
ENGROSSED SUBSTITUTE HOUSE BILL 2875

State of Washington

61st Legislature

2010 Regular Session

By House Health Care & Wellness (originally sponsored by Representatives Ericksen, Cody, Condotta, Hinkle, Herrera, Driscoll, Parker, Bailey, Green, Morrell, Kelley, Wallace, Kessler, and Moeller)

READ FIRST TIME 02/03/10.

1 AN ACT Relating to health savings accounts; amending RCW 41.05.065;
2 and creating a new section.

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

4 **Sec. 1.** RCW 41.05.065 and 2009 c 537 s 7 are each amended to read
5 as follows:

6 (1) The board shall study all matters connected with the provision
7 of health care coverage, life insurance, liability insurance,
8 accidental death and dismemberment insurance, and disability income
9 insurance or any of, or a combination of, the enumerated types of
10 insurance for employees and their dependents on the best basis possible
11 with relation both to the welfare of the employees and to the state.
12 However, liability insurance shall not be made available to dependents.

13 (2) The board shall develop employee benefit plans that include
14 comprehensive health care benefits for employees. In developing these
15 plans, the board shall consider the following elements:

16 (a) Methods of maximizing cost containment while ensuring access to
17 quality health care;

18 (b) Development of provider arrangements that encourage cost

1 containment and ensure access to quality care, including but not
2 limited to prepaid delivery systems and prospective payment methods;

3 (c) Wellness incentives that focus on proven strategies, such as
4 smoking cessation, injury and accident prevention, reduction of alcohol
5 misuse, appropriate weight reduction, exercise, automobile and
6 motorcycle safety, blood cholesterol reduction, and nutrition
7 education;

8 (d) Utilization review procedures including, but not limited to a
9 cost-efficient method for prior authorization of services, hospital
10 inpatient length of stay review, requirements for use of outpatient
11 surgeries and second opinions for surgeries, review of invoices or
12 claims submitted by service providers, and performance audit of
13 providers;

14 (e) Effective coordination of benefits; and

15 (f) Minimum standards for insuring entities.

16 (3) To maintain the comprehensive nature of employee health care
17 benefits, benefits provided to employees shall be substantially
18 equivalent to the state employees' health benefits plan in effect on
19 January 1, 1993. Nothing in this subsection shall prohibit changes or
20 increases in employee point-of-service payments or employee premium
21 payments for benefits or the administration of a high deductible health
22 plan in conjunction with a health savings account. The board may
23 establish employee eligibility criteria which are not substantially
24 equivalent to employee eligibility criteria in effect on January 1,
25 1993.

26 (4) Except if bargained for under chapter 41.80 RCW, the board
27 shall design benefits and determine the terms and conditions of
28 employee and retired employee participation and coverage, including
29 establishment of eligibility criteria subject to the requirements of
30 this chapter. Employer groups obtaining benefits through contractual
31 agreement with the authority for employees defined in RCW 41.05.011(6)
32 (a) through (d) may contractually agree with the authority to benefits
33 eligibility criteria which differs from that determined by the board.
34 The eligibility criteria established by the board shall be no more
35 restrictive than the following:

36 (a) Except as provided in (b) through (e) of this subsection, an
37 employee is eligible for benefits from the date of employment if the
38 employing agency anticipates he or she will work an average of at least

1 eighty hours per month and for at least eight hours in each month for
2 more than six consecutive months. An employee determined ineligible
3 for benefits at the beginning of his or her employment shall become
4 eligible in the following circumstances:

5 (i) An employee who works an average of at least eighty hours per
6 month and for at least eight hours in each month and whose anticipated
7 duration of employment is revised from less than or equal to six
8 consecutive months to more than six consecutive months becomes eligible
9 when the revision is made.

10 (ii) An employee who works an average of at least eighty hours per
11 month over a period of six consecutive months and for at least eight
12 hours in each of those six consecutive months becomes eligible at the
13 first of the month following the six-month averaging period.

14 (b) A seasonal employee is eligible for benefits from the date of
15 employment if the employing agency anticipates that he or she will work
16 an average of at least eighty hours per month and for at least eight
17 hours in each month of the season. A seasonal employee determined
18 ineligible at the beginning of his or her employment who works an
19 average of at least half-time, as defined by the board, per month over
20 a period of six consecutive months and at least eight hours in each of
21 those six consecutive months becomes eligible at the first of the month
22 following the six-month averaging period. A benefits-eligible seasonal
23 employee who works a season of less than nine months shall not be
24 eligible for the employer contribution during the off season, but may
25 continue enrollment in benefits during the off season by self-paying
26 for the benefits. A benefits-eligible seasonal employee who works a
27 season of nine months or more is eligible for the employer contribution
28 through the off season following each season worked.

29 (c) Faculty are eligible as follows:

30 (i) Faculty who the employing agency anticipates will work
31 half-time or more for the entire instructional year or equivalent nine-
32 month period are eligible for benefits from the date of employment.
33 Eligibility shall continue until the beginning of the first full month
34 of the next instructional year, unless the employment relationship is
35 terminated, in which case eligibility shall cease the first month
36 following the notice of termination or the effective date of the
37 termination, whichever is later.

1 (ii) Faculty who the employing agency anticipates will not work for
2 the entire instructional year or equivalent nine-month period are
3 eligible for benefits at the beginning of the second consecutive
4 quarter or semester of employment in which he or she is anticipated to
5 work, or has actually worked, half-time or more. Such an employee
6 shall continue to receive uninterrupted employer contributions for
7 benefits if the employee works at least half-time in a quarter or
8 semester. Faculty who the employing agency anticipates will not work
9 for the entire instructional year or equivalent nine-month period, but
10 who actually work half-time or more throughout the entire instructional
11 year, are eligible for summer or off-quarter coverage. Faculty who
12 have met the criteria of this subsection (4)(c)(ii), who work at least
13 two quarters of the academic year with an average academic year
14 workload of half-time or more for three quarters of the academic year,
15 and who have worked an average of half-time or more in each of the two
16 preceding academic years shall continue to receive uninterrupted
17 employer contributions for benefits if he or she works at least half-
18 time in a quarter or semester or works two quarters of the academic
19 year with an average academic workload each academic year of half-time
20 or more for three quarters. Eligibility under this section ceases
21 immediately if this criteria is not met.

22 (iii) Faculty may establish or maintain eligibility for benefits by
23 working for more than one institution of higher education. When
24 faculty work for more than one institution of higher education, those
25 institutions shall prorate the employer contribution costs, or if
26 eligibility is reached through one institution, that institution will
27 pay the full employer contribution. Faculty working for more than one
28 institution must alert his or her employers to his or her potential
29 eligibility in order to establish eligibility.

30 (iv) The employing agency must provide written notice to faculty
31 who are potentially eligible for benefits under this subsection (4)(c)
32 of their potential eligibility.

33 (v) To be eligible for maintenance of benefits through averaging
34 under (c)(ii) of this subsection, faculty must provide written
35 notification to his or her employing agency or agencies of his or her
36 potential eligibility.

37 (d) A legislator is eligible for benefits on the date his or her
38 term begins. All other elected and full-time appointed officials of

1 the legislative and executive branches of state government are eligible
2 for benefits on the date his or her term begins or they take the oath
3 of office, whichever occurs first.

4 (e) A justice of the supreme court and judges of the court of
5 appeals and the superior courts become eligible for benefits on the
6 date he or she takes the oath of office.

7 (f) Except as provided in (c)(i) and (ii) of this subsection,
8 eligibility ceases for any employee the first of the month following
9 termination of the employment relationship.

10 (g) In determining eligibility under this section, the employing
11 agency may disregard training hours, standby hours, or temporary
12 changes in work hours as determined by the authority under this
13 section.

14 (h) Insurance coverage for all eligible employees begins on the
15 first day of the month following the date when eligibility for benefits
16 is established. If the date eligibility is established is the first
17 working day of a month, insurance coverage begins on that date.

18 (i) Eligibility for an employee whose work circumstances are
19 described by more than one of the eligibility categories in (a) through
20 (e) of this subsection shall be determined solely by the criteria of
21 the category that most closely describes the employee's work
22 circumstances.

23 (j) Except for an employee eligible for benefits under (b) or
24 (c)(ii) of this subsection, an employee who has established eligibility
25 for benefits under this section shall remain eligible for benefits each
26 month in which he or she is in pay status for eight or more hours, if
27 (i) he or she remains in a benefits-eligible position and (ii) leave
28 from the benefits-eligible position is approved by the employing
29 agency. A benefits-eligible seasonal employee is eligible for the
30 employer contribution in any month of his or her season in which he or
31 she is in pay status eight or more hours during that month.
32 Eligibility ends if these conditions are not met, the employment
33 relationship is terminated, or the employee voluntarily transfers to a
34 noneligible position.

35 (k) For the purposes of this subsection:

36 (i) "Academic year" means summer, fall, winter, and spring quarters
37 or semesters;

1 (ii) "Half-time" means one-half of the full-time academic workload
2 as determined by each institution, except that half-time for community
3 and technical college faculty employees shall have the same meaning as
4 "part-time" under RCW 28B.50.489;

5 (iii) "Benefits-eligible position" shall be defined by the board.

6 (5) The board may authorize premium contributions for an employee
7 and the employee's dependents in a manner that encourages the use of
8 cost-efficient managed health care systems.

