

2009 DRAFTING REQUEST

Bill

Received: **07/06/2009**

Received By: **tdodge**

Wanted: **As time permits**

Identical to LRB:

For: **Robert Jauch (608) 266-3510**

By/Representing: **Sarah Barry**

This file may be shown to any legislator: **NO**

Drafter: **tdodge**

May Contact:

Addl. Drafters:

Subject: **Insurance - health**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Jauch@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Prohibit health insurance companies from denying coverage for individuals who suffer injuries while under the influence of alcohol

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	tdodge 07/09/2009	bkraft 07/23/2009		_____			S&L
/P1	tdodge 10/29/2009	jdyer 10/30/2009	rschlue 07/24/2009	_____	mbarman 07/24/2009		S&L
/1			phenry 11/02/2009	_____	sbasford 11/02/2009		S&L

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/2	tdodge 12/17/2009	bkraft 12/17/2009	phenry 12/17/2009	_____	mbarman 12/17/2009	lparisi 01/20/2010	

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↳ At Intro.

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12 bjk 12/17

10/11/09

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Subject: Insurance - health

Extra Copies:

PJK

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Handwritten signatures and initials: PJA, RJA, etc.

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/?	tdodge	1/1 bjk 7/23					

FE Sent For:

<END>

Dodge, Tamara

From: Barry, Sarah
Sent: Monday, July 06, 2009 10:45 AM
To: Dodge, Tamara
Subject: FW: WACEP health insurance issue
Attachments: Health Ins Issue Policy Statement.pdf; Health Ins Bill Language.pdf

Tamara,

Senator Jauch would like to request a bill draft for the issue outlined below. Attached to this email is a description of the issue and, separately, suggested language for the bill. Please let me know if you have any questions or if you would like to discuss the request further.

Thank you,

Sarah Barry
Office of State Senator Bob Jauch
118 South, State Capitol
608-266-3510 (office)
608-216-4355 (cell)

From: Sarah Keister [mailto:Sarahkeister@dls.net]
Sent: Tuesday, June 09, 2009 12:22 PM
To: Barry, Sarah
Subject: WACEP health insurance issue

Hi Sarah,

Peggy asked me to send some of our materials for your perusal regarding a legislative change to prohibit health insurance companies from excluding coverage for individuals who suffer injuries while under the influence of alcohol. I've attached a copy of a policy statement and language that mirrors a similar bill that was passed in Illinois in 2007.

Please let me know if you have any questions.

Thanks!

Sarah Keister

Sarah Keister
Governmental Affairs Coordinator
Wisconsin ACEP
10 W. Phillip Rd.
Suite 120
Vernon Hills, IL 60061-1730
Ph.: 800.838.3627
Fx.: 847.680.1682
www.wisconsinacep.org

7/6/2009

LEGISLATIVE MEMORANDUM

To: The Honorable Members of the Wisconsin State Legislature
From: Howard J. Croft, MD, *President*
Richard Paul, *Executive Director*
Wisconsin Chapter of the American College of Emergency Physicians
Date: April 8, 2009
Re: Prohibited exclusion of health insurance coverage concerning intoxication and narcotics.

On behalf of the Wisconsin Chapter of the American College of Emergency Physicians (WACEP), we are bringing to your attention an upcoming legislative concern for Wisconsin's emergency medicine community.

Background Information

In 1947, the National Association of Insurance Commissioners (NAIC) adopted the Uniform Accident and Sickness Policy Provision Law, allowing insurance carriers to deny health insurance coverage to people injured while under the influence of drugs or alcohol. This legislation was intended to keep insurance costs low by limiting payouts and to reduce drunk driving by forcing impaired drivers to pay their own medical costs. Forty-two states and the District of Columbia enacted similar legislation.

However, in 2001, the National Conference of Insurance Legislators (NCOIL) passed a resolution that supported repeal of these outdated "intoxication exclusion laws" across the country. Currently, 13 states and the District of Columbia prohibit insurance carriers from using intoxication exclusions: Connecticut, Colorado, Illinois, Indiana, Iowa, Maine, Maryland, Nevada, North Carolina, Oregon, Rhode Island, South Dakota, and Washington. Although Wisconsin statutes do not explicitly permit intoxication exclusions, the lack of a law prohibiting them creates a loophole that allows insurance companies to write policies that can exclude coverage for injuries suffered while under the influence of drugs or alcohol.

Unintended Consequences

Emergency physicians treat all patients, regardless of their ability to pay. The federal EMTALA law mandates that insurance status, type of insurance, or financial means may not be used to withhold needed emergency medical services. Therefore, in Wisconsin, when insurance carriers deny coverage for injuries suffered while under the influence, the costs of medical treatment are passed on directly to the emergency physician who treats the patient. This is a gross injustice which forces emergency physicians to bear a significant share of the cost of providing care to these patients.

