

2SHB 2537 - S COMM AMD  
By Committee on Ways & Means

ADOPTED AS AMENDED 03/07/2008

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 70.47A.020 and 2007 c 260 s 2 are each amended to  
4 read as follows:

5 The definitions in this section apply throughout this chapter  
6 unless the context clearly requires otherwise.

7 (1) "Administrator" means the administrator of the Washington state  
8 health care authority, established under chapter 41.05 RCW.

9 (2) "Board" means the health insurance partnership board  
10 established in RCW 70.47A.100.

11 (3) "Eligible partnership participant" means ~~((an individual))~~ a  
12 partnership participant who:

13 (a) Is a resident of the state of Washington; and

14 (b) Has family income that does not exceed two hundred percent of  
15 the federal poverty level, as determined annually by the federal  
16 department of health and human services(~~(; and~~

17 ~~(c) Is employed by a participating small employer or is a former~~  
18 ~~employee of a participating small employer who chooses to continue~~  
19 ~~receiving coverage through the partnership following separation from~~  
20 ~~employment)).~~

21 (4) "Health benefit plan" has the same meaning as defined in RCW  
22 48.43.005.

23 (5) "Participating small employer" means a small employer that  
24 ~~((employs at least one eligible partnership participant and))~~ has  
25 entered into an agreement with the partnership ~~((for the partnership to~~  
26 ~~offer and administer the small employer's group health benefit plan, as~~  
27 ~~defined in federal law, Sec. 706 of ERISA (29 U.S.C. Sec. 1167), for~~  
28 ~~enrollees in the plan))~~ to purchase health benefits through the  
29 partnership. To participate in the partnership, an employer must

1 attest to the fact that (a) the employer does not currently offer  
2 health insurance to its employees, and (b) at least fifty percent of  
3 the employer's employees are low-wage workers.

4 (6) "Partnership" means the health insurance partnership  
5 established in RCW 70.47A.030.

6 (7) "Partnership participant" means (~~(an employee)~~) a participating  
7 small employer and employees of a participating small employer, (~~(or)~~)  
8 and, except to the extent provided otherwise in RCW 70.47A.110(1)(e),  
9 a former employee of a participating small employer who chooses to  
10 continue receiving coverage through the partnership following  
11 separation from employment.

12 (8) "Small employer" has the same meaning as defined in RCW  
13 48.43.005.

14 (9) "Subsidy" or "premium subsidy" means payment or reimbursement  
15 to an eligible partnership participant toward the purchase of a health  
16 benefit plan, and may include a net billing arrangement with insurance  
17 carriers or a prospective or retrospective payment for health benefit  
18 plan premiums.

19 **Sec. 2.** RCW 70.47A.030 and 2007 c 259 s 58 are each amended to  
20 read as follows:

21 (1) To the extent funding is appropriated in the operating budget  
22 for this purpose, the health insurance partnership is established. The  
23 administrator shall be responsible for the implementation and operation  
24 of the health insurance partnership, directly or by contract. The  
25 administrator shall offer premium subsidies to eligible partnership  
26 participants under RCW 70.47A.040. The partnership shall begin to  
27 offer coverage no later than March 1, 2009.

28 (2) Consistent with policies adopted by the board under (~~(section~~  
29 ~~59 of this act))~~) RCW 70.47A.110, the administrator shall, directly or  
30 by contract:

31 (a) Establish and administer procedures for enrolling small  
32 employers in the partnership, including publicizing the existence of  
33 the partnership and disseminating information on enrollment, and  
34 establishing rules related to minimum participation of employees in  
35 small groups purchasing health insurance through the partnership.  
36 Opportunities to publicize the program for outreach and education of  
37 small employers on the value of insurance shall explore the use of

1 online employer guides. As a condition of participating in the  
2 partnership, a small employer must agree to establish a cafeteria plan  
3 under section 125 of the federal internal revenue code that will enable  
4 employees to use pretax dollars to pay their share of their health  
5 benefit plan premium. The partnership shall provide technical  
6 assistance to small employers for this purpose;

7 (b) Establish and administer procedures for health benefit plan  
8 enrollment by employees of small employers during open enrollment  
9 periods and outside of open enrollment periods upon the occurrence of  
10 any qualifying event specified in the federal health insurance  
11 portability and accountability act of 1996 or applicable state law.  
12 ~~((Neither))~~ Except to the extent authorized in RCW 70.47A.110(1)(e),  
13 neither the employer nor the partnership shall limit an employee's  
14 choice of coverage from among ~~((all))~~ the health benefit plans offered  
15 through the partnership;

