

CERTIFICATION OF ENROLLMENT
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1569

60th Legislature
2007 Regular Session

Passed by the House April 16, 2007
Yeas 61 Nays 34

Speaker of the House of Representatives

Passed by the Senate April 12, 2007
Yeas 28 Nays 20

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1569** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1569

AS AMENDED BY THE SENATE

Passed Legislature - 2007 Regular Session

State of Washington **60th Legislature** **2007 Regular Session**

By House Committee on Appropriations (originally sponsored by Representatives Cody, Campbell, Morrell, Linville, Moeller, Green, Seaquist, Conway, Dickerson, Appleton, McIntire, McCoy, Kagi, Pedersen, Kenney, Lantz, Santos, Wood and Ormsby)

READ FIRST TIME 03/05/07.

1 AN ACT Relating to improving health insurance coverage by
2 establishing a health insurance partnership for the purchase of small
3 employer health insurance coverage, evaluating the inclusion of
4 additional health insurance markets in the health insurance
5 partnership, and studying the impact of health insurance mandates;
6 amending RCW 70.47A.010, 70.47A.020, 70.47A.030, 70.47A.040, 48.21.045,
7 48.44.023, 48.46.066, 70.47A.050, 70.47A.060, and 70.47A.080; adding
8 new sections to chapter 70.47A RCW; creating new sections; repealing
9 2006 c 255 s 10 (uncodified); providing an effective date; and
10 declaring an emergency.

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

12 **Sec. 1.** RCW 70.47A.010 and 2006 c 255 s 1 are each amended to read
13 as follows:

14 (1) The legislature finds that many small employers struggle with
15 the cost of providing employer-sponsored health insurance coverage to
16 their employees, while others are unable to offer employer-sponsored
17 health insurance due to its high cost. Low-wage workers also struggle
18 with the burden of paying their share of the costs of

1 employer-sponsored health insurance, while others turn down their
2 employer's offer of coverage due to its costs.

3 (2) The legislature intends, through establishment of a (~~small~~
4 ~~employer~~) health insurance partnership program, to remove economic
5 barriers to health insurance coverage for low-wage employees of small
6 employers by building on the private sector health benefit plan system
7 and encouraging employer and employee participation in
8 employer-sponsored health benefit plan coverage.

9 **Sec. 2.** RCW 70.47A.020 and 2006 c 255 s 2 are each amended to read
10 as follows:

11 The definitions in this section apply throughout this chapter
12 unless the context clearly requires otherwise.

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

15 (2) "Board" means the health insurance partnership board
16 established in section 4 of this act.

17 (3) "Eligible (~~employee~~) partnership participant" means an
18 individual who:

19 (a) Is a resident of the state of Washington;

20 (b) Has family income (~~less than~~) that does not exceed two
21 hundred percent of the federal poverty level, as determined annually by
22 the federal department of health and human services; and

23 (c) Is employed by a participating small employer or is a former
24 employee of a participating small employer who chooses to continue
25 receiving coverage through the partnership following separation from
26 employment.

27 (~~(3)~~) (4) "Health benefit plan" has the same meaning as defined
28 in RCW 48.43.005 (~~or any plan provided by a self-funded multiple~~
29 ~~employer welfare arrangement as defined in RCW 48.125.010 or by another~~
30 ~~benefit arrangement defined in the federal employee retirement income~~
31 ~~security act of 1974, as amended)).~~

32 (~~(4)~~ "Program") (5) "Participating small employer" means a small
33 employer that employs at least one eligible partnership participant and
34 has entered into an agreement with the partnership for the partnership
35 to offer and administer the small employer's group health benefit plan,
36 as defined in federal law, Sec. 706 of ERISA (29 U.S.C. Sec. 1167), for
37 enrollees in the plan.

1 (6) "Partnership" means the (~~small employer~~) health insurance
2 partnership (~~program~~) established in RCW 70.47A.030.

3 (~~(5)~~) (7) "Partnership participant" means an employee of a
4 participating small employer, or a former employee of a participating
5 small employer who chooses to continue receiving coverage through the
6 partnership following separation from employment.

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

9 (~~(6)~~) (9) "Subsidy" or "premium subsidy" means payment or
10 reimbursement to an eligible (~~employee~~) partnership participant
11 toward the purchase of a health benefit plan, and may include a net
12 billing arrangement with insurance carriers or a prospective or
13 retrospective payment for health benefit plan premiums.

