
HOUSE BILL 1871

State of Washington

61st Legislature

2009 Regular Session

By Representatives Herrera, Bailey, Ericksen, Hinkle, Anderson, Chandler, McCune, Condotta, Haler, Ross, Kristiansen, Newhouse, and Schmick

Read first time 01/30/09. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to health insurance coverage provided by out-of-
2 state health carriers; adding a new chapter to Title 48 RCW; and
3 creating a new section.

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

5 NEW SECTION. **Sec. 1.** This act may be known and cited as the
6 Washington state health care choice act.

7 NEW SECTION. **Sec. 2.** As used in this chapter:

8 (1) "Commissioner" means the insurance commissioner.

9 (2) "Domestic carrier" means a disability insurer regulated under
10 chapter 48.20 or 48.21 RCW, a health care service contractor as defined
11 in RCW 48.44.010, or a health maintenance organization as defined in
12 RCW 48.46.020.

13 (3) "Foreign health carrier" means a foreign individual health
14 carrier or a foreign small employer health carrier.

15 (4) "Foreign individual health carrier" means a carrier licensed to
16 sell individual health benefits plans in any other state.

17 (5) "Foreign small employer health carrier" means a carrier

1 licensed to sell small employer health benefits plans in any other
2 state.

3 (6) "Hazardous financial condition" means that, based on its
4 present or reasonably anticipated financial condition, a foreign health
5 carrier is unlikely to be able to meet obligations to policyholders
6 with respect to known claims or to any other obligations in the normal
7 course of business.

8 (7) "Health care provider" means an individual or entity which,
9 acting within the scope of its license or certification, provides
10 health care services, and includes, but is not limited to, a physician,
11 dentist, nurse, or other health care professional whose professional
12 practice is regulated pursuant to Title 18 RCW.

13 (8) "Individual health benefits plan" means a benefits plan for
14 persons and their dependents which pays or provides for hospital and
15 medical expense benefits for covered services.

16 (9) "Office" means the office of the insurance commissioner.

17 (10) "Resident" means a person whose primary residence is in
18 Washington and who is present in Washington for at least six months of
19 the calendar year.

20 (11) "Small employer health benefits plan" means a group benefits
21 plan for persons and their dependents which pays or provides for
22 hospital and medical expense benefits for covered services, offered by
23 any person, firm, corporation, or partnership actively engaged in a
24 business that employs at least two but not more than fifty employees.

25 NEW SECTION. **Sec. 3.** (1) Notwithstanding any other law or rule to
26 the contrary, a foreign individual health carrier may offer and provide
27 individual health benefits plans to residents in this state, if that
28 carrier:

29 (a) Offers the same individual health benefits plans in its
30 domiciliary state and is in compliance with all applicable laws,
31 regulations, and other requirements of its domiciliary state; and

32 (b) Obtains a certificate of authority to do business as a foreign
33 health carrier in this state, pursuant to section 4 of this act.

34 (2) Notwithstanding any other law to the contrary, a foreign small
35 employer health carrier may offer and provide small employer health
36 benefits plans to employers in this state, if that carrier:

1 (a) Offers the same small employer health benefits plans in its
2 domiciliary state and is in compliance with all applicable laws,
3 regulations, and other requirements of its domiciliary state; and

4 (b) Obtains a certificate of authority to do business as a foreign
5 health carrier in this state, pursuant to section 4 of this act.

6 NEW SECTION. **Sec. 4.** (1) A foreign health carrier may apply for
7 a certificate of authority to do business as a foreign health carrier
8 in this state, using a form prescribed by the commissioner. Upon
9 application, the commissioner shall issue a certificate of authority to
10 the foreign health carrier unless the commissioner determines that the
11 carrier:

12 (a) Will not provide health insurance services in compliance with
13 the provisions of this chapter;

14 (b) Is in a hazardous financial condition, as determined by an
15 examination by the commissioner conducted in accordance with the
16 financial analysis handbook of the national association of insurance
17 commissioners; or

18 (c) Has not adopted procedures to ensure compliance with all
19 applicable federal and state laws.

20 (2) A certificate of authority issued pursuant to this section
21 shall be valid for three years from the date of issuance by the
22 commissioner.

23 (3) The commissioner shall establish by rule:

24 (a) Procedures for a foreign health carrier to renew a certificate
25 of authority, pursuant to and consistent with the provisions of this
26 chapter; and

27 (b) A certificate of authority application and renewal fees, the
28 amount of which shall be no greater than is reasonably necessary to
29 enable the office to carry out the provisions of this chapter.

