
HOUSE BILL 1096

State of Washington

67th Legislature

2021 Regular Session

By Representatives Schmick and Cody

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1 AN ACT Relating to nonmedicare plans offered through the
2 Washington state health insurance pool; and amending RCW 48.41.100
3 and 48.41.160.

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

5 **Sec. 1.** RCW 48.41.100 and 2017 c 110 s 2 are each amended to
6 read as follows:

7 (1)(a) The following persons who are residents of this state are
8 eligible for pool coverage:

9 (i) Any resident of the state not eligible for medicare coverage
10 or medicaid coverage, and residing in a county where an individual
11 health plan other than a catastrophic health plan as defined in RCW
12 48.43.005 is not offered to the resident during defined open
13 enrollment or special enrollment periods at the time of application
14 to the pool, whether through the health benefit exchange operated
15 pursuant to chapter 43.71 RCW or in the private insurance market (~~7~~
16 ~~and who makes application to the pool for coverage prior to December~~
17 ~~31, 2022));~~

18 (ii) Any resident of the state not eligible for medicare
19 coverage, enrolled in the pool prior to December 31, 2013, shall
20 remain eligible for pool coverage except as provided in subsections
21 (2) and (3) of this section (~~(through December 31, 2022));~~

1 (iii) Any person becoming eligible for medicare before August 1,
2 2009, who provides evidence of (A) a rejection for medical reasons,
3 (B) a requirement of restrictive riders, (C) an up-rated premium, (D)
4 a preexisting conditions limitation, or (E) lack of access to or for
5 a comprehensive medicare supplemental insurance policy under chapter
6 48.66 RCW, the effect of any of which is to substantially reduce
7 coverage from that received by a person considered a standard risk by
8 at least one member within six months of the date of application; and

9 (iv) Any person becoming eligible for medicare on or after August
10 1, 2009, who does not have access to a reasonable choice of
11 comprehensive medicare part C plans, as defined in (b) of this
12 subsection, and who provides evidence of (A) a rejection for medical
13 reasons, (B) a requirement of restrictive riders, (C) an up-rated
14 premium, (D) a preexisting conditions limitation, or (E) lack of
15 access to or for a comprehensive medicare supplemental insurance
16 policy under chapter 48.66 RCW, the effect of any of which is to
17 substantially reduce coverage from that received by a person
18 considered a standard risk by at least one member within six months
19 of the date of application.

20 (b) For purposes of (a)(i) of this subsection, by December 1,
21 2013, the board shall develop and implement a process to determine an
22 applicant's eligibility based on the criteria specified in (a)(i) of
23 this subsection.

24 (c) For purposes of (a)(iv) of this subsection (1), a person does
25 not have access to a reasonable choice of plans unless the person has
26 a choice of health maintenance organization or preferred provider
27 organization medicare part C plans offered by at least three
28 different carriers that have had provider networks in the person's
29 county of residence for at least five years. The plan options must
30 include coverage at least as comprehensive as a plan F medicare
31 supplement plan combined with medicare parts A and B. The plan
32 options must also provide access to adequate and stable provider
33 networks that make up-to-date provider directories easily accessible
34 on the carrier web site, and will provide them in hard copy, if
35 requested. In addition, if no health maintenance organization or
36 preferred provider organization plan includes the health care
37 provider with whom the person has an established care relationship
38 and from whom he or she has received treatment within the past twelve
39 months, the person does not have reasonable access.

1 (2) The following persons are not eligible for coverage by the
2 pool:

3 (a) Any person having terminated coverage in the pool unless (i)
4 twelve months have lapsed since termination, or (ii) that person can
5 show continuous other coverage which has been involuntarily
6 terminated for any reason other than nonpayment of premiums. However,
7 these exclusions do not apply to eligible individuals as defined in
8 section 2741(b) of the federal health insurance portability and
9 accountability act of 1996 (42 U.S.C. Sec. 300gg-41(b));

10 (b) Inmates of public institutions and those persons who become
11 eligible for medical assistance after June 30, 2008, as defined in
12 RCW 74.09.010. However, these exclusions do not apply to eligible
13 individuals as defined in section 2741(b) of the federal health
14 insurance portability and accountability act of 1996 (42 U.S.C. Sec.
15 300gg-41(b)).

16 (3) When a carrier or insurer regulated under chapter 48.15 RCW
17 begins to offer an individual health benefit plan in a county where
18 no carrier had been offering an individual health benefit plan:

19 (a) If the health benefit plan offered is other than a
20 catastrophic health plan as defined in RCW 48.43.005, any person
21 enrolled in a pool plan pursuant to subsection (1)(a)(i) of this
22 section in that county shall no longer be eligible for coverage under
23 that plan pursuant to subsection (1)(a)(i) of this section; and

24 (b) The pool administrator shall provide written notice to any
25 person who is no longer eligible for coverage under a pool plan under
26 this subsection (3) within thirty days of the administrator's
27 determination that the person is no longer eligible. The notice
28 shall: (i) Indicate that coverage under the plan will cease ninety
29 days from the date that the notice is dated; (ii) describe any other
30 coverage options, either in or outside of the pool, available to the
31 person; and (iii) describe the enrollment process for the available
32 options outside of the pool.

33 **Sec. 2.** RCW 48.41.160 and 2017 c 110 s 3 are each amended to
34 read as follows:

35 (1) On or before December 31, 2007, the pool shall cancel all
36 existing pool policies and replace them with policies that are
37 identical to the existing policies except for the inclusion of a
38 provision providing for a guarantee of the continuity of coverage
39 consistent with this section. As a means to minimize the number of

1 policy changes for enrollees, replacement policies provided under
2 this subsection also may include the plan modifications authorized in
3 RCW 48.41.100, 48.41.110, and 48.41.120.

4 (2) A pool policy shall contain a guarantee of the individual's
5 right to continued coverage, subject to the provisions of subsections
6 (4), (5), (7), and (8) of this section.

7 (3) The guarantee of continuity of coverage required by this
8 section shall not prevent the pool from canceling or nonrenewing a
9 policy for:

10 (a) Nonpayment of premium;

11 (b) Violation of published policies of the pool;

12 (c) Failure of a covered person who becomes eligible for medicare
13 benefits by reason of age to apply for a pool medical supplement
14 plan, or a medicare supplement plan or other similar plan offered by
15 a carrier pursuant to federal laws and regulations;

16 (d) Failure of a covered person to pay any deductible or
17 copayment amount owed to the pool and not the provider of health care
18 services;

19 (e) Covered persons committing fraudulent acts as to the pool;

20 (f) Covered persons materially breaching the pool policy; or

21 (g) Changes adopted to federal or state laws when such changes no
22 longer permit the continued offering of such coverage.

23 (4)(a) The guarantee of continuity of coverage provided by this
24 section requires that if the pool replaces a plan, it must make the
25 replacement plan available to all individuals in the plan being
26 replaced. The replacement plan must include all of the services
27 covered under the replaced plan, and must not significantly limit
28 access to the kind of services covered under the replacement plan
29 through unreasonable cost-sharing requirements or otherwise. The pool
30 may also allow individuals who are covered by a plan that is being
31 replaced an unrestricted right to transfer to a fully comparable
32 plan.

33 (b) The guarantee of continuity of coverage provided by this
34 section requires that if the pool discontinues offering a plan: (i)
35 The pool must provide notice to each individual of the
36 discontinuation at least ninety days prior to the date of the
37 discontinuation; (ii) the pool must offer to each individual provided
38 coverage under the discontinued plan the option to enroll in any
39 other plan currently offered by the pool for which the individual is
40 otherwise eligible; and (iii) in exercising the option to discontinue

1 a plan and in offering the option of coverage under (b)(ii) of this
2 subsection, the pool must act uniformly without regard to any health
3 status-related factor of enrolled individuals or individuals who may
4 become eligible for this coverage.

5 (c) The pool cannot replace or discontinue a plan under this
6 subsection (4) until it has completed an evaluation of the impact of
7 replacing the plan upon:

8 (i) The cost and quality of care to pool enrollees;

9 (ii) Pool financing and enrollment;

10 (iii) The board's ability to offer comprehensive and other plans
11 to its enrollees;

12 (iv) Other items identified by the board.

13 In its evaluation, the board must request input from the
14 constituents represented by the board members.

15 (d) The guarantee of continuity of coverage provided by this
16 section does not apply if the pool has zero enrollment in a plan.

17 (5) The pool may not change the rates for pool policies except on
18 a class basis, with a clear disclosure in the policy of the pool's
19 right to do so.

20 (6) A pool policy offered under this chapter shall provide that,
21 upon the death of the individual in whose name the policy is issued,
22 every other individual then covered under the policy may elect,
23 within a period specified in the policy, to continue coverage under
24 the same or a different policy.

25 (7) All pool policies issued on or after January 1, 2014, must
26 reflect the new eligibility requirements of RCW 48.41.100 (~~and~~
27 ~~contain a statement of the intent to discontinue the pool coverage on~~
28 ~~December 31, 2022, under pool nonmedicare plans~~)).

29 (8) Pool policies issued prior to January 1, 2014, shall be
30 modified effective January 1, 2018, consistent with subsection (3)(g)
31 of this section (~~, and contain a statement of the intent to~~
32 ~~discontinue pool coverage on December 31, 2022, under pool~~
33 ~~nonmedicare plans.~~

34 ~~(9) The pool shall discontinue all nonmedicare pool plans~~
35 ~~effective December 31, 2022).~~

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