



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-2476/1 ← stays
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2003 BILL

① - NOTE

regenerate ↓

1 AN ACT *to repeal* 149.14 (3) (a) to (r), 149.14 (4), 149.14 (4c), 149.15 (3) (c), 149.15
2 (3) (f), 149.15 (5) and 149.16; *to renumber and amend* 149.14 (3) (intro.); *to*
3 *amend* 25.55 (3), 49.475 (2) (a) (intro.), 149.10 (3), 149.11, 149.115, 149.12 (1)
4 (a), 149.12 (1) (am), 149.12 (1) (b), 149.12 (1) (c), 149.12 (3) (c), 149.13 (1), 149.13
5 (3), 149.13 (4), 149.14 (5) (d), 149.14 (5) (e), 149.14 (5m) (c), 149.14 (7) (b) and
6 (c), 149.14 (8), 149.142 (1), 149.143 (1) (intro.), 149.143 (1) (am) 1., 149.143 (1)
7 (am) 3., 149.143 (1) (am) 4., 149.143 (1) (bm) 1., 149.143 (1) (bm) 2., 149.143 (2)
8 (a) (intro.), 149.143 (2) (a) 2., 149.143 (2) (a) 4., 149.143 (2) (b), 149.143 (2m) (a)
9 (intro.), 149.143 (2m) (b) 1., 149.143 (2m) (b) 2., 149.143 (2m) (b) 3., 149.143 (3)
10 (a), 149.143 (3) (b), 149.143 (3m), 149.143 (4), 149.143 (5), 149.144, 149.145,
11 149.146 (1) (b), 149.146 (2) (a), 149.146 (2) (am) 4., 149.146 (2) (am) 5., 149.146
12 (2) (b) (intro.), 149.146 (2) (b) 1., 149.146 (2) (b) 2., 149.15 (1), 149.165 (1),
13 149.165 (2), 149.165 (3) (a), 149.165 (3) (b) (intro.), 149.17 (4), 149.175, 149.20,
14 149.25 (2) (a) and 149.25 (4); *to repeal and recreate* 149.13 (2); and *to create*

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1 149.10 (5f), 149.10 (5r), 149.125, 149.132, 149.142 (3), 149.143 (1) (bm) 1m.,
 2 149.143 (2) (a) 3m., 149.143 (2m) (c), 149.15 (3) (b), 149.15 (3) (e), 149.15 (3)
 3 (em), 149.15 (4) (c), 149.165 (3r) and 450.10 (2m) of the statutes; **relating to:**
 4 making various miscellaneous changes to the Health Insurance Risk-Sharing
 5 Plan ~~and~~ granting rule-making authority.

→ and providing a penalty

Analyst insert

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:

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

7 25.55 (3) Insurer and drug manufacturer and labeler assessments under ch.
 8 149.

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

10 49.475 (2) (a) (intro.) Information that the department needs to identify
 11 beneficiaries of medical assistance, and persons applying for coverage or who are
 12 covered under the Health Insurance Risk-Sharing Plan under ch. 149, who satisfy
 13 any of the following:

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

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

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

19 149.10 (5f) "Labeler" means a person that receives prescription drugs from a
 20 manufacturer or wholesaler and repackages those drugs for later retail sale and that

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1 has a labeler code issued by the federal food and drug administration under 21 CFR
2 207.20 (b).

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

4 149.10 (5r) “Manufacturer” means a person engaged in the production,
5 preparation, propagation, compounding, conversion, or processing of prescription
6 drugs.

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

8 **149.11 Operation of plan.** The ~~department~~ board shall promulgate rules for
9 the design and operation of a plan of health insurance coverage for an eligible person
10 which persons that satisfies the requirements of this chapter. The board shall
11 consult with the department as necessary in promulgating the rules under this
12 section. The department shall provide the board with the support necessary for the
13 board to carry out its responsibilities under this chapter.

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

15 **149.115 Rules relating to creditable coverage.** The commissioner, in
16 consultation with the department and the board, shall promulgate rules that specify
17 how creditable coverage is to be aggregated for purposes of s. 149.10 (2t) (a) and that
18 determine the creditable coverage to which s. 149.10 (2t) (b) and (d) applies. The
19 rules shall comply with section 2701 (c) of P.L. 104–191.

