



June 21, 2022

The Honorable Rob Cowles
Jt. Legislative Audit Committee, Senate Co-chair
Room 118 South State Capitol
PO Box 7882
Madison, WI 53707

The Honorable John Macco
Jt. Legislative Audit Committee, Acting Assembly Co-Chair
Room 208 North State Capitol
PO Box 8953
Madison, WI 53708

Dear Senator Cowles and Representative Macco,

In May 2022, the Legislative Audit Bureau (LAB) released Report 22-4, related to the Wisconsin Healthcare Stability Plan (WIHSP), a state-based reinsurance program designed to offset high-cost claims in the individual health insurance market. The audit included a recommendation directing the Office of the Commissioner of Insurance (OCI) to report to the Joint Legislative Audit Committee (Committee) prior to June 30, 2022, on: (1) The extent to which WIHSP has met the goals specified in statutes and Wisconsin's waiver over the first three years; and (2) the status of efforts to extend the WIHSP for another five years. An update on those items as well as the status of OCI's efforts to operationalize LAB audit recommendations, is detailed below.

Success in Meeting Statutory and 1332 Waiver Goals

Prior to 2019, the individual market was experiencing significant instability with insurers exiting the market, double-digit rate increases, and shrinking service areas. This market volatility left consumers with unaffordable and dwindling plan options. For example, during the 2018 open enrollment period, approximately 75,000 enrollees were forced to choose a new insurer and thousands of consumers overall had only one or two insurer options on the Federally Facilitated Marketplace (FFM) in counties previously having three or more. Rate increases averaged 44% across the state and in some areas were as high as 105%.

2017 Wisconsin Act 138 (Act 138) created WIHSP to help reverse the negative trends and stabilize the individual health insurance market. Those goals were the foundation for OCI's 1332 State Innovation Waiver (1332 waiver) application. A 1332 waiver permits states to pursue innovative strategies for providing residents with access to high quality, affordable health insurance while retaining the protections of the Affordable Care Act (ACA). The U.S. Department of Health and Human Services (HHS) and U.S. Department of Treasury (DOT) approved Wisconsin's 1332 waiver application on July 29, 2018. OCI operationalized WIHSP beginning January 1, 2019.

LAB asked OCI to report on the extent WIHSP has met goals specified in statutes. To that end, Wis. Stat. s. 601.83 (2) requires OCI to structure WIHSP with the goal to achieve several outcomes. Those statutory outcomes are listed below in italics, along with an explanation of WIHSP's impact in those areas.

s. 601.83 (2) (a) Stabilize or reduce premium rates in the individual market

s. 601.83 (2) (d) Mitigate the impact high-risk individuals have on premium rates in the individual market.

WIHSP offsets high-cost individual market health insurance claims, allowing insurers to offer their plans at rates lower than they would without WIHSP in place. Since implementation in 2019, WIHSP has resulted in year over year reductions in average premium rates. Wakely Consulting Group, LLC, the entity with which OCI contracts to conduct actuarial analysis related to WIHSP, estimated the program reduced premium paid by Wisconsin consumers by approximately 10.3%, 11.4%, 12.5%, and 13.2% in years 2019, 2020, 2021, and 2022 respectively.¹

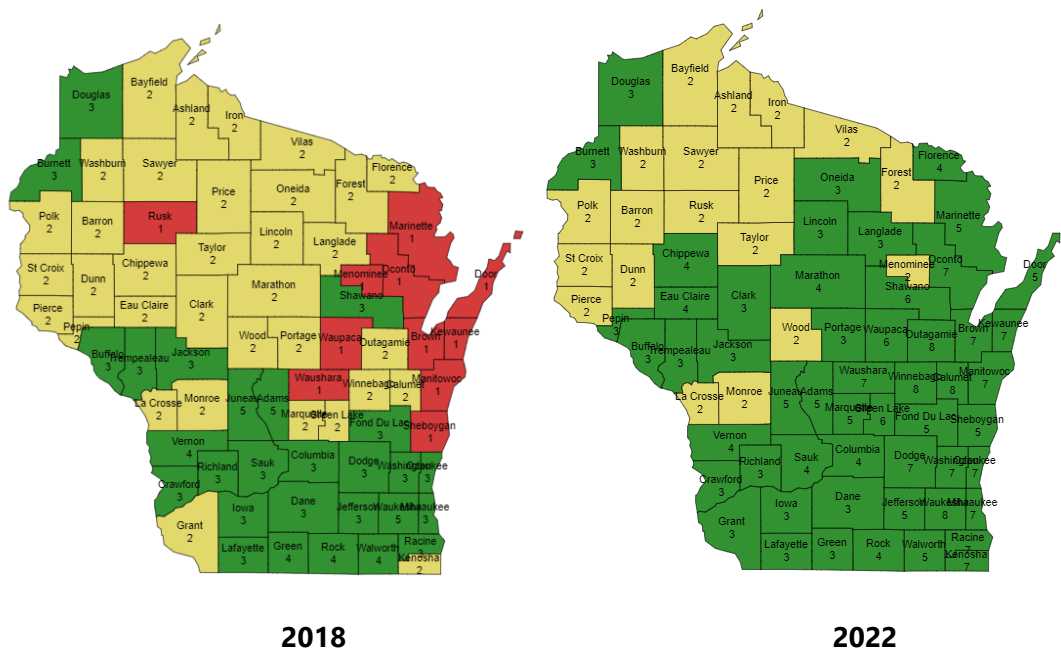
s. 601.83 (2) (b) Increase participation by health carriers in the individual market

s. 601.83 (2) (c) Improve access to health care providers and services for individuals purchasing coverage in the individual market

In addition to premium stability, insurers have re-entered the individual market and have expanded their service areas since 2018. There are currently fifteen insurers participating in the individual market, with fourteen of those offering coverage on the FFM. In 2022, twenty-seven counties have five or more insurers offering plans, compared to zero counties in 2018. Multiple insurer offerings across the state have expanded plan options for consumers, which also increases accessibility to various health care providers in an area. The following maps provide a comparison of plan offerings from 2018 to 2022.

¹ Wakely Consulting Group, LLC (2022) "Section 1332 State Innovation Waiver Extension Actuarial and Economic Analysis"

Number of Insurers Offering Plans in Each County, 2018 vs. 2022



- s. 601.83 (2) (e) Take into account any federal funding available for the plan.
- s. 601.83 (2) (f) Take into account the total amount available to fund the plan.

OCI consistently takes into account the total amount of funding available to the program when developing payment parameters (the program’s structure) each year. From Plan Year (PY) 2019 through PY 2021, the total expenditure authority for the program was \$200 million per year. The 2021-2023 biennial budget increased that amount, beginning with PY 2022, to \$230 million.

WIHSP claims totaled less than \$200 million in Plan Years 2019 and 2020. Due to special circumstances including the availability of federal American Rescue Plan Act subsidies, increased enrollment resulting from a special enrollment period, and medical procedures that were deferred from 2020 to 2021, PY 2021 WIHSP claims totaled almost \$203 million. Wis. Stat. s. 601.83 (1) (h) prohibits the Commissioner from spending more than \$200 million unless the Joint Finance Committee (JFC) increases the amount. Given there are sufficient federal funds available to cover the overage, OCI asked JFC for permission to fully fund those claims and JFC approved the request on May 31, 2022.

In paying WIHSP claims, federal dollars are always spent down before state general purpose revenue (GPR) is used. There is enough federal funding to fully fund PY 2021 WISHP claims, with additional

federal funds available for carry over into the next year to offset GPR needed for PY 2022 claim payments. For more information on WIHSP funding, see the JFC 13.10 memo.²

Plan Year	Federal Funds	GPR	Total
2019	\$127,726,259	\$46,528,094.91	\$174,254,353.91
2020	\$141,955,242	\$41,528,383.85	\$183,483,625.85
2021	\$229,175,388 ³	\$0	\$202,811,341.37

Status of OCI's Efforts to Extend WIHSP for 5 Years

As noted, Wisconsin's 1332 waiver was approved on July 29, 2018 for a 5-year period that runs through PY 2023. Given the success of WIHSP to date, OCI is in the process of preparing an application to request a 5-year extension of the program.

OCI issued a public hearing notice and comment period for the draft 1332 waiver extension application. The public hearing is scheduled for July 6, 2022 and the public comment period ends July 8, 2022. Per state statute, a tribal consultation was also held on June 7, 2022.

Additionally, state law requires OCI to submit the draft application to JFC for a 14-day passive review. The draft application was submitted to JFC on May 31, 2022 and the review period ends on June 20, 2022.

Assuming timelines continue to be met, OCI intends to finalize the application and submit it to HHS at the end of July 2022. A copy of the draft application and the public hearing notice are included with this letter.

OCI's Progress in Operationalizing LAB Recommendations

The LAB recommended modifications to the WIHSP phase I and phase II verification audit processes. Those modifications have been established and will be applied beginning with the PY 2021 audit, conducted this summer and fall. A summary of the recommendations and changes are noted below.

LAB Recommendation: Randomly select the individuals whose claims are included in the phase I audit and the claims reviewed in the phase II audit.

²https://docs.legis.wisconsin.gov/misc/lfb/section_13_10/2022_05_31_insurance_commissioner_s_request_to_increase_maximum_aggregate_payment_for_the_2021_plan_year_under_the_wisconsin_health_care_stability_plan.pdf

³ \$26,364,046.63 will be carried over to fund PY 2022 WIHSP claims.

OCI Update: An Excel template programed with the Excel RANDARRAY⁴ function determines enrollees to be sampled. This same template will be used to determine which claims will require proof of payment as part of the phase II audit.

LAB Recommendation: Consistently follow OCI policies by selecting 60 individuals whose claims it will include in the phase I audit. Also, modify OCI policies to require it to select at least two individuals from each health insurer in its phase I audits.

OCI Update: OCI will select at least 60 enrollees for review during the phase I audits and has updated WIHSP policies and procedures to reflect a requirement that at least two enrollees are pulled for each insurer. The number of enrollees pulled per insurer continues to be based on insurer WIHSP claim volume, however, at least two from each insurer will be pulled. In some years, this will lead to a sample of over 60 enrollees. For PY 2021, this process resulted in 65 enrollee samples.

LAB Recommendation: Attempt to verify as part of its audits at least two claims associated with each of the 60 individuals whose claims are included in a given year's audit.

OCI Update: Beginning with the PY 2021 audit, OCI will require insurers to provide proof of payment for two claims associated with each of the individuals reviewed during phase I.

In addition to the recommendations in the program audit, LAB recommended a secondary review process for the WIHSP audits in their state "Single" audit. OCI has implemented a process for a secondary review of a select number of enrollees and claims during the audit process.

Thank you for the opportunity to update the Committee on the status of meeting statutory and federal 1332 waiver goals relating to the Wisconsin Healthcare Stability Plan, as well as OCI's progress in implementing LAB's recommendations included in Report 22-4.

Sincerely,



Nathan Houdek
Commissioner

cc: Members, Legislative Audit Committee

⁴ According to the Microsoft support website, "The RANDARRAY function returns an array of random numbers." <https://support.microsoft.com/en-us/office/randarray-function-21261e55-3bec-4885-86a6-8b0a47fd4d33>