
HOUSE BILL 2408

State of Washington 65th Legislature 2018 Regular Session

By Representatives Cody, Jinkins, Goodman, Johnson, Slatter, Tharinger, Stanford, Macri, Ormsby, Doglio, and Appleton

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1 AN ACT Relating to preserving access to individual market health
2 care coverage throughout Washington state; amending RCW 48.41.200 and
3 48.41.090; adding a new section to chapter 48.43 RCW; and creating a
4 new section.

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

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

7 (a) Access to health care is fundamental to the health and safety
8 of the citizens of Washington state;

9 (b) Health insurance coverage is necessary for most people to
10 access health care;

11 (c) Due to uncertainty in the health insurance marketplace,
12 volatility in the current federal regulatory environment, and rising
13 health care costs, ensuring access to the private health insurance
14 market in every county in Washington state is becoming more
15 difficult;

16 (d) The consequences of losing private health insurance coverage
17 in a county would be catastrophic, leading to deteriorating health
18 outcomes, lost productivity, and lower quality of life; and

19 (e) If the private market fails to provide coverage in a county,
20 the state must intervene.

21 (2) The legislature therefore intends to:

1 (a) Leverage the provider networks used by private insurers
2 offering coverage to school employees to ensure private insurance
3 coverage is available in all counties; and

4 (b) Until such coverage is available, make coverage in the
5 Washington state health insurance pool more affordable to persons
6 residing in counties where no private insurance is available.

7 NEW SECTION. **Sec. 2.** A new section is added to chapter 48.43
8 RCW to read as follows:

9 (1) As provided in this section, a health carrier offering a
10 school employees' benefits board-approved health plan to school
11 employees under chapter 41.05 RCW shall offer at least one silver
12 qualified health plan on the Washington health benefit exchange in
13 any county that would not otherwise have any individual market health
14 plans, other than catastrophic health plans, offered to county
15 residents on the Washington health benefit exchange.

16 (2) A health carrier subject to subsection (1) of this section
17 shall annually submit to the commissioner the filings necessary to
18 offer a qualified health plan in every county of the state. The
19 commissioner shall provisionally approve a health plan submitted
20 under this section if it meets all of the requirements applicable to
21 any other nongrandfathered individual market health plan. A plan
22 submitted under this subsection shall be in addition to any other
23 individual market filings submitted by the health carrier.

24 (3)(a) If, by the filing deadline for individual market plans,
25 the commissioner has received no filings for individual market health
26 plans to be offered on the health benefit exchange in a particular
27 county other than the filings for a health plan submitted under
28 subsection (2) of this section or a catastrophic health plan, the
29 commissioner shall extend the filing deadline by fourteen days and
30 notify all health carriers that have submitted filings for individual
31 market plans in other counties that no on-exchange filings have been
32 received for the county.

33 (b) If, by the end of the extension period, no health carriers
34 have submitted filings for individual market plans in the county to
35 be offered on the health benefit exchange, other than a plan
36 submitted under subsection (2) of this section or a catastrophic
37 health plan, the commissioner shall notify each health carrier that
38 has submitted filings for an individual market plan under subsection
39 (2) of this section and approve the plan for sale in the county.

1 (4) A health carrier whose individual market health plan is
2 approved under subsection (3)(b) of this section shall submit the
3 plan to the health benefit exchange for certification as a qualified
4 health plan. If the health benefit exchange certifies the plan as a
5 qualified health plan, the health carrier shall offer the health plan
6 on the health benefit exchange throughout the plan year for which it
7 was approved.

8 **Sec. 3.** RCW 48.41.200 and 2007 c 259 s 28 are each amended to
9 read as follows:

10 (1) The pool shall determine the standard risk rate by
11 calculating the average individual standard rate charged for coverage
12 comparable to pool coverage by the five largest members, measured in
13 terms of individual market enrollment, offering such coverages in the
14 state. In the event five members do not offer comparable coverage,
15 the standard risk rate shall be established using reasonable
16 actuarial techniques and shall reflect anticipated experience and
17 expenses for such coverage in the individual market.

18 (2) Subject to subsection (3) of this section, maximum rates for
19 pool coverage shall be as follows:

20 (a) Maximum rates for a pool indemnity health plan shall be one
21 hundred fifty percent of the rate calculated under subsection (1) of
22 this section;

23 (b) Maximum rates for a pool care management plan shall be one
24 hundred twenty-five percent of the rate calculated under subsection
25 (1) of this section; and

26 (c) Maximum rates for a person eligible for pool coverage
27 pursuant to RCW 48.41.100(1)(a) who was enrolled at any time during
28 the sixty-three day period immediately prior to the date of
29 application for pool coverage in a group health benefit plan or an
30 individual health benefit plan other than a catastrophic health plan
31 as defined in RCW 48.43.005, where such coverage was continuous for
32 at least eighteen months, shall be:

33 (i) For a pool indemnity health plan, one hundred twenty-five
34 percent of the rate calculated under subsection (1) of this section;
35 and

36 (ii) For a pool care management plan, one hundred ten percent of
37 the rate calculated under subsection (1) of this section.