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

21 149.12 (1) (a) A notice of rejection of coverage from ~~one~~ 2 or more insurers.

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

23 149.12 (1) (am) A notice of rejection of coverage from one or more insurers and
24 a notice of cancellation of coverage from one or more insurers.

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

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

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

7 149.12 (1) (c) A notice of rejection of coverage from one or more insurers and
8 a notice of increase in premium exceeding the premium then in effect for the insured
9 person by 50% or more, unless the increase applies to substantially all of the
10 insurer's health insurance policies then in effect.

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

12 149.12 (3) (c) The ~~department~~ board may promulgate rules specifying other
13 deductible or coinsurance amounts that, if paid or reimbursed for persons, will not
14 make the persons ineligible for coverage under the plan.

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

16 **149.125 Employment verification; maintenance of data; report.** (1) In
17 determining a person's initial and continued eligibility, the department shall verify,
18 at the time that the person applies for coverage and periodically thereafter,
19 information submitted by the person about his or her employment and whether
20 creditable coverage is available to the person. The department shall use information
21 obtained under s. 49.475 for verification purposes under this subsection.

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

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

5 **SECTION 18.** 149.132 of the statutes is created to read:

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

15 (b) The manufacturers and labelers specified by the department under par. (a)
16 shall share in the operating, administrative, and subsidy expenses of the plan in the
17 manner provided in ss. 149.143 and 149.144, except that the board may by rule
18 exempt as a class those manufacturers and labelers whose shares as determined
19 under sub. (2) would be so minimal as not to exceed the estimated cost of levying the
20 assessment.

21 (2) The board shall determine the methodology for assessing manufacturers
22 and labelers, including each manufacturer's or labeler's proportion of participation
23 in the costs of the plan. Each manufacturer's and each labeler's proportion of
24 participation shall be determined annually and shall be based on the manufacturer's
25 or labeler's gross revenues in the preceding calendar year that were derived from

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

4 (3) The department shall levy and collect the assessments and deposit the
5 amounts collected in the health insurance risk-sharing plan fund.

6 **SECTION 19.** 149.14 (3) (intro.) of the statutes is renumbered 149.14 (3) and
7 amended to read:

8 149.14 (3) COVERED EXPENSES. ~~Except as provided in sub. (4), except as~~
9 restricted by cost containment provisions under s. 149.17 (4) and except as reduced
10 by the ~~department~~ board under ss. 149.143 and 149.144, covered expenses for the
11 coverage under this section shall be the payment rates established ~~by the~~
12 ~~department~~ under s. 149.142 for the services provided by persons licensed under ch.
13 446 and certified under s. 49.45 (2) (a) 11. ~~Except as provided in sub. (4), except as~~
14 restricted by cost containment provisions under s. 149.17 (4) and except as reduced
15 by the ~~department~~ board under ss. 149.143 and 149.144, covered expenses for the
16 coverage under this section shall also be the payment rates established ~~by the~~
17 ~~department~~ under s. 149.142 for the ~~following~~ services and articles specified by the
18 board if the service or article is prescribed by a physician who is licensed under ch.
19 448 or in another state and who is certified under s. 49.45 (2) (a) 11. and if the service
20 or article is provided by a provider certified under s. 49.45 (2) (a) 11.:

21 **SECTION 20.** 149.14 (3) (a) to (r) of the statutes are repealed.

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

23 **SECTION 22.** 149.14 (4c) of the statutes is repealed.

24 **SECTION 23.** 149.14 (5) (d) of the statutes is amended to read:

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1 149.14 (5) (d) Notwithstanding pars. (a) to (c), 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 pars. (a) to (c) in accordance with cost containment provisions established by the
5 department board under s. 149.17 (4).

6 **SECTION 24.** 149.14 (5) (e) of the statutes, as affected by 2003 Wisconsin Act 33,
7 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)~~ for prescription drugs. The department board may provide subsidies for
13 prescription drug copayment amounts paid by eligible persons under s. 149.165 (2)
14 (a) 1. to 5. ~~Any copayment amount, coinsurance rate, or out-of-pocket limit~~
15 ~~established under this paragraph is subject to the approval of the board.~~
16 Copayments and coinsurance paid by an eligible person under this paragraph are
17 separate from and do not count toward the deductible and covered costs not paid by
18 the plan under pars. (a) to (c).

