

Clearinghouse Rule 18-092

**STATE OF WISCONSIN
OFFICE OF THE COMMISSIONER OF INSURANCE**

**PROPOSED ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE
REPEALING A RULE**

The Office of the Commissioner of Insurance is petitioning the Joint Committee for Review of Administrative Rules to repeal rules the office has determined to be an unauthorized rule using the process under s. 227.26(4), Stats.

PROPOSED ORDER

An order of the Office of the Commissioner of Insurance to repeal ss. Ins 5.03 (5), and 5.17 (1) (a) 2., Wis. Adm. Code, relating to health insurance risk-sharing program.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE (OCI)

Statutes interpreted:

ss. 227.10 (2), and 227.26 (4), Stats.

Statutory authority:

s. 227.26 (4), Stats.

Explanation of OCI's authority to promulgate the proposed rule under these statutes:

Pursuant to s. 227.26 (4), Stats., OCI may petition for repeal of an unauthorized rule. An unauthorized rule is one that "an agency lacks the authority to promulgate due to the repeal or amendment of the law that previously authorized its promulgation." Pursuant to s. 227.10 (2), Stats., no agency may promulgate a rule which conflicts with state law.

The plain language analysis and summary of the proposed rule:

The proposed rule repeals ss. Ins 5.03 (5), and 5.17 (1) (a) 2., Wis. Adm. Code, relating to Wisconsin health insurance risk-sharing plan (HIRSP) and its governing board. The sections define the HIRSP board, and identify how an action against the HIRSP board should be captioned. Additionally ss. Ins 5.01 (1) and 5.17 (5) reference the HIRSP board for purposes of rule scope and service and filing information. These references should also be removed from the rule text.

The risk-sharing plan and its governing board were dissolved when the authorizing statutes were repealed by 2013 Wisconsin Acts 20 and 116.

Therefore, OCI has determined that ss. Ins 5.03 (5), and 5.17 (1) (a) 2., should be repealed and ss. Ins 5.01 (1) and 5.17 (5) should be amended to remove reference to the HIRSP board as they are unauthorized rules under s. 227.26 (4), Stats.

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The proposed rule changes are:

SECTION 1. Ins 5.01 (1) is amended to read:

Ins 5.01 (1) This chapter interprets subch. III of ch. 227, Stats., and ss. 102.31 (4), 153.78, 601.44 (6) and 601.62, Stats., and applies to administrative actions under the jurisdiction of the commissioner, ~~the HIRSP board~~ and the PCF board.

SECTION 2. Ins 5.03 (5), and 5.17 (1) (a) 2., are repealed.

SECTION 3. 5.17 (5) is amended to read:

Ins 5.17 (5) ADDRESS. Unless otherwise ordered by the administrative law judge, the address for serving and filing documents with the office, the PCF Board, ~~the HIRSP board~~ or the administrative law judge is: Office of the Commissioner of Insurance Attn: Legal Unit, 125 South Webster Street Floor 2, P.O. Box 7873, Madison, WI 53707-7873. Facsimile transmission number: 608-264-6228.

SECTION 4. EFFECTIVE DATE. The rule repealed in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)
