

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE HOUSE BILL 2128**

Chapter 463, Laws of 2009

(partial veto)

61st Legislature  
2009 Regular Session

HEALTH CARE COVERAGE FOR CHILDREN

EFFECTIVE DATE: 07/26/09

Passed by the House April 20, 2009  
Yeas 67 Nays 29

FRANK CHOPP

\_\_\_\_\_  
**Speaker of the House of Representatives**

Passed by the Senate April 15, 2009  
Yeas 30 Nays 17

BRAD OWEN

\_\_\_\_\_  
**President of the Senate**

Approved May 12, 2009, 2:55 p.m., with  
the exception of Section 3 which is  
vetoed.

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  
ENGROSSED SUBSTITUTE HOUSE BILL  
2128 as passed by the House of  
Representatives and the Senate on  
the dates hereon set forth.

BARBARA BAKER

\_\_\_\_\_  
**Chief Clerk**

FILED

May 13, 2009

**Secretary of State  
State of Washington**

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**ENGROSSED SUBSTITUTE HOUSE BILL 2128**

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AS AMENDED BY THE SENATE

Passed Legislature - 2009 Regular Session

**State of Washington                      61st Legislature                      2009 Regular Session**

**By**      House Health Care & Wellness      (originally sponsored by  
Representatives Seaquist and Simpson)

READ FIRST TIME 02/23/09.

1            AN ACT Relating to meeting the goal of all children in Washington  
2 state having health care coverage by 2010; amending RCW 74.09.470 and  
3 74.09.480; and creating new sections.

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

5            NEW SECTION.    **Sec. 1.** The legislature finds that substantial  
6 progress has been made toward achieving the equally important goals set  
7 in 2007 that all children in Washington state have health care coverage  
8 by 2010 and that child health outcomes improve. The legislature also  
9 finds that continued steps are necessary to reach the goals that all  
10 children in Washington state shall have access to the health services  
11 they need to be healthy and ready to learn and that key measures of  
12 child health outcomes will show year by year improvement. The  
13 legislature further finds that reaching these goals is integral to the  
14 state's ability to weather the current economic crisis. The recent  
15 reauthorization of the federal children's health insurance program  
16 provides additional opportunities for the state to reach these goals.  
17 In view of these important objectives, the legislature intends that the  
18 apple health for kids program be managed actively across  
19 administrations in the department of social and health services, and

1 across state and local agencies, with clear accountability for  
2 achieving the intended program outcomes. The legislature further  
3 intends that the department continue the implementation of the apple  
4 health for kids program with a commitment to fully utilizing the new  
5 program identity with appropriate materials.

6 **Sec. 2.** RCW 74.09.470 and 2007 c 5 s 2 are each amended to read as  
7 follows:

8 (1) Consistent with the goals established in RCW 74.09.402, through  
9 the apple health for kids program authorized in this section, the  
10 department shall provide affordable health care coverage to children  
11 under the age of nineteen who reside in Washington state and whose  
12 family income at the time of enrollment is not greater than two hundred  
13 fifty percent of the federal poverty level as adjusted for family size  
14 and determined annually by the federal department of health and human  
15 services, and effective January 1, 2009, and only to the extent that  
16 funds are specifically appropriated therefor, to children whose family  
17 income is not greater than three hundred percent of the federal poverty  
18 level. In administering the program, the department shall take such  
19 actions as may be necessary to ensure the receipt of federal financial  
20 participation under the medical assistance program, as codified at  
21 Title XIX of the federal social security act, the state children's  
22 health insurance program, as codified at Title XXI of the federal  
23 social security act, and any other federal funding sources that are now  
24 available or may become available in the future. The department and  
25 the caseload forecast council shall estimate the anticipated caseload  
26 and costs of the program established in this section.

