

CERTIFICATION OF ENROLLMENT  
**SECOND SUBSTITUTE HOUSE BILL 2537**

60th Legislature  
2008 Regular Session

Passed by the House March 10, 2008  
Yeas 63 Nays 32

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**Speaker of the House of Representatives**

Passed by the Senate March 7, 2008  
Yeas 27 Nays 22

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**President of the Senate**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 2537** as passed by the House of Representatives and the Senate on the dates hereon set forth.

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**Chief Clerk**

FILED

**Secretary of State  
State of Washington**

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SECOND SUBSTITUTE HOUSE BILL 2537

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AS AMENDED BY THE SENATE

Passed Legislature - 2008 Regular Session

State of Washington                      60th Legislature                      2008 Regular Session

By House Appropriations (originally sponsored by Representatives  
Cody, Hasegawa, Kenney, Morrell, Green, and Loomis)

READ FIRST TIME 02/12/08.

1            AN ACT Relating to modifications to the health insurance  
2 partnership statute necessary for timely implementation of the health  
3 insurance partnership; amending RCW 70.47A.020, 70.47A.030, 70.47A.040,  
4 70.47A.070, 70.47A.110, 48.21.045, 48.44.023, and 48.46.066; and  
5 creating a new section.

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

7            **Sec. 1.** RCW 70.47A.020 and 2007 c 260 s 2 are each amended to read  
8 as follows:

9            The definitions in this section apply throughout this chapter  
10 unless the context clearly requires otherwise.

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

13            (2) "Board" means the health insurance partnership board  
14 established in RCW 70.47A.100.

15            (3) "Eligible partnership participant" means (~~(an individual)~~) a  
16 partnership participant who:

17            (a) Is a resident of the state of Washington; and

18            (b) Has family income that does not exceed two hundred percent of

1 the federal poverty level, as determined annually by the federal  
2 department of health and human services(~~(; and~~

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

7 (4) "Health benefit plan" has the same meaning as defined in RCW  
8 48.43.005.

9 (5) "Participating small employer" means a small employer that  
10 ~~((employs at least one eligible partnership participant and))~~ has  
11 entered into an agreement with the partnership ~~((for the partnership to~~  
12 ~~offer and administer the small employer's group health benefit plan, as~~  
13 ~~defined in federal law, Sec. 706 of ERISA (29 U.S.C. Sec. 1167), for~~  
14 ~~enrollees in the plan))~~ to purchase health benefits through the  
15 partnership. To participate in the partnership, an employer must  
16 attest to the fact that (a) the employer does not currently offer  
17 health insurance to its employees, and (b) at least fifty percent of  
18 the employer's employees are low-wage workers.

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

21 (7) "Partnership participant" means ~~((an employee))~~ a participating  
22 small employer and employees of a participating small employer, ~~((or))~~  
23 and, except to the extent provided otherwise in RCW 70.47A.110(1)(e),  
24 a former employee of a participating small employer who chooses to  
25 continue receiving coverage through the partnership following  
26 separation from employment.

27 (8) "Small employer" has the same meaning as defined in RCW  
28 48.43.005.

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

34 **Sec. 2.** RCW 70.47A.030 and 2007 c 259 s 58 are each amended to  
35 read as follows:

36 (1) To the extent funding is appropriated in the operating budget  
37 for this purpose, the health insurance partnership is established. The

1 administrator shall be responsible for the implementation and operation  
2 of the health insurance partnership, directly or by contract. The  
3 administrator shall offer premium subsidies to eligible partnership  
4 participants under RCW 70.47A.040. The partnership shall begin to  
5 offer coverage no later than March 1, 2009.

6 (2) Consistent with policies adopted by the board under (~~section~~  
7 ~~59 of this act~~)) RCW 70.47A.110, the administrator shall, directly or  
8 by contract:

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

22 (b) Establish and administer procedures for health benefit plan  
23 enrollment by employees of small employers during open enrollment  
24 periods and outside of open enrollment periods upon the occurrence of  
25 any qualifying event specified in the federal health insurance  
26 portability and accountability act of 1996 or applicable state law.  
27 (~~Neither~~)) Except to the extent authorized in RCW 70.47A.110(1)(e),  
28 neither the employer nor the partnership shall limit an employee's  
29 choice of coverage from among (~~all~~)) the health benefit plans offered  
30 through the partnership;

31 (~~Establish and manage a system for the partnership to be~~  
32 ~~designated as the sponsor or administrator of a participating small~~  
33 ~~employer health benefit plan and to undertake the obligations required~~  
34 ~~of a plan administrator under federal law~~;

35 (~~d~~)) Establish and manage a system of collecting and transmitting  
36 to the applicable carriers all premium payments or contributions made  
37 by or on behalf of partnership participants, including employer

1 contributions, automatic payroll deductions for partnership  
2 participants, premium subsidy payments, and contributions from  
3 philanthropies;

4 ~~((e))~~ (d) Establish and manage a system for determining  
5 eligibility for and making premium subsidy payments under chapter 259,  
6 Laws of 2007;

7 ~~((f))~~ (e) Establish a mechanism to apply a surcharge to ~~((all))~~  
8 each health benefit plan~~((s))~~ purchased through the partnership, which  
9 shall be used only to pay for administrative and operational expenses  
10 of the partnership. The surcharge must be applied uniformly to all  
11 health benefit plans ~~((offered))~~ purchased through the partnership  
12 ~~((and must be included in the premium for each health benefit plan))~~.  
13 Any surcharge amount may be added to the premium, but shall not be  
14 considered part of the small group community rate, and shall be applied  
15 only to the coverage purchased through the partnership. Surcharges may  
16 not be used to pay any premium assistance payments under this chapter.  
17 The surcharge shall reflect administrative and operational expenses  
18 remaining after any appropriation provided by the legislature to  
19 support administrative or operational expenses of the partnership  
20 during the year the surcharge is assessed;

21 ~~((g))~~ (f) Design a schedule of premium subsidies that is based  
22 upon gross family income, giving appropriate consideration to family  
23 size and the ages of all family members based on a benchmark health  
24 benefit plan designated by the board. The amount of an eligible  
25 partnership participant's premium subsidy shall be determined by  
26 applying a sliding scale subsidy schedule with the percentage of  
27 premium similar to that developed for subsidized basic health plan  
28 enrollees under RCW 70.47.060. The subsidy shall be applied to the  
29 employee's premium obligation for his or her health benefit plan, so  
30 that employees benefit financially from any employer contribution to  
31 the cost of their coverage through the partnership.

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

36 **Sec. 3.** RCW 70.47A.040 and 2007 c 260 s 6 are each amended to read  
37 as follows:

1           Beginning (~~September 1, 2008~~) January 1, 2009, the administrator  
2 shall accept applications from eligible partnership participants, on  
3 behalf of themselves, their spouses, and their dependent children, to  
4 receive premium subsidies through the health insurance partnership.  
5 Every effort shall be made to coordinate premium subsidies for  
6 dependent children with federal funding available under Title XIX and  
7 Title XXI of the federal social security act, consistent with the  
8 requirements established in RCW 74.09.470(4) for the employer-sponsored  
9 insurance program at the department of social and health services.

10           **Sec. 4.** RCW 70.47A.070 and 2006 c 255 s 7 are each amended to read  
11 as follows:

12           The administrator shall report biennially, beginning November 1,  
13 2010, to the relevant policy and fiscal committees of the legislature  
14 on the effectiveness and efficiency of the (~~small employer~~) health  
15 insurance partnership program, including enrollment trends, the  
16 services and benefits covered under the purchased health benefit plans,  
17 consumer satisfaction, and other program operational issues.

