

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 5386

Chapter 266, Laws of 1995

54th Legislature
1995 Regular Session

BASIC HEALTH PLAN EXPANSION

EFFECTIVE DATE: 7/1/95

Passed by the Senate April 21, 1995
YEAS 42 NAYS 4

JOEL PRITCHARD

President of the Senate

Passed by the House April 18, 1995
YEAS 96 NAYS 1

CLYDE BALLARD

**Speaker of the
House of Representatives**

Approved May 8, 1995

MIKE LOWRY

Governor of the State of Washington

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5386** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MARTY BROWN

Secretary

FILED

May 8, 1995 - 9:56 a.m.

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5386

AS AMENDED BY THE HOUSE

Passed Legislature - 1995 Regular Session

State of Washington

54th Legislature

1995 Regular Session

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Quigley, Franklin, C. Anderson and Wojahn; by request of Health Care Authority)

Read first time 02/20/95.

1 AN ACT Relating to the basic health plan; amending RCW 70.47.060
2 and 70.47.020; adding a new section to chapter 70.47 RCW; repealing RCW
3 70.47.065; providing an effective date; and declaring an emergency.

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

5 **Sec. 1.** RCW 70.47.060 and 1994 c 309 s 5 are each amended to read
6 as follows:

7 The administrator has the following powers and duties:

8 (1) To design and from time to time revise a schedule of covered
9 basic health care services, including physician services, inpatient and
10 outpatient hospital services, prescription drugs and medications, and
11 other services that may be necessary for basic health care (~~(, which)~~).
12 In addition, the administrator may offer as basic health plan services
13 chemical dependency services, mental health services and organ
14 transplant services; however, no one service or any combination of
15 these three services shall increase the actuarial value of the basic
16 health plan benefits by more than five percent excluding inflation, as
17 determined by the office of financial management. All subsidized and
18 nonsubsidized enrollees in any participating managed health care system
19 under the Washington basic health plan shall be entitled to receive in

1 return for premium payments to the plan. The schedule of services
2 shall emphasize proven preventive and primary health care and shall
3 include all services necessary for prenatal, postnatal, and well-child
4 care. However, with respect to coverage for groups of subsidized
5 enrollees who are eligible to receive prenatal and postnatal services
6 through the medical assistance program under chapter 74.09 RCW, the
7 administrator shall not contract for such services except to the extent
8 that such services are necessary over not more than a one-month period
9 in order to maintain continuity of care after diagnosis of pregnancy by
10 the managed care provider. The schedule of services shall also include
11 a separate schedule of basic health care services for children,
12 eighteen years of age and younger, for those subsidized or
13 nonsubsidized enrollees who choose to secure basic coverage through the
14 plan only for their dependent children. In designing and revising the
15 schedule of services, the administrator shall consider the guidelines
16 for assessing health services under the mandated benefits act of 1984,
17 RCW 48.42.080, and such other factors as the administrator deems
18 appropriate. (~~On and after July 1, 1995, the uniform benefits package
19 adopted and from time to time revised by the Washington health services
20 commission pursuant to RCW 43.72.130 shall be implemented by the
21 administrator as the schedule of covered basic health care services.~~)

22 However, with respect to coverage for subsidized enrollees who are
23 eligible to receive prenatal and postnatal services through the medical
24 assistance program under chapter 74.09 RCW, the administrator shall not
25 contract for such services except to the extent that the services are
26 necessary over not more than a one-month period in order to maintain
27 continuity of care after diagnosis of pregnancy by the managed care
28 provider.

29 (2)(a) To design and implement a structure of periodic premiums due
30 the administrator from subsidized enrollees that is based upon gross
31 family income, giving appropriate consideration to family size and the
32 ages of all family members. The enrollment of children shall not
33 require the enrollment of their parent or parents who are eligible for
34 the plan. The structure of periodic premiums shall be applied to
35 subsidized enrollees entering the plan as individuals pursuant to
36 subsection (9) of this section and to the share of the cost of the plan
37 due from subsidized enrollees entering the plan as employees pursuant
38 to subsection (10) of this section.

1 (b) To determine the periodic premiums due the administrator from
2 nonsubsidized enrollees. Premiums due from nonsubsidized enrollees
3 shall be in an amount equal to the cost charged by the managed health
4 care system provider to the state for the plan plus the administrative
5 cost of providing the plan to those enrollees and the premium tax under
6 RCW 48.14.0201.

