



## 2003 SENATE BILL 466

February 13, 2004 - Introduced by Senators ROESSLER and SCHULTZ, cosponsored by Representatives UNDERHEIM, GIELOW, HAHN, TOWNSEND, BIES, MILLER, ALBERS, JOHNSRUD, BALOW, VAN ROY, SERATTI and McCORMICK. Referred to Committee on Health, Children, Families, Aging and Long Term Care.

1     **AN ACT to repeal** 149.14 (3) (a) to (r), 149.14 (4), 149.14 (4c), 149.15 (3) (c), 149.15  
2           (3) (f), 149.15 (5) and 149.16; **to renumber** 149.143 (1) (bm) 1. and 149.143 (1)  
3           (bm) 2.; **to renumber and amend** 149.14 (3) (intro.); **to amend** 25.55 (3),  
4           49.475 (2) (a) (intro.), 149.10 (3), 149.11, 149.115, 149.12 (1) (a), 149.12 (1) (am),  
5           149.12 (1) (b), 149.12 (1) (c), 149.12 (3) (c), 149.13 (1), 149.13 (3), 149.13 (4),  
6           149.14 (5) (d), 149.14 (5) (e), 149.14 (5m) (c), 149.14 (7) (b) and (c), 149.14 (8),  
7           149.142 (1), 149.143 (1) (intro.), 149.143 (1) (am), 149.143 (1) (bm) (intro.),  
8           149.143 (2) (a) (intro.), 149.143 (2) (a) 1. a., 149.143 (2) (a) 2., 149.143 (2) (a) 3.,  
9           149.143 (2) (a) 4., 149.143 (2) (b), 149.143 (2m) (a) (intro.), 149.143 (2m) (a) 2.,  
10          149.143 (2m) (b) 1., 149.143 (2m) (b) 2., 149.143 (2m) (b) 3., 149.143 (3) (a),  
11          149.143 (3) (a), 149.143 (3) (b), 149.143 (4), 149.143 (5) (a), 149.143 (5) (a),  
12          149.143 (5) (b), 149.144, 149.145, 149.145, 149.146 (1) (b), 149.146 (2) (a),  
13          149.146 (2) (am) 4., 149.146 (2) (am) 5., 149.146 (2) (b) (intro.), 149.146 (2) (b)  
14          1., 149.146 (2) (b) 2., 149.15 (1), 149.165 (1), 149.165 (2), 149.165 (3) (a), 149.165

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1           (3) (b) (intro.), 149.17 (4), 149.175, 149.20, 149.25 (2) (a) and 149.25 (4); and **to**  
2           **create** 149.10 (5f), 149.10 (5r), 149.125, 149.132, 149.142 (3), 149.143 (1) (bm)  
3           1m., 149.143 (1) (bm) 2m. (intro.), 149.143 (2m) (c), 149.15 (3) (b), 149.15 (3) (e),  
4           149.15 (4) (c), 149.15 (4) (d), 149.165 (3r) and 450.10 (2m) of the statutes;  
5           **relating to:** making various miscellaneous changes to the Health Insurance  
6           Risk-Sharing Plan, granting rule-making authority, and providing a penalty.

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***Analysis by the Legislative Reference Bureau***

The Health Insurance Risk-Sharing Plan (HIRSP) provides major medical health insurance coverage for persons who are covered under Medicare because they are disabled, persons who have tested positive for human immunodeficiency virus, and persons who have been refused coverage, or coverage at an affordable price, in the private health insurance market because of their mental or physical health condition. Also eligible for coverage are persons who do not currently have health insurance coverage, but who were covered under certain types of health insurance coverage for at least 18 months in the past.

Premiums paid by covered persons fund 60 percent of the operating costs of HIRSP and health insurer assessments and health care provider payment discounts fund the remaining 40 percent of operating costs. HIRSP provides premium and deductible subsidies for covered persons with annual household incomes below \$25,000. The subsidies are funded equally by health insurer assessments and health care provider payment discounts. HIRSP is administered primarily by the Department of Health and Family Services (DHFS), but a board of governors (board) and a plan administrator also have certain responsibilities and powers with respect to HIRSP administration.

This bill makes the following changes to HIRSP:

1. Under the bill, any drug manufacturer or labeler that provides drugs prescribed for use by persons receiving benefits under Medical Assistance, BadgerCare, or SeniorCare is required to provide drugs prescribed for use by persons with coverage under HIRSP. As a condition of coverage of their prescription drugs under HIRSP, each manufacturer or labeler is required to pay an assessment that is based on the total claims paid by HIRSP in the previous calendar year to pharmacies and pharmacists for the manufacturer's or labeler's drugs. The assessment amount for each claim is equal to the rebate amount that the manufacturer or labeler pays for the drug under Medical Assistance. Under the bill, the 40 percent of HIRSP's operating costs that remain after premiums are used to pay 60 percent of the costs are first to be paid with the drug manufacturer and labeler assessments. The remainder of the 40 percent of the costs are paid, in equal proportions, by the health insurer assessments and the health care provider payment discounts. The bill allows the Pharmacy Examining Board to assess a

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forfeiture of not more than \$1,000 per day against a drug manufacturer or labeler that fails to pay an assessment for HIRSP.

2. The bill removes most of the administrative responsibilities from DHFS and transfers them to the board. For example, under current law, DHFS may establish different deductible amounts and a different coinsurance percentage from what is provided in the statutes, while under the bill the board may do so; under current law, DHFS must establish payment rates by adding an enhancement determined by DHFS to the allowable charges under Medical Assistance, while under the bill the board establishes the allowable charges in the same manner and must consult with DHFS; under current law, DHFS establishes a program budget in consultation with the board and may implement the budget only if it is approved by the board, while under the bill the board establishes the program budget and must consult with DHFS in deriving the provider payment rate; under current law, prior to each plan year DHFS must estimate the operating and administrative costs of HIRSP and set premiums, insurer assessment amounts, and provider payment rate discounts, while under the bill the board performs these functions, as well as setting the drug manufacturer and labeler assessment amounts; and under current law, DHFS is required to promulgate rules for the operation of HIRSP and must consult with the board before promulgating any rules related to HIRSP, while under the bill the board is required to promulgate rules for the design and operation of HIRSP, consulting with DHFS as necessary, and DHFS may promulgate a rule only if the board has approved the proposed rule.

3. Under current law, the secretary of health and family services, or his or her representative, is the chairperson of the board. The bill provides that the board will annually select the chairperson. The bill also adds a representative of Pharmaceutical Research and Manufacturers of America to the board, the members of which are appointed by the secretary of health and family services.

4. Under current law, expenses covered under HIRSP and exclusions are set out in the statutes. The bill eliminates those provisions and requires the board to establish by rule the plan design, including covered expenses and exclusions.

5. Under current law, DHFS may select the plan administrator in a competitive bidding process. The bill requires the board to select the plan administrator in a competitive, request-for-proposals process and allows the board to contract with other persons to provide professional services to the board and HIRSP.

6. The bill allows the board to establish for covered persons with annual household incomes over \$100,000 a separate schedule of premium rates that are higher than the rates for other covered persons. The additional premium collected must be used to further reduce the premiums paid by lower-income covered persons who receive a subsidy for premiums and deductibles.

