

WISCONSIN LEGISLATIVE COUNCIL STAFF



AUG 31 1999

RULES CLEARINGHOUSE

AUG 31 REC'D

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 99-113

AN ORDER to amend HFS 119.07 (6) (b) (intro.) and Medicare Plan tables and (c) 2. (intro.) and tables and 119.15, relating to operation of the health insurance risk-sharing plan (HIRSP).

Submitted by **DEPARTMENT OF HEALTH AND FAMILY SERVICES**

07-15-99 RECEIVED BY LEGISLATIVE COUNCIL.

08-12-99 REPORT SENT TO AGENCY.

RS:GAA:rv

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO

TRANSMITTAL TO LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

PROPOSED RULES OF THE DEPARTMENT OF HEALTH AND FAMILY SERVICE

HFS 119.07 (6) & 119.15 , Wis. Adm. Code

Subject OPERATION OF THE HEALTH INSURANCE RISK-SHARING PLAN (HIRSP)

Statutory Authority Section 149.143 (2) (a) 2., 3. and 4. and (3), Stats.

Analysis: Reason for Rules, Intended Effects, Requirements

This order updates premium rates for HIRSP policies for the Plan year beginning July 1, 1999; sets total insurer assessments under HIRSP for the 6-month period July 1, 1999 through December 31, 1999, and for the 6-month period January 1, 2000 through June 30, 2000; and adjusts the provider payment rate under HIRSP for the 6-month period July 1, 1999 through December 31, 1999, and for the 6-month period January 1, 2000 through June 30, 2000. The Department is required under s. 149.143 (2) (a) 2., 3. and 4., Stats., to set premium rates, set total insurer assessments and adjust the provider payment rate for each Plan year by rule.

Under the authority of s. 149.143 (4), Stats., the Department published the identical rules by emergency order effective July 1, 1999.

Only the Plan 2 premium rates are being raised by this order, both the unsubsidized and subsidized premium rates. The increase is about 18% overall. Plan 2 is supplemental coverage for persons eligible for Medicare. About 17% of the HIRSP policies in effect are Plan 2-type policies. The increase is to cover increased costs for treatment for individuals enrolled under Plan 2.

Forms (Copies attached when available)

N/A

Agency Procedure for Promulgation

Public hearing under ss. 227.16, 227.17 and 227.18, Stats.; approval of rules in final draft form by DHFS Secretary; and legislative standing committee review under s. 227.19, Stats.

Names and Phone Numbers of Agency Contacts

Randy McElhose, Division of Health Care Financing, 267-7127

Date Sent to LC Clearinghouse

July 14, 1999



cc Rev of Stats, DOA

LRB or Bill No./Adm. Rule No.
HFS 119.07(6)&119.15
Amendment No. if Applicable

FISCAL ESTIMATE
DOA-2048 N(R10/96)

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

Subject

HEALTH INSURANCE RISK-SHARING PLAN (HIRSP)

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

- Increase Costs - May be possible to Absorb Within Agency's Budget Yes No
 Decrease Costs

Local: No local government costs

- | | | |
|---|---|--|
| <p>1. <input type="checkbox"/> Increase Costs
 <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</p> <p>2. <input type="checkbox"/> Decrease Costs
 <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</p> | <p>3. <input type="checkbox"/> Increase Revenues
 <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</p> <p>4. <input type="checkbox"/> Decrease Revenues
 <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</p> | <p>5. Types of Local Governmental Units Affected:
<input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities
<input type="checkbox"/> Counties <input type="checkbox"/> Others _____
<input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts</p> |
|---|---|--|

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

This order updates Health Insurance Risk-Sharing Plan (HIRSP) premium rates effective July 1, 1999 for both unsubsidized and subsidized HIRSP policies that provide supplemental health insurance coverage for persons eligible for Medicare, and adjusts total HIRSP insurer assessments and the provider payment rate, first for the 6-month period beginning January 1, 1999, and then for the 6-month period beginning January 1, 2000.

To cover Plan costs, the Department is directed by s. 149.143 (2) (a) 2., 3. and 4., Stats., to set premium rates and total insurer assessments for each Plan year and to adjust the provider payment rate for each Plan year. That is being done through this order for the Plan year beginning July 1, 1999.

The rule changes will not by themselves affect the expenditures or revenues of state government or local governments. They adjust premiums, as expected under the program statute, to help offset program costs and adjust the total insurer assessments and the provider payment rate in accordance with a statute-specified methodology, also to offset program costs.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)

H&FS/Randy McElhose, 267-7127

Authorized Signature/Telephone No.

