



**WISCONSIN LEGISLATIVE COUNCIL  
AMENDMENT MEMO**

<b>2001 Assembly Bill 876</b>	<b>Assembly Amendments 1 (and A. Ams. 1 and 2 to A. Am. 1), 3, 4, 6, 10, 11, 12 and 13</b>
<b>Memo published: March 11, 2002</b>	<b>Contact: Richard Sweet, Senior Staff Attorney (266-2982)</b>

**ASSEMBLY BILL 876**

**Small Employer Catastrophic Reinsurance Program**

Assembly Bill 876 creates a Small Employer Catastrophic Reinsurance Board, which is attached for administrative purposes to the Office of the Commissioner of Insurance (OCI). The board consists of nine members--the Commissioner of Insurance, two representatives of small employers, four representatives of small employer insurers, one physician and one representative of hospitals.

The bill requires that by December 1, 2002, and every two years thereafter until December 1, 2006, every small employer insurer must select an annual threshold level of covered benefits, which may be one of the following: \$50,000, \$100,000, \$150,000 or \$250,000. A small employer insurer is an insurer that offers group health benefits to small employers of two to 50 employees. For the two calendar years that follow the small employer insurer's selection of the threshold of level of covered benefits, if the amount of benefits paid in a calendar year for any insured person under the plan exceeds the threshold level, OCI, at the direction of the board, must reimburse the small employer insurer for 80% of the amount paid by the insurer in excess of the threshold level. This provision applies in calendar years 2004 to 2008.

OCI is required to promulgate rules developed by the board, including rules that establish and periodically adjust the premium amounts that must be charged to small employers. The premiums are to be based on an actuarially sound charge per covered individual that is calculated to generate sufficient moneys, in conjunction with provider discounts, to cover the required reimbursements. OCI is also required to establish, by rule, provider discount rates for charges for covered services provided to insured persons under group health benefit plans that are issued or renewed to small employers. OCI may establish higher provider discount rates for plans that specify higher threshold levels of coverage.

### **Pilot Catastrophic Care Program**

Assembly Bill 876 creates a Small Employer Catastrophic Care Board which is attached for administrative purposes to OCI. The board consists of 11 members--the Commissioner of Insurance, four members who are small employers, four members who are small employer insurers, and two members who represent the medical professions (at least one of whom who must be a physician).

The bill establishes a pilot catastrophic care program for employees who are eligible for coverage under group health benefit plans issued to small employers (two to 50 employees). The program must operate for five years, beginning on January 1, 2003, in a region of the state that is determined by OCI by rule and that includes Winnebago County. An employee is eligible if at the time the small employer insurer applies health status underwriting factors for determining premiums under the group health benefit plan, the small employer insurer determines that the employee is eligible to enroll in the program by using guidelines established by OCI by rule. In addition, in order for an employee to be enrolled in the program, the small employer must agree to enroll the employee and agree to pay the additional premium for coverage under the program.

The bill transfers \$500,000 per year from OCI's general program operations appropriation to this program. In addition, the bill provides for assessments paid by insurers that would equal the amount of the appropriation transfer, and assessments paid by providers that, in conjunction with provider discounts, would equal the amount of the appropriation transfer. Finally, the bill provides for premiums paid by employers, which would fund the balance of the cost of the program. Assessments on insurers, assessments on providers, provider discounts, and premiums would be established by the board and promulgated by OCI by rule.

If an employee who is enrolled in this program subsequently becomes ineligible, the employee may apply for coverage under the Health Insurance Risk-Sharing Plan (HIRSP). The HIRSP board of governors is given the discretion to include such a person in HIRSP regardless of whether the person satisfies other HIRSP eligibility requirements. If the application for coverage under HIRSP is received within 63 days after termination of enrollment in this program, the employee may not be subject to any pre-existing condition exclusion under HIRSP.

Covered benefits under this program for an employee are the same as those under the group health benefit plan for which the employee is eligible.

If a small employer does not agree to enroll in this program an employee who is otherwise eligible for enrollment, the small employer insurer may apply health status underwriting factors and determine premiums for the group health benefit plan without regard to the rate restrictions established under current law.

### **Private Employer Health Care Coverage Program**

Assembly Bill 876 provides that \$850,000 is transferred from OCI's general program operations appropriation to the general fund, for purposes of making a loan to the Department of Employee Trust Funds (DETF) for the Private Employer Health Care Coverage Program. In addition, DETF may seek funding from any person for the payment of costs of designing, marketing and contracting for or providing administrative services under the program.

### **State Employee Health insurance**

Assembly Bill 876 provides that in addition to the health care coverage plans that must be offered by the state to its employees, the state must also offer all of its employees a defined contribution plan that permits employees to choose the level of premiums, deductibles, and co-payments and to select the hospital and medical benefits offered under the plan. This requirement applies only if the Group Insurance Board determines that such a defined contribution plan is available in the area of the place of employment and approves the plan.

### **Prescription Drug Purchasing**

Assembly Bill 876 requires the Department of Administration (DOA) or an entity with which DOA contracts, to provide the following assistance to a health care provider, insurer or self-insurer that acts in this state or seeks to act in conjunction with associations of health care providers, insurers or self-insurers in other states: (1) assist in negotiating rebate agreements with manufacturers or labelers of prescription drugs; and (2) assist in developing an in-state purchasing group or a multi-state purchasing group for the direct negotiation with prescription drug manufacturers or labelers of reduced charges for prescription drugs.

### **Independent Review of Insurers' Decisions**

Assembly Bill 876 modifies the current law that provides that whenever an adverse determination or experimental treatment determination is made, the insurer involved must provide notice to the insured of his or her rights to obtain an independent review of the decision. Under current law, the notice must include a current listing of independent review organizations (IROs).

The bill modifies this provision to state that an insurer is not required to provide this notice to an insured person who uses the internal grievance procedure until the insurer sends the notice of the disposition of the internal grievance if both of the following apply: (1) the health benefit plan contains a description of the independent review procedure, including an explanation of the insured person's right to bypass the internal grievance procedure under specified circumstances, how to request the review, the time within which the review must be requested, and how to obtain a current listing of IROs; and (2) the insurer includes on its explanation of benefits (EOB) form a reference to the section of the policy or certificate that contains the description of the independent review procedure.

### **AMENDMENTS**

#### **Assembly Amendment 1 (and Assembly Amendments 1 and 2 Thereto)**

Assembly Amendment 1 requires the Commissioner of Insurance to develop a uniform application form that a small employer insurer must use when a small employer applies for coverage under a group health benefit plan offered by the insurer. The form must be developed no later than the first day of the seventh month beginning after the effective date of the bill, and small employer insurers must use the form beginning no later than the first day of the 13th month beginning after the effective date of the bill.

Assembly Amendment 1 to Assembly Amendment 1 requires that the commissioner revise the uniform application form at least every two years.

Assembly Amendment 2 to Assembly Amendment 1 specifies that the uniform application form is a uniform *employee* application form. In addition, the amendment to the amendment requires that the Commissioner of Insurance develop the form by rule and that the commissioner do so in consultation with the Life and Disability Advisory Council established by the commissioner.

### **Assembly Amendment 3**

Assembly Amendment 3 provides that if the federal government has not developed, by July 1, 2003, a uniform claim processing form that must be used by all health care providers and insurers, the Commissioner of Insurance must develop a uniform claim processing form for that purpose. The commissioner must develop the form no later than December 31, 2003, and every health care provider and insurer must use the form no later than July 1, 2004.

### **Assembly Amendment 4**

Assembly Amendment 4 makes the following changes to the bill:

1. The amendment modifies the membership of the Small Employer Catastrophic Reinsurance Board created by the bill. The amendment deletes references to specific organizations that nominate members and adds as members one nurse who serves in an executive position and one additional hospital. Of the two members representing hospitals on the board, one must represent a rural hospital and one must represent an urban hospital.

2. The amendment modifies the membership of the Small Employer Catastrophic Care Board created by the bill. The amendment reduces from four to three the number of small employer insurer representatives on the board and increases from two to three the number of health care providers represented on the board. Of the health care providers on the board, at least one must be a physician, and at least one must represent hospitals.

3. The amendment specifies that participation by small employer insurers in the reinsurance program created by the bill is voluntary on the part of insurers.

4. The amendment specifies that the provider discount rates for the reinsurance program and the pilot catastrophic care program created by the bill are to be determined by the respective boards for the two programs and promulgated by rule by the Commissioner of Insurance. Under the bill, the commissioner establishes the provider discount rates by rule, but the rates are not determined by the respective boards.

5. The amendment specifies that the provider discount rates for the reinsurance program created by the bill apply only to services for which the Commissioner of Insurance provides reimbursement under the program after the threshold level of covered benefits has been reached.

6. The amendment corrects typographical errors in the bill.

### **Assembly Amendment 6**

Assembly Amendment 6 deletes from the bill the provision that states that if a small employer does not agree to enroll in the pilot catastrophic care program an employee who is otherwise eligible for enrollment, the small employer insurer may apply health status underwriting factors and determine

premiums for the group health benefit plan without regard to the rate restrictions established under current law.

**Assembly Amendment 10**

Assembly Amendment 10 deletes from the bill the requirement that the Commissioner of Insurance, in designating a region of the state in which the pilot catastrophic care program will operate, must include Winnebago County.

**Assembly Amendment 11**

Assembly Amendment 11 modifies the provisions of the bill dealing with independent review of insurers' decisions. The amendment deletes the phrase "who uses the internal grievance procedure under s. 632.83" when referring to persons to whom the insurer is not required to provide notice of independent review.

In addition, the amendment states that an insurer must include on its EOB form a statement that the insured person may have a right to an independent review after the internal grievance process and that an insured person may be entitled to an expedited independent review with respect to an urgent matter. In addition to including a reference to the section of the policy or certificate that contains the description of the independent review procedure, the statement must provide a toll-free telephone number and Web site, if appropriate, where consumers may obtain additional information regarding the internal grievance and independent review processes. For any adverse determination or experimental treatment determination for which an EOB is not provided, the insurer must provide to the insured person a notice that contains this information.

**Assembly Amendment 12**

Assembly Amendment 12 makes changes in the provisions of the bill that relate to enrollment in HIRSP after an employee is no longer participating in the pilot catastrophic care program. The amendment modifies the provision of the bill that allows the HIRSP board of governors to enroll in HIRSP a person who does not meet the general HIRSP eligibility requirements and who becomes ineligible for the pilot catastrophic care program; the amendment limits this to a situation where the small employer terminates coverage under the group health benefit plan and does not provide coverage for its employees under another health benefit plan. In addition, such a person must satisfy the general HIRSP eligibility requirements in order to remain in HIRSP after the pilot catastrophic care program is no longer in operation.

The amendment also provides that if a small employer of an employee who is enrolled in the pilot catastrophic care program terminates coverage under the group health benefit plan and provides coverage for its employees under a different group health benefit plan, the employee is no longer eligible for coverage under the pilot catastrophic care program unless the employee meets the eligibility requirements for the program with respect to the new group health benefit plan.

**Assembly Amendment 13**

Assembly Amendment 13 makes the following changes to the bill:

1. The amendment specifies that participation by small employer insurers in the reinsurance program created by the bill is voluntary on the part of insurers.

2. The amendment states that a small employer insurer that participates in the reinsurance program may limit the covered benefits to which the selected threshold applies to: (a) costs of one or more types of health care facilities; (b) costs of one or more types of health care professionals; or (c) any combination of those costs.

3. The amendment specifies that the provider discount rates for the reinsurance program created by the bill are to be determined by the Small Employer Catastrophic Reinsurance Board and promulgated by rule by the Commissioner of Insurance. Under the bill, the commissioner establishes the provider discount rates by rule, but the rates are not determined by the board. In addition, the amendment states that the rule must provide that a provider's charges for which a small employer insurer seeks reimbursement must be discounted in the same proportion that the provider's charges bear to the total amount of provider charges for which reimbursement is sought. The amendment also specifies that the provider discount rates for the reinsurance program created by the bill apply only to services for which the Commissioner of Insurance provides reimbursement under the program after the threshold level of covered benefits has been reached.

4. The amendment deletes health care provider assessments as a source of funding for the pilot catastrophic care program established under the bill.

**LEGISLATIVE HISTORY**

On March 4, 2002, the Assembly Committee on Health recommended adoption of Assembly Amendment 1 to Assembly Amendment 1, and adoption of Assembly Amendment 1, both on votes of Ayes, 17; Noes, 0; adoption of Assembly Amendment 2 on a vote of Ayes, 14; Noes, 3; adoption of Assembly Amendment 3 on a vote of Ayes, 14; Noes, 3; adoption of Assembly Amendment 4 on a vote of Ayes, 12; Noes, 5; and passage of the bill, as amended, on a vote of Ayes, 12; Noes, 5.

On March 7, 2002, the Assembly adopted Assembly Amendments 1 (and Assembly Amendments 1 and 2 thereto), 3, 4, 6, 10, 11, 12, and 13; and passed the bill, as amended; all on voice votes.

RNS:all:rv;ksm;jal