



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873  
Email: [fiscal.bureau@legis.wisconsin.gov](mailto:fiscal.bureau@legis.wisconsin.gov) • Website: <http://legis.wisconsin.gov/lfb>

January 16, 2020

TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Assembly Bill 648/Senate Bill 600: Coverage of Acupuncture and Reimbursement Rate Increase for Providers of Physical Health Services under Medical Assistance

AB 648 was introduced on December 5, 2019, and referred to the Committee on Health. On January 9, 2020, Assembly Amendment 1 to AB 648 was introduced. The Committee on Health has scheduled an executive session on the bill for January 15.

Senate Bill 600 was introduced on November 11, 2019, and referred to the Committee on Health and Human Services. On January 9, 2020, Senate Amendment 1 to SB 600 was introduced. The Committee on Health and Human Services has not taken executive action on the bill.

### BACKGROUND

Acupuncture is the practice of inserting needles in, or using thermal or electrical stimulation on, specific parts of the body ("acupuncture points") as a means of treating or preventing pain and disease. An acupuncturist must be certified by the state to engage in the practice of acupuncture, unless the person is licensed or certified in another profession for which acupuncture is included within the scope of practice of that license or certificate.

Wisconsin's medical assistance (MA) program does not cover acupuncture. Acupuncture is not commonly covered by other state Medicaid programs, but there are exceptions. California, Minnesota, and Washington, for instance, provide coverage of acupuncture services, subject to certain limitations on utilization and underlying diagnosis. Federal law does not specifically include acupuncture as a covered service under Medicaid, but does allow states to receive matching funds for general coverage categories that may include acupuncturist services.

Acupuncture is not a covered benefit under the state employee health benefit plan or the benchmark plan used to determine the essential health benefits for individual and small group health plans sold in the state. Traditional fee-for-service Medicare has not historically covered acupuncture. However, the Centers for Medicare and Medicaid Services (CMS) recently announced that

acupuncture would be covered for low back pain for beneficiaries who are enrolled in clinical trials sponsored by the National Institutes for Health or approved by CMS. In extending Medicare coverage to acupuncture for participants in clinical trials, CMS cited the need to gather evidence for informing future coverage determinations.

Wisconsin's medical assistance program provides coverage of various services commonly classified as "physical medicine" or "physical health services," including physical therapy, occupational therapy, and chiropractic services. The following table shows total payments for these services in 2018-19.

**Medical Assistance Reimbursement for Physical Medicine Services,  
2018-19 (\$ in Millions)**

<u>Service Category</u>	<u>Amount</u>
Physical Therapy	\$23.8
Chiropractic Services	15.3
Occupational Therapy	<u>9.0</u>
Total	\$48.1

These services are subject to various program requirements and limitations, including limits on the number of treatments per spell of illness. Like most non-institutional services under MA, reimbursement is provided according to a maximum fee schedule, which lists the payment by procedure code. For instance, chiropractors are paid \$24.14 for the most common chiropractic spinal manipulation code (for manipulation involving three to four spinal regions). The maximum fee schedule rates most physical therapy, occupational therapy, and chiropractic procedures were last increased in 2008, although there have been various changes in how services are reimbursed since that time that may have impacted provider payments.

**SUMMARY OF AB 648/SB 600**

*MA Coverage of Acupuncture.* The bill would add acupuncture provided by a state certified acupuncturist as a covered benefit under medical assistance, on the condition that the state receives approval from the federal CMS for Medicaid matching funds for this service. DHS would be required to submit to CMS a state Medicaid plan amendment, or a request for a federal waiver or other approval, if necessary to receive matching funds for acupuncture.

*Reimbursement Rate Increase for Physical Health Services.* The bill would require DHS to submit a proposal to the Joint Committee on Finance under s. 13.10 of the statutes for supplemental funding to increase reimbursement rates under the medical assistance program for physical health services. For the purposes of this provision, the term "physical health services" would be defined as a nonpharmacologic intervention used for the treatment or mitigation of pain, including chiropractic methods and physical therapy. The bill would increase the Committee's program supplements appropriation by \$500,000 GPR in each year of the 2019-21 biennium to increase reimbursement rates for physical health services. The bill would authorize the Committee to provide an

appropriation supplement, without finding that the an emergency exists (otherwise necessary to provide a program supplement under s. 13.10 of the statutes).

## **SUMMARY OF ASSEMBLY AMENDMENT 1 SENATE AMENDMENT 1**

AA 1 to AB 648 and SA 1 to SB 1 are identical and would make several modifications to provisions of the bill relating to reimbursement for physical health medicine.

First, the amendment would increase the funding provided in the Committee's program supplements appropriation from \$500,000 GPR annually to \$1,000,000 GPR annually.

Second, the amendment would require that the Department's proposal for reimbursement rate increases allocate funding as follows: (a) \$300,000 in each year for reimbursement for acupuncture services; (b) \$350,000 in each year for physical therapy; and (c) \$350,000 for chiropractic services. With respect to the funding allocated for chiropractic services, DHS would be required to submit a proposal to the Committee to increase rates for radiology and office visit services performed by chiropractic providers to the same rates at which those services are reimbursed for physicians. Any remaining amount would be allocated to increase reimbursement rates for spinal manipulation procedures performed by chiropractic providers. In order to obtain a funding supplement for acupuncture and physical therapy services, the Department would be required to consult with acupuncturists and physical therapists prior to submitting a proposal for reimbursement rate increases to the Committee.

Finally, the amendment makes a technical correction to AB 648.

