



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-2476/E4
PJK:kmg:jf

rm is run

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

*D - note
SOON
(in 9-17) → Monday a.m., if possible (9/29)*

requeste ↓

1 AN ACT *to repeal* 149.10 (8b), 149.14 (3) (a) to (r), 149.14 (4), 149.14 (4c), 149.15

2 (3) (c), 149.15 (3) (f), 149.15 (5) and 149.16; *to renumber and amend* 149.14

3 (3) (intro.); *to amend* 25.55 (3), 149.10 (3), 149.11, 149.12 (3) (c), 149.13 (1),

4 149.13 (3), 149.13 (4), 149.14 (5) (d), 149.14 (5) (e), 149.14 (5m) (c), 149.14 (7)

5 (b) and (c), 149.14 (8), 149.142 (1), 149.143 (1) (intro.), 149.143 (1) (b) 1. a.,

6 149.143 (1) (b) 1. c., 149.143 (1) (b) 1. d., 149.143 (1) (b) 2. a., 149.143 (1) (b) 2.

7 b., 149.143 (2) (a) (intro.), 149.143 (2) (a) 2., 149.143 (2) (a) 3., 149.143 (2) (a) 4.,

8 149.143 (2) (b), 149.143 (2m) (a) (intro.), 149.143 (2m) (b) 1., 149.143 (2m) (b)

9 2., 149.143 (2m) (b) 3., 149.143 (3) (a), 149.143 (3) (b), 149.143 (3m), 149.143 (4),

10 149.143 (5), 149.144, 149.145, 149.146 (1) (b), 149.146 (2) (a), 149.146 (2) (am)

11 4., 149.146 (2) (am) 5., 149.146 (2) (b) (intro.), 149.146 (2) (b) 1., 149.146 (2) (b)

12 2., 149.15 (1), 149.165 (1), 149.165 (2), 149.165 (3) (a), 149.165 (3) (b) (intro.),

13 149.17 (4), 149.175, 149.20, 149.25 (2) (a), 149.25 (2) (c) 1., 149.25 (2) (c) 2.,

14 149.25 (3) (a) (intro.) and 149.25 (4); *to repeal and recreate* 149.13 (2); and

15 *to create* 149.132, 149.143 (1) (b) 2. am., 149.143 (2) (a) 3m., 149.143 (2m) (c),

1 149.15 (3) (b), 149.15 (3) (e), 149.15 (3) (em), 149.15 (4) (c) and 450.10 (2m) of
2 the statutes; **relating to:** making various miscellaneous changes to the Health
3 Insurance 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.~~

Editor/LPS: Z
(Jim working on
this and will add
it after the
rest is
typed.)

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

and labeler ✓

4 SECTION 1. 25.55 (3) of the statutes is amended to read:
5 25.55 (3) Insurer and drug manufacturer assessments under ch. 149.

6 SECTION 2. 149.10 (3) of the statutes is amended to read:
7 149.10 (3) "Eligible person" means a resident of this state who qualifies under
8 s. 149.12 whether or not the person is legally responsible for the payment of medical
9 expenses incurred on the person's behalf.

10 ~~SECTION 3. 149.10 (8b) of the statutes is repealed.~~

11 SECTION 4. 149.11 of the statutes is amended to read:

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

18 SECTION 5. 149.12 (3) (c) of the statutes is amended to read:

Insert 2-17 ✓

Insert 2-5
Insert 2-9

Insert 3-3

1 149.12 (3) (c) The department board may promulgate rules specifying other
2 deductible or coinsurance amounts that, if paid or reimbursed for persons, will not
3 make the persons ineligible for coverage under the plan.

4 **SECTION 6.** 149.13 (1) of the statutes is amended to read:

5 149.13 (1) Every insurer shall participate in the cost of administering the plan,
6 except that the commissioner may by rule exempt as a class those insurers whose
7 share as determined under sub. (2) (3) would be so minimal as to not to exceed the
8 estimated cost of levying the assessment. The commissioner shall advise the
9 department board of the insurers participating in the cost of administering the plan.

10 **SECTION 7.** 149.13 (2) of the statutes is repealed and recreated to read:

11 149.13 (2) The board shall develop a methodology for apportioning insurer
12 assessments among insurers ~~that are stop loss carriers and insurers that are not stop~~

13 ~~insurers.~~ The board shall consult with the commissioner as necessary in
14 developing the methodology under this subsection.

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

16 149.13 (3) (a) Each insurer's proportion of participation ~~under sub. (2)~~ shall be
17 determined annually by the commissioner ~~based on,~~ in conformity with the
18 methodology determined under sub. (2), on the basis of annual statements and other
19 reports filed by the insurer with the commissioner. The commissioner shall assess
20 an insurer for the insurer's proportion of participation based on the total
21 assessments estimated by the department board under s. 149.143 (2) (a) 3.

22 (b) If the department ~~or the,~~ commissioner, or board finds that the
23 commissioner's authority to require insurers to report under chs. 600 to 646 and 655
24 is not adequate to permit the department, the commissioner, or the board to carry out
25 the department's, commissioner's, or board's responsibilities under this chapter, the

1 commissioner shall promulgate rules requiring insurers to report the information
2 necessary for the department, commissioner, and board to make the determinations
3 required under this chapter.

4 SECTION 9. 149.13 (4) of the statutes is amended to read:

5 149.13 (4) Notwithstanding subs. (1) to (3), the department, with the
6 agreement of the commissioner and the board, may perform various administrative
7 functions related to the assessment of insurers participating in the cost of
8 administering the plan.

9 SECTION 10. 149.132 of the statutes is created to read:

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10 149.132 Participation of ~~insurers~~ ^{and labelers} manufacturers. (1) The department shall
 11 determine the manufacturers of prescription drugs that are sold, or otherwise
 12 provided, to persons ^{eligible} ~~who are~~ ^{are covered} who receive health care coverage benefits under
 13 publicly funded health care coverage programs in this state, such as the plan ~~the~~
 14 Medical Assistance program under subch. P of ch. 49, the Badger Care health care
 15 program under s. 49.663, and the prescription drug assistance for elderly persons
 16 program under s. 49.682. ^{insert 4-16} The ~~insurers~~ ^{and labelers} manufacturers specified by the department
 17 under ~~the provisions~~ ^{par. (a)} shall share in the operating, administrative, and subsidy
 18 expenses of the plan in the manner provided in ss. 149.143 and 149.144, except that
 19 the board may by rule exempt as a class those ~~insurers~~ ^{and labelers} manufacturers whose share ^A as
 20 determined under sub. (2) would be so minimal as not to exceed the estimated cost
 21 of levying the assessment.

22 (2) The board shall determine the methodology for assessing ~~insurers~~
 23 manufacturers, including each ~~insurer's~~ manufacturer's proportion of participation in
 24 the costs of the plan. Each ~~insurer's~~ manufacturer's proportion of participation shall be
 25 determined annually and shall be based on the ~~insurer's~~ manufacturer's gross revenues

and each labeler's

and labelers

or labelers

1 in the preceding calendar year that were derived from prescription drugs sold or
2 otherwise provided to the persons specified in sub. (1). The board shall consult with
3 the department as necessary in determining the methodology under this subsection.

4 ~~The department shall advise the pharmacy examining board of the~~
5 ~~assessment amounts that must be levied. The pharmacy examining board shall levy~~
6 ~~and collect the assessments and forward the amounts collected to the department for~~
7 ~~deposit in the health insurance risk-sharing plan fund.~~ → the amounts collected

8 SECTION 11. 149.14 (3) (intro.) of the statutes is renumbered 149.14 (3) and
9 amended to read:

10 149.14 (3) COVERED EXPENSES. Except as provided in sub. (4), except as
11 restricted by cost containment provisions under s. 149.17 (4) and except as reduced
12 by the department board under ss. 149.143 and 149.144, covered expenses for the
13 coverage under this section shall be the payment rates established by the
14 department under s. 149.142 for the services provided by persons licensed under ch.
15 446 and certified under s. 49.45 (2) (a) 11. Except as provided in sub. (4), except as
16 restricted by cost containment provisions under s. 149.17 (4) and except as reduced
17 by the department board under ss. 149.143 and 149.144, covered expenses for the
18 coverage under this section shall also be the payment rates established by the
19 department under s. 149.142 for the following services and articles specified by the
20 board if the service or article is prescribed by a physician who is licensed under ch.
21 448 or in another state and who is certified under s. 49.45 (2) (a) 11. and if the service
22 or article is provided by a provider certified under s. 49.45 (2) (a) 11.:

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

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

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

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

2 149.14 (5) (d) Notwithstanding pars. (a) to (c), the department board may
3 establish different deductible amounts, a different coinsurance percentage, and
4 different covered costs and deductible aggregate amounts from those specified in
5 pars. (a) to (c) in accordance with cost containment provisions established by the
6 department board under s. 149.17 (4).

7 **SECTION 16.** 149.14 (5) (e) of the statutes is amended to read:

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

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

18 149.14 (5m) (c) Other economic factors that the ~~department and the board~~
19 ~~consider~~ considers relevant.

20 **SECTION 18.** 149.14 (7) (b) and (c) of the statutes are amended to read:

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

Insert 6-16

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

5 **SECTION 19.** 149.14 (8) of the statutes is amended to read:

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

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

15 **SECTION 20.** 149.142 (1) of the statutes is amended to read:

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

Insert 8-5

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

6 **SECTION 21.** 149.143 (1) (intro.) of the statutes is amended to read:

7 149.143 (1) (intro.) The department shall pay or recover the operating costs of
8 the plan from the appropriation under s. 20.435 (4) (v) and administrative costs of
9 the plan from the appropriation under s. 20.435 (4) (u). For purposes of determining
10 premiums, insurer ~~manufacturer~~ ^{and labeler} assessments, and provider payment rate
11 adjustments, the ~~department~~ board shall apportion and prioritize responsibility for
12 payment or recovery of plan costs from among the moneys constituting the fund as
13 follows:

14 **SECTION 22.** 149.143 (1) (b) 1. a. of the statutes is amended to read:

15 149.143 (1) (b) 1. a. First, from premiums from eligible persons with coverage
16 under s. ~~149.14~~ (2) (a) set at a rate that is 140% to 150% of the rate that a standard
17 risk would be charged under an individual policy providing substantially the same
18 coverage and ~~deductibles cost-sharing provisions~~ as are provided under the plan and
19 from eligible persons with coverage under s. 149.14 (2) (b) set in accordance with s.
20 149.14 (5m), including amounts received for premium and deductible subsidies
21 under s. 149.144 and under the transfer to the fund from the appropriation account
22 under s. 20.435 (4) (ah), and from premiums collected from eligible persons with
23 coverage under s. 149.146 set in accordance with s. 149.146 (2) (b).

24 **SECTION 23.** 149.143 (1) (b) 1. c. of the statutes is amended to read:

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

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

13 149.143 (1) (b) 1. d. Fourth, notwithstanding subd. 2., by increasing insurer
14 assessments, ~~excluding assessments under s. 149.144,~~ increasing drug
15 manufacturer assessments, excluding assessments under s. 149.144, and adjusting
16 provider payment rates, subject to s. 149.142 (1) (b) and excluding adjustments to
17 those rates under s. 149.144, in equal proportions and to the extent that the amounts
18 under subd. 1. a. to c. are insufficient to pay 60% of plan costs.

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

20 149.143 (1) (b) 2. a. ~~Fifty percent~~ One-third from insurer assessments,
21 excluding assessments under s. 149.144.

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

23 149.143 (1) (b) 2. am. One-third from drug manufacturer assessments,
24 excluding assessments under s. 149.144.

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

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

4 **SECTION 28.** 149.143 (2) (a) (intro.) of the statutes is amended to read:

5 149.143 (2) (a) (intro.) Prior to each plan year, the ~~department~~ board shall
6 estimate the operating and administrative costs of the plan and the costs of the
7 premium reductions under s. 149.165 and the deductible reductions under s. 149.14
8 (5) (a) for the new plan year and do all of the following.

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

10 149.143 (2) (a) 2. After making the determinations under subd. 1., by rule set
11 premium rates for the new plan year, including the rates under s. 149.146 (2) (b), in
12 the manner specified in sub. (1) (b) 1. a. and c. and such that a rate for coverage under
13 s. 149.14 (2) (a) is ~~approved by the board~~ and is not less than 140% nor more than
14 200% of the rate that a standard risk would be charged under an individual policy
15 providing substantially the same coverage and ~~deductibles~~ cost-sharing provisions
16 as are provided under the plan.

17 **SECTION 30.** 149.143 (2) (a) 3. of the statutes is amended to read:

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

22 **SECTION 31.** 149.143 (2) (a) 3m. of the statutes is created to read:

23 149.143 (2) (a) 3m. By the same rule as under subd. 3., set the total drug
24 manufacturer assessments under s. 149.132 for the new plan year by estimating and
25 setting the assessments at the amount necessary to equal the amounts specified in

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1 sub. (1) (b) 1. d. and 2. am., and the department shall notify the pharmacy examining
2 board of the amount.

3 SECTION 32. 149.143 (2) (a) 4. of the statutes is amended to read:

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

8 SECTION 33. 149.143 (2) (b) of the statutes is amended to read:

9 149.143 (2) (b) In setting the premium rates under par. (a) 2., the insurer
10 assessment amount under par. (a) 3., the drug manufacturer assessment amount
11 under par. (a) 3m., and the provider payment rate under par. (a) 4. for the new plan
12 year, the department board shall include any increase or decrease necessary to
13 reflect the amount, if any, by which the rates and amount set under par. (a) for the
14 current plan year differed from the rates and amount which would have equaled the
15 amounts specified in sub. (1) (b) in the current plan year.

Insert 11-15

16 SECTION 34. 149.143 (2m) (a) (intro.) of the statutes is amended to read:

17 149.143 (2m) (a) (intro.) The department board shall keep a separate
18 accounting of the difference between the following:

19 SECTION 35. 149.143 (2m) (b) 1. of the statutes is amended to read:

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

Insert 11-24

25 SECTION 36. 149.143 (2m) (b) 2. of the statutes is amended to read:

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

3 SECTION 37. 149.143 (2m) (b) 3. of the statutes is amended to read:

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

9 SECTION 38. 149.143 (2m) (c) of the statutes is created to read:

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

12 SECTION 39. 149.143 (3) (a) of the statutes is amended to read:

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

24 SECTION 40. 149.143 (3) (b) of the statutes is amended to read:

Insert 13-7

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

8 SECTION 41. 149.143 (3m) of the statutes is amended to read:

9 149.143 (3m) Subject to s. 149.14 (4m), insurers, ~~manufacturers~~ manufacturers, and
 10 providers may recover in the normal course of their respective businesses without
 11 time limitation assessments or provider payment rate adjustments used to recoup
 12 any deficit incurred under the plan.

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13 SECTION 42. 149.143 (4) of the statutes is amended to read:

14 149.143 (4) Using the procedure under s. 227.24, the department board may
 15 promulgate rules under sub. (2) or (3) for the period before the effective date of any
 16 permanent rules promulgated under sub. (2) or (3), but not to exceed the period
 17 authorized under s. 227.24 (1) (c) and (2). Notwithstanding s. 227.24 (1) and (3), the
 18 department board is not required to make a finding of emergency.

19 SECTION 43. 149.143 (5) of the statutes is amended to read:

20 149.143 (5) (a) Annually, no later than April 30, the department board shall
 21 perform a reconciliation with respect to plan costs, premiums, insurer assessments,
 22 ~~manufacturer~~ manufacturer assessments, and provider payment rate adjustments based on
 23 data from the previous calendar year. On the basis of the reconciliation, the
 24 department board shall make any necessary adjustments in premiums, insurer
 25 assessments, ~~manufacturer~~ manufacturer assessments, or provider payment rates, subject to

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1 s. 149.142 (1) (b), for the fiscal year beginning on the first July 1 after the
2 reconciliation, as provided in sub. (2) (b). The board shall consult with the
3 department as necessary in performing the reconciliation and in making the
4 adjustments under this paragraph.

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

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11 SECTION 44. 149.144 of the statutes is amended to read:

12 **149.144 Adjustments to insurer assessments and provider payment**
13 **rates for premium and deductible reductions.** If the moneys transferred to the
14 fund under the appropriation under s. 20.435 (4) (ah) are insufficient to reimburse
15 the plan for premium reductions under s. 149.165 and deductible reductions under
16 s. 149.14 (5) (a), or the department board determines that the moneys transferred or
17 to be transferred to the fund under the appropriation under s. 20.435 (4) (ah) will be
18 insufficient to reimburse the plan for premium reductions under s. 149.165 and
19 deductible reductions under s. 149.14 (5) (a), the department board may, by rule,
20 adjust in equal proportions the ~~amount~~ amounts of the ~~assessment~~ assessments set
21 under s. 149.143 (2) (a) 3. ~~and 3m.~~ and the provider payment rate set under s. 149.143
22 (2) (a) 4., subject to ss. 149.142 (1) (b) and 149.143 (1) (b) 1., sufficient to reimburse
23 the plan for premium reductions under s. 149.165 and deductible reductions under
24 s. 149.14 (5) (a). If the department board makes the adjustment under this section,
25 the department shall notify the commissioner and the pharmacy examining board

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1 so that the commissioner may levy any necessary increase in insurer assessments
2 and the pharmacy examining board may levy any necessary increase in drug
3 manufacturer assessments.

4 ~~SECTION 45. 149.145 of the statutes is amended to read:~~

5 ~~149.145 Program budget. The department, in consultation with the board,~~
6 ~~shall establish a program budget for each plan year. The program budget shall be~~
7 ~~based on the provider payment rates specified in s. 149.142 and in the most recent~~
8 ~~provider contracts that are in effect and on the funding sources specified in s. 149.143~~
9 ~~(1), including the methodologies specified in ss. 149.143, 149.144, and 149.146 for~~
10 ~~determining premium rates, insurer and drug manufacturer assessments, and~~
11 ~~provider payment rates. Except as otherwise provided in s. 149.143 (3) (a) and (b)~~
12 ~~and subject to s. 149.142 (1) (b), from the program budget the department board shall~~
13 ~~derive the actual provider payment rate for a plan year that reflects the providers'~~
14 ~~proportional share of the plan costs, consistent with ss. 149.143 and 149.144. The~~
15 ~~department may not implement a program budget established under this section~~
16 ~~unless it is approved by the board shall consult with the department as necessary in~~
17 ~~deriving the actual provider payment rate.~~

Insert 15-17

18 → SECTION 46. 149.146 (1) (b) of the statutes is amended to read:

19 149.146 (1) (b) An eligible person under par. (a) may elect once each year, at
20 the time and according to procedures established by the department board, among
21 the coverages offered under this section and s. 149.14. If an eligible person elects new
22 coverage, any preexisting condition exclusion imposed under the new coverage is met
23 to the extent that the eligible person has been previously and continuously covered
24 under this chapter. No preexisting condition exclusion may be imposed on an eligible
25 person who elects new coverage if the person was an eligible individual when first

1 covered under this chapter and the person remained continuously covered under this
2 chapter up to the time of electing the new coverage.

3 **SECTION 47.** 149.146 (2) (a) of the statutes is amended to read:

4 149.146 (2) (a) Except as specified by the department board, the terms of
5 coverage under s. 149.14, including deductible reductions under s. 149.14 (5) (a), do
6 not apply to the coverage offered under this section. Premium reductions under s.
7 149.165 do not apply to the coverage offered under this section.

Insert 16-7

8 **SECTION 48.** 149.146 (2) (am) 4. of the statutes is amended to read:

9 149.146 (2) (am) 4. Notwithstanding subs. 1. to 3., the department board may
10 establish different deductible amounts, a different coinsurance percentage, and
11 different covered costs and deductible aggregate amounts from those specified in
12 subs. 1. to 3. in accordance with cost containment provisions established by the
13 department board under s. 149.17 (4).

14 **SECTION 49.** 149.146 (2) (am) 5. of the statutes is amended to read:

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

24 **SECTION 50.** 149.146 (2) (b) (intro.) of the statutes is amended to read:

Pharmaceutical Research and Manufacturers of America

1 149.146 (2) (b) (intro.) The schedule of premiums for coverage under this
2 section shall be promulgated by rule by the department board, as provided in s.
3 149.143. The rates for coverage under this section shall be set such that they differ
4 from the rates for coverage under s. 149.14 (2) (a) by the same percentage as the
5 percentage difference between the following:

6 SECTION 51. 149.146 (2) (b) 1. of the statutes is amended to read:

7 149.146 (2) (b) 1. The rate that a standard risk would be charged under an
8 individual policy providing substantially the same coverage and deductibles
9 cost-sharing provisions as provided under s. 149.14 (2) (a) and (5) (a).

10 SECTION 52. 149.146 (2) (b) 2. of the statutes is amended to read:

11 149.146 (2) (b) 2. The rate that a standard risk would be charged under an
12 individual policy providing substantially the same coverage and deductibles
13 cost-sharing provisions as the coverage offered under this section.

14 SECTION 53. 149.15 (1) of the statutes is amended to read:

15 149.15 (1) The plan shall have operate under the direction of a board of
16 governors consisting of representatives of 2 participating insurers that are nonprofit
17 corporations, representatives of 2 other participating insurers, 3 4 health care
18 provider ^{industry} representatives, including one representative of the ~~State~~ ^{strike} Wisconsin
19 Medical Society of Wisconsin, one representative of ~~the~~ ^{strike} Wisconsin Health and
20 Hospital Association, ~~one representative of the~~ ^{strike} Pharmaceutical Society of Wisconsin and
21 one representative of an integrated multidisciplinary health system, and 4 public
22 members, including one representative of small businesses in the state, appointed
23 by the secretary for staggered 3-year terms. In addition, the commissioner, or a
24 designated representative from the office of the commissioner, and the secretary, or
25 a designated representative from the department, shall be ~~an officer or director~~

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1 members of the board. The public members shall not be professionally affiliated with
2 the practice of medicine, a hospital, or an insurer. At least one of the public members
3 shall be an individual who has coverage under the plan. The ~~secretary or the~~
4 ~~secretary's representative shall be~~ board annually shall select the chairperson of the
5 board. Board members, except the commissioner or the commissioner's
6 representative and the secretary or the secretary's representative, shall be
7 compensated at the rate of \$50 per diem plus actual and necessary expenses.

8 **SECTION 54.** 149.15 (3) (b) of the statutes is created to read:

9 149.15 (3) (b) Establish by rule the plan design, including covered benefits and
10 exclusions. At least every 3 years, the board shall conduct a survey of health care
11 plans available in the private market and make any adjustments to the plan that the
12 board determines are advisable on the basis of the survey. Using the procedure under
13 s. 227.24, the board may promulgate rules under this paragraph for the period before
14 the effective date of any permanent rules promulgated under this paragraph, but not
15 to exceed the period authorized under s. 227.24 (1) (c) and (2). Notwithstanding s.
16 227.24 (1) and (3), the board is not required to make a finding of emergency.

17 **SECTION 55.** 149.15 (3) (c) of the statutes is repealed.

18 **SECTION 56.** 149.15 (3) (e) of the statutes is created to read:

19 149.15 (3) (e) Select a plan administrator in a competitive,
20 request-for-proposals process and enter into a contract with the person selected.

21 **SECTION 57.** 149.15 (3) (em) of the statutes is created to read:

22 149.15 (3) (em) Contract with persons to provide professional services to the
23 board and the plan.

24 **SECTION 58.** 149.15 (3) (f) of the statutes is repealed.

25 **SECTION 59.** 149.15 (4) (c) of the statutes is created to read:

1 149.15 (4) (c) Notwithstanding ss. 625.11 (4) and 628.34 (3) (a) and any
2 requirements in this chapter related to setting premium rates or amounts, establish
3 for eligible persons with household incomes that exceed \$100,000 a separate
4 schedule of premium rates that are higher than the rates set for other eligible
5 persons. Premium rates established under this paragraph may not exceed 200% of
6 the rate that a standard risk would be charged under an individual policy providing
7 substantially the same coverage and deductibles that are provided under the plan.

shall

8 ~~Notwithstanding s. 149.143 (2) (b),~~ the board ~~may~~ use excess premiums collected
9 under a schedule established under this paragraph to reduce premiums for eligible
10 persons with low household incomes, as determined by the board. Household income
11 under this paragraph shall be determined in the same manner as household income
12 is determined under s. 149.165 (2) and (3).

13 SECTION 60. 149.15 (5) of the statutes is repealed.

14 SECTION 61. 149.16 of the statutes is repealed.

as affected by 2003 Wisconsin Act 33

15 SECTION 62. 149.165 (1) of the statutes is amended to read:

16 149.165 (1) Except as provided in s. 149.146 (2) (a), the ~~department~~ board shall
17 reduce the premiums established ~~under s. 149.11~~ in conformity with ss. 149.14 (5m),
18 149.143, and 149.17 for the eligible persons and in the manner set forth in subs. (2)
19 and (3).

subs. and (3r)

20 SECTION 63. 149.165 (2) of the statutes is amended to read:

21 149.165 (2) (a) Subject to ~~sub. (3m)~~, if the household income, as defined in s.
22 71.52 (5) and as determined under sub. (3), of an eligible person with coverage under
23 s. 149.14 (2) (a) is equal to or greater than the first amount and less than the 2nd
24 amount listed in any of the following, the ~~department~~ board shall reduce the
25 premium for the eligible person to the rate shown after the amounts:

1 1. If equal to or greater than \$0 and less than \$10,000, to 100% of the rate that
2 a standard risk would be charged under an individual policy providing substantially
3 the same coverage and ~~deductibles~~ cost-sharing provisions as provided under s.
4 149.14 (2) (a) and (5) (a).

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

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

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

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

21 ^{Subs} (bc) Subject to ~~sub. (3m)~~ and (3r) ✓
22 as determined under sub. (3), of an eligible person with coverage under s. 149.14 (2)
23 (b) is equal to or greater than the first amount and less than the 2nd amount listed
24 in par. (a) 1., 2., 3., 4., or 5., the department board shall reduce the premium
25 established for the eligible person by the same percentage as the department board

1 reduces, under par. (a), the premium established for an eligible person with coverage
2 under s. 149.14 (2) (a) who has a household income specified in the same subdivision
3 under par. (a) as the household income of the eligible person with coverage under s.
4 149.14 (2) (b).

5 SECTION 64. 149.165 (3) (a) of the statutes is amended to read:

6 149.165 (3) (a) Subject to par. (b), the department board shall establish and
7 implement the method for determining the household income of an eligible person
8 under sub. (2).

9 SECTION 65. 149.165 (3) (b) (intro.) of the statutes is amended to read:

10 149.165 (3) (b) (intro.) In determining household income under sub. (2), the
11 department board shall consider information submitted by an eligible person on a
12 completed federal profit or loss from farming form, schedule F, if all of the following
13 apply:

Insert 21-13

14 SECTION 66. 149.17 (4) of the statutes is amended to read:

15 149.17 (4) Cost containment provisions established by the department board
16 by rule, including managed care requirements.

17 SECTION 67. 149.175 of the statutes is amended to read:

18 149.175 **Waiver or exemption from provisions prohibited.** Except as
19 provided in s. 149.13 (1), the department or the board may not waive, ~~or authorize~~
20 ~~the board to waive,~~ any of the requirements of this chapter or exempt, ~~or authorize~~
21 ~~the board to exempt,~~ an individual or a class of individuals from any of the
22 requirements of this chapter.

23 SECTION 68. 149.20 of the statutes is amended to read:

24 149.20 ~~Rule-making in consultation with~~ Rules to be approved by
25 board. ~~In promulgating any~~ Any rules proposed by the department under this

1 chapter, ~~the department shall consult with~~ may not be promulgated without the
2 approval of the board.

3 SECTION 69. 149.25 (2) (a) of the statutes is amended to read:

4 149.25 (2) (a) The ^{plain ↓} ~~department~~ shall conduct a 3-year pilot program,
5 beginning on July 1, 2002, under which eligible persons who qualify under par. (b)
6 are provided community-based case management services. The ~~department~~ shall consult
7 with the ~~department~~ ^{board ✓} as necessary in conducting the pilot program.

department

8 SECTION 70. 149.25 (2) (c) 1. of the statutes is amended to read:

9 149.25 (2) (c) 1. Participation in the pilot program shall be voluntary and
10 limited to no more than 300 eligible persons. ~~The department~~ board shall ensure that
11 all eligible persons are advised in a timely manner of the opportunity to participate
12 in the pilot program and of how to apply for participation.

13 SECTION 71. 149.25 (2) (c) 2. of the statutes is amended to read:

14 149.25 (2) (c) 2. If more than 300 eligible persons apply to participate, the
15 ~~department~~ board shall select pilot program participants from among those who
16 qualify under par. (b) according to standards determined by the ~~department~~ board,
17 except that the ~~department~~ board shall give preference to eligible persons who reside
18 in medically underserved areas or health professional shortage areas.

19 SECTION 72. 149.25 (3) (a) (intro.) of the statutes is amended to read:

20 149.25 (3) (a) (intro.) The ~~department~~ board shall select and contract with an
21 organization to provide the community-based case management services under the
22 pilot program. To be eligible to provide the services, an organization must satisfy all
23 of the following criteria:

24 SECTION 73. 149.25 (4) of the statutes is amended to read:

keep ↗

1 149.25 (4) EVALUATION STUDY. The department, in consultation with the board,
2 shall conduct a study that evaluates the pilot program in terms of health care
3 outcomes and cost avoidance. In the study, the department shall measure and
4 compare, for pilot program participants and similarly situated eligible persons not
5 participating in the pilot program, plan costs and utilization of services, including
6 inpatient hospital days, rates of hospital readmission within 30 days for the same
7 diagnosis, and prescription drug utilization. The department shall submit a report
8 on the results of the study, including the department's ~~and the board's~~ conclusions
9 and recommendations, to the legislature under s. 13.172 (2) and to the governor.

10 **SECTION 74.** 450.10 (2m) of the statutes is created to read:

11 450.10 (2m) If a manufacturer ^{or labeler} fails to pay an assessment levied under s.
12 149.132 (3) within the time required for payment, the board may assess a forfeiture
13 of not more than \$1,000 for each day that the payment is past due.

14 **SECTION ~~9124~~. Nonstatutory provisions; health and family services.**

15 (1) GENERAL FUND APPROPRIATIONS. Notwithstanding section 16.42 (1) (e) of the
16 statutes, in submitting information under section 16.42 of the statutes for purposes
17 of the 2005-07 biennial budget bill, the department of health and family services
18 shall submit information concerning the appropriation under section 20.435 (4) (af)
19 of the statutes as though the amount appropriated to the department under that
20 appropriation for fiscal year 2004-05 were \$9,500,000 more than the amount in the
21 schedule and shall submit information concerning the appropriation under section
22 20.435 (4) (ah) of the statutes as though the amount appropriated to the department
23 under that appropriation for fiscal year 2004-05 were \$741,800 more than the
24 amount in the schedule.

Insert 23-24 →

1 (2) SELECTION OF PLAN ADMINISTRATOR. The board of governors of the Health
2 Insurance Risk-Sharing Plan shall, no later than December ³¹ 2003, issue a
3 request-for-proposals under section 149.15 (3) (e) of the statutes, as created by this
4 act, for administration of the Health Insurance Risk-Sharing Plan.

5 SECTION ~~9124~~ ²⁴. Initial applicability ~~Health and family services.~~ ^{DESIGN}

6 (1) ~~HEALTH INSURANCE RISK SHARING PLAN~~ With respect to changes in plan
7 design, including covered expenses and exclusions, deductibles, copayments,
8 coinsurance, and out-of-pocket limits, the treatment of sections 149.11, 149.14 (3)
9 (intro.) and (a) to (r), (4), (5) (d) and (e), and (8), 149.146 (1) (b) and (2) (a), (am) 4. and
10 5., and (b) (intro.) and 1., 149.15 (3) (b), and 149.17 (4) of the statutes first applies
11 to the plan year beginning on January 1, 200~~4~~⁵.

12 (END)

Insert 24-11

D-note

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LEGISLATIVE REFERENCE BUREAU

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PJK:kmg:jf

INSERT 2-5 ✓

1 SECTION 1. 49.475 (2) (a) (intro.) of the statutes is amended to read:
2 49.475 (2) (a) (intro.) Information that the department needs to identify
3 beneficiaries of medical assistance, and persons applying for coverage or who are
4 covered under the Health Insurance Risk-Sharing Plan under ch. 149, who satisfy
5 any of the following:

History: 1991 a. 39; 1999 a. 9.

(END OF INSERT 2-5) ✓

INSERT 2-9 ✓

6 SECTION 2. 149.10 (5f) of the statutes is created to read:
7 149.10 (5f) "Labeler" means a person that receives prescription drugs from a
8 manufacturer or wholesaler and repackages those drugs for later retail sale and that
9 has a labeler code issued by the federal food and drug administration under 21 CFR
10 207.20 (b).

11 SECTION 3. 149.10 (5r) of the statutes is created to read:
12 149.10 (5r) "Manufacturer" means a person engaged in the production,
13 preparation, propagation, compounding, conversion, or processing of prescription
14 drugs.

(END OF INSERT 2-9) ✓

INSERT 2-17 ✓

15 SECTION 4. 149.115 of the statutes is amended to read:
16 149.115 Rules relating to creditable coverage. The commissioner, in
17 consultation with the department and the board, shall promulgate rules that specify
18 how creditable coverage is to be aggregated for purposes of s. 149.10 (2t) (a) and that



Ins 2-17 cont'd

1 determine the creditable coverage to which s. 149.10 (2t) (b) and (d) applies. The
2 rules shall comply with section 2701 (c) of P.L. 104-191.

History: 1997 a. 27 s. 4825f; 1997 a. 237; 2001 a. 16.

3 **SECTION 5.** 149.12 (1) (a) of the statutes is amended to read:

4 149.12 (1) (a) A notice of rejection of coverage from ~~one~~ 2 or more insurers.

History: 1979 c. 313; 1983 a. 27, 215; 1985 a. 29, 73; 1987 a. 27, 70, 239; 1989 a. 201 s. 36; 1989 a. 332, 359; 1991 a. 39, 250; 1993 a. 27; 1995 a. 27, 407; 1997 a. 27 ss. 3025f, 4826 to 4831e; Stats. 1997 s. 149.12; 1999 a. 9.

5 **SECTION 6.** 149.12 (1) (am) of the statutes is amended to read:

6 149.12 (1) (am) A notice of rejection of coverage from one or more insurers and
7 a notice of cancellation of coverage from one or more insurers.

History: 1979 c. 313; 1983 a. 27, 215; 1985 a. 29, 73; 1987 a. 27, 70, 239; 1989 a. 201 s. 36; 1989 a. 332, 359; 1991 a. 39, 250; 1993 a. 27; 1995 a. 27, 407; 1997 a. 27 ss. 3025f, 4826 to 4831e; Stats. 1997 s. 149.12; 1999 a. 9.

8 **SECTION 7.** 149.12 (1) (b) of the statutes is amended to read:

9 149.12 (1) (b) A notice of rejection of coverage from one or more insurers and
10 a notice of reduction or limitation of coverage, including restrictive riders, from an
11 insurer if the effect of the reduction or limitation is to substantially reduce coverage
12 compared to the coverage available to a person considered a standard risk for the
13 type of coverage provided by the plan.

History: 1979 c. 313; 1983 a. 27, 215; 1985 a. 29, 73; 1987 a. 27, 70, 239; 1989 a. 201 s. 36; 1989 a. 332, 359; 1991 a. 39, 250; 1993 a. 27; 1995 a. 27, 407; 1997 a. 27 ss. 3025f, 4826 to 4831e; Stats. 1997 s. 149.12; 1999 a. 9.

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

15 149.12 (1) (c) A notice of rejection of coverage from one or more insurers and
16 a notice of increase in premium exceeding the premium then in effect for the insured
17 person by 50% or more, unless the increase applies to substantially all of the
18 insurer's health insurance policies then in effect.

History: 1979 c. 313; 1983 a. 27, 215; 1985 a. 29, 73; 1987 a. 27, 70, 239; 1989 a. 201 s. 36; 1989 a. 332, 359; 1991 a. 39, 250; 1993 a. 27; 1995 a. 27, 407; 1997 a. 27 ss. 3025f, 4826 to 4831e; Stats. 1997 s. 149.12; 1999 a. 9.

(END OF INSERT 2-17)

INSERT 3-3 ✓

19 **SECTION 9.** 149.125 of the statutes is created to read:



ins 3-3 contd

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

per Webster's
 10

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

(END OF INSERT 3-3)

INSERT 4-16

11 **No** Any manufacturer or labeler of prescription drugs that are sold, or otherwise
 12 provided, to persons in this state who receive health care coverage benefits under the
 13 Medical Assistance program under subch. IV of ch. 49, the Badger Care health care
 14 program under s. 49.665, or the prescription drug assistance for elderly persons
 15 program under s. 49.688 is required to sell prescription drugs for the prescribed use
 16 and purchase by eligible persons covered under the plan.

(b)

(END OF INSERT 4-16)

INSERT 6-16

18 **SECTION 10.** 149.14 (5) (e) of the statutes, as affected by 2003 Wisconsin Act 33,
 19 is amended to read:

↓

ins 6-16 cont'd

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

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; 2003 a. 33.

(END OF INSERT 6-16) →

INSERT 8-5 ✓

12 **SECTION 11.** 149.142 (3) of the statutes is created to read:

13 149.142 (3) Whenever a claim is processed for payment, the adjustment of a
 14 provider's payment rate under sub. (1) and any adjustment under s. 149.143 or
 15 149.144 shall be calculated and applied on a per-claim basis. The adjustment shall
 16 be disclosed on the explanation-of-benefits form provided to the eligible person and
 17 to the provider.

(END OF INSERT 8-5)

INSERT 11-15 ✓ *1075*

18 **SECTION 12.** 149.143 (1) (am) 1. of the statutes, as affected by 2003 Wisconsin
 19 Act 33, is amended to read:



ans 11-15 cont'd 285

1 149.143 (1) (am) 1. First, from premiums from eligible persons with coverage
 2 under s. 149.14 (2) (a) set at a rate that is 140% to 150% of the rate that a standard
 3 risk would be charged under an individual policy providing substantially the same
 4 coverage and ~~deductibles~~ cost-sharing provisions as are provided under the plan and
 5 from eligible persons with coverage under s. 149.14 (2) (b) set in accordance with s.
 6 149.14 (5m), including amounts received for premium, deductible, and prescription
 7 drug copayment subsidies under s. 149.144, and from premiums collected from
 8 eligible persons with coverage under s. 149.146 set in accordance with s. 149.146 (2)
 9 (b).

History: 1997 a. 27; 1999 a. 9, 165; 2001 a. 16, 109; 2003 a. 33.

10 **SECTION 13.** 149.143 (1) (am) 3. of the statutes, as affected by 2003 Wisconsin
 11 Act 33, is amended to read:

12 149.143 (1) (am) 3. Third, by increasing premiums from eligible persons with
 13 coverage under s. 149.14 (2) (a) to more than the rate at which premiums were set
 14 under subd. 1. but not more than 200% of the rate that a standard risk would be
 15 charged under an individual policy providing substantially the same coverage and
 16 ~~deductibles~~ cost-sharing provisions as are provided under the plan and from eligible
 17 persons with coverage under s. 149.14 (2) (b) by a comparable amount in accordance
 18 with s. 149.14 (5m), including amounts received for premium, deductible, and
 19 prescription drug copayment subsidies under s. 149.144, and by increasing
 20 premiums from eligible persons with coverage under s. 149.146 in accordance with
 21 s. 149.146 (2) (b), to the extent that the amounts under subds. 1. and 2. are
 22 insufficient to pay 60% of plan costs.

History: 1997 a. 27; 1999 a. 9, 165; 2001 a. 16, 109; 2003 a. 33.

23 **SECTION 14.** 149.143 (1) (am) 4. of the statutes, as affected by 2003 Wisconsin
 24 Act 33, is amended to read:

✓

ens 11 - 15 contd 3075

1 149.143 (1) (am) 4. Fourth, notwithstanding par. (bm), by increasing insurer
2 assessments, excluding assessments under s. 149.144, increasing manufacturer and
3 labeler assessments, excluding assessments under s. 149.144, and adjusting
4 provider payment rates, subject to s. 149.142 (1) (b) and excluding adjustments to
5 those rates under s. 149.144, in equal proportions and to the extent that the amounts
6 under subds. 1. to 3. are insufficient to pay 60% of plan costs.

History: 1997 a. 27; 1999 a. 9, 165; 2001 a. 16, 109; 2003 a. 33.

7 **SECTION 15.** 149.143 (1) (bm) 1. of the statutes, as affected by 2003 Wisconsin
8 Act 33, is amended to read:

9 149.143 (1) (bm) 1. ~~Fifty percent~~ One-third from insurer assessments,
10 excluding assessments under s. 149.144.

History: 1997 a. 27; 1999 a. 9, 165; 2001 a. 16, 109; 2003 a. 33.

11 **SECTION 16.** 149.143 (1) (bm) 1m. of the statutes is created to read:

12 149.143 (1) (bm) 1m. One-third from manufacturer and labeler assessments,
13 excluding assessments under s. 149.144.

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

16 149.143 (1) (bm) 2. ~~Fifty percent~~ One-third from adjustments to provider
17 payment rates, subject to s. 149.142 (1) (b) and excluding adjustments to those rates
18 under s. 149.144.

History: 1997 a. 27; 1999 a. 9, 165; 2001 a. 16, 109; 2003 a. 33.

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

21 149.143 (2) (a) (intro.) Prior to each plan year, the ~~department~~ board shall
22 estimate the operating and administrative costs of the plan and the costs of the
23 premium reductions under s. 149.165 (2) and (3), the deductible reductions under s.



plus 11-15 cont'd 4085

1 149.14 (5) (a), and any prescription drug copayment reductions under s. 149.14 (5)
2 (e) for the new plan year and do all of the following:

History: 1997 a. 27; 1999 a. 9, 165; 2001 a. 16, 109; 2003 a. 33.

3 **SECTION 19.** 149.143 (2) (a) 2. of the statutes, as affected by 2003 Wisconsin Act
4 33, is amended to read:

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

History: 1997 a. 27; 1999 a. 9, 165; 2001 a. 16, 109; 2003 a. 33.

12 **SECTION 20.** 149.143 (2) (a) 3m. of the statutes is created to read:

13 149.143 (2) (a) 3m. By the same rule as under subd. 3., set the total
14 manufacturer and labeler assessments under s. 149.132 for the new plan year by
15 estimating and setting the assessments at the amount necessary to equal the
16 amounts specified in sub. (1) (am) 4. and (bm) 1m. and notify the department of the
17 amount.

18 **SECTION 21.** 149.143 (2) (a) 4. of the statutes, as affected by 2003 Wisconsin Act
19 33, is amended to read:

20 149.143 (2) (a) 4. By the same rule as under ~~subd. 3.~~ subds. 3. and 3m., adjust
21 the provider payment rate for the new plan year, subject to s. 149.142 (1) (b), by
22 estimating and setting the rate at the level necessary to equal the amounts specified
23 in sub. (1) (am) 4. and (bm) 2. and as provided in s. 149.145.

