

# State of Wisconsin



2009 Senate Bill 471

Date of enactment: **March 15, 2010**

Date of publication\*: **March 29, 2010**

## 2009 WISCONSIN ACT 165

**AN ACT** to repeal 185.981 (4t), 185.981 (6) and 185.982 (3); to renumber and amend 185.981 (4); to amend 71.26 (1) (a), 71.45 (1) (a), 71.45 (5), 146.81 (1) (k), 146.997 (1) (d) 17., 155.01 (7), 185.09, 185.981 (title), 185.981 (1), 185.981 (2), 185.981 (3), 185.981 (5), 185.981 (7), 185.981 (8), 185.981 (9), 185.982 (1), 185.982 (2), 185.983 (1) (intro.), 185.983 (1) (a), 185.983 (1m), 185.983 (2), 185.985, 252.14 (1) (ar) 12., 254.11 (13), 632.86 (1) (a) and 655.002 (1) (f); and to create 185.981 (4) (b) of the statutes; relating to: health care plans operated by cooperative associations.

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

**SECTION 1.** 71.26 (1) (a) of the statutes is amended to read:

71.26 (1) (a) *Certain corporations.* Income of corporations organized under ch. 185, except income of a cooperative sickness ~~health~~ care association organized under s. 185.981, or of a service insurance corporation organized under ch. 613, that is derived from a health maintenance organization as defined in s. 609.01 (2) or a limited service health organization as defined in s. 609.01 (3), or operating under subch. I of ch. 616 which are bona fide cooperatives operated without pecuniary profit to any shareholder or member, or operated on a cooperative plan pursuant to which they determine and distribute their proceeds in substantial compliance with s. 185.45, and the income, except the unrelated business taxable income as defined in section 512 of the internal revenue code and except income that is derived from a health maintenance organization as defined in s. 609.01 (2) or a limited service health organization as defined in s. 609.01 (3), of all religious, scientific, educational, benevolent or other

corporations or associations of individuals not organized or conducted for pecuniary profit. This paragraph does not apply to the income of savings banks, mutual loan corporations or savings and loan associations. This paragraph does not apply to income that is realized from the sale of or purchase and subsequent sale or redemption of lottery prizes if the winning tickets were originally bought in this state. This paragraph applies to the income of credit unions except to the income of any credit union that is derived from public deposits for any taxable year in which the credit union is approved as a public depository under ch. 34 and acts as a depository of state or local funds under s. 186.113 (20). For purposes of this paragraph, the income of a credit union that is derived from public deposits is the product of the credit union's gross annual income for the taxable year multiplied by a fraction, the numerator of which is the average monthly balance of public deposits in the credit union during the taxable year, and the denominator of which is the average monthly balance of all deposits in the credit union during the taxable year.

**SECTION 2.** 71.45 (1) (a) of the statutes is amended to read:

\* Section 991.11, WISCONSIN STATUTES 2007-08 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

71.45 (1) (a) Income of insurers exempt from federal income taxation pursuant to section 501 (c) (15) of the internal revenue code, town mutuals organized under or subject to ch. 612, foreign insurers, and domestic insurers engaged exclusively in life insurance business, domestic insurers insuring against financial loss by reason of non-payment of principal, interest and other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust or other instrument constituting a lien or charge on real estate and corporations organized under ch. 185, but not including income of cooperative sickness health care associations organized under s. 185.981, or of a service insurance corporation organized under ch. 613, that is derived from a health maintenance organization as defined in s. 609.01 (2) or a limited service health organization as defined in s. 609.01 (3), or operating under subch. I of ch. 616 which are bona fide cooperatives operated without pecuniary profit to any shareholder or member, or operated on a cooperative plan pursuant to which they determine and distribute their proceeds in substantial compliance with s. 185.45. This paragraph does not apply to income that is realized from the sale of or purchase and subsequent sale or redemption of lottery prizes if the winning tickets were originally bought in this state.

**SECTION 3.** 71.45 (5) of the statutes is amended to read:

71.45 (5) EXCEPTIONS. The net income of a cooperative sickness health care association organized under s. 185.981, or of a service insurance corporation organized under ch. 613, that is derived from a health maintenance organization, as defined in s. 609.01 (2), or a limited service health organization, as defined in s. 609.01 (3), is the net income that would be determined if the cooperative sickness health care association or service insurance corporation were subject to federal income taxation and as if that income were that of an insurance company.

**SECTION 4.** 146.81 (1) (k) of the statutes is amended to read:

146.81 (1) (k) ~~An operational~~ A cooperative sickness health care plan association organized under ~~ss. s. 185.981 to 185.985~~ that directly provides services through salaried employees in its own facility.

**SECTION 5.** 146.997 (1) (d) 17. of the statutes is amended to read:

146.997 (1) (d) 17. ~~An operational~~ A cooperative sickness health care plan association organized under ~~ss. s. 185.981 to 185.985~~ that directly provides services through salaried employees in its own facility.

