

**2005 DRAFTING REQUEST**

**Bill**

Received: **04/29/2005**

Received By: **pkahler**

Wanted: **Soon**

Identical to LRB:

For: **Curtis Gielow (608) 266-0486**

By/Representing: **John Reinemann**

This file may be shown to any legislator: **NO**

Drafter: **pkahler**

May Contact:

Addl. Drafters: **mshovers  
rchampag**

Subject: **Insurance - health  
Health - miscellaneous  
Tax, Individual - miscellaneous  
Employ Pub - employee benefits**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Gielow@legis.state.wi.us**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Health Insurance Purchasing Corporation and Accounts

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**Instructions:**

See Attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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	mshovers 05/17/2005			_____			
	pkahler 05/17/2005			_____			

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/P1			chaugen 05/19/2005	_____	sbasford 05/19/2005		
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/2	pkahler 02/27/2006	lkunkel 02/27/2006	rschluet 02/27/2006	_____	mbarman 02/27/2006		State Tax
/3	pkahler 03/01/2006	lkunkel 03/01/2006	rschluet 03/02/2006	_____ _____ _____	sbasford 03/02/2006 mbarman 03/08/2006	sbasford 03/08/2006	

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Drafter: pkahler

May Contact:

Addl. Drafters: mshovers  
rchampag

Subject: Insurance - health  
Health - miscellaneous  
Tax, Individual - miscellaneous  
Employ Pub - employee benefits

Extra Copies:

Submit via email: YES

Requester's email: Rep.Gielow@legis.state.wi.us

Carbon copy (CC:) to:

changed

see attached

Pre Topic:

No specific pre topic given

Topic:

Health Insurance Purchasing Corporation and Accounts

Instructions:

See Attached

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Vers.      Drafted      Reviewed      Typed      Proofed      Submitted      Jacketed      Required

/2      pkahler      lkunkel      rschluet      \_\_\_\_\_      mbarman      State  
02/27/2006      02/27/2006      02/27/2006      \_\_\_\_\_      02/27/2006      Tax

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03/01/2006      03/01/2006      03/02/2006      \_\_\_\_\_      03/02/2006  
\_\_\_\_\_      mbarman  
\_\_\_\_\_      03/08/2006

FE Sent For:

<END>

mbarman  
03/08/2006

e-mail  
only to  
new  
requestor

2005 DRAFTING REQUEST

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Identical to LRB:

For: Jon Richards (608) 266-0650

By/Representing: himself, David Riemer, Jeff Kost

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Drafter: pkahler

May Contact:

Addl. Drafters: mshovers  
rchampag

Subject: Insurance - health  
Health - miscellaneous  
Tax, Individual - miscellaneous  
Employ Pub - employee benefits

Extra Copies:

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Health Insurance Purchasing Corporation and Accounts

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By/Representing: **himself, David Riemer, Jeff Kost**

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Drafter: **pkahler**

May Contact:

Addl. Drafters: **mshovers  
rchampag**

Subject: **Insurance - health  
Health - miscellaneous  
Tax, Individual - miscellaneous  
Employ Pub - employee benefits**

Extra Copies:

Submit via email: **YES**

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Carbon copy (CC:) to:

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### Pre Topic:

No specific pre topic given

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### Topic:

Health Insurance Purchasing Corporation and Accounts

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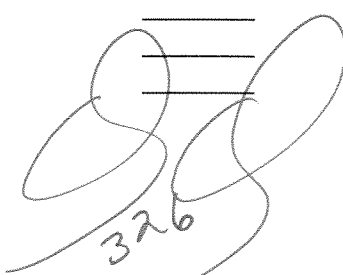
### Instructions:

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                 02/27/2006      02/27/2006      02/27/2006      \_\_\_\_\_            02/27/2006

FE Sent For:            1/3 lmk 3/1

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May Contact:

Addl. Drafters: **jkreye  
mshovers  
rchampag**

Subject: **Insurance - health  
Health - miscellaneous  
Tax, Individual - miscellaneous  
Tax, Business - miscellaneous  
Employ Pub - employee benefits**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Richards@legis.state.wi.us**

Carbon copy (CC:) to: **joseph.kreye@legis.state.wi.us**

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### Pre Topic:

No specific pre topic given

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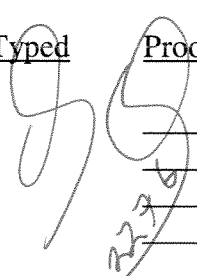
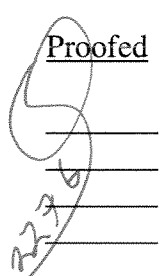
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*1/21mk 2/27*

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By/Representing: **himself, David Riemer, Jeff Kost**

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Drafter: **pkahler**

May Contact:

Addl. Drafters: **jkreye  
mshovers  
rchampag**

Subject: **Insurance - health  
Health - miscellaneous  
Tax, Individual - miscellaneous  
Tax, Business - miscellaneous  
Employ Pub - employee benefits**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Richards@legis.state.wi.us**

Carbon copy (CC:) to: **joseph.kreye@legis.state.wi.us**

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**Pre Topic:**

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**Topic:**

Health Insurance Purchasing Corporation and Accounts

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Health - miscellaneous

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Adtl. Drafters: **jkreye  
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Subject: **Insurance - health  
Health - miscellaneous**

Extra Copies: *lmk*

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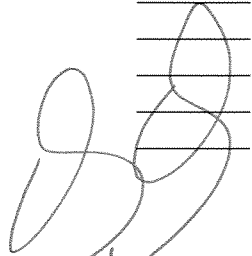
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**Topic:**

Health Insurance Purchasing Corporation and Accounts

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**Instructions:**

See Attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 05/06/2005 mshovers 05/17/2005 pkahler 05/17/2005	wjackson 05/19/2005		_____			
/P1			chaugen 05/19/2005	_____	sbasford 05/19/2005		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P2	pkahler 08/04/2005	wjackson 08/12/2005	rschluet 08/15/2005	_____	sbasford 10/05/2005		
	pkahler 08/15/2005	wjackson 10/04/2005	jfrantze 10/05/2005	_____			
	jkreye 09/08/2005			_____			
	mshovers 09/12/2005			_____			
	pkahler 09/13/2005			_____			
	jkreye 09/14/2005			_____			
	pkahler 09/14/2005			_____			

FE Sent For:

<END>

2005 DRAFTING REQUEST

Bill

Received: 04/29/2005

Received By: pkahler

Wanted: Soon

Identical to LRB:

For: Jon Richards (608) 266-0650

By/Representing: himself, David Riemer, Jeff Kost

This file may be shown to any legislator: NO

Drafter: pkahler

May Contact:

Addl. Drafters:

Subject: Insurance - health  
Health - miscellaneous

Extra Copies:

Submit via email: YES

Requester's email: Rep.Richards@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Health Insurance Purchasing Corporation and Accounts

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 05/06/2005	wjackson 05/19/2005					
	mshovers 05/17/2005	/p2 Wlj 8/12					
	pkahler 05/17/2005	/p2 Wlj 10/4					
/P1			chaugen 05/19/2005		sbasford 05/19/2005		

4/25/05  
 26/10/4  
 p6  
 10/5



FE Sent For:

<END>

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See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler	1A WJ 5/19	ch 5/19	ch 5/19			

FE Sent For:

<END>

**Kahler, Pam**

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**From:** Kostelic, Jeff  
**Sent:** Friday, April 29, 2005 10:25 AM  
**To:** Kahler, Pam  
**Subject:** Health Care Purchasing Exchange - part 2

LRB-950  
was



Pam,

As you may recall, Representatives Richards and Gielow along with former budget director David Riemer sat down with you to work on a comprehensive health care purchasing reform proposal. Several changes have been made to our original proposal which are reflected in the attached Word document. In fact, the changes are so comprehensive that it may be advisable to work on this as a new draft. → new no. is LRB-2922

Representatives Richards and Gielow request that this be made a priority project. Representative Richards is making this drafting request, but is authorizing you to consult Representative Gielow, David Riemer and Lisa Ellinger. Contact information for Mr. Riemer and Ms. Ellinger is provided below. You may want to direct your questions to David Riemer as he has facilitated most of the discussions on this plan and may have the most complete understanding of its details.

Please do not hesitate to contact any of us if you have any questions or need clarification. Thank you for your work on this project.

Jeff Kostelic

Office of Representative Jon Richards

266-0650

Lisa Ellinger

[lisa\\_ellinger@yahoo.com](mailto:lisa_ellinger@yahoo.com) <[mailto:lisa\\_ellinger@yahoo.com](mailto:lisa_ellinger@yahoo.com)>

cell: 414-534-4521

David Riemer

[driermil@yahoo.com](mailto:driermil@yahoo.com)

cell:414-617-9148



4-28-05 Specs.doc

A. Policy:

The **Corporation** shall establish and operate a program under which **participants** shall be assigned a **Health Insurance Purchasing Account**, shall use the Account to purchase **health insurance** from competing **qualifying health care plans**, and shall have a clear financial incentive to choose the health care plans that on a risk-adjusted basis provide health insurance at the lowest-cost and of the highest quality.

The Department of Revenue shall collect an **assessment** from **employers** to finance the program, and after deducting a fee equal to the cost of collection shall remit the assessment amounts collected to the Corporation.

The Corporation shall pay to the Department of Health and Family Services an amount equal to the cost, less the federal match, of providing health care to Wisconsin residents enrolled in the family portion of **Medicaid** and **BadgerCare** until the waiver discussed below is approved and goes into effect.

The Department of Health and Family Services shall seek a waiver from the U.S. Department of Health and Human Services under which Wisconsin residents who are eligible for the family portion of **Medicaid** and **BadgerCare** may also be assigned Accounts and under which the cost of their Accounts shall qualify for an acceptable federal match.