16 ~~((c))~~ ~~((Establish and manage a system for the partnership to be~~  
17 ~~designated as the sponsor or administrator of a participating small~~  
18 ~~employer health benefit plan and to undertake the obligations required~~  
19 ~~of a plan administrator under federal law;~~

20 ~~((d))~~ Establish and manage a system of collecting and transmitting  
21 to the applicable carriers all premium payments or contributions made  
22 by or on behalf of partnership participants, including employer  
23 contributions, automatic payroll deductions for partnership  
24 participants, premium subsidy payments, and contributions from  
25 philanthropies;

26 ~~((e))~~ (d) Establish and manage a system for determining  
27 eligibility for and making premium subsidy payments under chapter 259,  
28 Laws of 2007;

29 ~~((f))~~ (e) Establish a mechanism to apply a surcharge to ~~((all))~~  
30 each health benefit plan~~((s))~~ purchased through the partnership, which  
31 shall be used only to pay for administrative and operational expenses  
32 of the partnership. The surcharge must be applied uniformly to all  
33 health benefit plans ~~((offered))~~ purchased through the partnership  
34 ~~((and must be included in the premium for each health benefit plan))~~.  
35 Any surcharge amount may be added to the premium, but shall not be  
36 considered part of the small group community rate, and shall be applied  
37 only to the coverage purchased through the partnership. Surcharges may  
38 not be used to pay any premium assistance payments under this chapter.

1 The surcharge shall reflect administrative and operational expenses  
2 remaining after any appropriation provided by the legislature to  
3 support administrative or operational expenses of the partnership  
4 during the year the surcharge is assessed;

5 ((~~g~~)) (f) Design a schedule of premium subsidies that is based  
6 upon gross family income, giving appropriate consideration to family  
7 size and the ages of all family members based on a benchmark health  
8 benefit plan designated by the board. The amount of an eligible  
9 partnership participant's premium subsidy shall be determined by  
10 applying a sliding scale subsidy schedule with the percentage of  
11 premium similar to that developed for subsidized basic health plan  
12 enrollees under RCW 70.47.060. The subsidy shall be applied to the  
13 employee's premium obligation for his or her health benefit plan, so  
14 that employees benefit financially from any employer contribution to  
15 the cost of their coverage through the partnership.

16 (3) The administrator may enter into interdepartmental agreements  
17 with the office of the insurance commissioner, the department of social  
18 and health services, and any other state agencies necessary to  
19 implement this chapter.

20 **Sec. 3.** RCW 70.47A.040 and 2007 c 260 s 6 are each amended to read  
21 as follows:

22 Beginning ((~~September 1, 2008~~)) January 1, 2009, the administrator  
23 shall accept applications from eligible partnership participants, on  
24 behalf of themselves, their spouses, and their dependent children, to  
25 receive premium subsidies through the health insurance partnership.

26 **Sec. 4.** RCW 70.47A.070 and 2006 c 255 s 7 are each amended to read  
27 as follows:

28 The administrator shall report biennially, beginning November 1,  
29 2010, to the relevant policy and fiscal committees of the legislature  
30 on the effectiveness and efficiency of the ((~~small employer~~)) health  
31 insurance partnership program, including enrollment trends, the  
32 services and benefits covered under the purchased health benefit plans,  
33 consumer satisfaction, and other program operational issues.

34 **Sec. 5.** RCW 70.47A.110 and 2007 c 260 s 5 are each amended to read  
35 as follows:

1 (1) The health insurance partnership board shall:

2 (a) Develop policies for enrollment of small employers in the  
3 partnership, including minimum participation rules for small employer  
4 groups. The small employer shall determine the criteria for  
5 eligibility and enrollment in his or her plan and the terms and amounts  
6 of the employer's contributions to that plan, consistent with any  
7 minimum employer premium contribution level established by the board  
8 under (d) of this subsection;

9 (b) Designate health benefit plans that are currently offered in  
10 the small group market that will be offered to participating small  
11 employers through the health insurance partnership and those plans that  
12 will qualify for premium subsidy payments. (~~At least four~~) Up to  
13 five health benefit plans shall be chosen, with multiple deductible and  
14 point-of-service cost-sharing options. The health benefit plans shall  
15 range from catastrophic to comprehensive coverage, and one health  
16 benefit plan shall be a high deductible health plan accompanied by a  
17 health savings account. Every effort shall be made to include health  
18 benefit plans that include components to maximize the quality of care  
19 provided and result in improved health outcomes, such as preventive  
20 care, wellness incentives, chronic care management services, and  
21 provider network development and payment policies related to quality of  
22 care;

