

**2005 DRAFTING REQUEST**

**Bill**

Received: **09/23/2004**

Received By: **chanaman**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Jablonsky**

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

Drafter: **chanaman**

May Contact:

Addl. Drafters:

Subject: **Insurance - health**

Extra Copies: **PJK**

Submit via email: **NO**

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**Pre Topic:**

DOA:.....Jablonsky, BB0055 -

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**Topic:**

Eliminate the requirement that DHFS promulgate administrative rules on HIRSP premiums, assessments, and provider contribution

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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>
/P1	chanaman 09/27/2004	kfollett 09/30/2004 kfollett 09/30/2004	rschlue 10/01/2004	_____	Inorthro 10/01/2004		State
/P2	chanaman 10/14/2004	kfollett 10/15/2004	pgreensl 10/15/2004	_____	Inorthro 10/15/2004		State

FE Sent For:

<END>

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/P1	chanaman 09/27/2004	kfollett 09/30/2004	rschluet 10/01/2004	_____	Inorthro 10/01/2004		State

*Handwritten notes:*  
kfollett 09/30/2004  
1P2 kfollett 10/15  
rschluet 10/15  
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/P1	chanaman	IP1 kjl 9/30					
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FE Sent For:

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1 4 CH  
<END>

**2003-05 Budget Bill Statutory Language Drafting Request**

- Topic: HIRSP Admin Rules
- Tracking Code: (Assigned by Government Operations Team)
- SBO team: HRT
- SBO analyst: Susan Jablonsky
  - Phone: 7-9546
  - Email: sue.jablonsky@doa.state.wi.us
- Agency acronym: DHFS
- Agency number: 435

## Elimination of Certain HIRSP Administrative Rule Requirements

### **Current Language**

Under 149.143(2)(a)2-4 the Department is required every plan year to promulgate administrative rules to set the HIRSP premium rates, insurer assessments, and provider contribution.

### **Proposed Change**

Eliminate the requirement that the Department set HIRSP premium rates, insurer assessments, and provider contribution by administrative rule every plan year.

### **Effect of the Change**

The Department would no longer be required to set HIRSP premium rates, insurer assessments, and provider contribution by administrative rule.

### **Rationale for the Change**

The budget for HIRSP is developed by an actuarial firm on behalf of HIRSP according to the statutory requirements of the program. The projected adjustments to premium rates, insurer assessments, and provider contributions are reviewed by DHFS staff and approved by the HIRSP Board of Governors at publicly noticed meetings. By law, the Board is a diverse body composed of consumers, insurers, health care providers, small business and other affected parties.

The HIRSP budget is based on a fiscal year. HIRSP adjustments to premium rates, insurer assessments, and provider contributions are made on July 1<sup>st</sup> of every plan year. Based on the HIRSP statutes, the Board must approve a reconciliation of the previous calendar year before setting the new rates. Therefore, the HIRSP budget is usually not completed and approved until the end of April. Due to the short amount of time between when the budget is approved and when the rates need to go into effect, the Department is required to promulgate emergency rules to change the premium rates, insurer assessments, and provider contributions for the next plan year. Since the rates are changed by emergency rule there is no public hearing scheduled before the rates go into effect.

Since HIRSP premium rates, insurer assessments, and provider contribution are set according to prescribed statutory requirements and approved by the HIRSP Board of Governors, which consists of consumers, insurers, health care providers, small business and other affected parties, requiring the Department to promulgate rules to establish these rates imposes an unnecessary administrative burden. Eliminating this requirement will allow Department staff to allocate their time to higher priority needs in the Department.

<b>Desired Effective Date:</b>	Effective date of the Budget Bill
<b>Agency:</b>	DHFS
<b>Agency Contact:</b>	Curtis Cunningham
<b>Phone:</b>	266-5362



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-0268/P1  
CMH: [Signature]

DOA:.....Jablonsky, BB0055 - Eliminate the requirement that DHFS promulgate administrative rules on HIRSP premiums, assessments, and provider contribution

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT <sup>don't get cut</sup> relating to: the budget.

head  
↓  
HEALTH AND HUMAN SERVICES  
OTHER HEALTH AND HUMAN SERVICES  
sub.

