

2007 ASSEMBLY BILL 922

March 11, 2008 – Introduced by Representatives ALBERS, BENEDICT, BERCEAU, BLACK, BOYLE, CULLEN, FIELDS, GRIGSBY, HINTZ, KAUFERT, MASON, NELSON, A. OTT, POCAN, POPE-ROBERTS, SEIDEL, SHERIDAN, SHERMAN, SHILLING, SINICKI, SMITH, SOLETSKI, TOLES, TURNER, YOUNG, ZEPNICK, HIXSON, GRONEMUS, GUNDERSON and MOLEPSKE, cosponsored by Senators HANSEN, LEHMAN, BRESKE, CARPENTER, ERPENBACH, HARSDFORF, MILLER, RISSER, ROBSON, VINEHOUT, WIRCH and ROESSLER. Referred to Committee on Health and Healthcare Reform.

1 **AN ACT to repeal** 632.89 (1) (em), 632.89 (2) (a) 2., 632.89 (2) (b), 632.89 (2) (c)
2 2., 632.89 (2) (d) 2., 632.89 (2) (dm) 2., 632.89 (3m), 632.89 (6) and 632.89 (7);
3 **to renumber** 632.89 (2m) and 632.89 (5); **to renumber and amend** 632.89 (2)
4 (a) 1., 632.89 (2) (c) 1., 632.89 (2) (d) 1., 632.89 (2) (dm) 1. and 632.89 (2) (e); **to**
5 **amend** 40.51 (8), 40.51 (8m), 46.10 (8) (d), 46.10 (14) (a), 49.345 (8) (d), 49.345
6 (14) (a), 66.0137 (4), 120.13 (2) (g), 185.981 (4t), 185.983 (1) (intro.), 301.12 (8)
7 (d), 301.12 (14) (a), 632.89 (title), 632.89 (2) (title) and 632.89 (5) (title); **to**
8 **repeal and recreate** 632.89 (1) (b); and **to create** 111.91 (2) (qm), 609.86,
9 632.89 (1) (er), 632.89 (2p), 632.89 (3), 632.89 (5) (a) (title) and 632.89 (5m) of
10 the statutes; **relating to:** health insurance coverage of nervous and mental
11 disorders, alcoholism, and other drug abuse problems.

Analysis by the Legislative Reference Bureau

Under current law, a group health insurance policy (called a “disability insurance policy” in the statutes) that provides coverage of any inpatient hospital services must cover those services for the treatment of nervous and mental disorders and alcoholism and other drug abuse problems (mental health and substance abuse

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problems) in the minimum amount of the lesser of: 1) the expenses of 30 days of inpatient services; or 2) \$7,000 minus the applicable cost sharing under the policy or, if there is no cost sharing under the policy, \$6,300 in equivalent benefits measured in services rendered. If a group health insurance policy provides coverage of any outpatient hospital services, it must cover those services for the treatment of mental health and substance abuse problems in the minimum amount of \$2,000 minus the applicable cost sharing under the policy or, if there is no cost sharing under the policy, \$1,800 in equivalent benefits measured in services rendered. If a group health insurance policy provides coverage of any inpatient or outpatient hospital services, it must cover the cost of transitional treatment arrangements for the treatment of mental health and substance abuse problems in the minimum amount of \$3,000 minus the applicable cost sharing under the policy or, if there is no cost sharing under the policy, \$2,700 in equivalent benefits measured in services rendered. Transitional treatment arrangements include services, specified by rule by the Commissioner of Insurance, that are provided in a less restrictive manner than inpatient services but in a more intensive manner than outpatient services. If a group health insurance policy provides coverage for both inpatient and outpatient hospital services, the total coverage for all types of treatment for mental health and substance problems is not required to exceed \$7,000, or the equivalent benefits measured in services rendered, in a policy year.

This bill removes the specified minimum amounts of coverage that a group health insurance policy must provide for the treatment of mental health and substance abuse problems but retains the requirements with respect to providing the coverage. Except for group plans providing limited benefits, the bill specifically applies the requirements to all types of group health benefit plans, including defined network plans, insurance plans offered by the state, and self-insured health plans of the state and municipalities.

In addition, the bill requires group and individual health benefit plans and governmental self-insured plans that provide coverage for the treatment of mental health and substance abuse problems and that would cover at least one annual physical examination to cover at least one annual screening for a covered individual to determine the need for treatment of mental health and substance abuse problems and for a female covered under the plan at least one screening during a pregnancy for prepartum depression and at least one screening within six months after a live birth, stillbirth, or miscarriage for postpartum depression to determine the need for treatment. The bill also imposes a new requirement that the coverage under group health benefit plans and governmental self-insured health plans for the treatment of mental health and substance abuse problems must be the same as the coverage under those plans for the treatment of physical conditions. This requirement for equal coverage applies to such coverage components as deductibles, copayments, annual and lifetime limits, and medical necessity definitions. The bill does not require individual health benefit plans to cover the treatment of mental health and substance abuse problems but, if an individual health benefit plan does cover the treatment of any of those conditions, the individual health benefit plan must provide

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the same coverage for that treatment as it does for the treatment of physical conditions.

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, as affected by 2007 Wisconsin Act 36, is
2 amended to read:

3 40.51 **(8)** Every health care coverage plan offered by the state under sub. (6)
4 shall comply with ss. 631.89, 631.90, 631.93 (2), 631.95, 632.72 (2), 632.746 (1) to (8)
5 and (10), 632.747, 632.748, 632.83, 632.835, 632.85, 632.853, 632.855, 632.87 (3) to
6 ~~(5)~~ (6), 632.89, 632.895 (5m) and (8) to (15), and 632.896.

7 **SECTION 2.** 40.51 (8m) of the statutes, as affected by 2007 Wisconsin Act 36, is
8 amended to read:

9 40.51 **(8m)** Every health care coverage plan offered by the group insurance
10 board under sub. (7) shall comply with ss. 631.95, 632.746 (1) to (8) and (10), 632.747,
11 632.748, 632.83, 632.835, 632.85, 632.853, 632.855, 632.89, and 632.895 (11) to (15).

12 **SECTION 3.** 46.10 (8) (d) of the statutes is amended to read:

13 46.10 **(8)** (d) After due regard to the case and to a spouse and minor children
14 who are lawfully dependent on the property for support, compromise or waive any
15 portion of any claim of the state or county for which a person specified under sub. (2)
16 is liable, but not any claim payable by an insurer under s. 632.89 (2) or ~~(2m)~~ (4m) or
17 by any other 3rd party.

18 **SECTION 4.** 46.10 (14) (a) of the statutes is amended to read:

19 46.10 **(14)** (a) Except as provided in pars. (b) and (c), liability of a person
20 specified in sub. (2) or s. 46.03 (18) for inpatient care and maintenance of persons

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1 under 18 years of age at community mental health centers, a county mental health
2 complex under s. 51.08, the centers for the developmentally disabled, the Mendota
3 Mental Health Institute, and the Winnebago Mental Health Institute or care and
4 maintenance of persons under 18 years of age in residential, nonmedical facilities
5 such as group homes, foster homes, treatment foster homes, subsidized
6 guardianship homes, residential care centers for children and youth, and juvenile
7 correctional institutions is determined in accordance with the cost-based fee
8 established under s. 46.03 (18). The department shall bill the liable person up to any
9 amount of liability not paid by an insurer under s. 632.89 (2) or ~~(2m)~~ (4m) or by other
10 3rd-party benefits, subject to rules that include formulas governing ability to pay
11 promulgated by the department under s. 46.03 (18). Any liability of the patient not
12 payable by any other person terminates when the patient reaches age 18, unless the
13 liable person has prevented payment by any act or omission.

14 **SECTION 5.** 49.345 (8) (d) of the statutes, as created by 2007 Wisconsin Act 20,
15 is amended to read:

16 49.345 **(8)** (d) After due regard to the case and to a spouse and minor children
17 who are lawfully dependent on the property for support, compromise or waive any
18 portion of any claim of the state or county for which a person specified under sub. (2)
19 is liable, but not any claim payable by an insurer under s. 632.89 (2) or ~~(2m)~~ (4m) or
20 by any other 3rd party.