John Kiesow
John Kiesow, 266-9622

Date

6-16-99



State of Wisconsin
Department of Health and Family Services

Tommy G. Thompson, Governor
Joe Leraan, Secretary

December 29, 1999

The Honorable Judy Robson, Co-Chairperson
Joint Committee for Review of Administrative Rules
Room 15 South, State Capitol
Madison, Wisconsin

Dear Senator Robson:

The Department of Health and Family Services has two emergency rulemaking orders in effect that will expire before the emergency rules are replaced by permanent rules unless the effective periods of the emergency orders are extended. Pursuant to s. 227.24(2), Stats., I ask the Joint Committee to extend the effective periods of the emergency orders by the number of days indicated below. The emergency rules are as follows:

1. **Operation of BadgerCare.** These emergency rules, amendments to HFS 101 to 103 and 108, will expire on January 26, 2000, unless extended. The order creates rules for the operation of the BadgerCare program under s. 49.665, Stats. Under BadgerCare, families with incomes up to 185% of the federal poverty level, but not low enough to be eligible for regular Medical Assistance (MA) coverage of their health care costs, and that lack access to group health insurance, are eligible to have BadgerCare pay for their health care costs. Benefits under BadgerCare are identical to the comprehensive package of benefits provided by MA. The order modifies the Department's MA rules to incorporate rules for the BadgerCare program. The Joint Committee on November 18, 1999 extended the effective period of the emergency rules by 60 days, through January 25, 2000. Replacement permanent rules were sent to the Legislature for review on December 2, 1999, but the Department will not be able to file them until mid-January 2000 for a March 1, 2000 effective date. Therefore I request an extension of the effective period of the emergency rules by 35 days, through February 29, 2000. If the effective period of the emergency rules is not extended, in the interim the Department will not have the authority to operate BadgerCare.

2. **Operation of the Health Insurance Risk-Sharing Plan (HIRSP).** These emergency rules, amendments to HFS 119, will expire on January 26, 2000, unless extended. The order increases premium rates for both unsubsidized and subsidized policies that provide supplemental coverage for persons eligible for Medicare and adjusts total insurer assessments and provider payment rates for the last 6 months of 1999 and again for the first 6 months of 2000. The Department is authorized by s. 149.143 (4), Stats., to promulgate these rule changes by using emergency rulemaking procedures but without having to make a finding of emergency. The Joint Committee on November 18, 1999 extended the effective period of the emergency rules by 60 days, through January 25, 2000. Identical replacement permanent rules were sent to the Legislature for review

Senator Robson
December 29, 1999
Page 2

on November 2, 1999. The Senate Committee on Health, Utilities and Veterans and Military Affairs held a public hearing on them on December 15, 1999, but no action was taken by the committee following the hearing. The Department then filed the rule changes on December 23, 1999 for a March 1, 2000 effective date. Therefore I request an extension of the effective period of the emergency rules by 35 days, through February 29, 2000.

Copies of the two emergency rulemaking orders are attached to this letter. If you have any questions about the emergency rules relating to the operation of HIRSP, you may contact Randy McElhose of the Department's Division of Health Care Financing at 267-7127. If you have any questions about the emergency rules relating to the operation of BadgerCare, you may contact John LaPhillip of the Department's Division of Health Care Financing at 266-6772.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joe Leean", with a long horizontal flourish extending to the right.

Joe Leean
Secretary

Attachments

cc Representative Grothman

ORDER OF THE
DEPARTMENT OF HEALTH AND FAMILY SERVICES
AMENDING RULES

Section 149.143 (4), Stats., permits the Department to promulgate rules required under s. 149.143(2) and (3), Stats. by using emergency rulemaking procedures, except that the Department is specifically exempted from the requirement under s. 227.24(1) and (3), Stats., that it make a finding of emergency. These are the rules. Department staff consulted with the HIRSP Board of Governors on April 30, 1999 on the proposed rules, as required by s. 149.20, Stats.

Analysis Prepared by the Department of Health and Family Services

The State of Wisconsin in 1981 established a Health Insurance Risk-Sharing Plan (HIRSP) for the purpose of making health insurance coverage available to medically uninsured residents of the state. One type of coverage provided by HIRSP is supplemental coverage for persons eligible for Medicare. This coverage is called Plan 2. Medicare (Plan 2) has a \$500 deductible. Approximately 17% of the 7,291 HIRSP policies in effect on March 31, 1999 were of the Plan 2 type.

The Department through this rulemaking order is amending ch. HFS 119 in order to update HIRSP Plan 2 premium rates in accordance with the authority and requirements set out in s. 149.143 (2) (a) 2., Stats. The Department is required to set premium rates by rule. These rates must be calculated in accordance with generally accepted actuarial principles. Policyholders are to pay 60% of the costs of HIRSP.

There are separate sets of tables in ch. HFS 119 that show unsubsidized and subsidized Plan 2 premium rates. Both sets of tables are amended by this order to increase the premium rates because Plan 2 costs, which historically have been running about 50% less than Plan 1 costs, began to increase several years ago and now are running at about 67% of Plan 1 costs. The Plan 2 premium rates need to be increased to cover increased costs of treatment for individuals enrolled under Plan 2. The order increases these premium rates by about 18%.

In January 1999, the Department published an emergency rule order to increase HIRSP unsubsidized Plan 2 premium rates by about 10%, with the intention of increasing those rates again in July 1999 to the level provided for in this order. However, in May 1999 the Legislature's Joint Committee for the Review of Administrative Rules (JCRAR) refused to extend the effective period of that part of the January 1999 emergency rule order relating to premium rate increases, with the result that effective May 31, 1999, the rates reverted back to the rates in effect before January 1, 1999. Consequently, to increase rates effective July 1, 1999, the Department through this rulemaking order has based the increased rates on the rates in effect prior to January 1, 1999.