7 (c) An employer or other financial sponsor may, with the prior
8 approval of the administrator, pay the premium, rate, or any other
9 amount on behalf of a subsidized or nonsubsidized enrollee, by
10 arrangement with the enrollee and through a mechanism acceptable to the
11 administrator, but in no case shall the payment made on behalf of the
12 enrollee exceed the total premiums due from the enrollee.

13 (d) To develop, as an offering by all health carriers providing
14 coverage identical to the basic health plan, a model plan benefits
15 package with uniformity in enrollee cost-sharing requirements.

16 (3) To design and implement a structure of ~~((copayments))~~ enrollee
17 cost sharing due a managed health care system from subsidized and
18 nonsubsidized enrollees. The structure shall discourage inappropriate
19 enrollee utilization of health care services, and may utilize
20 copayments, deductibles, and other cost-sharing mechanisms, but shall
21 not be so costly to enrollees as to constitute a barrier to appropriate
22 utilization of necessary health care services. ~~((On and after July 1,~~
23 ~~1995, the administrator shall endeavor to make the copayments structure~~
24 ~~of the plan consistent with enrollee point of service cost sharing~~
25 ~~levels adopted by the Washington health services commission, giving~~
26 ~~consideration to funding available to the plan.))~~

27 (4) To limit enrollment of persons who qualify for subsidies so as
28 to prevent an overexpenditure of appropriations for such purposes.
29 Whenever the administrator finds that there is danger of such an
30 overexpenditure, the administrator shall close enrollment until the
31 administrator finds the danger no longer exists.

32 (5) To limit the payment of subsidies to subsidized enrollees, as
33 defined in RCW 70.47.020. The level of subsidy provided to persons who
34 qualify may be based on the lowest cost plans, as defined by the
35 administrator.

36 (6) To adopt a schedule for the orderly development of the delivery
37 of services and availability of the plan to residents of the state,
38 subject to the limitations contained in RCW 70.47.080 or any act
39 appropriating funds for the plan.

1 (7) To solicit and accept applications from managed health care
2 systems, as defined in this chapter, for inclusion as eligible basic
3 health care providers under the plan. The administrator shall endeavor
4 to assure that covered basic health care services are available to any
5 enrollee of the plan from among a selection of two or more
6 participating managed health care systems. In adopting any rules or
7 procedures applicable to managed health care systems and in its
8 dealings with such systems, the administrator shall consider and make
9 suitable allowance for the need for health care services and the
10 differences in local availability of health care resources, along with
11 other resources, within and among the several areas of the state.
12 Contracts with participating managed health care systems shall ensure
13 that basic health plan enrollees who become eligible for medical
14 assistance may, at their option, continue to receive services from
15 their existing providers within the managed health care system if such
16 providers have entered into provider agreements with the department of
17 social and health services.

18 (8) To receive periodic premiums from or on behalf of subsidized
19 and nonsubsidized enrollees, deposit them in the basic health plan
20 operating account, keep records of enrollee status, and authorize
21 periodic payments to managed health care systems on the basis of the
22 number of enrollees participating in the respective managed health care
23 systems.

24 (9) To accept applications from individuals residing in areas
25 served by the plan, on behalf of themselves and their spouses and
26 dependent children, for enrollment in the Washington basic health plan
27 as subsidized or nonsubsidized enrollees, to establish appropriate
28 minimum-enrollment periods for enrollees as may be necessary, and to
29 determine, upon application and ~~((at least semiannually thereafter))~~ on
30 a reasonable schedule defined by the authority, or at the request of
31 any enrollee, eligibility due to current gross family income for
32 sliding scale premiums. No subsidy may be paid with respect to any
33 enrollee whose current gross family income exceeds twice the federal
34 poverty level or, subject to RCW 70.47.110, who is a recipient of
35 medical assistance or medical care services under chapter 74.09 RCW.
36 If, as a result of an eligibility review, the administrator determines
37 that a subsidized enrollee's income exceeds twice the federal poverty
38 level and that the enrollee knowingly failed to inform the plan of such
39 increase in income, the administrator may bill the enrollee for the

1 subsidy paid on the enrollee's behalf during the period of time that
2 the enrollee's income exceeded twice the federal poverty level. If a
3 number of enrollees drop their enrollment for no apparent good cause,
4 the administrator may establish appropriate rules or requirements that
5 are applicable to such individuals before they will be allowed to re-
6 enroll in the plan.

