

98-108-AFS 119-HEALTH INS  
RISK-SHARE PLAN

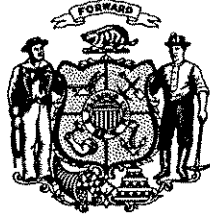
WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC  
FORM 2

***RULES CLEARINGHOUSE***

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**CLEARINGHOUSE REPORT TO AGENCY**

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[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

**CLEARINGHOUSE RULE 98-108**

AN ORDER to repeal and recreate chapter HFS 119, relating to the health insurance risk-sharing plan.

Submitted by **DEPARTMENT OF HEALTH AND FAMILY SERVICES**

08-07-98 RECEIVED BY LEGISLATIVE COUNCIL.

09-04-98 REPORT SENT TO AGENCY.

RNS:JLK:kjf;ksm

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached      YES       NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached      YES       NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached      YES       NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached      YES       NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached      YES       NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached      YES       NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

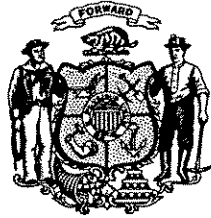
Comment Attached      YES       NO

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## CLEARINGHOUSE RULE 98-108

### Comments

**[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]**

#### 2. Form, Style and Placement in Administrative Code

a. Section 149.20, Stats., requires that in promulgating any rule under ch. 149, Stats., the Department of Health and Family Services (DHFS) must consult with the Board of Governors for the Health Insurance Risk-Sharing Plan (HIRSP). Reference to this consultation process should be included in the analysis of the rule.

b. In s. HFS 119.03, the phrase ", and shall be referred to in this chapter as the plan" should be deleted. Both "HIRSP" and "plan" are defined terms in s. HFS 119.04.

c. In s. HFS 119.06 (1), the phrase "shall not" should be changed to "may not." [See s. 1.01 (2), Manual.] This comment also applies to s. HFS 119.07 (2).

#### 4. Adequacy of References to Related Statutes, Rules and Forms

a. The fiscal estimate and analysis refer only to 1997 Wisconsin Act 27. A reference to 1997 Wisconsin Act 237 also could be added.

b. Section HFS 119.05 (2) specifies that exclusions from eligibility are those set forth in s. 149.12 (2) and (3), Stats. It appears that a reference to the exclusion in s. 149.12 (1m), Stats., also should be included inasmuch as the exception for s. 149.12 (1m), Stats., also is referred to in s. 149.12 (1) (intro.), Stats.

c. Section HFS 119.05 (3) (b) refers to "the federal consolidated omnibus budget reconciliation act of 1985, as amended" (COBRA). While the type of continuation coverage

referred to in this paragraph is commonly called "COBRA coverage," the reference should be to the U.S. Code provision. [See s. 1.07 (3), Manual.] A note could be added to refer to COBRA. The department should review s. 252.16 (1) (a), 1995 Stats., which was repealed in the 1997-98 Legislative Session, but which provides the U.S. Code cite for continuation coverage.

### 5. Clarity, Grammar, Punctuation and Use of Plain Language

a. The Supplemental Application for Premium and Deductible Reduction form should be updated, for example: by referring to income in 1997 or 1998, rather than 1996; by referring to DHFS rather than the Office of the Commissioner of Insurance; and by updating obsolete references to "AFDC" and "general relief."

In addition, under the "Household Income" provision in ítem 2. of the form, the phrase "return last calendar" should be changed to "return for the last calendar year."

b. In the first paragraph of the analysis, a hyphen should be inserted in the phrase "Risk Sharing."

c. The second paragraph of the analysis states that "HIRSP provides for a 20% coinsurance contribution by plan participants up to an annual out-of-pocket maximum of \$2,000 (which includes the \$1,000 deductible) per individual and \$4,000 per family for major medical and \$500 per individual for Medicare supplement." The following comments apply:

- (1) With respect to the \$2,000 maximum, this statement does not make clear what happens if the deductible is reduced from \$1,000 for low-income policyholders.
- (2) With respect to the \$4,000 and \$500 maximums, this statement does not make clear if the deductible is or is not included.
- (3) This statement does not specify that it does not apply to individuals covered under a HIRSP policy with a \$2,500 deductible under s. HFS 119.07 (6) (d).

d. In the second paragraph of the analysis, the last sentence indicates that there is a lifetime limit "for all illnesses." However, injuries also are covered under HIRSP and are subject to this limit. It would be preferable to state that there is a lifetime limit of \$1 million payment per covered individual.

e. Both the first and fourth paragraphs of the analysis use the term "Health Insurance Risk-Sharing Plan" and give the acronym "HIRSP." This should be done only in the first paragraph. After that, the acronym should be used. This also means that only the acronym should have been used in the fifth paragraph of the analysis.

f. In the third paragraph of the analysis, "reduced" is misspelled in the second line.

g. The last major change noted in the analysis indicates that the assessments and payment rate are for the period July 1, 1998 to "approximately" December 31, 1998. This is

inconsistent with s. HFS 119.15 (2) and (3) which indicate that the assessments and rates will be effective through December 31, 1998.

h. In s. HFS 119.04 (2), the term "allowed amount" is unclear. Is it intended to be the same as "covered expenses" which are discussed in the rule? If so, the latter term should be substituted.

i. Several references are made in the rule to the "policyholder," a term that is not defined. Can this be replaced by "plan participant," a term that is defined? For example, see s. HFS 119.04 (2) and (5).

j. In s. HFS 119.04 (3), the space following the first quotation mark should be deleted.

k. In s. HFS 119.04 (5), the definition of "deductible" appears to be inaccurate. Taken literally, it conceivably includes the coinsurance amount. As an alternative interpretation, because of the reference to the amount "which HIRSP otherwise would pay," it also could be interpreted as applying only 80% of the covered expenses toward the deductible. Rather than referring to an amount which HIRSP otherwise would pay, it may be preferable to refer to the amount of covered expenses before HIRSP payments begin.

l. In s. HFS 119.04 (7), a period should be inserted at the end.

m. Section HFS 119.04 (1s) defines "medicaid" and this term is used in s. HFS 119.13. However, "medical assistance" is used in s. HFS 119.05 (5). The department should use one term consistently; "medical assistance" is the term generally used in the statutes and the department's rules.

n. In s. HFS 119.04 (17), it would be useful to set off the phrase "other than a group certificate" with commas. Also, it appears that the word "prescribe" should be changed to "describe."

o. In s. HFS 119.06 (1), the phrase "when it is determined" is vague because it is unclear who is making this determination. If the commissioner makes this determination, this should be specified by substituting the phrase "when the commissioner determines."

p. Section HFS 119.06 (4) provides that if an insurer makes an error that results in an overpayment, the insurer "shall, at any time," file a corrected assessment form. In light of the fact that there is no deadline for filing, it seems more appropriate to permit, but not require, the insurer to file a corrected assessment, that is, it seems more appropriate to substitute the phrase "may, at any time,".

q. Section HFS 119.07 (6) (d) states the premium for a major medical policy with a \$2,500 deductible. This apparently is the choice of coverage alternative policy referred to in s. 149.146, Stats. Section 149.146 (2) (a), Stats., provides that, except as specified by DHFS, the terms of coverage under s. 149.14, Stats., do not apply to the alternative policy.

Section HFS 119.07 (6) indicates that the coinsurance must comply with various statutes, but none of the cited statutes specify the coinsurance rate or the out-of-pocket maximum, if any,

for this alternative policy. DHFS should specify the terms of this alternative policy in the rule or refer to where the policy terms are specified.

r. In the title of s. HFS 119.07 (6) (d), "\$2500" should be changed to "\$2,500" to be consistent with the rule text.

s. In s. HFS 119.07 (6) (e), "534 and 537" should be changed to "534 or 537."

t. In s. HFS 119.08 (3) (c), the word "companies" is unclear. Is it meant to refer to "insurers"? If so, the defined term "insurers" should be substituted.

u. The last sentence of s. HFS 119.12 (2) is unclear. If the intent is that an annual application must be made for the reductions, this should be specifically stated by adding the phrase "for the reductions" at the end of the sentence.

v. Section HFS 119.12 (4) should state when a schedule F is required, rather than stating that one may also be needed.

w. In s. HFS 119.12 (5) (a) (intro.), "wmay" should be changed to "may."

x. In s. HFS 119.12 (5) (a) 2. (intro.), ", as follows:" should replace the period.

y. Section HFS 119.14 (3) (b) provides that the grievance committee's decision is final, unless the DHFS secretary deems a different decision is in the best interests of the state. The rule does not make clear whether there is a right to appeal a decision to the secretary and, if so, how this is done or what the deadline is for doing so.

8-7-98

PROPOSED ORDER OF THE  
DEPARTMENT OF HEALTH AND FAMILY SERVICES  
REPEALING AND RECREATING RULES

To repeal and recreate chapter HFS 119, relating to the health insurance risk-sharing plan (HIRSP).

Analysis Prepared by the Department of Health and Family Services

The State of Wisconsin in 1981 established a Health Insurance Risk Sharing Plan (HIRSP) for the purpose of making health insurance coverage available to medically uninsured residents of the state.

HIRSP provides a major medical type of coverage for persons not eligible for Medicare (Plan 1) and a Medicare supplemental type of coverage for persons eligible for Medicare (Plan 2). Plan 1 has a \$1,000 deductible. Plan 2 has a \$500 deductible. On December 31, 1997 there were 7,318 HIRSP policies in effect, 83% of them Plan 1 policies and 17% Plan 2 policies. HIRSP provides for a 20% coinsurance contribution by plan participants up to an annual out-of-pocket maximum of \$2,000 (which includes the \$1,000 deductible) per individual and \$4,000 per family for major medical and \$500 per individual for Medicare supplement. There is a lifetime limit of \$1,000,000 per covered individual that HIRSP will pay for all illnesses.

There is provision under HIRSP for graduated premiums and reduced deductibles. Plan participants may be eligible for graduated premiums and reduced deductibles if their household income for the prior calendar year, based on standards for computation of the Wisconsin Homestead Credit, was less than \$20,000.

