

2013 DRAFTING REQUEST

Bill

Received: 3/26/2013 Received By: pkahler  
 Wanted: Soon Same as LRB:  
 For: Jerry Petrowski (608) 266-2502 By/Representing: Tim Fiocchi  
 May Contact: Drafter: pkahler  
 Subject: Insurance - health Addl. Drafters:  
 Extra Copies:

Submit via email: YES  
 Requester's email: Sen.Petrowski@legis.wisconsin.gov  
 Carbon copy (CC) to: Tamara.Dodge@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Prohibitions on setting fees for dental services

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>
/?	pkahler 3/26/2013	scalvin 3/26/2013	rschluet 3/26/2013	_____			
/1				_____	sbasford 3/26/2013	sbasford 3/26/2013	

FE Sent For:

↳ Not Needed

<END>

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/? pkahler

11 sac  
03/26/2013

FE Sent For:

<END>

**Kahler, Pam**

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**From:** Fiocchi, Tim  
**Sent:** Tuesday, March 26, 2013 10:08 AM  
**To:** Kahler, Pam  
**Cc:** Williams, Vincent  
**Subject:** FW: Status update...  
**Attachments:** 13-0800\_4.pdf

Hi Pam,

Can you send me a senate version of this?

Thanks,

Tim

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**From:** Williams, Vincent  
**Sent:** Monday, March 25, 2013 3:08 PM  
**To:** Hanus, Andrew; Rebecca Larson; Fiocchi, Tim; Mara Brooks  
**Subject:** RE: Status update...

We have a draft, attached to this email.

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**From:** Hanus, Andrew  
**Sent:** Monday, March 25, 2013 1:27 PM  
**To:** Rebecca Larson; Fiocchi, Tim; Mara Brooks; Williams, Vincent  
**Subject:** RE: Status update...

Vince, do you have the draft bill and co-sponsorship for Rebecca?

Andrew Hanus  
Office of Assembly Speaker Vos  
211 West, State Capitol  
Phone: (608) 266-9171

---

**From:** Rebecca Larson [<mailto:rlarson@allianceofhealthinsurers.com>]  
**Sent:** Monday, March 25, 2013 12:42 PM  
**To:** Fiocchi, Tim; Mara Brooks  
**Cc:** Williams, Vincent; Hanus, Andrew  
**Subject:** Re: Status update...

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**From:** "Fiocchi, Tim" <[Tim.Fiocchi@legis.wisconsin.gov](mailto:Tim.Fiocchi@legis.wisconsin.gov)>  
**Date:** Monday, March 25, 2013 10:15 AM  
**To:** Mara Brooks <[mbrooks@wda.org](mailto:mbrooks@wda.org)>, Rebecca Larson <[rlarson@allianceofhealthinsurers.com](mailto:rlarson@allianceofhealthinsurers.com)>  
**Cc:** "Williams, Vincent" <[Vincent.Williams@legis.wisconsin.gov](mailto:Vincent.Williams@legis.wisconsin.gov)>, "Hanus, Andrew" <[Andrew.Hanus@legis.wisconsin.gov](mailto:Andrew.Hanus@legis.wisconsin.gov)>  
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Good morning,

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We would like to be able to send it out yet today, or if that's not possible, by 10:00 tomorrow morning.

Thank you,

Tim

Tim Fiocchi  
Chief of Staff, Senator Jerry Petrowski  
29th Senate District  
(608) 266-2502

---

**From:** Mara Brooks [<mailto:mbrooks@wda.org>]  
**Sent:** Monday, March 25, 2013 10:28 AM  
**To:** Rebecca Larson  
**Cc:** Williams, Vincent; Fiocchi, Tim  
**Subject:** RE: Status update...

Rebecca:

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Mara Brooks  
Director of Government Services  
Wisconsin Dental Association  
10 East Doty Street, Suite 509

Madison, WI 53703  
(608)250-3442 (p)  
(608)282-7716 (f)

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**From:** Rebecca Larson [<mailto:rlarson@allianceofhealthinsurers.com>]  
**Sent:** Monday, March 25, 2013 11:26 AM  
**To:** Mara Brooks  
**Subject:** Re: Status update...