B. Definitions:

✓ (1) Corporation: Health Insurance Purchasing Corporation of Wisconsin, a private corporation governed by a 8-person Board of Directors that's responsible for establishing and operating the health insurance purchasing program. Board members include: 1 person chosen by WMC, 1 person chosen by MMAC, 1 person chosen by WFIB, 1 person chosen by AFL-CIO, 1 person chosen by the union with the largest membership in Wisconsin, 1 person chosen by Farm Bureau, 1 person chosen by Farmers Union, and 1 person chosen by Governor to represent consumers. All major Board decisions require 7 votes. Board meetings would be held in public, unless open-meetings type exceptions apply. Legislative Audit Bureau would be required to conduct a comprehensive audit at least once every two years, and would have access to all Board meetings and records. Board would be required to submit annual report to Legislature. Board would be responsible for choosing and overseeing Executive Director and other staff, and approving all major contracts. ←

✓ (2) Participants:

(a) Wisconsin residents aged 0 through 64 who have resided in Wisconsin for at least six months and are not institutionalized.

(b) Children born to such persons in Wisconsin.

\* (c) Includes Wisconsin residents who are eligible for Medicaid or BadgerCare through the existing Medicaid & BadgerCare programs until the waiver is approved and goes into effect.

(d) Excludes federal employees.

✓ (3) Health Insurance Purchasing Account: Includes:

(a) A Health Savings Account (HSA), into which, for participants aged 21-64, the Corporation shall deposit \$600 per year; and

(b) A Premium Credit, the dollar value of which has been actuarially adjusted for age, sex, and other appropriate risk factors, which the participant shall use to buy health insurance and shall direct the Corporation to transfer to the participants' choice of a qualifying health insurance plan.

(c) The Corporation may retain a percentage of the Premium Credits of participants, and pay the amount retained to any health care plan that (despite the actuarial adjustment of Premium Credits for age, sex, and other appropriate risk factors) has incurred disproportionate risk.

(4) Health insurance: Includes medical care, hospital care, and prescription drugs, subject to the following cost sharing and pre-existing condition limitation:

✓ (a) No cost sharing for preventive care as defined by the Corporation (including well-baby care, annual medical exams for children 0-18, medically indicated immunizations, annual gynecological exams for older girls and women, medically indicated pap smears and mammograms, annual medical exams for older men, medically indicated colonoscopies) or emergency care as defined by the Corporation.

✓ (b) Otherwise, the following cost sharing applies:

(i) For persons 21-64:

- an annual deductible of \$1,200
- co-pays for doctors' visits of \$25/visit or \$35/visit for specialists
- co-pays for prescription drugs of \$5 for generic drugs, \$15 for "preferred" brand drugs, and \$35 for non-preferred brand drugs (as in current State Employee Health Plan)
- a \$250 co-pay for non-emergency use of hospital emergency rooms

(ii) For persons 0-20:

- an annual deductible of \$100
- co-pays for doctors' visits of \$10/visit or \$15/visit for specialists
- co-pays for prescription drugs of \$5 for generic drugs, \$15 for "preferred" brand drugs, and \$35 for non-preferred brand drugs (as in current State Employee Health Plan)
- a \$250 co-pay for non-emergency use of hospital emergency rooms

✓ (c) Total cost-sharing would be capped at \$2,000/adult/year and \$1,000/child/year.

✓ (d) In the case of participants who, during the 12 months prior to enrolling as participants, resided in another country or U.S. state in which they did not have health insurance that provided coverage substantially similar to the health insurance provided by this program, pre-existing medical conditions would not be covered by the health insurance provided by this program.

*at any time during 12-m period*

*def?*

(e) The Corporation shall retain the portion of participants' Premium Credits that has been actuarially allocated for the provision of prescription drug coverage and use that portion to assume the risk for, and pay directly for, prescription drugs used by participants. Provided, however, that if the Corporation determines that this method of prescription drug coverage is not cost-effective, the Corporation may include the portion of participants' Premium Credits that has been actuarially allocated for the provision of prescription drug coverage in the dollar value of the Premium Credits that participants direct the Corporation to transfer to the participants' choice of a qualifying health insurance plan, and then require all qualifying health insurance plans to assume the risk for, and pay directly for, prescription drugs used by participants.

✓ (5) Qualifying health care plans: Insurers (whether HMOs, PPOs, or indemnity carriers) licensed to sell health insurance in Wisconsin that the Corporation has determined meet the financial, coverage, and disclosure standards comparable to those that the Wisconsin Department of Employee Trust Funds has used in qualifying health care plans under the state employee health plan. ?

