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Correspondence Memorandum

Date: April 3, 2023

To: Group Insurance Board

From: Jim Guidry, Director
Benefit Services Bureau

Subject: Income Continuation Insurance (ICI) Program Changes

ETF recommends the Group Insurance Board (Board) adopt Option 3, which would apply the safe harbor provisions of the Equal Employment Opportunity Commission regulations[1] that address the maximum duration of ICI benefits and age-related enrollment limits, effective May 1, 2023.

Summary

This memo identifies proposed updates to the ICI program identified by the Department of Employee Trust Funds (ETF) to ensure program compliance with the federal Age Discrimination in Employment Act (ADEA).

The ADEA prohibits discrimination in employment on the basis of age against individuals aged 40 and over. Under the ADEA, if an employer provides fringe benefits to its employees, it generally must do so without regard to an employee's age. Employers may, however, provide lower benefits to older—compared to younger—workers in limited circumstances.

The proposed changes would revise ICI plan language provisions that limit the maximum duration of benefits for active employees and removes plan language that prevents enrollment in the ICI program to active employees based on attained age. Currently, the maximum duration of benefits decreases starting at age 62, and coverage ceases after an employee turns 70.

This memo will provide information on the specific changes and the financial impact of updating the ICI plan language based on the options presented. Also provided is information about the employees affected by this plan language update.

ICI Plan Language Changes

[1] The regulation establishing the safe harbor is found at 29 CFR § 1625.10 (f) (1) (ii).

Matt Stohr

Reviewed and approved by Matt Stohr, Administrator, Division of Retirement Services
Electronically Signed 04/06/2023

Board	Mtg Date	Item #
GIB	04.17.23	2

The specific changes requested for the ICI program language are minimal and straightforward. Attachment 1 accompanying this memo provides a new maximum duration of benefits schedule for each option proposed to the Board, in addition to other changes that remove enrollment limits. The changes would be applicable to both the State and Local ICI plans with an effective date of the first day of the month following Board approval.

Coverage updates are achieved by amending section 2.07 of the ICI plan language to remove the requirement for ICI coverage to terminate when an employee turns age 70 and removes the requirement that a disability needs to occur before a claimant turns age 70 for active employees.

The removal of the age 70 coverage limitation applies to all three options presented to the Board, however, the maximum duration of benefits for active employees above age 60 differs by option as presented in Section 2.12 of the ICI plan language and Table 1 below which compares the current duration schedule with the options proposed.

Table 1. ICI Maximum Duration of Benefits Comparison: Current vs. Proposed

Age at Disablement	Current Maximum Benefit Schedule	Option 1 (Modified Current)	Option 2 (Alternate Reduced)	Option 3 (Safe Harbor)
Age 60 or below	To Age 65	To Age 65	To Age 65	To Age 65
61	To Age 65	4 years	5 years	5 years
62	3.5 years	3.5 years	4.75 years	5 years
63	3 years	3 years	4.5 years	5 years
64	2.5 years	2.5 years	4.25 years	5 years
65	2 years	2 years	4 years	5 years
66	1.75 years	1.75 years	4 years	5 years
67	1.5 years	1.5 years	4 years	5 years
68	1.25 years	1.25 years	4 years	5 years
69	To Age 70	1 year	4 years	5 years
70 and older	N/A	1 year	3 years	5 years

Financial Impact

The impact of these changes to the program's funding is expected to slightly increase program costs due to the inclusion of a new group of enrollees aged 70 and older who were previously ineligible for coverage, and the extension of the maximum benefit duration to comply with ADEA requirements. Employers may see increased premium cost from the potential increase in enrollees; however, two factors will help mitigate the program cost increases. The first factor is that this is a fairly small group of employees, approximately 752 individuals[2] among both the State and Local plans.

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[2] Active WRS participants aged 70 or older as of March 15, 2023, including all state employees and local employers currently participating in the ICI program

The second factor that will help mitigate the increase in program costs is, because of the age of this group of employees, most will be required under the program rules to apply for other benefits, including retirement and social security benefits. These benefits and other potential benefits (such as other WRS disability benefits or Worker's Compensation) are dollar for dollar offsets to ICI benefits and will reduce costs to the program.