History: 1997 a. 27; 1999 a. 9, 165; 2001 a. 16, 109; 2003 a. 33.



ins 11-15 cont'd 5035

1 **SECTION 22.** 149.143 (2) (b) of the statutes, as affected by 2003 Wisconsin Act
2 33, is amended to read:

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

History: 1997 a. 27; 1999 a. 9, 165; 2001 a. 16, 109; 2003 a. 33.

(END OF INSERT 11-15)

INSERT 11-24

10 **SECTION 23.** 149.143 (2m) (b) 1. of the statutes, as affected by 2003 Wisconsin
11 Act 33, is amended to read:

12 149.143 (2m) (b) 1. To reduce premiums in succeeding plan years as provided
13 in sub. (1) (am) 2. For eligible persons with coverage under s. 149.14 (2) (a),
14 premiums may not be reduced below 140% of the rate that a standard risk would be
15 charged under an individual policy providing substantially the same coverage and
16 deductibles cost-sharing provisions as are provided under the plan.

History: 1997 a. 27; 1999 a. 9, 165; 2001 a. 16, 109; 2003 a. 33.

(END OF INSERT 11-24)

INSERT 13-7

17 **SECTION 24.** 149.143 (3) (a) of the statutes, as affected by 2003 Wisconsin Act
18 33, is amended to read:

19 149.143 (3) (a) If, during a plan year, the department board determines that
20 the amounts estimated to be received as a result of the rates and amount set under

✓

Ins 13-7 contd

1 sub. (2) (a) 2. to 4. and any adjustments in insurer and manufacturer and labeler
 2 assessments and the provider payment rate under s. 149.144 will not be sufficient
 3 to cover plan costs, the department board may by rule increase the premium rates
 4 set under sub. (2) (a) 2. for the remainder of the plan year, subject to s. 149.146 (2)
 5 (b) and the maximum specified in sub. (2) (a) 2., by rule increase the assessments set
 6 under sub. (2) (a) 3. and 3m. for the remainder of the plan year, subject to sub. (1) (bm)
 7 1. and 1m., and by the same rule under which assessments are increased adjust the
 8 provider payment rate set under sub. (2) (a) 4. for the remainder of the plan year,
 9 subject to sub. (1) (bm) 2. and s. 149.142 (1) (b).

History: 1997 a. 27; 1999 a. 9, 165; 2001 a. 16, 109; 2003 a. 33.

10 **SECTION 25.** 149.143 (3) (b) of the statutes, as affected by 2003 Wisconsin Act
 11 33, is amended to read:

12 149.143 (3) (b) If the department board increases premium rates and insurer
 13 and manufacturer and labeler assessments and adjusts the provider payment rate
 14 under par. (a) and determines that there will still be a deficit and that premium rates
 15 have been increased to the maximum extent allowable under par. (a), the department
 16 board may further adjust, in equal proportions, assessments set under sub. (2) (a) 3.,
 17 assessments set under sub. (2) (a) 3m., and the provider payment rate set under sub.
 18 (2) (a) 4., without regard to sub. (1) (bm) but subject to s. 149.142 (1) (b).

plain space

History: 1997 a. 27; 1999 a. 9, 165; 2001 a. 16, 109; 2003 a. 33.

(END OF INSERT 13-7)

INSERT 15-17

1073

19 **SECTION 26.** 149.144 of the statutes, as affected by 2003 Wisconsin Act 33, is
 20 amended to read:

21 149.144 Adjustments to insurer assessments and provider payment
 22 rates for premium, deductible, and prescription drug copayment

↓

jus 15-17 contd 2 of 3

1 **reductions.** The department board shall, by rule, adjust in equal proportions the
 2 amount amounts of the assessment assessments set under s. 149.143 (2) (a) 3. and
 3 3m. and the provider payment rate set under s. 149.143 (2) (a) 4., subject to ss.
 4 149.142 (1) (b) and 149.143 (1) (am), sufficient to reimburse the plan for premium
 5 reductions under s. 149.165 (2) and (3), deductible reductions under s. 149.14 (5) (a),
 6 and any prescription drug copayment reductions under s. 149.14 (5) (e). The
 7 department board shall notify the commissioner and the department so that the
 8 commissioner may levy any increase in insurer assessments and the department
 9 may levy any increase in manufacturer and labeler assessments.

History: 1997 a. 27 ss. 4840c, 4845c; 1999 a. 9; 2001 a. 161²⁰⁰³ a. 33.

10 **SECTION 27.** 149.145 of the statutes, as affected by 2003 Wisconsin Act 33, is
 11 amended to read:

12 **149.145 Program budget.** The department, ~~in consultation with the board,~~
 13 shall establish a program budget for each plan year. The program budget shall be
 14 based on the provider payment rates specified in s. 149.142 and in the most recent
 15 provider contracts that are in effect and on the funding sources specified in ss.
 16 149.143 (1) and 149.144, including the methodologies specified in ss. 149.143,
 17 149.144, and 149.146 for determining premium rates, insurer and manufacturer and
 18 labeler assessments, and provider payment rates. Except as otherwise provided in
 19 s. 149.143 (3) (a) and (b) and subject to s. 149.142 (1) (b), from the program budget
 20 the department board shall derive the actual provider payment rate for a plan year
 21 that reflects the providers' proportional share of the plan costs, consistent with ss.
 22 149.143 and 149.144. ~~The department may not implement a program budget~~

↓

Ins 15-17 contd 373

1 ~~established under this section unless it is approved by the board shall consult with~~
2 the department as necessary in deriving the actual provider payment rate.

History: 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 33.

(END OF INSERT 15-17)

INSERT 16-7 ✓

3 SECTION 28. 149.146 (2) (a) of the statutes, as affected by 2003 Wisconsin Act
4 33, is amended to read:

5 149.146 (2) (a) Except as specified by the ~~department~~ board, the terms of
6 coverage under s. 149.14, including deductible reductions under s. 149.14 (5) (a) and
7 prescription drug copayment reductions under s. 149.14 (5) (e), do not apply to the
8 coverage offered under this section. Premium reductions under s. 149.165 do not
9 apply to 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; 2003 a. 33.

(END OF INSERT 16-7)

INSERT 21-13 ✓

10 SECTION 29. 149.165 (3r) of the statutes is created to read:

11 149.165 (3r) The board shall use any excess premiums collected under a
12 schedule established under s. 149.15 (4) to further reduce the premium rates under
13 sub. (2) (a) 1. to 5. and (bc).

(END OF INSERT 21-13)

INSERT 23-24 ✓

14 ~~§ 29~~ FEDERAL GRANT FUNDS. Notwithstanding section 149.143 (1) of the statutes,
15 as affected by this act, any federal grant moneys received by the state under the
16 Trade Adjustment Assistance Reform Act of 2002 and allocated to the Health

Noted 14 15



Ins 23-24 contd

1 Insurance Risk-Sharing Plan shall be used to pay plan costs before any moneys
 2 specified under section 149.143 (1) (am) and (bm) of the statutes, as affected by this
 3 act, are used. After the federal grant money has been used, 60 percent of the
 4 remainder of plan costs shall be paid as provided under section 149.143 (1) (am) of
 5 the statutes, as affected by this act, and 40 percent of the remainder of plan costs
 6 shall be paid as provided under section 149.143 (1) (bm) of the statutes, as affected
 7 by this act.

(END OF INSERT 23-24)

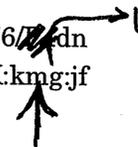
INSERT 24-11

8 ~~#~~ ELIGIBILITY. The treatment of section 149.12 (1) (a), (am), (b), and (c) of the
 9 statutes first applies to applications for coverage under the Health Insurance
 10 Risk-Sharing Plan that are received on January 1, 2004.

