



STATE OF WISCONSIN
Department of Employee Trust Funds

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CORRESPONDENCE MEMORANDUM

DATE: August 20, 2009
TO: Group Insurance Board
FROM: Matt Stohr, Director of Legislative Affairs, Communications and Quality Assurance
SUBJECT: Legislative Report

This memorandum is for informational purposes. No action is necessary.

At the June 9, 2009, Board meeting, we distributed a memorandum that highlighted a few bills that will, if enacted, have an impact on the State of Wisconsin Group Health Insurance Program and other health insurance programs. The following is an update on each of those bills as well as other bills that have been introduced since the June meeting. In addition, please find attached a summary of the provisions included in 2009 Wisconsin Act 28 (and 2009 Wisconsin Act 14) that have an impact on the health program and other programs administered by the Department of Employee Trust Funds (ETF). The summary is posted on ETF's Internet site to help explain the provisions to Wisconsin Retirement System (WRS) employers and participants.

- 2009 Senate Bill 3 and 2009 Assembly Bill 15, both relating to health insurance coverage of treatment for autism, affects the health programs administered by the Department. Similar language was included in 2009 Wisconsin Act 28. Please see the attached summary for more information.
- 2009 Senate Bill 27 (Assembly Bill 16 was the companion bill) was signed into law by the Governor on May 21, 2009, as 2009 Wisconsin Act 14. Generally speaking, 2009 Wisconsin Act 14 requires health insurance coverage of hearing aids and cochlear implants for eligible persons less than 18 years of age. The Act was published on June 5, 2009, and the effective date is January 1, 2010. Although this wasn't part of Wisconsin Act 28, we included more detailed information about this provision in the attached summary.

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- 2009 Senate Bill 70 and its companion bill, Assembly Bill 118, generally increase the health coverage age limit for eligible dependents to the age of 27. Language from these bills is in 2009 Wisconsin Act 28. Please see the attached summary for more information.
- 2009 Senate Bill 161 (Assembly Bill 194 was the companion bill) was signed into law by the Governor on May 26, 2009, as 2009 Wisconsin Act 15. 2009 Wisconsin Act 15 requires the Department of Health Services to create a Milwaukee County Enrollment Services unit for income maintenance. It also provides that certain Milwaukee County employees in this unit, who are hired into state positions, may elect to participate in the WRS but will retain their coverage under the Milwaukee County plan if they do not choose WRS coverage. If they choose not to elect to participate in the WRS, they will nevertheless be eligible employees under the state health insurance program. State contributions for these employees will be available as soon as the insurance goes into effect.
- 2009 Senate Bill 163 and its companion bill, 2009 Assembly Bill 217, require health insurance policies and plans that cover any diagnostic or surgical procedures to cover colorectal cancer examinations and laboratory tests for any insured or enrollee who is 50 years of age or older or any insured or enrollee who is under 50 years of age and at high risk for colorectal cancer. Assembly Bill 217 was referred to the Assembly Committee on Insurance. Senate Bill 163 was referred to the Senate Committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue and the Committee held a hearing on the bill on August 18, 2009.

I will be at the August 25, 2009, meeting to answer any questions you may have about the bills listed above or any other bills that have been introduced this legislative session.

Attachment: Summary of 2009 Wisconsin Act 28 Provisions



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Updated on July 28, 2009

Dear Wisconsin Retirement System (WRS) Participants and Employers:

2009 Wisconsin Act 28 (the state budget bill) contains a number of retirement and health insurance benefit provisions that affect the programs administered by the Department of Employee Trust Funds (ETF). The list below provides specific information on some of these provisions, including effective dates, participants affected and where to get more information. The list below also provides information on 2009 Wisconsin Act 14, which impacts the state and local group health insurance programs. Please note that at this time ETF does not currently have detailed information for those provisions that are effective January 1, 2010.

