The partnership shall provide technical
18 assistance to small employers for this purpose;

19 (b) Establish and administer procedures for health benefit plan
20 enrollment by employees of small employers during open enrollment
21 periods and outside of open enrollment periods upon the occurrence of
22 any qualifying event specified in the federal health insurance
23 portability and accountability act of 1996 or applicable state law.
24 Neither the employer nor the partnership shall limit an employee's
25 choice of coverage from among all the health benefit plans offered;

26 (c) Establish and manage a system for the partnership to be
27 designated as the sponsor or administrator of a participating small
28 employer health benefit plan and to undertake the obligations required
29 of a plan administrator under federal law;

30 (d) Establish and manage a system of collecting and transmitting to
31 the applicable carriers all premium payments or contributions made by
32 or on behalf of partnership participants, including employer
33 contributions, automatic payroll deductions for partnership
34 participants, premium subsidy payments, and contributions from
35 philanthropies;

36 (e) Establish and manage a system for determining eligibility for
37 and making premium subsidy payments under this act;

1 (f) Establish a mechanism to apply a surcharge to all health
2 benefit plans, which shall be used only to pay for administrative and
3 operational expenses of the partnership. The surcharge must be applied
4 uniformly to all health benefit plans offered through the partnership
5 and must be included in the premium for each health benefit plan.
6 Surcharges may not be used to pay any premium assistance payments under
7 this chapter;

8 (g) Design a schedule of premium subsidies that is based upon gross
9 family income, giving appropriate consideration to family size and the
10 ages of all family members based on a benchmark health benefit plan
11 designated by the board. The amount of an eligible partnership
12 participant's premium subsidy shall be determined by applying a sliding
13 scale subsidy schedule with the percentage of premium similar to that
14 developed for subsidized basic health plan enrollees under RCW
15 70.47.060. The subsidy shall be applied to the employee's premium
16 obligation for his or her health benefit plan, so that employees
17 benefit financially from any employer contribution to the cost of their
18 coverage through the partnership. Employees shall not be eligible for
19 premium assistance if they have immediately transitioned from employer-
20 sponsored insurance, until they have fulfilled a six-month waiting
21 period. During that time, the employee may participate in the program
22 but not receive state-sponsored premium assistance.

23 (3) The administrator may enter into interdepartmental agreements
24 with the office of the insurance commissioner, the department of social
25 and health services, and any other state agencies necessary to
26 implement this chapter.

27 NEW SECTION. Sec. 4. A new section is added to chapter 70.47A RCW
28 to read as follows:

29 (1) The health insurance partnership board is hereby established.
30 The governor shall appoint a seven-member health insurance partnership
31 board by June 30, 2007. The board shall be composed of persons with
32 expertise in the health insurance market and benefit design, and be
33 chaired by the administrator.

34 (2) The governor shall appoint the initial members of the board to
35 staggered terms not to exceed four years. Initial appointments shall
36 be made on or before June 1, 2007. Members appointed thereafter shall
37 serve two-year terms. Members of the board shall be compensated in

1 accordance with RCW 43.03.250 and shall be reimbursed for their travel
2 expenses while on official business in accordance with RCW 43.03.050
3 and 43.03.060. The board shall prescribe rules for the conduct of its
4 business. Meetings of the board shall be at the call of the chair.

5 (3) The board may establish technical advisory committees or seek
6 the advice of technical experts when necessary to execute the powers
7 and duties included in this section.

8 (4) The board and employees of the board shall not be civilly or
9 criminally liable and shall not have any penalty or cause of action of
10 any nature arise against them for any action taken or not taken,
11 including any discretionary decision or failure to make a discretionary
12 decision, when the action or inaction is done in good faith and in the
13 performance of the powers and duties under this chapter. Nothing in
14 this section prohibits legal actions against the board to enforce the
15 board's statutory or contractual duties or obligations.