The Department through this order is also adjusting the total HIRSP insurer assessments and provider payment rates in accordance with the authority and requirements set out in s. 149.143 (2)(a)3. and 4., Stats. With the approval of the HIRSP Board of Governors

and as required by statute, the Department reconciled total costs for the HIRSP program for calendar year 1998. The Board of Governors approved a reconciliation methodology that reconciles the most recent calendar year actual HIRSP program costs, policyholder premiums, insurance assessments and health care provider contributions collected with the statutorily required funding formula. By statute, the adjustments for the calendar year are to be applied to the next plan year budget beginning July 1, 1999.

The result of this reconciliation process for calendar year 1998 indicated that insurance assessments collected were greater than the 20% of costs (net of the GPR contribution from appropriation s. 20.435(5)(af), Stats.), required of insurers. Also, the calendar year 1998 reconciliation process showed that an insufficient amount was collected from health care providers. As a result of this reconciliation, the insurer assessments for the time periods July 1, 1999 through December 31, 1999 and January 1, 2000 through June 30, 2000, are reduced to offset the overpayment in 1998. The total adjustments to the provider payment rates for the same time periods are sharply increased in order to recoup the provider contribution that was not collected in calendar year 1998. The budget for the plan year ending June 30, 2000 and the calendar year 1998 reconciliation process were approved by the HIRSP Board of Governors in April 1999.

ORDER

Pursuant to authority vested in the Department of Health and Family Services by s. 149.143(2)(a) 2., 3. and 4., (3) and (4), Stats., the Department of Health and Family Services hereby amends rules interpreting s. 149.143, Stats., as follows:

SECTION 1. HFS 119.07 (6) (b) (intro.) and Medicare Plan tables are amended to read:

HFS 119.07(6)(b) (intro.) Annual premiums for major medical plan policies with standard deductible. The schedule of annual premiums beginning ~~July 1, 1998~~ July 1, 1999, for persons not entitled to a premium reduction under s. 149.165, Stats., is as follows:

MEDICARE PLAN – Males			
Age Group	Zone 1	Zone 2	Zone 3
0-18	\$888 1,008	\$792 924	\$708 816
19-24	888 1,008	792 924	708 816
25-29	888 1,032	792 936	708 828
30-34	1,020 1,164	912 1,056	816 936
35-39	1,140 1,332	1,020 1,212	912 1,068
40-44	1,380 1,620	1,248 1,440	1,092 1,272
45-49	1,716 2,040	1,536 1,824	1,380 1,632
50-54	2,208 2,700	1,992 2,424	1,764 2,148
55-59	2,892 3,504	2,616 3,156	2,316 2,808
60+	3,552 4,308	3,192 3,876	2,832 3,444

MEDICARE PLAN – Females

Age Group	Zone 1	Zone 2	Zone 3
0-18	\$888,008	\$792,924	\$708,816
19-24	1,224,392	1,116,272	972,116
25-29	1,284,500	1,152,356	1,032,188
30-34	1,404,644	1,272,488	1,128,332
35-39	1,512,788	1,368,620	1,212,428
40-44	1,680,980	1,512,800	1,332,584
45-49	1,944,340	1,752,088	1,560,872
50-54	2,184,688	1,952,400	1,752,148
55-59	2,496,072	2,242,772	1,992,436
60+	2,940,600	2,640,228	2,340,880

SECTION 2. HFS 119.07 (6)(c)2. (intro.) and tables are amended to read:

HFS 119.07(6)(c) *Base rates for calculating premium reductions. 2.* (intro.) The annual base rates for calculating premium reductions under s. HFS 119.12 that are applicable to standard risks under individual policies providing substantially the same coverage and deductibles as the plan's medicare plan are as follows beginning ~~July 1, 1998~~ July 1, 1999:

MEDICARE PLAN – Males
(Base for Reduced Rates)

Age Group	Zone 1	Zone 2	Zone 3
0-18	\$588,672	\$528,612	\$468,540
19-24	588,672	528,612	468,540
25-29	588,684	528,624	468,552
30-34	684,780	612,708	540,624
35-39	756,888	672,804	600,708
40-44	912,068	828,960	732,852
45-49	1,140,356	1,020,212	912,080
50-54	1,464,788	1,320,608	1,176,142
55-59	1,932,340	1,740,100	1,536,182
60+	2,364,868	2,124,580	1,884,292

MEDICARE PLAN – Females
(Base for Reduced Rates)

Age Group	Zone 1	Zone 2	Zone 3
0-18	\$588,672	\$528,612	\$468,540
19-24	816,924	732,840	648,744
25-29	852,996	768,900	684,792
30-34	936,092	840,984	744,876
35-39	1,008,188	900,1,068	804,948
40-44	1,116,320	996,1,188	888,1,056

45-49	<u>1,2841,548</u>	<u>1,1641,392</u>	<u>1,0321,236</u>
50-54	<u>1,4521,788</u>	<u>1,3081,596</u>	<u>1,1641,428</u>
55-59	<u>1,6562,040</u>	<u>1,4881,836</u>	<u>1,3321,632</u>
60+	<u>1,9562,400</u>	<u>1,7642,160</u>	<u>1,5601,920</u>

SECTION 3. HFS 119.15, as amended by emergency order effective January 1, 1999, is amended to read:

HFS 119.15 INSURER ASSESSMENTS AND PROVIDER PAYMENT RATES.

