

Clearinghouse Rule 06-118

STATE OF WISCONSIN

OFFICE OF THE COMMISSIONER OF INSURANCE (OCI)

★★★ NOTICE OF RULEMAKING HEARING ★★★

NOTICE IS HEREBY GIVEN that pursuant to the authority granted under s. 601.41(3), Stats., and the procedures set forth in under s. 227.18, and 227.24 (4) Stats., OCI will hold a public hearing to consider the adoption of the attached proposed rulemaking order affecting Section Ins 9.25 (8), Wis. Adm. Code, relating to preferred provider plan limited exemption. This hearing will also be held in compliance with s. 227.24 (4) as this proposed rule was issued as an emergency rule.

**HEARING INFORMATION**

**Date:** December 12, 2006  
**Time:** 10:00 a.m., or as soon thereafter as the matter may be reached  
**Place:** OCI, Room 227, 125 South Webster St 2<sup>nd</sup> Floor, Madison, WI

Written comments can be mailed to:

Julie E. Walsh  
Legal Unit - OCI Rule Comment for Rule Ins 9.25(8)  
Office of the Commissioner of Insurance  
PO Box 7873  
Madison WI 53707-7873

Written comments can be hand delivered to:

Julie E. Walsh  
Legal Unit - OCI Rule Comment for Rule Ins 9.25(8)  
Office of the Commissioner of Insurance  
125 South Webster St – 2<sup>nd</sup> Floor  
Madison WI 53702

Comments can be emailed to:

Julie E. Walsh  
Julie.Walsh@oci.state.wi.us

Comments submitted through the Wisconsin Administrative Rule website at: <http://adminrules.wisconsin.gov> on the proposed rule will be considered.

The deadline for submitting comments is 4:00 p.m. on the 8<sup>th</sup> day after the date for the hearing stated in this Notice of Hearing.

**SUMMARY OF PROPOSED RULE & FISCAL ESTIMATE**

For a summary of the rule see the analysis contained in the attached proposed rulemaking order. There will be no state or local government fiscal effect. The full text

of the proposed changes, a summary of the changes and the fiscal estimate are attached to this Notice of Hearing.

### **INITIAL REGULATORY FLEXIBILITY ANALYSIS**

This rule does not impose any additional requirements on small businesses.

### **OCI SMALL BUSINESS REGULATORY COORDINATOR**

The OCI small business coordinator is Eileen Mallow and may be reached at phone number (608) 266- 7843 or at email address [Eileen.Mallow@oci.state.wi.us](mailto:Eileen.Mallow@oci.state.wi.us)

### **CONTACT PERSON**

A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the OCI internet WEB site at <http://oci.wi.gov/ocirules.htm> or by contacting Inger Williams, Services Section, OCI, at: [Inger.Williams@OCI.State.WI.US](mailto:Inger.Williams@OCI.State.WI.US), (608) 264-8110, 125 South Webster Street – 2<sup>nd</sup> Floor, Madison WI or PO Box 7873, Madison WI 53707-7873.

**PROPOSED ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE  
CREATING A RULE**

**To create** Ins 9.25 (8) and 9.27 (4), Wis. Adm. Code, relating to preferred provider plan applicability dates and affecting small business.

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**ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE (OCI)**

**1. Statutes interpreted:**

Sections 600.01, 628.34 (12) and 632.85, and ch. 609, Stats.

**2. Statutory authority:**

Sections 600.01(2), 601.41(3), 601.42, 609.20, 609.38 and 628.34(12), Stats.

**3. Explanation of the OCI's authority to promulgate the proposed rule under these statutes:**

The Commissioner of Insurance is authorized to promulgate rules under ss. 628.34 (12), 601.41 and 609.20, Stats. Section 609.20, Stats., permits the Commissioner to promulgate rules relating to preferred provider plans and defined network plans in order to ensure enrollee access to health care services and ensure continuity of health care while recognizing the differences between preferred provider plans and defined network plans.

**4. Related Statutes or rules:**

There are no related statutes or rules.

**5. The plain language analysis and summary of the proposed rule:**

The proposed rule clarifies the applicability dates for ss. Ins 9.25 and 9.27, Wis. Adm. Code, and specifies that insurers offering preferred provider plans that are issued prior to January 1, 2007 and periodically renewed after December 31, 2006 and that would otherwise be affected by ss. Ins 9.25 and 9.27, Wis. Adm. Code, will be grandfathered from compliance with those new requirements. The requirements of ss. Ins 9.25 and 9.27, Wis. Adm. Code, will be applicable to an insurer offering a preferred provider plan on or after January 1, 2007.

**6. Summary of and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

There is no federal regulation that addresses the activities regulated by the proposed rule.

**7. Comparison of similar rules in adjacent states as found by OCI:**

**Illinois:** None

**Iowa:** None

**Michigan:** None

**Minnesota:** None

**8. A summary of the factual data and analytical methodologies that OCI used in support of the proposed rule and how any related findings support the regulatory approach chosen for the proposed rule:**

The information OCI used in support of this proposed rule includes the information described in the analysis of Clearinghouse Rule 05-059. However more specifically it includes the information provided by representatives of the insurance industry and preferred provider organizations to JCRAR and OCI concerning the topic addressed by the proposed rule.

**9. Any analysis and supporting documentation that OCI used in support of OCI's determination of the rule's effect on small businesses under s. 227.114:**

This rule does not impose any additional requirements on small businesses. Its effect will be to limit requirements otherwise applied by rules currently in effect, including Clearinghouse rule 05-059. This is apparent from the proposed rule itself and the summary.

**10. If these changes may have a significant fiscal effect on the private sector, the anticipated costs that will be incurred by private sector in complying with the rule:**

This rule will not have a significant fiscal effect on the private sector. Its effect will be to limit requirements otherwise applied by rules currently in effect, including Clearinghouse rule 05-059.

**11. A description of the Effect on Small Business:**

This rule will have an effect on small businesses only by limiting requirements otherwise applied by rules currently in effect, including Clearinghouse rule 05-059.

**12. Agency contact person:**

A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the WEB sites at: <http://oci.wi.gov/ocirules.htm> or by contacting Inger Williams, OCI Services Section, at:

Phone: (608) 264-8110  
Email: Inger.Williams@OCI.State.WI.US  
Address: 125 South Webster St – 2<sup>nd</sup> Floor Madison WI 53702  
Mail: PO Box 7873, Madison WI 53707-7873

**13. Place where comments are to be submitted and deadline for submission:**

The deadline for submitting comments is 4:00 p.m. on the 8<sup>th</sup> day after the date for the hearing stated in the Notice of Hearing.

Mailing address:

Julie E. Walsh  
Legal Unit - OCI Rule Comment for Rule Ins 9258  
Office of the Commissioner of Insurance  
PO Box 7873  
Madison WI 53707-7873

Street address:

Julie E. Walsh  
Legal Unit - OCI Rule Comment for Rule Ins 9258

Office of the Commissioner of Insurance  
125 South Webster St – 2<sup>nd</sup> Floor  
Madison WI 53702

Email address:

Julie E. Walsh  
Julie.Walsh@oci.state.wi.us

WEB Site: <http://oci.wi.gov/ocirules.htm>

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**The proposed rule changes are:**

**SECTION 1. Section Ins 9.25 (8) is created to read:**

Ins 9.25 (8) This section first applies to an insurer offering a preferred provider plan beginning on January 1, 2007. This section does not apply to an insurer with respect to a preferred provider plan issued prior to January 1, 2007 and periodically renewed after December 31, 2006.

**SECTION 2. Section Ins 9.27 (4) is created to read:**

Ins 9.27 (4) This section first applies to an insurer offering a preferred provider plan beginning on January 1, 2007. This section does not apply to an insurer with respect to a preferred provider plan issued prior to January 1, 2007 and periodically renewed after December 31, 2006.

**SECTION 3.** This section may be enforced under ss. 601.41, 601.64, 601.65, Stats., or ch. 645, Stats., or any other enforcement provision of chs. 600 to 646, Stats.

**SECTION 4. EFFECTIVE DATE.** This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22 (2) (intro.), Stats.

Dated at Madison, Wisconsin, this \_\_\_\_ day of November, 2006.

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Jorge Gomez  
Commissioner

**Office of the Commissioner of Insurance**  
**Private Sector Fiscal Analysis**

for Rule Sections Ins 9.25 (8) and 9.27 (4), Wis. Adm. Code, relating to preferred provider plan applicability dates and affecting small business.

This rule change will have no significant effect on the private sector regulated by OCI.

### FISCAL ESTIMATE WORKSHEET

#### Detailed Estimate of Annual Fiscal Effect

ORIGINAL       UPDATED  
 CORRECTED       SUPPLEMENTAL

LRB Number	Amendment No. if Applicable
Bill Number	Administrative Rule Number <b>INS 9.25 and 9.27</b>

**Subject**  
preferred provider plan limited exemption

**One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):**  
**None**

Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
<b>A. State Costs by Category</b>		
State Operations - Salaries and Fringes	\$ 0	\$ -0
(FTE Position Changes)	(0 FTE)	(-0 FTE)
State Operations - Other Costs	0	-0
Local Assistance	0	-0
Aids to Individuals or Organizations	0	-0
<b>TOTAL State Costs by Category</b>	<b>\$ 0</b>	<b>\$ -0</b>
<b>B. State Costs by Source of Funds</b>		
GPR	\$ 0	\$ -0
FED	0	-0
PRO/PRS	0	-0
SEG/SEG-S	0	-0
<b>C. State Revenues</b> <small>Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</small>		
GPR Taxes	\$ 0	\$ -0
GPR Earned	0	-0
FED	0	-0
PRO/PRS	0	-0
SEG/SEG-S	0	-0
<b>TOTAL State Revenues</b>	<b>\$ 0 None</b>	<b>\$ -0 None</b>

#### NET ANNUALIZED FISCAL IMPACT

NET CHANGE IN COSTS	\$ <u>STATE</u> <b>None 0</b>	\$ <u>LOCAL</u> <b>None 0</b>
NET CHANGE IN REVENUES	\$ <u>STATE</u> <b>None 0</b>	\$ <u>LOCAL</u> <b>None 0</b>

Prepared by: Julie E. Walsh	Telephone No. (608) 264-8101	Agency Insurance
Authorized Signature:	Telephone No.	Date (mm/dd/ccyy)