16 NEW SECTION. **Sec. 5.** A new section is added to chapter 70.47A RCW
17 to read as follows:

18 (1) The health insurance partnership board shall:

19 (a) Develop policies for enrollment of small employers in the
20 partnership, including minimum participation rules for small employer
21 groups. The small employer shall determine the criteria for
22 eligibility and enrollment in his or her plan and the terms and amounts
23 of the employer's contributions to that plan, consistent with any
24 minimum employer premium contribution level established by the board
25 under (d) of this subsection;

26 (b) Designate health benefit plans that are currently offered in
27 the small group market that will qualify for premium subsidy payments.
28 At least four health benefit plans shall be chosen, with multiple
29 deductible and point-of-service cost-sharing options. The health
30 benefit plans shall range from catastrophic to comprehensive coverage,
31 and one health benefit plan shall be a high deductible health plan.
32 Every effort shall be made to include health benefit plans that include
33 components to maximize the quality of care provided and result in
34 improved health outcomes, such as preventive care, wellness incentives,
35 chronic care management services, and provider network development and
36 payment policies related to quality of care;

1 (c) Approve a mid-range benefit plan from those selected to be used
2 as a benchmark plan for calculating premium subsidies;

3 (d) Determine whether there should be a minimum employer premium
4 contribution on behalf of employees, and if so, how much;

5 (e) Determine appropriate health benefit plan rating methodologies.
6 The methodologies shall be based on the small group adjusted community
7 rate as defined in Title 48 RCW. The board shall evaluate the impact
8 of applying the small group community rating with the partnership
9 principle of allowing each employee to choose their health benefit
10 plan, and consider options to reduce uncertainty for carriers and
11 provide for efficient risk management of high-cost enrollees through
12 risk adjustment, reinsurance, or other mechanisms;

13 (f) Conduct analyses and provide recommendations as requested by
14 the legislature and the governor, with the assistance of staff from the
15 health care authority and the office of the insurance commissioner.

16 (2) The board may authorize one or more limited health care service
17 plans for dental care services to be offered by limited health care
18 service contractors under RCW 48.44.035. However, such plan shall not
19 qualify for subsidy payments.

20 (3) In fulfilling the requirements of this section, the board shall
21 consult with small employers, the office of the insurance commissioner,
22 members in good standing of the American academy of actuaries, health
23 carriers, agents and brokers, and employees of small business.

24 **Sec. 6.** RCW 70.47A.040 and 2006 c 255 s 4 are each amended to read
25 as follows:

26 ~~((1))~~ Beginning ~~((July 1, 2007))~~ September 1, 2008, the
27 administrator shall accept applications from eligible ~~((employees))~~
28 partnership participants, on behalf of themselves, their spouses, and
29 their dependent children, to receive premium subsidies through the
30 ~~((small employer))~~ health insurance partnership ~~((program))~~.

31 ~~((2) Premium subsidy payments may be provided to eligible
32 employees if:~~

33 ~~(a) The eligible employee is employed by a small employer;~~

34 ~~(b) The actuarial value of the health benefit plan offered by the
35 small employer is at least equivalent to that of the basic health plan
36 benefit offered under chapter 70.47 RCW. The office of the insurance~~

1 commissioner under Title 48 RCW shall certify those small employer
2 health benefit plans that are at least actuarially equivalent to the
3 basic health plan benefit; and

4 (c) The small employer will pay at least forty percent of the
5 monthly premium cost for health benefit plan coverage of the eligible
6 employee.

7 (3) The amount of an eligible employee's premium subsidy shall be
8 determined by applying the sliding scale subsidy schedule developed for
9 subsidized basic health plan enrollees under RCW 70.47.060 to the
10 employee's premium obligation for his or her employer's health benefit
11 plan.

12 (4) After an eligible individual has enrolled in the program, the
13 program shall issue subsidies in an amount determined pursuant to
14 subsection (3) of this section to either the eligible employee or to
15 the carrier designated by the eligible employee.

16 (5) An eligible employee must agree to provide verification of
17 continued enrollment in his or her small employer's health benefit plan
18 on a semiannual basis or to notify the administrator whenever his or
19 her enrollment status changes, whichever is earlier. Verification or
20 notification may be made directly by the employee, or through his or
21 her employer or the carrier providing the small employer health benefit
22 plan. When necessary, the administrator has the authority to perform
23 retrospective audits on premium subsidy accounts. The administrator
24 may suspend or terminate an employee's participation in the program and
25 seek repayment of any subsidy amounts paid due to the omission or
26 misrepresentation of an applicant or enrolled employee. The
27 administrator shall adopt rules to define the appropriate application
28 of these sanctions and the processes to implement the sanctions
29 provided in this subsection, within available resources.))