## **FISCAL EFFECT OF AB 648/SB 600**

*Acupuncture Services.* In its fiscal estimate for the bill, the Department of Health Services estimates that, if approved by the federal government, MA reimbursement for acupuncture services would be \$3.2 million on an annualized basis. Of this amount, \$1.3 million would be state funds (GPR) and \$1.9 would be federal matching funds. The Department's estimate is based on payments for acupuncture made by Minnesota's Medicaid program, which is similar in size to Wisconsin's program. The actual cost to Wisconsin's program for acupuncture could vary from this estimate, and would depend upon reimbursement levels, as well as coverage limitations and other policies.

While this is the Department's estimate of acupuncture reimbursement, it is possible that at least a portion of this cost would be offset by reduction in payments for other services. That is, some acupuncture services may substitute for, rather than be in addition to, other covered MA services. In this case, the Department's estimate may not reflect the actual net change in MA expenditures. However, the amount of the offset resulting from substitution, if any, is difficult to determine, since it would depend upon unknown factors, including decisions made by individual patients and practitioners, as well as, ultimately, the relative effectiveness of the treatment.

If the bill is enacted, as proposed, DHS would need to develop reimbursement and coverage policies for acupuncture and receive federal approval to add acupuncture as a covered service. Given

the time needed to implement the benefit, it is unlikely that the MA program would incur costs for acupuncture services until 2020-21, at the earliest. The bill would not provide funding in the MA benefits appropriation to reflect additional costs in the biennium, if any, associated with the acupuncture benefit.

*Physical Medicine.* The bill would increase the Joint Committee on Finance program supplements appropriation by \$500,000 GPR annually in the 2019-21 biennium. DHS would be required to submit a proposal for increasing reimbursement rates for physical health services, utilizing this funding.

If fully allocated for reimbursement rate increases, this amount of state funding would be matched with federal Medicaid funds, allowing for a total reimbursement increase of approximately \$1.25 million annually. If this amount were applied uniformly for all physical therapy, chiropractic services, and occupational therapy services, reimbursement rates could be increased by approximately 2.5%. Alternatively, the funding could be targeted to only certain physical health procedures, providing a larger increase for those services. In addition, given the timing of the consideration of the bill, some or all of the funding provided in 2019-20 could be used for to increase reimbursement rates in the second year of the biennium, potentially increasing the magnitude of the reimbursement rate increases.

#### **FISCAL EFFECT OF AA 1 TO AB 648 and SA 1 to SB 600**

The amendment would provide total appropriations of \$1,000,000 GPR annually in the 2019-21 biennium, an increase of \$500,000 annually, relative to the bill as introduced.

In addition, the amendment would require the Department's funding request to the Committee to include a specific allocation of funds, as described in the summary. With federal matching funds, the annual amounts made available for reimbursement would be approximately \$750,000 for acupuncture and \$875,000 each for physical therapy and chiropractic services. No funding would be allocated under the amendment for occupational therapy services. On an annualized basis, the funding allocated by the amendment could be used to increase total payments by approximately 3.6% for physical therapy and 5.6% for chiropractic services.

As noted earlier, the Department estimates the total annual cost for acupuncture services at \$3.2 million. The funding allocated under the amendment would offset a portion of that cost. Any additional net expenditures for acupuncture services would need to be funded from the existing MA budget.

Under the amendment, a portion of the reimbursement rate increase for chiropractic services would be allocated for increases to ensure that chiropractors are reimbursed at the same rate as physicians are for the same procedure codes. Spinal manipulation procedures performed by chiropractors are reimbursed using codes that are unique to chiropractors. Consequently these procedures, which account for about 90% of total payments to chiropractors, would not be affected by the parity provision. However, office visit and radiological services (X-ray) codes are used by both physicians and chiropractors, and the medical assistance program typically provides a higher

reimbursement rate for physicians than for chiropractors for these codes. The proposal submitted to the Committee under the amendment would require DHS to increase the payments to chiropractors for these procedures to match the rates paid to physicians. To illustrate, the following table shows the current reimbursement rate for chiropractors and physicians for the standard office visit procedure codes, as well as the dollar and percentage increase that would be needed to the chiropractic reimbursement rate to match the office visit reimbursement rate for physicians. Office visit procedure codes, for both new and established patients, are categorized according to complexity of the patient's condition and the practitioner's medical decision making. In the table, these levels are designated with a number from one to three. [The amounts shown in the table are for the office visit codes only. A chiropractor may also be reimbursed separately for a spinal manipulation procedure performed during the same visit.]

### **Comparison of Office Visit Reimbursement Rates for Chiropractors and Physicians**

<u>Procedure Description</u>	<u>Chiropractor</u>	<u>Physician</u>	<u>Increase to Chiropractor Rate Needed for Parity</u>	
			<u>Amount</u>	<u>Percentage</u>
Office visit, new patient - 1	\$19.80	\$23.32	\$3.52	18%
Office visit, new patient - 2	19.80	39.23	19.43	98
Office visit, new patient - 3	19.80	58.65	38.85	196
Office visit, established patient - 1	19.80	23.28	3.48	18
Office visit, established patient - 2	19.80	32.12	12.32	62
Office visit, established patient - 3	19.80	50.51	30.71	155

As shown in the table, the current office visit reimbursement rates for chiropractors are the same for all levels, whereas the reimbursement rates for physicians increase with the higher levels of complexity. Under the amendment, reimbursement for chiropractor office visits would be differentiated by complexity and the increases would be greatest for the office visits with the higher levels of complexity.

Based on current volume of chiropractor claims, the parity provision of the amendment would increase reimbursement payments by an estimated \$675,000 on an annualized basis. The remaining funding available for chiropractic services, estimated at \$200,000, would be allocated for increases to spinal manipulation codes. If applied uniformly, this amount would increase reimbursement rates for those codes by approximately 1.5%.

Prepared by: Jon Dyck