

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2160

Chapter 329, Laws of 2009

61st Legislature
2009 Regular Session

WELLNESS INCENTIVES--HEALTH CARRIER PAYMENT

EFFECTIVE DATE: 07/26/09

Passed by the House April 20, 2009
Yeas 95 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 31, 2009
Yeas 48 Nays 0

BRAD OWEN

President of the Senate

Approved May 4, 2009, 4:59 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 2160** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

May 5, 2009

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2160

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 Driscoll, Hinkle, Cody, Bailey, Kelley, Wood, and Morrell; by request of Governor Gregoire)

READ FIRST TIME 02/23/09.

1 AN ACT Relating to health carrier payment of wellness incentives;
2 amending RCW 48.30.140 and 48.30.150; and adding a new section to
3 chapter 48.43 RCW.

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

5 **Sec. 1.** RCW 48.30.140 and 2008 c 217 s 35 are each amended to read
6 as follows:

7 (1) Except to the extent provided for in an applicable filing with
8 the commissioner then in effect, no insurer, insurance producer, or
9 title insurance agent shall, as an inducement to insurance, or after
10 insurance has been effected, directly or indirectly, offer, promise,
11 allow, give, set off, or pay to the insured or to any employee of the
12 insured, any rebate, discount, abatement, or reduction of premium or
13 any part thereof named in any insurance contract, or any commission
14 thereon, or earnings, profits, dividends, or other benefit, or any
15 other valuable consideration or inducement whatsoever which is not
16 expressly provided for in the policy.

17 (2) Subsection (1) of this section shall not apply as to
18 commissions paid to a licensed insurance producer, or title insurance
19 agent for insurance placed on that person's own property or risks.

1 (3) This section shall not apply to the allowance by any marine
2 insurer, or marine insurance producer, to any insured, in connection
3 with marine insurance, of such discount as is sanctioned by custom
4 among marine insurers as being additional to the insurance producer's
5 commission.

6 (4) This section shall not apply to advertising or promotional
7 programs conducted by insurers, insurance producers, or title insurance
8 agents whereby prizes, goods, wares, or merchandise, not exceeding
9 twenty-five dollars in value per person in the aggregate in any twelve
10 month period, are given to all insureds or prospective insureds under
11 similar qualifying circumstances.

12 (5) This section does not apply to an offset or reimbursement of
13 all or part of a fee paid to an insurance producer as provided in RCW
14 48.17.270.

15 (6)(a) Subsection (1) of this section shall not be construed to
16 prohibit a health carrier or disability insurer from including as part
17 of a group or individual health benefit plan or contract containing
18 health benefits, a wellness program which meets the requirements for an
19 exception from the prohibition against discrimination based on a health
20 factor under the health insurance portability and accountability act
21 (P.L. 104-191; 110 Stat. 1936) and regulations adopted pursuant to that
22 act.

23 (b) For purposes of this subsection: (i) "Health carrier" and
24 "health benefit plan" have the same meaning as provided in RCW
25 48.43.005; and (ii) "wellness program" has the same meaning as provided
26 in 45 CFR 146.121(f).

27 **Sec. 2.** RCW 48.30.150 and 2008 c 217 s 36 are each amended to read
28 as follows:

29 (1) No insurer, insurance producer, title insurance agent, or other
30 person shall, as an inducement to insurance, or in connection with any
31 insurance transaction, provide in any policy for, or offer, or sell,
32 buy, or offer or promise to buy or give, or promise, or allow to, or on
33 behalf of, the insured or prospective insured in any manner whatsoever:

34 ~~((1))~~ (a) Any shares of stock or other securities issued or at
35 any time to be issued on any interest therein or rights thereto; or

36 ~~((2))~~ (b) Any special advisory board contract, or other contract,

1 agreement, or understanding of any kind, offering, providing for, or
2 promising any profits or special returns or special dividends; or
3 ~~((+3+))~~ (c) Any prizes, goods, wares, or merchandise of an
4 aggregate value in excess of twenty-five dollars.

5 (2) Subsection (1) of this section shall not be deemed to prohibit
6 the sale or purchase of securities as a condition to or in connection
7 with surety insurance insuring the performance of an obligation as part
8 of a plan of financing found by the commissioner to be designed and
9 operated in good faith primarily for the purpose of such financing, nor
10 shall it be deemed to prohibit the sale of redeemable securities of a
11 registered investment company in the same transaction in which life
12 insurance is sold.

13 (3)(a) Subsection (1) of this section shall not be deemed to
14 prohibit a health carrier or disability insurer from including as part
15 of a group or individual health benefit plan or contract providing
16 health benefits, a wellness program which meets the requirements for an
17 exception from the prohibition against discrimination based on a health
18 factor under the health insurance portability and accountability act
19 (P.L. 104-191; 110 Stat. 1936) and regulations adopted pursuant to that
20 act.

21 (b) For purposes of this subsection: (i) "Health carrier" and
22 "health benefit plan" have the same meaning as provided in RCW
23 48.43.005; and (ii) "wellness program" has the same meaning as provided
24 in 45 CFR 146.121(f).

25 NEW SECTION. Sec. 3. A new section is added to chapter 48.43 RCW
26 to read as follows:

27 Upon the renewal date of an individual or group health benefit plan
28 or contract containing health benefits, the modification of a wellness
29 program, as defined in 45 CFR 146.121(f), included in such a plan or
30 contract shall not be considered a cancellation or nonrenewal of such
31 plan or contract.

Passed by the House April 20, 2009.

Passed by the Senate March 31, 2009.

Approved by the Governor May 4, 2009.

Filed in Office of Secretary of State May 5, 2009.