



# State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

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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 362**

Dear Senator Panzer and Representative Gard:

AB 362 proposes changes to the current statutory requirement for coverage of prescription drug medication used in the treatment of diabetes, referred to as the Diabetes mandate. Specifically AB 362 would prohibit health plans from applying cost sharing provisions, such as co-payments, deductibles, and co-insurance, of their plans to prescription medications used in the treatment of diabetes. As required in s. 601.423, Wis. Stats., I am submitting a social and financial report on the proposed health insurance mandate.

### **Current Wisconsin Law**

Wisconsin's current law requires every disability policy that provides coverage for expenses incurred for treatment of diabetes to provide coverage for expenses incurred by the installation and use of an insulin infusion pump, coverage for all other equipment and supplies, including insulin or any other prescription medication used in the treatment of diabetes and coverage of diabetic self-management education programs. Coverage required under this subsection shall be subject to the same exclusions, limitations, deductibles, and coinsurance provisions of the policy as other covered expenses; except that insulin infusion pump coverage may be limited to the purchase of one pump per year and the insurer may require the insured to use a pump for 30 days before purchase.

### **Proposed Coverage Changes**

AB 362 would create an exception for the 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 as other covered expenses. In other words, AB 362 would mandate first dollar coverage for covered expenses related to treatment of diabetes.

## 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.

- **The mandate could increase health care expenditures by as much as \$46.8 million to \$88.4. That represents 0.66% to 1.2% of premiums charged by commercial health insurers in Wisconsin. Since the mandate does not require coverage, but only defines the coverage if it is offered the actual increase will likely be less and is wholly determined by the employer's decision to cover.**
- **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

According to Centers for Disease Control and Prevention, there were 231,000 adults diagnosed with diabetes in Wisconsin in 2001. The Department of Health and Family Services estimates that an additional 112,000 adults in Wisconsin have diabetes but have not been diagnosed with the disease. Approximately 150,000 children nationwide have diabetes.

There are approximately 101,000 residents over age 65 in Wisconsin diagnosed with diabetes in 2001 (CDC). While Medicare supplement policies subject prescription medications to an annual deductible of \$6,250, the coverage of all prescription medications for seniors is the subject of federal legislative activity and the federal Medicare program will begin paying a portion of the prescription medications for seniors beginning in 2006 should the legislation pass.

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.

Diabetes prescription medications are covered by Medical Assistance and by SeniorCare provided the medications are FDA approved. Prescription drugs are not currently covered under Medicare. Medicare recipients can purchase prescription drug coverage through a rider attached to a Medicare Supplement policy or will have prescription drug coverage included in a Medicare + Choice plan. Medicare + Choice plans are not subject to health insurance mandates in Wisconsin and wouldn't be affected by AB 362. Many commercial insurers provide coverage for diabetic prescription medications as a part of the prescription drug benefit included in their health plan. OCI does not collect the data to enable a determination of the number of diabetic participants covered under commercial insurance policies or covered by public health programs. An OCI survey of certain mandated benefits in health revealed that in 2001 the insurers surveyed spent \$22,479,393 in 2001 to comply with the existing diabetic mandate. The OCI survey represented over 1.7 million covered lives in Wisconsin or 70% of the commercially insured lives in Wisconsin.

Under the current mandate diabetic coverage, if included in the health plan, must include specific items and treatments as identified in the statute. Increasing coverage for prescription drugs under this mandate could pose a problem for employees, especially employees of small employers. Employers may decide to stop offering a prescription drug benefit in order to preserve other health care benefits. 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, and increase of 13% over the previous year, which NFIB attributes to the rising cost of health care.

### **Financial Impact Factors**

In evaluating the costs of the coverage proposed in AB 362, OCI reviewed data from the CDC, the Society for Human Resource Management, the Department of Health and Family Services, the Center on an Aging Society, the 1998 Medical Expenditure Panel Survey and the American Diabetes Association. Additionally, data from the OCI 2001 Study of Certain Mandated Benefits in Insurance Policies was used in preparing this statement.

- Studies of the prescription drug costs related to the treatment of diabetes range from \$900 to \$1,380 per individual annually with the average out of pocket cost being \$680 per year. The average out of pocket costs nationwide for insured prescription drug benefits is 40% of prescription expenditures. Fully 98% of people with diabetes

use prescription drugs. However, OCI is unable to determine if the amounts attributable to diabetic out of pocket costs are for disease specific prescriptions or also include diabetes related conditions. Adults with diabetes on average take roughly 4 times as many prescriptions and spend about 4 times as much on prescriptions as do adults without diabetes. If diabetes related prescriptions are included in the estimate, the financial effect of the mandate would be lower, assuming those costs are not included in the mandate.

- While the DHFS makes an estimate of the number of undiagnosed people with diabetes, it is not determinable if they are receiving treatment that would be covered under AB 362. Those individuals were not included in the cost determination of AB 362.

### **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