30 **Sec. 7.** RCW 48.21.045 and 2004 c 244 s 1 are each amended to read
31 as follows:

32 (1)(a) An insurer offering any health benefit plan to a small
33 employer, either directly or through an association or member-governed
34 group formed specifically for the purpose of purchasing health care,
35 may offer and actively market to the small employer a health benefit
36 plan featuring a limited schedule of covered health care services.
37 Nothing in this subsection shall preclude an insurer from offering, or

1 a small employer from purchasing, other health benefit plans that may
2 have more comprehensive benefits than those included in the product
3 offered under this subsection. An insurer offering a health benefit
4 plan under this subsection shall clearly disclose all covered benefits
5 to the small employer in a brochure filed with the commissioner.

6 (b) A health benefit plan offered under this subsection shall
7 provide coverage for hospital expenses and services rendered by a
8 physician licensed under chapter 18.57 or 18.71 RCW but is not subject
9 to the requirements of RCW 48.21.130, 48.21.140, 48.21.141, 48.21.142,
10 48.21.144, 48.21.146, 48.21.160 through 48.21.197, 48.21.200,
11 48.21.220, 48.21.225, 48.21.230, 48.21.235, 48.21.240, 48.21.244,
12 48.21.250, 48.21.300, 48.21.310, or 48.21.320.

13 (2) Nothing in this section shall prohibit an insurer from
14 offering, or a purchaser from seeking, health benefit plans with
15 benefits in excess of the health benefit plan offered under subsection
16 (1) of this section. All forms, policies, and contracts shall be
17 submitted for approval to the commissioner, and the rates of any plan
18 offered under this section shall be reasonable in relation to the
19 benefits thereto.

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

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

- 24 (i) Geographic area;
- 25 (ii) Family size;
- 26 (iii) Age; and
- 27 (iv) Wellness activities.

28 (b) The adjustment for age in (a)(iii) of this subsection may not
29 use age brackets smaller than five-year increments, which shall begin
30 with age twenty and end with age sixty-five. Employees under the age
31 of twenty shall be treated as those age twenty.

32 (c) The insurer shall be permitted to develop separate rates for
33 individuals age sixty-five or older for coverage for which medicare is
34 the primary payer and coverage for which medicare is not the primary
35 payer. Both rates shall be subject to the requirements of this
36 subsection (3).

37 (d) The permitted rates for any age group shall be no more than

1 four hundred twenty-five percent of the lowest rate for all age groups
2 on January 1, 1996, four hundred percent on January 1, 1997, and three
3 hundred seventy-five percent on January 1, 2000, and thereafter.

4 (e) A discount for wellness activities shall be permitted to
5 reflect actuarially justified differences in utilization or cost
6 attributed to such programs.

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

10 (i) Changes to the enrollment of the small employer;

11 (ii) Changes to the family composition of the employee;

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

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

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

19 (h) For the purposes of this section, a health benefit plan that
20 contains a restricted network provision shall not be considered similar
21 coverage to a health benefit plan that does not contain such a
22 provision, provided that the restrictions of benefits to network
23 providers result in substantial differences in claims costs. A carrier
24 may develop its rates based on claims costs due to network provider
25 reimbursement schedules or type of network. This subsection does not
26 restrict or enhance the portability of benefits as provided in RCW
27 48.43.015.

28 (i) Adjusted community rates established under this section shall
29 pool the medical experience of all small groups purchasing coverage,
30 including the small group participants in the health insurance
31 partnership established in RCW 70.47A.030. However, annual rate
32 adjustments for each small group health benefit plan may vary by up to
33 plus or minus four percentage points from the overall adjustment of a
34 carrier's entire small group pool, such overall adjustment to be
35 approved by the commissioner, upon a showing by the carrier, certified
36 by a member of the American academy of actuaries that: (i) The
37 variation is a result of deductible leverage, benefit design, or
38 provider network characteristics; and (ii) for a rate renewal period,

1 the projected weighted average of all small group benefit plans will
2 have a revenue neutral effect on the carrier's small group pool.
3 Variations of greater than four percentage points are subject to review
4 by the commissioner, and must be approved or denied within sixty days
5 of submittal. A variation that is not denied within sixty days shall
6 be deemed approved. The commissioner must provide to the carrier a
7 detailed actuarial justification for any denial within thirty days of
8 the denial.