23 (c) Approve a mid-range benefit plan from those selected to be used  
24 as a benchmark plan for calculating premium subsidies;

25 (d) Determine whether there should be a minimum employer premium  
26 contribution on behalf of employees, and if so, how much;

27 (e) Develop policies related to partnership participant enrollment  
28 in health benefit plans. The board may focus its initial efforts on  
29 access to coverage and affordability of coverage for participating  
30 small employers and their employees. To the extent necessary for  
31 successful implementation of the partnership, during a start-up phase  
32 of partnership operation, the board may:

33 (i) Limit partnership participant health benefit plan choice; and  
34 (ii) Offer former employees of participating small employers the  
35 opportunity to continue coverage after separation from employment to  
36 the extent that a former employee is eligible for continuation coverage  
37 under 29 U.S.C. Sec. 1161 et seq.

1       The start-up phase may not exceed two years from the date the  
2 partnership begins to offer coverage;

3       (f) Determine appropriate health benefit plan rating methodologies.  
4 The methodologies shall be based on the small group adjusted community  
5 rate as defined in Title 48 RCW. The board shall evaluate the impact  
6 of applying the small group adjusted community rating ~~((with))~~  
7 methodology to health benefit plans purchased through the partnership  
8 on the ~~((partnership))~~ principle of allowing each ~~((employee))~~  
9 partnership participant to choose ~~((their))~~ his or her health benefit  
10 plan, and ~~((consider options))~~ may implement one or more risk  
11 adjustment or reinsurance mechanisms to reduce uncertainty for carriers  
12 and provide for efficient risk management of high-cost enrollees  
13 ~~((through risk adjustment, reinsurance, or other mechanisms));~~

14       ~~((+f))~~ (g) Determine whether the partnership should be designated  
15 as the administrator of a participating small employer health benefit  
16 plan and undertake the obligations required of a plan administrator  
17 under federal law in order to minimize administrative burdens on  
18 participating small employers;

19       (h) Conduct analyses and provide recommendations as requested by  
20 the legislature and the governor, with the assistance of staff from the  
21 health care authority and the office of the insurance commissioner.

22       (2) The board may authorize one or more limited health care service  
23 plans for dental care services to be offered by limited health care  
24 service contractors under RCW 48.44.035. However, such plan shall not  
25 qualify for subsidy payments.

26       (3) In fulfilling the requirements of this section, the board shall  
27 consult with small employers, the office of the insurance commissioner,  
28 members in good standing of the American academy of actuaries, health  
29 carriers, agents and brokers, and employees of small business.

30       **Sec. 6.** RCW 48.21.045 and 2007 c 260 s 7 are each amended to read  
31 as follows:

32       (1)(a) An insurer offering any health benefit plan to a small  
33 employer, either directly or through an association or member-governed  
34 group formed specifically for the purpose of purchasing health care,  
35 may offer and actively market to the small employer a health benefit  
36 plan featuring a limited schedule of covered health care services.  
37 Nothing in this subsection shall preclude an insurer from offering, or

1 a small employer from purchasing, other health benefit plans that may  
2 have more comprehensive benefits than those included in the product  
3 offered under this subsection. An insurer offering a health benefit  
4 plan under this subsection shall clearly disclose all covered benefits  
5 to the small employer in a brochure filed with the commissioner.

6 (b) A health benefit plan offered under this subsection shall  
7 provide coverage for hospital expenses and services rendered by a  
8 physician licensed under chapter 18.57 or 18.71 RCW but is not subject  
9 to the requirements of RCW 48.21.130, 48.21.140, 48.21.141, 48.21.142,  
10 48.21.144, 48.21.146, 48.21.160 through 48.21.197, 48.21.200,  
11 48.21.220, 48.21.225, 48.21.230, 48.21.235, ((48.21.240,)) 48.21.244,  
12 48.21.250, 48.21.300, 48.21.310, or 48.21.320.

