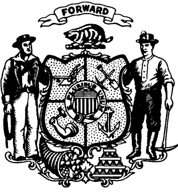

State of Wisconsin
1995 - 1996 LEGISLATURE

LRB-4994/1
PJK:skg:ks

1995 SENATE BILL 471

December 27, 1995 - Introduced by LAW REVISION COMMITTEE. Referred to Committee on Insurance.

1 AN ACT ***to amend*** 632.87 (1) and 635.17 (1) (b) 1. and 2. of the statutes; **relating**
2 **to:** restrictions on health care services under insurance plans and preexisting
3 condition exclusions or limitations for small insurer health insurance plans
4 (suggested as remedial legislation by the office of the commissioner of
5 insurance).

Analysis by the Legislative Reference Bureau

Under current law, a health insurer may not refuse to pay for health care services under a health insurance policy because the provider of the services was not a physician, unless the policy specifically excludes coverage for those services if not provided by a physician. Current law, however, prohibits a health insurance policy from specifically excluding coverage for services provided by certain providers if those same services are, or treatment for the same condition is, covered under the policy when provided by a physician. Those providers include optometrists under health maintenance organizations or preferred provider plans, chiropractors under any policy or plan, dentists under any policy or plan and nurse practitioners performing Papanicolaou tests or pelvic exams under any policy or plan. This bill expands the requirement in relation to optometrists so that their services must be covered under any policy or plan, in addition to health maintenance organizations and preferred provider plans, if those same services are covered under the policy or plan when performed by another provider.

Current law provides for portability of coverage under a health benefit plan sold to an employer with between 2 and 25 employes. Under that provision, such a health benefit plan may not impose a preexisting condition limitation or exclusion on an individual with coverage under the health benefit plan with respect to services for which the individual had coverage under another health benefit plan as long as the individual's coverage under the other health benefit plan terminated not less than

30 days before the effective date of the new coverage. The bill changes the criterion related to when the individual's previous coverage terminated to not more, rather than not less, than 30 days before the effective date of the new coverage. This was undoubtedly the original intention, since portability of coverage is intended to ensure that an individual who changes plans has continuous coverage by not having to satisfy a preexisting condition limitation or exclusion period under the new plan for a condition that was covered under the old plan.

For further information, see the NOTES provided by the law revision committee of the joint legislative council.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the office of the commissioner of insurance and introduced by the law revision committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

SECTION 1. 632.87 (1) of the statutes is amended to read:

632.87 **(1)** No insurer may refuse to provide or pay for benefits for health care services provided by a licensed health care professional on the ground that the services were not rendered by a physician as defined in s. 990.01 (28), unless the contract clearly excludes services by such practitioners, but no contract or plan may exclude services in violation of sub. (2), (2m), (3), (4) or (5).

NOTE: Currently, health insurers are prohibited by s. 632.87 (1) from refusing to provide coverage for services on the grounds that the services were not provided by a physician unless the insurance contract clearly excludes services of those practitioners. However, the contract or plan may not exclude services in violation of the coverage requirements of s. 632.87 (2m) (health maintenance organization and preferred provider plan coverage of optometrists' services), 632.87 (3) (chiropractors' services), 632.87 (4) (dentists' services) and 632.87 (5) (certain services provided by nurse practitioners).

A reference to s. 632.87 (2) is omitted from s. 632.87 (1). That provision covers vision care services and procedures performed by optometrists under any plan that covers these services when provided by other providers. This SECTION corrects the omission.

SECTION 2. 635.17 (1) (b) 1. and 2. of the statutes are amended to read:

635.17 **(1)** (b) 1. A health benefit plan subject to this subchapter shall waive any period applicable to a preexisting condition exclusion or limitation period with respect to particular services for the period that an individual was previously covered

by qualifying coverage that provided benefits with respect to such services, if the qualifying coverage was continuous to a date not ~~less~~ more than 30 days before the effective date of the new coverage.

2. Subdivision 1. does not prohibit the application of a waiting period to all new enrollees under the health benefit plan; however, a waiting period may not be counted when determining whether the qualifying coverage was continuous to a date not ~~less~~ more than 30 days before the effective date of the new coverage. For the purpose of subd. 1., the new coverage shall be considered effective as of the date that it would be effective but for the waiting period.

NOTE: This SECTION corrects a provision enacted by 1991 Wisconsin Act 250. Under the provision, small employer health insurance plans must waive any waiting period for coverage of a preexisting condition if an individual was previously covered by coverage that provided benefits for that condition if that prior coverage was continuous to a date *not less* than 30 days before the effective date of the new coverage. Also, any waiting period for all new enrollees under that plan may not be counted in determining whether the coverage was continuous to a date not less than 30 days before the effective date of the new coverage.

The current law thus states that if coverage under a previous policy ended at least 30 days before the effective date of the new policy, the preexisting condition waiting period will be waived. Conversely, if the person has been covered by another policy for a condition during the 30 days prior to the effective date of the new policy, the preexisting condition coverage under the new policy will apply. This will result in no coverage under the new policy until the waiting period has expired. This is the exact opposite of the intent of the provisions: that where coverage under a previous policy has been in effect within 30 days prior to the effective date of the new coverage, the preexisting condition waiting period will be waived.

(END)