PROVISIONS IN 2009 WISCONSIN ACT 28 RELATING TO ETF BENEFIT PROGRAMS

1. Deemed Earnings-Compensation That Would Have Been Paid (had the furlough not been ordered) Is Deemed As Earnings And Service For Retirement Purposes

- a. **Description:** The provision addresses the effect of furloughs on Wisconsin Retirement System (WRS) reportable earnings and benefits. For WRS purposes only, the earnings of a state employee includes compensation that would have been payable to the employee at the employee's rate of pay immediately prior to the beginning of any mandatory, temporary reduction of work hours or days (furlough) ordered by the State of Wisconsin from July 1, 2009, through June 30, 2011, for service that would have been rendered by the employee during that period had a furlough not been ordered.

Contributions must be paid to the WRS on earnings considered to be received under this provision (referred to as "deemed earnings"). The deemed earnings are considered in the calculation of the participant's final average earnings for purposes of determining the participant's retirement annuity. The provision also includes in the definition of creditable service, the service for which a participating employee is considered to have received deemed earnings and for which contributions have been made as required by law.

- b. **Effective Date:** July 1, 2009
- c. **Applies To:** State employees (including University of Wisconsin System)
- d. **More Information:** http://www.etf.wi.gov/employers/bulletins_state/ebs20090707.pdf
- e. **For More Information about the impact of this provision on WRS Disability Programs go to:** http://www.etf.wi.gov/employers/Furlough_Disability_Impact.pdf

- f. **Statutory Reference:** Wis. Stat. § 40.02 (22) (ef)

2. ***Changes In The Calculation Of WRS Benefits For Certain Part-Time Staff***

This provision has two parts:

PART I: Educational support staff qualify for WRS participation at 440 hours

- a. **Description:** One of the current eligibility criteria for WRS participation is that an individual is expected to work at least 600 hours per year for non-teacher participants and 440 hours per year for teacher participants. This provision changes the educational support staff threshold to 440 hours.
- b. **Effective Date:** July 1, 2009
- c. **Applies To:** ONLY educational support personnel employed by a school district. It does not apply to those employed by a technical college district or by the Milwaukee Public School District.
- d. **More Information:** http://ef.wi.gov/employers/Educational_support_provisions.pdf
- e. **Statutory Reference:** Wis. Stat. § 40.22 (2m) (a)

PART II: The early retirement actuarial reduction is lowered for all part-time non-teaching participants.

- a. **Description:** Under current law, when calculating the actuarial reduction, a year of creditable service for participants with at least 5 years of part-time service in the 10 years immediately preceding retirement is calculated using 1,904 hours for non-teacher participants. This provision requires that the calculation use 1,320 hours as the full-time equivalent for a year of creditable service.
- b. **Effective Date:** July 1, 2009
- c. **Applies To:** All part-time non-teaching participants who terminate WRS employment on or after July 1, 2009
- d. **More Information:** http://ef.wi.gov/employers/Educational_support_provisions.pdf
- e. **Statutory Reference:** Wis. Stat. § 40.23 (2m) (fm)

3. Domestic Partners – Retirement and Insurance Benefits Available

- a. Description:** These provisions generally establish that a domestic partner is treated like a spouse for purposes of the benefits in Wis. Stat. Ch. 40, including the WRS, health insurance (state and local), Deferred Compensation and other related benefits. Domestic partners must meet all of the following conditions:
- Be at least 18 years of age and otherwise competent to enter into a contract
 - Neither individual is married to or in a domestic partnership with another person
 - Neither individual is related by blood in any way that would prohibit marriage under Wisconsin law
 - The two individuals consider themselves to be members of each other's immediate family
 - The two individuals agree to be responsible for each other's basic living expenses
 - The two individuals share a common residence.
- b. Effective Date:** January 1, 2010
- c. Applies to:** Subscribers-meaning state employees and retirees, and local employees and retirees of participating employers
- d. More Information:** Available leading up to the health insurance enrollment period in October 2009 and closer to the effective date.
- e. Statutory Reference:** Wis. Stat. §§ 40.02 (21c), (21d), 25 (b) 3, 40.08 (8) (a) 4, 40.08 (9), 40.23 (4) (e), 23 (4) (f) (intro.), 40.24 (7) (a) (intro.), 40.24 (7) (b), 40.25 (3m), 40.51 (2m), 40.52 (2), 40.55 (1), 40.65 (5) (b) 1, 40.65 (5) (c), 40.65 (7) (am) (intro.), (7) (am) 1, (7) (am) 2, (7) (ar) 1, 40.80 (2r) (a) 2