7 (10) To accept applications from business owners on behalf of
8 themselves and their employees, spouses, and dependent children, as
9 subsidized or nonsubsidized enrollees, who reside in an area served by
10 the plan. The administrator may require all or the substantial
11 majority of the eligible employees of such businesses to enroll in the
12 plan and establish those procedures necessary to facilitate the orderly
13 enrollment of groups in the plan and into a managed health care system.
14 The administrator (~~shall~~) may require that a business owner pay at
15 least (~~fifty percent of the nonsubsidized~~) an amount equal to what
16 the employee pays after the state pays its portion of the subsidized
17 premium cost of the plan on behalf of each employee enrolled in the
18 plan. Enrollment is limited to those not eligible for medicare who
19 wish to enroll in the plan and choose to obtain the basic health care
20 coverage and services from a managed care system participating in the
21 plan. The administrator shall adjust the amount determined to be due
22 on behalf of or from all such enrollees whenever the amount negotiated
23 by the administrator with the participating managed health care system
24 or systems is modified or the administrative cost of providing the plan
25 to such enrollees changes.

26 (11) To determine the rate to be paid to each participating managed
27 health care system in return for the provision of covered basic health
28 care services to enrollees in the system. Although the schedule of
29 covered basic health care services will be the same for similar
30 enrollees, the rates negotiated with participating managed health care
31 systems may vary among the systems. In negotiating rates with
32 participating systems, the administrator shall consider the
33 characteristics of the populations served by the respective systems,
34 economic circumstances of the local area, the need to conserve the
35 resources of the basic health plan trust account, and other factors the
36 administrator finds relevant.

37 (12) To monitor the provision of covered services to enrollees by
38 participating managed health care systems in order to assure enrollee
39 access to good quality basic health care, to require periodic data

1 reports concerning the utilization of health care services rendered to
2 enrollees in order to provide adequate information for evaluation, and
3 to inspect the books and records of participating managed health care
4 systems to assure compliance with the purposes of this chapter. In
5 requiring reports from participating managed health care systems,
6 including data on services rendered enrollees, the administrator shall
7 endeavor to minimize costs, both to the managed health care systems and
8 to the plan. The administrator shall coordinate any such reporting
9 requirements with other state agencies, such as the insurance
10 commissioner and the department of health, to minimize duplication of
11 effort.

12 (13) To evaluate the effects this chapter has on private employer-
13 based health care coverage and to take appropriate measures consistent
14 with state and federal statutes that will discourage the reduction of
15 such coverage in the state.

16 (14) To develop a program of proven preventive health measures and
17 to integrate it into the plan wherever possible and consistent with
18 this chapter.

19 (15) To provide, consistent with available funding, assistance for
20 rural residents, underserved populations, and persons of color.

21 **Sec. 2.** RCW 70.47.020 and 1994 c 309 s 4 are each amended to read
22 as follows:

23 As used in this chapter:

24 (1) "Washington basic health plan" or "plan" means the system of
25 enrollment and payment on a prepaid capitated basis for basic health
26 care services, administered by the plan administrator through
27 participating managed health care systems, created by this chapter.

28 (2) "Administrator" means the Washington basic health plan
29 administrator, who also holds the position of administrator of the
30 Washington state health care authority.

31 (3) "Managed health care system" means any health care
32 organization, including health care providers, insurers, health care
33 service contractors, health maintenance organizations, or any
34 combination thereof, that provides directly or by contract basic health
35 care services, as defined by the administrator and rendered by duly
36 licensed providers, on a prepaid capitated basis to a defined patient
37 population enrolled in the plan and in the managed health care system.

1 (~~On and after July 1, 1995, "managed health care system" means a~~
2 ~~certified health plan, as defined in RCW 43.72.010.~~)

3 (4) "Subsidized enrollee" means an individual, or an individual
4 plus the individual's spouse or dependent children, not eligible for
5 medicare, who resides in an area of the state served by a managed
6 health care system participating in the plan, whose gross family income
7 at the time of enrollment does not exceed twice the federal poverty
8 level as adjusted for family size and determined annually by the
9 federal department of health and human services, (~~who the~~
10 ~~administrator determines shall not have, or shall not have voluntarily~~
11 ~~relinquished health insurance more comprehensive than that offered by~~
12 ~~the plan as of the effective date of enrollment,~~) and who chooses to
13 obtain basic health care coverage from a particular managed health care
14 system in return for periodic payments to the plan.

