State of Wisconsin
1997 – 1998 LEGISLATURE

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1997 ASSEMBLY BILL 961

March 26, 1998 – Introduced by Representatives SCHAFER, AINSWORTH, ALBERS, BOCK, BOYLE, BRANDEMUEHL, FREESE, GRONEMUS, HANDRICK, HOVEN, HUEBSCH, JOHNSRUD, KAUFERT, KEDZIE, KREUSER, KRUG, KUNICKI, LINTON, MUSSER, OTT, OWENS, PORTER, POWERS, RYBA, SERATTI, SKINDRUD, SYKORA, TRAVIS, TURNER, URBAN, VANDER LOOP and GUNDERSON, cosponsored by Senators BURKE, DECKER, FITZGERALD, JAUCH, MOEN and WELCH. Referred to Committee on Managed Care.

AN ACT ***to repeal*** 628.36 (2) (a) (intro.) and 628.36 (2m) (a) (intro.); ***to renumber*** 628.36 (1), 628.36 (2) (a) 1., 628.36 (2) (a) 2., 628.36 (2) (b) 1., 628.36 (2) (b) 2., 628.36 (2) (b) 4., 628.36 (2) (b) 5., 628.36 (2m) (a) 1., 628.36 (2m) (a) 2. and 628.36 (2m) (a) 3.; ***to renumber and amend*** 628.36 (2) (b) 3. and 628.36 (2m) (e); ***to amend*** 185.981 (4t), 185.983 (1) (intro.), 609.01 (1m) and 628.36 (3); and ***to create*** 40.51 (8e), 40.51 (8s), 40.51 (9e), 40.51 (9s), 628.36 (1c) and 628.36 (3m) of the statutes; **relating to:** point–of–service coverage options and requiring the exercise of rule–making authority.

Analysis by the Legislative Reference Bureau

This bill establishes a number of requirements related to point–of–service coverage options. A point–of–service coverage option is defined in the bill as a health care plan coverage option under which an insured may obtain health care services that are paid for by the health care plan from a provider of his or her choice, regardless of whether that provider is a participating provider of the insured's health care plan or a member of the health care plan's provider network.

The bill prohibits a health care plan from requiring a referral or prior authorization before an insured who has coverage under a point–of–service coverage option may obtain services from a provider under the point–of–service coverage

option. The bill prohibits a health care plan that offers a point–of–service coverage option from charging different premium rates or imposing different copayments, deductibles or other cost containment provisions, with respect to the point–of–service coverage, solely on the basis of the type of provider from whom an insured obtains services under the coverage option. These requirements apply to all health care plans that offer point–of–service coverage, including managed care plans and plans offered by the state and municipalities.

The bill also requires every health maintenance organization, preferred provider plan and limited service health organization (managed care plan) to offer at least one point–of–service coverage option in each geographical service area of the managed care plan. At the time that an individual enrolls in the plan and annually thereafter, a managed care plan must provide to the individual written notice of the option, including a detailed explanation of the option and the financial costs to the enrollee, and the opportunity to select coverage under the option. This requirement applies to all managed care plans, including those offered by the state and municipalities.

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:

SECTION 1. 40.51 (8e) of the statutes is created to read:

40.51 **(8e)** Every health care coverage plan, except for an uninsured health care coverage plan, offered by the state under sub. (6) shall comply with s. 628.36 (3m) (a) and (b).

SECTION 2. 40.51 (8s) of the statutes is created to read:

40.51 **(8s)** Every health care coverage plan, except for an uninsured health care coverage plan, offered by the group insurance board under sub. (7) shall comply with s. 628.36 (3m) (a) and (b).

SECTION 3. 40.51 (9e) of the statutes is created to read:

40.51 **(9e)** Every health maintenance organization, preferred provider plan and limited service health organization offered by the state under sub. (6) shall comply with s. 628.36 (3m) (c).

SECTION 4. 40.51 (9s) of the statutes is created to read:

40.51 **(9s)** Every health maintenance organization, preferred provider plan and limited service health organization offered by the group insurance board under sub. (7) shall comply with s. 628.36 (3m) (c).

SECTION 5. 185.981 (4t) of the statutes, as affected by 1997 Wisconsin Act 27, section 3133m, is amended to read:

185.981 **(4t)** A sickness care plan operated by a cooperative association is subject to ss. 252.14, 628.36 (3m), 631.89, 632.72 (2), 632.745 to 632.749, 632.87 (2m), (3), (4) and (5), 632.895 (10) to (13) and 632.897 (10) and chs. 149 and 155.

SECTION 6. 185.983 (1) (intro.) of the statutes, as affected by 1997 Wisconsin Act 27, section 3134m, is amended to read:

185.983 **(1)** (intro.) Every such voluntary nonprofit sickness care plan shall be exempt from chs. 600 to 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41, 601.42, 601.43, 601.44, 601.45, 611.67, 619.04, 628.34 (10), 628.36 (3m), 631.89, 631.93, 632.72 (2), 632.745 to 632.749, 632.775, 632.79, 632.795, 632.855, 632.865, 632.87 (2m), (3), (4) and (5), 632.895 (5) and (9) to (13), 632.896 and 632.897 (10) and chs. 609, 630, 635, 645 and 646, but the sponsoring association shall:

SECTION 7. 609.01 (1m) of the statutes is amended to read:

609.01 **(1m)** "Health care plan" has the meaning given under s. 628.36 ~~(2) (a) 1~~ (1c) (a).

SECTION 8. 628.36 (1) of the statutes is renumbered 628.36 (1m).

SECTION 9. 628.36 (1c) of the statutes is created to read:

628.36 **(1c)** DEFINITIONS. In this section:

(d) "Point–of–service coverage option" means a health care plan coverage option under which all of the following apply:

1. An insured may obtain health care services from a provider of his or her choice.

2. A provider selected under subd. 1. is not necessarily a participating provider of the health care plan or a member of the health care plan's network of providers.

3. The health care plan reimburses a provider selected under subd. 1. for the cost of services provided to the insured if the provider is appropriately licensed and the services provided are covered under the health care plan.

SECTION 10. 628.36 (2) (a) (intro.) of the statutes is repealed.

SECTION 11. 628.36 (2) (a) 1. of the statutes is renumbered 628.36 (1c) (a).

SECTION 12. 628.36 (2) (a) 2. of the statutes is renumbered 628.36 (1c) (f).

SECTION 13. 628.36 (2) (b) 1. of the statutes, as affected by 1997 Wisconsin Act 27, is renumbered 628.36 (2) (a).

SECTION 14. 628.36 (2) (b) 2. of the statutes is renumbered 628.36 (2) (b).

SECTION 15. 628.36 (2) (b) 3. of the statutes, as affected by 1997 Wisconsin Act 27, is renumbered 628.36 (2) (c) and amended to read:

628.36 **(2)** (c) Except as provided in ~~subd. 4.~~ par. (d), no provider may be denied the opportunity to participate in a health care plan, other than a health maintenance organization, a limited service health organization or a preferred provider plan, under the terms of the plan.

SECTION 16. 628.36 (2) (b) 4. of the statutes is renumbered 628.36 (2) (d).

SECTION 17. 628.36 (2) (b) 5. of the statutes, as affected by 1997 Wisconsin Act 27, is renumbered 628.36 (2) (e).

SECTION 18. 628.36 (2m) (a) (intro.) of the statutes is repealed.

SECTION 19. 628.36 (2m) (a) 1. of the statutes is renumbered 628.36 (1c) (b).

SECTION 20. 628.36 (2m) (a) 2. of the statutes is renumbered 628.36 (1c) (c).

SECTION 21. 628.36 (2m) (a) 3. of the statutes is renumbered 628.36 (1c) (e).

SECTION 22. 628.36 (2m) (e) of the statutes is renumbered 628.36 (2m), and 628.36 (2m) (b), (c) and (d), as renumbered are amended to read:

628.36 **(2m)** (b) Except as provided in ~~subd. 3., subd. 1.~~ par. (c), par. (a) applies to health maintenance organizations on and after May 10, 1984. Except as provided in ~~subd. 4., subd. 1.~~ par. (d), par. (a) applies to limited service health organizations and preferred provider plans on or after April 28, 1990.

(c) If compliance with the requirements of ~~subd. 1.~~ par. (a) during the period specified in ~~subd. 2.~~ par. (b) would impair any provision of a contract between a health maintenance organization and any other person, and if the contract provision was in existence prior to May 10, 1984, then immediately after the expiration of all such contract provisions the health maintenance organization shall comply with the requirements of ~~subd. 1~~ par. (a).

(d) If compliance with the requirements of ~~subd. 1.~~ par. (a) during the period specified in ~~subd. 2.~~ par. (b) would impair any provision of a contract between a limited service health organization or preferred provider plan and any other person, and if the contract was in existence prior to April 28, 1990, then immediately after the expiration of all such contract provisions the limited service health organization or preferred provider plan shall comply with the requirements of ~~subd. 1~~ par. (a).

SECTION 23. 628.36 (3) of the statutes is amended to read:

628.36 **(3)** EXEMPTION BY RULE. By rule the commissioner may exempt from the application of any part of subs. ~~(1)~~ (1m) to (2m) plans which provide innovative approaches to the delivery of health care or which are designed to contain health care costs, and which cannot operate successfully consistent with all of the provisions in subs. ~~(1)~~ (1m) to (2m). The commissioner may promulgate such a rule only if on a

finding that the interests of the public require such plans as an experiment, to supply health care services that are not otherwise available in adequate quantity or quality, or to contain health care costs. The promulgated rule shall be as narrow as is compatible with the success of the plans.

SECTION 24. 628.36 (3m) of the statutes is created to read:

628.36 **(3m)** POINT-OF-SERVICE COVERAGE OPTIONS. (a) A health care plan may not require an insured who has coverage under a point–of–service coverage option to obtain a referral or prior authorization before obtaining services from a provider under the point–of–service coverage option.

(b) A health care plan that offers a point–of–service coverage option may not charge different premium rates or impose different copayment, deductible or other cost containment provisions, with respect to the point–of–service coverage option, solely on the basis of the type of provider from whom an insured obtains services under the option. Any differences in premium rates or copayment, deductible or other cost containment provisions must be based on sound actuarial principles supported by reliable data or actual or reasonably anticipated experience. Upon request, an insured shall be provided with written documentation of the supporting data or actual or reasonably anticipated experience upon which the different rates or copayment, deductible or other cost containment provisions are based.

(c) 1. Notwithstanding sub. (2) (a) and (c), a health maintenance organization, preferred provider plan or limited service health organization shall offer to its enrollees at least one point–of–service coverage option in each geographic service area of the health maintenance organization, preferred provider plan or limited service health organization. The health maintenance organization, preferred provider plan or limited service health organization shall provide each enrollee with

written notice of the option, and the opportunity to obtain coverage under the option, at the time of enrollment and annually thereafter. The written notice shall include a detailed explanation of the option and the financial costs to an enrollee who selects the option in a format and in language that can be easily understood.

2. Every health maintenance organization, preferred provider plan or limited service health organization shall demonstrate to the commissioner that it is capable of appropriately serving the needs of its enrollees with regard to enrollee access to physicians and chiropractors in each geographic service area of the health maintenance organization, preferred provider plan or limited service health organization. The commissioner shall promulgate any rules that are necessary for the administration of this subdivision.

(END)