



State of Wisconsin  
2017 - 2018 LEGISLATURE

LRB-4448/1  
TJD:emw

## 2017 SENATE BILL 530

November 8, 2017 - Introduced by Senators ERPENBACH, CARPENTER, WIRCH, LARSON and RINGHAND, cosponsored by Representatives KOLSTE, SUBECK, SINICKI, ZAMARRIPA, MILROY, ANDERSON, BERCEAU, POPE, SPREITZER, CONSIDINE, BILLINGS, HORLACHER, BROSTOFF, HESSELBEIN, VRUWINK, OHNSTAD, SARGENT, HINTZ, YOUNG, SHANKLAND, ZEPNICK, RIEMER, CROWLEY and GENRICH. Referred to Committee on Health and Human Services.

1     **AN ACT to amend** 609.83; and **to create** 632.895 (11g) of the statutes; **relating**  
2             **to:** prohibiting elimination of covered prescription drugs or devices during a  
3             contract year for certain health care plans.

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### *Analysis by the Legislative Reference Bureau*

This bill prohibits a health insurance policy, known in the bill as a disability insurance policy, or self-insured governmental health plan from denying or allowing a pharmacy benefit manager to deny coverage to an insured or plan participant during a current policy or plan year for a prescribed drug or device if 1) the prescribed drug or device was covered under the policy or plan for the insured or plan participant when the insured or plan participant either enrolled in coverage or renewed coverage, whichever is later and 2) a health care provider who prescribed the prescribed drug or device states, in writing, that the prescribed drug or device is more suitable for the insured's or plan participant's condition than alternative drugs or devices that remain covered under the policy or plan. The bill also prohibits a policy or plan from subjecting such a prescribed drug or device to exclusions, limitations, deductibles, copayments, or coinsurance that did not apply to the prescribed drug or device when the insured or plan participant either enrolled or renewed coverage in the policy or plan.

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This proposal may contain a health insurance mandate requiring a social and financial impact report under s. 601.423, stats.

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

1           **SECTION 1.** 609.83 of the statutes is amended to read:

2           **609.83 Coverage of drugs and devices.** Limited service health  
3 organizations, preferred provider plans, and defined network plans are subject to s.  
4 ss. 632.853 and 632.895 (11g).

5           **SECTION 2.** 632.895 (11g) of the statutes is created to read:

6           632.895 (11g) MAINTAINING DRUG OR DEVICE COVERAGE. (a) In this subsection:

7           1. "Pharmacy benefit manager" has the meaning given in s. 632.865 (1) (c).

8           2. "Prescribed drug or device" has the meaning given in s. 450.01 (18).

9           3. "Self-insured health plan" has the meaning given in s. 632.85 (1) (c).

10          (b) No disability insurance policy or self-insured health plan may deny or may  
11 allow a pharmacy benefit manager to deny coverage to an insured or plan participant  
12 during a current policy or plan year for a prescribed drug or device if all of the  
13 following conditions are met:

14          1. The prescribed drug or device was covered under the policy or plan for the  
15 insured or plan participant when the insured or plan participant either enrolled in  
16 coverage or renewed coverage, whichever is later.

17          2. A health care provider who prescribed the prescribed drug or device states,  
18 in writing, that the prescribed drug or device is more suitable for the insured's or plan  
19 participant's condition than alternative drugs or devices that remain covered under  
20 the policy or plan.

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1 (c) No disability insurance policy or self-insured health plan may subject a  
2 prescribed drug or device described under par. (b) to exclusions, limitations,  
3 deductibles, copayments, or coinsurance that did not apply to the prescribed drug or  
4 device when the insured or plan participant either enrolled or renewed coverage,  
5 whichever is later, in the policy or plan.

6 (d) 1. Nothing in this subsection prohibits a disability insurance policy or  
7 self-insured health plan from adding prescribed drugs or devices to its formulary.

8 2. A disability insurance policy or self-insured health plan may remove a  
9 prescribed drug or device from the formulary of a policy or plan that is newly issued  
10 to an individual who is not enrolled in the policy or plan at the time the policy or plan  
11 elects to discontinue coverage of the prescribed drug or device.

12 (e) Nothing in this subsection prohibits a pharmacist from making a  
13 substitution of a drug product equivalent under s. 450.13 or making a substitution  
14 that is otherwise legally authorized.

**SECTION 3. Initial applicability.**

16 (1) MAINTAINING COVERAGE OF PRESCRIBED DRUGS OR DEVICES.

17 (a) For policies and plans containing provisions inconsistent with this act, the  
18 act first applies to policy or plan years beginning on January 1 of the year following  
19 the year in which this paragraph takes effect, except as provided in paragraph (b).

20 (b) For policies and plans that are affected by a collective bargaining agreement  
21 containing provisions inconsistent with this act, this act first applies to policy or plan  
22 years beginning on the effective date of this paragraph or on the day on which the  
23 collective bargaining agreement is newly established, extended, modified, or  
24 renewed, whichever is later.

**SECTION 4. Effective date.**

