



WISCONSIN LEGISLATIVE COUNCIL INFORMATION MEMORANDUM

Private Employer Health Care Coverage Program

PROGRAM BACKGROUND

This Information Memorandum describes the Private Employer Health Care Coverage Program (PEHCCP) created in the Department of Employee Trust Funds (ETF). The PEHCCP was created by 1999 Wisconsin Act 9 (the 1999-2001 Biennial Budget Act) and was amended by 2001 Wisconsin Act 16 (the 2001-03 Biennial Budget Act) and 2001 Wisconsin Act 109 (the 2001-03 Budget Adjustment Bill). The program is governed by subch. X of ch. 40, Stats. (s. 40.98, Stats.). The purpose of the PEHCCP is to provide a voluntary health insurance purchasing pool for small businesses.

Although the statutes require the PEHCCP to be implemented by January 1, 2001, the program has not been implemented as of the date of this memorandum. Because the ETF was unable to enter into a contract for administering the PEHCCP so the program could begin by the required January 1, 2001 date, the ETF submitted a required report to the co-chairs of the Joint Committee on Finance (JCF) on December 28, 2000, specifying the reasons for not entering into the contract. In the letter to JCF, the ETF cited problems with the program design identified by potential contract vendors as the reason no bids were submitted to administer the program in the response to the ETF's Request for Proposal. This led ETF to request statutory changes in the program in

order to improve the chances of obtaining bids from potential administrators of the program. Most of the statutory changes requested by ETF were enacted into law in 2001 Wisconsin Acts 16 and 109. The insurance rate banding recommended by ETF as being an important component of the program's success was passed by the Legislature in the 2001-03 Biennial Budget Bill, but was vetoed by the Governor.

This rate banding provision would have required the Commissioner of Insurance to promulgate rules to change the current restrictions on premium rates that small employer insurers may charge to a small employer. Currently, the premium rates charged to small employers with similar case characteristics for the same or similar benefit design characteristics may not vary from the midpoint rate for those small employers by more than 35% of that midpoint rate. The vetoed provision would have changed this percentage to 10%.

ETF, ADMINISTRATOR, AND BOARD RESPONSIBILITIES

PROGRAM DESIGN

The ETF is responsible for designing the PEHCCP. The program must be an actuarially sound health care coverage program for private employers and may not be combined with the health care coverage plan operated by ETF for

public employees. The PEHCCP must also include more than one group health coverage plan. In designing the program, the ETF must consult with the Office of the Commissioner of Insurance (OCI) and the Departments of Commerce and Health and Family Services.

PROGRAM ADMINISTRATION

Under the PEHCCP, the ETF is required to solicit and accept bids and make every reasonable effort to enter into a contract for the administration of the PEHCCP. If a private administrator is not obtained, the ETF is required to provide all administrative services necessary for providing the health care coverage plans for the PEHCCP. During the period the ETF is providing these administrative services, it must continue to make every reasonable effort to contract for the administration of the health care coverage plans. Participating employers are charged a fee to cover administrative costs. If an administrator is selected, the administrator must charge a fee to employers who participate in the PEHCCP. The administrator is required to reimburse the ETF for expenses incurred by the ETF in designing, marketing, and contracting for administrative services for the program. If no administrator is selected to administer the program, the ETF must charge the employers the fee to cover the administrative costs.

The ETF is also required to enter into the contracts with insurers who are to provide health care coverage under the PEHCCP.

PROGRAM MARKETING

The ETF or the administrator, if one is selected, must solicit and accept bids and enter into a contract to market the PEHCCP. In addition, the ETF or the administrator must maintain a toll-free telephone number to provide information on the PEHCCP. The ETF may not sell any health care coverage under the PEHCCP to an employer, or enroll any

employee in the PEHCCP, but the ETF must make information about the PEHCCP available to employers on a statewide basis.

PROGRAM OVERSIGHT

The 13-member Private Employer Health Care Coverage Board oversees the PEHCCP. The board, located in ETF, consists of the Secretary of Employee Trust Funds or his or her designee, and the Secretary of Health and Family Services or his or her designee (both nonvoting members), and the following members appointed for staggered three-year terms:

1. One member who represents health maintenance organizations.
2. One member who represents hospitals.
3. One member who represents insurance agents.
4. Two members who are employees eligible to receive health care coverage under the PEHCCP and whose employer employs not more than 50 employees.
5. One member who represents insurers.
6. Two members who are, or who represent, employers that employ not more than 50 employees and who are eligible to offer health care coverage under the PEHCCP.
7. One member who is a physician.
8. Two members who represent the public interest.

The board is responsible for approving the PEHCCP prior to its implementation. Other board responsibilities are described under the appropriate headings in this memorandum.

PLAN DESIGN

Every health care coverage plan under the PEHCCP is subject to the provisions of the Insurance Code (chs. 600 to 646, Stats.) applying to group health benefit plans.

All plans under the PEHCCP must have an enrollment period, established by the board.

All insurance rates for health care coverage under the PEHCCP must be made available to employers and employees in a manner determined by the board. Rates for coverage for small employers must be published at least annually. The rates may be listed by county or by any other regional factor the board considers appropriate.