27 (2) The department shall accept applications for enrollment for  
28 children's health care coverage; establish appropriate minimum-  
29 enrollment periods, as may be necessary; and determine eligibility  
30 based on current family income. The department shall make eligibility  
31 determinations within the time frames for establishing eligibility for  
32 children on medical assistance, as defined by RCW 74.09.510. The  
33 application and annual renewal processes shall be designed to minimize  
34 administrative barriers for applicants and enrolled clients, and to  
35 minimize gaps in eligibility for families who are eligible for  
36 coverage. If a change in family income results in a change in  
37 (~~program-eligibility~~) the source of funding for coverage, the

1 department shall transfer the family members to the appropriate  
2 (~~programs~~) source of funding and notify the family with respect to  
3 any change in premium obligation, without a break in eligibility. The  
4 department shall use the same eligibility redetermination and appeals  
5 procedures as those provided for children on medical assistance  
6 programs. The department shall modify its eligibility renewal  
7 procedures to lower the percentage of children failing to annually  
8 renew. (~~The department shall report to the appropriate committees of~~  
9 ~~the legislature on its progress in this regard by December 2007.~~) The  
10 department shall manage its outreach, application, and renewal  
11 procedures with the goals of: (a) Achieving year by year improvements  
12 in enrollment, enrollment rates, renewals, and renewal rates; (b)  
13 maximizing the use of existing program databases to obtain information  
14 related to earned and unearned income for purposes of eligibility  
15 determination and renewals, including, but not limited to, the basic  
16 food program, the child care subsidy program, federal social security  
17 administration programs, and the employment security department wage  
18 database; (c) streamlining renewal processes to rely primarily upon  
19 data matches, online submissions, and telephone interviews; and (d)  
20 implementing any other eligibility determination and renewal processes  
21 to allow the state to receive an enhanced federal matching rate and  
22 additional federal outreach funding available through the federal  
23 children's health insurance program reauthorization act of 2009 by  
24 January 2010. The department shall advise the governor and the  
25 legislature regarding the status of these efforts by September 30,  
26 2009. The information provided should include the status of the  
27 department's efforts, the anticipated impact of those efforts on  
28 enrollment, and the costs associated with that enrollment.

29 (3) To ensure continuity of care and ease of understanding for  
30 families and health care providers, and to maximize the efficiency of  
31 the program, the amount, scope, and duration of health care services  
32 provided to children under this section shall be the same as that  
33 provided to children under medical assistance, as defined in RCW  
34 74.09.520.

35 (4) The primary mechanism for purchasing health care coverage under  
36 this section shall be through contracts with managed health care  
37 systems as defined in RCW 74.09.522 (~~except when utilization patterns~~  
38 ~~suggest that fee for service purchasing could produce equally effective~~

1 ~~and cost-efficient care~~)), subject to conditions, limitations, and  
2 appropriations provided in the biennial appropriations act. However,  
3 the department shall make every effort within available resources to  
4 purchase health care coverage for uninsured children whose families  
5 have access to dependent coverage through an employer- sponsored health  
6 plan or another source when it is cost-effective for the state to do  
7 so, and the purchase is consistent with requirements of Title XIX and  
8 Title XXI of the federal social security act. To the extent allowable  
9 under federal law, the department shall require families to enroll in  
10 available employer- sponsored coverage, as a condition of participating  
11 in the program established under (~~chapter 5, Laws of 2007~~) this  
12 section, when it is cost-effective for the state to do so. Families  
13 who enroll in available employer-sponsored coverage under (~~chapter 5,~~  
14 ~~Laws of 2007~~) this section shall be accounted for separately in the  
15 annual report required by RCW 74.09.053.

16 (5)(a) To reflect appropriate parental responsibility, the  
17 department shall develop and implement a schedule of premiums for  
18 children's health care coverage due to the department from families  
19 with income greater than two hundred percent of the federal poverty  
20 level. For families with income greater than two hundred fifty percent  
21 of the federal poverty level, the premiums shall be established in  
22 consultation with the senate majority and minority leaders and the  
23 speaker and minority leader of the house of representatives. Premiums  
24 shall be set at a reasonable level that does not pose a barrier to  
25 enrollment. The amount of the premium shall be based upon family  
26 income and shall not exceed the premium limitations in Title XXI of the  
27 federal social security act. Premiums shall not be imposed on children  
28 in households at or below two hundred percent of the federal poverty  
29 level as articulated in RCW 74.09.055.