13 (2) Nothing in this section shall prohibit an insurer from  
14 offering, or a purchaser from seeking, health benefit plans with  
15 benefits in excess of the health benefit plan offered under subsection  
16 (1) of this section. All forms, policies, and contracts shall be  
17 submitted for approval to the commissioner, and the rates of any plan  
18 offered under this section shall be reasonable in relation to the  
19 benefits thereto.

20 (3) Premium rates for health benefit plans for small employers as  
21 defined in this section shall be subject to the following provisions:

22 (a) The insurer shall develop its rates based on an adjusted  
23 community rate and may only vary the adjusted community rate for:

- 24 (i) Geographic area;
- 25 (ii) Family size;
- 26 (iii) Age; and
- 27 (iv) Wellness activities.

28 (b) The adjustment for age in (a)(iii) of this subsection may not  
29 use age brackets smaller than five-year increments, which shall begin  
30 with age twenty and end with age sixty-five. Employees under the age  
31 of twenty shall be treated as those age twenty.

32 (c) The insurer shall be permitted to develop separate rates for  
33 individuals age sixty-five or older for coverage for which medicare is  
34 the primary payer and coverage for which medicare is not the primary  
35 payer. Both rates shall be subject to the requirements of this  
36 subsection (3).

37 (d) The permitted rates for any age group shall be no more than

1 four hundred twenty-five percent of the lowest rate for all age groups  
2 on January 1, 1996, four hundred percent on January 1, 1997, and three  
3 hundred seventy-five percent on January 1, 2000, and thereafter.

4 (e) A discount for wellness activities shall be permitted to  
5 reflect actuarially justified differences in utilization or cost  
6 attributed to such programs.

7 (f) The rate charged for a health benefit plan offered under this  
8 section may not be adjusted more frequently than annually except that  
9 the premium may be changed to reflect:

10 (i) Changes to the enrollment of the small employer;

11 (ii) Changes to the family composition of the employee;

12 (iii) Changes to the health benefit plan requested by the small  
13 employer; or

14 (iv) Changes in government requirements affecting the health  
15 benefit plan.

16 (g) Rating factors shall produce premiums for identical groups that  
17 differ only by the amounts attributable to plan design, with the  
18 exception of discounts for health improvement programs.

19 (h) For the purposes of this section, a health benefit plan that  
20 contains a restricted network provision shall not be considered similar  
21 coverage to a health benefit plan that does not contain such a  
22 provision, provided that the restrictions of benefits to network  
23 providers result in substantial differences in claims costs. A carrier  
24 may develop its rates based on claims costs due to network provider  
25 reimbursement schedules or type of network. This subsection does not  
26 restrict or enhance the portability of benefits as provided in RCW  
27 48.43.015.

28 (i) Adjusted community rates established under this section shall  
29 pool the medical experience of all small groups purchasing coverage,  
30 including the small group participants in the health insurance  
31 partnership established in RCW 70.47A.030. However, annual rate  
32 adjustments for each small group health benefit plan may vary by up to  
33 plus or minus four percentage points from the overall adjustment of a  
34 carrier's entire small group pool, such overall adjustment to be  
35 approved by the commissioner, upon a showing by the carrier, certified  
36 by a member of the American academy of actuaries that: (i) The  
37 variation is a result of deductible leverage, benefit design, or  
38 provider network characteristics; and (ii) for a rate renewal period,



1 the projected weighted average of all small group benefit plans will  
2 have a revenue neutral effect on the carrier's small group pool.  
3 Variations of greater than four percentage points are subject to review  
4 by the commissioner, and must be approved or denied within sixty days  
5 of submittal. A variation that is not denied within sixty days shall  
6 be deemed approved. The commissioner must provide to the carrier a  
7 detailed actuarial justification for any denial within thirty days of  
8 the denial.

9 (j) For health benefit plans purchased through the health insurance  
10 partnership established in chapter 70.47A RCW:

11 (i) Any surcharge established pursuant to RCW 70.47A.030(2)(e)  
12 shall be applied only to health benefit plans purchased through the  
13 health insurance partnership; and

14 (ii) Risk adjustment or reinsurance mechanisms may be used by the  
15 health insurance partnership program to redistribute funds to carriers  
16 participating in the health insurance partnership based on differences  
17 in risk attributable to individual choice of health plans or other  
18 factors unique to health insurance partnership participation. Use of  
19 such mechanisms shall be limited to the partnership program and will  
20 not affect small group health plans offered outside the partnership.

21 (4) Nothing in this section shall restrict the right of employees  
22 to collectively bargain for insurance providing benefits in excess of  
23 those provided herein.

