

2017 DRAFTING REQUEST

Assembly Amendment (AA-AB885)

For: Gordon Hintz (608) 266-2254

Drafter: tdodge

By: Chris

Secondary Drafters:

Date: 2/12/2018

May Contact: Jon (LFB)  
Kelly (Sen. Erpenbach)

Same as LRB:

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

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Medicaid expansion; increase Medical Assistance provider rates; require premium reduction; rate review; actuarial study; other changes

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**Instructions:**

See attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	tdodge 2/12/2018	eweiss 2/13/2018			
/1			mbarman 2/13/2018	mbarman 2/13/2018	

FE Sent For:

<END>

## Dodge, Tamara

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**From:** Becker, Kelly  
**Sent:** Monday, February 12, 2018 8:19 PM  
**To:** McKinny, Chris  
**Cc:** Dyck, Jon; Dodge, Tamara  
**Subject:** Re: Amendment to AB 885/SB 770

In addition to the above we would also (in the larger, original amendment) like to remove the exemption from the current law rule/emergency rule writing requirements as described on pg. 8 of the LFB memo.

Thanks!

On Feb 12, 2018, at 8:02 PM, McKinny, Chris <[Chris.McKinny@legis.wisconsin.gov](mailto:Chris.McKinny@legis.wisconsin.gov)> wrote:

Hi Tami and Jon,

A couple of additional items to include in the amendment below as well as a separate simple amendment.

For the original amendment request below, please also include:

- Please delete the language on page 8 of the LFB memo under the heading "Other OCI Duties and Authority under WHSP."
- Please delete the following language included in item (c) on Page 8 of the LFB memo "any possible additional waivers to be requested, and any other options to stabilize the individual health care market in the state."
- Please include language requiring OCI to submit an actuarial study regarding the reinsurance rates to JFC annually.

As a separate simple amendment to both the AB and the SB, please include:

- Accept the MA expansion
- Direct GPR savings from MA expansion towards the creation of the BadgerCare buy in program as outlined in 2017 AB 449 (we assume this bill must cost something but there is no FE): <https://docs.legis.wisconsin.gov/2017/proposals/reg/asm/bill/ab449>

Please be sure to let Kelly or I know if you have any questions-I apologize for the late request. Thank you both!

Chris

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**From:** McKinny, Chris  
**Sent:** Monday, February 12, 2018 5:19 PM  
**To:** Dyck, Jon <[Jon.Dyck@legis.wisconsin.gov](mailto:Jon.Dyck@legis.wisconsin.gov)>; Dodge, Tamara <[Tamara.Dodge@legis.wisconsin.gov](mailto:Tamara.Dodge@legis.wisconsin.gov)>  
**Cc:** Becker, Kelly <[Kelly.Becker@legis.wisconsin.gov](mailto:Kelly.Becker@legis.wisconsin.gov)>  
**Subject:** Amendment to AB 885/SB 770

Hi Tami and Jon,

I am hoping that the two of you can help us draft a simple amendment to both AB 885 and SB 770 (reinsurance) with the following elements:

- Robust rate review to make sure premiums are actuarially sound (see Kolste bill from 2015 Session: <https://docs.legis.wisconsin.gov/2015/proposals/reg/asm/bill/ab359>)
- Explicit requirement that savings from reinsurance program be passed on to consumers through lower premiums (I think this is currently implicit in the pass through)
- Accept MA Expansion-direct GPR savings (estimated to be around \$203 million in FY 2019) to
  - Eliminate DHS lapse requirement in bill-fund instead with GPR savings from MA expansion
  - Provide remainder of GPR savings to a provider reimbursement increase in MA program

Please note that it is entirely possible our JFC members will not agree to this and there may be changes- we just wanted to get something going given the fact that the public hearing is still going and we will be voting at 9:00 am tomorrow.

We recognize that this amendment will not be adopted so please feel free to make it as easy on yourselves as possible. Please be sure to let Kelly (copied here) or I know if you have any questions or need any additional information. Thank you both!