4. Health Insurance Coverage Of Dependents up to Age 27

- a. Description:** Requires that health plans provide coverage to a dependent child through age 26 years unless the dependent is married or is employed and eligible for employer-sponsored health insurance where the cost to the dependent is greater than the cost as a dependent under our program.
- b. Effective Date:** January 1, 2010
- c. Applies To:** Eligible dependents of subscribers in the state or local group health insurance program.
- d. More Information:** Provided in the 2010 *It's Your Choice* booklet, set for publication prior the October health insurance enrollment period.

e. **Statutory Reference:** Wis. Stat. § 632.885 (2)

5. **Insurance Coverage for Treatment of Autism Spectrum Disorders**

a. **Description:** Act 28 requires health plans to provide coverage for treatment of autism spectrum disorders if the treatment is prescribed by a physician and provided by individuals with specified expertise who are qualified to provide intensive-level or nonintensive-level services.

- **Conditions Covered:** Autism, Asperger's Syndrome and Pervasive Developmental Disorder - Not Otherwise Specified.
- **Covered Providers:** Psychiatrist, psychologist, social worker who is certified or licensed to practice psychotherapy, paraprofessional working under the supervision of any of those three types of providers, a professional working under the supervision of an outpatient mental health clinic, speech-language pathologist or an occupational therapist.
- **Coverage Minimums:** (adjusted annually according to Consumer Price Index)
 - ✓ Intensive-level: at least \$50,000 per insured per year with 30 to 35 hours of care per week for minimum duration of 4 years
 - ✓ Nonintensive-level: at least \$25,000 per insured per year
 - ✓ Minimum coverage amounts or duration required for treatment need not be met if less treatment is considered medically appropriate by the supervising professional and physician
- **Limitations:** Coverage is subject to any deductibles, coinsurance, or copayments that generally apply to other conditions covered under the policy or plan. However, coverage may not be subject to limitations or exclusions, including limitations on the number of treatment visits.

b. **Effective Date:** January 1, 2010

c. **Applies To:** Subscribers in the state or local group health plan and eligible insured dependents

d. **More Information:** For more information, we recommend contacting your health plan or the Office of the Commissioner of Insurance.

e. **Statutory Reference:** Wis. Stat. § 632.895 (12m)

6. Insurance Coverage of Contraceptives and Services

- a. **Description:** Act 28 requires health plans that cover outpatient health care services, preventive treatments and services, or prescription drugs and devices to provide coverage for contraceptives prescribed by a health care provider. “Contraceptives” means drugs or devices approved by the federal Food and Drug Administration (FDA) to prevent pregnancy. Coverage is also required for outpatient consultations, examinations, procedures, and medical services that are necessary to prescribe, administer, maintain, or remove a contraceptive if covered for any other drug benefits under the plan.

Please note that benefits under the State of Wisconsin Uniform Benefits and Standard Plan Group Health Insurance programs currently provide coverage for most contraceptives and services. This provision expands coverage to include implantable birth control devices that are currently excluded.

