Summary

As part of implementing P.L. 111-148, the Patient Protection and Affordable Care Act (PPACA),the Office of the Insurance Commissioner (OIC) proposes the following legislative changes for the 2011 Legislative Session in order to implement, also referred to as federal health care reform. The OIC envisions a staged approach to implementing statutory changes in Washington, so that state statutory changes occur as close to the effective date of the applicable federal law as possible.

2011 Proposed Changes

Topic: Individual Market rate regulation	**Statute:** RCW 48.43.0121	**Recommended Approach:** repeal statute
Reason: The commissioner's authority to review rates for the individual market sunsets January 1, 2012. The PPACA requires the federal Department of Health and Human Services (HHS) to defer to and coordinate with state regulators for many aspects of rate regulation. In order for Washington State to participate effectively, the commissioner's authority should be continued.		
Topic: Confidentiality of rate justification filings	**Statute:** RCW 48.02.120(3) [1985]	**Recommended Approach:** permit disclosure of information to HHS and public of information related to rate justification,
Reason: When an issuer files information with the commissioner in support of a proposed rates or form, the commissioner must "withhold" the information "from public inspection," due to the risk of exposing trade secrets or creating unfair competition. The PPACA envisions that states will support the HHS web portal and the law's goal that information about rates will be transparent, by creating web sites explaining the justification for rates, and to the greatest extent permitted by state law, why the state approved a rate increase. Without amending state law to permit such disclosure, Washington State is not able to be transparent to consumers regarding the reasons for health insurance rate changes. In other states, this same information is public, without impairing competition or unfairly disclosing trade secrets. For example, Oregon currently publishes this information for many of the issuers who also operate in Washington. This is consistent with more recent Washington Legislative expressions of intent about disclosure of information, which is in turn consistent with Congress' expressed desire to make rate setting more transparent. *See,* RCW 48.43.049 (3) [2006].		
Topic: Issuer payment of rebates	**Statutes:** RCW 48.20.025, 48.44.017, 48.46.062	**Recommended Approach:** eliminate the obligation for issuers to pay a remittance to WSHIP if they pay rebates under the requirements

		of PPACA sec. 2718(b)
Reason: Remittances from issuers provide a small portion of the funding for the Washington State High Risk Pool. Issuers must pay remittances if their actual loss ratio in the individual market is less than the loss ratio specified in the applicable statute. Effective as of January 1, 2011, issuers' medical loss ratio in all markets (not just individual) must meet minimums set forth in federal law. If the ratio does not meet these minimums, issuers must pay rebates beginning in 2012. The commissioner is concerned that if issuers have a potential obligation to pay both the WSHIP remittance and a federally required rebate, they will exit the individual market, destabilizing it between now and 2014. For that reason, the commissioner recommends that if an issuer must pay a rebate under PPACA due to their individual market loss ratio performance, they do not have to pay the remittance to WSHIP required under current state law, beginning in 2012.		
Topic: Conversion plans -- lifetime benefit maximums	**Statute:** RCW 48.21.270; 48.44.380; 48.44.460	**Recommended Approach:** remove lifetime limits provisions in law (T)[1]
Reason: Conversion plans provide a 'safety net' coverage option to enrollees when their eligibility ends. Washington's law currently permits issuers to establish lifetime benefit maximums for conversion plans. The PPACA prohibits lifetime limits, and applies to conversion plans (Section 2711 of P.L. 111-148). The change is recommended so that state law matches the new federal requirements.		
Topic: Coverage of dependents to age 26	**Statute:** RCW 48.20.435; 48.44.215; 48.46.325	**Recommended Approach:** amend statutes to mandate coverage to age 26 (T)
Reason: Current state laws require coverage of dependents to age 25. The PPACA requires coverage through age 25, until the dependent is 26 years old, and regardless of the young adult's marital status.		
Topic: Grievance and Appeal of Issuer Decisions	**Statute:** RCW 48.43.005	**Recommended Approach:** amend by inserting definitions for "Adverse Benefit Determination"; "Final internal adverse benefit determination;" and "Final external review decision." (T)
Reason: PPACA requires issuers and health plans to use these terms in communicating with consumers about their rights to appeal decisions made that affect coverage, payment and eligibility for services, which are defined in a specific way in recently issued federal regulation. While Washington law defines these terms in an administrative regulation, WAC 284-43-130, making the specific federal language part of the insurance code eliminates any ambiguity.		
Topic: Emergency services cost sharing	**Statute** RCW 48.43.093 (c)	**Recommended Approach:** delete the $50 differential cost-sharing

[1] T refers to statutory amendments that are technical because they conform our law to the federal standard.

		between participating and non-participating providers (T)
Reason: Current Washington law permits issuers to require enrollees to pay up to $50 more in cost-sharing for using a non-participating provider for emergency services. The PPACA prohibits this practice, and requires issuers to cover emergency services without imposing a cost-sharing difference regardless of the provider's network participation.		
Topic: Grievance and Appeal of Issuer Decisions	**Statute** RCW 48.43.530; RCW 48.43.535;	**Recommended Approach:** Amend statutes to meet federal requirements for exhaustion of internal claims and appeal process, explaining when an external review is allowed (T)
Reason: PPACA permits an enrollee or their representative to initiate an external review when an issuer or health plan fails to strictly follow their own internal claims and appeals process, even if the deviance is minimal. This circumstance needs to be added to Washington's laws explaining the required processes for appealing an issuer or health plan's decision.		