

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2560

Chapter 144, Laws of 2008

60th Legislature
2008 Regular Session

HEALTH INSURANCE--SMALL EMPLOYER--DEFINITION

EFFECTIVE DATE: 06/12/08

Passed by the House February 14, 2008
Yeas 95 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 7, 2008
Yeas 44 Nays 0

BRAD OWEN

President of the Senate

Approved March 25, 2008, 1:36 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2560** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

March 25, 2008

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2560

Passed Legislature - 2008 Regular Session

State of Washington 60th Legislature 2008 Regular Session

By House Health Care & Wellness (originally sponsored by Representatives VanDeWege, Kessler, Cody, Morrell, Rolfes, Chase, Barlow, Green, and Loomis)

READ FIRST TIME 01/29/08.

1 AN ACT Relating to defining small employers for purposes of health
2 insurance coverage; and reenacting and amending RCW 48.43.005.

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

4 **Sec. 1.** RCW 48.43.005 and 2007 c 296 s 1 and 2007 c 259 s 32 are
5 each reenacted and amended to read as follows:

6 Unless otherwise specifically provided, the definitions in this
7 section apply throughout this chapter.

8 (1) "Adjusted community rate" means the rating method used to
9 establish the premium for health plans adjusted to reflect actuarially
10 demonstrated differences in utilization or cost attributable to
11 geographic region, age, family size, and use of wellness activities.

12 (2) "Basic health plan" means the plan described under chapter
13 70.47 RCW, as revised from time to time.

14 (3) "Basic health plan model plan" means a health plan as required
15 in RCW 70.47.060(2)(e).

16 (4) "Basic health plan services" means that schedule of covered
17 health services, including the description of how those benefits are to
18 be administered, that are required to be delivered to an enrollee under
19 the basic health plan, as revised from time to time.

1 (5) "Catastrophic health plan" means:

2 (a) In the case of a contract, agreement, or policy covering a
3 single enrollee, a health benefit plan requiring a calendar year
4 deductible of, at a minimum, one thousand seven hundred fifty dollars
5 and an annual out-of-pocket expense required to be paid under the plan
6 (other than for premiums) for covered benefits of at least three
7 thousand five hundred dollars, both amounts to be adjusted annually by
8 the insurance commissioner; and

9 (b) In the case of a contract, agreement, or policy covering more
10 than one enrollee, a health benefit plan requiring a calendar year
11 deductible of, at a minimum, three thousand five hundred dollars and an
12 annual out-of-pocket expense required to be paid under the plan (other
13 than for premiums) for covered benefits of at least six thousand
14 dollars, both amounts to be adjusted annually by the insurance
15 commissioner; or

16 (c) Any health benefit plan that provides benefits for hospital
17 inpatient and outpatient services, professional and prescription drugs
18 provided in conjunction with such hospital inpatient and outpatient
19 services, and excludes or substantially limits outpatient physician
20 services and those services usually provided in an office setting.

21 In July 2008, and in each July thereafter, the insurance
22 commissioner shall adjust the minimum deductible and out-of-pocket
23 expense required for a plan to qualify as a catastrophic plan to
24 reflect the percentage change in the consumer price index for medical
25 care for a preceding twelve months, as determined by the United States
26 department of labor. The adjusted amount shall apply on the following
27 January 1st.

28 (6) "Certification" means a determination by a review organization
29 that an admission, extension of stay, or other health care service or
30 procedure has been reviewed and, based on the information provided,
31 meets the clinical requirements for medical necessity, appropriateness,
32 level of care, or effectiveness under the auspices of the applicable
33 health benefit plan.

34 (7) "Concurrent review" means utilization review conducted during
35 a patient's hospital stay or course of treatment.

36 (8) "Covered person" or "enrollee" means a person covered by a
37 health plan including an enrollee, subscriber, policyholder,

1 beneficiary of a group plan, or individual covered by any other health
2 plan.

3 (9) "Dependent" means, at a minimum, the enrollee's legal spouse
4 and unmarried dependent children who qualify for coverage under the
5 enrollee's health benefit plan.