*Analysis by the Legislative Reference Bureau*

**INSURANCE**

Under current law, DHFS must promulgate administrative rules to set the Health Insurance Risk-Sharing Plan premium rates, insurer assessments, and provider payment rate. This bill eliminates the requirement that DHFS promulgate these administrative rules.

analyses

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

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

2 SECTION 1. 149.143 (2) (a) 2. of the statutes is amended to read:  
3 149.143 (2) (a) 2. After making the determinations under subd. 1., ~~by rule~~ set  
4 premium rates for the new plan year, including the rates under s. 149.146 (2) (b), in

200 percent

1 the manner specified in sub. (1) (am) 1. and 3. and such that a rate for coverage under  
 2 s. 149.14 (2) (a) is approved by the board and is not less than ~~140%~~  
 3 ~~200%~~ of the rate that a standard risk would be charged under an individual policy  
 4 providing substantially the same coverage and deductibles as are provided under the  
 5 plan.

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

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

7 149.143 (2) (a) 3. ~~By rule set~~ Set the total insurer assessments under s. 149.13  
 8 for the new plan year by estimating and setting the assessments at the amount  
 9 necessary to equal the amounts specified in sub. (1) (am) 4. and (bm) 1. and notify  
 10 the commissioner of the amount.

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

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

12 149.143 (2) (a) 4. ~~By the same rule as under subd. 3. adjust~~ Adjust the provider  
 13 payment rate for the new plan year, subject to s. 149.142 (1) (b), by estimating and  
 14 setting the rate at the level necessary to equal the amounts specified in sub. (1) (am)  
 15 4. and (bm) 2. and as provided in s. 149.145.

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

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

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

1 ~~increased~~ adjust the provider payment rate set under sub. (2) (a) 4. for the remainder  
2 of the plan year, subject to sub. (1) (bm) 2. and s. 149.142 (1) (b).

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

3 **SECTION 5.** 149.144 of the statutes is amended to read:

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

13 History: 1997 a. 27 ss. 4840c, 4845c; 1999 a. 9; 2001 a. 16; 2003 a. 33. ✓

13 **SECTION 6.** 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 ~~set~~ by the department, as provided in s. 149.143.  
16 The rates for coverage under this section shall be set such that they differ from the  
17 rates for coverage under s. 149.14 (2) (a) by the same percentage as the percentage  
18 difference between the following:

19 History: 1997 a. 27 ss. 4860c, 4860d; Stats. 1997 s. 149.146; 1997 a. 237; 1999 a. 9, 165; 2001 a. 16; 2003 a. 33.

(END)



D-NOTE

DOA:.....Jablonsky, BB0055 - Eliminate the requirement that DHFS promulgate administrative rules on HIRSP premiums, assessments, and provider contribution

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

set or adjust these amounts by

Do Not Gen

1

AN ACT ...; relating to: the budget.

*Analysis by the Legislative Reference Bureau*

**HEALTH AND HUMAN SERVICES**

**OTHER HEALTH AND HUMAN SERVICES**

Under current law, DHFS must promulgate administrative rules to set the Health Insurance Risk-Sharing Plan premium rates, insurer assessments, and provider payment rate. This bill eliminates the requirement that DHFS ~~promulgate these~~ administrative rules.

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

or adjust

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

2

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

3

149.143 (2) (a) 2. After making the determinations under subd. 1., by-rule set

4

premium rates for the new plan year, including the rates under s. 149.146 (2) (b), in

1 the manner specified in sub. (1) (am) 1. and 3. and such that a rate for coverage under  
2 s. 149.14 (2) (a) is approved by the board and is not less than ~~140%~~ 140 percent nor  
3 more than ~~200%~~ 200 percent of the rate that a standard risk would be charged under  
4 an individual policy providing substantially the same coverage and deductibles as  
5 are provided under the plan.

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

7 149.143 (2) (a) 3. ~~By rule set~~ Set the total insurer assessments under s. 149.13  
8 for the new plan year by estimating and setting the assessments at the amount  
9 necessary to equal the amounts specified in sub. (1) (am) 4. and (bm) 1. and notify  
10 the commissioner of the amount.