(6) Assessment. The assessment shall be as follows:

(a) In the case of employers who file quarterly federal tax form 941 (or its equivalent), the assessment shall not exceed the following percentage of Medicare wages as reported on the form:

- (i) 8% of the 1<sup>st</sup> \$100,000 of Medicare wages
- (ii) 9% of the 2<sup>nd</sup> \$100,000 of Medicare wages
- (iii) 10% of the 3<sup>rd</sup> \$100,000 of Medicare wages
- (iv) 11% of the 4<sup>th</sup> \$100,000 of Medicare wages
- (v) 12% of all remaining Medicare wages

(b) In the case of self-employed individuals or farmers who file annually federal tax forms C or F, and consequently file federal form SE, the assessment shall not exceed the following percentage of Medicare wages as reported on form SE:

- (i) 8% of the 1<sup>st</sup> \$100,000 of Medicare wages
- (ii) 9% of the 2<sup>nd</sup> \$100,000 of Medicare wages
- (iii) 10% of the 3<sup>rd</sup> \$100,000 of Medicare wages
- (iv) 11% of the 4<sup>th</sup> \$100,000 of Medicare wages
- (v) 12% of all remaining Medicare wages

(c) The assessment shall be administered and collected by the Wisconsin Department of Revenue, which (after deducting (i) reasonable administrative costs and (ii) any amount needed to finance the state share of the "family" portion of Medicaid and the state share of BadgerCare until the federal waiver request to the U.S. Department of Health and Human Services is approved) shall remit the balance to the Corporation.

✓ (d) To ensure that the assessment revenue collected from employers, at the level specified in this legislation, approximately equals to estimated cost of the two components of the Health Insurance Purchasing Accounts for all participants in the program plus reasonable administrative costs and a reasonable level of reserves, the Corporation would have the authority to (i) increase the amount in HSAs by up to 50% if

the Corporation estimates that revenues will exceed costs or (ii) reduce health insurance benefits by 5% if the Corporation estimates that costs will exceed revenues.

(e) If the Corporation determines, based on information and recommendations received from its actuaries, that the assessment will not generate sufficient funds to pay for the health insurance benefits described above even after such benefits are reduced by 5%, the Corporation shall inform the Legislature and Governor, indicate what changes in the assessment would be required to maintain the same benefit level, indicate what alternative reductions in benefits would be appropriate in order to avoid an increase in the assessment, and recommend which of these alternative reductions in benefits the Corporation prefers. The recommended reduction in benefits will take effect unless the Legislature and Governor enact legislation that requires a different resolution of the problem.

?  
possible  
assessment  
waiver  
?

(7) Employers. Any entity that is required under federal law to file form 941 and any entity or person that is required under federal law to file schedule SE.

(8) Family portion of Medicaid. The portion of Medicaid that does *not* provide services to the elderly or disabled, but provides services to low-income families.

(9) BadgerCare. The BadgerCare program implemented under the federal SCHIP legislation.

#### C. Effective dates

✓(1) The Corporation shall begin to function immediately upon passage of the legislation. *no delay*

✓(2) The Corporation shall assign participants to Accounts beginning 1/1/06

✓(3) Participants shall have an open enrollment period, during which they use their Accounts to choose a qualifying health care plan, every November, beginning 11/06.

(4) Participants' health insurance coverage under the qualifying health care plans they've chosen shall take effect on January 1, beginning 1/1/07.

(5) The Department of Revenue shall begin to collect assessments from employers beginning with the first quarter of 2007.

(6) The Corporation shall begin to pay the Department of Health and Family Services for the state share of the family portion of Medicaid and BadgerCare beginning 1/1/07, and shall continue to make such payments until the waiver is granted and goes into effect.

✓(7) The Department of Health and Family Services shall submit its waiver request to the U.S. Department of Health and Human Services no later than 7/1/06.

need some  
lead \$

## Kahler, Pam

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**From:** Kostelic, Jeff  
**Sent:** Monday, May 02, 2005 4:59 PM  
**To:** Kahler, Pam  
**Subject:** Clarification of instructions



5.2.05 Specs.doc

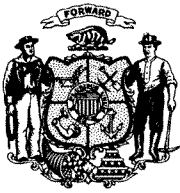
Pam,

Attached, please find slightly modified drafting instructions for the Richards/Gielow health care reform bill. These "new" instructions do not differ in a substantive way from the original instructions, but rather offers some clarifying points and hopefully help you with the draft.

Please let me know if you have any questions. Thanks.

Jeff Kostelic  
Office of Representative Jon Richards  
266-0650





State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-2922/7  
PJK, JK, MES:.....

PI  
WLJ

5-19

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Thurs, please  
D-vote

gen cat

- 1
- 2
- 3
- 4

AN ACT ...; relating to: crating the Health Insurance Purchasing Corporation of Wisconsin, establishing a health insurance purchasing arrangement through the use of private accounts for all state residents, and creating an appropriation.

making

**Analysis by the Legislative Reference Bureau**

This is a preliminary draft. An analysis will be provided in a later version.

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

- 5 SECTION 1. 13.94 (1s) (c) 4. of the statutes is created to read:
- 6 13.94 (1s) (c) 4. The Health Insurance Purchasing Corporation of Wisconsin for
- 7 the cost of the audits required to be performed under s. 260.05 (3).
- 8 SECTION 2. 20.855 (8m) of the statutes is created to read:
- 9 20.855 (8m) HEALTH INSURANCE PURCHASING CORPORATION OF WISCONSIN. (r)
- 10 *Health insurance purchasing accounts and administration.* After deducting the

1 amounts appropriated under s. 20.XXX (X) (X), the amounts appropriated for the  
 2 state's share of administrative costs and benefits under the Medical Assistance  
 3 program that are attributable to low-income families, and the amounts  
 4 appropriated for the state's share of administrative costs and benefits under the  
 5 Badger Care health care program under s. 49.665, the balance of the moneys paid  
 6 into the health insurance purchasing trust fund to be paid to the Health Insurance  
 7 Purchasing Corporation of Wisconsin for establishing, funding, and managing, and  
 8 assisting individuals with the use of, the health insurance purchasing accounts  
 9 established under ch. 260.

