



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Scott Walker, Governor
Theodore K. Nickel, Commissioner

Wisconsin.gov

April 4, 2016

Legal Unit
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REPORT ON an order to amend s. Ins 17.50 (2) (e), (4) (L) and (m), (6) (title), (c) 1.; and to create s. Ins 17.50 (2) (am), (6) (c) (intro.) and (6m), Wis. Adm. Code, relating to self-insured plans covering health care providers subject to ch. 655, Wis. Stat., and affecting small business.

Clearinghouse Rule No. 16-024

Submitted Under s. 227.19 (3), Stats.

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

The commissioner of insurance was directed by the Governor in his veto message to 2013 Wis. Act 20 item 16, to “provide a definition of affiliated health care providers by administrative rule to better achieve the intent of the motion and eliminate the ambiguity regarding the affiliated health care providers who are affected by this provision.” This proposed rule implements the portions of 2013 Wis. Act 20 sections 2267f and 2267g, and complies with the Governor’s directive.

Section 655.23 (3) (a), Wis. Stats., requires the commissioner to establish self-insurer qualifications and conditions for insuring for claims including claims arising from employees that are not fund participants. The proposed rule defines “affiliated health care providers” to be two or more health care providers that are either legal entities or are employed by one or more legal entities over which operating control is exercised and whose incomes are consolidated with the controlling legal entity in audited financial statements under generally accepted accounting principles (GAAP). The term “provider” is amended to include, unless otherwise specified, both individual or affiliated health care providers.

The rule modifies the initial filing and funding requirements for providers to reflect the submission of GAAP statements on a consolidated basis and the preclusion of affiliated health care provider’s ability to use letters of credit for initial funding. The rule also creates a new provision specifically addressing the minimum funding level for affiliated health care providers as the greater of \$2,000,000 or the amount of the actuarial estimate.

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

Comment: None received.

(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:

Kevin Fitzgerald, Aurora Health Care, Inc.
Andrew Hanus, Aurora Health Care

Registrations against:

None

Registrations neither for nor against:

Eric Tempelis, Gundersen Health System
Michelle Leiker, Wisconsin Medical Society
Matthew Stanford, Wisconsin Hospital Association

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.

None

(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.

(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.

Attachment: Legislative Council Staff Recommendations
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