H-5270.1

SUBSTITUTE HOUSE BILL 3204

State of Washington 58th Legislature 2004 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Sommers and Cody)

READ FIRST TIME 03/01/04.

1 AN ACT Relating to basic health plan benefits for home care agency
2 providers; amending RCW 70.47.020, 70.47.030, 70.47.060, and 70.47.100;
3 and creating a new section.

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

5 **Sec. 1.** RCW 70.47.020 and 2000 c 79 s 43 are each amended to read
6 as follows:
7 As used in this chapter:
8 (1) "Washington basic health plan" or "plan" means the system of
9 enrollment and payment for basic health care services, administered by
10 the plan administrator through participating managed health care
11 systems, created by this chapter.
12 (2) "Administrator" means the Washington basic health plan
13 administrator, who also holds the position of administrator of the
14 Washington state health care authority.
15 (3) "Managed health care system" means: (a) Any health care
16 organization, including health care providers, insurers, health care
17 service contractors, health maintenance organizations, or any
18 combination thereof, that provides directly or by contract basic health
19 care services, as defined by the administrator and rendered by duly

1 licensed providers, to a defined patient population enrolled in the
2 plan and in the managed health care system; or (b) a self-funded or
3 self-insured method of providing insurance coverage to subsidized
4 enrollees provided under RCW 41.05.140 and subject to the limitations
5 under RCW 70.47.100(7).

6 (4) "Subsidized enrollee" means:

7 (a) An individual, or an individual plus the individual's spouse or
8 dependent children: ((~~(a)~~)) (i) Who is not eligible for medicare;
9 ((~~(b)~~)) (ii) who is not confined or residing in a government-operated
10 institution, unless he or she meets eligibility criteria adopted by the
11 administrator; ((~~(c)~~)) (iii) who resides in an area of the state served
12 by a managed health care system participating in the plan; ((~~(d)~~)) (iv)
13 whose gross family income at the time of enrollment does not exceed two
14 hundred percent of the federal poverty level as adjusted for family
15 size and determined annually by the federal department of health and
16 human services; and ((~~(e)~~)) (v) who chooses to obtain basic health care
17 coverage from a particular managed health care system in return for
18 periodic payments to the plan((~~.~~)); or

19 (b) To the extent that state funds are specifically appropriated
20 for this purpose, with a corresponding federal match, ((~~"subsidized~~
21 ~~enrollee" also means~~)) an individual, or an individual's spouse or
22 dependent children, who meets the requirements in (a)(i) through ((~~(c)~~
23 ~~and (e)~~)) (iii) and (v) of this subsection and whose gross family
24 income at the time of enrollment is more than two hundred percent, but
25 less than two hundred fifty-one percent, of the federal poverty level
26 as adjusted for family size and determined annually by the federal
27 department of health and human services.

28 (5) "Home care agency enrollee" means any employee of a home care
29 agency under contract with the department of social and health services
30 to provide home care services to elderly and disabled clients, who has
31 chosen to obtain basic health plan coverage as part of a home care
32 agency group. Home care agency group enrollment is available only to
33 the extent that specific funding is appropriated for this purpose.

34 (6) "Nonsubsidized enrollee" means an individual, or an individual
35 plus the individual's spouse or dependent children: (a) Who is not
36 eligible for medicare; (b) who is not confined or residing in a
37 government-operated institution, unless he or she meets eligibility
38 criteria adopted by the administrator; (c) who resides in an area of

1 the state served by a managed health care system participating in the
2 plan; (d) who chooses to obtain basic health care coverage from a
3 particular managed health care system; and (e) who pays or on whose
4 behalf is paid the full costs for participation in the plan, without
5 any subsidy from the plan.

6 (((6))) (7) "Subsidy" means the difference between the amount of
7 periodic payment the administrator makes to a managed health care
8 system on behalf of a subsidized enrollee plus the administrative cost
9 to the plan of providing the plan to that subsidized enrollee, and the
10 amount determined to be the subsidized enrollee's responsibility under
11 RCW 70.47.060(2).

12 (((7))) (8) "Premium" means a periodic payment, based upon gross
13 family income which an individual, their employer or another financial
14 sponsor makes to the plan as consideration for enrollment in the plan
15 as a subsidized enrollee or a nonsubsidized enrollee. Premiums for
16 home care agency enrollees are set by the administrator under RCW
17 70.47.060(2)(c).

