

## **Wisconsin Health Insurance Exchange Authority**

Following is an outline of proposed Wisconsin legislation to create a Wisconsin Health Insurance Exchange Authority; define its structure; spell out its major functions, dues, and powers; and identify which policies the Authority would have immediate responsibility for implementing and which policies must be approved the Wisconsin Legislature in order to be implemented.

### **I. Structure of the Wisconsin Health Insurance Exchange Authority:**

#### **A. Composition:**

The Wisconsin Health Insurance Exchange Authority shall consist of fifteen (15) members, consisting of:

- (1) The Governor of Wisconsin or designee;
- (2) The Speaker of the Wisconsin Assembly or designee;
- (3) The Majority Leader of the Wisconsin Senate or designee;
- (4) The Secretary of the Department of Health Services;
- (5) The Commissioner of Insurance;
- (6) The Secretary of the Department of Employee Trust Funds;
- (7) Nine (9) individuals nominated by the Governor, and confirmed by the Senate, of whom:
  - (a) Two must represent consumers;
  - (b) Two must represent labor unions;
  - (c) Two must represent employers;
  - (d) Two must represent health care providers; and
  - (e) One must represent the health insurance industry.

**B. Terms:** The nine (9) members nominated by the Governor and confirmed by the Senate shall serve staggered four (4) year terms.

C. **Chair:** The Governor shall designate the member of the Authority who shall serve as its president.

## **II. Functions of the Wisconsin Health Insurance Exchange Authority**

### **A. Design and Establishment of the BadgerExchange:**

(1) *Design of the BadgerExchange:* The Authority shall design the BadgerExchange, a health insurance exchange that if implemented would comply with the requirements of the federal “the “Patient Protection and Affordable Care Act” (hereafter: “Act”)<sup>1</sup> as amended by the “Health Care and Education Affordability Reconciliation Act of 2010” (hereafter: “Reconciliation Bill”),<sup>2</sup> and the provisions of this Act;

(2) *Establishment and Operation of the BadgerExchange:* [If required or authorized to do so]: The Authority shall establish and operate the BadgerExchange.

### **B. Design and Establishment of the Wisconsin Governmental Employee Exchange:**

(1) *Design of a Wisconsin Governmental Employee Exchange:* The Authority shall design a Wisconsin governmental employee exchange that, if implemented between January 1, 2012, and December 31, 2016, would:

(a) Comply with the Provisions of this Act;

(b) Provide a vehicle through which all persons who are provided health insurance by all governmental agencies in Wisconsin (including state government, county governments, municipal governments, public school districts, and all other units of government);

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<sup>1</sup> HR 3950, Public Law (PL) 111-148.

<sup>2</sup> HR 4872, Public Law (PL) 111-152.

(c) Would be operated on the same terms as the BadgerExchange; and

(d) Would be merged into the BadgerExchange on January 1, 2017.

(2) *Establishment and Operation of a Wisconsin Governmental Employee Exchange*: [If required or authorized to do so]: The Authority shall establish and operate a Wisconsin governmental employee exchange.

**C. Additional Functions of the Authority:**

[If required or authorized to do so:] The Authority shall also:

(1) *Coordination of enrollment*: Coordinate Wisconsin's health insurance enrollment system for persons not covered by federally administered programs such as Medicare and the VA system, i.e., establishing and managing the structures and processes through which "applicable individuals" determine whether they will meet their obligation to obtain "minimum essential coverage" through BadgerCarePlus, the exchanges described in (A) and (B), insurance "issuers" outside of the exchanges (whether through individual insurance or employer-sponsored insurance), or self-funded employers or other self-funded mechanisms;

(2) *Coordination between the Department of Corrections and Department of Health Services*: Coordinate the relationship between the Wisconsin Department of Corrections and the Department of Health Services to ensure that:

(a) Individuals who are imprisoned (and thus not "applicable individuals"), prior to their release from prison (at which point they become "applicable individuals"), complete the process of enrolling in BadgerCare Plus or other forms of health insurance so that, on the date of their release, they have "minimum essential coverage"; and

(b) Individuals who enter prison (and thus lose their status as “applicable individuals”) are disenrolled from BadgerCare Plus, or whatever other form of health insurance they previously had, for the duration of their incarceration;

(3) *Coordination with county addiction and mental health treatment systems*: Coordinate the relationship between Wisconsin’s health insurance system for persons not covered by federally administered programs and the pre-existing, state-mandated, county-administered system for providing outpatient and inpatient addiction and mental health treatment with the goal of:

(a) Maximizing coverage and improving access through the health insurance system for outpatient and inpatient treatment of addiction and mental illness;

(b) Improving the quality of treatment for persons with addiction to alcohol or other drugs or a mental illness;

(c) Fully integrating the treatment for physical conditions, addiction, and mental illness; and

(d) Avoiding duplication and unnecessary overlap between the health insurance system’s increased and improved coverage of persons with addiction or mental illness and the county-administered system for providing treatment to them, so as to reduce the cost of the county-administered system to the state’s taxpayers and local property tax payers.

### **III. Responsibilities of the Authority:**

**A. Responsibilities in General:** The Authority shall:

(1) *Design of exchanges and recommendations to the Governor and Legislature.* Design a BadgerExchange and a Wisconsin governmental employee exchange in a manner consistent with this Act, and provide information and recommendations to the Governor and the Legislature with respect to the design of the BadgerExchange and the Wisconsin governmental employee exchange, [as well as, if authorized or required to do so, information and recommendations regarding the establishment and operation by the Authority of such exchanges];

(2) *Establishment and operation of exchanges.* [If required or authorized by law:] Establish and operate the BadgerExchange, establish and operate the Wisconsin governmental employee exchange, and perform all of its other functions in a manner that fully complies with federal and state law and the provisions of this Act;

(3) *Open meetings.* Conduct its meetings in a manner that complies with Wisconsin's Open Meeting Law;

(4) *Open records.* Maintain its records, and make them available, in a manner that complies with Wisconsin's Open Records Law;

(5) *Cooperation with Legislative Service Agencies and the Department of Administration.* Provide information to and otherwise fully cooperate with the Wisconsin Legislative Audit Bureau, the Wisconsin Legislative Fiscal Bureau, and the Wisconsin Department of Administration;

(6) *Annual reports.* Submit an annual report to the Governor, the Speaker of the Assembly, and the Majority Leader of the Senate, with respect to its activities and accomplishments during the prior year;

(7) *Annual budget.* Prepare and submit an annual budget proposal to the Wisconsin Department of Administration, which as modified will be included in the Governor's biennial budget proposal to the Wisconsin

Legislature, and which must be approved (as modified by the Joint Committee on Finance and both houses of the Legislature) by the Legislature;

(8) *Executive director.* Hire an Executive Director and such other staff as the Authority determines are necessary to carry out the duties of the Authority, in a manner consistent with Wisconsin's civil service system and the Authority's approved budget;

(9) *Purchasing and contracts.* Make such purchases, and enter into such contracts, as the Authority determines are necessary to carry out the duties of the Authority, in a manner consistent with Wisconsin's rules governing procurement and the Authority's approved budget;

(10) *Receipt, management, and accounting for funds.* Receive, manage, and account for all federal, state or other funds made available to the Authority for the purpose of carrying out its duties;

(11) *Grant applications.* Apply for grants from the federal government or other potential grantors;

(12) *Enrollment fees.* [If required or authorized to establish and operate the BadgerExchange or the Wisconsin governmental employee exchange]: Collect a small enrollment fee, on a per enrollee per month basis, from all individuals and employers who use the BadgerExchange or the Wisconsin governmental employee exchange, for the purpose of defraying the actual and reasonable costs of the Authority to the extent that revenues received from federal, state, or other funds are insufficient for that purpose; and

(13) *Other responsibilities.* Carry out such other responsibilities and perform such other tasks as shall be assigned to the Authority under federal and state law.

**B. Specific Duties Involving the BadgerExchange and the Wisconsin Governmental Employee Exchange**

[If required or authorized by law], the Authority shall, with respect to the BadgerExchange and the Wisconsin governmental employee exchange, do all of the following:

(1) *Establishment of BadgerExchange.* Establish and operate, consistent with federal law and the provisions of this Act, a single BadgerExchange for individuals and employers with fewer than 100 FTE employees prior to January 1, 2017, and for individuals and employers of any size beginning on January 1, 2017;

(2) *Establishment of Wisconsin governmental employees exchange.* Establish and operate, consistent with federal law and the provisions of this Act, a Wisconsin governmental employees exchange for all persons who are provided health insurance by all governmental agencies in Wisconsin (including state government, county governments, municipal governments, public school districts, and all other units of government), beginning on January 1, 2012, and ending when merged with the BadgerExchange, but in any case no later than January 1, 2017;

(3) *Design and operation of exchanges.* Design, establish and operate exchanges that, based on the experience of the Wisconsin State Employee Health Plan, and the Wisconsin Health Insurance Risk Sharing Program:

(a) *Choice of health insurance plans.* Provide all Wisconsinites who use the exchange, regardless of place of residence, with a substantial number of health care plan choices at all Actuarial Value (AV) levels of benefits, i.e., Bronze, Silver, Gold and Platinum;

(b) *Methods to control costs and improve quality.* Utilize participation rules, enrollee incentives, health care plan incentives,

transparent information about the organization and quality of health care plans and providers, risk-sharing mechanisms, and other methods that, by reducing adverse selection and rewarding low-cost but high-quality health care plans, strengthen competitive market forces and encourage health insurance issuers and health care providers to lower the growth of health insurance premiums and health costs, while improving the quality of health care, both for Wisconsinites enrolled through exchanges in the health insurance plans of their choice and in general throughout Wisconsin's health insurance system and health care delivery system, including the following:

(i) *Participation rule for full-time employees.* Implement a participation rule providing that, if an employer voluntarily chooses to use an exchange operated by the Authority, the employer must agree to enroll in the exchange at least 90% of its full-time employees;

(ii) *Participation rule for spouses and dependent children.* Implement a participation rule providing that, if an employer voluntarily chooses to use an exchange operated by the Authority for the purpose of providing health insurance coverage for its employees' spouses or dependent children, the employer must agree to enroll in the exchange at least 90% of such spouses and dependent children who do not have comparable coverage from another source;

(iii) *Participation rule for part-time employees.* Implement a participation rule providing that, if an employer voluntarily chooses to use an exchange operated by the Authority for the purpose of providing health insurance



coverage for its part-time employees, or for its part-time employees' spouses or dependent children, the employer must agree to enroll in the exchange at least 90% of such part-time employees, spouses, and dependent children who do not have comparable coverage from another source;

(iv) *Employer contribution rule.* Implement an employer contribution rule providing that, at whichever Actuarial Value of benefits (i.e., Bronze, Silver, Gold and Platinum) an employer voluntarily selects within an exchange for its employees or their spouses or dependents, the employer's financial contribution may be any amount or percent the employer determines on a uniform basis for any particular category of employee, spouse, or dependent child, but may not exceed the dollar amount per person per month or per family per month that has been bid at the selected Actuarial Value by the health insurance issuer that submitted the lowest bid, provided that the employer contribution may be increased to an amount not to exceed 110% of the lowest bid with respect to any health care plan at least 75% of whose doctors have an exclusive economic interest in that health care plan and thus depend primarily on the success of that health care plan in lowering costs and improving quality;

(v) *Identification of health care plans with committed primary care doctors.* Identify for the benefit of enrollees in an exchange all health care plans offered on the exchange at least 75% of whose primary care doctors have an exclusive economic interest in that health care plan, and thus depend

primarily on the success of that health care plan in lowering costs and improving quality, are identified as such;

(vi) *Identification of locally owned and operated health care plans.* Identify for the benefit of enrollees in an exchange all health care plans offered on the exchange that are owned and operated primarily by Wisconsin doctors, clinics, or hospitals;

(vii) *Provision of quality data.* Provide for the benefit of enrollees in an exchange understandable and complete information about the quality of all health care plans offered on the exchange, including such quality measurement and reporting tools as have been used by the Wisconsin State Employee Health Plan, and the Wisconsin Health Insurance Risk Sharing Program;

(viii) *Risk reserve and risk adjustment.* Create a risk reserve trust fund and risk-adjustment payment mechanism, under which the Authority collects and deposits in a segregated risk reserve trust fund a fixed percent (not to exceed 10%) of all premium payments made by individuals and employers that use the exchange, and then pays 100% of the amount collected and deposited in the risk reserve trust fund (less actual and reasonable collection, actuarial, and other administrative costs that have not been absorbed by any interest accrued by the risk reserve trust fund) to the health insurance issuers whose health care plans have been chosen in proportion to the actuarially validated levels of relative health insurance risk the issuers have taken; and

(ix) *Other methods for lowering cost and improving quality.* Implement such other market-based mechanisms that the Authority concludes will be effective in lowering cost and improving quality.

(c) *Promotion of improved health outcomes and reduced disparities.* Promote improvements in health outcomes, and reductions in disparities, for the individuals who use any exchange established and operated by the Authority, through the:

(i) Design of health care plans that are offered on the exchange; and

(ii) Collection and reporting of information about health outcomes and disparities associated with the health care plans that are offered on the exchange.