
ENGROSSED SUBSTITUTE SENATE BILL 6210

State of Washington

69th Legislature

2026 Regular Session

By Senate Health & Long-Term Care (originally sponsored by Senators Slatter, Nobles, and Saldaña)

READ FIRST TIME 02/04/26.

1 AN ACT Relating to safeguarding access and affordability for
2 exchange customers through the health plan certification process;
3 amending RCW 43.71.020 and 43.71.065; adding new sections to chapter
4 43.71 RCW; adding a new section to chapter 42.56 RCW; and creating a
5 new section.

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 certified health plans
13 are in the interest of residents of the state.

14 (2)(a) 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 (b) However, the legislature recognizes that the office of the
20 insurance commissioner has the primary responsibility to review and
21 approve a health carrier's:

22 (i) Proposed rate increases to ensure that any rate increases are
23 reasonable, actuarially sound, nondiscriminatory, and comply with
24 federal and state law; and

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

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

28 (1) The Washington health benefit exchange is established and
29 constitutes a self-sustaining public-private partnership separate and
30 distinct from the state, exercising functions delineated in chapter
31 317, Laws of 2011. By January 1, 2014, the exchange shall operate
32 consistent with applicable federal law subject to statutory
33 authorization. The exchange shall have a governing board consisting
34 of persons with expertise in the Washington health care system and
35 private and public health care coverage. The membership of the board
36 shall be appointed as follows:

37 (a) Each of the two largest caucuses in both the house of
38 representatives and the senate shall submit to the governor a list of
39 five nominees who are not legislators or employees of the state or

1 its political subdivisions, with no caucus submitting the same
2 nominee.

3 (i) The nominations from the largest caucus in the house of
4 representatives must include at least one employee benefit
5 specialist;

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

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

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

13 (v) The remaining nominees must have demonstrated and
14 acknowledged expertise in at least one of the following areas:
15 Individual health care coverage, small employer health care coverage,
16 health benefit plan administration, health care finance and
17 economics, actuarial science, or administering a public or private
18 health care delivery system.

19 (b) The governor shall appoint two members from each list
20 submitted by the caucuses under (a) of this subsection. The
21 appointments made under this subsection (1)(b) must include at least
22 one employee benefits specialist, one health economist or actuary,
23 one representative of small business, and one representative of
24 health consumer advocates. The remaining four members must have a
25 demonstrated and acknowledged expertise in at least one of the
26 following areas: Individual health care coverage, small employer
27 health care coverage, health benefit plan administration, health care
28 finance and economics, actuarial science, or administering a public
29 or private health care delivery system.

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

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

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

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

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

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

7 (3) A member of the board whose term has expired or who otherwise
8 leaves the board shall be replaced by gubernatorial appointment. Upon
9 the expiration of a member's term, the member shall continue to serve
10 until a successor has been appointed and has assumed office. When the
11 person leaving was nominated by one of the caucuses of the house of
12 representatives or the senate, his or her replacement shall be
13 appointed from a list of five nominees submitted by that caucus
14 within thirty days after the person leaves. If the member to be
15 replaced is the chair, the governor shall appoint a new chair within
16 thirty days after the vacancy occurs. A person appointed to replace a
17 member who leaves the board prior to the expiration of his or her
18 term shall serve only the duration of the unexpired term. Members of
19 the board may be reappointed to multiple terms.

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

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

29 (6) The exchange and the board are subject only to the provisions
30 of chapter 42.30 RCW, the open public meetings act, and chapter 42.56
31 RCW, the public records act, and not to any other law or regulation
32 generally applicable to state agencies. Consistent with the open
33 public meetings act, the board may hold executive sessions to
34 consider proprietary or confidential nonpublished information.

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

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

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

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

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

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

17 (a) Insurance commissioner to meet the requirements of Title 48
18 RCW and rules adopted by the commissioner pursuant to chapter 34.05
19 RCW to implement the requirements of Title 48 RCW;

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

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

24 (d) Board to include tribal clinics and urban Indian clinics as
25 essential community providers in the plan's provider network
26 consistent with federal law. If consistent with federal law,
27 integrated delivery systems shall be exempt from the requirement to
28 include essential community providers in the provider network.

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

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

36 (4) Upon request by the board, a state agency shall provide
37 information to the board for its use in determining if the
38 requirements under subsection (1)(b) or (~~(c)~~) (d) of this section
39 have been met. Unless the agency and the board agree to a later date,

1 the agency shall provide the information within sixty days of the
2 request. The exchange shall reimburse the agency for the cost of
3 compiling and providing the requested information within one hundred
4 eighty days of its receipt.

