State of Wisconsin
2009 − 2010 LEGISLATURE

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2009 ASSEMBLY BILL 699

February 3, 2010 − Introduced by Representatives ZIGMUNT, BARCA, BENEDICT, CULLEN, JORGENSEN, KAUFERT, MOLEPSKE JR., MONTGOMERY, NYGREN, PASCH, RIPP, ROYS, SHILLING, SINICKI, SOLETSKI, TURNER, VAN ROY, VOS, VRUWINK and ZEPNICK, cosponsored by Senators SULLIVAN, COWLES, DARLING, HANSEN, LAZICH, SCHULTZ, TAYLOR and WIRCH. Referred to Committee on Insurance.

AN ACT ***to create*** 628.34 (13) of the statutes; **relating to:** exempting wellness programs from unfair trade or marketing practices.

Analysis by the Legislative Reference Bureau

Under current law, an insurer may not engage in any of the following unfair trade or marketing practices: inducing a person to enter into an insurance contract by offering benefits not specified in the policy; making an agreement of insurance that is not clearly expressed in the policy; unfairly discriminating among insureds by charging different premiums or by offering different terms of coverage except on the basis of classifications related to the nature and degree of risk covered or the expenses involved; attempting to influence an employer to refuse employment of an individual or discharge an employee; or committing any unfair trade practice that the commissioner defines by rule.

This bill allows an insurer to advertise, market, offer, or operate a wellness program without violating an unfair trade or marketing practice. A wellness program is designed to promote health or prevent disease by offering a reward to insured individuals. If a wellness program contains no conditions for obtaining a reward based on an individual satisfying a standard that is related to a health factor, the wellness program is exempt from unfair trade or marketing practice laws if participation in the program is available to all similarly situated individuals. Alternately, a wellness program that is based on an individual satisfying a standard that is related to a health factor is exempt from unfair trade or marketing practice laws if it has all of the following qualities: the reward does not exceed 20 percent of the cost of the coverage under the plan; the program is reasonably designed to promote health or prevent disease; all eligible individuals have the opportunity to qualify for the reward at least once per year; and the reward is available to all similarly situated individuals.

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:

SECTION 1. 628.34 (13) of the statutes is created to read:

628.34 **(13)** MARKETING OF WELLNESS PROGRAMS. (a) In this subsection, "wellness program" means a program that is designed to promote health or prevent disease through a reward to insured individuals and that meets the qualifications of 45 CFR 146.121 (f) (1) or (2).

(b) Notwithstanding subs. (2) (a), (3), (7), and (11) and any rules promulgated under sub. (12), it is not a violation of this section for an insurer to advertise, market, offer, or operate a wellness program.

(END)