

1999 Assembly Bill 392

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1999 WISCONSIN ACT 95

AN ACT to amend 40.51 (8), 40.51 (8m), 185.981 (4t) and 185.983 (1) (intro.); and to create 111.91 (2) (kc), 609.89, 609.90, 631.17 and 631.95 of the statutes; relating to: prohibiting certain insurance practices on the basis of domestic abuse, providing written reasons for coverage denial and prohibiting collective bargaining by the state with respect to the prohibitions.

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

SECTION 1. 40.51 (8) of the statutes is amended to read:

40.51 (8) Every health care coverage plan offered by the state under sub. (6) shall comply with ss. 631.89, 631.90, 631.93 (2), 631.95, 632.72 (2), 632.746 (1) to (8) and (10), 632.747, 632.748, 632.85, 632.853, 632.855, 632.87 (3) to (5), 632.895 (5m) and (8) to (13) and 632.896.

SECTION 2. 40.51 (8m) of the statutes is amended to read:

40.51 (8m) Every health care coverage plan offered by the group insurance board under sub. (7) shall comply with ss. 631.95, 632.746 (1) to (8) and (10), 632.747, 632.748, 632.85, 632.853, 632.855 and 632.895 (11) to (13).

SECTION 3. 111.91 (2) (kc) of the statutes is created to read:

111.91 (2) (kc) Compliance with the insurance requirements under s. 631.95.

SECTION 4. 185.981 (4t) of the statutes is amended to read:

185.981 (4t) A sickness care plan operated by a cooperative association is subject to ss. 252.14, 631.17, 631.89, 631.95, 632.72 (2), 632.745 to 632.749, 632.85, 632.853, 632.855, 632.87 (2m), (3), (4) and (5), 632.895 (10) to (13) and 632.897 (10) and chs. 149 and 155.

SECTION 5. 185.983 (1) (intro.) of the statutes is amended to read:

185.983 (1) (intro.) Every such voluntary nonprofit sickness care plan shall be exempt from chs. 600 to 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41, 601.42, 601.43, 601.44, 601.45, 611.67, 619.04, 628.34 (10), 631.17, 631.89, 631.93, 631.95, 632.72 (2), 632.745 to 632.749, 632.775, 632.79, 632.795, 632.85, 632.853, 632.855, 632.87 (2m), (3), (4) and (5), 632.895 (5) and (9) to (13), 632.896 and 632.897 (10) and chs. 609, 630, 635, 645 and 646, but the sponsoring association shall:

SECTION 6. 609.89 of the statutes is created to read:

609.89 Written reason for coverage denial. Limited service health organizations, preferred provider plans and managed care plans are subject to s. 631.17.

SECTION 7. 609.90 of the statutes is created to read:

609.90 Restrictions related to domestic abuse. Limited service health organizations, preferred provider plans and managed care plans are subject to s. 631.95.

* Section 991.11, WISCONSIN STATUTES 1997-98: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

SECTION 8. 631.17 of the statutes is created to read:

631.17 Written reason for coverage denial. (1) In this section, "disability insurance policy" has the meaning given in s. 632.895 (1) (a).

(2) An insurer that denies coverage under an individual or group life or disability insurance policy or a certificate of group life or disability insurance shall advise the applicant or proposed insured in writing of the reasons for the denial.

SECTION 9. 631.95 of the statutes is created to read:

631.95 Restrictions on insurance practices; domestic abuse. (1) **DEFINITIONS.** In this section:

(a) "Abuse" has the meaning given in s. 813.122 (1) (a).

(b) "Disability insurance policy" has the meaning given in s. 632.895 (1) (a).

(c) "Domestic abuse" has the meaning given in s. 968.075 (1) (a).

(2) **GENERAL PROHIBITIONS.** Except as provided in sub. (3), an insurer may not do any of the following:

(a) Refuse to provide or renew coverage to a person, or cancel a person's coverage, under an individual or group insurance policy or a certificate of group insurance on the basis that the person has been, or the insurer has reason to believe that the person is, a victim of abuse or domestic abuse or that a member of the person's family has been, or the insurer has reason to believe that a member of the person's family is, a victim of abuse or domestic abuse.