Sounds good Mara, when will you have a draft bill you can share with us? Of course we'll want to see the draft language before signing off.

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**From:** Mara Brooks <[mbrooks@wda.org](mailto:mbrooks@wda.org)>  
**Date:** Monday, March 25, 2013 9:03 AM  
**To:** Rebecca Larson <[rlarson@allianceofhealthinsurers.com](mailto:rlarson@allianceofhealthinsurers.com)>  
**Subject:** Re: Status update...

Thanks for the update - look forward to an MOU by noon...

Sent from my iPhone

On Mar 25, 2013, at 9:32 AM, "Rebecca Larson" <[rlarson@allianceofhealthinsurers.com](mailto:rlarson@allianceofhealthinsurers.com)> wrote:

Good Morning Mara,

I wanted to shoot you a quick note to let you know where we're at. I have talked with all plans and they're comfortable with the direction we talked about on Friday, that being: retaining alternative benefit payments in the definition of covered services, and limiting the scope to stand alone dental but with the understanding that we revisit in the future if the practice moves toward embedding dental into medical plans. Karen Geiger has drafted a MOU for WDA's consideration and I have a meeting with the AHI group at 10 a.m. this morning to talk over final details or that letter. I hope to have something to you by noon.

Also, regarding our discussion on deminimus, there were other examples beyond copays where the group expressed concerns over how one defines deminimus. (I'm sorry, I couldn't recollect them on the phone last Friday) They were included in Anthem's chart that we walked through in Speaker Vos' office and I have cut and pasted those examples below. Additionally, we have additional statutory protections in WI that may not be in place in other states. This was also outlined in Anthem's chart and I have pasted below. The language we offered is in line with Tennessee, the one other state that has adopted deminimus language.

**WI Prohibition on Illusory coverage (as outlined in Anthem Chart)**

Current insurance law requires insurers to provide meaningful benefits (Wis. Stat. § 631.20(2) – benefits cannot be too restricted to achieve the purpose) and insurers are prohibited from misleading consumers into policies that provide no meaningful benefits (Wis. Stat. § 628.34(1)). The Wisconsin Administrative Code § Ins 3.27 also regulates deceptive advertising of health and dental insurance policies. Accordingly, there are already several laws that the WDA and its members could assert are being breached if a 'bad actor' tries to

offer a minimal benefit plan. An example of where OCI has issued a bulletin against 'bad actors' in the medical insurance arena can be found here: <http://www.oci.wi.gov/bulletin/0603mewa.htm> and we would expect that OCI would issue a bulletin or take other action against a dental plan insurer if they violate any of the statutes/regulations described above.

**Examples (as outlined in Anthem chart)**

De minimus – But, the biggest issue is what does de minimus mean – is it a payment amount by the plan based on the benefits or is it tied to the amount we contract with the dentist to pay? Will the interpretation be left to each dentist, so some members would be balance billed because the dentist would consider the benefit/ payment de minimus while another may not? Here are a few examples:

A dental plan applies a \$75 deductible and then pays 50% of any remaining amount. The negotiated amount for the visit is \$80. Accordingly, the plan pays \$2.50 because the member is responsible for the deductible and coinsurance amounts. Is this de minimus?

A small employer decides to add coverage for braces to his policy in order to benefit his employees, but due to the premium cost, wants the lifetime maximum to be \$250. Is the \$250 benefit de minimus? If yes, then employers could easily decide not to offer such a benefit.

Dentist A in Milwaukee charges \$100 for an oral exam visit, Dentist B in Green Bay charges \$75 and Dentist C in Hayward charges \$50. Anthem contracts with dentists using a state wide fee schedule that pays \$50 per oral exam visit. Dentist A considers that a de minimus payment allowing him to balance bill the member for his full \$100 fee even though Dentists B and C do not.

As discussed, if we have agreement on these items, AHI would be neutral on the bill. In the meantime, give me a call if you'd like to discuss anything further. I'll be in touch soon.