6 (10) (~~("Eligible employee" means an employee who works on a full-~~
7 ~~time basis with a normal work week of thirty or more hours. The term~~
8 ~~includes a self-employed individual, including a sole proprietor, a~~
9 ~~partner of a partnership, and may include an independent contractor, if~~
10 ~~the self-employed individual, sole proprietor, partner, or independent~~
11 ~~contractor is included as an employee under a health benefit plan of a~~
12 ~~small employer, but does not work less than thirty hours per week and~~
13 ~~derives at least seventy five percent of his or her income from a trade~~
14 ~~or business through which he or she has attempted to earn taxable~~
15 ~~income and for which he or she has filed the appropriate internal~~
16 ~~revenue service form. Persons covered under a health benefit plan~~
17 ~~pursuant to the consolidated omnibus budget reconciliation act of 1986~~
18 ~~shall not be considered eligible employees for purposes of minimum~~
19 ~~participation requirements of chapter 265, Laws of 1995.)) "Employee"
20 has the same meaning given to the term, as of January 1, 2008, under
21 section 3(6) of the federal employee retirement income security act of
22 1974.~~

23 (11) "Emergency medical condition" means the emergent and acute
24 onset of a symptom or symptoms, including severe pain, that would lead
25 a prudent layperson acting reasonably to believe that a health
26 condition exists that requires immediate medical attention, if failure
27 to provide medical attention would result in serious impairment to
28 bodily functions or serious dysfunction of a bodily organ or part, or
29 would place the person's health in serious jeopardy.

30 (12) "Emergency services" means otherwise covered health care
31 services medically necessary to evaluate and treat an emergency medical
32 condition, provided in a hospital emergency department.

33 (13) "Enrollee point-of-service cost-sharing" means amounts paid to
34 health carriers directly providing services, health care providers, or
35 health care facilities by enrollees and may include copayments,
36 coinsurance, or deductibles.

37 (14) "Grievance" means a written complaint submitted by or on
38 behalf of a covered person regarding: (a) Denial of payment for

1 medical services or nonprovision of medical services included in the
2 covered person's health benefit plan, or (b) service delivery issues
3 other than denial of payment for medical services or nonprovision of
4 medical services, including dissatisfaction with medical care, waiting
5 time for medical services, provider or staff attitude or demeanor, or
6 dissatisfaction with service provided by the health carrier.

7 (15) "Health care facility" or "facility" means hospices licensed
8 under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW,
9 rural health care facilities as defined in RCW 70.175.020, psychiatric
10 hospitals licensed under chapter 71.12 RCW, nursing homes licensed
11 under chapter 18.51 RCW, community mental health centers licensed under
12 chapter 71.05 or 71.24 RCW, kidney disease treatment centers licensed
13 under chapter 70.41 RCW, ambulatory diagnostic, treatment, or surgical
14 facilities licensed under chapter 70.41 RCW, drug and alcohol treatment
15 facilities licensed under chapter 70.96A RCW, and home health agencies
16 licensed under chapter 70.127 RCW, and includes such facilities if
17 owned and operated by a political subdivision or instrumentality of the
18 state and such other facilities as required by federal law and
19 implementing regulations.

20 (16) "Health care provider" or "provider" means:

21 (a) A person regulated under Title 18 or chapter 70.127 RCW, to
22 practice health or health-related services or otherwise practicing
23 health care services in this state consistent with state law; or

24 (b) An employee or agent of a person described in (a) of this
25 subsection, acting in the course and scope of his or her employment.

26 (17) "Health care service" means that service offered or provided
27 by health care facilities and health care providers relating to the
28 prevention, cure, or treatment of illness, injury, or disease.

29 (18) "Health carrier" or "carrier" means a disability insurer
30 regulated under chapter 48.20 or 48.21 RCW, a health care service
31 contractor as defined in RCW 48.44.010, or a health maintenance
32 organization as defined in RCW 48.46.020.

33 (19) "Health plan" or "health benefit plan" means any policy,
34 contract, or agreement offered by a health carrier to provide, arrange,
35 reimburse, or pay for health care services except the following:

36 (a) Long-term care insurance governed by chapter 48.84 RCW;

37 (b) Medicare supplemental health insurance governed by chapter
38 48.66 RCW;

- 1 (c) Coverage supplemental to the coverage provided under chapter
2 55, Title 10, United States Code;
- 3 (d) Limited health care services offered by limited health care
4 service contractors in accordance with RCW 48.44.035;
- 5 (e) Disability income;
- 6 (f) Coverage incidental to a property/casualty liability insurance
7 policy such as automobile personal injury protection coverage and
8 homeowner guest medical;
- 9 (g) Workers' compensation coverage;
- 10 (h) Accident only coverage;
- 11 (i) Specified disease or illness-triggered fixed payment insurance,
12 hospital confinement fixed payment insurance, or other fixed payment
13 insurance offered as an independent, noncoordinated benefit;
- 14 (j) Employer-sponsored self-funded health plans;
- 15 (k) Dental only and vision only coverage; and
- 16 (l) Plans deemed by the insurance commissioner to have a short-term
17 limited purpose or duration, or to be a student-only plan that is
18 guaranteed renewable while the covered person is enrolled as a regular
19 full-time undergraduate or graduate student at an accredited higher
20 education institution, after a written request for such classification
21 by the carrier and subsequent written approval by the insurance
22 commissioner.
- 23 (20) "Material modification" means a change in the actuarial value
24 of the health plan as modified of more than five percent but less than
25 fifteen percent.
- 26 (21) "Preexisting condition" means any medical condition, illness,
27 or injury that existed any time prior to the effective date of
28 coverage.
- 29 (22) "Premium" means all sums charged, received, or deposited by a
30 health carrier as consideration for a health plan or the continuance of
31 a health plan. Any assessment or any "membership," "policy,"
32 "contract," "service," or similar fee or charge made by a health
33 carrier in consideration for a health plan is deemed part of the
34 premium. "Premium" shall not include amounts paid as enrollee point-
35 of-service cost-sharing.
- 36 (23) "Review organization" means a disability insurer regulated
37 under chapter 48.20 or 48.21 RCW, health care service contractor as

1 defined in RCW 48.44.010, or health maintenance organization as defined
2 in RCW 48.46.020, and entities affiliated with, under contract with, or
3 acting on behalf of a health carrier to perform a utilization review.

4 (24) "Small employer" or "small group" means any person, firm,
5 corporation, partnership, association, political subdivision, sole
6 proprietor, or self-employed individual that is actively engaged in
7 business that(~~(, on at least fifty percent of its working days during~~
8 ~~the preceding calendar quarter,)) employed an average of at least two
9 but no more than fifty (~~(eligible))~~ employees, (~~(with a normal work~~
10 ~~week of thirty or more hours, the majority of whom were employed within~~
11 ~~this state, and)) during the previous calendar year and employed at
12 least two employees on the first day of the plan year, is not formed
13 primarily for purposes of buying health insurance, and in which a bona
14 fide employer-employee relationship exists. In determining the number
15 of (~~(eligible))~~ employees, companies that are affiliated companies, or
16 that are eligible to file a combined tax return for purposes of
17 taxation by this state, shall be considered an employer. Subsequent to
18 the issuance of a health plan to a small employer and for the purpose
19 of determining eligibility, the size of a small employer shall be
20 determined annually. Except as otherwise specifically provided, a
21 small employer shall continue to be considered a small employer until
22 the plan anniversary following the date the small employer no longer
23 meets the requirements of this definition. (~~(A self-employed~~
24 ~~individual or sole proprietor must derive at least seventy five percent~~
25 ~~of his or her income from a trade or business through which the~~
26 ~~individual or sole proprietor has attempted to earn taxable income and~~
27 ~~for which he or she has filed the appropriate internal revenue service~~
28 ~~form 1040, schedule C or F, for the previous taxable year except for a~~
29 ~~self-employed individual or sole proprietor in an agricultural trade or~~
30 ~~business, who must derive at least fifty one percent of his or her~~
31 ~~income from the trade or business through which the individual or sole~~
32 ~~proprietor has attempted to earn taxable income and for which he or she~~
33 ~~has filed the appropriate internal revenue service form 1040, for the~~
34 ~~previous taxable year.)) A self-employed individual or sole proprietor
35 who is covered as a group of one on the day prior to June 10, 2004,
36 shall also be considered a "small employer" to the extent that
37 individual or group of one is entitled to have his or her coverage
38 renewed as provided in RCW 48.43.035(6).~~~~~~

1 (25) "Utilization review" means the prospective, concurrent, or
2 retrospective assessment of the necessity and appropriateness of the
3 allocation of health care resources and services of a provider or
4 facility, given or proposed to be given to an enrollee or group of
5 enrollees.

6 (26) "Wellness activity" means an explicit program of an activity
7 consistent with department of health guidelines, such as, smoking
8 cessation, injury and accident prevention, reduction of alcohol misuse,
9 appropriate weight reduction, exercise, automobile and motorcycle
10 safety, blood cholesterol reduction, and nutrition education for the
11 purpose of improving enrollee health status and reducing health service
12 costs.

Passed by the House February 14, 2008.

Passed by the Senate March 7, 2008.

Approved by the Governor March 25, 2008.

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