

Insurance Coverage
and
A I D S



State of Wisconsin
Office of the Commissioner of Insurance
P.O. Box 7873
Madison, WI 53707-7873
OCI's World Wide Web Home Page:
oci.wi.gov

The mission of the Office of the Commissioner of Insurance . . .
Leading the way in informing and protecting the public
and responding to their insurance needs.

If you have a specific complaint about your insurance, refer it first to the insurance company or agent involved. If you do not receive satisfactory answers, contact the Office of the Commissioner of Insurance (OCI).

For information on how to file insurance complaints call:

(608) 266-0103 (In Madison)
or
1-800-236-8517 (Statewide)

Mailing Address

Office of the Commissioner of Insurance
P.O. Box 7873
Madison, WI 53707-7873

Electronic Mail

ocicomplaints@wisconsin.gov

Please indicate your name, phone number, and e-mail address.

OCI's World Wide Web Home Page

oci.wi.gov

For your convenience, a copy of OCI's [complaint form](#) is available on OCI's Web site. You can print it, complete it, and return it to the above mailing address. Copies of [OCI publications](#) are also available online on OCI's Web site.

**Deaf, hearing, or speech impaired callers may
reach OCI through WI TRS**

This guide is not a legal analysis of your rights under any insurance policy or government program. Your insurance policy, program rules, Wisconsin law, federal law, and court decisions establish your rights. You may want to consult an attorney for legal guidance about your specific rights.

The Office of the Commissioner of Insurance does not represent that the information in this publication is complete, accurate, or timely in all instances. All information is subject to change on a regular basis, without notice.

Printed copies of publications are updated annually unless otherwise stated. In an effort to provide more current information, publications available on OCI's Web site are updated more frequently than the hard copy versions to reflect any necessary changes. Visit OCI's Web site at oci.wi.gov.

The Office of the Commissioner of Insurance does not discriminate on the basis of race, color, national origin, sex, religion, age, or disability in employment or the provision of services.

This booklet provides basic information regarding the insurance statutes and regulations that apply to insurance coverage for the human immunodeficiency virus (HIV) that causes acquired immunodeficiency syndrome (AIDS). For more detailed and complete information you may want to contact one of the AIDS service organizations listed on the Resources pages at the back of this booklet.

May insurers ask you if you have AIDS or ARC?

Insurers may ask on the application for any type of accident and health or life insurance coverage if you have ever been diagnosed by a member of the medical profession or treated for AIDS (acquired immunodeficiency syndrome) or ARC (AIDS-related complex).

May insurers ask you if you have been tested for AIDS, ARC, or the HIV virus?

If you are applying for **individual** accident and health or life insurance, the insurer may:

- Ask you if you have been tested for AIDS, ARC, or the HIV virus and for the results of those tests.
- Require that you be tested, at the insurer's expense, for the presence of HIV, antigen or nonantigenic products of HIV, or an antibody to HIV.

For individual health or life insurance applications that include a question about previous tests, an insurer may not require or request the disclosure of any information as to whether you have been tested at an anonymous counseling and testing site in Wisconsin or another state, or through the use of an anonymous home test kit, or to reveal the results of such a test.

If you apply for coverage under a **group** accident and health or life insurance policy that is subject to Wisconsin law, the insurer may **not**:

- Ask you any questions concerning whether you have been tested for the presence of HIV, antigen or nonantigenic products of HIV, or an antibody to HIV as part of the underwriting process or what the results of the test were;
- Condition the provision of insurance coverage on whether you have obtained a test for the presence of HIV, antigen or nonantigenic products of HIV, or an antibody to HIV, or what the results of this test were; or
- Consider in the determination of rates or any other aspect of insurance coverage provided to you whether you have obtained a test for the presence of HIV, antigen or nonantigenic products of HIV, or an antibody to HIV, or what the results of this test were.

The provisions listed above apply both to group health and life insurance policies where prospective applicants are individually medically underwritten and where there is no individual underwriting, such as in guarantee issue situations.

What AIDS/HIV tests may insurers ask you about or require you to take?