Chris



State of Wisconsin  
2017 - 2018 LEGISLATURE

LRBa2102? *De*  
TJD: *T*  
*emw*

*NOW*  
*ASAP*  
*Due by 8:30am*  
*Joint Finance*

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

**ASSEMBLY AMENDMENT ,  
TO ASSEMBLY BILL 885**

*SAV*  
*PWFV*

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

2 **1.** Page 5, line 6: after that line insert:

3 **“SECTION 3c.** 49.45 (23) (a) of the statutes is amended to read:

4 49.45 (23) (a) The department shall request a waiver from the secretary of the

5 federal department of health and human services to permit the department to

6 conduct a demonstration project to provide health care coverage to adults who are

7 under the age of 65, who have family incomes not to exceed ~~100~~ 133 percent of the

8 poverty line before application of the 5 percent income disregard under ~~42 CFR~~

9 ~~435.603 (d)~~, except as provided in s. 49.471 (4g), and who are not otherwise eligible

10 for medical assistance under this subchapter, the Badger Care health care program

11 under s. 49.665, or Medicare under 42 USC 1395 et seq.

12 **SECTION 3d.** 49.471 (1) (cr) of the statutes is created to read:

1           49.471 (1) (cr) “Enhanced federal medical assistance percentage” means a  
2 federal medical assistance percentage described under 42 USC 1396d (y) or (z).

3           **SECTION 3e.** 49.471 (4) (a) 4. b. of the statutes is amended to read:

4           49.471 (4) (a) 4. b. The Except as provided in sub. (4g), the individual’s family  
5 income does not exceed 100 133 percent of the poverty line before application of the  
6 5 percent income disregard under 42 CFR 435.603 (d).

7           **SECTION 3f.** 49.471 (4g) of the statutes is created to read:

8           49.471 (4g) MEDICAID EXPANSION; FEDERAL MEDICAL ASSISTANCE PERCENTAGE. (a)  
9 For services provided to individuals described under sub. (4) (a) 4. and s. 49.45 (23),  
10 the department shall comply with all federal requirements to qualify for the highest  
11 available enhanced federal medical assistance percentage. The department shall  
12 submit any amendment to the state medical assistance plan, request for a waiver of  
13 federal Medicaid law, or other approval request required by the federal government  
14 to provide services to the individuals described under sub. (4) (a) 4. and s. 49.45 (23)  
15 and qualify for the highest available enhanced federal medical assistance  
16 percentage.

17           (b) If the department does not qualify for an enhanced federal medical  
18 assistance percentage, or if the enhanced federal medical assistance percentage  
19 obtained by the department is lower than printed in federal law as of July 1, 2013,  
20 for individuals eligible under sub. (4) (a) 4. or s. 49.45 (23), the department shall  
21 submit to the joint committee on finance a fiscal analysis comparing the cost to  
22 maintain coverage for adults who are not pregnant and not elderly with family  
23 incomes up to 133 percent of the poverty line to the cost of limiting eligibility to those  
24 adults with family incomes up to 100 percent of the poverty line. The department  
25 may reduce income eligibility for adults who are not pregnant and not elderly from

Insert 3-4

1 family incomes of up to 133 percent of the poverty line to family incomes of up to 100  
2 percent of the poverty line only if this reduction in income eligibility levels is  
3 approved by the joint committee on finance.”.

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

5 “(i) To continue receiving reinsurance payments, an eligible health carrier shall  
6 apply any savings to the carrier resulting from the healthcare stability plan to  
7 reducing premium rates for individual enrollees purchasing coverage on the  
8 individual market.”.

Insert 3-9

9 **3.** Page 13, line 20: after that line insert:

10 **SECTION 10d.** 625.02 (1) of the statutes is renumbered 625.02 (1m).

11 **SECTION 10f.** 625.02 (1j) of the statutes is created to read:

12 625.02 (1j) “Health insurance” has the meaning given in s. 632.745 (12).

13 **SECTION 10h.** 625.03 (1m) (intro.) of the statutes is amended to read:

14 625.03 (1m) (intro.) This Except as specifically provided otherwise in this  
15 chapter, this chapter applies to all kinds and lines of direct insurance written on risks  
16 or operations in this state by any insurer authorized to do business in this state,  
17 except:

18 **SECTION 10j.** 625.13 (1) of the statutes is amended to read:

19 625.13 (1) FILING PROCEDURE. Except as provided in sub. (2) and s. 625.25 (2)  
20 (a), every authorized insurer and every rate service organization licensed under s.  
21 625.31 which has been designated by any insurer for the filing of rates under s.  
22 625.15 (2) shall file with the commissioner all rates and supplementary rate  
23 information and all changes and amendments thereof made by it for use in this state  
24 within 30 days after they become effective.

