



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

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2019 Senate Bill 59 (LRB-2245/1)

March 15, 2019

Mr. Jeff Renk
Senate Chief Clerk
State Capitol
P.O. Box 7882
Madison, WI 53707

Mr. Patrick Fuller
Assembly Chief Clerk
State Capitol
P.O. Box 8952
Madison, WI 53708

Re: Social and Financial Impact Report—2019 Senate Bill 59 and 2019 Assembly Bill 56 relating to state finances and appropriations, constituting the Executive Budget Act of the 2019 legislature.

Dear Messrs. Renk and Fuller:

Pursuant to Wis. Stat. § 601.423, the Office of the Commissioner of Insurance (OCI) is submitting a social and financial impact report on 2019 Senate Bill 59 and 2019 Assembly Bill 56 relating to state finances and appropriations, constituting the Executive Budget Act of the 2019 legislature (2019 Executive Budget). OCI will address each provision that may require a social and financial impact report separately.

Preexisting Conditions

OCI has determined that Section 2079 (Preexisting Conditions) in the 2019 Executive Budget does not require a social and financial impact report for the following reasons:

1. The preexisting conditions provisions do not permit an insured to seek coverage from a specific type of provider.
2. The preexisting conditions provisions do not require coverage or a specific benefit design for a particular disease, condition or other healthcare need.
3. The preexisting conditions provisions do not require coverage of a particular treatment, equipment or drug.
4. The preexisting conditions provisions do not require coverage for a particular person because of their relation to the insured.

For these reasons, my office is not intending to prepare a social and financial impact report as this section does not meet the definition of a “health insurance mandate” under Wis. Stat § 601.423.

Preventive Services

OCI has determined that Section 2098 (Preventive Services) in the 2019 Executive Budget requires a social and financial impact report for the following reasons:

1. The preventive services provisions require coverage or a specific benefit design for a particular disease, condition or other healthcare need.
2. The preventive services provisions require coverage of a particular treatment, equipment or drug.

Social Impact

OCI has reviewed the requirements proposed in the 2019 Executive Budget at Section 2098, creating Wis. Stat. § 632.895 (13m). This subsection requires insurers to provide coverage for preventative services and, specifically, 54 enumerated tests, screens, medications and counseling services that are provided to individuals. In addition, five existing mandated benefits contained at Wis. Stat. §§ 632.895 (8), (10), (14), (16m), and (17), are amended by the 2019 Executive Budget. Although the preventive services would be newly enumerated in state law, the identified tests, screens, medications and counseling services are derived from nationally recognized standards for preventive services including: the U.S. Preventive Services Taskforce, the U.S. Health Resources & Services Administration, Bright Futures/American Academy of Pediatrics, Centers for Disease Control and Prevention Advisory Committee on Immunization Practices, and the American Dental Association.

The preventive services identified cover an individual's lifespan, therefore affecting all consumers in Wisconsin. Coverage of preventive health services is currently required for Qualified Health Plans (QHPs) pursuant to 45 CFR § 147.130 under the Affordable Care Act (ACA). A QHP is a plan that is offered on or off the federal marketplace exchange and is ACA compliant. The 2019 Executive Budget language ensures the enumerated preventive services are covered by insurance policies issued in the State without application of cost sharing. In addition to traditional insurance coverage, health coverage offered by non-federal, governmental self-insured health plans would also be required to provide coverage for the state mandated preventive services. As proposed certain disability insurance policies that are described in Wis. Stat. § 632.745 (11) (b) 1. to 12., are exempt from the requirements.

Currently, individual, small, and large group health plans are required to provide preventive health care services through the Public Health Services Act or the US Department of Labor as amended by the ACA. Several categories of health care plans are not currently subject to all ACA requirements including non-federal, governmental plans, (state, county, municipalities, public school districts, etc.), "grandfathered plans" (plans that were in existence as of March 23, 2010, have been continually offered, and have benefits that have not significantly changed over time), and "transitional plans" (plans offered primarily to employers that have been exempted from full compliance with the ACA). Although not required by federal law, it is indeterminate as to how many of these fully insured or self-funded plans issued in the State of Wisconsin contain coverage for some or part of the proposed preventive services. Therefore, it is indeterminate how many residents are benefiting from current extensive preventive services. Further, it is indeterminate how many of these preventive services would be covered without this proposal.

Financial

Currently, under the ACA individual, small and large group health plans must provide preventive health services at no cost to the insured. Insurers offering coverage through the federal marketplace exchange must provide coverage that is substantially similar to the state's established benchmark plan. The state's benchmark plan includes both state and federal coverage requirements and plans are required to offer preventive services consistent with 45 CFR 147.130. Insurers offering grandfathered plans or transitional plans, non-federal governmental health plans, self-insured private employer plans, and large employer group health plan are not restricted to offering a plan that is similar to the Wisconsin benchmark plan. Large employers and non-federal governmental plans may select a benchmark plan from another state provided the plan includes Wisconsin's mandated benefits. For these latter groups, OCI is unable to determine whether the newly proposed preventative service coverage would provide more expansive benefits than is currently provided. Therefore, OCI cannot determine whether or not there would be additional costs for the proposed preventative services coverage.