30 (b) Beginning no later than January 1, (~~2009~~) 2010, the  
31 department shall offer families whose income is greater than three  
32 hundred percent of the federal poverty level the opportunity to  
33 purchase health care coverage for their children through the programs  
34 administered under this section without (~~a~~) an explicit premium  
35 subsidy from the state. The design of the health benefit package  
36 offered to these children should provide a benefit package  
37 substantially similar to that offered in the apple health for kids  
38 program, and may differ with respect to cost-sharing, and other

1 appropriate elements from that provided to children under subsection  
2 (3) of this section including, but not limited to, application of  
3 preexisting conditions, waiting periods, and other design changes  
4 needed to offer affordable coverage. The amount paid by the family  
5 shall be in an amount equal to the rate paid by the state to the  
6 managed health care system for coverage of the child, including any  
7 associated and administrative costs to the state of providing coverage  
8 for the child. Any pooling of the program enrollees that results in  
9 state fiscal impact must be identified and brought to the legislature  
10 for consideration.

11 (6) The department shall undertake and continue a proactive,  
12 targeted outreach and education effort with the goal of enrolling  
13 children in health coverage and improving the health literacy of youth  
14 and parents. The department shall collaborate with the department of  
15 health, local public health jurisdictions, the office of (~~the~~) the  
16 superintendent of public instruction, the department of early learning,  
17 health educators, health care providers, health carriers, community-  
18 based organizations, and parents in the design and development of this  
19 effort. The outreach and education effort shall include the following  
20 components:

21 (a) Broad dissemination of information about the availability of  
22 coverage, including media campaigns;

23 (b) Assistance with completing applications, and community-based  
24 outreach efforts to help people apply for coverage. Community-based  
25 outreach efforts should be targeted to the populations least likely to  
26 be covered;

27 (c) Use of existing systems, such as enrollment information from  
28 the free and reduced-price lunch program, the department of early  
29 learning child care subsidy program, the department of health's women,  
30 infants, and children program, and the early childhood education and  
31 assistance program, to identify children who may be eligible but not  
32 enrolled in coverage;

33 (d) Contracting with community-based organizations and government  
34 entities to support community-based outreach efforts to help families  
35 apply for coverage. These efforts should be targeted to the  
36 populations least likely to be covered. The department shall provide  
37 informational materials for use by government entities and community-

1 based organizations in their outreach activities, and should identify  
2 any available federal matching funds to support these efforts;

3 (e) Development and dissemination of materials to engage and inform  
4 parents and families statewide on issues such as: The benefits of  
5 health insurance coverage; the appropriate use of health services,  
6 including primary care provided by health care practitioners licensed  
7 under chapters 18.71, 18.57, 18.36A, and 18.79 RCW, and emergency  
8 services; the value of a medical home, well-child services and  
9 immunization, and other preventive health services with linkages to  
10 department of health child profile efforts; identifying and managing  
11 chronic conditions such as asthma and diabetes; and the value of good  
12 nutrition and physical activity;

13 (f) An evaluation of the outreach and education efforts, based upon  
14 clear, cost-effective outcome measures that are included in contracts  
15 with entities that undertake components of the outreach and education  
16 effort;

17 (g) (~~(A feasibility study and)~~) An implementation plan to develop  
18 online application capability that is integrated with the department's  
19 automated client eligibility system, and to develop data linkages with  
20 the office of (~~(the)~~) the superintendent of public instruction for  
21 free and reduced-price lunch enrollment information and the department  
22 of early learning for child care subsidy program enrollment  
23 information. (~~(The department shall submit a feasibility study on the~~  
24 ~~implementation of the requirements in this subsection to the governor~~  
25 ~~and legislature by July 2008.)~~)

26 (7) The department shall take action to increase the number of  
27 primary care physicians providing dental disease preventive services  
28 including oral health screenings, risk assessment, family education,  
29 the application of fluoride varnish, and referral to a dentist as  
30 needed.

31 (8) The department shall monitor the rates of substitution between  
32 private-sector health care coverage and the coverage provided under  
33 this section and shall report to appropriate committees of the  
34 legislature by December 2010.