14 **Sec. 3.** RCW 70.47A.030 and 2006 c 255 s 3 are each amended to read
15 as follows:

16 (1) To the extent funding is appropriated in the operating budget
17 for this purpose, the (~~small employer~~) health insurance partnership
18 (~~program~~) is established. The administrator shall be responsible for
19 the implementation and operation of the (~~small employer~~) health
20 insurance partnership (~~program~~), directly or by contract. The
21 administrator shall offer premium subsidies to eligible (~~employees~~)
22 partnership participants under RCW 70.47A.040.

23 (2) Consistent with policies adopted by the board under section 4
24 of this act, the administrator shall, directly or by contract:

25 (a) Establish and administer procedures for enrolling small
26 employers in the partnership, including publicizing the existence of
27 the partnership and disseminating information on enrollment, and
28 establishing rules related to minimum participation of employees in
29 small groups purchasing health insurance through the partnership.
30 Opportunities to publicize the program for outreach and education of
31 small employers on the value of insurance shall explore the use of
32 online employer guides. As a condition of participating in the
33 partnership, a small employer must agree to establish a cafeteria plan
34 under section 125 of the federal internal revenue code that will enable
35 employees to use pretax dollars to pay their share of their health
36 benefit plan premium. The partnership shall provide technical
37 assistance to small employers for this purpose;

1 (b) Establish and administer procedures for health benefit plan
2 enrollment by employees of small employers during open enrollment
3 periods and outside of open enrollment periods upon the occurrence of
4 any qualifying event specified in the federal health insurance
5 portability and accountability act of 1996 or applicable state law.
6 Neither the employer nor the partnership shall limit an employee's
7 choice of coverage from among all the health benefit plans offered;

8 (c) Establish and manage a system for the partnership to be
9 designated as the sponsor or administrator of a participating small
10 employer health benefit plan and to undertake the obligations required
11 of a plan administrator under federal law;

12 (d) Establish and manage a system of collecting and transmitting to
13 the applicable carriers all premium payments or contributions made by
14 or on behalf of partnership participants, including employer
15 contributions, automatic payroll deductions for partnership
16 participants, premium subsidy payments, and contributions from
17 philanthropies;

18 (e) Establish and manage a system for determining eligibility for
19 and making premium subsidy payments under this act;

20 (f) Establish a mechanism to apply a surcharge to all health
21 benefit plans, which shall be used only to pay for administrative and
22 operational expenses of the partnership. The surcharge must be applied
23 uniformly to all health benefit plans offered through the partnership
24 and must be included in the premium for each health benefit plan.
25 Surcharges may not be used to pay any premium assistance payments under
26 this chapter;

27 (g) Design a schedule of premium subsidies that is based upon gross
28 family income, giving appropriate consideration to family size and the
29 ages of all family members based on a benchmark health benefit plan
30 designated by the board. The amount of an eligible partnership
31 participant's premium subsidy shall be determined by applying a sliding
32 scale subsidy schedule with the percentage of premium similar to that
33 developed for subsidized basic health plan enrollees under RCW
34 70.47.060. The subsidy shall be applied to the employee's premium
35 obligation for his or her health benefit plan, so that employees
36 benefit financially from any employer contribution to the cost of their
37 coverage through the partnership. Employees shall not be eligible for
38 premium assistance if they have immediately transitioned from employer-

1 sponsored insurance, until they have fulfilled a six-month waiting
2 period. During that time, the employee may participate in the program
3 but not receive state-sponsored premium assistance.

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

8 NEW SECTION. Sec. 4. A new section is added to chapter 70.47A RCW
9 to read as follows:

10 (1) The health insurance partnership board is hereby established.
11 The governor shall appoint a seven-member health insurance partnership
12 board by June 30, 2007. The board shall be composed of persons with
13 expertise in the health insurance market and benefit design, and be
14 chaired by the administrator.

15 (2) The governor shall appoint the initial members of the board to
16 staggered terms not to exceed four years. Initial appointments shall
17 be made on or before June 1, 2007. Members appointed thereafter shall
18 serve two-year terms. Members of the board shall be compensated in
19 accordance with RCW 43.03.250 and shall be reimbursed for their travel
20 expenses while on official business in accordance with RCW 43.03.050
21 and 43.03.060. The board shall prescribe rules for the conduct of its
22 business. Meetings of the board shall be at the call of the chair.

23 (3) The board may establish technical advisory committees or seek
24 the advice of technical experts when necessary to execute the powers
25 and duties included in this section.

26 (4) The board and employees of the board shall not be civilly or
27 criminally liable and shall not have any penalty or cause of action of
28 any nature arise against them for any action taken or not taken,
29 including any discretionary decision or failure to make a discretionary
30 decision, when the action or inaction is done in good faith and in the
31 performance of the powers and duties under this chapter. Nothing in
32 this section prohibits legal actions against the board to enforce the
33 board's statutory or contractual duties or obligations.

34 NEW SECTION. Sec. 5. A new section is added to chapter 70.47A RCW
35 to read as follows:

36 (1) The health insurance partnership board shall:

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

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

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

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

23 (e) Determine appropriate health benefit plan rating methodologies.
24 The methodologies shall be based on the small group adjusted community
25 rate as defined in Title 48 RCW. The board shall evaluate the impact
26 of applying the small group community rating with the partnership
27 principle of allowing each employee to choose their health benefit
28 plan, and consider options to reduce uncertainty for carriers and
29 provide for efficient risk management of high-cost enrollees through
30 risk adjustment, reinsurance, or other mechanisms;

31 (f) Conduct analyses and provide recommendations as requested by
32 the legislature and the governor, with the assistance of staff from the
33 health care authority and the office of the insurance commissioner.

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

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

5 **Sec. 6.** RCW 70.47A.040 and 2006 c 255 s 4 are each amended to read
6 as follows:

7 ~~((1))~~ Beginning ~~((July 1, 2007))~~ September 1, 2008, the
8 administrator shall accept applications from eligible ~~((employees))~~
9 partnership participants, on behalf of themselves, their spouses, and
10 their dependent children, to receive premium subsidies through the
11 ~~((small employer))~~ health insurance partnership ~~((program))~~.

12 ~~((2) Premium subsidy payments may be provided to eligible
13 employees if:~~

14 ~~(a) The eligible employee is employed by a small employer;~~

15 ~~(b) The actuarial value of the health benefit plan offered by the
16 small employer is at least equivalent to that of the basic health plan
17 benefit offered under chapter 70.47 RCW. The office of the insurance
18 commissioner under Title 48 RCW shall certify those small employer
19 health benefit plans that are at least actuarially equivalent to the
20 basic health plan benefit; and~~

21 ~~(c) The small employer will pay at least forty percent of the
22 monthly premium cost for health benefit plan coverage of the eligible
23 employee.~~

24 ~~(3) The amount of an eligible employee's premium subsidy shall be
25 determined by applying the sliding scale subsidy schedule developed for
26 subsidized basic health plan enrollees under RCW 70.47.060 to the
27 employee's premium obligation for his or her employer's health benefit
28 plan.~~

29 ~~(4) After an eligible individual has enrolled in the program, the
30 program shall issue subsidies in an amount determined pursuant to
31 subsection (3) of this section to either the eligible employee or to
32 the carrier designated by the eligible employee.~~

33 ~~(5) An eligible employee must agree to provide verification of
34 continued enrollment in his or her small employer's health benefit plan
35 on a semiannual basis or to notify the administrator whenever his or
36 her enrollment status changes, whichever is earlier. Verification or
37 notification may be made directly by the employee, or through his or~~

1 ~~her employer or the carrier providing the small employer health benefit~~
2 ~~plan. When necessary, the administrator has the authority to perform~~
3 ~~retrospective audits on premium subsidy accounts. The administrator~~
4 ~~may suspend or terminate an employee's participation in the program and~~
5 ~~seek repayment of any subsidy amounts paid due to the omission or~~
6 ~~misrepresentation of an applicant or enrolled employee. The~~
7 ~~administrator shall adopt rules to define the appropriate application~~
8 ~~of these sanctions and the processes to implement the sanctions~~
9 ~~provided in this subsection, within available resources.))~~

10 **Sec. 7.** RCW 48.21.045 and 2004 c 244 s 1 are each amended to read
11 as follows:

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

23 (b) A health benefit plan offered under this subsection shall
24 provide coverage for hospital expenses and services rendered by a
25 physician licensed under chapter 18.57 or 18.71 RCW but is not subject
26 to the requirements of RCW 48.21.130, 48.21.140, 48.21.141, 48.21.142,
27 48.21.144, 48.21.146, 48.21.160 through 48.21.197, 48.21.200,
28 48.21.220, 48.21.225, 48.21.230, 48.21.235, 48.21.240, 48.21.244,
29 48.21.250, 48.21.300, 48.21.310, or 48.21.320.