19 **SECTION 25.** 149.14 (5m) (c) of the statutes is amended to read:

20 149.14 (5m) (c) Other economic factors that the department ~~and the board~~
21 ~~consider~~ considers relevant.

22 **SECTION 26.** 149.14 (7) (b) and (c) of the statutes are amended to read:

23 149.14 (7) (b) The department board has a cause of action against an eligible
24 ~~participant person~~ person for the recovery of the amount of benefits paid ~~which~~ that are not

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1 for covered expenses under the plan. Benefits under the plan may be reduced or
2 refused as a setoff against any amount recoverable under this paragraph.

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

7 **SECTION 27.** 149.14 (8) of the statutes is amended to read:

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

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

17 **SECTION 28.** 149.142 (1) of the statutes is amended to read:

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

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1 related groups of eligible persons. The board shall consult with the department in
2 establishing the payment and reimbursement rates under this paragraph.

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

8 **SECTION 29.** 149.142 (3) of the statutes is created to read:

9 149.142 (3) Whenever a claim is processed for payment, the adjustment of a
10 provider's payment rate under sub. (1) and any adjustment under s. 149.143 or
11 149.144 shall be calculated and applied on a per-claim basis. The adjustment shall
12 be disclosed on the explanation-of-benefits form provided to the eligible person and
13 to the provider.

14 **SECTION 30.** 149.143 (1) (intro.) of the statutes is amended to read:

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

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

24 149.143 (1) (am) 1. First, from premiums from eligible persons with coverage
25 under s. 149.14 (2) (a) set at a rate that is 140% to 150% of the rate that a standard

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1 risk would be charged under an individual policy providing substantially the same
2 coverage and ~~deductibles~~ cost-sharing provisions as are provided under the plan and
3 from eligible persons with coverage under s. 149.14 (2) (b) set in accordance with s.
4 149.14 (5m), including amounts received for premium, deductible, and prescription
5 drug copayment subsidies under s. 149.144, and from premiums collected from
6 eligible persons with coverage under s. 149.146 set in accordance with s. 149.146 (2)
7 (b).

8 **SECTION 32.** 149.143 (1) (am) 3. of the statutes, as affected by 2003 Wisconsin
9 Act 33, is amended to read:

10 149.143 (1) (am) 3. Third, by increasing premiums from eligible persons with
11 coverage under s. 149.14 (2) (a) to more than the rate at which premiums were set
12 under subd. 1. but not more than 200% of the rate that a standard risk would be
13 charged under an individual policy providing substantially the same coverage and
14 ~~deductibles~~ cost-sharing provisions as are provided under the plan and from eligible
15 persons with coverage under s. 149.14 (2) (b) by a comparable amount in accordance
16 with s. 149.14 (5m), including amounts received for premium, deductible, and
17 prescription drug copayment subsidies under s. 149.144, and by increasing
18 premiums from eligible persons with coverage under s. 149.146 in accordance with
19 s. 149.146 (2) (b), to the extent that the amounts under subds. 1. and 2. are
20 insufficient to pay 60% of plan costs.

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

23 149.143 (1) (am) 4. Fourth, notwithstanding par. (bm), by increasing insurer
24 assessments, excluding assessments under s. 149.144, increasing manufacturer and
25 labeler assessments, excluding assessments under s. 149.144, and adjusting

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1 provider payment rates, subject to s. 149.142 (1) (b) and excluding adjustments to
2 those rates under s. 149.144, in equal proportions and to the extent that the amounts
3 under subds. 1. to 3. are insufficient to pay 60% of plan costs.

4 **SECTION 34.** 149.143 (1) (bm) 1. of the statutes, as affected by 2003 Wisconsin
5 Act 33, is amended to read:

6 149.143 (1) (bm) 1. ~~Fifty percent~~ One-third from insurer assessments,
7 excluding assessments under s. 149.144.

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

9 149.143 (1) (bm) 1m. ~~One-third~~ from manufacturer and labeler assessments,
10 excluding assessments under s. 149.144.

