



State of Wisconsin  
2017 - 2018 LEGISLATURE

LRB-3444/1  
TJD:kjf

## 2017 SENATE BILL 268

May 25, 2017 - Introduced by Senators ERPENBACH, JOHNSON, SHILLING, L. TAYLOR, CARPENTER, RINGHAND, LARSON, RISSER, HANSEN, WIRCH, MILLER, BEWLEY and VINEHOUT, cosponsored by Representatives RIEMER, KOLSTE, C. TAYLOR, ANDERSON, BARCA, BERCEAU, BILLINGS, BOWEN, BROSTOFF, CONSIDINE, CROWLEY, DOYLE, FIELDS, GENRICH, GOYKE, HEBL, HESSELBEIN, HINTZ, MASON, MEYERS, OHNSTAD, POPE, SARGENT, SHANKLAND, SINICKI, SPREITZER, STUCK, SUBECK, VRUWINK, WACHS, YOUNG, ZAMARRIPA, ZEPNICK and KESSLER. Referred to Committee on Insurance, Housing and Trade.

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.

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### *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.

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

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*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).

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.

21           g. Rehabilitative and habilitative services and devices.

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- 1           h. Laboratory services.
- 2           i. Preventive and wellness services and chronic disease management.
- 3           j. Pediatric services, including oral and vision care.
- 4           2. Conduct a survey of employer-sponsored coverage to determine benefits
- 5 typically covered by employers and ensure that the scope of essential health benefits
- 6 for which coverage is required under this subsection is equal to the scope of benefits
- 7 covered under a typical disability insurance policy offered by an employer to its
- 8 employees.
- 9           3. Ensure that essential health benefits reflect a balance among the categories
- 10 described in subd. 1. such that benefits are not unduly weighted toward one category.
- 11           4. Ensure that essential health benefit coverage is provided with no or limited
- 12 cost-sharing requirements.
- 13           5. Require that disability insurance policies and self-insured health plans do
- 14 not make coverage decisions, determine reimbursement rates, establish incentive
- 15 programs, or design benefits in ways that discriminate against individuals because
- 16 of their age, disability, or expected length of life.
- 17           6. Establish essential health benefits in a way that takes account of the health
- 18 care needs of diverse segments of the population, including women, children, persons
- 19 with disabilities, and other groups.
- 20           7. Ensure that essential health benefits established under this subsection not
- 21 be subject to a coverage denial based on an insured's or plan participant's age,
- 22 expected length of life, present or predicted disability, degree of dependency on
- 23 medical care, or quality of life.
- 24           8. Require that disability insurance policies and self-insured health plans
- 25 cover emergency department services that are essential health benefits without

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1 imposing any requirement to obtain prior authorization for those services and  
2 without limiting coverage for services provided by an emergency services provider  
3 that is not in the provider network of a policy or plan in a way that is more restrictive  
4 than requirements or limitations that apply to emergency services provided by a  
5 provider that is in the provider network of the policy or plan.

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

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

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

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

22 (END)