



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 04-056

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 2002.]

4. Adequacy of References to Related Statutes, Rules and Forms

In the statutory authority provision in the transmittal letter and in the proposed order, it is not clear why s. 149.143 (3), Stats., is included inasmuch as that subsection provides for adjustments during the plan year whereas the proposed order pertains only to adjustments at the beginning of the plan year.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In the first paragraph of the “Anticipated costs incurred by private sector” section of the analysis, it would be useful to state that although the Health Insurance Risk-Sharing Plan (HIRSP) policyholders’ actuarially required premium contribution is \$85,713,933, the actual premium contribution policyholders must make is \$102,812,878 because the statutes require that policyholder premiums be established at not less than 140% of the industry standard rate. This is a major concept that is hard to glean from the analysis as currently drafted.

It also may be useful to note in the analysis that, in contrast to insurers and providers for whom prior year surpluses are used to reduce the actual insurer assessment or provider contribution, surpluses applicable to policyholders may be used only as specified in s. 149.143 (2m) (b), Stats. Reading between the lines, it appears that the state fiscal year (SFY) 2005 policyholder premiums likely will generate an additional surplus, resulting in a total surplus of \$17,098,945. A comment about this and a brief description of the process used to decide which of the statutory options in s. 149.143 (2m) (b), Stats., will be used with respect to the

policyholder surplus would be useful for the reader to comprehend the effect of the proposed order.

b. The next-to-last paragraph of the fiscal estimate is very confusing--in part because "required" is used inconsistently, apparently sometimes referring to what is actuarially required after taking into account prior year surpluses, sometimes referring to what is actuarially required without taking into account prior year surpluses, and sometimes referring to what is statutorily required, that is, taking into account the statutory requirement that policyholder premiums be established at not less than 140% of the industry standard rate. Consideration should be given to rewording this paragraph to make it more easily understood. Specific comments are as follows:

(1) The first sentence indicates that \$152,283,191 "will be required" to be collected to fund HIRSP. However, when the numbers are added as to what will actually be contributed or assessed for SFY 2005, (\$32,446,282 from insurers, plus \$34,122,977 for providers, plus \$102,812,878 for policyholders), what will actually be required to be contributed or assessed is \$169,382,137. It may be clearer if the first sentence indicated that \$152,283,191 is the amount actuarially needed to fund HIRSP if prior year surpluses were taken into account.

(2) The fiscal estimate would be clearer if it specified the \$169,382,137 figure. Also, the fiscal estimate could note that the likely policyholder surplus at the end of SFY 2005 is \$17,098,945 and could comment regarding the process used to decide what, if anything, will be done with this surplus. Otherwise, the reader must struggle to comprehend the end result of the proposed order.

(3) The fifth sentence indicates that the total "required" contribution for policyholders is \$97,573,530 but then indicates that the "necessary" contribution is \$85,713,933, and the last sentence indicates that policyholders will actually pay \$102,812,878 in premiums, which is \$5,239,348 above the "required policyholder contribution." It is confusing to state that policyholders will pay more than the "required" policyholder contribution. The statutes are requiring that the policyholder contribution be established at not less than 140% of the industry standard rate, thus, policyholder premiums are *required* to be \$102,812,878. The distinction between what is needed actuarially, the effect of the surplus (contrasting the distinction between insurers and providers versus policyholders with respect to surplus), and what the statutes require to be paid by policyholders should be made clearer.

In addition, the sentence, which indicates that: "Although the total policyholder *required* amount decreases, this rule increases policyholder premiums in order to comply with the statutory requirements." (emphasis added), is confusing because it mixes the concepts of actuarially required and statutorily required.

These concepts should be clarified in the fiscal estimate so that it is easier to understand.

c. In the fourth sentence of the next-to-last paragraph of the fiscal estimate, it appears that "\$1,0936,317" should be changed to "\$1,093,317."