11 **SECTION 36.** 149.143 (1) (bm) 2. of the statutes, as affected by 2003 Wisconsin
12 Act 33, is amended to read:

13 149.143 (1) (bm) 2. ~~Fifty percent~~ One-third from adjustments to provider
14 payment rates, subject to s. 149.142 (1) (b) and excluding adjustments to those rates
15 under s. 149.144.

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

18 149.143 (2) (a) (intro.) Prior to each plan year, the ~~department~~ board shall
19 estimate the operating and administrative costs of the plan and the costs of the
20 premium reductions under s. 149.165 (2) and (3), the deductible reductions under s.
21 149.14 (5) (a), and any prescription drug copayment reductions under s. 149.14 (5)
22 (e) for the new plan year and do all of the following:

23 **SECTION 38.** 149.143 (2) (a) 2. of the statutes, as affected by 2003 Wisconsin Act
24 33, is amended to read:

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

8 **SECTION 39.** 149.143 (2) (a) 3m. of the statutes is created to read:

9 149.143 (2) (a) 3m. By the same rule as under subd. 3., set the total
10 manufacturer and labeler assessments under s. 149.132 for the new plan year by
11 estimating and setting the assessments at the amount necessary to equal the
12 amounts specified in sub. (1) (am) 4. and (bm) 1m. and notify the department of the
13 amount.

14 **SECTION 40.** 149.143 (2) (a) 4. of the statutes, as affected by 2003 Wisconsin Act
15 33, is amended to read:

16 149.143 (2) (a) 4. By the same rule as under ~~subd. 3.~~ subds. 3. and 3m., adjust
17 the provider payment rate for the new plan year, subject to s. 149.142 (1) (b), by
18 estimating and setting the rate at the level necessary to equal the amounts specified
19 in sub. (1) (am) 4. and (bm) 2. and as provided in s. 149.145.

20 **SECTION 41.** 149.143 (2) (b) of the statutes, as affected by 2003 Wisconsin Act
21 33, is amended to read:

22 149.143 (2) (b) In setting the premium rates under par. (a) 2., the insurer
23 assessment amount under par. (a) 3., the manufacturer and labeler assessment
24 amount under par. (a) 3m., and the provider payment rate under par. (a) 4. for the
25 new plan year, the ~~department~~ board shall include any increase or decrease

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1 necessary to reflect the amount, if any, by which the rates and amount set under par.
2 (a) for the current plan year differed from the rates and amount which would have
3 equaled the amounts specified in sub. (1) (am) and (bm) in the current plan year.

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

5 149.143 (2m) (a) (intro.) The department board shall keep a separate
6 accounting of the difference between the following:

7 **SECTION 43.** 149.143 (2m) (b) 1. of the statutes, as affected by 2003 Wisconsin
8 Act 33, is amended to read:

9 149.143 (2m) (b) 1. To reduce premiums in succeeding plan years as provided
10 in sub. (1) (am) 2. For eligible persons with coverage under s. 149.14 (2) (a),
11 premiums may not be reduced below 140% of the rate that a standard risk would be
12 charged under an individual policy providing substantially the same coverage and
13 ~~deductibles~~ cost-sharing provisions as are provided under the plan.

14 **SECTION 44.** 149.143 (2m) (b) 2. of the statutes is amended to read:

15 149.143 (2m) (b) 2. For other needs of eligible persons, ~~with the approval of the~~
16 board including the purpose specified in s. 149.15 (4) (c).

17 **SECTION 45.** 149.143 (2m) (b) 3. of the statutes is amended to read:

18 149.143 (2m) (b) 3. For distribution to eligible persons, notwithstanding any
19 requirements in this chapter related to setting premium amounts. The department
20 board, with the approval of the board and the concurrence of the plan actuary, shall
21 determine the policies, eligibility criteria, methodology, and other factors to be used
22 in making any distribution under this subdivision.

23 **SECTION 46.** 149.143 (2m) (c) of the statutes is created to read:

24 149.143 (2m) (c) The board shall consult with the department as necessary for
25 the accounting under par. (a).