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

8 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.71
9 RCW to read as follows:

10 (1) Each year, after the board has reviewed and certified health
11 plans to be offered on the exchange market in the upcoming plan year,
12 the exchange shall review market conditions and identify access and
13 affordability issues in the exchange market that impact the upcoming
14 plan year for which the exchange has not yet certified plans.

15 (2) Each year, the exchange may adopt market factor certification
16 criteria for the upcoming plan year to address market conditions that
17 impact access to and affordability of qualified health plans for
18 individuals or employers who are eligible to purchase coverage on the
19 exchange market in Washington state. When developing the criteria,
20 the exchange may consider whether health plans available in each
21 county are:

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

24 (i) Cost-sharing;

25 (ii) Covered benefits;

26 (iii) Premiums;

27 (iv) Prescription drug formularies;

28 (v) Provider networks; or

29 (vi) Quality;

30 (b) Offered by more than one carrier;

31 (c) Maximizing federal premium tax credits;

32 (d) Efficiently utilizing state premium assistance and other
33 state investments; and

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

35 (3) Market factor certification criteria adopted under this
36 subsection shall be:

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

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

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

4 (d) Designed to complement and not conflict with applicable
5 federal or state laws or regulations governing qualified health
6 plans.

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

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

12 (b) Licensed health insurance producers;

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

15 (d) Other health care stakeholders through their associations or
16 organizations.

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

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

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

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

33 (d) By January 31st of the calendar year before the plan year in
34 which the market factor certification criteria are to apply, the
35 exchange shall publish the notice of the proposed market factor
36 certification criteria on the exchange website and distribute the
37 notice electronically to any person requesting the notice. The notice
38 shall include:

39 (i) An explanation of the proposed market factor certification
40 criteria;

1 (ii) The time, date, and place for a public hearing; and
2 (iii) The procedures and timelines for submitting written
3 comments and supporting information;

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

7 (f) By March 1st of the calendar year before the plan year in
8 which the market factor certification criteria are to apply, the
9 exchange shall provide written notice of the final market factor
10 certification criteria to carriers that offer health plans subject to
11 certification under RCW 43.71.065, and shall publish the notice of
12 the final market factor certification criteria on the exchange
13 website and distribute the notice electronically to any person
14 requesting the notice;

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

22 (6) (a) The exchange may require a carrier that intends to offer
23 qualified health plans on the exchange to submit information,
24 including the carrier's proposed service areas and proposed plan
25 offerings on the exchange, and how the carrier intends to meet the
26 market factor certification criteria.

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

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

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

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

37 (i) Review information that demonstrates the carrier attempted to
38 meet the market factor certification criteria, such as information
39 that the carrier made a good faith effort to contract with providers
40 to establish an adequate network, the cost of the potential provider

1 network, the direction and magnitude of premium impact, legal
2 prohibitions, or other barriers that impact the carrier's ability to
3 offer coverage in certain service areas, and any impact on other
4 service areas;

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

8 (iii) Consider the totality of the proposed qualified health
9 plans and the impact of granting or not granting the waiver of the
10 market factor certification criteria on the interests of Washington
11 state residents.

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

16 (8) Any information and data submitted by a carrier to the
17 exchange under this section is confidential and not subject to public
18 disclosure under chapter 42.56 RCW. If any rate information is
19 received by the exchange from a carrier, that information is
20 confidential and may not be disclosed or communicated to the public
21 or to any other carrier before the commissioner makes the
22 corresponding rate filing information available for public inspection
23 under RCW 48.02.120(5)(a).

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

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

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

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

35 (A) Total enrollment by county;

36 (B) Subsidized and unsubsidized enrollment by county;

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

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

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

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

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

6 (B) Granted by the exchange;

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

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

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

16 (12) Nothing in this section, including the market factor
17 certification criteria and exchange decisions that apply the market
18 factor certification criteria, shall create requirements that cause a
19 health plan premium to be actuarially unsound, to fail to meet
20 requirements or standards established by the commissioner related to
21 rate review, network adequacy or solvency, or to conflict with
22 applicable federal or state laws or regulations governing qualified
23 health plans.

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

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

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

32 For any county with one or fewer carriers offering health plans
33 during the current or upcoming plan year, the exchange and the
34 commissioner shall jointly work with carriers offering health plans
35 on the exchange and hospitals operating in the impacted county and
36 health care referral region to discuss a pathway to have at least two
37 carriers offer health plans in the impacted county during the

1 upcoming plan year, including hospitals contracting with at least two
2 carriers to provide in-network services.

--- **END** ---