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**HOUSE BILL 2408**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Representatives Cody, Jinkins, Goodman, Johnson, Slatter, Tharinger, Stanford, Macri, Ormsby, Doglio, and Appleton

AN ACT Relating to preserving access to individual market health care coverage throughout Washington state; amending RCW 48.41.200 and 48.41.090; adding a new section to chapter 48.43 RCW; and creating a new section.

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

NEW SECTION. **Sec.**  (1) The legislature finds that:

(a) Access to health care is fundamental to the health and safety of the citizens of Washington state;

(b) Health insurance coverage is necessary for most people to access health care;

(c) Due to uncertainty in the health insurance marketplace, volatility in the current federal regulatory environment, and rising health care costs, ensuring access to the private health insurance market in every county in Washington state is becoming more difficult;

(d) The consequences of losing private health insurance coverage in a county would be catastrophic, leading to deteriorating health outcomes, lost productivity, and lower quality of life; and

(e) If the private market fails to provide coverage in a county, the state must intervene.

(2) The legislature therefore intends to:

(a) Leverage the provider networks used by private insurers offering coverage to school employees to ensure private insurance coverage is available in all counties; and

(b) Until such coverage is available, make coverage in the Washington state health insurance pool more affordable to persons residing in counties where no private insurance is available.

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

(1) As provided in this section, a health carrier offering a school employees' benefits board-approved health plan to school employees under chapter 41.05 RCW shall offer at least one silver qualified health plan on the Washington health benefit exchange in any county that would not otherwise have any individual market health plans, other than catastrophic health plans, offered to county residents on the Washington health benefit exchange.

(2) A health carrier subject to subsection (1) of this section shall annually submit to the commissioner the filings necessary to offer a qualified health plan in every county of the state. The commissioner shall provisionally approve a health plan submitted under this section if it meets all of the requirements applicable to any other nongrandfathered individual market health plan. A plan submitted under this subsection shall be in addition to any other individual market filings submitted by the health carrier.

(3)(a) If, by the filing deadline for individual market plans, the commissioner has received no filings for individual market health plans to be offered on the health benefit exchange in a particular county other than the filings for a health plan submitted under subsection (2) of this section or a catastrophic health plan, the commissioner shall extend the filing deadline by fourteen days and notify all health carriers that have submitted filings for individual market plans in other counties that no on-exchange filings have been received for the county.

(b) If, by the end of the extension period, no health carriers have submitted filings for individual market plans in the county to be offered on the health benefit exchange, other than a plan submitted under subsection (2) of this section or a catastrophic health plan, the commissioner shall notify each health carrier that has submitted filings for an individual market plan under subsection (2) of this section and approve the plan for sale in the county.

(4) A health carrier whose individual market health plan is approved under subsection (3)(b) of this section shall submit the plan to the health benefit exchange for certification as a qualified health plan. If the health benefit exchange certifies the plan as a qualified health plan, the health carrier shall offer the health plan on the health benefit exchange throughout the plan year for which it was approved.

**Sec.**  RCW 48.41.200 and 2007 c 259 s 28 are each amended to read as follows:

(1) The pool shall determine the standard risk rate by calculating the average individual standard rate charged for coverage comparable to pool coverage by the five largest members, measured in terms of individual market enrollment, offering such coverages in the state. In the event five members do not offer comparable coverage, the standard risk rate shall be established using reasonable actuarial techniques and shall reflect anticipated experience and expenses for such coverage in the individual market.

(2) Subject to subsection (3) of this section, maximum rates for pool coverage shall be as follows:

(a) Maximum rates for a pool indemnity health plan shall be one hundred fifty percent of the rate calculated under subsection (1) of this section;

(b) Maximum rates for a pool care management plan shall be one hundred twenty-five percent of the rate calculated under subsection (1) of this section; and

(c) Maximum rates for a person eligible for pool coverage pursuant to RCW 48.41.100(1)(a) who was enrolled at any time during the sixty-three day period immediately prior to the date of application for pool coverage in a group health benefit plan or an individual health benefit plan other than a catastrophic health plan as defined in RCW 48.43.005, where such coverage was continuous for at least eighteen months, shall be:

(i) For a pool indemnity health plan, one hundred twenty-five percent of the rate calculated under subsection (1) of this section; and

(ii) For a pool care management plan, one hundred ten percent of the rate calculated under subsection (1) of this section.

(3)(a) Subject to (b) and (c) of this subsection:

(i) The rate for any person whose current gross family income is less than two hundred fifty-one percent of the federal poverty level shall be reduced by thirty percent from what it would otherwise be;

(ii) The rate for any person whose current gross family income is more than two hundred fifty but less than three hundred one percent of the federal poverty level shall be reduced by fifteen percent from what it would otherwise be;

(iii) The rate for any person who has been enrolled in the pool for more than thirty-six months shall be reduced by five percent from what it would otherwise be.

(b) In no event shall the rate for any person be less than one hundred ten percent of the rate calculated under subsection (1) of this section.

(c) Rate reductions under (a)(i) and (ii) of this subsection shall be available only to the extent that funds are specifically appropriated for this purpose in the omnibus appropriations act.

(4) The rate for any person eligible for pool coverage under RCW 48.41.100(1)(a)(i) who is eligible for an advance premium tax credit under 26 U.S.C. Sec. 36B shall be reduced by the average amount of the advance premium tax credit a person with the same modified adjusted gross income would receive in counties within the same geographic rating area. If no qualified health plans are available in the same geographic area, than the amount of the reduction must be the average amount of the advance premium tax credit a person with the same modified adjusted gross income would receive statewide.

**Sec.**  RCW 48.41.090 and 2013 2nd sp.s. c 6 s 7 are each amended to read as follows:

(1) Following the close of each accounting year, the pool administrator shall determine the total net cost of pool operation which shall include:

(a) Net premium (premiums less administrative expense allowances), the pool expenses of administration, and incurred losses for the year, taking into account investment income and other appropriate gains and losses; ((~~and~~))

(b) The amount of pool contributions specified in the state omnibus appropriations act for deposit into the health benefit exchange account under RCW 43.71.060, to assist with the transition of enrollees from the pool into the health benefit exchange created by chapter 43.71 RCW; and

(c) Any rate reductions received by individuals under RCW 48.41.200(4).

(2)(a) Each member's proportion of participation in the pool shall be determined annually by the board based on annual statements and other reports deemed necessary by the board and filed by the member with the commissioner; and shall be determined by multiplying the total cost of pool operation by a fraction. The numerator of the fraction equals that member's total number of resident insured persons, including spouse and dependents, covered under all health plans in the state by that member during the preceding calendar year. The denominator of the fraction equals the total number of resident insured persons, including spouses and dependents, covered under all health plans in the state by all pool members during the preceding calendar year.

(b) For purposes of calculating the numerator and the denominator under (a) of this subsection:

(i) All health plans in the state by the state health care authority include only the uniform medical plan;

(ii) Each ten resident insured persons, including spouse and dependents, under a stop loss plan or the uniform medical plan shall count as one resident insured person;

(iii) Health plans serving medical care services program clients under RCW 74.09.035 are exempted from the calculation; and

(iv) Health plans established to serve elderly clients or medicaid clients with disabilities under chapter 74.09 RCW when the plan has been implemented on a demonstration or pilot project basis are exempted from the calculation until July 1, 2009.

(c) Except as provided in RCW 48.41.037, any deficit incurred by the pool, including pool contributions for deposit into the health benefit exchange account, shall be recouped by assessments among members apportioned under this subsection pursuant to the formula set forth by the board among members. The monthly per member assessment may not exceed the 2013 assessment level. If the maximum assessment is insufficient to cover a pool deficit the assessment shall be used first to pay all incurred losses and pool administrative expenses, with the remainder being available for deposit in the health benefit exchange account.

(3) The board may abate or defer, in whole or in part, the assessment of a member if, in the opinion of the board, payment of the assessment would endanger the ability of the member to fulfill its contractual obligations. If an assessment against a member is abated or deferred in whole or in part, the amount by which such assessment is abated or deferred may be assessed against the other members in a manner consistent with the basis for assessments set forth in subsection (2) of this section. The member receiving such abatement or deferment shall remain liable to the pool for the deficiency.

(4) Subject to the limitation imposed in subsection (2)(c) of this section, the pool administrator shall transfer the assessments for pool contributions for the operation of the health benefit exchange to the treasurer for deposit into the health benefit exchange account with the quarterly assessments for 2014 as specified in the state omnibus appropriations act. If assessments exceed actual losses and administrative expenses of the pool and pool contributions for deposit into the health benefit exchange account, the excess shall be held at interest and used by the board to offset future losses or to reduce pool premiums. As used in this subsection, "future losses" includes reserves for incurred but not reported claims.

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