24 (5)(a) Except as provided in this subsection, requirements used by  
25 an insurer in determining whether to provide coverage to a small  
26 employer shall be applied uniformly among all small employers applying  
27 for coverage or receiving coverage from the carrier.

28 (b) An insurer shall not require a minimum participation level  
29 greater than:

30 (i) One hundred percent of eligible employees working for groups  
31 with three or less employees; and

32 (ii) Seventy-five percent of eligible employees working for groups  
33 with more than three employees.

34 (c) In applying minimum participation requirements with respect to  
35 a small employer, a small employer shall not consider employees or  
36 dependents who have similar existing coverage in determining whether  
37 the applicable percentage of participation is met.

1 (d) An insurer may not increase any requirement for minimum  
2 employee participation or modify any requirement for minimum employer  
3 contribution applicable to a small employer at any time after the small  
4 employer has been accepted for coverage.

5 (e) Minimum participation requirements and employer premium  
6 contribution requirements adopted by the health insurance partnership  
7 board under RCW 70.47A.110 shall apply only to the employers and  
8 employees who purchase health benefit plans through the health  
9 insurance partnership.

10 (6) An insurer must offer coverage to all eligible employees of a  
11 small employer and their dependents. An insurer may not offer coverage  
12 to only certain individuals or dependents in a small employer group or  
13 to only part of the group. An insurer may not modify a health plan  
14 with respect to a small employer or any eligible employee or dependent,  
15 through riders, endorsements or otherwise, to restrict or exclude  
16 coverage or benefits for specific diseases, medical conditions, or  
17 services otherwise covered by the plan.

18 (7) As used in this section, "health benefit plan," "small  
19 employer," "adjusted community rate," and "wellness activities" mean  
20 the same as defined in RCW 48.43.005.

21 **Sec. 7.** RCW 48.44.023 and 2007 c 260 s 8 are each amended to read  
22 as follows:

23 (1)(a) A health care services contractor offering any health  
24 benefit plan to a small employer, either directly or through an  
25 association or member-governed group formed specifically for the  
26 purpose of purchasing health care, may offer and actively market to the  
27 small employer a health benefit plan featuring a limited schedule of  
28 covered health care services. Nothing in this subsection shall  
29 preclude a contractor from offering, or a small employer from  
30 purchasing, other health benefit plans that may have more comprehensive  
31 benefits than those included in the product offered under this  
32 subsection. A contractor offering a health benefit plan under this  
33 subsection shall clearly disclose all covered benefits to the small  
34 employer in a brochure filed with the commissioner.

35 (b) A health benefit plan offered under this subsection shall  
36 provide coverage for hospital expenses and services rendered by a  
37 physician licensed under chapter 18.57 or 18.71 RCW but is not subject

1 to the requirements of RCW 48.44.225, 48.44.240, 48.44.245, 48.44.290,  
2 48.44.300, 48.44.310, 48.44.320, 48.44.325, 48.44.330, 48.44.335,  
3 (~~48.44.340,~~) 48.44.344, 48.44.360, 48.44.400, 48.44.440, 48.44.450,  
4 and 48.44.460.

5 (2) Nothing in this section shall prohibit a health care service  
6 contractor from offering, or a purchaser from seeking, health benefit  
7 plans with benefits in excess of the health benefit plan offered under  
8 subsection (1) of this section. All forms, policies, and contracts  
9 shall be submitted for approval to the commissioner, and the rates of  
10 any plan offered under this section shall be reasonable in relation to  
11 the benefits thereto.

12 (3) Premium rates for health benefit plans for small employers as  
13 defined in this section shall be subject to the following provisions:

14 (a) The contractor shall develop its rates based on an adjusted  
15 community rate and may only vary the adjusted community rate for:

- 16 (i) Geographic area;
- 17 (ii) Family size;
- 18 (iii) Age; and
- 19 (iv) Wellness activities.

20 (b) The adjustment for age in (a)(iii) of this subsection may not  
21 use age brackets smaller than five-year increments, which shall begin  
22 with age twenty and end with age sixty-five. Employees under the age  
23 of twenty shall be treated as those age twenty.

24 (c) The contractor shall be permitted to develop separate rates for  
25 individuals age sixty-five or older for coverage for which medicare is  
26 the primary payer and coverage for which medicare is not the primary  
27 payer. Both rates shall be subject to the requirements of this  
28 subsection (3).

