



# State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

*Jim Doyle, Governor*  
*Jorge Gomez, Commissioner*

*Wisconsin.gov*

125 South Webster Street • P.O. Box 7873  
Madison, Wisconsin 53707-7873  
Phone: (608) 266-3585 • Fax: (608) 266-9935  
E-Mail: [information@oci.state.wi.us](mailto:information@oci.state.wi.us)  
Web Address: [oci.wi.gov](http://oci.wi.gov)

July 31, 2003

Senator Mary Panzer  
Senate Majority Leader  
Room 211 South, State Capitol  
P.O. Box 7882  
Madison, WI 53707-7882

Representative John Gard  
Speaker of the Assembly  
Room 211 West, State Capitol  
P.O. Box 8952  
Madison, WI 53708

## **RE: Social and financial impact report – Assembly Bill 364**

Dear Senator Panzer and Representative Gard:

AB 364 requires health care plans that provide coverage of prescription medication to provide coverage of a drug, and services related to administering the drug that is prescribed by a physician for treating cancer. Conditions for coverage include federal Food and Drug Administration approval for treating at least one indication as defined in the bill and recognition as an effective treatment for the type of cancer for which it is prescribed by nationally recognized authoritative bodies.

### **Current Wisconsin Law**

Wisconsin does not currently require the coverage as outlined in AB 364.

### **Proposed Coverage Changes**

AB 364 would require individual and group health insurance policies and plans, in addition to plans offered by the state or a municipality or school district that provide coverage for prescription medications to cover medications proscribed by a physician for the treatment of cancer providing that the medication is FDA approved and recognized as an effective cancer treatment by the American Hospital Formulary Service Drug Information, the official United States Pharmacopoeia Drug Information or published in at least one article published in a journal as explained in the bill.

### **Impact of Mandates**

Wisconsin has long benefited from a healthy and competitive insurance market. The state currently has the lowest uninsured rate in the country, according to the U.S. Census Bureau. Exempting coverage of insulin and other prescription medication from the requirement that those expenses be subject to the same exclusions, limitations, deductibles, and coinsurance provisions of the policy could have an adverse effect on our current health insurance market. Traditionally, as the number of benefit mandates increase the cost of coverage rises, and as costs rise, fewer and fewer individuals and businesses can afford to insure.

It is difficult to project the actual impact of any mandate because of the factors involved. The structure of a benefit will affect, either positively or negatively, the level of consumer demand or utilization of service. For example, a limited benefit may lead consumers to decide not to seek treatment that is not vitally necessary. On the other hand, an overly generous benefit could lead to over utilization for a specific treatment simply because payment is available. Taking these two factors into account, OCI's survey and analysis projects the following impacts of this mandate.

- **It is not determinable what the total health care costs would be attributable to the AB 364. There is not sufficient data to determine if such medication coverage would replace existing treatments; would be in addition to existing coverage or what portion of the population that is afflicted with cancer would benefit from the passage of AB 364**
- **The increase in costs could increase the disparity between insured plans and non-state regulated self-insured plans, decreasing the effectiveness and protections afforded by state regulation.**
- **The increase in costs, coupled with double-digit annual increases in health insurance premiums, could lead employers to discontinue prescription drug coverage in order to preserve other health benefits for their employees.**

### **Social Impact Factors**

The Department of Health and Family Services Family Health Survey, 2001, estimates that 227,000 adults in Wisconsin have been diagnosed with cancer in their lifetimes. 116,000 of those diagnosed are over the age of 65. There is no information regarding individuals in Wisconsin who are *currently* diagnosed with cancer.

There are approximately 116,000 residents over age 65 in Wisconsin who have been diagnosed with cancer (DHFS). Medicare currently covers off-label prescriptions for the treatment of cancer so it is presumed that these individuals would not benefit from AB 364 as they already receive the benefit from Medicare.

Fully insured health insurance products cover approximately 2.5 million state residents. However, individuals who are members of groups whose benefit plans are self-funded are exempt from state regulation by the Employee Retirement and Income Security Act of 1974 (ERISA) and will not be affected by the mandates.

Because self-funded plans do not have to offer state-mandated benefits, this option offers self-funded plans the opportunity to save as much as 10% to 15% on premium costs, or choose which benefits to offer. Anytime mandates are added to insurance products, it will increase the propensity of employer groups to switch to self-funding.

Self-funding of health benefits has historically been used mostly by larger employers, however; over the last decade, the number of medium employers shifting from fully insured to self-funded products has increased. Larger employers are able to spread these costs over a larger base when self-funding and typically do not experience the same impact. Increasing the disparity between insured and self-funded plans costs could increase the incidence of such switching.

OCI does not collect the data to enable a determination of the number of health plans currently covering off-label medication for the treatment of cancer.

The coverage of off-label drugs for the treatment of cancer in health insurance policies would not be mandated by the AB 364. Rather, the coverage would be included if prescription drug coverage is included in the health plan. The optional nature of this mandate could pose a problem for employees, especially employees of small employers. Employers may choose to stop offering prescription drug coverage in order to preserve other health care benefits if the cost of health insurance continues to increase at its current rate. The Society for Human Resource Management's 2003 Benefits Survey revealed that 25% of companies reduced other optional employee benefits to offset insurance premium increases. An increase in the cost of health insurance could also affect the level of uninsured in Wisconsin. A survey conducted by the National Federation of Independent Business/Wisconsin indicated that 36.8% of their membership no longer offers health insurance for their employees in 2003, an increase of 13% over the previous year, which NFIB attributes to the rising cost of health care.

### **Financial Impact Factors**

There is little data concerning the cost of off-label prescription drug coverage for the treatment of cancer patients. It is difficult to ascertain if the cost of such coverage would be a replacement cost for other medications or other treatment, or if the costs would be a marginal cost increase that is in addition to ongoing treatment a patient is receiving. Further complicating the estimate is the individualized nature of cancer treatments, where the type of cancer and the patient's responsiveness to one treatment over another can vary considerably. OCI does not collect data regarding the current level of coverage for the type of benefit as described in AB 364, or the number of covered lives with the benefit. Cost data that does exist includes:

- In 1993, the U.S. Congress passed a law requiring Medicare to cover off-label medications for treatment of cancer patients. The Department of Health and Human Services has not indicated any significant cost increases that resulted from this change.
- In 1998, the Minnesota Department of Employee Relations estimated that a similar bill would increase rates to the State Employee Group Insurance Plan on average by 0.1% to 0.5%.
- In 2000, California passed a more comprehensive mandate that prohibited a health plan from limiting or excluding coverage for off label drugs prescribed for the treatment of any disabling or chronic condition. The California Public Employee Retirement System (CalPERS) was unable to provide an estimate of the financial impact of that legislation on its health care costs.
- An actuarial analysis is not required for this social and financial impact statement and OCI does not have an actuary on staff to perform such an analysis. There is a significant lack of cost information to warrant further study. An actuarial analysis would yield reliable information.

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It is OCI's opinion that there is not enough existing cost information to relay a credible and reliable financial impact estimate or it would yield an estimate too broad to be useful. The legislature may wish to conduct an actuarial analysis in order to achieve credible cost estimates.

**Impact on the Uninsured**

According to Congressional Budget Office estimates - for every 1% increase in premiums, approximately 200,000 persons nationally could become uninsured. While it would be difficult to predict the number of persons affected, it is reasonable to assume that an increase in premium costs to small and medium-sized employers certainly will have a negative impact on the number of people insured in Wisconsin.

Please contact Eileen Mallow at 266-7843 or Jim Guidry at 264-6239 if you have any questions regarding this report.

Sincerely,

Jorge Gomez  
Commissioner