

/* WISCONSIN STATUTES feature insurance premium subsidies; drug reimbursement; employment discrimination; tests as evidence; and health education.*/*

SUBSIDY OF HEALTH INSURANCE PREMIUMS FOR PERSONS WITH HIV INFECTION

HSS 138.01 Authority and purpose. This chapter is promulgated pursuant to 55. 146.88 and 146.882, Stats., for the purpose of enabling the department to administer a program to subsidize health insurance premium costs for coverage under a group health plan for an individual who takes unpaid medical leave or for continuation coverage available to an individual who is unable to continue his or her employment or must reduce his or her hours because of an illness or medical condition arising from or related to HIV infection.

HSS 138.02 Applicability. This chapter applies to any individual with HIV infection who is eligible to participate in the subsidy program under this chapter, to the individual's employer, if the individual is currently employed, or former employer, if the individual is no longer employed, to the individual's insurer and to the department.

HSS 138.03 Definitions. In this chapter:

(1) "Continuation coverage" means coverage under a group health plan that is available under 5. 632.897, Stats., 29 USC 1161 to 1168 or 42 USC 300bb-1 to 300bb-8 to a group member upon termination of the group member's employment or a reduction in his or her hours.

(2) "Department" means the Wisconsin department of health and social services.

(3) "Employee" means:

(a) An active or retired wage, commissioned or salaried earner whose services are or were utilized by the employer who is the group policyholder or sponsor of the group health plan and who provided health care coverage to the employee by virtue of the individual's employment; or

(b) A member of a union, trust or association where the union, trust or association is the group policyholder and where the member is entitled to health care coverage by virtue of the individual's membership in the union, trust or association.

(4) "Employer" means a group policyholder subject to 5. 632.897, Stats., or the sponsor of a group health plan subject to 29 USC 1161 to 1168 or 42 USC 300bb-1 to 300bb-8, including a controlled group, partnership, or other arrangement under common control, an affiliated service group and employee leasing arrangements.

(5) "Family income" means the gross earnings of an employe and his or her spouse, including wages and salary, net income from non-farm self-employment, net income from farm self-employment, as well as unearned income including social security, dividends, interest income, income from estates or trusts, net rental income or royalties, public assistance, pensions or annuities, unemployment compensation, worker's compensation, maintenance or alimony, child support, family support and veterans' pensions,

(6) "Family size" means the number of individuals in a group of persons related by birth, marriage or adoption who reside together.

(7) "Federal poverty line" means the poverty income threshold by size of family unit for the current calendar year published as part of the poverty income guidelines by the U.S. department of health and human services in the federal register, pursuant to 42 USC 9902 (2).

(8) "Group health plan" means an insurance policy or a partially or wholly uninsured plan or program that provides hospital, medical or other health care coverage to members of a group.

(9) "HIV" means any strain of human immunodeficiency virus, which causes acquired immunodeficiency syndrome.

(10) "HIV infection" means the pathological state produced by a human body in response to the presence of HIV.

(11) "Insurer" has the meaning prescribed ins. 600.03 (27), Stats.

(12) "Physician" has the meaning prescribed in s.448.01(5), namely, an individual possessing the degree of doctor of medicine or doctor of osteopathy or an equivalent degree as determined by the medical examining board, and holding a license granted by the medical examining board.

(13) "Residence" means the concurrence of physical presence with intent to remain in a place of fixed habitation, with physical presence being prima facie evidence of intent to remain.

(14) "Substantial reduction in covered health care services" means benefit levels, out-of-pocket expenses, limitations or premiums that are not generally comparable to those of the group policy under which the person was insured when he or she became eligible for continuation coverage and are therefore less advantageous to the person than those of the group policy.

(15) "Unpaid medical leave" means an unpaid leave from employment for an employe who has a serious health condition, as defined in 5. 103.10 (1) (g), Stats., which makes the employe unable to perform his or her employment duties.