7. Under current law, a person is eligible for HIRSP coverage if he or she is rejected for coverage by one or more insurers, has coverage canceled by one or more insurers, or receives notice of a substantial reduction in coverage or a 50 percent increase in premium. Under the bill, a person is eligible if he or she is rejected for coverage by two or more insurers or if he or she is rejected for coverage by at least

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one insurer in addition to having coverage canceled or reduced, or premiums increased, by one or more insurers.

8. Under current law, a person is not eligible for coverage under HIRSP if he or she is eligible for coverage provided by an employer. The bill requires DHFS to verify information that an applicant provides about his or her employment and whether health care coverage is available through that employment and to periodically verify the information if the person receives coverage under HIRSP. DHFS must maintain a data base with the information and submit a quarterly report to the board on the information.

9. Finally, the bill requires that any federal grant moneys received by the state under the Trade Adjustment Assistance Reform Act of 2002 be used for HIRSP to pay plan costs before any costs are paid with premiums or insurer and drug manufacturer and labeler assessments and provider payment discounts.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 25.55 (3) of the statutes is amended to read:

2           25.55 (3) Insurer and drug manufacturer and labeler assessments under ch.  
3 149.

4           **SECTION 2.** 49.475 (2) (a) (intro.) of the statutes is amended to read:

5           49.475 (2) (a) (intro.) Information that the department needs to identify  
6 beneficiaries of medical assistance, and persons applying for coverage or who are  
7 covered under the Health Insurance Risk-Sharing Plan under ch. 149, who satisfy  
8 any of the following:

9           **SECTION 3.** 149.10 (3) of the statutes is amended to read:

10           149.10 (3) “Eligible person” means a resident of ~~this state~~ who qualifies under  
11 s. 149.12 whether or not the person is legally responsible for the payment of medical  
12 expenses incurred on the person’s behalf.

13           **SECTION 4.** 149.10 (5f) of the statutes is created to read:

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1           149.10 (5f) “Labeler” means a person that receives prescription drugs from a  
2 manufacturer or wholesaler and repackages those drugs for later retail sale and that  
3 has a labeler code issued by the federal food and drug administration under 21 CFR  
4 207.20 (b).

5           **SECTION 5.** 149.10 (5r) of the statutes is created to read:

6           149.10 (5r) “Manufacturer” means a person engaged in the production,  
7 preparation, propagation, compounding, conversion, or processing of prescription  
8 drugs.

9           **SECTION 6.** 149.11 of the statutes is amended to read:

10           **149.11 Operation of plan.** The department board shall promulgate rules for  
11 the design and operation of a plan of health insurance coverage for an eligible person  
12 which persons that satisfies the requirements of this chapter. The board shall  
13 consult with the department as necessary in promulgating the rules under this  
14 section. The department shall provide the board with the support necessary for the  
15 board to carry out its responsibilities under this chapter.

16           **SECTION 7.** 149.115 of the statutes is amended to read:

17           **149.115 Rules relating to creditable coverage.** The commissioner, in  
18 consultation with the department and the board, shall promulgate rules that specify  
19 how creditable coverage is to be aggregated for purposes of s. 149.10 (2t) (a) and that  
20 determine the creditable coverage to which s. 149.10 (2t) (b) and (d) applies. The  
21 rules shall comply with section 2701 (c) of P.L. 104-191.

22           **SECTION 8.** 149.12 (1) (a) of the statutes is amended to read:

23           149.12 (1) (a) A notice of rejection of coverage from ~~one~~ 2 or more insurers.

24           **SECTION 9.** 149.12 (1) (am) of the statutes is amended to read:

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1           149.12 (1) (am) A notice of rejection of coverage from one or more insurers and  
2 a notice of cancellation of coverage from one or more insurers.

3           **SECTION 10.** 149.12 (1) (b) of the statutes is amended to read:

4           149.12 (1) (b) A notice of rejection of coverage from one or more insurers and  
5 a notice of reduction or limitation of coverage, including restrictive riders, from an  
6 insurer if the effect of the reduction or limitation is to substantially reduce coverage  
7 substantially compared to the coverage available to a person considered a standard  
8 risk for the type of coverage provided by the plan.

9           **SECTION 11.** 149.12 (1) (c) of the statutes is amended to read:

10           149.12 (1) (c) A notice of rejection of coverage from one or more insurers and  
11 a notice of increase in premium exceeding the premium then in effect for the insured  
12 person by ~~50%~~ 50 percent or more, unless the increase applies to substantially all of  
13 the insurer's health insurance policies then in effect.

14           **SECTION 12.** 149.12 (3) (c) of the statutes is amended to read:

15           149.12 (3) (c) The ~~department~~ board may promulgate rules specifying other  
16 deductible or coinsurance amounts that, if paid or reimbursed for persons, will not  
17 make the persons ineligible for coverage under the plan.

18           **SECTION 13.** 149.125 of the statutes is created to read:

19           **149.125 Employment verification; maintenance of data; report. (1)** In  
20 determining a person's initial and continued eligibility, the department shall verify,  
21 at the time that the person applies for coverage and periodically thereafter,  
22 information submitted by the person about his or her employment and whether  
23 creditable coverage is available to the person. The department shall use information  
24 obtained under s. 49.475 for verification purposes under this subsection.

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1           **(2)** The department shall maintain and regularly update a computer data base  
2 with information about eligible persons that includes employment status and  
3 economic and demographic information. The department shall submit a quarterly  
4 report to the board on the information contained in the data base.

5           **SECTION 14.** 149.13 (1) of the statutes is amended to read:

6           149.13 **(1)** Every insurer shall participate in the cost of administering the plan,  
7 except that the commissioner may by rule exempt as a class those insurers whose  
8 share as determined under sub. (2) would be so minimal as to not to exceed the  
9 estimated cost of levying the assessment. The commissioner shall advise the  
10 ~~department~~ board of the insurers participating in the cost of administering the plan.

11           **SECTION 15.** 149.13 (3) of the statutes is amended to read:

12           149.13 **(3)** (a) Each insurer's proportion of participation under sub. (2) shall be  
13 determined annually by the commissioner based on annual statements and other  
14 reports filed by the insurer with the commissioner. The commissioner shall assess  
15 an insurer for the insurer's proportion of participation based on the total  
16 assessments estimated by the ~~department~~ board under s. 149.143 (2) (a) 3.

17           (b) If the department ~~or the~~, commissioner, or board finds that the  
18 commissioner's authority to require insurers to report under chs. 600 to 646 and 655  
19 is not adequate to permit the department, the commissioner, or the board to carry out  
20 the department's, commissioner's, or board's responsibilities under this chapter, the  
21 commissioner shall promulgate rules requiring insurers to report the information  
22 necessary for the department, commissioner, and board to make the determinations  
23 required under this chapter.

24           **SECTION 16.** 149.13 (4) of the statutes is amended to read:

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1           149.13 (4) Notwithstanding subs. (1) to (3), the department, with the  
2 agreement of the commissioner and the board, may perform various administrative  
3 functions related to the assessment of insurers participating in the cost of  
4 administering the plan.

