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Correspondence Memorandum

Date: September 17, 2019

To: Employee Trust Funds Board
 Teachers Retirement Board
 Wisconsin Retirement Board

From: Tarna Hunter, Legislative Liaison

Subject: 2019-21 Biennial Budget and Legislative Update

2019-20 Legislative Session – Acts Signed into Law

2019 Act 9 (2019-21 Biennial Budget). On July 3, 2019, Governor Evers signed the 2019-21 biennial budget into law. The budget provides two positions for ETF’s disability program administration, funding for actuarial audits and required federal financial reporting and funding to continue current ETF operations.

2019 Act 12 sets requirements insurers must follow when they use a step therapy protocol, provides that a step therapy protocol must use clinical review criteria based on clinical practice guidelines, and requires the following exceptions to be granted for prescription drug coverage:

- The patient previously tried the drug or a similar drug and its use by the patient was discontinued under circumstances described in the act.
- The drug is expected to be ineffective based on the known clinical characteristics of the patient and the known characteristics of the prescription drug regimen.
- The required prescription drug is not in the best interest of the patient, based on medical necessity.
- The patient is stable on a prescription drug selected by their health care provider.
- The drug is contraindicated or will likely cause an adverse reaction by or physical or mental harm to the patient.

Finally, the law outlines an appeal process and would give insurers three business days to deny the request or the exception is granted.

Reviewed and approved by Pam Henning, Assistant Deputy Secretary

Pamela L Henning

Electronically Signed 9/17/19

Board	Mtg Date	Item #
JM	9.19.19	4B

The act takes effect on the first day of the fourth month beginning after publication (November 1, 2019). Additionally, for policies and plans containing provisions inconsistent with this act, the act first applies to policy or plan years beginning on January 1, 2020.

Other Legislative Proposals

Retirement

[2019 SB 5](#) and [2019 AB 5](#) make the following changes to the county jailer classification under the Wisconsin Retirement System:

- Classifies county jailers as protective occupation participants under the Wisconsin Retirement System without a requirement that their principal duties involve active law enforcement.
- Provides that county jailers who are employed by a county that did not classify county jailers as protective occupation participants on July 1, 2018, and become protective occupation participants under this bill, are required to pay all employer costs resulting from their classification as a protective occupation participant, including the cost of the duty disability program.
- Provides that county jailers who were classified as protective occupation participants before the bill's effective date and county jailers hired on or after the bill's effective date in counties that classified county jailers as protective occupation participants on July 1, 2018, are not required to pay the additional employer costs.
- Permits a county jailer to elect (irrevocable) at the time of hire not to become a protective occupation participant.
- Amends the Municipal Employment Relations Act regarding county jailers.

2019 SB 5 was introduced by Sen. Marklein and referred to the Senate Committee on Judiciary and Public Safety. 2019 AB 5 was introduced by Rep. Born and referred to the Assembly Committee on Corrections.

On March 19, 2019, the Senate Committee on Judiciary and Public Safety held a public hearing on 2019 SB 5. Also, on March 19, 2019, the Assembly Committee on Corrections held a public hearing on 2019 AB 5.

At this time, neither committee has taken executive action on the bill.

[2019 AB 164](#) and [2019 SB 154](#) would allow Wisconsin Retirement System (WRS) participants, both active and inactive, who worked at the Department of Corrections (DOC) for at least five years and who terminates on or after the effective date of the bill to receive military service credits for any military service (current law requires that the service must have been performed prior to 1974). The bill eliminates the current law restriction on receiving military service credit for service that is also used to receive a

federal retirement benefit. Additionally, the bill would allow for a participant to receive military service credits if that participant leaves WRS covered employment to enter military service and returns to any WRS covered employment within 180 days of discharge (current law requires the participant to return to the same WRS employer). Finally, the bill requires that DOC make additional contributions as determined by the actuary and approved by the ETF Board to cover the costs of granting the military service credits.

2019 SB 154 was introduced by Sen. Feyen and referred to the Senate Committee on Government Transportation, Veterans and Military Affairs. 2019 AB 164 was introduced by Rep. Thiesfeldt and referred to the Assembly Committee on State Affairs.

At this time, neither bill has been scheduled for a public hearing.

[2019 SB 149](#) and [2019 AB 157](#) allows an annuitant who was a law enforcement officer or fire fighter to return to work with an employer who participates in the WRS, work two-thirds of full-time, and elect to not become a participating employee for purposes of the WRS, and instead continue to receive his or her annuity.

