

2017 DRAFTING REQUEST

Bill

For: Daniel Riemer (608) 266-1733 Drafter: tdodge
 By: Dave Secondary Drafters:
 Date: 2/10/2017 May Contact:
 Same as LRB: -3444

Submit via email: YES
 Requester's email: Rep.Riemer@legis.wisconsin.gov
 Carbon copy (CC) to: tamara.dodge@legis.wisconsin.gov
 Aaron.McKean@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Require health insurance coverage of essential health benefits

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	tdodge 2/16/2017	kfollett 2/16/2017			
/P1	amckean 5/8/2017	kfollett 5/8/2017	mbarman 2/16/2017		Insurance
/1			mbarman 5/8/2017	rmilford 5/11/2017	Insurance

FE Sent For: <END>

→ Not Needed

Dodge, Tamara

From: Groshek, Dave
Sent: Friday, February 10, 2017 10:59 AM
To: Dodge, Tamara
Subject: RE: Essential Health Benefits statute

Let's go with OCI then.

If it can come sooner that would be great, but I get it.

From: Dodge, Tamara
Sent: Friday, February 10, 2017 9:45 AM
To: Groshek, Dave <Dave.Groshek@legis.wisconsin.gov>
Subject: RE: Essential Health Benefits statute

Dave,

I should be able to get a draft to you by Friday of next week. I can try to get it to you sooner. If you really need it sooner, let me know.

And, this should probably be a requirement on OCI instead of DHS. If you want OCI to work with DHS, I can draft that but it might make the process of defining the benefits slower.

Tami

Tamara J. Dodge
Senior Legislative Attorney
Wisconsin Legislative Reference Bureau
P.O. Box 2037
Madison, WI 53701-2037
(608) 267 - 7380
tamara.dodge@legis.wisconsin.gov

From: Groshek, Dave
Sent: Thursday, February 09, 2017 4:05 PM
To: Dodge, Tamara <Tamara.Dodge@legis.wisconsin.gov>
Subject: FW: Essential Health Benefits statute

Hi Tami-

Rep. Riemer has a drafting request, which hopefully we can get back fairly quickly. Let me know what kind of time frame you are working in right now, as I know this is probably quite a busy time. We discussed this previously, but it involves requiring health insurance plans (all plans we included in the previous bills – individual, group, self-insured, etc) to cover “Essential Health Benefits.” I have included the framework of the legislation below. The main part below is section “1) In general.” Also, when I wrote “Department,” I am referring to DHS. I wasn't sure if it would be the commissioner of insurance or DHS that would handle this under state law. Obviously, if the info below needs to be organized differently than it is for a state statute, that is definitely fine.

Thanks Tami. Let me know what your time frame on this would be. When this is done, please also provide a Senate version for Sen. Erpenbach's office.

Let me know of any questions.

Thanks again,

Dave

--
David Groshek
Office of Representative Daniel Riemer
7th Assembly District
(o) 608.266.1733
(tf) 888.529.0007

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Essential health benefits requirements

(a) Essential health benefits package

In this title, the term “essential health benefits package” means, with respect to any health plan, coverage that—

- (1) provides for the essential health benefits defined by the Department (or is it Commissioner of Insurance?) under subsection (b); and
- (2) limits cost-sharing for such coverage

(b) Essential health benefits

(1) In general

Subject to paragraph (2), the Department (or is it Commissioner of Insurance?) shall define the essential health benefits, except that such benefits shall include at least the following general categories and the items and services covered within the categories:

- (A) Ambulatory patient services.
- (B) Emergency services.
- (C) Hospitalization.
- (D) Maternity and newborn care.
- (E) Mental health and substance use disorder services, including behavioral health treatment.
- (F) Prescription drugs.
- (G) Rehabilitative and habilitative services and devices.
- (H) Laboratory services.
- (I) Preventive and wellness services and chronic disease management.
- (J) Pediatric services, including oral and vision care.

(2) Limitation

(A) In general

The Department (or is it Commissioner of Insurance?) shall ensure that the scope of the essential health benefits under paragraph (1) is equal to the scope of benefits provided under a typical employer plan, as determined by the Secretary. To inform this determination, the Department (or is it Commissioner of Insurance?) shall conduct a survey of employer-sponsored coverage to determine the benefits typically covered by employers, including multiemployer plans.

