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SECOND SUBSTITUTE HOUSE BILL 1338

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State of Washington                      65th Legislature                      2017 Regular Session

By House Appropriations (originally sponsored by Representatives  
Cody, Schmick, Jinkins, Johnson, Robinson, and Riccelli)

READ FIRST TIME 02/24/17.

1            AN ACT Relating to the Washington state health insurance pool;  
2 amending RCW 48.41.100 and 48.41.160; and creating new sections.

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

4            NEW SECTION.    **Sec. 1.** (1) The legislature finds that:

5            (a) The Washington state health insurance pool currently provides  
6 subsidized health coverage to almost one thousand five hundred people  
7 in medicare supplemental plans and nonmedicare health plans;

8            (b) Enrollees in Washington state health insurance pool plans  
9 tend to have higher health care costs than enrollees in other types  
10 of health plans;

11            (c) Having a separate insurance pool for high-risk individuals  
12 benefits all purchasers of health insurance products by keeping  
13 premium costs down;

14            (d) The costs of subsidizing Washington state health insurance  
15 pool enrollees are borne disproportionately by purchasers of small  
16 group and individual market plans;

17            (e) The Washington state health insurance pool is scheduled to  
18 close its nonmedicare enrollment after December 31, 2017; and

19            (f) Uncertainty due to changes to the health care marketplace on  
20 the federal and state levels increases the necessity of keeping the

1 Washington state health insurance pool open, at least in the short  
2 term.

3 (2) The legislature therefore intends to:

4 (a) Extend the expiration date for nonmedicare coverage in the  
5 Washington state health insurance pool; and

6 (b) Study:

7 (i) The necessity of continuing Washington state health insurance  
8 pool coverage in the short and long terms;

9 (ii) The role of the Washington state health insurance pool in  
10 light of the evolving health care landscape; and

11 (iii) The creation of a funding mechanism that equitably and  
12 broadly apportions Washington state health insurance pool costs  
13 across Washington's health care marketplace.

14 **Sec. 2.** RCW 48.41.100 and 2013 c 279 s 3 are each amended to  
15 read as follows:

16 (1)(a) The following persons who are residents of this state are  
17 eligible for pool coverage:

18 (i) Any resident of the state not eligible for medicare coverage  
19 or medicaid coverage, and residing in a county where an individual  
20 health plan other than a catastrophic health plan as defined in RCW  
21 48.43.005 is not offered to the resident during defined open  
22 enrollment or special enrollment periods at the time of application  
23 to the pool, whether through the health benefit exchange operated  
24 pursuant to chapter 43.71 RCW or in the private insurance market, and  
25 who makes application to the pool for coverage prior to December 31,  
26 ((2017)) 2022;

27 (ii) Any resident of the state not eligible for medicare  
28 coverage, enrolled in the pool prior to December 31, 2013, shall  
29 remain eligible for pool coverage except as provided in subsections  
30 (2) and (3) of this section through December 31, ((2017)) 2022;

31 (iii) Any person becoming eligible for medicare before August 1,  
32 2009, who provides evidence of (A) a rejection for medical reasons,  
33 (B) a requirement of restrictive riders, (C) an up-rated premium, (D)  
34 a preexisting conditions limitation, or (E) lack of access to or for  
35 a comprehensive medicare supplemental insurance policy under chapter  
36 48.66 RCW, the effect of any of which is to substantially reduce  
37 coverage from that received by a person considered a standard risk by  
38 at least one member within six months of the date of application; and

1 (iv) Any person becoming eligible for medicare on or after August  
2 1, 2009, who does not have access to a reasonable choice of  
3 comprehensive medicare part C plans, as defined in (b) of this  
4 subsection, and who provides evidence of (A) a rejection for medical  
5 reasons, (B) a requirement of restrictive riders, (C) an up-rated  
6 premium, (D) a preexisting conditions limitation, or (E) lack of  
7 access to or for a comprehensive medicare supplemental insurance  
8 policy under chapter 48.66 RCW, the effect of any of which is to  
9 substantially reduce coverage from that received by a person  
10 considered a standard risk by at least one member within six months  
11 of the date of application.