18 (((8))) (9) "Rate" means the amount, negotiated by the
19 administrator with and paid to a participating managed health care
20 system, that is based upon the enrollment of subsidized ((and)),
21 nonsubsidized, and home care agency enrollees in the plan and in that
22 system.

23 (10) "Home care agency" means a private or public agency or
24 organization that provides home care services directly to ill,
25 disabled, or infirm persons in places of temporary or permanent
26 residence, and is licensed by the department of health under RCW
27 70.127.020 as an in-home services agency that contracts with the
28 department of social and health services or its designees to provide
29 home services.

30 **Sec. 2.** RCW 70.47.030 and 1995 2nd sp.s. c 18 s 913 are each
31 amended to read as follows:

32 (1) The basic health plan trust account is hereby established in
33 the state treasury. Any nongeneral fund-state funds collected for this
34 program shall be deposited in the basic health plan trust account and
35 may be expended without further appropriation. Moneys in the account
36 shall be used exclusively for the purposes of this chapter, including

payments to participating managed health care systems on behalf of enrollees in the plan and payment of costs of administering the plan.

During the 1995-97 fiscal biennium, the legislature may transfer funds from the basic health plan trust account to the state general fund.

(2) The basic health plan subscription account is created in the custody of the state treasurer. All receipts from amounts due from or on behalf of nonsubsidized enrollees and home care agency enrollees shall be deposited into the account. Funds in the account shall be used exclusively for the purposes of this chapter, including payments to participating managed health care systems on behalf of nonsubsidized enrollees and home care agency enrollees in the plan and payment of costs of administering the plan. The account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures.

(3) The administrator shall take every precaution to see that none of the funds in the separate accounts created in this section or that any premiums paid either by subsidized or nonsubsidized enrollees are commingled in any way, except that the administrator may combine funds designated for administration of the plan into a single administrative account.

Sec. 3. RCW 70.47.060 and 2001 c 196 s 13 are each amended to read as follows:

The administrator has the following powers and duties:

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

receive covered basic health care services in return for premium payments to the plan. The schedule of services shall emphasize proven preventive and primary health care and shall include all services necessary for prenatal, postnatal, and well-child care. However, with respect to coverage for subsidized enrollees who are eligible to receive prenatal and postnatal services through the medical assistance program under chapter 74.09 RCW, the administrator shall not contract for such services except to the extent that such services are necessary over not more than a one-month period in order to maintain continuity of care after diagnosis of pregnancy by the managed care provider. The schedule of services shall also include a separate schedule of basic health care services for children, eighteen years of age and younger, for those subsidized or nonsubsidized enrollees who choose to secure basic coverage through the plan only for their dependent children. In designing and revising the schedule of services, the administrator shall consider the guidelines for assessing health services under the mandated benefits act of 1984, RCW 48.47.030, and such other factors as the administrator deems appropriate.

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

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

(c) <u>To establish premiums due the administrator from home care agency enrollees at an amount equal to the lowest premium paid by subsidized enrollees under the structure of periodic premiums established by the administrator under (a) of this subsection.</u>

(d) An employer or other financial sponsor may, with the prior approval of the administrator, pay the premium, rate, or any other amount on behalf of a subsidized or nonsubsidized enrollee, by arrangement with the enrollee and through a mechanism acceptable to the administrator.

((~~(d)~~)) (e) To develop, as an offering by every health carrier providing coverage identical to the basic health plan, as configured on January 1, 2001, a basic health plan model plan with uniformity in enrollee cost-sharing requirements.

(3) To design and implement a structure of enrollee cost-sharing due a managed health care system from subsidized ((~~and~~)), nonsubsidized, and home care agency enrollees. The structure shall discourage inappropriate enrollee utilization of health care services, and may utilize copayments, deductibles, and other cost-sharing mechanisms, but shall not be so costly to enrollees as to constitute a barrier to appropriate utilization of necessary health care services.

