



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #455

Healthy Wisconsin Authority

Base Agency

[LFB 2007-09 Budget Summary: Page 345, #1]

CURRENT LAW

In July, 2006, the Governor signed Executive Order #161, creating the Healthy Wisconsin Council and directing it to develop an action plan that would achieve the following objectives: (1) reduce the uninsured rate in Wisconsin by 50%; (2) reduce health insurance premiums for individuals and small businesses by 30%; (3) strengthen the private insurance market in Wisconsin; (4) encourage more employers to offer comprehensive, affordable health coverage to their employees; (5) explore ways that other states have increased federal financial support for similar initiative; and (6) identify existing health insurance regulations and suggest changes to help the Healthy Wisconsin program be successful. The Council's members included representatives of the insurance industry, health care providers, business groups, consumers, and several members of the Wisconsin Legislature.

On January 9, 2007, the Council released its final report. Included in that report was a recommendation to create a Healthy Wisconsin Authority that would be responsible for developing and implementing a reinsurance program for small businesses and health care cooperatives, and providing a substantial premium subsidy to the smallest low-wage businesses and cooperatives.

GOVERNOR

Provide \$500,000 SEG annually, beginning in 2007-08, from the health care quality fund (HCQF) that would be created under the Governor's bill, to support the costs of establishing and

operating the Healthy Wisconsin Authority (HWA). The Governor's recommended statutory changes relating to this item are summarized in the attachment to this paper.

DISCUSSION POINTS

1. The Governor's recommendation to provide funding to create and operate the HWA is based on the final recommendations of the Healthy Wisconsin Council. As indicated, that Council was created by the Governor's Executive Order in July, 2006, to study and make recommendations on a range of topics related to the cost and accessibility of health insurance coverage in Wisconsin.

2. An area of particular focus to the Council was the small group market, defined as employers with anywhere from two to 50 employees. Studies indicate that the rate of employer-sponsored health insurance coverage has declined in Wisconsin during the past several years. As shown in the following table, the likelihood that an employer will offer health insurance to its employees varies with the size of the employer. The figures in the table were taken from the 2004 Medical Expenditure Panel Survey (MEPS), compiled by the U.S. Department of Health and Human Services' Agency for Healthcare Research and Quality. As those figures indicate, less than one-third of Wisconsin companies with 10 or fewer employees offered health insurance to their employees in 2004, while nearly all Wisconsin businesses with more than one hundred employees offered their employees health insurance.

Percentage of Private-Sector Establishments in Wisconsin that Offered Health Insurance to Their Employees in 2004

Fewer than 10 employees	31.6%
10 to 24 employees	71.0
25 to 99 employees	78.4
100 to 999 employees	97.7
More than 1,000 employees	99.9
Total	53.7%

3. In addition, smaller companies have experienced greater percentage premium increases in recent years than larger companies. For example, according to a survey by the Kaiser Family Foundation/Health Research & Educational Trust, companies with 24 or fewer workers saw their health insurance premiums increase by an average of 10.5% in 2006, compared to an increase of 7.0% for companies with between 50 and 200 workers.

4. Several states, including New York and Arizona, have programs that utilize reinsurance as a strategy to address some of the issues identified above. Reinsurance can be defined as insurance for insurance companies. Through reinsurance, a primary insurer can limit its exposure to losses associated with an insured risk. In the health insurance context, for instance, a primary insurer can purchase a reinsurance policy that obligates the reinsurer, rather than the primary

insurer, to cover extraordinary or catastrophic claims that exceed a designated attachment point. By so doing, the primary insurer can avoid the risks associated with these catastrophic claims.

5. A reinsurance pool that includes a large number of insured lives may offer particular advantages in the small group market. Currently, small companies that offer health insurance to their employees can experience large increases in their health plan's costs if an employee suffers a serious health event. When offering health insurance to these small employers, health insurers factor the risks associated with these potentially catastrophic claims into their premiums. While this is also true for large employers, the loss experience for a large pool of insured lives is more predictable, and less subject to the disproportionate impacts of a relatively few catastrophic events, than is the loss experience for small groups of insured lives. Consequently, some argue that creating a large reinsurance pool aimed at participants in the small group market could provide greater stability and lower insurance premiums in that segment of the market.

