

COMMISSIONER OF INSURANCE

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(e) The board of governors shall determine, subject to the approval of the commissioner, the eligibility of an insurer to act as a servicing company. If no qualified insurer elects to be a servicing company, the board of governors shall assume such duties on behalf of member companies.

(f) The board of governors shall enter into agreements and contracts as may be necessary for the execution of this rule consistent with its provisions.

(g) The board of governors may appoint advisory committees of interested persons, not limited to members of the Plan, to advise the board in the fulfillment of its duties and functions.

(h) The board of governors shall be empowered to develop, at its option, an assessment credit plan subject to the approval of the commissioner, wherein a member of the Plan receives a credit against an assessment levied, based upon Wisconsin voluntarily written health care liability insurance premiums.

(i) The board of governors of the Plan shall be authorized to take such actions as are consistent with law to provide the appropriate examining boards or the department of health and social services with such claims information as may be appropriate.

(j) The board of governors shall assume all duties and obligations formerly vested in the governing committee whenever it becomes necessary to administer any of the provisions governing the Wisconsin Health Care Liability Insurance Plan, which provisions preceded the adoption of the provisions contained in this rule.

(9) ANNUAL REPORTS AND RECORDS. (a) By May 1 of each year the board of governors shall make a report to the members of the Plan and to the standing committees on health insurance in each house of the legislature summarizing the activities of the Plan in the preceding calendar year.

(b) All books, records, documents or audits relating to the Plan or its operation shall be open to public inspection, with the exception of confidential claims information.

(10) APPLICATION FOR INSURANCE. (a) Any medical or osteopathic physician, podiatrist, nurse anesthetist, operating cooperative sickness care plan, hospital, nursing home, or health care facility owned or operated by a political subdivision of the state of Wisconsin eligible for insurance under this plan may submit an application for insurance by the plan directly or through any licensed agent.

(c) The Plan shall, within eight business days from receipt of an application, notify the applicant of the acceptance, rejection or the holding in abeyance of the application pending further investigation. Any individuals rejected by the Plan shall have the right to appeal that judgment within 30 days to the board of governors in accordance with subsection (16).

(d) If the risk is accepted by the Plan, a policy shall be delivered to the applicant upon payment of the premium. The Plan shall remit any commission to the licensed agent designated by the applicant; if no licensed agent is so designated, such commission shall be retained by the Plan.

(11) **ASSESSMENTS AND PARTICIPATION.** (a) In the event that sufficient funds are not available for the sound financial operation of the Plan, and pending recoupment pursuant to section 619.01 (1) (c) 2., Wis. Stats., all members shall, on a temporary basis, contribute to the financial needs of the Plan in the manner prescribed in paragraph (b). When such assessment contribution is recouped, it shall be reimbursed to members as their total share of the assessment contribution bears to the aggregate outstanding contributions.

(b) All members of the Plan shall participate in all premiums, other income, losses, expenses, and costs of the Plan in the proportion that the premiums written of each such member [excluding that portion of premiums attributable to the operation of the Plan and giving effect to any assessment credit plan under subsection (8) (h)] during the preceding calendar year bears to the aggregate premiums written in this state by all members of the Plan. Each member's participation in the Plan shall be determined annually on the basis of such premiums written during the preceding calendar year, as reported in the annual statements and other reports filed by the member with the commissioner of insurance.

(12) **RATES, RATE CLASSIFICATIONS, AND FILINGS.** Rates, rate classifications, and filings for coverages issued by the Plan shall be generally subject to chapter 625, Wis. Stats., and specifically shall meet the requirements of sections 619.01 (1) (c) 2., 619.04 (5), 625.11, and 625.12, Wis. Stats. Rates and rate classifications shall not discriminate on the basis of the insured's sex, marital status, race, color, creed or national origin. Information supporting the rates and rate classifications filed with the commissioner shall be made a part of such filing. Rates, rate classifications and filings shall be developed in accordance with the following standards or rules:

(a) **Rates.** 1. Rates shall not be excessive, inadequate or unfairly discriminatory.

2. Rates shall be calculated in accordance with generally accepted actuarial principles, using the best available data and shall be reviewed by the board of governors at least once each year.

3. Rates shall be calculated on a basis which will make the Plan self-supporting and shall be presumed excessive if they produce a long run profit or surplus for the Plan over losses and expenses, and loss reserves (including contingency reserves).

4. Any deficit incurred by the Plan in any one year shall be recouped by rate increases applicable prospectively, or any surplus over the loss reserves of the Plan in any one year shall be distributed by rate decreases applicable prospectively.

5. Rates shall reflect past and prospective loss and expense experience in different areas of practice.

6. Wisconsin loss and expense experience shall be used in establishing and reviewing rates to the extent it is statistically credible supplemented by relevant data from outside the state; relevant data shall include, but not be limited to, data provided by other insurance companies, rate service organizations or governmental agencies.

7. Loss and expense experience used in determining initial or revised rates shall be adjusted to indicate as nearly as possible the loss and expense experience which will emerge on policies issued by the