(END OF INSERT 24-11)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2476/2 dn
PJK:kmg:jf



the assessments

1. Note that I required DHFS to levy the assessment on drug manufacturers and labelers, but retained proposed s. 450.10 (2m) for enforcement purposes. Is this okay?
2. See proposed s. 149.142 (3). This language is meant to address Bob Wood's concern.
3. Note that I made the new eligibility requirements first apply to applications received on January 1, 2004. Is this too soon?
4. Do you need or want to specify a beginning date (or beginning plan year) for the requirement that drug manufacturer and labeler assessments pay for one-third of plan costs, or do you anticipate that ~~they~~ will go into effect as soon as possible and that adjustments during the plan year will accomplish the requirement that ~~their~~ these assessments will pay for one-third?
5. See the language in proposed s. 149.15 (4) (c), current law s. 149.143 (2m) (b) 2., and proposed s. 149.165 (3r). Is this sufficient to accomplish what you want for using the extra premiums paid by high-income persons for reducing premiums for low-income persons? Will the board be able to follow the calculations under s. 149.143 and still be able to determine what are "excess premiums"? Do you want to provide something more specific, such as providing for a premium "surcharge" on high-income persons that is outside the calculations under s. 149.143 and that is used to reduce premiums of lower-income persons? This is probably what would happen in practice. It would, in effect, be an assessment (added to premium) on high-income persons that would be used to further subsidize the premium reduction under s. 149.165. (I'm not advocating for any change; I'm just not sure how the board will implement the language.)

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

10-13-03

phone conversation w/ Mame from Rep. Underhill's
office and Pat Osborne

D-notes

1. ok

2. ok

3. change to 1st day of 4th month beginning
after publication

4. change to July 1, 2004

5. ok

6. ok

add some contingency language for board to
adjust by rule if drug manufacturers
are and do not pay assessment

Kahler, Pam

From: Wischnewski, Marne
Sent: Thursday, October 23, 2003 9:05 AM
To: Kahler, Pam
Subject: FW: Response to Inserts for HIRSP Draft

Hi Pam. Please submit the HIRSP draft to editing as you have it. Thank you.
Marne

Marne Wischnewski
Committee Clerk/Assembly Committee on Health
Office of Rep. Gregg Underheim
(608) 266-2254

-----Original Message-----

From: Robert T. Wood [mailto:bwoodx2@mhtc.net]
Sent: Monday, October 20, 2003 10:56 PM
To: Pat Osborne; Wischnewski, Marne; Pamela J. Kahler
Subject: Response to Inserts for HIRSP Draft

Pat
Marne
Pam

I am sorry to be getting this to you a little late in the game, but I have some concerns relating to the drafting inserts to LRB-2476/1 circulated as LRB-2476/2ins.

My thoughts are as follows:

1. Under referenced LRB-2476/2ins, the unfunded liability created by delinquent or challenged funding from manufacturers and labelers of prescription drugs vanishes once it is remedied by making other funding parties pay. Do we really want to hold delinquent funding parties harmless from any future recovery?
2. It might be useful if language could be drafted so that it would not appear that only the manufacturers and labelers of prescription drugs would be the ones to create an unfunded liability.
3. There should be provisions requiring (1) a finding by the HIRSP Board of an impediment to collection of required HIRSP funding, (2) written notification by the Board to those parties responsible for funding delinquencies that they are delinquent, (3) related plan year reconciliation adjustments to provide for future recovery of delinquent funding, and (4) related written notification to the responsible parties of their continuing funding obligations for delinquent funding.
4. There should be provisions requiring the Board to amend the plan year budget to (1) reflect any funding delinquencies, (2) reflect any related supplemental funding requirements placed on other funding parties, and (3) provide related plan year reconciliation credits for supplemental funding requirements placed on other funding parties.
5. It might be useful if this could all be done in one section that also took into account subsidy funding under s. 149.144.

A proposed discussion draft of an alternative to LRB-2476/2ins reflecting 1-5 concerns above follows herewith.

Section 1. 149.143 (3c) of the statutes is created to read:

149.143 (3c). Notwithstanding subs. (1) (bm), (2) and (3), and s. 149.144, if during a plan year the board determines that an impediment to the collection of non-premium funding from insurers under sub. (1) (bm) 1. and s. 149.144, or from manufacturers and labelers of prescription drugs under sub. (1) (bm) 1m. and s. 149.144, or from providers under sub. (1) (bm) 2. and s. 149.144 exists such that funding due from one or more of the said funding parties will not be available for needed payment of operating, administrative, and subsidy costs of the plan, as budgeted for the plan year under s. 149.145, and as provided for under subs. (1) (bm), (2) and (3) and under s. 149.144, the board shall remedy the expected shortfall in funding by doing all of the following:

1. Determine the amount of funding budgeted for the plan year under s. 149.145 that will not be available from a funding party under sub. (1) (bm) 1., (1) (bm) 1m., or (1) (bm) 2. and s. 149.144 for needed payment of operating, administrative, and subsidy costs of the plan, and provide a written notice of delinquent receipt of funding to the party or parties under sub. (1) (bm) 1., (1) (bm) 1m., or (1) (bm) 2. and s. 149.144 who would otherwise be responsible for the expected shortfall in funding.

2. Amend the budget under s. 149.145 for the plan year to show the unfunded liability determined under subd. 1. as an amount subject to reconciliation under s. 143 (5) (a) and as a continuing funding obligation subject to recovery in subsequent plan years from the party or parties under sub. (1) (bm) 1., (1) (bm) 1m., or (1) (bm) 2. or s. 149.144 who would otherwise be responsible for the unfunded liability under subd. 1., and provide a written notice of continuing funding obligation to the party or parties under sub. (1) (bm) 1., (1) (bm) 1m., or (1) (bm) 2. and s. 149.144 who would otherwise be responsible for the expected shortfall in funding.

3. Amend the budget for the plan year to show the unfunded liability determined under subds. 1. and 2. as a supplemental funding obligation to be equally shared by and among the funding party or parties under sub. (1) (bm) 1., (1) (bm) 1m., or (1) (bm) 2. and s. 149.144 who would otherwise not be responsible for the unfunded liability under subds. 1. and 2., and to show such supplemental funding obligations as amounts subject to reconciliation under s. 143 (5) (a) which are to be credited as funding offsets in subsequent plan years as a subtraction from future funding obligations of the funding party or parties under sub. (1) (bm) 1., (1) (bm) 1m., or (1) (bm) 2. and s. 149.144 who would otherwise not be responsible for the unfunded liability under subds. 1. and 2.

4. After making the determination under subd. 1., and providing the written notice or notices under subds. 1. and 2., and amending the budget for the plan year under subds. 2. and 3., the board shall, consistent with the provisions of ss. 149.143 (2) (a) 3., 3m., and 4, and 149.143 (4), by rule promulgate any changes required under subds. 1., 2., and 3. in current plan year funding from insurers under sub. (1) (bm) 1. and s. 149.144, or from manufacturers and labelers of prescription drugs under sub. (1) (bm) 1m. and s. 149.144, or from providers under sub. (1) (bm) 2. and s. 149.144, including any related plan year reconciliation adjustments to be made to reflect a continuing funding obligation as determined under subds. 1. and 2., or eligibility for future funding offset credits as determined under subd. 3.