

---

SENATE BILL 5595

---

State of Washington

64th Legislature

2015 Regular Session

By Senators Becker and Bailey

Read first time 01/26/15. Referred to Committee on Health Care.

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

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

19 (1) Group disability insurance is that form of disability  
20 insurance, including stop loss insurance as defined in RCW 48.11.030,

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

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

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

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

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

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

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

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

37 (3) Until or unless the United States department of labor  
38 prohibits the treatment of a health plan issued to an association or  
39 member-governed group as a large group plan, any rate or form filed  
40 by any life and disability carrier for health benefit coverage to

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

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

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

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

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

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

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

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

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

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

33 (3) Until or unless the United States department of labor  
34 prohibits the treatment of a health plan issued to an association or  
35 member-governed group as a large group plan, any rate or form filed  
36 by any health care service contractor for health benefit coverage to  
37 employers purchasing health plans through that association and  
38 member-governed group shall be deemed and may only be reviewed as a

1 negotiated large group filing by the insurance commissioner if the  
2 carrier in good faith certifies that:

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

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

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

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

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

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

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

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

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

36 (2) All forms of health maintenance agreements issued by the  
37 organization to enrolled participants or other marketing documents  
38 purporting to describe the organization's comprehensive health care  
39 services shall comply with such minimum standards as the commissioner

1 deems reasonable and necessary in order to carry out the purposes and  
2 provisions of this chapter, and which fully inform enrolled  
3 participants of the health care services to which they are entitled,  
4 including any limitations or exclusions thereof, and such other  
5 rights, responsibilities and duties required of the contracting  
6 health maintenance organization.

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

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

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

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

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

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

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

31 (4) Subject to the right of the health maintenance organization  
32 to demand and receive a hearing and an automatic stay under chapters  
33 48.04 and 34.05 RCW, the commissioner may disapprove an individual or  
34 group agreement form for any of the following grounds:

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

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

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

3 (d) If it contains unreasonable restrictions on the treatment of  
4 patients;

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

8 (f) If any agreement for health care services with any state  
9 agency, division, subdivision, board, or commission or with any  
10 political subdivision, municipal corporation, or quasi-municipal  
11 corporation fails to comply with state law.

12 ~~((+4))~~ (5) In addition to the grounds listed in subsection (2)  
13 of this section, the commissioner may disapprove any agreement if the  
14 benefits provided therein are unreasonable in relation to the amount  
15 charged for the agreement. Rates, or any modification of rates  
16 effective on or after July 1, 2008, for individual health benefit  
17 plans may not be used until sixty days after they are filed with the  
18 commissioner. If the commissioner does not disapprove a rate filing  
19 within sixty days after the health maintenance organization has filed  
20 the documents required in RCW 48.46.062(2) and any rules adopted  
21 pursuant thereto, the filing shall be deemed approved.

22 ~~((+5))~~ (6) No health maintenance organization authorized under  
23 this chapter shall cancel or fail to renew the enrollment on any  
24 basis of an enrolled participant or refuse to transfer an enrolled  
25 participant from a group to an individual basis for reasons relating  
26 solely to age, sex, race, or health status. Nothing contained herein  
27 shall prevent cancellation of an agreement with enrolled participants  
28 (a) who violate any published policies of the organization which have  
29 been approved by the commissioner, or (b) who are entitled to become  
30 eligible for medicare benefits and fail to enroll for a medicare  
31 supplement plan offered by the health maintenance organization and  
32 approved by the commissioner, or (c) for failure of such enrolled  
33 participant to pay the approved charge, including cost-sharing,  
34 required under such contract, or (d) for a material breach of the  
35 health maintenance agreement.

36 ~~((+6))~~ (7) No agreement form or amendment to an approved  
37 agreement form shall be used unless it is first filed with the  
38 commissioner.

1        NEW SECTION.    **Sec. 5.**    If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 remainder of the act or the application of the provision to other  
4 persons or circumstances is not affected.

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

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

16        NEW SECTION.    **Sec. 8.**    Section 3 of this act takes effect July 1,  
17 2017.

--- END ---