

2009 DRAFTING REQUEST

Assembly Amendment (AA-AB100)

Received: **04/09/2009**

Received By: **tdodge**

Wanted: **04/14/2009**

Identical to LRB:

For: **Jon Richards (608) 266-0650**

By/Representing: **Jeff Kostelic**

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

Drafter: **tdodge**

May Contact:

Addl. Drafters:

Subject: **Insurance - health**

Extra Copies: **PJK**

Submit via email: **YES**

Requester's email: **Rep.Richards@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Clarify that preexisting condition requirement only applies to individual disability insurance policies

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>
/?	tdodge 04/13/2009	nmatzke 04/13/2009		_____			
/1			mduchek 04/13/2009	_____	cduerst 04/13/2009	cduerst 04/13/2009	

FE Sent For:

<END>

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Pre Topic:

No specific pre topic given

Topic:

Clarify that preexisting condition requirement only applies to individual disability insurance policies; *renewal exception for short-term plans*

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>
/?	tdodge	/1 <i>nwn</i> 4/13	<i>ND</i>	<i>ND</i> NN (now)			

FE Sent For:

<END>

Dodge, Tamara

From: Kostelic, Jeff
Sent: Thursday, April 09, 2009 11:56 AM
To: Dodge, Tamara
Subject: FW: Proposed amendment language for AB 100 and SB 71

Tami,

We received a note back from Pam saying she was out of the office and that I should forward insurance related requests to you.

Please let me know if you have any questions or if you need additional information.

Jeff Kostelic
Office of Rep. Jon Richards
266-0650

From: Kostelic, Jeff
Sent: Thursday, April 09, 2009 11:52 AM
To: Kahler, Pam
Subject: FW: Proposed amendment language for AB 100 and SB 71

Pam,

Below, please find an email from OCI regarding AB100. The message contains language drafted by OCI that addresses a mistake (not made by you) in the bill. The drafting instructions roped in disability policies by mistake. That was not Rep. Richards' intent.

Rep. Richards requests that you begin drafting an amendment to AB100 that captures the intent of the language provided by OCI. There may be one additional change coming your way later today or tomorrow that we would like incorporated into the amendment. I'll get that to you ASAP.

The Committee on Health and Health Care Reform has an executive session planned for April 15th. Rep. Richards has a self-imposed 24 hour rule on amendments. Is it realistic to expect a draft of the amendment by 9:00 on Tuesday even if I only able to get the second set of instructions to you by Monday morning?

I apologize for the time crunch, especially around the Holiday.

Please let me know if you have any questions or if you need additional information.

Jeff Kostelic
Office of Rep. Jon Richards
266-0650

From: Stegall, Jennifer L - OCI [mailto:Jennifer.Stegall@wisconsin.gov]
Sent: Monday, April 06, 2009 9:23 AM
To: Kleinschmidt, Linda; Kostelic, Jeff
Cc: coconnell@parrettoconnell.com; susancallanan@northwesternmutual.com; Mallow, Eileen K - OCI; Shaul, Kimberly A - OCI; Nepple, Fred - OCI
Subject: Proposed amendment language for AB 100 and SB 71

4/9/2009

I will call you on Monday to discuss further.

Thank you,

Jennifer Stegall
Policy Advisor
Office of the Commissioner of Insurance
608-267-7911

Dodge, Tamara

From: Kostelic, Jeff
Sent: Monday, April 13, 2009 8:47 AM
To: Dodge, Tamara
Subject: FW: AB 100 Amendment language re: short term policies
Attachments: short term policy and pre-ex draft.doc

Tami,

Here are the instructions for the second part of the amendment to AB100. Please let me know if you have any questions. Also, feel free to contact OCI about this request.

Thank you.

Jeff Kostelic
 Office of Rep. Jon Richards
 266-0650

From: Stegall, Jennifer L - OCI [mailto:Jennifer.Stegall@wisconsin.gov]
Sent: Friday, April 10, 2009 7:10 PM
To: Kostelic, Jeff
Cc: Shaul, Kimberly A - OCI; Mallow, Eileen K - OCI; Dilweg, Sean - OCI
Subject: AB 100 Amendment language re: short term policies

Hi Jeff,

Attached is draft language relating to short term policies for your consideration in amending AB 100.

The draft reflects the following:

- Prohibits a coverage period greater than 12 months for short term policies.
- Restricts short term policies to a consecutive coverage period of no more than 18 months.
- Defines "consecutive" as no more than a gap of 63 days.
 - Note: If a short term policy is re-issued within 63 days and results in more than an 18 month period of aggregate coverage, the policy is treated like a "regular" individual health policy in that it must be guaranteed renewable and must comply with individual health policy pre-ex standards. This applies regardless of whether the insurer issuing the policy changes, in the interest of preventing agents circumventing this restriction by switching the insured between companies.
- Applies a 12 month "look forward" limit to short term policy pre-ex. The draft does NOT limit the "reach back" for pre-ex for short term policies.
- Applies the "objective" standard for determining whether a condition is pre-existing to individual policies, including short term policies (uses HIPPA language which is slightly different from that in the original draft).
- Requires portability between consecutive short term policies issued by the same insurer.
- Requires OCI to promulgate rules governing sales disclosures for short term policies.
- Permits OCI to promulgate rules setting standards for short term policies, including standards that might alter any of the above.

Linda and Jeff,

About a week ago we discussed amending AB 100 and SB 71 to ensure the preexisting condition provisions in AB 100 and SB 71 apply only to individual health insurance policies. Current language in both bills inadvertently impacts disability policies. OCI suggests amending the bills with the language below so that it is clear the intent is to impact only individual health insurance policies.

No longer amend 632.76 (2)(a).

632.76 (2) (ac) is created to read:

632.76 (ac) Notwithstanding par. (a), no claim or loss incurred or disability commencing after 12 months from the date of issue of an individual disability insurance policy, as defined in s. 632.895 (1) (a), may be reduced or denied on the ground that a disease or physical condition existed prior to the effective date of coverage, unless the condition was excluded from coverage by name or specific description by a provision effective on the date of loss.

An individual disability insurance policy, as defined in s.632.895 (1) (a) may not define a preexisting condition more restrictively than a condition, whether physical or mental, regardless of the cause of the condition, for which medical advice, diagnosis, care or treatment was recommended or received within 12 months before the effective date of coverage.

I will follow up on this and other outstanding issues later this morning.

Thank you,

Jennifer Stegall
Policy Advisor
Office of the Commissioner of Insurance
608-267-7911

Page 4, after line 4, insert:

Section 5g. 632.7945 (4) of the statutes is repealed and recreated to read:

632.7945 (4) Except as the commissioner may otherwise provide by rule under sub. (5) and notwithstanding subs. (1) and (2) and s. 631.36 (4), an insurer is not required to renew individual health benefit plan coverage that complies with all of the following:

- d 1^g The coverage is marketed and designed to provide short-term coverage as a bridge between coverages.
- f 2. The coverage has a term of not more than 12 months.
- h 3^c The coverage term aggregated with all consecutive periods of the insurer's coverage of the insured by individual health benefit plan coverage not required to be renewed under this section does not exceed 18 months. For the purpose of this subdivision a coverage period is consecutive if there is no more than 63 days between coverage periods.
- j 4. Rules promulgated by the commissioner under sub. (5).

m Section 5m. 632.7945 (5) of the statutes is created to read:

632.7495 (5) The commissioner may promulgate rules setting standards for, and shall promulgate rules governing disclosures related to the sale of, individual health benefit plans that an insurer is not required to renew under sub. (4).

Page 4, delete lines 5 to 12.

Page 4, insert after line 16:

Section 7m. 632.76 (2) (ac) is created to read:

632.76 (ac) Notwithstanding par. (a):

1. No claim or loss incurred or disability commencing after 12 months from the date of issue of an individual disability insurance policy, as defined in s. 632.895 (1) (a), may be reduced or denied on the ground that a disease or physical condition existed prior to the effective date of coverage, unless the condition was excluded from coverage by name or specific description by a provision effective on the date of loss.

2. An individual disability insurance policy, as defined in s.632.895 (1) (a), other than a short term policy subject to s. 632.7495 (4) and (5), may not define a preexisting condition more restrictively than a condition, whether physical or mental, regardless of the cause of the condition, for which medical advice, diagnosis, care or treatment was recommended or received within 12 months before the effective date of coverage.
3. Except as the commissioner otherwise provides by rule adopted under s. 632.7495 (5), an individual disability insurance policy that is a short term policy subject to s. 632.7495 (4) and (5):
 - a. May not define a preexisting condition more restrictively than a condition, whether physical or mental, regardless of the cause of the condition, for which medical advice, diagnosis, care or treatment was recommended or received before the effective date of coverage.
 - b. Shall reduce the length of time during which a pre-existing condition exclusion may be imposed by the aggregate of the insured's consecutive periods of coverage under the insurer's individual disability insurance policies that are short term policies subject to s. 632.7495 (4) and (5). For the purpose of this subdivision a coverage period is consecutive if there is no more than 63 days between coverage periods.

Page 5, after line 22, insert:

Section 11 Effective date. This act takes effect on the first day of the 7th month commencing after its publication.

Note: The LRB will need to make conforming revisions to the initial applicability section.



State of Wisconsin
2009 - 2010 LEGISLATURE

In. 4/13/09 TODAY

LRBa01897

TJD: +:....

nwn

RmNR

TJ-N

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
ASSEMBLY AMENDMENT,
TO 2009 ASSEMBLY BILL 100**

1 At the locations indicated, amend the bill as follows:

2 1. Page 1, line 4: after "renewal," insert "renewal exception for short-term
3 individual health benefit plan".

4 2. Page 4, line 4: after that line insert:

5 no 6 SECTION 5d. 632.7495 (4) of the statutes is renumbered 632.7495 (4) (intro.)
6 and amended to read:

7 632.7495 (4) ^(intro.) ~~Notwithstanding~~ Except as the commissioner may provide by rule
8 under sub. (5) and notwithstanding subs. (1) and (2) and s. 631.36 (4), an insurer is
9 not required to renew individual health benefit plan coverage that complies with all
10 of the following:

11 (a) The coverage is marketed and designed to provide short-term coverage as
12 a bridge between coverages.

1 **SECTION 5f.** [√] [^] 632.7495 (4) (b) of the statutes is created to read:

2 632.7495 (4) (b) The coverage has a term of not more than 12 months. [√]

3 **SECTION 5h.** [√] [^] 632.7495 (4) (c) of the statutes is created to read:

4 632.7495 (4) (c) The coverage term aggregated with all consecutive periods of
5 the insurer's coverage of the insured by individual health benefit plan coverage not
6 required to be renewed under this subsection [√] does not exceed 18 months. For
7 purposes of this paragraph, [√] coverage periods are consecutive if there are no more
8 than 63 days between the coverage periods. [√]

9 **SECTION 5j.** [√] [^] 632.7495 (4) (d) of the statutes is created to read:

10 632.7495 (4) (d) Rules promulgated by the commissioner under sub. (5). [√]

11 **SECTION 5m.** [√] [^] 632.7495 (5) of the statutes is created to read:

12 632.7495 (5) The commissioner shall promulgate rules [√] governing disclosures
13 related to, and may promulgate rules setting standards for, the sale of individual
14 health benefit plans that an insurer is not required to renew under sub. (4). [√]

15 **3.** Page 4, line 5: delete lines 5 to 11. [√]

16 **4.** Page 4, line 12: after that line insert:

17 "632.76 (2) (ac) 1. Notwithstanding par. (a), [√] no claim or loss incurred or
18 disability commencing after 12 months from the date of issue of an individual
19 disability insurance policy, as defined in s. 632.895 (1) (a), [√] may be reduced or denied
20 on the ground that a disease or physical condition existed prior to the effective date
21 of coverage, unless the condition was excluded from coverage by name or specific
22 description by a provision effective on the date of the loss." [√]

23 **5.** Page 4, line 13: delete "632.76 (2) (ac)" and substitute "2." [√]

1 **6.** Page 4, line 13: delete “An” and substitute “Except as provided in subd. 3.,
2 an”.

3 **7.** Page 4, line 14: after “(a),” insert “other than a short-term policy subject to
4 s. 632.7495 (4) and (5).”

5 **8.** Page 4, line 15: delete the material beginning with “for which medical” and
6 ending with “from a physician” on line 16 and substitute “, whether physical or
7 mental, regardless of the cause of the condition, for which medical advice, diagnosis,
8 care, or treatment was recommended or received”.

9 **9.** Page 4, line 16: after that line insert:

10 “3. Except as the commissioner provides by rule under s. 632.7495 (5), all of the
11 following apply to an individual disability insurance policy that is a short-term policy
12 subject to s. 632.7495 (4) and (5):

13 a. The policy may not define a preexisting condition more restrictively than a
14 condition, whether physical or mental, regardless of the cause of the condition, for
15 which medical advice, diagnosis, care, or treatment was recommended or received
16 before the effective date of coverage.

17 b. The policy shall reduce the length of time during which a preexisting
18 condition exclusion may be imposed by the aggregate of the insured’s consecutive
19 periods of coverage under the insurer’s individual disability insurance policies that
20 are short-term policies subject to s. 632.7495 (4) and (5). For purposes of this
21 subdivision, coverage periods are consecutive if there are no more than 63 days
22 between the coverage periods.”

23 **10.** Page 4, line 22: after “(ac)” insert “2.”

24 **11.** Page 5, line 19: after that line insert:

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

LRBa0189/0dn

TJD:f:....

nwn

Date

To Jeff Kostelic:

There was a conflict between the effective date most recently suggested by OCI and the original effective date of part of the bill. Section 601.41 (10) (a), as created in the draft, requires OCI to promulgate rules, and the nonstatutory provision requires these rules to be submitted to legislative council no later than the first day of the 13th month beginning after publication. To keep this requirement, I have exempted this rule-making requirement from the new effective date, which is the first day of the 7th month beginning after publication. Is that okay?

Tamara J. Dodge
Legislative Attorney
Phone: (608) 267-7380
E-mail: tamara.dodge@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0189/1dn
TJD:nwn:md

April 13, 2009

To Jeff Kostelic:

There was a conflict between the effective date most recently suggested by OCI and the original effective date of part of the bill. Section 601.41 (10) (a), as created in the draft, requires OCI to promulgate rules, and the nonstatutory provision requires these rules to be submitted to legislative council no later than the first day of the 13th month beginning after publication. To keep this requirement, I have exempted this rule-making requirement from the new effective date, which is the first day of the 7th month beginning after publication. Is that okay?

Tamara J. Dodge
Legislative Attorney
Phone: (608) 267-7380
E-mail: tamara.dodge@legis.wisconsin.gov