In addition, while intoxicated exclusion laws originally were intended to discourage excessive alcohol and drug use, they actually have allowed alcohol and drug abusers to avoid detection. Because intoxication exclusions allow insurers to deny coverage for injuries suffered while under the influence, many medical providers may be reluctant to document alcohol use in the patient's medical record. This limits the number of patients who receive counseling in emergency departments and fails to identify individuals who may have substance abuse problems.

Proposed Legislation and Recommendations

Medical professionals and other advocacy organizations have proposed legislative changes in many states that would prohibit health insurance companies from excluding coverage for medical expenses incurred by an individual as a result of an alcohol- or narcotic-related injury. For example, The Illinois legislature unanimously passed just such a measure in 2007. The Wisconsin Chapter of the American College of Emergency Physicians strongly endorses these provisions and encourages Wisconsin state legislators to support them as well.

Thank you for taking our observations into account. If WACEP can be of any assistance to you in the future, please contact our administrative office at 800/838-3627, or speak with our lobbyist, Peggy Rosenzweig, at 414/975-8825.

Administrative Office: 10 W. Phillip Rd., Suite 120, Vernon Hills, IL 60061-1730
Phone: (800) 798-4911 ♦ Fax: (847) 680-1682 ♦ Email: RichardPaul@DLS.net ♦ Internet: www.wisconsinacep.org

Add the following new section:

631.94 Prohibited exclusion of coverage concerning intoxication and narcotics.

(1) ACCIDENT AND HEALTH INSURANCE. A group or individual major medical policy of accident or health insurance or managed care plan amended, delivered, issued, or renewed after January 1, 2010 shall not, solely on the basis of the insured being intoxicated or under the influence of a narcotic, exclude coverage for any emergency or other medical, hospital, or surgical expenses incurred by an insured as a result of an injury acquired while the insured is intoxicated or under the influence of any narcotic, regardless of whether the intoxicant or narcotic is administered on the advice of a health care practitioner.

(2) Coverage required under this Section may be subject to deductibles, copayments, coinsurance, or annual or maximum payment limits that are consistent with deductibles, copayments, coinsurance, or annual or maximum payment limits applicable to other similar coverage under the plan.



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-3086?? (P)

TJD:.....

Lbjk
RmNR

In. 7/9/09

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-note

SA
x-ref

1 AN ACT ^{gen.} ...; relating to: prohibiting health insurance policies and self-insured
2 health plans from excluding coverage for injuries incurred while intoxicated or
3 under the influence of narcotics.

that occurs

Analysis by the Legislative Reference Bureau

these

This bill prohibits health insurance policies and governmental self-insured health plans that cover medical expenses resulting from injury from denying coverage of medical expenses resulting from injury when the insured is intoxicated or under the influence of narcotics. The health insurance policy or governmental self-insured health plan may subject the coverage of injuries to any cost-sharing provisions, limitations, or exclusions that apply generally under the policy or plan.

The prohibition against denying coverage applies to individual and group health insurance policies, including limited service health organizations, preferred provider plans, defined network plans, and cooperative sickness care associations; to health care plans, including a self-insured plan, offered by the state to its employees; and to self-insured health plans of a city, town, village, county, or school district.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 40.51 (8) of the statutes, as affected by 2009 Wisconsin Act 28, is
2 amended to read:

3 **40.51 (8)** Every health care coverage plan offered by the state under sub. (6)
4 shall comply with ss. 631.89, 631.90, 631.93 (2), 631.95, 632.72 (2), 632.746 (1) to (8)
5 and (10), 632.747, 632.748, 632.83, 632.835, 632.85, 632.853, 632.855, 632.865,
6 632.87 (3) to (6), 632.885, 632.895 (5m) and (8) to (17), and 632.896.

OTE: NOTE: The correct cross-reference is shown in brackets. Corrective legislation is pending.OTE:

History: 1981 c. 96; 1983 a. 27; 1985 a. 29; 1987 a. 27, 107, 356; 1987 a. 403 s. 256; 1989 a. 31, 93, 121, 129, 182, 201, 336, 359; 1991 a. 39, 70, 113, 152, 269, 315, 1993 a. 450, 481; 1995 a. 289; 1997 a. 27, 155, 202, 237, 252; 1999 a. 32, 95, 115, 155; 2001 a. 16, 38, 104; 2003 a. 33; 2005 a. 194; 2007 a. 36.

7 **SECTION 2.** 40.51 (8m) of the statutes, as affected by 2009 Wisconsin Act 28, is
8 amended to read:

9 **40.51 (8m)** Every health care coverage plan offered by the group insurance
10 board under sub. (7) shall comply with ss. 631.95, 632.746 (1) to (8) and (10), 632.747,
11 632.748, 632.83, 632.835, 632.85, 632.853, 632.855, 632.865, 632.885, and 632.895
12 (11) to (15).