The current Budget Act, 1997 Wisconsin Act 27, transferred responsibility for the Health Insurance Risk-Sharing Plan (HIRSP) from the Office of Commissioner of Insurance to the Department of Health and Family Services effective January 1, 1998. The transfer included the administrative rules that the Office of Commissioner of Insurance had promulgated for the administration of HIRSP. These were numbered ch. Ins 18, Wis. Adm. Code. The Department arranged for the rules to be renumbered ch. HFS 119, Wis. Adm. Code, effective April 1, 1998, and, at the same time, because the program statutes had been renumbered by Act 27, for statutory references in ch. HFS 119 to be changed from subch. II of ch. 619, Stats., to ch. 149, Stats.

Act 27 made several other changes in the operation of the Health Insurance Risk-Sharing Plan. The Department through this rulemaking order is amending ch. HFS 119 by repeal and re-creation mainly to make the related changes to the rules, but also to update annual premiums for HIRSP participants in accordance with authority set out in s. 149.143 (3) (a), Stats., under which the Department may increase premium rates during a plan year for the remainder of the plan year.



Major changes made in the rules to reflect changes made by Act 27 in the HIRSP program statute are the following:

-Transfer of plan administration responsibility from an "administering carrier" selected by the Board of Governors through a competitive negotiation process to Electronic Data Systems (EDS), the Department's fiscal agent for the Medical Assistance Program, called in the revised statute the "plan administrator";

-Deletion of a physician certification requirement in connection with applications of some persons for coverage;

-Addition of alternatives to when eligibility may begin, namely, 60 days after a complete application is received, if requested by the applicant, or on the date of termination of Medical Assistance coverage;

-Addition of a reference to how creditable coverage is aggregated, in relation to eligibility determination;

-Addition of a requirement that the Board submit an annual report to the Governor and Legislature regarding the operation of HIRSP;

-Modification of the respective roles of the state agency, now the Department, and the Board of Governors;

-Clarification that the alternative plan for Medicare recipients reduces the benefits payable by the amounts paid by Medicare;

-Modification of cost containment provisions to add that for coverage services must be medically necessary, appropriate and cost-effective as determined by the plan administrator, and that HIRSP is permitted to use common and current methods employed by managed care programs and the Medical Assistance program to contain costs, such as prior authorization;

-Continuation of an alternative plan of health insurance that has a \$2500 deductible (this was added by emergency order effective January 1, 1998);

-Addition of timelines to the grievance procedure for plan applicants and participants, and a provision to permit the Department Secretary to change a decision of the Board's Grievance Committee if in the best interests of the State; and

-Establishment of total insurer assessments and the total provider payment rate for the period July 1, 1998 to approximately December 31, 1998.

The Department's authority to repeal and recreate these rules is found in ss. 149.11, 149.12 (3) (c), 149.143 (2) (a) 2., 3. and 4., (3) (a) and (4), 149.144, 149.146 (2) (b) (intro.), 149.15 (5) and 149.17 (4), Stats., as affected by 1997 Wisconsin Act 27. The rules interpret ch. 149, Stats., as affected by 1997 Wisconsin Act 27.

SECTION 1. Chapter HFS 119 is repealed and recreated to read:

## Chapter HFS 119

### HEALTH INSURANCE RISK-SHARING PLAN

- HFS 119.01 Authority and purpose
- HFS 119.02 Applicability
- HFS 119.03 Establishment of plan and title
- HFS 119.04 Definitions
- HFS 119.05 Eligibility
- HFS 119.06 Participation of insurers
- HFS 119.07 Coverage
- HFS 119.08 Board of governors
- HFS 119.09 Plan administrator
- HFS 119.10 Notification by insurers of availability of HIRSP
- HFS 119.11 Confidentiality and access to records
- HFS 119.12 Premium and deductible reductions  
for low-income policyholders
- HFS 119.13 Cost containment provisions
- HFS 119.14 Grievance procedure
- HFS 119.15 Insurer assessments and provider payment rates

HFS 119.01 AUTHORITY AND PURPOSE. This chapter is promulgated under the authority of ss. 149.11, 149.12 (3) (c), 149.143 (2) (a) 2., 3. and 4., (3) (a) and (4), 149.144, 149.146 (2) (b) (intro.), 149.15 (5) and 149.17 (4), Stats., to establish requirements and procedures for the operation of a plan of health insurance coverage for persons who qualify under s. 149.12, Stats., for coverage because they cannot otherwise obtain it. Every insurer in the state offering health insurance is required by s. 149.13, Stats., to share in the operating, administrative and subsidy expenses of the plan.

HFS 119.02 APPLICABILITY. This chapter applies to the department, to the board of governors for the plan, to the plan administrator, to all insurers and to all eligible persons who receive health care coverage through the plan.

HFS 119.03 ESTABLISHMENT OF PLAN AND TITLE. In accordance with s. 149.11, Stats., a plan of health insurance coverage which meets the requirements of ch. 149, Stats., and s. 632.785, Stats., is established. The title of the plan shall be "Health Insurance Risk-Sharing Plan", and shall be referred to in this chapter as the plan.

HFS 119.04 DEFINITIONS. In this chapter:

- (1) "Board" means the HIRSP board of governors established under s. 149.15, Stats.
- (2) "Coinsurance" means the percentage of the allowed amount for which the HIRSP policyholder is responsible.
- (3) "Commissioner" means the commissioner of insurance.
- (4) "Creditable coverage" has the meaning specified in s. 149.10 (2j), Stats.
- (5) "Deductible" means the amount, which HIRSP otherwise would pay, for which the HIRSP policyholder is responsible.
- (6) "Department" means the department of health and family services.
- (7) "HIRSP" means the health insurance risk-sharing plan under this chapter .
- (8) "Insurer" has the meaning specified in s. 149.10 (5), Stats.
- (9) "Managed care" means a program operated by an insurer to evaluate each patient's medical needs and to identify the appropriate treatments to meet those needs, with the primary goal of providing cost-effective health care without sacrificing quality of care or access.
- (10) "Medicaid" means the medical assistance program operated by the department under ss 49.43 to 49.497, Stats., and chs. HFS 101 to 108.
- (11) "Medically necessary" has the meaning specified in s. HFS 101.03 (96m).
- (12) "Medicare" means the health insurance program operated by the U.S. department of health and human services under 42 USC 1395 and 42 CFR subchapter B.
- (13) "Plan" means HIRSP.
- (14) "Plan administrator" means the fiscal agent under s. 49.45 (2) (b) 2., Stats.
- (15) "Plan applicant" or "applicant" means a person who applies for coverage under the plan.
- (16) "Plan participant" means a person who is covered under the plan.
- (17) "Policy" means any document other than a group certificate used to prescribe in writing the terms of an insurance contract, including endorsements and riders and service contracts.

(18) "Premium" means any consideration for an insurance policy, and includes assessments, membership fees or other required contributions or consideration, however designated.

(19) "Resident" has the meaning specified in s. 149.10 (9), Stats.

(20) "Secretary" means the secretary of the department.

HFS 119.05 ELIGIBILITY. The plan administrator shall determine an applicant's eligibility for coverage under the plan in accordance with s. 149.12, Stats., and as follows:

(1) CRITERIA. The plan administrator shall certify as eligible any resident upon written receipt from the plan applicant of evidence that he or she meets any of the eligibility criteria set forth in s. 149.12 (1), Stats.

(2) NON-ELIGIBILITY. (a) Exclusions from eligibility for the plan shall be as set forth in s. 149.12 (2) and (3), Stats.

(b) For purposes of s. 149.12 (2) (b) 1., Stats., a person is considered to have voluntarily terminated coverage under the plan if the policy terminates because of failure to pay the premium unless the grievance committee of the board determines under s. HFS 119.14 (3) that the failure to pay was not intentional.

(3) SPECIAL ELIGIBILITY REQUIREMENTS. Section 149.12 (2) (e), Stats., does not preclude eligibility for coverage under the plan under any of the following conditions:

(a) When the health care benefits plan for which the person is eligible through his or her employer includes a rider excluding coverage for one or more of the person's conditions for more than 12 months or provides more limited coverage than the coverage available to others covered by the employer's plan.

(b) When the person has continued coverage under s. 632.897, Stats., or the federal consolidated omnibus budget reconciliation act of 1985, as amended. *WIC*

(4) REVIEW. Any person denied coverage under the plan or whose coverage is terminated by the plan administrator is entitled to a review under s. HFS 119.14. A request for review does not stay termination of coverage. *note*

(5) DATE OF ELIGIBILITY. Coverage for a person certified as eligible for the plan begins on the date the plan receives the person's complete application and full initial premium payment or, at the request of the applicant, within 60 days following that date or, as provided in s. 149.14 (1) (b), Stats., on the date of termination of medical assistance coverage. Any individual anticipating termination under an individual plan or group health insurance policy or any other plan providing coverage similar to that under a health insurance policy, including medical assistance, may seek to establish eligibility for the plan prior to termination of existing coverage in order to maintain continuous coverage to the greatest extent possible. *medical is def. term*

(6) CREDITABLE COVERAGE. Pursuant to s. Ins 3.70, the method of aggregating creditable coverage for purposes of s. 149.10 (2t) (a), Stats., shall comply with 45 CFR 146.113 (a) (3).

HFS 119.06 PARTICIPATION OF INSURERS. (1) Every insurer shall share in the expenses of the plan as provided in s. 149.13 (2), Stats. In setting premiums under s. HFS 119.07 (6), the department shall not include any subsidies for the reduction of the cost of premiums or of deductibles in the calculation of operating and administrative costs of the plan. The commissioner may waive the assessment for an insurer or any class of insurers for any year when it is determined that the administrative costs of collecting the assessment would exceed the amount of the assessment.

(2) Every insurer shall file a copy of "Wisconsin health insurance risk-sharing plan assessment form," OCI 43-003, with its annual statement filed with the office of the commissioner of insurance.

Note: Copies of OCI 43-003 may be obtained from the Wisconsin Department of Health and Family Services, P.O. Box 309, Madison, WI 53701.

(3) An insurer who makes an error in the insurer's assessment form that results in an underpayment of assessments to the plan shall file a corrected assessment form with the office of the commissioner of insurance within 30 days after the error is discovered.

(4) An insurer that makes an error in an assessment form that results in an overpayment of assessments to the plan shall, at any time, file a corrected assessment form with the office of the commissioner of insurance. If the overpayment resulted from an assessment form filed in the previous calendar year, the plan shall credit the insurer's next annual assessment under s. 149.13, Stats., for the amount of the overpayment. If the insurer does not owe any amount for the next annual assessment, the plan shall refund the amount of the overpayment. No credit or refund may be granted for an error in an assessment form filed in any year prior to the previous calendar year.

