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SENATE BILL 5944

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State of Washington

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By Senators Thibaudeau, Keiser, Franklin and Kohl-Welles

Read first time 02/24/2003. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to the basic health plan; amending RCW 70.47.060  
2 and 48.14.0201; prescribing penalties; providing an effective date; and  
3 declaring an emergency.

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

5 **Sec. 1.** RCW 70.47.060 and 2001 c 196 s 13 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. In  
12 addition, the administrator may, to the extent that funds are  
13 available, offer as basic health plan services chemical dependency  
14 services, mental health services, and organ transplant services(~~(+~~  
15 ~~however, no one service or any combination of these three services~~  
16 ~~shall increase the actuarial value of the basic health plan benefits by~~  
17 ~~more than five percent excluding inflation, as determined by the office~~  
18 ~~of financial management)). All subsidized and nonsubsidized enrollees  
19 in any participating managed health care system under the Washington~~

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

20 (2)(a) To design and implement a structure of periodic premiums due  
21 the administrator from subsidized enrollees that is based upon gross  
22 family income, giving appropriate consideration to family size and the  
23 ages of all family members. The enrollment of children shall not  
24 require the enrollment of their parent or parents who are eligible for  
25 the plan. The structure of periodic premiums shall be applied to  
26 subsidized enrollees entering the plan as individuals pursuant to  
27 subsection (~~((9))~~) (10) of this section and to the share of the cost of  
28 the plan due from subsidized enrollees entering the plan as employees  
29 pursuant to subsection (~~((10))~~) (11) of this section.

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

36 (c) An employer or other financial sponsor may, with the prior  
37 approval of the administrator, pay the premium, rate, or any other

1 amount on behalf of a subsidized or nonsubsidized enrollee, by  
2 arrangement with the enrollee and through a mechanism acceptable to the  
3 administrator.

4 (d) To develop, as an offering by every health carrier providing  
5 coverage identical to the basic health plan, as configured on January  
6 1, 2001, a basic health plan model plan with uniformity in enrollee  
7 cost-sharing requirements.

8 (3) To design and implement a structure of enrollee cost-sharing  
9 due a managed health care system from subsidized and nonsubsidized  
10 enrollees. The structure shall, beginning January 1, 2004, impose  
11 cost-sharing expected to result in a plan with an actuarial value  
12 fifteen percent less than the actuarial value of the plan in place on  
13 January 1, 2003; shall discourage inappropriate enrollee utilization of  
14 health care services(( $\tau$ )); and may utilize copayments, deductibles, and  
15 other cost-sharing mechanisms, but shall not be so costly to enrollees  
16 as to constitute a barrier to appropriate utilization of necessary  
17 health care services.

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

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

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

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

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

11 (8) In determining eligibility, to require submission of income tax  
12 returns, or verification that income tax returns were not filed, and  
13 recent pay history for any applicant, the applicant's spouse, and his  
14 or her dependents.

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

21 ~~((+9))~~ (10) To accept applications from individuals residing in  
22 areas served by the plan, on behalf of themselves and their spouses and  
23 dependent children, for enrollment in the Washington basic health plan  
24 as subsidized or nonsubsidized enrollees, to establish appropriate  
25 minimum-enrollment periods for enrollees as may be necessary, and to  
26 determine, upon application and on a reasonable schedule defined by the  
27 authority, or at the request of any enrollee, eligibility due to  
28 current gross family income for sliding scale premiums. Funds received  
29 by a family as part of participation in the adoption support program  
30 authorized under RCW 26.33.320 and 74.13.100 through 74.13.145 shall  
31 not be counted toward a family's current gross family income for the  
32 purposes of this chapter. When an enrollee fails to report income or  
33 income changes accurately, the administrator shall have the authority  
34 either to bill the enrollee for the amounts overpaid by the state or to  
35 impose civil penalties of up to two hundred percent of the amount of  
36 subsidy overpaid due to the enrollee incorrectly reporting income. The  
37 administrator shall adopt rules to define the appropriate application  
38 of these sanctions and the processes to implement the sanctions

1 provided in this subsection, within available resources. No subsidy  
2 may be paid with respect to any enrollee whose current gross family  
3 income exceeds twice the federal poverty level or, subject to RCW  
4 70.47.110, who is a recipient of medical assistance or medical care  
5 services under chapter 74.09 RCW. If a number of enrollees drop their  
6 enrollment for no apparent good cause, the administrator may establish  
7 appropriate rules or requirements that are applicable to such  
8 individuals before they will be allowed to reenroll in the plan.

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

27 (11) Beginning  
28 January 1, 2004, to require the employers of all enrollees with wage or  
29 salary income to pay an amount equal to the amount of the premium paid  
30 by their employees to participate in the plan. The amount billed under  
31 this subsection may not, alone or in combination with the premium paid  
32 by the enrollee, exceed the amount paid to the managed health care  
33 system for that enrollee's coverage. For enrollees with more than one  
34 employer, the amount owed will be divided among the enrollee's  
35 employers in an equitable manner as established by the administrator.  
36 If a business is delinquent in making the payments required by this  
37 subsection, the administrator has the authority to impose late payment  
38 fees, and civil penalties of up to three hundred percent of the amount  
of the delinquent payments. The amount billed the employer must be

1 distinct from the enrollee's premium payment, and may be billed for  
2 past months. No enrollee may be removed from the plan as a result of  
3 an employer's delinquency in making the required payments. All funds  
4 collected from employers under this subsection must be deposited in the  
5 basic health plan trust account, to be used by the administrator for  
6 subsidized basic health plan enrollment. All state funds that would  
7 otherwise have been used in lieu of an employer contribution remain  
8 appropriated to the health care authority for the purposes of  
9 subsidized enrollment in the basic health plan. The administrator may  
10 adopt rules to achieve the purposes of this subsection.

11 ~~((+11+))~~ (12) To determine the rate to be paid to each  
12 participating managed health care system in return for the provision of  
13 covered basic health care services to enrollees in the system.  
14 Although the schedule of covered basic health care services will be the  
15 same or actuarially equivalent for similar enrollees, the rates  
16 negotiated with participating managed health care systems may vary  
17 among the systems. In negotiating rates with participating systems,  
18 the administrator shall consider the characteristics of the populations  
19 served by the respective systems, economic circumstances of the local  
20 area, the need to conserve the resources of the basic health plan trust  
21 account, and other factors the administrator finds relevant.

22 ~~((+12+))~~ (13) To monitor the provision of covered services to  
23 enrollees by participating managed health care systems in order to  
24 assure enrollee access to good quality basic health care, to require  
25 periodic data reports concerning the utilization of health care  
26 services rendered to enrollees in order to provide adequate information  
27 for evaluation, and to inspect the books and records of participating  
28 managed health care systems to assure compliance with the purposes of  
29 this chapter. In requiring reports from participating managed health  
30 care systems, including data on services rendered enrollees, the  
31 administrator shall endeavor to minimize costs, both to the managed  
32 health care systems and to the plan. The administrator shall  
33 coordinate any such reporting requirements with other state agencies,  
34 such as the insurance commissioner and the department of health, to  
35 minimize duplication of effort.

36 ~~((+13+))~~ (14) To verify continued eligibility, check employment  
37 security payroll records at least once every twelve months on all  
38 enrollees; require any enrollee whose income as indicated by a payroll

1 record exceeds that upon which his or her enrollment and subsidy level  
2 is based to document his or her current income as a condition of  
3 continued eligibility; and require any enrollee for whom an employment  
4 security payroll record cannot be obtained to document his or her  
5 current income at least once every six months.

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

10 ~~((14))~~ (16) To develop a program of proven preventive health  
11 measures and to integrate it into the plan wherever possible and  
12 consistent with this chapter.

13 ~~((15))~~ (17) To provide, consistent with available funding,  
14 assistance for rural residents, underserved populations, and persons of  
15 color.

16 ~~((16))~~ (18) In consultation with appropriate state and local  
17 government agencies, to establish criteria defining eligibility for  
18 persons confined or residing in government-operated institutions.

