
HOUSE BILL 2564

State of Washington

69th Legislature

2026 Regular Session

By Representatives Stonier, Lekanoff, Parshley, Ramel, and Macri

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1 AN ACT Relating to safeguarding access and affordability for
2 exchange customers through the health plan certification process;
3 amending RCW 43.71.065; adding a new section to chapter 43.71 RCW;
4 adding a new section to chapter 42.56 RCW; creating a new section;
5 and declaring an emergency.

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

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

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

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

12 (c) Uncertainty in the health insurance marketplace is
13 significantly impacted by the volatility in the federal legislative
14 and regulatory environment;

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

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

19 (i) Deteriorating health outcomes;

20 (ii) Declining work force productivity;

21 (iii) Lower quality of life; and

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

3 (f) Each year, the Washington health benefit exchange board uses
4 19 basic criteria that were established in the affordable care act to
5 review and certify health plans that will be offered to Washington
6 state residents in the exchange market;

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

9 (h) The affordable care act authorizes state exchanges to ensure
10 that certified health plans are in the interest of the residents of
11 the state by adopting additional health plan certification criteria
12 to that effect. Access to and affordability of health plans are in
13 the interest of residents of the state.

14 (2) Therefore, the legislature intends to authorize the
15 Washington health benefit exchange to add criteria in the health plan
16 certification process to address access and affordability issues
17 impacting residents who purchase health insurance coverage on the
18 exchange market and help reduce volatility in the exchange market.

19 **Sec. 2.** RCW 43.71.065 and 2018 c 44 s 5 are each amended to read
20 as follows:

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

23 (a) Insurance commissioner to meet the requirements of Title 48
24 RCW and rules adopted by the commissioner pursuant to chapter 34.05
25 RCW to implement the requirements of Title 48 RCW;

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

28 (c) Board to meet the market factor criteria that address access
29 and affordability as established in section 3 of this act; and

30 (d) Board to include tribal clinics and urban Indian clinics as
31 essential community providers in the plan's provider network
32 consistent with federal law. If consistent with federal law,
33 integrated delivery systems shall be exempt from the requirement to
34 include essential community providers in the provider network.

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

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

4 (4) Upon request by the board, a state agency shall provide
5 information to the board for its use in determining if the
6 requirements under subsection (1)(b) or (c) of this section have been
7 met. Unless the agency and the board agree to a later date, the
8 agency shall provide the information within sixty days of the
9 request. The exchange shall reimburse the agency for the cost of
10 compiling and providing the requested information within one hundred
11 eighty days of its receipt.

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

15 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.71
16 RCW to read as follows:

17 (1) Each year, after the board has reviewed and certified health
18 plans to be offered on the exchange market in the following plan
19 year, the exchange shall review market conditions and identify access
20 and affordability issues in the exchange market that impact the next
21 plan year for which the exchange has not yet certified plans.

22 (2) Each year, the exchange may adopt market factor certification
23 criteria for the next plan year to address market conditions that
24 impact access to and affordability of health plans for individuals or
25 employers who are eligible to purchase coverage on the exchange
26 market in Washington state. When developing the criteria, the
27 exchange may consider whether health plans available in each county
28 are:

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

31 (i) Cost-sharing;

32 (ii) Covered benefits;

33 (iii) Premiums;

34 (iv) Provider networks; or

35 (v) Quality;

36 (b) Offered by more than one carrier;

37 (c) Maximizing federal premium tax credits;

38 (d) Efficiently utilizing state premium assistance and other
39 state investments; and

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

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

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

7 (b) Federally recognized tribes in the state through the American
8 Indian health commission; and

9 (c) Other health care stakeholders through their statewide
10 associations or organizations.

