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☞ Details: Legislative Audit Bureau Letter Report November 2007: Private Employer Health Care Coverage Program

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Letter Report

**Private Employer
Health Care Coverage
Program**

November 2007



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Janice Mueller
State Auditor

November 16, 2007

Senator Jim Sullivan and
Representative Suzanne Jeskewitz, Co-chairpersons
Joint Legislative Audit Committee
State Capitol
Madison, Wisconsin 53702

Dear Senator Sullivan and Representative Jeskewitz:

As directed by s. 13.94 (1)(p), Wis. Stats., we have completed a limited-scope review of the Private Employer Health Care Coverage Program created by 1999 Wisconsin Act 9. The Department of Employee Trust Funds (ETF) and the Private Employer Health Care Coverage Program Board were to have established a voluntary purchasing pool designed to allow a large number of small employers to provide a choice of competing health plans for their employees, reduce administrative costs, provide leverage in negotiating lower premiums, and reduce financial risk for insurers. It has not been implemented, in part because of a lack of interest by insurers, and program development efforts ended in 2003.

ETF and the Board attempted to design an actuarially sound statewide program and to contract with a private program administrator, as required by statutes. However, no contract proposals were received in response to a request issued by ETF in November 2000. Potential administrators cited numerous concerns, including the risk of adverse selection, which occurs when an insurance pool attracts individuals who have greater health care needs and are more expensive to serve, but not those who are less-expensive to serve and can pay lower premiums elsewhere.

After working with insurers and representatives of small employers, seeking changes to statutory program requirements, and commissioning an independent study, ETF and the Board recommended in March 2003 that the program be repealed, the Board disbanded, and any remaining funds returned to the General Fund. The Legislature has taken no further action on the Private Employer Health Care Coverage Program but has developed other proposals to expand access to health care for small employers, including several bills introduced in the 2007 session. Other states have established small employer purchasing pools with mixed results.

We appreciate the courtesy and cooperation extended to us by ETF staff during the course of our review.

Sincerely,

Janice Mueller
State Auditor

JM/KW/ss

Enclosure

PRIVATE EMPLOYER HEALTH CARE COVERAGE PROGRAM

In response to increasing health insurance premiums for small employers and a desire to reduce the number of uninsured Wisconsin residents, the Private Employer Health Care Coverage Program was created by 1999 Wisconsin Act 9, the 1999-2001 Biennial Budget Act. The Department of Employee Trust Funds (ETF) and the Private Employer Health Care Coverage Program Board were to have established a voluntary purchasing pool designed to allow a large number of small employers to provide a choice of competing health plans for their employees, reduce administrative costs, provide leverage in negotiating lower premiums, and reduce financial risk for insurers.

The program was to have been available to Wisconsin employers with at least two eligible employees and farm businesses with at least one employee. Employers that chose to participate would have been required to offer health insurance under one or more program plans to all permanent employees working 30 hours or more per week, to provide coverage to at least 50.0 percent of eligible employees, and pay at least 50.0 percent of the lowest premium available for each employee. Licensed insurers contracted through the program would have been required to provide coverage for any employer who applied, without regard to the employees' health or claim experience, as long as the employer agreed to pay the premium and comply with all policy provisions. As an incentive to keep employers in the pool, employers that voluntarily terminated program coverage would not have been allowed to participate in the program again for three years from the termination date.

Under s. 40.98, Wis. Stats., the program was to begin January 1, 2001, and to sunset on January 1, 2010. However, it has never been implemented, in part because of a lack of interest by insurers and their concerns about financial risks. Program development efforts ended in 2003.

We conducted a limited-scope review of the program as directed by s. 13.94 (1)(p), Wis. Stats. Our review focused on how the program's purchasing pool was designed, efforts to make the program successful, current proposals in Wisconsin to expand health care coverage to small private employers, and the availability of similar assistance in other states. In conducting our review, we spoke with ETF staff, reviewed expenditure records and Board reports, and researched similar programs in other states.

Program Administration

Statutes directed ETF to:

- design an actuarially sound health care program with more than one group health care plan;
- market the program statewide; and
- contract with a private program administrator, who would then contract with insurers and charge participating employers a fee to cover the cost of the administrator's services.

The Legislature authorized 3.5 full-time equivalent (FTE) positions within ETF to operate the program. Only 2.5 FTE positions were filled during program development—a full-time director, a full-time program manager, and a half-time Board coordinator. By the end of FY 2002-03, no program staff remained at ETF, and the 3.5 FTE authorized positions have remained vacant and unfunded since that time. 2007 Wisconsin Act 20, the 2007-09 Biennial Budget Act, deleted all funding and position authority for the program.

The 13-member Board included the Secretary of ETF and the Secretary of the Department of Health and Family Services, or their representatives; a physician; and representatives of insurers, hospitals, health maintenance organizations, small employers and their employees, and the public interest. Statutes directed the Board to:

- establish criteria for ETF's contract with a private program administrator;
- set enrollment periods and other program rules;
- set the insurers' commission rate for the sale of program insurance policies; and
- submit annual reports to the Legislature and Governor on the operation of and recommendations for the program.

Program Budget and Expenditures

Three program appropriations were established in statutes: a biennial appropriation for contracting with a private program administrator, funded with general purpose revenue (GPR); a biennial appropriation for ETF's operating costs, funded with GPR; and a continuing appropriation for future program design, marketing, and contracting services, to be funded with program revenue.

\$200,000 was appropriated to contract with a private program administrator in the 1999-2001 biennium, but an administrator was never hired and the funds lapsed to the General Fund at the end of the 1999-2001 biennium. No additional funds were appropriated for an administrator.

Table 1 shows spending authority for the appropriation funding ETF's operations.

Table 1

Program Appropriation Funding ETF's Operations

Biennium	Biennial Appropriation	Additional Spending Authority	Total Spending Authority
1999-2001	\$200,000	\$ 16,900 ¹	\$ 216,900
2001-2003	205,100	850,000 ²	1,055,100
Total	\$405,100	\$866,900	\$1,272,000

¹ Additional spending authority from program supplement funding (s. 20.865, Wis. Stats.)

² Additional spending authority provided through a loan from the Office of the Commissioner of Insurance, authorized by 2001 Wisconsin Act 109

During the 2001-03 biennium, \$850,000 in additional spending authority to assist with marketing and start-up costs was provided to ETF under 2001 Wisconsin Act 109. The funds were loaned to the General Fund through a transfer from the program revenue-funded general operations appropriation of the Office of the Commissioner of Insurance (OCI), and then transferred to ETF as GPR.

Because a program administrator was never hired and the program never collected revenue, only the appropriation funding ETF's operations incurred costs. As shown in Table 2, program expenditures totaled \$470,300, and no costs were incurred after June 30, 2003. ETF had spent \$57,300 in funds loaned by OCI by the end of fiscal year (FY) 2002-03; all remaining loan funds were lapsed to the General Fund. 2003 Wisconsin Act 33, the 2003-05 Biennial Budget Act, repealed the requirement that OCI be repaid by the General Fund.

Table 2

ETF's Operations Expenditures

Fiscal Year	Total Expenditures
1999-2000	\$ 16,300
2000-01	191,600
2001-02	144,300
2002-03	118,100
Total	\$470,300

Program Development

ETF developed the initial plans for the program by working with the Board and surveying several insurers, small employer groups, and similar programs in other states. Table 3 summarizes the program's development from 1999 through 2003.

Table 3

Program Time Line

October 1999	Program created in 1999 Wisconsin Act 9, the 1999-2001 Biennial Budget Act
April-July 2000	2.5 FTE program staff hired in ETF's Division of Insurance Services
May 2000	13-member Private Employer Health Care Coverage Program Board appointed
November 2000	ETF issued a request for proposals, but efforts to contract with a private program administrator failed when no proposals were received
December 2000	ETF and the Board first suggested repealing the program or amending program policies and statutes affecting small employer health insurance
September 2001	The Legislature clarified some program policies in 2001 Wisconsin Act 16, the 2001-2003 Biennial Budget Act
July 2002	The Legislature authorized additional funds to supplement program development and attract insurer participation in the program
August 2002	ETF and the Board again suggested repealing the program unless statutory changes were made to reduce insurers' financial risks and attract them to the program
March 2003	ETF and the Board submitted a study to the Legislature in which they recommended either implementing policy changes for the purchasing pool or repealing the program's statutes
July 2003	Only \$400 was appropriated for the program in the 2003-05 biennium and no program staff remained at ETF

The purchasing pool program was never offered to small employers. Potential program administrators cited concerns with limited funding and limited negotiating power with insurers, as well as reservations about both committing resources without a better understanding of insurer and employer interest and the risks of adverse selection within the program. Adverse selection occurs when an insurance pool attracts individuals who have greater health care needs and are more expensive to serve, while others can obtain lower-cost insurance premiums outside the pool. When there are too many high-risk individuals within a pool, a reasonable premium cannot be sustained.

ETF and the Board noted that narrowing the range of premium rates that insurers could charge would reduce worries about adverse selection and attract insurers to the program. Wisconsin statutorily restricts the range of premium rates insurers can charge small employer groups with identical demographics and has set the "rate band" for small employer health insurance at 30.0 percent above or below the midpoint between the highest and lowest rates charged to groups with identical demographics. A narrower rate band would limit premium increases for high-risk groups and also provide competitive premiums for low-risk groups when compared with the outside market.

2001 Wisconsin Act 16, the 2001-03 Biennial Budget Act, included several policy changes suggested by ETF and the Board. However, additional GPR was not provided to support the program during the biennium, and the rate band requirement was not modified to prevent adverse selection. The Board's Annual Report for 2001 stated that the program would not succeed without a narrower rate band and would be unlikely to attract a private administrator without additional funds from the State to cover the program's actuarial, legal, and marketing services.

In 2002, additional program funding was provided for operating costs, but ETF stated that without market reform, including rate band modification, insurers and administrators would continue to be unwilling to participate. It indicated that although the program's purchasing pool might provide some price stability and offer more insurance options, there was little likelihood that the program could offer lower premiums for small employers.

In FY 2002-03, the program's last year of development activity, ETF and the Board commissioned a \$24,500 study to analyze what would be needed to implement the program. The study, which was completed in January 2003 by the Institute for Health Policy Solutions, a nonprofit organization with expertise in employee-choice health purchasing arrangements, concluded that without fundamental changes to the current market regulations or a commitment by the State to subsidize the premium contributions of participants in the purchasing pool, the program would be unlikely to attract any insurer to participate. In addition, the study indicated that the program should be the only avenue for insurers to reach small employers, or that premium assistance, tax credits, or other program subsidies should be made available for small employers and their employees.

In March 2003, ETF and the Board submitted the study to the Legislature and Governor. In the absence of policy changes, they recommended the program's statutes be repealed, the Board disbanded, and any remaining funds returned to the General Fund. As noted, 2007 Wisconsin Act 20 deleted all funding and position authority for the program.

Other Legislative Initiatives in Wisconsin

The Legislature has developed other proposals to expand small employer health care access. For example, 2003 Wisconsin Act 101 authorized the establishment of health benefit purchasing cooperatives that allow employer members to pool the health insurance risk of all employees and then purchase insurance under a single large-group policy. OCI has authorized four health benefit cooperatives under s. 185.99, Wis. Stats.:

- Wisconsin Healthcare Cooperative, which is designed to include employers statewide with 1 to 50 employees;
- Physicians Health Cooperative, which is initially designed to include physicians in the Fox Valley, their families, and office staff;
- Healthy Lifestyles Cooperative, which included 135 small employers in Brown County as of January 1, 2007; and
- Farmers' Health Cooperative of Wisconsin, which began offering insurance coverage to members in April 2007 and includes more than 1,600 farmer members statewide. Farmers' Health is managed by the Wisconsin Federation of Cooperatives and offers several benefit plans with the goal of providing more predictable, stabilized premiums. Farmers' Health hopes to minimize adverse selection by requiring participants to continue health coverage through the cooperative for at least three years and by using existing federal, state, and private grants as reinsurance for large claims.

In addition, several bills affecting small employer health care have been introduced in the 2007 legislative session:

- Senate Bill 66 proposes another means of ensuring access to insurance coverage for farmers beginning January 1, 2008. It would make coverage under any health care coverage plan offered to state employees available to any Wisconsin resident in the farming business who choose to pay ETF the full cost of required premiums. The bill also specifies several conditions, including proof that any preexisting conditions have been covered by a health insurance plan or policy at some time during the previous six months.
- Assembly Bill 235 would provide employers an income and franchise tax credit equal to 30.0 percent of the amount that an employer pays to provide a health or fitness program to any employees in Wisconsin. Although this bill would not affect individual employee insurance access or affordability, it is intended to help prevent the need for some health care services.
- Assembly Bill 392 would make small employers with average annual receipts of less than \$30.0 million over the most recent three-year period eligible for coverage under any health care coverage plan offered to state employees. Eligibility would begin on January 1 following the bill's effective date, and coverage would be subject to applicable enrollment periods and contractual conditions of the state employee health care coverage program.
- Assembly Bill 94 and Senate Bill 51 would establish a publicly financed health care system for all Wisconsin residents beginning July 1, 2010. They would create a new state agency—the Department of Health Planning and Finance—governed by an 11-member board. Six regional consumer health councils would be attached to the proposed department and would report on the health care needs, problems, and concerns of each region. The proposed department and the board would be required to develop policies, propose legislation, and begin implementation of the health plan by July 1, 2009.

- 2007 Wisconsin Act 20, the 2007-09 Biennial Budget Act, included some provisions related to small employer health care, including combining the existing Medical Assistance and BadgerCare programs into one comprehensive program, BadgerCare Plus, and extending membership to more children and adults, as well as making employees' health insurance premiums tax deductible, even if their employer contributes to some portion of the cost of health care. A proposal to establish, fund, and administer a statewide health care system was removed during budget deliberations.

Purchasing Pools in Other States

We found that other states have had mixed success establishing purchasing pools for small employers. In 2000, the United States General Accounting Office (now the Government Accountability Office) reported that purchasing pools have typically not been able to leverage negotiating power and reduce insurance premiums for small employers for three reasons:

- limited market share;
- inability to produce administrative cost savings for insurers; and
- state laws and regulations that already restrict the amount insurers can vary the premiums charged to different groups purchasing the same health plan.

A number of states have created and then discontinued their purchasing pools. For example, the Texas Insurance Purchasing Alliance was created in 1993 and began enrolling small employers in 1995. The program was initially successful and became a nonprofit corporation in 1997, but it dissolved by 2000. Stated reasons for the dissolution included the availability of only three plan options and adverse selection resulting from the participation of high-risk groups of costly employees.

The Health Insurance Plan of California was used as a model during the development of Wisconsin's program but ceased to offer insurance as of December 31, 2006. That purchasing pool began operation in July 1993 and had enrolled 1,900 small employers averaging just under ten employees each within six months. Negotiated rates were reported to be 10.0 to 15.0 percent below rates for comparable plans offered by insurers not participating in the pool, and 22.0 percent of the groups enrolled had previously been uninsured. The program was privatized in 1999, but by 2006 eight of the original ten insurance plans ceased to participate, citing financial losses and adverse selection despite the participation of over 6,200 employers.

In contrast, Montana's State Health Insurance Purchasing Pool, which focuses on making health insurance more affordable for businesses with two to nine employees, is currently operating at capacity. It began operation in 2005 and provides a monthly assistance payment for a portion of both the employer and the employee cost of insurance in the pool, based on a sliding scale. Program funding is paid by a \$1.00 per package cigarette tax, which was enacted in 2004 by statewide referendum.

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