30 NEW SECTION. **Sec. 5.** (1) Each individual health benefits plan
31 provided by a foreign individual health carrier to a resident of this
32 state, and each application for the plan, shall disclose in plain
33 language the following:

34 (a) The differences between the individual health benefits plan
35 issued by the foreign health carrier, and a policy issued in this state
36 subject to the requirements of Title 48 RCW, using at least fourteen-

1 point boldface type to describe the differences that relate to:
2 Underwriting standards, premium rating, preexisting conditions,
3 renewability, portability, and cancellation; and

4 (b) An explanation of which state's laws govern the issuance of,
5 and requirements under, the individual health benefits plan offered
6 under this chapter.

7 (2) Each small employer health benefits plan provided by a foreign
8 small employer health carrier to an employer in this state, and each
9 application for the plan, shall disclose in plain language the
10 following:

11 (a) The differences between the small employer health benefits plan
12 issued by the foreign health carrier, and a policy issued in this state
13 subject to the requirements of Title 48 RCW, using at least fourteen-
14 point boldface type to describe the differences that relate to:
15 Underwriting standards, premium rating, preexisting conditions,
16 renewability, portability, and cancellation; and

17 (b) An explanation of which state's laws govern the issuance of,
18 and requirements under, the small employer health benefits plan offered
19 under this chapter.

20 NEW SECTION. **Sec. 6.** (1) The commissioner may deny, revoke, or
21 suspend, after notice and opportunity to be heard, a certificate of
22 authority issued to a foreign health carrier pursuant to this chapter
23 for a violation of the provisions of this chapter, including any
24 finding by the commissioner that a foreign health carrier is no longer
25 in compliance with any of the conditions for issuance of a certificate
26 of authority set forth in section 4(1) of this act, or the rules
27 adopted pursuant to this chapter. The commissioner shall provide for
28 an appropriate and timely right of appeal for the foreign health
29 carrier whose certificate is denied, revoked, or suspended.

30 (2) The commissioner shall establish grievance and independent
31 claims review procedures with respect to claims by a health care
32 carrier or a covered person with which a foreign health carrier shall
33 comply as a condition of issuing policies in this state.

34 (3)(a) The commissioner shall establish fair marketing standards
35 for marketing materials used by foreign health carriers to market
36 individual health benefits plans to residents in this state.

1 (b) The commissioner shall establish fair marketing standards for
2 marketing materials used by foreign health carriers to market small
3 employer health benefits plans to small employers in this state.

4 (4) The procedures and standards established under subsections (2)
5 and (3) of this section shall be applied on a nondiscriminatory basis
6 so as not to place greater responsibilities on foreign health carriers
7 than the responsibilities placed on other health carriers doing
8 business in this state.

9 NEW SECTION. **Sec. 7.** A domestic carrier authorized to do business
10 in this state may apply to the commissioner for an exemption from the
11 provisions of this title and any rules promulgated under those
12 provisions, that would allow the domestic carrier to offer health care
13 plans that are comparable in plan design to health care plans offered
14 by foreign health carriers under this chapter. Upon a domestic
15 carrier's application, the commissioner shall make an order exempting
16 the domestic carrier from those provisions and rules in order to allow
17 the domestic carrier to offer a health care plan or plans that are
18 comparable in design to health care plans offered by foreign health
19 carriers under this chapter. Any health care plan offer by a domestic
20 carrier under an exemption under this section shall be subject to the
21 requirements that apply to health care plans offered by foreign health
22 carriers under this chapter.

23 NEW SECTION. **Sec. 8.** The office shall adopt rules to effectuate
24 the purposes of this chapter, provided, however, that the rules shall
25 not:

26 (1) Directly or indirectly require a foreign health carrier to,
27 directly or indirectly, modify coverage or benefit requirements, or
28 restrict underwriting requirements or premium ratings, in any way that
29 conflicts with the carrier's domiciliary state's laws or rules;

30 (2) Provide for requirements that are more stringent than those
31 applicable to carriers that are licensed by the commissioner to provide
32 health benefits plans in this state; or

33 (3) Require any individual health benefits plan or small employer
34 health benefits plan issued by the foreign health carrier to be
35 countersigned by an insurance agent or broker residing in this state.

1 NEW SECTION. **Sec. 9.** Sections 2 through 8 of this act constitute
2 a new chapter in Title 48 RCW.

3 NEW SECTION. **Sec. 10.** If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected.

--- END ---