



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2017 Senate Bill 806

Senate Substitute Amendment 1

Memo published: March 19, 2018

Contact: Brian Larson, Senior Staff Attorney

BACKGROUND

Current law provides the Office of the Commissioner of Insurance (OCI) with examination and enforcement authority to regulate insurers at the individual entity level. This includes assessments of financial solvency as well as other requirements, such as those related to risk limitation, capital surplus, actuarial requirements, audits, and others.

Current law requires health insurance policies sold in the state to include coverage for certain mandated benefits. Examples include a requirement for treatment of autism and a requirement that coverage of dependent children be provided to age 26. Mandated benefits generally apply to both individual and group health insurance plans in the private market.¹ Some mandated benefits also apply to governmental self-funded health plans. A self-funded health plan is not subject to mandated benefits if it is offered through a private employer.

2017 SENATE BILL 806

2017 Senate Bill 806 allows two or more employers that are members of the same chamber of commerce or industry-based association to jointly provide health care benefits on a self-funded basis to eligible employees and their dependents, in certain cases. OCI is required to determine which employer groups are qualified to provide health care benefits, based on criteria specified in the bill. An employer group providing benefits under the bill must employ or contract with an actuary to make recommendations as to the sufficient amount of funding for

¹ For more information, see OCI's *Fact Sheet on Mandated Benefits in Health Insurance Policies*, available at: <https://oci.wi.gov/Documents/Consumers/PI-019.pdf>.

the employee health care benefit arrangement. The bill also provides that an employer group providing health care benefits is not considered an insurer, and the health care benefit arrangement is not considered an insurance contract.

SENATE SUBSTITUTE AMENDMENT 1

Senate Substitute Amendment 1 requires a health care benefit arrangement under the bill to include coverage of certain specified benefits, and it creates additional requirements applicable to employer groups under the bill.

Mandated Benefits

The amendment specifies that an employer group providing health care benefits under the bill must include coverage of certain individuals, conditions, and services that are mandated benefits of an insurance policy, as follows:

- Ensuring coverage of services by a chiropractor if the health care benefit arrangement would provide coverage for the same services by a physician or osteopath.
- Coverage of HIV infection or illness or medical condition arising out of HIV infection. [s. 631.93 (2), Stats.]
- Ensuring coverage of individuals who have been victims of domestic violence and covering illness or disease resulting from abuse or domestic abuse. [s. 631.95, Stats.]
- Coverage of treatment of an emergency medical condition without prior authorization. [s. 632.85 (2), Stats.]
- Coverage of services provided by a certain type of provider if the plan covers services generally, including the provision regarding parity of chiropractor services. [s. 632.87, Stats.]
- Extension of coverage of children with disabilities. [s. 632.88, Stats.]
- Coverage of home care, skilled nursing care, newborn infants, maternity, mammograms, lead poisoning screening, hospital and ambulatory surgical center charges, anesthetics for certain dental care, autism spectrum disorders, breast reconstruction, certain immunizations, hearing aids and cochlear implants for children, and colorectal cancer screening. [s. 632.895 (2), (3), (5), (7), (8), (10), (12), (12m), (13), (14), (16), and (16m), Stats.]
- Coverage of adopted children. [s. 632.896, Stats.]
- Certain provisions related to coverage of spouse and dependents. [s. 632.897 (2) (a) and (10), Stats.]

Employer Groups

The amendment creates additional requirements applicable to employer groups providing health care benefits under the bill, and expands OCI's authority to regulate the employer groups in certain respects.

Organizational Structure

The amendment sets forth certain additional requirements that must be met in order for an employer group to qualify to provide health care benefits under the bill. The amendment specifies that the employer group must create and maintain a formal organizational structure, and an indication of formality, such as having by-laws. This must include a mechanism for nomination and election of representatives by the employers within the employer group to a governing body to control the functions and activities of the group or association. In addition, the amendment states that the chamber of commerce or industry-based association from which an employer group is formed must be actively in existence, with at least five members, for at least five years before the employer group may provide health benefits under the bill. Also, the chamber or association must be formed and maintained in good faith for purposes other than obtaining or providing health benefits.

Definition of Dependent

The amendment removes a provision requiring an employer group to define who is a "dependent" for purposes of health care benefits provided by the group under the bill.

Actuarial Requirements

The amendment creates additional requirements that apply when an actuary makes recommendations to an employer group as to the sufficient amount of funding for a benefit arrangement under the bill. The amendment requires the employer group that employs or contracts with the actuary to ensure that the actuary is in good standing with the Academy of Actuaries and meets certain other qualifications as specified in the amendment.

Insolvency

The amendment requires an employer group providing health care benefits under the bill to specify the procedures to be followed and the responsibilities of the involved parties in the event of an insolvency of the group.

Nondiscrimination

The amendment requires an employer group providing health care benefits under the bill to require each of the participating employers to offer the same benefits to all of the employer's eligible employees and their dependents.

Financial Solvency

The amendment provides that, in addition to determining which employer groups are qualified to provide health care benefits based on criteria specified in the bill, OCI is authorized to examine the financial solvency of an employer group providing health care benefits under the bill, as though the employer group were an insurer. The amendment specifically authorizes OCI to promulgate administrative rules regarding the solvency of employer groups providing health care benefits under the bill, and to exercise enforcement authority if the rules are violated.

Interaction With Federal Law

The amendment provides that if the federal Department of Labor publishes a final rule allowing states regulatory authority over association health plans, OCI may promulgate rules to implement the federal law.

BILL HISTORY

Senator Stroebel offered Senate Substitute Amendment 1 on March 12, 2018. On March 14, 2018, the Senate Committee on Insurance, Financial Services, Constitution, and Federalism recommended adoption of the amendment on a vote of Ayes, 4; Noes, 1; and passage of the bill, as amended, on a vote of Ayes, 3; Noes, 2.

BL:ksm