38 (3)(a) Subject to (b) and (c) of this subsection:

1 (i) The rate for any person whose current gross family income is
2 less than two hundred fifty-one percent of the federal poverty level
3 shall be reduced by thirty percent from what it would otherwise be;

4 (ii) The rate for any person whose current gross family income is
5 more than two hundred fifty but less than three hundred one percent
6 of the federal poverty level shall be reduced by fifteen percent from
7 what it would otherwise be;

8 (iii) The rate for any person who has been enrolled in the pool
9 for more than thirty-six months shall be reduced by five percent from
10 what it would otherwise be.

11 (b) In no event shall the rate for any person be less than one
12 hundred ten percent of the rate calculated under subsection (1) of
13 this section.

14 (c) Rate reductions under (a)(i) and (ii) of this subsection
15 shall be available only to the extent that funds are specifically
16 appropriated for this purpose in the omnibus appropriations act.

17 (4) The rate for any person eligible for pool coverage under RCW
18 48.41.100(1)(a)(i) who is eligible for an advance premium tax credit
19 under 26 U.S.C. Sec. 36B shall be reduced by the average amount of
20 the advance premium tax credit a person with the same modified
21 adjusted gross income would receive in counties within the same
22 geographic rating area. If no qualified health plans are available in
23 the same geographic area, than the amount of the reduction must be
24 the average amount of the advance premium tax credit a person with
25 the same modified adjusted gross income would receive statewide.

26 **Sec. 4.** RCW 48.41.090 and 2013 2nd sp.s. c 6 s 7 are each
27 amended to read as follows:

28 (1) Following the close of each accounting year, the pool
29 administrator shall determine the total net cost of pool operation
30 which shall include:

31 (a) Net premium (premiums less administrative expense
32 allowances), the pool expenses of administration, and incurred losses
33 for the year, taking into account investment income and other
34 appropriate gains and losses; ~~((and))~~

35 (b) The amount of pool contributions specified in the state
36 omnibus appropriations act for deposit into the health benefit
37 exchange account under RCW 43.71.060, to assist with the transition
38 of enrollees from the pool into the health benefit exchange created
39 by chapter 43.71 RCW; and

1 (c) Any rate reductions received by individuals under RCW
2 48.41.200(4).

3 (2)(a) Each member's proportion of participation in the pool
4 shall be determined annually by the board based on annual statements
5 and other reports deemed necessary by the board and filed by the
6 member with the commissioner; and shall be determined by multiplying
7 the total cost of pool operation by a fraction. The numerator of the
8 fraction equals that member's total number of resident insured
9 persons, including spouse and dependents, covered under all health
10 plans in the state by that member during the preceding calendar year.
11 The denominator of the fraction equals the total number of resident
12 insured persons, including spouses and dependents, covered under all
13 health plans in the state by all pool members during the preceding
14 calendar year.

15 (b) For purposes of calculating the numerator and the denominator
16 under (a) of this subsection:

17 (i) All health plans in the state by the state health care
18 authority include only the uniform medical plan;

19 (ii) Each ten resident insured persons, including spouse and
20 dependents, under a stop loss plan or the uniform medical plan shall
21 count as one resident insured person;

22 (iii) Health plans serving medical care services program clients
23 under RCW 74.09.035 are exempted from the calculation; and

24 (iv) Health plans established to serve elderly clients or
25 medicaid clients with disabilities under chapter 74.09 RCW when the
26 plan has been implemented on a demonstration or pilot project basis
27 are exempted from the calculation until July 1, 2009.

28 (c) Except as provided in RCW 48.41.037, any deficit incurred by
29 the pool, including pool contributions for deposit into the health
30 benefit exchange account, shall be recouped by assessments among
31 members apportioned under this subsection pursuant to the formula set
32 forth by the board among members. The monthly per member assessment
33 may not exceed the 2013 assessment level. If the maximum assessment
34 is insufficient to cover a pool deficit the assessment shall be used
35 first to pay all incurred losses and pool administrative expenses,
36 with the remainder being available for deposit in the health benefit
37 exchange account.

38 (3) The board may abate or defer, in whole or in part, the
39 assessment of a member if, in the opinion of the board, payment of
40 the assessment would endanger the ability of the member to fulfill

1 its contractual obligations. If an assessment against a member is
2 abated or deferred in whole or in part, the amount by which such
3 assessment is abated or deferred may be assessed against the other
4 members in a manner consistent with the basis for assessments set
5 forth in subsection (2) of this section. The member receiving such
6 abatement or deferment shall remain liable to the pool for the
7 deficiency.

8 (4) Subject to the limitation imposed in subsection (2)(c) of
9 this section, the pool administrator shall transfer the assessments
10 for pool contributions for the operation of the health benefit
11 exchange to the treasurer for deposit into the health benefit
12 exchange account with the quarterly assessments for 2014 as specified
13 in the state omnibus appropriations act. If assessments exceed actual
14 losses and administrative expenses of the pool and pool contributions
15 for deposit into the health benefit exchange account, the excess
16 shall be held at interest and used by the board to offset future
17 losses or to reduce pool premiums. As used in this subsection,
18 "future losses" includes reserves for incurred but not reported
19 claims.

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