Insurers may ask you about or require you to take only tests that the state epidemiologist finds are "medically significant and sufficiently reliable to detect the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV." Insurers may ask you about or require you to take only tests that meet the following criteria:

- A single specimen that is repeatedly reactive using any Food and Drug Administration (FDA)-licensed enzyme immunoassay (EIA) HIV antibody test and confirmed positive using an FDA-licensed HIV antibody confirmatory test.
- A single specimen that is repeatedly reactive using any FDA-licensed HIV antigen test and an FDA-licensed EIA HIV antibody test. A specimen which is repeatedly reactive to an FDA-licensed HIV antigen test shall be confirmed through a neutralization assay. A specimen which is repeatedly reactive to an FDA-licensed EIA HIV antibody test shall be tested with an FDA-licensed HIV antibody confirmatory test.
- A single specimen that is tested for the presence of HIV using a molecular amplification method for the detection of HIV nucleic acids consistent with National Committee for Clinical Laboratory Standards.
- A single specimen that is tested for the presence of HIV using viral culture methods.

Does the insurer have to obtain informed consent before testing?

Yes. The insurer must obtain prior to testing a signed consent form from you or from one of the following:

- The person's parent or guardian, if the person is under 14 years of age; or
- The person's guardian, if the person is adjudged incompetent under ch. 880, Wis. Stat.; or
- The person's health care agent, as defined in s. 155.01 (4), Wis. Stat., if the person has been found to be incapacitated under s. 155.05 (2), Wis. Stat.

The insurer must provide a copy of the consent form to the person who signed the form and must maintain a copy of the consent form for at least one year. A sample format of the consent form is included at the back of this booklet.

The insurer must provide, with the consent form, a copy of the document, "Resources for Persons with a Positive HIV Test/The Implications of Testing Positive for HIV." This document (OCI 17-001) is included in the back of this booklet.

Is the insurance company permitted to disclose the results of a test to anyone?

If you are required by the insurer to be tested, the test results described in the consent form signed prior to the testing may be released only as described in the consent form, or upon your written consent, or that of a person authorized to give consent.

Are there other insurance laws that pertain to HIV testing?

Yes. If an insurer medically underwrites your application for group accident and health insurance or group life insurance, the insurer may not use or obtain from any source, including the Medical Information Bureau, Inc., information regarding the following:

- The results of your test for the presence of HIV, antigen or nonantigenic products of HIV, or an antibody to HIV; or
- Any other information on whether you have been tested for the presence of HIV, antigen or nonantigenic products of HIV, or an antibody to HIV.

An **accident and health insurance policy** may not contain exclusions or limitations, including deductibles or copayments, for coverage of the treatment of HIV infection or any illness or medical condition arising from or related to HIV infection, unless the exclusions or limitations apply generally to other illnesses or medical conditions covered by the policy.

A **life insurance policy** may not deny or limit benefits solely because death is caused, directly or indirectly, by HIV infection or any illness or medical condition arising from or related to HIV infection.

Every **accident and health insurance** policy issued or renewed on or after April 28, 1990, that provides prescription drug coverage must provide coverage for drugs that:

- Are prescribed by your physician for the treatment of HIV infection or an illness or medical condition arising from or related to HIV infection; and
- Are approved by the federal Food and Drug Administration for the treatment of HIV infection or an illness or medical condition arising from or related to HIV infection, including each investigational new drug approved under 21CFR 312.34 to 312.36 for the treatment of HIV infection or an illness or medical condition arising from or related to HIV infection and that is in, or has completed, a phase 3 clinical investigation performed in accordance with 21CFR 312.20 to 312.33; and
- Are defined as "investigational new drugs," if they are prescribed and administered in accordance with the treatment protocol approved for "investigational new drugs."

Coverage of these drugs may be subject to any copayments and deductibles that the insurance policy applies to other prescription medication covered by the policy. This coverage does not apply to specified disease policies, policies offered by limited service health organizations (LSHOs), or Medicare supplement or replacement policies.

Any individual who submits evidence that he or she has tested positive for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV is eligible to enroll in the Wisconsin Health Insurance Risk Sharing Plan (HIRSP). Information on HIRSP may be obtained by contacting:

HIRSP Customer Service
1751 West Broadway
P.O. Box 8961
Madison, Wisconsin 53708-8961
(608) 221-4551 (In Madison)
1-800-828-4777 (Statewide)
Fax (608) 226-8770
www.hirsp.org
E-mail: HIRSPweb@wpsic.com

What are the insurer's obligations if a test is positive?

If a test is positive and affects the issuance or terms of the policy, the insurer must provide written notice to you or the person who signed the consent form on your behalf that you do not meet the insurer's usual underwriting criteria because of a test result. The insurer must request that you provide informed consent for disclosure of the test result to a health care provider with whom you choose to discuss the test result.

