State of Wisconsin
2005 – 2006 LEGISLATURE

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2005 ASSEMBLY BILL 274

March 28, 2005 – Introduced by Representatives BERCEAU, MUSSER, LEHMAN, TURNER, WASSERMAN, SHERMAN, SINICKI and SCHNEIDER, cosponsored by Senator RISSER. Referred to Committee on Insurance.

AN ACT ***to repeal*** 628.36 (2m) (e) 4.; ***to renumber*** 628.36 (2m) (a) 1., 628.36 (2m) (a) 2. and 628.36 (2m) (a) 3.; ***to renumber and amend*** 628.36 (1); ***to consolidate, renumber and amend*** 628.36 (2m) (a) (intro.) and 2m.; ***to amend*** 609.22 (2), 609.32 (2) (a), 628.36 (2) (a) (intro.), 628.36 (2) (b) 3., 628.36 (2) (b) 4., 628.36 (2m) (e) 1., 628.36 (2m) (e) 2., 628.36 (2m) (e) 3. and 628.36 (3); ***to repeal and recreate*** 628.36 (2m) (title); and ***to create*** 628.36 (1c) (intro.) and 628.36 (2) (b) 4m. of the statutes; **relating to:** allowing any provider to participate in a health care plan under the terms of the plan, requiring an annual period for providers to elect to participate in health care plans, and requiring notice to a provider of the reason for exclusion from a health care plan.

Analysis by the Legislative Reference Bureau

Under current law, a health care plan must allow any provider to participate in the plan under the terms of the plan. However, this requirement does not apply to health maintenance organizations, limited service health organizations, or preferred provider plans, each of which is a health care plan that requires, or provides incentives for, its enrollees to obtain health care services from providers

participating in the plan. "Participating" is defined as being under contract to provide health care services, items, or supplies to plan enrollees.

This bill requires any health care plan, including a health maintenance organization, limited service health organization, or preferred provider plan, to allow any provider to participate in the plan under the terms of the plan. The requirement only applies to a health maintenance organization, limited service health organization, or preferred provider plan, however, if the provider is located in the geographic service area of the plan. The bill also requires a health care plan that excludes a provider from participation in the plan to give the provider written notice of the reason for the exclusion.

Also under current law, a health maintenance organization, limited service health organization, or preferred provider plan that covers pharmaceutical services provided by one or more pharmacists who are not full–time salaried employees or partners of the organization or plan must provide an annual 30–day period during which any pharmacist may elect to participate in the organization or plan under its terms as a selected provider for at least one year. This bill expands that requirement. Under the bill, a health maintenance organization, limited service health organization, or preferred provider plan that covers health care services that are provided by one or more health care professionals who are not full–time salaried employees or partners of the organization or plan is required to provide an annual 30–day period during which any health care professional who provides those health care services and who is located in the geographic service area of the organization or plan may elect to participate in the organization or plan under its terms as a selected provider for at least one year.

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

SECTION 1. 609.22 (2) of the statutes is amended to read:

609.22 **(2)** ADEQUATE CHOICE. A defined network plan that is not a preferred provider plan shall ensure that, with respect to covered benefits, each enrollee has adequate choice among participating providers and that the providers are, to the extent consistent with s. 628.36 (2) (b) 3. and (2m), accessible and qualified.

SECTION 2. 609.32 (2) (a) of the statutes is amended to read:

609.32 **(2)** (a) A defined network plan shall develop, consistent with s. 628.36 (2) (b) 3. and (2m), a process for selecting participating providers, including written policies and procedures that the plan uses for review and approval of providers. After

consulting with appropriately qualified providers, the plan shall establish, to the extent consistent with s. 628.36 (2) (b) 3. and (2m), minimum professional requirements for its participating providers. The process for selection shall include verification of a provider's license or certificate, including the history of any suspensions or revocations, and the history of any liability claims made against the provider.

SECTION 3. 628.36 (1) of the statutes is renumbered 628.36 (1m) and amended to read:

628.36 **(1m)** PAYMENT METHODS. Any corporation operating a voluntary health care plan may pay health care professionals on a salary, per patient, or fee–for–service basis to provide health care to policyholders or beneficiaries of the corporation.