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1 **SECTION 47.** 149.143 (3) (a) of the statutes, as affected by 2003 Wisconsin Act
2 33, is amended to read:

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

14 **SECTION 48.** 149.143 (3) (b) of the statutes, as affected by 2003 Wisconsin Act
15 33, is amended to read:

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

23 **SECTION 49.** 149.143 (3m) of the statutes is amended to read:

24 149.143 (3m) Subject to s. 149.14 (4m), insurers, manufacturers, labelers, and
25 providers may recover in the normal course of their respective businesses without

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1 time limitation assessments or provider payment rate adjustments used to recoup
2 any deficit incurred under the plan.

3 **SECTION 50.** 149.143 (4) of the statutes is amended to read:

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

9 **SECTION 51.** 149.143 (5) of the statutes is amended to read:

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

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

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1 **SECTION 52.** 149.144 of the statutes, as affected by 2003 Wisconsin Act 33, is
2 amended to read:

3 **149.144 Adjustments to insurer assessments and provider payment**
4 **rates for premium, deductible, and prescription drug copayment**
5 **reductions.** The department board shall, by rule, adjust in equal proportions the
6 ~~amount~~ amounts of the ~~assessment~~ assessments set under s. 149.143 (2) (a) 3. and
7 3m. and the provider payment rate set under s. 149.143 (2) (a) 4., subject to ss.
8 149.142 (1) (b) and 149.143 (1) (am), sufficient to reimburse the plan for premium
9 reductions under s. 149.165 (2) and (3), deductible reductions under s. 149.14 (5) (a),
10 and any prescription drug copayment reductions under s. 149.14 (5) (e). The
11 ~~department~~ board shall notify the commissioner and the department so that the
12 commissioner may levy any increase in insurer assessments and the department
13 may levy any increase in manufacturer and labeler assessments.

14 **SECTION 53.** 149.145 of the statutes, as affected by 2003 Wisconsin Act 33, is
15 amended to read:

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

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1 149.143 and 149.144. ~~The department may not implement a program budget~~
2 ~~established under this section unless it is approved by the board~~ shall consult with
3 the department as necessary in deriving the actual provider payment rate.

4 **SECTION 54.** 149.146 (1) (b) of the statutes is amended to read:

5 149.146 (1) (b) An eligible person under par. (a) may elect once each year, at
6 the time and according to procedures established by the ~~department~~ board, among
7 the coverages offered under this section and s. 149.14. If an eligible person elects new
8 coverage, any preexisting condition exclusion imposed under the new coverage is met
9 to the extent that the eligible person has been previously and continuously covered
10 under this chapter. No preexisting condition exclusion may be imposed on an eligible
11 person who elects new coverage if the person was an eligible individual when first
12 covered under this chapter and the person remained continuously covered under this
13 chapter up to the time of electing the new coverage.

14 **SECTION 55.** 149.146 (2) (a) of the statutes, as affected by 2003 Wisconsin Act
15 33, is amended to read:

16 149.146 (2) (a) Except as specified by the ~~department~~ board, the terms of
17 coverage under s. 149.14, including deductible reductions under s. 149.14 (5) (a) and
18 prescription drug copayment reductions under s. 149.14 (5) (e), do not apply to the
19 coverage offered under this section. Premium reductions under s. 149.165 do not
20 apply to the coverage offered under this section.

21 **SECTION 56.** 149.146 (2) (am) 4. of the statutes is amended to read:

22 149.146 (2) (am) 4. Notwithstanding subds. 1. to 3., the ~~department~~ board may
23 establish different deductible amounts, a different coinsurance percentage, and
24 different covered costs and deductible aggregate amounts from those specified in

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1 subsds. 1. to 3. in accordance with cost containment provisions established by the
2 department board under s. 149.17 (4).

3 **SECTION 57.** 149.146 (2) (am) 5. of the statutes is amended to read:

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

13 **SECTION 58.** 149.146 (2) (b) (intro.) of the statutes is amended to read:

14 149.146 (2) (b) (intro.) The schedule of premiums for coverage under this
15 section shall be promulgated by rule by the department board, as provided in s.
16 149.143. The rates for coverage under this section shall be set such that they differ
17 from the rates for coverage under s. 149.14 (2) (a) by the same percentage as the
18 percentage difference between the following:

19 **SECTION 59.** 149.146 (2) (b) 1. of the statutes is amended to read:

20 149.146 (2) (b) 1. The rate that a standard risk would be charged under an
21 individual policy providing substantially the same coverage and ~~deductibles~~
22 cost-sharing provisions as provided under s. 149.14 (2) (a) and (5) (a).