HFS 119.07 COVERAGE. (1) REQUIREMENTS. The plan shall offer coverage that complies with ss. 149.14 and 149.146, Stats., and this section.

(2) LIMITATIONS ON COVERAGE OFFERED TO ELIGIBLE PERSONS ALSO ELIGIBLE FOR MEDICARE. Pursuant to s. 149.14 (1), Stats., if an eligible person is also eligible for medicare coverage, the plan shall not pay or reimburse the person for expenses paid by medicare. As required by s. 149.14 (2) (b), Stats., the plan offers under sub. (6) (b) and (c) an alternative for an individual eligible for medicare which reduces the benefits payable by the amounts paid under medicare.

(3) MAJOR MEDICAL EXPENSE COVERAGE. Major medical expense coverage shall comply with s. 149.14 (2), Stats.

(4) COVERED EXPENSES. Covered expenses shall be those services and articles enumerated in s. 149.14 (3), Stats., if the services are medically necessary, appropriate and cost effective, as determined by the plan administrator.

(5) EXCLUSIONS. Exclusions from coverage shall comply with s. 149.14 (4), Stats.

(6) PREMIUMS, DEDUCTIBLES AND COINSURANCE. (a) Compliance with statutes. Premiums, deductibles and coinsurance shall be in compliance with ss. 149.14(5), 149.146, 149.165 and 149.17, Stats.

(b) Annual premiums for major medical plan policies with standard deductible. The schedule of annual premiums beginning July 1, 1998, for persons not entitled to a premium reduction under s. 149.165, Stats., is as follows:

MAJOR MEDICAL PLAN – Males			
Age Group	Zone 1	Zone 2	Zone 3
0-18	\$1,512	\$1,368	\$1,212
19-24	1,512	1,368	1,212
25-29	1,548	1,404	1,248
30-34	1,764	1,584	1,404
35-39	2,004	1,800	1,608
40-44	2,400	2,160	1,908
45-49	3,048	2,736	2,436
50-54	4,020	3,624	3,228
55-59	5,256	4,740	4,212
60+	6,468	5,820	5,172

MAJOR MEDICAL PLAN – Females			
Age Group	Zone 1	Zone 2	Zone 3
0-18	\$1,512	\$1,368	\$1,212
19-24	2,088	1,896	1,680
25-29	2,232	2,016	1,788
30-34	2,472	2,220	1,980
35-39	2,688	2,412	2,148
40-44	2,976	2,688	2,376
45-49	3,492	3,132	2,796
50-54	4,020	3,600	3,204
55-59	4,596	4,128	3,672
60+	5,400	4,860	4,320

MEDICARE PLAN – Males

Age Group	Zone 1	Zone 2	Zone 3
0-18	\$888	\$792	\$708
19-24	888	792	708
25-29	888	792	708
30-34	1,020	912	816
35-39	1,140	1,020	912
40-44	1,380	1,248	1,092
45-49	1,716	1,536	1,380
50-54	2,208	1,992	1,764
55-59	2,892	2,616	2,316
60+	3,552	3,192	2,832

MEDICARE PLAN – Females

Age Group	Zone 1	Zone 2	Zone 3
0-18	\$888	\$792	\$708
19-24	1,224	1,116	972
25-29	1,284	1,152	1,032
30-34	1,404	1,272	1,128
35-39	1,512	1,368	1,212
40-44	1,680	1,512	1,332
45-49	1,944	1,752	1,560
50-54	2,184	1,956	1,752
55-59	2,496	2,244	1,992
60+	2,940	2,640	2,340

(c) Base rates for calculating premium reductions. 1. The annual base rates for calculating premium reductions under s. HFS 119.12 that are applicable to standard risks under individual policies providing substantially the same coverage and deductibles as the plan's major medical plan are as follows beginning July 1, 1998:

MAJOR MEDICAL PLAN – Males  
(Base for Reduced Rates)

Age Group	Zone 1	Zone 2	Zone 3
0-18	\$1,008	\$912	\$804
19-24	1,008	912	804
25-29	1,032	936	828
30-34	1,176	1,056	936
35-39	1,332	1,200	1,068
40-44	1,596	1,440	1,272
45-49	2,028	1,824	1,620
50-54	2,676	2,412	2,148
55-59	3,504	3,156	2,808
60+	4,308	3,876	3,444

MAJOR MEDICAL PLAN – Females  
(Base for Reduced Rates)

Age Group	Zone 1	Zone 2	Zone 3
0-18	\$1,008	\$912	\$804
19-24	1,392	1,260	1,116
25-29	1,488	1,344	1,188
30-34	1,644	1,476	1,320
35-39	1,788	1,608	1,428
40-44	1,980	1,788	1,584
45-49	2,328	2,088	1,860
50-54	2,676	2,400	2,136
55-59	3,060	2,748	2,448
60+	3,600	3,240	2,880



2. The annual base rates for calculating premium reductions under s. HFS 119.12 that are applicable to standard risks under individual policies providing substantially the same coverage and deductibles as the plan's medicare plan are as follows beginning July 1, 1998:

MEDICARE PLAN – Males  
(Base for Reduced Rates)

Age Group	Zone 1	Zone 2	Zone 3
0-18	\$588	\$528	\$468
19-24	588	528	468
25-29	588	528	468
30-34	684	612	540
35-39	756	672	600
40-44	912	828	732
45-49	1,140	1,020	912
50-54	1,464	1,320	1,176
55-59	1,932	1,740	1,536
60+	2,364	2,124	1,884

MEDICARE PLAN – Females  
(Base for Reduced Rates)

Age Group	Zone 1	Zone 2	Zone 3
0-18	\$588	\$528	\$468
19-24	816	732	648
25-29	852	768	684
30-34	936	840	744
35-39	1,008	900	804
40-44	1,116	996	888
45-49	1,284	1,164	1,032
50-54	1,452	1,308	1,164
55-59	1,656	1,488	1,332
60+	1,956	1,764	1,560

(d) Annual premiums for major medical plan policies with \$2500 deductible. In accordance with s. 149.146, Stats., an alternative plan of health insurance involving major medical expense coverage is established with a \$2,500 deductible. The schedule of annual premiums for coverage under the alternative plan with a \$2,500 deductible is as follows beginning July 1, 1998:

ALTERNATIVE MAJOR MEDICAL PLAN

Males

Age Group	Zone 1	Zone 2	Zone 3
0-18	\$1,092	\$984	\$876
19-24	1,092	984	876
25-29	1,116	1,008	900
30-34	1,272	1,140	1,008
35-39	1,440	1,296	1,152
40-44	1,728	1,560	1,368
45-49	2,196	1,968	1,752
50-54	2,892	2,604	2,328
55-59	3,780	3,408	3,036
60+	4,656	4,188	3,720

ALTERNATIVE MAJOR MEDICAL PLAN

Females

Age Group	Zone 1	Zone 2	Zone 3
0-18	\$1,092	\$984	\$876
19-24	1,500	1,368	1,212
25-29	1,608	1,452	1,284
30-34	1,776	1,596	1,428
35-39	1,932	1,740	1,548
40-44	2,148	1,932	1,716
45-49	2,520	2,256	2,016
50-54	2,892	2,592	2,304
55-59	3,312	2,976	2,640
60+	3,888	3,504	3,108

(e) Zones. For the purposes of pars. (b), (c) and (d), Zone 1 shall contain all of the Wisconsin zip code areas in which the first 3 digits are 532. Zone 2 shall contain postal zip code areas in which the first 3 digits are 530, 531, 534 and 537. Zone 3 shall contain postal zip code areas not contained in Zones 1 and 2.

(f) Detailed description of how premium rates are set. 1. The department shall have on file an actuarial report detailing the process by which rates were determined.

2. The annual report of the board to the chief clerk of each house of the legislature required by s. 149.15(2), Stats., and s. HFS 119.08 (2) (a) shall include a section describing premium rate-setting in detail. In order to fulfill this requirement, the board may appoint an

actuarial committee under the powers granted to the board in s. 149.15 (5), Stats., and s. HFS 119.08 (3) (d).

(7) **PREEXISTING CONDITIONS.** Preexisting conditions limitations shall conform with s. 149.14 (6), Stats. Determinations of what constitutes a preexisting condition shall be made by the plan administrator.

(8) **COORDINATION OF BENEFITS.** Benefits shall be coordinated as provided in s. 149.14 (7), Stats.

(9) **RIGHT TO REVIEW.** Any person whose claim is denied or reduced by the plan administrator is entitled to a review under s. HFS 119.14.

**HFS 119.08 BOARD OF GOVERNORS. (1) APPOINTMENT OF MEMBERS.** The board shall be appointed pursuant to s. 149.15, Stats.

(2) **ANNUAL REPORTS.** (a) The board shall make an annual report to plan participants and to appropriate standing committees of the legislature pursuant to s. 149.15 (2), Stats., which summarizes the activities of the plan in the preceding calendar year.

(b) The board shall submit an annual report on or before June 30 to the legislature and the governor pursuant to s. 149.15(2m), Stats., on the operation of the plan, including any recommendations for changes to the plan.

(3) **BOARD FUNCTIONS.** (a) The board shall carry out the functions specified in s. 149.15 (3), Stats., and any other function specified for the board in this chapter.

(b) The board may carry out the functions authorized in s. 149.15 (4), Stats.

(c) The board may provide for agent commissions and require agents and companies to provide assistance in filing applications.

(d) The board may establish subcommittees and appoint members who do not serve on the board to the subcommittees.

**HFS 119.09 PLAN ADMINISTRATOR.** The plan administrator shall carry out the functions under s. 149.16 (3), Stats., and any other function of the plan administrator specified in this chapter.

**HFS 119.10 NOTIFICATION BY INSURERS OF AVAILABILITY OF HIRSP. (1) WHEN NOTICE REQUIRED.** If an insurer takes one or more of the actions enumerated in s. 632.785 (1), Stats., the insurer shall notify all persons covered or to be covered by the policy, including parents and guardians in cases involving minor children and individuals adjudged incompetent under ch. 880, Stats., of the existence of HIRSP, as well as the eligibility requirements and how to apply for coverage under the plan, as required by s. 632.785 (1), Stats.