30 (2) Nothing in this section shall prohibit an insurer from
31 offering, or a purchaser from seeking, health benefit plans with
32 benefits in excess of the health benefit plan offered under subsection
33 (1) of this section. All forms, policies, and contracts shall be
34 submitted for approval to the commissioner, and the rates of any plan
35 offered under this section shall be reasonable in relation to the
36 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 insurer shall develop its rates based on an adjusted
4 community rate and may only vary the adjusted community rate for:

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

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

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

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

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

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

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

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

37 (h) For the purposes of this section, a health benefit plan that
38 contains a restricted network provision shall not be considered similar

1 coverage to a health benefit plan that does not contain such a
2 provision, provided that the restrictions of benefits to network
3 providers result in substantial differences in claims costs. A carrier
4 may develop its rates based on claims costs due to network provider
5 reimbursement schedules or type of network. This subsection does not
6 restrict or enhance the portability of benefits as provided in RCW
7 48.43.015.

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

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

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

34 (b) An insurer shall not require a minimum participation level
35 greater than:

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

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

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

7 (d) An insurer may not increase any requirement for minimum
8 employee participation or modify any requirement for minimum employer
9 contribution applicable to a small employer at any time after the small
10 employer has been accepted for coverage.

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

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

22 **Sec. 8.** RCW 48.44.023 and 2004 c 244 s 7 are each amended to read
23 as follows:

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

36 (b) A health benefit plan offered under this subsection shall
37 provide coverage for hospital expenses and services rendered by a

1 physician licensed under chapter 18.57 or 18.71 RCW but is not subject
2 to the requirements of RCW 48.44.225, 48.44.240, 48.44.245, 48.44.290,
3 48.44.300, 48.44.310, 48.44.320, 48.44.325, 48.44.330, 48.44.335,
4 48.44.340, 48.44.344, 48.44.360, 48.44.400, 48.44.440, 48.44.450, and
5 48.44.460.

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

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

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

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

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

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

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

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

37 (f) The rate charged for a health benefit plan offered under this

1 section may not be adjusted more frequently than annually except that
2 the premium may be changed to reflect:

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

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

5 (iii) Changes to the health benefit plan requested by the small
6 employer; or

7 (iv) Changes in government requirements affecting the health
8 benefit plan.

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

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

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

1 detailed actuarial justification for any denial within thirty days of
2 the denial.

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

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

10 (b) A contractor shall not require a minimum participation level
11 greater than:

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

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

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

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

24 (6) A contractor must offer coverage to all eligible employees of
25 a small employer and their dependents. A contractor may not offer
26 coverage to only certain individuals or dependents in a small employer
27 group or to only part of the group. A contractor may not modify a
28 health plan with respect to a small employer or any eligible employee
29 or dependent, through riders, endorsements or otherwise, to restrict or
30 exclude coverage or benefits for specific diseases, medical conditions,
31 or services otherwise covered by the plan.

32 **Sec. 9.** RCW 48.46.066 and 2004 c 244 s 9 are each amended to read
33 as follows:

34 (1)(a) A health maintenance organization offering any health
35 benefit plan to a small employer, either directly or through an
36 association or member-governed group formed specifically for the
37 purpose of purchasing health care, may offer and actively market to the

1 small employer a health benefit plan featuring a limited schedule of
2 covered health care services. Nothing in this subsection shall
3 preclude a health maintenance organization from offering, or a small
4 employer from purchasing, other health benefit plans that may have more
5 comprehensive benefits than those included in the product offered under
6 this subsection. A health maintenance organization offering a health
7 benefit plan under this subsection shall clearly disclose all the
8 covered benefits to the small employer in a brochure filed with the
9 commissioner.

10 (b) A health benefit plan offered under this subsection shall
11 provide coverage for hospital expenses and services rendered by a
12 physician licensed under chapter 18.57 or 18.71 RCW but is not subject
13 to the requirements of RCW 48.46.275, 48.46.280, 48.46.285, 48.46.290,
14 48.46.350, 48.46.355, 48.46.375, 48.46.440, 48.46.480, 48.46.510,
15 48.46.520, and 48.46.530.