23 **SECTION 60.** 149.146 (2) (b) 2. of the statutes is amended to read:

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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.

4 **SECTION 61.** 149.15 (1) of the statutes is amended to read:

5 149.15 (1) The plan shall ~~have~~ operate under the direction of a board of
6 governors consisting of representatives of 2 participating insurers that are nonprofit
7 corporations, representatives of 2 other participating insurers, 3 4 health care
8 ~~provider~~ industry representatives, including one representative of ~~the State~~
9 Wisconsin Medical Society of ~~Wisconsin~~, one representative of the Wisconsin Health
10 and Hospital Association, one representative of Pharmaceutical Research and
11 Manufacturers of America, and one representative of an integrated
12 multidisciplinary health system, and 4 public members, including one
13 representative of small businesses in the state, appointed by the secretary for
14 staggered 3-year terms. In addition, the commissioner, or a designated
15 representative from the office of the commissioner, and the secretary, or a designated
16 representative from the department, shall be members of the board. The public
17 members shall not be professionally affiliated with the practice of medicine, a
18 hospital, or an insurer. At least one of the public members shall be an individual who
19 has coverage under the plan. ~~The secretary or the secretary's representative shall~~
20 be board annually shall select the chairperson of the board. Board members, except
21 the commissioner or the commissioner's representative and the secretary or the
22 secretary's representative, shall be compensated at the rate of \$50 per diem plus
23 actual and necessary expenses.

24 **SECTION 62.** 149.15 (3) (b) of the statutes is created to read:

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1 149.15 (3) (b) Establish by rule the plan design, including covered benefits and
2 exclusions. At least every 3 years, the board shall conduct a survey of health care
3 plans available in the private market and make any adjustments to the plan that the
4 board determines are advisable on the basis of the survey. Using the procedure under
5 s. 227.24, the board may promulgate rules under this paragraph for the period before
6 the effective date of any permanent rules promulgated under this paragraph, but not
7 to exceed the period authorized under s. 227.24 (1) (c) and (2). Notwithstanding s.
8 227.24 (1) and (3), the board is not required to make a finding of emergency.

9 **SECTION 63.** 149.15 (3) (c) of the statutes is repealed.

10 **SECTION 64.** 149.15 (3) (e) of the statutes is created to read:

11 149.15 (3) (e) Select a plan administrator in a competitive,
12 request-for-proposals process and enter into a contract with the person selected.

13 **SECTION 65.** 149.15 (3) (em) of the statutes is created to read:

14 149.15 (3) (em) Contract with persons to provide professional services to the
15 board and the plan.

16 **SECTION 66.** 149.15 (3) (f) of the statutes is repealed.

17 **SECTION 67.** 149.15 (4) (c) of the statutes is created to read:

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

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1 this paragraph to reduce premiums for eligible persons with low household incomes,
2 as determined by the board. Household income under this paragraph shall be
3 determined in the same manner as household income is determined under s. 149.165
4 (2) and (3).

5 **SECTION 68.** 149.15 (5) of the statutes is repealed.

6 **SECTION 69.** 149.16 of the statutes, as affected by 2003 Wisconsin Act 33, is
7 repealed.

8 **SECTION 70.** 149.165 (1) of the statutes is amended to read:

9 149.165 (1) Except as provided in s. 149.146 (2) (a), the ~~department~~ board shall
10 reduce the premiums established under ~~s. 149.11~~ in conformity with ss. 149.14 (5m),
11 149.143, and 149.17 for the eligible persons and in the manner set forth in subs. (2)
12 and (3).

