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1977 Assembly Bill 519

Date published: May 19, 1978

CHAPTER 371, Laws of 1977

AN ACT to create 632.78 (3) of the statutes, relating to required coverage of home health care by disability insurance policies.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 632.78 (3) of the statutes is created to read:

632.78 (3) HOME CARE. (a) Every disability insurance policy which provides coverage of expenses incurred for in-patient hospital care shall provide coverage for the usual and customary fees for home care. Such coverage shall be subject to the same deductible and coinsurance provisions of the policy as other covered services. The maximum weekly benefit for such coverage need not exceed the usual and customary weekly cost for care in a skilled nursing facility. If an insurer provides disability insurance, or if 2 or more insurers jointly provide disability insurance, to an insured under 2 or more policies, home care coverage is required under only one of the policies.

(b) In this subsection "disability insurance" means surgical, medical, hospital, major medical and other health service coverage but does not include hospital indemnity policies or ancillary coverages such as income continuation, loss of time or accident benefits.

(c) In this subsection "home care" means care and treatment of an insured under a plan of care established, approved in writing and reviewed at least every 2 months by the attending physician, unless the attending physician determines that a longer interval between reviews is sufficient, and consisting of one or more of the following:

1. Part-time or intermittent home nursing care by or under the supervision of a registered nurse.
2. Part-time or intermittent home health aide services which are medically necessary as part of the home care plan, under the supervision of a registered nurse or medical social worker, which consist solely of caring for the patient.
3. Physical, respiratory, occupational or speech therapy.
4. Medical supplies, drugs and medications prescribed by a physician and laboratory services by or on behalf of a hospital, if necessary under the home care plan, to the extent such items would be covered under the policy if the insured had been hospitalized.
5. Nutrition counseling provided by or under the supervision of a registered dietician where such services are medically necessary as part of the home care plan.
6. The evaluation of the need for and development of a plan, by a registered nurse, physician extender or medical social worker, for home care when approved or requested by the attending physician.

(cm) In this subsection "hospital indemnity policies" means policies which provide benefits in a stated amount for confinement in a hospital, regardless of the hospital expenses actually incurred by the insured, due to such confinement.

(d) In this subsection "immediate family" means the spouse, children, parents, grandparents, brothers and sisters of the insured and their spouses.

(e) Home care shall not be reimbursed unless the attending physician certifies that:

1. Hospitalization or confinement in a skilled nursing facility would otherwise be required if home care was not provided.
2. Necessary care and treatment are not available from members of the insured's immediate family or other person's residing with the insured without causing undue hardship.
3. The home care services shall be provided or coordinated by a state-licensed or medicare-certified home health agency or certified rehabilitation agency.

(f) If the insured was hospitalized immediately prior to the commencement of home care, the home care plan shall also be initially approved by the physician who was the primary provider of services during the hospitalization.

(g) Each visit by a person providing services under a home care plan or evaluating the need for or developing a plan shall be considered as one home care visit. The

policy may contain a limit on the number of home care visits, but not less than 40 visits in any 12-month period, for each person covered under the policy. Up to 4 consecutive hours in a 24-hour period of home health aide service shall be considered as one home care visit.

(h) Every disability insurance policy which purports to provide coverage supplementing parts A and B of Title XVIII of the social security act shall make available and if requested by the insured provide coverage of supplemental home care visits beyond those provided by parts A and B, sufficient to produce an aggregate coverage of 365 home care visits per policy year.

(i) This subsection does not require coverage for any services provided by members of the insured's immediate family or any other person residing with the insured.

(j) Insurers reviewing the certified statements of physicians as to the appropriateness and medical necessity of the services certified by the physician under this subsection may apply the same review criteria and standards which are utilized by the insurer for all other business.

SECTION 2. Applicability. (1) This act applies to all disability insurance policies delivered or issued for delivery in this state on or after the effective date of this act and to all such policies covering persons in this state renewed on or after the effective date of this act. One year after the effective date of this act, except as provided in sub. (2), any policy not containing the provisions of this act shall be construed to contain such provisions.

(2) This act does not apply to disability insurance policies issued prior to the effective date of this act which are noncancellable and guaranteed renewable. The issuer of such a policy shall make the coverage provided by this act available for purchase by the insureds under such policies and may adjust the premiums accordingly.

SECTION 3. Effective date. This act takes effect on the first day of the 3rd month commencing after its publication.