(3) Required elements for consideration

In defining the essential health benefits under paragraph (1), the Department (or is it Commissioner of Insurance?) shall—

(A) ensure that such essential health benefits reflect an appropriate balance among the categories described in such subsection, so that benefits are not unduly weighted toward any category;

(B) not make coverage decisions, determine reimbursement rates, establish incentive programs, or design benefits in ways that discriminate against individuals because of their age, disability, or expected length of life;

(C) take into account the health care needs of diverse segments of the population, including women, children, persons with disabilities, and other groups;

(D) ensure that health benefits established as essential not be subject to denial to individuals against their wishes on the basis of the individuals' age or expected length of life or of the individuals' present or predicted disability, degree of medical dependency, or quality of life;

(E) provide that a qualified health plan shall not be treated as providing coverage for the essential health benefits described in paragraph (1) unless the plan provides that—

(i) coverage for emergency department services will be provided without imposing any requirement under the plan for prior authorization of services or any limitation on coverage where the provider of services does not have a contractual relationship with the plan for the providing of services that is more restrictive than the requirements or limitations that apply to emergency department services received from providers who do have such a contractual relationship with the plan; and

(ii) if such services are provided out-of-network, the cost-sharing requirement (expressed as a copayment amount or coinsurance rate) is the same requirement that would apply if such services were provided in-network; and

(F) periodically update the essential health benefits under paragraph (1) to address any gaps in access to coverage

(4) Rule of construction

Nothing in this title shall be construed to prohibit a health plan from providing benefits in excess of the essential health benefits described in this subsection.



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-2107?
TJD: [Signature] PI

In: 2/16

Due Today
(A)

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Gen

1 **AN ACT ...; relating to:** coverage of certain essential health benefits by health
2 insurance policies and plans and requiring the exercise of rule-making
3 authority.

Analysis by the Legislative Reference Bureau

X This bill requires health insurance policies, known in the bill as disability insurance policies, and governmental self-insured health plans to cover essential health benefits that will be specified by the commissioner of the Office of the Commissioner of Insurance by rule. The bill specifies a list of requirements that the commissioner must follow when establishing the essential health benefits including certain limitations on cost sharing and the following general categories of benefits, items, or services in which the commissioner must require coverage: ambulatory patient services, emergency services, hospitalization, maternity and newborn care, mental health and substance use disorder services, prescription drugs, rehabilitative and habilitative services and devices, laboratory services, preventive and wellness services and chronic disease management, and pediatric services. If an essential health benefit specified by the commissioner is also subject to its own mandated coverage requirement, the bill requires the disability insurance policy or self-insured health plan to provide coverage under whichever requirement provides the insured or plan participant with more comprehensive coverage.

This proposal may contain a health insurance mandate requiring a social and financial impact report under s. 601.423, stats.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 609.713 of the statutes is created to read:

2 **609.713 Essential health benefits.** Defined network plans and preferred
3 provider plans are subject to s. 632.895 (14m).

4 SECTION 2. 632.895 (14m) of the statutes is created to read:

5 632.895 (14m) ESSENTIAL HEALTH BENEFITS. (a) In this section, "self-insured
6 health plan" has the meaning given in s. 632.85 (1) (c).

7 (b) On a date specified by the commissioner, by rule, every disability insurance
8 policy and every self-insured health plan shall provide coverage for essential health
9 benefits as determined by the commissioner, by rule, under par. (c). *subject to*

****NOTE: This draft requires the commissioner of OCI to establish the essential health benefits by rule. Please let me know if you would like to change this.

10 (c) In determining the essential health benefits for which coverage is required
11 under par. (b), the commissioner shall do all of the following:

12 1. Include benefits, items, and services, *in* at least, all of the following
13 categories:

14 a. Ambulatory patient services.

15 b. Emergency services.

16 c. Hospitalization.

17 d. Maternity and newborn care.

18 e. Mental health and substance use disorder services, including behavioral
19 health treatment.

20 f. Prescription drugs.

1 g. Rehabilitative and habilitative services and devices.

2 h. Laboratory services.

3 i. Preventive and wellness services and chronic disease management.

4 j. Pediatric services, including oral and vision care.

5 2. Conduct a survey of employer-sponsored coverage to determine benefits

6 typically coverage^{ed} by employers and ensure that the scope of essential health

7 benefits for which coverage is required under this subsection is equal to the scope of

8 benefits covered under^a typical disability insurance policy offered by an employer to

9 its employees.

10 3. Ensure that essential health benefits reflect a balance among the categories

11 described in subd. 1. such that benefits are not unduly weighted toward one category.

12 4. Ensure that essential health benefit coverage is provided with no or limited

13 cost-sharing requirements.

