



KEVIN PETERSEN

STATE REPRESENTATIVE

For Immediate Release

Contact Representative Kevin Petersen (608) 266-3794

February 2nd, 2012

President Obama and Kathleen Sebelius – Soon Overtaking Wisconsin’s Healthcare Insurance Review

I don’t agree with Obamacare. It would harm Wisconsin consumers and employers. I believe the US Congress overstepped its bounds by passing Obamacare and therefore the law or portions thereof will eventually be declared unconstitutional.

However, I also believe in the rule of law and in the US Constitution. Under the Supremacy Clause of the US Constitution, time and time again the courts have found that states do not have the authority to disregard unjust laws.

President Obama signed the Patient Protection and Affordable Care Act (Obamacare) into law in March of 2010. It is a misconception thinking states already aren’t under its influence.

The mandates in Obamacare have come in waves with certain provisions effective upon enactment, and other requirements coming into effect as late as 2018. The Wisconsin health insurance industry has already been forced to comply with numerous provisions of the law.

States were to have in place by January 1, 2012, a healthcare insurance external review process with safeguards set forth by the consumer protections in the Uniform Health Carrier External Review Model Act of the National Association of Insurance Commissioners (NAIC Model Act).

Technically, state process is required to include 16 minimum consumer protection standards set forth in Obamacare. For example: The process must provide for external review of adverse benefit determinations (and final internal adverse benefit determinations) based on medical necessity, appropriateness, health care setting, level of care, or effectiveness of a covered benefit.



KEVIN PETERSEN

STATE REPRESENTATIVE

Simply, the external review process is like getting a second opinion. If a patient is told a medical procedure is not needed or not covered under their policy, a review can be requested from an uninvolved medical authority. By examining their insurance policy coverage, medical records, and recommendations by the patient's physician, the reviewer determines if the procedure is both necessary and covered by the patient's insurance.

Actually, Wisconsin has been conducting its own healthcare insurance external review process since 2000. To ensure Wisconsin continues overseeing its citizens' claims process, the Healthcare Technical Bill - AB 210 put into state statute the required language to show we are complying with Obamacare while maintaining Wisconsin's established practices.

AB 210 passed the Wisconsin state assembly in October 2011. Contingencies were included making the legislation self repealing in the event Obamacare is determined to be unconstitutional by the US Supreme Court or in the event Congress changes or repeals it. In turn, statutes would revert to current law.

Currently, AB 210 is awaiting senate action. Subsequently, on December 28th, 2011 the Center for Consumer Information and Insurance Oversight (CCIIO) issued a [letter](#) to Wisconsin insurance carriers. The letter stated "As a result, on or before March 1, 2012, issuers in Wisconsin must elect and choose the Federal external review process."

In other words, Wisconsin's healthcare insurance companies have been advised that because AB 210 stalled, Wisconsin will no longer be in compliance with the federal review process. Consequently, a department under the umbrella of the U.S. Department of Health Services will take over the appeals process in Wisconsin.

Codifying Obamacare requirements into state statute won't influence the arguments before the Supreme Court on Obamacare. A [letter](#) dated October 7th, 2011 from Deputy Attorney General Kevin St. John, to the Wisconsin Office of the Commissioner of Insurance states; "It is the Department of Justice's view that



KEVIN PETERSEN

STATE REPRESENTATIVE

passage of AB-210 into law will not have any impact on the State's likelihood of prevailing in the Supreme Court."

By not taking action to maintain as much state control as possible prior to and after the federal lawsuit against Obamacare, and just handing over our state's requirements to the federal government is essentially letting President Obama and Kathleen Sebelius run Wisconsin's healthcare insurance market.

Retaining state authority over these provisions is important to protect Wisconsin families and businesses by preserving the state's competitive health insurance environment. Bottom line, without passage of AB 210, starting on March 1, 2012, Wisconsinites dealing with healthcare insurance appeals issues will have to travel to the Federal Building in Chicago, Illinois and deal with federal bureaucracy.

###