(1) PURPOSE. This section implements s. 149.143 (2) (a) 3. and 4., Stats.

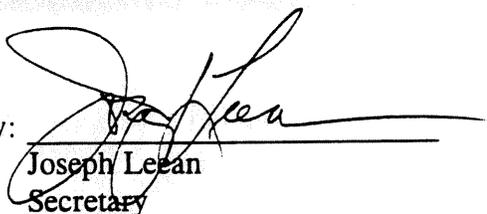
(2) INSURER ASSESSMENTS. The insurer assessments for the time period ~~January 1, 1999~~ July 1, 1999 through ~~June 30, 1999~~ December 31, 1999 total ~~\$4,043,589~~ \$2,975,605. The insurer assessments for the time period January 1, 2000 through June 30, 2000 total \$3,055,065.

(3) PROVIDER PAYMENT RATES. The total adjustment to the provider payment rates for the time period ~~January 1, 1999~~ July 1, 1999 through ~~June 30, 1999~~ December 31, 1999 is ~~\$4,043,589~~ \$ 4,847,134. The total adjustment to the provider payment rates for the time period January 1, 2000 through June 30, 2000 is \$ 4,926,594.

The rules contained in this order shall take effect as emergency rules on July 1, 1999.

Wisconsin Department of Health and
Family Services

Dated: June 16, 1999

By: 
Joseph Lelan
Secretary

SEAL:

LRB or Bill No./Adm. Rule No.
HFS 119.07(6)&119.15
Amendment No. if Applicable

FISCAL ESTIMATE
DOA-2048 N(R10/96)

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

Subject

HEALTH INSURANCE RISK-SHARING PLAN (HIRSP)

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

Decrease Costs

Local: No local government costs

1. Increase Costs
 Permissive Mandatory
2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
 Towns Villages Cities
 Counties Others _____
 School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

This order updates Health Insurance Risk-Sharing Plan (HIRSP) premium rates effective July 1, 1999 for both unsubsidized and subsidized HIRSP policies that provide supplemental health insurance coverage for persons eligible for Medicare, and adjusts total HIRSP insurer assessments and the provider payment rate, first for the 6-month period beginning January 1, 1999, and then for the 6-month period beginning January 1, 2000.

To cover Plan costs, the Department is directed by s. 149.143 (2) (a) 2., 3. and 4., Stats., to set premium rates and total insurer assessments for each Plan year and to adjust the provider payment rate for each Plan year. That is being done through this order for the Plan year beginning July 1, 1999.

The rule changes will not by themselves affect the expenditures or revenues of state government or local governments. They adjust premiums, as expected under the program statute, to help offset program costs and adjust the total insurer assessments and the provider payment rate in accordance with a statute-specified methodology, also to offset program costs.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)

H&FS/Randy McElhose, 267-7127

Authorized Signature/Telephone No.

John Kiesow, 266-9522

Date

6-16-99

NOV 19 1999



OFFICE OF LEGAL COUNSEL

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P.O. BOX 7850
MADISON WI 53707-7850

Tommy G. Thompson
Governor

Joe Leean
Secretary

State of Wisconsin

Department of Health and Family Services

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November 2, 1999

The Honorable Fred Risser, President
Wisconsin State Senate
1 East Main, Suite 402
Madison, WI 53702

The Honorable Scott Jensen, Speaker
Wisconsin State Assembly
1 East Main, Suite 402
Madison, WI 53702

Re: Clearinghouse Rule 99-113
HFS 119.07 (6) (b) (intro.) and Medicare Plan tables and (c) 2. (intro.) and tables and
119.15, relating to operation of the health insurance risk-sharing plan (HIRSP)

Gentlemen:

In accordance with the provisions of s. 227.19(2), Stats., you are hereby notified that the above-mentioned rules are in final draft form. This notice and the report required by s. 227.19(3), Stats., are submitted herewith in triplicate.

The rules were submitted to the Legislative Council for review under s. 227.15, Stats. A copy of the Council's report is also enclosed.

If you have any questions about these rules, please contact Randy McElhose at 267-7127.

Sincerely,


Paul E. Menge
Administrative Rules Manager

cc Gary Poulson, Deputy Revisor of Statutes
Senator Judy Robson, JCRAR
Representative Glenn Grothman, JCRAR
Randy McElhose, Division of Health Care Financing
Kevin Lewis, Secretary's Office

PROPOSED ADMINISTRATIVE RULES - HFS 119
ANALYSIS FOR LEGISLATIVE STANDING COMMITTEES
PURSUANT TO S. 227.19(3), STATS.

