



2003 ASSEMBLY BILL 364

May 28, 2003 - Introduced by Representatives VRAKAS, LADWIG, MCCORMICK, GIELOW, VAN ROY, CULLEN, SHILLING, HUBER, PLOUFF, VUKMIR, KREIBICH, GRONEMUS, OWENS, MUSSER, HAHN, SERATTI, STONE, JESKEWITZ, KERKMAN, POCAN, OTT, HINES, PETROWSKI, TOWNSEND, HUNDERTMARK, TAYLOR, TURNER, NISCHKE, MORRIS, PETTIS and A. WILLIAMS, cosponsored by Senators ROESSLER, DARLING, ROBSON, A. LASEE, CARPENTER, BROWN, HANSEN, WIRCH and M. MEYER. Referred to Committee on Insurance.

1 **AN ACT to amend** 40.51 (8), 40.51 (8m), 66.0137 (4), 111.91 (2) (n), 120.13 (2) (g),
2 185.981 (4t) and 185.983 (1) (intro.); and **to create** 609.87 and 632.895 (15) of
3 the statutes; **relating to:** required coverage of off-label drugs for the treatment
4 of cancer.

Analysis by the Legislative Reference Bureau

This bill requires health care plans that provide coverage of prescription medication to provide coverage of a drug, and services related to administering the drug, that is prescribed by a licensed physician for treating cancer. In order for the requirement to apply, however, the drug must be: 1) approved by the federal Food and Drug Administration for use in treating at least one indication, which is defined in the bill as the basis for initiating a diagnostic test or treatment for a disease; and 2) recognized as effective for treating the type of cancer for which it is prescribed in the American Hospital Formulary Service Drug Information, the official United States Pharmacopeia Drug Information, or at least one article published in a journal, if the article meets uniform requirements for manuscripts submitted to biomedical journals or if the journal in which the article is published is specified as accepted peer-reviewed medical literature by the secretary of the federal Department of Health and Human Services under an existing federal law requirement.

The coverage requirement applies to both individual and group health insurance policies and plans, including health care plans offered by the state or a municipality or school district. The coverage may not be subject to any limitations, exclusions, or cost-sharing provisions that are greater than those that apply

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generally under the policy or plan. The requirement does not apply to limited benefit plans, such as vision or dental plans, or to policies that cover only certain specified diseases other than cancer.

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), 631.95, 632.72 (2), 632.746 (1) to (8)
4 and (10), 632.747, 632.748, 632.83, 632.835, 632.85, 632.853, 632.855, 632.87 (3) to
5 (5), 632.895 (5m) and (8) to ~~(14)~~ (15), and 632.896.

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

7 40.51 **(8m)** Every health care coverage plan offered by the group insurance
8 board under sub. (7) shall comply with ss. 631.95, 632.746 (1) to (8) and (10), 632.747,
9 632.748, 632.83, 632.835, 632.85, 632.853, 632.855, and 632.895 (11) to ~~(14)~~ (15).

10 **SECTION 3.** 66.0137 (4) of the statutes is amended to read:

11 66.0137 **(4)** SELF-INSURED HEALTH PLANS. If a city, including a 1st class city, or
12 a village provides health care benefits under its home rule power, or if a town
13 provides health care benefits, to its officers and employees on a self-insured basis,
14 the self-insured plan shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2),
15 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.85, 632.853, 632.855, 632.87 (4) and (5),
16 632.895 (9) to ~~(14)~~ (15), 632.896, and 767.25 (4m) (d).

17 **SECTION 4.** 111.91 (2) (n) of the statutes is amended to read:

18 111.91 **(2)** (n) The provision to employees of the health insurance coverage
19 required under s. 632.895 (11) to ~~(14)~~ (15).

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1 **SECTION 5.** 120.13 (2) (g) of the statutes is amended to read:

2 120.13 **(2)** (g) Every self-insured plan under par. (b) shall comply with ss.
3 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3),
4 632.85, 632.853, 632.855, 632.87 (4) and (5), 632.895 (9) to ~~(14)~~ (15), 632.896, and
5 767.25 (4m) (d).

6 **SECTION 6.** 185.981 (4t) of the statutes is amended to read:

7 185.981 **(4t)** A sickness care plan operated by a cooperative association is
8 subject to ss. 252.14, 631.17, 631.89, 631.95, 632.72 (2), 632.745 to 632.749, 632.85,
9 632.853, 632.855, 632.87 (2m), (3), (4), and (5), 632.895 (10) to ~~(14)~~ (15), and 632.897
10 (10) and chs. 149 and 155.

11 **SECTION 7.** 185.983 (1) (intro.) of the statutes is amended to read:

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

19 **SECTION 8.** 609.87 of the statutes is created to read:

20 **609.87 Coverage of certain drugs for cancer treatment.** Defined network
21 plans are subject to s. 632.895 (15).

22 **SECTION 9.** 632.895 (15) of the statutes is created to read:

23 632.895 **(15)** **COVERAGE OF CERTAIN DRUGS FOR CANCER TREATMENT.** (a) In this
24 subsection, "indication" means the basis for initiation of a diagnostic test or a

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1 treatment for a disease, which basis may be derived from a knowledge of the cause,
2 from symptoms present, or from the nature of the disease.

3 (b) Except as provided in par. (e), every disability insurance policy, and every
4 self-insured health plan of the state or a county, city, village, town, or school district,
5 that provides coverage of prescription medication shall provide coverage of a drug
6 that is prescribed by a licensed physician for treating cancer if all of the following
7 apply:

8 1. The federal food and drug administration has approved the drug for use in
9 treating at least one indication.

10 2. The drug is recognized as effective for treating the type of cancer for which
11 it is prescribed in any of the following:

12 a. The American Hospital Formulary Service Drug Information.

13 b. The official United States Pharmacopeia Drug Information.

14 c. At least one article that is published in a journal, if the article meets the
15 uniform requirements established by the International Committee of Medical
16 Journal Editors for manuscripts submitted to biomedical journals or, if the article
17 does not meet those requirements, the journal in which the article is published is
18 specified as accepted peer-reviewed medical literature by the federal secretary of
19 health and human services under 42 USC 1395x (t) (2) (B) (ii) (II).

20 (c) A disability insurance policy or a self-insured health plan that is required
21 to provide the coverage under par. (b) shall also provide coverage for medically
22 necessary services related to administering a drug for which coverage is required
23 under par. (b).

24 (d) The coverage required under pars. (b) and (c) may not be subject to any
25 limitations, exclusions, or cost-sharing provisions that are greater than those that

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1 apply generally to prescription medication or services under the disability insurance
2 policy or the self-insured health plan.

3 (e) The coverage requirement under par. (b) does not apply to any of the
4 following types of health care plans:

5 1. A disability insurance policy that covers only certain specified diseases other
6 than cancer.

7 2. A health care plan offered by a limited service health organization, as defined
8 in s. 609.01 (3), or by a preferred provider plan, as defined in s. 609.01 (4), that is not
9 a defined network plan, as defined in s. 609.01 (1b).

10 **SECTION 10. Initial applicability.**

11 (1) This act first applies to all of the following:

12 (a) Except as provided in paragraphs (b) and (c), disability insurance policies
13 that are issued or renewed, and self-insured health plans that are established,
14 extended, modified, or renewed, on the effective date of this paragraph.

15 (b) Disability insurance policies covering employees who are affected by a
16 collective bargaining agreement containing provisions inconsistent with this act
17 that are issued or renewed on the earlier of the following:

18 1. The day on which the collective bargaining agreement expires.

19 2. The day on which the collective bargaining agreement is extended, modified,
20 or renewed.

21 (c) Self-insured health plans covering employees who are affected by a
22 collective bargaining agreement containing provisions inconsistent with this act
23 that are established, extended, modified, or renewed on the earlier of the following:

24 1. The day on which the collective bargaining agreement expires.