(2) **FORM OF NOTICE.** An insurer who takes one or more of the actions under s. 632.785 (1), Stats., shall satisfy the notice requirement under sub. (1) by providing each person covered or to be covered by the policy with a copy of "Wisconsin Health Insurance Risk-Sharing Plan (HIRSP)," an informational pamphlet prepared by the department.

Note: Copies of the informational pamphlet may be obtained from Administrator, Health Insurance Risk-Sharing Plan (HIRSP), Suite #18, 6406 Bridge Road, Madison, Wisconsin 53784-0018 (phone 608-221-4551 or 1-800-828-4777).

(3) **STATEMENT OF REASONS FOR REJECTING, TERMINATING OR CANCELING COVERAGE OR IMPOSING UNDERWRITING RESTRICTIONS.** If an insurer rejects, terminates or cancels coverage or imposes underwriting restrictions under 632.785 (1), Stats., the insurer is obligated under s. 632.785 (2), Stats., to include in the notice required under sub. (1) a statement giving the specific medical reasons for the insurer's action.

HFS 119.11 CONFIDENTIALITY AND ACCESS TO RECORDS. (1) **CONFIDENTIALITY.** The plan administrator and the department shall keep information about plan applicants and plan participants confidential, unless disclosure is otherwise permitted by law.

(2) **ACCESS TO RECORDS BY PLAN APPLICANTS AND PARTICIPANTS.** Plan applicants and plan participants shall have access to all of their medical records held by the plan.

HFS 119.12 PREMIUM AND DEDUCTIBLE REDUCTIONS FOR LOW-INCOME POLICYHOLDERS. (1) **PURPOSE.** The purpose of this section is to interpret and implement ss. 149.14 (5) and 149.165, Stats.

(2) **ELIGIBILITY.** Applicants for coverage under the plan may apply for the reductions under this section. Persons covered under the plan shall reapply annually.

(3) **CALCULATION OF PREMIUM AND DEDUCTIBLE REDUCTIONS.** (a) The base rates for calculating premium reductions under s. 149.165 (1) and (2), Stats., are set forth in s. HFS 119.07 (6) (c).

(b) The schedule of deductible reductions is set forth in s. 149.14 (5) (a), Stats.

(c) The plan administrator may reassess the household income of an eligible person at any time during the term of the person's policy. If an eligible person's household income changes during a policy term, the plan administrator may, if appropriate under s. 149.165 (2), Stats., revise the premium for the person in conformity with s. 149.165 (2), Stats., and the deductible for the person under s. 149.14(5) (a), Stats., for the remainder of the policy term. The revised premium and deductible shall take effect the first month beginning after the plan administrator's decision.

(d) The availability of premium and deductible reductions is based on the availability of funds appropriated under s. 20.435 (5) (ah), Stats., including the provisions of s. 149.144, Stats.

(4) APPLICATION FOR PREMIUM AND DEDUCTIBLE REDUCTIONS. An application for premium and deductible reductions is not complete until a Supplemental Application for Premium and Deductible Reduction form or a completed Wisconsin Homestead Credit Schedule H is submitted to the plan administrator. A complete application for premium and deductible reduction may also need to include a completed federal profit or loss from farming form, schedule F. An application for the premium and deductible reduction shall be accompanied by or preceded by an application to the plan.

Note: A person may obtain the supplemental application for premium and deductible reductions at no charge from Administrator, Health Insurance Risk-Sharing Plan (HIRSP), 6406 Bridge Road, Suite #18, Madison, Wisconsin 53784-0018 (phone 608-221-4551 or 1-800-828-4777.)

(5) APPLICATION DEADLINES, EFFECTIVE DATES OF REDUCTIONS AND REESTABLISHMENT OF ELIGIBILITY. (a) New plan applicants. New plan applicants may request eligibility for the reductions at any of the following times:

1. At the time of plan application. In this case, for purposes of the premium reduction, the plan administrator shall make the appropriate adjustments regarding the applicant's initial premium payment submitted with the application. Deductible reductions take effect upon issuance of the policy.

2. After eligibility for the plan is established. *as follows:* a. If eligibility for the premium reduction is established within 31 days after the effective date of the policy, the new policyholder shall receive a refund of the reduced portion of the premium retroactive to the effective date of the policy. If eligibility for the reduced premium is not established within 31 days after the effective date of the policy, the policyholder shall receive no refund. In this case, the policyholder shall establish eligibility at least 60 days before the renewal date on which it is to take effect, and the plan administrator shall bill the policyholder for the reduced premium beginning on the renewal date.

b. If eligibility for the deductible reduction is established within 31 days after the effective date of the policy, the new policyholder shall receive a refund of a portion of the deductible paid by the policyholder prior to establishing eligibility. The amount of the refund shall be the difference between the deductible paid by the policyholder and the deductible as reduced by any reduction to which the policyholder is entitled. If eligibility is not established within 31 days after the effective date of the policy, the policyholder shall receive no refund. In this case, the policyholder shall establish eligibility at least 60 days before the policy's renewal date, and the deductible reduction shall take effect on January 1 of the year commencing after the policy's renewal date.

(b) Existing policy holders. 1. Persons who are existing policyholders as of March 31 shall apply annually by May 1 in order to be eligible for the reductions for the year beginning on July 1.

2. For premium reductions, if the application is not postmarked by May 1, then the application shall be postmarked at least 60 days prior to the policyholder's next policy renewal date in order for the corresponding premium notice to reflect the reduced premium. An existing policyholder who is first determined to be eligible for a premium reduction shall receive a refund on a pro rata basis for the time period between July 1 of each calendar year and the next renewal date.

*Presented*

3. Deductible reductions under this paragraph take place on January 1 of the year following establishment of eligibility.

(c) Treatment as new policyholder. Under this subsection, the plan administrator shall treat any individual who becomes a policyholder after March 31 as a new policyholder.

(d) Reestablishment of eligibility. Eligibility for the premium and deductible reductions shall be reestablished at least annually.

(6) RIGHT TO REVIEW. An applicant who is denied a premium or deductible reduction is entitled to a review under s. HFS 119.14.

HFS 119.13 COST CONTAINMENT PROVISIONS. HIRSP may use common, current methods employed by managed care programs and the medicaid program to contain costs, including prior authorization and other limitations regarding healthcare utilization and reimbursement. When a new policy is issued, the plan administrator shall send the new policyholder a written description of the plan's cost containment provisions and the procedures that the policyholder shall follow in order to comply with these cost containment provisions. The plan administrator shall send existing policyholders a written description of any change to the plan's cost containment provisions or the procedures that policyholders shall follow in order to comply with these cost containment provisions. The existing policyholders shall receive this written description at least 60 days before the change takes effect.

HFS 119.14 GRIEVANCE PROCEDURE. (1) PURPOSE. This section implements s. 149.17 (3), Stats.

(2) REVIEW BY PLAN ADMINISTRATOR. A person entitled under this chapter to a review of a determination by the plan administrator shall, within 60 days of the date of the letter of determination, submit a written request to the plan administrator that the determination be reviewed. Upon receipt of a request, the plan administrator shall review the original determination, either affirm, modify or rescind it and provide the requester with a written response which includes the plan administrator's final decision and the reason for it. The plan administrator shall have 10 days from receipt of a request for review to issue a letter of decision or a letter to the requester asking for additional information.

Note: To request a review by the plan administrator, write Administrator-HIRSP, 6406 Bridge Road, Suite #18, Madison, WI 53784-0018.

(3) REVIEW BY GRIEVANCE COMMITTEE OF THE BOARD. (a) If a decision under sub. (2) is adverse to an applicant or policyholder, the applicant or policyholder may request a review of the decision by the grievance committee of the board. A request for review under this subsection shall be made in writing to the board within 30 days of the date of the letter of decision under sub. (2) and shall clearly describe the reason the requester believes the plan administrator's decision is erroneous under ch. 149, Stats., this chapter or the terms of the plan policy.

Note: To request a review by the grievance committee of the board, write: HIRSP Board Grievance Committee, P.O. Box 309, Madison, WI 53701-0309.

(b) The board shall appoint a grievance committee of at least 5 persons, a majority of whom are not members of the board, to review decisions of the plan administrator that adversely affect applicants and policyholders entitled to review under this chapter. Upon the written request of an applicant for HIRSP or a policyholder, the grievance committee shall conduct a review based on written submissions by the plan administrator and the applicant or policyholder. No discovery is permitted. The grievance committee may invite or permit representatives of the plan administrator and the applicant or policyholder to appear and make oral statements during the review. The grievance committee shall, within 45 days from the receipt of the applicant's or policyholder's request for review, issue a written decision affirming, modifying or rescinding the decision of the plan administrator and stating the reason for its decision. The committee's decision shall be final, unless the secretary of the department deems a different decision is in the best interests of the state of Wisconsin.

(c) The grievance committee shall file a quarterly report with the board on all actions taken under par. (b).

(4) RESPONSIBILITY OF PLAN ADMINISTRATOR. The plan administrator shall comply with the final decision of the board's grievance committee or the secretary.

#### HFS 119.15 INSURER ASSESSMENTS AND PROVIDER PAYMENT RATES.

(1) PURPOSE. This section implements s. 149.143 (2) (a) 3. and 4., Stats.

(2) INSURER ASSESSMENTS. The insurer assessments for the time period July 1, 1998 through December 31, 1998 total \$ 4,266,874.

(3) PROVIDER PAYMENT RATES. The total adjustment to the provider payment rates for the time period July 1, 1998 through December 31, 1998 is \$ 4,266,874.

The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, as provided in s. 227.22(2), Stats.

Wisconsin Department of Health and  
Family Services

Dated:

By: \_\_\_\_\_  
Joseph Leean  
Secretary

SEAL:





Tommy G. Thompson  
Governor

Joe Leean  
Secretary



**State of Wisconsin**

**Department of Health and Family Services**

OFFICE OF LEGAL COUNSEL

1 WEST WILSON STREET  
P.O. BOX 7850  
MADISON WI 53707-7850

TELEPHONE: (608) 266-8428

October 30, 1998

NOV 02 1998

The Honorable Brian Rude, President  
Wisconsin State Senate  
1 East Main, Suite 402  
Madison, WI 53702

The Honorable Scott Jensen, Speaker  
Wisconsin State Assembly  
1 East Main, Suite 402  
Madison, WI 53702

Re: Clearinghouse Rule 98-108  
HFS 119, relating to the health insurance risk-sharing plan (HIRSP).

