



State of Wisconsin
Department of Employee Trust Funds
Robert J. Conlin
SECRETARY

801 W Badger Road
PO Box 7931
Madison WI 53707-7931

1-877-533-5020 (toll free)
Fax 608-267-4549
etf.wi.gov

Correspondence Memorandum

Date: February 20, 2017

To: Lisa Ellinger

From: David H. Nispel, General Counsel
Diana M. Felsmann, Attorney

Subject: Wisconsin Health News Request Regarding Self-Insured Health Insurance Benefits and Local Employers

The 1987 Wisconsin Attorney General Opinion (76 OAG 311) is an incomplete analysis of the authority of the Group Insurance Board (GIB) to provide health insurance to eligible employees in a self-insured program. In that opinion, the Attorney General was asked a very specific question and did not address the broader question of local governmental employers making available self-insured health benefits for their employees through the Department of Employee Trust Funds (ETF).

As set forth below, it is the choice of the local government employer to make available to its employees the health benefit plans offered by the GIB. The local employer makes the employer premium contribution and the employee makes the employee contribution. In our opinion, the GIB does have authority pursuant to Chapter 40 of the Wisconsin Statutes to provide eligible employees with health insurance coverage under a self-insured group health insurance program. In fact, the GIB already is doing that.

Wis. Stat. s. 40.03 (6) (a) 2. provides that the GIB may “provide any group insurance plan on a self-insured basis” and “may contract directly with providers of hospital, medical or ancillary services to provide insured employees with the benefits provided under this chapter.” Insured employee is defined to mean “any eligible employee who is properly enrolled in the benefit plan (Wis. Stat. s. 40.02 (39)). Eligible employee is defined to include “any other employee of any employer, other than the state, that has acted under s. 40.51 to make such coverage available to its employees” (Wis. Stat. s. 40.25 (b) 9.).

Wis. Stat. s. 40.51 (7) (a) provides in pertinent part: “Any employer, other than the state, including an employer that is not a participating employer, may offer to all of its employees a health care coverage plan through a program offered by the group insurance board.” Currently, the GIB provides (and ETF manages) the State of Wisconsin Group Health Insurance Program (GHIP) and the Wisconsin Public Employer

(WPE) program for local government employees. There are 368 local government employers offering health benefits to employees through the WPE program.

The GHIP and WPE programs are primarily fully-insured health plans. However, the following self-insured plans are available to local government employers (and their employees) if the local employer acts pursuant to Wis. Stat. s. 40.51 (7):

- The IYC Access Health Plan and State Maintenance Plan
- The pharmacy benefit program
- The uniform dental benefit program

Please let us know, if you have any questions regarding this opinion. Thank you.