5           **SECTION 17.** 149.132 of the statutes is created to read:

6           **149.132 Participation of manufacturers and labelers.** (1) Any  
7 manufacturer or labeler of prescription drugs that are sold, or otherwise provided,  
8 to persons in this state who receive health care coverage benefits under the Medical  
9 Assistance program under subch. IV of ch. 49, the Badger Care health care program  
10 under s. 49.665, or the prescription drug assistance for elderly persons program  
11 under s. 49.688 is required to sell prescription drugs for the prescribed use and  
12 purchase by eligible persons covered under the plan.

13           (2) As a condition of coverage under the plan of the prescription drugs of a  
14 manufacturer or labeler, the manufacturer or labeler shall pay an assessment on the  
15 total claims that the plan paid, in the previous calendar year, to pharmacists and  
16 pharmacies for the prescription drugs of the manufacturer or labeler. The  
17 assessment amount per claim shall be equal to the rebate paid under the Medical  
18 Assistance program by the manufacturer or labeler for the prescription drug that is  
19 the subject of the claim.

20           (3) The plan administrator shall notify each manufacturer and each labeler of  
21 the amount paid by the plan in claims for the prescription drugs of each  
22 manufacturer and labeler and shall advise the board and the department of the  
23 amounts. The department shall levy and collect the assessments and deposit the  
24 amounts collected in the health insurance risk-sharing plan fund.



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1           **SECTION 18.** 149.14 (3) (intro.) of the statutes is renumbered 149.14 (3) and  
2 amended to read:

3           149.14 **(3)** COVERED EXPENSES. Except as ~~provided in sub. (4), except as~~  
4 restricted by cost containment provisions under s. 149.17 (4) and except as reduced  
5 by the ~~department~~ board under ss. 149.143 and 149.144, covered expenses for the  
6 coverage under this section shall be the payment rates established ~~by the~~  
7 ~~department~~ under s. 149.142 for the services provided by persons licensed under ch.  
8 446 and certified under s. 49.45 (2) (a) 11. ~~Except as provided in sub. (4), except as~~  
9 restricted by cost containment provisions under s. 149.17 (4) and except as reduced  
10 by the ~~department~~ board under ss. 149.143 and 149.144, covered expenses for the  
11 coverage under this section shall also be the payment rates established ~~by the~~  
12 ~~department~~ under s. 149.142 for the ~~following~~ services and articles specified by the  
13 board if the service or article is prescribed by a physician who is licensed under ch.  
14 448 or in another state and who is certified under s. 49.45 (2) (a) 11. and if the service  
15 or article is provided by a provider certified under s. 49.45 (2) (a) 11.:

16           **SECTION 19.** 149.14 (3) (a) to (r) of the statutes are repealed.

17           **SECTION 20.** 149.14 (4) of the statutes is repealed.

18           **SECTION 21.** 149.14 (4c) of the statutes is repealed.

19           **SECTION 22.** 149.14 (5) (d) of the statutes is amended to read:

20           149.14 **(5)** (d) Notwithstanding pars. (a) to (c), the ~~department~~ board may  
21 establish different deductible amounts, a different coinsurance percentage, and  
22 different covered costs and deductible aggregate amounts from those specified in  
23 pars. (a) to (c) in accordance with cost containment provisions established by the  
24 ~~department~~ board under s. 149.17 (4).

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1           **SECTION 23.** 149.14 (5) (e) of the statutes, as affected by 2003 Wisconsin Act 33,  
2 is amended to read:

3           149.14 **(5)** (e) Subject to sub. (8) (b), the ~~department~~ board may, by rule under  
4 s. 149.17 (4), establish for prescription drug coverage under ~~sub. (3) (d)~~ this section  
5 copayment amounts, coinsurance rates, and copayment and coinsurance  
6 out-of-pocket limits over which the plan will pay ~~100%~~ 100 percent of covered costs  
7 ~~under sub. (3) (d) for prescription drugs.~~ The ~~department~~ board may provide  
8 subsidies for prescription drug copayment amounts paid by eligible persons under  
9 s. 149.165 (2) (a) 1. to 5. ~~Any copayment amount, coinsurance rate, or out-of-pocket~~  
10 ~~limit established under this paragraph is subject to the approval of the board.~~  
11 Copayments and coinsurance paid by an eligible person under this paragraph are  
12 separate from and do not count toward the deductible and covered costs not paid by  
13 the plan under pars. (a) to (c).

14           **SECTION 24.** 149.14 (5m) (c) of the statutes is amended to read:

15           149.14 **(5m)** (c) Other economic factors that the ~~department and the board~~  
16 ~~consider~~ considers relevant.

17           **SECTION 25.** 149.14 (7) (b) and (c) of the statutes are amended to read:

18           149.14 **(7)** (b) The ~~department~~ board has a cause of action against an eligible  
19 ~~participant~~ person for the recovery of the amount of benefits paid ~~which~~ that are not  
20 for covered expenses under the plan. Benefits under the plan may be reduced or  
21 refused as a setoff against any amount recoverable under this paragraph.

22           (c) The ~~department~~ board is subrogated to the rights of an eligible person to  
23 recover special damages for illness or injury to the person caused by the act of a 3rd  
24 person to the extent that benefits are provided under the plan. Section 814.03 (3)  
25 applies to the ~~department~~ board under this paragraph.

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1           **SECTION 26.** 149.14 (8) of the statutes is amended to read:

2           149.14 **(8)** APPLICABILITY OF MEDICAL ASSISTANCE PROVISIONS. (a) Except as  
3 provided in par. (b), the ~~department~~ board may, by rule under s. 149.17 (4), apply to  
4 the plan the same utilization and cost control procedures that apply under rules  
5 promulgated by the department to medical assistance ~~under subch. IV of ch. 49.~~ The  
6 board shall consult with the department as necessary in the application of the  
7 utilization and cost control procedures specified in this paragraph.

8           (b) The ~~department~~ board may not apply to eligible persons for covered services  
9 or articles the same copayments that apply to recipients of medical assistance ~~under~~  
10 ~~subch. IV of ch. 49~~ for services or articles covered under that program.

11           **SECTION 27.** 149.142 (1) of the statutes is amended to read:

12           149.142 **(1)** (a) Except as provided in par. (b), the ~~department~~ board shall  
13 establish payment rates for covered expenses that consist of the allowable charges  
14 paid under s. 49.46 (2) for the services and articles provided plus an enhancement  
15 determined by the ~~department~~ board. The rates shall be based on the allowable  
16 charges paid under s. 49.46 (2), projected plan costs, and trend factors. Using the  
17 same methodology that applies to medical assistance ~~under subch. IV of ch. 49,~~ the  
18 ~~department~~ board shall establish hospital outpatient per visit reimbursement rates  
19 and hospital inpatient reimbursement rates that are specific to diagnostically  
20 related groups of eligible persons. The board shall consult with the department in  
21 establishing the payment and reimbursement rates under this paragraph.

22           (b) The payment rate for a prescription drug shall be the allowable charge paid  
23 under s. 49.46 (2) (b) 6. h. for the prescription drug. Notwithstanding s. 149.17 (4),  
24 the ~~department~~ board may not reduce the payment rate for prescription drugs below

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1 the rate specified in this paragraph, and the rate may not be adjusted under s.  
2 149.143 or 149.144.

