

CERTIFICATION OF ENROLLMENT

SENATE BILL 6412

62nd Legislature
2012 Regular Session

Passed by the Senate March 3, 2012
YEAS 48 NAYS 0

President of the Senate

Passed by the House February 27, 2012
YEAS 97 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 6412** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 6412

AS AMENDED BY THE HOUSE

Passed Legislature - 2012 Regular Session

State of Washington

62nd Legislature

2012 Regular Session

By Senators Rolfes and Harper

Read first time 01/23/12. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to applying for health insurance coverage when an
2 insurance carrier discontinues all individual health benefit plan
3 coverage; amending RCW 48.43.018 and 48.43.015; adding a new section to
4 chapter 70.47 RCW; and declaring an emergency.

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

6 **Sec. 1.** RCW 48.43.018 and 2010 c 277 s 1 are each amended to read
7 as follows:

8 (1) Except as provided in (a) through (g) of this subsection, a
9 health carrier may require any person applying for an individual health
10 benefit plan and the health care authority shall require any person
11 applying for nonsubsidized enrollment in the basic health plan to
12 complete the standard health questionnaire designated under chapter
13 48.41 RCW.

14 (a) If a person is seeking an individual health benefit plan or
15 enrollment in the basic health plan as a nonsubsidized enrollee due to
16 his or her change of residence from one geographic area in Washington
17 state to another geographic area in Washington state where his or her
18 current health plan is not offered, completion of the standard health

1 questionnaire shall not be a condition of coverage if application for
2 coverage is made within ninety days of relocation.

3 (b) If a person is seeking an individual health benefit plan or
4 enrollment in the basic health plan as a nonsubsidized enrollee:

5 (i) Because a health care provider with whom he or she has an
6 established care relationship and from whom he or she has received
7 treatment within the past twelve months is no longer part of the
8 carrier's provider network under his or her existing Washington
9 individual health benefit plan; and

10 (ii) His or her health care provider is part of another carrier's
11 or a basic health plan managed care system's provider network; and

12 (iii) Application for a health benefit plan under that carrier's
13 provider network individual coverage or for basic health plan
14 nonsubsidized enrollment is made within ninety days of his or her
15 provider leaving the previous carrier's provider network; then
16 completion of the standard health questionnaire shall not be a
17 condition of coverage.

18 (c) If a person is seeking an individual health benefit plan or
19 enrollment in the basic health plan as a nonsubsidized enrollee due to
20 his or her having exhausted continuation coverage provided under 29
21 U.S.C. Sec. 1161 et seq., completion of the standard health
22 questionnaire shall not be a condition of coverage if application for
23 coverage is made within ninety days of exhaustion of continuation
24 coverage. A health carrier or the health care authority as
25 administrator of basic health plan nonsubsidized coverage shall accept
26 an application without a standard health questionnaire from a person
27 currently covered by such continuation coverage if application is made
28 within ninety days prior to the date the continuation coverage would be
29 exhausted and the effective date of the individual coverage applied for
30 is the date the continuation coverage would be exhausted, or within
31 ninety days thereafter.

32 (d) If a person is seeking an individual health benefit plan or
33 enrollment in the basic health plan as a nonsubsidized enrollee due to
34 a change in employment status that would qualify him or her to purchase
35 continuation coverage provided under 29 U.S.C. Sec. 1161 et seq., but
36 the person's employer is exempt under federal law from the requirement
37 to offer such coverage, completion of the standard health questionnaire
38 shall not be a condition of coverage if: (i) Application for coverage

1 is made within ninety days of a qualifying event as defined in 29
2 U.S.C. Sec. 1163; and (ii) the person had at least twenty-four months
3 of continuous group coverage immediately prior to the qualifying event.
4 A health carrier shall accept an application without a standard health
5 questionnaire from a person with at least twenty-four months of
6 continuous group coverage if application is made no more than ninety
7 days prior to the date of a qualifying event and the effective date of
8 the individual coverage applied for is the date of the qualifying
9 event, or within ninety days thereafter.