History: 1981 c. 96; 1983 a. 27; 1985 a. 29; 1987 a. 27, 107, 356; 1987 a. 403 s. 256; 1989 a. 31, 93, 121, 129, 182, 201, 336, 359; 1991 a. 39, 70, 113, 152, 269, 315, 1993 a. 450, 481; 1995 a. 289; 1997 a. 27, 155, 202, 237, 252; 1999 a. 32, 95, 115, 155; 2001 a. 16, 38, 104; 2003 a. 33; 2005 a. 194; 2007 a. 36.

13 **SECTION 3.** 66.0137 (4) of the statutes, as affected by 2009 Wisconsin Act 28,
14 is amended to read:

15 **66.0137 (4) SELF-INSURED HEALTH PLANS.** If a city, including a 1st class city, or
16 a village provides health care benefits under its home rule power, or if a town
17 provides health care benefits, to its officers and employees on a self-insured basis,
18 the self-insured plan shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2),
19 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.85, 632.853, 632.855, 632.865, 632.87
20 (4), (5), and (6), 632.885, 632.895 (9) to (17), 632.896, and 767.513 (4).

OTE: NOTE: The correct cross-references are shown in brackets. Corrective legislation is pending.OTE:

History: 1999 a. 9, 115; 1999 a. 150 ss. 34, 303 to 306; Stats. 1999 s. 66.0137; 1999 a. 186 s. 63; 2001 a. 16, 30; 2005 a. 194; 2005 a. 443 s. 265; 2007 a. 20, 36.

21 **SECTION 4.** 120.13 (2) (g) of the statutes, as affected by 2009 Wisconsin Act 28,
22 is amended to read:

1 120.13 (2) (g) Every self-insured plan under par. (b) shall comply with ss.
2 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3),
3 632.85, 632.853, 632.855, 632.865, 632.87 (4), (5), and (6), 632.885, 632.895 (9) to
4 (17), 632.896, and 767.513 (4).

OTE: NOTE: The correct cross-references are shown in brackets. Corrective legislation is pending.OTE:

History: 1973 c. 94, 290; 1975 c. 115, 321; 1977 c. 206, 211, 418, 429; 1979 c. 20, 202, 221, 301, 355; 1981 c. 96, 314, 335; 1983 a. 27, 193, 207, 339, 370, 518, 538; 1985 a. 29 ss. 1725e to 1726m, 1731; 1985 a. 101, 135, 211; 1985 a. 218 ss. 12, 13, 22; 1985 a. 332; 1987 a. 88, 187; 1989 a. 31, 201, 336, 359; 1991 a. 39, 226, 269; 1993 a. 16, 27, 284, 334, 399, 450, 481, 491; 1995 a. 27 ss. 4024, 9126 (19), 9145 (1); 1995 a. 29, 32, 33, 65, 75, 225, 235, 289, 439; 1997 a. 27, 155, 164, 191, 237, 335; 1999 a. 9, 19, 73, 83, 115, 128; 1999 a. 150 s. 672; 1999 a. 186; 2001 a. 38, 98, 103, 105; 2003 a. 254; 2005 a. 22, 194, 290, 346; 2005 a. 443 s. 265; 2007 a. 20 ss. 2738, 9121 (6) (a); 2007 a. 36, 70, 97.

5 SECTION 5. 185.981 (4t) of the statutes, as affected by 2009 Wisconsin Act 28,
6 is amended to read:

7 185.981 (4t) A sickness care plan operated by a cooperative association is
8 subject to ss. 252.14, 631.17, 631.89, 631.95, 632.72 (2), 632.745 to 632.749, 632.85,
9 632.853, 632.855, 632.865, 632.87 (2m), (3), (4), (5), and (6), 632.885, 632.895 (10) to
10 (17), and 632.897 (10) and chs. 149 and 155.

OTE: NOTE: The correct cross-reference is shown in brackets. Corrective legislation is pending.OTE:

History: 1971 c. 40 s. 93; 1971 c. 307 s. 118; 1975 c. 98; 1975 c. 223 s. 28; 1975 c. 224 s. 146; 1975 c. 421; 1981 c. 39 s. 22; 1981 c. 205; 1981 c. 391 s. 210; 1985 a. 29; 1985 a. 30 s. 42; 1987 a. 27 ss. 1917e, 3202 (47) (a); 1987 a. 312 s. 17; 1989 a. 121, 129, 200, 201, 336; 1991 a. 39, 123, 269; 1993 a. 27, 450, 481; 1995 a. 27, 118, 289; 1997 a. 27, 155, 237; 1999 a. 95, 115; 2003 a. 321; 2005 a. 194; 2007 a. 36.