6. In its final report, the Healthy Wisconsin Council recommended the creation of a state-subsidized reinsurance program aimed at the Wisconsin small group market. Health care purchasing cooperatives, as defined in statute, would also be eligible to participate in the reinsurance pool. Under the Council's recommendation, health insurance coverage for these individuals would continue to be provided through their employer's existing insurance carrier. Those primary insurers would be required, however, to pay a premium into a state reinsurance fund for every life they cover in their small group book of business. In return, the state reinsurance program would pay eligible claims above the predetermined attachment point. The Council's recommendation that primary insurers be required to pay a premium to the reinsurance program for every insured life in the small group market reflects the Council's view that mandatory insurer participation is necessary to reduce the adverse selection that might otherwise occur if insurers were allowed to decide which insured lives they would place in the reinsurance pool.

7. The Council's report states that the creation of such a state reinsurance program would benefit small businesses and health care cooperatives by reducing rate volatility, lowering risk premiums, increasing market stability, and lowering administrative/profit costs. The report does not, however, provide a specific estimate of the savings that would be generated from the reinsurance aspect of its recommendation. Department of Administration staff who assisted the Council indicate that this is because specific savings estimates would require actuarial analysis of a fully-developed proposal that includes the designated attachment point, primary insurer coinsurance requirements, crowd-out provisions, and numerous other details, the development of which were beyond the Council's resources.

8. The Council also recommended that the state of Wisconsin provide a subsidy to the reinsurance pool that would target businesses with 10 or fewer employees and health care purchasing cooperatives that have a high number of low-income employees. The Council's final report estimates that a \$100 million state subsidy, if targeted at the 100,000 insured lives in this portion of the small group market, would reduce health insurance premiums for those individuals by approximately 25%. Those estimated savings were calculated by determining the impact a \$100 million subsidy would have on 100,000 insured lives, based on the average monthly health

insurance premium in Wisconsin. The Council recommended that this state subsidy be financed through an increase in the state's tobacco tax.

9. In addition, the Council's final report recommended the creation of a quasi-government body called the Healthy Wisconsin Authority that would be responsible for developing and implementing the Council's reinsurance proposal.

10. Consistent with the Council's recommendations, the Governor's bill would provide \$500,000 SEG annually from the HCQF that would be created under the bill to support the costs of establishing and operating the HWA. The bill does not include provisions that would create a reinsurance program in Wisconsin. Instead, the bill would create the HWA, which in turn would be responsible for developing recommendations regarding the implementation of a reinsurance program, and to submit those recommendations to the Secretary of the Department of Administration (DOA) by September 15, 2008.

11. Under the Governor's bill, the HWA would be created as a public body corporate and politic. Its Board of Directors would consist of the Commissioner of Insurance as a non-voting member, and the following 13 members, each of whom would serve 4-year terms: (1) one majority party senator appointed by the Senate majority leader; (2) one minority party senator appointed by the Senate minority leader; (3) one majority party representative to the Assembly appointed by the Speaker of the Assembly; (4) one minority party representative to the Assembly appointed by the Assembly minority leader; and (5) nine nominees of the Governor, appointed with the advice and consent of the Senate, consisting of the following: (a) one health care provider; (b) one representative of a Wisconsin health insurance company that offers coverage in the small group market; (c) one representative of a Wisconsin small employer; (d) one representative of Wisconsin labor unions; (e) one representative of health benefit purchasing cooperatives; and (f) four other members who represent the public interest. Under the bill, the Governor could appoint one of these members to serve as the Board Chairperson. The bill would authorize the HWA's Board of Directors to appoint an executive director who is not a member of the Board, and who would serve at the Board's pleasure.

12. As a "public body corporate and politic," the HWA would not be a traditional state agency, but instead, would either be subject to, or exempt from, a broad range of statutes and regulations. For instance, the HWA would be subject to state laws regulating lobbying activities as well as certain laws dealing with purchasing and competitive bidding. The HWA would also be among the entities to which the Legislative Fiscal Bureau would have access, and its records would be subject to audit by the Legislative Audit Bureau at least once every five years. The attachment to this paper provides a more comprehensive summary of the HWA's legal status, as specified in the Governor's bill.

13. Substantively, the bill would require the HWA to study options and develop recommendations for implementing a reinsurance program to provide reinsurance to groups or individuals, or both, in this state for catastrophic claims under group or individual health insurance policies, and to submit a report to the Secretary of DOA by September 15, 2008, that contains its recommendations for implementing such a reinsurance program. The bill would also require the

HWA to develop and administer a reinsurance program in accordance with any legislation enacted that requires or authorizes it to do so.