Rebecca Larson  
Executive Director  
Alliance of Health Insurers, U.A.  
44 E. Mifflin, Suite 901  
Madison, WI 53703  
608-630-9293 (office)  
608-628-2667 (mobile)

for 1991

**Kahler, Pam**

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**From:** Fiocchi, Tim  
**Sent:** Tuesday, March 26, 2013 11:59 AM  
**To:** Kahler, Pam  
**Subject:** RE: Status update...  
**Attachments:** MOU Dental Assn and AHI.pdf

Pam – yes, please include that in the drafting file along with the attached and another email I'll forward to you from AHI once we get it.

Thanks,

Tim

---

**From:** Kahler, Pam  
**Sent:** Tuesday, March 26, 2013 10:34 AM  
**To:** Fiocchi, Tim  
**Subject:** RE: Status update...

Tim:

Is it okay to have the file contents from LRB-0800 copied and placed in your file? That way the changes from 2011 AB 251 will be included in both files, since we don't know which bill will become the ultimate act.

Pam

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**ALLIANCE OF HEALTH INSURERS, U.A.**  
Post Office Box 308  
Madison, WI 53701  
608- 608-630-9293  
[info@allianceofhealthinsurers.com](mailto:info@allianceofhealthinsurers.com)

Anthem Blue Cross and Blue Shield in Wisconsin  
Delta Dental of Wisconsin, Inc.  
Humana, Inc.  
Managed Health Services Insurance Corp.  
Aetna Healthcare of Wisconsin  
Physicians Plus Insurance Corporation  
UnitedHealthcare of Wisconsin  
WEA Insurance Corporation  
WPS Health Insurance

March 25, 2013

Mara Brooks  
Director of Government Services  
Wisconsin Dental Association  
10 E. Doty, Suite 509  
Madison, WI 53703

Re: Letter of Understanding

Dear Mara:

This letter is intended to memorialize the discussion we had on Friday March 22, 2013 regarding the exclusion of medical plans under the fees for dental services legislation. As you are aware, it is the position of the Alliance of Health Insurers (AHI) that the fees for dental services legislation should only include dental plans. According to information from the National Association of Dental Plans, only 1% of dental plans are currently embedded in medical plans; the other 99% of plans (labeled as "group" or "individual" in the attached graphs) fall under the category of limited scope dental plans. However, we understand that it is the concern of your members that the Patient Protection Affordable Care Act (ACA) may result in medical plans covering a large portion of the children that your dentists treat.

However, our member plans do not expect a significant number of medical plans to embed dental, due to (1) the medical loss ratio requirements, which only apply to medical policies and not stand alone dental plans<sup>1</sup>; (2) the ability of limited scope, standalone dental plans to offer the pediatric essential health benefit and include deductible and coinsurance requirements separate from the medical plan; and (3) medical plans without dental will be less expensive than medical plans that embed dental coverage.

The proposal that we discussed was that the dental services legislation would only impact limited scope dental plans and would not impact medical plans that embed dental services into their medical coverage. However, if it is later determined that a significant portion of medical plans are embedding the dental services required by the ACA, AHI and the WDA agree to meet in

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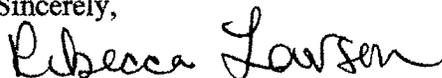
<sup>1</sup> See question 38 on page 1 of <http://cciio.cms.gov/resources/files/mlr-guidance-5-24-12.pdf>; last paragraph on page 4 of <http://www.fas.org/sgp/crs/misc/R42735.pdf>

order to evaluate the possible amendment of the then current law. This proposal has been approved by AHI member plans.

We would expect that this discussion not take place until at least mid-2016, because 2014 will be the initial year of the full implementation of the ACA and carriers will make changes to their plans in 2015 and 2016 in order to address the lessons learned from the implementation.

If this is acceptable to the Wisconsin Dental Association, please sign below and return a signed copy to my attention.