29 (d) The permitted rates for any age group shall be no more than  
30 four hundred twenty-five percent of the lowest rate for all age groups  
31 on January 1, 1996, four hundred percent on January 1, 1997, and three  
32 hundred seventy-five percent on January 1, 2000, and thereafter.

33 (e) A discount for wellness activities shall be permitted to  
34 reflect actuarially justified differences in utilization or cost  
35 attributed to such programs.

36 (f) The rate charged for a health benefit plan offered under this  
37 section may not be adjusted more frequently than annually except that  
38 the premium may be changed to reflect:

1 (i) Changes to the enrollment of the small employer;  
2 (ii) Changes to the family composition of the employee;  
3 (iii) Changes to the health benefit plan requested by the small  
4 employer; or  
5 (iv) Changes in government requirements affecting the health  
6 benefit plan.

7 (g) Rating factors shall produce premiums for identical groups that  
8 differ only by the amounts attributable to plan design, with the  
9 exception of discounts for health improvement programs.

10 (h) For the purposes of this section, a health benefit plan that  
11 contains a restricted network provision shall not be considered similar  
12 coverage to a health benefit plan that does not contain such a  
13 provision, provided that the restrictions of benefits to network  
14 providers result in substantial differences in claims costs. A carrier  
15 may develop its rates based on claims costs due to network provider  
16 reimbursement schedules or type of network. This subsection does not  
17 restrict or enhance the portability of benefits as provided in RCW  
18 48.43.015.

19 (i) Adjusted community rates established under this section shall  
20 pool the medical experience of all groups purchasing coverage,  
21 including the small group participants in the health insurance  
22 partnership established in RCW 70.47A.030. However, annual rate  
23 adjustments for each small group health benefit plan may vary by up to  
24 plus or minus four percentage points from the overall adjustment of a  
25 carrier's entire small group pool, such overall adjustment to be  
26 approved by the commissioner, upon a showing by the carrier, certified  
27 by a member of the American academy of actuaries that: (i) The  
28 variation is a result of deductible leverage, benefit design, or  
29 provider network characteristics; and (ii) for a rate renewal period,  
30 the projected weighted average of all small group benefit plans will  
31 have a revenue neutral effect on the carrier's small group pool.  
32 Variations of greater than four percentage points are subject to review  
33 by the commissioner, and must be approved or denied within sixty days  
34 of submittal. A variation that is not denied within sixty days shall  
35 be deemed approved. The commissioner must provide to the carrier a  
36 detailed actuarial justification for any denial within thirty days of  
37 the denial.

1 (j) For health benefit plans purchased through the health insurance  
2 partnership established in chapter 70.47A RCW:

3 (i) Any surcharge established pursuant to RCW 70.47A.030(2)(e)  
4 shall be applied only to health benefit plans purchased through the  
5 health insurance partnership; and

6 (ii) Risk adjustment or reinsurance mechanisms may be used by the  
7 health insurance partnership program to redistribute funds to carriers  
8 participating in the health insurance partnership based on differences  
9 in risk attributable to individual choice of health plans or other  
10 factors unique to health insurance partnership participation. Use of  
11 such mechanisms shall be limited to the partnership program and will  
12 not affect small group health plans offered outside the partnership.

13 (4) Nothing in this section shall restrict the right of employees  
14 to collectively bargain for insurance providing benefits in excess of  
15 those provided herein.

16 (5)(a) Except as provided in this subsection, requirements used by  
17 a contractor in determining whether to provide coverage to a small  
18 employer shall be applied uniformly among all small employers applying  
19 for coverage or receiving coverage from the carrier.

20 (b) A contractor shall not require a minimum participation level  
21 greater than:

22 (i) One hundred percent of eligible employees working for groups  
23 with three or less employees; and

24 (ii) Seventy-five percent of eligible employees working for groups  
25 with more than three employees.

26 (c) In applying minimum participation requirements with respect to  
27 a small employer, a small employer shall not consider employees or  
28 dependents who have similar existing coverage in determining whether  
29 the applicable percentage of participation is met.

30 (d) A contractor may not increase any requirement for minimum  
31 employee participation or modify any requirement for minimum employer  
32 contribution applicable to a small employer at any time after the small  
33 employer has been accepted for coverage.

34 (e) Minimum participation requirements and employer premium  
35 contribution requirements adopted by the health insurance partnership  
36 board under RCW 70.47A.110 shall apply only to the employers and  
37 employees who purchase health benefit plans through the health  
38 insurance partnership.

