



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2009 Senate Bill 362

**Senate Substitute
Amendment 1**

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This memorandum summarizes Senate Substitute Amendment 1 to 2009 Senate Bill 362, relating to health insurance coverage of nervous and mental disorders, alcoholism, and other drug abuse problems.

Senate Bill 362

Senate Bill 362 modifies the current statutes that require what group insurance policies must cover with respect to nervous and mental disorders and alcoholism and other drug abuse conditions (referred to in this memorandum as “mental health/AODA conditions”). Current law specifies minimum dollar coverage amounts that must be covered. The bill repeals these minimum dollar coverage amounts and specifies that for a group health benefit plan and a governmental self-insured health plan that provides coverage for mental health/AODA conditions, and for an individual health plan that provides coverage for these conditions, the exclusions and limitations; deductibles; copayments; coinsurance; annual and lifetime payment limitations; out-of-pocket limits; out-of-network charges; day, visit, or appointment limits; limitations regarding referrals to nonphysician providers and treatment programs; and duration and frequency of coverage limits under the plan; may be **no more restrictive** for coverage of the treatment of mental health/AODA conditions **than the most common or frequent type of treatment limitations applied to substantially all other coverage** under the plan. In addition, the bill specifies that the plan must include in any overall deductible amount or annual or lifetime limit or out-of-pocket limit for the plan, expenses incurred for treatment of mental health/AODA conditions and for required screenings. (These requirements are referred to in this memorandum as “parity requirements”.)

The bill includes a provision that states that if a group health benefit plan, individual health benefit plan, or governmental self-insured health plan, that provides coverage for the treatment of mental health/AODA conditions would provide coverage for at least one annual physical examination, the plan must provide coverage for both of the following: (1) for a person who has coverage under the plan, **at least one annual screening** for mental health/AODA conditions to determine the person’s need for treatment; and (2) for a female who has coverage under the plan, with respect to any pregnancy at least

one screening during the 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 person's need for treatment.

The bill also creates a provision that states that such a plan must make available, on request, the criteria for determining medical necessity under the plan with respect to coverage of mental health/AODA conditions. If such a plan denies any particular insured person coverage for mental health/AODA conditions, the plan must, upon request, make the reason for the denial available.

Senate Substitute Amendment 1

Senate Amendment 1 does the following:

- Includes a definition of “group health benefit plan.”
- Deletes the provisions regarding annual screenings for mental health/AODA conditions, and screenings during and after pregnancy.
- Provides that an employer that provides health coverage for its employees under a group health benefit plan or a self-insured health plan that provides coverage for mental health/AODA conditions may elect for the employer's plan to be exempt from the parity requirements under the bill during any plan year following any plan year in which, as a result of the parity requirements, there is an increase under the plan in the employer's total cost of coverage for the treatment of physical conditions and mental health/AODA conditions that exceeds 2% in the first plan year in which those requirements apply, or 1% in subsequent plan years. The cost increase may not be determined until the employer's plan has complied with the requirements for at least the first six months of the plan year for which the increase is to be determined. In addition, the cost increase must be determined and certified by a qualified actuary. A copy of the actuary's determination, and underlying documentation, must be filed with the Commissioner of Insurance (Commissioner), and, in accordance with rules promulgated by the Commissioner, retained by the insurer. The plan must promptly notify all enrollees that it has elected to be exempt. If an employer elects for its plan to be exempt from the parity requirements, the plan would be subject to the minimum dollar coverage amounts specified in current law.
- Provides that an employer that provides health care coverage for its employees through a group health benefit plan that provides mental health/AODA coverage may elect for the employer's plan to be exempt from the parity requirements during a plan year if, on the first day of the plan year, the employer will have fewer than 10 eligible employees. A group health benefit plan that qualifies for this exemption must promptly notify all enrollees that the employer has elected to be exempt. If a plan is exempt from the parity requirements under this exemption, the plan would be subject to the minimum dollar coverage amounts specified in current law.
- Provides that the statutes on coverage of mental health/AODA conditions do not apply to treatment for autism spectrum disorder. Coverage requirements for that disorder are set forth in a different section of current law.

- Requires the Commissioner to promulgate rules for administering the parity provisions, including rules that specify what information must be in notices to employees that a plan has elected to be exempt from the parity requirements; the manner of giving the notice; who is responsible for the actuarial study; and retention requirements for the study. The Commissioner must follow, as a minimum standard, any relevant federal regulations or guidelines that are in effect. The Commissioner is given authority to promulgate emergency rules on the subject, without having to make a finding of emergency.

Legislative History

On December 22, 2009, the Senate Committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue, recommended adoption of Senate Amendment 1 to Senate Amendment 1, and adoption of Senate Amendment 1, as amended, on votes of Ayes, 7; Noes, 0; and passage of the bill as amended, on votes of Ayes, 5; Noes, 2.

On January 28, 2009, the Senate adopted Senate Substitute Amendment 1, and passed the bill, as amended, on a vote of Ayes, 20; Noes, 13.

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