Sincerely,



Rebecca Larson  
Executive Director

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On behalf of the Wisconsin Dental Association, I agree with the approach proposed in AHI's letter dated 3-25-13, which will exclude medical plans from the proposed fees for dental services bill. But, the Wisconsin Dental Association will expect AHI to meet in good faith if it is determined that a significant portion of medical plans include the dental coverage required by the ACA.



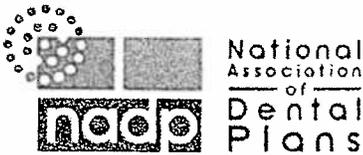
Signature



Title

3-26-13

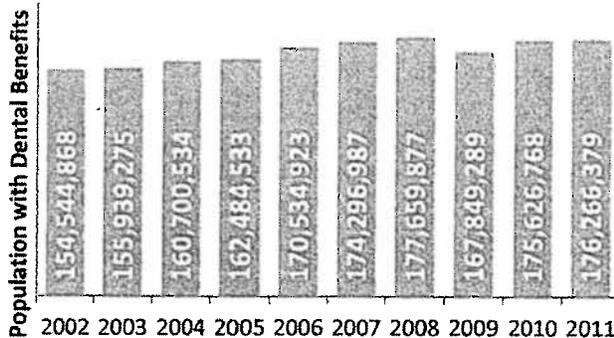
Date



# Wisconsin Dental Benefits Fact Sheet

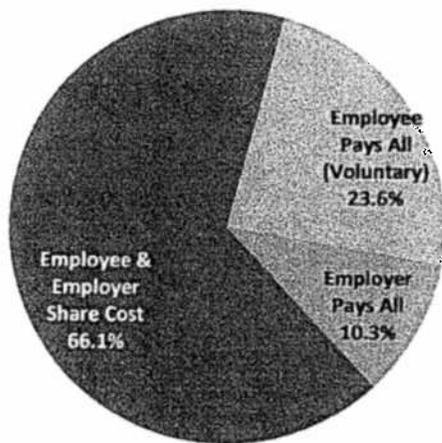
## National Enrollment Trends

### Enrollment



Source: 2012 NADP/DDPA Joint Dental Benefits Report on Enrollment

### Group Policy Funding



Source: 2012 NADP/DDPA Joint Dental Benefits Report on Enrollment

### Premium Facts

Nationally, premium increases for existing group coverage ranged from 0.1% for DPPO products to 1.8% for Dental Indemnity products.<sup>2</sup>

Average monthly dental premium per member per month in Wisconsin:

DPPO: \$ 32.58

## State Enrollment

An estimated 2,535,591 people are enrolled in a private dental plan from Wisconsin.

### Private Plan Enrollment

Plan Type	Enrollment
DHMO	51,406
DPPO	2,162,769
Indemnity	248,537
Other Private	72,879

### Public Plan Enrollment

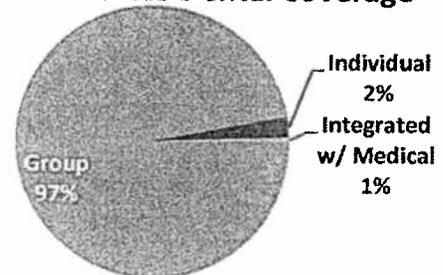
Medicaid/CHIP <sup>1</sup>	47,169
Other Public	86,749

Source: 2012 NADP/DDPA Joint Dental Benefits Report on Enrollment

### Distribution of Commercial Benefits: State v. National

	DHMO	DPPO	Indemnity	Other
Wisconsin	2.0%	85.3%	9.8%	2.9%
National	8.4%	77.2%	9.0%	5.4%

### Sources of Private Dental Coverage



Source: 2012 NADP/DDPA Joint Dental Benefits Report on Enrollment

<sup>1</sup> Data from the Center for Medicare and Medicaid Services. If 0, then CMS data is not available.

