
SENATE BILL 6233

State of Washington

59th Legislature

2006 Regular Session

By Senators Thibaudeau, Keiser and Franklin; by request of Insurance Commissioner

Read first time 01/09/2006. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to granting the insurance commissioner the
2 authority to review and approve individual health benefit plan rates;
3 amending RCW 48.18.110, 48.44.020, 48.46.060, and 48.02.120; adding a
4 new section to chapter 48.43 RCW; and repealing RCW 48.20.025,
5 48.44.017, and 48.46.062.

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

7 **Sec. 1.** RCW 48.18.110 and 2000 c 79 s 2 are each amended to read
8 as follows:

9 (1) The commissioner shall disapprove any such form of policy,
10 application, rider, or endorsement, or withdraw any previous approval
11 thereof, only:

12 (a) If it is in any respect in violation of or does not comply with
13 this code or any applicable order or regulation of the commissioner
14 issued pursuant to the code; or

15 (b) If it does not comply with any controlling filing theretofore
16 made and approved; or

17 (c) If it contains or incorporates by reference any inconsistent,
18 ambiguous or misleading clauses, or exceptions and conditions which

1 unreasonably or deceptively affect the risk purported to be assumed in
2 the general coverage of the contract; or

3 (d) If it has any title, heading, or other indication of its
4 provisions which is misleading; or

5 (e) If purchase of insurance thereunder is being solicited by
6 deceptive advertising.

7 (2) In addition to the grounds for disapproval of any such form as
8 provided in subsection (1) of this section, the commissioner may
9 disapprove any form of disability insurance policy, (~~except an~~
10 ~~individual health benefit plan,~~) if the benefits provided therein are
11 unreasonable in relation to the premium charged. Rates, or any
12 modification of rates, for individual health benefit plans may not be
13 used until filed with and approved by the commissioner.

14 **Sec. 2.** RCW 48.44.020 and 2000 c 79 s 28 are each amended to read
15 as follows:

16 (1) Any health care service contractor may enter into contracts
17 with or for the benefit of persons or groups of persons which require
18 prepayment for health care services by or for such persons in
19 consideration of such health care service contractor providing one or
20 more health care services to such persons and such activity shall not
21 be subject to the laws relating to insurance if the health care
22 services are rendered by the health care service contractor or by a
23 participating provider.

24 (2) The commissioner may on examination, subject to the right of
25 the health care service contractor to demand and receive a hearing
26 under chapters 48.04 and 34.05 RCW, disapprove any individual or group
27 contract form for any of the following grounds:

28 (a) If it contains or incorporates by reference any inconsistent,
29 ambiguous or misleading clauses, or exceptions and conditions which
30 unreasonably or deceptively affect the risk purported to be assumed in
31 the general coverage of the contract; or

32 (b) If it has any title, heading, or other indication of its
33 provisions which is misleading; or

34 (c) If purchase of health care services thereunder is being
35 solicited by deceptive advertising; or

36 (d) If it contains unreasonable restrictions on the treatment of
37 patients; or

1 (e) If it violates any provision of this chapter; or
2 (f) If it fails to conform to minimum provisions or standards
3 required by regulation made by the commissioner pursuant to chapter
4 34.05 RCW; or

5 (g) If any contract for health care services with any state agency,
6 division, subdivision, board, or commission or with any political
7 subdivision, municipal corporation, or quasi-municipal corporation
8 fails to comply with state law.

9 (3) In addition to the grounds listed in subsection (2) of this
10 section, the commissioner may disapprove any (~~group~~) contract if the
11 benefits provided therein are unreasonable in relation to the amount
12 charged for the contract. Rates, or any modification of rates, for
13 individual health benefit plans may not be used until filed with and
14 approved by the commissioner.

15 (4)(a) Every contract between a health care service contractor and
16 a participating provider of health care services shall be in writing
17 and shall state that in the event the health care service contractor
18 fails to pay for health care services as provided in the contract, the
19 enrolled participant shall not be liable to the provider for sums owed
20 by the health care service contractor. Every such contract shall
21 provide that this requirement shall survive termination of the
22 contract.

23 (b) No participating provider, agent, trustee, or assignee may
24 maintain any action against an enrolled participant to collect sums
25 owed by the health care service contractor.

