

SSB 6210 - S AMD 583
By Senator Slatter

ADOPTED 02/11/2026

1 Strike everything after the enacting clause and insert the
2 following:

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

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

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

8 (c) Uncertainty in the health insurance marketplace is
9 significantly impacted by the volatility in the federal legislative
10 and regulatory environment;

11 (d) Rising health care costs are impacting access and
12 affordability for Washington state residents;

13 (e) An unstable and volatile individual insurance market would be
14 catastrophic and lead to:

15 (i) Deteriorating health outcomes;

16 (ii) Declining work force productivity;

17 (iii) Lower quality of life; and

18 (iv) Increased burdens on safety net providers from the rising
19 demand for uncompensated care;

20 (f) Each year, the Washington health benefit exchange board uses
21 19 basic criteria that were established in the affordable care act to
22 review and certify health plans that will be offered to Washington
23 state residents in the exchange market;

24 (g) These 19 basic criteria do not address access and
25 affordability issues in the exchange market; and

26 (h) The affordable care act authorizes state exchanges to ensure
27 that certified health plans are in the interest of the residents of
28 the state by adopting additional health plan certification criteria
29 to that effect. Access to and affordability of certified health plans
30 are in the interest of residents of the state.

31 (2)(a) Therefore, the legislature intends to authorize the
32 Washington health benefit exchange to add criteria in the health plan

1 certification process to address access and affordability issues
2 impacting residents who purchase health insurance coverage on the
3 exchange market and help reduce volatility in the exchange market.

4 (b) However, the legislature recognizes that the office of the
5 insurance commissioner has the primary responsibility to review and
6 approve a health carrier's:

7 (i) Proposed rate increases to ensure that any rate increases are
8 reasonable, actuarially sound, nondiscriminatory, and comply with
9 federal and state law; and

10 (ii) Provider networks to ensure adequate access to services.

11 **Sec. 2.** RCW 43.71.020 and 2018 c 44 s 2 are each amended to read
12 as follows:

13 (1) The Washington health benefit exchange is established and
14 constitutes a self-sustaining public-private partnership separate and
15 distinct from the state, exercising functions delineated in chapter
16 317, Laws of 2011. By January 1, 2014, the exchange shall operate
17 consistent with applicable federal law subject to statutory
18 authorization. The exchange shall have a governing board consisting
19 of persons with expertise in the Washington health care system and
20 private and public health care coverage. The membership of the board
21 shall be appointed as follows:

22 (a) Each of the two largest caucuses in both the house of
23 representatives and the senate shall submit to the governor a list of
24 five nominees who are not legislators or employees of the state or
25 its political subdivisions, with no caucus submitting the same
26 nominee.

27 (i) The nominations from the largest caucus in the house of
28 representatives must include at least one employee benefit
29 specialist;

30 (ii) The nominations from the second largest caucus in the house
31 of representatives must include at least one health economist or
32 actuary;

33 (iii) The nominations from the largest caucus in the senate must
34 include at least one representative of health consumer advocates;

35 (iv) The nominations from the second largest caucus in the senate
36 must include at least one representative of small business;

37 (v) The remaining nominees must have demonstrated and
38 acknowledged expertise in at least one of the following areas:
39 Individual health care coverage, small employer health care coverage,

1 health benefit plan administration, health care finance and
2 economics, actuarial science, or administering a public or private
3 health care delivery system.

4 (b) The governor shall appoint two members from each list
5 submitted by the caucuses under (a) of this subsection. The
6 appointments made under this subsection (1)(b) must include at least
7 one employee benefits specialist, one health economist or actuary,
8 one representative of small business, and one representative of
9 health consumer advocates. The remaining four members must have a
10 demonstrated and acknowledged expertise in at least one of the
11 following areas: Individual health care coverage, small employer
12 health care coverage, health benefit plan administration, health care
13 finance and economics, actuarial science, or administering a public
14 or private health care delivery system.

15 (c) The governor shall appoint a ninth member to serve as chair.
16 The chair may not be an employee of the state or its political
17 subdivisions. The chair shall serve as a nonvoting member except in
18 the case of a tie and any decision related to market factor
19 certification criteria as established in section 4 of this act.

20 (d) The following members shall serve as nonvoting, ex officio
21 members of the board:

22 (i) The insurance commissioner or his or her designee; (~~and~~)

23 (ii) The administrator of the health care authority, or his or
24 her designee; and

25 (iii) The governor's senior policy advisor on health, who shall
26 only attend meetings related to market factor certification criteria
27 as established in section 4 of this act.

28 (2) Initial members of the board shall serve staggered terms not
29 to exceed four years. Members appointed thereafter shall serve two-
30 year terms.

31 (3) A member of the board whose term has expired or who otherwise
32 leaves the board shall be replaced by gubernatorial appointment. Upon
33 the expiration of a member's term, the member shall continue to serve
34 until a successor has been appointed and has assumed office. When the
35 person leaving was nominated by one of the caucuses of the house of
36 representatives or the senate, his or her replacement shall be
37 appointed from a list of five nominees submitted by that caucus
38 within thirty days after the person leaves. If the member to be
39 replaced is the chair, the governor shall appoint a new chair within
40 thirty days after the vacancy occurs. A person appointed to replace a

1 member who leaves the board prior to the expiration of his or her
2 term shall serve only the duration of the unexpired term. Members of
3 the board may be reappointed to multiple terms.

4 (4) No board member may be appointed if his or her participation
5 in the decisions of the board could benefit his or her own financial
6 interests or the financial interests of an entity he or she
7 represents. A board member who develops such a conflict of interest
8 shall resign or be removed from the board.

9 (5) Members of the board must be reimbursed for their travel
10 expenses while on official business in accordance with RCW 43.03.050
11 and 43.03.060. The board shall prescribe rules for the conduct of its
12 business. Meetings of the board are at the call of the chair.

13 (6) The exchange and the board are subject only to the provisions
14 of chapter 42.30 RCW, the open public meetings act, and chapter 42.56
15 RCW, the public records act, and not to any other law or regulation
16 generally applicable to state agencies. Consistent with the open
17 public meetings act, the board may hold executive sessions to
18 consider proprietary or confidential nonpublished information.

19 (7) (a) The board shall establish an advisory committee to allow
20 for the views of the health care industry and other stakeholders to
21 be heard in the operation of the health benefit exchange.

22 (b) The board may establish technical advisory committees or seek
23 the advice of technical experts when necessary to execute the powers
24 and duties included in chapter 317, Laws of 2011.

25 (8) Members of the board are not civilly or criminally liable and
26 may not have any penalty or cause of action of any nature arise
27 against them for any action taken or not taken, including any
28 discretionary decision or failure to make a discretionary decision,
29 when the action or inaction is done in good faith and in the
30 performance of the powers and duties under chapter 317, Laws of 2011.
31 Nothing in this section prohibits legal actions against the board to
32 enforce the board's statutory or contractual duties or obligations.

33 (9) In recognition of the government-to-government relationship
34 between the state of Washington and the federally recognized tribes
35 in the state of Washington, the board shall consult with the American
36 Indian health commission.

37 **Sec. 3.** RCW 43.71.065 and 2018 c 44 s 5 are each amended to read
38 as follows:

1 (1) The board shall certify a plan as a qualified health plan to
2 be offered through the exchange if the plan is determined by the:

3 (a) Insurance commissioner to meet the requirements of Title 48
4 RCW and rules adopted by the commissioner pursuant to chapter 34.05
5 RCW to implement the requirements of Title 48 RCW;

6 (b) Board to meet the requirements of applicable federal law for
7 certification as a qualified health plan; ~~((and))~~

8 (c) Board to meet the market factor criteria that address access
9 and affordability as established in section 4 of this act; and

10 (d) Board to include tribal clinics and urban Indian clinics as
11 essential community providers in the plan's provider network
12 consistent with federal law. If consistent with federal law,
13 integrated delivery systems shall be exempt from the requirement to
14 include essential community providers in the provider network.

15 (2) Consistent with applicable federal law, the board shall allow
16 stand-alone dental plans to offer coverage in the exchange beginning
17 January 1, 2014. Dental benefits offered in the exchange must be
18 offered and priced separately to assure transparency for consumers.

19 (3) The board may permit direct primary care medical home plans,
20 consistent with applicable federal law, to be offered in the
21 exchange.

22 (4) Upon request by the board, a state agency shall provide
23 information to the board for its use in determining if the
24 requirements under subsection (1)(b) or ~~((e))~~ (d) of this section
25 have been met. Unless the agency and the board agree to a later date,
26 the agency shall provide the information within sixty days of the
27 request. The exchange shall reimburse the agency for the cost of
28 compiling and providing the requested information within one hundred
29 eighty days of its receipt.

30 (5) A decision by the board denying a request to certify or
31 recertify a plan as a qualified health plan may be appealed according
32 to procedures adopted by the board.

33 NEW SECTION. Sec. 4. A new section is added to chapter 43.71
34 RCW to read as follows:

35 (1) Each year, after the board has reviewed and certified health
36 plans to be offered on the exchange market in the upcoming plan year,
37 the exchange shall review market conditions and identify access and
38 affordability issues in the exchange market that impact the upcoming
39 plan year for which the exchange has not yet certified plans.

1 (2) Each year, the exchange may adopt market factor certification
2 criteria for the upcoming plan year to address market conditions that
3 impact access to and affordability of qualified health plans for
4 individuals or employers who are eligible to purchase coverage on the
5 exchange market in Washington state. When developing the criteria,
6 the exchange may consider whether health plans available in each
7 county are:

8 (a) Meaningfully different with respect to a combination of or
9 all of these measures, as determined by the exchange:

10 (i) Cost-sharing;

11 (ii) Covered benefits;

12 (iii) Premiums;

13 (iv) Prescription drug formularies;

14 (v) Provider networks; or

15 (vi) Quality;

16 (b) Offered by more than one carrier;

17 (c) Maximizing federal premium tax credits;

18 (d) Efficiently utilizing state premium assistance and other
19 state investments; and

20 (e) Offered at each metal level required by the exchange.

21 (3) Market factor certification criteria adopted under this
22 subsection shall be:

23 (a) Objectively defined, measurable, and consistently applied;

24 (b) Applied uniformly to all carriers that offer or seek to offer
25 qualified health plans on the exchange in the state;

26 (c) Consistent with, and not duplicative of, requirements or
27 standards established by the commissioner related to rate review,
28 network adequacy, solvency, or actuarial soundness; and

29 (d) Designed to complement and not conflict with applicable
30 federal or state laws or regulations governing qualified health
31 plans.

32 (4) Market factor certification criteria shall be developed in
33 consultation with the commissioner and the authority, and the
34 exchange shall consider comments from:

35 (a) Carriers that offer or seek to offer qualified health plans
36 on the exchange in the state;

37 (b) Licensed health insurance producers;

38 (c) Federally recognized tribes in the state through the American
39 Indian health commission; and

1 (d) Other health care stakeholders through their associations or
2 organizations.

3 (5) For plan year 2028 and later, market factor certification
4 criteria shall be developed in accordance with the following
5 timeline:

6 (a) By December 15th of the calendar year two years before the
7 plan year in which the market factor certification criteria are to
8 apply, the exchange shall identify preliminary criteria and provide
9 those criteria to the commissioner and the governor;

10 (b) By January 15th of the calendar year before the plan year in
11 which the market factor certification criteria are to apply, the
12 commissioner and the governor may submit to the exchange a written
13 objection to any of the preliminary criteria;

14 (c) By January 31st of the calendar year before the plan year in
15 which the market factor certification criteria are to apply, the
16 exchange shall provide a written response to any objection, including
17 whether and how the objection was addressed and what criteria were
18 amended or removed based on the objection;

19 (d) By January 31st of the calendar year before the plan year in
20 which the market factor certification criteria are to apply, the
21 exchange shall publish the notice of the proposed market factor
22 certification criteria on the exchange website and distribute the
23 notice electronically to any person requesting the notice. The notice
24 shall include:

25 (i) An explanation of the proposed market factor certification
26 criteria;

27 (ii) The time, date, and place for a public hearing; and

28 (iii) The procedures and timelines for submitting written
29 comments and supporting information;

30 (e) No later than five business days before the publication of
31 the final market factor certification criteria, the exchange shall
32 hold at least one public hearing;

33 (f) By March 1st of the calendar year before the plan year in
34 which the market factor certification criteria are to apply, the
35 exchange shall provide written notice of the final market factor
36 certification criteria to carriers that offer health plans subject to
37 certification under RCW 43.71.065, and shall publish the notice of
38 the final market factor certification criteria on the exchange
39 website and distribute the notice electronically to any person
40 requesting the notice;

1 (g) After March 1st of the calendar year before the plan year in
2 which the market factor certification criteria are to apply, the
3 exchange may only modify the market factor certification criteria as
4 necessary to respond to any applicable changes to state or federal
5 laws or regulations. Any modification initiated under this subsection
6 that impacts a carrier's preliminary health plan filings is only in
7 effect if agreed to by the commissioner.

8 (6) (a) The exchange may require a carrier that intends to offer
9 qualified health plans on the exchange to submit information,
10 including the carrier's proposed service areas and proposed plan
11 offerings on the exchange, and how the carrier intends to meet the
12 market factor certification criteria.

13 (b) No earlier than March 1st and no later than May 1st each
14 year, the carrier shall provide the information to the exchange. The
15 specific date must be determined by the exchange before March 1st.

16 (7) (a) A carrier may request a waiver of the market factor
17 certification criteria.

18 (b) Requests for a waiver must be submitted to the exchange at a
19 date specified by the exchange but will be no earlier than March 1st
20 and no later than 14 days prior to the deadline established by the
21 commissioner each year for preliminary health plans filings.