18           **Sec. 5.** RCW 70.47A.110 and 2007 c 260 s 5 are each amended to read  
19 as follows:

20           (1) The health insurance partnership board shall:

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

28           (b) Designate health benefit plans that are currently offered in  
29 the small group market that will be offered to participating small  
30 employers through the health insurance partnership and those plans that  
31 will qualify for premium subsidy payments. (~~At least four~~) Up to  
32 five health benefit plans shall be chosen, with multiple deductible and  
33 point-of-service cost-sharing options. The health benefit plans shall  
34 range from catastrophic to comprehensive coverage, and one health  
35 benefit plan shall be a high deductible health plan accompanied by a  
36 health savings account. Every effort shall be made to include health

1 benefit plans that include components to maximize the quality of care  
2 provided and result in improved health outcomes, such as preventive  
3 care, wellness incentives, chronic care management services, and  
4 provider network development and payment policies related to quality of  
5 care;

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

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

10 (e) Develop policies related to partnership participant enrollment  
11 in health benefit plans. The board may focus its initial efforts on  
12 access to coverage and affordability of coverage for participating  
13 small employers and their employees. To the extent necessary for  
14 successful implementation of the partnership, during a start-up phase  
15 of partnership operation, the board may:

16 (i) Limit partnership participant health benefit plan choice; and

17 (ii) Offer former employees of participating small employers the  
18 opportunity to continue coverage after separation from employment to  
19 the extent that a former employee is eligible for continuation coverage  
20 under 29 U.S.C. Sec. 1161 et seq.

21 The start-up phase may not exceed two years from the date the  
22 partnership begins to offer coverage;

23 (f) Determine appropriate health benefit plan rating methodologies.  
24 The methodologies shall be based on the small group adjusted community  
25 rate as defined in Title 48 RCW. The board shall evaluate the impact  
26 of applying the small group adjusted community rating ~~((with))~~  
27 methodology to health benefit plans purchased through the partnership  
28 on the ~~((partnership))~~ principle of allowing each ~~((employee))~~  
29 partnership participant to choose ~~((their))~~ his or her health benefit  
30 plan, and ~~((consider options))~~ may implement one or more risk  
31 adjustment or reinsurance mechanisms to reduce uncertainty for carriers  
32 and provide for efficient risk management of high-cost enrollees  
33 ~~((through risk adjustment, reinsurance, or other mechanisms));~~

34 ~~((+f))~~ (g) Determine whether the partnership should be designated  
35 as the administrator of a participating small employer health benefit  
36 plan and undertake the obligations required of a plan administrator  
37 under federal law in order to minimize administrative burdens on  
38 participating small employers;

1        (h) Conduct analyses and provide recommendations as requested by  
2 the legislature and the governor, with the assistance of staff from the  
3 health care authority and the office of the insurance commissioner.

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

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

12        **Sec. 6.** RCW 48.21.045 and 2007 c 260 s 7 are each amended to read  
13 as follows:

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

25        (b) A health benefit plan offered under this subsection shall  
26 provide coverage for hospital expenses and services rendered by a  
27 physician licensed under chapter 18.57 or 18.71 RCW but is not subject  
28 to the requirements of RCW 48.21.130, 48.21.140, 48.21.141, 48.21.142,  
29 48.21.144, 48.21.146, 48.21.160 through 48.21.197, 48.21.200,  
30 48.21.220, 48.21.225, 48.21.230, 48.21.235, ((48.21.240,)) 48.21.244,  
31 48.21.250, 48.21.300, 48.21.310, or 48.21.320.

32        (2) Nothing in this section shall prohibit an insurer from  
33 offering, or a purchaser from seeking, health benefit plans with  
34 benefits in excess of the health benefit plan offered under subsection  
35 (1) of this section. All forms, policies, and contracts shall be  
36 submitted for approval to the commissioner, and the rates of any plan



1 offered under this section shall be reasonable in relation to the  
2 benefits thereto.