Need for Rules

The State of Wisconsin in 1981 established a Health Insurance Risk Sharing Plan (HIRSP) for the purpose of making health insurance coverage available to medically uninsured residents of the state. One type of coverage provided by HIRSP is supplemental coverage for persons eligible for Medicare. This coverage is called Plan 2. Medicare (Plan 2) has a \$500 deductible. On March 31, 1999, 17% of the 7,291 HIRSP policies in effect were of the Plan 2 type.

The Department through this order is amending two sections of the HIRSP program administrative rules:

1. It is updating and increasing HIRSP Plan 2 premium rates by about 18% in accordance with the authority and requirements set out in s. 149.143 (2) (a) 2., Stats. The Department is required to set premium rates by rule and the rates must be determined in accordance with generally accepted actuarial principles.
2. It is also adjusting the total HIRSP insurer assessments and provider payment rates in accordance with the authority and requirements set out in s. 149.143 (2)(a) 3. and 4., Stats.

Identical emergency rules have been in effect since July 1, 1999.

Responses to Clearinghouse Recommendations

The Legislative Council's Rules Clearinghouse had no comments regarding the proposed rules.

Public Hearing

The Department held a public hearing in Madison on September 9, 1999, to receive comments from the public on the proposed rules. Two persons testified on the proposed rules at the hearing and also provided written testimony regarding the proposed rules:

Kathy Soderbloom, Chief of Staff for State Senator Judy Robson	Opposed premium rate increases for Plan 2, pending an actuarial study. (See below)
Robert Wood, Vice-President Wisconsin Physicians Service Madison, WI	Supported premium rate increases for Plan 2. Provided information on the basis for Plan 2 premium rate increases. Expressed concern about the timeliness of HIRSP fiscal reports and documentation of budget reconciliation. (See below)

1. Comment on HIRSP Plan 2 Premium Rate Increases. Kathy Soderbloom, Chief of Staff for Senator Judy Robson, testified on behalf of Senator Robson in opposition to any increase in HIRSP Plan 2 premiums until an actuarial study is completed that conforms to the requirements of s. 149.143 (2) (a) 2., Stats., under which the Department is directed to set premiums at 150% of the rate that a standard risk would be charged under an individual policy providing substantially the same coverage and deductibles as under the Plan. Instead, the Department has set the proposed Plan 2 rates at 67% of Plan 1 rates. So in setting rates for Plan 2 policyholders the Department has not complied with statutory requirements.

Ms. Soderbloom noted that Senator Robson a few months ago asked Secretary Leean for a copy of the actuarial study that was used to determine the Plan 2 rates and an explanation of how those rates conform to state law. In response, Secretary Leean gave Senator Robson a copy of the July 1998 HIRSP actuarial analysis which stated that "since Plan 2 does not have a counterpart in the standard risk private market, application of the statute has never been clear in its ... directive to establish rates as a direct function of standard risk premium rates." Senator Robson then asked for a comparison of the benefits offered by Medicare Supplement Insurance Policies in Wisconsin and HIRSP but has not yet received the report on the comparison that Secretary Leean requested from the actuary.

Senator Robson's position is that the HIRSP Plan 2 premium rates should not be revised until the actuarial study determines whether Plan 2 has a counterpart in the standard risk private market. To do otherwise would violate the clear statutory requirements for establishing HIRSP rates.

Department Response: The HIRSP Board of Governors in April 1999 recommended approval of the HIRSP Plan 2 premium rate increases included in this rulemaking order and the rate increases were published by emergency order effective July 1, 1999, for the plan year beginning that date. Plan 2 policyholders have paid their annual, quarterly or monthly premiums at these rates since then.

HIRSP Plan 2 was established when HIRSP was administered by the Office of Commissioner of Insurance (OCI) and at a time when Medicare supplement coverage was not available in the marketplace for individuals under age 65. Based on the advice of actuaries and consistent with statutory requirements, the HIRSP Board of Governors and OCI used the same methodology that the Department is using now to establish HIRSP Plan 2 premium rates. Until early 1999, the HIRSP Board of Governors recommended approval of budgets which provided that individuals enrolled in HIRSP Plan 2 were charged premiums that were about 50% of the premiums charged to individuals in HIRSP Plan 1 (Major Medical). This was due to the absence of a comparable "marketplace yardstick" for Plan 2 premium rates.

In recent years costs under HIRSP Plan 2 have increased relative to costs under HIRSP Plan 1. Plan 2 costs for medical services account for about 67% of the medical service claims costs of HIRSP Plan 1. The premium rates in the proposed permanent rules

reflect actual Plan 2 costs. The actuaries, the HIRSP Board of Governors and the Department are agreed on the methodology employed in arriving at the increase in premium rates.

To summarize, the Plan 2 premium rates included in this rulemaking order are based on actual Plan 2 costs, after adjustments are made for insurer assessments and provider payment rates. The methodology used to develop these premium rates is of longstanding practice in the administration of HIRSP, consistent with statutory requirements, which must be supposed to have implied "to the extent possible" when specifying that the Department is to establish premium rates by reference to a counterpart in the standard risk private market, and responsive to current costs.

