

WISCONSIN STATE
LEGISLATURE
COMMITTEE HEARING
RECORDS

2005-06

(session year)

Senate

(Assembly, Senate or Joint)

**Committee on
Agriculture and
Insurance
(SC-AI)**

File Naming Example:

Record of Comm. Proceedings ... RCP

- 05hr_AC-Ed_RCP_pt01a
- 05hr_AC-Ed_RCP_pt01b
- 05hr_AC-Ed_RCP_pt02

COMMITTEE NOTICES ...

➤ Committee Hearings ... CH (Public Hearing Announcements)

➤ **

➤ Committee Reports ... CR

➤ **

➤ Executive Sessions ... ES

➤ **

➤ Record of Comm. Proceedings ... RCP

➤ **

INFORMATION COLLECTED BY COMMITTEE
CLERK FOR AND AGAINST PROPOSAL

➤ Appointments ... Appt

➤ **

Name:

➤ Clearinghouse Rules ... CRule

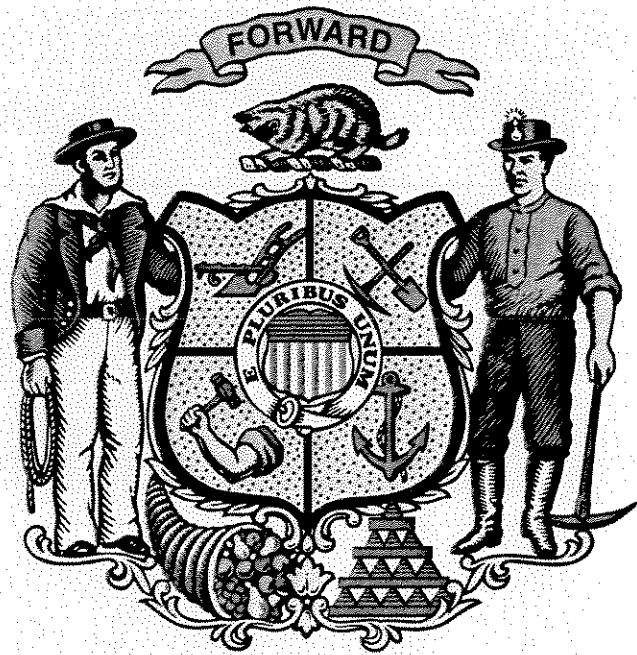
➤ **

➤ Hearing Records ... HR (bills and resolutions)

➤ **05hr_ab0926_SC-AI_pt01**

➤ Miscellaneous ... Misc

➤ **



DATE: January 31, 2006

TO: Members of the Wisconsin State Assembly

FROM: Wisconsin Association of Life and Health Insurers (WALHI)

RE: AB 926 relating to group health care plans offered by health benefit purchasing cooperatives

Dear Representative,

The Wisconsin Association of Life and Health Insurers (WALHI) does not oppose allowing groups to join together to purchase insurance. However, **we oppose AB 926** because it removes important consumer protections. It will allow cooperatives and their insurers to use rating and marketing tactics to avoid high-risk groups.

No Guaranteed Issue. Although the bill appears to require an insurer that contracts with a cooperative to issue coverage to all cooperative members, exempting the insurer from being a "small group insurer" effectively means that insurer is not under an obligation to oversee marketing to assure that high-risk cooperative members are not excluded from the plan. In addition, the cooperative itself in marketing to its current members and prospective members and is not required to accept all eligible small groups regardless of their health status or claims experience.

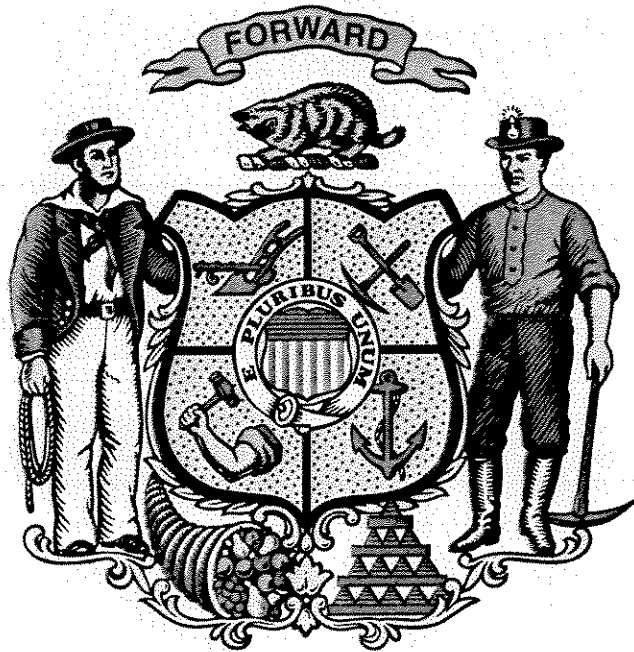
No Rate Protection for High-Risk Groups. This bill exempts the cooperative and its insurer from the small group rating law. Insurers in the small group market follow strict limits on the differentials in rates and annual rate adjustments based on a group's health status or claims. Insurers outside the small group market have no limits on the rate differentials or rate actions for high-risk large groups. As a result, a cooperative or its insurer could increase rates on higher risk employer groups to drive them out of the cooperative. In addition, the change means small groups in cooperatives would no longer have limits on annual rate adjustment for health status or claims experience.

No Large Group Bargaining Power. Although the bill makes changes that allow cooperatives and their insurers to avoid small group rate protections so that the cooperative can exercise its bargaining power, the bill doesn't require those benefits be passed on to the cooperative's members. The bill does not prevent a cooperative from rating member employer groups differently. Unlike large groups which charge all of their members one rate (called a composite rate) that represents the risk of the

entire group, this bill would allow a cooperative to avoid small group rating protections and charge each member a different rate based on their health status or claims experience. It could increase rates on high-risk small employer members, forcing them to seek coverage in the standard market for coverage where rates are limited. In this case the cost saving wouldn't be bargaining power of the pool, it would be risk selection and high-risk group avoidance.

The ultimate effect of this bill as currently written is to exempt cooperatives from most of the insurance regulations that protect small employer groups. These small employer regulations include elements that guarantee access, assure fair marketing, and stabilize premium rates for high-risk groups. Allowing cooperatives and their insurers to circumvent these regulations will destabilize the small employer health insurance market and erode the current access and rate protections small employers enjoy.

Accordingly, we encourage you to vote against AB 926.



Perlich, John H.

From: Steve Rudolph [Comfortkeepersmadison@charter.net]
Sent: Tuesday, February 14, 2006 12:50 PM
To: Perlich, John H.
Cc: Dave Trapp; Don Yahnke; Larry Dalton; Roy Campbell; Stephen Rudolph; Terry Hicks; Tom Kennedy
Subject: Names of the Steering Committee

John,

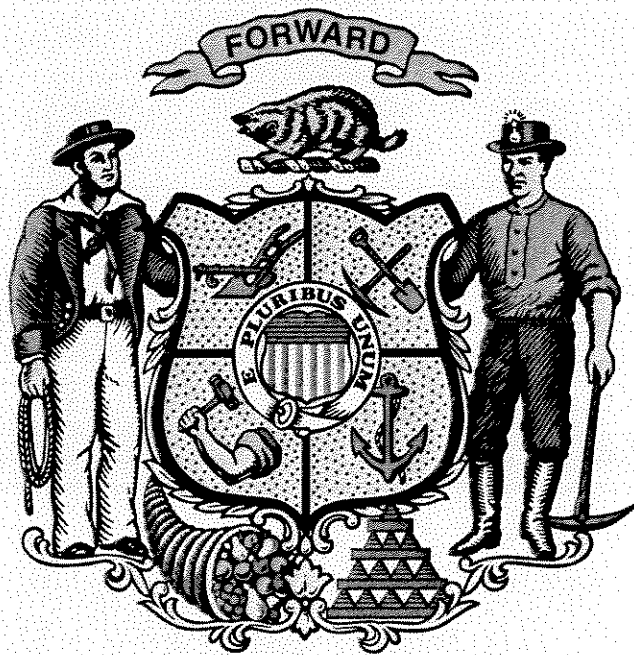
Below are the names of the members of the Steering Committee of the Coulee Area Regional Employers (CARE) Health Action Cooperative, which supports passage of AB926. CARE represents about 8000 employees and nearly 20000 lives.

Thomas Kennedy, Executive Vice-President, JF Brennan Company R. Roy Campbell, Partner, Hawkins, Ash and Baprie, CPAs David A. Trapp, Insurance Broker Terry Hicks, Executive Director, Western Wisconsin Labor Management Council Larry Dalton, Associate Superintendent, Onalaska School District Donald Yahnke, General Manager, Toro Corporation, Tomah

Thank you.

Stephen P. Rudolph, FACHE
Chief Executive Officer
CARE Cooperative
125 N. Seventh St.
La Crosse, Wisconsin 54601
(608) 784-5915-work
(608) 220-3546-cell
carecoop@charter.net

My Madison office number is 442-1898.



Perlich, John H.

From: Smyrski, Rose
Sent: Tuesday, February 14, 2006 4:39 PM
To: Perlich, John H.
Subject: FW: Hearing on AB926

From: Dan Schwartzter [mailto:dan@smgltd.org]
Sent: Tuesday, February 14, 2006 4:34 PM
To: Smyrski, Rose
Cc: Reinemann, John
Subject: Hearing on AB926

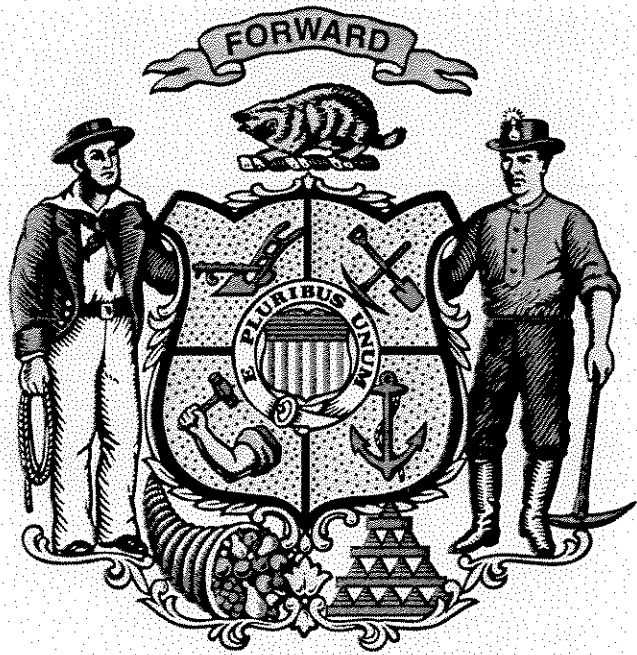
Hi Rose,

I have a favor to ask. If you remember, I had about 5 to 10 people coming down for the hearing last week, which ended up getting cancelled. The Green Bay Chamber will be sending four people now for Thursday's hearing. The problem, however, is that one of those individuals has to leave in order to get back to another meeting back up in Green Bay. His name is Gary Clevers. Is there any way to ensure that Gary can testify right behind Rep. Gielow? I know I just met with Rep. Gielow and we said we should have Humana testify first with their opposition. This would be fine, but then can we have Gary go third?

Please let me know.

Thanks.

Dan



Perlich, John H.

From: phauck@new.rr.com
Sent: Wednesday, February 15, 2006 8:49 PM
To: Sen.Erpenbach; Sen.Miller; Sen.Kapanke; Sen.Olsen; Sen.Brown; Sen.Kedzie; Sen.Hansen
Cc: Nan Nelson
Subject: To Senate Insurance Committee Members Re: AB926

Chairman Kapanke and Fellow Members of the Senate Agriculture and Insurance Committee:

I have been asked to provide testimony to you "from my heart," without notes, in person at this morning's (Thurs., Feb. 16) hearing but the major snowstorm prevents me from being there with you. Here is what I wanted to say:

I am self-employed, using the services of my spouse as a sometimes employee, since 1983. Our health insurance typically increases 30% a year (and we're healthy!), and we are currently with Humana. For more than ten years, I have been one of several Green Bay Chamber volunteers analyzing the health insurance industry and trends for a way to "get a handle on this monster." In the mid-1990s, for three years, we were able to. Since then, we have watched but couldn't figure out how.

We know that the key is for smaller organizations to be part of a larger group, but small business health insurance laws effectively prevent us from combining ... and rightly so. The primary barrier has been a requirement to need \$2-\$3 million in reserves for whatever group we might create. Small businesses can't afford that.

We also know that we can only impact what we can control. We can't control what insurance companies charge for premiums, nor what health providers charge for their services. You have to be a large group to have that leverage. We can only control our own behaviors, our lifestyles.

But as small businesses, we have no benefit managers to coordinate such a management program ... and those we look to, health systems, wellness programs, etc., can't provide the specific management/guidance needed. We're not big enough.

Finally, we think we have the mechanism to do this in AB 926, the Coop repair bill which you are considering ... a mechanism that allows us finally to create a framework to control our own destiny.

- We can legally band together as a cooperative, charge our members a fee that allows us to create a "benefit management" function, just as larger companies have. We intend to do that extraordinarily effectively, using as guidance proven successes that have been modeled during the last two years since HSAs were approved.

These include HSAs, creative use of wellness programs to determine higher risk employees and spouses, working with them especially but with everyone to incent improvements in wellness, providing information about how to best utilize the sick care systems ... with the objective of making each person a smarter utilizer with their dollars of the sick care and wellness enhancement systems.