(b) Refuse to provide or renew coverage to an employer or other group, or cancel an employer's or other group's coverage, under a group insurance policy on the basis that an employe or other group member has been, or the insurer has reason to believe that an employe or other group member is, a victim of abuse or domestic abuse or that a member of an employe's or other group member's family has been, or the insurer has reason to believe that a member of an employe's or other group member's family is, a victim of abuse or domestic abuse.

(c) Use as a factor in the determination of rates or any other aspect of insurance coverage under an individual or group insurance policy or a certificate of group insurance the knowledge or suspicion that a person or an employe or other group member has been or is a victim of abuse or domestic abuse or that a member of the person's or an employe's or other group member's family has been or is a victim of abuse or domestic abuse.

(d) Under an individual or group disability insurance policy or a certificate of group disability insurance, exclude or limit coverage of, or deny a claim for, health care services or items related to the treatment of injury or disease resulting from abuse or domestic abuse on the basis that a person or an employe or other group member has been, or the insurer has reason to believe that a person or an employe or other group member is, a victim of abuse or domestic abuse or that a member of the person's

or an employe's or other group member's family has been, or the insurer has reason to believe that a member of the person's or an employe's or other group member's family is, a victim of abuse or domestic abuse.

(e) Under an individual or group life insurance policy or a certificate of group life insurance, deny or limit benefits in the event that the death of the person whose life is insured results from abuse or domestic abuse on the basis that the person whose life is insured has been, or the insurer has reason to believe that the person whose life is insured is, a victim of abuse or domestic abuse or that a member of the family of the person whose life is insured has been, or the insurer has reason to believe that a member of the family of the person whose life is insured is, a victim of abuse or domestic abuse.

(f) Under property insurance coverage that excludes coverage for loss or damage to property resulting from intentional acts, deny payment to an insured for a claim based on property loss or damage resulting from an act, or pattern, of abuse or domestic abuse if that insured did not cooperate in or contribute to the creation of the loss or damage and if the person who committed the act or acts that caused the loss or damage is criminally prosecuted for the act or acts. Payment to the innocent insured may be limited in accordance with his or her ownership interest in the property or reduced by payments to a mortgagee or other holder of a secured interest.

(3) **EXCEPTIONS AND QUALIFICATIONS RELATED TO PROHIBITIONS.** (a) *Disability insurance.* In establishing premiums for an individual or group disability insurance policy or a certificate of group disability insurance, an insurer may inquire about a person's existing medical condition and, based on the opinion of a qualified actuary, as defined in s. 623.06 (1c), use information related to a person's existing medical condition, regardless of whether that condition is or may have been caused by abuse or domestic abuse.

(b) *Life insurance.* With respect to an individual or group life insurance policy or a certificate of group life insurance, an insurer may, on the basis of information in medical, law enforcement or court records, or on the basis of information provided by the insured, policyholder or applicant for insurance, do any of the following:

1. Deny or limit benefits under such a policy or certificate to a beneficiary who is the perpetrator of abuse or domestic abuse that results in the death of the insured.

2. Refuse to issue such a policy or certificate that names as a beneficiary a person who is or was, or who the insurer has reason to believe is or was, a perpetrator of abuse or domestic abuse against the person who is to be the insured under the policy.

3. Refuse to name as a beneficiary under such a policy or certificate a person who is or was, or who the insurer has reason to believe is or was, a perpetrator of abuse or domestic abuse against the insured under the policy.

4. Refuse to issue such a policy or certificate to a person who is or was, or who the insurer has reason to believe is or was, a perpetrator of abuse or domestic abuse against the person who is to be the insured under the policy.

5. Refuse to issue such a policy or certificate to a person who lacks an insurable interest in the person who is to be the insured under the policy.

6. For purposes of underwriting; administering a claim under; or determining a person's eligibility for coverage, a benefit or payment under; such a policy or certificate; or for purposes of servicing such a policy or certificate or an application for such a policy or certificate; inquire about and use information related to a person's medical history or existing medical condition, regardless of whether that condition is or may have been caused by abuse or domestic abuse. Any adverse underwriting decision based on a person's medical history or medical condition must be made in conformity with sound actuarial principles or otherwise supported by actual or reasonably anticipated experience.

(c) *Disability income or long-term care insurance.* With respect to an individual or group disability income or long-term care insurance policy or a certificate of group disability income or long-term care insurance, an insurer may, on the basis of information in medical, law enforcement or court records, or on the basis of information provided by the insured, policyholder or applicant for insurance, do any of the following:

1. Refuse to name as a beneficiary under such a policy or certificate a person who is or was, or who the insurer has reason to believe is or was, a perpetrator of abuse or domestic abuse against the insured under the policy.