SECTION 4. 628.36 (1c) (intro.) of the statutes is created to read:

628.36 **(1c)** DEFINITIONS. (intro.) In this section:

SECTION 5. 628.36 (2) (a) (intro.) of the statutes is amended to read:

628.36 **(2)** (a) (intro.) In this ~~section~~ subsection:

SECTION 6. 628.36 (2) (b) 3. of the statutes is amended to read:

628.36 **(2)** (b) 3. Except as provided in ~~subd.~~ subds. 4. and 4m., and subject to sub. (2m) (e), no provider may be denied the opportunity to participate in a health care plan~~, other than a health maintenance organization, a limited service health organization or a preferred provider plan,~~ under the terms of the plan.

SECTION 7. 628.36 (2) (b) 4. of the statutes is amended to read:

628.36 **(2)** (b) 4. Any health care plan may exclude a provider from participation in the health care plan for cause related to the practice of his or her profession. A

health care plan that excludes a provider from participation shall advise the provider in writing of the reason for the exclusion.

SECTION 8. 628.36 (2) (b) 4m. of the statutes is created to read:

628.36 **(2)** (b) 4m. Subdivision 3. applies to a health maintenance organization, limited service health organization, or preferred provider plan only with respect to a provider located in the geographic service area of the health maintenance organization, limited service health organization, or preferred provider plan.

SECTION 9. 628.36 (2m) (title) of the statutes is repealed and recreated to read:

628.36 **(2m)** (title) ANNUAL PARTICIPATION ELECTION PERIOD.

SECTION 10. 628.36 (2m) (a) (intro.) and 2m. of the statutes are consolidated, renumbered 628.36 (2m) (ac) and amended to read:

628.36 **(2m)** (ac) In this subsection~~: 2m. "Pharmaceutical~~, "health care services" do not include the administration of a drug product or device or vaccine under s. 450.035.

SECTION 11. 628.36 (2m) (a) 1. of the statutes is renumbered 628.36 (1c) (a).

SECTION 12. 628.36 (2m) (a) 2. of the statutes is renumbered 628.36 (1c) (b).

SECTION 13. 628.36 (2m) (a) 3. of the statutes is renumbered 628.36 (1c) (c).

SECTION 14. 628.36 (2m) (e) 1. of the statutes is amended to read:

628.36 **(2m)** (e) 1. A health maintenance organization, limited service health organization, or preferred provider plan that provides coverage of ~~pharmaceutical~~ health care services ~~when~~ that are performed by one or more ~~pharmacists~~ health care professionals who are selected by the organization or plan but who are not full–time salaried employees or partners of the organization or plan shall provide an annual period of at least 30 days during which any ~~pharmacist registered under ch. 450~~ health care professional who provides those health care services, who has been

granted a credential, as defined in s. 440.01 (2) (a), to practice in this state, and who is located in the geographic service area of the organization or plan may elect to participate in the health maintenance organization, limited service health organization, or preferred provider plan under its terms as a selected provider for at least one year.

SECTION 15. 628.36 (2m) (e) 2. of the statutes is amended to read:

628.36 **(2m)** (e) 2. Except as provided in subd. 3., subd. 1. applies to health maintenance organizations ~~on and after May 10, 1984. Except as provided in subd. 4., subd. 1. applies to,~~ limited service health organizations, and preferred provider plans on or after ~~April 28, 1990~~ the effective date of this subdivision .... [revisor inserts date].

SECTION 16. 628.36 (2m) (e) 3. of the statutes is amended to read:

628.36 **(2m)** (e) 3. If compliance with the requirements of subd. 1. during the period specified in subd. 2. would impair any provision of a contract between a health maintenance organization, limited service health organization, or preferred provider plan and any other person, and if the contract provision was in existence prior to ~~May 10, 1984~~ the effective date of this subdivision .... [revisor inserts date], then immediately after the expiration of all such contract provisions the health maintenance organization, limited service health organization, or preferred provider plan shall comply with the requirements of subd. 1.

SECTION 17. 628.36 (2m) (e) 4. of the statutes is repealed.

SECTION 18. 628.36 (3) of the statutes is amended to read:

628.36 **(3)** EXEMPTION BY RULE. By rule the commissioner may exempt from the application of any part of subs. ~~(1)~~ (1m) to (2m) plans ~~which~~ that provide innovative approaches to the delivery of health care or ~~which~~ that are designed to contain health

care costs, and ~~which~~ that cannot operate successfully consistent with all of the provisions in subs. ~~(1)~~ (1m) to (2m). The commissioner may promulgate such a rule only if on a finding that the interests of the public require such plans as an experiment, to supply health care services that are not otherwise available in adequate quantity or quality, or to contain health care costs. The promulgated rule shall be as narrow as is compatible with the success of the plans.

(END)