
ENGROSSED SUBSTITUTE SENATE BILL 5406

State of Washington

61st Legislature

2009 Regular Session

By Senate Health & Long-Term Care (originally sponsored by Senators Keiser, Pflug, Kohl-Welles, and Parlette)

READ FIRST TIME 02/10/09.

1 AN ACT Relating to the standard health questionnaire; reenacting
2 and amending RCW 48.43.018; and declaring an emergency.

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

4 **Sec. 1.** RCW 48.43.018 and 2007 c 80 s 13 and 2007 c 259 s 37 are
5 each reenacted and amended to read as follows:

6 (1) Except as provided in (a) through ~~((d))~~ (g) of this
7 subsection, a health carrier may require any person applying for an
8 individual health benefit plan and the health care authority shall
9 require any person applying for nonsubsidized enrollment in the basic
10 health plan to complete the standard health questionnaire designated
11 under chapter 48.41 RCW.

12 (a) If a person is seeking an individual health benefit plan or
13 enrollment in the basic health plan as a nonsubsidized enrollee due to
14 his or her change of residence from one geographic area in Washington
15 state to another geographic area in Washington state where his or her
16 current health plan is not offered, completion of the standard health
17 questionnaire shall not be a condition of coverage if application for
18 coverage is made within ninety days of relocation.

1 (b) If a person is seeking an individual health benefit plan or
2 enrollment in the basic health plan as a nonsubsidized enrollee:

3 (i) Because a health care provider with whom he or she has an
4 established care relationship and from whom he or she has received
5 treatment within the past twelve months is no longer part of the
6 carrier's provider network under his or her existing Washington
7 individual health benefit plan; and

8 (ii) His or her health care provider is part of another carrier's
9 or a basic health plan managed care system's provider network; and

10 (iii) Application for a health benefit plan under that carrier's
11 provider network individual coverage or for basic health plan
12 nonsubsidized enrollment is made within ninety days of his or her
13 provider leaving the previous carrier's provider network; then
14 completion of the standard health questionnaire shall not be a
15 condition of coverage.

16 (c) If a person is seeking an individual health benefit plan or
17 enrollment in the basic health plan as a nonsubsidized enrollee due to
18 his or her having exhausted continuation coverage provided under 29
19 U.S.C. Sec. 1161 et seq., completion of the standard health
20 questionnaire shall not be a condition of coverage if application for
21 coverage is made within ninety days of exhaustion of continuation
22 coverage. A health carrier or the health care authority as
23 administrator of basic health plan nonsubsidized coverage shall accept
24 an application without a standard health questionnaire from a person
25 currently covered by such continuation coverage if application is made
26 within ninety days prior to the date the continuation coverage would be
27 exhausted and the effective date of the individual coverage applied for
28 is the date the continuation coverage would be exhausted, or within
29 ninety days thereafter.

30 ~~(d) ((If a person is seeking an individual health benefit plan or~~
31 ~~enrollment in the basic health plan as a nonsubsidized enrollee~~
32 ~~following disenrollment from a health plan that is exempt from~~
33 ~~continuation coverage provided under 29 U.S.C. Sec. 1161 et seq.,~~
34 ~~completion of the standard health questionnaire shall not be a~~
35 ~~condition of coverage if: (i) The person had at least twenty four~~
36 ~~months of continuous group coverage including church plans immediately~~
37 ~~prior to disenrollment; (ii) application is made no more than ninety~~

1 ~~days prior to the date of disenrollment; and (iii) the effective date~~
2 ~~of the individual coverage applied for is the date of disenrollment, or~~
3 ~~within ninety days thereafter.~~

4 ~~(f)) If a person is seeking an individual health benefit plan or~~
5 ~~enrollment in the basic health plan as a nonsubsidized enrollee due to~~
6 ~~a change in employment status that would qualify him or her to purchase~~
7 ~~continuation coverage provided under 29 U.S.C. Sec. 1161 et seq., but~~
8 ~~the person's employer is exempt under federal law from the requirement~~
9 ~~to offer such coverage, completion of the standard health questionnaire~~
10 ~~shall not be a condition of coverage if: (i) Application for coverage~~
11 ~~is made within ninety days of a qualifying event as defined in 29~~
12 ~~U.S.C. Sec. 1163, or application for coverage is made within sixty days~~
13 ~~after the effective date of this act following a qualifying event that~~
14 ~~occurred on or after September 1, 2008; and (ii) the person had at~~
15 ~~least twenty-four months of continuous group coverage immediately prior~~
16 ~~to the qualifying event. A health carrier shall accept an application~~
17 ~~without a standard health questionnaire from a person with at least~~
18 ~~twenty-four months of continuous group coverage if application is made~~
19 ~~no more than ninety days prior to the date of a qualifying event and~~
20 ~~the effective date of the individual coverage applied for is the date~~
21 ~~of the qualifying event, or within ninety days thereafter.~~

22 ~~(e) If a person is seeking an individual health benefit plan,~~
23 ~~completion of the standard health questionnaire shall not be a~~
24 ~~condition of coverage if: (i) The person had at least twenty-four~~
25 ~~months of continuous basic health plan coverage under chapter 70.47 RCW~~
26 ~~immediately prior to disenrollment; and (ii) application for coverage~~
27 ~~is made within ninety days of disenrollment from the basic health plan.~~
28 ~~A health carrier shall accept an application without a standard health~~
29 ~~questionnaire from a person with at least twenty-four months of~~
30 ~~continuous basic health plan coverage if application is made no more~~
31 ~~than ninety days prior to the date of disenrollment and the effective~~
32 ~~date of the individual coverage applied for is the date of~~
33 ~~disenrollment, or within ninety days thereafter.~~

34 ~~(f) If a person is seeking an individual health benefit plan due to~~
35 ~~a change in employment status that would qualify him or her to purchase~~
36 ~~continuation coverage provided under 29 U.S.C. Sec. 1161 et seq.,~~
37 ~~completion of the standard health questionnaire is not a condition of~~
38 ~~coverage if: (i) Application for coverage is made within ninety days~~

1 of a qualifying event as defined in 29 U.S.C. Sec. 1163, or application
2 for coverage is made within sixty days after the effective date of this
3 act following a qualifying event that occurred on or after September 1,
4 2008; and (ii) the person had at least twenty-four months of continuous
5 group coverage immediately prior to the qualifying event. A health
6 carrier shall accept an application without a standard health
7 questionnaire from a person with at least twenty-four months of
8 continuous group coverage if application is made no more than ninety
9 days prior to the date of a qualifying event and the effective date of
10 the individual coverage applied for is the date of the qualifying
11 event, or within ninety days thereafter.

12 (g) If a person is seeking an individual health benefit plan due to
13 their terminating continuation coverage under 29 U.S.C. Sec. 1161 et
14 seq., completion of the standard health questionnaire shall not be a
15 condition of coverage if: (i) Application for coverage is made within
16 ninety days of terminating the continuation coverage, or within sixty
17 days after the effective date of this act if termination of
18 continuation coverage occurred on or after September 1, 2008; and (ii)
19 the person had at least twenty-four months of continuous group coverage
20 immediately prior to the termination. A health carrier shall accept an
21 application without a standard health questionnaire from a person with
22 at least twenty-four months of continuous group coverage if application
23 is made no more than ninety days prior to the date of termination of
24 the continuation coverage and the effective date of the individual
25 coverage applied for is the date the continuation coverage is
26 terminated, or within ninety days thereafter.

27 (2) If, based upon the results of the standard health
28 questionnaire, the person qualifies for coverage under the Washington
29 state health insurance pool, the following shall apply:

30 (a) The carrier may decide not to accept the person's application
31 for enrollment in its individual health benefit plan and the health
32 care authority, as administrator of basic health plan nonsubsidized
33 coverage, shall not accept the person's application for enrollment as
34 a nonsubsidized enrollee; and

35 (b) Within fifteen business days of receipt of a completed
36 application, the carrier or the health care authority as administrator
37 of basic health plan nonsubsidized coverage shall provide written
38 notice of the decision not to accept the person's application for

1 enrollment to both the person and the administrator of the Washington
2 state health insurance pool. The notice to the person shall state that
3 the person is eligible for health insurance provided by the Washington
4 state health insurance pool, and shall include information about the
5 Washington state health insurance pool and an application for such
6 coverage. If the carrier or the health care authority as administrator
7 of basic health plan nonsubsidized coverage does not provide or
8 postmark such notice within fifteen business days, the application is
9 deemed approved.

10 (3) If the person applying for an individual health benefit plan:
11 (a) Does not qualify for coverage under the Washington state health
12 insurance pool based upon the results of the standard health
13 questionnaire; (b) does qualify for coverage under the Washington state
14 health insurance pool based upon the results of the standard health
15 questionnaire and the carrier elects to accept the person for
16 enrollment; or (c) is not required to complete the standard health
17 questionnaire designated under this chapter under subsection (1)(a) or
18 (b) of this section, the carrier or the health care authority as
19 administrator of basic health plan nonsubsidized coverage, whichever
20 entity administered the standard health questionnaire, shall accept the
21 person for enrollment if he or she resides within the carrier's or the
22 basic health plan's service area and provide or assure the provision of
23 all covered services regardless of age, sex, family structure,
24 ethnicity, race, health condition, geographic location, employment
25 status, socioeconomic status, other condition or situation, or the
26 provisions of RCW 49.60.174(2). The commissioner may grant a temporary
27 exemption from this subsection if, upon application by a health
28 carrier, the commissioner finds that the clinical, financial, or
29 administrative capacity to serve existing enrollees will be impaired if
30 a health carrier is required to continue enrollment of additional
31 eligible individuals.

32 NEW SECTION. **Sec. 2.** This act is necessary for the immediate
33 preservation of the public peace, health, or safety, or support of the
34 state government and its existing public institutions, and takes effect
35 immediately.

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