- b. **Effective Date:** January 1, 2010.
- c. **Applies To:** Subscribers in the state or local group health plan and eligible insured dependents
- d. **More Information:** For more information, we recommend contacting your health plan or the Office of the Commissioner of Insurance.
- e. **Statutory Reference:** Wis. Stat. § 632.895 (17)

7. Insurance Coverage of Licensed Mental Health Professionals Services

- a. **What:** Act 28 provides a definition for a “Licensed mental health professional” and requires health plans to provide coverage for the treatment of nervous or mental disorders, or alcoholism or other drug abuse problems when the services are provided by a licensed mental health professional that is practicing within the scope of his or her license. Coverage is also required when such outpatient services are provided by psychologists who are licensed under state law.

- “Licensed mental health professional” is defined as a clinical social worker, marriage and family therapist, or professional counselor licensed under state law.
- The provision eliminates the existing statutory requirement for a psychologist to be listed in the national register of health service providers in psychology or to be certified by the American board of professional psychology.

- b. **Effective Date:** January 1, 2010
- c. **Applies To:** Subscribers in the state or local group health plan and eligible insured dependents

d. **More Information:** For more information, we recommend contacting your health plan or the Office of the Commissioner of Insurance.

e. **Statutory Reference:** Wis. Stat. §§ 632.89 (1) (dm), (1) (e) 3, (1) (e) 4

8. **Insurance - Independent Review of Coverage Denial Determinations**

a. **Description:** Act 28 made changes to the independent review process, which permits participants to have claim disputes reviewed by medical professionals who have no connection to their health plan. Insurers will be required to provide a process for the request of independent review for *coverage denial determinations* – a new category that incorporates existing adverse determinations that include medical necessity and experimental treatment and adds two more categories.

- Under Act 28, the new “coverage denial determination” category includes:
 - adverse determinations
 - experimental treatment determinations
 - pre-existing condition exclusion denial determinations
 - rescissions of a policy or certificate
- “Pre-existing condition exclusion denial determination” is the denial of treatment, termination of treatment, or the denial of payment for treatment on the basis of a condition of an individual that existed before the individual’s date of enrollment for coverage. Wis. Stat. § 632.745 (23)
- Independent Review Organization (IRO) decisions regarding pre-existing condition exclusion denial determinations and rescissions are not binding on the insured. IRO decisions regarding adverse and experimental treatment determinations are binding on both the insurer and the insured.
- Act 28 also eliminates the \$25 fee paid by the insured.

b. **Effective Date:** January 1, 2010

c. **Applies To:** Subscribers in the state or local group health plan and eligible insured dependents

f. **More Information:** For more information, we recommend contacting your health plan or the Office of the Commissioner of Insurance.

d. **Statutory Reference:** Wis. Stat. § 632.835

SEPARATE LEGISLATION: 2009 WISCONSIN ACT 14

1. Insurance Coverage of Hearing Aids, Cochlear Implants and Related Treatments For Infants and Children

- a. Description:** Act 14 requires health plans to provide coverage for hearing aids, cochlear implants and related treatments for a child covered under the plan that is less than 18 years of age and who is certified as deaf or hearing impaired by a physician or by an audiologist licensed under Wisconsin law. *(Please note that currently under the State of Wisconsin Uniform Benefits Group Health Insurance program, hearing aids and cochlear implants are benefits that are payable at 80%. This provision requires the hearing aid and cochlear implant benefits to be payable at 100% for members who are less than 18 years of age.)*
- Plans must cover the cost of hearing aids and cochlear implants that are prescribed by a physician or by an audiologist licensed under Wisconsin law, in accordance with accepted professional medical or audiological standards.
 - Plans are also required to cover the cost of services, diagnoses, procedures, surgery and therapy rendered by a health care professional and related to hearing aids and cochlear implants, including procedures for implantation of cochlear devices
 - Coverage is not required to exceed the cost of one hearing aid per ear per child more often than once every three years
- b. Effective Date:** January 1, 2010.
- c. Applies To:** Subscribers in the state or local group health plan and eligible insured dependents
- d. More Information:** For more information, we recommend contacting your health plan or the Office of the Commissioner of Insurance.
- e. Statutory Reference:** Wis. Stat. § 632.895 (16)