14. In developing its recommendations, the bill would require the HWA to develop guidelines and attachment points, set premiums to be paid for the reinsurance coverage, based on the number of lives in the reinsurance pool, set coinsurance rates for claims paid, and design all other features of the reinsurance program. The bill would allow the HWA to consider the impact of, and make to recommendations to the Governor on allowing health benefit purchasing cooperatives to participate in a reinsurance program, to evaluate the challenges faced by American Indian tribes and bands in Wisconsin, as well as other sectors of the group health insurance market, and to make recommendations to the Governor on proposals to reduce health insurance premiums for the tribes and bands and other sectors of the group health insurance market.

15. Finally, the bill would require the HWA, after implementing a reinsurance program, to contract with an independent entity to conduct an annual evaluation and financial audit of the program, and to submit to the Governor a report of the results of any such evaluation and audit by January 1 of each year. Any such program evaluation would have to include a review of best practices that may impact the appropriate use of health care and disease management. The bill would require the HWA to make any necessary adjustments or improvements if, as a result of the evaluation or audit, problems or deficiencies are determined to exist, and also require the HWA to explore the feasibility of expanding the program to cover more state residents.

16. With respect to the \$500,000 in annual funding that would be provided in the bill, the administration indicates that amount is based on the estimated costs associated with hiring the HWA's executive director and any additional staff necessary to carry out the authority's duties, the estimated costs of actuarial and other professional services required to evaluate and develop recommendations for a state reinsurance program, and other expenses such as rent, and travel and miscellaneous expenses for the Board members as allowed under the bill.

17. For the reasons outlined above, the Committee could approve the Governor's recommendation. Doing so would not establish a reinsurance program in Wisconsin. Instead, approving the Governor's recommendation would create the HWA and provide funding that would enable the authority to study and develop recommendations regarding the creation of a state reinsurance program.

18. If the Committee decides to approve funding for the HWA, it could modify the Governor's recommendations in several respects. First, it could fund the HWA through GPR rather than through segregated funds from the HCQF. This would be appropriate in the event the Committee does not approve the creation of the HCQF, or if the Committee decides not to fund the HWA by using segregated funds from the HCQF.

19. Second, the Committee could specify that any funding approved for the creation and operation of the HWA is one-time funding in 2007-08 and 2008-09, rather than provide ongoing funding for the HWA, as recommended by the Governor. Designating the appropriation as one-time funding would allow the Legislature to re-evaluate whether funding should be provided to the

HWA in future biennial budgets in light of the HWA's September 15, 2008 report required under the bill.

20. Third, the Committee could require the HWA to provide the Committee, as well as the Secretary of DOA, its September 15, 2008, report regarding implementation of a reinsurance program, and require the HWA to provide the Committee, as well as the Governor, reports of the results of any independent program evaluations and audits required under the bill.

21. The Committee could also decide not to create the HWA, but instead, assign the task of studying options and developing recommendations for implementing a reinsurance program in Wisconsin to the Office of the Commissioner of Insurance (OCI). The rationale for doing so is that under the Governor's bill, the HWA's initial purpose is to develop recommendations and to submit a reinsurance report to the Secretary of DOA on or before September 15, 2008. The Committee could decide that the creation of a new quasi-public authority under state law is not required for that initial purpose. Furthermore, delegating responsibility to OCI to develop a reinsurance proposal would not preclude the subsequent creation of an authority, the purpose of which would be to administer any reinsurance program enacted into law.

22. Finally, the Committee could delete the provision.

ALTERNATIVES TO BASE

1. Approve the Governor's recommendations and provide \$500,000 SEG from the HCQF in 2007-08 and 2008-09 to create and operate the HWA.

ALT 1	Change to Bill Funding	Change to Base Funding
SEG	\$0	\$1,000,000

2. Modify the Governor's recommendations to provide \$500,000 GPR, rather than \$500,000 SEG, in 2007-08 and 2008-09 to create and operate the HWA.

ALT 2	Change to Bill Funding	Change to Base Funding
GPR	\$1,000,000	\$1,000,000
SEG	<u>- 1,000,000</u>	<u>0</u>
Total	\$0	\$1,000,000

3. In addition to Alternative 1 or 2, modify the Governor's recommendations to specify that the funding provided is one-time funding in 2007-08 and 2008-09.

4. In addition to Alternatives 1, 2, and/or 3, modify the Governor's recommendations by requiring the HWA to submit to the Secretary of DOA and the Joint Committee on Finance, on or before September 15, 2008, a report with its recommendations for implementing a reinsurance program, and require the HWA to submit to the Governor and the Joint Committee on Finance all reports of the results of any independent evaluation or audit required under the bill, no later than January 1 of the year beginning after the year in which any such evaluation or audit is conducted.

