



1995 SENATE BILL 443

December 6, 1995 - Introduced by Senator ADELMAN, cosponsored by Representatives VRAKAS, HANSON, PLOMBON, BLACK, PLACHE, GROBSCHMIDT, KRUSICK, OLSEN, BALDWIN and WASSERMAN. Referred to Committee on Insurance.

1 **AN ACT to amend** 40.51 (8), 60.23 (25), 66.184, 111.70 (1) (a), 120.13 (2) (g),
2 185.983 (1) (intro.), 185.983 (1m) and 619.14 (3) (q); and **to create** 40.51 (8m),
3 49.45 (20m), 111.70 (4) (n), 111.91 (2) (k), 185.981 (10), 609.76, 619.14 (4) (n) and
4 632.893 of the statutes; **relating to:** insurance coverage of the diagnosis and
5 treatment of infertility.

Analysis by the Legislative Reference Bureau

With certain limitations, this bill requires health care plans that provide maternity coverage to provide coverage of any nonexperimental procedure for the diagnosis or treatment of infertility. Infertility is defined in the bill as the inability to conceive or produce conception after at least one year of unprotected intercourse or the inability to carry a pregnancy to live birth. Nonexperimental procedures are defined in the bill as those that are recognized as safe and effective by the American Society for Reproductive Medicine or the American College of Obstetricians and Gynecologists. Copayments and deductibles for the infertility coverage may not be greater than any copayments or deductibles for the maternity coverage under the health care plan.

The bill imposes a limitation on the coverage requirement as it applies to 3 specified nonexperimental infertility procedures. These 3 procedures, which are defined in the bill, must be covered only if certain conditions are met.

The coverage requirement applies to individual health insurance policies and group health plans, including health maintenance organizations, preferred provider plans and cooperative sickness care associations; to plans offered by the state to its employees; and to self-insured plans of counties, cities, towns, villages and school districts. Excluded from the requirement are medicare supplement and replacement policies, long-term care insurance policies, policies issued under the health insurance risk-sharing plan and health care provided to medical assistance recipients.

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 is amended to read:

2 40.51 **(8)** Every health care coverage plan offered by the state under sub. (6)
3 shall comply with ss. 631.89, 631.90, 631.93 (2), 632.72 (2), 632.87 (3) to (5), 632.893,
4 632.895 (5m) and (8) to (10) and 632.896.

5 **SECTION 2.** 40.51 (8m) of the statutes is created to read:

6 40.51 **(8m)** Every health care coverage plan offered by the group insurance
7 board under sub. (7) shall comply with s. 632.893.

8 **SECTION 3.** 49.45 (20m) of the statutes is created to read:

9 49.45 **(20m)** EXEMPTION FROM INFERTILITY COVERAGE REQUIREMENTS.
10 Notwithstanding s. 632.755 (1g) (c), an insurer with which the department contracts
11 under sub. (2) (b) 2. for the provision of health care to medical assistance recipients
12 is exempt from the infertility coverage requirements of s. 632.893 with regard to
13 those recipients, their spouses and dependents.

14 **SECTION 4.** 60.23 (25) of the statutes is amended to read:

15 60.23 **(25)** SELF-INSURED HEALTH PLANS. Provide health care benefits to its
16 officers and employes on a self-insured basis if the self-insured plan complies with
17 ss. 631.89, 631.90, 631.93 (2), 632.87 (4) and (5), 632.893, 632.895 (9) and 632.896.

18 **SECTION 5.** 66.184 of the statutes is amended to read:

19 **66.184 Self-insured health plans.** If a city, including a 1st class city, or a
20 village provides health care benefits under its home rule power, or if a town provides
21 health care benefits, to its officers and employes on a self-insured basis, the

1 self-insured plan shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2),
2 632.87 (4) and (5), ~~632.893~~, 632.895 (9) and (10), 632.896, 767.25 (4m) (d) and 767.51
3 (3m) (d).

4 **SECTION 6.** 111.70 (1) (a) of the statutes, as affected by 1995 Wisconsin Act 27,
5 is amended to read:

6 111.70 (1) (a) "Collective bargaining" means the performance of the mutual
7 obligation of a municipal employer, through its officers and agents, and the
8 representative of its municipal employes in a collective bargaining unit, to meet and
9 confer at reasonable times, in good faith, with the intention of reaching an
10 agreement, or to resolve questions arising under such an agreement, with respect to
11 wages, hours and conditions of employment, and with respect to a requirement of the
12 municipal employer for a municipal employe to perform law enforcement and fire
13 fighting services under s. 61.66, except as provided in sub. (4) (m) and (n) and s. 40.81
14 (3) and except that a municipal employer shall not meet and confer with respect to
15 any proposal to diminish or abridge the rights guaranteed to municipal employes
16 under ch. 164. The duty to bargain, however, does not compel either party to agree
17 to a proposal or require the making of a concession. Collective bargaining includes
18 the reduction of any agreement reached to a written and signed document. The
19 municipal employer shall not be required to bargain on subjects reserved to
20 management and direction of the governmental unit except insofar as the manner
21 of exercise of such functions affects the wages, hours and conditions of employment
22 of the municipal employes in a collective bargaining unit. In creating this subchapter
23 the legislature recognizes that the municipal employer must exercise its powers and
24 responsibilities to act for the government and good order of the jurisdiction which it
25 serves, its commercial benefit and the health, safety and welfare of the public to

1 assure orderly operations and functions within its jurisdiction, subject to those
2 rights secured to municipal employes by the constitutions of this state and of the
3 United States and by this subchapter.

4 **SECTION 7.** 111.70 (4) (n) of the statutes is created to read:

5 111.70 (4) (n) *Insurance coverage of the diagnosis and treatment of infertility.*

6 The municipal employer is prohibited from bargaining collectively with respect to
7 the provision of the health insurance coverage required under s. 632.893.

8 **SECTION 8.** 111.91 (2) (k) of the statutes is created to read:

9 111.91 (2) (k) The provision to employes of the health insurance coverage
10 required under s. 632.893.

11 **SECTION 9.** 120.13 (2) (g) of the statutes is amended to read:

12 120.13 (2) (g) Every self-insured plan under par. (b) shall comply with ss.
13 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.87 (4) and (5), 632.893, 632.895 (9) and
14 (10), 632.896, 767.25 (4m) (d) and 767.51 (3m) (d).

15 **SECTION 10.** 185.981 (10) of the statutes is created to read:

16 185.981 (10) A sickness care plan that is operated by a cooperative association
17 and that provides maternity coverage is subject to s. 632.893.

18 **SECTION 11.** 185.983 (1) (intro.) of the statutes is amended to read:

19 185.983 (1) (intro.) Every such voluntary nonprofit sickness care plan shall be
20 exempt from chs. 600 to 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41,
21 601.42, 601.43, 601.44, 601.45, 611.67, 619.04, 628.34 (10), 631.89, 631.93, 632.72
22 (2), 632.775, 632.79, 632.795, 632.87 (2m), (3), (4) and (5), 632.893, 632.895 (5), (9)
23 and (10), 632.896 and 632.897 (10), subch. II of ch. 619 and chs. 609, 630, 635, 645
24 and 646, but the sponsoring association shall:

25 **SECTION 12.** 185.983 (1m) of the statutes is amended to read:

1 185.983 **(1m)** In addition to ss. 601.04, 601.31, 632.79 and 632.895 (5), the
2 commissioner of insurance may by rule subject a medicare supplement policy as
3 defined in s. 600.03 (28r), a medicare replacement policy as defined in s. 600.03 (28p)
4 or a long-term care insurance policy as defined in s. 600.03 (28g) sold by a voluntary
5 nonprofit sickness care plan to other provisions of chs. 600 to 646, except the
6 commissioner may not subject a medicare supplement policy, a medicare
7 replacement policy or a long-term care insurance policy to s. 632.893 or 632.895 (8).

8 **SECTION 13.** 609.76 of the statutes is created to read:

9 **609.76 Infertility coverage.** Except as provided in s. 49.45 (20m), health
10 maintenance organizations and preferred provider plans are subject to s. 632.893.

11 **SECTION 14.** 619.14 (3) (q) of the statutes is amended to read:

12 619.14 **(3)** (q) Any other health insurance coverage, only to the extent required
13 under subch. VI of ch. 632 and not excluded under sub. (4).

14 **SECTION 15.** 619.14 (4) (n) of the statutes is created to read:

15 619.14 **(4)** (n) Any charge for performing a procedure for the diagnosis or
16 treatment of infertility.

17 **SECTION 16.** 632.893 of the statutes is created to read:

18 **632.893 Required coverage of diagnosis and treatment of infertility.**

19 **(1) DEFINITIONS.** In this section:

20 (a) “Disability insurance policy” has the meaning given in s. 632.895 (1) (a).

21 (b) “Gamete intrafallopian tube transfer” means a procedure in which a
22 mixture containing both egg and sperm is directly transferred to the fallopian tube,
23 where fertilization occurs.

1 (c) "Infertility" means the inability to conceive or produce conception after
2 engaging in unprotected sexual intercourse over a period of at least one year, or the
3 inability to carry a pregnancy to live birth.

4 (d) "In vitro fertilization" means a procedure in which an egg and sperm are
5 combined in a laboratory dish, where fertilization occurs, and the fertilized and
6 dividing egg is transferred to the uterus or cryopreserved for future use.

7 (e) "Nonexperimental procedure" means a clinical procedure that is recognized
8 as safe and effective by the American Society for Reproductive Medicine or the
9 American College of Obstetricians and Gynecologists.

10 (f) "Zygote intrafallopian tube transfer" means a procedure in which an egg and
11 sperm are combined in a laboratory dish, where fertilization occurs, and the
12 fertilized egg is transferred to the fallopian tube at the pronuclear stage before cell
13 division takes place.

14 **(2) REQUIRED COVERAGE.** Except as provided in subs. (3) and (5) and s. 49.45
15 (20m), every disability insurance policy, and every self-insured health plan of the
16 state or a county, city, village, town or school district, that provides maternity
17 coverage shall provide coverage of any nonexperimental procedure for the diagnosis
18 and treatment of infertility.

19 **(3) CONDITIONAL REQUIREMENTS FOR CERTAIN PROCEDURES.** The coverage
20 requirement under sub. (2) applies to in vitro fertilization, gamete intrafallopian
21 tube transfer or zygote intrafallopian tube transfer only if all of the following apply:

22 (a) The covered individual has tried other less costly and medically appropriate
23 nonexperimental procedures for the treatment of infertility and has been unable to
24 carry a pregnancy to live birth.

1 (b) The covered individual has undergone fewer than 4 completed oocyte
2 retrievals at any time in connection with any infertility procedure or procedures, or
3 has undergone fewer than 2 completed oocyte retrievals at any time in connection
4 with any infertility procedure or procedures after a live birth following a completed
5 oocyte retrieval.

6 (c) The procedure is performed at a medical facility that conforms to the
7 standards and guidelines of the American Association of Tissue Banks and of the
8 American Society for Reproductive Medicine or the American College of
9 Obstetricians and Gynecologists.

10 **(4) COPAYMENTS AND DEDUCTIBLES.** The coverage required under this section
11 may not be subject to copayments or deductibles that are greater than any
12 copayments or deductibles that apply to maternity coverage under the policy or plan.

13 **(5) EXCLUSION.** This section does not apply to any of the following:

14 (a) A medicare replacement policy, a medicare supplement policy or a
15 long-term care insurance policy.

16 (b) The mandatory health insurance risk-sharing plan under ch. 619 and any
17 alternative plans offered under s. 619.145 to persons eligible for coverage under s.
18 619.12.

19 **SECTION 17. 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 self-insured health plans that are established,
23 extended, modified or renewed, on the effective date of this paragraph.

