
SUBSTITUTE SENATE BILL 5605

State of Washington

63rd Legislature

2013 Regular Session

By Senate Health Care (originally sponsored by Senators Becker, Sheldon, Hatfield, and Parlette)

READ FIRST TIME 02/22/13.

1 AN ACT Relating to clarifying association health plans provisions;
2 amending RCW 48.21.010, 48.44.070, and 48.46.060; and creating new
3 sections.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the offering of
6 affordable health care to Washington residents is a critical public
7 policy objective. The legislature further finds that as the affordable
8 care act is fully implemented, it is critical that quality health care
9 coverage continue to be available to residents of the state. The
10 legislature further finds that association health care plans are an
11 important means of delivering quality and affordable health care
12 coverage and that continuation of such plans will help mitigate the
13 costs of implementing the affordable care act. Therefore, the
14 legislature declares that association health care plans meeting certain
15 standards should be continued as a means of providing health care as
16 the affordable care act is implemented.

17 **Sec. 2.** RCW 48.21.010 and 2011 c 81 s 1 are each amended to read
18 as follows:

1 (1) Group disability insurance is that form of disability
2 insurance, including stop loss insurance as defined in RCW 48.11.030,
3 provided by a master policy issued to an employer, to a trustee
4 appointed by an employer or employers, or to an association of
5 employers formed for purposes other than obtaining such insurance,
6 covering, with or without their dependents, the employees, or specified
7 categories of the employees, of such employers or their subsidiaries or
8 affiliates, or issued to a labor union, or to an association of
9 employees formed for purposes other than obtaining such insurance,
10 covering, with or without their dependents, the members, or specified
11 categories of the members, of the labor union or association, or issued
12 pursuant to RCW 48.21.030. Group disability insurance includes the
13 following groups that qualify for group life insurance:

14 RCW 48.24.020, 48.24.035, 48.24.040, 48.24.045, 48.24.050,
15 48.24.060, 48.24.070, 48.24.080, 48.24.090, and 48.24.095. A group
16 under RCW 48.24.027 does not qualify as a group for the purposes of
17 this chapter.

18 (2) Group disability insurance for lines of coverage identified in
19 RCW 48.43.005(~~((+19+))~~) (26) (e), (h), and (k) offered to a resident of
20 this state under a group disability insurance policy may be issued to
21 a group other than the groups described in subsection (1) of this
22 section subject to the requirements in this subsection.

23 (a) A group disability insurance policy offered under this
24 subsection may not be delivered in this state unless the commissioner
25 finds that:

26 (i) The issuance of the group policy is not contrary to the best
27 interest of the public;

28 (ii) The issuance of the group policy would result in economies of
29 acquisition or administration; and

30 (iii) The benefits are reasonable in relation to the premium
31 charged.

32 (b) A group disability insurance coverage may not be offered under
33 this subsection in this state by an insurer under a policy issued in
34 another state unless the commissioner or the insurance commissioner of
35 another state having requirements substantially similar to those
36 contained in this subsection has made a determination that the
37 requirements have been met.

1 (3) Until or unless the United States department of labor prohibits
2 the treatment of a health plan issued to an association or member-
3 governed group as a large group plan, any rate or form filed by any
4 life and disability carrier for health benefit coverage to employers
5 purchasing health plans through that association and member-governed
6 group shall be deemed and may only be reviewed as a negotiated large
7 group filing by the insurance commissioner if the carrier in good faith
8 certifies that:

9 (a) The association or member-governed group operates solely within
10 the borders of a single state and only includes member employers having
11 registered Washington state unified business identifiers;

12 (b) The association or member-governed group has minimum enrollment
13 of one hundred participants;

14 (c) Any filed health plan includes all benefit mandates applicable
15 to fully insured large group health plans;

16 (d) A filed health plan will not underwrite individuals based upon
17 health conditions of the individual;

18 (e) A filed health plan will not be issued to any association that
19 conditions membership based on age, health status, or medical claims
20 experience; and

21 (f) A filed health plan will be offered to all eligible association
22 members, regardless of their age, health status, or medical claims
23 experience.

24 **Sec. 3.** RCW 48.44.070 and 1990 c 120 s 9 are each amended to read
25 as follows:

26 (1) Forms of contracts between health care service contractors and
27 participating providers shall be filed with the insurance commissioner
28 prior to use.

29 (2) Any contract form not affirmatively disapproved within fifteen
30 days of filing shall be deemed approved, except that the commissioner
31 may extend the approval period an additional fifteen days upon giving
32 notice before the expiration of the initial fifteen-day period. The
33 commissioner may approve such a contract form for immediate use at any
34 time. Approval may be subsequently withdrawn for cause.

35 (3) Until or unless the United States department of labor prohibits
36 the treatment of a health plan issued to an association or member-
37 governed group as a large group plan, any rate or form filed by any

1 health care service contractor for health benefit coverage to employers
2 purchasing health plans through that association and member-governed
3 group shall be deemed and may only be reviewed as a negotiated large
4 group filing by the insurance commissioner if the carrier in good faith
5 certifies that:

6 (a) The association or member-governed group operates solely within
7 the borders of a single state and only includes member employers having
8 registered Washington state unified business identifiers;

9 (b) The association or member-governed group has minimum enrollment
10 of one hundred participants;

11 (c) Any filed health plan includes all benefit mandates applicable
12 to fully insured large group health plans;

13 (d) A filed health plan will not underwrite individuals based upon
14 health conditions of the individual;

15 (e) A filed health plan will not be issued to any association that
16 conditions membership based on age, health status, or medical claims
17 experience; and

18 (f) A filed health plan will be offered to all eligible association
19 members, regardless of their age, health status, or medical claims
20 experience.

21 (4) Subject to the right of the health care service contractor to
22 demand and receive a hearing and an automatic stay under chapters 48.04
23 and 34.05 RCW, the commissioner may disapprove such a contract form if
24 it is in any respect in violation of this chapter or if it fails to
25 conform to minimum provisions or standards required by the commissioner
26 by rule under chapter 34.05 RCW.

27 **Sec. 4.** RCW 48.46.060 and 2008 c 303 s 3 are each amended to read
28 as follows:

29 (1) Any health maintenance organization may enter into agreements
30 with or for the benefit of persons or groups of persons, which require
31 prepayment for health care services by or for such persons in
32 consideration of the health maintenance organization providing health
33 care services to such persons. Such activity is not subject to the
34 laws relating to insurance if the health care services are rendered
35 directly by the health maintenance organization or by any provider
36 which has a contract or other arrangement with the health maintenance
37 organization to render health services to enrolled participants.

1 (2) All forms of health maintenance agreements issued by the
2 organization to enrolled participants or other marketing documents
3 purporting to describe the organization's comprehensive health care
4 services shall comply with such minimum standards as the commissioner
5 deems reasonable and necessary in order to carry out the purposes and
6 provisions of this chapter, and which fully inform enrolled
7 participants of the health care services to which they are entitled,
8 including any limitations or exclusions thereof, and such other rights,
9 responsibilities and duties required of the contracting health
10 maintenance organization.

11 (3) Until or unless the United States department of labor prohibits
12 the treatment of a health plan issued to an association or member-
13 governed group as a large group plan, any rate or form filed by any
14 health maintenance organization for health benefit coverage to
15 employers purchasing health plans through that association and member-
16 governed group shall be deemed and may only be reviewed as a negotiated
17 large group filing by the insurance commissioner if the carrier in good
18 faith certifies that:

19 (a) The association or member-governed group operates solely within
20 the borders of a single state and only includes member employers having
21 registered Washington state unified business identifiers;

22 (b) The association or member-governed group has minimum enrollment
23 of one hundred participants;

24 (c) Any filed health plan includes all benefit mandates applicable
25 to fully insured large group health plans;

26 (d) A filed health plan will not underwrite individuals based upon
27 health conditions of the individual;

28 (e) A filed health plan will not be issued to any association that
29 conditions membership based on age, health status, or medical claims
30 experience; and

31 (f) A filed health plan will be offered to all eligible association
32 members, regardless of their age, health status, or medical claims
33 experience.