1           **SECTION 10m.** 625.15 (2) of the statutes is amended to read:

2           **625.15 (2) RATE FILING.** An insurer may discharge its obligation under s. 625.13  
3 (1) or 625.25 (2) (a) by giving notice to the commissioner that it uses rates and  
4 supplementary rate information prepared by a designated rate service organization,  
5 with such information about modifications thereof as is necessary fully to inform the  
6 commissioner. The insurer's rates or proposed rates and supplementary rate  
7 information shall be those filed from time to time by the rate service organization,  
8 including any amendments or proposed amendments thereto as filed, subject,  
9 however, to the modifications filed by the insurer.

10           **SECTION 10p.** 625.21 (1) of the statutes is amended to read:

11           **625.21 (1) RULE INSTITUTING DELAYED EFFECT.** If the commissioner finds that  
12 competition is not an effective regulator of the rates charged or that a substantial  
13 number of companies are competing irresponsibly through the rates charged, or that  
14 there are widespread violations of this chapter, in any kind or line of insurance or  
15 subdivision thereof or in any rating class or rating territory, he or she may  
16 promulgate a rule requiring that in the kind or line of insurance or subdivision  
17 thereof or rating class or rating territory comprehended by the finding any  
18 subsequent changes in the rates or supplementary rate information be filed with the  
19 commissioner at least 15 days before they become effective. The commissioner may  
20 extend the waiting period for not to exceed 15 additional days by written notice to  
21 the filer before the first 15-day period expires. This subsection does not apply to  
22 health insurance, which is subject to s. 625.25 (2) (a).

23           **SECTION 10r.** 625.22 (1) of the statutes is amended to read:

24           **625.22 (1) ORDER IN EVENT OF VIOLATION.** If the commissioner finds after a  
25 hearing that a rate or proposed rate is not in compliance with s. 625.11, the

1 commissioner shall order that its use be discontinued, or that it may not be used, for  
2 any policy issued or renewed after a date specified in the order.

3 **SECTION 10t.** 625.22 (3) of the statutes is amended to read:

4 625.22 (3) APPROVAL OF SUBSTITUTED RATE. ~~Within~~ Except for rates for health  
5 insurance, which is subject to s. 625.25 (2) (a), within one year after the effective date  
6 of an order under sub. (1), no rate promulgated to replace a disapproved one may be  
7 used until it has been filed with the commissioner and not disapproved within 30  
8 days thereafter.

9 **SECTION 10w.** 625.23 of the statutes is amended to read:

10 **625.23 Special restrictions on individual insurers.** The commissioner  
11 may by order require that a particular insurer file any or all of its rates and  
12 supplementary rate information 15 days prior to their effective date, if and to the  
13 extent that he or she finds, after a hearing, that the protection of the interests of its  
14 insureds and the public in this state requires closer supervision of its rates because  
15 of the insurer's financial condition or rating practices. The commissioner may extend  
16 the waiting period for any filing for not to exceed 15 additional days by written notice  
17 to the insurer before the first 15-day period expires. A filing not disapproved before  
18 the expiration of the waiting period shall be deemed to meet the requirements of this  
19 chapter, subject to the possibility of subsequent disapproval under s. 625.22. This  
20 section does not apply to an insurer with respect to rates for health insurance, which  
21 is subject to s. 625.25 (2) (a).

22 **SECTION 10y.** 625.25 of the statutes is created to read:

23 **625.25 Rates for health insurance. (1) DEFINITIONS.** In this section:

24 (a) "Group health benefit plan" has the meaning given in s. 632.745 (9).

25 (b) "Health benefit plan" has the meaning given in s. 632.745 (11).



1 (c) "Insurer" has the meaning given in s. 632.745 (15).

2 (d) "Large group market" has the meaning given in s. 632.745 (17).

3 (e) "Small group market" has the meaning given in s. 632.745 (26).

4 (2) FILING OF RATES; HEARING. (a) Every insurer, and every rate service  
5 organization licensed under s. 625.31 that has been designated by any insurer for the  
6 filing of rates under s. 625.15 (2), shall file with the commissioner all proposed rates  
7 and supplementary rate information, and all proposed changes and amendments to  
8 rates and supplementary rate information, for use in this state for any health benefit  
9 plan offered by the insurer before the proposed rates or changes to rates become  
10 effective. An insurer may not use a proposed rate or change to a rate until it has been  
11 filed with and approved by the commissioner. Unless the commissioner holds a  
12 hearing on the proposed rate or change to a rate, a proposed rate or change to a rate  
13 is approved if the commissioner does not disapprove the proposed rate or change  
14 within 30 days after filing, or within a 30-day extension of that period ordered by the  
15 commissioner prior to the expiration of the first 30 days. The requirement under this  
16 paragraph applies with respect to rates and changes to rates for all health benefit  
17 plans, including individual health benefit plans, group health benefit plans offered  
18 in the small group market, and group health benefit plans offered in the large group  
19 market, that have not gone into effect by the effective date of this paragraph .... [LRB  
20 inserts date].

