

**Testimony of  
Deputy Commissioner J.P. Wieske, on behalf of the  
Wisconsin Office of the Commissioner of Insurance**

**Before the  
U.S. Senate Committee on Homeland Security and Governmental Affairs**

**Regarding:  
The State of Health Insurance Markets**

**September 15, 2016  
342 Dirksen Building**

Good morning Chairman Johnson, Ranking Member Carper, and distinguished members of the subcommittee. My name is J.P. Wieske and I am the Deputy Insurance Commissioner for the Wisconsin Office of the Commissioner of Insurance (OCI). I have been with OCI since October of 2011. As part of my duties I have been involved with a number of health insurance issues including serving on the state's high-risk pool board, working with our state legislature, and assisting with the implementation of the Affordable Care Act (ACA).

Thank you for the opportunity to testify on the state of the Wisconsin health insurance market. Before describing the current state of the market, it is important to understand what it looked like prior to the passage of the ACA.

As a regulator, Wisconsin has been traditionally known as a state with tough but consistent rules. We were one of the first states with a number of market and consumer protections that eventually became models for the National Association of Insurance Commissioners (NAIC) and were subsequently included as part of the ACA. These included independent external review, standardized applications, coverage for adult dependents, cancer clinical trials, guaranteed renewability in the small group market, and a robust review of the market conduct of our insurers. Our financial review of companies has been led by highly experienced staff. In short, we ensured, and continue to ensure, that insurers in the health insurance market deal with consumers fairly and maintain the financial means to pay consumer claims.

Pre-ACA, the Wisconsin market was certainly not the least expensive in the country; however, we typically landed in the lowest third of states. While the medical care provided in Wisconsin is high quality, it is not inexpensive. The medical costs in our market are relatively higher than other states; in fact, a U.S. Government Accountability Office (GAO) report released in the early 2000s named Wisconsin cities as 8th of their 10 most expensive medical areas in the country. Our competitive health insurance market ensured that Wisconsin consumers paid relatively low rates despite the relatively high medical costs.

Wisconsin consumers in both the individual and small group markets had a large number of insurers and plans to choose from. They could choose from large national companies or small

regional insurers, a managed care plan with a narrow network or a plan with limited managed care and a broad network, or from a for-profit company or not-for-profit company. In some areas of the state consumers could choose to participate in one of our two existing co-ops.

For consumers that could not qualify for private coverage, Wisconsin had a high-risk pool, the Wisconsin Health Insurance Risk-Sharing Plan (HIRSP). HIRSP provided comprehensive coverage to consumers with the ability to choose any medical provider practicing in Wisconsin. It was funded by premiums from consumers, assessments on insurers, and contributions from medical providers. Consumers could choose from a variety of plan options, and for the most impoverished consumers, further subsidies were made available. The cost of coverage closely mirrored the cost of private coverage in the state.

In short, pre-ACA, Wisconsin had a well-functioning health insurance market that provided a means for consumers with serious medical conditions access to comprehensive, affordable coverage, along with subsidies available to offset the cost.

The ACA made a number of changes to the rules governing health insurance markets across the country. These “one-size-fits-all” changes have impacted rates, consumer choice, and the ability for a free market to operate.

### **ACA Impact on Wisconsin Health Insurance Rates**

With the enactment of the ACA came guaranteed issue, additional coverage mandates, and the elimination of HIRSP, the state’s high-risk pool. Wisconsin insurers were quickly faced with an uncertain influx of individuals with serious health conditions; 20,000 alone from HIRSP. They were also faced with vague regulations from the federal Department of Health and Human Services (HHS) that changed constantly and were not communicated consistently from HHS. In short, insurers wanting to continue to participate in the Wisconsin health insurance market ultimately had no choice but to increase rates. The net result was that Wisconsin consumers paid more for coverage, including those individuals who previously received coverage through HIRSP.

To offset the increased risk insurers would take on under the ACA, the HHS issued regulations creating the risk adjustment, reinsurance, and risk corridor programs, i.e., the “three Rs.” Each of these programs was to have either state components or to be managed entirely by the states. However, in one of their first acts of ignoring state concerns, HHS changed course and modified the regulations to allow the federal government to take over the “three Rs” from the states. Unfortunately for Wisconsin consumers, this change would negatively impact them as insurers struggled to plan for and capture their estimated risk and receive their fair share of funding from these programs. HHS continues to struggle to manage these programs in a way that fairly compensates insurers taking on a significant portion of the risk.

Rising health care costs and adjusting to the fundamental market changes the ACA imposed both continue to drive up the cost of health insurance. These pressures are further exacerbated by uncertainty related to the risk pool, federal funding, and federal regulations that constantly change without significant notice. Insurers are operating in a turbulent environment and many are struggling to remain profitable and offer affordable coverage that meets consumer needs.

**Detailed Impact of the ACA on Wisconsin Health Insurance Rates**

In an effort to prepare consumers for the coming market, OCI issued a press release in 2013 to highlight the expected increases. The chart used in the release is below:

<b>Percent Increase From Pre to Post 2014, Average Per Area</b>								
<b>Age</b>	<b>Milwaukee</b>	<b>Eau Claire</b>	<b>Green Bay</b>	<b>Madison</b>	<b>Appleton</b>	<b>Wausau</b>	<b>Kenosha</b>	<b>La Crosse</b>
21	78.11	68.75	53.73	124.85	54.18	77.44	37.59	88.53
40	40.85	48.35	53.73	73.43	36.75	35.03	15.15	41.58
63	45.48	58.12	22.54	70.04	32.01	26.07	9.72	37.29

As you can see, the increases varied from a low of almost 10 percent for a 63-year-old in Kenosha to almost 89 percent for a 21-year-old in La Crosse. For purposes of comparison, we used a \$2,000 deductible plan pre- and post-ACA. Male and female rates were averaged pre-

ACA. In many cases, the post-ACA plan had a higher deductible but we attempted to match the plan design close as possible. When multiple plans were available, the rates were averaged.

Below are the premium tables used to develop the percentages.

	Milwaukee Pre 1/1/14	Eau Claire Pre 1/1/14	Green Bay Pre 1/1/14	Dodgeville Pre 1/1/14	Madison Pre 1/1/14
21	\$155.98	\$176.79	\$162.71	\$102.41	\$116.95
40	252.07	257.02	240.85	172.38	193.78
50	376.72	358.56	364.56	266.39	282.66
63	563.70	556.99	579.86	408.21	449.88
Family	716.57	753.46	682.23	466.62	546.25

	Milwaukee Post 1/1/14	Eau Claire Post 1/1/14	Green Bay Post 1/1/14	Dodgeville Post 1/1/14	Madison Post 1/1/2014
21	\$ 277.81	\$ 298.34	\$250.13	\$ 311.05	\$ 262.96
40	355.04	381.28	319.67	397.52	336.06
50	496.16	532.83	446.74	555.53	469.65
63	820.09	880.69	738.39	918.21	764.96
Family	1,062.90	1,141.44	957.00	1,190.08	1,001.22

It may be important to note that the impact on our HIRSP members—our most vulnerable citizens—was more pronounced. Many HIRSP members received significant subsidies for their coverage through HIRSP, could choose from any medical provider in Wisconsin, and had a variety of plan choices. Their coverage was replaced with more expensive coverage, limited plan design options, and limited access to their choice of providers.

Since 2014, the rates have continued to increase annually. The years 2015 and 2016 saw relatively moderate average increases of almost 3.8 percent and 8.3 percent, respectively, though many consumers received much higher or lower increases depending on their particular plan. The on-Exchange increase in 2017 averages roughly 16 percent with a high of 37 percent and a decrease of more than 10 percent. Wisconsin's increases are likely more moderate than what you will see in other states due to the highly competitive nature of our market. It takes 17 insurers to comprise an 80 percent share of the individual health insurance market. That said, the challenges imposed by the ACA have led to individual market exits which reduce consumer choice and, if continued as a trend for future years, threatens the ability of our market to prevent rates from

reaching levels seen in other states. Our competitive market is a saving grace for consumers as a means for holding down what would be even higher increases. Insurers in our state are fighting an uphill battle to adhere to ACA regulations and still remain viable enough to offer competitive products.

### **Consumer Choice and Interfering with a Free Market Model**

So far, for plan year 2017, Wisconsin has had several insurers exit the individual market completely, leave the Exchange, or reduce the number of counties they are willing to serve. As a result, there are thousands of individuals enrolled in a plan that is offered by an insurer that will not be available to them in 2017. The HHS solution is to “auto re-enroll” these individuals into a new plan with a new insurer. While federal regulations indicate that this can only occur if permitted under state law, HHS is unwilling to change course in light of several states, including Wisconsin, indicating that the auto re-enrollment process violates several state laws. Consumers who do not act within an undefined timeframe will be assigned to a new plan with a new insurer, not of their choosing, and will receive a premium invoice from their new insurer. Consumers will be confused and forced to forgo paying their premium if they choose to refuse the assigned coverage.

Auto re-enrollment is impacting consumer choice at the market level as well. HHS is cherry picking which insurers will get additional business. This is interfering with a free market which has successfully offered affordable choice meeting consumer demand. HHS is adding lives to insurers who, in some cases, will be given a leg up in growing their business and for others unanticipated additional lives may result in financial ruin. When insurers are made aware two months out from open enrollment that several thousand lives are now anticipated to be auto-enrolled with them, they are faced with significant rating and operational considerations, some of which may be too great to overcome on such short notice.

### **A Look Ahead; Impact of Transitional Plans**

It is important to remember the volume of consumers covered under transitional plans in the individual and small group markets. In Wisconsin, as of December 31, 2015, there were 203,587 covered lives under transitional plans. In 2018, when these plans are no longer available,

consumers, in particular employers, will experience rate increases as they are forced to purchase coverage meeting all of the ACA requirements.

### **Conclusion**

In conclusion, Wisconsin had a strong health insurance market offering products responding to consumer needs prior to the ACA. Since the passage of the ACA, insurers struggle to continue to stay viable and offer affordable coverage to Wisconsin consumers. Rates continue to increase and an insurer's ability to predict risk from year to year remains difficult in light of an unstable federal regulatory environment where the rules keep changing without attention to the diverse insurance markets that exist across the country. Each state is unique. Forcing health insurance markets into a standardized set of federal regulations adds an unnecessary layer of complexity that stifles both an insurer's and state regulator's ability to be innovative and have the flexibility necessary to meet consumer needs.