34 (4) Subject to the right of the health maintenance organization to
35 demand and receive a hearing and an automatic stay under chapters 48.04
36 and 34.05 RCW, the commissioner may disapprove an individual or group
37 agreement form for any of the following grounds:

1 (a) If it contains or incorporates by reference any inconsistent,
2 ambiguous, or misleading clauses, or exceptions or conditions which
3 unreasonably or deceptively affect the risk purported to be assumed in
4 the general coverage of the agreement;

5 (b) If it has any title, heading, or other indication which is
6 misleading;

7 (c) If purchase of health care services thereunder is being
8 solicited by deceptive advertising;

9 (d) If it contains unreasonable restrictions on the treatment of
10 patients;

11 (e) If it is in any respect in violation of this chapter or if it
12 fails to conform to minimum provisions or standards required by the
13 commissioner by rule under chapter 34.05 RCW; or

14 (f) If any agreement for health care services with any state
15 agency, division, subdivision, board, or commission or with any
16 political subdivision, municipal corporation, or quasi-municipal
17 corporation fails to comply with state law.

18 ~~((+4))~~ (5) In addition to the grounds listed in subsection (2) of
19 this section, the commissioner may disapprove any agreement if the
20 benefits provided therein are unreasonable in relation to the amount
21 charged for the agreement. Rates, or any modification of rates
22 effective on or after July 1, 2008, for individual health benefit plans
23 may not be used until sixty days after they are filed with the
24 commissioner. If the commissioner does not disapprove a rate filing
25 within sixty days after the health maintenance organization has filed
26 the documents required in RCW 48.46.062(2) and any rules adopted
27 pursuant thereto, the filing shall be deemed approved.

28 ~~((+5))~~ (6) No health maintenance organization authorized under
29 this chapter shall cancel or fail to renew the enrollment on any basis
30 of an enrolled participant or refuse to transfer an enrolled
31 participant from a group to an individual basis for reasons relating
32 solely to age, sex, race, or health status. Nothing contained herein
33 shall prevent cancellation of an agreement with enrolled participants

34 (a) who violate any published policies of the organization which have
35 been approved by the commissioner, or (b) who are entitled to become
36 eligible for medicare benefits and fail to enroll for a medicare
37 supplement plan offered by the health maintenance organization and
38 approved by the commissioner, or (c) for failure of such enrolled

1 participant to pay the approved charge, including cost-sharing,
2 required under such contract, or (d) for a material breach of the
3 health maintenance agreement.

4 ~~((+6+))~~ (7) No agreement form or amendment to an approved agreement
5 form shall be used unless it is first filed with the commissioner.

6 NEW SECTION. **Sec. 5.** If any provision of this act or its
7 application to any person or circumstance is held invalid, the
8 remainder of the act or the application of the provision to other
9 persons or circumstances is not affected.

10 NEW SECTION. **Sec. 6.** If any part of this act is found to be in
11 conflict with federal requirements that are a prescribed condition to
12 the allocation of federal funds to the state, the conflicting part of
13 this act is inoperative solely to the extent of the conflict and with
14 respect to the agencies directly affected, and this finding does not
15 affect the operation of the remainder of this act in its application to
16 the agencies concerned. Rules adopted under this act must meet federal
17 requirements that are a necessary condition to the receipt of federal
18 funds by the state.

19 NEW SECTION. **Sec. 7.** The commissioner shall take the necessary
20 steps to ensure that this act is implemented on its effective date.

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