26 **Sec. 3.** RCW 48.46.060 and 2000 c 79 s 31 are each amended to read
27 as follows:

28 (1) Any health maintenance organization may enter into agreements
29 with or for the benefit of persons or groups of persons, which require
30 prepayment for health care services by or for such persons in
31 consideration of the health maintenance organization providing health
32 care services to such persons. Such activity is not subject to the
33 laws relating to insurance if the health care services are rendered
34 directly by the health maintenance organization or by any provider
35 which has a contract or other arrangement with the health maintenance
36 organization to render health services to enrolled participants.

1 (2) All forms of health maintenance agreements issued by the
2 organization to enrolled participants or other marketing documents
3 purporting to describe the organization's comprehensive health care
4 services shall comply with such minimum standards as the commissioner
5 deems reasonable and necessary in order to carry out the purposes and
6 provisions of this chapter, and which fully inform enrolled
7 participants of the health care services to which they are entitled,
8 including any limitations or exclusions thereof, and such other rights,
9 responsibilities and duties required of the contracting health
10 maintenance organization.

11 (3) Subject to the right of the health maintenance organization to
12 demand and receive a hearing under chapters 48.04 and 34.05 RCW, the
13 commissioner may disapprove an individual or group agreement form for
14 any of the following grounds:

15 (a) If it contains or incorporates by reference any inconsistent,
16 ambiguous, or misleading clauses, or exceptions or conditions which
17 unreasonably or deceptively affect the risk purported to be assumed in
18 the general coverage of the agreement;

19 (b) If it has any title, heading, or other indication which is
20 misleading;

21 (c) If purchase of health care services thereunder is being
22 solicited by deceptive advertising;

23 (d) If it contains unreasonable restrictions on the treatment of
24 patients;

25 (e) If it is in any respect in violation of this chapter or if it
26 fails to conform to minimum provisions or standards required by the
27 commissioner by rule under chapter 34.05 RCW; or

28 (f) If any agreement for health care services with any state
29 agency, division, subdivision, board, or commission or with any
30 political subdivision, municipal corporation, or quasi-municipal
31 corporation fails to comply with state law.

32 (4) In addition to the grounds listed in subsection (2) of this
33 section, the commissioner may disapprove any (~~group~~) agreement if the
34 benefits provided therein are unreasonable in relation to the amount
35 charged for the agreement. Rates, or any modification of rates, for
36 individual health benefit plans may not be used until filed with and
37 approved by the commissioner.

1 (5) No health maintenance organization authorized under this
2 chapter shall cancel or fail to renew the enrollment on any basis of an
3 enrolled participant or refuse to transfer an enrolled participant from
4 a group to an individual basis for reasons relating solely to age, sex,
5 race, or health status. Nothing contained herein shall prevent
6 cancellation of an agreement with enrolled participants (a) who violate
7 any published policies of the organization which have been approved by
8 the commissioner, or (b) who are entitled to become eligible for
9 medicare benefits and fail to enroll for a medicare supplement plan
10 offered by the health maintenance organization and approved by the
11 commissioner, or (c) for failure of such enrolled participant to pay
12 the approved charge, including cost-sharing, required under such
13 contract, or (d) for a material breach of the health maintenance
14 agreement.

15 (6) No agreement form or amendment to an approved agreement form
16 shall be used unless it is first filed with the commissioner.

17 NEW SECTION. **Sec. 4.** A new section is added to chapter 48.43 RCW
18 to read as follows:

19 (1) All filings made under this section are exempt from the
20 provisions of RCW 48.02.120. After the commissioner determines a
21 filing to be substantially complete, the entire filing, including all
22 supporting information and documentation, is available for public
23 inspection during business hours upon reasonable notice from the
24 requestor.

25 (2) After determining that the filing is substantially complete,
26 the commissioner shall notify the public of any proposed individual
27 health benefits plan rate adjustment when the overall requested rate
28 change is greater than seven percent plus the adjustment in the current
29 medical consumer price index, as defined in subsection (12) of this
30 section.

31 (3) The commissioner shall take into consideration the surplus of
32 the carrier when reviewing a rate increase under this section.