2019 SB 149 was introduced by Sen. Jacque and referred to the Senate Committee on Government Operations, Technology and Consumer Protection. 2019 AB 157 was introduced by Rep. Brandtjen and referred to the Assembly Committee on Labor and Integrated Employment.

At this time, neither bill has been scheduled for a public hearing.

[2019 AB 257](#) and [2019 SB 233](#) authorizes ETF to withhold money from a member's WRS annuity or lump sum payment if ETF is ordered to do so by a court in a restitution order. The bill provides that ETF distributes any money withheld from an annuity or lump sum payment under a restitution order as directed by the court in the order. The court may issue a restitution under this bill if the crime for which the restitution is ordered is both felony theft and misconduct in public office, the crime resulted in a loss to the defendant's employer and the defendant's employer participates in the WRS.

2019 SB 233 was introduced by Sen. Bernier and referred to the Senate Committee on Government Operations, Technology and Consumer Protection. 2019 AB 257 was introduced by Rep. Petryk and referred to the Assembly Committee on Judiciary.

The Senate Committee on Government Operations, Technology and Consumer Protection scheduled a public hearing for September 24.

Health Insurance

[2019 AB 238](#) and [2019 SB 217](#) require the Department of Health Services (DHS) in consultation with ETF, to develop and implement a plan to reduce the incidence of

diabetes in Wisconsin, improve diabetes care, and control complications associated with diabetes. DHS may also consult with the Department of Public Instruction and Department of Corrections in the development of the plan.

DHS must submit a biennial report to the Legislature (first report by January 1, 2021) that includes:

- An assessment of the financial implications of diabetes upon DHS, the state and localities.
- An assessment of the benefits of implementing programs and activities to control diabetes.
- A description of the level of coordination existing within DHS and between DHS and other entities and organizations on activities and communication relating to diabetes.
- The development or revision of a detailed action plan with a range of actionable items for the Legislature to consider.
- A proposed budget for the plan.

2019 SB 217 was introduced by Sen. Darling and referred to the Senate Committee on Health and Human Services. 2019 AB 238 was introduced by Rep. Vorpapel and referred to the Assembly Committee on Health.

The Assembly Committee on Health held a public hearing on July 10, 2019. The Senate Committee on Health and Human Services held a public hearing on August 6, 2019.

[2019 SB 100](#) and [2019 AB 114](#) allows the commissioner of insurance to regulate a pharmacy benefit manager (PBM) by requiring them to register. The bill also establishes certain price transparency requirements and requirements on contracts the PBM enters into with pharmacies, pharmacists, or health benefit plan sponsors. The bill primarily focuses on the PBM's relationship with the pharmacies and the insurance commissioner. There are a number of provisions in the bill that may impact the group health insurance program, including changes to the regulation of prescription drug charges and choice of providers, restricting the PBM from collecting fees from pharmacies for the adjudication of claims and inclusion or participation in the PBM's pharmacy networks, restricting requiring the use of mail order pharmacies and limiting the PBM's ability to audit pharmacies that participate in their network.

2019 SB 100 was introduced by Sen. Erpenbach and referred to the Senate Committee on Health and Human Services. 2019 AB 114 was introduced by Rep. Schraa and referred to the Assembly Committee on Health.

At this time, neither bill has been scheduled for a public hearing.

Governor's Task Force on Reducing Prescription Drug Prices

On August 20, 2019, Gov. Evers signed Executive Order #39 creating a task force on reducing prescription drug prices in Wisconsin. The Task Force is charged with gathering and analyzing data on development, pricing, distribution, and purchasing of prescription drugs, analyzing other states' strategies in reducing prescription drug prices and identifying opportunities to work with other states and the federal government, and making recommendations for reducing prescription drug prices in Wisconsin.

The Task Force membership includes:

1. Commissioner of Insurance or a designee, Chair;
2. Secretary of the Department of Health Services or a designee, Vice-Chair
3. Attorney General or a designee;
4. Secretary of the Department of Agriculture, Trade and Consumer Protection or a designee;
5. Secretary of the Department of Employee Trust Funds or a designee;
6. Four members of the Wisconsin Legislature; and
7. Other individuals appointed by the Governor to serve at the pleasure of the Governor.

I will be at the September 19, 2019, Board meeting to answer any questions.