No health care coverage plan under the PEHCCP may provide coverage for a nontherapeutic abortion (defined as an abortion not directly and medically necessary to prevent the death of the woman) except by an optional rider or supplemental coverage provision that is offered and provided on an individual basis and for which an additional, separate premium or charge is paid by the covered individual. Claims and related administrative expenses for these abortions may only be paid for with the funds from the premiums or charges paid for coverage under the rider or supplemental coverage. Also, funds from the premiums or charges under the rider or supplemental coverage may not be used to pay any claim or administrative expenses related to any other type of coverage under the plan.

EMPLOYER RESPONSIBILITIES; ELIGIBLE EMPLOYEES

An employer for the purposes of the PEHCCP means any person doing business or operating an organization in Wisconsin and employing at least two eligible employees. However, a person operating a farm business employing at least one eligible employee is considered an

employer. An “eligible employee” is an employee who works on a permanent basis and has a normal work week of 30 or more hours. The term includes a sole proprietor, a business owner, a partner of a partnership, and a member of a limited liability company if the sole proprietor, business owner, partner, or member is included as an employee under a health benefit plan of an employer.

An employer participating in the PEHCCP must do all of the following:

1. Offer health care coverage under one or more plans to all of its eligible employees. (If permitted by any plan offered by an insurer under the PEHCCP, the employer may offer health care coverage under that plan to any of its other employees.)
2. Provide health care coverage under one or more plans to at least 50% of its eligible employees who do not otherwise receive health care coverage as a dependent under any other plan that is not offered by the employer, or to a percentage of such employees specified by the board, whichever percentage is greater.
3. Pay for each eligible employee at least 50% of the lowest premium rate for single coverage that is available to the employer for that employee’s coverage under the PEHCCP.
4. Make premium payments for the health care coverage of its employees in the manner specified by the board.

An employer providing health care coverage for its employees under the program who voluntarily terminates coverage under the program is not eligible to participate in the program for at least three years from the date coverage is terminated.

INSURER RESPONSIBILITIES

An insurer offering a health care coverage plan under the PEHCCP is required to provide coverage under the plan to any employer applying for coverage, and to all of that employer's employees who elect coverage under the plan, without regard to the health condition or claims experience of any individual who would be covered under the plan if all of the following apply:

1. The employer agrees to pay the premium required for coverage under the plan.
2. The employer agrees to comply with all provisions of the plan that apply generally to a policyholder or an insured without regard to health condition or claims experience. (Notwithstanding this provision, the ETF, in consultation with the board, may limit this requirement to compliance with s. 635.19, Stats., relating to issuance of coverage in a small group market.)

Health care coverage under the PEHCCP may only be sold by licensed insurance agents. An insurance agent may not sell health care coverage under the PEHCCP on behalf of an insurer unless he or she is listed by the insurer in required reports to OCI. The board may establish training requirements for insurance agents who sell coverage under the PEHCCP.

Commission rates on the sale of a policy under the PEHCCP are set by the board and may be adjusted as often as semi-annually. The commission rate must be based on the average commission rate paid to insurance agents in Wisconsin for the sale of a comparable health insurance policy at the time the rate is set or adjusted.

REPORTING REQUIREMENTS

The board must submit a report to the appropriate legislative standing committees and

the Governor on the operation of the PEHCCP each year by December 31. The report is to specify the number of employers and employees participating in the PEHCCP, calculate the costs of the PEHCCP to employers and their employees, and include recommendations for improving the PEHCCP.

The board must also submit a report to the appropriate legislative standing committees on an annual basis specifying the average insurance rate for the health care coverage under the PEHCCP by county or by any other regional factor the board considers appropriate.

The board is also required to recommend, no later than January 1, 2008, to the appropriate legislative standing committees and the Governor, whether the ETF should continue to be involved in the design, marketing, and contracting for administrative services for the PEHCCP. If the board recommends that the ETF not be involved in the performance of these functions, the board shall submit proposed legislation eliminating the ETF's involvement in these functions to the appropriate legislative standing committees at the time the board submits its report.

The Legislative Audit Bureau must prepare a program evaluation audit of the PEHCCP by January 1, 2008.

FUNDING AND POSITIONS

2001 Wisconsin Act 16 appropriated \$211,100 general purpose revenue (GPR) in 2001-02 for the PEHCCP. 2001 Wisconsin Act 109 reduced this appropriation by \$6,000. Act 109 also provided \$850,000 GPR in 2001-02 to fund the operating costs for the PEHCCP. The funds are provided in the form of a loan by OCI to the general fund, created by a lapse of \$850,000 from OCI's general program operations to repay the loan. The general fund must repay the OCI loan, with interest, at the end of the 2001-03 biennium. Funds that may be used to repay the

loan are lapsed funds from ETF from PEHCCP appropriations, or, if these funds are insufficient, funds from the general fund.

The memorandum was prepared by *Laura Rose*, *Deputy Director*, on February 24, 2003.

SUNSET

The plan sunsets on January 1, 2010.

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