1 (6) A contractor must offer coverage to all eligible employees of  
2 a small employer and their dependents. A contractor may not offer  
3 coverage to only certain individuals or dependents in a small employer  
4 group or to only part of the group. A contractor may not modify a  
5 health plan with respect to a small employer or any eligible employee  
6 or dependent, through riders, endorsements or otherwise, to restrict or  
7 exclude coverage or benefits for specific diseases, medical conditions,  
8 or services otherwise covered by the plan.

9 **Sec. 8.** RCW 48.46.066 and 2007 c 260 s 9 are each amended to read  
10 as follows:

11 (1)(a) A health maintenance organization offering any health  
12 benefit plan to a small employer, either directly or through an  
13 association or member-governed group formed specifically for the  
14 purpose of purchasing health care, may offer and actively market to the  
15 small employer a health benefit plan featuring a limited schedule of  
16 covered health care services. Nothing in this subsection shall  
17 preclude a health maintenance organization from offering, or a small  
18 employer from purchasing, other health benefit plans that may have more  
19 comprehensive benefits than those included in the product offered under  
20 this subsection. A health maintenance organization offering a health  
21 benefit plan under this subsection shall clearly disclose all the  
22 covered benefits to the small employer in a brochure filed with the  
23 commissioner.

24 (b) A health benefit plan offered under this subsection shall  
25 provide coverage for hospital expenses and services rendered by a  
26 physician licensed under chapter 18.57 or 18.71 RCW but is not subject  
27 to the requirements of RCW 48.46.275, 48.46.280, 48.46.285,  
28 (~~48.46.290~~) 48.46.350, 48.46.355, 48.46.375, 48.46.440, 48.46.480,  
29 48.46.510, 48.46.520, and 48.46.530.

30 (2) Nothing in this section shall prohibit a health maintenance  
31 organization from offering, or a purchaser from seeking, health benefit  
32 plans with benefits in excess of the health benefit plan offered under  
33 subsection (1) of this section. All forms, policies, and contracts  
34 shall be submitted for approval to the commissioner, and the rates of  
35 any plan offered under this section shall be reasonable in relation to  
36 the benefits thereto.

1 (3) Premium rates for health benefit plans for small employers as  
2 defined in this section shall be subject to the following provisions:

3 (a) The health maintenance organization shall develop its rates  
4 based on an adjusted community rate and may only vary the adjusted  
5 community rate for:

- 6 (i) Geographic area;
- 7 (ii) Family size;
- 8 (iii) Age; and
- 9 (iv) Wellness activities.

10 (b) The adjustment for age in (a)(iii) of this subsection may not  
11 use age brackets smaller than five-year increments, which shall begin  
12 with age twenty and end with age sixty-five. Employees under the age  
13 of twenty shall be treated as those age twenty.

14 (c) The health maintenance organization shall be permitted to  
15 develop separate rates for individuals age sixty-five or older for  
16 coverage for which medicare is the primary payer and coverage for which  
17 medicare is not the primary payer. Both rates shall be subject to the  
18 requirements of this subsection (3).

19 (d) The permitted rates for any age group shall be no more than  
20 four hundred twenty-five percent of the lowest rate for all age groups  
21 on January 1, 1996, four hundred percent on January 1, 1997, and three  
22 hundred seventy-five percent on January 1, 2000, and thereafter.

23 (e) A discount for wellness activities shall be permitted to  
24 reflect actuarially justified differences in utilization or cost  
25 attributed to such programs.

26 (f) The rate charged for a health benefit plan offered under this  
27 section may not be adjusted more frequently than annually except that  
28 the premium may be changed to reflect:

- 29 (i) Changes to the enrollment of the small employer;
- 30 (ii) Changes to the family composition of the employee;
- 31 (iii) Changes to the health benefit plan requested by the small  
32 employer; or
- 33 (iv) Changes in government requirements affecting the health  
34 benefit plan.

35 (g) Rating factors shall produce premiums for identical groups that  
36 differ only by the amounts attributable to plan design, with the  
37 exception of discounts for health improvement programs.

1 (h) For the purposes of this section, a health benefit plan that  
2 contains a restricted network provision shall not be considered similar  
3 coverage to a health benefit plan that does not contain such a  
4 provision, provided that the restrictions of benefits to network  
5 providers result in substantial differences in claims costs. A carrier  
6 may develop its rates based on claims costs due to network provider  
7 reimbursement schedules or type of network. This subsection does not  
8 restrict or enhance the portability of benefits as provided in RCW  
9 48.43.015.