HSS 138.04 Participation in the health insurance premium subsidy program. (1) ELIGIBILITY. In order to participate in the health insurance premium subsidy program, a person shall satisfy all of

the following requirements which pertain to the type of subsidy the person is seeking:

- (a) Have residence in this state;
- (b) Have a family income that does not exceed 200% of the federal poverty line for a family the size of the individual's family;
- (c) Have an HIV infection;
- (d) Except for the right to continued group coverage under s. 632.897, Stats., 29 USC 1161 to 1168 or 42 USC 300bb-1 to 300bb-8, have lost eligibility for group health coverage because employment is terminated or hours reduced due to an illness or medical condition arising from or related to the individual's HIV infection if the person is seeking a subsidy for continuation coverage premiums; and
- (e) Is on unpaid medical leave if the person is seeking a subsidy for group health plan premiums while on unpaid medical leave or is eligible for continuation coverage if the person is seeking a subsidy for continuation coverage premiums;
- (f) Is not covered by a group health plan other than any of the following:
 - 1. The group health plan under which the individual is covered while on unpaid medical leave or under which the individual is eligible for continuation coverage; or
 - 2. A group health plan that offers a substantial reduction in covered health care services from the group health plan under subd. 1;
- (g) Is not covered by an individual health insurance policy other than an individual health insurance policy that offers a substantial reduction in covered health care services from the group health plan under par. (f)
- (h) Is not eligible for medicare under 42 USC 1395 to 1395zz; and
- (i) Does not have escrowed under s. 103.10 (9) (c), Stats., an amount sufficient to pay the individual's required contribution to his or her group health plan premium payments during an unpaid medical leave if the individual is seeking a subsidy for these payments.

(2) APPLICATION PROCESS. (a) Any individual who satisfies the eligibility conditions under sub. (1) and wants to participate in the health insurance premium subsidy program shall complete and submit to the department an application form, DOH 4614, which shall provide the following information:

- 1. The individual's name and address;
- 2. Names of the individual's family members and their ages;
- 3. Family income information;
- 4. Name and address of the individual's present or immediate past employer through whom the individual has or had group health

coverage and the name and address of the insurer or administrator of the group health plan under which the individual is or was covered;

5. Authorization, in writing, for the department to do all of the following:

a. Contact the individual's employer or former employer or the administrator of the group health plan under which the individual is covered to verify that the individual is on an unpaid medical leave or to verify the individual's eligibility for continuation coverage and the premium and any other conditions of coverage, to make premium payments and for other purposes related to the administration of this chapter; and

b. Make any necessary disclosure to the individual's employer or former employer or the administrator of the group health plan under which the individual is covered regarding the individual's HIV status;

6. Written certification from a physician of the following:

a. That the individual has an HIV infection; and

b. That the individual is on an unpaid medical leave because of an illness or medical condition arising from or related to the individual's HIV infection or because of medical treatment or supervision of the illness or condition or that the individual's employment has been terminated or his or her hours have been reduced because of an illness or medical condition arising from or related to the individual's HIV infection; and

7. Any other information that the department requires for purposes of determining eligibility under sub. (1) or evaluating the health insurance premium subsidy program.

Note: To obtain a copy of DOH 4614, write or phone the Wisconsin Division of Health, AIDS/HIV Program, P.O. Box 309, Madison, WI 53701, (608) 267-5287. The completed form should be returned to the same office.

(b) Any individual who does not satisfy sub. (1) (b), (d) or (e), may submit an application form, DOH 4614, that the department will hold until the individual satisfies all the applicable requirements under sub. (1). The department may not contact the individual's employer or the administrator of the group health plan under which the individual is covered until the individual satisfies all the applicable requirements under sub. (1) unless the individual authorizes the department, in writing, to make that contact and to make any necessary disclosure regarding the individual's HIV infection.

(3) NOTIFICATION OF DECISION. Within 20 working days after receipt by the department of the information described under sub. (2), the department shall determine whether or not the applicant satisfies the conditions under sub. (1) and do one of the following:

(a) If the applicant satisfies all the applicable requirements under sub. (1), the department shall approve the application and notify the applicant in writing; or

(b) If the applicant does not satisfy an applicable requirement under sub. (1), the department shall deny the application and notify the applicant, in writing, of the reasons for denial and of the right under sub. (5) to appeal the denial. If the denial is based upon inability to satisfy one or more of the requirements under sub. (1) (b), (d) or (e), the department shall include in the notice information that the department will hold the application until the applicant submits to the department written documentation that the requirement or requirements not met have been met, without need of the applicant to reapply.

(4) RIGHT TO REAPPLY. If the reasons listed by the department under sub. (3) (b) for denial change, an applicant may reapply.

(5) RIGHT TO APPEAL. In the event that the department denies an application, the applicant may request a hearing under ch. 227, Stats. The request for a hearing shall be submitted, in writing, to the department's office of administrative hearings and received by that office no later than 20 calendar days after the date of the letter of denial under sub. (3) (b).

Note: The mailing address of the Office of Administrative Hearings is P.O. Box 7875, Madison, WI 53707.

HSS 138.05 Payment of health insurance premiums. (1 AMOUNT AND PERIOD OF SUBSIDY. (a) Except as provided in pars. (e), (f) and (g), if an individual satisfies s. HSS 138.04 (1) and has been notified by the department under s. HSS 138.04 (3) (a) that the application has been approved, the department shall pay the full amount of each premium payment for coverage under a group health plan during an unpaid medical leave or for continuation coverage that is due from the individual on or after the date of the notice of decision under s. HSS 138.04 (3).

(b) The department may not refuse to pay the full amount of each premium payment because the group health plan coverage during an unpaid medical leave or continuation coverage that is available to the individual who satisfies s. HSS 138.04 (1) includes coverage of the individual's spouse and dependents.

(c) Except as provided in par. (e), the department shall terminate payments when:

1. The individual's unpaid medical leave or continuation coverage ceases;

2. The individual no longer satisfies s. HSS 138.04 (1); or

3. Upon the expiration of 29 months after the unpaid medical leave or continuation coverage began, whichever occurs first.

(d) The department may not make payments under this section for premiums for a conversion policy or plan that is available to an

individual under s. 632.897 (4) or (6), Stats., 29 USC 1162 (5) or 42 USC 300bb-2(5).

(e) The obligation of the department to make payments under this section is subject to the availability of funds in the appropriation under s.20.435(1) (ak), Stats.

(f) The amount paid under par. (a) may not exceed the applicable premium as defined in 29 USC 1164 or 42 USC 300bb-4, as amended to April 7,1986.

(g) If an individual who satisfies s. HSS 138.04 (1) has an amount escrowed under s. 103.10 9; (c), Stats., that is not sufficient to pay the required contribution to his or her premium payments while on unpaid medical leave, the amount paid under par. (a) may not exceed the individual's required contribution for the duration of the unpaid medical leave minus the amount escrowed.

115.35. Health problems education program

(1) A critical health problems education program is established in the department. The program shall be a systematic and integrated program designed to provide appropriate learning experiences based on scientific knowledge of the human organism as it functions within its environment and designed to favorably influence the health, understanding, attitudes and practices of the individual child which will enable him or her to adapt to changing health problems of our society. The program shall be designed to educate youth with regard to critical health problems and shall include, but not be limited to, the following topics as the basis for comprehensive education curricula in all elementary and secondary schools: controlled substances, as defined in S. 161.01(4); alcohol; tobacco; mental health; sexually transmitted diseases, including acquired immunodeficiency syndrome; human growth and development; and related health and safety topics. Participation in the human growth and development topic of the curricula shall be entirely voluntary. The department may not require a school board to use a specific human growth and development curriculum.

(2) in carrying out this section, the state superintendent may, without limitation because of enumeration:

(a) Establish guidelines to help school districts develop comprehensive health education programs.

(b) Establish special in-service programs to provide professional preparation in health education for teachers throughout the state.

(c) Provide leadership institutions of higher education to develop and extend curricula in health education for professional preparation in both in-service and preservice programs.

(d) Develop cooperative programs between school districts and

institutions of higher education whereby the appropriate health personnel of such institutions would be available to guide the continuing professional preparation of teachers and the development of curricula for local programs.

(e) Assist in the development of plans and procedures for the evaluation of health education curricula.

(3) The department may appoint a council consisting of representatives from universities and colleges, law enforcement, the various fields of education, the voluntary health agencies, the department of health and social services, the professional health associations and other groups or agencies it deems appropriate to advise it on the implementation of this section, including teachers, administrators and local school boards.

(4) The department shall cooperate with agencies of the federal government and receive and use federal funds for the purposes of this section.

(5) in each report under 5. 15.04(1)(d), the state superintendent shall include information:

(a) As to the scope and nature of programs undertaken under this section.

(b) As to the degree and nature of cooperation being maintained with other state and local agencies.

(c) As to his recommendations to improve such programs and cooperation.

49.486. AZT and pentamidine reimbursement program

(1) Definitions. In this section:

(a) "AIDS" means acquired immunodeficiency syndrome.

(am) "AZT" means the drug azidothymidine.

(b) "Gross income" means all income, from whatever source derived and in whatever form realized, whether in money, property or services.

(c) "HIV" means any strain of human immunodeficiency virus, which causes acquired immunodeficiency syndrome.

(d) "HIV infection" means the pathological state produced by a human body in response to the presence of HIV.

(e) "Physician" has the meaning specified in 5. 448.01(5).

(f) "Residence" means the concurrence of physical presence with intent to remain in a place of fixed habitation. Physical presence is prima facie evidence of intent to remain.

(g) "Validated test result" means a result of a test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV that meets the validation requirements determined to be necessary by the state epidemiologist.

(2) Reimbursement. From the appropriation under s. 20.435(1)

(ar), the department shall administer a program to reimburse or supplement the reimbursement of the cost of AZT, the drug

pentamidine and any drug approved for reimbursement under sub. (4) (c) for an applying individual who has HIV infection.

(3) Eligibility. An individual is eligible to receive the reimbursement specified under sub.

(2) if he or she meets all of the following criteria:

(a) Has residence in this state.

(b) Has an infection that is certified by a physician to be an HIV infection.

(c) Has a prescription issued by a physician for AZT, for pentamidine or for a drug approved for reimbursement under sub. (4) (c).

(d) Has applied for coverage under and has been denied eligibility for medical assistance within 12 months prior to application for reimbursement under sub. (2).

(e) Has no insurance coverage for AZT, the drug pentamidine or any drug approved for reimbursement under sub. (4) (c) or, if he or she has insurance coverage, the coverage is inadequate to pay the full cost of the individual's prescribed dosage of AZT, the drug pentamidine or any drug approved for reimbursement under sub. (4) (c).

(f) Is an individual with an annual gross income of \$40,000 or less.

(4) Departmental duties. The department shall do all of the following:

(a) Determine the eligibility of individuals applying for reimbursement, or a supplement to the reimbursement, of the costs of AZT or the drug pentamidine.

(b) Within the limits of sub. (5) and of the funds specified under sub. (2) and under a schedule that the department shall establish based on the ability of individuals to pay, reimburse or supplement the reimbursement of the eligible individuals.

(c) After consulting with individuals, including those not employed by the department, with expertise in issues relative to drugs for the treatment of HIV infection and AIDS, determine which, if any, drugs that are cost-effective alternatives to AZT and pentamidine may also have costs reimbursed under this section.

(5) Reimbursement limitation. Reimbursement may not be made under this section for any portion of the costs of AZT, the drug pentamidine or any drug approved for reimbursement under sub. (4) (c) which are payable by an insurer, as defined in s. 600.03(27).

103.15. Restrictions on use of a test for HIV

(1) In this section:

(a) "Employer" includes the state, its political subdivisions and any office, department, independent agency, authority, institution, association, society or other body in state or local

government created or authorized to be created by the constitution or any law, including the legislature and the courts.

(am) "HIV" means any strain of human immunodeficiency virus, which causes acquired immunodeficiency syndrome.

(2) Notwithstanding ss. 227.01(9) and 227.10(1) unless the state epidemiologist determines and the secretary of health and social services declares under s. 140.05(1) that individuals who have HIV infections may, through employment, provide a significant risk of transmitting HIV to other individuals, no employer or agent of an employer may directly or indirectly:

(a) Solicit or require as a condition of employment of any employe or prospective employe a test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV.

(b) Affect the terms, conditions or privileges of employment or terminate the employment of any employe who obtains a test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV.

(3) Any agreement by an employer or agent of the employer and an employe or prospective employe offering employment or any pay or benefit to an employe or prospective employe in return for taking a test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV is prohibited, except as provided under sub. (2) (intro.).

103.15. Restrictions on use of a test for HIV or an antibody to HIV

(1) In this section:

(a) "HIV" means human immunodeficiency virus, which causes acquired immunodeficiency syndrome.

(b) "HIV infection" means the pathological state produced by a human body in response to the presence of HIV.

(c) "State epidemiologist" means the individual designated by the secretary of health and social services as the individual in charge of communicable disease control for this state.

(2) Notwithstanding ss. 227.01(9) and 227.011(1) [227.10(1)] unless the state epidemiologist determines and the secretary of health and social services declares under s. 140.05(1) that individuals who have HIV infections may, through employment, provide a significant risk of transmitting HIV to other individuals, no employer or agent of an employer may directly or indirectly:

(a) Solicit or require as a condition of employment of any employe or prospective employe a test for the presence of HIV or an antibody to HIV.

(b) Affect the terms, conditions or privileges of employment or terminate the employment of any employe who obtains a test for

the presence of HIV or an antibody to HIV.

(3) Any agreement by an employer or agent of the employer and an employe or prospective employe offering employment or any pay or benefit to an employe or prospective employe in return for taking a test for the presence of HIV or an antibody to HIV is prohibited, except as provided under sub. (2)(intro.).