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

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

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

(7) To solicit and accept applications from managed health care systems, as defined in this chapter, for inclusion as eligible basic health care providers under the plan for ((~~either~~)) subsidized enrollees, ((~~or~~)) nonsubsidized enrollees, or ((~~both~~)) home care agency enrollees. The administrator shall endeavor to assure that covered basic health care services are available to any enrollee of the plan from among a selection of two or more participating managed health care systems. In adopting any rules or procedures applicable to managed health care systems and in its dealings with such systems, the

administrator shall consider and make suitable allowance for the need for health care services and the differences in local availability of health care resources, along with other resources, within and among the several areas of the state. Contracts with participating managed health care systems shall ensure that basic health plan enrollees who become eligible for medical assistance may, at their option, continue to receive services from their existing providers within the managed health care system if such providers have entered into provider agreements with the department of social and health services.

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

(9) To accept applications from individuals residing in areas served by the plan, on behalf of themselves and their spouses and dependent children, for enrollment in the Washington basic health plan as subsidized ((~~or~~)), nonsubsidized, or home care agency enrollees, to establish appropriate minimum-enrollment periods for enrollees as may be necessary, and to determine, upon application and on a reasonable schedule defined by the authority, or at the request of any enrollee, eligibility due to current gross family income for sliding scale premiums. Funds received by a family as part of participation in the adoption support program authorized under RCW 26.33.320 and 74.13.100 through 74.13.145 shall not be counted toward a family's current gross family income for the purposes of this chapter. When an enrollee fails to report income or income changes accurately, the administrator shall have the authority either to bill the enrollee for the amounts overpaid by the state or to impose civil penalties of up to two hundred percent of the amount of subsidy overpaid due to the enrollee incorrectly reporting income. The administrator shall adopt rules to define the appropriate application of these sanctions and the processes to implement the sanctions provided in this subsection, within available resources. No subsidy may be paid with respect to any enrollee whose current gross family income exceeds twice the federal poverty level or, with the exception of home care agency enrollees and subsidized enrollees as defined under RCW 70.47.020(4)(b), subject to RCW

70.47.110, who is a recipient of medical assistance or medical care services under chapter 74.09 RCW. If a number of enrollees drop their enrollment for no apparent good cause, the administrator may establish appropriate rules or requirements that are applicable to such individuals before they will be allowed to reenroll in the plan.

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

(11) To require that home care agencies pay an amount equal to the cost charged by the managed health care system provider to the state for the plan that an employee has chosen to enroll in as a home care agency enrollee as defined in RCW 70.47.020(5), less the premium paid by the home care agency enrollee, plus the administrative cost of providing the plan to those enrollees.

(12) To determine the rate to be paid to each participating managed health care system in return for the provision of covered basic health care services to enrollees in the system. Although the schedule of covered basic health care services will be the same or actuarially equivalent for similar enrollees, the rates negotiated with participating managed health care systems may vary among the systems. In negotiating rates with participating systems, the administrator shall consider the characteristics of the populations served by the

respective systems, economic circumstances of the local area, the need to conserve the resources of the basic health plan trust account, and other factors the administrator finds relevant.

((~~(12)~~)) <u>(13)</u> To monitor the provision of covered services to enrollees by participating managed health care systems in order to assure enrollee access to good quality basic health care, to require periodic data reports concerning the utilization of health care services rendered to enrollees in order to provide adequate information for evaluation, and to inspect the books and records of participating managed health care systems to assure compliance with the purposes of this chapter. In requiring reports from participating managed health care systems, including data on services rendered enrollees, the administrator shall endeavor to minimize costs, both to the managed health care systems and to the plan. The administrator shall coordinate any such reporting requirements with other state agencies, such as the insurance commissioner and the department of health, to minimize duplication of effort.

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

((~~(14)~~)) <u>(15)</u> To develop a program of proven preventive health measures and to integrate it into the plan wherever possible and consistent with this chapter.

((~~(15)~~)) <u>(16)</u> To provide, consistent with available funding, assistance for rural residents, underserved populations, and persons of color.

((~~(16)~~)) <u>(17)</u> In consultation with appropriate state and local government agencies, to establish criteria defining eligibility for persons confined or residing in government-operated institutions.

((~~(17)~~)) <u>(18)</u> To administer the premium discounts provided under RCW 48.41.200(3)(a) (i) and (ii) pursuant to a contract with the Washington state health insurance pool.

Sec. 4. RCW 70.47.100 and 2000 c 79 s 35 are each amended to read as follows:

(1) A managed health care system participating in the plan shall do so by contract with the administrator and shall provide, directly or by

contract with other health care providers, covered basic health care services to each enrollee covered by its contract with the administrator as long as payments from the administrator on behalf of the enrollee are current. A participating managed health care system may offer, without additional cost, health care benefits or services not included in the schedule of covered services under the plan. A participating managed health care system shall not give preference in enrollment to enrollees who accept such additional health care benefits or services. Managed health care systems participating in the plan shall not discriminate against any potential or current enrollee based upon health status, sex, race, ethnicity, or religion. The administrator may receive and act upon complaints from enrollees regarding failure to provide covered services or efforts to obtain payment, other than authorized copayments, for covered services directly from enrollees, but nothing in this chapter empowers the administrator to impose any sanctions under Title 18 RCW or any other professional or facility licensing statute.

(2) The plan shall allow, at least annually, an opportunity for enrollees to transfer their enrollments among participating managed health care systems serving their respective areas. The administrator shall establish a period of at least twenty days in a given year when this opportunity is afforded enrollees, and in those areas served by more than one participating managed health care system the administrator shall endeavor to establish a uniform period for such opportunity. The plan shall allow enrollees to transfer their enrollment to another participating managed health care system at any time upon a showing of good cause for the transfer.

(3) Prior to negotiating with any managed health care system, the administrator shall determine, on an actuarially sound basis, the reasonable cost of providing the schedule of basic health care services, expressed in terms of upper and lower limits, and recognizing variations in the cost of providing the services through the various systems and in different areas of the state.

(4) In negotiating with managed health care systems for participation in the plan, the administrator shall adopt a uniform procedure that includes at least the following:

(a) The administrator shall issue a request for proposals, including standards regarding the quality of services to be provided;

financial integrity of the responding systems; and responsiveness to the unmet health care needs of the local communities or populations that may be served;

(b) The administrator shall then review responsive proposals and may negotiate with respondents to the extent necessary to refine any proposals;

(c) The administrator may then select one or more systems to provide the covered services within a local area; and

(d) The administrator may adopt a policy that gives preference to respondents, such as nonprofit community health clinics, that have a history of providing quality health care services to low-income persons.

(5) The administrator may contract with a managed health care system to provide covered basic health care services to ((~~either~~)) subsidized enrollees, ((~~or~~)) nonsubsidized enrollees, or ((~~both~~)) home care agency enrollees, or any combination of the three.

(6) The administrator may establish procedures and policies to further negotiate and contract with managed health care systems following completion of the request for proposal process in subsection (4) of this section, upon a determination by the administrator that it is necessary to provide access, as defined in the request for proposal documents, to covered basic health care services for enrollees.

(7)(a) The administrator shall implement a self-funded or self-insured method of providing insurance coverage to subsidized enrollees, as provided under RCW 41.05.140, if one of the following conditions is met:

(i) The authority determines that no managed health care system other than the authority is willing and able to provide access, as defined in the request for proposal documents, to covered basic health care services for all subsidized enrollees in an area; or

(ii) The authority determines that no other managed health care system is willing to provide access, as defined in the request for proposal documents, for one hundred thirty-three percent of the statewide benchmark price or less, and the authority is able to offer such coverage at a price that is less than the lowest price at which any other managed health care system is willing to provide such access in an area.

1 (b) The authority shall initiate steps to provide the coverage
2 described in (a) of this subsection within ninety days of making its
3 determination that the conditions for providing a self-funded or self-
4 insured method of providing insurance have been met.
5 (c) The administrator may not implement a self-funded or self-
6 insured method of providing insurance in an area unless the
7 administrator has received a certification from a member of the
8 American academy of actuaries that the funding available in the basic
9 health plan self-insurance reserve account is sufficient for the self-
10 funded or self-insured risk assumed, or expected to be assumed, by the
11 administrator.

12 NEW SECTION. **Sec. 5.** If any part of this act is found to be in
13 conflict with federal requirements that are a prescribed condition to
14 the allocation of federal funds to the state, the conflicting part of
15 this act is inoperative solely to the extent of the conflict and with
16 respect to the agencies directly affected, and this finding does not
17 affect the operation of the remainder of this act in its application to
18 the agencies concerned. Rules adopted under this act must meet federal
19 requirements that are a necessary condition to the receipt of federal
20 funds by the state.

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