13 **SECTION 71.** 149.165 (2) of the statutes is amended to read:

14 149.165 (2) (a) Subject to ~~sub. subs. (3m) and (3r)~~, if the household income, as
15 defined in s. 71.52 (5) and as determined under sub. (3), of an eligible person with
16 coverage under s. 149.14 (2) (a) is equal to or greater than the first amount and less
17 than the 2nd amount listed in any of the following, the ~~department~~ board shall
18 reduce the premium for the eligible person to the rate shown after the amounts:

19 1. If equal to or greater than \$0 and less than \$10,000, to 100% of the rate that
20 a standard risk would be charged under an individual policy providing substantially
21 the same coverage and ~~deductibles~~ cost-sharing provisions as provided under s.
22 149.14 (2) (a) and (5) (a).

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

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1 substantially the same coverage and deductibles cost-sharing provisions as
2 provided under s. 149.14 (2) (a) and (5) (a).

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

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

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

15 (bc) Subject to ~~sub. subs.~~ (3m) and (3r), if the household income, as defined in
16 s. 71.52 (5) and as determined under sub. (3), of an eligible person with coverage
17 under s. 149.14 (2) (b) is equal to or greater than the first amount and less than the
18 2nd amount listed in par. (a) 1., 2., 3., 4., or 5., the ~~department~~ board shall reduce the
19 premium established for the eligible person by the same percentage as the
20 ~~department~~ board reduces, under par. (a), the premium established for an eligible
21 person with coverage under s. 149.14 (2) (a) who has a household income specified
22 in the same subdivision under par. (a) as the household income of the eligible person
23 with coverage under s. 149.14 (2) (b).

24 **SECTION 72.** 149.165 (3) (a) of the statutes is amended to read:

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1 149.165 (3) (a) Subject to par. (b), the ~~department~~ board shall establish and
2 implement the method for determining the household income of an eligible person
3 under sub. (2).

4 **SECTION 73.** 149.165 (3) (b) (intro.) of the statutes is amended to read:

5 149.165 (3) (b) (intro.) In determining household income under sub. (2), the
6 ~~department~~ board shall consider information submitted by an eligible person on a
7 completed federal profit or loss from farming form, schedule F, if all of the following
8 apply:

9 **SECTION 74.** 149.165 (3r) of the statutes is created to read:

10 149.165 (3r) The board shall use any excess premiums collected under a
11 schedule established under s. 149.15 (4) to further reduce the premium rates under
12 sub. (2) (a) 1. to 5. and (bc).

13 **SECTION 75.** 149.17 (4) of the statutes is amended to read:

14 149.17 (4) Cost containment provisions established by the ~~department~~ board
15 by rule, including managed care requirements.

16 **SECTION 76.** 149.175 of the statutes is amended to read:

17 **149.175 Waiver or exemption from provisions prohibited.** Except as
18 provided in s. 149.13 (1), the department or the board may not waive, ~~or authorize~~
19 ~~the board to waive~~, any of the requirements of this chapter or exempt, ~~or authorize~~
20 ~~the board to exempt~~, an individual or a class of individuals from any of the
21 requirements of this chapter.

22 **SECTION 77.** 149.20 of the statutes is amended to read:

23 **149.20 ~~Rule-making in consultation with~~ Rules to be approved by**
24 **board.** ~~In promulgating any~~ Any rules proposed by the department under this

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

3 **SECTION 78.** 149.25 (2) (a) of the statutes is amended to read:

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

8 **SECTION 79.** 149.25 (4) of the statutes is amended to read:

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

18 **SECTION 80.** 450.10 (2m) of the statutes is created to read:

19 450.10 (2m) If a manufacturer or labeler fails to pay an assessment levied
20 under s. 149.132 (3) within the time required for payment, the board may assess a
21 forfeiture of not more than \$1,000 for each day that the payment is past due.

22 **SECTION ~~2124~~.** ~~Nonstatutory provisions~~ health and family services.

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

BILL

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, ~~the remainder of the~~
 4 ~~remainder of the~~ 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.

and (bm)

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

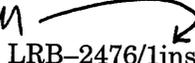
SECTION 81. Initial applicability.

13 (1) DESIGN. With respect to changes in plan design, including covered expenses
 14 and exclusions, deductibles, copayments, coinsurance, and out-of-pocket limits, the
 15 treatment of sections 149.11, 149.14 (3) (intro.) and (a) to (r), (4), (5) (d) and (e), and
 16 (8), 149.146 (1) (b) and (2) (a), (am) 4. and 5., and (b) (intro.) and 1., 149.15 (3) (b), and
 17 149.17 (4) of the statutes first applies to the plan year beginning on January 1, 2005.

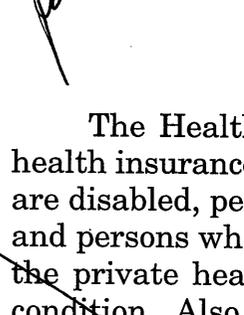
18 (2) ELIGIBILITY. The treatment of section 149.12 (1) (a), (am), (b), and (c) of the
 19 statutes first applies to applications for coverage under the Health Insurance
 20 Risk-Sharing Plan that are received on January 1, 2004.

(END)

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

From 
LRB-2476/lins
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ANALYSIS INSERT

percent 

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

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

This bill makes the following changes to HIRSP:

percent 

1. Under the bill, prescription drug manufacturers or labelers that provide drugs prescribed for use by persons covered under HIRSP are required to pay an assessment, as are health insurers currently, for plan costs. DHFS must determine which drug manufacturers and labelers are affected. The bill requires any drug manufacturer or labeler that provides drugs prescribed for use by persons receiving benefits under Medical Assistance, BadgerCare, or SeniorCare to provide drugs prescribed for use by persons with coverage under HIRSP. A drug manufacturer's or labeler's assessment will be based on its gross revenues in the preceding calendar year that were derived from drug sales to persons with coverage under HIRSP. The 40% of HIRSP's costs that are now split equally between insurer assessments and provider payment discounts, as well as the premium and deductible subsidies for lower-income covered persons, will be paid one-third by insurer assessments, one-third by provider payment discounts, and one-third by drug manufacturer and labeler assessments. The bill allows the pharmacy examining board to assess a forfeiture of not more than \$1,000 per day against a drug manufacturer or labeler that fails to pay an assessment for HIRSP. ✓

2. The bill removes most of the administrative responsibilities from DHFS and transfers them to the board. For example, under current law, DHFS may establish different deductible amounts and a different coinsurance percentage from what is provided in the statutes, while under the bill the board may do so; under current law, DHFS must establish payment rates by adding an enhancement determined by DHFS to the allowable charges under Medical Assistance, while under the bill the board establishes the allowable charges in the same manner and must consult with DHFS; under current law, DHFS establishes a program budget in consultation with the board and may implement the budget only if it is approved by the board, while

under the bill the board establishes the program budget and must consult with DHFS in deriving the provider payment rate; under current law, prior to each plan year DHFS must estimate the operating and administrative costs of HIRSP and set premiums, insurer assessment amounts, and provider payment rate discounts, while under the bill the board performs these functions, as well as setting the drug manufacturer and labeler assessment amounts; under current law, DHFS is required to promulgate rules for the operation of HIRSP and must consult with the board before promulgating any rules related to HIRSP, while under the bill the board is required to promulgate rules for the design and operation of HIRSP, consulting with DHFS as necessary, and DHFS may promulgate a rule only if the board has approved the proposed rule.

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

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

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

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

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

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

9. Finally, the bill requires that any federal grant moneys received by the state under the Trade Adjustment Assistance Reform Act of 2002 be used for HIRSP to pay

and

health and family services

health and family services

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plan costs before any costs are paid with premiums or insurer and drug manufacturer and labeler assessments and provider payment discounts.

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

To Editor/LPS:

/1

I have:

1. added to D-note
2. added to relating clause
3. added an insert for the analysis
4. made a change affecting statute treatment on p. 5
5. changed wording on p. 26

Thanks!

to go
out on Monday - if possible

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2476/1dn
PJK:kmg:pg

← stays

September 26, 2003

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 the assessments will go into effect as soon as possible and that adjustments during the plan year will accomplish the requirement that 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.)

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6. This draft retains current law for the determination of insurer assessments rather than providing for board determination of the methodology. See s. 149.13.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2476/1dn
PJK:kmg:pg

September 29, 2003

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?
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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.)
6. This draft retains current law for the determination of insurer assessments rather than providing for board determination of methodology. See s. 149.13.

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