Sheet 2-9

10 **SECTION 3.** 25.17 (1) (gd) of the statutes is created to read:

11 25.17 (1) (gd) Health insurance purchasing trust fund (s. 25.775);

12 **SECTION 4.** 25.775 of the statutes is created to read:

13 **25.775 Health insurance purchasing trust fund.** There is established a  
 14 separate, nonlapsible trust fund designated as the health insurance purchasing  
 15 trust fund, consisting of all moneys collected under s. 260.XX.

Sheet 2-15

16 <sup>Ⓢ+Ⓢ</sup>  
SECTION #. CR; Ch. 260

**CHAPTER 260**

**HEALTH INSURANCE PURCHASING ACCOUNTS**

18 **260.01 Definitions.** In this chapter:

19 (1) "Board" means the board of directors of the corporation.

20 (2) "Corporation" means the Health Insurance Purchasing Corporation of  
 21 Wisconsin.

22 (3) "Eligible resident" means an individual who satisfies all of the following  
 23 criteria:

24 (a) The individual has been legally domiciled in this state for at least 6 months,  
 25 except that, if a child is under 6 months of age, the child is an "eligible resident" if

1 the child lives in this state and at least one of the child's parents or the child's  
2 guardian has been legally domiciled in this state for at least 6 months. For purposes  
3 of this chapter, legal domicile is established by living in this state and doing any of  
4 the following:

5 1. Obtaining a Wisconsin motor vehicle operator's license.

6 2. Registering to vote in Wisconsin.

7 3. Filing a Wisconsin income tax return.

8 (b) The individual is under 65 years of age.

9 (c) The individual is not eligible for health care coverage from the federal  
10 government, is not an inmate of a penal facility, as defined in s. 19.32 (1e), and is not  
11 placed or confined in, or committed to, an institution for the mentally ill or  
12 developmentally disabled.

13 (d) Unless a waiver requested under s. 260.60 (2) is granted and in effect, the  
14 individual is not eligible for medical assistance under subch. IV of ch. 49 or for health  
15 care coverage under the Badger Care health care program under s. 49.665.

16 **260.05 Health Insurance Purchasing Corporation of Wisconsin. (1)**

17 INCORPORATION. The secretary of administration shall do all of the following:

18 (a) Draft and file articles of incorporation for a nonstock corporation under ch.  
19 181 and take all actions necessary to exempt the corporation from federal taxation  
20 under section 501 (c) (3) of the Internal Revenue Code.

21 (b) Provide in the articles of incorporation filed under par. (a) all of the  
22 following:

23 1. That the name of the corporation is the "Health Insurance Purchasing  
24 Corporation of Wisconsin."

**SECTION 4**

1           2. That the board shall consist of 8<sup>✓</sup> directors who, except for the initial directors,  
2 shall be designated or appointed as follows:

3           a. One designated by Wisconsin Manufacturers and Commerce.

4           b. One designated by the Wisconsin State American Federation of Labor and  
5 Congress of Industrial Organizations.

6           c. One designated by the Metro Milwaukee Association of Commerce.

7           d. One designated by the Wisconsin office of the National Federation of  
8 Independent Business.

9           e. One designated by the Wisconsin Farm Bureau Federation.

10          f. One designated by the Wisconsin Farmers Union.

11          g. One designated by the labor union with the largest membership in  
12 Wisconsin, as specified by the secretary of administration.

13          h. One designated by the governor to represent consumers.

14          3. That the term of a director shall be 6 years, except that the term of an initial  
15 director shall be one year.

\*\*\*\*NOTE: Do you still want to specify 6-year terms?

16          4. The names and addresses of the initial directors.

17          5. That 7 votes shall be necessary for adoption of any major decision of the  
18 board.

\*\*\*\*NOTE: Do you want to be more specific about what a major decision is, or do you  
think that everyone will agree on what is major?

19          (c) In consultation with the persons charged with designating the directors  
20 under par. (b) 2. a. to h.<sup>✓</sup>, designate the initial directors.

21          (d) Draft bylaws for adoption by the board.

22          **(2) DUTIES.** As a condition for the release of funds under s. 20.855 (8m) (r)<sup>✓</sup>, the  
23 corporation shall do all of the following:

1 (a) Establish, fund, and manage health insurance purchasing accounts in the  
2 manner provided in this chapter and assist eligible residents in using their accounts  
3 to purchase health care coverage.

4 (b) Expend in a state fiscal year in costs to administer the health insurance  
5 purchasing accounts not more than <sup>1</sup>one percent of the amount appropriated under  
6 s. 20.855 (8m) (r) for that state fiscal year.