Objective: **Reduce the rate of increase** of health care costs by being **smarter utilizers and behavers!!!!**

- We will make **information incredibly accessible and transparent** ... allowing employees to use an internet site to tell of their experiences and the costs they incur, giving them choices of who to use, creating easy access to answers of immediate questions through hot lines and websites, etc., etc., etc.!!!!
- We will depend on an **insurance company to be our partner**, to work with us to keep costs low, utilization reasonable, and information accessibility high. They will be our protector and partner!!! (We still can't raise the \$2 million, so we need the insurance company's insights and wisdom, and we have to deliver them a pool they can prosper from!)
- We will create **Closed Pools**, so an insurer knows exactly who it is insuring and can best predict claims probabilities, with a **contract with each Pool member that penalizes it if it leaves the Pool (as**

an incentive not to); this will *prevent adverse selection*. As time goes on, and more small organizations want to participate, we'll create additional pools ... perhaps with another insurer and/or health system and/or approved sets of providers.

In short, we'll do everything we know how to *inject personal responsibility and accountability* into how we manage our personal health and utilize the resources we have at our disposal ... while using insurance to protect for what any individual hasn't the capacity to protect for.

Please give us AB926 as a repair bill as soon as you can ... so we can try to put our effort into place in time for 2007. **It won't be easy ... but it can be profound.**

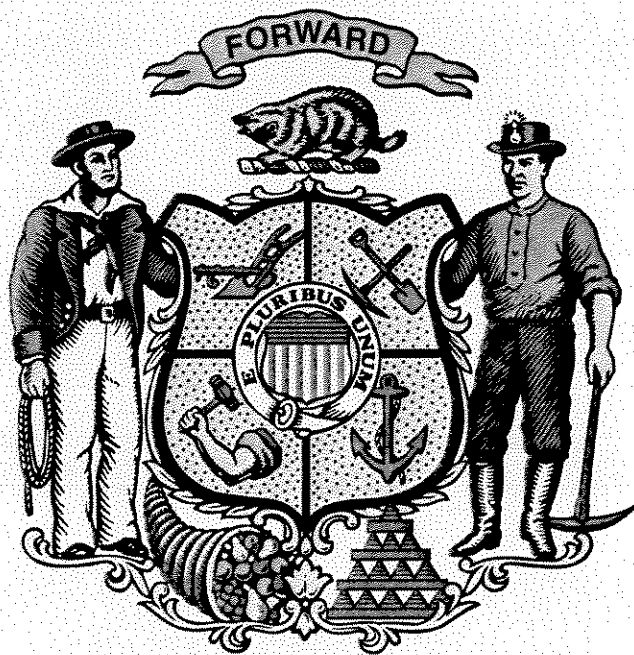
Thank you.

Phil Hauck, Principal
Counselor Enterprises and TEC
1039 S. Jackson St.
Green Bay, WI 54301
920-309-1416 E: phauck@new.rr.com

Phil Hauck, Chair, TEC III, XXI and XXXII, Green Bay
Phone: 920-309-1416 E: phauck@new.rr.com
TEC: Chief Executives Working Together www.teconline.com

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Assembly Bill 926

Senate Agriculture & Insurance Committee

February 15, 2006

Humana **opposes Assembly Bill 926 in its current form** because some of the changes contained in this bill allow cooperatives and their insurers to achieve lower rates through underwriting and rating tactics rather than the premium negotiation and health care cost containment cited by many cooperative advocates. The net result will be higher premium rates for coverage in the standard market and fewer high risk groups able to afford coverage. These provisions will also undermine the formation of cooperatives who seek to use composite (a single rate for all cooperative members) rating and contain costs through wellness and other health interventions because they, like standard market insurers, will be unable to compete with cooperatives that choose to use aggressive underwriting and rating practices.

Humana has a solid record of seeking innovative solutions to small employer health insurance needs. We were the first company to administer a small employer purchasing pool when California started its Health Insurance Purchasing Cooperative (HIPC) in 1993. We participated in not only the HIPC, but similar purchasing groups in Florida, Texas and Iowa. We have and continue to support collaborative purchasing arrangements that improve the small employer market. In the last few years, we have lead the way in developing consumer centered plans that invest members in their health care decision-making through cost and performance information, decision-support tools, innovative cost sharing administration (HRAs, HSAs, FSAs and swipe card technology) and intelligent cost sharing. We published our results this summer at the American Academy of

Actuaries, showing that over a three year period employers and their employees who used our consumer center health plans obtained substantial premium savings. We are now involved in a major project with Business Health Care Group of Southeast Wisconsin that uses value purchasing and member involvement to contain overall health care and health insurance premium costs in that region of the state.

With these credentials, you might wonder why we oppose this bill. We understand all too well what a powerful tool underwriting can be in a voluntary insurance market. The ability to select lower risk groups from the market can make health insurance very affordable to groups that are low risk. It also makes it nearly impossible for high risk groups to obtain coverage—as they faced rejection, extremely high rates and enormous health status rate increases. In the mid-1990's Wisconsin passed reforms and the Federal health insurance portability act changed the market by requiring guarantee issue, whole group coverage, portability and limiting rate variations based on health status, and annual rate increases related to claims experience.

While these market reforms increased small employer premiums they provided an improved sharing of risk, better access for all groups and rate stability. The reforms forced insurers in the market to focus on containing health care costs rather than the relatively easy process of avoiding and eliminating high risk groups. Humana believes Assembly Bill 926 will jump start the formation of cooperatives, but not the type of cooperatives that are cited in support of this bill. ***These cooperatives will form to exploit the flexibility provided in this bill as a loophole and reintroduce underwriting and rating practices this legislature banned*** almost 10 years ago. The disparity between tight small employer market rules and the lack of similar rules in the large employer market will help some groups obtain lower rates, but it will not lower overall rates in the market. Standard market rate could increase by more than the 5-8 percent impact the small employer market reforms generated.

In its current form Assembly Bill 926 goes beyond providing cooperatives with flexibility in negotiations with insurers. It creates the opportunity for these cooperatives to become a method of circumventing the small employer market protections. When the bill moves cooperatives covering small employers from small employer rules to large employer rules, it not only provides cooperatives with more flexibility (and more risk of major rate changes) it removes many consumer protections provided under current law. Unlike an insurer in the smaller employer market, large group insurance rules contain:

- No guarantee issue
- No restrictions on avoiding high risk groups
- No limits to health status rate variations
- No limit on rate increases related to health status

Exempting insurers contracting with cooperatives from the small employer fair marketing rules will allow a cooperative to define its membership eligibility based on health status or design it to attract only low risk groups. The Office of Insurance Commissioner has no authority to reject this type of selective membership criteria. We do not believe legislators support this, but that is exactly what the bill does. Exemption from the small employer rules also allows insurers who cover cooperatives to:

- Allow the exclusion of eligible cooperative members from coverage;
- Engage in marketing practices to avoid high risk cooperative members ;
- Use wide rate variations for individual cooperative members based on health status or claims experience; and
- Make unlimited annual rate adjustments based on health status.