21 (b) If any proposed change to a rate filed under par. (a) increases the existing  
22 rate by more than 10 percent of that rate, the commissioner shall hold a public  
23 hearing before approving or disapproving the proposed change to the rate.

1 (c) The commissioner may disapprove a proposed rate or change to a rate filed  
2 under par. (a) that the commissioner determines is not justified based on underlying  
3 medical costs.

4 (3) PUBLICATION OF INCREASES, NEGOTIATED RATES. (a) The commissioner shall  
5 publish on the office's Internet site, in a format that is readily understandable by  
6 members of the public, all rate changes filed under sub. (2) (a) that increase an  
7 existing rate by any amount and that are approved.

8 (b) If the commissioner approves a rate increase after holding a hearing under  
9 sub. (2) (b) and the insurer justified the rate increase based on increased medical  
10 costs, the commissioner shall publish on the office's Internet site, in a format that is  
11 readily understandable by members of the public, the discounted payment rates the  
12 insurer has negotiated with each of the insurer's provider networks.

13 (4) NOTICE OF RATE INCREASE TO INSURED. If the commissioner approves a rate  
14 increase filed under sub. (2) (a), the insurer shall provide notice of the rate increase  
15 to each insured under the health benefit plan at least 60 days before the rate increase  
16 goes into effect.”.

17 4. Page 14, line 4: after that line insert:

18 “(2m) INCREASING MEDICAL ASSISTANCE REIMBURSEMENT RATES. The department  
19 of health services shall amend the state Medicaid plan to increase reimbursement  
20 rates for providers of medical and long-term care services providers under the  
21 Medical Assistance program for dates of service on and after July 1, 2018.”.

Change  
item (22)  
(23)

5. Page 14, line 9: after that line insert: delete lines 6 to 10 and substitute: 1a

22 (2m) MEDICAID EXPANSION. In the schedule under section 20.005 (3) of the  
23 statutes for the appropriation to the department of health services under section  
24

1 20.435 (4) (b) of the statutes, the dollar amount for fiscal year 2018-19 is decreased  
2 by \$203,000,000 to provide Medical Assistance to certain adults with family incomes  
3 up to 133 percent of the federal poverty line.

4 ~~STET~~ <sup>2</sup>(3m) MEDICAL ASSISTANCE REIMBURSEMENT RATES. In the schedule under section  
5 20.005 (3) of the statutes for the appropriation to the department of health services  
6 under section 20.435 (4) (b) of the statutes, the dollar amount for fiscal year 2018-19  
7 is increased by \$123,000,000 to increase reimbursement rates to providers under the  
8 Medical Assistance program in accordance with SECTION 11 (2m) of this act.

9 **SECTION 13m. Effective dates.** This act takes effect on the day after  
10 publication, except as follows:

11 (1) MEDICAID EXPANSION. The treatment of sections 49.45 (23) (a) and 49.471 (1)  
12 ~~STET~~ (cr), (4) (a) 4. b., and (4g) of the statutes and SECTION 12 <sup>pe 1</sup>(2m) and <sup>pe</sup>(3m) of this act take  
13 effect on July 1, 2018, or on the day after publication, whichever is later.”

14 (END)

**2017-2018 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBa2102/1ins  
TJD:...

1

2           INSERT 3-4

3           ✓**1.** Page 8, line 18: delete lines 18 to 25.

4           END INSERT 3-4

5           INSERT 3-9

6           ✓**2.** Page 13, line 1: after "REPORTS." insert "(a)".

7           ✓**3.** Page 13, line 5: after that line insert:

8           " (b) Annually, the commissioner shall submit to the joint committee on finance  
9           a report of an actuarial study regarding the reinsurance rates under the healthcare  
10          stability plan under this subchapter."

11          ✓**4.** Page 13, line 12: delete the material beginning with " , any possible" and  
12          ending with "state" on line 13.

13          END INSERT 3-9