

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

To create Ins 9.25 (8) and 9.27 (4), Wis. Adm. Code, relating to preferred provider plan applicability dates and affecting small business plan limited exemption.

FINDING OF EMERGENCY

The Commissioner of Insurance finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. Facts constituting the emergency are as follows:

The rule identifies a limited group of policies issued by licensed insurers offering preferred provider plans that do not comply with newly promulgated ch. Ins 9, Wis. Adm. Code. In compliance with the request of the Joint Committee for the Review of Administrative Rules (JCRAR), this rule must be issued as an emergency rule and permanent rule. It is not possible to complete the permanent rule process prior to the effective date of the chapter, January 1, 2007, therefore this emergency rule is necessary.

The commissioner has filed a notice of scope for drafting the permanent rule corresponding to this emergency rule and will continue with the permanent rule making process. It is intended that one rule hearing can be held to comply with both the emergency rule and permanent rule requirements.

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

1. Statutes interpreted:

Sections 600.01, 628.34 (12) and 632.85, and ch. 609, Stats.

2. Statutory authority:

Sections 600.01(2), 601.41(3), 601.42, 609.20, 609.38 and 628.34(12), Stats.

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

The Commissioner of Insurance is authorized to promulgate rules under ss. 628.34 (12), 601.41 and 609.20, Stats. Section 609.20, Stats., permits the Commissioner to promulgate rules relating to preferred provider plans and defined network plans in order to ensure enrollee access to health care services and ensure continuity of health

care while recognizing the differences between preferred provider plans and defined network plans.

4. Related Statutes or rules:

There are no related statutes or rules.

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

The proposed rule clarifies the applicability dates for ss. Ins 9.25 and 9.27, Wis. Adm. Code, and specifies that insurers offering preferred provider plans that are issued prior to January 1, 2007 and periodically renewed after December 31, 2006 and that would otherwise be affected by ss. Ins 9.25 and 9.27, Wis. Adm. Code, will be grandfathered from compliance with those new requirements. The requirements of ss. Ins 9.25 and 9.27, Wis. Adm. Code, will be applicable to an insurer offering a preferred provider plan on or after January 1, 2007.

6. Summary of and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

There is no federal regulation that addresses the activities regulated by the proposed rule.

7. Comparison of similar rules in adjacent states as found by OCI:

Illinois: None

Iowa: None

Michigan: None

Minnesota: None

8. A summary of the factual data and analytical methodologies that OCI used in support of the proposed rule and how any related findings support the regulatory approach chosen for the proposed rule:

The information OCI used in support of this proposed rule includes the information described in the analysis of Clearinghouse Rule 05-059. However more specifically it includes the information provided by representatives of the insurance industry and preferred provider organizations to JCRAR and OCI concerning the topic addressed by the proposed rule.

9. Any analysis and supporting documentation that OCI used in support of OCI's determination of the rule's effect on small businesses under s. 227.114:

This rule does not impose any additional requirements on small businesses. Its effect will be to limit requirements otherwise applied by rules currently in effect, including Clearinghouse rule 05-059. This is apparent from the proposed rule itself and the summary.

10. If these changes may have a significant fiscal effect on the private sector, the anticipated costs that will be incurred by private sector in complying with the rule:

This rule will not have a significant fiscal effect on the private sector. Its effect will be to limit requirements otherwise applied by rules currently in effect, including Clearinghouse rule 05-059.

11. A description of the Effect on Small Business:

This rule will have an effect on small businesses only by limiting requirements otherwise applied by rules currently in effect, including Clearinghouse rule 05-059.

12. Agency contact person:

A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the WEB sites at: <http://oci.wi.gov/ocirules.htm>

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

Phone: (608) 264-8110

Email: Inger.Williams@OCI.State.WI.US

Address: 125 South Webster St – 2nd Floor Madison WI 53702

Mail: PO Box 7873, Madison WI 53707-7873

13. Place where comments are to be submitted and deadline for submission:

The deadline for submitting comments is 4:00 p.m. on the 14th day after the date for the hearing stated in the Notice of Hearing.

Mailing address:

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Legal Unit - OCI Rule Comment for Rule Ins 9258

Office of the Commissioner of Insurance

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WEB Site: <http://oci.wi.gov/ocirules.htm>

The proposed rule changes are:

SECTION 1. Section Ins 9.25 (8) is created to read:

Ins 9.25 (8) This section first applies to an insurer offering a preferred provider plan beginning on January 1, 2007 This section does not apply to an insurer with respect to a preferred provider plan issued prior to January 1, 2007 and periodically renewed after December 31, 2006.

SECTION 2. Section Ins 9.27 (4) is created to read:

Ins 9.27 (4) This section first applies to an insurer offering a preferred provider plan beginning on January 1, 2007. This section does not apply to an insurer with

respect to a preferred provider plan issued prior to January 1, 2007 and periodically renewed after December 31, 2006.

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

SECTION 4. These emergency rule changes will take effect on September 1, 2006, as provided in s. 227.24(1)(c), Stats.

Dated at Madison, Wisconsin, this 28th day of August, 2006.

Clare Stapleton Concord
Deputy Commissioner

Office of the Commissioner of Insurance
Private Sector Fiscal Analysis

for Rule Sections Ins 9.25 (8) and 9.27 (4), Wis. Adm. Code, relating to preferred provider plan applicability dates and affecting small business

This rule change will have no significant effect on the private sector regulated by OCI.

FISCAL ESTIMATE WORKSHEET

Detailed Estimate of Annual Fiscal Effect

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB Number	Amendment No. if Applicable
Bill Number	Administrative Rule Number INS 9.25 and 9.27

Subject
preferred provider plan limited exemption

One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):
None

Annualized Costs:	Annualized Fiscal impact on State funds from:	
A. State Costs by Category	Increased Costs	Decreased Costs
State Operations - Salaries and Fringes	\$ 0	\$ -0
(FTE Position Changes)	(0 FTE)	(-0 FTE)
State Operations - Other Costs	0	-0
Local Assistance	0	-0
Aids to Individuals or Organizations	0	-0
TOTAL State Costs by Category	\$ 0	\$ -0
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR	\$ 0	\$ -0
FED	0	-0
PRO/PRS	0	-0
SEG/SEG-S	0	-0
C. State Revenues	Increased Rev.	Decreased Rev.
GPR Taxes <small>Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</small>	\$ 0	\$ -0
GPR Earned	0	-0
FED	0	-0
PRO/PRS	0	-0
SEG/SEG-S	0	-0
TOTAL State Revenues	\$ 0 None	\$ -0 None

NET ANNUALIZED FISCAL IMPACT

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

Prepared by: Julie E. Walsh	Telephone No. (608) 264-8101	Agency Insurance
Authorized Signature:	Telephone No.	Date (mm/dd/ccyy)

