



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2017 Assembly Bill 798

**Assembly Substitute
Amendment 1**

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2017 Assembly Bill 798 (“the bill”) and Assembly Substitute Amendment 1 (“the substitute amendment”) create a framework for the use of a direct primary care model within Medical Assistance (MA) and on the private market. In direct primary care, a provider agrees to offer an unlimited amount of specified routine health care services for a monthly fee.

DEFINITION OF “ROUTINE HEALTH CARE SERVICES”

The bill defines “routine health care services” to mean screening, assessment, diagnosis, and treatment for the purpose of promotion of health or the detection and treatment for the purpose of promotion of health or the detection and management of disease or injury. The bill also includes specific provisions on laboratory services and dispensing of medical supplies and prescription drugs, which are removed by the substitute amendment.

DIRECT PRIMARY CARE WITHIN MA

The bill requires the Department of Health Services (DHS) to contract with one or more primary care providers to implement a direct primary care program for MA recipients. DHS must enter participants into a direct primary care agreement to receive routine health services from one of these providers for a monthly fee, as will be specified in the agreement. After the program is implemented, DHS must submit annual reports to the Legislature.

The substitute amendment removes these provisions and instead requires DHS to convene a work group to propose a direct primary care pilot program. A hearing must be held on the proposal, and legislation must be introduced following the hearing. The work group is also directed to submit a report regarding implementation of an “alternative payment model” for potentially preventable hospital readmissions of MA recipients.

DIRECT PRIMARY CARE ON THE PRIVATE MARKET

Current statutes do not specifically state how direct primary care agreements should be regulated on the private market. However, the Office of the Commissioner of Insurance has taken the position that a direct primary care agreement, in which a provider agrees to pay a discrete set of routine health care services for a predetermined fee, is not regulated as insurance because it does not involve risk distribution.

The Bill

The bill authorizes any health care provider, as that term is defined in s. 146.81 (1) (a) to (p), Stats., to enter into a direct primary care agreement with an individual patient or his or her legal representative or employer to provide routine health care services for an agreed-upon fee and time. These agreements are specifically excluded from state insurance law. The bill also specifies that the agreements must be in writing and must include a list of disclosures. DHS may investigate complaints related to direct primary care agreements and must refer complaints about providers to the Department of Safety and Professional Services or the appropriate examining board.

The Substitute Amendment

The substitute amendment contains the same provisions as the bill with regard to the use of direct primary care on the private market, except as follows. First, it modifies some of the terms that must be in the written agreement, and also requires that the agreement state in writing that the direct primary care payments may not count towards the patient's insurance deductibles or out-of-pocket expenses. Second, it prohibits direct primary care providers from discriminating in selecting patients based on a list of factors including age, health status, and pre-existing conditions. Third, it specifies that direct primary care providers who wish to be part of an insurance network must still comply with the insurance carrier's terms of participation. Finally, it removes DHS's oversight of direct primary care agreements.

BILL HISTORY

Representative Sanfelippo offered Assembly Substitute Amendment 1 on January 26, 2018. On February 7, 2018, the Assembly Committee on Small Business Development recommended adoption of the amendment and passage of 2017 Assembly Bill 798, as amended, each on a vote of Ayes, 9; Noes, 4.

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