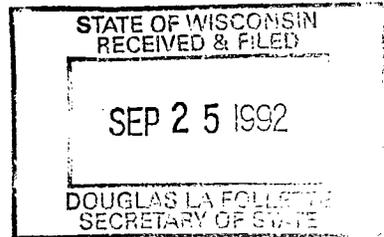


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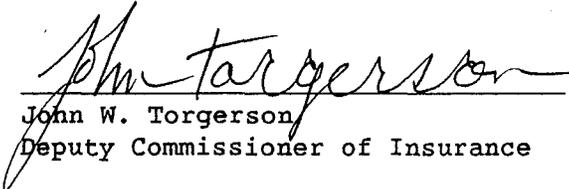


STATE OF WISCONSIN)
OFFICE OF THE COMMISSIONER OF INSURANCE)

I, John W. Torgerson, Deputy Commissioner of Insurance and custodian of the official records of this office, certify that the attached rule-making order affecting subch. III of ch. Ins 8, Wis. Adm. Code, relating to rate regulation for health insurance sold to small employers, was issued by this office on September 24, 1992.

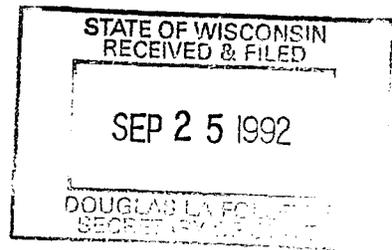
I further certify that I have compared this copy with the original on file in this office and that it is a true copy of the whole of the original.

Dated at Madison, Wisconsin, this 24 day of SEP 1992.


John W. Torgerson
Deputy Commissioner of Insurance

33258T-3

11-1-92



ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE

AMENDING AND CREATING A RULE

To amend ch. 8 (title); and to create subch. III of ch. Ins 8,
relating to rate regulation for health insurance sold to small employers.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE

Statutory authority: ss. 601.41 (3), 635.02 (3) and (7), and 635.05,
Stats.

Statutes interpreted: subch. I of ch. 635, Stats.

This rule establishes regulations for insurers that issue health insurance policies to small employers (small employer insurers). A policy is subject to regulation if issued to a small employer that was actively engaged in a business enterprise during the 12 months before the date of application or the policy renewal date and, during at least half of that time, employed an average of 2 to 25 individuals on a full-time basis. An individual is considered to be employed on a full-time basis if he or she has a normal work week of 30 or more hours.

The rule applies to any group policy issued to a small employer, an individual policy issued to 3 or more employes of the same small employer if premiums are collected through an arrangement with the small employer and to any certificate issued to a small employer that has coverage under a policy issued to a trust or association. Policies covering only specified diseases and hospital indemnity policies are not subject to this rule.

A policy subject to this rule must state on the face page or first page that it is guaranteed renewable except for the reasons stated in the policy which must be consistent with the statutory limitations on nonrenewal. An insurer may require as a condition of keeping the policy in force that the policy cover a minimum number of employes. That provision must be stated in the policy either as an absolute number or as a percentage of eligible employes or both. If the number of eligible employes is less than the number required to keep the policy in force, a small employer insurer that intends to terminate the policy must give at least 20 days' notice to the small employer and offer to provide at least 60 additional days of coverage after the termination date to permit the small employer to increase the number of eligible employes to the required number. A small employer insurer may not terminate a policy when the number of eligible employes is less than the required number because of an employe's sickness or injury, approved leave of absence or temporary layoff. However, a small employer insurer may prescribe participation requirements and verification procedures as part of the policy or employer agreement. The rule prohibits a small employer insurer from taking a small employer's claim history into consideration when deciding whether to terminate a policy for a group with fewer than the required number of eligible employes.

The rule also defines a method for complying with the statutory rate variance restrictions. For new policies issued on or after March 15, 1992, the maximum amount a premium rate may vary from the midpoint rate is 35% (for rates effective March 15, 1992, to August 14, 1994) or 30% (for rates effective on and after August 15, 1994). Policies issued before March 15, 1992, are given until August 15, 1994, to comply.

