

**1999 ASSEMBLY BILL 565**

October 27, 1999 – Introduced by Representatives WASSERMAN, BLACK, BOCK, MUSSER and REYNOLDS, cosponsored by Senators GROBSCHMIDT, DARLING and RISSER. Referred to Committee on Health.

1 **AN ACT to amend** 40.51 (8), 40.51 (8m), 60.23 (25), 66.184, 111.91 (2) (n), 120.13  
 2 (2) (g), 149.14 (3) (q), 185.983 (1) (intro.) and 185.983 (1m); and **to create** 49.45  
 3 (20m), 149.14 (4) (n), 185.981 (6m), 609.74 and 632.893 of the statutes; **relating**  
 4 **to:** requiring insurance coverage of the diagnosis and treatment of infertility  
 5 and prohibiting collective bargaining by the state with respect to the  
 6 requirement.

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***Analysis by the Legislative Reference Bureau***

With certain limitations, this bill requires health care plans that provide maternity coverage to provide coverage of any nonexperimental procedure for the diagnosis or treatment of infertility. Infertility is defined in the bill as the inability to conceive or produce conception after at least one year of unprotected intercourse or the inability to carry a pregnancy to live birth. Nonexperimental procedures are defined in the bill as those that are recognized as safe and effective by the American Society for Reproductive Medicine or the American College of Obstetricians and Gynecologists. Copayments and deductibles for the infertility coverage may not be greater than any copayments or deductibles for the maternity coverage under the health care plan.

The bill imposes a limitation on the coverage requirement as it applies to three specified nonexperimental infertility procedures. These three procedures, which are defined in the bill, must be covered only if certain conditions are met.

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The coverage requirement applies to individual health insurance policies and group health plans, including health maintenance organizations, preferred provider plans and cooperative sickness care associations; to plans offered by the state to its employees; and to self-insured plans of counties, cities, towns, villages and school districts. Excluded from the requirement are medicare supplement and replacement policies, long-term care insurance policies, limited service health organization plans, policies issued under the health insurance risk-sharing plan and health care provided to medical assistance recipients.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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***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), 632.72 (2), 632.746 (1) to (8) and (10),  
4 632.747, 632.748, 632.85, 632.853, 632.855, 632.87 (3) to (5), 632.893, 632.895 (5m)  
5 and (8) to (13) 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. 632.746 (1) to (8) and (10), 632.747,  
9 632.748, 632.85, 632.853, 632.855, 632.893 and 632.895 (11) to (13).

10          **SECTION 3.** 49.45 (20m) of the statutes is created to read:

11          49.45 **(20m)** EXEMPTION FROM INFERTILITY COVERAGE REQUIREMENTS.  
12 Notwithstanding s. 632.755 (1g) (c), an insurer with which the department contracts  
13 under sub. (2) (b) 2. for the provision of health care to medical assistance recipients  
14 is exempt from the infertility coverage requirements of s. 632.893 with respect to  
15 those recipients, their spouses and dependents.

16          **SECTION 4.** 60.23 (25) of the statutes is amended to read:

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1           **60.23 (25) SELF-INSURED HEALTH PLANS.** Provide health care benefits to its  
2 officers and employes on a self-insured basis if the self-insured plan complies with  
3 ss. 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.85,  
4 632.853, 632.855, 632.87 (4) and (5), 632.893, 632.895 (9) and (11) to (13) and  
5 632.896.

6           **SECTION 5.** 66.184 of the statutes is amended to read:

7           **66.184 Self-insured health plans.** If a city, including a 1st class city, or a  
8 village provides health care benefits under its home rule power, or if a town provides  
9 health care benefits, to its officers and employes on a self-insured basis, the  
10 self-insured plan shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2),  
11 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.85, 632.853, 632.855, 632.87 (4) and (5),  
12 632.893, 632.895 (9) to (13), 632.896, 767.25 (4m) (d), 767.51 (3m) (d) and 767.62 (4)  
13 (b) 4.

14           **SECTION 6.** 111.91 (2) (n) of the statutes is amended to read:

15           111.91 (2) (n) The provision to employes of the health insurance coverage  
16 required under ~~ss.~~ ss. 632.893 and 632.895 (11) to (13).

17           **SECTION 7.** 120.13 (2) (g) of the statutes is amended to read:

18           120.13 (2) (g) Every self-insured plan under par. (b) shall comply with ss.  
19 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3),  
20 632.85, 632.853, 632.855, 632.87 (4) and (5), 632.893, 632.895 (9) to (13), 632.896,  
21 767.25 (4m) (d), 767.51 (3m) (d) and 767.62 (4) (b) 4.

22           **SECTION 8.** 149.14 (3) (q) of the statutes is amended to read:

23           149.14 (3) (q) Any other health insurance coverage, only to the extent required  
24 under subch. VI of ch. 632 and not excluded under sub. (4).

25           **SECTION 9.** 149.14 (4) (n) of the statutes is created to read:

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1           149.14 (4) (n) Any charge for performing a procedure for the diagnosis or  
2 treatment of infertility.

3           **SECTION 10.** 185.981 (6m) of the statutes is created to read:

4           185.981 (6m) A sickness care plan that is operated by a cooperative association  
5 and that provides maternity coverage is subject to s. 632.893.

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

7           185.983 (1) (intro.) Every such voluntary nonprofit sickness care plan shall be  
8 exempt from chs. 600 to 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41,  
9 601.42, 601.43, 601.44, 601.45, 611.67, 619.04, 628.34 (10), 631.89, 631.93, 632.72  
10 (2), 632.745 to 632.749, 632.775, 632.79, 632.795, 632.85, 632.853, 632.855, 632.87  
11 (2m), (3), (4) and (5), 632.893, 632.895 (5) and (9) to (13), 632.896 and 632.897 (10)  
12 and chs. 609, 630, 635, 645 and 646, but the sponsoring association shall:

13           **SECTION 12.** 185.983 (1m) of the statutes is amended to read:

14           185.983 (1m) In addition to ss. 601.04, 601.31, 632.79 and 632.895 (5), the  
15 commissioner of insurance may by rule subject a medicare supplement policy as  
16 defined in s. 600.03 (28r), a medicare replacement policy as defined in s. 600.03 (28p)  
17 or a long-term care insurance policy as defined in s. 600.03 (28g) sold by a voluntary  
18 nonprofit sickness care plan to other provisions of chs. 600 to 646, except the  
19 commissioner may not subject a medicare supplement policy, a medicare  
20 replacement policy or a long-term care insurance policy to s. 632.893 or 632.895 (8).

21           **SECTION 13.** 609.74 of the statutes is created to read:

22           **609.74 Infertility coverage.** Except as provided in s. 49.45 (20m), managed  
23 care plans and preferred provider plans are subject to s. 632.893.

24           **SECTION 14.** 632.893 of the statutes is created to read:

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2           **(1) DEFINITIONS.** In this section:

3           (a) “Disability insurance policy” has the meaning given in s. 632.895 (1) (a).

4           (b) “Gamete intrafallopian tube transfer” means a procedure in which a  
5 mixture containing both egg and sperm is directly transferred to the fallopian tube,  
6 where fertilization occurs.

7           (c) “Infertility” means the inability to conceive or produce conception after  
8 engaging in unprotected sexual intercourse over a period of at least one year, or the  
9 inability to carry a pregnancy to live birth.

10           (d) “In vitro fertilization” means a procedure in which an egg and sperm are  
11 combined in a laboratory dish, where fertilization occurs, and the fertilized and  
12 dividing egg is transferred to the uterus or cryopreserved for future use.

13           (e) “Nonexperimental procedure” means a clinical procedure that is recognized  
14 as safe and effective by the American Society for Reproductive Medicine or the  
15 American College of Obstetricians and Gynecologists.

16           (f) “Zygote intrafallopian tube transfer” means a procedure in which an egg and  
17 sperm are combined in a laboratory dish, where fertilization occurs, and the  
18 fertilized egg is transferred to the fallopian tube at the pronuclear stage before cell  
19 division takes place.

20           **(2) REQUIRED COVERAGE.** Except as provided in subs. (3) and (5) and s. 49.45  
21 (20m), every disability insurance policy, and every self-insured health plan of the  
22 state or a county, city, village, town or school district, that provides maternity  
23 coverage shall provide coverage of any nonexperimental procedure for the diagnosis  
24 and treatment of infertility.

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1           **(3) CONDITIONAL REQUIREMENTS FOR CERTAIN PROCEDURES.** The coverage  
2 requirement under sub. (2) applies to in vitro fertilization, gamete intrafallopian  
3 tube transfer or zygote intrafallopian tube transfer only if all of the following apply:

4           (a) The covered individual has tried other less costly and medically appropriate  
5 nonexperimental procedures for the treatment of infertility and has been unable to  
6 carry a pregnancy to live birth.

7           (b) The covered individual has undergone fewer than 4 completed oocyte  
8 retrievals at any time in connection with any infertility procedure or procedures.

9           (c) The covered individual has undergone fewer than 2 completed oocyte  
10 retrievals at any time in connection with any infertility procedure or procedures after  
11 a live birth following a completed oocyte retrieval.

12           (d) The procedure is performed at a medical facility that conforms to the  
13 standards and guidelines of the American Association of Tissue Banks and of either  
14 the American Society for Reproductive Medicine or the American College of  
15 Obstetricians and Gynecologists.

16           **(4) COPAYMENTS AND DEDUCTIBLES.** The coverage required under this section  
17 may not be subject to copayments or deductibles that are greater than any  
18 copayments or deductibles that apply to maternity coverage under the policy or plan.

19           **(5) EXCLUSION.** This section does not apply to any of the following:

20           (a) A medicare replacement policy, a medicare supplement policy or a  
21 long-term care insurance policy.

22           (b) A limited service health organization, as defined in s. 609.01 (3).

23           (c) The mandatory health insurance risk-sharing plan under ch. 149,  
24 regardless of whether coverage is provided under s. 149.14 or 149.146.

25           **SECTION 15. Initial applicability.**

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

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

5           (b) Disability insurance policies covering employes who are affected by a  
6 collective bargaining agreement containing provisions inconsistent with this act  
7 that are issued or renewed on the earlier of the following:

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

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

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

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

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

17           **SECTION 16. Effective date.**

18           (1) This act takes effect on the first day of the 6th month beginning after  
19 publication.

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(END)