



1997 SENATE BILL 332

October 22, 1997 - Introduced by Senators MOEN, PLACHE, WIRCH, ADELMAN, ROESSLER, CLAUSING, JAUCH, BURKE and DECKER, cosponsored by Representatives ROBSON, HEBL, BAUMGART, HASENOHRL, LA FAVE, J. LEHMAN, R. YOUNG, BALDWIN, SPRINGER, BOCK, PLOUFF, TRAVIS, MEYER, BOYLE and MUSSER. Referred to Committee on Health, Human Services, Aging, Corrections, Veterans and Military Affairs.

1 **AN ACT to repeal** 13.94 (1) (p), 15.07 (1) (b) 21., 15.195 (9), 20.435 (5) (ag), 20.435
2 (5) (gd), 40.03 (2) (km) and 146.925; and **to create** 13.94 (1) (p), 15.07 (1) (b) 21.,
3 15.195 (9), 20.435 (5) (ag), 20.435 (5) (gd), 40.03 (2) (km) and 146.925 of the
4 statutes; **relating to:** requiring the department of health and family services
5 to establish a health care coverage plan for employers in the private sector,
6 creating a private employer health care coverage board and making an
7 appropriation.

Analysis by the Legislative Reference Bureau

This bill requires the department of health and family services (DHFS), with the cooperation of the department of employe trust funds (DETF), to design, establish and administer a health care coverage plan for employers in the private sector. The bill also creates a private employer health care coverage board (PEHCCB) that is responsible for approving the health care coverage plan before DHFS may implement the plan. The membership of the PEHCCB consists of the secretary of employe trust funds, a member who represents health maintenance organizations, a member who represents insurers that provide health care coverage under indemnity policies, a member who represents insurance agents, a member who represents insurers, 2 employes who are eligible to receive health care coverage under the plan and whose employer employs not more than 50 employes, 2 members who represent employers that employ not more than 50 employes and who are eligible to offer health care coverage under the plan, 2 members who are physicians and 2 members who represent the public interest.

The key features of the private employer health care coverage plan are as follows:

1. Any employer in the private sector that employs 2 or more employees is eligible to participate in the plan.
2. Any employer that participates in the plan must offer health care coverage to all of its employees who have a normal work week of 30 or more hours.
3. All insurers that submit bids to offer health care coverage to state employees or to other public employees under plans administered by DETF must submit bids to offer health care coverage under the private employer health care coverage plan.
4. All insurers that submit bids to offer the plan must bid to provide health care coverage to private employers in every county in this state in which the insurer currently provides health care coverage.
5. Any insurer that offers the plan must provide coverage under the plan to any employer that applies for coverage, without regard to the health condition or claims experience of any individual who would have coverage, as long as the employer pays the premium and agrees to comply with plan requirements.
6. The health care coverage plan is subject to all provisions of the state insurance code to the same extent as any other group health benefit plan that is offered in the private sector.
7. The plan may only be sold by licensed insurance agents in this state.
8. DHFS is prohibited from selling any health care coverage under the plan or enrolling any employee under the plan, but DHFS may publicize the availability of the health care coverage plan for employers.
9. DHFS is authorized to contract with any person to provide services relating to the administration of the health care coverage plan.
10. The commission rate at which an insurer must compensate insurance agents for the sale of the plan is set by the PEHCCB.
11. DHFS is required to charge employers who participate in the plan a fee to cover the costs of designing, establishing and administering the plan.
12. The plan is sunset on January 1, 2007.

Under the bill, the PEHCCB is required to report annually to the governor and the legislature on the operation of the plan. In addition, no later than August 1, 2005, the PEHCCB must submit a report to the governor and the legislature that offers recommendations as to whether DHFS should continue to administer the plan, whether a different state agency should administer the plan or whether the plan should be administered by a private nonprofit organization. If the PEHCCB recommends that a different state agency administer the health care coverage plan or that the health care coverage plan be administered by a private nonprofit organization, the PEHCCB shall submit proposed legislation relating to the recommendation at the time the PEHCCB submits its report.

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

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

1 **SECTION 1.** 13.94 (1) (p) of the statutes is created to read:

2 13.94 (1) (p) No later than January 1, 2004, prepare a program evaluation audit
3 of the private employer health care coverage plan established under s. 146.925. The
4 legislative audit bureau shall file a copy of the audit report under this paragraph
5 with the distributees specified in par. (b).

6 **SECTION 2.** 13.94 (1) (p) of the statutes, as created by 1997 Wisconsin Act ...
7 (this act), is repealed.

8 **SECTION 3.** 15.07 (1) (b) 21. of the statutes is created to read:

9 15.07 (1) (b) 21. Private employer health care coverage board.

10 **SECTION 4.** 15.07 (1) (b) 21. of the statutes, as created by 1997 Wisconsin Act
11 (this act), is repealed.

12 **SECTION 5.** 15.195 (9) of the statutes is created to read:

13 15.195 (9) PRIVATE EMPLOYER HEALTH CARE COVERAGE BOARD. (a) There is created
14 in the department of health and family services a private employer health care
15 coverage board consisting of the secretary of employe trust funds or his or her
16 designee and the following members appointed for 3-year terms:

17 1. One member who represents health maintenance organizations.

18 2. One member who represents insurers that provide health care coverage
19 under indemnity policies.

20 3. One member who represents insurance agents, as defined in s. 628.02 (4).

21 4. Two members who are employes eligible to receive health care coverage
22 under s. 146.925 and whose employer employs not more than 50 employes.

23 5. One member who represents insurers.

24 6. Two members who are, or who represent, employers that employ not more
25 than 50 employes and who are eligible to offer health care coverage under s. 146.925.

1 7. Two members who are physicians, as defined in s. 448.01 (5).

2 8. Two members who represent the public interest.

3 (b) The secretary of employe trust funds or his or her designee shall be a
4 nonvoting member.

5 **SECTION 6.** 15.195 (9) of the statutes, as created by 1997 Wisconsin Act (this
6 act), is repealed.

7 **SECTION 7.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
8 the following amounts for the purposes indicated:

1997-98 1998-99

9 **20.435 Health and family services, department**
10 **of**

11 (5) HEALTH SERVICES PLANNING, REGULATION AND
12 DELIVERY; AIDS AND LOCAL ASSISTANCE

13 (ag) Private employer health care

14 coverage plan; start-up costs GPR A -0- -0-

15 **SECTION 8.** 20.435 (5) (ag) of the statutes is created to read:

16 20.435 (5) (ag) *Private employer health care coverage plan; start-up costs.* The
17 amounts in the schedule for the start-up costs for designing, establishing and
18 administering the private employer health care coverage plan under s. 146.925.

19 **SECTION 9.** 20.435 (5) (ag) of the statutes, as created by 1997 Wisconsin Act
20 (this act), is repealed.

21 **SECTION 10.** 20.435 (5) (gd) of the statutes is created to read:

22 20.435 (5) (gd) *Private employer health care coverage plan.* All moneys received
23 under s. 146.925 (2) (d) from employers who elect to participate in the private

1 employer health care coverage plan under s. 146.925, for the costs of designing,
2 establishing and administering the plan.

3 **SECTION 11.** 20.435 (5) (gd) of the statutes, as created by 1997 Wisconsin Act
4 (this act), is repealed.

5 **SECTION 12.** 40.03 (2) (km) of the statutes is created to read:

6 40.03 (2) (km) Shall cooperate with the department of health and family
7 services in designing, establishing and administering the private employer health
8 care coverage plan under s. 146.925.

9 **SECTION 13.** 40.03 (2) (km) of the statutes, as created by 1997 Wisconsin Act
10 (this act), is repealed.

11 **SECTION 14.** 146.925 of the statutes is created to read:

12 **146.925 Private employer health care coverage plan. (1)** In this section:

13 (a) "Board" means the private employer health care coverage board.

14 (b) "Employee" means any person who receives earnings as payment for
15 personal services rendered for the benefit of any employer including officers of the
16 employer. An employee is considered to have separated from the service of an
17 employer at the end of the day on which the employee last performed services for the
18 employer, or, if later, the day on which the employe-employer relationship is
19 terminated because of the expiration or termination of leave without pay, sick leave,
20 vacation or other leave of absence. A person shall not be considered an employe if
21 any of the following applies:

22 1. The person is employed under a contract involving the furnishing of more
23 than personal services.

24 2. The person is customarily engaged in an independently established trade,
25 business or profession providing the same type of services to more than one employer

1 and whose services to an employer are not compensated for on a payroll of that
2 employer.

3 3. The person is a patient or inmate of a hospital, home or institution and
4 performs services in the hospital, home or institution.

5 (c) "Employer" means any person who is doing business or operating an
6 organization in the state and who employs at least 2 employes, but who is not an
7 employer, as defined in s. 40.02 (28).

8 (d) "Health care coverage plan" means the health care coverage plan
9 established under sub. (2) (a).

10 (e) "Insurer" has the meaning given in s. 600.03 (27).

11 **(2)** (a) The department, with the cooperation of the department of employe
12 trust funds, shall design, establish and administer a health care coverage plan for
13 employers that provides coverage beginning on January 1, 2000. In establishing the
14 health care coverage plan, the department of health and family services shall solicit
15 and accept bids and enter into contracts with insurers who are to provide health care
16 coverage under the health care coverage plan. The health care coverage plan is
17 subject to the provisions of chs. 600 to 646 that apply to group health benefit plans,
18 as defined in s. 632.745 (1) (c), to the same extent as any other group health benefit
19 plan, as defined in s. 632.745 (1) (c). Before the health care coverage plan may be
20 implemented, the board must approve the plan.

21 (b) The department shall ensure that at least one full-time employe of the
22 department assists the department of employe trust funds in designing, establishing
23 and administering the health care coverage plan.

1 (c) The health care coverage plan shall have an enrollment period that is
2 identical to that provided to state employees who receive health care coverage under
3 s. 40.51 (6).

4 (d) The department shall charge employers who participate in the health care
5 coverage plan a fee to cover the department's cost in designing, establishing and
6 administering the health care coverage plan. All moneys received under this
7 paragraph shall be credited to the appropriation account under s. 20.435 (5) (gd).

8 (e) The department may not sell any health care coverage plan to an employer
9 or enroll any employe in the health care coverage plan, but the department may
10 publicize the availability of the health care coverage plan for employers.

11 (f) The department may enter into a contract with any person to provide
12 services relating to the administration of the health care coverage plan.

13 **(3)** Any employer who participates in the health care coverage plan shall do all
14 of the following:

15 (a) Provide health care coverage under the plan to all of its employees who have
16 a normal work week of 30 or more hours.

17 (b) Make premium payments for the health care coverage of its employees
18 directly to the insurer providing the health care coverage.

19 **(4)** (a) Any insurer that submits a bid to offer health care coverage under subch.
20 IV of ch. 40 is required to submit a bid to offer the health care coverage plan
21 established under sub. (2).

22 (b) Any insurer that submits a bid to offer the health care coverage plan is
23 required to bid to provide health care coverage in every county in the state in which
24 the insurer is providing health care coverage to any person.

1 (c) Any insurer that offers the health care coverage plan shall provide coverage
2 under the plan to any employer that applies for coverage, and to all of the employer's
3 employes specified in sub. (3) (a), without regard to the health condition or claims
4 experience of any individual who would be covered under the health care coverage
5 plan if all of the following apply:

6 1. The employer agrees to pay the premium required for coverage under the
7 health care coverage plan.

8 2. The employer agrees to comply with all provisions of the health care coverage
9 plan that apply generally to a policyholder or an insured without regard to health
10 condition or claims experience.

11 (5) (a) The health care coverage plan may only be sold by insurance agents
12 licensed under ch. 628.

13 (b) The board shall set, and may adjust as often as semiannually, the
14 commission rate at which an insurer shall compensate an insurance agent for the
15 sale of a policy under the health care coverage plan. The rate shall be based on the
16 average commission rate that insurance agents are paid in the state for the sale of
17 comparable health insurance policies at the time that the rate is set or adjusted.

18 (c) An insurer shall specify on the first page of any policy sold under the health
19 care coverage plan the amount of the commission paid to the insurance agent.

20 (6) (a) Annually, on or before December 31, the board shall submit a report to
21 the appropriate standing committees under s. 13.172 (3) and to the governor on the
22 operation of the health care coverage plan. The report shall specify the number of
23 employers participating in the health care coverage plan, calculate the costs of the
24 health care coverage plan to employers and their employes and include
25 recommendations for improving the health care coverage plan.

1 (b) No later than August 1, 2005, the board shall submit a report to the
2 appropriate standing committees under s. 13.172 (3) and to the governor that offers
3 recommendations as to whether the department should continue to administer the
4 health care coverage plan, whether a different state agency should administer the
5 health care coverage plan or whether the health care coverage plan should be
6 administered by a private nonprofit organization. If the board recommends that a
7 different state agency administer the health care coverage plan or that the health
8 care coverage plan be administered by a private nonprofit organization, the board
9 shall submit proposed legislation to the appropriate standing committees under s.
10 13.172 (3) at the time the board submits its report.

11 **SECTION 15.** 146.925 of the statutes, as created by 1997 Wisconsin Act (this
12 act), is repealed.

13 **SECTION 16. Nonstatutory provisions.**

14 (1) PRIVATE EMPLOYER HEALTH CARE COVERAGE BOARD. Notwithstanding the
15 length of terms specified for the members of the private employer health care
16 coverage board under section 15.195 (9) of the statutes, as created by this act, the
17 initial members shall be appointed for the following terms:

18 (a) The members specified under section 15.195 (9) (a) 1., 3. and 7. of the
19 statutes, as created by this act, for terms expiring on May 1, 2000.

20 (b) The members specified under section 15.195 (9) (a) 2., 5. and 8. of the
21 statutes, as created by this act, for terms expiring on May 1, 2001.

22 (c) The members specified under section 15.195 (9) (a) 4. and 6. of the statutes,
23 as created by this act, for terms expiring on May 1, 2002.

24 (2) POSITION AUTHORIZATIONS FOR THE DEPARTMENT OF HEALTH AND FAMILY
25 SERVICES. The authorized FTE positions for the department of health and family

1 services are increased by 3.5 GPR positions on the effective date of this subsection,
2 to be funded from the appropriation under section 20.435 (5) (ag) of the statutes, as
3 created by this act, for the purpose of designing, establishing and administering the
4 private employer health care coverage plan under section 146.925 of the statutes, as
5 created by this act.

6 **SECTION 17. Effective dates.** This act takes effect on the day after publication,
7 except as follows:

8 (1) The repeal of section 20.435 (5) (ag) of the statutes takes effect on January
9 1, 2000.

10 (2) The repeal of sections 13.94 (1) (p), 15.07 (1) (b) 21., 15.195 (9), 20.435 (5)
11 (gd), 40.03 (2) (km) and 146.925 of the statutes takes effect on January 1, 2007.

12 (END)