



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-2476/P3

PJK:kmg:rs

rm run to P3

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

(stay at
P3)

Monday
D-note

regenerate ✓

1 AN ACT *to repeal* 149.10 (8b), 149.14 (3) (a) to (r), 149.14 (4), 149.14 (4c), 149.14
2 (8), 149.15 (3) (c), 149.15 (3) (f), 149.15 (5) and 149.16; *to renumber and*
3 *amend* 149.14 (3) (intro.); *to amend* 25.55 (3), 149.10 (3), 149.11, 149.12 (3) (c),
4 149.13 (1), 149.13 (3), 149.13 (4), 149.14 (5) (d), 149.14 (5) (e), 149.14 (5m) (c),
5 149.14 (7) (b) and (c), 149.142 (1), 149.143 (1) (intro.), 149.143 (1) (b) 1. d.,
6 149.143 (1) (b) 2. a., 149.143 (1) (b) 2. b., 149.143 (2) (a) (intro.), 149.143 (2) (a)
7 2., 149.143 (2) (a) 4., 149.143 (2) (b), 149.143 (2m) (a) (intro.), 149.143 (2m) (b)
8 2., 149.143 (2m) (b) 3., 149.143 (3) (a), 149.143 (3) (b), 149.143 (3m), 149.143 (4),
9 149.143 (5), 149.144, 149.145, 149.146 (1) (b), 149.146 (2) (a), 149.146 (2) (am)
10 4., 149.146 (2) (am) 5., 149.146 (2) (b) (intro.), 149.146 (2) (b) 1., 149.15 (1),
11 149.165 (1), 149.165 (2), 149.165 (3) (a), 149.165 (3) (b) (intro.), 149.17 (4),
12 149.175, 149.20, 149.25 (2) (a), 149.25 (2) (c) 1., 149.25 (2) (c) 2., 149.25 (3) (a)
13 (intro.) and 149.25 (4); *to repeal and recreate* 149.13 (2); and *to create* 149.10
14 (2p), 149.10 (2r), 149.132, 149.143 (1) (b) 2. am., 149.143 (2) (a) 3m., 149.15 (3)
15 (b), 149.15 (3) (e), 149.15 (3) (em), 149.15 (4) (c) and 450.10 (2m) of the statutes;

1 relating to: making various miscellaneous changes to the Health Insurance
2 Risk-Sharing Plan and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This draft will be converted to an amendment to the budget.

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

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

4 25.55 (3) Insurer and drug manufacturer and distributor assessments under
5 ch. 149.

6 SECTION 2. 149.10 (2p) of the statutes is created to read:

7 149.10 (2p) "Drug distributor" means a person licensed by the pharmacy
8 examining board under s. 450.07 (2).

9 SECTION 3. 149.10 (2r) of the statutes is created to read:

10 149.10 (2r) "Drug manufacturer" means a person licensed by the pharmacy
11 examining board under s. 450.07 (1).

12 SECTION 4. 149.10 (3) of the statutes is amended to read:

13 149.10 (3) "Eligible person" means a resident of ~~this state~~ who qualifies under
14 s. 149.12 whether or not the person is legally responsible for the payment of medical
15 expenses incurred on the person's behalf.

16 SECTION 5. 149.10 (8b) of the statutes is repealed.

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

18 149.11 **Operation of plan.** The department board shall promulgate rules for
19 the design and operation of a plan of health insurance coverage for ~~an~~ eligible person

20 which ~~that~~ satisfies the requirements of this chapter.

Insert 2-20

persons

1 SECTION 7. 149.12 (3) (c) of the statutes is amended to read:

2 149.12 (3) (c) The ~~department~~ board may promulgate rules specifying other
3 deductible or coinsurance amounts that, if paid or reimbursed for persons, will not
4 make the persons ineligible for coverage under the plan.

5 SECTION 8. 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)~~ ⁽³⁾ 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 9. 149.13 (2) of the statutes is repealed and recreated to read:

12 149.13 (2) Each insurer's share of the operating, administrative, and subsidy
13 expenses of the plan shall be determined by the commissioner in the following
14 manner:

15 (a) First, the commissioner shall divide all insurers into 2 groups, depending
16 on whether an insurer is a stop-loss carrier.

17 (b) Next, the commissioner shall determine the number of residents covered
18 during the preceding calendar year by the group of insurers that are not stop-loss
19 carriers and the number of residents covered during the preceding calendar year by
20 the group of insurers that are stop-loss carriers. The commissioner shall then
21 apportion to each group of insurers the proportion of the total assessments estimated
22 by the board under s. 149.143 (2) (a) 3. that the number of residents covered by the
23 group bears to the total number of residents covered by both groups combined.

24 (c) Next, the commissioner shall determine the health care coverage revenue
25 of each insurer for residents during the preceding calendar year and the aggregate

1 health care coverage revenue of each insurer group determined under par. (a) for
 2 residents during the preceding calendar year. Except as provided in sub. (1), each
 3 insurer shall share in the total estimated assessments apportioned under par. (b) to
 4 the insurer's group in the proportion that the insurer's total health care coverage
 5 revenue for residents during the preceding calendar year bears to the aggregate
 6 health care coverage revenue of all insurers in the insurer's group for residents
 7 during the preceding calendar year, as determined by the commissioner.

8 SECTION 10. 149.13 (3) of the statutes is amended to read:

9 149.13 (3) (a) Each insurer's proportion of participation under sub. (2) shall be
 10 determined annually by the commissioner based on annual statements and other
 11 reports filed by the insurer with the commissioner. The commissioner shall assess
 12 an insurer for the insurer's proportion of participation ^{plain} based on the total
 13 ^{plain} assessments estimated by the department under s. 149.143 (2) (a) 3.

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

21 SECTION 11. 149.13 (4) of the statutes is amended to read:

22 149.13 (4) Notwithstanding subs. (1) to (3), the department ^{plain} ~~(with the)~~ with the
 23 agreement of the commissioner ^{plain} may perform various administrative functions
 24 related to the assessment of insurers participating in the cost of administering the
 25 plan.

Insert 4-7

Insert 4-10

1 **SECTION 12.** 149.132 of the statutes is created to read:

2 **149.132 Participation of drug manufacturers and distributors.** (1) For
3 the privilege of doing business in the state, every drug manufacturer and drug
4 distributor shall share in the operating, administrative, and subsidy expenses of the
5 plan in the manner provided in ss. 149.143 and 149.144, except that the board may
6 by rule exempt as a class those drug manufacturers and drug distributors whose
7 share as determined under sub. (2) would be so minimal as not to exceed the
8 estimated cost of levying the assessment.

9 (2) The board shall determine the methodology for assessing drug
10 manufacturers and drug distributors, including each drug manufacturer's or
11 distributor's proportion of participation in the costs of the plan. Assessments shall
12 be determined annually and shall be based on a drug manufacturer's or distributor's
13 gross revenues derived from business done in the state in the preceding calendar
14 year. In determining the assessments under this section, the board shall consider
15 a drug manufacturer's or distributor's gross revenues in the preceding calendar year
16 from prescription drugs provided to residents receiving medical assistance, as
17 determined by the department. *insert 5-17* ✓

18 (3) The department shall advise the pharmacy examining board of the
19 assessment amounts that must be levied. The pharmacy examining board shall levy
20 and collect the assessments and forward the amounts collected to the department for
21 deposit in the health insurance risk-sharing plan fund.

22 **SECTION 13.** 149.14 (3) (intro.) of the statutes is renumbered 149.14 (3) and
23 amended to read:

24 149.14 (3) **COVERED EXPENSES.** Except as ~~provided in sub. (4), except as~~
25 restricted by cost containment provisions under s. 149.17 (4) and except as reduced

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

12 **SECTION 14.** 149.14 (3) (a) to (r) of the statutes are repealed.

13 **SECTION 15.** 149.14 (4) of the statutes is repealed.

14 **SECTION 16.** 149.14 (4c) of the statutes is repealed.

15 **SECTION 17.** 149.14 (5) (d) of the statutes is amended to read:

16 149.14 (5) (d) Notwithstanding pars. (a) to (c), the department board may
 17 establish different deductible amounts, a different coinsurance percentage, and
 18 different covered costs and deductible aggregate amounts from those specified in
 19 pars. (a) to (c) in accordance with cost containment provisions established by the
 20 department board under s. 149.17 (4).

21 **SECTION 18.** 149.14 (5) (e) of the statutes is amended to read:

22 ^{plan} 149.14 (5) (e) Subject to sub. (8) (b), the ~~department~~ ~~board~~ board may, by rule
 23 under s. 149.17 (4), establish for prescription drug coverage under ~~sub. (3) (d) this~~
 24 section copayment amounts, coinsurance rates, and copayment and coinsurance
 25 out-of-pocket limits over which the plan will pay 100% of covered costs ~~under sub.~~

1 ~~(3) (d). Any copayment amount, coinsurance rate, or out of pocket limit established~~
2 ~~under this paragraph is subject to the approval of the board for prescription drugs.~~
3 Copayments and coinsurance paid by an eligible person under this paragraph are
4 separate from and do not count toward the deductible and covered costs not paid by
5 the plan under pars. (a) to (c).

6 SECTION 19. 149.14 (5m) (c) of the statutes is amended to read:

7 149.14 (5m) (c) Other economic factors that the ~~department and the board~~
8 ~~consider~~ considers relevant.

9 SECTION 20. 149.14 (7) (b) and (c) of the statutes are amended to read:

10 149.14 (7) (b) The ~~department board~~ board has a cause of action against an eligible
11 ~~participant person~~ person for the recovery of the amount of benefits paid ~~which that~~ that are not
12 for covered expenses under the plan. Benefits under the plan may be reduced or
13 refused as a setoff against any amount recoverable under this paragraph.

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

Insert 7-18

18 ~~SECTION 21. 149.14 (8) of the statutes is repealed.~~

19 SECTION 22. 149.142 (1) of the statutes is amended to read:

20 149.142 (1) (a) Except as provided in par. (b), the ~~department board~~
21 ~~consultation with the department~~ shall establish payment rates for covered
22 expenses that consist of the allowable charges paid under s. 49.46 (2) for the services
23 and articles provided plus an enhancement determined by the ~~department~~ board.
24 The rates shall be based on the allowable charges paid under s. 49.46 (2), projected
25 plan costs, and trend factors. Using the same methodology that applies to ~~medical~~

1 assistance Medical Assistance under subch. IV of ch. 49, the ~~department~~ board shall
2 establish hospital outpatient per visit reimbursement rates and hospital inpatient
3 reimbursement rates that are specific to diagnostically related groups of eligible
4 persons. *Insert 8-4*

5 (b) The payment rate for a prescription drug shall be the allowable charge paid
6 under s. 49.46 (2) (b) 6. h. for the prescription drug. Notwithstanding s. 149.17 (4),
7 the ~~department~~ board may not reduce the payment rate for prescription drugs below
8 the rate specified in this paragraph, and the rate may not be adjusted under s.
9 149.143 or 149.144.

10 **SECTION 23.** 149.143 (1) (intro.) of the statutes is amended to read:

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

18 **SECTION 24.** 149.143 (1) (b) 1. d. of the statutes is amended to read:

19 149.143 (1) (b) 1. d. Fourth, notwithstanding subd. 2., by increasing insurer
20 assessments, excluding assessments under s. 149.144, increasing drug
21 manufacturer and drug distributor assessments, excluding assessments under s.
22 149.144, and adjusting provider payment rates, subject to s. 149.142 (1) (b) and
23 excluding adjustments to those rates under s. 149.144, in equal proportions and to
24 the extent that the amounts under subd. 1. a. to c. are insufficient to pay 60% of plan
25 costs.

Insert 8-17

1 SECTION 25. 149.143 (1) (b) 2. a. of the statutes is amended to read:

2 149.143 (1) (b) 2. a. ~~Fifty percent~~ One-third from insurer assessments,
3 excluding assessments under s. 149.144.

4 SECTION 26. 149.143 (1) (b) 2. am. of the statutes is created to read:

5 149.143 (1) (b) 2. am. One-third from drug manufacturer and drug distributor
6 assessments, excluding assessments under s. 149.144.

7 SECTION 27. 149.143 (1) (b) 2. b. of the statutes is amended to read:

8 149.143 (1) (b) 2. b. ~~Fifty percent~~ One-third from adjustments to provider
9 payment rates, subject to s. 149.142 (1) (b) and excluding adjustments to those rates
10 under s. 149.144.

11 SECTION 28. 149.143 (2) (a) (intro.) of the statutes 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 and the deductible reductions under s. 149.14
15 (5) (a) for the new plan year and do all of the following:

16 SECTION 29. 149.143 (2) (a) 2. of the statutes is amended to read:

17 149.143 (2) (a) 2. After making the determinations under subd. 1., by rule set
18 premium rates for the new plan year, including the rates under s. 149.146 (2) (b), in
19 the manner specified in sub. (1) (b) 1. a. and c. and such that a rate for coverage under
20 s. 149.14 (2) (a) is ~~approved by the board and is~~ not less than 140% nor more than
21 200% of the rate that a standard risk would be charged under an individual policy
22 providing substantially the same coverage and deductibles as are provided under the
23 plan.

Cost-sharing provisions

24 SECTION 30. 149.143 (2) (a) 3m. of the statutes is created to read:

Insert 9-23 ✓

1 149.143 (2) (a) 3m. By the same rule as under subd. 3., set the total drug
2 manufacturer and drug distributor assessments under s. 149.132 for the new plan
3 year by estimating and setting the assessments at the amount necessary to equal the
4 amounts specified in sub. (1) (b) 1. d. and 2. am. and notify the pharmacy examining
5 board of the amount.

the department shall

6 SECTION 31. 149.143 (2) (a) 4. of the statutes is amended to read:

7 149.143 (2) (a) 4. By the same rule as under ~~subd. 3.~~ subds. 3. and 3m., adjust
8 the provider payment rate for the new plan year, subject to s. 149.142 (1) (b), by
9 estimating and setting the rate at the level necessary to equal the amounts specified
10 in sub. (1) (b) 1. d. and 2. b. and as provided in s. 149.145.

11 SECTION 32. 149.143 (2) (b) of the statutes is amended to read:

12 149.143 (2) (b) In setting the premium rates under par. (a) 2., the insurer
13 assessment amount under par. (a) 3., the drug manufacturer and drug distributor
14 assessment amount under par. (a) 3m., and the provider payment rate under par. (a)
15 4. for the new plan year, the department board shall include any increase or decrease
16 necessary to reflect the amount, if any, by which the rates and amount set under par.
17 (a) for the current plan year differed from the rates and amount which would have
18 equaled the amounts specified in sub. (1) (b) in the current plan year.

19 SECTION 33. 149.143 (2m) (a) (intro.) of the statutes is amended to read:

20 149.143 (2m) (a) (intro.) The department board shall keep a separate
21 accounting of the difference between the following:

22 SECTION 34. 149.143 (2m) (b) 2. of the statutes is amended to read:

23 149.143 (2m) (b) 2. For other needs of eligible persons, ~~with the approval of the~~
24 board.

25 SECTION 35. 149.143 (2m) (b) 3. of the statutes is amended to read:

Insert 10-21



1 149.143 (2m) (b) 3. For distribution to eligible persons, notwithstanding any
2 requirements in this chapter related to setting premium amounts. The department
3 board, with the ~~approval of the board and the~~ concurrence of the plan actuary, shall
4 determine the policies, eligibility criteria, methodology, and other factors to be used
5 in making any distribution under this subdivision.

6 **SECTION 36.** 149.143 (3) (a) of the statutes is amended to read:

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

18 **SECTION 37.** 149.143 (3) (b) of the statutes is amended to read:

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

Insert 11-5

1 SECTION 38. 149.143 (3m) of the statutes is amended to read:

2 149.143 (3m) Subject to s. 149.14 (4m), insurers, drug manufacturers, drug
3 distributors, and providers may recover in the normal course of their respective
4 businesses without time limitation assessments or provider payment rate
5 adjustments used to recoup any deficit incurred under the plan.

6 SECTION 39. 149.143 (4) of the statutes is amended to read:

7 149.143 (4) Using the procedure under s. 227.24, the department board may
8 promulgate rules under sub. (2) or (3) for the period before the effective date of any
9 permanent rules promulgated under sub. (2) or (3), but not to exceed the period
10 authorized under s. 227.24 (1) (c) and (2). Notwithstanding s. 227.24 (1) and (3), the
11 department board is not required to make a finding of emergency.

12 SECTION 40. 149.143 (5) of the statutes is amended to read:

13 149.143 (5) (a) Annually, no later than April 30, the department board shall
14 perform a reconciliation with respect to plan costs, premiums, insurer assessments,
15 drug manufacturer and drug distributor assessments, and provider payment rate
16 adjustments based on data from the previous calendar year. On the basis of the
17 reconciliation, the department board shall make any necessary adjustments in
18 premiums, insurer assessments, drug manufacturer or distributor assessments, or
19 provider payment rates, subject to s. 149.142 (1) (b), for the fiscal year beginning on
20 the first July 1 after the reconciliation, as provided in sub. (2) (b). Insert 12-20 ✓

21 (b) Except as provided in sub. (3) and s. 149.144, the department board shall
22 adjust the provider payment rates to meet the providers' specified portion of the plan
23 costs no more than once annually, subject to s. 149.142 (1) (b). The department ~~board~~
24 ~~may not determine the adjustment on an individual provider basis or on the basis~~

strike whole sentence ↑

① ~~of provider type, but shall determine the adjustment for all providers in the~~
② ~~aggregate, subject to s. 149.142 (1) (b).~~

3 SECTION 41. 149.144 of the statutes is amended to read:

4 **149.144 Adjustments to insurer assessments and provider payment**
5 **rates for premium and deductible reductions.** If the moneys transferred to the
6 fund under the appropriation under s. 20.435 (4) (ah) are insufficient to reimburse
7 the plan for premium reductions under s. 149.165 and deductible reductions under
8 s. 149.14 (5) (a), or the department board determines that the moneys transferred or
9 to be transferred to the fund under the appropriation under s. 20.435 (4) (ah) will be
10 insufficient to reimburse the plan for premium reductions under s. 149.165 and
11 deductible reductions under s. 149.14 (5) (a), the department board may, by rule,
12 adjust in equal proportions the ~~amount~~ amounts of the ~~assessment~~ assessments set
13 under s. 149.143 (2) (a) 3. and 3m. and the provider payment rate set under s. 149.143
14 (2) (a) 4., subject to ss. 149.142 (1) (b) and 149.143 (1) (b) 1., sufficient to reimburse
15 the plan for premium reductions under s. 149.165 and deductible reductions under
16 s. 149.14 (5) (a). If the department board makes the adjustment under this section,
17 the ^{plan} ~~department~~ ~~board~~ shall notify the commissioner and the pharmacy examining
18 board so that the commissioner may levy any necessary increase in insurer
19 assessments and the pharmacy examining board may levy any necessary increase
20 in drug manufacturer and drug distributor assessments.

21 SECTION 42. 149.145 of the statutes is amended to read:

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

1 (1), including the methodologies specified in ss. 149.143, 149.144, and 149.146 for
 2 determining premium rates, insurer and drug manufacturer and distributor
 3 assessments, and provider payment rates. Except as otherwise provided in s.
 4 149.143 (3) (a) and (b) and subject to s. 149.142 (1) (b), from the program budget the
 5 department board shall derive the actual provider payment rate for a plan year that
 6 reflects the providers' proportional share of the plan costs, consistent with ss.

7 ~~The department may not implement a program budget~~
 8 established under this section unless it is approved by the board. insert 14-8
 ↖ plain ↗

9 SECTION 43. 149.146 (1) (b) of the statutes is amended to read:

10 149.146 (1) (b) An eligible person under par. (a) may elect once each year, at
 11 the time and according to procedures established by the department board, among
 12 the coverages offered under this section and s. 149.14. If an eligible person elects new
 13 coverage, any preexisting condition exclusion imposed under the new coverage is met
 14 to the extent that the eligible person has been previously and continuously covered
 15 under this chapter. No preexisting condition exclusion may be imposed on an eligible
 16 person who elects new coverage if the person was an eligible individual when first
 17 covered under this chapter and the person remained continuously covered under this
 18 chapter up to the time of electing the new coverage.

19 SECTION 44. 149.146 (2) (a) of the statutes is amended to read:

20 149.146 (2) (a) Except as specified by the department board, the terms of
 21 coverage under s. 149.14, including deductible reductions under s. 149.14 (5) (a), do
 22 not apply to the coverage offered under this section. Premium reductions under s.
 23 149.165 do not apply to the coverage offered under this section.

24 SECTION 45. 149.146 (2) (am) 4. of the statutes is amended to read:

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

6 SECTION 46. 149.146 (2) (am) 5. of the statutes is amended to read:

7 149.146 (2) (am) 5. ^{plain} ~~(Subject to s. 149.14 (8) (b), the department board~~ may,
8 by rule under s. 149.17 (4), establish for prescription drug coverage under this section
9 copayment amounts, coinsurance rates, and copayment and coinsurance
10 out-of-pocket limits over which the plan will pay 100% of covered costs for
11 prescription drugs. ~~Any copayment amount, coinsurance rate, or out of pocket~~
12 ~~limit established under this subdivision is subject to the approval of the board.~~
13 Copayments and coinsurance paid by an eligible person under this subdivision are
14 separate from and do not count toward the deductible and covered costs not paid by
15 the plan under subs. 1. to 3.

16 SECTION 47. 149.146 (2) (b) (intro.) of the statutes is amended to read:

17 149.146 (2) (b) (intro.) The schedule of premiums for coverage under this
18 section shall be promulgated by rule by the department board, as provided in s.
19 149.143. The rates for coverage under this section shall be set such that they differ
20 from the rates for coverage under s. 149.14 (2) (a) by the same percentage as the
21 percentage difference between the following:

22 SECTION 48. 149.146 (2) (b) 1. of the statutes is amended to read:

23 149.146 (2) (b) 1. The rate that a standard risk would be charged under an
24 individual policy providing substantially the same coverage and deductibles as
25 provided under s. 149.14 (2) (a) and (5) (a) ~~and (5) (a)~~.

strike ↑

cost-sharing provisions

Insert 16-1 ✓ →

1 SECTION 49. 149.15 (1) of the statutes is amended to read:

2 149.15 (1) The plan shall ~~have~~ operate ~~under the direction of~~ a board of

3 governors consisting of representatives of 2 participating insurers that are nonprofit

4 corporations, representatives of 2 other participating insurers, ⁴ ~~3~~ health care

5 provider representatives, including one representative of the State Wisconsin

6 Medical Society ~~of Wisconsin~~, one representative of the Wisconsin Health and

7 Hospital Association, and one representative of an integrated multidisciplinary

8 health system, and 4 public members, including one representative of small

9 businesses in the state, appointed by the secretary for staggered 3-year terms. In

10 addition, the commissioner, or a designated representative from the office of the

11 commissioner, and the secretary, or a designated representative from the

12 department, shall be ex officio nonvoting members of the board. The public members

13 shall not be professionally affiliated with the practice of medicine, a hospital, or an

14 insurer. At least one of the public members shall be an individual who has coverage

15 under the plan. ~~The secretary or the secretary's representative shall be~~ board

16 annually shall select the chairperson of the board. Board members, except the

17 commissioner or the commissioner's representative and the secretary or the

18 secretary's representative, shall be compensated at the rate of \$50 per diem plus

19 actual and necessary expenses.

One representative of the Pharmacy Society of Wisconsin

20 SECTION 50. 149.15 (3) (b) of the statutes is created to read:

21 149.15 (3) (b) Establish by rule the plan design, including covered benefits and

22 ~~payment and deductible amounts.~~ At least every 3 years, the board shall conduct

23 a survey of health care plans available in the private market and make any

24 adjustments to the plan that the board determines are advisable on the basis of the

25 survey. Using the procedure under s. 227.24, the board may promulgate rules under

exclusions

1 this paragraph for the period before the effective date of any permanent rules
2 promulgated under this paragraph, but not to exceed the period authorized under s.
3 227.24 (1) (c) and (2). Notwithstanding s. 227.24 (1) and (3), the board is not required
4 to make a finding of emergency.

5 **SECTION 51.** 149.15 (3) (c) of the statutes is repealed.

6 **SECTION 52.** 149.15 (3) (e) of the statutes is created to read:

7 149.15 (3) (e) Select a plan administrator in a competitive,
8 request-for-proposals process and enter into a contract with the person selected.

9 **SECTION 53.** 149.15 (3) (em) of the statutes is created to read:

10 149.15 (3) (em) Contract with persons to provide professional services to the
11 board and the plan.

12 **SECTION 54.** 149.15 (3) (f) of the statutes is repealed.

13 **SECTION 55.** 149.15 (4) (c) of the statutes is created to read:

14 149.15 (4) (c) Notwithstanding ss. 625.11 (4) and 628.34 (3) (a) and any
15 requirements in this chapter related to setting premium rates or amounts, establish
16 for eligible persons with household incomes that exceed \$100,000 a separate
17 schedule of premium rates that are higher than the rates set for other eligible
18 persons. Premium rates established under this paragraph may not exceed 200% of
19 the rate that a standard risk would be charged under an individual policy providing
20 substantially the same coverage and deductibles that are provided under the plan.
21 Notwithstanding s. 149.143 (2m) (b), the board may use excess premiums collected
22 under a schedule established under this paragraph to reduce premiums for eligible
23 persons with low household incomes, as determined by the board. ✓

Insert 17-23

24 **SECTION 56.** 149.15 (5) of the statutes is repealed.

25 **SECTION 57.** 149.16 of the statutes is repealed.

SECTION 58. 149.165 (1) of the statutes is amended to read:

149.165 (1) Except as provided in s. 149.146 (2) (a), the ~~department~~ board shall reduce the premiums established ~~under s. 149.11~~ in conformity with ss. 149.14 (5m), 149.143, and 149.17 for the eligible persons and in the manner set forth in subs. (2) and (3).

SECTION 59. 149.165 (2) of the statutes is amended to read:

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

1. If equal to or greater than \$0 and less than \$10,000, to 100% of the rate that a standard risk would be charged under an individual policy providing substantially

the same coverage and deductibles as provided under s. 149.14 (2) (a) and (5) (a) ~~and (5) (a)~~

2. If equal to or greater than \$10,000 and less than \$14,000, to 106.5% of the rate that a standard risk would be charged under an individual policy providing

substantially the same coverage and deductibles as provided under s. 149.14 (2) (a)

and (5) (a) ~~and (5) (a)~~

3. If equal to or greater than \$14,000 and less than \$17,000, to 115.5% of the rate that a standard risk would be charged under an individual policy providing

substantially the same coverage and deductibles as provided under s. 149.14 (2) (a)

and (5) (a) ~~and (5) (a)~~

4. If equal to or greater than \$17,000 and less than \$20,000, to 124.5% of the rate that a standard risk would be charged under an individual policy providing

cost-sharing provisions

1 substantially the same coverage and ~~deductibles~~ as provided under s. 149.14 (2) (a)

2 and (5) ~~(a)~~ cost-sharing provisions

3 5. If equal to or greater than \$20,000 and less than \$25,000, to 130% of the rate
4 that a standard risk would be charged under an individual policy providing

5 substantially the same coverage and ~~deductibles~~ as provided under s. 149.14 (2) (a)

6 and (5) ~~(a)~~

7 (bc) Subject to sub. (3m), if the household income, as defined in s. 71.52 (5) and
8 as determined under sub. (3), of an eligible person with coverage under s. 149.14 (2)
9 (b) is equal to or greater than the first amount and less than the 2nd amount listed
10 in par. (a) 1., 2., 3., 4., or 5., the ~~department~~ board shall reduce the premium
11 established for the eligible person by the same percentage as the ~~department~~ board
12 reduces, under par. (a), the premium established for an eligible person with coverage
13 under s. 149.14 (2) (a) who has a household income specified in the same subdivision
14 under par. (a) as the household income of the eligible person with coverage under s.
15 149.14 (2) (b).

16 SECTION 60. 149.165 (3) (a) of the statutes is amended to read:

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

20 SECTION 61. 149.165 (3) (b) (intro.) of the statutes is amended to read:

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

25 SECTION 62. 149.17 (4) of the statutes is amended to read:

1 149.17 (4) Cost containment provisions established by the department board
2 by rule, including managed care requirements.

3 SECTION 63. 149.175 of the statutes is amended to read:

4 149.175 **Waiver or exemption from provisions prohibited.** Except as
5 provided in s. 149.13 (1), the department or the board may not waive, ~~or authorize~~
6 ~~the board to waive~~, any of the requirements of this chapter or exempt, ~~or authorize~~
7 ~~the board to exempt~~, an individual or a class of individuals from any of the
8 requirements of this chapter.

9 SECTION 64. 149.20 of the statutes is amended to read:

10 149.20 ~~Rule-making in consultation with~~ **Rules to be approved by**
11 **board.** ~~In promulgating any~~ Any rules proposed by the department under this
12 chapter, ~~the department shall consult with~~ may not be promulgated without the
13 approval of the board.

14 SECTION 65. 149.25 (2) (a) of the statutes is amended to read:

15 149.25 (2) (a) The ~~department~~ ~~board~~ shall conduct a 3-year pilot
16 program, beginning on July 1, 2002, under which eligible persons who qualify under
17 par. (b) are provided community-based case management services. insert 20-17

18 SECTION 66. 149.25 (2) (c) 1. of the statutes is amended to read:

19 149.25 (2) (c) 1. Participation in the pilot program shall be voluntary and
20 limited to no more than 300 eligible persons. The ~~department~~ ~~board~~ shall
21 ensure that all eligible persons are advised in a timely manner of the opportunity to
22 participate in the pilot program and of how to apply for participation.

23 SECTION 67. 149.25 (2) (c) 2. of the statutes is amended to read:

24 149.25 (2) (c) 2. If more than 300 eligible persons apply to participate, the
25 ~~department~~ ~~board~~ shall select pilot program participants from among those

board

1 who qualify under par. (b) according to standards determined by the department ~~and~~
 2 ~~board~~, except that ^{plain ↓} the department ^{plain ↓} shall give preference to eligible persons who
 3 reside in medically underserved areas or health professional shortage areas ~~and~~
 4 ~~any preference~~

5 SECTION 68. 149.25 (3) (a) (intro.) of the statutes is amended to read:
 6 149.25 (3) (a) (intro.) The department board shall select and contract with an
 7 organization to provide the community-based case management services under the
 8 pilot program. To be eligible to provide the services, an organization must satisfy all
 9 of the following criteria:

10 SECTION 69. 149.25 (4) of the statutes is amended to read:
 11 149.25 (4) EVALUATION STUDY. The department, in consultation with the board,
 12 shall conduct a study that evaluates the pilot program in terms of health care
 13 outcomes and cost avoidance. In the study, the department shall measure and
 14 compare, for pilot program participants and similarly situated eligible persons not
 15 participating in the pilot program, plan costs and utilization of services, including
 16 inpatient hospital days, rates of hospital readmission within 30 days for the same
 17 diagnosis, and prescription drug utilization. The department shall submit a report
 18 on the results of the study, including the department's and the board's conclusions
 19 and recommendations, to the legislature under s. 13.172 (2) and to the governor.

20 SECTION 70. 450.10 (2m) of the statutes is created to read:
 21 450.10 (2m) If a manufacturer or distributor fails to pay an assessment levied
 22 under s. 149.132 (3) within the time required for payment, the board may assess a
 23 forfeiture of not more than \$1,000 for each day that the payment is past due.

24 SECTION 9124. Nonstatutory provisions; health and family services.

1 (1) GENERAL FUND APPROPRIATIONS. Notwithstanding section 16.42 (1) (e) of the
 2 statutes, in submitting information under section 16.42 of the statutes for purposes
 3 of the 2005–07 biennial budget bill, the department of health and family services
 4 shall submit information concerning the appropriation under section 20.435 (4) (af)
 5 of the statutes as though the amount appropriated to the department under that
 6 appropriation for fiscal year 2004–05 were \$9,500,000 more than the amount in the
 7 schedule and shall submit information concerning the appropriation under section
 8 20.435 (4) (ah) of the statutes as though the amount appropriated to the department
 9 under that appropriation for fiscal year 2004–05 were \$741,800 more than the
 10 amount in the schedule.

11 (2) SELECTION OF PLAN ADMINISTRATOR. The board of governors of the Health
 12 Insurance Risk-Sharing Plan shall, no later than December 1, 2003, issue a
 13 request-for-proposals under section 149.15 (3) (e) of the statutes, as created by this
 14 act, for administration of the Health Insurance Risk-Sharing Plan.

15 **SECTION 9324. Initial applicability; health and family services.**

16 (1) HEALTH INSURANCE RISK-SHARING PLAN. With respect to changes in plan
 17 design, including covered expenses and exclusions, deductibles, copayments,
 18 coinsurance, and out-of-pocket limits, the treatment of sections 149.14 (3) (intro.)
 19 and (a) to (r), (4), ~~and~~ (5) (d) and (e), 149.146 (1) (b) and (2) (a), (am) 4. and 5., and
 20 (b) (intro.) and 1., 149.15 (3) (b), and 149.17 (4) of the statutes first applies to the plan
 21 year beginning on January 1, 2004.

22 (END)

✓
149.11,

✓
and (8),

D-note

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2476/P3ins
PJK:kmg:rs

INSERT 2-20 ✓

1 *not* The board shall consult with the department as necessary in promulgating the
2 rules under this section. The department shall provide the board with the support
3 necessary for the board to carry out its responsibilities under this chapter.

(END OF INSERT 2-20)

INSERT 4-7 ✓

4 149.13 (2) The board shall develop a methodology for apportioning insurer
5 assessments among insurers that are stop loss carriers and insurers that are not stop
6 loss carriers. The board shall consult with the commissioner as necessary in
7 developing the methodology under this subsection.

(END OF INSERT 4-7)

INSERT 4-10 ✓

8 *not* , in conformity with the methodology determined under sub. (2), on the basis
9 of

(END OF INSERT 4-10)

INSERT 5-17 ✓

10 *not* The board shall consult with the department as necessary in determining the
11 methodology under this subsection.

(END OF INSERT 5-17)

INSERT 7-18 ✓

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

13 149.14 (8) APPLICABILITY OF ~~MEDICAL ASSISTANCE~~ MEDICAL ASSISTANCE
14 PROVISIONS. (a) Except as provided in par. (b), the ~~department~~ board may, by rule



less 7-18 contd

1 under s. 149.17 (4), apply to the plan the same utilization and cost control procedures
2 that apply under rules promulgated by the department to ~~medical assistance~~
3 Medical Assistance under subch. IV of ch. 49. The board shall consult with the
4 department as necessary in the application of the utilization and cost control
5 procedures specified in this paragraph.

6 (b) The ^{*plain space*}~~department~~ board may not apply to eligible persons for covered services
7 or articles the same copayments that apply to recipients of ~~medical assistance~~
8 Medical Assistance under subch. IV of ch. 49 for services or articles covered under
9 that program.

History: 1979 c. 313; 1981 c. 39 s. 22; 1981 c. 83; 1981 c. 314 ss. 117, 146; 1983 a. 27; 1985 a. 29 s. 3202 (30); 1985 a. 332 s. 253; 1987 a. 27, 239; 1989 a. 332; 1991 a. 39, 269; 1995 a. 463; 1997 a. 27 ss. 3026c, 4847 to 4859; Stats. 1997 s. 149.14; 1997 a. 237; 1999 a. 9, 165; 2001 a. 16.

(END OF INSERT 7-18)

INSERT 8-4 ✓

10 ^{*WOF*} The board shall consult with the department ^{*in*} establishing the payment and
11 reimbursement rates under this paragraph.