9 (4) Nothing in this section shall restrict the right of employees
10 to collectively bargain for insurance providing benefits in excess of
11 those provided herein.

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

16 (b) An insurer shall not require a minimum participation level
17 greater than:

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

20 (ii) Seventy-five percent of eligible employees working for groups
21 with more than three employees.

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

26 (d) An insurer may not increase any requirement for minimum
27 employee participation or modify any requirement for minimum employer
28 contribution applicable to a small employer at any time after the small
29 employer has been accepted for coverage.

30 (6) An insurer must offer coverage to all eligible employees of a
31 small employer and their dependents. An insurer may not offer coverage
32 to only certain individuals or dependents in a small employer group or
33 to only part of the group. An insurer may not modify a health plan
34 with respect to a small employer or any eligible employee or dependent,
35 through riders, endorsements or otherwise, to restrict or exclude
36 coverage or benefits for specific diseases, medical conditions, or
37 services otherwise covered by the plan.

1 (7) As used in this section, "health benefit plan," "small
2 employer," "adjusted community rate," and "wellness activities" mean
3 the same as defined in RCW 48.43.005.

4 **Sec. 8.** RCW 48.44.023 and 2004 c 244 s 7 are each amended to read
5 as follows:

6 (1)(a) A health care services contractor offering any health
7 benefit plan to a small employer, either directly or through an
8 association or member-governed group formed specifically for the
9 purpose of purchasing health care, may offer and actively market to the
10 small employer a health benefit plan featuring a limited schedule of
11 covered health care services. Nothing in this subsection shall
12 preclude a contractor from offering, or a small employer from
13 purchasing, other health benefit plans that may have more comprehensive
14 benefits than those included in the product offered under this
15 subsection. A contractor offering a health benefit plan under this
16 subsection shall clearly disclose all covered benefits to the small
17 employer in a brochure filed with the commissioner.

18 (b) A health benefit plan offered under this subsection shall
19 provide coverage for hospital expenses and services rendered by a
20 physician licensed under chapter 18.57 or 18.71 RCW but is not subject
21 to the requirements of RCW 48.44.225, 48.44.240, 48.44.245, 48.44.290,
22 48.44.300, 48.44.310, 48.44.320, 48.44.325, 48.44.330, 48.44.335,
23 48.44.340, 48.44.344, 48.44.360, 48.44.400, 48.44.440, 48.44.450, and
24 48.44.460.

25 (2) Nothing in this section shall prohibit a health care service
26 contractor from offering, or a purchaser from seeking, health benefit
27 plans with benefits in excess of the health benefit plan offered under
28 subsection (1) of this section. All forms, policies, and contracts
29 shall be submitted for approval to the commissioner, and the rates of
30 any plan offered under this section shall be reasonable in relation to
31 the benefits thereto.

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

34 (a) The contractor shall develop its rates based on an adjusted
35 community rate and may only vary the adjusted community rate for:

- 36 (i) Geographic area;
- 37 (ii) Family size;

1 (iii) Age; and

2 (iv) Wellness activities.

3 (b) The adjustment for age in (a)(iii) of this subsection may not
4 use age brackets smaller than five-year increments, which shall begin
5 with age twenty and end with age sixty-five. Employees under the age
6 of twenty shall be treated as those age twenty.

7 (c) The contractor shall be permitted to develop separate rates for
8 individuals age sixty-five or older for coverage for which medicare is
9 the primary payer and coverage for which medicare is not the primary
10 payer. Both rates shall be subject to the requirements of this
11 subsection (3).

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

16 (e) A discount for wellness activities shall be permitted to
17 reflect actuarially justified differences in utilization or cost
18 attributed to such programs.

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

22 (i) Changes to the enrollment of the small employer;

23 (ii) Changes to the family composition of the employee;

24 (iii) Changes to the health benefit plan requested by the small
25 employer; or

26 (iv) Changes in government requirements affecting the health
27 benefit plan.

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

31 (h) For the purposes of this section, a health benefit plan that
32 contains a restricted network provision shall not be considered similar
33 coverage to a health benefit plan that does not contain such a
34 provision, provided that the restrictions of benefits to network
35 providers result in substantial differences in claims costs. A carrier
36 may develop its rates based on claims costs due to network provider
37 reimbursement schedules or type of network. This subsection does not

1 restrict or enhance the portability of benefits as provided in RCW
2 48.43.015.