10 (i) Adjusted community rates established under this section shall  
11 pool the medical experience of all groups purchasing coverage,  
12 including the small group participants in the health insurance  
13 partnership established in RCW 70.47A.030. However, annual rate  
14 adjustments for each small group health benefit plan may vary by up to  
15 plus or minus four percentage points from the overall adjustment of a  
16 carrier's entire small group pool, such overall adjustment to be  
17 approved by the commissioner, upon a showing by the carrier, certified  
18 by a member of the American academy of actuaries that: (i) The  
19 variation is a result of deductible leverage, benefit design, or  
20 provider network characteristics; and (ii) for a rate renewal period,  
21 the projected weighted average of all small group benefit plans will  
22 have a revenue neutral effect on the carrier's small group pool.  
23 Variations of greater than four percentage points are subject to review  
24 by the commissioner, and must be approved or denied within sixty days  
25 of submittal. A variation that is not denied within sixty days shall  
26 be deemed approved. The commissioner must provide to the carrier a  
27 detailed actuarial justification for any denial within thirty days of  
28 the denial.

29 (j) For health benefit plans purchased through the health insurance  
30 partnership established in chapter 70.47A RCW:

31 (i) Any surcharge established pursuant to RCW 70.47A.030(2)(e)  
32 shall be applied only to health benefit plans purchased through the  
33 health insurance partnership; and

34 (ii) Risk adjustment or reinsurance mechanisms may be used by the  
35 health insurance partnership program to redistribute funds to carriers  
36 participating in the health insurance partnership based on differences  
37 in risk attributable to individual choice of health plans or other



1 factors unique to health insurance partnership participation. Use of  
2 such mechanisms shall be limited to the partnership program and will  
3 not affect small group health plans offered outside the partnership.

4 (4) Nothing in this section shall restrict the right of employees  
5 to collectively bargain for insurance providing benefits in excess of  
6 those provided herein.

7 (5)(a) Except as provided in this subsection, requirements used by  
8 a health maintenance organization in determining whether to provide  
9 coverage to a small employer shall be applied uniformly among all small  
10 employers applying for coverage or receiving coverage from the carrier.

11 (b) A health maintenance organization shall not require a minimum  
12 participation level greater than:

13 (i) One hundred percent of eligible employees working for groups  
14 with three or less employees; and

15 (ii) Seventy-five percent of eligible employees working for groups  
16 with more than three employees.

17 (c) In applying minimum participation requirements with respect to  
18 a small employer, a small employer shall not consider employees or  
19 dependents who have similar existing coverage in determining whether  
20 the applicable percentage of participation is met.

21 (d) A health maintenance organization may not increase any  
22 requirement for minimum employee participation or modify any  
23 requirement for minimum employer contribution applicable to a small  
24 employer at any time after the small employer has been accepted for  
25 coverage.

26 (e) Minimum participation requirements and employer premium  
27 contribution requirements adopted by the health insurance partnership  
28 board under RCW 70.47A.110 shall apply only to the employers and  
29 employees who purchase health benefit plans through the health  
30 insurance partnership.

31 (6) A health maintenance organization must offer coverage to all  
32 eligible employees of a small employer and their dependents. A health  
33 maintenance organization may not offer coverage to only certain  
34 individuals or dependents in a small employer group or to only part of  
35 the group. A health maintenance organization may not modify a health  
36 plan with respect to a small employer or any eligible employee or  
37 dependent, through riders, endorsements or otherwise, to restrict or

1 exclude coverage or benefits for specific diseases, medical conditions,  
2 or services otherwise covered by the plan.

3 NEW SECTION. **Sec. 9.** If specific funding for the purposes of this  
4 act, referencing this act by bill or chapter number, is not provided by  
5 June 30, 2008, in the omnibus appropriations act, this act is null and  
6 void."

**2SHB 2537** - S COMM AMD  
By Committee on Ways & Means

**ADOPTED AS AMENDED 03/07/2008**

7 On page 1, line 3 of the title, after "partnership;" strike the  
8 remainder of the title and insert "amending RCW 70.47A.020, 70.47A.030,  
9 70.47A.040, 70.47A.070, 70.47A.110, 48.21.045, 48.44.023, and  
10 48.46.066; and creating a new section."

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