WISCONSIN LEGISLATIVE COUNCIL
ACT MEMO

2017 Wisconsin Act 138 **[2017 Senate Bill 770]**	**Wisconsin Healthcare Stability Plan**

2017 Wisconsin Act 138 creates a reinsurance program known as the Wisconsin Healthcare Stability Plan (WIHSP), prohibits certain Medical Assistance (MA) program changes without legislative approval, and reallocates savings resulting from the nonapplicability of the health insurer fee under the federal Affordable Care Act (ACA).

WIHSP

Act 138 requires the Commissioner of the Office of the Commissioner of Insurance (OCI) to establish and administer WIHSP, subject to approval of a Section 1332 waiver under the ACA.

Operation

Under WIHSP, a health carrier may receive reinsurance payments to offset costs incurred for an enrolled individual's covered benefits in a benefit year, if the costs exceed an anticipated amount. Eligible health carriers must request payments in accordance with requirements established by OCI. They must provide certain data and may be audited for program compliance, as specified in the Act.

OCI must disburse all applicable reinsurance payments for a benefit year to an eligible health carrier by August 15 of the calendar year following the benefit year. OCI may expend no more than $200,000,000 per year for WIHSP from all revenue sources without the approval of the Joint Committee on Finance, as specified in the Act. If funding is not available to make all reinsurance payments in a benefit year, reinsurance payments must be made in proportion to each health carrier's share of aggregate claims under the program. A health carrier is not eligible to participate unless it agrees not to bring a lawsuit over any delay in reinsurance payments or reduction in the payments for insufficient funding.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: http://www.legis.wisconsin.gov.

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Payment Parameters

The reinsurance payments that an eligible health carrier may receive through WIHSP are based on three "payment parameters" defined in the Act, as follows:

- "Attachment point" refers to the point at which the reinsurance begins to apply to the costs of an individual enrollee. It is the threshold for costs incurred by a health carrier for an enrolled individual's covered benefits in a benefit year, beyond which the costs are eligible for reinsurance.
- "Reinsurance cap" refers to the point at which the reinsurance ceases to apply to the costs of an individual enrollee. It is the threshold for costs incurred by a health carrier for an enrolled individual's covered benefits in a benefit year, beyond which the costs are no longer eligible for reinsurance.
- "Coinsurance rate" means the rate at which an eligible health carrier will be reimbursed for costs incurred for an enrolled individual's covered benefits in a benefit year above the attachment point and below the reinsurance cap. A 50% coinsurance rate indicates reimbursement of $0.50 for each $1.00 of costs. Under a 75% coinsurance rate, the health carrier is reimbursed $0.75 for each $1.00 of costs, and so on.

For the 2019 benefit year, OCI must administer WIHSP using an attachment point of $50,000, a reinsurance cap of $250,000, and a coinsurance rate between 50-80%. For future benefit years, OCI must establish payment parameters by no later than March 30 of the calendar year before the benefit year, unless a different date is specified by OCI by administrative rule. OCI must consult with an actuarial firm and design and adjust payment parameters with the goal to do all of the following:

- Stabilize or reduce premium rates in the individual market.
- Increase participation by health carriers in the individual market.
- Improve access to health care providers and services for individuals purchasing coverage in the individual market.
- Mitigate the impact high-risk individuals have on premium rates in the individual market.
- Take into account any federal funding available for the plan.
- Take into account the total amount available to fund the plan.

If funding is not anticipated to be adequate to fund the payment parameters for a benefit year as of July 1 of the calendar year before the benefit year, OCI shall adjust the payment parameters in accordance with the moneys available to expend and shall allow health carriers to revise their rate filings based on the final payment parameters.

Section 1332 Waiver

The Act authorizes the Commissioner of OCI to submit one or more requests for a waiver under Section 1332 of the ACA, in order to implement WIHSP. Notwithstanding the other provisions of the Act, the Commissioner may adjust payment parameters under WIHSP for the

2019 benefit year if necessary to secure federal approval of the Section 1332 waiver. By December 31, 2018, the Commissioner must submit to the Governor recommendations on implementing the Section 1332 waiver, taking into account certain issues related to stabilizing the individual health care market, as described in the Act. If a waiver is not approved, OCI is prohibited from implementing WIHSP.

Administrative Rules

The Act provides that OCI may promulgate any rules necessary to implement WIHSP in accordance with the Act, except that any rules so promulgated must seek to maximize federal funding for the program.

MA Program Changes

Act 138 also provides that DHS may not expand MA program eligibility to newly eligible individuals as provided under the ACA unless the Legislature has passed legislation to allow the expansion and that legislation is in effect.

Reallocation of Health Insurer Fees

Act 138 provides that if the health insurer fee imposed under the ACA is no longer applicable to insurers participating in the state group health insurance plan or the MA program, the Department of Administration must calculate the expected savings to state agencies. The Act creates a procedure allowing the transfer of certain program revenue to an appropriation account for WIHSP or reinsurance, based on the calculated savings from the nonapplicability of the health insurer fee.

Effective date: March 1, 2018

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