10 (e) If a person is seeking an individual health benefit plan,
11 completion of the standard health questionnaire shall not be a
12 condition of coverage if: (i) The person had at least twenty-four
13 months of continuous basic health plan coverage under chapter 70.47 RCW
14 immediately prior to disenrollment; and (ii) application for coverage
15 is made within ninety days of disenrollment from the basic health plan.
16 A health carrier shall accept an application without a standard health
17 questionnaire from a person with at least twenty-four months of
18 continuous basic health plan coverage if application is made no more
19 than ninety days prior to the date of disenrollment and the effective
20 date of the individual coverage applied for is the date of
21 disenrollment, or within ninety days thereafter.

22 (f) If a person is seeking an individual health benefit plan due to
23 a change in employment status that would qualify him or her to purchase
24 continuation coverage provided under 29 U.S.C. Sec. 1161 et seq.,
25 completion of the standard health questionnaire is not a condition of
26 coverage if: (i) Application for coverage is made within ninety days
27 of a qualifying event as defined in 29 U.S.C. Sec. 1163; and (ii) the
28 person had at least twenty-four months of continuous group coverage
29 immediately prior to the qualifying event. A health carrier shall
30 accept an application without a standard health questionnaire from a
31 person with at least twenty-four months of continuous group coverage if
32 application is made no more than ninety days prior to the date of a
33 qualifying event and the effective date of the individual coverage
34 applied for is the date of the qualifying event, or within ninety days
35 thereafter.

36 (g) If a person is seeking an individual health benefit plan due to
37 their terminating continuation coverage under 29 U.S.C. Sec. 1161 et
38 seq., completion of the standard health questionnaire shall not be a

1 condition of coverage if: (i) Application for coverage is made within
2 ninety days of terminating the continuation coverage; and (ii) the
3 person had at least twenty-four months of continuous group coverage
4 immediately prior to the termination. A health carrier shall accept an
5 application without a standard health questionnaire from a person with
6 at least twenty-four months of continuous group coverage if application
7 is made no more than ninety days prior to the date of termination of
8 the continuation coverage and the effective date of the individual
9 coverage applied for is the date the continuation coverage is
10 terminated, or within ninety days thereafter.

11 (h) If a person is seeking an individual health benefit plan
12 because his or her employer, or former employer, discontinues group
13 coverage due to the closure of the business, completion of the standard
14 health questionnaire shall not be a condition of coverage if: (i)
15 Application for coverage is made within ninety days of the employer
16 discontinuing group coverage due to closure of the business; and (ii)
17 the person had at least twenty-four months of continuous group coverage
18 immediately prior to the termination. A health carrier shall accept an
19 application without a standard health questionnaire from a person with
20 at least twenty-four months of continuous group coverage if application
21 is made no more than ninety days prior to the date of discontinuation
22 of group coverage, and the effective date of the individual coverage
23 applied for is the date the group coverage is discontinued, or within
24 ninety days thereafter.

25 (i) If a person is seeking an individual health benefit plan, or
26 enrollment in the basic health plan as a nonsubsidized enrollee,
27 because his or her health carrier is discontinuing all individual
28 health benefit plan coverage by July 1, 2012, completion of the
29 standard health questionnaire shall not be a condition of coverage if:
30 (i) Application for coverage is made within ninety days of the carrier
31 discontinuing individual health benefit plan coverage; (ii) the person
32 had at least twenty-four months of continuous health benefit plan
33 coverage immediately prior to the termination; and (iii) benefits under
34 the previous plan provide equivalent or greater overall benefit
35 coverage than that provided in the health benefit plan, or basic health
36 coverage, the person seeks to purchase. A health carrier, or the basic
37 health plan, shall accept an application without a standard health
38 questionnaire from a person with at least twenty-four months of

1 continuous health benefit plan coverage if application is made no more
2 than ninety days prior to the date of discontinuation of individual
3 health benefit plan coverage, the person's prior coverage provided
4 equivalent or greater overall benefits than the plan, or basic health
5 coverage, the person seeks to purchase, and the effective date of the
6 individual coverage applied for is the date the individual health
7 benefit plan coverage is discontinued, or within ninety days
8 thereafter.

