

1999 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB133)

Received: **06/25/99**

Received By: **kahlepj**

Wanted: **Soon**

Identical to LRB:

For: **Assembly Democratic Caucus**

By/Representing: **Wittwer**

This file may be shown to any legislator: **NO**

Drafter: **kahlepj**

May Contact:

Alt. Drafters: **nelsorp1**

Subject: **Insurance - health
Courts - civil procedure**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

HMO Bill of Rights Package

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kahlepj 06/26/99	chanaman 06/27/99		_____			
/1			kfollet 06/27/99	_____	gretskl 06/27/99	lrb_docadmin 06/28/99	

FE Sent For:

<END>

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1/?	kahlepj	cm w/v h	kjf 6/27	kjf/jf 6/27			

FE Sent For:

<END>

ADC

61287

Drafting Instructions

Authors: Reps. Wasserman and Meyer

Intent: Establish a set of HMO consumers' rights

- provide consumers the right to sue an HMO for malpractice and negligence;
- provide consumers the right to appeal a decision made by an HMO; appeals would be made in the form of a "second opinion" from another board-certified physician working in the same specialty not employed by the HMO;
- provide consumers the right to direct access to any specialist

RPN

} PJK

→ 609.15

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609.22

To
A sub.

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb1287/?ins
PJK & RPN.....

LO9.25

1 (?) Every enrollee, as defined in s. 609.01 (1d), in a managed care plan, as defined
2 in s. 609.01 (3c), including enrollees in health maintenance organizations, may bring
3 an action in tort for negligence, including ^{an} actions for medical malpractice, against a
4 managed care plan.

5

put in section
in writing



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb1287/1
PJK&RPN.....

cmf

ADC

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

ASSEMBLY AMENDMENT,

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

SOON
(6-26)
D-note

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 1404, line 15: after that line insert:

3 [✓]SECTION 3036[✓]c. 609.05[✓] (3) of the statutes is amended to read:

4 609.05 (3) Except as provided in ss. [✓]609.22 (4), 609.65 and 609.655, a limited
5 service health organization, preferred provider plan or managed care plan may
6 require an enrollee to obtain a referral from the primary provider designated under
7 sub. (2) to another participating provider prior to obtaining health care services from
8 that participating provider.

History: 1985 a. 29; 1987 a. 366; 1989 a. 124; 1997 a. 237.

9 SECTION 3036[✓]d. 609.16 of the statutes is created to read:

10 609.16[✓] Appeals. (1) After using the procedure under s. 609.15[✓], a grievant may
11 appeal the decision of a managed care plan under s. 609.15[✓]. The appeal shall be made

who is

1 to a physician licensed under ch. 448, who is not a participating provider of the
2 managed care plan and who specializes in the type of medical practice to which the
3 grievance relates. The decision of the physician hearing the appeal is binding on the
4 grievant and the managed care plan.

5 (2) A managed care plan must include information regarding the appeal
6 procedure in policies or certificates provided to enrollees and must provide such
7 information to an enrollee or prospective enrollee upon request.

8 (3) The commissioner shall promulgate rules for the appeal procedure under
9 this section, including rules related to how an enrollee requests an appeal and how
10 the physician hearing the appeal is selected.

11 (4) SECTION 3036e. 609.22(a) 1. of the statutes is repealed and recreated to read:

12 (not B) 609.22(a) 1. A managed care plan may not require an enrollee of the managed
13 care plan to obtain a referral for coverage of services provided by a participating
14 provider who is a physician licensed under ch. 448 and who specializes in a particular
15 type of medical practice, regardless of whether the participating provider is the
16 enrollee's primary provider.

17 SECTION 3036f. 609.22 (4) (a) 2. of the statutes is repealed.

18 SECTION 3036g. 609.22 (4) (a) 3. of the statutes is amended to read:

19 609.22 (4) (a) 3. A managed care plan must include information regarding
20 referral procedures the requirement under subd. 1. in policies or certificates
21 provided to enrollees and must provide such information to an enrollee or prospective
22 enrollee upon request.

23 History: 1997 a. 237.
SECTION 3036h. 609.39 of the statutes is created to read:

1 **609.39 Right to sue.** Any person may bring an action in tort for negligence,
2 including an action for medical malpractice, against a managed care plan.”.

3 **2.** Page 1592, line 23: after that line insert:

4 ~~(21)~~ ^{3g ← (letter "g")} SPECIALIST PROVIDERS UNDER MANAGED CARE PLANS.

Initial Appl.

5 (a) Except as provided in paragraph (b), if a policy or certificate that is affected
6 by the treatment of sections 609.05 (3) and 609.22 (4) (a) 1., 2. and 3. of the statutes
7 contains terms or provisions that are inconsistent with the treatment of sections
8 609.05 (3) and 609.22 (4) (a) 1., 2. and 3. of the statutes, the treatment of sections
9 609.05 (3) and 609.22 (4) (a) 1., 2. and 3. of the statutes first applies to that policy or
10 certificate upon renewal.

11 (b) The treatment of sections 609.05 (3) and 609.22 (4) (a) 1., 2. and 3. of the
12 statutes first applies to policies ~~and~~ group certificates covering employes who are
13 affected by a collective bargaining agreement containing provisions that are
14 inconsistent with the treatment of sections 609.05 (3) and 609.22 (4) (a) 1., 2. and 3.
15 of the statutes that are issued or renewed on the earlier of the following:

- 16 1. The day on which the collective bargaining agreement expires.
- 17 2. The day on which the collective bargaining agreement is extended, modified
18 or renewed.

19 ~~(21)~~ ^{3h} APPEALS OF DECISIONS OF MANAGED CARE PLANS.

20 (a) The treatment of section 609.16 (1) of the statutes first applies to grievances
21 arising on September 1, 2000.

22 (b) The treatment of section 609.16 (2) of the statutes first applies to policies
23 issued or renewed on September 1, 2000.

1 ³ⁱ ~~(2)~~ LAWSUITS AGAINST MANAGED CARE PLANS. The treatment of section 609.39 of
 2 the statutes first applies to injuries ~~and~~ ^{or} deaths occurring on the effective date of this
 3 subsection.”.

4 **3.** Page 1610, line 22: after that line insert: ✓

5 ^{2g ← letter "g"} ~~(2)~~ APPEALS OF DECISIONS OF MANAGED CARE PLANS. The treatment of section
 6 609.16 (1) and (2) of the statutes takes effect on September 1, 2000.” ✓

7 (END)

*Effective
Date*

D-note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb1287/fdn
PJK&RPA:.....

This is the HMO Bill of Rights package amendment. I delayed the effective date of the appeal procedure to allow for rules to be promulgated and to avoid incomprehensibly complicated initial applicability provisions for any policies or certificates that might contain inconsistent provisions.

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E-mail: Pam.Kahler@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb1287/1dn
PJK:cmh:kjf

June 27, 1999

This is the HMO Bill of Rights package amendment. I delayed the effective date of the appeal procedure to allow for rules to be promulgated and to avoid incomprehensibly complicated initial applicability provisions for any policies or certificates that might contain inconsistent provisions.

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