33 (4) A filing made under this section shall be approved forty-five
34 days after being made available for public inspection unless:

35 (a) In the case of a filing where the overall requested rate change
36 is greater than seven percent plus the adjustment in the current

1 medical consumer price index, a petition for a hearing is filed with
2 the commissioner within thirty days after the filing is made available
3 for public inspection, and the commissioner grants a hearing:

4 (b) The commissioner determines to hold a hearing; or

5 (c) The commissioner disapproves the filing.

6 (5) A person has standing to petition for a hearing under
7 subsection (4)(a) of this section if the commissioner determines that:

8 (a) The petitioner is directly affected by the proposed rate
9 increase; and

10 (b) The petitioner is able to make a substantial contribution to
11 the determination of whether to approve or disapprove the filing.

12 (6) The parties to a hearing held under this section are the
13 petitioner and the carrier.

14 (7) Only the commissioner or his or her designee shall preside over
15 hearings and other administrative proceedings arising under this
16 section. The commissioner or his or her designee may be assisted by
17 the staff of the office of the insurance commissioner during a hearing
18 and in making a determination to approve or disapprove a filing.

19 (8) If a hearing is held, the commissioner shall approve or
20 disapprove a filing made under this section within thirty days after
21 the conclusion of the hearing.

22 (9) A carrier may not use the proposed rates in a filing made under
23 this section until the filing is approved either as originally
24 submitted or as amended.

25 (10) If a filing made under this section is withdrawn by the
26 carrier, a hearing shall not be held on the withdrawn filing.

27 (11) The public notice required under subsection (2) of this
28 section shall be made via distribution to the news media, posting on
29 the web site maintained by the commissioner, and by electronic mail to
30 any person who requests placement on a mailing list maintained by the
31 commissioner for this purpose. Persons without electronic mail
32 addresses may request that notice be sent via first class mail.

33 (12) For the purpose of this section, "medical consumer price
34 index" means the medical care component of the consumer price index
35 (CPI), not seasonally adjusted, for all urban consumers in the Seattle-
36 Tacoma-Bremerton area. The CPI adjustment component must be determined
37 by dividing the most recent CPI for the current year by the CPI for the

1 same month for the prior year. Details of the CPI data used to
2 determine the adjustment shall be included as a part of the rate filing
3 submitted to the commissioner.

4 (13) The commissioner shall adopt rules for implementing this
5 section. The rules shall include provisions for promptly scheduling
6 and commencing hearings, and procedures to prevent delays in commencing
7 or continuing hearings without good cause. The rules shall also
8 include standards for taking into consideration a carrier's surplus
9 when reviewing rate filings.

10 **Sec. 5.** RCW 48.02.120 and 1985 c 264 s 2 are each amended to read
11 as follows:

12 (1) The commissioner shall preserve in permanent form records of
13 his or her proceedings, hearings, investigations, and examinations, and
14 shall file such records in his or her office.

15 (2) The records of the commissioner and insurance filings in his or
16 her office shall be open to public inspection, except as otherwise
17 provided by this code.

18 (3) Actuarial formulas, statistics, and assumptions submitted in
19 support of a rate or form filing by an insurer, health care service
20 contractor, or health maintenance organization or submitted to the
21 commissioner upon his or her request shall be withheld from public
22 inspection in order to preserve trade secrets or prevent unfair
23 competition.

24 (4) This section does not apply to filings made under section 4 of
25 this act.

26 NEW SECTION. **Sec. 6.** The following acts or parts of acts are each
27 repealed:

28 (1) RCW 48.20.025 (Schedule of rates for individual health benefit
29 plans--Loss ratio--Remittance of premiums--Definitions) and 2003 c 248
30 s 8, 2001 c 196 s 1, & 2000 c 79 s 3;

31 (2) RCW 48.44.017 (Schedule of rates for individual contracts--Loss
32 ratio--Remittance of premiums--Definitions) and 2001 c 196 s 11 & 2000
33 c 79 s 29; and

34 (3) RCW 48.46.062 (Schedule of rates for individual agreements--

1 Loss ratio--Remittance of premiums--Definitions) and 2001 c 196 s 12 &
2 2000 c 79 s 32.

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