

★★★ **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, Stats., OCI will hold a public hearing to consider the adoption of the attached proposed rulemaking order affecting Section Ins 3.45, Wis. Adm. Code, relating to continuation of group health insurance policies.

**HEARING INFORMATION**

**Date: May 5, 2010**

**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:

Robert Luck  
Legal Unit - OCI Rule Comment for Rule Ins 375-2  
Office of the Commissioner of Insurance  
PO Box 7873  
Madison WI 53707-7873

Written comments can be hand delivered to:

Robert Luck  
Legal Unit - OCI Rule Comment for Rule Ins 375-2  
Office of the Commissioner of Insurance  
125 South Webster St – 2<sup>nd</sup> Floor  
Madison WI 53703-3474

Comments can be emailed to:

Robert Luck  
robert.luck@wisconsin.gov

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

The deadline for submitting comments is 4:00 p.m. on the 14<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@wisconsin.gov](mailto:eileen.mallow@wisconsin.gov)

### **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, Public Information and Communications, OCI, at: [inger.williams@wisconsin.gov](mailto:inger.williams@wisconsin.gov), (608) 264-8110, 125 South Webster Street – 2<sup>nd</sup> Floor, Madison WI or PO Box 7873, Madison WI 53707-7873.

Clearinghouse Rule 10-038

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

**To amend** Ins 3.75 (2) (c) , and

**To Create** Ins 3.75 (8), Wis. Adm. Code,

**Relating to** continuation of group health insurance policies.

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

**1. Statutes interpreted:**

ss. 600.01, 628.34 (12), Stats.

**2. Statutory authority:**

ss. 601.41 (3), 601.42, 632.897, Stats., s. 9126 of 2009 Wisconsin Act 11 and the American Recovery and Reinvestment Act of 2009, P.L. 111-5

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

2009 Act 11 specifically permits the commissioner to enact this rule.

**4. Related statutes or rules:**

ss. 632.746 & 632.897, Stats.

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

In December 2009 Congress enacted section 1010 of the federal department of defense appropriations act, 2010 ("DOD Act"). This section extended the federal premium subsidy provided under the American Recovery and Reinvestment Act of 2009, 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. 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. These rights include the following:

- (a) The DOD Act extended the federal premium reduction eligibility period for two months until February 28, 2010 and increased the maximum period for receiving the subsidy for an additional six months (from nine to 15 months).
- (b) Individuals who had reached the end of the federal reduced premium period before the DOD Act extended it to 15 months will have an extension of their grace period to pay the reduced premium. To continue their coverage they must pay the 35 percent of premium costs by February 17, 2010, or, if later, 30 days after they receive notice of the extension.

- (c) Individuals who ended the federal reduced premium subsidy and paid the full premium may obtain a credit for future months of coverage or a reimbursement of the overpayment.
- (d) Individuals who are assistance eligible individuals on or after October 31, 2009 or who experience a qualifying event on or after that date are entitled to notice, or additional notice, of the extended federal premium subsidy.
- (e) Individuals who are entitled to an extended premium grace period as described in paragraph (b), or a credit or refund for premium paid as described in paragraph (c), are entitled to notice of those rights.

**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:**

The proposed rule parallels the standards enacted by the DOD Act and makes it clear they are applicable to assistance eligible individuals who are or were entitled to coverage under s. 632.897, Stats., or s. INS 3.75, Wis. Adm. Code.

**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:**

This proposed rule is based on, and parallels the DOD Act.

**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:**

The rule imposes no substantial requirements on small employers but would allow discontinued employees of small employer who have group insurance the ability to elect continuation of health insurance coverage.

**10. See the attached Private Sector Fiscal Analysis.**

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

This rule will have little or no negative effect on small businesses.

**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 site at:

**<http://oci.wi.gov/ocirules.htm>**

or by contacting Inger Williams, OCI Services Section, at:

Phone: (608) 264-8110

Email: [inger.williams@wisconsin.gov](mailto:inger.williams@wisconsin.gov)

Address: 125 South Webster St – 2<sup>nd</sup> Floor, Madison WI 53703-3474

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 14<sup>th</sup> day after the date for the hearing stated in the Notice of Hearing.

Mailing address:

Robert Luck  
Legal Unit - OCI Rule Comment for Rule Ins 375  
Office of the Commissioner of Insurance  
PO Box 7873  
Madison WI 53707-7873

Street address:

Robert Luck  
Legal Unit - OCI Rule Comment for Rule Ins 375  
Office of the Commissioner of Insurance  
125 South Webster St – 2<sup>nd</sup> Floor  
Madison WI 53703-3474

Email address:

Robert Luck  
robert.luck@wisconsin.gov

Web site: <http://oci.wi.gov/ocirules.htm>

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**The proposed rule changes are:**

**SECTION 1. Ins 3.75 (2) (c) is amended to read:**

**Ins 3.75** (2) (c) "Federal act" means the American Recovery and Reinvestment Act of 2009, P.L. 111-5, as amended by section 1010 of the federal department of defense appropriations act, 2010 (H.R. 3326), .

**SECTION 2. INS 3.75 (8) is created to read:**

**Ins 3.75** (8) EXTENDED PREMIUM PAYMENT RIGHT, COVERAGE, AND NOTICE PURSUANT TO SECTION 1010 OF THE FEDERAL DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2010. An insurer shall provide the rights provided by, and shall comply with the provisions of, section 1010 (c) of the federal department of defense appropriation act, 2010 (H.R. 3326), for assistance eligible individuals for who are or were eligible for coverage under this section or s. 632.897, Stats., including:

- (a) The rules relating to 2009 extension, including the right to elect to pay premiums retroactively and maintain coverage under this section or s. 632.897, Stats.
- (b) The rules relating to notification as provided under section 1010 (c) of the federal department of defense appropriation act, 2010 (H.R. 3326).

**SECTION 3.** This section may be enforced under ss. 601.41, 601.64, 601.65, 628.10, Stats., or ch. 645, Stats., or any other enforcement provision of chs. 600 to 646, Stats.

**SECTION 4.** These changes will take effect on the first day of the month after publication, as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin, this 26<sup>th</sup> day of March, 2010.

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Sean Dilweg  
Commissioner of Insurance

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

for Section Ins 3.75 (2) (c) and (8) relating to  
continuation of group insurance policies.

This rule change will have no significant negative effect on the private sector regulated by OCI but will allow numerous people to continue group health insurance that would not be able to without this change.

### 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 3.75</b>

**Subject**  
continuation of group insurance policies and affecting small business

**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>	<b>Increased Rev.</b>	<b>Decreased Rev.</b>
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**

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

Prepared by: Robert Luck	Telephone No. (608) 266-0082	Agency Insurance
Authorized Signature:	Telephone No. (608) 267-3782	Date (mm/dd/ccyy) 3/25/2010



### FISCAL ESTIMATE

ORIGINAL       UPDATED  
 CORRECTED       SUPPLEMENTAL

LRB Number	Amendment No. if Applicable
Bill Number	Administrative Rule Number <b>INS 3.75</b>

**Subject**  
continuation of group insurance policies and affecting small business

**Fiscal Effect**  
State:  No State Fiscal Effect  
Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

<input type="checkbox"/> Increase Existing Appropriation	<input type="checkbox"/> Increase Existing Revenues	<input type="checkbox"/> Increase Costs - May be possible to Absorb Within Agency's Budget <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Decrease Existing Appropriation	<input type="checkbox"/> Decrease Existing Revenues	
<input type="checkbox"/> Create New Appropriation	<input type="checkbox"/> Decrease Costs	

Local:  No local government costs

1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	5. Types of Local Governmental Units Affected: <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others _____ <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	

Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	Affected Chapter 20 Appropriations
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Assumptions Used in Arriving at Fiscal Estimate

**Long-Range Fiscal Implications**  
**None**

Prepared by: Robert Luck	Telephone No. (608) 266-0082	Agency Insurance
Authorized Signature:	Telephone No. (608) 267-3782	Date (mm/dd/ccyy) 3/25/2010