12 (b) For purposes of (a)(i) of this subsection, by December 1,  
13 2013, the board shall develop and implement a process to determine an  
14 applicant's eligibility based on the criteria specified in (a)(i) of  
15 this subsection.

16 (c) For purposes of (a)(iv) of this subsection (1), a person does  
17 not have access to a reasonable choice of plans unless the person has  
18 a choice of health maintenance organization or preferred provider  
19 organization medicare part C plans offered by at least three  
20 different carriers that have had provider networks in the person's  
21 county of residence for at least five years. The plan options must  
22 include coverage at least as comprehensive as a plan F medicare  
23 supplement plan combined with medicare parts A and B. The plan  
24 options must also provide access to adequate and stable provider  
25 networks that make up-to-date provider directories easily accessible  
26 on the carrier web site, and will provide them in hard copy, if  
27 requested. In addition, if no health maintenance organization or  
28 preferred provider organization plan includes the health care  
29 provider with whom the person has an established care relationship  
30 and from whom he or she has received treatment within the past twelve  
31 months, the person does not have reasonable access.

32 (2) The following persons are not eligible for coverage by the  
33 pool:

34 (a) Any person having terminated coverage in the pool unless (i)  
35 twelve months have lapsed since termination, or (ii) that person can  
36 show continuous other coverage which has been involuntarily  
37 terminated for any reason other than nonpayment of premiums. However,  
38 these exclusions do not apply to eligible individuals as defined in  
39 section 2741(b) of the federal health insurance portability and  
40 accountability act of 1996 (42 U.S.C. Sec. 300gg-41(b));

1 (b) Inmates of public institutions and those persons who become  
2 eligible for medical assistance after June 30, 2008, as defined in  
3 RCW 74.09.010. However, these exclusions do not apply to eligible  
4 individuals as defined in section 2741(b) of the federal health  
5 insurance portability and accountability act of 1996 (42 U.S.C. Sec.  
6 300gg-41(b)).

7 (3) When a carrier or insurer regulated under chapter 48.15 RCW  
8 begins to offer an individual health benefit plan in a county where  
9 no carrier had been offering an individual health benefit plan:

10 (a) If the health benefit plan offered is other than a  
11 catastrophic health plan as defined in RCW 48.43.005, any person  
12 enrolled in a pool plan pursuant to subsection (1)(a)(i) of this  
13 section in that county shall no longer be eligible for coverage under  
14 that plan pursuant to subsection (1)(a)(i) of this section; and

15 (b) The pool administrator shall provide written notice to any  
16 person who is no longer eligible for coverage under a pool plan under  
17 this subsection (3) within thirty days of the administrator's  
18 determination that the person is no longer eligible. The notice  
19 shall: (i) Indicate that coverage under the plan will cease ninety  
20 days from the date that the notice is dated; (ii) describe any other  
21 coverage options, either in or outside of the pool, available to the  
22 person; and (iii) describe the enrollment process for the available  
23 options outside of the pool.

24 **Sec. 3.** RCW 48.41.160 and 2013 c 279 s 4 are each amended to  
25 read as follows:

26 (1) On or before December 31, 2007, the pool shall cancel all  
27 existing pool policies and replace them with policies that are  
28 identical to the existing policies except for the inclusion of a  
29 provision providing for a guarantee of the continuity of coverage  
30 consistent with this section. As a means to minimize the number of  
31 policy changes for enrollees, replacement policies provided under  
32 this subsection also may include the plan modifications authorized in  
33 RCW 48.41.100, 48.41.110, and 48.41.120.

34 (2) A pool policy shall contain a guarantee of the individual's  
35 right to continued coverage, subject to the provisions of subsections  
36 (4), (5), (7), and (8) of this section.

