

**Factual Chronology  
Of Legal Events Related to RCW 48.43.045**

**April 1993**

The Washington State legislature adopted the "every category of provider" mandate as part of the 1993 Health Care Reform Act.

**April 1995**

The Washington State legislature adopted the every category of provider mandate in RCW 48.43.045. The statute was to be effective January 1, 1996.

**August 1995**

The Insurance Commissioner sent a letter dated August 18, 1995 to the CEO's of all disability insurers, HCSC's and HMO's requesting the submission by September 15, 1995, of a time line and work plan for achieving an adequate network of every category of provider.

**September 1995**

Carriers submitted plans as requested by the Insurance Commissioner.

**December 19, 1995**

The Insurance Commissioner issued Bulletin 95-9 setting forth the Commissioner's interpretation of RCW 48.43.045. None of the carriers' previously submitted plans would satisfy that interpretation.

**January 8, 1996**

Carriers filed a lawsuit in Thurston County Superior Court, sub nom *Blue Cross of Washington and Alaska v. Senn*, to have a court decide the correct interpretation of RCW 48.43.045.

**April 8, 1996**

Superior Court dismissed lawsuit due to carriers lack of exhaustion of their administrative remedies.

**May 21, 1996**

Carriers filed a Petition for a Declaratory Order to have the Insurance Commissioner decide the correct interpretation of RCW 48.43.045.

**August 21, 1996**

The Insurance Commissioner issues the Declaratory Order requested by the carriers.

**August 1996**

Carriers sue the Insurance Commissioner in Thurston County Superior Court, asking the court to reverse the Declaratory Order and stay all enforcement of it.

- September 1996** Carriers sue the Insurance Commissioner in Federal (Employee Retirement Income Security Act) preempts state implementation of RCW 48.43.045 as to employer plans.
- September, 1996** Superior Court orders enforcement of Declaratory Order stayed until the court can decide whether the Commissioner interpreted RCW 48.43.045 correctly.
- December 11, 1996** Insurance Commissioner convenes carriers and provider groups for discussion regarding RCW 48.43.045.
- January 3, 1997** Insurance Commissioner facilitates provider discussions regarding provisions of RCW 48.43.045.
- January 6, 1997** Insurance Commissioner facilitates discussions between the carriers and providers regarding RCW 48.43.045. Providers present proposals for implementation.
- January 23, 1997** Insurance Commissioner facilitates discussions between carriers and providers regarding RCW 48.43.045. Providers deliver further proposals for implementation.
- February 6, 1997** Commissioner reviews measures presented by the carriers for implementation of RCW 48.43.045. Office of the Insurance Commissioner prepares plan matrix of currently covered benefits for alternative providers.
- April-May 1997** Commissioner prepares for a facilitated meeting with providers and carriers to discuss clinical aspects of alternative therapies in health plans.
- May 2, 1997** Federal District Court rules that ERISA preempts state implementation of RCW 48.43.045.
- May 9, 1997** Insurance Commissioner files a motion in Federal District Court to clarify whether the court's May 2nd ruling applies to non-ERISA governed health plans.
- May 30, 1997** Insurance Commissioner files an appeal with the 9th Circuit Court of Appeals of the May 2, 1997 ruling that preempts RCW 48.43.045 from ERISA plans.

- May 30, 1997** Insurance Commissioner supports a facilitated meeting of health plan medical director's and representatives of alternative provider professions discussing clinical aspects of alternative therapies in health plans.
- July 23, 1997** Federal district court denies the Commissioner's motion to clarify the ruling.
- July 30, 1997** Insurance Commissioner refiles the appeal to the 9th Circuit Court of Appeals.
- September 29, 1997** Washington state brief filed with the Ninth Circuit Court of Appeals. Amicus briefs filed in support of the position of the Office of the Insurance Commissioner by U.S. Department of Labor, National Association of Insurance Commissioners and provider groups.
- May 7, 1998** Oral Argument in 9th Circuit Court of Appeals.
- June 18, 1998** 9th Circuit Court of Appeals reverses the lower court and directs summary judgement be entered in favor of the state.
- July 3, 1998** Plaintiffs petition the 9th Circuit for a re-hearing on it's June 18, decision.
- August 24, 1998** Ninth Circuit denies the plaintiff's petition for are-hearing, and rejects the plaintiff's state law arguments under 48.47.005-030, in addition to the ERISA claims rejected in it's June 18 decision.
- September 17, 1998** Plaintiff's notify Thurston County Superior Court they will file a "petition for Writ of Certiorari with the United States Supreme Court" from the decision of the Ninth Circuit.
- November, 1998** Plaintiff's filed Writ of Certiorari with the US Supreme Court to review the lower court's decision.
- December 20, 1998** OIC filed a brief in response to the Plaintiff's petition in the US Supreme Court.
- January 1999** US Supreme Court denies Plaintiff's petition for Writ of Certiorari, leaving the decision of the Ninth Circuit Court of Appeals to stand.