



2009 ASSEMBLY BILL 974

April 22, 2010 – Introduced by Representatives BARCA, BERCEAU, HUBLER, SINICKI, ZIGMUNT, TURNER, VAN AKKEREN, POPE-ROBERTS, SMITH, SCHNEIDER, YOUNG and BENEDICT, cosponsored by Senators WIRCH and A. LASEE. Referred to Committee on Insurance.

1 **AN ACT** *to amend* 40.51 (8), 40.51 (8m), 66.0137 (4), 120.13 (2) (g) and 185.983
2 (1) (intro.); and *to create* 609.837 and 632.867 of the statutes; **relating to:**
3 insurance coverage of oral and injected chemotherapy.

Analysis by the Legislative Reference Bureau

This bill requires health insurance policies, and self-insured governmental and school district health plans, that cover injected or intravenous chemotherapy or both as a medical benefit and also cover oral chemotherapy, to cover oral chemotherapy as a medical benefit, and apply to oral chemotherapy only the copayments or other cost-sharing amounts that apply to injected or intravenous chemotherapy. In order to comply with those requirements, an insurer or self-insured governmental or school district health plan may not increase the copayment or cost-sharing amount for intravenous or injected chemotherapy more than it increases the copayment or cost-sharing amount for other medical treatment under the policy or plan.

The requirements of the bill apply to individual and group health insurance policies, including limited service health organizations, preferred provider plans, defined network plans, and cooperative associations' health care plans; to health care plans, including a self-insured plan, offered by the state to its employees; and to self-insured health plans of a city, town, village, county, or school district.

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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 2009 Wisconsin Act 146, 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, 632.798, 632.83, 632.835, 632.85, 632.853, 632.855,
6 632.867, 632.87 (3) to (6), 632.885, 632.895 (5m) and (8) to (17), and 632.896.

7 **SECTION 2.** 40.51 (8m) of the statutes, as affected by 2009 Wisconsin Act 146,
8 is 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, 632.798, 632.83, 632.835, 632.85, 632.853, 632.855, 632.867, 632.885, and
12 632.895 (11) to (17).

13 **SECTION 3.** 66.0137 (4) of the statutes, as affected by 2009 Wisconsin Acts 146
14 and 180, is amended to read:

15 66.0137 **(4)** SELF-INSURED HEALTH PLANS. If a city, including a 1st class city, or
16 a village provides health care benefits under its home rule power, or if a town
17 provides health care benefits, to its officers and employees on a self-insured basis,
18 the self-insured plan shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2),
19 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.798, 632.85, 632.853, 632.855, 632.867,
20 632.87 (4), (5), and (6), 632.885, 632.895 (9) to (17), 632.896, and 767.513 (4).

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1 **SECTION 4.** 120.13 (2) (g) of the statutes, as affected by 2009 Wisconsin Act 146,
2 is amended to read:

3 120.13 **(2)** (g) Every self-insured plan under par. (b) shall comply with ss.
4 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3),
5 632.798, 632.85, 632.853, 632.855, 632.867, 632.87 (4), (5), and (6), 632.885, 632.895
6 (9) to (17), 632.896, and 767.513 (4).

7 **SECTION 5.** 185.983 (1) (intro.) of the statutes, as affected by 2009 Wisconsin
8 Acts 146 and 165, is amended to read:

9 185.983 **(1)** (intro.) Every voluntary nonprofit health care plan operated by a
10 cooperative association organized under s. 185.981 shall be exempt from chs. 600 to
11 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41, 601.42, 601.43, 601.44,
12 601.45, 611.26, 611.67, 619.04, 623.11, 623.12, 628.34 (10), 631.17, 631.89, 631.93,
13 631.95, 632.72 (2), 632.745 to 632.749, 632.775, 632.79, 632.795, 632.798, 632.85,
14 632.853, 632.855, 632.867, 632.87 (2), (2m), (3), (4), (5), and (6), 632.885, 632.895 (5)
15 and (8) to (17), 632.896, and 632.897 (10) and chs. 609, 620, 630, 635, 645, and 646,
16 but the sponsoring association shall:

17 **SECTION 6.** 609.837 of the statutes is created to read:

18 **609.837 Copayment equality for oral and injected chemotherapy.**
19 Limited service health organizations, preferred provider plans, and defined network
20 plans are subject to s. 632.867.

21 **SECTION 7.** 632.867 of the statutes is created to read:

22 **632.867 Oral and injected chemotherapy. (1) DEFINITIONS.** In this section:

23 (a) “Chemotherapy” means drugs and biologics that kill cancer cells directly,
24 including antineoplastics, biologic response modifiers, hormone therapy, and
25 monoclonal antibodies, and that are used to do any of the following:

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- 1 1. Cure a specific cancer.
- 2 2. Control tumor growth when cure is not possible.
- 3 3. Shrink tumors before surgery or radiation therapy.
- 4 4. Destroy microscopic cancer cells that may be present after a tumor is
- 5 removed by surgery to prevent a cancer recurrence.

6 (b) “Disability insurance policy” has the meaning given in s. 632.895 (1) (a).

7 (c) “Self-insured health plan” has the meaning given in s. 632.85 (1) (c).

8 **(2) COPAYMENT REQUIREMENTS; LIMITATIONS.** (a) An insurer under a disability
9 insurance policy that covers injected or intravenous chemotherapy or both as a
10 medical benefit and also covers oral chemotherapy, or a self-insured governmental
11 body under a self-insured health plan that covers injected or intravenous
12 chemotherapy or both as a medical benefit and also covers oral chemotherapy, shall
13 cover oral chemotherapy as a medical benefit and apply to oral chemotherapy only
14 the copayments or other cost-sharing amounts that apply to injected or intravenous
15 chemotherapy under the policy or plan.

16 (b) In order to comply with par. (a), an insurer or a self-insured governmental
17 body described in par. (a) may not increase the copayment or cost-sharing amount
18 for intravenous or injected chemotherapy more than it increases the copayment or
19 cost-sharing amount for other medical treatment under the policy or plan.

20 **SECTION 8. Initial applicability.**

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

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