Upon receipt of the informed consent for disclosure, the insurer must provide your designated health care provider with the test result. If you refuse to give informed consent for disclosure, the insurer must, upon your request, provide you or the person who signed the consent form on your behalf with the test result.

The insurer must include with the report of the test result all of the following:

- A statement that you should contact a private health care provider, a public health clinic, an AIDS service organization, or the Wisconsin HIV/STD/Hepatitis C Information and Referral Center (IRC) for information on the medical implications of a positive test, the desirability of further independent testing, and the availability of anonymous testing; and
- The toll-free telephone number of the Wisconsin IRC, the statewide AIDS information and medical referral service; and
- A copy of the document "Resources for Persons With a Positive HIV Test/The Implications of Testing Positive for HIV."

The Wisconsin Department of Health Services (DHS) has two programs that help persons with HIV infection. The Wisconsin AIDS/HIV Drug Assistance Program (ADAP) and the Wisconsin AIDS/HIV Health Insurance Premium Subsidy Program can help Wisconsin residents with HIV infection obtain certain HIV drugs and maintain (or obtain) health insurance. To apply for ADAP and/or the Insurance Premium Subsidy Program or to learn more about these programs, call DHS toll-free at 1-800-991-5532.

RESOURCES FOR PERSONS WITH A POSITIVE HIV TEST

The Wisconsin HIV/STD/Hepatitis C Information and Referral Center (IRC) hotline and Web site provide easily accessible information and referrals for people diagnosed with HIV, STDs, or Hepatitis C, people at risk for HIV, STDs, or Hepatitis C, and organizations that provide services to these people. People will have access to IRC information and referrals, including testing sites, through a statewide toll-free hotline and a dedicated Web site. To contact the IRC, call **1-800-334-2437**, on-line at www.irc-wisconsin.org, or e-mail your questions to irc-wisconsin@arcw.org. The IRC is a program of the AIDS Resource Center of Wisconsin.

AIDS Resource Center of Wisconsin (ARCW) provides direct support services to people living with AIDS and HIV infection. Services through ARCW's Appleton, Eau Claire, Green Bay, Kenosha, La Crosse, Milwaukee, Superior, and Wausau offices include primary medical care, medical referrals, financial assistance, housing and rent assistance, legal counsel, comprehensive case management, food and nutritional assistance, emotional support, referral for pastoral care, assistance with daily living needs, and support groups. Services through ARCW's Madison office include financial assistance, housing and rent assistance, and legal counsel. Call, visit, or write the AIDS Resource Center of Wisconsin near you or visit the Web site at www.ARCW.org or e-mail your questions to info@arcw.org.

Eau Claire	AIDS Resource Center of Wisconsin 505 Dewey Street South, Suite 107 Eau Claire, WI 54701 or PO Box 11 Eau Claire, WI 54702-0011 (715) 836-7710 1-800-750-2437 FAX: (715) 836-9844	Counties served: Barron, Buffalo, Burnett, Chippewa, Clark, Dunn, Eau Claire, Pepin, Pierce, Polk, Rusk, St. Croix, Washburn
Green Bay	AIDS Resource Center of Wisconsin 445 South Adams Street Green Bay, WI 54301 or PO Box 2040 Green Bay, WI 54306-2040 (920) 437-7400 1-800-675-9400 FAX: (920) 437-1040	Counties served: Calumet, Brown, Door, Fond du Lac, Green Lake, Kewaunee, Manitowoc, Marinette, Marquette, Menominee, Oconto, Outagamie, Shawano, Sheboygan, Waupaca, Waushara, Winnebago
Kenosha	AIDS Resource Center of Wisconsin 1212 57th Street Kenosha, WI 53140 or PO Box 0173 Kenosha, WI 53141-0173 (262) 657-6644 1-800-924-6601 FAX: (262) 657-6949	Counties served: Jefferson, Kenosha, Racine, Walworth
La Crosse	AIDS Resource Center of Wisconsin 2519 South Avenue La Crosse, WI 54601 (608) 785-9866 1-800-947-3353 FAX: (608) 784-6661	Counties served: Jackson, La Crosse, Monroe, Trempealeau, Vernon

*State of Wisconsin, Office of the Commissioner of Insurance
Insurance Coverage and AIDS*