37 (3) The guarantee of continuity of coverage required by this  
38 section shall not prevent the pool from canceling or nonrenewing a  
39 policy for:

- 1 (a) Nonpayment of premium;
- 2 (b) Violation of published policies of the pool;
- 3 (c) Failure of a covered person who becomes eligible for medicare  
4 benefits by reason of age to apply for a pool medical supplement  
5 plan, or a medicare supplement plan or other similar plan offered by  
6 a carrier pursuant to federal laws and regulations;
- 7 (d) Failure of a covered person to pay any deductible or  
8 copayment amount owed to the pool and not the provider of health care  
9 services;
- 10 (e) Covered persons committing fraudulent acts as to the pool;
- 11 (f) Covered persons materially breaching the pool policy; or
- 12 (g) Changes adopted to federal or state laws when such changes no  
13 longer permit the continued offering of such coverage.
- 14 (4)(a) The guarantee of continuity of coverage provided by this  
15 section requires that if the pool replaces a plan, it must make the  
16 replacement plan available to all individuals in the plan being  
17 replaced. The replacement plan must include all of the services  
18 covered under the replaced plan, and must not significantly limit  
19 access to the kind of services covered under the replacement plan  
20 through unreasonable cost-sharing requirements or otherwise. The pool  
21 may also allow individuals who are covered by a plan that is being  
22 replaced an unrestricted right to transfer to a fully comparable  
23 plan.
- 24 (b) The guarantee of continuity of coverage provided by this  
25 section requires that if the pool discontinues offering a plan: (i)  
26 The pool must provide notice to each individual of the  
27 discontinuation at least ninety days prior to the date of the  
28 discontinuation; (ii) the pool must offer to each individual provided  
29 coverage under the discontinued plan the option to enroll in any  
30 other plan currently offered by the pool for which the individual is  
31 otherwise eligible; and (iii) in exercising the option to discontinue  
32 a plan and in offering the option of coverage under (b)(ii) of this  
33 subsection, the pool must act uniformly without regard to any health  
34 status-related factor of enrolled individuals or individuals who may  
35 become eligible for this coverage.
- 36 (c) The pool cannot replace or discontinue a plan under this  
37 subsection (4) until it has completed an evaluation of the impact of  
38 replacing the plan upon:
- 39 (i) The cost and quality of care to pool enrollees;
- 40 (ii) Pool financing and enrollment;

1 (iii) The board's ability to offer comprehensive and other plans  
2 to its enrollees;

3 (iv) Other items identified by the board.

4 In its evaluation, the board must request input from the  
5 constituents represented by the board members.

6 (d) The guarantee of continuity of coverage provided by this  
7 section does not apply if the pool has zero enrollment in a plan.

8 (5) The pool may not change the rates for pool policies except on  
9 a class basis, with a clear disclosure in the policy of the pool's  
10 right to do so.

11 (6) A pool policy offered under this chapter shall provide that,  
12 upon the death of the individual in whose name the policy is issued,  
13 every other individual then covered under the policy may elect,  
14 within a period specified in the policy, to continue coverage under  
15 the same or a different policy.

16 (7) All pool policies issued on or after January 1, 2014, must  
17 reflect the new eligibility requirements of RCW 48.41.100 and contain  
18 a statement of the intent to discontinue the pool coverage on  
19 December 31, ((2017)) 2022, under pool nonmedicare plans.

20 (8) Pool policies issued prior to January 1, 2014, shall be  
21 modified effective January 1, ((2013)) 2018, consistent with  
22 subsection (3)(g) of this section, and contain a statement of the  
23 intent to discontinue pool coverage on December 31, ((2017)) 2022,  
24 under pool nonmedicare plans.

25 (9) The pool shall discontinue all nonmedicare pool plans  
26 effective December 31, ((2017)) 2022.

27 NEW SECTION. **Sec. 4.** If specific funding for purposes of this  
28 act, referencing this act by bill or chapter number, is not provided  
29 by June 30, 2017, in the omnibus appropriations act, this act is null  
30 and void.

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