Ms. Soderbloom focuses on an issue that warrants further attention regarding HIRSP Plan 2 rates. The private insurance marketplace has changed and some Medicare Supplement coverage products for individuals under age 65 are now available. It is currently unknown whether these products are similar to HIRSP Plan 2 and, if so, to what extent it justifies further revision of Plan 2 rates. The Department requested the HIRSP actuary to estimate the cost and time involved to complete a report regarding Medicare Supplement insurance policies and HIRSP Plan 2, but a response had not been received by the time of the September 9, 1999, public hearing on the proposed HIRSP rules.

In late September, the Department received a response from the HIRSP actuary regarding the time and resources needed to complete such a report. Thereupon the Department asked for the report. It is to be ready in November 1999. The Department will review the report with the HIRSP Board of Governors.

2. Comment on HIRSP Plan 2 Premium Rate Increases. Robert Wood, a member of the HIRSP Board of Governors, testified in support of the premium rates included in the proposed rulemaking order to be charged to individuals enrolled in HIRSP Plan 2 (Medicare Supplement). The basis for his support is that the increased rates for all individuals in Plan 2 (including those eligible for and receiving subsidies) bring HIRSP Plan 2 premium rates into better balance with actual Plan 2 costs under HIRSP. The new rates for HIRSP Plan 2 (Medicare Supplement), were discussed and approved by the HIRSP Board of Governors.

Mr. Wood, who has been a member of the HIRSP Board of Governors since December 1987, pointed out in his testimony that HIRSP Plan 2 was created at a time when a Medicare Supplement coverage was not available in the marketplace for individuals under age 65. It was only available for individuals age 65 or older. Thus at the time and for a number of years thereafter, it was indeed true that there were no products in the marketplace that were comparable to HIRSP Plan 2 that could be used to generate rates for Plan 2 and, for this reason, the actuaries recommended that Plan 2 rates be set as a function of Plan 1 rates. So they were set as a function of the standard risk rate, and the standard risk rate was set as a function of the marketplace.

Department Response: Support is acknowledged.

3. Comment on Assessments on Insurers and Adjustments to Providers. Mr. Robert Wood testified that the assessments and adjustments “were recommended by the Department at the April 30, 1999, meeting of the HIRSP Board and were concurred in by the HIRSP Board of Governors.” He also provided written testimony on the process used to determine assessments and adjustments. He provided verbal testimony that he, individually, was “neither supporting nor opposing” the assessments on insurers and adjustments to providers. While the assessments and adjustments contained in the proposed rules are not unreasonable, he said, their development would have benefited from the Department providing more data and better information to the Board of Governors in a more timely fashion.

Response: Acknowledged. See also the Department’s response to Comment #4.

4. Comment on Problems Regarding Timely Reporting, Documentation and Budget Reconciliation. Robert Wood testified that there are significant deficiencies in the administration of HIRSP. He asserts a “lack of timely reporting on HIRSP operations and performance against budget.” He asserts problems regarding unavailable, incomplete or inadequately documented data, reports and information. He asserts HIRSP budget reconciliation was “not properly documented.” Finally, he asserts it is “simply not possible for anybody to provide informed testimony on matters relating to HIRSP funding and performance if monthly reports are not produced and made available to the HIRSP Board.”

Response: HIRSP was transferred to this Department from the Office of the Commissioner of Insurance on January 1, 1998. Electronic Data Systems (EDS), the state’s current Medicaid fiscal agent, became the plan administrator for HIRSP on July 1, 1998. The Legislative Fiscal Bureau’s January 1999 HIRSP informational paper noted “in 1998-99, DHFS (was) budgeted 1.5 segregated (SEG) positions and \$94,600 SEG to oversee all HIRSP operations and policy, as well as provide administrative support to the Board and to serve as liaison between the agency and the administering carrier.”

HIRSP is a complex and dynamic program. The combination of the recent HIRSP transfer, limited resources and significant increased complexity in HIRSP statutes as a result of 1997 Wisconsin Act 27 generated many HIRSP implementation issues. The Department has already taken many corrective actions to improve HIRSP administration consistent with Mr. Wood’s concerns. Given resource and time constraints, the Department’s initial focus was on enrollee concerns, efficient processing of medical service claims and stabilization of HIRSP’s budget and enrollment. These priority initiatives are now largely complete. HIRSP Customer Service has improved significantly. We are currently answering 95% of all inquiries received by telephone immediately, compared with 65% in January 1999. We are responding to written correspondence within 10 days of receipt. Most claims are keyed into the system the same week they are received. Claims processing has improved from 29 days average processing time in January 1999 to an average of 8 days in July 1999. The Department has requested additional changes in HIRSP statutes to be made through the 1999-2001 Biennial Budget, to be implemented in the near future.

The Department has stated on several occasions, and in several forums, its intention to pursue improvements in HIRSP. Improvements will be consistent with HIRSP's program mission, statutory requirements, Board of Governors concerns, enrollee concerns and in accord with HIRSP priorities, resources and time constraints. However, administrative rule changes are not the ordinary means of addressing identified HIRSP information and documentation issues. The Department is proceeding to quickly make continued improvements in HIRSP administration without regard to the administrative rule promulgation process, which is the principal means provided by statute to ensure the financial solvency of HIRSP.

Final Regulatory Flexibility Analysis

The rule changes will not affect small businesses as "small business" is defined in s. 227.114(1)(a), Stats. Although the program statutes and rules provide for assessment of insurers to help finance the Health Insurance Risk—Sharing Plan (HIRSP), no assessed insurer is a small business as defined in s. 227.114(1)(a), Stats. Moreover, s. 149.143, Stats., prescribes how the amount of an insurer's assessment to help finance HIRSP is to be determined.

PROPOSED ORDER OF THE
DEPARTMENT OF HEALTH AND FAMILY SERVICES
AMENDING RULES

To amend HFS 119.07 (6) (b) (intro.) and Medicare Plan tables and (c) 2. (intro.) and tables and 119.15, relating to operation of the health insurance risk-sharing plan (HIRSP).

Analysis Prepared by the Department of Health and Family Services

The State of Wisconsin in 1981 established a Health Insurance Risk-Sharing Plan (HIRSP) for the purpose of making health insurance coverage available to medically uninsured residents of the state. One type of coverage provided by HIRSP is supplemental coverage for persons eligible for Medicare. This coverage is called Plan 2. Medicare (Plan 2) has a \$500 deductible. Approximately 17% of the 7,291 HIRSP policies in effect on March 31, 1999 were of the Plan 2 type.

The Department through this rulemaking order is amending ch. HFS 119 in order to update HIRSP Plan 2 premium rates in accordance with the authority and requirements set out in s. 149.143 (2) (a) 2., Stats. The Department is required to set premium rates by rule. These rates must be calculated in accordance with generally accepted actuarial principles. Policyholders are to pay 60% of the costs of HIRSP.

There are separate sets of tables in ch. HFS 119 that show unsubsidized and subsidized Plan 2 premium rates. Both sets of tables are amended by this order to increase the premium rates because Plan 2 costs, which historically have been running about 50% less than Plan 1 costs, began to increase several years ago and now are running at about 67% of Plan 1 costs. The Plan 2 premium rates need to be increased to cover increased costs of treatment for individuals enrolled under Plan 2. The order increases these premium rates by about 18%.

The Department through this order is also adjusting the total HIRSP insurer assessments and provider payment rates in accordance with the authority and requirements set out in s. 149.143 (2)(a)3. and 4., Stats. With the approval of the HIRSP Board of Governors and as required by statute, the Department reconciled total costs for the HIRSP program for calendar year 1998. The Board of Governors approved a reconciliation methodology that reconciles the most recent calendar year actual HIRSP program costs, policyholder premiums, insurance assessments and health care provider contributions collected with the statutorily required funding formula. By statute, the adjustments for the calendar year are to be applied to the next plan year budget beginning July 1, 1999.

The result of the reconciliation process for calendar year 1998 indicated that insurance assessments collected were greater than the 20% of costs (net of the GPR contribution from appropriation s. 20.435(5)(af), Stats.) required of insurers. Also, the

calendar year 1998 reconciliation process showed that an insufficient amount was collected from health care providers. As a result of this reconciliation, the insurer assessments for the time periods July 1, 1999 through December 31, 1999 and January 1, 2000 through June 30, 2000, are reduced to offset the overpayment in 1998. The total adjustments to the provider payment rates for the same time periods are sharply increased in order to recoup the provider contribution that was not collected in calendar year 1998.

The HIRSP budget for the plan year ending June 30, 2000, and the calendar year 1998 reconciliation process were approved by the HIRSP Board of Governors in April 1999. Department staff at the same time consulted with the HIRSP Board of Governors on the proposed rules as required by s. 149.20, States.

The Department's authority to amend these rules is found in s. 149.143 (2) (a) 2., 3. and 4. and (3), Stats. The rules interpret s. 149.143, Stats.

SECTION 1. HFS 119.07 (6) (b) (intro.) and Medicare Plan tables are amended to read:

HFS 119.07(6)(b) *Annual premiums for major medical plan policies with standard deductible.* (intro.) The schedule of annual premiums beginning ~~July 1, 1998~~ July 1, 1999, for persons not entitled to a premium reduction under s. 149.165, Stats., is as follows:

MEDICARE PLAN – Males

Age Group	Zone 1	Zone 2	Zone 3
0-18	<u>\$8881,008</u>	<u>\$792924</u>	<u>\$708816</u>
19-24	<u>8881,008</u>	<u>792924</u>	<u>708816</u>
25-29	<u>8881,032</u>	<u>792936</u>	<u>708828</u>
30-34	<u>1,0201,164</u>	<u>9121,056</u>	<u>816936</u>
35-39	<u>1,1401,332</u>	<u>1,0201,212</u>	<u>9121,068</u>
40-44	<u>1,3801,620</u>	<u>1,2481,440</u>	<u>1,0921,272</u>
45-49	<u>1,7162,040</u>	<u>1,5361,824</u>	<u>1,3801,632</u>
50-54	<u>2,2082,700</u>	<u>1,9922,424</u>	<u>1,7642,148</u>
55-59	<u>2,8923,504</u>	<u>2,6163,156</u>	<u>2,3162,808</u>
60+	<u>3,5524,308</u>	<u>3,1923,876</u>	<u>2,8323,444</u>