11 SECTION 6. 185.983 (1) (intro.) of the statutes, as affected by 2009 Wisconsin
12 Act 28, is amended to read:

13 185.983 (1) (intro.) Every such voluntary nonprofit sickness care plan shall be
14 exempt from chs. 600 to 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41,
15 601.42, 601.43, 601.44, 601.45, 611.67, 619.04, 628.34 (10), 631.17, 631.89, 631.93,
16 631.95, 632.72 (2), 632.745 to 632.749, 632.775, 632.79, 632.795, 632.85, 632.853,
17 632.855, 632.865, 632.87 (2m), (3), (4), (5), and (6), 632.885, 632.895 (5) and (9) to (17),
18 632.896, and 632.897 (10) and chs. 609, 630, 635, 645, and 646, but the sponsoring
19 association shall:

OTE: NOTE: The correct cross-reference is shown in brackets. Corrective legislation is pending.OTE:

History: 1975 c. 98; 1975 c. 224 s. 146; 1975 c. 352; 1975 c. 422 s. 163; 1977 c. 339; 1979 c. 89; 1981 c. 20; 1981 c. 39 s. 22; 1981 c. 82; 1981 c. 391 s. 210; 1983 a. 189 s. 329 (25); 1983 a. 396; 1985 a. 29 ss. 2060d to 2060r, 3202 (30); 1987 a. 27, 325; 1989 a. 23, 31, 129, 200, 201, 336, 359; 1991 a. 39, 189, 250, 269, 315; 1993 a. 450, 481, 482; 1995 a. 289; 1997 a. 27, 155, 237; 1999 a. 95, 115; 2003 a. 321; 2005 a. 194; 2007 a. 36.

20 SECTION 7. 609.72 of the statutes is created to read:

1 **609.72 Exclusion for injuries related to alcohol or narcotic use**
2 **prohibited.** Limited service health organizations, preferred provider plans, and
3 defined network plans are subject to s. 632.865.

4 **SECTION 8.** 632.865 of the statutes is created to read:

5 **632.865 Exclusion for injuries related to alcohol or narcotic use**
6 **prohibited. (1) (a)** In this subsection:

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

8 2. "Intoxicated" means substantial impairment of the mental or physical
9 functioning of a person as a result of the use of alcohol.

10 3. "Narcotic" has the meaning given in s. 961.01 (15).
(Handwritten: for narcotic drug)

11 4. "Self-insured health plan" has the meaning given in s. 632.85 (1) (c).

12 (b) No disability insurance policy or self-insured health plan that provides
13 coverage for emergency and nonemergency medical, hospital, or surgical expenses
14 incurred as a result of an injury may exclude coverage for emergency and
15 nonemergency medical, hospital, or surgical expenses incurred as a result of an
16 injury that occurs while the insured is intoxicated or under the influence of a
17 narcotic, regardless ^{of} whether the intoxicant or narcotic is administered on the advice
18 of a health care provider.

19 (c) The coverage that may not be excluded under par. (b) may be subject to any
20 cost-sharing provisions, limitations, or exclusions that apply generally under the
21 disability insurance policy or self-insured health plan.

22 **SECTION 9. Initial applicability.**

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

a.r. A

a.r. B

1 (a) Except as provided in paragraphs (b) and (c), disability insurance policies
2 that are issued or renewed, and governmental self-insured health plans that are
3 established, extended, modified, or renewed, on the effective date of this paragraph.

a.r. A

4 (b) Disability insurance policies covering employees who are affected by a
5 collective bargaining agreement containing provisions inconsistent with this act
6 that are issued or renewed on the earlier of the following:

- 7 1. The day on which the collective bargaining agreement expires.
- 8 2. The day on which the collective bargaining agreement is extended, modified,

a.r. B

9 or renewed.
10 (c) Governmental self-insured health plans covering employees who are

11 affected by a collective bargaining agreement containing provisions inconsistent
12 with this act that are established, extended, modified, or renewed on the earlier of
13 the following:

- 14 1. The day on which the collective bargaining agreement expires.
- 15 2. The day on which the collective bargaining agreement is extended, modified,
- 16 or renewed.

17 **SECTION 10. Effective date.**

18 (1) This act takes effect on the first day of the 7th month beginning after
19 publication.

20 (END)

D-note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3086/2/11

TJD:.....

LBjk

Date

Ⓟ There are some words and phrases in the requested language, specifically "intoxicant" and "under the influence" that are vague and may be left to interpretation by an insurance company or court. Can I clarify these terms in some way? If so, what is your preference as to how these terms are defined?

To Sarah Barry:

preliminary

Please review this draft to make sure it complies with your intent. I presume that you wanted to include as many types of health plans and policies as can be affected by statute.

Please take particular note of the definition of narcotic I used in this draft. This definition focuses on opium and its derivatives, which is the traditional use of the term. I was not sure whether you intended the term "narcotic" to have a broader meaning.

Also, please note that I have added an initial applicability provision and a delayed effective date to this draft.

Tamara J. Dodge
Legislative Attorney
Phone: (608) 267-7380
E-mail: tamara.dodge@legis.wisconsin.gov

NO
CH

I delayed the effective date until the 1st day of the 7th month after publication instead of January 1, 2010, to allow time to alter policies in the event this bill does not pass until later. Is that okay?

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3086/P1dn

TJD:bjk:rs

July 24, 2009

To Sarah Barry:

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There are some words and phrases in the requested language, specifically "intoxicant" and "under the influence," that are vague and may be left to interpretation by an insurance company or court. Can I clarify these terms in some way? If so, what is your preference as to how these terms are defined?

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Tamara J. Dodge
Legislative Attorney
Phone: (608) 267-7380
E-mail: tamara.dodge@legis.wisconsin.gov



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-3086/P1

TJD:bjk:rs

In: 10/29/09

Due 11/4/09

+jld
RMR

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

✓ using an insured's alcohol consumption or use of a controlled substance as a basis to deny or exclude coverage

Regen

✓

1 AN ACT to amend 40.51 (8), 40.51 (8m), 66.0137 (4), 120.13 (2) (g), 185.981 (4t)
2 and 185.983 (1) (intro.); and to create 609.72 and 632.865 of the statutes;
3 relating to: prohibiting health insurance policies and self-insured health
4 plans from excluding coverage for injuries incurred while intoxicated or under

4
5

~~the influence of narcotics~~ based on the use of alcohol or controlled substances

Analysis by the Legislative Reference Bureau

This bill prohibits health insurance policies and governmental self-insured health plans that cover medical expenses resulting from injury from denying coverage of medical expenses resulting from injury that occurs when the insured is intoxicated or under the influence of narcotics. The health insurance policy or governmental self-insured health plan may subject the coverage of these injuries to any cost-sharing provisions, limitations, or exclusions that apply generally under the policy or plan.

The prohibition against denying coverage applies to individual and group health insurance policies, including limited service health organizations, preferred provider plans, defined network plans, and cooperative sickness care associations; to health care plans, including a self-insured plan, offered by the state to its employees; and to self-insured health plans of a city, town, village, county, or school district.

INS A

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 SECTION 1. 40.51 (8) ^X of the statutes, as affected by 2009 Wisconsin Act 28, is
2 amended to read:

3 40.51 (8) Every health care coverage plan offered by the state under sub. (6)
4 shall comply with ss. 631.89, 631.90, 631.93 (2), 631.95, 632.72 (2), 632.746 (1) to (8)
5 and (10), 632.747, 632.748, 632.83, 632.835, 632.85, 632.853, 632.855, 632.865,
6 632.87 (3) to (6), 632.885, 632.895 (5m) and (8) to (17), and 632.896.

7 SECTION 2. 40.51 (8m) ^X of the statutes, as affected by 2009 Wisconsin Act 28, is
8 amended to read:

9 40.51 (8m) Every health care coverage plan offered by the group insurance
10 board under sub. (7) shall comply with ss. 631.95, 632.746 (1) to (8) and (10), 632.747,
11 632.748, 632.83, 632.835, 632.85, 632.853, 632.855, 632.865, 632.885, and 632.895
12 (11) to (15).

13 SECTION 3. 66.0137 (4) ^X of the statutes, as affected by 2009 Wisconsin Act 28,
14 is amended to read:

15 66.0137 (4) SELF-INSURED HEALTH PLANS. If a city, including a 1st class city, or
16 a village provides health care benefits under its home rule power, or if a town
17 provides health care benefits, to its officers and employees on a self-insured basis,
18 the self-insured plan shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2),
19 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.85, 632.853, 632.855, 632.865, 632.87
20 (4), (5), and (6), 632.885, 632.895 (9) to (17), 632.896, and 767.513 (4).

1 **SECTION 4.** 120.13 (2) (g) of the statutes, as affected by 2009 Wisconsin Act 28,
2 is amended to read:

3 120.13 (2) (g) Every self-insured plan under par. (b) shall comply with ss.
4 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3),
5 632.85, 632.853, 632.855, 632.865, 632.87 (4), (5), and (6), 632.885, 632.895 (9) to
6 (17), 632.896, and 767.513 (4).

7 **SECTION 5.** 185.981 (4t) of the statutes, as affected by 2009 Wisconsin Act 28,
8 is amended to read:

9 185.981 (4t) A sickness care plan operated by a cooperative association is
10 subject to ss. 252.14, 631.17, 631.89, 631.95, 632.72 (2), 632.745 to 632.749, 632.85,
11 632.853, 632.855, 632.865, 632.87 (2m), (3), (4), (5), and (6), 632.885, 632.895 (10) to
12 (17), and 632.897 (10) and chs. 149 and 155.

