

Clearinghouse Rule 98-015

State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE



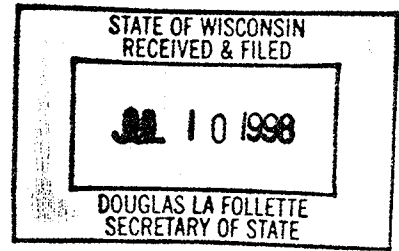
Tommy G. Thompson
Governor

Randy Blumer
Commissioner (Acting)

121 East Wilson Street • P.O. Box 7873
Madison, Wisconsin 53707-7873
Phone: (608) 266-3585 • Fax: (608) 266-9935
E-Mail: ocioci@mail.state.wi.us
http://badger.state.wi.us/agencies/oci/oci_home.htm

STATE OF WISCONSIN
OFFICE OF THE COMMISSIONER OF INSURANCE

SS



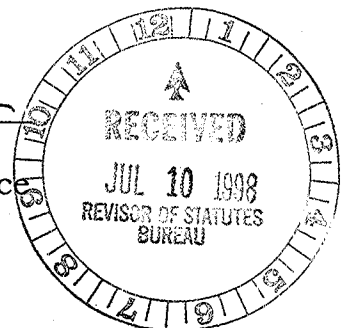
I, Randy Blumer, Commissioner of Insurance and custodian of the official records, certify that the annexed rule affecting Section Ins 3.70, Wis. Adm. Code, relating to aggregating creditable coverage for the state health insurance risk-sharing plan, is duly approved and adopted by this Office on July 10, 1998.

I further certify that I have compared this copy with the original on file in this Office and that it is a true copy of the original, and the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 121 East Wilson Street, Madison, Wisconsin, on July 10, 1998.

Randy Blumer

Randy Blumer
Commissioner of Insurance



98-015
10-1-98

JUL 10 1998

DOUGLAS LA FOLLETTE
SECRETARY OF STATE

ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE

CREATING A RULE

To create Ins. 3.70 relating to aggregating creditable coverage for the state health insurance risk-sharing plan pursuant to s.149.10 (2t) (a) Stats.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE

Statutory authority: ss. 149.115, 601.41 (3) Stats.

Statutes Interpreted: ss. 149.115 & 149.10 (2t) (a) Stats.

This change is mandated by 1997 Wisconsin Act 27 which, among other things, transferred the responsibility of the state health insurance risk sharing plan ("HIRSP") to the department of health and family services as of January 1, 1998. The HIRSP statutes were renumbered from Chapter 619 to Chapter 149 Stats. and amended in ways that require promulgation of new rules. Responsibility for promulgation of most of these rules was placed with the department and, in fact, the HIRSP rules, formerly CH. INS. 18 were transferred to the department and renumbered CH. DFS 119 on April 1, 1998. However s. 149.115 requires the commissioner after consultation with the department to promulgate rules with respect to the term "creditable coverage" and requires that those rules comply with section 2701 (c) of P.L. 104-191, the federal health insurance portability and accountability act ("HIPAA"). HIPAA supercedes portions of state law, is manifested in much of Act 27 and originated the term "creditable coverage". Following passage of HIPAA the federal health and human services administration promulgated their own rules concerning, among other things, methods of counting creditable coverage. 1997 Wisconsin Act 27 requires the commissioner to promulgate rules concerning

" aggregating" creditable coverage. Although the federal rule concerns " counting" creditable coverage the terms are descriptive of the same process. Therefore this rule simply incorporates the federal rule to satisfy the legislative mandate that the commissioner promulgate rules that specify how creditable coverage be aggregated (counted) under HIRSP.

ADDITIONAL ANALYSIS RESULTING FROM LEGISLATIVE COUNCIL COMMENTS AND MAY 15, 1998 PUBLIC HEARING.

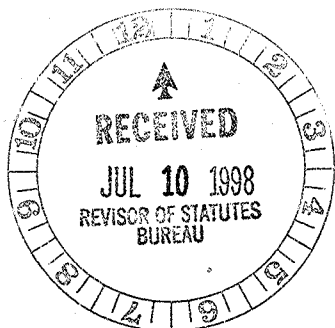
On April 1, 1998 the revisor renumbered Ins. 18 to HFS 119. This rule will remain with the commissioner and has been renumbered in this final version as Ins. 3.70 to avoid having an entire rule chapter for one rule. All other HIRSP rules are now under the authority of the department. Representatives of the department attended the public hearing on this rule and have been consulted as required by s. 149.115 Stats. OCI intends that this rule follow exactly the federal language cited in this rule. The HIRSP plan administrator has had no problems implementing this rule since it was effective as an emergency rule.

SECTION 1. Section Ins. 3.70 is created to read:

Ins. 3.70. **Methods of aggregating creditable coverage for the Health Insurance Risk Sharing Plan.** The method of aggregating creditable coverage for purposes of s. 149.10 (2t) (a), Stats. shall comply with 45 CFR 146.113 (a) (3).

SECTION 2. EFFECTIVE DATE. This rule will take effect on the first day of the month following publication as provided in s. 227.22 (2) (intro.), Stats.

Dated at Madison, Wisconsin, this 10th day of July 1998.



Randy Blume

Randy Blume
Commissioner of Insurance