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

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

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

- 28 (i) Geographic area;
- 29 (ii) Family size;
- 30 (iii) Age; and
- 31 (iv) Wellness activities.

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

36 (c) The health maintenance organization shall be permitted to
37 develop separate rates for individuals age sixty-five or older for

1 coverage for which medicare is the primary payer and coverage for which
2 medicare is not the primary payer. Both rates shall be subject to the
3 requirements of this subsection (3).

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

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

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

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

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

16 (iii) Changes to the health benefit plan requested by the small
17 employer; or

18 (iv) Changes in government requirements affecting the health
19 benefit plan.

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

23 (h) For the purposes of this section, a health benefit plan that
24 contains a restricted network provision shall not be considered similar
25 coverage to a health benefit plan that does not contain such a
26 provision, provided that the restrictions of benefits to network
27 providers result in substantial differences in claims costs. A carrier
28 may develop its rates based on claims costs due to network provider
29 reimbursement schedules or type of network. This subsection does not
30 restrict or enhance the portability of benefits as provided in RCW
31 48.43.015.

32 (i) Adjusted community rates established under this section shall
33 pool the medical experience of all groups purchasing coverage,
34 including the small group participants in the health insurance
35 partnership established in RCW 70.47A.030. However, annual rate
36 adjustments for each small group health benefit plan may vary by up to
37 plus or minus four percentage points from the overall adjustment of a
38 carrier's entire small group pool, such overall adjustment to be

1 approved by the commissioner, upon a showing by the carrier, certified
2 by a member of the American academy of actuaries that: (i) The
3 variation is a result of deductible leverage, benefit design, or
4 provider network characteristics; and (ii) for a rate renewal period,
5 the projected weighted average of all small group benefit plans will
6 have a revenue neutral effect on the carrier's small group pool.
7 Variations of greater than four percentage points are subject to review
8 by the commissioner, and must be approved or denied within sixty days
9 of submittal. A variation that is not denied within sixty days shall
10 be deemed approved. The commissioner must provide to the carrier a
11 detailed actuarial justification for any denial within thirty days of
12 the denial.

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 health maintenance organization in determining whether to provide
18 coverage to a small employer shall be applied uniformly among all small
19 employers applying for coverage or receiving coverage from the carrier.

20 (b) A health maintenance organization shall not require a minimum
21 participation level 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 health maintenance organization may not increase any
31 requirement for minimum employee participation or modify any
32 requirement for minimum employer contribution applicable to a small
33 employer at any time after the small employer has been accepted for
34 coverage.

35 (6) A health maintenance organization must offer coverage to all
36 eligible employees of a small employer and their dependents. A health
37 maintenance organization may not offer coverage to only certain
38 individuals or dependents in a small employer group or to only part of

1 the group. A health maintenance organization may not modify a health
2 plan with respect to a small employer or any eligible employee or
3 dependent, through riders, endorsements or otherwise, to restrict or
4 exclude coverage or benefits for specific diseases, medical conditions,
5 or services otherwise covered by the plan.

6 NEW SECTION. **Sec. 10.** On or before December 1, 2008, the health
7 insurance partnership board shall submit a preliminary report to the
8 governor and the legislature that includes an implementation plan to
9 incorporate the individual and small group health insurance markets
10 into the partnership program. In preparing the report, the board shall
11 examine at least the following issues:

12 (1) The impact of these markets being incorporated into the
13 partnership, with respect to the utilization of services and cost of
14 health plans offered through the partnership;

15 (2) The impact of applying small group health benefit plan
16 regulations on access to health services and the cost of coverage for
17 these markets; and

18 (3) How the composition of the board should be modified to reflect
19 the incorporation of the individual and small group markets in the
20 partnership.

21 NEW SECTION. **Sec. 11.** On or before September 1, 2009, the health
22 insurance partnership board shall submit a report and recommendations
23 to the governor and the legislature regarding:

24 (1) The risks and benefits of additional markets participating in
25 the partnership:

26 (a) The report shall examine the following markets:

27 (i) Washington state health insurance pool under chapter 48.41 RCW;

28 (ii) Basic health plan under chapter 70.47 RCW;

29 (iii) Public employees' benefits board enrollees under chapter
30 41.05 RCW;

31 (iv) Public school employees; and

32 (v) Any final recommendations for the individual and small group
33 markets, relevant to the study outlined in section 10 of this act; and

34 (b) The report shall examine at least the following issues:

35 (i) The impact of these markets participating in the partnership,

1 with respect to the utilization of services and cost of health plans
2 offered through the partnership;

3 (ii) Whether any distinction should be made in participation
4 between active and retired employees enrolled in public employees'
5 benefits board plans, giving consideration to the implicit subsidy that
6 nonmedicare-eligible retirees currently benefit from by being pooled
7 with active employees, and how medicare-eligible retirees would be
8 affected;

9 (iii) The impact of applying small group health benefit plan
10 regulations on access to health services and the cost of coverage for
11 these markets; and

12 (iv) If the board recommends the inclusion of additional markets,
13 how the composition of the board should be modified to reflect the
14 participation of these markets; and

15 (2) The risks and benefits of establishing a requirement that
16 residents of the state of Washington age eighteen and over obtain and
17 maintain affordable creditable coverage, as defined in the federal
18 health insurance portability and accountability act of 1996 (42 U.S.C.
19 Sec. 300gg(c)). The report shall address the question of how a
20 requirement that residents maintain coverage could be enforced in the
21 state of Washington.

22 **Sec. 12.** RCW 70.47A.050 and 2006 c 255 s 5 are each amended to
23 read as follows:

24 Enrollment in the ((~~small-employer~~)) health insurance partnership
25 ((~~program~~)) is not an entitlement and shall not result in expenditures
26 that exceed the amount that has been appropriated for the program in
27 the operating budget. If it appears that continued enrollment will
28 result in expenditures exceeding the appropriated level for a
29 particular fiscal year, the administrator may freeze new enrollment in
30 the program and establish a waiting list of eligible employees who
31 shall receive subsidies only when sufficient funds are available.

32 **Sec. 13.** RCW 70.47A.060 and 2006 c 255 s 6 are each amended to
33 read as follows:

34 The administrator shall adopt all rules necessary for the
35 implementation and operation of the ((~~small-employer~~)) health insurance
36 partnership ((~~program~~)). As part of the rule development process, the

1 administrator shall consult with small employers, carriers, employee
2 organizations, and the office of the insurance commissioner under Title
3 48 RCW to determine an effective and efficient method for the payment
4 of subsidies under this chapter. All rules shall be adopted in
5 accordance with chapter 34.05 RCW.

6 **Sec. 14.** RCW 70.47A.080 and 2006 c 255 s 8 are each amended to
7 read as follows:

8 The (~~small-employer~~) health insurance partnership (~~program~~)
9 account is hereby established in the custody of the state treasurer.
10 Any nongeneral fund--state funds collected for the (~~small-employer~~)
11 health insurance partnership (~~program~~) shall be deposited in the
12 (~~small-employer~~) health insurance partnership (~~program~~) account.
13 Moneys in the account shall be used exclusively for the purposes of
14 administering the (~~small-employer~~) health insurance partnership
15 (~~program~~), including payments to (~~participating managed health care~~
16 ~~systems~~) insurance carriers on behalf of (~~small-employer~~) health
17 insurance partnership enrollees. Only the administrator of the health
18 care authority or his or her designee may authorize expenditures from
19 the account. The account is subject to allotment procedures under
20 chapter 43.88 RCW, but an appropriation is not required for
21 expenditures.

22 NEW SECTION. **Sec. 15.** (1) The office of the insurance
23 commissioner shall contract for an independent study of health benefit
24 mandates, rating requirements, and insurance statutes and rules to
25 determine the impact on premiums and individuals' health if those
26 statutes or rules were amended or repealed.

27 (2) The office of the insurance commissioner shall submit an
28 interim report to the governor and appropriate committees of the
29 legislature by December 1, 2007, and a final report by December 1,
30 2008.

31 NEW SECTION. **Sec. 16.** 2006 c 255 s 10 (uncodified) is repealed.

32 NEW SECTION. **Sec. 17.** Sections 1 through 6 of this act are
33 necessary for the immediate preservation of the public peace, health,

1 or safety, or support of the state government and its existing public
2 institutions, and take effect July 1, 2007.

3 NEW SECTION. **Sec. 18.** If specific funding for the purposes of the
4 following sections of this act, referencing the section of this act by
5 bill or chapter number and section number, is not provided by June 30,
6 2007, in the omnibus appropriations act, the section is null and void:

- 7 (1) Section 5 (health insurance partnership board);
8 (2) Section 15 (office of insurance commissioner independent
9 study).

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