\*\*\*\*NOTE: Do you still want this provision? Referencing the maximum amount that may be spent in a state fiscal year does not obligate the corporation to use the same fiscal year as the state. You could use a different measure, however, if you wish.

7 (c) Keep its records open at all times to inspection and examination by the  
8 governor or any committee of either or both houses of the legislature.

9 (d) Keep its meetings open to the public to the extent required of governmental  
10 bodies under subch. V of ch. 19.

11 (e) Cooperate with the legislative audit bureau in the performance of the audits  
12 under sub. (3).

13 (f) Submit on each October 1 an annual report to the governor and to the  
14 legislature under s. 13.172 (2) <sup>and</sup> regarding its activities.

15 (3) AUDITS. At least once every 2 years, the legislative audit bureau shall  
16 conduct a financial audit of the corporation and a performance evaluation audit of  
17 the health insurance purchasing arrangement under this chapter that includes an  
18 audit of the corporation's policies and management practices. The legislative audit  
19 bureau shall distribute a copy of each audit report under this subsection to the  
20 legislature under s. 13.172 (2) and to the governor. The corporation shall reimburse  
21 the legislative audit bureau for the cost of the audits and reports required under this  
22 subsection.

1           **260.10 Health insurance purchasing accounts. (1) ESTABLISHMENT AND**  
 2 FUNDING. (a) Beginning <sup>in</sup> on January <sup>2006</sup> 1, 2006, the corporation shall establish a private,  
 3 health insurance purchasing account for each eligible resident. The corporation  
 4 annually shall credit each account with a premium amount that is <sup>actuarially</sup> actuarially adjusted  
 5 for the eligible resident based on age, sex, and other appropriate risk factors  
 6 determined by the board. Subject to sub. (2) and s. 260.20 (3), the corporation shall  
 7 pay the amount credited under this paragraph to the health benefit plan selected by  
 8 the eligible resident under s. 260.15 (2).

\*\*\*\*NOTE: Is this the entire premium, or could an individual have to pay something out-of-pocket?

9           (b) For eligible residents who are at least 21 years of age, each health insurance  
 10 purchasing account shall also consist of a health savings account, as described in 26  
 11 USC 223. Beginning in 2007, the corporation shall deposit \$600 annually <sup>to</sup> in each  
 12 health savings account, except that, if the corporation estimates that revenues will  
 13 exceed costs in a year, the corporation may deposit an additional amount, not to  
 14 exceed \$300 per year, <sup>to</sup> in each health savings account.

\*\*\*\*NOTE: May an eligible resident also make deposits <sup>to</sup> in his or her HSA?

15           **(2) ADDITIONAL PAYMENT FOR DISPROPORTIONATE RISK.** The corporation may retain  
 16 a percentage of the amounts credited under sub. (1) (a) <sup>to</sup> to pay to health benefit plans  
 17 that have incurred disproportionate risk, despite the actuarial adjustment in the  
 18 amount credited to each account under sub. (1) (a).

19           **260.15 Health benefit plans. (1) PARTICIPATION OF INSURERS. (a)** The  
 20 corporation shall solicit bids from, and enter into contracts with, insurers for  
 21 providing coverage to eligible residents. Any insurer that is authorized to do  
 22 business in this state in one or more lines of insurance that includes <sup>STEP</sup> health insurance  
 23 is eligible to submit a bid.

actuarially  
 Beginning in 2007

STEP

1 (b) In determining which insurers qualify to provide coverage, the corporation  
2 shall use financial, coverage, and disclosure standards that are comparable to those  
3 that the department of employee trust funds has used in qualifying insurers for  
4 providing coverage under the state employee health plan under s. 40.51 (6).<sup>✓</sup>

5 (2) PLAN SELECTION. Beginning in 2006, the corporation shall offer an annual  
6 open enrollment period in November during which each eligible resident shall select  
7 a health benefit plan from among those offered. Coverage under the health benefit  
8 plan that an eligible resident selects in November shall be effective on the following  
9 January 1.

10 **260.20 Benefits.** (1) GENERALLY. Coverage under this chapter shall begin on  
11 January 1, 2007, and shall include medical and hospital care coverage and  
12 prescription drug coverage.

13 (2) BENEFITS WITHOUT COPAYMENTS. Notwithstanding s. 260.25,<sup>✓</sup> cost-sharing  
14 shall not apply to coverage of emergency care, as defined by the corporation, or to  
15 coverage of certain preventive services or procedures, as determined by the  
16 corporation, but including well-baby care, annual medical examinations for children  
17 up to 18 years of age, medically indicated immunizations, annual gynecological  
18 examinations for older girls and women, medically indicated Papanicolaou tests and<sup>✓</sup>  
19 mammograms, annual medical examinations for older men, and medically indicated  
20 colonoscopies.