3 **SECTION 28.** 149.142 (3) of the statutes is created to read:

4 149.142 (3) Whenever a claim is processed for payment, the adjustment of a  
5 provider's payment rate under sub. (1) and any adjustment under s. 149.143 or  
6 149.144 shall be calculated and applied on a per-claim basis. The adjustment shall  
7 be disclosed on the explanation-of-benefits form provided to the eligible person and  
8 to the provider.

9 **SECTION 29.** 149.143 (1) (intro.) of the statutes is amended to read:

10 149.143 (1) (intro.) The department shall pay or recover the operating costs of  
11 the plan from the appropriation under s. 20.435 (4) (v) and administrative costs of  
12 the plan from the appropriation under s. 20.435 (4) (u). For purposes of determining  
13 premiums, insurer assessments, and provider payment rate adjustments, the  
14 department board shall apportion and prioritize responsibility for payment or  
15 recovery of plan costs from among the moneys constituting the fund as follows:

16 **SECTION 30.** 149.143 (1) (am) of the statutes, as affected by 2003 Wisconsin Act  
17 33, is amended to read:

18 149.143 (1) (am) A total of ~~60%~~ 60 percent from the following sources,  
19 calculated as follows:

20 1. First, from premiums from eligible persons with coverage under s. 149.14 (2)  
21 (a) set at a rate that is ~~140%~~ 140 percent to ~~150%~~ 150 percent of the rate that a  
22 standard risk would be charged under an individual policy providing substantially  
23 the same coverage and deductibles cost-sharing provisions as are provided under  
24 the plan and from eligible persons with coverage under s. 149.14 (2) (b) set in  
25 accordance with s. 149.14 (5m), including amounts received for premium, deductible,

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1 and prescription drug copayment subsidies under s. 149.144, and from premiums  
2 collected from eligible persons with coverage under s. 149.146 set in accordance with  
3 s. 149.146 (2) (b).

4 2. Second, from moneys specified under sub. (2m), to the extent that the  
5 amounts under subd. 1. are insufficient to pay ~~60%~~ 60 percent of plan costs.

6 3. Third, by increasing premiums from eligible persons with coverage under s.  
7 149.14 (2) (a) to more than the rate at which premiums were set under subd. 1. but  
8 not more than ~~200%~~ 200 percent of the rate that a standard risk would be charged  
9 under an individual policy providing substantially the same coverage and  
10 ~~deductibles~~ cost-sharing provisions as are provided under the plan and from eligible  
11 persons with coverage under s. 149.14 (2) (b) by a comparable amount in accordance  
12 with s. 149.14 (5m), including amounts received for premium, deductible, and  
13 prescription drug copayment subsidies under s. 149.144, and by increasing  
14 premiums from eligible persons with coverage under s. 149.146 in accordance with  
15 s. 149.146 (2) (b), to the extent that the amounts under subds. 1. and 2. are  
16 insufficient to pay ~~60%~~ 60 percent of plan costs.

17 4. Fourth, notwithstanding par. (bm), by increasing insurer assessments,  
18 excluding assessments under s. 149.144, and adjusting provider payment rates,  
19 subject to s. 149.142 (1) (b) and excluding adjustments to those rates under s.  
20 149.144, in equal proportions and to the extent that the amounts under subds. 1. to  
21 3. are insufficient to pay ~~60%~~ 60 percent of plan costs.

22 **SECTION 31.** 149.143 (1) (bm) (intro.) of the statutes, as affected by 2003  
23 Wisconsin Act 33, is amended to read:

24 149.143 (1) (bm) (intro.) A total of ~~40%~~ 40 percent as follows:

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1           **SECTION 32.** 149.143 (1) (bm) 1. of the statutes, as affected by 2003 Wisconsin  
2 Act 33, is renumbered 149.143 (1) (bm) 2m. a.

3           **SECTION 33.** 149.143 (1) (bm) 1m. of the statutes is created to read:

4           149.143 (1) (bm) 1m. First, from manufacturer and labeler assessments under  
5 s. 149.132.

6           **SECTION 34.** 149.143 (1) (bm) 2. of the statutes, as affected by 2003 Wisconsin  
7 Act 33, is renumbered 149.143 (1) (bm) 2m. b.

8           **SECTION 35.** 149.143 (1) (bm) 2m. (intro.) of the statutes is created to read:

9           149.143 (1) (bm) 2m. (intro.) The remainder as follows:

10          **SECTION 36.** 149.143 (2) (a) (intro.) of the statutes, as affected by 2003  
11 Wisconsin Act 33, is amended to read:

12          149.143 (2) (a) (intro.) Prior to each plan year, the ~~department~~ board shall  
13 estimate the operating and administrative costs of the plan and the costs of the  
14 premium reductions under s. 149.165 (2) and (3), the deductible reductions under s.  
15 149.14 (5) (a), and any prescription drug copayment reductions under s. 149.14 (5)  
16 (e) for the new plan year and do all of the following:

17          **SECTION 37.** 149.143 (2) (a) 1. a. of the statutes, as affected by 2003 Wisconsin  
18 Act 33, is amended to read:

19          149.143 (2) (a) 1. a. Estimate the amount of enrollee premiums that would be  
20 received in the new plan year if the enrollee premiums were set at a level sufficient,  
21 when including amounts received for premium, deductible, and prescription drug  
22 copayment subsidies under s. 149.144 and from premiums collected from eligible  
23 persons with coverage under s. 149.146 set in accordance with s. 149.146 (2) (b), to  
24 cover ~~60%~~ 60 percent of the estimated plan costs for the new plan year.

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1           **SECTION 38.** 149.143 (2) (a) 2. of the statutes, as affected by 2003 Wisconsin Act  
2           33, is amended to read:

3           149.143 (2) (a) 2. After making the determinations under subd. 1., by rule set  
4           premium rates for the new plan year, including the rates under s. 149.146 (2) (b), in  
5           the manner specified in sub. (1) (am) 1. and 3. and such that a rate for coverage under  
6           s. 149.14 (2) (a) is ~~approved by the board and~~ is not less than ~~140%~~ 140 percent nor  
7           more than ~~200%~~ 200 percent of the rate that a standard risk would be charged under  
8           an individual policy providing substantially the same coverage and ~~deductibles~~  
9           cost-sharing provisions as are provided under the plan.

10           **SECTION 39.** 149.143 (2) (a) 3. of the statutes, as affected by 2003 Wisconsin Act  
11           33, is amended to read:

12           149.143 (2) (a) 3. By rule, after estimating the amount of manufacturer and  
13           labeler assessments that will be received under sub. (1) (bm) 1m., set the total  
14           insurer assessments under s. 149.13 for the new plan year by estimating and setting  
15           the assessments at the amount necessary to equal the amounts specified in sub. (1)  
16           (am) 4. and (bm) 1- 2m. a. and notify the commissioner of the amount.