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

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

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

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

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

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

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

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

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

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

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

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

29 (j) For health benefit plans purchased through the health insurance  
30 partnership established in chapter 70.47A RCW:

31 (i) Any surcharge established pursuant to RCW 70.47A.030(2)(e)  
32 shall be applied only to health benefit plans purchased through the  
33 health insurance partnership; and

34 (ii) Risk adjustment or reinsurance mechanisms may be used by the  
35 health insurance partnership program to redistribute funds to carriers  
36 participating in the health insurance partnership based on differences  
37 in risk attributable to individual choice of health plans or other

1 factors unique to health insurance partnership participation. Use of  
2 such mechanisms shall be limited to the partnership program and will  
3 not affect small group health plans offered outside the partnership.

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

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

11 (b) An insurer shall not require a minimum participation level  
12 greater than:

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

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

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

21 (d) An insurer may not increase any requirement for minimum  
22 employee participation or modify any requirement for minimum employer  
23 contribution applicable to a small employer at any time after the small  
24 employer has been accepted for coverage.

25 (e) Minimum participation requirements and employer premium  
26 contribution requirements adopted by the health insurance partnership  
27 board under RCW 70.47A.110 shall apply only to the employers and  
28 employees who purchase health benefit plans through the health  
29 insurance partnership.

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. 7.** RCW 48.44.023 and 2007 c 260 s 8 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,  
24 and 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 (j) For health benefit plans purchased through the health insurance  
23 partnership established in chapter 70.47A RCW:

24 (i) Any surcharge established pursuant to RCW 70.47A.030(2)(e)  
25 shall be applied only to health benefit plans purchased through the  
26 health insurance partnership; and

27 (ii) Risk adjustment or reinsurance mechanisms may be used by the  
28 health insurance partnership program to redistribute funds to carriers  
29 participating in the health insurance partnership based on differences  
30 in risk attributable to individual choice of health plans or other  
31 factors unique to health insurance partnership participation. Use of  
32 such mechanisms shall be limited to the partnership program and will  
33 not affect small group health plans offered outside the partnership.

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

37 (5)(a) Except as provided in this subsection, requirements used by

1 a contractor in determining whether to provide coverage to a small  
2 employer shall be applied uniformly among all small employers applying  
3 for coverage or receiving coverage from the carrier.

4 (b) A contractor shall not require a minimum participation level  
5 greater than:

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

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

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

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

18 (e) Minimum participation requirements and employer premium  
19 contribution requirements adopted by the health insurance partnership  
20 board under RCW 70.47A.110 shall apply only to the employers and  
21 employees who purchase health benefit plans through the health  
22 insurance partnership.

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

31 **Sec. 8.** RCW 48.46.066 and 2007 c 260 s 9 are each amended to read  
32 as follows:

33 (1)(a) A health maintenance organization offering any health  
34 benefit plan to a small employer, either directly or through an  
35 association or member-governed group formed specifically for the  
36 purpose of purchasing health care, may offer and actively market to the  
37 small employer a health benefit plan featuring a limited schedule of

1 covered health care services. Nothing in this subsection shall  
2 preclude a health maintenance organization from offering, or a small  
3 employer from purchasing, other health benefit plans that may have more  
4 comprehensive benefits than those included in the product offered under  
5 this subsection. A health maintenance organization offering a health  
6 benefit plan under this subsection shall clearly disclose all the  
7 covered benefits to the small employer in a brochure filed with the  
8 commissioner.

9 (b) A health benefit plan offered under this subsection shall  
10 provide coverage for hospital expenses and services rendered by a  
11 physician licensed under chapter 18.57 or 18.71 RCW but is not subject  
12 to the requirements of RCW 48.46.275, 48.46.280, 48.46.285,  
13 (~~48.46.290~~) 48.46.350, 48.46.355, 48.46.375, 48.46.440, 48.46.480,  
14 48.46.510, 48.46.520, and 48.46.530.

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

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

24 (a) The health maintenance organization shall develop its rates  
25 based on an adjusted community rate and may only vary the adjusted  
26 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 health maintenance organization shall be permitted to  
36 develop separate rates for individuals age sixty-five or older for  
37 coverage for which medicare is the primary payer and coverage for which



1 medicare is not the primary payer. Both rates shall be subject to the  
2 requirements of this subsection (3).

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

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

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

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

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

15 (iii) Changes to the health benefit plan requested by the small  
16 employer; or

17 (iv) Changes in government requirements affecting the health  
18 benefit plan.

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

22 (h) For the purposes of this section, a health benefit plan that  
23 contains a restricted network provision shall not be considered similar  
24 coverage to a health benefit plan that does not contain such a  
25 provision, provided that the restrictions of benefits to network  
26 providers result in substantial differences in claims costs. A carrier  
27 may develop its rates based on claims costs due to network provider  
28 reimbursement schedules or type of network. This subsection does not  
29 restrict or enhance the portability of benefits as provided in RCW  
30 48.43.015.

31 (i) Adjusted community rates established under this section shall  
32 pool the medical experience of all groups purchasing coverage,  
33 including the small group participants in the health insurance  
34 partnership established in RCW 70.47A.030. However, annual rate  
35 adjustments for each small group health benefit plan may vary by up to  
36 plus or minus four percentage points from the overall adjustment of a  
37 carrier's entire small group pool, such overall adjustment to be  
38 approved by the commissioner, upon a showing by the carrier, certified

1 by a member of the American academy of actuaries that: (i) The  
2 variation is a result of deductible leverage, benefit design, or  
3 provider network characteristics; and (ii) for a rate renewal period,  
4 the projected weighted average of all small group benefit plans will  
5 have a revenue neutral effect on the carrier's small group pool.  
6 Variations of greater than four percentage points are subject to review  
7 by the commissioner, and must be approved or denied within sixty days  
8 of submittal. A variation that is not denied within sixty days shall  
9 be deemed approved. The commissioner must provide to the carrier a  
10 detailed actuarial justification for any denial within thirty days of  
11 the denial.

12 (j) For health benefit plans purchased through the health insurance  
13 partnership established in chapter 70.47A RCW:

14 (i) Any surcharge established pursuant to RCW 70.47A.030(2)(e)  
15 shall be applied only to health benefit plans purchased through the  
16 health insurance partnership; and

17 (ii) Risk adjustment or reinsurance mechanisms may be used by the  
18 health insurance partnership program to redistribute funds to carriers  
19 participating in the health insurance partnership based on differences  
20 in risk attributable to individual choice of health plans or other  
21 factors unique to health insurance partnership participation. Use of  
22 such mechanisms shall be limited to the partnership program and will  
23 not affect small group health plans offered outside the partnership.

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

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

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

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

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

37 (c) In applying minimum participation requirements with respect to

1 a small employer, a small employer shall not consider employees or  
2 dependents who have similar existing coverage in determining whether  
3 the applicable percentage of participation is met.

4 (d) A health maintenance organization may not increase any  
5 requirement for minimum employee participation or modify any  
6 requirement for minimum employer contribution applicable to a small  
7 employer at any time after the small employer has been accepted for  
8 coverage.

9 (e) Minimum participation requirements and employer premium  
10 contribution requirements adopted by the health insurance partnership  
11 board under RCW 70.47A.110 shall apply only to the employers and  
12 employees who purchase health benefit plans through the health  
13 insurance partnership.

14 (6) A health maintenance organization must offer coverage to all  
15 eligible employees of a small employer and their dependents. A health  
16 maintenance organization may not offer coverage to only certain  
17 individuals or dependents in a small employer group or to only part of  
18 the group. A health maintenance organization may not modify a health  
19 plan with respect to a small employer or any eligible employee or  
20 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 NEW SECTION. Sec. 9. If specific funding for the purposes of this  
24 act, referencing this act by bill or chapter number, is not provided by  
25 June 30, 2008, in the omnibus appropriations act, this act is null and  
26 void.

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