ETF engaged its disability actuary, Milliman, Inc., to determine the financial impact of these program updates to program funding and reserve balances, as well as the potential impact on claim liabilities. Milliman has evaluated the financial impact of adopting a new benefit schedule for the ICI program based on the Equal Employment Opportunity Commission's (EEOC) safe harbor schedule (which is considered ADEA compliant and does not require justifications from the plan sponsor) and other schedules that extend benefits beyond age 69. Milliman's analysis was performed based on EEOC's equal cost defense requirements for disability plans. Milliman's complete analysis is included in Attachment B.

Milliman evaluated the impacts to the program using the safe harbor schedule and other options for benefit duration using ICI enrollment and claim information from historical WRS insurance files and ICI claim databases. Milliman performed an equal cost analysis on a modified version of the current benefit duration structure (Option 1 in Attachment B) and found that it likely would not be considered ADEA compliant based on EEOC requirements. Likewise, when applying the equal cost test to Option 2 in Attachment B, which includes a modified benefit schedule for all claims filed by employees aged 60 and above, that schedule also would likely not be considered ADEA compliant based on the EEOC's equal cost test. Option 3, the Safe Harbor option is exempt from the equal cost test. Table 2 replicates Table 3 in Milliman's March 23, 2023, letter, and illustrates the expected annual claims costs per ICI participant by age range.

Table 2. Expected Annual Claim Costs Per ICI Participant

Age at Disablement	Option 1 (Modified Current)	Option 2 (Alternate Reduced)	Option 3 (Safe Harbor)
Under 25	$259	$259	$259
25-29	$382	$382	$382
30-34	$474	$474	$474
35-39	$337	$337	$337
40-44	$273	$273	$273
45-49	$295	$295	$295
50-54	$349	$349	$349
55-59	$339	$339	$339
60-64	$289	$311	$320
65-69	$157	$221	$240
70-74	$127	$223	$270
75-79	$127	$219	$271

Claims costs per participant show noticeable declines in the upper age ranges for Options 1 and 2. To meet the equal cost test, the costs would need to be the same (or similar) to the costs for younger ages. Milliman indicated that due to the relatively flat claim incidence rates of ICI participants in this age cohort, any schedule with reducing durations by age may be difficult to justify using EEOC's equal cost defense requirements.

Milliman also projected the impact to ICI program funding under the safe harbor option over the next four calendar years and determined that program reserves are expected to be adequate to incorporate the program changes. The State ICI reserve balance will remain above the target over the next three years and at least the next four years for the Local ICI plan. Based on Milliman's projections, the State ICI plan is expected to reach its reserve target at the end of 2026, while the Local plan is expected to remain well above its reserve target. ICI premiums for the remainder of 2023 will remain as is and do not require any mid-year adjustments.

Workforce Information

Using current 2023 WRS information, ETF identified 752 active employees born before January 1, 1954, including all active State, University of Wisconsin (UW), and employees working for participating Local employers. Table 3 lists these employees by year of birth. Table 4 organizes the employees by employer. Sixty percent of these employees work for the UW.

Table 3. Active State Employees Aged 70 and Above by Year of Birth – 2023

WRS Active Employees Aged 70 and over	
Year of Birth	**Employees**
1953	36
1952	162
1951	133
1950	103
1949	74
1948-1933	244
Total	752

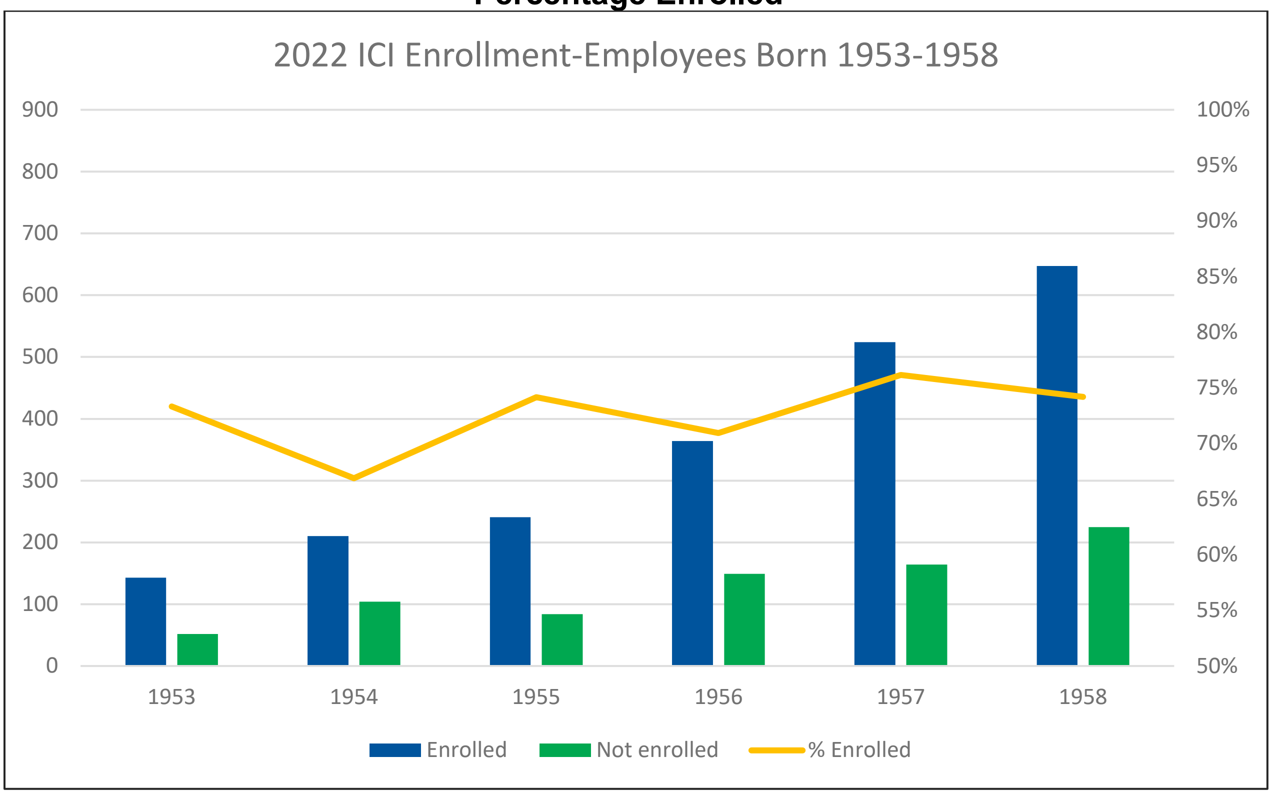
Table 4. Active State Employees Aged 70 and Above by Employer – 2023

WRS Active Employees Aged 70 and over	
Agency	**Employees**
UW System	397
Health Services	36
Corrections	33
Courts	29
UW Hospital	27

WRS Active Employees Aged 70 and over	
Agency	**Employees**
Total Other Agencies	145
Local Employers	85
Total	752

Additionally, using the 2022 insurance files[3], ETF staff identified 2,140 State and UW employees turning ages 65 to 70 in 2023. These employees will also be impacted by removal of the upper limit of age 70 because their coverage will no longer be terminated once they turn age 70, and any claims will fall under the updated maximum duration of benefits schedule approved by the Board. Exhibit 1 shows the ICI enrollment status for these employees and the percentage enrolled. The enrollment percentage for this group of employees is significantly higher than ICI enrollment in general and is notable in its consistency across ages, averaging 74% enrollment.

Exhibit 1. ICI Enrollment for Employees Born 1953-1958 by Enrollment Status and Percentage Enrolled



Tables 5 and 6 focus on the enrolled employees from Exhibit 1 and the rate category or elimination period they are enrolled in.

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[3] 2022 Insurance files provide, among other items, ICI enrollment status information on active state and University of Wisconsin employees as of 12/31/2022. Similar local employer data is not available.

Table 5. ICI Enrollment-State Employees born 1953-1958

State ICI Enrollment-Born 1953-1958								
	Rate Category							Ave. Monthly
Year of Birth	1	2	3	4	5	6	Total	Salary
1953	6	6	3	6	10	45	76	$ 6,702
1954	13	8	9	9	19	61	119	$ 6,405
1955	11	11	10	9	15	62	118	$ 6,220
1956	14	6	23	29	36	96	204	$ 6,903
1957	34	24	34	30	41	160	323	$ 6,753
1958	39	24	44	51	67	205	430	$ 6,123
Total	**117**	**79**	**123**	**134**	**188**	**631**	**1272**	**$ 6,483**

Table 6. ICI Enrollment-UW Employees born 1953-1958

UW ICI Enrollment-Born 1953-1958						
	Elimination Period UW Faculty/Staff					Ave. Monthly
Year of Birth	30	90	125	180	Total	Salary
1953	14	17	5	31	67	$ 9,182
1954	15	29	5	42	91	$ 8,795
1955	25	31	8	59	123	$ 9,551
1956	32	54	7	67	160	$ 8,495
1957	47	57	7	90	201	$ 8,523
1958	38	75	19	85	217	$ 8,198
Total	**174**	**265**	**52**	**377**	**868**	**$ 8,573**

These tables show enrollment trends that are reflective of general enrollment trends in the ICI program, with the greatest concentration of enrollees in Category 6, as well as enrollees clustered around the 90 and 180-day elimination periods for the UW faculty and academic staff plan.