Gentlemen:

In accordance with the provisions of s. 227.19(2), Stats., you are hereby notified that the above-mentioned rule is in final draft form. This notice and the report required by s. 227.19(3), Stats., are submitted herewith in triplicate.

The rule was submitted to the Legislative Council for review under s. 227.15, Stats. A copy of the Council's report is also enclosed.

If you have any questions about the rule, please contact Kathy Rogers at 264-7733.

Sincerely,

  
Paul E. Menge  
Administrative Rules Manager

cc. Gary Poulson, Deputy Revisor of Statutes  
Senator Robert Welch, JCRAR  
Representative Glenn Grothman, JCRAR  
Kathy Rogers, Division of Health Care Financing  
Kevin Lewis, Secretary's Office

10-28-98

PROPOSED ADMINISTRATIVE RULES - HFS 119  
ANALYSIS FOR LEGISLATIVE STANDING COMMITTEES  
PURSUANT TO S. 227.19(3), STATS.

Need for Rules

The State of Wisconsin in 1981 established a Health Insurance Risk-Sharing Plan (HIRSP) for the purpose of making health insurance coverage available to medically uninsured residents of the state. The current Budget Act, 1997 Wisconsin Act 27, transferred responsibility for HIRSP from the Office of the Commissioner of Insurance to the Department of Health and Family Services effective January 1, 1998. The transfer included the administrative rules that the Office of the Commissioner of Insurance had promulgated for the administration of HIRSP. These were numbered ch. Ins 18, Wis. Adm. Code. The Department arranged for the rules to be renumbered ch. HFS 119, Wis. Adm. Code, effective April 1, 1998, and, at the same time, because the program statutes had been renumbered by Act 27, for statutory references in ch. HFS 119 to be changed from subch. II of ch. 619., Stats., to ch. 149, Stats.

The main reason for the repeal and recreation of ch. HFS 119 is to amend the rules to reflect changes made in the operation of HIRSP by 1997 Wisconsin Act 27. Some other changes in the rules are related to assumption by the Department of responsibility for the operation of HIRSP. Finally, changes are being made to update annual premiums for HIRSP participants in accordance with the authority set out in s. 149.143 (3) (a), Stats., under which the Department may increase premium rates during a plan year for the remainder of the plan year.

Major changes made to ch. HFS 119 in order to reflect statutory changes made by Act 27 to the HIRSP program are the following:

-Transfer of plan administration responsibility from an "administering carrier" selected by the Board of Governors through a competitive negotiation process to the Department's fiscal agent for the Medical Assistance Program, called in the revised statute the "plan administrator";

-Deletion of a physician certification requirement in connection with applications of some persons for coverage;

-Addition of alternatives regarding when eligibility may begin, namely, 60 days after a complete application is received, if requested by the applicant, or on the date of termination of Medical Assistance coverage;

-Addition of a reference to how creditable coverage is aggregated, in relation to eligibility determination;

-Addition of a requirement that the Board submit an annual report to the Governor and Legislature regarding the operation of HIRSP;

-Modification of the respective roles of the state agency, now the Department of Health and Family Services, and the Board of Governors;

-Modification of cost containment provisions to add that services must be medically necessary, appropriate and cost-effective as determined by the plan administrator, and that HIRSP is permitted to use common and current methods employed by managed care programs and the Medical Assistance program to contain costs, such as prior authorization;

-Continuation of an alternative plan of health insurance that has a \$2,500 deductible (this was added by emergency order effective January 1, 1998);

-Addition of timelines to the grievance procedure for plan applicants and participants, and a provision to permit the Department Secretary to change a decision of the Board's Grievance Committee if deemed to be in the best interests of the State; and

-Establishment of total insurer assessments and the total provider payment rate for the period July 1, 1998 to approximately December 31, 1998.

Similar emergency rules were published on July 1, 1998.

#### Responses to Clearinghouse Recommendations

All comments of the Legislative Council's Rules Clearinghouse were accepted, except for the following:

2.c. Comment: In HFS 119.06(1), the phrase "shall not" should be changed to "may not." This comment also applies to s. HFS 119.07 (2).

Response: No change. These sentence do not have negative subjects. The phrase "shall not" is unambiguous, stating clearly that the Department is not to include subsidies for the reduction of the cost of premiums or deductibles in calculating operating and administrative costs of the Plan and HIRSP is not to reimburse a person for expenses paid by Medicare.

5.k. Comment: In HFS 119.04(5), the definition of "deductible" appears to be inaccurate. Taken literally, it conceivably includes the coinsurance amount. Rather than referring to an amount which HIRSP otherwise would pay, it may be preferable to refer to the amount of covered expenses before HIRSP payments begin.

Response: Instead, we have inserted the phrase, "exclusive of coinsurance," after "amount."

5.y. Comment: HFS 119.14 (3) (b) provides that the grievance committee's decision is final, unless the DHFS Secretary deems a different decision is in the best interests of the state. The rule does not make clear whether there is a right to appeal a decision to the Secretary and, if so, how this is done or what the deadline is for doing so.

Response: No change. There is no intention to provide for an appeal to the Secretary. There is already provision for appeal to the Plan Administrator. If an applicant

or policyholder is not satisfied with the Plan Administrator's decision, he or she may appeal it to the grievance committee of the Board of Governors. The grievance committee's decision is final unless the Secretary determines that a different decision is in the best interests of the state.

### Public Hearing

The Department held one public hearing, in Madison on September 29, 1998, for the purpose of reviewing both the existing emergency rules and the proposed permanent rules. Four persons registered at the hearing. Two testified regarding the proposed permanent rules. The two who testified were the following:

Robert Wood, Vice-President  
for Government Relations &  
Member of HIRSP Board of Governors  
Wisconsin Physicians Service  
Madison, WI

Supported the proposed rules with  
one change.

Joan Landgraf  
HIRSP Project Manager  
Electronic Data Systems (EDS)  
Madison, WI

Supported the proposed rules with  
one change.

(comments presented by Kathy Rogers)

1. Comment: Robert Wood brought up a concern about s. HFS 119.15(3), Provider Payment Rates. He pointed out HIRSP assesses insurers for about \$4.25 million to help pay the cost of HIRSP for the period July 1, 1998 through December 31, 1998. HIRSP also assesses health care providers for about \$4.25 million to help pay the costs of HIRSP for the same period. However, while there is language in the rules that speaks to assessments on insurers, there is no language that speaks to assessments on health care providers. There should be.

Response. No change. The Department through this rulemaking order is replacing emergency rules, and has a limited time to do that. The required participation of insurers in the cost of administering HIRSP (that is, in "the operating, administrative and subsidy expenses of the plan") is provided for in s. 149.13, Stats., with the procedures for filing the assessment form set out in the rules at s. HFS 119.06. That is all that is done in rule that speaks to assessments on insurers, apart from the total amount of insurer assessments for the period July 1, 1998 through December 31, 1998 included in s. HFS 119.15(2), as required by s. 149.143 (2) (a) 3., Stats. Section 149.143, Stats., relates to payment of the costs of HIRSP. The rules do not address this because the statutory language is sufficient for the purpose of administering HIRSP. Section 149.143, Stats., tells the Department to pay or recover the operating costs of the plan by following specified steps. The steps include increasing insurer assessments and "adjusting [health care] provider payment rates." The rules do not address how health care provider payment rates are adjusted because this is statutory. All that is required of the Department by rule is to identify the

total amount of the adjustment. This is done in s. HFS 119.15(3) for the period July 1, 1998 through December 31, 1998. Anything more that is done "to speak to assessments on providers," that is, to how increases resulting from adjustments of provider payment rates will be used, is more appropriately done outside of rules, at least at this time.

2. Comment. On behalf of the HIRSP plan administrator, EDS, Kathy Rogers passed on a recommendation from Joan Landgraf to establish a formal deadline for the timely submission of HIRSP provider claims.

Response. The proposed permanent rules have been modified to address that recommendation by the addition of s. HFS 119.16. Claims will need to be submitted to HIRSP within one year following date-of-service. This HIRSP requirement corresponds to longstanding policies and practices of the Wisconsin Medical Assistance program.

No written comments were received at the public hearing. The hearing record was kept open until October 6, 1998 for the receipt of any written comments. No written comments were received.

#### Final Regulatory Flexibility Analysis

The rule changes will not affect small businesses as "small business" is defined in s. 227.114(1)(a), Stats. Although the program statutes and rules provide for assessment of insurers to help finance the Health Insurance Risk-Sharing Plan (HIRSP), no assessed insurer is a small business as defined in s. 227.114(1)(a), Stats. Moreover, s. 149.143, Stats., prescribes how the amount of an insurer's assessment to help finance HIRSP is to be determined. Section 149.143, Stats., also prescribes how the amount of the adjustment to the provider payment rates is to be determined.

10-28-98

PROPOSED ORDER OF THE  
DEPARTMENT OF HEALTH AND FAMILY SERVICES  
REPEALING AND RECREATING RULES

To repeal and recreate chapter HFS 119, relating to the health insurance risk-sharing plan (HIRSP).

Analysis Prepared by the Department of Health and Family Services

The State of Wisconsin in 1981 established a Health Insurance Risk-Sharing Plan (HIRSP) for the purpose of making health insurance coverage available to medically uninsured residents of the state.

HIRSP provides a major medical type of coverage for persons not eligible for Medicare (Plan 1) and a Medicare supplemental type of coverage for persons eligible for Medicare (Plan 2). Plan 1 has either a \$1,000 deductible or a \$2,500 deductible. Plan 2 has a \$500 deductible. On December 31, 1997, there were 7,318 HIRSP policies in effect, 83% of them Plan 1 policies and 17% Plan 2 policies. HIRSP provides for a 20% coinsurance contribution by plan participants up to an annual out-of-pocket maximum of either \$2,000 or \$3,500 per individual, depending on the deductible, for major medical coverage, an annual out-of-pocket maximum of either \$4,000 or \$7,000 per family, depending on the deductible, for major medical coverage and \$500 per individual for the Medicare supplement. The individual's and the family's annual out-of-pocket expense may be less than the stated maximums if the policyholder's deductible is subsidized. There is a lifetime limit of a \$1,000,000 total payment per covered individual.

There is provision under HIRSP for graduated premiums and reduced deductibles. Plan participants may be eligible for graduated premiums and reduced deductibles if their household income for the prior calendar year, based on standards for computation of the Wisconsin Homestead Credit, was less than \$20,000. Policyholders who choose the \$2,500 deductible plan are not eligible for graduated premiums and reduced deductibles.