3 (i) Adjusted community rates established under this section shall
4 pool the medical experience of all groups purchasing coverage,
5 including the small group participants in the health insurance
6 partnership established in RCW 70.47A.030. However, annual rate
7 adjustments for each small group health benefit plan may vary by up to
8 plus or minus four percentage points from the overall adjustment of a
9 carrier's entire small group pool, such overall adjustment to be
10 approved by the commissioner, upon a showing by the carrier, certified
11 by a member of the American academy of actuaries that: (i) The
12 variation is a result of deductible leverage, benefit design, or
13 provider network characteristics; and (ii) for a rate renewal period,
14 the projected weighted average of all small group benefit plans will
15 have a revenue neutral effect on the carrier's small group pool.
16 Variations of greater than four percentage points are subject to review
17 by the commissioner, and must be approved or denied within sixty days
18 of submittal. A variation that is not denied within sixty days shall
19 be deemed approved. The commissioner must provide to the carrier a
20 detailed actuarial justification for any denial within thirty days of
21 the denial.

22 (4) Nothing in this section shall restrict the right of employees
23 to collectively bargain for insurance providing benefits in excess of
24 those provided herein.

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

29 (b) A contractor shall not require a minimum participation level
30 greater than:

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

33 (ii) Seventy-five percent of eligible employees working for groups
34 with more than three employees.

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

1 (d) A contractor may not increase any requirement for minimum
2 employee participation or modify any requirement for minimum employer
3 contribution applicable to a small employer at any time after the small
4 employer has been accepted for coverage.

5 (6) A contractor must offer coverage to all eligible employees of
6 a small employer and their dependents. A contractor may not offer
7 coverage to only certain individuals or dependents in a small employer
8 group or to only part of the group. A contractor may not modify a
9 health plan with respect to a small employer or any eligible employee
10 or dependent, through riders, endorsements or otherwise, to restrict or
11 exclude coverage or benefits for specific diseases, medical conditions,
12 or services otherwise covered by the plan.

13 **Sec. 9.** RCW 48.46.066 and 2004 c 244 s 9 are each amended to read
14 as follows:

15 (1)(a) A health maintenance organization offering any health
16 benefit plan to a small employer, either directly or through an
17 association or member-governed group formed specifically for the
18 purpose of purchasing health care, may offer and actively market to the
19 small employer a health benefit plan featuring a limited schedule of
20 covered health care services. Nothing in this subsection shall
21 preclude a health maintenance organization from offering, or a small
22 employer from purchasing, other health benefit plans that may have more
23 comprehensive benefits than those included in the product offered under
24 this subsection. A health maintenance organization offering a health
25 benefit plan under this subsection shall clearly disclose all the
26 covered benefits to the small employer in a brochure filed with the
27 commissioner.

28 (b) A health benefit plan offered under this subsection shall
29 provide coverage for hospital expenses and services rendered by a
30 physician licensed under chapter 18.57 or 18.71 RCW but is not subject
31 to the requirements of RCW 48.46.275, 48.46.280, 48.46.285, 48.46.290,
32 48.46.350, 48.46.355, 48.46.375, 48.46.440, 48.46.480, 48.46.510,
33 48.46.520, and 48.46.530.

34 (2) Nothing in this section shall prohibit a health maintenance
35 organization from offering, or a purchaser from seeking, health benefit
36 plans with benefits in excess of the health benefit plan offered under
37 subsection (1) of this section. All forms, policies, and contracts

1 shall be submitted for approval to the commissioner, and the rates of
2 any plan offered under this section shall be reasonable in relation to
3 the benefits thereto.

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

6 (a) The health maintenance organization shall develop its rates
7 based on an adjusted community rate and may only vary the adjusted
8 community rate for:

- 9 (i) Geographic area;
- 10 (ii) Family size;
- 11 (iii) Age; and
- 12 (iv) Wellness activities.

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

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

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

26 (e) A discount for wellness activities shall be permitted to
27 reflect actuarially justified differences in utilization or cost
28 attributed to such programs.