5. Delete the provision. Provide one-time funding of \$500,000 PR in 2007-08 and 2008-09 from OCI's general program operations appropriation to OCI for the purpose of studying options and developing recommendations for implementing a reinsurance program to provide reinsurance to groups or individuals, or both, in this state for catastrophic claims under group or individual, or both, health insurance policies. Require OCI to submit to the Secretary of DOA and the Joint Committee on Finance, on or before September 15, 2008, a report with its recommendations for implementing a reinsurance program, and authorize OCI to contract with such outside professional assistance it deems reasonable and necessary for these purposes.

ALT 5	Change to Bill Funding	Change to Base Funding
PR	\$1,000,000	\$1,000,000
SEG	<u>- 1,000,000</u>	<u>0</u>
Total	\$0	\$1,000,000

6. Maintain current law.

Prepared by: Eric Peck
Attachment

ATTACHMENT

Create Healthy Wisconsin Authority Governor's Recommendations

Create the Authority as a public body corporate and politic to study options, develop recommendations, and submit to the Secretary of the Department of Administration (DOA), no later than September 15, 2008, a report with its recommendations for implementing a reinsurance program to provide reinsurance to groups or individuals, or both, in this state, for catastrophic claims under group or individual, or both, health insurance policies. Authorize the Authority to develop and administer a reinsurance program in accordance with any legislation that requires the Authority to do so.

Catastrophic Health Care Reinsurance Program. Require the Authority to do all of the following:

- a. Study options and develop recommendations for implementing a reinsurance program to provide reinsurance to groups or individuals, or both, in this state for catastrophic claims under group or individual, or both, health insurance policies;
- b. Submit to the DOA Secretary, no later than September 15, 2008, a report with its recommendations for implementing a reinsurance program; and
- c. Develop and administer a reinsurance program in accordance with any legislation enacted that required or authorizes the Authority to do so.

Require the Authority, in developing its recommendations for a reinsurance program, to develop guidelines for defining high-cost claims and attachment points, set premiums to be paid for the reinsurance coverage based on the number of covered lives included in the reinsurance pool, set coinsurance rates for claims paid, and to design all other features of the reinsurance program.

Provide that the Authority can, in developing its recommendations for a reinsurance program, consider the impact of, and make recommendations to the Governor on, allowing health benefit purchasing cooperatives to participate in a reinsurance program, evaluate the challenges faced by American Indian tribes and bands in this state and other sectors of the group health insurance market and make recommendations to the Governor on proposals to reduce health insurance premiums for the tribes and bands and other sectors. Further, provide that the authority can, in developing its recommendations, explore other ways to lower health care costs and to increase access to, and improve the quality of health care, including considering options for comprehensive health care reform.

Permit the Authority to contract with any vendor to administer any such reinsurance program, including the performance of such responsibilities as estimating reinsurance premiums,

paying claims, customer services, and day-to-day administration.

Annual Evaluations. Require the Authority annually, after it implements any reinsurance program, to contract with an independent entity to conduct an evaluation of the program and financial audit of the most recent fiscal year ending before the audit. Require the program evaluation to include a review of best practices that may impact appropriate use of health care and disease management, and direct the Authority to make any necessary adjustments or improvements, if, as a result of the evaluation or audit, problems or deficiencies are determined to exist. Require the Authority, after each evaluation and audit, to explore the feasibility of expanding the program to cover more state residents. Further, require the Authority to submit to the Governor a report of the results of each evaluation and audit no later than January 1 of the year beginning after the year in which the evaluation and audit are conducted.

Board of Directors. Specify that the Authority's Board of Directors would consist of the Commissioner of Insurance, or his or her designee as a nonvoting member, and the following 13 members, who would serve four-year terms: (a) one majority party senator appointed by the Senate Majority Leader; (b) one minority party senator appointed by the Senate Minority Leader; (c) one majority party representative to the Assembly appointed by the Speaker of the Assembly; (d) one minority party representative to the Assembly appointed by the Assembly Minority Leader; and (e) nine nominees of the Governor, appointed with the advice and consent of the Senate, consisting of one health care provider, one representative of a Wisconsin health insurance company that offers coverage in the small group market, one representative of a Wisconsin small employer, one representative of Wisconsin labor unions, one representative of health benefit purchasing cooperatives, and four members who represent the public interest. Direct the Governor to annually appoint one member to serve as Chairperson of the Board, and authorize the members of the Board to elect other officers as they consider appropriate.