<sup>2</sup> NADP 2012 Premium and Benefit Utilization Trends



# Wisconsin Dental Benefits Fact Sheet

## Workforce

The federal standard for an adequate supply of dentists is 3.33 practicing dentists per 10,000 population.<sup>3</sup>

According to the American Dental Association, 3,013 dentists are actively practicing in Wisconsin or 5.28 dentists per 10,000 population.<sup>4</sup>

Network Type	Total Dentists	General Dentists	Pediatric Dentists	Specialists
DHMO	215	169	6	40
DPPO	2,239	1,791	80	368
Discount	1,153	980	149	149

Source: 2012 NADP/DDPA Joint Dental Benefits Report on Network Statistics

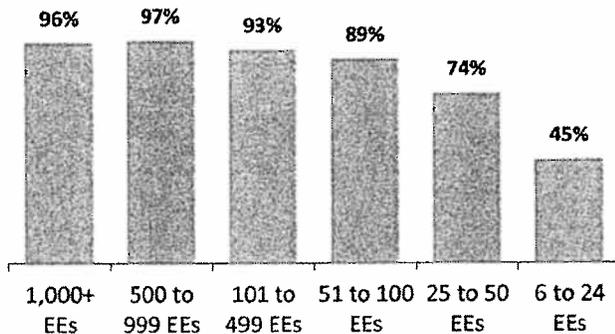
## NADP Members

Plan Type	NADP Members Offering Dental Plans
DHMO	5
DPPO	27
Indemnity	15
Discount	12

Source: 2012 NADP Membership Directory

## Where do Consumers Get Dental Benefits

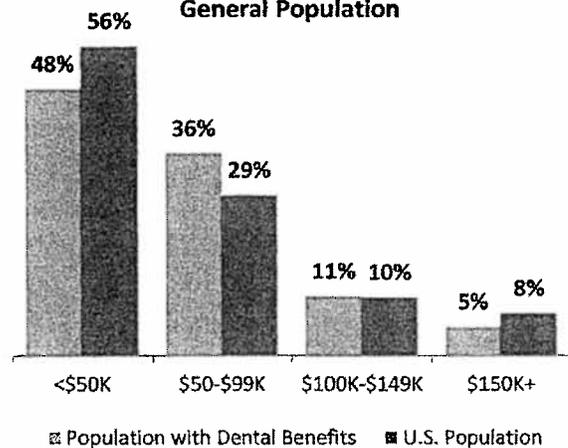
Employers Offering Dental Benefits by Employer Size



Source: 2011 NADP Purchaser Behavior Survey

## Who Has Dental Benefits?

Consumers with Dental Benefits by Household Income compared to General Population



Source: 2012 NADP Survey of Consumers

## About NADP

The National Association of Dental Plans (NADP), a nonprofit corporation with headquarters in Dallas, Texas, is the "representative and recognized resource of the dental benefits industry." NADP is the only national trade organization that includes the full spectrum of dental benefits companies operating in the United States. NADP's members provide Dental HMO, Dental PPO, Dental Indemnity and Discount Dental products to 160 million Americans, more than 80% of all the dental benefits in the U.S.

<sup>3</sup> U.S. Department of Health and Human Services

<sup>4</sup> American Dental Association

## Kahler, Pam

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**From:** Fiocchi, Tim  
**Sent:** Tuesday, March 26, 2013 12:17 PM  
**To:** Kahler, Pam  
**Subject:** LRB 1991

Hi Pam,

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Tim Fiocchi  
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**To:** Mara Brooks; Williams, Vincent; Hanus, Andrew; Fiocchi, Tim  
**Subject:** Re: Status update...

Just to close the loop on this, AHI is okay with the statement - "AHI is neutral on the bill as drafted" in the cosponsorship memo. I will also register on GAB today to indicate a neutral position.

Rebecca Larson

Executive Director

Alliance of Health Insurers, U.A.