17           **SECTION 40.** 149.143 (2) (a) 4. of the statutes, as affected by 2003 Wisconsin Act  
18           33, is amended to read:

19           149.143 (2) (a) 4. By the same rule as under subd. 3., after estimating the  
20           amount of the manufacturer and labeler assessments that will be received under  
21           sub. (1) (bm) 1m., adjust the provider payment rate for the new plan year, subject to  
22           s. 149.142 (1) (b), by estimating and setting the rate at the level necessary to equal  
23           the amounts specified in sub. (1) (am) 4. and (bm) 2- 2m. b. and as provided in s.  
24           149.145.

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1           **SECTION 41.** 149.143 (2) (b) of the statutes, as affected by 2003 Wisconsin Act  
2 33, is amended to read:

3           149.143 (2) (b) In setting the premium rates under par. (a) 2., the insurer  
4 assessment amount under par. (a) 3., and the provider payment rate under par. (a)  
5 4. for the new plan year, the ~~department~~ board shall include any increase or decrease  
6 necessary to reflect the amount, if any, by which the rates and amount set under par.  
7 (a) for the current plan year differed from the rates and amount which would have  
8 equaled the amounts specified in sub. (1) (am) and (bm) in the current plan year.

9           **SECTION 42.** 149.143 (2m) (a) (intro.) of the statutes is amended to read:

10           149.143 (2m) (a) (intro.) The ~~department~~ board shall keep a separate  
11 accounting of the difference between the following:

12           **SECTION 43.** 149.143 (2m) (a) 2. of the statutes, as affected by 2003 Wisconsin  
13 Act 33, is amended to read:

14           149.143 (2m) (a) 2. The amount of premiums, including amounts received for  
15 premium, deductible, and prescription drug copayment subsidies, necessary to cover  
16 ~~60%~~ 60 percent of the plan costs for the plan year.

17           **SECTION 44.** 149.143 (2m) (b) 1. of the statutes, as affected by 2003 Wisconsin  
18 Act 33, is amended to read:

19           149.143 (2m) (b) 1. To reduce premiums in succeeding plan years as provided  
20 in sub. (1) (am) 2. For eligible persons with coverage under s. 149.14 (2) (a),  
21 premiums may not be reduced below ~~140%~~ 140 percent of the rate that a standard  
22 risk would be charged under an individual policy providing substantially the same  
23 coverage and ~~deductibles~~ cost-sharing provisions as are provided under the plan.

24           **SECTION 45.** 149.143 (2m) (b) 2. of the statutes is amended to read:



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1           149.143 (2m) (b) 2. For other needs of eligible persons, ~~with the approval of the~~  
2   board including the purpose specified in s. 149.15 (4) (d).

3           **SECTION 46.** 149.143 (2m) (b) 3. of the statutes is amended to read:

4           149.143 (2m) (b) 3. For distribution to eligible persons, notwithstanding any  
5   requirements in this chapter related to setting premium amounts. The ~~department~~  
6   board, with the ~~approval of the board and the concurrence of the plan actuary,~~ shall  
7   determine the policies, eligibility criteria, methodology, and other factors to be used  
8   in making any distribution under this subdivision.

9           **SECTION 47.** 149.143 (2m) (c) of the statutes is created to read:

10          149.143 (2m) (c) The board shall consult with the department as necessary for  
11   the accounting under par. (a).

12          **SECTION 48.** 149.143 (3) (a) of the statutes, as affected by 2003 Wisconsin Act  
13   33, is amended to read:

14          149.143 (3) (a) If, during a plan year, the ~~department~~ board determines that  
15   the amounts estimated to be received as a result of the rates and amount set under  
16   sub. (2) (a) 2. to 4. and any adjustments in insurer assessments and the provider  
17   payment rate under s. 149.144 will not be sufficient to cover plan costs, the  
18   ~~department~~ board may by rule increase the premium rates set under sub. (2) (a) 2.  
19   for the remainder of the plan year, subject to s. 149.146 (2) (b) and the maximum  
20   specified in sub. (2) (a) 2., by rule increase the assessments set under sub. (2) (a) 3.  
21   for the remainder of the plan year, subject to sub. (1) (bm) 1., and by the same rule  
22   under which assessments are increased adjust the provider payment rate set under  
23   sub. (2) (a) 4. for the remainder of the plan year, subject to sub. (1) (bm) 2. and s.  
24   149.142 (1) (b).

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1           **SECTION 49.** 149.143 (3) (a) of the statutes, as affected by 2003 Wisconsin Act  
2 .... (this act), is amended to read:

3           149.143 (3) (a) If, during a plan year, the board determines that the amounts  
4 estimated to be received in manufacturer and labeler assessments and as a result of  
5 the rates and amount set under sub. (2) (a) 2. to 4. and any adjustments in insurer  
6 assessments and the provider payment rate under s. 149.144 will not be sufficient  
7 to cover plan costs, the board may by rule increase the premium rates set under sub.  
8 (2) (a) 2. for the remainder of the plan year, subject to s. 149.146 (2) (b) and the  
9 maximum specified in sub. (2) (a) 2., by rule increase the assessments set under sub.  
10 (2) (a) 3. for the remainder of the plan year, subject to sub. (1) (bm) ~~1.~~ 2m. a., and by  
11 the same rule under which assessments are increased adjust the provider payment  
12 rate set under sub. (2) (a) 4. for the remainder of the plan year, subject to sub. (1) (bm)  
13 ~~2.~~ 2m. b. and s. 149.142 (1) (b).

14           **SECTION 50.** 149.143 (3) (b) of the statutes, as affected by 2003 Wisconsin Act  
15 33, is amended to read:

16           149.143 (3) (b) If the ~~department~~ board increases premium rates and insurer  
17 assessments and adjusts the provider payment rate under par. (a) and determines  
18 that there will still be a deficit and that premium rates have been increased to the  
19 maximum extent allowable under par. (a), the ~~department~~ board may further adjust,  
20 in equal proportions, assessments set under sub. (2) (a) 3. and the provider payment  
21 rate set under sub. (2) (a) 4., without regard to sub. (1) (bm) but subject to s. 149.142  
22 (1) (b).

23           **SECTION 51.** 149.143 (4) of the statutes is amended to read:

24           149.143 (4) Using the procedure under s. 227.24, the ~~department~~ board may  
25 promulgate rules under sub. (2) or (3) for the period before the effective date of any

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1 permanent rules promulgated under sub. (2) or (3), but not to exceed the period  
2 authorized under s. 227.24 (1) (c) and (2). Notwithstanding s. 227.24 (1) and (3), the  
3 ~~department~~ board is not required to make a finding of emergency.

4 **SECTION 52.** 149.143 (5) (a) of the statutes is amended to read:

5 149.143 (5) (a) Annually, no later than April 30, the ~~department~~ board shall  
6 perform a reconciliation with respect to plan costs, premiums, insurer assessments,  
7 and provider payment rate adjustments based on data from the previous calendar  
8 year. On the basis of the reconciliation, the ~~department~~ board shall make any  
9 necessary adjustments in premiums, insurer assessments, or provider payment  
10 rates, subject to s. 149.142 (1) (b), for the fiscal year beginning on the first July 1 after  
11 the reconciliation, as provided in sub. (2) (b). The board shall consult with the  
12 department as necessary in performing the reconciliation and in making the  
13 adjustments under this paragraph.