13 **SECTION 6.** 185.983 (1) (intro.) of the statutes, as affected by 2009 Wisconsin
14 Act 28, is amended to read:

15 185.983 (1) (intro.) Every such voluntary nonprofit sickness care plan shall be
16 exempt from chs. 600 to 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41,
17 601.42, 601.43, 601.44, 601.45, 611.67, 619.04, 628.34 (10), 631.17, 631.89, 631.93,
18 631.95, 632.72 (2), 632.745 to 632.749, 632.775, 632.79, 632.795, 632.85, 632.853,
19 632.855, 632.865, 632.87 (2m), (3), (4), (5), and (6), 632.885, 632.895 (5) and (9) to (17),
20 632.896, and 632.897 (10) and chs. 609, 630, 635, 645, and 646, but the sponsoring
21 association shall:

22 **SECTION 7.** 609.72 of the statutes is created to read:

23 **609.72 Exclusion for injuries** related to alcohol or narcotic use
24 **prohibited.** Limited service health organizations, preferred provider plans, and
25 defined network plans are subject to s. 632.865.

(B) based on
(E) Controlled substance

23

-4-

(B) based on ✓

(B) controlled substance ✓

1 SECTION 8. 632.865 of the statutes is created to read:

2 632.865 Exclusion for injuries related to alcohol or narcotic use

3 prohibited. (1) (a) In this subsection: ✓

INS 3 4-4 ✓

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

5 2. "Intoxicated" means substantial impairment of the mental or physical
6 functioning of a person as a result of the use of alcohol.

7 3. "Narcotic" has the meaning given for "narcotic drug" in s. 961.01 (15).

8 4. "Self-insured health plan" has the meaning given in s. 632.85 (1) (c).

INS 8 4-9 ✓

9 (b) No disability insurance policy or self-insured health plan that provides
10 coverage for emergency and nonemergency medical, hospital, or surgical expenses
11 incurred as a result of an injury may exclude coverage for emergency and
12 nonemergency medical, hospital, or surgical expenses incurred as a result of an
13 injury that occurs while the insured is intoxicated or under the influence of a
14 narcotic, regardless of whether the intoxicant or narcotic is administered on the
15 advice of a health care provider.

16 (c) The coverage that may not be excluded under par. (b) may be subject to any
17 cost-sharing provisions, limitations, or exclusions that apply generally under the
18 disability insurance policy or self-insured health plan.

19 SECTION 9. Initial applicability.

← INS 4-19 ✓

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

21 (a) Except as provided in paragraphs (b) and (c), disability insurance policies
22 that are issued or renewed, and governmental self-insured health plans that are
23 established, extended, modified, or renewed, on the effective date of this paragraph.

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3086/lins
TJD:.....

1 INSERT A

* 20 Under the bill, the health insurance policy or governmental self-insured health plan may have a general exclusion for coverage of treatment or service in connection with any illness or injury incurred by an insured person as a result of engaging in an illegal occupation or committing or attempting to commit a felony.

2

3 INSERT 4-4

4 (a) "Controlled substance" has the meaning given in s. 961.01 (4).

5

6 INSERT 4-9

7 (2) Except as provided in sub. (4), no disability insurance policy or self-insured
8 health plan that provides coverage for emergency or nonemergency medical,
9 hospital, or surgical expenses incurred as a result of an injury may use as a basis for
10 denying or excluding coverage for those expenses any alcohol consumption by the
11 insured or use of a controlled substance by the insured.

12

13 INSERT 4-19

14 (4) A general exclusion in a disability insurance policy or self-insured health
15 plan for coverage of treatment or service in connection with any illness or injury
16 incurred by an insured person as a result of engaging in an illegal occupation or
17 committing or attempting to commit a felony does not violate this section.

18

(END)

Dodge, Tamara

From: Barry, Sarah
Sent: Wednesday, December 16, 2009 10:41 AM
To: Dodge, Tamara
Subject: ER Intoxicated Individual Insurance Coverage Bill--LRB-3086/1

Tammy,

After some internal discussion I would like to ask that you remove that additional clause—632.865 (4) from the bill. I think it is helpful to have the language just in case we need it as we proceed with the legislation. I appreciate your help determining the impact of the additional language.

Thank you,

Sarah Barry

Office of State Senator Bob Jauch
118 South, State Capitol
608-266-3510 (office)
608-216-4355 (cell)

632.865 Exclusion for injuries based on alcohol or controlled substance use prohibited. (1) In this section:

- (a) "Controlled substance" has the meaning given in s. 961.01 (4).
- (b) "Disability insurance policy" has the meaning given in s. 632.895 (1) (a).
- (c) "Self-insured health plan" has the meaning given in s. 632.85 (1) (c).