Federal guidance requires a state that mandates health benefits in excess of the benchmark plan to defray the cost of the additional mandated health benefits but only for coverage offered through the federal marketplace exchange (see, 45 CFR § 155.170). Wisconsin's benchmark plan was established as of January 1, 2014 and included all statutory health mandates active on that date. The 2019 Executive Budget proposes to add coverage for preventative services which are not included as a state mandate in the benchmark plan but they are required to be covered pursuant to federal law. The 2019 Executive Budget language was intended to mirror the coverage currently required by the ACA. There should not be any fiscal effect to the state if the budget language is consistent with the preventative services coverage mandated by the ACA as the budget would not mandate coverage for any preventative services that are not already covered today. The state would only be required to defer costs in the event that any of the preventative services in the 2019 Executive Budget were found by the federal government to extend coverage for preventative services outside the scope of preventative service currently covered.

OCI is unable to determine whether the newly proposed coverage for preventative services would increase utilization of the services. Research continues to indicate that more than half of the population is unaware that cost sharing for preventive services was eliminated by the ACA. In a more recent survey, 60 percent of nearly 3,000 individuals surveyed answered that they were unaware of covered preventative services.¹ It is unclear due to the general lack of awareness of coverage for preventive services whether or not there would be increased use of preventative services caused by the change in state law. A study by the Kaiser Family Foundation in 2015, estimated that approximately 1.5 percent of premiums is

¹ "Examining public knowledge and preferences for adult preventive services coverage." Williams, J. and Ortiz, S. *PLoS One* 2017; 12 (12):e0189661. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5738055/>. "Preventive Services Covered by Private Health Plans under the Affordable Care Act" The Henry J. Kaiser Family Foundation. <https://www.kff.org/health-reform/fact-sheet/preventive-services-covered-by-private-health-plans/>. August 4, 2015.

attributable to the costs of coverage for preventive services. Using that as an assumption for Wisconsin, it is unclear whether or not there would be increased costs to insurers or increased premiums to consumers arising from coverage of the preventive services proposed.²

Essential Health Benefits

OCI has determined that Section 2104 (Essential Health Benefits) in the 2019 Executive Budget does not require a social and financial impact report for the following reasons:

1. The essential health benefits provisions do not permit an insured to seek coverage from a specific type of provider.
2. The essential health benefits provisions do not require coverage or a specific benefit design for a particular disease, condition or other healthcare need.
3. The essential health benefits provisions do not require coverage of a particular treatment, equipment or drug.
4. The essential health benefits provisions do not require coverage for a particular person because of their relation to the insured.

The proposed Essential Health Benefits establish broad categories of health services and treatments. OCI is charged with determining, through rule making, the actual required coverage that insurers must provide within each category. Until specific provisions are adopted, an analysis of the social and financial impact is not possible. For these reasons, my office does not intend to prepare a social and financial impact report as this section does not meet the definition of a “health insurance mandate” under Wis. Stat § 601.423.

Dental Therapist

OCI has determined that Section 2096 (Restrictions on health care services) in the 2019 Executive Budget requires a social and financial impact report for the following reason:

1. The dental therapist’s provision permits a person to seek coverage from a specific type of health care provider.

Social Impact

OCI has reviewed the requirements proposed in the 2019 Executive Budget at Section 2096, amending Wis. Stat. § 632.87 (4). This subsection prohibits excluding coverage for the diagnosis and treatment of a condition or complaint by a licensed dental therapist, when the policy, plan, or contract provides coverage for the diagnosis and treatment of the condition by another health care provider. Dental health services span an individual’s lifetime and would potentially affect all Wisconsin residents with access to dental care through insurance products. As this is a new classification of dental health providers, OCI cannot determine the extent to which individuals will use the services of dental therapists or how available dental therapists will be within the state. Expanding the type of dental professionals available to provide services may increase access to dental health care in the

² Centers for Medicare & Medicaid Services Background: The Affordable Care Act’s New Rules on Preventive Care, July 14, 2010.

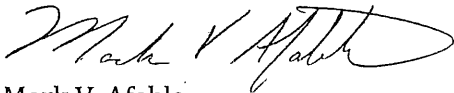
state. OCI cannot determine whether the addition of dental therapists would affect the availability of insurance coverage for the identified dental services.

Financial

Due to the 2019 Executive Budget's creation of this new classification type of a dental provider, OCI is unable to determine whether the newly proposed health mandate will have a financial impact on health insurers offering dental coverage. OCI is also unable to determine the impact on premiums or costs to policyholders since the financial impact on health insurers is indeterminate. Further, as dental therapy is a new license type it is indeterminate how many residents would benefit from additional dental providers, what the expected utilization of dental services from dental therapists would be, or whether the limited dental services provided by the dental therapists would substitute for more expensive treatments or services. To the extent more dental services would be provided by a dental therapist at a lower rate, it could potentially lower the premiums or costs for dental coverage.

Please contact Olivia Hwang at (608) 267-9460 or Olivia.Hwang@wisconsin.gov if you have any questions.

Respectfully submitted,



Mark V. Afable
Commissioner

Cc: The Honorable Tony Evers, Governor of Wisconsin