The current Budget Act, 1997 Wisconsin Act 27, transferred responsibility for HIRSP from the Office of Commissioner of Insurance to the Department of Health and Family Services effective January 1, 1998. The transfer included the administrative rules that the Office of Commissioner of Insurance had promulgated for the administration of HIRSP. These were numbered ch. Ins 18, Wis. Adm. Code. The Department arranged for the rules to be renumbered ch. HFS 119, Wis. Adm. Code, effective April 1, 1998, and, at the same time, because the program statutes had been renumbered by Act 27, for statutory references in ch. HFS 119 to be changed from subch. II of ch. 619, Stats., to ch. 149, Stats.

Act 27 made several other changes in the operation of HIRSP. The Department through this rulemaking order is amending ch. HFS 119 by repeal and re-creation mainly to make the related changes to the rules, but also to update annual premiums for HIRSP participants in accordance with authority set out in s. 149.143 (3) (a), Stats., under which the

Department may increase premium rates during a plan year for the remainder of the plan year.

As required by s. 149.20, Stats., Department staff met on April 3, 1998 with the HIRSP Board of Governors to review the proposed rules.

Major changes made in the rules to reflect changes made by Act 27 in the HIRSP program statute are the following:

- Transfer of plan administration responsibility from an "administering carrier" selected by the Board of Governors through a competitive negotiation process to Electronic Data Systems (EDS), the Department's fiscal agent for the Medical Assistance Program, called in the revised statute the "plan administrator";

- Deletion of a physician certification requirement in connection with applications of some persons for coverage;

- Addition of alternatives to when eligibility may begin, namely, 60 days after a complete application is received, if requested by the applicant, or on the date of termination of Medical Assistance coverage;

- Addition of a reference to how creditable coverage is aggregated, in relation to eligibility determination;

- Addition of a requirement that the Board submit an annual report to the Governor and Legislature regarding the operation of HIRSP;

- Modification of the respective roles of the state agency, now the Department of health and Family Services, and the Board of Governors;

- Modification of cost containment provisions to add that for coverage services must be medically necessary, appropriate and cost-effective as determined by the plan administrator, and that HIRSP is permitted to use common and current methods employed by managed care programs and the Medical Assistance program to contain costs, such as prior authorization;

- Continuation of an alternative plan of health insurance that has a \$2500 deductible (this was added by emergency order effective January 1, 1998);

- Addition of timelines to the grievance procedure for plan applicants and participants, and a provision to permit the Department Secretary to change a decision of the Board's Grievance Committee if deemed to be in the best interests of the State; and

- Establishment of total insurer assessments and the total provider payment rate for the period July 1, 1998 through December 31, 1998.

The Department's authority to repeal and recreate these rules is found in ss. 149.11, 149.12 (3) (c), 149.143 (2) (a) 2., 3. and 4., (3) (a) and (4), 149.144, 149.146 (2) (b) (intro.), 149.15 (5) and 149.17 (4), Stats., as affected by 1997 Wisconsin Act 27. The rules interpret ch. 149, Stats., as affected by 1997 Wisconsin Acts 27 and 237.



SECTION 1. Chapter HFS 119 is repealed and recreated to read:

Chapter HFS 119

HEALTH INSURANCE RISK-SHARING PLAN

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HFS 119.01 AUTHORITY AND PURPOSE. This chapter is promulgated under the authority of ss. 149.11, 149.12 (3) (c), 149.143 (2) (a) 2., 3. and 4., (3) (a) and (4), 149.144, 149.146 (2) (b) (intro.), 149.15 (5) and 149.17 (4), Stats., to establish requirements and procedures for the operation of a plan of health insurance coverage for persons who qualify under s. 149.12, Stats., for coverage because they cannot otherwise obtain it. Every insurer in the state offering health insurance is required by s. 149.13, Stats., to share in the operating, administrative and subsidy expenses of the plan.

HFS 119.02 APPLICABILITY. This chapter applies to the department, to the board of governors for the plan, to the plan administrator, to all insurers and to all eligible persons who receive health care coverage through the plan.

HFS 119.03 ESTABLISHMENT OF PLAN AND TITLE. In accordance with s. 149.11, Stats., a plan of health insurance coverage which meets the requirements of ch. 149, Stats., and s. 632.785, Stats., is established. The title of the plan shall be "Health Insurance Risk-Sharing Plan."

HFS 119.04 DEFINITIONS. In this chapter:

- (1) "Board" means the HIRSP board of governors established under s. 149.15, Stats.

(2) "Coinsurance" means the percentage of the covered expenses for which the HIRSP policyholder is responsible.

(3) "Commissioner" means the commissioner of insurance.

(4) "Creditable coverage" has the meaning specified in s. 149.10 (2j), Stats.

(5) "Deductible" means the amount, exclusive of coinsurance, which HIRSP otherwise would pay, for which the HIRSP policyholder is responsible.

(6) "Department" means the department of health and family services.

(7) "HIRSP" means the health insurance risk-sharing plan under this chapter.

(8) "Insurer" has the meaning specified in s. 149.10 (5), Stats.

(9) "Managed care" means a program operated by an insurer to evaluate each patient's medical needs and to identify the appropriate treatments to meet those needs, with the primary goal of providing cost-effective health care without sacrificing quality of care or access.

(10) "Medical assistance" means the program operated by the department under ss. 49.43 to 49.497, Stats., and chs. HFS 101 to 108.

(11) "Medically necessary" has the meaning specified in s. HFS 101.03 (96m).

(12) "Medicare" means the health insurance program operated by the U.S. department of health and human services under 42 USC 1395 and 42 CFR subchapter B.

(13) "Plan" means HIRSP.

(14) "Plan administrator" means the fiscal agent under s. 49.45 (2) (b) 2., Stats.

(15) "Plan applicant" or "applicant" means a person who applies for coverage under the plan.

(16) "Policyholder" means a person who is covered under the plan.

(17) "Policy" means any document, other than a group certificate, used to describe in writing the terms of an insurance contract, including endorsements, riders and service contracts.

(18) "Premium" means any consideration for an insurance policy, and includes assessments, membership fees or other required contributions or consideration, however designated.

(19) "Resident" has the meaning specified in s. 149.10 (9), Stats.

(20) "Secretary" means the secretary of the department.

HFS 119.05 ELIGIBILITY. The plan administrator shall determine an applicant's eligibility for coverage under the plan in accordance with s. 149.12, Stats., and as follows:

(1) **CRITERIA.** The plan administrator shall certify as eligible any resident upon written receipt from the plan applicant of evidence that he or she meets any of the eligibility criteria set forth in s. 149.12 (1), Stats.

(2) **NON-ELIGIBILITY.** (a) Exclusions from eligibility for the plan shall be as set forth in s. 149.12 (1m), (2) and (3), Stats.

(b) For purposes of s. 149.12 (2) (b) 1., Stats., a person is considered to have voluntarily terminated coverage under the plan if the policy terminates because of failure to pay the premium unless the grievance committee of the board determines under s. HFS 119.14 (3) that the failure to pay was not intentional.

(3) **SPECIAL ELIGIBILITY REQUIREMENTS.** Section 149.12 (2) (e), Stats., does not preclude eligibility for coverage under the plan under any of the following conditions:

(a) When the health care benefits plan for which the person is eligible through his or her employer includes a rider excluding coverage for one or more of the person's conditions for more than 12 months or provides more limited coverage than the coverage available to others covered by the employer's plan.

(b) When the person has continued coverage under s. 632.897, Stats., or the federal consolidated omnibus budget reconciliation act of 1985, as amended, 29 USC 1161 to 1168 or 42 USC 300bb-1 to 300bb-8.

(4) **REVIEW.** Any person denied coverage under the plan or whose coverage is terminated by the plan administrator is entitled to a review under s. HFS 119.14. A request for review does not stay termination of coverage.

(5) **DATE OF ELIGIBILITY.** Coverage for a person certified as eligible for the plan begins on the date the plan receives the person's complete application and full initial premium payment or, at the request of the applicant, within 60 days following that date or, as provided in s. 149.14 (1) (b), Stats., on the date of termination of medical assistance coverage. Any individual anticipating termination under an individual plan or group health insurance policy or any other plan providing coverage similar to that under a health insurance policy, including medical assistance, may seek to establish eligibility for the plan prior to termination of existing coverage in order to maintain continuous coverage to the greatest extent possible.

(6) CREDITABLE COVERAGE. Pursuant to s. Ins 3.70, the method of aggregating creditable coverage for purposes of s. 149.10 (2t) (a), Stats., shall comply with 45 CFR 146.113 (a) (3).

HFS 119.06 PARTICIPATION OF INSURERS. (1) Every insurer shall share in the expenses of the plan as provided in s. 149.13 (2), Stats. In setting premiums under s. HFS 119.07 (6), the department shall not include any subsidies for the reduction of the cost of premiums or of deductibles in the calculation of operating and administrative costs of the plan. The commissioner may waive the assessment for an insurer or any class of insurers for any year the department determines that the administrative costs of collecting the assessment would exceed the amount of the assessment.

(2) Every insurer shall file a copy of "Wisconsin health insurance risk-sharing plan assessment form," OCI 43-003, with its annual statement filed with the office of the commissioner of insurance.

Note: Copies of OCI 43-003 may be obtained from the Wisconsin Department of Health and Family Services, P.O. Box 309, Madison, WI 53701.

(3) An insurer who makes an error in the insurer's assessment form that results in an underpayment of assessments to the plan may file a corrected assessment form with the office of the commissioner of insurance within 30 days after the error is discovered.

(4) An insurer that makes an error in an assessment form that results in an overpayment of assessments to the plan may, at any time, file a corrected assessment form with the office of the commissioner of insurance. If the overpayment resulted from an assessment form filed in the previous calendar year, the plan shall credit the insurer's next annual assessment under s. 149.13, Stats., for the amount of the overpayment. If the insurer does not owe any amount for the next annual assessment, the plan shall refund the amount of the overpayment. No credit or refund may be granted for an error in an assessment form filed in any year prior to the previous calendar year.

HFS 119.07 COVERAGE. (1) REQUIREMENTS. The plan shall offer coverage that complies with ss. 149.14 and 149.146, Stats., and this section.

(2) LIMITATIONS ON COVERAGE OFFERED TO ELIGIBLE PERSONS ALSO ELIGIBLE FOR MEDICARE. Pursuant to s. 149.14 (1), Stats., if an eligible person is also eligible for medicare coverage, the plan shall not pay or reimburse the person for expenses paid by medicare. As required by s.149.14 (2) (b), Stats., the plan offers under sub. (6) (b) and (c) an alternative for an individual eligible for medicare which reduces the benefits payable by the amounts paid under medicare.

(3) MAJOR MEDICAL EXPENSE COVERAGE. Major medical expense coverage shall comply with s. 149.14 (2), Stats.

(4) COVERED EXPENSES. Covered expenses shall be those services and articles enumerated in s. 149.14 (3), Stats., if the services are medically necessary, appropriate and cost effective, as determined by the plan administrator.

(5) EXCLUSIONS. Exclusions from coverage shall comply with s. 149.14 (4), Stats.

(6) PREMIUMS, DEDUCTIBLES AND COINSURANCE. (a) Compliance with statutes. Premiums, deductibles and coinsurance shall be in compliance with ss. 149.14(5), 149.146, 149.165 and 149.17, Stats.

(b) Annual premiums for major medical plan policies with standard deductible. The schedule of annual premiums beginning July 1, 1998, for persons not entitled to a premium reduction under s. 149.165, Stats., is as follows:

MAJOR MEDICAL PLAN – Males			
Age Group	Zone 1	Zone 2	Zone 3
0-18	\$1,512	\$1,368	\$1,212
19-24	1,512	1,368	1,212
25-29	1,548	1,404	1,248
30-34	1,764	1,584	1,404
35-39	2,004	1,800	1,608
40-44	2,400	2,160	1,908
45-49	3,048	2,736	2,436
50-54	4,020	3,624	3,228
55-59	5,256	4,740	4,212
60+	6,468	5,820	5,172

MAJOR MEDICAL PLAN – Females			
Age Group	Zone 1	Zone 2	Zone 3
0-18	\$1,512	\$1,368	\$1,212
19-24	2,088	1,896	1,680
25-29	2,232	2,016	1,788
30-34	2,472	2,220	1,980
35-39	2,688	2,412	2,148
40-44	2,976	2,688	2,376
45-49	3,492	3,132	2,796
50-54	4,020	3,600	3,204
55-59	4,596	4,128	3,672
60+	5,400	4,860	4,320

MEDICARE PLAN – Males

Age Group	Zone 1	Zone 2	Zone 3
0-18	\$888	\$792	\$708
19-24	888	792	708
25-29	888	792	708
30-34	1,020	912	816
35-39	1,140	1,020	912
40-44	1,380	1,248	1,092
45-49	1,716	1,536	1,380
50-54	2,208	1,992	1,764
55-59	2,892	2,616	2,316
60+	3,552	3,192	2,832

MEDICARE PLAN – Females

Age Group	Zone 1	Zone 2	Zone 3
0-18	\$888	\$792	\$708
19-24	1,224	1,116	972
25-29	1,284	1,152	1,032
30-34	1,404	1,272	1,128
35-39	1,512	1,368	1,212
40-44	1,680	1,512	1,332
45-49	1,944	1,752	1,560
50-54	2,184	1,956	1,752
55-59	2,496	2,244	1,992
60+	2,940	2,640	2,340

(c) Base rates for calculating premium reductions. 1. The annual base rates for calculating premium reductions under s. HFS 119.12 that are applicable to standard risks under individual policies providing substantially the same coverage and deductibles as the plan's major medical plan are as follows beginning July 1, 1998:

MAJOR MEDICAL PLAN – Males  
(Base for Reduced Rates)

Age Group	Zone 1	Zone 2	Zone 3
0-18	\$1,008	\$912	\$804
19-24	1,008	912	804
25-29	1,032	936	828
30-34	1,176	1,056	936
35-39	1,332	1,200	1,068
40-44	1,596	1,440	1,272
45-49	2,028	1,824	1,620
50-54	2,676	2,412	2,148
55-59	3,504	3,156	2,808
60+	4,308	3,876	3,444

MAJOR MEDICAL PLAN – Females  
(Base for Reduced Rates)

Age Group	Zone 1	Zone 2	Zone 3
0-18	\$1,008	\$912	\$804
19-24	1,392	1,260	1,116
25-29	1,488	1,344	1,188
30-34	1,644	1,476	1,320
35-39	1,788	1,608	1,428
40-44	1,980	1,788	1,584
45-49	2,328	2,088	1,860
50-54	2,676	2,400	2,136
55-59	3,060	2,748	2,448
60+	3,600	3,240	2,880

2. The annual base rates for calculating premium reductions under s. HFS 119.12 that are applicable to standard risks under individual policies providing substantially the same coverage and deductibles as the plan's medicare plan are as follows beginning July 1, 1998:

MEDICARE PLAN – Males  
(Base for Reduced Rates)

Age Group	Zone 1	Zone 2	Zone 3
0-18	\$588	\$528	\$468
19-24	588	528	468
25-29	588	528	468
30-34	684	612	540
35-39	756	672	600
40-44	912	828	732
45-49	1,140	1,020	912
50-54	1,464	1,320	1,176
55-59	1,932	1,740	1,536
60+	2,364	2,124	1,884

MEDICARE PLAN – Females  
(Base for Reduced Rates)

Age Group	Zone 1	Zone 2	Zone 3
0-18	\$588	\$528	\$468
19-24	816	732	648
25-29	852	768	684
30-34	936	840	744
35-39	1,008	900	804
40-44	1,116	996	888
45-49	1,284	1,164	1,032
50-54	1,452	1,308	1,164
55-59	1,656	1,488	1,332
60+	1,956	1,764	1,560



(d) Annual premiums for major medical plan policies with a \$2,500 deductible. In accordance with s. 149.146, Stats., an alternative plan of health insurance involving major medical expense coverage is established with a \$2,500 deductible. After the policyholder satisfies the annual \$2,500 deductible, HIRSP will pay 80% of the covered expenses for the next \$5,000 of covered expenses. Policyholders are required to pay the remaining 20% as coinsurance, up to an annual individual maximum of \$1,000. The annual maximum amount a family with two or more alternative plans will be required to pay for covered expenses is \$7,000. The schedule of annual premiums for coverage under the alternative plan with a \$2,500 deductible is as follows beginning July 1, 1998:

ALTERNATIVE MAJOR MEDICAL PLAN

Males

Age Group	Zone 1	Zone 2	Zone 3
0-18	\$1,092	\$984	\$876
19-24	1,092	984	876
25-29	1,116	1,008	900
30-34	1,272	1,140	1,008
35-39	1,440	1,296	1,152
40-44	1,728	1,560	1,368
45-49	2,196	1,968	1,752
50-54	2,892	2,604	2,328
55-59	3,780	3,408	3,036
60+	4,656	4,188	3,720

ALTERNATIVE MAJOR MEDICAL PLAN

Females

Age Group	Zone 1	Zone 2	Zone 3
0-18	\$1,092	\$984	\$876
19-24	1,500	1,368	1,212
25-29	1,608	1,452	1,284
30-34	1,776	1,596	1,428
35-39	1,932	1,740	1,548
40-44	2,148	1,932	1,716
45-49	2,520	2,256	2,016
50-54	2,892	2,592	2,304
55-59	3,312	2,976	2,640
60+	3,888	3,504	3,108

(e) Zones. For the purposes of pars. (b), (c) and (d), Zone 1 shall contain all of the Wisconsin zip code areas in which the first 3 digits are 532. Zone 2 shall contain postal zip code areas in which the first 3 digits are 530, 531, 534 or 537. Zone 3 shall contain postal zip code areas not contained in Zones 1 and 2.

(f) Detailed description of how premium rates are set. 1. The department shall have on file an actuarial report detailing the process by which rates were determined.

2. The annual report of the board to the chief clerk of each house of the legislature required by s. 149.15(2), Stats., and s. HFS 119.08 (2) (a) shall include a section describing premium rate-setting in detail. In order to fulfill this requirement, the board may appoint an actuarial committee under the powers granted to the board in s. 149.15 (5), Stats., and s. HFS 119.08 (3) (d).

(7) **PREEXISTING CONDITIONS.** Preexisting conditions limitations shall conform with s. 149.14 (6), Stats. Determinations of what constitutes a preexisting condition shall be made by the plan administrator.

(8) **COORDINATION OF BENEFITS.** Benefits shall be coordinated as provided in s. 149.14 (7), Stats.

(9) **RIGHT TO REVIEW.** Any person whose claim is denied or reduced by the plan administrator is entitled to a review under s. HFS 119.14.

HFS 119.08 BOARD OF GOVERNORS. (1) **APPOINTMENT OF MEMBERS.** The board shall be appointed pursuant to s. 149.15, Stats.

(2) **ANNUAL REPORTS.** (a) The board shall make an annual report to plan participants and to appropriate standing committees of the legislature pursuant to s. 149.15 (2), Stats., which summarizes the activities of the plan in the preceding calendar year.

(b) The board shall submit an annual report on or before June 30 to the legislature and the governor pursuant to s. 149.15(2m), Stats., on the operation of the plan, including any recommendations for changes to the plan.

(3) **BOARD FUNCTIONS.** (a) The board shall carry out the functions specified in s. 149.15 (3), Stats., and any other function specified for the board in this chapter.

(b) The board may carry out the functions authorized in s. 149.15 (4), Stats.

(c) The board may provide for agent commissions and require agents and insurers to provide assistance in filing applications.

(d) The board may establish subcommittees and appoint members who do not serve on the board to the subcommittees.

HFS 119.09 PLAN ADMINISTRATOR. The plan administrator shall carry out the functions under s. 149.16 (3), Stats., and any other function of the plan administrator specified in this chapter.

HFS 119.10 NOTIFICATION BY INSURERS OF AVAILABILITY OF HIRSP. (1) **WHEN NOTICE REQUIRED.** If an insurer takes one or more of the actions enumerated in s. 632.785 (1), Stats., the insurer shall notify all persons covered or to be covered by the

policy, including parents and guardians in cases involving minor children and individuals adjudged incompetent under ch. 880, Stats., of the existence of HIRSP, as well as the eligibility requirements and how to apply for coverage under the plan, as required by s. 632.785 (1), Stats.

(2) **FORM OF NOTICE.** An insurer who takes one or more of the actions under s. 632.785 (1), Stats., shall satisfy the notice requirement under sub. (1) by providing each person covered or to be covered by the policy with a copy of "Wisconsin Health Insurance Risk-Sharing Plan (HIRSP)," an informational pamphlet prepared by the department.

Note: Copies of the informational pamphlet may be obtained from Administrator, Health Insurance Risk-Sharing Plan (HIRSP), Suite #18, 6406 Bridge Road, Madison, Wisconsin 53784-0018 (phone 608-221-4551 or 1-800-828-4777).

(3) **STATEMENT OF REASONS FOR REJECTING, TERMINATING OR CANCELING COVERAGE OR IMPOSING UNDERWRITING RESTRICTIONS.** If an insurer rejects, terminates or cancels coverage or imposes underwriting restrictions under 632.785 (1), Stats., the insurer is obligated under s. 632.785 (2), Stats., to include in the notice required under sub. (1) a statement giving the specific medical reasons for the insurer's action.

HFS 119.11 CONFIDENTIALITY AND ACCESS TO RECORDS. (1) **CONFIDENTIALITY.** The plan administrator and the department shall keep information about plan applicants and policyholders confidential, unless disclosure is otherwise permitted by law.

(2) **ACCESS TO RECORDS BY PLAN APPLICANTS AND POLICYHOLDERS.** Plan applicants and policyholders shall have access to all of their medical records held by the plan.

HFS 119.12 PREMIUM AND DEDUCTIBLE REDUCTIONS FOR LOW-INCOME POLICYHOLDERS. (1) **PURPOSE.** The purpose of this section is to interpret and implement ss. 149.14 (5) and 149.165, Stats.

(2) **ELIGIBILITY.** Applicants for coverage under the plan may apply for the reductions under this section. Persons covered under the plan shall reapply annually for the reductions.

(3) **CALCULATION OF PREMIUM AND DEDUCTIBLE REDUCTIONS.** (a) The base rates for calculating premium reductions under s. 149.165 (1) and (2), Stats., are set forth in s. HFS 119.07 (6) (c).

(b) The schedule of deductible reductions is set forth in s. 149.14 (5) (a), Stats.

(c) The plan administrator may reassess the household income of an eligible person at any time during the term of the person's policy. If an eligible person's household income

changes during a policy term, the plan administrator may, if appropriate under s. 149.165 (2), Stats., revise the premium for the person in conformity with s. 149.165 (2), Stats., and the deductible for the person under s. 149.14(5) (a), Stats., for the remainder of the policy term. The revised premium and deductible shall take effect the first month beginning after the plan administrator's decision.

(d) The availability of premium and deductible reductions is based on the availability of funds appropriated under s. 20.435 (5) (ah), Stats., including the provisions of s. 149.144, Stats.

(4) APPLICATION FOR PREMIUM AND DEDUCTIBLE REDUCTIONS. An application for premium and deductible reductions is not complete until a Supplemental Application for Premium and Deductible Reduction form or a completed Wisconsin Homestead Credit Schedule H is submitted to the plan administrator. A complete application for premium and deductible reduction shall also include a completed federal profit or loss from farming form, schedule F, if there was a profit or loss from farming. An application for the premium and deductible reduction shall be accompanied by or preceded by an application to the plan.

Note: A person may obtain the supplemental application for premium and deductible reductions at no charge from Administrator, Health Insurance Risk-Sharing Plan (HIRSP), 6406 Bridge Road, Suite #18, Madison, Wisconsin 53784-0018 (phone 608-221-4551 or 1-800-828-4777.)

(5) APPLICATION DEADLINES, EFFECTIVE DATES OF REDUCTIONS AND REESTABLISHMENT OF ELIGIBILITY. (a) New plan applicants. New plan applicants may request eligibility for the reductions at any of the following times:

1. At the time of plan application. In this case, for purposes of the premium reduction, the plan administrator shall make the appropriate adjustments regarding the applicant's initial premium payment submitted with the application. Deductible reductions take effect upon issuance of the policy.

2. After eligibility for the plan is established, in which case the following provisions apply:

a. If eligibility for the premium reduction is established within 31 days after the effective date of the policy, the new HIRSP policyholder shall receive a refund of the reduced portion of the premium retroactive to the effective date of the policy. If eligibility for the reduced premium is not established within 31 days after the effective date of the policy, the policyholder shall receive no refund. In this case, the policyholder shall establish eligibility at least 60 days before the renewal date on which it is to take effect, and the plan administrator shall bill the policyholder for the reduced premium beginning on the renewal date.

b. If eligibility for the deductible reduction is established within 31 days after the effective date of the policy, the new HIRSP policyholder shall receive a refund of a portion of the deductible paid by the policyholder prior to establishing eligibility. The amount of the refund shall be the difference between the deductible paid by the policyholder and the deductible as reduced by any reduction to which the policyholder is entitled. If eligibility is not established within 31 days after the effective date of the policy, the policyholder shall receive no refund. In this case, the policyholder shall establish eligibility at least 60 days before the policy's renewal date, and the deductible reduction shall take effect on January 1 of the year commencing after the policy's renewal date.

(b) Existing policy holders. 1. Persons who are existing policyholders as of March 31 shall apply annually by May 1 in order to be eligible for the reductions for the year beginning on July 1.

2. For premium reductions, if the application is not postmarked by May 1, then the application shall be postmarked at least 60 days prior to the policyholder's next policy renewal date in order for the corresponding premium notice to reflect the reduced premium. An existing policyholder who is first determined to be eligible for a premium reduction shall receive a refund on a pro rata basis for the time period between July 1 of each calendar year and the next renewal date.

3. Deductible reductions under this paragraph take place on January 1 of the year following establishment of eligibility.

(c) Treatment as new policyholder. Under this subsection, the plan administrator shall treat any individual who becomes a policyholder after March 31 as a new policyholder.

(d) Reestablishment of eligibility. Eligibility for the premium and deductible reductions shall be reestablished at least annually.

(6) **RIGHT TO REVIEW**. An applicant who is denied a premium or deductible reduction is entitled to a review under s. HFS 119.14.

HFS 119.13 COST CONTAINMENT PROVISIONS. HIRSP may use common, current methods employed by managed care programs and the medical assistance program to contain costs, including prior authorization and other limitations regarding healthcare utilization and reimbursement. When a new policy is issued, the plan administrator shall send the new policyholder a written description of the plan's cost containment provisions and the procedures that the policyholder shall follow in order to comply with these cost containment provisions. The plan administrator shall send existing policyholders a written description of any change to the plan's cost containment provisions or the procedures that policyholders shall follow in order to comply with these cost containment provisions. The existing policyholders shall receive this written description at least 60 days before the change takes effect.

HFS 119.14 GRIEVANCE PROCEDURE. (1) PURPOSE. This section implements s. 149.17 (3), Stats.

(2) REVIEW BY PLAN ADMINISTRATOR. A person entitled under this chapter to a review of a determination by the plan administrator shall, within 60 days of the date of the letter of determination, submit a written request to the plan administrator that the determination be reviewed. Upon receipt of a request, the plan administrator shall review the original determination, either affirm, modify or rescind it and provide the requester with a written response which includes the plan administrator's final decision and the reason for it. The plan administrator shall have 10 days from receipt of a request for review to issue a letter of decision or a letter to the requester asking for additional information.

Note: To request a review by the plan administrator, write Administrator-HIRSP, 6406 Bridge Road, Suite #18, Madison, WI 53784-0018.

(3) REVIEW BY GRIEVANCE COMMITTEE OF THE BOARD. (a) If a decision under sub. (2) is adverse to an applicant or policyholder, the applicant or policyholder may request a review of the decision by the grievance committee of the board. A request for review under this subsection shall be made in writing to the board within 30 days of the date of the letter of decision under sub. (2) and shall clearly describe the reason the requester believes the plan administrator's decision is erroneous under ch. 149, Stats., this chapter or the terms of the plan policy.

Note: To request a review by the grievance committee of the board, write: HIRSP Board Grievance Committee, P.O. Box 309, Madison, WI 53701-0309.

(b) The board shall appoint a grievance committee of at least 5 persons, a majority of whom are not members of the board, to review decisions of the plan administrator that adversely affect applicants and policyholders entitled to review under this chapter. Upon the written request of an applicant for HIRSP or a policyholder, the grievance committee shall conduct a review based on written submissions by the plan administrator and the applicant or policyholder. No discovery is permitted. The grievance committee may invite or permit representatives of the plan administrator and the applicant or policyholder to appear and make oral statements during the review. The grievance committee shall, within 45 days from the receipt of the applicant's or policyholder's request for review, issue a written decision affirming, modifying or rescinding the decision of the plan administrator and stating the reason for its decision. The committee's decision shall be final, unless the secretary of the department determines that a different decision is in the best interests of the state of Wisconsin.

(c) The grievance committee shall file a quarterly report with the board on all actions taken under par. (b).

(4) RESPONSIBILITY OF PLAN ADMINISTRATOR. The plan administrator shall comply with the final decision of the board's grievance committee or the secretary.

HFS 119.15 INSURER ASSESSMENTS AND PROVIDER PAYMENT RATES.

(1) PURPOSE. This section implements s. 149.143 (2) (a) 3. and 4., Stats.

(2) INSURER ASSESSMENTS. The insurer assessments for the time period July 1, 1998 through December 31, 1998 total \$ 4,266,874.

(3) PROVIDER PAYMENT RATES. The total adjustment to the provider payment rates for the time period July 1, 1998 through December 31, 1998 is \$ 4,266,874.

HFS 119.16 CLAIM SUBMISSION. (1) TIMELINE. To be considered for payment, a correct and complete claim or adjustment shall be received by the plan administrator from the health care provider or policyholder within 365 days after the date of the service. The health care provider or policyholder is responsible for providing complete and timely follow-up to each claim submission to verify that correct and complete payment was made, and to seek direct resolution of any disputed claims.

(2) CORRECTIVE ACTION. The department at any time may make a payment to comply with a court order or to carry out a hearing decision or department-initiated corrective action taken to resolve a dispute. To request payment, the health care provider or policyholder shall submit a correct and complete claim to the plan administrator within 90 days after mailing of a notice by the department or the court of the court order, hearing decision or corrective action to the health care provider or policyholder.

The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, as provided in s. 227.22(2), Stats.

Wisconsin Department of Health and  
Family Services

Dated:

By: \_\_\_\_\_  
Joseph Llean  
Secretary

SEAL: