

CR 93-14

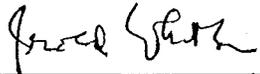
CERTIFICATE

STATE OF WISCONSIN )  
 ) SS  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

I, Gerald Whitburn, Secretary of the Department of Health and Social Services and custodian of the official records of the Department, do hereby certify that the annexed rules relating to subsidizing health insurance premiums for persons with HIV infection who can no longer work or must reduce hours of work or take unpaid medical leave were duly approved and adopted by this Department on May 25, 1993.

I further certify that this copy has been compared by me with the original on file in the Department and that this copy is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the State Office Building, 1 W. Wilson Street, in the city of Madison, this 25th day of May, 1993.



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Gerald Whitburn, Secretary  
Department of Health and Social Services

SEAL:

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MAY 25 1993  
2:55 pm  
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8-1-93

ORDER OF THE  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES  
AMENDING, REPEALING AND RECREATING AND CREATING RULES

To amend HSS 138 (title), 138.01, 138.04 (1)(intro.), (d), (e) and (f) 1, and (2) (a)(intro.), 5 a and b, 6 b and 7, and (b), and (3) (a) and (b), 138.05 (1) (a), (b) and (c) 1 and 3, and (2); to repeal and recreate HSS 138.04 (1) (i); and to create HSS 138.03 (15) and 138.05 (1) (g), relating to subsidizing health insurance premiums for persons with HIV infection who because of the condition can no longer work or must reduce hours of work or take unpaid medical leave.

Analysis Prepared by the Department of Health and Social Services

Section 146.882, Stats., as created by 1991 Wisconsin Act 269, establishes a program to subsidize the premium costs for coverage under a group health plan that are paid by an individual who has the human immunodeficiency virus (HIV) infection and who is on unpaid medical leave from employment because of an illness or medical condition related to the infection. The program is to be operated in the same way as the subsidy program established under s. 146.88, Stats., and therefore the Department in this rulemaking order is modifying its rules for the continuation coverage premium subsidy program under s. 146.88, Stats., ch. HSS 138, to accommodate workers with HIV infection who are on medical leave from their jobs because of a related condition or illness.

This order amends ch. HSS 138 to expand the health insurance premium subsidy program for persons with HIV infection who cannot continue working or working full-time to include persons with HIV infection who are on unpaid medical leave because of an illness or condition related to the infection, and to define "unpaid medical leave." This order also modifies the current rules for this subsidy program to extend the maximum length of time for a subsidy from 18 months to 29 months, pursuant to the change made in s. 146.88 (4) (a), Stats., by 1991 Wisconsin Act 269, and to s. 146.882 (4) (a), Stats., as created by 1991 Wisconsin Act 269.

The Department's authority to amend, repeal and recreate and create these rules is found in s. 146.88 (6), Stats., and in s. 146.882 (6), Stats., as created by 1991 Wisconsin Act 269. These rules interpret s. 146.88, Stats., as affected by 1991 Wisconsin Act 269, and s. 146.882, Stats., as created by 1991 Wisconsin Act 269.

SECTION 1. HSS 138 (title) is amended to read:

Chapter HSS 138 (title)

SUBSIDY OF HEALTH INSURANCE CONTINUATION  
COVERAGE PREMIUMS FOR PERSONS WITH  
HIV INFECTION

SECTION 2. HSS 138.01 is amended to read:

HSS 138.01 AUTHORITY AND PURPOSE. This chapter is promulgated pursuant to ~~s.~~ ss. 146.88 and 146.882, Stats., for the purpose of enabling the department to administer a program to subsidize health insurance premium costs for coverage

under a group health plan for an individual who takes unpaid medical leave or for continuation coverage available to an individual who is unable to continue his or her employment or must reduce his or her hours because of an illness or medical condition arising from or related to HIV infection.

SECTION 3. HSS 138.03 (15) is created to read:

HSS 138.03 (15) "Unpaid medical leave" means an unpaid leave from employment for an employe who has a serious health condition, as defined in s. 103.10 (1) (g), Stats., which makes the employe unable to perform his or her employment duties.

SECTION 4. HSS 138.04 (1) (intro.), (d), (e) and (f) 1 are amended to read:

HSS 138.04 PARTICIPATION IN THE HEALTH INSURANCE PREMIUM SUBSIDY PROGRAM.

(1) ELIGIBILITY. In order to participate in the ~~continuation coverage~~ health insurance premium subsidy program, a person shall satisfy all of the following requirements which pertain to the type of subsidy the person is seeking:

(d) Except for the right to continued group coverage under s. 632.897, Stats., 29 USC 1161 to 1168 or 42 USC 300bb-1 to 300bb-8, have lost eligibility for group health coverage because employment is terminated or hours reduced due to an illness or medical condition arising from or related to the individual's HIV infection if the person is seeking a subsidy for continuation coverage premiums; and

(e) Is on unpaid medical leave if the person is seeking a subsidy for group health plan premiums while on unpaid medical leave or is eligible for continuation coverage if the person is seeking a subsidy for continuation coverage premiums;

(f) Is not covered by a group health plan other than any of the following:

1. The group health plan under which the individual is covered while on unpaid medical leave or under which the individual is eligible for continuation coverage; or

SECTION 5. HSS 138.04 (1) (i) is repealed and recreated to read:

HSS 138.04 (1) (i) Does not have escrowed under s. 103.10 (9) (c), Stats., an amount sufficient to pay the individual's required contribution to his or her group health plan premium payments during an unpaid medical leave if the individual is seeking a subsidy for these payments.

SECTION 6. HSS 138.04 (2) (a) (intro.), 5 a and b, 6 b and 7 and (b) and (3) (a) and (b) are amended to read:

HSS 138.04 (2) APPLICATION PROCESS. (a) Any individual who satisfies the eligibility conditions under sub. (1) and wants to participate in the ~~continuation coverage~~ health insurance premium subsidy program shall complete and submit to the department an application form, DOH 4614, which shall provide the following information:

5 a. Contact the individual's employer or former employer or the administrator of the group health plan under which the individual is covered to verify that the individual is on an unpaid medical leave or to verify the individual's eligibility for continuation coverage and the premium and any other conditions of coverage, to make premium payments and for other purposes related to the administration of this chapter; and

b. Make any necessary disclosure to the individual's employer or former employer or the administrator of the group health plan under which the individual is covered regarding the individual's HIV status;

6 b. That the individual is on an unpaid medical leave because of an illness or medical condition arising from or related to the individual's HIV infection or because of medical treatment or supervision of the illness or condition or that the individual's employment has been terminated or his or her hours have been reduced because of an illness or medical condition arising from or related to the individual's HIV infection; and

7. Any other information that the department requires for purposes of determining eligibility under sub. (1) or evaluating the continuation coverage health insurance premium subsidy program.

(b) Any individual who does not satisfy sub. (1) (b), (d) or (e), may submit an application form, DOH 4614, that the department will hold until the individual satisfies all the applicable requirements under sub. (1). The department may not contact the individual's employer or the administrator of the group health plan under which the individual is covered until the individual satisfies all the applicable requirements under sub. (1) unless the individual authorizes the department, in writing, to make that contact and to make any necessary disclosure regarding the individual's HIV infection.

(3) (a) If the applicant satisfies all the applicable requirements under sub. (1), the department shall approve the application and notify the applicant in writing; or

(b) If the applicant does not satisfy a an applicable requirement under sub. (1), the department shall deny the application and notify the applicant, in writing, of the reasons for denial and of the right under sub. (5) to appeal the denial. If the denial is based upon inability to satisfy one or more of the requirements under sub. (1) (b), (d) or (e), the department shall include in the notice information that the department will hold the application until the applicant submits to the department written documentation that the requirement or requirements not met have been met, without need of the applicant to reapply.

SECTION 7. HSS 138.05 (1) (a), (b) and (c) 1 and 3 are amended to read:

HSS 138.05 PAYMENT OF HEALTH INSURANCE PREMIUMS. (1) AMOUNT AND PERIOD OF SUBSIDY. (a) Except as provided in pars. (e), (f) and (g), if an individual satisfies s. HSS 138.04 (1) and has been notified by the department under s. HSS 138.04 (3) (a) that the application has been approved, the department shall pay the full amount of each premium payment for coverage under a group health plan during an unpaid medical leave or for continuation coverage that is due from the

individual on or after the date of the notice of decision under s. HSS 138.04 (3).

(b) The department may not refuse to pay the full amount of each premium payment because the group health plan coverage during an unpaid medical leave or continuation coverage that is available to the individual who satisfies s. HSS 138.04 (1) includes coverage of the individual's spouse and dependents.

(c) 1. The individual's unpaid medical leave or continuation coverage ceases;

3. Upon the expiration of ~~18~~ 29 months after the unpaid medical leave or continuation coverage began, whichever occurs first.

SECTION 8. HSS 138.05 (1) (g) is created to read:

HSS 138.05 (1) (g) If an individual who satisfies s. HSS 138.04 (1) has an amount escrowed under s. 103.10 (9) (c), Stats., that is not sufficient to pay the required contribution to his or her premium payments while on unpaid medical leave, the amount paid under par. (a) may not exceed the individual's required contribution for the duration of the unpaid medical leave minus the amount escrowed.

SECTION 9. HSS 138,05 (2) is amended to read:

HSS 138.05 (2) PAYMENT OF PREMIUMS. The department shall make payment of premiums allowed under sub. (1) to the insurer, the administrator of an employer self-funded plan or the employer that provides the group health plan coverage during an unpaid medical leave or the continuation coverage, or to the covered individual when the individual, in order to meet a premium due date, makes a payment after the department has approved his or her application, if the individual provides the department with proof that the payment was made.

The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22, Stats.

Wisconsin Department of Health and  
Social Services

**RECEIVED**

MAY 25 1993

Date: May 25, 1993

Revisor of Statutes  
Bureau

By:

  
Gerald Whitburn  
Secretary

SEAL: