



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

---

May 21, 2003

Joint Committee on Finance

Paper #301

### **Minor Policy and Technical Changes -- Compliance With the Federal Health Insurance Portability and Accountability Act (ETF -- Departmentwide)**

[LFB 2003-05 Budget Summary: Page 152, #6]

---

#### **CURRENT LAW**

On December 17, 2002, at the Joint Committee on Finance's meeting under s. 13.10 of the statutes, ETF was provided a supplement of \$292,900 SEG in 2002-03 and was authorized 1.0 SEG three-year project position for the development and support costs relating to compliance requirements under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA). The funding was provided on a one-time basis for 2002-03 only.

#### **GOVERNOR**

Provide \$54,600 SEG and 1.0 SEG project position annually to continue funding for development and support work relating to compliance with the requirements under HIPAA.

#### **DISCUSSION POINTS**

1. Federal HIPAA legislation contains provisions designed to reduce the costs and administrative burden of health care by making it possible to transmit standardized, electronic administrative and financial transactions that are currently transmitted in a variety of formats. Further, HIPAA regulations govern privacy, security, and administrative standards for health care information.

2. With respect to privacy provisions, HIPAA requires that covered entities adopt written privacy procedures, designate a privacy officer, and develop training on policies and procedures that limit the use and disclosure of protected health information by its employees for

health plan purposes. [The project position authorized by the Committee in December, 2002, performs the primary responsibilities for the development of the required privacy regulations and serves as the privacy officer for ETF, as mandated under the federal legislation.]

3. The security requirements of HIPAA include administrative, physical and technical safeguards that are primarily aimed at restricting access to protected health information within any public or private entity affected by the federal act. Security requirements focus on policies and procedures, access control, device and media controls, workstation security, person or entity authentication, and transmission security.

4. Finally, the HIPAA administrative standards for health care information require bringing certain current systems up to standards for electronic data interchange. This work applies primarily to the Department's health insurance and complaint system.

5. The \$292,900 SEG in 2002-03, provided under s. 13.10 was allocated, as follows: (1) \$202,700 SEG and 1.0 SEG three-year project position for the Department's administration appropriation; and (2) \$90,200 SEG for the appropriation relating to health insurance data collection and analysis contracts. The funding was provided on a one-time basis in order to allow the Committee to reassess the ongoing needs of the Department relating to HIPAA during deliberations on the 2003-05 biennial budget.

6. Because the funding and position authority provided to ETF by Joint Finance in December, 2002, was not included in the agency's adjusted base, continuation of salary and fringe benefits funding and associated project position authority has been included in SB 44 as budget decision items. However, additional funding for the remaining HIPAA-related activities was not provided in the bill. This omission was because final federal regulations relating to HIPAA requirements had not been published and a HIPAA impact analysis relating to ETF compliance had not been completed at the time the budget was submitted. The additional 2003-05 funding related to compliance with HIPAA regulations must be addressed by the Legislature.

7. ETF officials estimated in December, 2002, that \$231,400 SEG would be required in 2003-04 to continue the new position and the HIPAA-related work. While HIPAA activities will continue in 2004-05, the Department had not yet projected these costs.

8. The Department has now provided updated cost projections for both 2003-04 and 2004-05. The Department's proposal would provide \$408,200 SEG in 2003-04 and \$467,000 SEG in 2004-05 for the HIPAA-related work, as detailed in the following table.

### ETF's Revised HIPAA Proposal

<u>Expense</u>	<u>2003-04</u>	<u>2004-05</u>
Salary	\$39,800	\$39,800
Fringe Benefits	14,800	14,800
Supplies and Services	72,800	132,900
One-Time Costs	<u>280,800</u>	<u>279,500</u>
Total	\$408,200	\$467,000

9. These proposed expenses include the salary and fringe benefit costs that are already recommended in the bill for the project position. The net change to the bill, therefore, would be \$353,600 SEG in 2003-04 and \$412,400 SEG in 2004-05.

10. The funding amount proposed by ETF for 2003-04 (\$408,200 SEG) is \$176,800 higher than the \$231,400 SEG amount projected under the agency's December 17, 2002, s. 13.10 request. This difference is almost entirely due to an increase in projected one-time contracting costs.

11. The increased contractor costs relate to HIPAA requirements that were unknown until recently, when final federal rules were published (February 20, 2003). These requirements have proven to be more demanding than anticipated. For example, standards relating to the electronic transmission of health plan premium payment transactions were unexpectedly added to the requirements that must be met by October 16, 2003. Also, security requirements relating to on-line access to health records by agency personnel have proven to be more restrictive than expected and will result in additional programming costs.

12. The proposed funding in 2004-05 is about 60% one-time funding; as a result, adjusted base funding in 2004-05 would total \$187,500. The project position authorized for this purpose would terminate on June 30, 2006. HIPAA-related funding in the 2005-07 biennium, therefore, should be significantly less than that projected for the 2003-05 biennium. However, the Department's ongoing needs in future years will need to be reviewed again as part of the 2005-07 biennial budget process.

13. The proposed funding has been analyzed and appears reasonable in the context of the final federal regulations and associated deadlines relating to HIPAA requirements. The agency has no choice in complying with these federal mandates. The additional funding should be provided.

### MODIFICATION

Modify the Governor's provision to provide a total of \$408,200 SEG in 2003-04 and

\$467,000 SEG in 2004-05 and 1.0 SEG project position annually to continue funding for development and support work relating to compliance with federal requirements under HIPAA.

**Explanation:** While the bill provides funding for 1.0 SEG project position for HIPAA-related work, additional funding is necessary to meet the mandated federal requirements. The modification represents a change to the bill of \$353,600 SEG in 2003-04 and \$412,400 SEG in 2004-05.

<u>Modification</u>	<u>SEG</u>
<b>2003-05 FUNDING</b> (Change to Bill)	\$766,000

Prepared by: Art Zimmerman