9 (6) The board shall develop a health savings account option for
10 employees that conform to section 223, Part VII of subchapter B of
11 chapter 1 of the internal revenue code of 1986. The board shall comply
12 with all applicable federal standards related to the establishment of
13 health savings accounts. The board may authorize an employer
14 contribution to a health savings account.

15 (7) Notwithstanding any other provision of this chapter, the board
16 shall develop a high deductible health plan to be offered in
17 conjunction with a health savings account developed under subsection
18 (6) of this section.

19 (8) Employees shall choose participation in one of the health care
20 benefit plans developed by the board and may be permitted to waive
21 coverage under terms and conditions established by the board.

22 (9) The board shall review plans proposed by insuring entities that
23 desire to offer property insurance and/or accident and casualty
24 insurance to state employees through payroll deduction. The board may
25 approve any such plan for payroll deduction by insuring entities
26 holding a valid certificate of authority in the state of Washington and
27 which the board determines to be in the best interests of employees and
28 the state. The board shall adopt rules setting forth criteria by which
29 it shall evaluate the plans.

30 (10) Before January 1, 1998, the public employees' benefits board
31 shall make available one or more fully insured long-term care insurance
32 plans that comply with the requirements of chapter 48.84 RCW. Such
33 programs shall be made available to eligible employees, retired
34 employees, and retired school employees as well as eligible dependents
35 which, for the purpose of this section, includes the parents of the
36 employee or retiree and the parents of the spouse of the employee or
37 retiree. Employees of local governments, political subdivisions, and
38 tribal governments not otherwise enrolled in the public employees'

1 benefits board sponsored medical programs may enroll under terms and
2 conditions established by the administrator, if it does not jeopardize
3 the financial viability of the public employees' benefits board's long-
4 term care offering.

5 (a) Participation of eligible employees or retired employees and
6 retired school employees in any long-term care insurance plan made
7 available by the public employees' benefits board is voluntary and
8 shall not be subject to binding arbitration under chapter 41.56 RCW.
9 Participation is subject to reasonable underwriting guidelines and
10 eligibility rules established by the public employees' benefits board
11 and the health care authority.

12 (b) The employee, retired employee, and retired school employee are
13 solely responsible for the payment of the premium rates developed by
14 the health care authority. The health care authority is authorized to
15 charge a reasonable administrative fee in addition to the premium
16 charged by the long-term care insurer, which shall include the health
17 care authority's cost of administration, marketing, and consumer
18 education materials prepared by the health care authority and the
19 office of the insurance commissioner.

20 (c) To the extent administratively possible, the state shall
21 establish an automatic payroll or pension deduction system for the
22 payment of the long-term care insurance premiums.

23 (d) The public employees' benefits board and the health care
24 authority shall establish a technical advisory committee to provide
25 advice in the development of the benefit design and establishment of
26 underwriting guidelines and eligibility rules. The committee shall
27 also advise the board and authority on effective and cost-effective
28 ways to market and distribute the long-term care product. The
29 technical advisory committee shall be comprised, at a minimum, of
30 representatives of the office of the insurance commissioner, providers
31 of long-term care services, licensed insurance agents with expertise in
32 long-term care insurance, employees, retired employees, retired school
33 employees, and other interested parties determined to be appropriate by
34 the board.

35 (e) The health care authority shall offer employees, retired
36 employees, and retired school employees the option of purchasing long-
37 term care insurance through licensed agents or brokers appointed by the
38 long-term care insurer. The authority, in consultation with the public

1 employees' benefits board, shall establish marketing procedures and may
2 consider all premium components as a part of the contract negotiations
3 with the long-term care insurer.

4 (f) In developing the long-term care insurance benefit designs, the
5 public employees' benefits board shall include an alternative plan of
6 care benefit, including adult day services, as approved by the office
7 of the insurance commissioner.

8 (g) The health care authority, with the cooperation of the office
9 of the insurance commissioner, shall develop a consumer education
10 program for the eligible employees, retired employees, and retired
11 school employees designed to provide education on the potential need
12 for long-term care, methods of financing long-term care, and the
13 availability of long-term care insurance products including the
14 products offered by the board.

15 (11) The board may establish penalties to be imposed by the
16 authority when the eligibility determinations of an employing agency
17 fail to comply with the criteria under this chapter.

18 NEW SECTION. **Sec. 2.** The public employees' benefits board shall
19 submit for bid during the 2011 health benefit plan procurement process
20 a high deductible health plan to be offered in conjunction with a
21 health savings account. If the public employees' benefits board does
22 not approve a high deductible health plan to be offered in conjunction
23 with a health savings account for the 2011 benefit year, the public
24 employees' benefits board shall provide a report to the legislature by
25 September 1, 2010, regarding the decision not to approve. The report
26 must include the work plan to ensure a high deductible health plan to
27 be offered in conjunction with a health savings account is available
28 for the 2012 benefit year.

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