

**2019 DRAFTING REQUEST**

**Bill**

For: **Legislative Fiscal Bureau** Drafter: **tdodge**  
By: **Dyck** Secondary Drafters:  
Date: **4/3/2020** May Contact:

Same as LRB:

Submit via email: **YES**  
Requester's email: **jon.dyck@legis.wisconsin.gov**  
Carbon copy (CC) to: **Alexandra.bentzen@legis.wisconsin.gov**  
**Becky.hannah@legis.wisconsin.gov**  
**tamara.dodge@legis.wisconsin.gov**  
**Charlie.morgan@legis.wisconsin.gov**

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Out-of-network provider charges under health insurance plans

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**Instructions:**

Tami,  
The GOP has decided they want to do the Governor's out-of-network charges item. That was 5871/P2.  
No change to the draft itself.

Jon Dyck  
Update 04/07/20 Per Jon

Tami,  
The leaders have decided that they want the out-of-network charges to apply only to the COVID-19  
public health emergency.

Jon Dyck

04/06/20 update per Bob: On page 2, line 18, delete "250" and insert "225". Thanks, Bob  
04/06/20 update per Jon: also change other 250 to 225.

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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 4/3/2020				
/P1	tdodge 4/6/2020	aernsttr 4/3/2020	wjackson 4/3/2020		Insurance
/P2	tdodge 4/6/2020	kfollett 4/6/2020	mbarman 4/6/2020		Insurance
/P3	tdodge 4/7/2020	aernsttr 4/6/2020	mbarman 4/6/2020		Insurance
/P4		anienaja 4/7/2020	wjackson 4/7/2020		Insurance

FE Sent For:

&lt;END&gt;



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-6114/P1  
TJD:ahe/wlj/amn

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

- 1 **AN ACT** *to create* 609.205 of the statutes; **relating to:** out-of-network charges  
2 during public health emergency and granting rule-making authority.

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*Analysis by the Legislative Reference Bureau*  
**INSURANCE**

***Payments for services by out-of-network providers***

During a public health emergency declared either by the governor or by the secretary of the federal Department of Health and Human Services, the bill prohibits a defined network plan, including a health maintenance organization, or preferred provider plan from requiring an enrollee of the plan to pay more for a service, treatment, or supply provided by an out-of-network provider than if the service, treatment, or supply is provided by a provider that is participating in the plan's network. This prohibition applies to any service, treatment, or supply that is related to diagnosis or treatment for the condition for which the public health emergency is declared and that is provided by a provider that is not a participating provider because a participating provider is unavailable due to the public health emergency. For a service, treatment, or supply provided under those circumstances, the bill requires the plan to reimburse the out-of-network provider at 250 percent of the federal Medicare program rate. Also under those circumstances, any health care provider or facility that provides a service, treatment, or supply to an enrollee of a plan but is not a participating provider of that plan shall accept as payment in full any payment by a plan that is at least 250 percent of the federal Medicare program rate and may not charge the enrollee an amount that exceeds the amount the provider or facility is reimbursed by the plan.

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.** 609.205 of the statutes is created to read:

2           **609.205 Public health emergency.** (1) All of the following apply to a defined  
3 network plan or preferred provider plan during a state of emergency related to public  
4 health declared under s. 323.10 or during a public health emergency declared under  
5 42 USC 247d by the secretary of the federal department of health and human  
6 services:

7           (a) The plan may not require an enrollee to pay, including cost sharing, for a  
8 service, treatment, or supply provided by a provider that is not a participating  
9 provider in the plan's network of providers more than the enrollee would pay if the  
10 service, treatment, or supply is provided by a provider that is a participating  
11 provider. This subsection applies to any service, treatment, or supply that is related  
12 to diagnosis or treatment for the condition for which the public health emergency is  
13 declared and to any service, treatment, or supply that is provided by a provider that  
14 is not a participating provider because a participating provider is unavailable due  
15 to the public health emergency.

