



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Jim Doyle, Governor
Sean Dilweg, Commissioner

Wisconsin.gov

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REPORT ON Section Ins 3.75, Wis. Adm. Code, relating to
continuation of group insurance policies

Clearinghouse Rule No. 09-096 and 10-038

Submitted Under s. 227.19 (3), Stats.

(The proposed rule-making order is attached.)

(a) A detailed statement of basis for the proposed rule and how the rule advances relevant statutory goals or purposes:

The proposed rule will allow employees eligible under federal law to access premium assistance. The proposed rule defines continuation coverage election options for employees that meet the requirements of s. 632.897, Stat., or s. 9126 of 2009 Wisconsin Act 11 whose employer or former employer discontinues the group health insurance policy. The proposed rule implements the United States Department of the Treasury, Internal Revenue Service published interpretation of the American Recovery and Reinvestment Act of 2009, ("ARRA"), P.L. 111-5, that provided a continuation election opportunity for covered employees including former employees when an employer discontinues a group health plan. The proposed rule defines election and eligibility criteria for continuation of coverage through a group policy.

On December 19, 2009, Department of Defense Appropriations Act, 2010 ("2010 DOD Act"), P.L. 111-118 was enacted including enactment of section 1010. This section extended the federal premium subsidy provided under ARRA to 15 months and extended eligibility by two months from December 31, 2009 to February 28, 2010. 2010 DOD Act provided for retroactive extension of coverage for a transition period, and required that notice of the extended subsidy and retroactive coverage and premium payment be given to assistance eligible individuals.

On March 2, 2010, the Temporary Extension Act of 2010, P.L. 111-144 became effective extending premium assistance to assistance eligible individuals involuntarily terminated prior to March 31, 2010 or who initially qualified for continuation coverage because of a reduction of hours and later involuntarily terminated on or after September 1, 2008 the involuntary termination occurred on or after March 2, 2010. This was further extended by the Continuing Extension Act of 2010, P.L. 111-157 that became effective on April 15, 2010. Presently the involuntary termination may entitle individuals to premium assistance through May 31, 2010 and for involuntary terminations occurring between March 2, 2010 and May 31, 2010 when that event follows a reduction in hours occurring from September 1, 2008 up until May 31, 2010.

This rule makes it clear that these rights must also be extended to assistance eligible individuals who are or were eligible for coverage under state law, either under s. 632.897, Stats., or s. Ins 3.75, Wisconsin Administrative Code.

(b) Summary of the public comments and the agency's responses to those comments:

Comment: None

Response: None required.

(c) An explanation of any modifications made in proposed rule as a result of public comments or testimony received at a public hearing:

None

(d) Persons who appeared or registered regarding the proposed rule:

Appearances for:

None

Appearances against:

None

Appearances for information:

None

Registrations for:

None

Registrations against:

None

Registrations neither for nor against:

Phil Dougherty, Wisconsin Association of Health Plans

Letters received:

None

(e) An explanation of any changes made to the plain language analysis of the rule under s. 227.14 (2), Stats., or to any fiscal estimate prepared under s. 227.14 (4), Stats.

Plain language analysis modified between the two emergency rules and the final proposed rule analysis includes federal law changes that were effective subsequent to the issuing of the second emergency rule to reflect current federal law.

(f) The response to the Legislative Council staff recommendations indicating acceptance of the recommendations and a specific reason for rejecting any recommendation:

All comments were complied with and corrected except the following:
09-096:

- 2. g. The phrase is consistent with statutory and federal regulations.
- 2. j. A question is posed, the answer to which is insurers are required to provide the notice should an employer fail to do so.
- 2. k. 1. The sentences are not inconsistent, the first requires the employer to inform the insurer if it chooses not to replace the insurance and the second allows insurers to ask employers, through contract terms or otherwise, the decision regarding continuing group insurance.

- 4. c. The US Code cites were not readily available to replace.
- 4. e. The requirements are clear since this rule, by its stated purpose, is related to termination of continuation of coverage and existing regulation and statute addresses the notice of individual conversion rights.

10-038 all comments complied with and corrected.

(g) The response to the report prepared by the small business regulatory review board:

The small business regulatory review board did not prepare a report.

(h) Final Regulatory Flexibility Analysis

A Final Regulatory Flexibility Analysis is Not Required because the rule will not have a significant economic impact on a substantial number of small businesses.

(i) Fiscal Effect

See fiscal estimate attached to proposed rule.