(2) Except as provided in sub. (4), no disability insurance policy or self-insured health plan that provides coverage for emergency or nonemergency medical, hospital, or surgical expenses incurred as a result of an injury may use as a basis for denying or excluding coverage for those expenses any alcohol consumption by the insured or use of a controlled substance by the insured.

(3) The coverage that may not be excluded under par. (b) may be subject to any cost-sharing provisions, limitations, or exclusions that apply generally under the disability insurance policy or self-insured health plan.

(4) A general exclusion in a disability insurance policy or self-insured health plan for coverage of treatment or service in connection with any illness or injury incurred by an insured as a result of engaging in an illegal occupation or committing or attempting to commit a felony does not violate this section.



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-3086/L
TJD:bjk&jld:ph
stays
2
RMR

In: 12/17/09

2009 BILL

SA

d-note

repen.

1 AN ACT *to amend* 40.51 (8), 40.51 (8m), 66.0137 (4), 120.13 (2) (g), 185.981 (4t)
2 and 185.983 (1) (intro.); and *to create* 609.72 and 632.865 of the statutes;
3 **relating to:** prohibiting health insurance policies and self-insured health
4 plans from excluding coverage for injuries based on the use of alcohol or
5 controlled substances.

Analysis by the Legislative Reference Bureau

This bill prohibits health insurance policies and governmental self-insured health plans that cover medical expenses incurred as a result of an injury from using an insured's alcohol consumption or use of a controlled substance as a basis to deny or exclude coverage. The health insurance policy or governmental self-insured health plan may subject the coverage of these injuries to any cost-sharing provisions, limitations, or exclusions that apply generally under the policy or plan. Under the bill, the health insurance policy or governmental self-insured health plan may have a general exclusion for coverage of treatment or service in connection with any illness or injury incurred by an insured as a result of engaging in an illegal occupation or committing or attempting to commit a felony.

The prohibition against denying coverage applies to individual and group health insurance policies, including limited service health organizations, preferred provider plans, defined network plans, and cooperative sickness care associations; to health care plans, including a self-insured plan, offered by the state to its employees; and to self-insured health plans of a city, town, village, county, or school district.

Other

BILL

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 40.51 (8) of the statutes, as affected by 2009 Wisconsin Act 28, is
2 amended to read:

3 40.51 (8) Every health care coverage plan offered by the state under sub. (6)
4 shall comply with ss. 631.89, 631.90, 631.93 (2), 631.95, 632.72 (2), 632.746 (1) to (8)
5 and (10), 632.747, 632.748, 632.83, 632.835, 632.85, 632.853, 632.855, 632.865,
6 632.87 (3) to (6), 632.885, 632.895 (5m) and (8) to (17), and 632.896.

7 **SECTION 2.** 40.51 (8m) of the statutes, as affected by 2009 Wisconsin Act 28, is
8 amended to read:

9 40.51 (8m) Every health care coverage plan offered by the group insurance
10 board under sub. (7) shall comply with ss. 631.95, 632.746 (1) to (8) and (10), 632.747,
11 632.748, 632.83, 632.835, 632.85, 632.853, 632.855, 632.865, 632.885, and 632.895
12 (11) to (15).

13 **SECTION 3.** 66.0137 (4) of the statutes, as affected by 2009 Wisconsin Act 28,
14 is amended to read:

15 66.0137 (4) **SELF-INSURED HEALTH PLANS.** If a city, including a 1st class city, or
16 a village provides health care benefits under its home rule power, or if a town
17 provides health care benefits, to its officers and employees on a self-insured basis,
18 the self-insured plan shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2),
19 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.85, 632.853, 632.855, 632.865, 632.87
20 (4), (5), and (6), 632.885, 632.895 (9) to (17), 632.896, and 767.513 (4).

BILL

1 **SECTION 4.** 120.13 (2) (g) of the statutes, as affected by 2009 Wisconsin Act 28,
2 is amended to read:

3 120.13 (2) (g) Every self-insured plan under par. (b) shall comply with ss.
4 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3),
5 632.85, 632.853, 632.855, 632.865, 632.87 (4), (5), and (6), 632.885, 632.895 (9) to
6 (17), 632.896, and 767.513 (4).

7 **SECTION 5.** 185.981 (4t) of the statutes, as affected by 2009 Wisconsin Act 28,
8 is amended to read:

9 185.981 (4t) A sickness care plan operated by a cooperative association is
10 subject to ss. 252.14, 631.17, 631.89, 631.95, 632.72 (2), 632.745 to 632.749, 632.85,
11 632.853, 632.855, 632.865, 632.87 (2m), (3), (4), (5), and (6), 632.885, 632.895 (10) to
12 (17), and 632.897 (10) and chs. 149 and 155.

