

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE SENATE BILL 5610**

67th Legislature  
2022 Regular Session

Passed by the Senate March 7, 2022  
Yeas 48 Nays 1

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**President of the Senate**

Passed by the House March 2, 2022  
Yeas 96 Nays 0

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**Speaker of the House of  
Representatives**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5610** as passed by the Senate and the House of Representatives on the dates hereon set forth.

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**Secretary**

FILED

**Secretary of State  
State of Washington**

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**SUBSTITUTE SENATE BILL 5610**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2022 Regular Session

**State of Washington                      67th Legislature                      2022 Regular Session**

**By** Senate Health & Long Term Care (originally sponsored by Senators Frockt, Cleveland, Conway, Dhingra, Hasegawa, Honeyford, Keiser, Kuderer, Lias, Lovelett, Lovick, Randall, Robinson, Saldaña, Salomon, Stanford, Van De Wege, and C. Wilson)

READ FIRST TIME 01/27/22.

1            AN ACT Relating to requiring cost sharing for prescription drugs  
2 to be counted against an enrollee's out-of-pocket costs, deductible,  
3 cost sharing, out-of-pocket maximum, or similar enrollee obligation,  
4 regardless of the source of the payment; amending RCW 41.05.017; and  
5 adding a new section to chapter 48.43 RCW.

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

7            NEW SECTION.    **Sec. 1.**    A new section is added to chapter 48.43  
8 RCW to read as follows:

9            (1)(a) Except as provided in (b) of this subsection, when  
10 calculating an enrollee's contribution to any applicable cost-sharing  
11 or out-of-pocket maximum, a health carrier offering a  
12 nongrandfathered health plan with a pharmacy benefit, or a health  
13 care benefit manager administering benefits for the health carrier,  
14 shall include any cost-sharing amounts paid by the enrollee directly  
15 or on behalf of the enrollee by another person for a covered  
16 prescription drug that is:

17            (i) Without a generic equivalent or a therapeutic equivalent  
18 preferred under the health plan's formulary;

19            (ii) With a generic equivalent or a therapeutic equivalent  
20 preferred under the health plan's formulary where the enrollee has  
21 obtained access to the drug through:

1 (A) Prior authorization;  
2 (B) Step therapy; or  
3 (C) The prescription drug exception request process under RCW  
4 48.43.420; or

5 (iii) With a generic equivalent or therapeutic equivalent  
6 preferred under the health plan's formulary, throughout an exception  
7 request process under RCW 48.43.420, including any appeal of a denial  
8 of an exception request. If the health carrier utilizes a health care  
9 benefit manager to approve or deny exception requests, the exception  
10 request process for the purposes of this subsection (1)(a)(iii) also  
11 includes any time between the completion of the exception request  
12 process, including any appeal of a denial, and when the health care  
13 benefit manager communicates the status of the request to the health  
14 carrier.

15 (b) When calculating an enrollee's contribution to any applicable  
16 deductible, any amount paid on behalf of the enrollee by another  
17 person for a prescription drug that is not subject to payment of a  
18 deductible need not be included in the calculation, unless the terms  
19 of the enrollee's health plan require inclusion.

20 (2) Any cost-sharing amounts paid directly by or on behalf of the  
21 enrollee by another person for a covered prescription drug under  
22 subsection (1) of this section shall be applied towards the  
23 enrollee's applicable cost-sharing or out-of-pocket maximum in full  
24 at the time it is rendered.

25 (3) The commissioner may adopt any rules necessary to implement  
26 this section.

27 (4) This section applies to nongrandfathered health plans issued  
28 or renewed on or after January 1, 2023.

29 (5) This section does not apply to a qualifying health plan for a  
30 health savings account to the extent necessary to preserve the  
31 enrollee's ability to claim tax exempt contributions and withdrawals  
32 from the enrollee's health savings account under internal revenue  
33 service laws, regulations, and guidance.

34 (6) For purposes of this section:

35 (a) "Health care benefit manager" has the same meaning as in RCW  
36 48.200.020.

37 (b) "Person" has the same meaning as in RCW 48.01.070.

38 **Sec. 2.** RCW 41.05.017 and 2021 c 280 s 2 are each amended to  
39 read as follows:

1        Each health plan that provides medical insurance offered under  
2 this chapter, including plans created by insuring entities, plans not  
3 subject to the provisions of Title 48 RCW, and plans created under  
4 RCW 41.05.140, are subject to the provisions of RCW 48.43.500,  
5 70.02.045, 48.43.505 through 48.43.535, 48.43.537, 48.43.545,  
6 48.43.550, 70.02.110, 70.02.900, 48.43.190, 48.43.083, 48.43.0128,  
7 section 1 of this act, and chapter 48.49 RCW.

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