(END OF INSERT 8-4)

INSERT 8-17 ✓

12 SECTION 2. 149.143 (1) (b) 1. a. of the statutes is amended to read:

13 149.143 (1) (b) 1. a. First, from premiums from eligible persons with coverage
14 under s. 149.14 (2) (a) set at a rate that is 140% to 150% of the rate that a standard
15 risk would be charged under an individual policy providing substantially the same
16 coverage and ~~deductibles~~ cost-sharing provisions as are provided under the plan and
17 from eligible persons with coverage under s. 149.14 (2) (b) set in accordance with s.
18 149.14 (5m), including amounts received for premium and deductible subsidies
19 under s. 149.144 and under the transfer to the fund from the appropriation account

↓

Ins 8-17 contd

1 under s. 20.435 (4) (ah), and from premiums collected from eligible persons with
2 coverage under s. 149.146 set in accordance with s. 149.146 (2) (b).

History: 1997 a. 27; 1999 a. 9, 165; 2001 a. 16, 109.

3 **SECTION 3.** 149.143 (1) (b) 1. c. of the statutes is amended to read:

4 149.143 (1) (b) 1. c. Third, by increasing premiums from eligible persons with
5 coverage under s. 149.14 (2) (a) to more than the rate at which premiums were set
6 under subd. 1. a. but not more than 200% of the rate that a standard risk would be
7 charged under an individual policy providing substantially the same coverage and
8 ~~deductibles~~ cost-sharing provisions as are provided under the plan and from eligible
9 persons with coverage under s. 149.14 (2) (b) by a comparable amount in accordance
10 with s. 149.14 (5m), including amounts received for premium and deductible
11 subsidies under s. 149.144 and under the transfer to the fund from the appropriation
12 account under s. 20.435 (4) (ah), and by increasing premiums from eligible persons
13 with coverage under s. 149.146 in accordance with s. 149.146 (2) (b), to the extent that
14 the amounts under subd. 1. a. and b. are insufficient to pay 60% of plan costs.

History: 1997 a. 27; 1999 a. 9, 165; 2001 a. 16, 109.

(END OF INSERT 8-17)

INSERT 9-23 ✓

15 **SECTION 4.** 149.143 (2) (a) 3. of the statutes is amended to read:

16 149.143 (2) (a) 3. By rule set the total insurer assessments under s. 149.13 for
17 the new plan year by estimating and setting the assessments at the amount
18 necessary to equal the amounts specified in sub. (1) (b) 1. d. and 2. a., and the
19 department shall notify the commissioner of the amount.

History: 1997 a. 27; 1999 a. 9, 165; 2001 a. 16, 109.

(END OF INSERT 9-23)

INSERT 10-21 ✓



Ins 10-21 cont'd ✓

1 **SECTION 5.** 149.143 (2m) (b) 1. of the statutes is amended to read:

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

History: 1997 a. 27; 1999 a. 9, 165; 2001 a. 16, 109.

(END OF INSERT 10-21)

INSERT 11-5 ✓

7 **SECTION 6.** 149.143 (2m) (c) of the statutes is created to read:

8 149.143 (2m) (c) The board shall consult with the department as necessary for
9 the accounting under par. (a). ✓

(END OF INSERT 11-5)

INSERT 12-20 ✓

10 *woft* The board shall consult with the department as necessary in performing the
11 reconciliation and in making the adjustments under this paragraph.

(END OF INSERT 12-20)

INSERT 14-8 ✓

12 *woft* shall consult with the department as necessary in deriving the actual provider
13 payment rate

(END OF INSERT 14-8)

INSERT 16-1 ✓

14 **SECTION 7.** 149.146 (2) (b) 2. of the statutes is amended to read:



ens 16-1 cont'd

1 149.146 (2) (b) 2. The rate that a standard risk would be charged under an
2 individual policy providing substantially the same coverage and deductibles
3 cost-sharing provisions as the coverage offered under this section.

History: 1997 a. 27 ss. 4860c, 4860d; Stats. 1997 s. 149.146; 1997 a. 237; 1999 a. 9, 165; 2001 a. 16.
(END OF INSERT 16-1)

INSERT 17-23 ✓

4 *volt* Household income under this paragraph shall be determined in the same
5 manner as household income is determined under s. 149.165 (2) ✓ and (3) ✓.

(END OF INSERT 17-23)

INSERT 20-17 ✓

6 *volt* The board shall consult with the department as necessary in conducting the
7 pilot program.

(END OF INSERT 20-17)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2476/P3dn
PJK:kmg:cph

May 2, 2003

Note that the following sections have been amended by changing "substantially the same coverage and deductibles" to "substantially the same coverage and cost-sharing provisions":

1. 149.143 (1) (b) 1. a. and c., (2) (a) 2., and (2m) (b) 1.
2. 149.146 (2) (b) 1. and 2.
3. 149.165 (2) (a) 1., 2., 3., 4., and 5.

See how I amended s. 149.13 (3) (a) to take into account the new language in s. 149.13 (2).

I added in s. 149.143 (2) (a) 3. and 3m. that the department would notify the commissioner and the pharmacy examining board of the amount of adjustments in assessments. This is to make the notification consistent with the notifications under ss. 149.132 (3) and 149.144.

All of the agreed-upon changes specified in the marked-up copy of the previous version of this draft have been made, and consulting with the department was added in s. 149.132 (2) as a result of our meeting on Thursday, May 1. In addition, I have modified all of the references to consulting with the department (or commissioner) so that those references are now separate sentences instead of the clause "in consultation with the department (or commissioner)." Bob Wood requested on Friday morning that this change be made, as well as the addition in s. 149.15 (4) (c) related to determining household income in the same manner as under s. 149.165.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.state.wi.us