19 ~~((17))~~ (19) To administer the premium discounts provided under  
20 RCW 48.41.200(3)(a) (i) and (ii) pursuant to a contract with the  
21 Washington state health insurance pool.

22 **Sec. 2.** RCW 48.14.0201 and 1998 c 323 s 1 are each amended to read  
23 as follows:

24 (1) As used in this section, "taxpayer" means a health maintenance  
25 organization, as defined in RCW 48.46.020, or a health care service  
26 contractor, as defined in RCW 48.44.010.

27 (2) Each taxpayer shall pay a tax on or before the first day of  
28 March of each year to the state treasurer through the insurance  
29 commissioner's office. The tax shall be equal to the total amount of  
30 all premiums and prepayments for health care services received by the  
31 taxpayer during the preceding calendar year multiplied by the rate of  
32 ~~((two))~~ three percent.

33 (3) Taxpayers shall prepay their tax obligations under this  
34 section. The minimum amount of the prepayments shall be percentages of  
35 the taxpayer's tax obligation for the preceding calendar year  
36 recomputed using the rate in effect for the current year. For the  
37 prepayment of taxes due during the first calendar year, the minimum

1 amount of the prepayments shall be percentages of the taxpayer's tax  
2 obligation that would have been due had the tax been in effect during  
3 the previous calendar year. The tax prepayments shall be paid to the  
4 state treasurer through the commissioner's office by the due dates and  
5 in the following amounts:

6 (a) On or before June 15<sup>th</sup>, forty-five percent;

7 (b) On or before September 15<sup>th</sup>, twenty-five percent;

8 (c) On or before December 15<sup>th</sup>, twenty-five percent.

9 (4) For good cause demonstrated in writing, the commissioner may  
10 approve an amount smaller than the preceding calendar year's tax  
11 obligation as recomputed for calculating the health maintenance  
12 organization's, health care service contractor's, or certified health  
13 plan's prepayment obligations for the current tax year.

14 (5) Moneys collected under this section shall be deposited in the  
15 general fund through March 31, 1996, and in the health services account  
16 under RCW 43.72.900 after March 31, 1996. One-third of the moneys  
17 collected after March 31, 2004, must be appropriated solely for  
18 Washington basic health plan enrollment as provided in chapter 70.47  
19 RCW, and must supplement, not supplant, the level of state funding  
20 needed to support enrollment of a minimum of seventy thousand for the  
21 fiscal year beginning July 1, 2003, and every fiscal year thereafter.

22 (6) The taxes imposed in this section do not apply to:

23 (a) Amounts received by any taxpayer from the United States or any  
24 instrumentality thereof as prepayments for health care services  
25 provided under Title XVIII (medicare) of the federal social security  
26 act.

27 (b) Amounts received by any health care service contractor, as  
28 defined in RCW 48.44.010, as prepayments for health care services  
29 included within the definition of practice of dentistry under RCW  
30 18.32.020.

31 (7) Beginning January 1, 2000, the state does hereby preempt the  
32 field of imposing excise or privilege taxes upon taxpayers and no  
33 county, city, town, or other municipal subdivision shall have the right  
34 to impose any such taxes upon such taxpayers. This subsection shall be  
35 limited to premiums and payments for health benefit plans offered by  
36 health care service contractors under chapter 48.44 RCW and health  
37 maintenance organizations under chapter 48.46 RCW. The preemption  
38 authorized by this subsection shall not impair the ability of a county,



1 city, town, or other municipal subdivision to impose excise or  
2 privilege taxes upon the health care services directly delivered by the  
3 employees of a health maintenance organization under chapter 48.46 RCW.

4 NEW SECTION. **Sec. 3.** If any provision of this act or its  
5 application to any person or circumstance is held invalid, the  
6 remainder of the act or the application of the provision to other  
7 persons or circumstances is not affected.

8 NEW SECTION. **Sec. 4.** This act is necessary for the immediate  
9 preservation of the public peace, health, or safety, or support of the  
10 state government and its existing public institutions, and takes effect  
11 July 1, 2003.

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