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

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

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

4 (h) For the purposes of this section, a health benefit plan that
5 contains a restricted network provision shall not be considered similar
6 coverage to a health benefit plan that does not contain such a
7 provision, provided that the restrictions of benefits to network
8 providers result in substantial differences in claims costs. A carrier
9 may develop its rates based on claims costs due to network provider
10 reimbursement schedules or type of network. This subsection does not
11 restrict or enhance the portability of benefits as provided in RCW
12 48.43.015.

13 (i) Adjusted community rates established under this section shall
14 pool the medical experience of all groups purchasing coverage,
15 including the small group participants in the health insurance
16 partnership established in RCW 70.47A.030. However, annual rate
17 adjustments for each small group health benefit plan may vary by up to
18 plus or minus four percentage points from the overall adjustment of a
19 carrier's entire small group pool, such overall adjustment to be
20 approved by the commissioner, upon a showing by the carrier, certified
21 by a member of the American academy of actuaries that: (i) The
22 variation is a result of deductible leverage, benefit design, or
23 provider network characteristics; and (ii) for a rate renewal period,
24 the projected weighted average of all small group benefit plans will
25 have a revenue neutral effect on the carrier's small group pool.
26 Variations of greater than four percentage points are subject to review
27 by the commissioner, and must be approved or denied within sixty days
28 of submittal. A variation that is not denied within sixty days shall
29 be deemed approved. The commissioner must provide to the carrier a
30 detailed actuarial justification for any denial within thirty days of
31 the denial.

32 (4) Nothing in this section shall restrict the right of employees
33 to collectively bargain for insurance providing benefits in excess of
34 those provided herein.

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

1 (b) A health maintenance organization shall not require a minimum
2 participation level 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 health maintenance organization may not increase any
12 requirement for minimum employee participation or modify any
13 requirement for minimum employer contribution applicable to a small
14 employer at any time after the small employer has been accepted for
15 coverage.

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

25 NEW SECTION. **Sec. 10.** On or before December 1, 2008, the health
26 insurance partnership board shall submit a preliminary report to the
27 governor and the legislature that includes an implementation plan to
28 incorporate the individual and small group health insurance markets
29 into the partnership program. In preparing the report, the board shall
30 examine at least the following issues:

31 (1) The impact of these markets being incorporated into the
32 partnership, with respect to the utilization of services and cost of
33 health plans offered through the partnership;

34 (2) The impact of applying small group health benefit plan
35 regulations on access to health services and the cost of coverage for
36 these markets; and

1 (3) How the composition of the board should be modified to reflect
2 the incorporation of the individual and small group markets in the
3 partnership.

4 NEW SECTION. **Sec. 11.** On or before September 1, 2009, the health
5 insurance partnership board shall submit a report and recommendations
6 to the governor and the legislature regarding:

7 (1) The risks and benefits of additional markets participating in
8 the partnership:

9 (a) The report shall examine the following markets:

10 (i) Washington state health insurance pool under chapter 48.41 RCW;

11 (ii) Basic health plan under chapter 70.47 RCW;

12 (iii) Public employees' benefits board enrollees under chapter
13 41.05 RCW;

14 (iv) Public school employees; and

15 (v) Any final recommendations for the individual and small group
16 markets, relevant to the study outlined in section 10 of this act; and

17 (b) The report shall examine at least the following issues:

18 (i) The impact of these markets participating in the partnership,
19 with respect to the utilization of services and cost of health plans
20 offered through the partnership;

21 (ii) Whether any distinction should be made in participation
22 between active and retired employees enrolled in public employees'
23 benefits board plans, giving consideration to the implicit subsidy that
24 nonmedicare-eligible retirees currently benefit from by being pooled
25 with active employees, and how medicare-eligible retirees would be
26 affected;

27 (iii) The impact of applying small group health benefit plan
28 regulations on access to health services and the cost of coverage for
29 these markets; and

30 (iv) If the board recommends the inclusion of additional markets,
31 how the composition of the board should be modified to reflect the
32 participation of these markets; and

33 (2) The risks and benefits of establishing a requirement that
34 residents of the state of Washington age eighteen and over obtain and
35 maintain affordable creditable coverage, as defined in the federal
36 health insurance portability and accountability act of 1996 (42 U.S.C.

