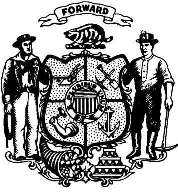

State of Wisconsin
2007 - 2008 LEGISLATURE

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2007 ASSEMBLY BILL 596

November 29, 2007 - Introduced by Representatives HILGENBERG, STASKUNAS, SINICKI, A. OTT, GRONEMUS, BOYLE, SHERIDAN, RICHARDS, BLACK, HIXSON, SHILLING, BERCEAU, HEBL, NELSON, SOLETSKI, GARTHWAITE, SEIDEL, MOLEPSKE, KREUSER, POPE-ROBERTS, MASON, HRAYCHUCK, VRUWINK, JORGENSEN and PARISI, cosponsored by Senators SULLIVAN, BRESKE, SCHULTZ, TAYLOR and HANSEN. Referred to Committee on Health and Healthcare Reform.

1 AN ACT ***to create*** 20.435 (4) (c), 20.435 (4) (hv) and 146.10 of the statutes;
2 **relating to:** a health care program for certain veterans, providing an
3 exemption from emergency rule-making procedures, granting rule-making
4 authority, and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill creates an interim health care plan for Wisconsin veterans, administered by the Department of Health and Family Services (DHFS). The plan would apply to a veteran who is not eligible for any state or federal health care, who has not had any private health care coverage for at least 90 days, who is between the ages of 18 and 65, and who has a household income that is less that 200 percent of income threshold established by the federal Department of Veterans Affairs for his or her county of residence. The bill requires DHFS to seek federal or private funds that may be available to help pay the costs of the plan.

The bill requires the veteran to pay a monthly premium of $50 and copayments for certain services and limits the time benefits can be received to a cumulative period of 24 months. The bill gives DHFS the right to make a claim for any benefits paid to the veteran from a person who was responsible for the injury that created the veteran's need for benefits from the plan. The bill establishes the procedure that is used if DHFS has a claim. The bill gives a prepaid health care plan that contracts with DHFS for provision of health benefits the same rights as DHFS to recover from any person who was responsible for the injury that created the veteran's need for benefits from the plan.

For further information see the ***state*** 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.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
2 the following amounts for the purposes indicated:

					2007-08	2008-09
20.435	**Health and family services, department of**					
(4)	HEALTH SERVICES PLANNING, REG & DELIVERY; HLTH CARE FIN; OTHER SUPPORT PGMS					
	(c)	Veteran interim health care	GPR	A	–0–	–0–

9 **SECTION 2.** 20.435 (4) (c) of the statutes is created to read:
10 20.435 **(4)** (c) *Veteran interim health care.* The amounts in the schedule for the
11 provision or purchase of veteran interim health care benefits under s. 146.10.
12 **SECTION 3.** 20.435 (4) (hv) of the statutes is created to read:
13 20.435 **(4)** (hv) *Veteran interim health care premiums.* All moneys received in
14 premiums under s. 146.10 (3) for providing or purchasing veteran interim health
15 care benefits under s. 146.10.
16 **SECTION 4.** 146.10 of the statutes is created to read:
17 **146.10 Veteran interim health care. (1)** DEFINITION. In this section:
18 (a) "Health care benefits" means the benefits listed under s. 49.46 (2) (a), except
19 for the benefit under s. 49.46 (2) (a) 4. c., and under s. 49.46 (2) (b), except for
20 nonemergency transportation under s. 49.46 (2) (b) 3.

1 (b) "Veteran" means a person who served on active duty in the U.S. armed forces
2 or in forces incorporated in the U. S. armed forces, in a reserve component of the U.S.
3 armed forces, or in the national guard and who has received a discharge from that
4 service other than a dishonorable discharge.

5 **(2)** ELIGIBILITY. The department shall provide to or purchase health care
6 benefits for a veteran if all of the following conditions are met:

7 (a) The veteran is a resident of this state and has been a resident for 12
8 consecutive months prior to his or her application for health care benefits under this
9 section.

10 (b) The veteran is not eligible for any federal or state health care programs or
11 benefits.

12 (c) The veteran has not been covered under any private health care coverage,
13 and has not had access to any employer–provided health care coverage, for at least
14 90 days before application.

15 (d) The veteran is over the age of 18 and under the age of 65.

16 (e) The annual income of the veteran and his or her spouse exceeds, but does
17 not exceed 200 percent of, the Geographic Means Test Income Threshold established
18 by the federal department of veterans affairs for the year of his or her application and
19 the county of his or her residence.

20 **(3)** MONTHLY PREMIUMS. The veteran shall pay a monthly premium of $50 to the
21 department for the provision of the health care benefits. Amounts received under
22 this subsection shall be credited to the appropriation account under s. 20.435 (4) (hv).

23 **(4)** COPAYMENTS. The veteran shall pay the following amounts as copayments:

24 (a) Doctor visit — $15.

25 (b) Generic prescription drug — $6.

1 (c) Brand name prescription drug — $14.
2 (d) Hospital emergency room visit — $50.
3 (e) Hospital admission — $150.
4 (f) Outpatient hospital or clinic services — 10 percent of covered services.
5 (g) Dental visit — $15.
6 **(5)** DISQUALIFYING FACTORS. No health care benefits may be provided under this
7 section to a veteran who has received those benefits for a cumulative period of 24
8 months during his or her lifetime. No health care benefits may be provided under
9 this section to a veteran who has not paid the monthly premium under sub. (3).
10 **(6)** SUBROGATION. (a) In this subsection:
11 1. "Beneficiary" means a veteran who received or is receiving benefits under
12 this section.
13 2. "Insurer" includes a sponsor, other than an insurer, that contracts to provide
14 health care services to members of a group.
15 (b) If the department provides benefits under this section, as a result of the
16 occurrence of an injury, sickness, or death that creates a claim or cause of action,
17 whether in tort or contract, on the part of a beneficiary or the estate of a beneficiary
18 against a 3rd party, including an insurer, the department is subrogated to the rights
19 of the beneficiary or estate and may make a claim or maintain an action or intervene
20 in a claim or action by the beneficiary or estate against the 3rd party.
21 (c) By applying for benefits under this section a veteran assigns to the
22 department the right to make a claim to recover an indemnity from a 3rd party,
23 including an insurer, if the benefits are provided as a result of the occurrence of
24 injury, sickness, or death that results in a possible recovery of an indemnity from the
25 3rd party.

1 (d) An attorney retained to represent a beneficiary, or the beneficiary's estate,
2 in asserting a claim that is subrogated under par. (b) or assigned under par. (c) shall
3 provide notice under par. (f). If no attorney is retained to represent a beneficiary, or
4 the beneficiary's estate, in asserting a claim that is subrogated under par. (b) or
5 assigned under par. (c), the beneficiary or his or her guardian or, if the beneficiary
6 is deceased, the personal representative of the beneficiary's estate, shall provide
7 notice under par. (f).

8 (e) A person against whom a claim that is subrogated under par. (b) or assigned
9 under par. (c) is made, or that person's attorney or insurer, shall provide notice under
10 par. (f), if that person, attorney, or insurer knows, or could reasonably determine,
11 that the claimant is a beneficiary, or is the estate of a beneficiary.

12 (f) If a person is required to provide notice under this paragraph, the person
13 shall provide notice by certified mail to the department as soon as practicable after
14 the occurrence of each of the following events for a claim under par. (d):

15 1. The filing of the action asserting the claim.

16 2. Intervention in the action asserting the claim.

17 3. Consolidation of the action asserting the claim.

18 4. An award or settlement of all or part of the claim.

19 (g) The beneficiary or any party having a right under this subsection may make
20 a claim against the 3rd party or may commence an action and shall join the other
21 party as provided under s. 803.03 (2). Each shall have an equal voice in the
22 prosecution of such claim or action.

23 (h) Reasonable costs of collection including attorney fees shall be deducted first
24 from any recovery under this subsection. The amount of benefits paid as a result of
25 the occurrence of the injury, sickness, or death shall be deducted next from any

1 recovery and the remainder shall be paid to the beneficiary or other party entitled
2 to payment.

3 (i) The department shall enforce its rights under this subsection and may
4 contract for the recovery of any claim or right of indemnity arising under this
5 subsection.

6 (j) No person who has or may have a claim or cause of action in tort or contract
7 and who has received benefits under this section as a result of the occurrence that
8 creates the claim or cause of action may release the liable party or the liable party's
9 insurer from liability to the department. Any payment to a beneficiary in
10 consideration of a release from liability is evidence of the payer's liability to the
11 department.

12 (k) Liability under par. (j) is to the extent of benefits provided under this section
13 resulting from the occurrence creating the claim or cause of action, but not in excess
14 of any insurance policy limits, counting payments made to the injured person.

15 (L) A health maintenance organization or other prepaid health care plan has
16 the powers of the department under pars. (b) to (h) to recover the costs that the
17 organization or plan incurs in treating an individual if all of the following
18 circumstances are present:

19 1. The costs result from an occurrence of an injury or sickness of an individual
20 who is a beneficiary.

21 2. The occurrence of the injury or sickness creates a claim or cause of action on
22 the part of the beneficiary or the estate of the beneficiary.

23 3. The medical costs are incurred during a period for which the department
24 pays a capitation or enrollment fee for the beneficiary.

1 **(7)** RULES. The department shall promulgate rules for the administration of
2 the health care benefit program under this section.
3 **(8)** APPLICATION FOR GRANTS. The department shall seek to obtain any federal
4 or private funds that may be available to pay for the health care benefits provided
5 under this section and for the administrative costs incurred under this section.
6 **SECTION 5. Nonstatutory provisions.**
7 (1) The department of health and family services may promulgate emergency
8 rules under section 227.24 of the statutes implementing section 146.10 of the
9 statutes, as created by this act. Notwithstanding section 227.24 (1) (a) and (3) of the
10 statutes, the department is not required to provide evidence that promulgating a rule
11 under this subsection as an emergency rule is necessary for the preservation of public
12 peace, health, safety, or welfare and is not required to provide a finding of an
13 emergency for a rule promulgated under this subsection.
14 **SECTION 6. Fiscal changes.**
15 (1) VETERANS INTERIM HEALTH CARE. In the schedule under section 20.005 (3) of
16 the statutes for the appropriation to the department of health and family services
17 under section 20.435 (4) (a) of the statutes, as affected by the acts of 2007, the dollar
18 amount is increased by $–0– for fiscal year 2007–08 and the dollar amount is
19 increased by $–0– for fiscal year 2008–09 to pay for the costs of administering the
20 veterans interim health care program under section 146.10 of the statutes, as created
21 by this act.
22 **(END)**