

**ADMINISTRATIVE RULES  
DEPARTMENT OF HEALTH SERVICES  
REPORT TO THE LEGISLATURE  
CLEARINGHOUSE RULE 10-084**

**Ch. DHS 138, Subsidy of Health Insurance Premiums for Persons with HIV Infection**

**Basis and Purpose of Proposed Rule**

The Department is making technical modifications to ch. DHS 138 to conform with the technical changes to ss. 252.16 and 252.17, Stats., made under 1999 Act 103, 2007 Act 20, and 2009 Act 28. The Department is operating in accordance with the modifications made to ss. 252.16 and 252.17, Stats., under each Act.

Sections 252.16 and 252.17, Stats., require the Department to operate a program that provides subsidies to cover the cost of health insurance premiums for persons with human immunodeficiency virus (HIV) infection who, because of a medical condition resulting from that infection, are unable to continue working or must reduce their hours of work or take an unpaid leave from their jobs. Under the program, the Department pays premiums for health insurance coverage of eligible individuals to employers, insurers, or employees, as applicable. The Department has been operating this program since November 1990 under ch. DHS 138.

1999 Wisconsin Act 103 modified s. 252.17, Stats., in several respects. First, it increased the family income eligibility limits under s. 252.17 (3) (b), Stats., from 200% to a maximum of 300% of the FPL. Second, it created s. 252.17 (4) (d), Stats., which specifies that the Department will pay a portion of the health insurance premium for individuals whose family income is between 200% and 300% of the FPL. It further specifies that the Department will establish the schedule for payment in administrative rule. Act 103 also created s. 252.17 (6) (c), Stats., which requires the Department to establish, in rule, the premium contribution schedule for individuals who have a family income that exceeds 200% but does not exceed 300% of the FPL. In establishing the schedule, the Department is required to take into consideration both income level and family size.

2007 Wisconsin Act 20 modified s. 252.16 (1) (d) and (4) (a), Stats., to permit the Department to pay Part D Medicare premiums.

2009 Wisconsin Act 28 modifies ss. 252.16 (1) (ar) and 252.17 (3) (d), Stats., to include domestic partner in the definition of “dependent” and to allow an eligible individual’s premium contribution to include the cost of coverage of a domestic partner.

The Department’s modification of ch. DHS 138 addresses the changes made to ss. 252.16 and 252.17, Stats., by the above mentioned legislation.

**Responses to Legislative Council Rules Clearinghouse Recommendations**

The Department accepted the comment(s) made by the Legislative Council Rules Clearinghouse and modified the proposed rule where suggested.

**Final Regulatory Flexibility Analysis**

The proposed rules will not have a significant economic impact on small businesses.

**Changes to the Analysis or Fiscal Estimate****Analysis**

No changes were made to the analysis, except in sentence structure as suggested by the Legislative Council Rules Clearinghouse.

**Fiscal Estimate**

No changes were made to the fiscal estimate.

**Public Hearing Summary**

Under s. 227.16 (2) (e), Stats., the Department solicited petitions for a public hearing in its Notice of Proposed Rulemaking Without Public Hearing until August 14, 2010. The Department did not receive any requests for a public hearing on the proposed rules.