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

14 (i) By December 15th of the calendar year two years before the
15 plan year in which the market factor certification criteria are to
16 apply, the exchange shall identify preliminary criteria and provide
17 those criteria to the commissioner and the governor;

18 (ii) By January 15th of the calendar year before the plan year in
19 which the market factor certification criteria are to apply, the
20 commissioner and the governor may submit to the exchange a written
21 objection to any of the preliminary criteria;

22 (iii) By January 31st of the calendar year before the plan year
23 in which the market factor certification criteria are to apply, the
24 exchange shall provide a written response to any objection, including
25 whether and how the objection was addressed and what criteria were
26 amended or removed based on the objection;

27 (iv) By January 31st of the calendar year before the plan year in
28 which the market factor certification criteria are to apply, the
29 exchange shall publish the notice of the proposed market factor
30 certification criteria on the exchange website and distribute the
31 notice electronically to any person requesting the notice. The notice
32 shall include:

33 (A) An explanation of the proposed market factor certification
34 criteria;

35 (B) The time, date, and place for a public hearing; and

36 (C) The procedures and timelines for submitting written comments
37 and supporting information;

38 (v) No later than five business days before the publication of
39 the final market factor certification criteria, the exchange shall
40 hold at least one public hearing;

1 (vi) By March 1st of the calendar year before the plan year in
2 which the market factor certification criteria are to apply, the
3 exchange shall provide written notice of the final market factor
4 certification criteria to carriers that offer health plans subject to
5 certification under RCW 43.71.065, and shall publish the notice of
6 the final market factor certification criteria on the exchange
7 website and distribute the notice electronically to any person
8 requesting the notice;

9 (vii) After March 1st of the calendar year before the plan year
10 in which the market factor certification criteria are to apply, the
11 exchange may only modify the market factor certification criteria as
12 necessary to respond to any applicable changes to state or federal
13 laws or regulations. Any modification initiated under this subsection
14 that impacts a carrier's preliminary health plan filings is only in
15 effect if agreed to by the commissioner.

16 (b) For plan year 2027, market factor certification criteria
17 shall be developed in accordance with procedures established by the
18 exchange.

19 (5)(a) The exchange may require a carrier that is intending to
20 offer health plans on the exchange to submit information, including
21 the carrier's proposed service areas, proposed plan offerings and
22 rates on the exchange, and how the carrier intends to meet the market
23 factor certification criteria.

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

27 (6)(a) A carrier may request a waiver of the market factor
28 certification criteria.

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

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

34 (i) Review information that demonstrates the carrier attempted to
35 meet the market factor certification criteria, such as information
36 that the carrier made a good faith effort to contract with providers
37 to establish an adequate network, the cost of the potential provider
38 network, impact on premiums, legal prohibitions, or other barriers
39 that impact the carrier's ability to offer coverage in certain
40 service areas, and any impact on other service areas;

1 (ii) Request that the carrier submit information about service
2 areas and rates that would be in place with the market factor
3 certification criteria and if the waiver were granted;

4 (iii) Consider the totality of the proposed health plans and the
5 impact of granting or not granting the waiver of the market factor
6 certification criteria on the interests of Washington state
7 residents.

8 (d) The exchange shall conclude any waiver determinations
9 regarding market factor certification criteria from any carrier that
10 has requested a waiver prior to the carrier submitting preliminary
11 health plan filings for the upcoming plan year to the commissioner.

12 (7) Any information and data submitted by a carrier to the
13 exchange under this section is confidential and not subject to public
14 disclosure under chapter 42.56 RCW.

15 (8) Market factor certification criteria may not directly impose
16 network participation requirements or reimbursement limits on
17 hospitals or providers except as otherwise required by federal or
18 state laws.

19 (9) Nothing in this section prohibits a carrier from offering a
20 health plan that does not meet the requirements in RCW 43.71.065 in
21 the individual market or small group market outside the exchange.

22 NEW SECTION. **Sec. 4.** A new section is added to chapter 42.56
23 RCW to read as follows:

24 Any information or data submitted by a carrier to the health
25 benefit exchange for the purposes of the market factor certification
26 criteria under section 3 of this act are confidential and exempt from
27 disclosure under this chapter.

28 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
29 preservation of the public peace, health, or safety, or support of
30 the state government and its existing public institutions, and takes
31 effect immediately.

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