



2009 SENATE BILL 471

January 22, 2010 – Introduced by Senators ERPENBACH, HANSEN, WIRCH, VINEHOUT, TAYLOR, KREITLOW, RISSER and COWLES, cosponsored by Representatives RICHARDS, VRUWINK, BENEDICT, TURNER, BROOKS, POPE-ROBERTS, RIPP, TAUCHEN and SMITH. Referred to Committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue.

1 **AN ACT** *to repeal* 185.981 (4t), 185.981 (6) and 185.982 (3); and *to amend* 71.26
2 (1) (a), 71.45 (1) (a), 71.45 (5), 146.81 (1) (k), 146.997 (1) (d) 17., 155.01 (7),
3 185.09, 185.981 (title), 185.981 (1), 185.981 (2), 185.981 (3), 185.981 (4), 185.981
4 (5), 185.981 (7), 185.981 (8), 185.981 (9), 185.982 (1), 185.982 (2), 185.983 (1)
5 (intro.), 185.983 (1) (a), 185.983 (1m), 185.983 (2), 185.985, 252.14 (1) (ar) 12.,
6 254.11 (13), 632.86 (1) (a) and 655.002 (1) (f) of the statutes; **relating to:** health
7 care plans operated by cooperative associations.

Analysis by the Legislative Reference Bureau

Under current law, associations may be organized on a cooperative nonprofit basis (cooperative associations) to establish and operate sickness care plans for their members through contracts with providers. This bill makes various changes to those provisions, including the following:

1. The bill changes the name of the plans that cooperative associations may establish and operate from “sickness care plans” to “health care plans.”

2. The bill specifies that establishing and maintaining these plans may be the primary, as opposed to exclusive, purpose of the cooperative association.

3. Current law provides that cooperative associations may enter into contracts for services with physicians and surgeons, optometrists, chiropractors, and dentists. The bill allows contracts with other providers, too.

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4. The bill adds that nothing in the provisions pertaining to the purpose of the cooperative association as being primarily to establish and operate a health care plan precludes a cooperative association from owning an interest in other entities for improving member services or for investment.

5. Under current law, a cooperative association may not spend more than 5 percent of capital stock or membership fees on promotional expenses. The bill provides that this limit does not apply to a cooperative association operating a health care plan.

6. Current law prohibits a contract by or on behalf of a cooperative association from providing for the payment of cash or other material benefit to a subscriber or the subscriber's estate on account of death, illness, or injury. The bill eliminates this provision.

7. Under current law, a cooperative association may stipulate in a plan that it will pay a nonparticipating physician and surgeon, optometrist, chiropractor, or dentist outside of the cooperative association's normal territory for care rendered to a member or a member's covered dependent who needs the care when he or she is outside the cooperative association's territory in which the plan benefits are normally available. Under the bill, a cooperative association may stipulate in its plans that it will pay a nonparticipating physician and surgeon, optometrist, chiropractor, dentist, or other provider for health care rendered to a covered person, without limitation to being outside the association's normal territory.

8. Current law provides that a cooperative association may provide benefits only to its members. The bill allows a cooperative association to offer its services to nonmembers, too.

9. Finally, the bill makes various technical changes, such as conforming the language to current statutory drafting practice and eliminating redundant provisions.

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

1 **SECTION 1.** 71.26 (1) (a) of the statutes is amended to read:
2 71.26 (1) (a) *Certain corporations.* Income of corporations organized under ch.
3 185, except income of a cooperative sick~~ness~~ health care association organized under
4 s. 185.981, or of a service insurance corporation organized under ch. 613, that is
5 derived from a health maintenance organization as defined in s. 609.01 (2) or a
6 limited service health organization as defined in s. 609.01 (3), or operating under
7 subch. I of ch. 616 which are bona fide cooperatives operated without pecuniary profit

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1 to any shareholder or member, or operated on a cooperative plan pursuant to which
2 they determine and distribute their proceeds in substantial compliance with s.
3 185.45, and the income, except the unrelated business taxable income as defined in
4 section 512 of the internal revenue code and except income that is derived from a
5 health maintenance organization as defined in s. 609.01 (2) or a limited service
6 health organization as defined in s. 609.01 (3), of all religious, scientific, educational,
7 benevolent or other corporations or associations of individuals not organized or
8 conducted for pecuniary profit. This paragraph does not apply to the income of
9 savings banks, mutual loan corporations or savings and loan associations. This
10 paragraph does not apply to income that is realized from the sale of or purchase and
11 subsequent sale or redemption of lottery prizes if the winning tickets were originally
12 bought in this state. This paragraph applies to the income of credit unions except
13 to the income of any credit union that is derived from public deposits for any taxable
14 year in which the credit union is approved as a public depository under ch. 34 and
15 acts as a depository of state or local funds under s. 186.113 (20). For purposes of this
16 paragraph, the income of a credit union that is derived from public deposits is the
17 product of the credit union's gross annual income for the taxable year multiplied by
18 a fraction, the numerator of which is the average monthly balance of public deposits
19 in the credit union during the taxable year, and the denominator of which is the
20 average monthly balance of all deposits in the credit union during the taxable year.

21 **SECTION 2.** 71.45 (1) (a) of the statutes is amended to read:

22 71.45 (1) (a) Income of insurers exempt from federal income taxation pursuant
23 to section 501 (c) (15) of the internal revenue code, town mutuals organized under or
24 subject to ch. 612, foreign insurers, and domestic insurers engaged exclusively in life
25 insurance business, domestic insurers insuring against financial loss by reason of

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1 nonpayment of principal, interest and other sums agreed to be paid under the terms
2 of any note or bond or other evidence of indebtedness secured by a mortgage, deed
3 of trust or other instrument constituting a lien or charge on real estate and
4 corporations organized under ch. 185, but not including income of cooperative
5 ~~sickness~~ health care associations organized under s. 185.981, or of a service
6 insurance corporation organized under ch. 613, that is derived from a health
7 maintenance organization as defined in s. 609.01 (2) or a limited service health
8 organization as defined in s. 609.01 (3), or operating under subch. I of ch. 616 which
9 are bona fide cooperatives operated without pecuniary profit to any shareholder or
10 member, or operated on a cooperative plan pursuant to which they determine and
11 distribute their proceeds in substantial compliance with s. 185.45. This paragraph
12 does not apply to income that is realized from the sale of or purchase and subsequent
13 sale or redemption of lottery prizes if the winning tickets were originally bought in
14 this state.

15 **SECTION 3.** 71.45 (5) of the statutes is amended to read:

16 71.45 (5) EXCEPTIONS. The net income of a cooperative ~~sickness~~ health care
17 association organized under s. 185.981, or of a service insurance corporation
18 organized under ch. 613, that is derived from a health maintenance organization, as
19 defined in s. 609.01 (2), or a limited service health organization, as defined in s.
20 609.01 (3), is the net income that would be determined if the cooperative ~~sickness~~
21 health care association or service insurance corporation were subject to federal
22 income taxation and as if that income were that of an insurance company.

23 **SECTION 4.** 146.81 (1) (k) of the statutes is amended to read:

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1 146.81 (1) (k) ~~An operational~~ A cooperative sickness health care plan
2 association organized under ss. s. 185.981 to 185.985 that directly provides services
3 through salaried employees in its own facility.

4 **SECTION 5.** 146.997 (1) (d) 17. of the statutes is amended to read:

5 146.997 (1) (d) 17. ~~An operational~~ A cooperative sickness health care plan
6 association organized under ss. s. 185.981 to 185.985 that directly provides services
7 through salaried employees in its own facility.

8 **SECTION 6.** 155.01 (7) of the statutes is amended to read:

9 155.01 (7) “Health care provider” means a nurse licensed or permitted under
10 ch. 441, a chiropractor licensed under ch. 446, a dentist licensed under ch. 447, a
11 physician, physician assistant, perfusionist, podiatrist, physical therapist, physical
12 therapist assistant, occupational therapist, or occupational therapy assistant
13 licensed under ch. 448, a person practicing Christian Science treatment, an
14 optometrist licensed under ch. 449, a psychologist licensed under ch. 455, a
15 partnership thereof, a corporation or limited liability company thereof that provides
16 health care services, ~~an operational~~ a cooperative sickness health care plan
17 association organized under ss. s. 185.981 to 185.985 that directly provides services
18 through salaried employees in its own facility, or a home health agency, as defined
19 in s. 50.49 (1) (a).

20 **SECTION 7.** 185.09 of the statutes is amended to read:

21 **185.09 Promotion expense; limitation.** No cooperative funds may be used,
22 nor any stock issued, in payment of any promotion expenses in excess of 5 per cent
23 of the paid-up capital stock or membership fees. This section does not apply to a
24 cooperative association organized under s. 185.981.

25 **SECTION 8.** 185.981 (title) of the statutes is amended to read:

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1 **185.981** (title) **Cooperative ~~sickness~~ health care.**

2 **SECTION 9.** 185.981 (1) of the statutes is amended to read:

3 185.981 (1) Cooperative associations may be organized under this chapter
4 without capital stock, ~~exclusively~~ primarily to establish and operate in the state or
5 in any county or counties ~~therein a~~ in the state nonprofit ~~plan or plans or programs~~
6 for ~~sickness~~ health care, including hospital care, for their members and, their
7 members' dependents, and others through contracts with physicians, medical
8 societies, chiropractors, optometrists, dentists, dental societies, hospitals, and
9 others.

10 **SECTION 10.** 185.981 (2) of the statutes is amended to read:

11 185.981 (2) ~~Such associations~~ A cooperative association organized under this
12 section shall operate only on a cooperative nonprofit basis and for the primary
13 purpose of establishing, maintaining, and operating a voluntary nonprofit health,
14 dental, or vision care plan or plans, or additional programs, or for constructing,
15 operating, and maintaining nonprofit hospitals or other facilities whereby ~~sickness~~
16 health care, including hospital, dental, or vision care, is provided ~~at the expense of~~
17 ~~such association, to its members or both, and~~ to such other persons or groups of
18 persons as shall who become subscribers to such plan, the plans, subject to s. 185.982
19 ~~(2), under contracts which will entitle each such subscriber to definite~~ that provide
20 access to medical, surgical, chiropractic, vision, dental, or hospital care, other health
21 care services, appliances, and supplies, by physicians and surgeons licensed and
22 registered under ch. 448, optometrists licensed under ch. 449, chiropractors licensed
23 under ch. 446 and, dentists licensed under ch. 447, and other health care providers
24 in their offices, in hospitals, in other facilities, and in the home. Nothing in this
25 subsection precludes a cooperative association organized under this section from

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1 owning an interest in other entities for enhancing or improving member services or
2 for investment or other purposes, as long as the association's primary purpose
3 remains as provided in this subsection.

4 **SECTION 11.** 185.981 (3) of the statutes is amended to read:

5 185.981 (3) No cooperative association organized primarily for the purposes
6 provided in ss. 185.981 to 185.983 shall be prevented from contracting with any
7 hospital in this state for the rendition of such hospital care as is included within such
8 a plan the cooperative association's plans because such the hospital participates in
9 a plan of any other such plan cooperative association, or in a plan organized and
10 operated under ss. 148.03 and 613.80. No hospital may discriminate against any
11 physician and surgeon, chiropractor, or dentist with respect to the use of such the
12 hospital's facilities by reason of his or her participation in a ~~sickness~~ health care plan
13 of a cooperative.

14 **SECTION 12.** 185.981 (4) of the statutes is amended to read:

15 185.981 (4) ~~No contract by or on behalf of any such~~ A cooperative association
16 ~~shall provide for the payment of any cash, indemnity or other material benefit by that~~
17 ~~association to the subscriber or the subscriber's estate on account of death, illness or~~
18 ~~injury, nor be in any way related to the payment of any such benefit by any other~~
19 ~~agency, but any such association may stipulate in its plan~~ plans that it will pay any
20 nonparticipating physician and surgeon, optometrist, chiropractor, dentist ~~or,~~
21 hospital ~~outside of its normal territory for sickness or,~~ or other provider for hospital
22 or other health care rendered to any covered member ~~or a member's covered~~
23 ~~dependent person~~ who is in need of the a plan's benefits of such plan when he or she
24 is outside of the territory of such association in which the benefits of such plan are

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1 normally available. Any such plan plans may prescribe monetary limitations with
2 respect to such extraterritorial the benefits.

3 **SECTION 13.** 185.981 (4t) of the statutes, as affected by 2009 Wisconsin Act 28,
4 is repealed.

5 **SECTION 14.** 185.981 (5) of the statutes is amended to read:

6 185.981 (5) Every such cooperative association organized under this section is
7 a charitable and benevolent corporation.

8 **SECTION 15.** 185.981 (6) of the statutes is repealed.

9 **SECTION 16.** 185.981 (7) of the statutes is amended to read:

10 185.981 (7) Notwithstanding sub. (4) and s. ss. 185.982 (1) and 185.983 (1), a
11 sickness health care plan that is operated by a cooperative association and that
12 qualifies as a health maintenance organization, as defined in s. 609.01 (2), is subject
13 to s. 609.655.

14 **SECTION 17.** 185.981 (8) of the statutes is amended to read:

15 185.981 (8) ~~A sickness care plan operated by a cooperative association is~~
16 ~~subject to s. 632.895 (8).~~ Coverage by a health care plan operated by a cooperative
17 association that qualifies as a health maintenance organization, as defined in s.
18 609.01 (2), of mammograms under s. 632.895 (8) may be subject to any requirements
19 that the sickness health care plan imposes under s. 609.05 (2) and (3) on the coverage
20 of other health care services obtained by members and their dependents.

21 **SECTION 18.** 185.981 (9) of the statutes is amended to read:

22 185.981 (9) ~~Every cooperative sickness care association organized under this~~
23 ~~section that provides coverage for dependent children of members shall provide~~
24 ~~coverage for adopted children and children placed for adoption, as required under s.~~
25 ~~632.896.~~ Coverage by a health care plan operated by a cooperative association that

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1 qualifies as a health maintenance organization, as defined in s. 609.01 (2), of health
2 care services obtained by adopted children and children placed for adoption may be
3 subject to any requirements that the ~~sickness~~ health care plan imposes under s.
4 609.05 (2) and (3) on the coverage of health care services obtained by other members
5 and their dependents.

6 **SECTION 19.** 185.982 (1) of the statutes is amended to read:

7 185.982 (1) No ~~sickness~~ health care plan or contract issued thereunder by such
8 a cooperative association shall interfere with the manner or mode of the practice of
9 medicine, optometry, chiropractic, or dentistry, the manner or mode of providing
10 wellness or other services, the relationship of physician, chiropractor, optometrist ~~or,~~
11 dentist, or other provider and patient, nor the responsibility of physician,
12 chiropractor, optometrist ~~or,~~ dentist, or other provider to patient. ~~A plan~~ Plans may
13 require persons covered to utilize health care providers designated by the
14 cooperative association. The cooperative association may provide health care
15 services directly through providers who are employees of the cooperative association
16 or through agreements with individual providers or groups of providers organized
17 on a group practice or individual practice basis. ~~In making such agreements, no plan~~
18 ~~may refuse to provide coverage for vision care services or procedures provided by an~~
19 ~~optometrist licensed under ch. 449 within the scope of the practice of optometry, as~~
20 ~~defined in s. 449.01 (1), if the plan provides coverage for the same services or~~
21 ~~procedures when provided by another health care provider.~~

22 **SECTION 20.** 185.982 (2) of the statutes is amended to read:

23 185.982 (2) Any cooperative association operating ~~a~~ voluntary ~~sickness~~ health
24 care ~~plan~~ plans under the provisions of this chapter may pay physicians and
25 surgeons, optometrists, chiropractors ~~or,~~ dentists, or other providers on a salary, per

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1 person, or fee-for-service basis to provide sickness health care to members of such
2 the association. Every cooperative association shall ~~contract only with its own~~
3 ~~members for the benefits of any plan which it operates, but any~~ may offer its health
4 care services to nonmembers. Any cooperative association which that operates a
5 hospital may make the hospital's facilities thereof available to nonmembers and to
6 nonparticipating physicians, optometrists ~~or~~, dentists, or other providers.

7 **SECTION 21.** 185.982 (3) of the statutes is repealed.

8 **SECTION 22.** 185.983 (1) (intro.) of the statutes, as affected by 2009 Wisconsin
9 Act 28, is amended to read:

10 185.983 (1) (intro.) Every such voluntary nonprofit sickness health care plan
11 operated by a cooperative association organized under s. 185.981 shall be exempt
12 from chs. 600 to 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41, 601.42,
13 601.43, 601.44, 601.45, 611.67, 619.04, 628.34 (10), 631.17, 631.89, 631.93, 631.95,
14 632.72 (2), 632.745 to 632.749, 632.775, 632.79, 632.795, 632.85, 632.853, 632.855,
15 632.87 (2), (2m), (3), (4), (5), and (6), 632.885, 632.895 (5) and (9) (8) to (17), 632.896,
16 and 632.897 (10) and chs. 609, 630, 635, 645, and 646, but the sponsoring association
17 shall:

18 **SECTION 23.** 185.983 (1) (a) of the statutes is amended to read:

19 185.983 (1) (a) File with the commissioner of insurance a declaration defining
20 the organization and operation of the plan, all printed literature, and specimen
21 copies of all proposed contracts of insurance with persons covered and with
22 participating physicians ~~and~~, hospitals, and other providers, including all
23 amendments thereto. The form of all such contracts and amendments shall be
24 subject to approval by the commissioner of insurance but the commissioner may not

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1 withhold approval if the form of ~~such~~ the contracts or changes ~~therein~~ in the
2 contracts comply with the provisions of ss. 185.981 to 185.985.

3 **SECTION 24.** 185.983 (1m) of the statutes is amended to read:

4 185.983 (**1m**) In addition to ss. 601.04, 601.31, 632.79, and 632.895 (5), the
5 commissioner of insurance may by rule subject a medicare supplement policy, as
6 defined in s. 600.03 (28r), a medicare replacement policy, as defined in s. 600.03 (28p),
7 or a long-term care insurance policy, as defined in s. 600.03 (28g), that is sold by a
8 voluntary nonprofit sickness cooperative health care plan association organized
9 under s. 185.981 to other provisions of chs. 600 to 646, except that the commissioner
10 may not subject a medicare supplement policy, a medicare replacement policy, or a
11 long-term care insurance policy to s. 632.895 (8).

12 **SECTION 25.** 185.983 (2) of the statutes is amended to read:

13 185.983 (**2**) Every ~~such~~ voluntary nonprofit health care plan operated by a
14 cooperative association organized under s. 185.981 shall make provision for a
15 minimum of one physician and surgeon, or dentist to each 2,000 persons covered for
16 medical or dental care and a minimum of 6 hospital beds for each 2,000 persons
17 covered for hospital care.

18 **SECTION 26.** 185.985 of the statutes is amended to read:

19 **185.985 Inconsistent provisions of the statutes.** ~~Sickness~~ Health care or
20 hospital plans operated by cooperative associations organized under this chapter
21 shall be operated exclusively under the provisions of ss. 185.981 to 185.985. Other
22 provisions of the statutes that are inconsistent with any of ~~such~~ those provisions
23 shall not be applicable to cooperative associations or ~~sickness~~ health care plans
24 operated by cooperative associations ~~pursuant to~~ under this chapter.

25 **SECTION 27.** 252.14 (1) (ar) 12. of the statutes is amended to read:

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1 252.14 (1) (ar) 12. ~~An operational~~ A cooperative sickness health care plan
2 association organized under ss. s. 185.981 to 185.985 that directly provides services
3 through salaried employees in its own facility.

4 **SECTION 28.** 254.11 (13) of the statutes is amended to read:

5 254.11 (13) “Third-party payer” means a disability insurance policy that is
6 required to provide coverage for a blood lead test under s. 632.895 (10) (a); a health
7 maintenance organization or preferred provider plan under ch. 609; a health care
8 coverage plan offered by the state under s. 40.51 (6); a self-insured health plan
9 offered by a city or village under s. 66.0137 (4), a political subdivision under s.
10 66.0137 (4m), a town under s. 60.23 (25), a county under s. 59.52 (11) (c), or a school
11 district under s. 120.13 (2) (b); or a sickness health care plan operated by a
12 cooperative association organized under s. 185.981.

13 **SECTION 29.** 632.86 (1) (a) of the statutes is amended to read:

14 632.86 (1) (a) “Disability insurance policy” has the meaning given in s. 632.895
15 (1) (a), except that the term does not include coverage under a health maintenance
16 organization, as defined in s. 609.01 (2), a limited service health organization, as
17 defined in s. 609.01 (3), a preferred provider plan, as defined in s. 609.01 (4), or a
18 sickness health care plan operated by a cooperative association organized under ss.
19 s. 185.981 to 185.985.

20 **SECTION 30.** 655.002 (1) (f) of the statutes is amended to read:

21 655.002 (1) (f) A cooperative sickness health care association organized under
22 ss. s. 185.981 to 185.985 that operates ~~a nonprofit sickness~~ health care plan plans
23 in this state and that directly provides services through salaried employees in its own
24 facility.

25 **SECTION 31. Effective date.**