Removing these restrictions creates a strong incentive for insurers to seek out cooperatives that willing to engage in aggressive underwriting and rating activities to select healthier groups and drive-off groups that develop health conditions.

The disparity between these practices and the regulations insurers in the standard market must follow not only leaves the standard market in an uncompetitive position, but provides the safety net as its is continues to require standard market insurer guarantee issue high risk cooperative members who are cast off by these practices. Insurers and cooperatives using these underwriting tactics will be able to provide lower rates, but only by using their underwriting to cost shift high cost groups and individuals to other cooperatives, the standard insurance market and the Health Insurance Risk Sharing Program (HIRSP).

States that exempt professional employment organizations (PEOs) and employee leasing firms for small group market reform already see this activity as these organizations seek to identify and include more low risk employer groups. PEOs and employee leasing firms are not covered by insurance laws and they are keenly aware of the power of selection. Many PEOs highlight their risk selection tactics when seeking to obtain favorable insurance rates. While their participating employers clearly benefit from the lower health insurance costs, most small employers lose as their rates increase because of the adverse selection between the PEOs and the standard market.

If cooperatives who are attempting to form believe they need the flexibility to negotiate rates as a large group, we believe that can be easily accomplished without creating the risk selection problems we have outlined. These three modest changes to bill could address the problems create by the disparity in market rules with minimal impact on a cooperative and while retaining the rate negotiation flexibility some cooperatives are seeking:

- **Ensure cooperative membership criteria are not used as a risk selection method.** Modify 185.99 (3) (e) in current law that requires a cooperative to file its membership criteria, to grant limited authority to insurance commissioner to disapprove a filing only if the proposed membership criteria are based on health status or are designed to limit membership based on health status.

- **Apply rating limits and fair marketing provisions to prevent insurers from exploiting the use of large group rules to unfairly discriminate against high risk cooperative members.** In 185.99 (4) (Section 4 in the bill) retain the provisions of subsection (c) that allow the cooperative to purchase coverage from an insurer as a large group, but add language that states that for small employer members (2-50 employees) participating in the cooperative, the cooperative's insurer must comply with 635.05 (small group rate band and annual rate increase limit) and 635.18 (fair marketing provisions that prevent risk avoidance activities).
- **Protect individual cooperative members to assure fair access and rates.** In 635.02 (7) (Section 7 in the bill) delete 635.02 (7) (b) 2 (page 4, line 4) so that individual cooperative members are protected by applying the rating and marketing rules cited above.

This committee and legislature must decide between two very clear choices with wide ranging consequences for all small employers.

- It can allow Assembly Bill 926 to advance in its current form and send a clear signal to insurers and the market that it supports the reintroduction of exclusionary underwriting and rating practices in the small employer market. This will lower rates for some groups, increase rates for many other groups. It will shift the competition away from the cost containment toward underwriting.
- Or, it can modify Assembly Bill 926 to allow more flexibility in rate negotiations between cooperatives and insurers while protecting individual cooperative members from marketing, underwriting and rating practices that are prohibited in the standard small employer market. This option will allow cooperative who can truly contain costs to lower rates without shifting costs to other small employers.

We believe the second option is the best choice for all small employers and small employer marketplace.

Thank you for your time and consideration.

Humana Contact:

Allan Patek, Government Relations Director

Humana

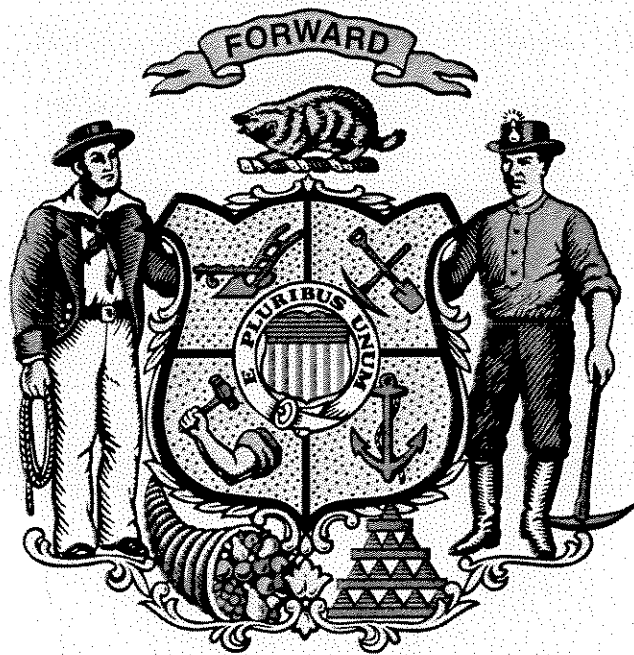
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About Humana

Humana is one of the nation's largest health benefits companies. Humana provides health benefits to over 7 million commercial, military, Medicaid and Medicare beneficiaries, including over 425,000 medical and over 40,000 dental members in Wisconsin. Wisconsin group and individual medical coverage is provided through Humana Wisconsin Health Organization and Humana Insurance Company. Dental coverage is provided through Humana Dental Insurance Company. Humana employs over 3400 Wisconsin-based associates at offices in De Pere, Green Bay, Pewaukee and Middleton. For more information, visit www.humana.com.

On January 1, 2006 Humana in conjunction with the Business Health Care Group of Southeast Wisconsin launched an innovative product that ranks health care providers by their efficiency and engages members in more active decision-making.





DATE: February 16, 2006

TO: **Senate Committee on Agriculture and Insurance**
Senator Kapanke, Chairperson, Senators Kedzie, Brown, Olsen, Erpenbach,
Hansen, and Miller

FROM: Gary Clevers, CLU, President, Financial Life Cycles, Inc.

RE: Absolute support for AB926 Original and the Repair

Who is Gary Clevers?

My name is Gary Clevers. My family and I reside in Brown County; specifically in the Village of Suamico and have been residents of the Northeastern Wisconsin community since 1976.

I have been fortunate, even blessed and honored, to serve Wisconsin businesses, especially small businesses, with their health insurance needs for the last 33 YEARS!

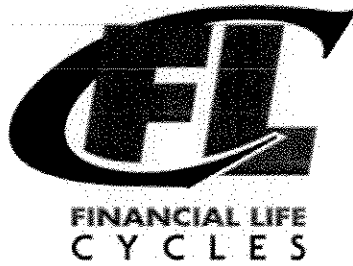
The independent insurance agencies I own are located in Northeastern Wisconsin and, humbly, are currently acknowledged as top of field agencies by any measurement in our state. (Business cards attached)

Financial Life Cycles, Inc. and Informed Choice, LLC have collectively been nominated on four separate occasions for Chamber of Commerce awards by our clients and the community more broadly.

I also serve as the current Chairman for the Wisconsin Association of Health Underwriters (WAHU) Business Ethics Committee, including numerous other community boards, and especially my church, Peace Lutheran.

Importance of Acknowledgement/Gratitude

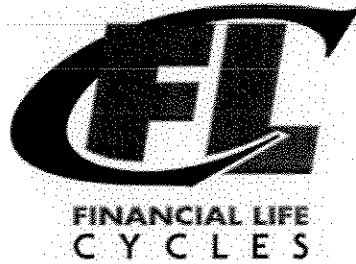
1. I must acknowledge Republicans and Democrats alike for the outstanding critical bipartisan support for this legislation.



2. I challenge you to understand the interesting history of this legislation, including Governor Doyle being extremely supportive in the original passage/repair bill, as were Republicans and Democrats alike.
3. It's interesting to note, where was the objection prior on the part of individual insurers or any registered lobbying associations that may represent them
4. It's important to acknowledge the leadership in the Assembly to have passed the repair bill that is the clarification of the original intent of the original legislation.

Why is your support critical now?

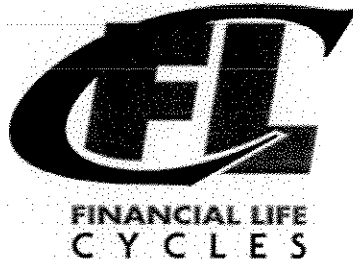
1. The current small group rating reform legislation is crafted in such a way as to provide significant flexibility to insurers, exactly what they want and need in their renewal formulas.
2. **BEWARE NOT TO BE MISLED OR MISGUIDED** by small group rating reform law limiting rate renewals or capping them at a 15% increase. *NOT SO*
3. I can assure you those average rate renewals for small groups 2-50 in employee count size have been more accurately in the 20% - 40% range for the last several successive years.
4. Insurers within the maximum flexibility of small group rating reform, currently, can increase rates beyond the claim experience adjustment factor max of 15%. **Additional increases** can apply for medical trend, geographic area adjustments, industry adjustments, case size adjustments, census, compliance and miscellaneous additional reasons.
5. Again, please be careful not to be misled thinking that the current small group rating reform is working; I can assure you, as a field underwriter, delivering renewals for 33 years, I'm officially labeled by my clients as a **"broken record"**. Fortunately, I still have my integrity; however, our customers are literally on their knees.



6. Average clients, meaning small employers, are at a point where they simply can no longer afford health care for their employees. Small employers are dropping their group health care coverage at a record pace preferring to have their employees buy individual health care plans that are not required to include the State Mandates to which small employer groups plans must provide.
7. Premiums today for families, depending on plan design, frequently are in the \$1,100 - \$1,200 per month range. Single rates, again, depending on plan design, are in the range of \$300 - \$450 per month. If we allow the current small group rating reform to continue as it has in more recent years and the normal "broken record" unprecedented cost increases continue, in 2008, family insurance premiums will approach \$2,000 per month and a single premium will approach \$1,000 per month.

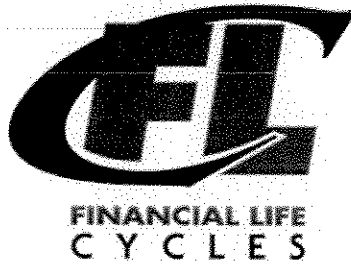
What is really the problem and how has this picture focused to where it is today?

1. Fewer market maker kinds of health insurer's aggressively marketing health insurance in the State of Wisconsin.
2. Less competition, more comfort, and increased profitability prescription for small employers dropping group insurance at a record pace.
3. The industry has developed a literal numbness to understanding the plight of smaller employers when health care renewals routinely march in with a 20% - 40% increase each year. It simply no longer computes.
4. Stockholders are happy; our clients, citizens/small employers of Wisconsin needing health insurance for themselves and their families are not happy.
5. Refer to NPRG experience of 15 months ago submitting 17 groups; discuss the end result of four approvals with rates that made any economic sense to consider for a potential change.



Why approve Assembly Bill 926 without any insurance industry led amendments?

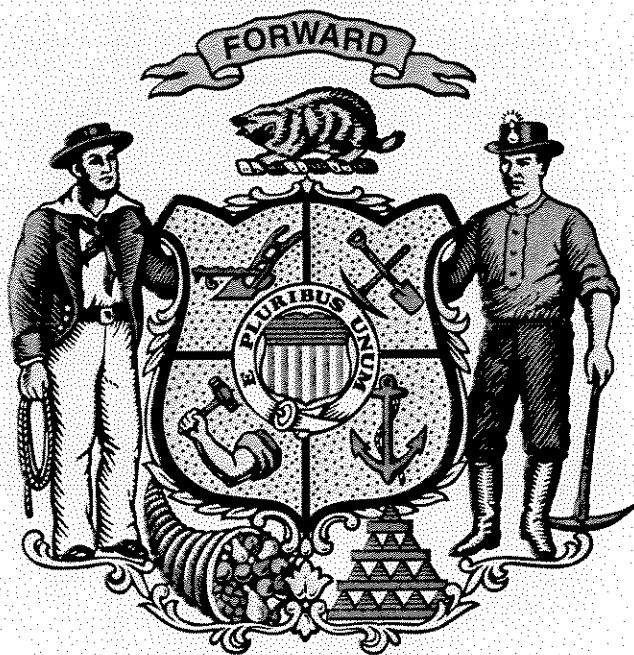
1. How much louder does the message have to be! Who would have ever thought that Ford and GM a year ago would be on the verge of bankruptcy in part due to health care expenses per automobile are \$1,400 - \$1,600 compromising their ability to compete?
2. The cost of health care/corresponding health insurance has escalated to such a point that it literally has businesses on their knees and why you hear the concerns from your constituents daily no matter what part of the state you serve.
3. If the current system were working so well, specifically small group rating reform applying to groups of 2-50 in size, why would the costs of health care in a highly regulated state be the number one concern of small businesses, as expressed, to Chambers of Commerce throughout the state?
4. I passionately believe that there is an **absolute numbness** that has set in with many of us that are in the industry where the broken record syndrome has slowly anaesthetized understanding, compassion, and the ability to be in touch with reality.
5. If you were a large employer, you would be approached by the market leaders suggesting they could save, at times, literally millions of dollars due to having achieved a deeper discount with the providers. The small employers do not experience these benefits. Quite honestly, just the opposite; cost shifting sometimes on the part of the providers trying to make up for the revenue loss granted to larger employers via direct contracts.



Closing action points/call to action now!

1. Approve the legislation as originally passed with the clear and concise clarification of the original intent and spirit.
2. Don't wait! Don't delay any longer! If this legislation gets hung up, even for a few more weeks, any potential good to come from cooperative efforts will be delayed at least until January 1, 2008. At the current rate of increase, average premiums for small employers will have increased by then another 60%!
3. Right now we need bipartisan leadership and the Governor to support this legislation as it has been crafted without amendments. Again, please do not succumb to the intense lobbying and masterful spin that the insurance industry is bringing at you, as record profits and less competition have them feeling very comfortable.
4. In my humble view, still passionate about my industry and serving my clients after 33 years, incredibly blessed, I can assure you the predicament of small employers is not worthy of a MasterCard moment. It definitely is not priceless and I can assure you furthermore it's not a Kodak moment either. The picture for me is increasingly clear, the health care delivery system is literally about to IMplode!
5. There is a prevalent numbness and lack of understanding of how acute the reality of the problem is that is staring us in the face that demands immediate action. Co-ops will create market alternatives and a new round of competition that is long overdue given the current protectionisms of the small group rating reform having little affect on 20% - 40% rate renewals year-after-year.
6. Refer to insurance company diagrams talking about the market today verses the future with Co-ops.

THANK YOU FOR THE BIPARTISAN SUPPORT AND LEADERSHIP; IT'S EXACTLY WHAT WISCONSIN BUSINESS DESPERATELY NEEDS NOW – YOU ARE TO BE COMMENDED! I CHALLENGE A 7-0 VOTE – IT'S TIME FOR CHANGE!



**Remarks of Attorney Charles P. Stevens
Partner, Michael Best & Friedrich LLP**

**In Support of Assembly Bill 926
February 16, 2006**

I am an attorney with the Milwaukee office of the law firm of Michael Best and Friedrich. I am also the one who was engaged to create Co-op Care of Southeastern Wisconsin in anticipation of the ability to serve as one of the first health benefit purchasing cooperatives that has been authorized under Wisconsin Statute s. 185.99.

Prior to the creation of Co-op Care of Southeastern Wisconsin, significant and tireless efforts were expended and continue to be expended by the Wisconsin Federation of Cooperatives and by a number of Wisconsin Legislators, including most notably Representative Gielow, Senator Harsdorf and many others. Also very much in favor of this legislation are farmers and small employers and groups that represent them including the Cedarburg Chamber of Commerce and Wisconsin Independent Businesses. Finally, the creation of Co-op Care of Southeastern Wisconsin has been achieved through a significant amount of effort and expense on the part of a Milwaukee health insurance broker and consulting firm by the name of Innovative Benefit Solutions and its president Randall Marking. Co-op Care of Southeastern Wisconsin exists today, but it is far from becoming viable. Your help is needed for that.

I wish to support Assembly Bill 926, which if passed will permit health benefit purchasing cooperatives to succeed. In 2003, the Wisconsin Legislature passed and the Governor signed 2003 Wisconsin Act 101, which created section 185.99, Wis. Stats., and recognized the existence of cooperatives created to purchase health coverage for their members. This initial legislation permitted as many as 5 health benefit purchasing cooperatives to come into existence and thereafter report to the Legislature regarding their experience. No one in the Assembly or Senate voted against this legislation. In fact, the United States Congress has approved and has now started to pay over \$4 million in seed money to the Wisconsin Federation of Cooperatives to get this project off the ground.

In August of 2005, an amendment to this statute was passed and signed into law as 2005 Wisconsin Act 30. This amendment now permits more than 5 cooperatives to exist and removes limits on more than one co-op operating in any particular Wisconsin geographic area. Clearly, the Legislature and the Governor, through these two initial Wisconsin Acts, have shown a desire for health benefit purchasing cooperatives to succeed.

Today's hearing concerns Assembly Bill 926, which we hope will become a 2006 Wisconsin Act and will provide the final and necessary circumstances for these cooperatives to become viable. AB 926 is necessary to resolve uncertainty regarding the intent of the Legislature in the original legislation. Unless such uncertainty is resolved, it is likely that no health benefit purchasing cooperative will succeed.

Background

Section 185.99, Wis. Stats. permits a cooperative to be established and to purchase coverage on behalf of its members who consist of self-employed individuals and employers. The legislative history strongly indicates that the Legislature was attempting to assist farmers and small employers obtain more affordable health care coverage for themselves and their employees.

The cost of health insurance is a function of how each premium dollar paid is applied. The majority of a premium dollar ultimately goes to health care providers. Most of the rest of the premium dollar goes to the insurance carrier. A small portion of this amount is paid by the insurance company to its agents and for taxes and after payment of these and other expenses, the insurance company keeps some of the premiums as profit. It is a fact that, on average, premium dollars paid by small employers have a smaller percentage applied to pay health claims when compared to premium dollars paid by larger employers. Loss ratios (amounts paid to health care providers) of large employers are in the range of 85% to 90% while for small employers they are in the range of 65% to 70%, with 30% to 35% going to the insurance carrier. Put simply, farmers and small employers pay more for health coverage for an average employee than larger employers do. However, if a group of small purchasers can form a large single purchaser and can negotiate a lower premium from an insurance carrier, then more of the premiums paid go to the doctors and less goes to insurance carrier.

Section 185.99 addresses the gathering together of co-op members to form a larger group in the form of a cooperative to purchase health care insurance from insurance companies. The statute does not address health care providers at all. It is clear that the banding together of a number of small employers (including self-employed individuals) was intended by the Legislature to improve the situation of farmers and small employers in their attempt to purchase insurance from insurance carriers. Logically, viewing the cooperative as the purchaser of insurance coverage in a fashion similar to the manner in which a large employer would purchase coverage is what the Legislature had in mind.

Wisconsin Statute 185.99, permits this banding together to form a single purchaser in anticipation of the insurance carrier being motivated to give up some percentage points in order to enter into a contract with the cooperative on behalf of its hopefully significant number of members. In addition, the larger size of the cooperative and other requirements imposed by the statute should result in a statistical evening of small and large claims such that relative rate stability from one year to the next can be achieved rather than the huge increases that many farmers and small business now face.

Requirements for the Cooperatives to Operate under the Law

Section 185.99 has established these other requirements to promote rate stability:

- The cooperative is required to charge a security deposit of no less than the estimated 36th month premium payment from each member and hold it and refund it if the member withdraws more than 36 months after obtaining coverage.

- The cooperative is required to charge enough in contributions from the members so that it can operate itself. (As an entity, it will have its own expenses to become set up and to operate, pay services providers such as attorneys and actuaries, report to the Wisconsin Legislature as required by §185.99(5), etc.).
- The cooperative must negotiate at least a three year contract, but no carrier will provide a three-year rate guarantee under the current circumstances and so part of its arrangement must be that the parties "agree to agree." This uncertainty may be a small negative, but it is still a negative when a farmer or small employer considers joining a health benefit purchasing cooperative as opposed to obtaining coverage elsewhere.

None of the above parameters are applicable to a small employer that goes on its own to an insurance carrier and purchases coverage from that carrier "off the shelf." If the cooperative merely gets the same deal from the insurance carrier as the carrier would provide to any other small employer, the cooperative can provide very little incentive to the small employer to join. In fact, the above characteristics of a health benefit purchasing cooperative would act as impediments to success for the cooperative.

"Premium stabilization" is a good concept, but as a practical matter, it is not enough to sell the product to enough small employers that need to buy it to make the cooperative successful. This is particularly true when the above requirements (impediments) to the cooperative arrangement are in place. Therefore, the only way a health benefit purchasing cooperative will work is if it provides a discount of a size that will overcome the above impediments such that farmers and small employers will see the concept and the coverage offered by the cooperative as more attractive than the insurance arrangement currently available to them.

In light of all of the above, we have a situation where, for the concept of a health benefit purchasing cooperative to work, we must have a window of opportunity in which there exists an overlap between all of the following:

- The way in which the Office of the Commissioner of Insurance (OCI), perceives the insurance contract issued to a health benefit purchasing cooperatives as complying with applicable law,
- The way in which an insurance carrier perceives the cooperative as favorable business in determining the discounts it will offer, and
- The way in which potential members of the cooperative perceive the available coverage as being better or less expensive than other coverage available to them.

Provided we have sufficient conjunction of these positive perceptions by OCI, an insurance carrier, and prospective cooperative members, we will have success. How will a cooperative succeed? See below.

Advantages of Health Benefit Purchasing Cooperatives

With the requirements imposed on health benefit purchasing cooperatives, come certain corresponding advantages:

- The cooperative would be the purchaser of group health coverage as if it were a large employer, thereby motivating insurance companies to view the cooperative as being attractive just as a large employer is attractive.

- The insurance carrier:
 - Would base renewals on the experience of all of the members of the cooperative on a pooled basis,
 - Would provide coverage for all under one umbrella, including self-employed individuals, thereby improving access for those insureds currently shunned in the marketplace,
 - Would have the ability to pass provider discounts obtained by the cooperative through to the benefit of cooperative members, and
 - Would provide transparency and accountability so that the managers of the cooperative would be able to intelligently discuss next year's premiums at renewal time in light of the claims experience of the members over the previous year.

Based on the above, the carrier would provide incentives/discounts to the cooperative and the cooperative could also collect from its members the additional amounts necessary to operate and serve as security deposits and yet still provide a low enough cost to farmers and small employers for the terms to be more favorable than what they are getting today. This would provide not only lower insurance costs but also the rate stability for farmers and small employers that the Legislature was seeking to achieve.

Transparency, Bargaining Power and Consumerism

We should emphasize one particular strong advantage to the cooperative purchasing model that is currently unavailable to small employers and is critical to success of these cooperatives. With the cooperative acting as a purchaser of large group coverage, it has the ability to communicate with the insurance carrier regarding claims experience and how such experience relates to paid premiums, amounts attributable to reserves, and other expenses. This affords true transparency to the purchase of health insurance coverage. The cooperative then has the ability to solicit bids for its business among insurance carriers, provide concrete data, negotiate favorable insurance contracts, and not merely be on the receiving end of possible offers by carriers where there is no good claims data and therefore, only limited discounts offered by carriers due to uncertainty. The cooperative would have the ability to require the insurance carrier to be *accountable* to the members of the cooperative. Without the large group cooperative arrangement, a carrier need not explain why it is imposing, say, a 40% increase in premiums in the face of relatively low claims in the previous year.

To the extent claims are higher than the members of the cooperative would care for, the cooperative has the ability to take its business to another carrier. If, instead, higher than desired premiums result from a plan design that is too generous, the members of the cooperative can approach plan design changes on an informed basis and make their own consumer-oriented decisions as to how to optimize the tradeoffs between plan design and premiums. Without such data and the corresponding ability to negotiate with carriers, the cooperative has little chance to achieve the goals of the legislation, particularly when the cooperative must contract for insurance for three years.

Current Uncertainty is Resolved by AB 926

Initial informal discussions with certain insurance carriers and with OCI revealed resistance in interpreting § 185.99 as changing the manner in which coverage for small employers and

individuals would be written for health benefit purchasing cooperatives. Under this interpretation, all of the small employer regulations would pertain to a cooperative with thousands of members. Therefore, if this interpretation continued to prevail, an insurance carrier writing coverage for a health benefit purchasing cooperative could not:

- Underwrite coverage written for cooperative members independently of its small employer business,
- Pool the experience of all of the cooperative members for purposes of determining and changing premiums for the members of the cooperative,
- Charge in premiums an amount that would be outside of a 30% rate band for all of the insurance carrier's small employer insurance business, and
- Cover Individuals from several small employers within the same insurance contract.

If this interpretation remains, the coverage written by an insurance carrier for the cooperative would not be written with the cooperative as the purchaser, but instead with each individual and small employer as separate purchasers under separate contracts. The cooperative would merely attempt to negotiate an arrangement with the insurance carrier on behalf of the members of the cooperative as individual purchasers, and such coverage would be subject to all of the small employer insurance regulations, including rate banding.

Wisconsin law sets restrictions on premium rates that an insurance carrier issuing a policy to a small employer can charge. The rates must not vary by more than 30% from the midpoint for policies issued by the insurer covering employees of small employers. This restriction, called rate-banding, is a disincentive for an insurance carrier to provide a discount to a cooperative because it would have the effect of lowering the maximum amount that the insurance carrier could charge to small employers outside of the cooperative. It would also limit the carrier in charging a higher amount if appropriate in light of claims experience. Such rules do not apply to employers of more than 50 employees and they should not apply to health benefit purchasing cooperatives that have more than 50 participants covered.

Furthermore, a cooperative, like a large employer, will be able to obtain discounts from health care providers. Nevertheless, if an insurance carrier views a cooperative as a part of its small employer business, it would be under no obligation to recognize negotiated provider discounts by providing reduced premiums for the members of the Co-op. Such discounts would likely inure only to the benefit of the insurance carrier.

The sponsors of AB 926 believe that this interpretation, that a cooperative is not the contract holder but merely negotiates individual contracts with a carrier subject to all of the small employer rules, is not in accord with the intent of the Wisconsin Legislature. In fact, this new form of cooperative IS called a "health benefit purchasing cooperative." Cooperatives purchase goods and services for their members. However, while the Legislature has created health benefit purchasing cooperatives under Chapter 185, the chapter on cooperatives, it has not yet modified the statutory sections under the Wisconsin Insurance Code indicating that such cooperatives shall be treated other than as a conglomeration of small employers. AB 926 resolves this uncertainty by indicating that the term "small employer" does not include "a health benefit purchasing cooperative under s. 185.99 that provides health care benefits for more than 50 individuals who are members or employees of one or more members." Therefore, to the extent the cooperative has more than 50 people covered, it will be exempt from the small employer rules.

What Co-op Care of Southeastern Wisconsin has Already Done

At this point, we have done the following toward our goal of offering coverage through the first live Co-op under the law:

- Worked extensively with the Wisconsin Federation of Cooperatives (WFC) to develop the Co-op envisioned by the Legislature and WFC;
- Prepared and filed articles of incorporation (Co-op Care of Southeastern Wisconsin now exists);
- Drafted bylaws;
- Drafted a membership agreement to be executed by the Co-op's members;
- Drafted member guidelines outlining criteria for membership in the Co-op;
- Provided a copy of the draft bylaws and member guidelines to OCI;
- Discussed with WFC and OCI the appropriate geographic area in which Co-op Care would operate;
- Obtained agreement from the largest health care provider in Wisconsin (Aurora) to use its provider network (with discounts) in Eastern and Southeastern Wisconsin;
- Communicated extensively with four different insurance carriers with regard to offering coverage to the members of the Co-op. (It should be noted that, under the current interpretation of the law, none of these carriers were interested in writing coverage for Co-op Care. We anticipate that this will change if this legislation passes.) and
- Expended significant additional time and resources in attempting to fulfill the goal of the Legislature to establish a pooled insurance arrangement so that farmers and small employers would have lower, stable premiums and a meaningful alternative to the current significant insurance problems they face.

In our initial meeting with OCI where we learned its interpretation that § 185.99 did not permit a Co-op to act as a large group purchaser, we indicated we would try to achieve success in spite of this interpretation. We have tried but it looks as if health benefit purchasing cooperatives will not be viable unless this interpretation changes.

Response to Criticism and Attainment of Wisconsin's Goals

Insurance carriers may be concerned that the cooperative concept will become too successful. If it does, it could cause some small employers who previously bought coverage from a particular carrier to buy it from a different carrier that has negotiated a contract with one of these cooperatives. Worse for insurance industry critics, they believe that the cooperatives will have too much flexibility and will take only "healthy" employers and employees, which will increase the number of higher cost "sick" people other carriers would be required to cover. Therefore, the carriers do not want the cooperative to succeed and they see themselves as being in competition with the cooperatives. While they may attempt to word their opposition to this bill as expressing concern for small employers, their true goal is to prevent small employers from having co-op coverage available to them and to prevent the possible negative impact the cooperatives would have on insurance carrier's bottom lines.

What we have today are small employer insurance rules that have been unresponsive to the crisis of rising health care costs for farmers and small employers. While insurance carriers in this market must guarantee that they will issue coverage to employees of small employers, the rates and renewal increases they charge are so high as to make it impossible for many small employers to afford. Cooperatives do not have free rein to pick only the best health risks, however. The legislation enabling health benefit purchasing cooperatives specifically states that a cooperative must accept and cover all members that meet its membership criteria.

The Wisconsin Legislature and Governor created health benefit purchasing cooperatives because they are needed. If the Legislature permits the cooperatives to succeed, the cooperatives can ensure a large enough group of members that can absorb large claims, but this will only occur if the cooperatives are given the tools and flexibility they need to adapt to the varying needs of their members. In fact, co-ops by their very nature must be responsive to the needs of their members. A cooperative designed to ensure the lowest possible premiums or provide very generous coverage will not succeed. Such a cooperative would not be properly balancing the needs of its various members because every member is subject to having an employee that comes in with a bad claim year. There has to be a mixture of risk within the cooperative. It is up to the cooperative to find out how best to balance that risk. Different cooperatives will be required to respond differently based on the needs of their respective members and based on the balancing of interests that the cooperative's members choose.

Isn't this what the original Legislature intended? The State of Wisconsin made a decision that more affordable health care for more people was a right and honorable thing to do. It chose to effect this goal through the establishment of a new form of entity entitled to purchase coverage on behalf of its members. As part of this arrangement, the cooperative and insurance carriers interested in contracting with it must be given the freedom to have such an arrangement play out in the marketplace. The health benefit purchasing cooperative statute is the opposite of business as usual, clearly so, because under current circumstances, farmers, small employers, and self-employed individuals are among the most distressed segment of the health care market.

Insurance carriers, however, argue that a cooperative would *unfairly* compete with the insurance carriers and would be unregulated. However, as of today, a farmer or small employer has zero ability to deal with this crisis or with the premiums offered at renewal time by the carriers. Furthermore, even if a new cooperative of small employers and farmers has slightly better bargaining power than before, the cooperative is still required to *negotiate a contract with an insurance carrier*. This is will not be competition, this will hopefully be collaboration.

As to the argument that cooperatives are not regulated, this is untrue. No fewer than six different circumstances exist that will keep a co-op focused on the goals under this Legislation:

- First, the co-op will purchase insurance coverage from a licensed insurance carrier. Licensed insurance carriers are regulated by OCI under the Wisconsin insurance code. Coverage provided to members of a co-op is no less regulated than coverage provided to the employees of a large employer. Large employers are not regulated by OCI nor should OCI regulate cooperatives.
- Second, cooperatives are run by their members and their directors. If directors are not responsive to their members' needs, the directors will be replaced.
- Third, cooperatives are required by the law to report annually to the Wisconsin Legislature regarding their success and regarding related issues associated with the cooperative. We anticipate that the Legislature will scrutinize this information or it would not have called for it.

- Fourth, cooperatives are regulated by the marketplace. Those that are not operated properly will not remain in existence long. But even if a cooperative disbands at some point, an insurance carrier has insured the claims of their members while the cooperative exists and the premiums are paid. Therefore, we cannot envision claims that are incurred but not paid.
- Fifth, the Department of Agriculture, Trade and Consumer Affairs has the ability to review any situations in which an organization such as a health benefit purchasing cooperative acts inappropriately with respect to its members. We believe that DATCP would get involved in the event the law was abused in a way that harmed members of a cooperative.
- Finally, cooperatives are under a microscope. It is unlikely that cooperatives will, without anyone knowing or complaining about it, somehow run off in some unanticipated direction and harm anybody.

Cooperatives must be given an opportunity to succeed and evolve. They are not a significant risk to anybody. If, after cooperatives become successful, evolving circumstances reveal a need for further oversight, such oversight can be crafted in a better fashion at that time than now. Therefore, while those attempting to keep cooperatives from getting off the ground may attempt to impede their progress by imposing additional layers of regulation on them, such regulation is simply not needed at this time. Unless cooperatives are given a green light, it is unlikely that any further significant efforts will cause them to blossom in light of the current impediments to success.

The new law would clarify that Co-ops are not intended to be bogged down in small employer limitations, which should not apply anyway. Remember, these rules were drafted for the protection of small employers from insurance carriers. These days, however, such rules have not protected small employers from huge unaccountable increases in premiums.

We that all of you vote in support of AB 926.

Respectfully Submitted.



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