

**2001 DRAFTING REQUEST**

**Assembly Amendment (AA-ASA1-SB55)**

Received: 06/27/2001

Received By: kahlepj

Wanted: Soon

Identical to LRB:

For: Spencer Black (608) 266-7521

By/Representing: Susan McMurray

This file may be shown to any legislator: NO

Drafter: kahlepj

May Contact:

Addl. Drafters: nelsorp1  
malaigm

Subject: Insurance - health  
Courts - torts  
Employ Priv - family leave

Extra Copies:

Submit via email: YES

Requester's email: Rep.Black@legis.state.wi.us

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Request 31; provisions related to managed care plans and requiring employers to allow pregnant employees time off for prenatal check-ups

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**Instructions:**

See Attached

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**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 06/27/2001 malaigm 06/27/2001	csicilia 06/28/2001		_____			

Vers.      Drafted      Reviewed      Typed      Proofed      Submitted      Jacketed      Required

/1  
pgreensl \_\_\_\_\_      lrb\_docadmin      lrb\_docadmin  
06/29/2001 \_\_\_\_\_      06/29/2001      06/29/2001

FE Sent For:

<END>

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1?	kahlepj	1/1 9/5 6/27 01	lg pg	6/30 P8/13			

FE Sent For:

**<END>**

**Assembly Democrat Budget Amendment Requests**

**Request number:** 31 This request covers  
request numbers 31, 32, 33  
34  
**Agency:** DHFS / Insurance  
**Description:** leaves of absence / 1999 AB 520  
**Attachments:** yes ~~34~~  
**Contact:** Susan McMurray, Rep. Black's office 266-7521 or at home at 249-1167

6MM  
please draft an amdt to ASA 1  
to SB 55 to require employers to  
allow pregnant employees to take  
up to 9 hours per month (of leave)  
for the duration of the pregnancy  
to receive prenatal health care check-ups.

7JK  
RAW  
This amdt should also incorporate  
the language of 1999 AB 520 relating  
to appealing managed health care  
plan decisions, obtaining the services  
of specialist providers and suing  
managed care plans. See attached

2001

Date (time) needed \_\_\_\_\_

LRB b 1862, 1

**ADC CAUCUS BUDGET AMENDMENT  
[ONLY FOR CAUCUS]**

PJK, GMM, RPN / : \_\_\_\_\_  
ejs

See form **AMENDMENTS — COMPONENTS & ITEMS.**

**CAUCUS AMENDMENT  
TO ASSEMBLY SUBSTITUTE AMENDMENT 1  
TO 2001 SENATE BILL 55**

Insert 1

>>FOR CAUCUS SUPERAMENDMENT — NOT FOR INTRODUCTION<<

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

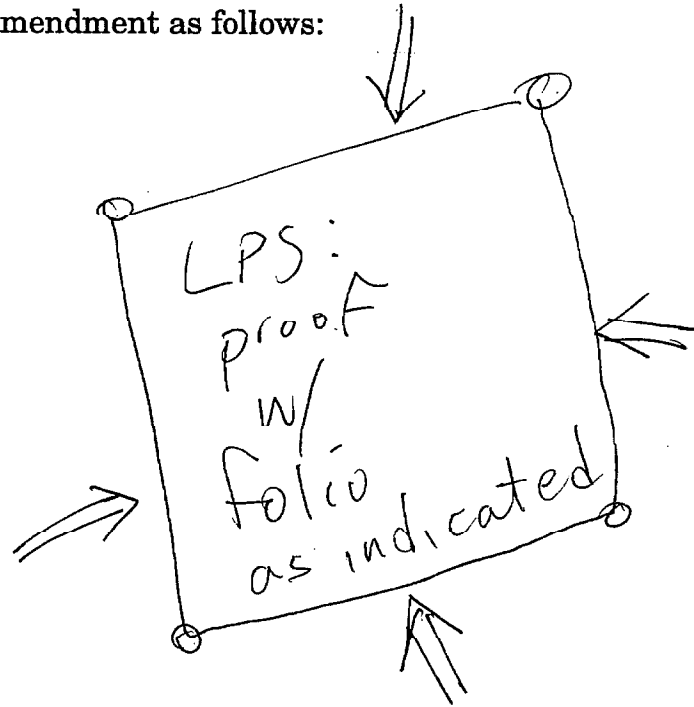
#. Page . . . . , line . . . . :

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→ #. Page 1180, line 21 . . . . after that line insert:



374/c  
Section 609.05 (3) of the statutes is amended to read:

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

~~History: 1985 a. 29; 1987 a. 366; 1989 a. 121; 1997 a. 237; 1999 a. 9.~~



**ASSEMBLY BILL 520**

Under current law a person who is injured or dies as a result of medical malpractice may sue the health care provider that committed the malpractice. Medical malpractice is defined by the courts to mean the mistakes made in the medical diagnosis or treatment, or both, of a person. In *McEvoy v. Group Health Cooperative*, 213 Wis. 2d 507 (1997), the Wisconsin supreme court held that a patient of a managed care plan can recover damages for the denial of benefits by that managed care plan, based on the common law tort of bad faith. This draft does not change the current law regarding medical malpractice but does codify the *McEvoy* decision, allowing a person to sue a managed care plan in tort for a bad faith denial of coverage.

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

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SECTION 609.05 (3) of the statutes is amended to read:

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

SECTION 609.16 of the statutes is created to read:

**609.16 Appeals.** (1) After using the procedure under s. 609.15, a grievant may appeal the decision of a managed care plan under s. 609.15. The appeal shall be made to a physician who is licensed under ch. 448, who is not a participating provider of the managed care plan and who specializes in the type of medical practice to which the grievance relates. The decision of the physician hearing the appeal is binding on the grievant and the managed care plan.

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

*under this section*

*under this section*  
*632.83 either under this section or under s. 632.835, if applicable*

*Pref With Folio*

*3741*

*3741e*

*An*

*632.83*

*under this section*



ASSEMBLY BILL 520

1 (3) The commissioner shall promulgate rules for the appeal procedure under  
2 this section, including rules related to how an enrollee requests an appeal and how  
3 the physician hearing the appeal is selected. → 374lg

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

5 609.22 (4) (a) 1. A managed care plan may not require an enrollee of the  
6 managed care plan to obtain a referral for coverage of services provided by a  
7 participating provider who is a physician licensed under ch. 448 and who specializes  
8 in a particular type of medical practice, regardless of whether the participating  
9 provider is the enrollee's primary provider. → 374lh

10 SECTION 609.22 (4) (a) 2. of the statutes is repealed. → 374li

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

12 609.22 (4) (a) 3. A managed care plan must include information regarding  
13 referral procedures the requirement under subd. 1. in policies or certificates  
14 provided to enrollees and must provide such information to an enrollee or prospective  
15 enrollee upon request. → 374lm

16 SECTION 609.39 of the statutes is created to read:

17 609.39 **Right to sue.** A person may bring an action in tort against a managed  
18 care plan for a bad faith denial of coverage. )) ←

19 ~~SECTION 7. Initial applicability.~~ #. Page 1399, line 25: after that line insert:

20 (f) SPECIALIST PROVIDERS UNDER MANAGED CARE PLANS.

21 (a) Except as provided in paragraph (b), if a policy or certificate that is affected  
22 by the treatment of sections 609.05 (3) and 609.22 (4) (a) 1., 2. and 3. of the statutes  
23 contains terms or provisions that are inconsistent with the treatment of sections  
24 609.05 (3) and 609.22 (4) (a) 1., 2. and 3. of the statutes, the treatment of sections

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ASSEMBLY BILL 520

SECTION 7

1 609.05 (3) and 609.22 (4) (a) 1., 2. and 3. of the statutes first applies to that policy or  
2 certificate upon renewal.