35 ***\*NEW SECTION. Sec. 3. The department must identify, within***  
36 ***existing resources, a staff position as the single point of contact and***  
37 ***coordination for the apple health for kids program. The position must***

1 ensure planning and coordination of all aspects of the apple health for  
2 kids program across all the involved agencies and with the various  
3 stakeholders, facilitate the collection, reporting, and analysis of the  
4 outcome data required in section 4 of this act, and facilitate the  
5 collection and reporting of the data required in section 2 of this act.  
6 The position must strive to provide transparency and accountability for  
7 the apple health for kids program and provide public reporting of the  
8 data required in sections 2 and 4 of this act.

\*Sec. 3 was vetoed. See message at end of chapter.

9 **Sec. 4.** RCW 74.09.480 and 2007 c 5 s 4 are each amended to read as  
10 follows:

11 (1) The department, in collaboration with the department of health,  
12 health carriers, local public health jurisdictions, children's health  
13 care providers including pediatricians, family practitioners, and  
14 pediatric subspecialists, community and migrant health centers,  
15 parents, and other purchasers, shall (~~identify explicit performance~~  
16 ~~measures that indicate that a child has an established and effective~~  
17 ~~medical home, such as~~) establish a concise set of explicit performance  
18 measures that can indicate whether children enrolled in the program are  
19 receiving health care through an established and effective medical  
20 home, and whether the overall health of enrolled children is improving.  
21 Such indicators may include, but are not limited to:

22 (a) Childhood immunization rates;

23 (b) Well child care utilization rates, including the use of  
24 behavioral and oral health screening, and validated, structured  
25 developmental (~~assessment tools that include behavioral and oral~~  
26 ~~health screening~~) screens using tools, that are consistent with  
27 nationally accepted pediatric guidelines and recommended administration  
28 schedule, once funding is specifically appropriated for this purpose;

29 (c) Care management for children with chronic illnesses;

30 (d) Emergency room utilization; (~~and~~)

31 (e) Visual acuity and eye health;

32 (f) Preventive oral health service utilization; and

33 (g) Children's mental health status. In defining these measures  
34 the department shall be guided by the measures provided in RCW  
35 71.36.025.

36 Performance measures and targets for each performance measure must  
37 be (~~reported to the appropriate committees of the senate and house of~~



1 ~~representatives by December 1, 2007))~~ established and monitored each  
2 biennium, with a goal of achieving measurable, improved health outcomes  
3 for the children of Washington state each biennium.

4 (2) Beginning in calendar year 2009, targeted provider rate  
5 increases shall be linked to quality improvement measures established  
6 under this section. The department, in conjunction with those groups  
7 identified in subsection (1) of this section, shall develop parameters  
8 for determining criteria for increased payment, alternative payment  
9 methodologies, or other incentives for those practices and health plans  
10 that incorporate evidence-based practice and improve and achieve  
11 sustained improvement with respect to the measures (~~in both fee-for~~  
12 ~~service and managed care~~)).

13 (3) The department shall provide (~~an annual~~) a report to the  
14 governor and the legislature related to provider performance on these  
15 measures, beginning in September 2010 for 2007 through 2009 and  
16 (~~annually~~) biennially thereafter. The department shall advise the  
17 legislature as to its progress towards developing this biennial  
18 reporting system by September 30, 2009.

19 NEW SECTION. Sec. 5. This act may be known and cited as the apple  
20 health for kids act.

Passed by the House April 20, 2009.

Passed by the Senate April 15, 2009.

Approved by the Governor May 12, 2009, with the exception of  
certain items that were vetoed.

Filed in Office of Secretary of State May 13, 2009.

Note: Governor's explanation of partial veto is as follows:

"I have approved, except for Section 3, Engrossed Substitute House  
Bill 2128 entitled:

"AN ACT Relating to meeting the goal of all children in Washington  
having health care coverage by 2010."

Section 3 requires the Department of Social and Health Services to  
identify a staff position as the single point of contact and  
coordination for the Apple Health for Kids program. While I  
appreciate the intent of this section, I believe it inappropriate to  
direct in statute how an agency must staff a particular program.  
Especially in this difficult economic time, agencies must have the  
flexibility to allocate limited staff resources in the way which best  
suits all of their activities. Nonetheless, I will direct the  
Department to appoint someone to oversee this program.

For this reason, I have vetoed Section 3 of Engrossed Substitute House  
Bill 2128. With the exception of Section 3, Engrossed Substitute  
House Bill 2128 is approved."