21 (3) PHARMACY BENEFIT. (a) Except as provided in par. (b),<sup>✓</sup> the corporation shall  
22 assume the risk for, and directly pay for, prescription drugs provided to eligible  
23 residents. For this purpose, the corporation shall retain the portion of the amount  
24 credited under s. 260.10 (1) (a)<sup>✓</sup> that is actuarially allocated for prescription drug  
25 coverage.

SECTION 4

1 (b) If the corporation determines that the method of providing prescription  
 2 drug coverage under par. (a) is not cost-effective, the corporation may require the  
 3 health benefit plans to provide prescription drug coverage to eligible residents and  
 4 shall pay the portion of the amount credited under s. 260.10 (1) (a) that is actuarially  
 5 allocated for prescription drug coverage to the eligible residents' health benefit  
 6 plans.

7 (4) BENEFIT REDUCTION. If the corporation estimates that costs will exceed  
 8 revenues, the corporation may reduce benefits under this section by up to 5% in a  
 9 year.

\*\*\*\*NOTE: How would this reduction occur? (Should this be moved to assessment section?)

10 **260.25 Cost-sharing.** (1) PERSONS AT LEAST 21 YEARS OF AGE. Subject to sub.  
 11 (3), an eligible resident who is 21 years of age or older shall pay the following  
 12 cost-sharing amounts:

13 (a) An annual deductible of \$1,200.

14 (b) Except as provided in par. (c), a copayment of \$25 for each visit to a clinic  
 15 or physician's office.

16 (c) A copayment of \$35 for each visit to a specialist, as determined by the  
 17 corporation.

18 (d) A copayment of \$250 for each nonemergency use of hospital emergency  
 19 facilities.

20 (e) A copayment of \$5 for each prescription of a generic drug, a copayment of  
 21 \$15 for each prescription of a brand name drug that is on the preferred list  
 22 determined by the corporation, and a copayment of \$35 for each prescription of a  
 23 brand name drug that is not on the preferred list determined by the corporation.



1           (2) PERSONS UNDER 21 YEARS OF AGE. Subject to sub. (3),<sup>✓</sup> an eligible resident who  
2 is under 21 years of age or older shall pay the following cost-sharing amounts:

3           (a) An annual deductible of \$100.

4           (b) Except as provided in par. (c),<sup>✓</sup> a copayment of \$10 for each visit to a clinic  
5 or physician's office.

6           (c) A copayment of \$15 for each visit to a specialist, as determined by the  
7 corporation.

8           (d) A copayment of \$250 for each nonemergency use of hospital emergency  
9 facilities.

10          (e) A copayment of \$5 for each prescription of a generic drug, a copayment of  
11 \$15 for each prescription of a brand name drug that is on the preferred list  
12 determined by the corporation, and a copayment of \$35 for each prescription of a  
13 brand name drug that is not on the preferred list determined by the corporation.

14          (3) MAXIMUM AMOUNTS. An eligible resident who is 21 years of age or older may  
15 not be required to pay more than \$2,000 per year in total cost-sharing under sub. (1).<sup>✓</sup>  
16 An eligible resident who is under 21 years of age may not be required to pay more  
17 than \$1,000 per year in total cost-sharing under sub. (2).<sup>✓</sup>

\*\*\*\*NOTE: How will the deductible and maximum out-of-pocket amounts be  
handled for someone who turns 21 during the year?

18          **260.30 Preexisting condition exclusion.** A health benefit plan may not  
19 provide coverage for any preexisting condition, as defined by the corporation, of an  
20 eligible resident who, at any time during the 12-month period before becoming an  
21 eligible resident, resided in another state or country and who<sup>STET 10/14</sup> did not have health  
22 insurance coverage that was substantially similar to the coverage provided under  
23 this chapter.

**SECTION 4**

\*\*\*\*NOTE: Is this consistent with your intent for this provision? <sup>has</sup> Keep in mind that, <sup>he or she becomes</sup> as currently drafted, a person must live in Wisconsin for 6 months before ~~they become~~ an eligible resident and ~~have~~ coverage under this chapter, so maybe 12 months should be increased to 18 months.

1           **260.60 Including certain residents who are eligible for Medical**  
 2           **Assistance. (1) PLAN.** The corporation and the department of health and family  
 3 services shall jointly develop a plan for providing health care coverage under the  
 4 health insurance purchasing arrangement established under this chapter to  
 5 individuals who satisfy the criteria under s. 260.01 (3) (a) to (c) and who are eligible  
 6 for medical assistance under subch. IV of ch. 49 or for health care coverage under the  
 7 Badger Care health care program under s. 49.665.

\*\*\*\*NOTE: Does the definition of "eligible resident" under s. 260.01 (3) (a) to (c) automatically exclude those persons who are eligible for MA based on age or disability?

8           **(2) WAIVER REQUEST.** The department of health and family services shall, no  
 9 later than July 1, 2006, request waivers from the secretary of the federal department  
 10 of health and human services for all of the following purposes:

11           (a) To implement the plan developed under sub. (1).

12           (b) To allow the use of federal financial participation to fund, to the maximum  
 13 extent possible, health care coverage under the arrangement established under this  
 14 chapter for individuals specified in sub. (1).