3 (b) The treatment of sections 609.05 (3) and 609.22 (4) (a) 1., 2. and 3. of the  
4 statutes first applies to policies or group certificates covering employes who are  
5 affected by a collective bargaining agreement containing provisions that are  
6 inconsistent with the treatment of sections 609.05 (3) and 609.22 (4) (a) 1., 2. and 3.  
7 of the statutes 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 (A) APPEALS OF DECISIONS OF MANAGED CARE PLANS.

12 (a) The treatment of section 609.16 (1) of the statutes first applies to grievances  
13 arising on September 1, 2000 → 2001, or on the effective date of this

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

16 (B) LAWSUITS AGAINST MANAGED CARE PLANS. The treatment of section 609.39 of  
17 the statutes first applies to claims arising on the effective date of this subsection.”

18 ~~SECTION 8. Effective dates. This act takes effect on the day after publication,~~  
19 ~~except as follows.~~ # Page 1421, line 4: after that line insert:

20 “ (A) APPEALS OF DECISIONS OF MANAGED CARE PLANS. The treatment of section  
21 609.16 (1) and (2) of the statutes takes effect on September 1, 2000 → 2001, or on the

22 (END)

paragraph, whichever is later.

INIT APP

effective date of this subsection, whichever is later

ER DATE

Insert  
4-17

2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRBb1862/lins  
GMM:.....

(INSERT 1)

1. Page 903, line 17: after that line insert:

“SECTION 2556e. 103.10 (4) (am) of the statutes is created to read:

103.10 (4) (am) Subject to pars. (b) and (c), an employee who is pregnant may take up to 9 hours of medical leave during each month of the employee’s pregnancy for the purpose of receiving prenatal health care check-ups.

SECTION 2556f. 103.10 (4) (b) of the statutes is amended to read:

103.10 (4) (b) No employee may take more than 2 weeks of medical leave under par. (a) during a 12-month period. No employee may take more than 81 hours of medical leave under par. (am) in a 12-month period. No employee may take more than 161 hours of medical leave for any combination of reasons specified in pars. (a) and (am) during a 12-month period.

History: 1987 a. 287; 1989 a. 228; 1991 a. 39; 1993 a. 446; 1995 a. 27 s. 9130 (4); 1997 a. 3, 156.

SECTION 2556g. 103.10 (7) (a) (intro.) of the statutes is amended to read:

103.10 (7) (a) (intro.) If an employee requests family leave for a reason described in sub. (3) (b) 3. or requests medical leave under sub. (4) (a), the employer may require the employee to provide certification, as described in par. (b), issued by the health care provider or Christian Science practitioner of the child, spouse, parent, or employee, whichever is appropriate.

History: 1987 a. 287; 1989 a. 228; 1991 a. 39; 1993 a. 446; 1995 a. 27 s. 9130 (4); 1997 a. 3, 156.

SECTION 2556h. 103.10 (7) (am) of the statutes is created to read:

103.10 (7) (am) If an employee requests medical leave under sub. (4) (am), the employer may require the employee to provide certification issued by the employee’s health care provider or Christian Science practitioner stating that the employee is pregnant and the date on which the pregnancy commenced and its probable

duration. No employer may require certification under this paragraph stating more than the information specified in this paragraph.

**SECTION 2556i.** 103.10 (7) (b) (intro.) of the statutes is amended to read:

103.10 (7) (b) (intro.) No employer may require certification under par. (a) stating more than the following:"

(END OF INSERT)

(INSERT 4-17)

103.10

**2.** Page 1414, line 2: after that line insert:

"History: 1987 a. 287; 1989 a. 228; 1991 a. 39; 1993 a. 446; 1995 a. 27 s. 9130 (4); 1997 a. 3, 155.

**(2) MEDICAL LEAVE FOR PRENATAL CHECK-UPS.** The treatment of section 103.10 (4) (am) and (b) and (7) (a) (intro.), (am), and (b) (intro.) of the statutes first applies to an employee, as defined in section ~~103.10~~ (1) (b) of the statutes, who is affected by a collective bargaining agreement that contains provisions inconsistent with that treatment on the day on which the collective bargaining agreement expires or is extended, modified, or renewed, whichever occurs first."

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(END OF INSERT)

(END)

10q