44 E. Mifflin, Suite 901

Madison, WI 53703

608-630-9293 (office)

608-628-2667 (mobile)

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**From:** Mara Brooks <[mbrooks@wda.org](mailto:mbrooks@wda.org)>

**Date:** Tuesday, March 26, 2013 7:50 AM

**To:** "Williams, Vincent" <[Vincent.Williams@legis.wisconsin.gov](mailto:Vincent.Williams@legis.wisconsin.gov)>, "Hanus, Andrew"

<[Andrew.Hanus@legis.wisconsin.gov](mailto:Andrew.Hanus@legis.wisconsin.gov)>, Rebecca Larson <[rlarson@allianceofhealthinsurers.com](mailto:rlarson@allianceofhealthinsurers.com)>, "Fiocchi, Tim"

<[Tim.Fiocchi@legis.wisconsin.gov](mailto:Tim.Fiocchi@legis.wisconsin.gov)>

**Subject:** RE: Status update...

Should we all meet sometime this morning to finalize things in person? I'm finalizing things for tomorrow's program but I'm able to break away pretty much at any time this morning... Mara

Mara Brooks  
Director of Government Services  
Wisconsin Dental Association  
10 East Doty Street, Suite 509  
Madison, WI 53703  
(608)250-3442 (p)  
(608)282-7716 (f)

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**From:** Williams, Vincent [<mailto:Vincent.Williams@legis.wisconsin.gov>]

**Sent:** Monday, March 25, 2013 2:16 PM

**To:** Hanus, Andrew; Rebecca Larson; Fiocchi, Tim; Mara Brooks

**Subject:** RE: Status update...

I am waiting for the draft from LRB at this time. We will share it once it is ready.

I will also be happy to share the co-sponsor memo prior to circulating the bill for co-sponsorship.

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**From:** Hanus, Andrew

**Sent:** Monday, March 25, 2013 1:27 PM

**To:** Rebecca Larson; Fiocchi, Tim; Mara Brooks; Williams, Vincent

**Subject:** RE: Status update...

Vince, do you have the draft bill and co-sponsorship for Rebecca?

Andrew Hanus  
Office of Assembly Speaker Vos

211 West, State Capitol  
Phone: (608) 266-9171

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**From:** Rebecca Larson [<mailto:rlarson@allianceofhealthinsurers.com>]  
**Sent:** Monday, March 25, 2013 12:42 PM  
**To:** Fiocchi, Tim; Mara Brooks  
**Cc:** Williams, Vincent; Hanus, Andrew  
**Subject:** Re: Status update...

AHI will need to see the draft bill before making any commitments to remain neutral. Can you kindly forward a copy?

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**From:** "Fiocchi, Tim" <[Tim.Fiocchi@legis.wisconsin.gov](mailto:Tim.Fiocchi@legis.wisconsin.gov)>  
**Date:** Monday, March 25, 2013 10:15 AM  
**To:** Mara Brooks <[mbrooks@wda.org](mailto:mbrooks@wda.org)>, Rebecca Larson <[rlarson@allianceofhealthinsurers.com](mailto:rlarson@allianceofhealthinsurers.com)>  
**Cc:** "Williams, Vincent" <[Vincent.Williams@legis.wisconsin.gov](mailto:Vincent.Williams@legis.wisconsin.gov)>, "Hanus, Andrew" <[Andrew.Hanus@legis.wisconsin.gov](mailto:Andrew.Hanus@legis.wisconsin.gov)>  
**Subject:** RE: Status update...

Good morning,

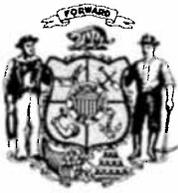
From our end, here's how we would like to move forward. While we continue to have reservations about the changes to the bill, if both sides agree we would like to send out a joint co-sponsorship with the negotiated draft and a memo from the insurers stating that you will remain neutral on the negotiated bill. We could include the MOU if people want to do that as well.

We would like to be able to send it out yet today, or if that's not possible, by 10:00 tomorrow morning.