Provide that each Board member would hold office until a successor is appointed and qualified unless the member vacates or is removed from office, and that a member who serves as a result of holding another office or position vacates his or her office as a member when he or she vacates the other office or position. Provide that a member who ceases to qualify for office vacates his or her office. Require any vacancy on the Board to be filled in the same manner as the original appointment to the Board for the remainder of the unexpired term, if any. Under the bill, the initial board members identified in (a), (b), (c), and (d), above, would be appointed for terms that expire July 1, 2009. Of the nine initial board members identified in (e), above, four would be appointed for terms that expire July 1, 2010, and five would be appointed for terms that expire July 1, 2011.

Provide that, notwithstanding the requirement for Senate confirmation, initial members of the Board may be provisionally appointed by the Governor, subject to Senate confirmation, and that such provisional appointments would be in force until acted upon by the Senate and, when confirmed by the Senate, would continue for the remainder of the term or until a successor is chosen and qualifies. Authorize a provisional appointee to exercise all of the powers of the office to which he or she is appointed during the period in which they qualify. Provide that any provisional appointment by the Governor that is withdrawn or rejected by the Senate would

lapse, in which case a vacancy occurs. Require that whenever a new Legislature is organized, any appointments then pending before the Senate be referred by the President to the appropriate standing committee of the newly-organized Senate.

Provide that a majority of the members of the Board would constitute a quorum for purposes of conducting the Board's business and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies. Further, provide that action may taken by the Board upon a majority vote of the members present, and authorize Board meetings to be held anywhere within or without the state. Prohibit a member of the Board from being compensated for his or her services, except for reimbursement for actual and necessary expenses incurred in the performance of his or her duties, including travel expenses, subject to uniform travel schedule amounts as otherwise provided by statute. Prohibit any cause of action to arise against, and any civil liability to be imposed upon a member or Executive Director of the Authority for any act or omission in the performance of his or her powers and duties unless the person asserting liability proves the act or omission constituted willful misconduct.

Executive Director. Require the Authority's Board to appoint an Executive Director who would not be a member of the Board, who would serve at the Board's pleasure, and who would receive such compensation as determined by the Board. Direct the Executive Director or other person designated by resolution of the Board to keep a record of the Authority's proceedings and to be custodian of the Authority's books, documents, papers filed with the Authority, the Authority's minute book or journal, and its official seal. Authorize the Executive Director or other person to cause copies to be made of all the Authority's minutes and other records and documents, and to give certificates under the official seal of the Authority to the effect that such copies are true copies and all persons dealing with the Authority may rely upon such certificates.

Powers of the Authority. Provide the Authority with all powers necessary or convenient to carry out the purposes for which it is created, including the authority to: (a) adopt, amend or repeal bylaws and policies and procedures for the regulation of its affairs and the conduct of its business; (b) have a seal and alter the seal at its pleasure; (c) maintain an office; (d) sue and be sued; (e) accept gifts, grants, loans, or other contributions from private or public sources; (f) establish the Authority's annual budget and monitor the fiscal management of the Authority; (g) execute contracts and other instruments, including contracts for any professional services required for the Authority; (h) employ any officers, agents, and employees that it may require and determine their qualifications and compensation; and (i) procure liability insurance. Prohibit the Authority from issuing bonds.

Other Provisions. The Authority would be subject to or exempt from a range of statutes and regulations, including but not limited to the following: (a) the Authority would be subject to state laws regulating lobbying activities; (b) the Authority would be included among the entities to which the Legislative Fiscal Bureau has access, including any books, records, or other documents maintained by the Authority relating to its expenditures, revenues, operations, and structure; (c) the DOA Secretary and his or her designated employees could enter the Authority's office and examine its books and accounts and any other matter that in the Secretary's judgment should be examined, and interrogate the Authority's employees publicly or privately relative

thereto; (d) the Authority, its officers, and employees would be required to cooperate with the DOA Secretary , and assist the Secretary in preparing the state budget report and budget bill as the Secretary or Governor may request, and, upon request, provide the Secretary such information concerning anticipated revenues and expenditures as the Secretary requires for effective control of state finances; (e) the Authority would be subject to certain provisions of state law regarding purchasing and bidding, including requirements with respect to nondiscriminatory contracting practices; (f) the Authority would be exempt from various taxes, including the general property tax and the income tax; and (g) the Authority would be included in the definition of a "state agency" for purposes of the Wisconsin retirement system. The Authority's records would also be subject to audit by the Legislative Audit Bureau at least once each five years.