

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

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Representative Rohrkaste:

This amendment to 2019 Assembly Bill 1 does the following things: it incorporates some exceptions to the guaranteed issue requirements that are present in the Affordable Care Act under 42 USC 300gg-1 (c) and (d), and it conforms the prohibition against a preexisting condition exclusion and the exemptions for grandfathered plans more closely to the Affordable Care Act.

The Affordable Care Act and Assembly Bill 1 require health benefit plans to accept every individual, if an individual health benefit plan, and every employer, if a group health benefit plan, that apply for coverage. The Affordable Care Act allows health benefit plans that provide services through a set network of providers to decline to cover employers whose employees are outside of the service area of the provider network and to decline to cover employers or individuals if the provider network does not have the capacity to accept additional insureds, as long as the plan declines individuals or employers without regard to their claims experience or health status. The Wisconsin statutes refer to plans that have set networks of providers, such as health maintenance organizations, as “defined network plans.” The Affordable Care Act also allows a health benefit plan to decline to cover individuals or groups if the plan does not have the necessary financial reserves, as long as the plan declines the additional insureds without regard to their claims experience or health status. The Affordable Care Act then imposes on plans that have declined coverage based on lack of provider capacity or lack of financial reserves a time restriction on taking additional insureds. This amendment incorporates these exemptions from the Affordable Care Act into Assembly Bill 1.

This amendment aligns the language of the prohibition in Assembly Bill 1 against plans excluding coverage of a preexisting condition more closely with the Affordable Care Act under 42 USC 300gg-3. In addition to applying the same language to individuals and group plans, this amendment includes the definition of “preexisting condition exclusion” from the Affordable Care Act.

The Affordable Care Act exempts plans in existence on March 23, 2010, known as grandfathered plans, from provisions of the Affordable Care Act, including the limitation on premium rate variation, the requirement to guarantee issue, and for individual plans, the prohibition against imposing a preexisting condition exclusion.

Under the Affordable Care Act, to remain a grandfathered plan, the plan may not enroll new individuals or groups except for family members of individuals already enrolled. Similarly, transitional plans are plans exempt from certain provisions of the Affordable Care Act in which individuals and groups enrolled between March 24, 2010, and the end of 2013.

The Affordable Care Act exempts grandfathered plans from the limitation on premium rate variation, and Assembly Bill 1 includes this exemption for grandfathered and transitional plans. The amendment adds an exemption for all grandfathered and transitional plans from the requirement to guarantee issue and exempts grandfathered and transitional individual plans from the prohibition against imposing a preexisting condition exclusion.

Should you have any questions or want any changes to the amendment, please contact me.

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