

CHAPTER 121

[Substitute House Bill No. 1067]

HEALTH INSURANCE COVERAGE ACCESS ACT—TECHNICAL AMENDMENTS

AN ACT Relating to technical changes in the state Health Insurance Coverage Access Act; and amending RCW 48.41.030, 48.41.040, 48.41.060, 48.41.070, 48.41.080, 48.41.090, 48.41.100, 48.41.120, 48.41.150, and 48.41.190.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 3, chapter 431, Laws of 1987 and RCW 48.41.030 are each amended to read as follows:

As used in this chapter, the following terms have the meaning indicated, unless the context requires otherwise:

(1) "Accounting year" means a twelve-month period determined by the board for purposes of record-keeping and accounting. The first accounting year may be more or less than twelve months and, from time to time in subsequent years, the board may order an accounting year of other than twelve months as may be required for orderly management and accounting of the pool.

(2) "Administrator" means the entity chosen by the board to administer the pool under RCW 48.41.080.

~~((2))~~ (3) "Board" means the board of directors of the pool.

~~((3))~~ (4) "Commissioner" means the insurance commissioner.

~~((4))~~ (5) "Health care facility" has the same meaning as in RCW 70.38.025.

~~((5))~~ (6) "Health care provider" means any physician, facility, or health care professional, who is licensed in Washington state and entitled to reimbursement for health care services.

~~((6))~~ (7) "Health care services" means services for the purpose of preventing, alleviating, curing, or healing human illness or injury.

~~((7))~~ (8) "Health insurance" means any group or individual disability insurance policy, health care service contract, and health maintenance agreement, except those contracts entered into for the provision of health care services pursuant to Title XVIII of the Social Security Act, 42 U.S.C. Sec. 1395 et seq. The term does not include short-term care, long-term care, dental, vision, accident, fixed indemnity, disability income contracts, civilian health and medical program for the uniform services (CHAMPUS), 10 U.S.C. 55, limited benefit or credit insurance, coverage issued as a supplement to liability insurance, insurance arising out of the worker's compensation or similar law, automobile medical payment insurance, or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

~~((9))~~ (9) "Health plan" means any arrangement by which persons, including dependents or spouses, covered or making application to be covered under this pool, have access to hospital and medical benefits or reimbursement including any group or individual disability insurance policy; health care service contract; health maintenance agreement; uninsured arrangements of group or group-type contracts including employer self-insured, cost-plus, or other benefit methodologies not involving insurance or not governed by Title 48 RCW; coverage under group-type contracts which are not available to the general public and can be obtained only because of connection with a particular organization or group; and coverage by medicare or other governmental benefits. This term includes coverage through "health insurance" as defined under this section, and specifically excludes those types of programs excluded under the definition of "health insurance" in subsection ~~((7))~~ (8) of this section.

~~((9))~~ (10) "Insured" means any individual resident of this state who is eligible to receive benefits from any member, or other health plan.

~~((10))~~ (11) "Medical assistance" means coverage under Title XIX of the federal Social Security Act (42 U.S.C., Sec. 1396 et seq.) and chapter 74.09 RCW.

~~((11))~~ (12) "Medicare" means coverage under Title XVIII of the Social Security Act, (42 U.S.C. Sec. 1395 et seq., as amended).

~~((12))~~ (13) "Member" means any commercial insurer which provides disability insurance, any health care service contractor, and any health maintenance organization licensed under Title 48 RCW. "Member" shall also mean, as soon as authorized by federal law, employers and other entities, including a self-funding entity and employee welfare benefit plans that provide health plan benefits in this state on or after May 18, 1987. "Member" does not include any insurer, health care service contractor, or health maintenance organization whose products are exclusively dental products or those products excluded from the definition of "health insurance" set forth in subsection (8) of this section.

~~((13))~~ (14) "Plan of operation" means the pool, including articles, by-laws, and operating rules, adopted by the board pursuant to RCW 48.41.050.

~~((14))~~ (15) "Pool" means the Washington state health insurance pool as created in RCW 48.41.040.

~~((15))~~ (16) "Substantially equivalent health plan" means a "health plan" as defined in subsection ~~((9))~~ (9) of this section which, in the judgment of the board or the administrator, offers persons including dependents or spouses covered or making application to be covered by this pool an overall level of benefits deemed approximately equivalent to the minimum benefits available under this pool.

Sec. 2. Section 4, chapter 431, Laws of 1987 and RCW 48.41.040 are each amended to read as follows:

(1) There is hereby created a nonprofit entity to be known as the Washington state health insurance pool. All members in this state on or after May 18, 1987, shall be members of the pool. When authorized by federal law, all self-insured employers (~~as designated by federal law~~) shall also be members of the pool.

(2) Pursuant to chapter (~~(34.04)~~) 34.05 RCW the commissioner shall, within ninety days after May 18, 1987, give notice to all members of the time and place for the initial organizational meetings of the pool. A board of directors shall be established, which shall be comprised of nine members. The commissioner shall select three members of the board who shall represent (a) the general public, (b) health care providers, and (c) health insurance agents. The remaining members of the board shall be selected by election from among the members of the pool. The elected members shall, to the extent possible, include at least one representative of health care service contractors, one representative of health maintenance organizations, and one representative of commercial insurers which provides disability insurance. When self-insured organizations become eligible for participation in the pool, the membership of the board shall be increased to eleven and at least one member of the board shall represent the self-insurers.

(3) The original members of the board of directors shall be appointed for intervals of one to three years. Thereafter, all board members shall serve a term of three years. Board members shall receive no compensation, but shall be reimbursed for all travel expenses as provided in RCW 43.03.050 and 43.03.060.

(4) The board shall submit to the commissioner a plan of operation for the pool and any amendments thereto necessary or suitable to assure the fair, reasonable, and equitable administration of the pool. The commissioner shall, after notice and hearing pursuant to chapter (~~(34.04)~~) 34.05 RCW, approve the plan of operation if it is determined to assure the fair, reasonable, and equitable administration of the pool and provides for the sharing of pool losses on an equitable, proportionate basis among the members of the pool. The plan of operation shall become effective upon approval in writing by the commissioner consistent with the date on which the coverage under this chapter must be made available. If the board fails to submit a plan of operation within one hundred eighty days after the appointment of the board or any time thereafter fails to submit acceptable amendments to the plan, the commissioner shall, within ninety days after notice and hearing pursuant to chapters (~~(34.04)~~) 34.05 and 48.04 RCW, adopt such rules as are necessary or advisable to effectuate this chapter. The rules shall continue in force until modified by the commissioner or superseded by a plan submitted by the board and approved by the commissioner.

Sec. 3. Section 6, chapter 431, Laws of 1987 and RCW 48.41.060 are each amended to read as follows:

The board shall have the general powers and authority granted under the laws of this state to insurance companies licensed to transact the kinds of insurance defined under this title. In addition thereto, the board may:

(1) Enter into contracts as are necessary or proper to carry out the provisions and purposes of this chapter including the authority, with the approval of the commissioner, to enter into contracts with similar pools of other states for the joint performance of common administrative functions, or with persons or other organizations for the performance of administrative functions;

(2) Sue or be sued, including taking any legal action as necessary to avoid the payment of improper claims against the pool or the coverage provided by or through the pool;

(3) Establish appropriate rates, rate schedules, rate adjustments, expense allowances, agent referral fees, claim reserve formulas and any other actuarial functions appropriate to the operation of the pool. Rates shall not be unreasonable in relation to the coverage provided, the risk experience, and expenses of providing the coverage. Rates and rate schedules may be adjusted for appropriate risk factors such as age and area variation in claim costs and shall take into consideration appropriate risk factors in accordance with established actuarial underwriting practices;

(4) Assess members of the pool in accordance with the provisions of this chapter, and ~~((to))~~ make advance interim assessments as may be reasonable and necessary for the organizational or interim operating expenses. Any interim ~~((expenses))~~ assessments will be credited as offsets against any regular assessments due following the close of the ~~((calendar))~~ year;

(5) Issue policies of insurance in accordance with the requirements of this chapter;

(6) Appoint appropriate legal, actuarial and other committees as necessary to provide technical assistance in the operation of the pool, policy, and other contract design, and any other function within the authority of the pool; and

(7) Conduct periodic audits to assure the general accuracy of the financial data submitted to the pool, and the board shall cause the pool to have an annual audit of its operations by an independent certified public accountant.

Sec. 4. Section 7, chapter 431, Laws of 1987 and RCW 48.41.070 are each amended to read as follows:

The pool shall be subject to examination by the commissioner as provided under chapter 48.03 RCW. The board of directors shall submit to the commissioner, not later than ~~((March 1st))~~ one hundred twenty days after the end of each accounting year, a financial report for the ~~((preceding calendar))~~ year in a form approved by the commissioner. The board of directors shall further report to the appropriate standing committees of each house of the legislature by March 1st of each year.

Sec. 5. Section 8, chapter 431, Laws of 1987 and RCW 48.41.080 are each amended to read as follows:

The board shall select an administrator from the membership of the pool whether domiciled in this state or another state through a competitive bidding process to administer the pool.

(1) The board shall evaluate bids based upon criteria established by the board, which shall include:

(a) The administrator's proven ability to handle accident and health insurance;

(b) The efficiency of the administrator's claim-paying procedures;

(c) An estimate of the total charges for administering the plan; and

(d) The administrator's ability to administer the pool in a cost-effective manner.

(2) The administrator shall serve for a period of three years subject to removal for cause. At least ~~((one year))~~ six months prior to the expiration of each three-year period of service by the administrator, the board shall invite all interested parties, including the current administrator, to submit bids to serve as the administrator for the succeeding three-year period. Selection of the administrator for this succeeding period shall be made at least ~~((six))~~ three months prior to the end of the current three-year period.

(3)~~((a))~~ The administrator shall perform such duties as may be assigned by the board including:

(a) All eligibility and administrative claim payment functions relating to the pool;

~~((The administrator shall))~~ Establishing a premium billing procedure for collection of premiums from insured persons. Billings shall be made on a periodic basis as determined by the board, which shall not be more frequent than a monthly billing;

~~((The administrator shall))~~ Performing all necessary functions to assure timely payment of benefits to covered persons under the pool including:

(i) Making available information relating to the proper manner of submitting a claim for benefits to the pool, and distributing forms upon which submission shall be made; and

(ii) Evaluating the eligibility of each claim for payment by the pool;

~~((The administrator shall submit))~~ Submission of regular reports to the board regarding the operation of the pool. The frequency, content, and form of the report shall be as determined by the board;

(e) Following the close of each ~~((calendar))~~ accounting year, ~~((the administrator shall determine))~~ determination of net ~~((written))~~ paid and earned premiums, the expense of administration, and the paid and incurred losses for the year and reporting this information to the board and the commissioner on a form as prescribed by the commissioner(;);

~~((f))~~ (4) The administrator shall be paid as provided in the ~~((plan of operation))~~ contract between the board and the administrator for its expenses incurred in the performance of its services.

Sec. 6. Section 9, chapter 431, Laws of 1987 and RCW 48.41.090 are each amended to read as follows:

(1) Following the close of each ~~((calendar))~~ accounting year, the pool administrator shall determine the net premium (premiums less administrative expense allowances), the pool expenses of administration, and incurred losses for the year, taking into account investment income and other appropriate gains and losses.

(2)(a) Each member's proportion of participation in the pool shall be determined annually by the board based on annual statements and other reports deemed necessary by the board and filed by the member with the commissioner; and shall be determined by multiplying the total cost of pool operation by a fraction, the numerator of which equals that member's total number of resident insured persons, including spouse and dependents under the member's health plan in the state during the preceding calendar year, and the denominator of which equals the total number of resident insured persons including spouses and dependents insured under all health plans in the state by pool members.

(b) Any deficit incurred by the pool shall be recouped by assessments among members apportioned under this subsection pursuant to the formula set forth by the board among members.

(3) The board may abate or defer, in whole or in part, the assessment of a member if, in the opinion of the board, payment of the assessment would endanger the ability of the member to fulfill its contractual obligations. If an assessment against a member is abated or deferred in whole or in part, the amount by which such assessment is abated or deferred may be assessed against the other members in a manner consistent with the basis for assessments set forth in subsection (2) of this section. The member receiving such abatement or deferment shall remain liable to the pool for the deficiency ~~((for four years))~~.

(4) If assessments exceed actual losses and administrative expenses of the pool, the excess shall be held at interest and used by the board to offset future losses or to reduce pool premiums. As used in this subsection, "future losses" includes reserves for incurred but not reported claims.

Sec. 7. Section 10, chapter 431, Laws of 1987 and RCW 48.41.100 are each amended to read as follows:

(1) Any individual person who is a resident of this state is eligible for coverage upon providing evidence of rejection for medical reasons, a requirement of restrictive riders, an up-rated premium, or a preexisting conditions limitation on health insurance, the effect of which is to substantially reduce coverage from that received by a person considered a standard risk,

by at least one member within six months of the date of application. Evidence of rejection may be waived in accordance with rules adopted by the board.

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

(a) Any person who is at the time of pool application eligible for medical assistance;

(b) Any person having terminated coverage in the pool unless (i) twelve months have lapsed since termination, or (ii) that person can show continuous other coverage which has been involuntarily terminated for any reason other than nonpayment of premiums;

(c) Any person on whose behalf the pool has paid out five hundred thousand dollars in benefits;

(d) Inmates of public institutions and persons whose benefits are duplicated under public programs.

(3) Any person whose health insurance coverage is involuntarily terminated for any reason other than nonpayment of premium may apply for coverage under the plan.

Sec. 8. Section 12, chapter 431, Laws of 1987 and RCW 48.41.120 are each amended to read as follows:

(1) Subject to the limitation provided in subsection (3) of this section, a pool policy offered in accordance with this chapter shall impose a deductible. Deductibles of five hundred dollars and one thousand dollars on a per person per calendar year basis shall initially be offered. The board may authorize deductibles in other amounts. The deductible shall be applied to the first five hundred dollars, one thousand dollars, or other authorized amount of eligible expenses incurred by the covered person.

(2) Subject to the limitations provided in subsection (3) of this section, a mandatory coinsurance requirement shall be imposed at the rate of twenty percent of eligible expenses in excess of the mandatory deductible.

(3) The maximum aggregate out of pocket payments for eligible expenses by the insured in the form of deductibles and coinsurance shall not exceed in a ~~((policy))~~ calendar year:

(a) One thousand five hundred dollars per individual, or three thousand dollars per family, per ~~((policy))~~ calendar year for the five hundred dollar deductible policy;

(b) Two thousand five hundred dollars per individual, or five thousand dollars per family per ~~((policy))~~ calendar year for the one thousand dollar deductible policy; or

(c) An amount authorized by the board for any other deductible policy.

(4) Eligible expenses incurred by a covered person in the last three months of a calendar year, and applied toward a deductible, shall also be applied toward the deductible amount in the next calendar year.

Sec. 9. Section 15, chapter 431, Laws of 1987 and RCW 48.41.150 are each amended to read as follows:

(1) The board shall offer a medical supplement policy for persons receiving medicare (~~((benefits))~~) parts A and B. The supplement policy shall provide (~~((coverage))~~) benefits of one hundred percent of the deductible and copayment required under medicare and eighty percent of the charges for covered services under this chapter that are not paid by medicare. The coverage shall include a limitation of one thousand dollars per person on total annual out-of-pocket expenses for the covered services.

(2) If federal law is adopted that addresses this subject, the board shall offer a policy that is consistent with that federal law.

Sec. 10. Section 19, chapter 431, Laws of 1987 and RCW 48.41.190 are each amended to read as follows:

Neither the participation by members, the establishment of rates, forms, or procedures for coverages issued by the pool, nor any other joint or collective action required by this chapter or the state of Washington shall be the basis of any legal action, civil or criminal liability or penalty against the pool, any member of the board of directors, or members of ~~((it))~~ the pool either jointly or separately.

Passed the House March 2, 1989.

Passed the Senate April 7, 1989.

Approved by the Governor April 20, 1989.

Filed in Office of Secretary of State April 20, 1989.

## CHAPTER 122

[Senate Bill No. 5824]

### HEALTH CARE SERVICES—PAYMENTS—JOINTLY ISSUED CHECKS— PROVIDER TO BE FIRST PAYEE

AN ACT Relating to payments by health care service contractors; and amending RCW 48.44.026.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 168, Laws of 1982 as amended by section 1, chapter 283, Laws of 1984 and RCW 48.44.026 are each amended to read as follows:

Checks in payment for claims pursuant to any health care service contract for health care services provided by persons licensed or regulated under chapters 18.22, 18.25, 18.29, 18.32, 18.53, 18.57, 18.64, 18.71, 18.73, 18.74, 18.83, or 18.88 RCW, where the provider is not a participant under a contract with the health care service contractor, shall be made out to both the provider and the insured with the provider as the first named payee, jointly, to require endorsement by each: PROVIDED, That payment shall be made in the single name of the insured if the insured as part of his or her