22 (c) In evaluating a request for a waiver, the exchange may:

23 (i) Review information that demonstrates the carrier attempted to
24 meet the market factor certification criteria, such as information
25 that the carrier made a good faith effort to contract with providers
26 to establish an adequate network, the cost of the potential provider
27 network, the direction and magnitude of premium impact, legal
28 prohibitions, or other barriers that impact the carrier's ability to
29 offer coverage in certain service areas, and any impact on other
30 service areas;

31 (ii) Request that the carrier submit information about service
32 areas that would be in place with the market factor certification
33 criteria and if the waiver were granted;

34 (iii) Consider the totality of the proposed qualified health
35 plans and the impact of granting or not granting the waiver of the
36 market factor certification criteria on the interests of Washington
37 state residents.

38 (d) The exchange shall conclude any waiver determinations
39 regarding market factor certification criteria from any carrier that

1 has requested a waiver prior to the carrier submitting preliminary
2 health plan filings for the upcoming plan year to the commissioner.

3 (8) Any information and data submitted by a carrier to the
4 exchange under this section is confidential and not subject to public
5 disclosure under chapter 42.56 RCW. If any rate information is
6 received by the exchange from a carrier, that information is
7 confidential and may not be disclosed or communicated to the public
8 or to any other carrier before the commissioner makes the
9 corresponding rate filing information available for public inspection
10 under RCW 48.02.120(5)(a).

11 (9) Market factor certification criteria may not impose network
12 participation requirements or reimbursement limits on hospitals or
13 providers except as otherwise required by federal or state laws.

14 (10) Nothing in this section prohibits a carrier from offering a
15 health plan that does not meet the requirements in RCW 43.71.065 in
16 the individual market or small group market outside the exchange.

17 (11)(a) By July 1st of each year, beginning in 2030, the
18 exchange, in consultation with the commissioner and authority, shall
19 submit to the legislature a report that includes:

20 (i) The following information, if available, about the exchange
21 and the individual market outside the exchange:

22 (A) Total enrollment by county;

23 (B) Subsidized and unsubsidized enrollment by county;

24 (C) Weighted average health plan rates by county; and

25 (D) Number of people no longer eligible for medicaid coverage and
26 enrolling in a health plan without a gap in coverage, by county;

27 (ii) Percentage of enrollees by county, who are enrolled in a
28 qualified health plan on the exchange and who receive federal premium
29 tax credits, state premium assistance, or both;

30 (iii) The number of market factor certification criteria waivers:

31 (A) Requested by a carrier and reasons for the request; and

32 (B) Granted by the exchange;

33 (iv) Other relevant information, as determined by the exchange,
34 commissioner, or authority.

35 (b) To the extent that any of the information in (a) of this
36 subsection is included in reports or other publications prepared by
37 the exchange, commissioner, or authority, the exchange may reference
38 those sources in the report submitted under this section as an
39 alternative to replicating that information.

1 (c) The initial report in 2030 shall include information for plan
2 years 2028 and 2029.

3 (12) Nothing in this section, including the market factor
4 certification criteria and exchange decisions that apply the market
5 factor certification criteria, shall create requirements that cause a
6 health plan premium to be actuarially unsound, to fail to meet
7 requirements or standards established by the commissioner related to
8 rate review, network adequacy or solvency, or to conflict with
9 applicable federal or state laws or regulations governing qualified
10 health plans.

11 NEW SECTION. **Sec. 5.** A new section is added to chapter 42.56
12 RCW to read as follows:

13 Any information or data submitted by a health carrier to the
14 health benefit exchange for the purposes of the market factor
15 certification criteria under section 3 of this act is confidential
16 and exempt from disclosure under this chapter.

17 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.71
18 RCW to read as follows:

19 For any county with one or fewer carriers offering health plans
20 during the current or upcoming plan year, the exchange and the
21 commissioner shall jointly work with carriers offering health plans
22 on the exchange and hospitals operating in the impacted county and
23 health care referral region to discuss a pathway to have at least two
24 carriers offer health plans in the impacted county during the
25 upcoming plan year, including hospitals contracting with at least two
26 carriers to provide in-network services."

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27 On page 1, at the beginning of line 3 of the title, strike the
28 remainder of the title and insert "amending RCW 43.71.020 and
29 43.71.065; adding new sections to chapter 43.71 RCW; adding a new
30 section to chapter 42.56 RCW; and creating a new section."

EFFECT: (1) Removes the provision allowing the Exchange to
develop market factor certification criteria for plan year 2027.

(2) Adds clarifying language to the reporting requirement in the bill and allows the Exchange to use existing resources when preparing the report.

(3) Provides that nothing in the bill shall create requirements that cause a health plan premium to be actuarially unsound, to fail to meet requirements or standards established by OIC related to rate review, network adequacy or solvency, or to conflict with applicable federal or state laws or regulations governing qualified health plans.

(4) Adds clarifying language to the requirement that the Exchange and OIC work with carriers and hospitals when a county has one or fewer carriers offering health plans during the current or upcoming plan year.

(5) Removes the emergency clause.

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