14 **SECTION 53.** 149.143 (5) (a) of the statutes, as affected by 2003 Wisconsin Act  
15 .... (this act), is amended to read:

16 149.143 (5) (a) Annually, no later than April 30, the board shall perform a  
17 reconciliation with respect to plan costs, premiums, insurer assessments,  
18 manufacturer and labeler assessments, and provider payment rate adjustments  
19 based on data from the previous calendar year. On the basis of the reconciliation, the  
20 board shall make any necessary adjustments in premiums, insurer assessments, or  
21 provider payment rates, subject to s. 149.142 (1) (b), for the fiscal year beginning on  
22 the first July 1 after the reconciliation, as provided in sub. (2) (b). The board shall  
23 consult with the department as necessary in performing the reconciliation and in  
24 making the adjustments under this paragraph.

25 **SECTION 54.** 149.143 (5) (b) of the statutes is amended to read:

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1           149.143 (5) (b) Except as provided in sub. (3) and s. 149.144, the department  
2 board shall adjust the provider payment rates to meet the providers' specified portion  
3 of the plan costs no more than once annually, subject to s. 149.142 (1) (b). The  
4 department board may not determine the adjustment on an individual provider basis  
5 or on the basis of provider type, but shall determine the adjustment for all providers  
6 in the aggregate, subject to s. 149.142 (1) (b).

7           **SECTION 55.** 149.144 of the statutes, as affected by 2003 Wisconsin Act 33, is  
8 amended to read:

9           **149.144 Adjustments to insurer assessments and provider payment**  
10 **rates for premium, deductible, and prescription drug copayment**  
11 **reductions.** The department board shall, by rule, adjust in equal proportions the  
12 amount of the ~~assessment~~ assessments set under s. 149.143 (2) (a) 3. and the provider  
13 payment rate set under s. 149.143 (2) (a) 4., subject to ss. 149.142 (1) (b) and 149.143  
14 (1) (am), sufficient to reimburse the plan for premium reductions under s. 149.165  
15 (2) and (3), deductible reductions under s. 149.14 (5) (a), and any prescription drug  
16 copayment reductions under s. 149.14 (5) (e). ~~The department~~ board shall notify the  
17 commissioner so that the commissioner may levy any increase in insurer  
18 assessments.

19           **SECTION 56.** 149.145 of the statutes, as affected by 2003 Wisconsin Act 33, is  
20 amended to read:

21           **149.145 Program budget.** ~~The department, in consultation with the board,~~  
22 shall establish a program budget for each plan year. The program budget shall be  
23 based on the provider payment rates specified in s. 149.142 and in the most recent  
24 provider contracts that are in effect and on the funding sources specified in ss.  
25 149.143 (1) and 149.144, including the methodologies specified in ss. 149.143,

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1 149.144, and 149.146 for determining premium rates, insurer assessments, and  
2 provider payment rates. Except as otherwise provided in s. 149.143 (3) (a) and (b)  
3 and subject to s. 149.142 (1) (b), from the program budget the ~~department~~ board shall  
4 derive the actual provider payment rate for a plan year that reflects the providers'  
5 proportional share of the plan costs, consistent with ss. 149.143 and 149.144. The  
6 ~~department may not implement a program budget established under this section~~  
7 ~~unless it is approved by the board~~ shall consult with the department as necessary in  
8 deriving the actual provider payment rate.

9 **SECTION 57.** 149.145 of the statutes, as affected by 2003 Wisconsin Act .... (this  
10 act), is amended to read:

11 **149.145 Program budget.** The board shall establish a program budget for  
12 each plan year. The program budget shall be based on the provider payment rates  
13 specified in s. 149.142 and in the most recent provider contracts that are in effect and  
14 on the funding sources specified in ss. 149.143 (1) and 149.144, including the  
15 methodologies specified in ss. 149.143, 149.144, and 149.146 for determining  
16 premium rates, insurer and manufacturer and labeler assessments, and provider  
17 payment rates. Except as otherwise provided in s. 149.143 (3) (a) and (b) and subject  
18 to s. 149.142 (1) (b), from the program budget the board shall derive the actual  
19 provider payment rate for a plan year that reflects the providers' proportional share  
20 of the plan costs, consistent with ss. 149.143 and 149.144. The board shall consult  
21 with the department as necessary in deriving the actual provider payment rate.

22 **SECTION 58.** 149.146 (1) (b) of the statutes is amended to read:

23 149.146 (1) (b) An eligible person under par. (a) may elect once each year, at  
24 the time and according to procedures established by the ~~department~~ board, among  
25 the coverages offered under this section and s. 149.14. If an eligible person elects new

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1 coverage, any preexisting condition exclusion imposed under the new coverage is met  
2 to the extent that the eligible person has been previously and continuously covered  
3 under this chapter. No preexisting condition exclusion may be imposed on an eligible  
4 person who elects new coverage if the person was an eligible individual when first  
5 covered under this chapter and the person remained continuously covered under this  
6 chapter up to the time of electing the new coverage.

7 **SECTION 59.** 149.146 (2) (a) of the statutes, as affected by 2003 Wisconsin Act  
8 33, is amended to read:

9 149.146 (2) (a) Except as specified by the department board, the terms of  
10 coverage under s. 149.14, including deductible reductions under s. 149.14 (5) (a) and  
11 prescription drug copayment reductions under s. 149.14 (5) (e), do not apply to the  
12 coverage offered under this section. Premium reductions under s. 149.165 do not  
13 apply to the coverage offered under this section.

14 **SECTION 60.** 149.146 (2) (am) 4. of the statutes is amended to read:

15 149.146 (2) (am) 4. Notwithstanding subs. 1. to 3., the department board may  
16 establish different deductible amounts, a different coinsurance percentage, and  
17 different covered costs and deductible aggregate amounts from those specified in  
18 subs. 1. to 3. in accordance with cost containment provisions established by the  
19 ~~department~~ board under s. 149.17 (4).

20 **SECTION 61.** 149.146 (2) (am) 5. of the statutes is amended to read:

21 149.146 (2) (am) 5. Subject to s. 149.14 (8) (b), the department board may, by  
22 rule under s. 149.17 (4), establish for prescription drug coverage under this section  
23 copayment amounts, coinsurance rates, and copayment and coinsurance  
24 out-of-pocket limits over which the plan will pay ~~100%~~ 100 percent of covered costs  
25 for prescription drugs. ~~Any copayment amount, coinsurance rate, or out-of-pocket~~

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1 ~~limit established under this subdivision is subject to the approval of the board.~~

2 Copayments and coinsurance paid by an eligible person under this subdivision are  
3 separate from and do not count toward the deductible and covered costs not paid by  
4 the plan under subds. 1. to 3.

5 **SECTION 62.** 149.146 (2) (b) (intro.) of the statutes is amended to read:

6 149.146 (2) (b) (intro.) The schedule of premiums for coverage under this  
7 section shall be promulgated by rule by the ~~department~~ board, as provided in s.  
8 149.143. The rates for coverage under this section shall be set such that they differ  
9 from the rates for coverage under s. 149.14 (2) (a) by the same percentage as the  
10 percentage difference between the following:

11 **SECTION 63.** 149.146 (2) (b) 1. of the statutes is amended to read:

12 149.146 (2) (b) 1. The rate that a standard risk would be charged under an  
13 individual policy providing substantially the same coverage and ~~deductibles~~  
14 cost-sharing provisions as provided under s. 149.14 (2) (a) and (5) (a).

15 **SECTION 64.** 149.146 (2) (b) 2. of the statutes is amended to read:

16 149.146 (2) (b) 2. The rate that a standard risk would be charged under an  
17 individual policy providing substantially the same coverage and ~~deductibles~~  
18 cost-sharing provisions as the coverage offered under this section.

19 **SECTION 65.** 149.15 (1) of the statutes is amended to read:

20 149.15 (1) The plan shall ~~have~~ operate under the direction of a board of  
21 governors consisting of representatives of 2 participating insurers that are nonprofit  
22 corporations, representatives of 2 other participating insurers, 3 4 health care  
23 provider industry representatives, including one representative of the ~~State~~  
24 Wisconsin Medical Society of ~~Wisconsin~~, one representative of the Wisconsin Health  
25 and Hospital Association, one representative of Pharmaceutical Research and

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1 Manufacturers of America, and one representative of an integrated  
2 multidisciplinary health system, and 4 public members, including one  
3 representative of small businesses in the state, appointed by the secretary for  
4 staggered 3-year terms. In addition, the commissioner, or a designated  
5 representative from the office of the commissioner, and the secretary, or a designated  
6 representative from the department, shall be members of the board. The public  
7 members shall not be professionally affiliated with the practice of medicine, a  
8 hospital, or an insurer. At least one of the public members shall be an individual who  
9 has coverage under the plan. ~~The secretary or the secretary's representative shall~~  
10 ~~be~~ board annually shall select the chairperson of the board. Board members, except  
11 the commissioner or the commissioner's representative and the secretary or the  
12 secretary's representative, shall be compensated at the rate of \$50 per diem plus  
13 actual and necessary expenses.

14 **SECTION 66.** 149.15 (3) (b) of the statutes is created to read:

15 149.15 (3) (b) Establish by rule the plan design, including covered benefits and  
16 exclusions. At least every 3 years, the board shall conduct a survey of health care  
17 plans available in the private market and make any adjustments to the plan that the  
18 board determines are advisable on the basis of the survey. Using the procedure under  
19 s. 227.24, the board may promulgate rules under this paragraph for the period before  
20 the effective date of any permanent rules promulgated under this paragraph, but not  
21 to exceed the period authorized under s. 227.24 (1) (c) and (2). Notwithstanding s.  
22 227.24 (1) and (3), the board is not required to make a finding of emergency.

23 **SECTION 67.** 149.15 (3) (c) of the statutes is repealed.

24 **SECTION 68.** 149.15 (3) (e) of the statutes is created to read:



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1           149.15 (3) (e) Select a plan administrator in a competitive,  
2 request-for-proposals process and enter into a contract with the person selected.

3           **SECTION 69.** 149.15 (3) (f) of the statutes is repealed.

4           **SECTION 70.** 149.15 (4) (c) of the statutes is created to read:

5           149.15 (4) (c) Contract with persons to provide professional services to the  
6 board and the plan.

7           **SECTION 71.** 149.15 (4) (d) of the statutes is created to read:

8           149.15 (4) (d) Notwithstanding ss. 625.11 (4) and 628.34 (3) (a) and any  
9 requirements in this chapter related to setting premium rates or amounts, establish  
10 for eligible persons with household incomes that exceed \$100,000 a separate  
11 schedule of premium rates that are higher than the rates set for other eligible  
12 persons. Premium rates established under this paragraph may not exceed 200  
13 percent of the rate that a standard risk would be charged under an individual policy  
14 providing substantially the same coverage and cost-sharing provisions that are  
15 provided under the plan. The board shall use excess premiums collected under a  
16 schedule established under this paragraph to reduce premiums for eligible persons  
17 with low household incomes, as determined by the board. Household income under  
18 this paragraph shall be determined in the same manner as household income is  
19 determined under s. 149.165 (2) and (3).

20           **SECTION 72.** 149.15 (5) of the statutes is repealed.

21           **SECTION 73.** 149.16 of the statutes, as affected by 2003 Wisconsin Act 33, is  
22 repealed.

23           **SECTION 74.** 149.165 (1) of the statutes is amended to read:

24           149.165 (1) Except as provided in s. 149.146 (2) (a), the department board shall  
25 reduce the premiums established ~~under s. 149.11~~ in conformity with ss. 149.14 (5m),

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1 149.143, and 149.17 for the eligible persons and in the manner set forth in subs. (2)  
2 and (3).

3 **SECTION 75.** 149.165 (2) of the statutes is amended to read:

4 149.165 (2) (a) Subject to ~~sub.~~ subs. (3m) and (3r), if the household income, as  
5 defined in s. 71.52 (5) and as determined under sub. (3), of an eligible person with  
6 coverage under s. 149.14 (2) (a) is equal to or greater than the first amount and less  
7 than the 2nd amount listed in any of the following, the ~~department~~ board shall  
8 reduce the premium for the eligible person to the rate shown after the amounts:

9 1. If equal to or greater than \$0 and less than \$10,000, to ~~100%~~ 100 percent of  
10 the rate that a standard risk would be charged under an individual policy providing  
11 substantially the same coverage and ~~deductibles~~ cost-sharing provisions as  
12 provided under s. 149.14 (2) (a) and (5) ~~(a)~~.

13 2. If equal to or greater than \$10,000 and less than \$14,000, to ~~106.5%~~ 106.5  
14 percent of the rate that a standard risk would be charged under an individual policy  
15 providing substantially the same coverage and ~~deductibles~~ cost-sharing provisions  
16 as provided under s. 149.14 (2) (a) and (5) ~~(a)~~.

17 3. If equal to or greater than \$14,000 and less than \$17,000, to ~~115.5%~~ 115.5  
18 percent of the rate that a standard risk would be charged under an individual policy  
19 providing substantially the same coverage and ~~deductibles~~ cost-sharing provisions  
20 as provided under s. 149.14 (2) (a) and (5) ~~(a)~~.

21 4. If equal to or greater than \$17,000 and less than \$20,000, to ~~124.5%~~ 124.5  
22 percent of the rate that a standard risk would be charged under an individual policy  
23 providing substantially the same coverage and ~~deductibles~~ cost-sharing provisions  
24 as provided under s. 149.14 (2) (a) and (5) ~~(a)~~.

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1           5. If equal to or greater than \$20,000 and less than \$25,000, to ~~130%~~ 130  
2 percent of the rate that a standard risk would be charged under an individual policy  
3 providing substantially the same coverage and ~~deductibles~~ cost-sharing provisions  
4 as provided under s. 149.14 (2) (a) and (5) ~~(a)~~.

5           (bc) Subject to ~~sub.~~ subs. (3m) and (3r), if the household income, as defined in  
6 s. 71.52 (5) and as determined under sub. (3), of an eligible person with coverage  
7 under s. 149.14 (2) (b) is equal to or greater than the first amount and less than the  
8 2nd amount listed in par. (a) 1., 2., 3., 4., or 5., the ~~department~~ board shall reduce the  
9 premium established for the eligible person by the same percentage as the  
10 ~~department~~ board reduces, under par. (a), the premium established for an eligible  
11 person with coverage under s. 149.14 (2) (a) who has a household income specified  
12 in the same subdivision under par. (a) as the household income of the eligible person  
13 with coverage under s. 149.14 (2) (b).

14           **SECTION 76.** 149.165 (3) (a) of the statutes is amended to read:

15           149.165 (3) (a) Subject to par. (b), the ~~department~~ board shall establish and  
16 implement the method for determining the household income of an eligible person  
17 under sub. (2).

18           **SECTION 77.** 149.165 (3) (b) (intro.) of the statutes is amended to read:

19           149.165 (3) (b) (intro.) In determining household income under sub. (2), the  
20 ~~department~~ board shall consider information submitted by an eligible person on a  
21 completed federal profit or loss from farming form, schedule F, if all of the following  
22 apply:

23           **SECTION 78.** 149.165 (3r) of the statutes is created to read:

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1           149.165 **(3r)** The board shall use any excess premiums collected under a  
2 schedule established under s. 149.15 (4) (d) to further reduce the premium rates  
3 under sub. (2) (a) 1. to 5. and (bc).

4           **SECTION 79.** 149.17 (4) of the statutes is amended to read:

5           149.17 **(4)** Cost containment provisions established by the ~~department~~ board  
6 by rule, including managed care requirements.

7           **SECTION 80.** 149.175 of the statutes is amended to read:

8           **149.175 Waiver or exemption from provisions prohibited.** Except as  
9 provided in ~~s. ss.~~ ss. 149.13 (1) and 149.132 (1) (b), the department or the board may not  
10 waive, ~~or authorize the board to waive,~~ any of the requirements of this chapter or  
11 exempt, ~~or authorize the board to exempt,~~ an individual or a class of individuals from  
12 any of the requirements of this chapter.

13           **SECTION 81.** 149.20 of the statutes is amended to read:

14           **149.20 Rule-making in consultation with Rules to be approved by**  
15 **board.** In promulgating any Any rules proposed by the department under this  
16 chapter, ~~the department shall consult with~~ may not be promulgated without the  
17 approval of the board.

18           **SECTION 82.** 149.25 (2) (a) of the statutes is amended to read:

19           149.25 **(2)** (a) The department shall conduct a 3-year pilot program, beginning  
20 on July 1, 2002, under which eligible persons who qualify under par. (b) are provided  
21 community-based case management services. The department shall consult with  
22 the board as necessary in conducting the pilot program.

23           **SECTION 83.** 149.25 (4) of the statutes is amended to read:

24           149.25 **(4)** EVALUATION STUDY. The department, in consultation with the board,  
25 shall conduct a study that evaluates the pilot program in terms of health care

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1 outcomes and cost avoidance. In the study, the department shall measure and  
2 compare, for pilot program participants and similarly situated eligible persons not  
3 participating in the pilot program, plan costs and utilization of services, including  
4 inpatient hospital days, rates of hospital readmission within 30 days for the same  
5 diagnosis, and prescription drug utilization. The department shall submit a report  
6 on the results of the study, including the department's conclusions and  
7 recommendations, to the legislature under s. 13.172 (2) and to the governor.

8 **SECTION 84.** 450.10 (2m) of the statutes is created to read:

9 450.10 (2m) If a manufacturer or labeler fails to pay an assessment levied  
10 under s. 149.132 within the time required for payment, the board may assess a  
11 forfeiture of not more than \$1,000 for each day that the payment is past due.

12 **SECTION 85. Nonstatutory provisions.**

13 (1) FEDERAL GRANT FUNDS. Notwithstanding section 149.143 (1) of the statutes,  
14 as affected by this act, any federal grant moneys received by the state under the  
15 Trade Adjustment Assistance Reform Act of 2002 and allocated to the Health  
16 Insurance Risk-Sharing Plan shall be used to pay plan costs before any moneys  
17 specified under section 149.143 (1) (am) and (bm) of the statutes, as affected by this  
18 act, are used. After the federal grant money has been used, plan costs shall be paid  
19 as provided under section 149.143 (1) (am) and (bm) of the statutes, as affected by  
20 this act.

21 (2) SELECTION OF PLAN ADMINISTRATOR. The board of governors of the Health  
22 Insurance Risk-Sharing Plan shall, no later than July 1, 2004, issue a  
23 request-for-proposals under section 149.15 (3) (e) of the statutes, as created by this  
24 act, for administration of the Health Insurance Risk-Sharing Plan.

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1           (3) DRUG MANUFACTURER AND LABELER ASSESSMENTS. Notwithstanding section  
2 149.132 of the statutes, as created by this act, the first assessment under section  
3 149.132 of the statutes, as created by this act, that is payable by prescription drug  
4 manufacturers and labelers shall be calculated on prescription drug claims paid by  
5 the Health Insurance Risk-Sharing Plan from July 1, 2004, to December 31, 2004,  
6 rather than on total prescription drug claims paid in 2004.

**SECTION 86. Initial applicability.**

7           (1) DESIGN. With respect to changes in plan design, including covered expenses  
8 and exclusions, deductibles, copayments, coinsurance, and out-of-pocket limits, the  
9 treatment of sections 149.11, 149.14 (3) (intro.) and (a) to (r), (4), (5) (d) and (e), and  
10 (8), 149.146 (1) (b) and (2) (a), (am) 4. and 5., and (b) (intro.) and 1., 149.15 (3) (b), and  
11 149.17 (4) of the statutes first applies to the plan year beginning on January 1, 2005.

12           (2) ELIGIBILITY. The treatment of section 149.12 (1) (a), (am), (b), and (c) of the  
13 statutes first applies to applications for coverage under the Health Insurance  
14 Risk-Sharing Plan that are received on the effective date of this subsection.

15           (3) DRUG MANUFACTURER AND LABELER ASSESSMENTS. The treatment of sections  
16 25.55 (3), 149.10 (5f) and (5r), 149.132, 149.143 (1) (bm) 1., 1m., 2., and 2m. (intro.),  
17 (2) (a) 3. and 4., (3) (a) (by SECTION 49), and (5) (a) (by SECTION 53), 149.145 (by SECTION  
18 57), and 450.10 (2m) of the statutes first applies to drug manufacturer and labeler  
19 assessments that are payable with respect to claims paid on July 1, 2004.

20           **SECTION 87. Effective dates.** This act takes effect on the day after publication,  
21 except as follows:  
22

23           (1) ELIGIBILITY. The treatment of section 149.12 (1) (a), (am), (b), and (c) of the  
24 statutes and SECTION 86 (2) of this act take effect on the first day of the 4th month  
25 beginning after publication.

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1           (2) DRUG MANUFACTURER AND LABELER ASSESSMENTS. The treatment of sections  
2           25.55 (3), 149.10 (5f) and (5r), 149.132, 149.143 (1) (bm) 1., 1m., 2., and 2m. (intro.),  
3           (2) (a) 3. and 4., (3) (a) (by SECTION 49), and (5) (a) (by SECTION 53), 149.145 (by SECTION  
4           57), and 450.10 (2m) of the statutes takes effect on July 1, 2004.

5

**(END)**