Madison	AIDS Resource Center of Wisconsin 121 South Pinckney Street, Suite 320 Madison, WI 53703 (608) 258-9103 1-800-518-9910 FAX: (608) 258-9136	Counties served: Adams, Columbia, Crawford, Dane, Dodge, Grant, Green, Iowa, Juneau, Lafayette, Richland, Rock, Sauk
Milwaukee	AIDS Resource Center of Wisconsin 820 North Plankinton Avenue Milwaukee, WI 53203 or PO Box 510498 Milwaukee, WI 53203-0092 (414) 273-1991 1-800-359-9272 FAX: (414) 273-2357	Counties served: Milwaukee, Ozaukee, Washington, Waukesha
Superior	AIDS Resource Center of Wisconsin Board of Trade Building 1507 Tower Avenue, Suite 230 Superior, WI 54880 (715) 394-4009 1-877-242-0282 FAX: (715) 394-4066	Counties served: Ashland, Bayfield, Douglas, Iron, Sawyer
Wausau	AIDS Resource Center of Wisconsin 1105 Grand Avenue, Suite 1 Schofield, WI 54476 or PO Box 26 Schofield, WI 54476 (715) 355-6867 1-800-551-3311 FAX: (715) 355-0640	Counties served: Florence, Forest, Langlade, Lincoln, Marathon, Oneida, Portage, Price, Taylor, Vilas, Wood

AIDS Network provides direct support services to people living with AIDS and HIV infection throughout the thirteen counties of south central Wisconsin. AIDS Network services include comprehensive case management services, prevention education and outreach, harm reduction counseling and testing for HIV and Hepatitis C, advocacy, legal assistance, financial and housing assistance, volunteer support, assistance with daily living needs, support groups, a food pantry, dental assistance, medical and service referrals, treatment adherence, nutritional counseling, and emotional and practical support. Call, visit, or go to www.aidsnetwork.org for more information.

AIDS Network offices offer comprehensive services in the following counties:

Counties Served: Adams, Columbia, Crawford, Dane, Dodge, Grant, Green, Iowa, Juneau, Lafayette, Richland, Rock, and Sauk

Beloit: AIDS Network
136 West Grand Avenue, Suite 202
Beloit, WI 53511
(608) 364-4027
1-800-486-6276
FAX: (608) 364-0473

Janesville: AIDS Network
101 East Milwaukee Street, Suite 409
Janesville, WI 53545
(608) 756-3010
1-800-486-6276
FAX: (608) 756-2545

Madison: AIDS Network
600 Williamson Street
Madison, WI 53703
(608) 252-6540
1-800-486-6276
FAX: (608) 252-6559

Additional Resources:

Dennis C. Hill Harm Reduction Center
AODA Outpatient Clinic
Dan Nowak, Coordinator
820 North Plankinton Avenue
Milwaukee, WI 53203
(414) 225-1512 or
(414) 223-6828
1-800-359-9272
FAX: (414) 273-2357

THE IMPLICATIONS OF TESTING POSITIVE FOR HIV

A positive test result is not a diagnosis of AIDS. A positive test means that you have HIV infection. Like people with other chronic medical problems, people with HIV infection have a spectrum of conditions, ranging from no symptoms to very serious ones. Over time, most people with HIV infection progress along the spectrum toward more serious symptoms. **However, both improved medical management and many options for self-care now provide new hope for people with HIV infection.** Anti-viral drug therapy and preventive antibiotics can delay progression of HIV infection and postpone or modify complications.

It is extremely important to find a knowledgeable, experienced, and supportive health care provider to work with you in evaluating and managing your HIV infection. If you do not know whom to see, consult your local AIDS Resource Center or AIDS Network office for a recommendation or call the Wisconsin HIV/STD/Hepatitis C Information and Referral Center (IRC) hotline to obtain a referral. **In Wisconsin, call 1-800-334-2437 or e-mail irc-wisconsin@arcw.org.**

Your health care provider can perform periodic examinations and arrange for appropriate tests to help you decide what treatments and interventions you may want to use. Many people with HIV infection are being successfully treated with anti-viral drugs such as zidovudine (AZT) to slow the progress of the infection. Depending on the results of certain tests of your immune system, you may also benefit from therapies to prevent some infections. People with HIV infection also need regular tuberculosis (TB) screening and certain vaccinations. You and your health care provider can work out a schedule of follow-up visits appropriate for you.

You may also want to utilize some self-care options and nonmedical therapies. A nutritious diet, regular exercise, restful sleep, stress reduction, and spiritual peace (which are important for everyone) are even more helpful for many people with HIV infection. Some people with HIV infection find strength in meditation, massage, and specialized diets. If you are HIV positive, it is healthier to avoid alcohol and recreational drugs because they may damage your immune system.

A positive test result may mean that you have to make changes in certain areas of your life. It is much easier to make these adjustments with the help and support of others. There are support groups and counselors at most AIDS service organizations. You might seek support from your partner or trusted friends, family, clergy, or health professionals.

Counseling can help you put things in perspective. Some people who test positive find that counseling assists them in handling social and intimate relationships, dealing with fear, and promoting self-esteem. Professional counseling can help lessen the effects of the numerous issues that you may face.

You have a responsibility to yourself and to others to avoid transmitting the virus. Counselors can help you sort out your feelings about intimate relationships and help you learn about HIV risk-reduction methods. Not only should you avoid infecting others, but you should also avoid getting reinfected. Getting reinfected may help speed up the process of the HIV infection you already have.

Being HIV positive means taking the right steps to maintain your health. Dealing with the fear is healthier than avoiding the knowledge of HIV infection.

For more information on HIV antibody testing and HIV related services, contact the IRC at 1-800-334-2437 or e-mail irc-wisconsin@arcw.org.

Based on information contained in the brochure *The HIV Antibody Test*, produced by the American College Health Association.

[Insurer name and address]

WISCONSIN NOTICE AND CONSENT FOR HUMAN IMMUNODEFICIENCY TESTING

REQUEST FOR CONSENT FOR TESTING

To evaluate your insurability, _____ **(insurer name)** (Insurer) requests that you be tested to determine the presence of human immunodeficiency virus (HIV) antibody or antigens. By signing and dating this form, you agree that this test may be done and that underwriting decisions may be based on the test results. A licensed laboratory will perform one or more tests approved by the Wisconsin Commissioner of Insurance.

PRETESTING CONSIDERATION

Many public health organizations recommend that, if you have any reason to believe you may have been exposed to HIV, you become informed about the implications of the test before being tested. You may obtain information about HIV and counseling from a private health care provider, a public health clinic, or one of the AIDS service organizations on the attached list. You may also wish to obtain an HIV test from an anonymous counseling and testing site before signing this consent form. The Insurer is prohibited from asking you whether you have been tested at an anonymous counseling and testing site and from obtaining the results of such a test. **For further information on these options, contact the Wisconsin HIV/STD/Hepatitis C Information and Referral Center (IRC) hotline at 1-800-334-2437.**

MEANING OF POSITIVE TEST RESULTS

This is not a test for AIDS. It is a test for HIV and shows whether you have been infected by the virus. A positive test result may have an effect on your ability to obtain insurance. A positive test result does not mean that you have AIDS, but it does mean that you are at a seriously increased risk of developing problems with your immune system. HIV tests are very sensitive and specific. Errors are rare but they can occur. If your test result is positive, you may wish to consider further independent testing from your physician, a public health clinic, or an anonymous counseling and testing site. **HIV testing may be arranged by calling the IRC at 1-800-334-2437.**

NOTIFICATION OF TEST RESULTS

If your HIV test result is negative, no routine notification will be sent to you. If your HIV test result is other than normal, the Insurer will contact you and ask for the name of a physician or other health care provider to whom you may authorize disclosure and with whom you may wish to discuss the test results.

DISCLOSURE OF TEST RESULTS

All test results will be treated confidentially. The laboratory that does the testing will report the result to the Insurer. If necessary to process your application, the Insurer may disclose your test result to another entity such as a contractor, affiliate, or reinsurer. If your HIV test is positive, the Insurer may report it to the Medical Information Bureau (MIB, Inc.), as described in the notice given to you at the time of application. If your HIV test is negative, no report about it will be made to the MIB, Inc. The organizations described in this paragraph may maintain the test results in a file or data bank. These organizations may not disclose the fact that the test has been done or the results of the test except as permitted by law or authorized in writing by you.

CONSENT

I have read and I understand this notice and consent for HIV testing. I voluntarily consent to this testing, and the disclosure of the test result as described above. A photocopy or facsimile of this form will be as valid as the original.

Signature of Proposed Insured or Parent, Guardian, or Health Care Agent		Date
Name of Proposed Insured (Print)		Date of Birth
Street Address		
City	State	Zip Code