



## WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

**2005 Wisconsin Act 74**  
[2005 Assembly Bill 844]

**Health Insurance Risk-Sharing Plan**

### **BACKGROUND**

Under prior law, the Health Insurance Risk-Sharing Plan (HIRSP) provides health insurance coverage for Wisconsin residents who: (a) have been refused coverage, or coverage at an affordable price, in the private health insurance market because of their health condition; (b) are covered under Medicare because they are disabled or have tested positive for human immunodeficiency virus; or (c) do not have health insurance but, under certain circumstances, were covered under certain types of creditable coverage in the past. Prior law provided that HIRSP is funded by premiums paid by covered persons, insurer assessments, and discounts by health care providers. Prior law also provided that HIRSP is governed by a board of governors and is administered by the Department of Health and Family Services (DHFS), which has contracted with a plan administrator.

### **2005 WISCONSIN ACT 74**

Wisconsin Act 74 includes provisions which do the following:

- ***HIRSP Authority.*** Create the HIRSP Authority as a “public body corporate and politic” to administer HIRSP. The HIRSP Authority is not a state agency. However, the Act provides that the HIRSP Authority is subject to certain, but not all, statutes that apply to state agencies. The Act specifies certain powers and duties of the HIRSP Authority.

The HIRSP Authority will be governed by a board of directors which will have 13 voting members appointed by the Governor, with the advice and consent of the Senate--four of whom must represent participating insurers, four of whom must represent health care providers, and five other members (one who represents small businesses, one who is a professional consumer advocate, and at least two who have HIRSP coverage). The Commissioner of Insurance (or his or her designee) serves as a nonvoting member of the board.

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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.state.wi.us/>.

The HIRSP Authority and those associated with it are provided immunity from lawsuit unless willful misconduct is proved.

The Legislative Audit Bureau is required to annually conduct a financial audit of the HIRSP Authority and audit the HIRSP Authority's records at least every five years. The HIRSP Authority must annually submit a report to the Legislature and Governor about the operation of HIRSP.

- **Administration.** Effective July 1, 2006, provide that the HIRSP Authority administers HIRSP. As of that date, the Act requires DHFS to terminate its contract with the current plan administrator but also requires the HIRSP Authority to enter into an identical contract with the same administrator with the same ending date as the DHFS contract. Following that, HIRSP may contract with the same or a different plan administrator but must use a competitive sealed bid or proposal process to select the plan administrator.
- **Eligibility.** Amend eligibility provisions for HIRSP. As under current law, a person must be a Wisconsin resident to be eligible for HIRSP. However, for those who submit applications on or after July 1, 2006, the Act requires that a person be domiciled in Wisconsin for three months (instead of 30 days as under prior law) to be considered a state resident for purposes of HIRSP. Also, under prior law, a person rejected by one or more insurers within the past nine months could be eligible for HIRSP; as of July 1, 2006, the Act requires that a person be rejected by two or more insurers during this time period. Under prior law, a person eligible for Medical Assistance (MA) was not eligible for HIRSP; the Act provides that if the MA coverage is for only limited services, a person is not ineligible for HIRSP on that basis, even though HIRSP will not pay for the services reimbursed by MA. The Act adds reference to Medicare Part D (new prescription drug benefit) with respect to coverage for those eligible because of Medicare coverage.
- **Benefits.** Continue HIRSP benefits as under prior law through December 31, 2006. However, beginning January 1, 2007, subject to the requirement that certain services specified in the statutes be covered, HIRSP benefits may be changed, mostly by limiting the extent of certain benefits to the level required to be provided by commercial insurers under health insurance mandate statutes, including specifying that benefits for treatment of mental health or of alcohol or other drug abuse (AODA) are, at a minimum, the mandated benefit level. The HIRSP Authority must assess utilization and needs of those covered by HIRSP to determine if the mental health and AODA treatment benefit allows the use of evidence-based treatment to meet the treatment needs of HIRSP enrollees. The HIRSP Authority must submit a report on its assessment to the Joint Committee on Finance on or before December 1, 2006. On or after January 1, 2007, the HIRSP Authority must make any necessary adjustments to the minimum required benefit level to ensure appropriate access to evidence-based mental health and AODA treatment strategies for persons covered by HIRSP.

Coverage for a home health agency is added to the extent required under the mandated benefit statutes. Also, as of January 1, 2007, subject to required coverage for certain services, the HIRSP Authority may establish deductible, copayments, coinsurance, limitations, and (except for those eligible for HIRSP because of past creditable coverage) exclusions other than those specified in the statutes. The HIRSP Authority also may develop additional benefit designs that are responsive to market conditions. OCI may disapprove a policy developed by the HIRSP Authority under certain circumstances that primarily relate to

failing to offer benefits reflective of the private market or creating an undue financial hardship.

- ***Subsidies.*** Retain prior law provisions that, in general, persons with low household incomes receive premium subsidies. Beginning January 1, 2007, the reduced deductible subsidy amounts specified in the statutes are repealed, and the HIRSP Authority must establish and provide deductible subsidies for those eligible for reduced deductibles under prior law. As of January 1, 2007, the HIRSP Authority is authorized to provide prescription drug copayment subsidies. (Under prior law, DHFS had authority to do so.)
- ***Payment of Plan Costs.*** Eliminate the complex formula under prior law, but retain the same basic system that: (a) premiums must pay for 60% of costs (excluding subsidies) but may not exceed 200% of rates applicable to standard risks; (b) insurer assessments must cover 20% of costs (excluding subsidy costs); and (c) provider payment discounts must cover 20% of costs (excluding subsidy costs). Subsidy costs must first be paid from any federal high risk pool grant funds, and then subsidy costs are paid equally through insurer assessments and provider discounts. (If federal funds exceed subsidy costs, the excess federal funds are used to pay administrative and operating costs before premiums, insurer assessments, and provider discounts are applied to such costs.) The Act specifies that neither the Commissioner of Insurance nor DHFS (before July 1, 2006) nor the HIRSP Authority (on or after July 1, 2006) may assess any type of insurance that was not being assessed as of December 1, 2005 or any type of insurer that was not being assessed as of December 1, 2005.
- ***Federal Health Care Tax Credit Program.*** Require the HIRSP Authority to design and administer a qualified health plan under the federal Trade Adjustment Assistance Reform Act of 2002. That act provides a federal income tax credit for part of the premium paid by eligible persons for coverage under a qualified health plan. Eligible persons include, under certain circumstances, those who: (a) have lost a job or had work hours or wages reduced due to increased imports; or (b) are at least 55 years old and receive benefits from the Pension Benefit Guaranty Corporation.
- ***Assessment Credits for Insurers.*** Create an income and franchise tax credit and a license fee credit for insurers that pay assessments for HIRSP. The amount of the credit for all insurers cannot exceed \$5,000,000, and each insurer's assessment credit must be in proportion to the amount of HIRSP assessments on all insurers. The credits apply to taxable years beginning after December 31, 2005, but the credits for the 2006 and 2007 taxable years may not be claimed until taxable years beginning after December 31, 2007.
- ***Tax Exemptions.*** Create an exemption from property tax, income tax, and sales and use tax for the HIRSP Authority.

***Initial Applicability Dates:*** The Act has various initial applicability date provisions, some of which are noted above.

***Effective Dates:*** The Act has various effective dates, including: (a) creation of the HIRSP Authority, administrator contract provisions, insurer assessment tax credit, and miscellaneous provisions—January 7, 2006; (b) transfer of administration to the HIRSP Authority—July 1, 2006; and (c) plan design provisions—January 1, 2007.

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