The statute prescribes limits on the amount a small employer insurer may adjust a small employer's health insurance premium. This rule clarifies the statutory limitations and prescribes the documentation a small employer insurer must maintain in order to be able to demonstrate compliance.

The rule establishes what constitutes a class of business for use in determining how much a small employer insurer can charge a small employer for a new rating period. For this purpose, a "class of business" is a group of similar policies with rates that are based wholly or partly on their aggregate loss experience. The rule creates a transitional provision that allows small employer insurers that have policies with rates that are outside the rate band to adjust those rates sufficiently to permit the insurer to comply with the rate variance restriction by the August 15, 1994, deadline date.

In addition to the reasons permitted for nonrenewing an individual policy, the statute permits a small employer insurer to nonrenew a whole class of business. This rule defines the applicable classes of business to include only: 1) medically underwritten policies; 2) policies that are not medically underwritten; and 3) policies assumed under a specific assumption treaty with a nonaffiliated insurer. Small employer insurers may not establish any other class of business for use in applying the nonrenewal provisions of the statute. A small employer insurer that nonrenews a whole class of business may not establish any new class of business during the 5-year period after the expiration of all policies in the nonrenewed class. If a small employer insurer

assumes a class of business, it must, by a policy's 2nd renewal date or one year after the business is assumed, convert the policies to one of its own products that offers the same or similar benefits.

The rule requires a small employer insurer that nonrenews a class of business to provide the office of the commissioner of insurance (OCI) with information relating to the decision not to renew and the effect on small employers and employees. The commissioner may order an examination of an insurer in order to obtain information on the rate history and profitability of the nonrenewed class. Insurers are also required to provide notice to small employers and insurance regulatory agencies in all states where affected employees reside prior to the policies' termination date.

Finally, the rule describes the information that must be submitted to OCI as part of the annual certification of compliance required by the statute.

SECTION 1. Chapter Ins 8 (title) is amended to read:

Chapter Ins 8 (title)

EMPLOYE WELFARE FUNDS; EMPLOYE BENEFIT PLAN ADMINISTRATORS; SMALL EMPLOYER HEALTH INSURANCE

SECTION 2. Subchapter III of chapter Ins 8 is created to read:

Chapter Ins 8 (title)

Subchapter III (title)

SMALL EMPLOYER HEALTH INSURANCE

Ins 8.40 PURPOSE. This subchapter interprets and implements subch. I of ch. 635, Stats.

Ins 8.42 DEFINITIONS. In addition to the definitions in s. 635.02, Stats., which apply to this subchapter, in this subchapter:

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

(2) "Office" means the office of the commissioner.

(3) "Policy" means any of the following:

(a) A group health benefit plan issued to a small employer.

(b) An individual health benefit plan issued by a small employer insurer to 3 or more employees of the same small employer, where premium is collected through a direct or indirect arrangement with the small employer.

(c) In the case of a health benefit plan that provides coverage for more than one employer through a trust or association, the certificate issued to an individual small employer.

Ins 8.44 APPLICABILITY; EXCLUSION. (1) Subchapter I of ch. 635, Stats., and this subchapter apply to a policy issued to a small employer if the number of eligible employees in this state was not less than 2 nor more than 25 during at least 50% of the number of weeks the small employer was actively engaged in the business enterprise during the 12 months preceding the date of application or the policy renewal date.

(2) In addition to the types of policies excluded under s. 635.02 (3m), subch. I of ch. 635, Stats., and this subchapter do not apply to policies providing only specified disease coverage or to hospital indemnity policies, as defined in s. 632.895 (1) (c), Stats.

Ins 8.46 REQUIRED POLICY PROVISIONS. Each policy shall include all of the following:

(1) On the face page or first page, a statement that the policy is guaranteed renewable except for the reasons stated in the policy, which shall be consistent with s. 635.07 (1) and (2), Stats.

(2) A statement of the minimum number of eligible employees required in order to keep the policy in effect, expressed either as an absolute number or as a percentage of eligible employees or both. The method for determining the minimum number required shall be stated in the policy or employer agreement. For purposes of this subsection, "eligible employee" does not

include any person who has continued coverage under s. 632.897 (2) (b) 2, Stats., under a small employer's group policy.

Ins 8.48 SOLICITATION; DISCLOSURE REQUIREMENTS. (1) AGENTS.

Before completing an application for a policy, an agent shall provide the small employer or representative of the small employer or the individual applicant with a form stating the information required under s. 635.11 (1) to (4), Stats. The agent shall sign and date the form certifying that he or she made the required disclosure and shall obtain the signature of the small employer or representative of the small employer or the individual applicant on the form. The agent shall give one copy of the completed form to the person who signed it. The agent or small employer insurer shall retain one copy of the completed form.

(2) SMALL EMPLOYER INSURERS. A small employer insurer that does not use agents to solicit or sell policies shall, with any solicitation material, provide the small employer or individual applicant with a form stating the information required under s. 635.11 (1) to (4), Stats. The small employer insurer shall secure with or as part of each application a form signed by the small employer, a representative of the small employer or individual applicant stating that he or she has received the information. The small employer insurer shall provide a copy to the person who signed the form no later than the date the policy is issued.

Ins 8.50 UNDERWRITING RESTRICTION. In determining whether to issue or continue to provide coverage to a small employer, a small employer insurer may not consider the occupation of the employees of the small employer or the type of business in which the small employer is engaged.

Ins 8.52 REGULATION OF RATES AND RATE CHANGES. (1) IDENTIFICATION OF THE SET OF MIDPOINT RATES. (a) Each small employer insurer shall identify a set of rates applicable to all combinations of case characteristics and benefit design characteristics that serves as the set of midpoint rates for

policies issued to small employers. These rates shall be represented by any combination of rates and rating factors that satisfy the following:

1. All differences among rates in the set shall be in accordance with the insurer's rate manual or rating procedures and shall be based on the actuarially determined values of the differences in case characteristics and benefit design characteristics.

2. The differences among the rates may not reflect any differences due to such factors as the claim experience, health status and duration of coverage of an individual policy or a collection of policies grouped according to anything other than case characteristics or benefit design.

(b) The set of midpoint rates identified in par. (a) shall apply during a specified period which shall not be less than one calendar month.

(2) RATE VARIANCE RESTRICTION. (a) For a new policy issued on or after March 15, 1992, the following table lists the maximum percent a rate may vary from the midpoint rate applicable to policies with the same case characteristics and benefit design characteristics according to the effective date of any rate applied to that policy:

<u>EFFECTIVE DATE OF RATE</u>	<u>MAXIMUM VARIANCE FROM MIDPOINT RATE</u>
1. March 15, 1992 - August 14, 1994	35%
2. August 15, 1994 and after	30%

(b) For a policy issued before March 15, 1992, an insurer shall comply with the rate variance restriction specified in par. (a) 2 no later than August 15, 1994.

(3) PREMIUM RATE CHANGES; DOCUMENTATION AND RESTRICTIONS. (a) For the purpose of complying with s. 635.02 (2), Stats., and this subsection, "class of business" means a group of policies with the same or similar benefit design whose rates are based wholly or partly on their aggregate loss experience.

(b) For a policy renewed on or after March 15, 1993, an insurer shall maintain sufficient documentation so that each of the following distinct components can be identified:

1. The percentage change in the new business premium rate measured from the rating period in which the small employer was last rated to the current rating period or, in the case of a class of business for which the insurer is not issuing new policies, the corresponding change in the base premium rate.

2. The percentage change due to adjustments in case characteristics, determined in accordance with the insurer's rate manual or rating procedures.

3. The percentage change due to adjustments in benefit design, determined in accordance with the insurer's rate manual or rating procedures.

4. The percentage change due to such rating factors as claim experience, health status and duration of coverage, determined in accordance with the insurer's rate manual or rating procedures.

(c) Each renewal rate, regardless of whether the rate represents an increase, shall be limited to the previous rate adjusted by the combination of the 4 components specified in par. (b) with the following restrictions on the experience component specified in par. (b) 4:

1. For a policy issued on or after March 15, 1992, the experience component shall be limited to 15% per year, adjusted proportionately for rating periods of less than one year.

2. For a policy issued before March 15, 1992, subd. 1 applies, except if the premium rate exceeds the midpoint rate by more than the percentage specified in sub. (2) (a) for the applicable period for policies with the same case characteristics and benefit design characteristics, the experience component may not exceed 0%.

(d) For a rate change due to a change in the small employer's census made before the end of the policy term, par. (c) applies, except that:

1. The new business rate change component specified in par. (b) 1 may not be applied at that time.

2. The experience component specified in par. (b) 4 may not exceed 15% per year, adjusted proportionately to the time remaining in the policy term.

3. The experience component specified in par. (b) 4, when combined with the experience component of the last scheduled rate renewal and any other subsequent rate changes during the current policy term, shall not exceed the limit specified in par. (c) 1 or 2, whichever applies.

Ins 8.54 GUARANTEED RENEWABILITY; CANCELLATION AND RENEWAL

RESTRICTIONS. (1) DEFINITION. (a) In this section, "medically underwritten policy" means a policy that is issued after the small employer insurer has, for purposes of risk selection, used information about the group's claim experience or the health history or medical records of one or more persons eligible for coverage.

(b) Notwithstanding par. (a), a small employer insurer may apply medical underwriting standards to an individual who originally declined and later applies for coverage under a nonmedically underwritten policy without converting that policy to a medically underwritten policy.

(2) CLASS OF BUSINESS. (a) In this section, each of the following is a separate class of business, regardless of variations in policy forms, marketing methods or duration of coverage among small employers in the class of business:

1. All small employers with medically underwritten policies.

2. All small employers with policies that are not medically underwritten.

3. All small employers whose policies constitute a block of business assumed by the small employer insurer under a specific assumption treaty with an insurer that is not an affiliate.

(b) No small employer insurer may establish a class of business other than one specified in par. (a).

(3) GUARANTEED RENEWABILITY. Except as provided in s. 635.07, Stats., a policyholder has the right to renew a policy on the same terms subject to the premium rate restrictions specified in s. 8.52 (3). The subsection does not prohibit a small employer insurer from offering a policyholder renewal with altered benefit design characteristics if the offer is available to all policyholders in the same class of business without regard to claim experience.

(4) TERMINATION. (a) A small employer insurer that intends to terminate a policy under s. 635.07 (1) (d), Stats., because the number of eligible employees is less than the number required to keep the policy in force shall do all of the following:

1. Notify the small employer of its intent to terminate and the reason for the termination. The notice shall be given at least 20 days before the termination date.

2. Offer to continue the small employer's coverage for not less than 60 days after the termination date in order to allow the small employer to increase the number of eligible employees to the required number.

3. Provide the additional coverage, if the small employer accepts the offer under subd. 2 before the termination date and pays the premium for the additional coverage at the rate in effect at the time the additional coverage is provided.

(b) A small employer insurer may not terminate a policy under s. 635.07 (1) (d), Stats., if the reason the number of eligible employees is less than the required number is due to an employee's sickness or injury, approved leave of absence or temporary layoff. The small employer insurer may

establish participation requirements and reasonable verification procedures as part of the policy or employer agreement.

(c) A small employer insurer may not take into consideration factors related to an individual small employer's claim experience in deciding whether to terminate a policy under s. 635.07 (1) (d), Stats.

(d) A small employer insurer that intends to terminate a policy under s. 635.07 (1) (a) to (c) or (e), Stats., shall comply with the notice requirements under s. 631.36 (2) (b) and (c), (4), (6) and (7), Stats.

(5) NONRENEWAL OF CLASS OF BUSINESS. (a) If a small employer insurer ceases to renew policies issued to all small employers in the same class of business under s. 635.07 (2), Stats., the small employer insurer may not establish any new class of business during the 5-year period beginning with the latest expiration date for policies in effect in the class of business that is not renewed.

(b) At least one year before a small employer insurer ceases to renew policies under s. 635.07 (2), Stats., the small employer insurer shall provide the office with all of the following information:

1. The reason for the decision not to renew.
2. The number of small employers and the total number of eligible employees affected by the decision not to renew.
3. The number of small employers in other classes of the small employer insurer's business that are not affected by the decision not to renew.

(c) The commissioner may order an examination under s. 601.43, Stats., in order to determine the premium rate history and obtain information on the profitability of the nonrenewed class of business.

(d) At least one year before a small employer insurer ceases to renew policies under s. 635.07 (2), Stats., the small employer insurer shall

provide written notice of that intent to all affected small employers and the insurance regulatory agency in each state in which an affected insured individual resides. The notice shall include all of the following:

1. The reason for the decision to terminate coverage for the class of business.

2. The date on which coverage will terminate.

(e) In addition to the requirement under par. (d), the small employer insurer shall, at least 60 days but not more than 75 days before the date coverage will terminate, provide each affected small employer with written notice, complying with s. 631.36 (6) and (7), Stats., of the intent not to renew the policy. The notice shall also comply with the notice requirements of ss. 632.79 and 632.897, Stats.

(6) CONVERSION OF ASSUMED CLASS OF BUSINESS. A small employer insurer that assumes a class of business from another small employer insurer shall, by the 2nd renewal date for each policy or one year from the date of assumption, whichever is later, convert each policy in the assumed class of business to a policy with the same or similar benefit design characteristics in another class of business specified under sub. (2) (a).

Ins 8.56 CERTIFICATION OF COMPLIANCE; ADDITIONAL INFORMATION REQUIRED. (1) The annual certification of compliance required under s. 635.13, Stats., shall be submitted in the form prescribed by the office.

(2) In addition to the annual certification required under sub. (1), the commissioner may require a small employer insurer to furnish additional information including, but not limited to, the following, using the form and method of transmittal prescribed by the commissioner:

(a) Rate manuals or exhibits of all rating factors used for each class of business.

(b) Sample data of small employers including premiums charged and rating factors applied for case characteristics and benefit design characteristics.

(c) An inventory of case characteristics used by the small employer insurer since the last certification date.

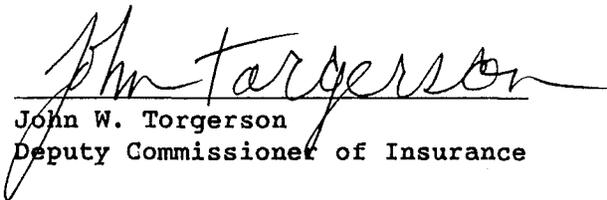
(d) An exhibit showing the difference in new business premium rates between the current certification date and the last certification date.

(e) A description of how midpoint rates are determined.

Note: The form required under sub. (1), OCI 26-051, may be obtained from the Office of the Commissioner of Insurance, P. O. Box 7873, Madison, Wisconsin 53707-7873.

SECTION 3. EFFECTIVE DATE. This rule will take effect on the first day of the month after publication, as provided in s. 227.22 (2) (intro.), Stats.

Dated at Madison, Wisconsin, this 24 day of SEP 1992.


John W. Torgerson
Deputy Commissioner of Insurance