MEDICARE PLAN – Females

Age Group	Zone 1	Zone 2	Zone 3
0-18	<u>\$8881,008</u>	<u>\$792924</u>	<u>\$708816</u>
19-24	<u>1,2241,392</u>	<u>1,1161,272</u>	<u>9721,116</u>
25-29	<u>1,2841,500</u>	<u>1,1521,356</u>	<u>1,0321,188</u>

30-34	<u>1,4041,644</u>	<u>1,2721,488</u>	<u>1,1281,332</u>
35-39	<u>1,5121,788</u>	<u>1,3681,620</u>	<u>1,2121,428</u>
40-44	<u>1,6801,980</u>	<u>1,5121,800</u>	<u>1,3321,584</u>
45-49	<u>1,9442,340</u>	<u>1,7522,088</u>	<u>1,5601,872</u>
50-54	<u>2,1842,688</u>	<u>1,9562,400</u>	<u>1,7522,148</u>
55-59	<u>2,4963,072</u>	<u>2,2442,772</u>	<u>1,9922,436</u>
60+	<u>2,9403,600</u>	<u>2,6403,228</u>	<u>2,3402,880</u>

SECTION 2. HFS 119.07 (6)(c)2. (intro.) and tables are amended to read:

HFS 119.07(6)(c) *Base rates for calculating premium reductions.* 2. (intro.)
 The annual base rates for calculating premium reductions under s. HFS 119.12 that are applicable to standard risks under individual policies providing substantially the same coverage and deductibles as the plan's medicare plan are as follows beginning ~~July 1, 1998~~ July 1, 1999:

MEDICARE PLAN – Males
 (Base for Reduced Rates)

Age Group	Zone 1	Zone 2	Zone 3
0-18	<u>\$588672</u>	<u>\$528612</u>	<u>\$468540</u>
19-24	<u>588672</u>	<u>528612</u>	<u>468540</u>
25-29	<u>588684</u>	<u>528624</u>	<u>468552</u>
30-34	<u>684780</u>	<u>612708</u>	<u>540624</u>
35-39	<u>756888</u>	<u>672804</u>	<u>600708</u>
40-44	<u>9121,068</u>	<u>828960</u>	<u>732852</u>
45-49	<u>1,1401,356</u>	<u>1,0201,212</u>	<u>9121,080</u>
50-54	<u>1,4641,788</u>	<u>1,3201,608</u>	<u>1,1761,428</u>
55-59	<u>1,9322,340</u>	<u>1,7402,100</u>	<u>1,5361,872</u>
60+	<u>2,3642,868</u>	<u>2,1242,580</u>	<u>1,8842,292</u>

MEDICARE PLAN – Females
 (Base for Reduced Rates)

Age Group	Zone 1	Zone 2	Zone 3
0-18	<u>\$588672</u>	<u>\$528612</u>	<u>\$468540</u>
19-24	<u>816924</u>	<u>732840</u>	<u>648744</u>
25-29	<u>852996</u>	<u>768900</u>	<u>684792</u>
30-34	<u>9361,092</u>	<u>840984</u>	<u>744876</u>
35-39	<u>1,0081,188</u>	<u>9001,068</u>	<u>804948</u>
40-44	<u>1,1161,320</u>	<u>9961,188</u>	<u>8881,056</u>
45-49	<u>1,2841,548</u>	<u>1,1641,392</u>	<u>1,0321,236</u>
50-54	<u>1,4521,788</u>	<u>1,3081,596</u>	<u>1,1641,428</u>
55-59	<u>1,6562,040</u>	<u>1,4881,836</u>	<u>1,3321,632</u>
60+	<u>1,9562,400</u>	<u>1,7642,160</u>	<u>1,5601,920</u>

SECTION 3. HFS 119.15, as amended by emergency order effective January 1, 1999, and permanent order effective September 1, 1999, is amended to read:

HFS 119.15 Insurer assessments and provider payment rates. (1)

PURPOSE. This section implements s. 149.143 (2) (a) 3. and 4., Stats.

(2) INSURER ASSESSMENTS. The insurer assessments for the time period ~~January 1, 1999~~ July 1, 1999 through ~~June 30, 1999~~ December 31, 1999 total ~~\$4,043,589~~ \$2,975,605. The insurer assessments for the time period January 1, 2000 through June 30, 2000 total \$3,055,065.

(3) PROVIDER PAYMENT RATES. The total adjustment to the provider payment rates for the time period ~~January 1, 1999~~ July 1, 1999 through ~~June 30, 1999~~ December 31, 1999 is ~~\$4,043,589~~ \$ 4,847,134. The total adjustment to the provider payment rates for the time period January 1, 2000 through June 30, 2000 is \$4,926,594.

The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, as provided in s. 227.22 (2), Stats.

Wisconsin Department of Health and
Family Services

Dated:

By: _____
Joseph Leean
Secretary

SEAL: