

2001 DRAFTING REQUEST

Bill

Received: **11/16/2000**

Received By: **kahlepj**

Wanted: **As time permits**

Identical to LRB:

For: **Gwendolynne Moore (608) 266-5810**

By/Representing: **Kelly**

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

Drafter: **kahlepj**

May Contact:

Alt. Drafters:

Subject: **Insurance - health**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Require insurance coverage of prescribed contraceptives

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 11/17/2000 | hhagen 11/27/2000 | | _____ | | | S&L |
| /1 | | | pgreensl 11/29/2000 | _____ | lrb_docadmin 11/29/2000 | | S&L |
| /2 | kahlepj 01/15/2001 | jdyer 01/16/2001 | kfollet 01/23/2001 rschluct 01/29/2001 | _____ _____ _____ | lrb_docadmin 01/29/2001 | lrb_docadmin 02/06/2001 | |

FE Sent For: **12/13/2000, 12/13/2000, 12/13/2000.**

→old version ("1")

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| /2 | kahlepj 01/15/2001 | jdyer 01/16/2001 | kfollet 01/23/2001 rschluet 01/29/2001 | _____ _____ _____ | lrb_docadmin 01/29/2001 | | |

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| /1 | | 1/2 1/16 jld | pgreensl 11/29/2000 | | lrb_docadmin 11/29/2000 | | |

FE Sent For:

12-13-00
11/11
Requested by Kelly

9-28-1
CH
11-29-1
<END>

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|--------------|----------------|-------------------|--------------|----------------|------------------|-----------------|-----------------|
| 1? | kahlepj | h hmb 11/27/00 | 11/29 PG | 4/29 PG/KF | | | |

FE Sent For:

<END>

11-16

Kelly From Sen. Moore's Office

redraft SB 182

include SA 1

also modify language re.

"prescribed" so that the

contraceptive may not be

obtained w/o a prescription

(see memo)



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
P. O. BOX 2037
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-8522

REFERENCE SECTION: (608) 266-0341
REFERENCE FAX: (608) 266-5648

March 15, 1999

MEMORANDUM

To: Senator Gwendolynne Moore

From: Pamela J. Kahler, Legislative Attorney

Subject: LRB-2123

You requested an opinion on whether LRB-2123 requires an insurer to provide coverage for over-the-counter contraceptives, such as condoms and contraceptive foam. The bill requires coverage for "contraceptive articles". Contraceptive articles are defined in the bill, in s. 632.895 (14) (a), as drugs, or other preparations, or devices, or other articles, that are approved by the federal food and drug administration for use to prevent a pregnancy *and that are prescribed* by a licensed health care provider for use to prevent a pregnancy. Thus, a contraceptive that a person obtains over-the-counter without a prescription is not required to be covered.

I see two possible problems with the bill regarding over-the-counter contraceptives. First, it is possible that a health care provider would prescribe a contraceptive for which a prescription is not actually needed. It seems unlikely that this would happen, however, since a health care provider who is authorized to prescribe drugs and devices would presumably know which drugs and devices require a prescription.

Secondly, it is possible that the word "prescribed" could be interpreted to mean "suggested" or "recommended". This, too, seems unlikely to me. However, to correct that problem, the phrase "and that is prescribed" in the definition of contraceptive article could be changed to read "and for which a prescription is required".

I hope this explanation helps you in addressing questions regarding the bill. Don't hesitate to ask if you have any other questions or concerns regarding the bill. My telephone number is 266-2682.



1999 SENATE BILL 182

June 1, 1999 - Introduced by Senators MOORE, PLACHE, ROSENZWEIG, RISSER, CLAUSING, GEORGE and ERPENBACH, cosponsored by Representatives BERCEAU, RICHARDS, BOCK, BLACK, KRUG, JOHNSRUD, WASSERMAN, YOUNG, BOYLE, SCHOOFF, SINICKI, MILLER, POCAN, TRAVIS, TURNER and CARPENTER. Referred to Committee on Human Services and Aging.

regenerate

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), 185.981 (4t) and 185.983 (1) (intro.); and *to create* 609.73 and 632.895
3 (14) of the statutes; **relating to:** requiring health insurance policies to cover
4 contraceptive articles and services.

Analysis by the Legislative Reference Bureau

This bill requires every health insurance policy (called "disability insurance policy" in the statutes), including managed care plans and health care plans offered by the state, and every self-insured health plan of a school district, county, city or village, to provide coverage for contraceptive articles and services if the policy or plan covers outpatient health care services. Contraceptive articles include any drug or device that is approved by the federal food and drug administration (FDA) ~~and~~ prescribed by a licensed health care provider for use to prevent a pregnancy and any hormonal compound that is taken orally and ^{that is} approved by the FDA for use to prevent a pregnancy. A contraceptive article, however, ^{the} does not include any drug or device that is prescribed for use in terminating a pregnancy of a woman who is known to be pregnant by the prescribing health care provider. Contraceptive services include medical procedures performed to prevent a pregnancy and physical examinations and medical counseling for the prescription or use of a contraceptive article. Specifically excluded from this coverage requirement are health insurance policies that cover only certain specified diseases, limited service health care plans, medicare replacement and supplement policies, and long-term care insurance policies.

that is

, and that may not be obtained without such a prescription;

SENATE BILL 182

Deductibles and copayments that apply generally to the policy or plan may apply to contraceptive articles and services.

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), 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), 632.895 (5m) and (8) to
5 ~~(13)~~ (14) 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 and 632.895 (11) to ~~(13)~~ (14).

10 **SECTION 3.** 60.23 (25) of the statutes is amended to read:

11 60.23 (25) SELF-INSURED HEALTH PLANS. Provide health care benefits to its
12 officers and employes on a self-insured basis if the self-insured plan complies with
13 ss. 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.85,
14 632.853, 632.855, 632.87 (4) and (5), 632.895 (9) and (11) to ~~(13)~~ (14) and 632.896.

15 **SECTION 4.** 66.184 of the statutes is amended to read:

16 **66.184 Self-insured health plans.** If a city, including a 1st class city, or a
17 village provides health care benefits under its home rule power, or if a town provides
18 health care benefits, to its officers and employes on a self-insured basis, the
19 self-insured plan shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2),
20 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.85, 632.853, 632.855, 632.87 (4) and (5),

SENATE BILL 182

1 632.895 (9) to ~~(13)~~ (14), 632.896, 767.25 (4m) (d), 767.51 (3m) (d) and 767.62 (4) (b)

2 4.

3 SECTION 5. 111.91 (2) (n) of the statutes is amended to read:

4 111.91 (2) (n) The provision to employes of the health insurance coverage
5 required under s. 632.895 (11) to ~~(13)~~ (14).

6 SECTION 6. 120.13 (2) (g) of the statutes is amended to read:

7 120.13 (2) (g) Every self-insured plan under par. (b) shall comply with ss.
8 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3),
9 632.85, 632.853, 632.855, 632.87 (4) and (5), 632.895 (9) to ~~(13)~~ (14), 632.896, 767.25
10 (4m) (d), 767.51 (3m) (d) and 767.62 (4) (b) 4.

11 SECTION 7. 185.981 (4t) of the statutes is amended to read:

12 185.981 (4t) A sickness care plan operated by a cooperative association is
13 subject to ss. 252.14, 631.89, 632.72 (2), 632.745 to 632.749, 632.85, 632.853, 632.855,
14 632.87 (2m), (3), (4) and (5), 632.895 (10) to ~~(13)~~ (14) and 632.897 (10) and chs. 149
15 and 155.

16 SECTION 8. 185.983 (1) (intro.) of the statutes is amended to read:

17 185.983 (1) (intro.) Every such voluntary nonprofit sickness care plan shall be
18 exempt from chs. 600 to 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41,
19 601.42, 601.43, 601.44, 601.45, 611.67, 619.04, 628.34 (10), 631.89, 631.93, 632.72
20 (2), 632.745 to 632.749, 632.775, 632.79, 632.795, 632.85, 632.853, 632.855, 632.87
21 (2m), (3), (4) and (5), 632.895 (5) and (9) to ~~(13)~~ (14), 632.896 and 632.897 (10) and
22 chs. 609, 630, 635, 645 and 646, but the sponsoring association shall:

23 SECTION 9. 609.73 of the statutes is created to read:

24 609.73 Coverage of contraceptive articles and services. Managed care
25 plans are subject to s. 632.895 ~~(14)~~.

Insert 3-22

15

SENATE BILL 182

SECTION 10

✓ → 15

1 SECTION 10. 632.895 (14) of the statutes is created to read:

2 632.895 (14) CONTRACEPTIVE ARTICLES AND SERVICES. (a) In this subsection,
 3 "contraceptive article" means any drug, medicine, mixture, preparation, instrument,
 4 article or device of any nature that is approved by the federal food and drug
 5 administration for use to prevent a pregnancy and that is prescribed by a licensed
 6 health care provider for use to prevent a pregnancy, or any hormonal compound that
 7 is taken orally and that is approved by the federal food and drug administration for
 8 use to prevent a pregnancy. "Contraceptive article" does not include any drug,
 9 medicine, mixture, preparation, instrument, article or device of any nature
 10 prescribed for use in terminating the pregnancy of a woman who is known by the
 11 prescribing licensed health care provider to be pregnant.

12 (b) Every disability insurance policy, and every self-insured health plan of a
 13 county, city, village or school district, that provides coverage of outpatient health care
 14 services shall provide coverage for all of the following:

- 15 1. Contraceptive articles.
- 16 2. Medical services, including counseling and physical examinations, for the
- 17 prescription or use of a contraceptive article or of a procedure to prevent a pregnancy.
- 18 3. Medical procedures performed to prevent a pregnancy.

19 (c) Coverage under this subsection may be subject to exclusions or limitations,
 20 including copayments and deductibles, that apply generally to the benefits that are
 21 provided under the policy or plan.

22 (d) This subsection does not apply to any of the following:

- 23 1. A disability insurance policy that covers only certain specified diseases.

Insert 4-10

self-insured health

SENATE BILL 182

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

4 3. A medicare replacement policy, a medicare supplement policy or a long-term
5 care insurance policy.

6 **SECTION 11. Initial applicability.**

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

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

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

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

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

23 **SECTION 12. Effective date.**

Insert 5-5

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2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1076?ins
PJK.....

INSERT 3-22

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 NOTE: NOTE: NOTE: Sub. (8) is shown as affected by three acts of the 1999 legislature and as merged by the revisor under s. 13.93 (2) (c).NOTE:
History: 1981 c. 96; 1983 a. 27; 1985 a. 29; 1987 a. 27, 107, 356; 1987 a. 403 s. 256; 1989 a. 31, 93, 121, 129, 182, 201, 336, 359; 1991 a. 39, 70, 113, 152, 269, 315, 1993
a. 450, 481; 1995 a. 289; 1997 a. 27, 155, 202, 237, 252; 1999 a. 32, 95, 115, 155; s. 13.93 (2) (c).

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

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

11 NOTE: NOTE: NOTE: Sub. (8m) is shown as affected by three acts of the 1999 legislature and as merged by the revisor under s. 13.93 (2) (c).NOTE:
History: 1981 c. 96; 1983 a. 27; 1985 a. 29; 1987 a. 27, 107, 356; 1987 a. 403 s. 256; 1989 a. 31, 93, 121, 129, 182, 201, 336, 359; 1991 a. 39, 70, 113, 152, 269, 315, 1993
a. 450, 481; 1995 a. 289; 1997 a. 27, 155, 202, 237, 252; 1999 a. 32, 95, 115, 155; s. 13.93 (2) (c).

12 SECTION 3. 60.23 (25) of the statutes is amended to read:

13 60.23 (25) SELF-INSURED HEALTH PLANS. Provide health care benefits to its
14 officers and employees on a self-insured basis if the self-insured plan complies with
15 ss. 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.85,
16 632.853, 632.855, 632.87 (4) and (5), 632.895 (9) and (11) to ~~(14)~~ (15) and 632.896.

History: 1983 a. 532; 1985 a. 316 s. 25; 1987 a. 205; 1989 a. 121, 197, 276, 359; 1991 a. 28, 296; 1993 a. 105, 246, 456; 1995 a. 27 ss. 3300m, 9116 (5); 1995 a. 77, 201,
289, 448; 1997 a. 27, 111, 155, 237; 1999 a. 115; 1999 a. 150 ss. 8, 9, 672.

17 SECTION 4. 66.0137 (4) of the statutes is amended to read:

18 66.0137 (4) SELF-INSURED HEALTH PLANS. If a city, including a 1st class city, or
19 a village provides health care benefits under its home rule power, or if a town
20 provides health care benefits, to its officers and employees on a self-insured basis,
21 the self-insured plan shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2),
22 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.85, 632.853, 632.855, 632.87 (4) and (5),
23 632.895 (9) to ~~(14)~~ (15), 632.896 and 767.25 (4m) (d).

History: 1999 a. 9, 115; 1999 a. 150 ss. 34, 303 to 306; Stats. 1999 s. 66.0137; 1999 a. 186 s. 63.

1 **SECTION 5.** 111.91 (2) (n) of the statutes is amended to read:

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

History: 1971 c. 270; 1975 c. 39, 224; 1977 c. 196; 1979 c. 221; 1983 a. 27; 1985 a. 42; 1987 a. 27, 287, 331; 1989 a. 13, 31, 323; 1991 a. 269, 289; 1995 a. 27, 289; 1995 a. 302 s. 48; 1997 a. 27, 35, 155, 237; 1999 a. 9, 95, 115, 155.

4 **SECTION 6.** 120.13 (2) (g) of the statutes is amended to read:

5 120.13 (2) (g) Every self-insured plan under par. (b) shall comply with ss.
6 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3),
7 632.85, 632.853, 632.855, 632.87 (4) and (5), 632.895 (9) to ~~(14)~~ (15), 632.896 and
8 767.25 (4m) (d).

History: 1973 c. 94, 290; 1975 c. 115, 321; 1977 c. 206, 211, 418, 429; 1979 c. 20, 202, 221, 301, 355; 1981 c. 96, 314, 335; 1983 a. 27, 193, 207, 339, 370, 518, 538; 1985 a. 29 ss. 1725e to 1726m, 1731; 1985 a. 101, 135, 211; 1985 a. 218 ss. 12, 13, 22; 1985 a. 332; 1987 a. 88, 187; 1989 a. 31, 201, 336, 359; 1991 a. 39, 226, 269; 1993 a. 16, 27, 284, 334, 399, 450, 481, 491; 1995 a. 27 ss. 4024, 9126 (19), 9145 (1); 1995 a. 29, 32, 33, 65, 75, 225, 235, 289, 439; 1997 a. 27, 155, 164, 191, 237, 335; 1999 a. 9, 19, 73, 83, 115, 128; 1999 a. 150 s. 672; 1999 a. 186.

9 **SECTION 7.** 185.981 (4t) of the statutes is amended to read:

10 185.981 (4t) A sickness care plan operated by a cooperative association is
11 subject to ss. 252.14, 631.17, 631.89, 631.95, 632.72 (2), 632.745 to 632.749, 632.85,
12 632.853, 632.855, 632.87 (2m), (3), (4) and (5), 632.895 (10) to ~~(14)~~ (15) and 632.897
13 (10) and chs. 149 and 155.

NOTE: NOTE: Sub. (4t) is shown as affected by two acts of the 1999 legislature and as merged by the revisor under s. 13.93 (2) (c).NOTE:

History: 1971 c. 40 s. 93; 1971 c. 307 s. 118; 1975 c. 98; 1975 c. 223 s. 28; 1975 c. 224 s. 146; 1975 c. 421; 1981 c. 39 s. 22; 1981 c. 205; 1981 c. 391 s. 210; 1985 a. 29; 1985 a. 30 s. 42; 1987 a. 27 ss. 1917e, 3202 (47) (a); 1987 a. 312 s. 17; 1989 a. 121, 129, 200, 201, 336; 1991 a. 39, 123, 269; 1993 a. 27, 450, 481; 1995 a. 27, 118, 289; 1997 a. 27, 155, 237; 1999 a. 95, 115; s. 13.93 (2) (c).

14 **SECTION 8.** 185.983 (1) (intro.) of the statutes is amended to read:

15 185.983 (1) (intro.) Every such voluntary nonprofit sickness care plan shall be
16 exempt from chs. 600 to 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41,
17 601.42, 601.43, 601.44, 601.45, 611.67, 619.04, 628.34 (10), 631.17, 631.89, 631.93,
18 631.95, 632.72 (2), 632.745 to 632.749, 632.775, 632.79, 632.795, 632.85, 632.853,
19 632.855, 632.87 (2m), (3), (4) and (5), 632.895 (5) and (9) to ~~(14)~~ (15), 632.896 and
20 632.897 (10) and chs. 609, 630, 635, 645 and 646, but the sponsoring association
21 shall:

1 NOTE: NOTE: NOTE: Sub. (1)(intro.) is shown as affected by two acts of the 1999 legislature and as merged by the revisor under s. 13.93 (2) (c).NOTE:

History: 1975 c. 98; 1975 c. 224 s. 146; 1975 c. 352; 1975 c. 422 s. 163; 1977 c. 339; 1979 c. 89; 1981 c. 20; 1981 c. 39 s. 22; 1981 c. 82; 1981 c. 391 s. 210; 1983 a. 189 s. 329 (25); 1983 a. 396; 1985 a. 29 ss. 2060d to 2060r, 3202 (30); 1987 a. 27, 325; 1989 a. 23, 31, 129, 200, 201, 336, 359; 1991 a. 39, 189, 250, 269, 315; 1993 a. 450, 481, 482; 1995 a. 289; 1997 a. 27, 155, 237; 1999 a. 95, 115; s. 13.93 (2) (c).

(END OF INSERT 3-22)

INSERT 4-11

2 632.895 (15) CONTRACEPTIVE ARTICLES AND SERVICES. (a) In this subsection:

3 1. "Contraceptive article" means any of the following:

4 a. A drug, medicine, mixture, preparation, instrument, article, or device of any
5 nature that is approved by the federal food and drug administration for use to
6 prevent a pregnancy, that is prescribed by a licensed health care provider for use to
7 prevent a pregnancy, and that may not be obtained without a prescription from a
8 licensed health care provider. "Contraceptive article" does not include any drug,
9 medicine, mixture, preparation, instrument, article, or device of any nature
10 prescribed for use in terminating the pregnancy of a woman who is known by the
11 prescribing licensed health care provider to be pregnant.

12 b. A hormonal compound that is taken orally and that is approved by the federal
13 food and drug administration for use to prevent a pregnancy.

14 2. "Religious employer" means an entity that satisfies all of the following
15 criteria:

16 a. The inculcation of religious values is the purpose of the entity.

17 b. The entity employs primarily persons who share the religious tenets of the
18 entity.

19 c. The entity serves primarily persons who share the religious tenets of the
20 entity.

1 d. The entity is exempt from filing a federal annual information return under
2 section 6033 (a) (2) (A) (i) and (iii) and (C) (i) of the Internal Revenue Code.

(END OF INSERT 4-11)

Insert 5-5

1 d. The entity is exempt from filing a federal annual information return under
2 section 6033 (a) (2) (A) (i) and (iii) and (C) (i) of the Internal Revenue Code.”

3 **3.** Page 5, line 5: after that line insert:

4 4. A disability insurance policy that is issued to a religious employer, if the
5 religious employer requests that the insurer issuing the policy not provide the
6 coverage specified in par. (b) on the basis that the articles and services covered are
7 contrary to the religious employer’s religious tenets. A religious employer that
8 makes a request under this subdivision shall provide written notice to a prospective
9 insured under the policy, prior to that person’s coverage under the policy, that
10 specifies the articles and services under par. (b) that will not be covered on the basis
11 of the employer’s request.

(END) *of ins 5-5*

12

1-12

~~12-15~~

Kelly Babelich (Sen. Moore)

redraft 1076 with
3rd suggestion
(any of the following)

from e-mail of 12-14

Kahler, Pam

From: Bablitch, Kelly
Sent: Friday, January 12, 2001 3:42 PM
To: Kahler, Pam
Subject: RE: Coverage of contraceptives

-----Original Message-----

From: Kahler, Pam
Sent: Thursday, December 14, 2000 2:13 PM
To: Bablitch, Kelly
Subject: Coverage of contraceptives

Kelly:

After reading all of the materials you e-mailed me, it seems to me that it is reasonable to limit the coverage requirement in your bill to policies or plans that cover any of the following:

1. Outpatient services, as the bill currently reads, because prescription contraceptives are prescribed and sometimes administered in outpatient services. Also, the bill covers the services as well as the contraceptives.
2. Preventive treatments and services for other medical conditions, because contraceptives are preventive.
3. Prescription drugs and devices, because the contraceptives must be prescribed. (Is the hormonal compound that is taken orally, etc., also prescribed?)

So, you could leave the bill as it is, choose a different option from above, or even use the "any of the following" language with all three possibilities, covering potentially the most plans, although I think that most plans that cover at least one of the above probably cover all three. Perhaps one of the options would make more sense than the others politically, in terms of getting your bill passed. Let me know what you think.

Pam

++++
Pamela J. Kahler
Legislative Attorney
Legislative Reference Bureau
(608) 266-2682

Memo

To: LRB – Legal Section PA's

Subject: Fiscal Estimate Received For A Un-Introduced Draft

Attached is a fiscal estimate prepared for a draft has yet been introduced.

LRB Number: LRB 01 - 1076 / 1

Orig.
FE.

Entered In Computer And Copy Sent To Requestor: 01 / 08 / 01

Fiscal Estimate Prepared By: (agency abbr.) ETF

PA's If this is re-drafted to a new version please attach this early fiscal estimate to the back of the draft's file.

PA's If this draft gets introduced please write the drafts intro. number below and give this fiscal estimate to Mike (or Landon) to process.

THIS DRAFT WAS INTRODUCED AS: 2001 _____

FISCAL ESTIMATE FORM

2001 Session

- ORIGINAL
- CORRECTED
- UPDATED
- SUPPLEMENTAL

LRB # -1076/1
INTRODUCTION #
 Admin. Rule #

Subject

Requires health insurance policies to cover contraceptive articles and services.

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

- Increase Existing Appropriation
- Decrease Existing Appropriation
- Create New Appropriation
- Increase Existing Revenues
- Decrease Existing Revenues

Decrease Costs

Local: No local government costs

- 1. Increase Costs
 - Permissive
 - Mandatory
- 2. Decrease Costs
 - Permissive
 - Mandatory

- 3. Increase Revenues
 - Permissive
 - Mandatory
- 4. Decrease Revenues
 - Permissive
 - Mandatory

5. Types of Local Governmental Units Affected:
- Towns
 - Villages
 - Cities
 - Counties
 - Others _____
 - School Districts
 - WTCS Districts

Fund Sources Affected

- GPR
- FED
- PRO
- PRS
- SEG
- SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate:

LRB 1076/1 would require health insurance plans offered by the Group Insurance Board to state and local government employees to provide benefits for contraceptive articles and services, if approved by the federal Food and Drug Administration (FDA) and prescribed by a licensed health care provider.

Currently, the State's plans provide benefits for most contraceptive services and articles, including birth control pills, Depo-Provera, diaphragms and elective sterilizations. However, the bill appears to require coverage for contraceptives not currently covered, including implants (e.g., Norplant) and over-the-counter articles approved by the FDA (e.g., condoms and contraceptive foam). In addition, new products are being introduced which may or may not be covered under existing benefit provisions, including other forms of injectible contraceptives that are not currently listed in the benefit plan. This estimate also assumes that products based on RU 486 will not be covered since they require knowledge of an existing pregnancy prior to use, and therefore, appear to be excluded under the bill.

After consulting with the actuary, the Department expects the costs not to exceed \$0.14 per member per month. This will increase the State's annual premium by \$242,000 (\$0.14 x 12 months x 150,000 members x the State's contribution of 96% of total cost).

Long-Range Fiscal Implications:

On-going.

Prepared By: / Phone # / Agency Name

Authorized Signature / Telephone No.

Date

Pamela Henning 267-2929
Department of Employee Trust Funds

David Hinrichs

01/02/01

FISCAL ESTIMATE WORKSHEET

Detailed Estimate of Annual Fiscal Effect

2001 Session

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB # -1076/1

Admin. Rule #

INTRODUCTION #

Subject

Requires health insurance policies to cover contraceptive articles and services

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

| II. Annualized Costs: | Annualized Fiscal impact on State funds from: | |
|---|--|------------------------|
| | Increased Costs | Decreased Costs |
| A. State Costs by Category | | |
| State Operations - Salaries and Fringes | \$ | \$ - |
| (FTE Position Changes) | (FTE) | (- FTE) |
| State Operations - Other Costs | 242,000 | - |
| Local Assistance | | - |
| Aids to Individuals or Organizations | | - |
| TOTAL State Costs by Category | \$ 242,000 | \$ - |
| B. State Costs by Source of Funds | Increased Costs | Decreased Costs |
| GPR | \$ 108,900 | \$ - |
| FED | | - |
| PRO/PRS | 133,100 | - |
| SEG/SEG-S | | - |
| State Revenues Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.) | Increased Rev. | Decreased Rev. |
| GPR Taxes | \$ | \$ - |
| GPR Earned | | - |
| FED | | - |
| PRO/PRS | | - |
| SEG/SEG-S | | - |
| TOTAL State Revenues | \$ | \$ - |

NET ANNUALIZED FISCAL IMPACT

| | | |
|------------------------|-------------------|--------------|
| | <u>STATE</u> | <u>LOCAL</u> |
| NET CHANGE IN COSTS | \$ <u>242,000</u> | \$ _____ |
| NET CHANGE IN REVENUES | \$ _____ | \$ _____ |

| | | |
|--|--|-------------------------|
| Prepared By: / Phone # / Agency Name Pamela Henning 267-2929 Department of Employee Trust Funds | Authorized Signature/Telephone No. <i>David Hinrichs</i> | Date 01/02/01 |
|--|--|-------------------------|

Memo

Attached is a fiscal estimate prepared for a draft that has not yet been introduced.

LRB Number: LRB 01-1076

Version: "1"

Requested By: Senator Moore

Corrected
FE

Entered In Computer And Copy Sent To Requestor:

01 / 18 / 01

Fiscal Estimate Prepared By: (agency abbr.) ETF

note:
draft is
now a
"-1/2"

To: LRB – Legal Section PA's

Subject: Fiscal Estimate Received For A Un-Introduced Draft

- If this is **re-drafted** to a new version please attach this early fiscal estimate to the back of the draft's file between the old version and the new version.
- If this draft gets **introduced** ... and the version of the attached fiscal estimate is correct ... please write the drafts intro. number below and give this fiscal estimate to Mike (or Landon) to process.

THIS DRAFT WAS INTRODUCED AS: 2001 _____

- If this draft gets **introduced** ... and the version of the attached fiscal estimate is for a previous version ... please attach this early fiscal estimate to the back of the draft's file between the old version and the new version ... and get the ball rolling on getting a fiscal estimate prepared for the introduced version.

FISCAL ESTIMATE FORM

2001 Session

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB # 1076/1

INTRODUCTION #

Admin. Rule #

Subject

Requires health insurance policies to cover contraceptive articles and services.

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget
 Yes
 No

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

Decrease Costs

Local: No local government costs

1. Increase Costs
 Permissive Mandatory
 2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
 4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
 Towns Villages Cities
 Counties Others _____
 School Districts WTCS Districts

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 FED
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Currently, the State's plans provide benefits for most contraceptive services and articles, including birth control pills, Depo-Provera, diaphragms and elective sterilizations. However, the bill appears to require coverage for contraceptives not currently covered, including implants (e.g., Norplant). In addition, new products are being introduced which may or may not be covered under existing benefit provisions, including other forms of injectible contraceptives that are not currently listed in the benefit plan. This estimate also assumes that products based on RU 486 will not be covered since they require knowledge of an existing pregnancy prior to use, and therefore, appear to be excluded under the bill.

After consulting with the actuary, the Department expects the costs not to exceed \$0.14 per member per month. This will increase the State's annual premium by \$242,000 (\$0.14 x 12 months x 150,000 members x the State's contribution of 96% of total cost).

Long-Range Fiscal Implications:

On-going.

Prepared By: / Phone # / Agency Name

Authorized Signature / Telephone No.

Date

Pamela Henning 267-2929
Department of Employee Trust Funds

David Hinnichs

1/12/01

FISCAL ESTIMATE WORKSHEET

Detailed Estimate of Annual Fiscal Effect

2001 Session

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB # 1076/1

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| GPR | \$ 108,900 | \$ - |
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| PRO/PRS | 133,100 | - |
| SEG/SEG-S | | - |
| State Revenues Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.) | Increased Rev. | Decreased Rev. |
| GPR Taxes | \$ | \$ - |
| GPR Earned | | - |
| FED | | - |
| PRO/PRS | | - |
| SEG/SEG-S | | - |
| TOTAL State Revenues | \$ | \$ - |

NET ANNUALIZED FISCAL IMPACT

| | | |
|------------------------|--------------|--------------|
| | <u>STATE</u> | <u>LOCAL</u> |
| NET CHANGE IN COSTS | \$ 242,000 | \$ |
| NET CHANGE IN REVENUES | \$ | \$ |

| | | |
|--|--|------------------------|
| Prepared By: / Phone # / Agency Name Pamela Henning 267-2929 Department of Employee Trust Funds | Authorized Signature/Telephone No. <i>David Henrichs</i> | Date 1/12/01 |
|--|--|------------------------|



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-1076/2

PJK:hmp:pg

hmp + jld

2001 BILL

D. note

Regen

1 AN ACT to amend 40.51 (8), 40.51 (8m), 60.23 (25), 66.0137 (4), 111.91 (2) (n),
2 120.13 (2) (g), 185.981 (4t) and 185.983 (1) (intro.); and to create 609.73 and
3 632.895 (15) of the statutes; relating to: requiring health insurance policies to
4 cover contraceptive articles and services.

Analysis by the Legislative Reference Bureau

This bill requires every health insurance policy (called "disability insurance policy" in the statutes), including managed care plans and health care plans offered by the state, and every self-insured health plan of a school district, county, city, or village, to provide coverage for contraceptive articles and services if the policy or plan covers outpatient health care services. Contraceptive articles include: any drug or device that is approved by the federal food and drug administration (FDA), that is prescribed by a licensed health care provider for use to prevent a pregnancy, and that may not be obtained without such a prescription; and any hormonal compound that is taken orally and that is approved by the FDA for use to prevent a pregnancy. A contraceptive article, however, does not include any drug or device that is prescribed for use in terminating the pregnancy of a woman who is known to be pregnant by the prescribing health care provider. Contraceptive services include medical procedures performed to prevent a pregnancy and physical examinations and medical counseling for the prescription or use of a contraceptive article. Specifically excluded from this coverage requirement are health insurance policies that cover only certain specified diseases, limited service health care plans, medicare replacement and supplement policies, and long-term care insurance policies. Deductibles and

preventive treatments and services, or prescription drugs and devices

BILL

copayments that apply generally to the policy or plan may apply to contraceptive articles and services.

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

11 60.23 (25) SELF-INSURED HEALTH PLANS. Provide health care benefits to its
12 officers and employees on a self-insured basis if the self-insured plan complies with
13 ss. 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.85,
14 632.853, 632.855, 632.87 (4) and (5), 632.895 (9) and (11) to ~~(14)~~ (15), and 632.896.

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

16 66.0137 (4) SELF-INSURED HEALTH PLANS. If a city, including a 1st class city, or
17 a village provides health care benefits under its home rule power, or if a town
18 provides health care benefits, to its officers and employees on a self-insured basis,
19 the self-insured plan shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2),

BILL

1 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.85, 632.853, 632.855, 632.87 (4) and (5),
2 632.895 (9) to ~~(14)~~ (15), 632.896, and 767.25 (4m) (d).

3 **SECTION 5.** 111.91 (2) (n) of the statutes is amended to read:

4 111.91 (2) (n) The provision to employees of the health insurance coverage
5 required under s. 632.895 (11) to ~~(14)~~ (15).

6 **SECTION 6.** 120.13 (2) (g) of the statutes is amended to read:

7 120.13 (2) (g) Every self-insured plan under par. (b) shall comply with ss.
8 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3),
9 632.85, 632.853, 632.855, 632.87 (4) and (5), 632.895 (9) to ~~(14)~~ (15), 632.896, and
10 767.25 (4m) (d).

11 **SECTION 7.** 185.981 (4t) of the statutes is amended to read:

12 185.981 (4t) A sickness care plan operated by a cooperative association is
13 subject to ss. 252.14, 631.17, 631.89, 631.95, 632.72 (2), 632.745 to 632.749, 632.85,
14 632.853, 632.855, 632.87 (2m), (3), (4), and (5), 632.895 (10) to ~~(14)~~ (15), and 632.897
15 (10) and chs. 149 and 155.

16 **SECTION 8.** 185.983 (1) (intro.) of the statutes is amended to read:

17 185.983 (1) (intro.) Every such voluntary nonprofit sickness care plan shall be
18 exempt from chs. 600 to 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41,
19 601.42, 601.43, 601.44, 601.45, 611.67, 619.04, 628.34 (10), 631.17, 631.89, 631.93,
20 631.95, 632.72 (2), 632.745 to 632.749, 632.775, 632.79, 632.795, 632.85, 632.853,
21 632.855, 632.87 (2m), (3), (4), and (5), 632.895 (5) and (9) to ~~(14)~~ (15), 632.896, and
22 632.897 (10) and chs. 609, 630, 635, 645, and 646, but the sponsoring association
23 shall:

24 **SECTION 9.** 609.73 of the statutes is created to read:

BILL

1 **609.73 Coverage of contraceptive articles and services.** Managed care
2 plans are subject to s. 632.895 (15).

3 **SECTION 10.** 632.895 (15) of the statutes is created to read:

4 **632.895 (15) CONTRACEPTIVE ARTICLES AND SERVICES.** (a) In this subsection:

5 1. “Contraceptive article” means any of the following:

6 a. A drug, medicine, mixture, preparation, instrument, article, or device of any
7 nature that is approved by the federal food and drug administration for use to
8 prevent a pregnancy, that is prescribed by a licensed health care provider for use to
9 prevent a pregnancy, and that may not be obtained without a prescription from a
10 licensed health care provider. “Contraceptive article” does not include any drug,
11 medicine, mixture, preparation, instrument, article, or device of any nature
12 prescribed for use in terminating the pregnancy of a woman who is known by the
13 prescribing licensed health care provider to be pregnant.

14 b. A hormonal compound that is taken orally and that is approved by the federal
15 food and drug administration for use to prevent a pregnancy.

16 2. “Religious employer” means an entity that satisfies all of the following
17 criteria:

18 a. The inculcation of religious values is the purpose of the entity.

19 b. The entity employs primarily persons who share the religious tenets of the
20 entity.

21 c. The entity serves primarily persons who share the religious tenets of the
22 entity.

23 d. The entity is exempt from filing a federal annual information return under
24 section 6033 (a) (2) (A) (i) and (iii) and (C) (i) of the Internal Revenue Code.

BILL

✓ Insert 5-3

1 (b) Every disability insurance policy, and every self-insured health plan of a
2 county, city, village, or school district, that provides coverage of outpatient health
3 care services shall provide coverage for all of the following:

- 4 1. Contraceptive articles.
- 5 2. Medical services, including counseling and physical examinations, for the
6 prescription or use of a contraceptive article or of a procedure to prevent a pregnancy.
- 7 3. Medical procedures performed to prevent a pregnancy.

8 (c) Coverage under this subsection may be subject to exclusions or limitations,
9 including copayments and deductibles, that apply generally to the benefits that are
10 provided under the policy or self-insured health plan.

11 (d) This subsection does not apply to any of the following:

- 12 1. A disability insurance policy that covers only certain specified diseases.
- 13 2. A health care plan offered by a limited service health organization, as defined
14 in s. 609.01 (3), or by a preferred provider plan, as defined in s. 609.01 (4), that is not
15 a managed care plan, as defined in s. 609.01 (3c).
- 16 3. A medicare replacement policy, a medicare supplement policy, or a long-term
17 care insurance policy.

18 4. A disability insurance policy that is issued to a religious employer, if the
19 religious employer requests that the insurer issuing the policy not provide the

20 coverage specified in par. (b) on the basis that the articles and services covered are
21 contrary to the religious employer's religious tenets. A religious employer that
22 makes a request under this subdivision shall provide written notice to a prospective

23 insured under the policy, prior to that person's coverage under the policy, that

24 specifies the articles and services under par. (b) that will not be covered on the basis
25 of the employer's request.

✓ → 1. to 3.

✓ → 1. to 3.

BILL**SECTION 11. Initial applicability.**

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

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

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

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

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

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

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

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

SECTION 12. Effective date.

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

(END)

D-note

**2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1076/2ins
PJK:hmh:pg

INSERT 5-3

1 , preventive treatments and services, or prescription drugs and devices ✓

(END OF INSERT 5-3)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1076/2dn

PJK:lpk:pg
JLd

This redraft makes the coverage requirement apply to plans and policies that cover outpatient health care services, preventive treatments and services, or prescription drugs and devices.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1076/2dn
PJK:jld:rs

January 28, 2001

This redraft makes the coverage requirement apply to plans and policies that cover outpatient health care services, preventive treatments and services, or prescription drugs and devices.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.state.wi.us



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

January 29, 2001

MEMORANDUM

To: Senator Moore

From: Pamela J. Kahler, Senior Legislative Attorney

Re: LRB-1076 Require insurance coverage of prescribed contraceptives

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

_____ JACKET FOR ASSEMBLY ~~_____ JACKET FOR SENATE~~

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-2682 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.