13 **SECTION 6.** 185.983 (1) (intro.) of the statutes, as affected by 2009 Wisconsin
14 Act 28, is amended to read:

15 185.983 (1) (intro.) Every such voluntary nonprofit sickness care plan shall be
16 exempt from chs. 600 to 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41,
17 601.42, 601.43, 601.44, 601.45, 611.67, 619.04, 628.34 (10), 631.17, 631.89, 631.93,
18 631.95, 632.72 (2), 632.745 to 632.749, 632.775, 632.79, 632.795, 632.85, 632.853,
19 632.855, 632.865, 632.87 (2m), (3), (4), (5), and (6), 632.885, 632.895 (5) and (9) to (17),
20 632.896, and 632.897 (10) and chs. 609, 630, 635, 645, and 646, but the sponsoring
21 association shall:

22 **SECTION 7.** 609.72 of the statutes is created to read:

23 **609.72 Exclusion for injuries based on alcohol or controlled substance**
24 **use prohibited.** Limited service health organizations, preferred provider plans,
25 and defined network plans are subject to s. 632.865.

BILL

1 **SECTION 8.** 632.865 of the statutes is created to read:

2 **632.865 Exclusion for injuries based on alcohol or controlled**

3 **substance use prohibited.** (1) In this section:

4 (a) "Controlled substance" has the meaning given in s. 961.01 (4).

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

6 (c) "Self-insured health plan" has the meaning given in s. 632.85 (1) (c).

7 (2) Except as provided in sub. (4), no disability insurance policy or self-insured
8 health plan that provides coverage for emergency or nonemergency medical,
9 hospital, or surgical expenses incurred as a result of an injury may use as a basis for
10 denying or excluding coverage for those expenses any alcohol consumption by the
11 insured or use of a controlled substance by the insured.

12 (3) The coverage that may not be ~~excluded under~~ ^{denied or} ~~par. (b)~~ ^{other} may be subject to any
13 cost-sharing provisions, limitations, or ~~exclusions~~ ^{Sub. (2)} that apply generally under the
14 disability insurance policy or self-insured health plan.

15 (4) ~~A general exclusion in a disability insurance policy or self-insured health~~
16 ~~plan for coverage of treatment or service in connection with any illness or injury~~
17 ~~incurred by an insured as a result of engaging in an illegal occupation or committing~~
18 ~~or attempting to commit a felony does not violate this section.~~

19 **SECTION 9. Initial applicability.**

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

21 (a) Except as provided in paragraphs (b) and (c), disability insurance policies
22 that are issued or renewed, and governmental self-insured health plans that are
23 established, extended, modified, or renewed, on the effective date of this paragraph.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3086/2dn

TJD:.....

Lbjk

Date

To Sarah Barry:

So 6320865(3)

Please note that I added the word "other" in subsection three to clarify that exclusions other than those for alcohol or controlled substance use may apply to the coverage.

Should you have questions or redraft instructions, please contact me.

Tamara J. Dodge
Legislative Attorney
Phone: (608) 267-7380
E-mail: tamara.dodge@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3086/2dn
TJD:bjk:ph

December 17, 2009

To Sarah Barry:

Please note that I added the word "other" in s. 632.865 (3) to clarify that exclusions other than those for alcohol or controlled substance use may apply to the coverage.

Should you have questions or redraft instructions, please contact me.

Tamara J. Dodge
Legislative Attorney
Phone: (608) 267-7380
E-mail: tamara.dodge@legis.wisconsin.gov

Barman, Mike

From: Dodge, Tamara
Sent: Wednesday, January 20, 2010 11:07 AM
To: Barman, Mike
Subject: FW: Request for Jacket LRB 3086/2

Mike,
Would you, or someone else up front, please jacket LRB-3086/2 for the senate (Senator Jauch).
Thanks.
Tami

Tamara J. Dodge

Attorney
Wisconsin Legislative Reference Bureau
P.O. Box 2037
Madison, WI 53701-2037
(608) 267 - 7380
tamara.dodge@legis.wisconsin.gov

From: Barry, Sarah
Sent: Wednesday, January 20, 2010 11:03 AM
To: Dodge, Tamara
Subject: Request for Jacket LRB 3086/2

Tammy,

I just realized I never requested the jacketed version of LRB 3086/2 (our most recent version). The co-sponsorship period ended yesterday. Would you forward this to the appropriate person to have it jacketed and sent to our office?

Thank you,

Sarah Barry

Office of State Senator Bob Jauch
118 South, State Capitol
608-266-3510 (office)
608-216-4355 (cell)

<http://legis.wisconsin.gov/senate/sen25/news/>