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

12 149.143 (2) (a) 4. ~~By the same rule as under subd. 3. adjust~~ Adjust the provider  
13 payment rate for the new plan year, subject to s. 149.142 (1) (b), by estimating and  
14 setting the rate at the level necessary to equal the amounts specified in sub. (1) (am)  
15 4. and (bm) 2. and as provided in s. 149.145.

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

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

Section # RP 149.143 (4)

1 increased adjust the provider payment rate set under sub. (2) (a) 4. for the remainder  
2 of the plan year, subject to sub. (1) (bm) 2. and s. 149.142 (1) (b).

3 SECTION 5 149.144 of the statutes is amended to read:

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

13 SECTION 6 149.146 (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 set by the department, as provided in s. 149.143.  
16 The rates for coverage under this section shall be set such that they differ from the  
17 rates for coverage under s. 149.14 (2) (a) by the same percentage as the percentage  
18 difference between the following:

19 (END)

CR;  
Section # 227.01 (13) (nm) ✓  
227.01 (13) (nm) ✓ or adjusts  
insurer assessments, or sets premium rates,  
provider payment rates under ch. 149. ✓

D-Note

DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0268/P2dn  
CMH:kjfs

*Date*

Sue:

This redraft repeals s. 149.143 (4), which is the authorization for emergency rules before the permanent rules take effect. It should have been in the earlier version.

I added setting premiums, insurer assessments, and provider payments to the list of exemptions from the rule-making requirement. See the creation of s. 227.01 (13) ~~(2)~~. Pam Kahler reviewed this draft and thought the addition was needed since they are set by rule in current law. *nm*

Cathlene Hanaman  
Legislative Attorney  
Phone: (608) 267-9810  
E-mail: cathlene.hanaman@legis.state.wi.us

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

LRB-0268/P2dn  
CMH:kjf:pg

October 15, 2004

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Legislative Attorney  
Phone: (608) 267-9810  
E-mail: [cathlene.hanaman@legis.state.wi.us](mailto:cathlene.hanaman@legis.state.wi.us)

DOA:.....Jablonsky, BB0035 – Eliminate the requirement that DHFS promulgate administrative rules on HIRSP premiums, assessments, and provider contribution

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** the budget.

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4 premium rates for the new plan year, including the rates under s. 149.146 (2) (b), in

1 the manner specified in sub. (1) (am) 1. and 3. and such that a rate for coverage under  
2 s. 149.14 (2) (a) is approved by the board and is not less than 140% nor more than  
3 200% of the rate that a standard risk would be charged under an individual policy  
4 providing substantially the same coverage and deductibles as are provided under the  
5 plan.

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

7 149.143 (2) (a) 3. ~~By rule set~~ Set the total insurer assessments under s. 149.13  
8 for the new plan year by estimating and setting the assessments at the amount  
9 necessary to equal the amounts specified in sub. (1) (am) 4. and (bm) 1. and notify  
10 the commissioner of the amount.

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

12 149.143 (2) (a) 4. ~~By the same rule as under subd. 3. adjust~~ Adjust the provider  
13 payment rate for the new plan year, subject to s. 149.142 (1) (b), by estimating and  
14 setting the rate at the level necessary to equal the amounts specified in sub. (1) (am)  
15 4. and (bm) 2. and as provided in s. 149.145.

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20 rate under s. 149.144 will not be sufficient to cover plan costs, the department may  
21 ~~by rule~~ increase the premium rates set under sub. (2) (a) 2. for the remainder of the  
22 plan year, subject to s. 149.146 (2) (b) and the maximum specified in sub. (2) (a) 2.,  
23 ~~by rule~~ increase the assessments set under sub. (2) (a) 3. for the remainder of the plan  
24 year, subject to sub. (1) (bm) 1., and ~~by the same rule under which assessments are~~

1 increased adjust the provider payment rate set under sub. (2) (a) 4. for the remainder  
2 of the plan year, subject to sub. (1) (bm) 2. and s. 149.142 (1) (b).

3 **SECTION 5.** 149.143 (4) of the statutes is repealed.

4 **SECTION 6.** 149.144 of the statutes is amended to read:

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

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

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

20 **SECTION 8.** 227.01 (13) (nm) of the statutes is created to read:

21 227.01 (13) (nm) Sets or adjusts premium rates, insurer assessments, or  
22 provider payment rates under ch. 149.

23 (END)