Options

As previously discussed, there are three options available for consideration.

Option 1. The current schedule is modified and extended beyond age 69 by assuming a one-year maximum benefit period for disabilities incurred at age 69 and older. This option would have the lowest cost impact per participant but as shown in Table 2, would struggle to meet the equal cost requirement to demonstrate that claim costs would be the same for older employees as they are for younger employees.

Option 2. Adopt a modified maximum duration of benefits schedule that reduces more gradually than the current schedule and benefits terminate after 3 years of disablement for claimants aged 70 or older. This option will increase program costs per participant to a greater degree than Option 1 but less than Option 3, the safe harbor option. This option would also be subject to the equal cost test requirements and would require periodic validation and possible adjustment. As table 2 indicates, the projected claims cost per participant would also have difficulty meeting the equal cost requirement, although to a lesser degree than Option 1.

Option 3. Use the safe harbor schedule established by EEOC regulations. This option would terminate benefits at age 65 for claims filed by members under 60, and limit benefits to five years for claimants aged 60 and older. This option has the advantage of being authorized in EEOC regulations and not subject to the equal cost defense or other ADEA compliance requirements. Option 3, with its five-year benefit duration for claimants 60 and older, will increase claim costs per participant greater than any other option with a shorter duration period for those same claimants. Milliman projected the Safe Harbor option would increase ICI program liabilities by 0.9% under the State ICI plan and by 0.7% for the Local ICI plan.

Next Steps
Once the Board determines the preferred option, ETF will notify employees, employers, and The Hartford of the change. Staff have developed draft frequently asked questions for distribution to employers and employees.

ETF will instruct employers to immediately begin accepting applications for coverage from eligible employees aged 70 and older. Those eligible employees include new hires aged 70 and older and any employees who would have been eligible to enroll during the 2023 deferred coverage enrollment period but were prevented from doing so because they exceeded the age limit.

ETF will also ask employers to identify active employees who lost coverage when they turned age 70 and let those employees know they will be provided with special re-enrollment opportunity to reacquire coverage without going through Evidence of Insurability (EOI) or deferred enrollment.

Employees who did not have ICI coverage when they turned age 70 would not be provided an enrollment opportunity; however, they will have the ability to enroll anytime via EOI or the next time they become eligible for deferred enrollment, which occurs in January and February of each year. An employee becomes eligible for deferred enrollment the first time they become eligible for:

- Rate category 3
- An increase in the employer premium contribution (Rate categories 4 or 5).
- Any deferred coverage enrollment period if eligible for Rate Category 6.

ETF has asked The Hartford to identify claimants who had benefits terminated because they turned age 70. The Hartford has identified one claim in the previous seven years that met that criterion. A seven-year lookback was used under the statutory limitation on corrections in §40.08 (10) Wis. Stats.

Based on The Hartford's data, ETF has also identified another group of approximately 100 employees in the past seven years who had benefits terminated for reaching their maximum duration of benefits but were between ages 60 and 68 when they became disabled.

Any additional benefit payments for claims that closed because they reached the maximum benefit period would be an additional liability for the ICI program. This liability can be determined once a full review of these claims is completed.

Milliman will incorporate this program update, along with the valuation assumption changes from their recently completed experience study for the ICI program, into their ICI program valuation that will be provided to the Board at the May 17, 2023, meeting. A copy of Milliman's experience studies report is attached to this memo for the Board's information (Attachment C).

ETF will also instruct the Hartford to apply the new maximum duration schedule to all currently open and future claims.

ETF will make the necessary revisions to forms, brochures, ICI administration manuals and website information.

Staff from ETF and Milliman will be at the board meeting to discuss any questions.

Attachment A: ICI Plan Language Change Options Table
Attachment B: Milliman Letter on Extending ICI Coverage Beyond Age 69
Attachment C: Milliman Report on Experience Studies for the State and Local ICI Plans