2. Refuse to issue such a policy or certificate to a person who is or was, or who the insurer has reason to believe is or was, a perpetrator of abuse or domestic abuse against the person who is to be the insured under the policy.

3. Refuse to issue such a policy or certificate to a person who lacks an insurable interest in the person who is to be the insured under the policy.

4. For purposes of underwriting; administering a claim under; or determining a person's eligibility for coverage, a benefit or payment under; such a policy or certificate; or for purposes of servicing such a policy or certificate or an application for such a policy or certificate; inquire about and use information related to a person's medical history or existing medical condition, regardless of whether that condition is or may have been caused by abuse or domestic abuse. Any adverse underwriting decision based on a person's medical history or medical condition must be made in conformity with sound actuarial principles or otherwise supported by actual or reasonably anticipated experience.

(4) IMMUNITY FOR INSURERS. An insurer is immune from any civil or criminal liability for any action taken under sub. (3) or for the death of, or injury to, an insured that results from abuse or domestic abuse.

(5) USE AND DISCLOSURE OF ABUSE INFORMATION. (a) Except as provided in pars. (c) and (d) and sub. (3), no person employed by or contracting with an insurer may use, disclose or transfer information related to any of the following:

1. Whether an insured or applicant for insurance or a member of the insured's or applicant's family, or whether an employe or other group member of an insured or applicant for insurance or a member of the employe's or other group member's family, is or has been, or is with reason believed by the person employed by or contracting with the insurer to be or to have been, a victim of abuse or domestic abuse.

2. Whether an insured or applicant for insurance, or whether an employe or other group member of an insured or applicant for insurance, is a family member or associate of, or in a relationship with, a person who is or has been, or who the person employed by or contracting with the insurer has reason to believe is or has been, a victim of abuse or domestic abuse.

3. Whether an insured or an applicant for insurance employs a person who is or has been, or who the person employed by or contracting with the insurer has reason to believe is or has been, a victim of abuse or domestic abuse.

(b) Except as provided in pars. (c) and (d), a person employed by or contracting with an insurer may not disclose or transfer information related to the telephone number or address or other location of any of the following individuals, if the person knows that the individual is or has been, or has reason to believe that the individual is or has been, a victim of abuse or domestic abuse:

1. An insured.

2. An applicant for insurance.

3. An employe of an insured or of an applicant for insurance.

4. A group member of an insured or of an applicant for insurance.

5. A member of the family of any of the individuals listed in subds. 1. to 4.

(c) Paragraphs (a) and (b) do not apply if the use, disclosure or transfer of the information is made with the consent of the individual to whom the information relates or if the use, disclosure or transfer satisfies any of the following:

1. Is for a purpose related to the direct provision of health care services.

2. Is for a valid business purpose, including the disclosure or transfer of the information to any of the following:

a. A reinsurer.

b. A party to a proposed or consummated sale, transfer, merger or consolidation of all or part of the business of the insurer.

c. Medical, underwriting or claims personnel under contract or affiliated with the insurer.

d. An attorney representing the interests of the insurer.

e. The policyholder or policyholder's assignee as a result of delivery of the policy.

3. Is in response to legal process.

4. Is required by a court order or an order of an entity with authority to regulate insurance, or is otherwise required by law.

5. Is required or authorized by the commissioner by rule.

(d) Nothing in this subsection limits or precludes an insured or an applicant for insurance, or an employe or other group member of an insured or applicant for insurance, from obtaining his or her own insurance records from an insurer.

SECTION 10. Initial applicability.

(1) This act first applies to all of the following:

(a) Except as provided in paragraph (b), policies or certificates that are issued, renewed or applied for, whichever is appropriate, on the effective date of this paragraph.

(b) Policies or certificates covering employes who are affected by a collective bargaining agreement containing provisions inconsistent with this act that are issued, renewed or applied for, whichever is appropriate, on the earlier of the following:

1. The day on which the collective bargaining agreement expires.

2. The day on which the collective bargaining agreement is extended, modified or renewed.

SECTION 11. Effective date.

(1) This act takes effect on the first day of the 6th month beginning after publication.