21 **SECTION 6.** 49.345 (14) (a) of the statutes, as created by 2007 Wisconsin Act 20,
22 is amended to read:

23 49.345 **(14)** (a) Except as provided in pars. (b) and (c), liability of a person
24 specified in sub. (2) or s. 49.32 (1) for care and maintenance of persons under 18 years
25 of age in residential, nonmedical facilities such as group homes, foster homes,

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1 treatment foster homes, subsidized guardianship homes, and residential care
2 centers for children and youth is determined in accordance with the cost-based fee
3 established under s. 49.32 (1). The department shall bill the liable person up to any
4 amount of liability not paid by an insurer under s. 632.89 (2) or ~~(2m)~~ (4m) or by other
5 3rd-party benefits, subject to rules that include formulas governing ability to pay
6 established by the department under s. 49.32 (1). Any liability of the person not
7 payable by any other person terminates when the person reaches age 18, unless the
8 liable person has prevented payment by any act or omission.

9 **SECTION 7.** 66.0137 (4) of the statutes, as affected by 2007 Wisconsin Act 36,
10 is amended to read:

11 66.0137 **(4)** SELF-INSURED HEALTH PLANS. If a city, including a 1st class city, or
12 a village provides health care benefits under its home rule power, or if a town
13 provides health care benefits, to its officers and employees on a self-insured basis,
14 the self-insured plan shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2),
15 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.85, 632.853, 632.855, 632.87 (4) and,
16 (5), and (6), 632.89, 632.895 (9) to (15), 632.896, and 767.25 (4m) (d) 767.513 (4).

17 **SECTION 8.** 111.91 (2) (qm) of the statutes is created to read:

18 111.91 **(2)** (qm) The requirements under s. 632.89 relating to coverage of
19 screening and treatment for nervous and mental disorders and alcoholism and other
20 drug abuse problems.

21 **SECTION 9.** 120.13 (2) (g) of the statutes, as affected by 2007 Wisconsin Act 36,
22 is amended to read:

23 120.13 **(2)** (g) Every self-insured plan under par. (b) shall comply with ss.
24 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3),

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1 632.85, 632.853, 632.855, 632.87 (4) ~~and~~, (5), and (6), 632.89, 632.895 (9) to (15),
2 632.896, and ~~767.25 (4m) (d) 767.513 (4)~~.

3 **SECTION 10.** 185.981 (4t) of the statutes, as affected by 2007 Wisconsin Act 36,
4 is amended to read:

5 185.981 (4t) A sickness care plan operated by a cooperative association is
6 subject to ss. 252.14, 631.17, 631.89, 631.95, 632.72 (2), 632.745 to 632.749, 632.85,
7 632.853, 632.855, 632.87 (2m), (3), (4), ~~and~~ (5), and (6), 632.89, 632.895 (10) to (15),
8 and 632.897 (10) and chs. 149 and 155.

9 **SECTION 11.** 185.983 (1) (intro.) of the statutes, as affected by 2007 Wisconsin
10 Act 36, is amended to read:

11 185.983 (1) (intro.) Every such voluntary nonprofit sickness care plan shall be
12 exempt from chs. 600 to 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41,
13 601.42, 601.43, 601.44, 601.45, 611.67, 619.04, 628.34 (10), 631.17, 631.89, 631.93,
14 631.95, 632.72 (2), 632.745 to 632.749, 632.775, 632.79, 632.795, 632.85, 632.853,
15 632.855, 632.87 (2m), (3), (4), ~~and~~ (5), and (6), 632.89, 632.895 (5) and (9) to (15),
16 632.896, and 632.897 (10) and chs. 609, 630, 635, 645, and 646, but the sponsoring
17 association shall:

18 **SECTION 12.** 301.12 (8) (d) of the statutes is amended to read:

19 301.12 (8) (d) After due regard to the case and to a spouse and minor children
20 who are lawfully dependent on the property for support, compromise or waive any
21 portion of any claim of the state or county for which a person specified under sub. (2)
22 is liable, but not any claim payable by an insurer under s. 632.89 (2) or ~~(2m)~~ (4m) or
23 by any other 3rd party.

24 **SECTION 13.** 301.12 (14) (a) of the statutes is amended to read:

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1 301.12 **(14)** (a) Except as provided in pars. (b) and (c), liability of a person
2 specified in sub. (2) or s. 301.03 (18) for care and maintenance of persons under 17
3 years of age in residential, nonmedical facilities such as group homes, foster homes,
4 treatment foster homes, child caring institutions, and juvenile correctional
5 institutions is determined in accordance with the cost-based fee established under
6 s. 301.03 (18). The department shall bill the liable person up to any amount of
7 liability not paid by an insurer under s. 632.89 (2) or ~~(2m)~~ (4m) or by other 3rd-party
8 benefits, subject to rules which include formulas governing ability to pay
9 promulgated by the department under s. 301.03 (18). Any liability of the resident not
10 payable by any other person terminates when the resident reaches age 17, unless the
11 liable person has prevented payment by any act or omission.

12 **SECTION 14.** 609.86 of the statutes is created to read:

13 **609.86 Coverage of alcoholism and other diseases.** Defined network
14 plans are subject to s. 632.89.

15 **SECTION 15.** 632.89 (title) of the statutes is amended to read:

16 **632.89** (title) ~~Required coverage of~~ Coverage of mental disorders,
17 alcoholism, and other diseases.

18 **SECTION 16.** 632.89 (1) (b) of the statutes is repealed and recreated to read:

19 632.89 **(1)** (b) “Health benefit plan” has the meaning given in s. 632.745 (11).

20 **SECTION 17.** 632.89 (1) (em) of the statutes is repealed.

21 **SECTION 18.** 632.89 (1) (er) of the statutes is created to read:

22 632.89 **(1)** (er) “Self-insured health plan” has the meaning given in s. 632.745
23 (24).

24 **SECTION 19.** 632.89 (2) (title) of the statutes is amended to read:

25 632.89 **(2)** (title) REQUIRED COVERAGE FOR GROUP PLANS.

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1 **SECTION 20.** 632.89 (2) (a) 1. of the statutes is renumbered 632.89 (2) (a) and
2 amended to read:

3 632.89 (2) (a) *Conditions covered.* A group ~~or blanket disability insurance~~
4 ~~policy issued by an insurer~~ health benefit plan and a self-insured health plan shall
5 provide coverage of nervous and mental disorders and alcoholism and other drug
6 abuse problems if required by pars. (c) to (dm) and as provided in pars. ~~(b)~~ (c) to (e)
7 (dm) and subs. (2p) and (3).

8 **SECTION 21.** 632.89 (2) (a) 2. of the statutes is repealed.

9 **SECTION 22.** 632.89 (2) (b) of the statutes is repealed.

10 **SECTION 23.** 632.89 (2) (c) 1. of the statutes is renumbered 632.89 (2) (c) and
11 amended to read:

12 632.89 (2) (c) ~~Minimum coverage~~ Coverage of inpatient hospital services. If a
13 group ~~or blanket disability insurance policy issued by an insurer~~ health benefit plan
14 or a self-insured health plan provides coverage of any inpatient hospital treatment,
15 the ~~policy~~ plan shall provide coverage for inpatient hospital services for the
16 treatment of conditions under par. (a) 1. ~~as provided in subd. 2.~~

17 **SECTION 24.** 632.89 (2) (c) 2. of the statutes is repealed.

18 **SECTION 25.** 632.89 (2) (d) 1. of the statutes is renumbered 632.89 (2) (d) and
19 amended to read:

20 632.89 (2) (d) ~~Minimum coverage~~ Coverage of outpatient services. If a group ~~or~~
21 ~~blanket disability insurance policy issued by an insurer~~ health benefit plan or a
22 self-insured health plan provides coverage of any outpatient treatment, the ~~policy~~
23 plan shall provide coverage for outpatient services for the treatment of conditions
24 under par. (a) 1. ~~as provided in subd. 2.~~

25 **SECTION 26.** 632.89 (2) (d) 2. of the statutes is repealed.

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1 **SECTION 27.** 632.89 (2) (dm) 1. of the statutes is renumbered 632.89 (2) (dm)
2 and amended to read:

3 632.89 **(2)** (dm) ~~*Minimum coverage*~~ *Coverage of transitional treatment*
4 *arrangements.* If a group or blanket disability insurance policy issued by an insurer
5 health benefit plan or a self-insured health plan provides coverage of any inpatient
6 hospital treatment or any outpatient treatment, the ~~policy~~ plan shall provide
7 coverage for transitional treatment arrangements for the treatment of conditions
8 under par. (a) 1. ~~as provided in subd. 2.~~

9 **SECTION 28.** 632.89 (2) (dm) 2. of the statutes is repealed.

10 **SECTION 29.** 632.89 (2) (e) of the statutes is renumbered 632.89 (5) (b) and
11 amended to read:

12 632.89 **(5)** (b) ~~*Exclusion*~~ *Certain health care plans.* This subsection ~~section~~ does
13 not apply to a health care plan offered by a limited service health organization, as
14 defined in s. 609.01 (3), or by a preferred provider plan, as defined in s. 609.01 (4),
15 that is not a defined network plan, as defined in s. 609.01 (1b).

16 **SECTION 30.** 632.89 (2m) of the statutes is renumbered 632.89 (4m).

17 **SECTION 31.** 632.89 (2p) of the statutes is created to read:

18 632.89 **(2p)** **ADDITIONAL REQUIRED COVERAGE OF SCREENINGS.** If a group health
19 benefit plan, individual health benefit plan, or self-insured health plan that
20 provides coverage for the treatment of nervous and mental disorders and alcoholism
21 and other drug abuse problems would provide coverage of at least one annual
22 physical examination, the plan shall provide coverage of all of the following:

23 (a) For an individual who has coverage under the plan, at least one annual
24 screening for nervous and mental disorders and alcoholism and other drug abuse
25 problems to determine the individual's need for treatment.

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1 (b) For a female individual who has coverage under the plan, with respect to
2 any pregnancy at least one screening during the pregnancy for prepartum
3 depression and at least one screening within 6 months after a live birth, stillbirth,
4 or miscarriage for postpartum depression to determine the individual's need for
5 treatment.

6 **SECTION 32.** 632.89 (3) of the statutes is created to read:

7 632.89 (3) EQUAL COVERAGE REQUIREMENT. (a) *Group plans.* A group health
8 benefit plan or a self-insured health plan that provides coverage for the treatment
9 of nervous and mental disorders and alcoholism and other drug abuse problems shall
10 provide the same coverage for that treatment that it provides for the treatment of
11 physical conditions.

12 (b) *Individual plans.* If an individual health benefit plan provides coverage for
13 the treatment of nervous or mental disorders or alcoholism or other drug abuse
14 problems, the individual health benefit plan shall provide the same coverage for that
15 treatment that it provides for the treatment of physical conditions.

16 (c) *All coverage components.* The requirements under this subsection apply to
17 all coverage-related components, including rates; exclusions and limitations;
18 deductibles; copayments; coinsurance; annual and lifetime payment limits;
19 out-of-pocket limits; out-of-network charges; day, visit, or appointment limits;
20 duration or frequency of coverage; and medical necessity definitions.

21 **SECTION 33.** 632.89 (3m) of the statutes is repealed.

22 **SECTION 34.** 632.89 (5) (title) of the statutes is amended to read:

23 632.89 (5) (title) ~~MEDICARE-EXCLUSION~~ EXCLUSIONS.

24 **SECTION 35.** 632.89 (5) of the statutes is renumbered 632.89 (5) (a).

25 **SECTION 36.** 632.89 (5) (a) (title) of the statutes is created to read:

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1 632.89 (5) (a) (title) *Medicare*.

2 **SECTION 37.** 632.89 (5m) of the statutes is created to read:

3 632.89 (5m) SPECIAL APPLICABILITY. Notwithstanding s. 600.01 (1) (b) 3., this
4 section applies to any group health benefit plan that would otherwise be exempt
5 under s. 600.01 (1) (b) 3. if at least 150 of the certificate holders or insureds are
6 residents of this state.

7 **SECTION 38.** 632.89 (6) of the statutes is repealed.

8 **SECTION 39.** 632.89 (7) of the statutes is repealed.

9 **SECTION 40. Initial applicability.**

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

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

14 (b) Health benefit plans covering employees who are affected by a collective
15 bargaining agreement containing provisions inconsistent with this act that are
16 issued or renewed on the earlier of the following:

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

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

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

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