9 (2) If, based upon the results of the standard health
10 questionnaire, the person qualifies for coverage under the Washington
11 state health insurance pool, the following shall apply:

12 (a) The carrier may decide not to accept the person's application
13 for enrollment in its individual health benefit plan and the health
14 care authority, as administrator of basic health plan nonsubsidized
15 coverage, shall not accept the person's application for enrollment as
16 a nonsubsidized enrollee; and

17 (b) Within fifteen business days of receipt of a completed
18 application, the carrier or the health care authority as administrator
19 of basic health plan nonsubsidized coverage shall provide written
20 notice of the decision not to accept the person's application for
21 enrollment to both the person and the administrator of the Washington
22 state health insurance pool. The notice to the person shall state that
23 the person is eligible for health insurance provided by the Washington
24 state health insurance pool, and shall include information about the
25 Washington state health insurance pool and an application for such
26 coverage. If the carrier or the health care authority as administrator
27 of basic health plan nonsubsidized coverage does not provide or
28 postmark such notice within fifteen business days, the application is
29 deemed approved.

30 (3) If the person applying for an individual health benefit plan:

31 (a) Does not qualify for coverage under the Washington state health
32 insurance pool based upon the results of the standard health
33 questionnaire; (b) does qualify for coverage under the Washington state
34 health insurance pool based upon the results of the standard health
35 questionnaire and the carrier elects to accept the person for
36 enrollment; or (c) is not required to complete the standard health
37 questionnaire designated under this chapter under subsection (1)(a) or
38 (b) of this section, the carrier or the health care authority as

1 administrator of basic health plan nonsubsidized coverage, whichever
2 entity administered the standard health questionnaire, shall accept the
3 person for enrollment if he or she resides within the carrier's or the
4 basic health plan's service area and provide or assure the provision of
5 all covered services regardless of age, sex, family structure,
6 ethnicity, race, health condition, geographic location, employment
7 status, socioeconomic status, other condition or situation, or the
8 provisions of RCW 49.60.174(2). The commissioner may grant a temporary
9 exemption from this subsection if, upon application by a health
10 carrier, the commissioner finds that the clinical, financial, or
11 administrative capacity to serve existing enrollees will be impaired if
12 a health carrier is required to continue enrollment of additional
13 eligible individuals.

14 **Sec. 2.** RCW 48.43.015 and 2004 c 192 s 5 are each amended to read
15 as follows:

16 (1) For a health benefit plan offered to a group, every health
17 carrier shall reduce any preexisting condition exclusion, limitation,
18 or waiting period in the group health plan in accordance with the
19 provisions of section 2701 of the federal health insurance portability
20 and accountability act of 1996 (42 U.S.C. Sec. 300gg).

21 (2) For a health benefit plan offered to a group other than a small
22 group:

23 (a) If the individual applicant's immediately preceding health plan
24 coverage terminated during the period beginning ninety days and ending
25 sixty-four days before the date of application for the new plan and
26 such coverage was similar and continuous for at least three months,
27 then the carrier shall not impose a waiting period for coverage of
28 preexisting conditions under the new health plan.

29 (b) If the individual applicant's immediately preceding health plan
30 coverage terminated during the period beginning ninety days and ending
31 sixty-four days before the date of application for the new plan and
32 such coverage was similar and continuous for less than three months,
33 then the carrier shall credit the time covered under the immediately
34 preceding health plan toward any preexisting condition waiting period
35 under the new health plan.

36 (c) For the purposes of this subsection, a preceding health plan
37 includes an employer-provided self-funded health plan, the basic health

1 plan's offering to health coverage tax credit eligible enrollees as
2 established by chapter 192, Laws of 2004, and plans of the Washington
3 state health insurance pool.

4 (3) For a health benefit plan offered to a small group:

5 (a) If the individual applicant's immediately preceding health plan
6 coverage terminated during the period beginning ninety days and ending
7 sixty-four days before the date of application for the new plan and
8 such coverage was similar and continuous for at least nine months, then
9 the carrier shall not impose a waiting period for coverage of
10 preexisting conditions under the new health plan.

11 (b) If the individual applicant's immediately preceding health plan
12 coverage terminated during the period beginning ninety days and ending
13 sixty-four days before the date of application for the new plan and
14 such coverage was similar and continuous for less than nine months,
15 then the carrier shall credit the time covered under the immediately
16 preceding health plan toward any preexisting condition waiting period
17 under the new health plan.

18 (c) For the purpose of this subsection, a preceding health plan
19 includes an employer-provided self-funded health plan, the basic health
20 plan's offering to health coverage tax credit eligible enrollees as
21 established by chapter 192, Laws of 2004, and plans of the Washington
22 state health insurance pool.

23 (4)(a) Except as provided in (b) of this subsection, for a health
24 benefit plan offered to an individual, other than an individual to whom
25 subsection (5) of this section applies, every health carrier shall
26 credit any preexisting condition waiting period in that plan for a
27 person who was enrolled at any time during the sixty-three day period
28 immediately preceding the date of application for the new health plan
29 in a group health benefit plan or an individual health benefit plan,
30 other than a catastrophic health plan, and ~~((a))~~ (i) the benefits
31 under the previous plan provide equivalent or greater overall benefit
32 coverage than that provided in the health benefit plan the individual
33 seeks to purchase; or ~~((b))~~ (ii) the person is seeking an individual
34 health benefit plan due to his or her change of residence from one
35 geographic area in Washington state to another geographic area in
36 Washington state where his or her current health plan is not offered,
37 if application for coverage is made within ninety days of relocation;
38 or ~~((c))~~ (iii) the person is seeking an individual health benefit

1 plan: ~~((+i+))~~ (A) Because a health care provider with whom he or she
2 has an established care relationship and from whom he or she has
3 received treatment within the past twelve months is no longer part of
4 the carrier's provider network under his or her existing Washington
5 individual health benefit plan; and ~~((+ii+))~~ (B) his or her health care
6 provider is part of another carrier's provider network; and ~~((+iii+))~~
7 (C) application for a health benefit plan under that carrier's provider
8 network individual coverage is made within ninety days of his or her
9 provider leaving the previous carrier's provider network. The carrier
10 must credit the period of coverage the person was continuously covered
11 under the immediately preceding health plan toward the waiting period
12 of the new health plan. For the purposes of this subsection (4), a
13 preceding health plan includes an employer-provided self-funded health
14 plan, the basic health plan's offering to health coverage tax credit
15 eligible enrollees as established by chapter 192, Laws of 2004, and
16 plans of the Washington state health insurance pool.

17 (b) A carrier shall credit an applicant's period of coverage in his
18 or her preceding catastrophic health plan toward any preexisting
19 condition waiting period in the catastrophic health plan the applicant
20 seeks to purchase if:

21 (i) The preceding catastrophic health plan was discontinued by a
22 carrier that is discontinuing all individual plan coverage by July 1,
23 2012;

24 (ii) The applicant was enrolled in the previous catastrophic health
25 plan during the sixty-three day period immediately preceding his or her
26 application date for the new catastrophic health plan; and

27 (iii) The benefits under the preceding catastrophic health plan
28 provide equivalent or greater overall benefit coverage than that
29 provided in the catastrophic health plan the applicant seeks to
30 purchase.

31 (5) Every health carrier shall waive any preexisting condition
32 waiting period in its individual plans for a person who is an eligible
33 individual as defined in section 2741(b) of the federal health
34 insurance portability and accountability act of 1996 (42 U.S.C. Sec.
35 300gg-41(b)).

36 (6) Subject to the provisions of subsections (1) through (5) of
37 this section, nothing contained in this section requires a health
38 carrier to amend a health plan to provide new benefits in its existing

1 health plans. In addition, nothing in this section requires a carrier
2 to waive benefit limitations not related to an individual or group's
3 preexisting conditions or health history.

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.47 RCW
5 to read as follows:

6 If a person was previously enrolled in a group health benefit plan,
7 an individual health benefit plan, or a catastrophic health plan that
8 is discontinued by the carrier by July 1, 2012, at any time during the
9 sixty-three day period immediately preceding their application date for
10 nonsubsidized coverage in the basic health plan as a nonsubsidized
11 enrollee, the basic health plan must credit the applicant's period of
12 prior coverage toward any preexisting condition waiting period
13 applicable under the basic health plan if the benefits under the
14 previous plan provide equivalent or greater overall benefit coverage
15 than that provided in the basic health plan for nonsubsidized
16 enrollees.

17 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
18 preservation of the public peace, health, or safety, or support of the
19 state government and its existing public institutions, and takes effect
20 immediately.

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