15 (5) "Nonsubsidized enrollee" means an individual, or an individual
16 plus the individual's spouse or dependent children, not eligible for
17 medicare, who resides in an area of the state served by a managed
18 health care system participating in the plan, (~~who the administrator~~
19 ~~determines shall not have, or shall not have voluntarily relinquished~~
20 ~~health insurance more comprehensive than that offered by the plan as of~~
21 ~~the effective date of enrollment,~~) and who chooses to obtain basic
22 health care coverage from a particular managed health care system, and
23 who pays or on whose behalf is paid the full costs for participation in
24 the plan, without any subsidy from the plan.

25 (6) "Subsidy" means the difference between the amount of periodic
26 payment the administrator makes to a managed health care system on
27 behalf of a subsidized enrollee plus the administrative cost to the
28 plan of providing the plan to that subsidized enrollee, and the amount
29 determined to be the subsidized enrollee's responsibility under RCW
30 70.47.060(2).

31 (7) "Premium" means a periodic payment, based upon gross family
32 income which an individual, their employer or another financial sponsor
33 makes to the plan as consideration for enrollment in the plan as a
34 subsidized enrollee or a nonsubsidized enrollee.

35 (8) "Rate" means the per capita amount, negotiated by the
36 administrator with and paid to a participating managed health care
37 system, that is based upon the enrollment of subsidized and
38 nonsubsidized enrollees in the plan and in that system.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.47 RCW
2 to read as follows:

3 (1) The legislature recognizes that every individual possesses a
4 fundamental right to exercise their religious beliefs and conscience.
5 The legislature further recognizes that in developing public policy,
6 conflicting religious and moral beliefs must be respected. Therefore,
7 while recognizing the right of conscientious objection to participating
8 in specific health services, the state shall also recognize the right
9 of individuals enrolled with the basic health plan to receive the full
10 range of services covered under the basic health plan.

11 (2)(a) No individual health care provider, religiously sponsored
12 health carrier, or health care facility may be required by law or
13 contract in any circumstances to participate in the provision of or
14 payment for a specific service if they object to so doing for reason of
15 conscience or religion. No person may be discriminated against in
16 employment or professional privileges because of such objection.

17 (b) The provisions of this section are not intended to result in an
18 enrollee being denied timely access to any service included in the
19 basic health plan. Each health carrier shall:

20 (i) Provide written notice to enrollees, upon enrollment with the
21 plan, listing services that the carrier refuses to cover for reason of
22 conscience or religion;

23 (ii) Provide written information describing how an enrollee may
24 directly access services in an expeditious manner; and

25 (iii) Ensure that enrollees refused services under this section
26 have prompt access to the information developed pursuant to (b)(ii) of
27 this subsection.

28 (c) The administrator shall establish a mechanism or mechanisms to
29 recognize the right to exercise conscience while ensuring enrollees
30 timely access to services and to assure prompt payment to service
31 providers.

32 (3)(a) No individual or organization with a religious or moral
33 tenet opposed to a specific service may be required to purchase
34 coverage for that service or services if they object to doing so for
35 reason of conscience or religion.

36 (b) The provisions of this section shall not result in an enrollee
37 being denied coverage of, and timely access to, any service or services
38 excluded from their benefits package as a result of their employer's or

1 another individual's exercise of the conscience clause in (a) of this
2 subsection.

3 (c) The administrator shall define the process through which health
4 carriers may offer the basic health plan to individuals and
5 organizations identified in (a) and (b) of this subsection in
6 accordance with the provisions of subsection (2)(c) of this section.

7 (4) Nothing in this section requires the health care authority,
8 health carriers, health care facilities, or health care providers to
9 provide any basic health plan service without payment of appropriate
10 premium share or enrollee cost sharing.

11 NEW SECTION. **Sec. 4.** RCW 70.47.065 and 1993 c 494 s 6 are each
12 repealed.

13 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
14 preservation of the public peace, health, or safety, or support of the
15 state government and its existing public institutions, and shall take
16 effect July 1, 1995.

Passed the Senate April 21, 1995.

Passed the House April 18, 1995.

Approved by the Governor May 8, 1995.

Filed in Office of Secretary of State May 8, 1995.