16           (b) The plan shall reimburse a provider that is not a participating provider for  
17 a service, treatment, or supply provided under the circumstances described under  
18 par. (a) at 250 percent of the rate the federal Medicare program reimburses the  
19 provider for the same or a similar service, treatment, or supply in the same  
20 geographic area.



**Barman, Mike**

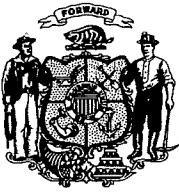
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**From:** Champagne, Rick  
**Sent:** Monday, April 06, 2020 12:04 PM  
**To:** Dodge, Tamara; Hanaman, Cathlene  
**Subject:** FW: LRB 6114

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**From:** Lang, Bob <Bob.Lang@legis.wisconsin.gov>  
**Sent:** Monday, April 06, 2020 12:00 PM  
**To:** Champagne, Rick <Rick.Champagne@legis.wisconsin.gov>  
**Subject:** LRB 6114

On page 2, line 18, delete "250" and insert "225". Thanks, Bob



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-6114/P2  
TJD:ahe/wlj/amn/kjf

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

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2 during public health emergency and granting rule-making authority.

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20 geographic area.







State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-6114/P3  
TJD:ahe/wlj/amn/kjf

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

1     **AN ACT** *to create* 609.205 of the statutes; **relating to:** out-of-network charges  
2             during public health emergency and granting rule-making authority.

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*Analysis by the Legislative Reference Bureau*  
**INSURANCE**

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18 par. (a) at 225 percent of the rate the federal Medicare program reimburses the  
19 provider for the same or a similar service, treatment, or supply in the same  
20 geographic area.



**Barman, Mike**

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**From:** Dyck, Jon  
**Sent:** Tuesday, April 07, 2020 8:44 AM  
**To:** Dodge, Tamara  
**Subject:** RE: LRB 6114/p3

I think it should be an either, so leave in the federal declaration.

**Jon Dyck**  
Supervising Analyst  
Legislative Fiscal Bureau  
1 East Main, Suite 301  
Madison, WI 53703  
(608) 504-5767  
[jon.dyck@legis.wisconsin.gov](mailto:jon.dyck@legis.wisconsin.gov)

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**From:** Dodge, Tamara <[Tamara.Dodge@legis.wisconsin.gov](mailto:Tamara.Dodge@legis.wisconsin.gov)>  
**Sent:** Tuesday, April 07, 2020 8:42 AM  
**To:** Dyck, Jon <[Jon.Dyck@legis.wisconsin.gov](mailto:Jon.Dyck@legis.wisconsin.gov)>  
**Subject:** RE: LRB 6114/p3

Jon,

Do they just want it to apply during Wisconsin's state of emergency related to COVID-19 or do they also want to leave in the federal declaration?

Tami

**Tamara J. Dodge**  
Senior Legislative Attorney  
Wisconsin Legislative Reference Bureau  
P.O. Box 2037  
Madison, WI 53701-2037  
**(608) 504 - 5808**  
[tamara.dodge@legis.wisconsin.gov](mailto:tamara.dodge@legis.wisconsin.gov)

*Please note my new direct phone number (as of June 13, 2018).*

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**From:** Dyck, Jon <[Jon.Dyck@legis.wisconsin.gov](mailto:Jon.Dyck@legis.wisconsin.gov)>  
**Sent:** Tuesday, April 07, 2020 8:31 AM  
**To:** Dodge, Tamara <[Tamara.Dodge@legis.wisconsin.gov](mailto:Tamara.Dodge@legis.wisconsin.gov)>  
**Subject:** LRB 6114/p3

Tami,

The leaders have decided that they want the out-of-network charges to apply only to the COVID-19 public health emergency.

**Jon Dyck**

Supervising Analyst

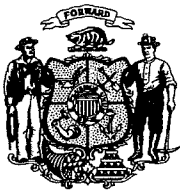
Legislative Fiscal Bureau

1 East Main, Suite 301

Madison, WI 53703

(608) 504-5767

[jon.dyck@legis.wisconsin.gov](mailto:jon.dyck@legis.wisconsin.gov)



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-6114/P4  
TJD:ahe/wlj/amn/kjf

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

1     **AN ACT** *to create* 609.205 of the statutes; **relating to:** out-of-network charges  
2             during the public health emergency related to COVID-19 and granting  
3             rule-making authority.

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*Analysis by the Legislative Reference Bureau*

**INSURANCE**

***Payments for services by out-of-network providers***

During the public health emergency declared by the governor or by the secretary of the federal Department of Health and Human Services in response to the COVID-19 pandemic, the bill prohibits a defined network plan, including a health maintenance organization, or preferred provider plan from requiring an enrollee of the plan to pay more for a service, treatment, or supply provided by an out-of-network provider than if the service, treatment, or supply is provided by a provider that is participating in the plan's network. This prohibition applies to any service, treatment, or supply that is related to diagnosis or treatment for COVID-19 and any service, treatment, or supply that is provided by a provider that is not a participating provider because a participating provider is unavailable due to the public health emergency. For a service, treatment, or supply provided under those circumstances, the bill requires the plan to reimburse the out-of-network provider at 225 percent of the federal Medicare program rate. Also under those circumstances, any health care provider or facility that provides a service, treatment, or supply to an enrollee of a plan but is not a participating provider of that plan shall accept as payment in full any payment by a plan that is at least 225 percent

of the federal Medicare program rate and may not charge the enrollee an amount that exceeds the amount the provider or facility is reimbursed by the plan.

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.** 609.205 of the statutes is created to read:

2           **609.205 Public health emergency for COVID-19.** (1) In this section,  
3 “COVID-19” means an infection caused by the SARS-CoV-2 coronavirus.

4           (2) All of the following apply to a defined network plan or preferred provider  
5 plan during the state of emergency related to public health declared under s. 323.10  
6 on March 12, 2020, by executive order 72, or during the public health emergency  
7 declared under 42 USC 247d by the secretary of the federal department of health and  
8 human services in response to the COVID-19 pandemic:

9           (a) The plan may not require an enrollee to pay, including cost sharing, for a  
10 service, treatment, or supply provided by a provider that is not a participating  
11 provider in the plan’s network of providers more than the enrollee would pay if the  
12 service, treatment, or supply is provided by a provider that is a participating  
13 provider. This subsection applies to any service, treatment, or supply that is related  
14 to diagnosis or treatment for COVID-19 and to any service, treatment, or supply that  
15 is provided by a provider that is not a participating provider because a participating  
16 provider is unavailable due to the public health emergency.

17           (b) The plan shall reimburse a provider that is not a participating provider for  
18 a service, treatment, or supply provided under the circumstances described under  
19 par. (a) at 225 percent of the rate the federal Medicare program reimburses the



1 provider for the same or a similar service, treatment, or supply in the same  
2 geographic area.

3 (3) During the state of emergency related to public health declared under s.  
4 323.10 on March 12, 2020, by executive order 72, or during the public health  
5 emergency declared under 42 USC 247d by the secretary of the federal department  
6 of health and human services in response to the COVID-19 pandemic, all of the  
7 following apply to any health care provider or health care facility that provides a  
8 service, treatment, or supply to an enrollee of a defined network plan or preferred  
9 provider plan but is not a participating provider of that plan:

10 (a) The health care provider or facility shall accept as payment in full any  
11 payment by a defined network plan or preferred provider plan that is at least 225  
12 percent of the rate the federal Medicare program reimburses the provider for the  
13 same or a similar service, treatment, or supply in the same geographic area.

14 (b) The health care provider or facility may not charge the enrollee for the  
15 service, treatment, or supply an amount that exceeds the amount the provider or  
16 facility is reimbursed by the defined network plan or preferred provider plan.

17 (4) The commissioner may promulgate any rules necessary to implement this  
18 section.

19 (END)