15           **(2) PROPOSED LEGISLATION.** If the waivers requested under sub. (2) are granted,  
 16 the department of health and family services shall submit to the appropriate  
 17 standing committees under s. 13.172 (3) proposed legislation that will implement the  
 18 provisions approved under the waivers.

19           **SECTION 5. Nonstatutory provisions.**

20           (1) PROPOSED LEGISLATION ON ELIGIBILITY OF AND APPROPRIATIONS FOR MEDICAL  
 21 ASSISTANCE AND BADGER CARE RECIPIENTS.

1           (a) *Definition.* In this subsection, “department” means the department of  
2 health and family services.

3           (b) *Eligibility categories for Medical Assistance.*

4           1. The department shall review the statutes and determine which statutory  
5 provisions specify eligibility criteria for Medical Assistance by each of the following  
6 categories of persons:

7           a. Low-income families.

8           b. Elderly or disabled persons.

9           2. No later than April 1, 2006, the department shall submit the findings of its  
10 review under subdivision 1. to the appropriate standing committees of the  
11 legislature in the manner provided under section 13.172 (3) of the statutes. If the  
12 department determines that one or more statutory provisions provide eligibility  
13 criteria that apply to both categories of persons under subdivision 1., along with its  
14 findings the department shall submit proposed legislation specifying eligibility  
15 criteria for Medical Assistance that clearly separates the 2 categories of persons  
16 under subdivision 1. so that any single statutory unit applies to only one of the 2  
17 categories.

18           (c) *Appropriations for Medical Assistance and Badger Care.*

19           1. The department and the legislative fiscal bureau shall review the following  
20 Medical Assistance and Badger Care health care program appropriations to  
21 determine what amount of each of the total amounts appropriated under each of the  
22 appropriations is attributable to benefits provided to, or the administrative costs of  
23 providing benefits to, Medical Assistance recipients in the category under paragraph

24 (b) 1. a. or Badger Care health care program recipients:

25           a. Section 20.435 (2) (gk) of the statutes.



Insert 2-9

\*\*\*NOTE (2) ✓ The reference to the appropriation section will be DOR's administrative expenses (2)

(end of ins. 2-9)

Insert 2-15

\*\*\*NOTE (2) ✓ The section with the XOS will be the section that provides for the assessment (2)

(end of ins 2-15)

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

LRB-2922/ndn

PI  
.....  
PJK: WLJ

1. In addition to the ERISA issues previously raised, this proposal has other legal problems. Because the corporation is determining a number of substantive matters under the program, such as what brand name drugs are on the preferred list and what services or procedures are not subject to a copayment, the proposal may violate Article IV, section 1, of the Wisconsin Constitution by unconstitutionally delegating legislative authority to the corporation. You could, instead, direct a state agency, such as DHFS, to make the determinations by rule and have the corporation merely implement them, or the statutes could set out specific guidelines for the corporation to follow in making the determinations.

The residency requirement of six months and the application of the preexisting condition exclusion only to persons who previously lived in another state or country may unconstitutionally infringe on the right to travel under the Fourteenth Amendment of the U.S. Constitution. The U. S. Supreme Court has determined that the right to travel includes the right to be treated in a new state of residence in the same way as other residents are treated and that it is impermissible to treat residents of the same state differently on the basis of the length of residency. See *Saenz v. Roe*, 526 U.S. 489, 119 S.Ct. 1518 (1999).

2. If coverage begins on January 1, 2007, but the assessment is not collected until the first quarter of 2007, isn't there a funding problem? Should the assessment begin sooner or the coverage begin later?

3. This draft does not yet treat any statutes that might be affected as a result of the new chapter. I think it is best to make those changes after the language of the new chapter is finalized.

4. Do you want to provide an appeal process to a state agency, such as DHFS, for disputes over eligibility and other determinations made by the corporation?

5. Because I don't have enough information with which to determine which sections provide eligibility criteria for the "family portion" of MA, and because many of the sections that provide eligibility criteria may apply to both the "family portion" and the "elderly/disabled" portion, I have provided a nonstatutory provision that directs DHFS to identify the sections for each category and, if necessary, to submit proposed legislation that separates the two

categories

of the statutes

Similarly, many of the MA appropriations do not apply to separate categories of eligible persons and many of the appropriations combine BadgerCare and MA. I do not know how much of each amount in the schedule is attributable to each category or to MA and BadgerCare separately. Consequently, I do not know the amount by which the amounts in the schedule must be reduced in the second year of the biennium. Therefore, the nonstatutory provision directs DHFS and the fiscal bureau to determine the amounts and to submit proposed legislation that provides separate appropriations for each category and for BadgerCare.

6. Previously you asked whether the corporation needed to be made exempt from state income tax. Joe Kreye explained that, if a corporation is exempt from federal income tax under section 501 (c) (3) of the IRC, it is also exempt from state income tax because the state adopts the federal tax provisions related to 501 (c) (3) entities.

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470 This version does not include the assessment and related provisions.

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

LRB-2922/P1dn  
PJK:wj:ch

May 19, 2005

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