Thank you,

Tim

Tim Fiocchi  
Chief of Staff, Senator Jerry Petrowski  
29th Senate District  
(608) 266-2502



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-08004 ✓  
PJK:kfr:rs

1991/1

you not run  
SEC

2013 BILL

today

1 AN ACT to create 632.873 of the statutes; relating to: fees for dental services.

*Analysis by the Legislative Reference Bureau*

Under this bill: 1) an insurer that offers a limited-scope policy that provides coverage for dental and related services may not require a dentist who provides services under the policy to provide a service to an insured under the policy at a fee set by the insurer if the service is not covered under the policy (noncovered service); 2) an administrator providing third-party administration services or a provider network for a plan that provides coverage for dental and related services may not require any dentist in the administrator's provider network to charge set fees for noncovered services provided to enrollees of the plan; and 3) a dentist who provides services to an insured under a limited-scope policy that provides coverage for dental and related services may not charge the insured more than the dentist's usual nondiscounted fee for a noncovered service. The bill prohibits a limited-scope policy that provides coverage for dental and related services from providing nominal or de minimis coverage for a dental or related service, making the service a covered service, for the sole purpose of avoiding the requirement under the bill that prohibits setting fees for noncovered services.

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

2 SECTION 1. 632.873 of the statutes is created to read:

**BILL**

1           **632.873 Restrictions relating to fees for dental services. (1) DEFINITIONS.**

2           In this section, unless the context requires otherwise:

3           (a) "Covered service" means, with respect to dental or related services specified  
4           in a policy or plan that provides coverage for those services, a service provided by a  
5           dentist or at the direction of a dentist to an insured under the policy or an enrollee  
6           of the plan for which the policy or plan makes payment, administered consistently  
7           with policies traditionally governing covered services, or for which the policy or plan  
8           would make payment but for the application of contractual limitations of  
9           deductibles, copayments, coinsurance, waiting periods, annual maximums, lifetime  
10          maximums applicable to the same course of treatment, frequency limitations, or  
11          alternative benefit payments.

12          (b) "Policy" means a policy, certificate, or contract of insurance that provides  
13          only limited-scope dental benefits.

14          (c) "Related service" means a service that is commonly provided, by a dentist  
15          or at the direction of a dentist, in conjunction with a dental service.

16          **(2) PROHIBITIONS ON SETTING FEES. (a) 1.** A contract between an insurer offering  
17          a policy that provides coverage for dental and related services and a dentist for the  
18          provision of dental and related services to an insured under the policy may not  
19          require the dentist to provide a service to an insured under the policy at a fee set by  
20          the insurer unless the service is a covered service under the policy.

21          2. A policy that provides coverage for dental and related services may not  
22          provide nominal or de minimis coverage for a dental or related service for the sole  
23          purpose of avoiding the requirements under subd. 1.

24          (b) An administrator providing 3rd-party administration services or a provider  
25          network for a plan that provides coverage for dental and related services may not

**BILL**

1 require any dentist in the administrator's provider network that is eligible to provide  
2 services under the plan to charge set fees for dental or related services provided to  
3 enrollees of the plan that are not covered services under the plan.

4 (3) PROHIBITION ON CHARGES. A dentist who, under a contract with an insurer  
5 offering a policy that provides coverage for dental and related services, provides  
6 dental or related services to an insured under the policy may not charge the insured  
7 more than the dentist's usual nondiscounted fee for a dental or related service that  
8 is not a covered service under the policy.

**SECTION 2. Initial applicability.**

9  
10 (1) The treatment of section 632.873 (2) (a) 1. and (3) of the statutes first applies  
11 to a contract between an insurer offering a limited-scope dental policy and a dentist  
12 that is entered into, modified, or renewed on the effective date of this subsection.

13 (2) The treatment of section 632.873 (2) (b) of the statutes first applies to a  
14 contract between an administrator providing 3rd-party administration services or  
15 a provider network for a plan and a dentist that is entered into, modified, or renewed  
16 on the effective date of this subsection.

17 (3) The treatment of section 632.873 (2) (a) 2. of the statutes first applies to a  
18 limited-scope dental policy that is newly issued or renewed on the effective date of  
19 this subsection.

**SECTION 3. Effective date.**

20 (1) This act takes effect on January 1, 2014.

21  
22 (END)

**Barman, Mike**

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**From:** Fiocchi, Tim  
**Sent:** Tuesday, March 26, 2013 11:14 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB -1991/1 Topic: Prohibitions on setting fees for dental services

Please Jacket LRB -1991/1 for the SENATE.