State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

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August 7, 2001

The Honorable Chuck Chvala
State Senator
Senate Majority Leader
Room 211 South, State Capitol
P.O. Box 7882
Madison, WI 53707-7882

The Honorable Scott Jensen
State Representative
Speaker of the Assembly
Room 211 West, State Capitol
P.O. Box 8952
Madison, WI 53708

RE: Social and Financial Impact Report – Senate Bill 128/LRB-1076/2

Dear Senator Chvala and Representative Jensen:

SB 128 would require all group and individual health insurance policies including managed care plans; health insurance plans offered by the state and self-insured plans of school districts and local governments that provide coverage for outpatient health care services, preventive treatments and services; and prescription drug or device coverage to provide coverage for contraceptive articles, services and drugs used to prevent a pregnancy from occurring.

Current Wisconsin Law

Wisconsin law does not currently mandate coverage of contraceptive articles and services.

Impact of Mandates

Wisconsin has long benefited from a healthy and competitive insurance market. The State historically has among the lowest uninsured rates in the country, according to the U.S. Census Bureau. However, the State has also experienced many of the cost pressures on premiums seen recently in other states. Increasing the number of mandated coverages could have an adverse effect on our current health insurance market by potentially increasing health insurance premiums. Traditionally, as the number of benefit mandates increase, the cost of coverage rises. And, as costs of coverage rise, fewer individuals and businesses can afford to insure.

It is difficult to project the actual impact of any mandate because of the many 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 overutilization for a specific treatment simply because payment is available. Taking these two factors into account, OCI's survey and analysis projects the following potential impact of this mandate.

- **The mandate will add approximately $4 million per year to the costs for providing group health insurance to consumers.**

- **The increase in costs will increase the disparity between insured plans and non-state regulated self-insured plans, decreasing the effectiveness and protections afforded by state regulation.**

Social Impact Factors

Fully insured group health insurance products cover approximately 2.5 million state residents. This mandate will expand coverage for those individuals. 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 that result increased premium costs for policyholders, there will be an increase in the propensity of employer groups to switch to self-funding.

Self-funding of health benefits has historically been used mostly by larger employers, however; in the United States over the last decade, the number of medium-sized employers shifting from fully insured to self-funded products has increased.

Protections passed in 1991 for small employer groups were aimed at protecting small employers from the tremendous adverse effects on costs in the event a group has unhealthy members. By switching to self-funding, small and medium-sized employers have, in many cases, unknowingly foregone the protections available to them and their employees under State regulation, a fact they do not realize until it is too late.

Increasing the disparity between insured and self-funded plans costs will only increase the incidence of such switching. The potential of exacerbating this disparity through mandated contraceptive coverage is very possible.

According to data from the Alan Guttmacher Institute (AGI), 90% of sexually active women of childbearing years (15-44) are using some form of contraceptive article or service. This roughly compares to data from the National Center for Health Statistics (1995) that shows 64% of all women of child bearing years are using some form of contraception and 36% are not using contraception. For those women not using contraception 17% (of the total women of childbearing years) are not sexually active, 5% are sexually active but do not use contraceptives, and 9% are either pregnant, including post partum, or seeking to become pregnant. The remaining women are identified as sterile for non-contraceptive reasons (5%).

It would appear from this data that 90% of women of childbearing years have access to and have exercised a choice to use (or not) some form of contraception. OCI is unable to determine from the data if the 5% of women who do not use contraceptives do so because of lack of access or conscious choice. Also, OCI is unable to determine the number of women who choose to be sexually inactive have made the choice due to the lack of contraceptive access.