1 Sec. 300gg(c)). The report shall address the question of how a
2 requirement that residents maintain coverage could be enforced in the
3 state of Washington.

4 **Sec. 12.** RCW 70.47A.050 and 2006 c 255 s 5 are each amended to
5 read as follows:

6 Enrollment in the ((~~small-employer~~)) health insurance partnership
7 ((~~program~~)) is not an entitlement and shall not result in expenditures
8 that exceed the amount that has been appropriated for the program in
9 the operating budget. If it appears that continued enrollment will
10 result in expenditures exceeding the appropriated level for a
11 particular fiscal year, the administrator may freeze new enrollment in
12 the program and establish a waiting list of eligible employees who
13 shall receive subsidies only when sufficient funds are available.

14 **Sec. 13.** RCW 70.47A.060 and 2006 c 255 s 6 are each amended to
15 read as follows:

16 The administrator shall adopt all rules necessary for the
17 implementation and operation of the ((~~small-employer~~)) health insurance
18 partnership ((~~program~~)). As part of the rule development process, the
19 administrator shall consult with small employers, carriers, employee
20 organizations, and the office of the insurance commissioner under Title
21 48 RCW to determine an effective and efficient method for the payment
22 of subsidies under this chapter. All rules shall be adopted in
23 accordance with chapter 34.05 RCW.

24 **Sec. 14.** RCW 70.47A.080 and 2006 c 255 s 8 are each amended to
25 read as follows:

26 The ((~~small-employer~~)) health insurance partnership ((~~program~~))
27 account is hereby established in the custody of the state treasurer.
28 Any nongeneral fund--state funds collected for the ((~~small-employer~~))
29 health insurance partnership ((~~program~~)) shall be deposited in the
30 ((~~small-employer~~)) health insurance partnership ((~~program~~)) account.
31 Moneys in the account shall be used exclusively for the purposes of
32 administering the ((~~small-employer~~)) health insurance partnership
33 ((~~program~~)), including payments to ((~~participating managed health care~~
34 ~~systems~~)) insurance carriers on behalf of ((~~small-employer~~)) health
35 insurance partnership enrollees. Only the administrator of the health

1 care authority or his or her designee may authorize expenditures from
2 the account. The account is subject to allotment procedures under
3 chapter 43.88 RCW, but an appropriation is not required for
4 expenditures.

5 NEW SECTION. **Sec. 15.** (1) The office of the insurance
6 commissioner shall contract for an independent study of health benefit
7 mandates, rating requirements, and insurance statutes and rules to
8 determine the impact on premiums and individuals' health if those
9 statutes or rules were amended or repealed.

10 (2) The office of the insurance commissioner shall submit an
11 interim report to the governor and appropriate committees of the
12 legislature by December 1, 2007, and a final report by December 1,
13 2008.

14 NEW SECTION. **Sec. 16.** 2006 c 255 s 10 (uncodified) is repealed.

15 NEW SECTION. **Sec. 17.** Sections 1 through 6 of this act are
16 necessary for the immediate preservation of the public peace, health,
17 or safety, or support of the state government and its existing public
18 institutions, and take effect July 1, 2007.

19 NEW SECTION. **Sec. 18.** If specific funding for the purposes of the
20 following sections of this act, referencing the section of this act by
21 bill or chapter number and section number, is not provided by June 30,
22 2007, in the omnibus appropriations act, the section is null and void:

- 23 (1) Section 5 (health insurance partnership board);
24 (2) Section 15 (office of insurance commissioner independent
25 study)."

E2SHB 1569 - S AMD
By Senator Keiser

ADOPTED 4/12/07

26 On page 1, line 1 of the title, after "Relating to" strike the

1 remainder of the title and insert "improving health insurance coverage
2 by establishing a health insurance partnership for the purchase of
3 small employer health insurance coverage, evaluating the inclusion of
4 additional health insurance markets in the health insurance
5 partnership, and studying the impact of health insurance mandates;
6 amending RCW 70.47A.010, 70.47A.020, 70.47A.030, 70.47A.040, 48.21.045,
7 48.44.023, 48.46.066, 70.47A.050, 70.47A.060, and 70.47A.080; adding
8 new sections to chapter 70.47A RCW; creating new sections; repealing
9 2006 c 255 s 10 (uncodified); providing an effective date; and
10 declaring an emergency."

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