14 5. Require that disability insurance policies and self-insured health plans^{do} not

15 make coverage decisions, determine reimbursement rates, establish incentive

16 programs, or design benefits in ways that discriminate against individuals because

17 of their age, disability, or expected length of life.

X ****NOTE: This requirement is drafted so that the anti-discrimination requirement is ultimately on the insurers. Is that correct?

18 6. Establish essential health benefits in a way that takes account of the health

19 care needs of diverse segments of the population, including women, children, persons

20 with disabilities, and other groups.

21 7. Ensure that essential health benefits established under this subsection not

22 be subject to a coverage denial based on an insured's or plan participant's age,

1 expected length of life, present or predicted disability, degree of dependency on
2 medical care, or quality of life.

3 8. Require that disability insurance policies and self-insured health plans
4 cover emergency department services that are essential health benefits without
5 imposing any requirement to obtain prior authorization for those services and
6 without limiting coverage for services provided by an emergency services provider
7 that is not in the provider network of a policy or plan in a way that is more restrictive
8 than requirement^s or limitations that apply to emergency services provided by an
9 provider that is in the provider network of the policy or plan.

10 9. Require a disability insurance policy or self-insured health plan to apply to
11 emergency department services that are essential health benefits provided by an
12 emergency department provider that is not in the provider network of the policy or
13 plan the same copayment amount or coinsurance rate that applies if those services
14 are provided by a provider that is in the provider network of the policy or plan.

15 (d) The commissioner shall periodically update, by rule, the essential health
16 benefits under this subsection to address any gaps in access to coverage.

17 (e) If an essential health benefit is also subject to mandated coverage elsewhere
18 under this section and the coverage requirements are not identical, the disability
19 insurance policy or self-insured health plan shall provide coverage under whichever
20 subsection provides the insured or plan participant with more comprehensive
21 coverage of the medical condition, item, or service.

****NOTE: I included this provision to preserve the coverage mandates specifically for certain conditions or services that might also be essential health benefits, such as childhood vaccinations, in the event that the commissioner does not replicate the mandate in the essential health benefits rule and the mandate is more beneficial to the insured.

1

(f) Nothing in the ^{is} subsection or rules promulgated under this subsection ✓

2

prohibits a disability insurance policy or a self-insured health plan from providing

3

benefits in excess of the essential health benefit coverage required under this

4

subsection. ✓

5

(END)

Barman, Mike

From: Barman, Mike
Sent: Monday, May 08, 2017 4:24 PM
To: Dodge, Tamara
Subject: Re-draft request ... LRB-2107/P1 - Rush

Importance: High

From: Rep.Riemer
Sent: Monday, May 08, 2017 4:22 PM
To: LRB.Legal <lrblegal@legis.wisconsin.gov>
Subject: RE: Draft review: LRB -2107/P1 - Rush

Please convert LRB 2107/P1 to a /1.

--
David Groshek
Office of Representative Daniel Riemer
7th Assembly District
(o) 608.266.1733
(tf) 888.529.0007

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From: LRB.Legal
Sent: Thursday, February 16, 2017 2:42 PM
To: Rep.Riemer <Rep.Riemer@legis.wisconsin.gov>
Subject: Draft review: LRB -2107/P1

Following is the PDF version of draft LRB -2107/P1.



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

- NO CHANGES -

- 1 **AN ACT to create** 609.713 and 632.895 (14m) of the statutes; **relating to:**
2 coverage of certain essential health benefits by health insurance policies and
3 plans and requiring the exercise of rule-making authority.

Analysis by the Legislative Reference Bureau

This bill requires health insurance policies, known in the bill as disability insurance policies, and governmental self-insured health plans to cover essential health benefits that will be specified by the commissioner of the Office of the Commissioner of Insurance by rule. The bill specifies a list of requirements that the commissioner must follow when establishing the essential health benefits including certain limitations on cost sharing and the following general categories of benefits, items, or services in which the commissioner must require coverage: ambulatory patient services, emergency services, hospitalization, maternity and newborn care, mental health and substance use disorder services, prescription drugs, rehabilitative and habilitative services and devices, laboratory services, preventive and wellness services and chronic disease management, and pediatric services. If an essential health benefit specified by the commissioner is also subject to its own mandated coverage requirement, the bill requires the disability insurance policy or self-insured health plan to provide coverage under whichever requirement provides the insured or plan participant with more comprehensive coverage.

This proposal may contain a health insurance mandate requiring a social and financial impact report under s. 601.423, stats.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 609.713 of the statutes is created to read:

2 **609.713 Essential health benefits.** Defined network plans and preferred
3 provider plans are subject to s. 632.895 (14m).

4 **SECTION 2.** 632.895 (14m) of the statutes is created to read:

5 **632.895 (14m) ESSENTIAL HEALTH BENEFITS.** (a) In this section, “self-insured
6 health plan” has the meaning given in s. 632.85 (1) (c).

7 (b) On a date specified by the commissioner, by rule, every disability insurance
8 policy and every self-insured health plan shall provide coverage for essential health
9 benefits as determined by the commissioner, by rule, subject to par. (c).

~~****NOTE: This draft requires the commissioner of OCI to establish the essential
health benefits by rule. Please let me know if you would like to change this.~~

10 (c) In determining the essential health benefits for which coverage is required
11 under par. (b), the commissioner shall do all of the following:

12 1. Include benefits, items, and services in, at least, all of the following
13 categories:

14 a. Ambulatory patient services.

15 b. Emergency services.

16 c. Hospitalization.

17 d. Maternity and newborn care.

18 e. Mental health and substance use disorder services, including behavioral
19 health treatment.

20 f. Prescription drugs.

1 g. Rehabilitative and habilitative services and devices.

2 h. Laboratory services.

3 i. Preventive and wellness services and chronic disease management.

4 j. Pediatric services, including oral and vision care.

5 2. Conduct a survey of employer-sponsored coverage to determine benefits
6 typically covered by employers and ensure that the scope of essential health benefits
7 for which coverage is required under this subsection is equal to the scope of benefits
8 covered under a typical disability insurance policy offered by an employer to its
9 employees.

10 3. Ensure that essential health benefits reflect a balance among the categories
11 described in subd. 1. such that benefits are not unduly weighted toward one category.

12 4. Ensure that essential health benefit coverage is provided with no or limited
13 cost-sharing requirements.

14 5. Require that disability insurance policies and self-insured health plans do
15 not make coverage decisions, determine reimbursement rates, establish incentive
16 programs, or design benefits in ways that discriminate against individuals because
17 of their age, disability, or expected length of life.

~~****NOTE: This requirement is drafted so that the antidiscrimination requirement
is ultimately on the insurers. Is that correct?~~

18 6. Establish essential health benefits in a way that takes account of the health
19 care needs of diverse segments of the population, including women, children, persons
20 with disabilities, and other groups.

21 7. Ensure that essential health benefits established under this subsection not
22 be subject to a coverage denial based on an insured's or plan participant's age,

1 expected length of life, present or predicted disability, degree of dependency on
2 medical care, or quality of life.

3 8. Require that disability insurance policies and self-insured health plans
4 cover emergency department services that are essential health benefits without
5 imposing any requirement to obtain prior authorization for those services and
6 without limiting coverage for services provided by an emergency services provider
7 that is not in the provider network of a policy or plan in a way that is more restrictive
8 than requirements or limitations that apply to emergency services provided by a
9 provider that is in the provider network of the policy or plan.

10 9. Require a disability insurance policy or self-insured health plan to apply to
11 emergency department services that are essential health benefits provided by an
12 emergency department provider that is not in the provider network of the policy or
13 plan the same copayment amount or coinsurance rate that applies if those services
14 are provided by a provider that is in the provider network of the policy or plan.

15 (d) The commissioner shall periodically update, by rule, the essential health
16 benefits under this subsection to address any gaps in access to coverage.

17 (e) If an essential health benefit is also subject to mandated coverage elsewhere
18 under this section and the coverage requirements are not identical, the disability
19 insurance policy or self-insured health plan shall provide coverage under whichever
20 subsection provides the insured or plan participant with more comprehensive
21 coverage of the medical condition, item, or service.

****NOTE: I included this provision to preserve the coverage mandates specifically
for certain conditions or services that might also be essential health benefits, such as
childhood vaccinations, in the event that the commissioner does not replicate the
mandate in the essential health benefits rule and the mandate is more beneficial to the
insured.

1 (f) Nothing in this subsection or rules promulgated under this subsection
2 prohibits a disability insurance policy or a self-insured health plan from providing
3 benefits in excess of the essential health benefit coverage required under this
4 subsection.

5

(END)

Milford, Renae

From: Rep.Riemer
Sent: Thursday, May 11, 2017 4:03 PM
To: LRB.Legal
Subject: Draft Review: LRB -2107/1

Please Jacket LRB -2107/1 for the ASSEMBLY.