In late 2000, OCI surveyed insurers to determine the availability of contraceptive coverage in their health plans. The plans surveyed represented the top 42 most popular health plans, HMO, PPO, POS and Indemnity, both group and individual, representing in excess of 300,000 covered lives. The results of that survey indicated:

- 22% of health plans cover all FDA approved prescription contraceptives
- 78% of health plans cover more than one FDA approved contraceptive prescription or service
- 81% of health plans cover at least one FDA approved contraceptive prescription or service
- 61% of health plans cover contraceptive counseling

This bill does not cover enrollees in self-funded private sector health insurance plans. OCI is not able to determine the number of employees who are covered under an employer sponsored self-funded health insurance plan. However, according to the Employee Benefits Research Institute (EBRI), 39% of the individuals enrolled non-public health insurance plans are enrolled in self-funded plans. According to the Wisconsin Health Insurance Coverage 1999 Report, 76% of Wisconsin residents are enrolled in private (non-public) health insurance plans, including self funded plans. By extrapolating the EBRI and Wisconsin Health Insurance Coverage Report estimates, this bill, if enacted, would not cover approximately 1.5 million residents of Wisconsin who are enrolled in self-funded health plans.

Financial Impact Factors

In estimating the costs of the coverage proposed in SB 128, OCI was provided with data from the Wisconsin Association of Health Plans (WAHP). WAHP surveyed its membership to obtain cost data for contraceptive articles and services. Only cost data for FDA approved contraceptive prescriptions and services were used in the financial estimate. It should also be noted that consultation data was not obtained due to the differences in the accounting for office visits as opposed to specific treatments. Such consulting visits would increase the estimated costs. Nor are costs for other items associated with contraceptive treatments (i.e. anesthetic charges for voluntary sterilization, supplies, etc.) included, which also receive different accounting treatment. Such other cost data related to contraceptive services couldn't be easily extracted. OCI compared these estimates to health cost figures cited by AGI and compiled by Buck Consultants for AGI, which estimated the total cost of coverage to be $21.40 annually per employee.

- **The total cost of a contraceptive articles and services mandate is estimated to cost between $26 and $52.5 million annually and is estimated to cost an additional $4 million in insurer costs over current costs. As a percentage of insurer costs, this mandate would cost between .5 and 1 percent of insurer costs based on 1999 premium data and would increase costs by approximately .08 percent**

The above mentioned increase is based on the following assumptions:

- Average annual unit cost is based on percent distribution and method of contraceptive status and use by women ages 15-44 as determined by the National Center for Health Statistics as applied to the private market population of Wisconsin in 1999. Actual distribution of contraceptive methods by women may differ in Wisconsin.

- Estimates of cost increases are based on Department of Employee Trust Funds (ETF) estimates of the increased costs to the health insurance plans offered by the Group Insurance Board (GIB). GIB health plans reasonably reflect private health insurance plans offered by employers in Wisconsin in that the majority of them offer some choice in contraceptive coverage, but not all FDA approved articles and services. ETF estimates their increased costs to be $.14 per member per month. However since health plans do vary in the number of contraceptive articles and services they offer, some insurers will experience greater increases and others will experience less. Those insurers that do not cover any contraceptive articles and services will experience the greatest increases.

- According to the OCI survey of insurers, group health insurance plans are more likely than individual plans to cover contraceptive articles and services than individual health plans. Individual plans will experience greater cost increases than group health insurance plans. OCI does not have information specific to coverage by small employer groups of contraceptive articles and services.

- This mandate is not likely to increase utilization, since 90% of women of childbearing years already use contraceptives, but an increase in available choices could cause some women to change contraceptive method, which could cause an increase in administrative costs to providers and insurers. It is not possible to estimate the fiscal impact of such a change.

- Generally, health insurance plans that do not cover any prescription drug coverage also do not cover prescription contraceptives. This bill would require those insurers to begin coverage of prescription contraceptives. Those insurers would see a greater administrative burden caused by the provision of benefits not previously offered under systems that might not be designed to efficiently process prescription drug coverage.

Impact on the Uninsured

According to Congressional Budget Office estimates - for every 1% increase in premiums, approximately 200,000 persons nationally 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,

Connie L. O'Connell
Commissioner

Cc: Eileen Mallow
Jim Guidry