**SECTION 6.** 155.01 (7) of the statutes is amended to read:

155.01 (7) "Health care provider" means a nurse licensed or permitted under ch. 441, a chiropractor licensed under ch. 446, a dentist licensed under ch. 447, a physician, physician assistant, perfusionist, podiatrist, physical therapist, physical therapist assistant, occupa-

tional therapist, or occupational therapy assistant licensed under ch. 448, a person practicing Christian Science treatment, an optometrist licensed under ch. 449, a psychologist licensed under ch. 455, a partnership thereof, a corporation or limited liability company thereof that provides health care services, ~~an operational~~ a cooperative sickness health care plan association organized under ~~ss. s. 185.981 to 185.985~~ that directly provides services through salaried employees in its own facility, or a home health agency, as defined in s. 50.49 (1) (a).

**SECTION 7.** 185.09 of the statutes is amended to read:  
**185.09 Promotion expense; limitation.** No cooperative funds may be used, nor any stock issued, in payment of any promotion expenses in excess of 5 per cent of the paid-up capital stock or membership fees. This section does not apply to a cooperative association organized under s. 185.981.

**SECTION 8.** 185.981 (title) of the statutes is amended to read:

**185.981 (title) Cooperative sickness health care.**

**SECTION 9.** 185.981 (1) of the statutes, as affected by 2009 Wisconsin Act 113, is amended to read:

185.981 (1) Cooperative associations may be organized under this chapter without capital stock, ~~exclusively~~ primarily to establish and operate in the state or in any county or counties ~~therein~~ in the state nonprofit ~~plan or plans~~ or programs for sickness health care, including hospital care, for their members and their members' dependents through contracts with physicians, medical societies, chiropractors, optometrists, dentists, dental societies, hospitals, podiatrists, and others.

**SECTION 10.** 185.981 (2) of the statutes, as affected by 2009 Wisconsin Act 113, is amended to read:

185.981 (2) ~~Such associations~~ A cooperative association organized under this section shall operate only on a cooperative nonprofit basis and for the primary purpose of establishing, maintaining, and operating a voluntary nonprofit health, dental, or vision care plan or plans, or for constructing, operating, and maintaining nonprofit hospitals or other facilities whereby sickness health care, including hospital, dental, or vision care, is provided ~~at the expense of such association, to its members or both,~~ and to such other persons or groups of persons ~~as shall~~ who become subscribers to ~~such plan, the plans,~~ subject to s. 185.982 (2), under contracts which will entitle each such subscriber to ~~definite~~ that provide access to medical, surgical, chiropractic, vision, dental, or hospital care, other health care services, appliances, and supplies, by physicians and surgeons licensed and registered under ch. 448, podiatrists licensed under ch. 448, optometrists licensed under ch. 449, chiropractors licensed under ch. 446 and, dentists licensed under ch. 447, and other health care providers in their offices, in hospitals, in other facilities, and in the home. Nothing in this subsection precludes a cooperative association organized under this

section from owning an interest in other entities for enhancing or improving member services or for investment or other purposes, as long as the association's primary purpose remains as provided in this subsection.

**SECTION 11.** 185.981 (3) of the statutes, as affected by 2009 Wisconsin Act 113, is amended to read:

185.981 (3) No cooperative association organized primarily for the purposes provided in ss. 185.981 to 185.983 shall be prevented from contracting with any hospital in this state for the rendition of such hospital care as is included within such a plan ~~the cooperative association's plans~~ because such ~~the~~ hospital participates in a plan of any other such plan cooperative association, or in a plan organized and operated under ss. 148.03 and 613.80. No hospital may discriminate against any physician and surgeon, chiropractor, dentist, or podiatrist with respect to the use of such ~~the~~ hospital's facilities by reason of his or her participation in a sickness health care plan of a cooperative.

**SECTION 12c.** 185.981 (4) of the statutes, as affected by 2009 Wisconsin Act 113, is renumbered 185.981 (4) (a) and amended to read:

185.981 (4) (a) ~~No~~ Except as provided in par. (b), no contract by or on behalf of any such cooperative association shall provide for the payment of any cash, indemnity, or other material benefit by that association to the subscriber or the subscriber's estate on account of death, illness, or injury, ~~nor be in any way related to the payment of any such benefit by any other agency,~~ but any such association may stipulate in its plan plans that it will pay any nonparticipating physician and surgeon, optometrist, chiropractor, dentist, podiatrist, ~~or hospital outside of its normal territory for sickness or, or other provider for hospital or other health care rendered to any covered member or a member's covered dependent person who is in need of the a plan's benefits of such plan when he or she is outside of the territory of such association in which the benefits of such plan are normally available. Any such plan, The plans~~ may prescribe monetary limitations with respect to such extraterritorial the benefits.

**SECTION 12f.** 185.981 (4) (b) of the statutes is created to read:

185.981 (4) (b) A cooperative association may make a payment in cash, indemnity, or other material benefit for a purpose that is incidental to its plans, including for the purpose of administering coordination of benefits.

**SECTION 13.** 185.981 (4t) of the statutes, as affected by 2009 Wisconsin Act 28, is repealed.

**SECTION 14.** 185.981 (5) of the statutes is amended to read:

185.981 (5) Every ~~such~~ cooperative association organized under this section is a charitable and benevolent corporation.

**SECTION 15.** 185.981 (6) of the statutes is repealed.

**SECTION 16.** 185.981 (7) of the statutes is amended to read:

185.981 (7) Notwithstanding sub. (4) and ~~s. ss.~~ 185.982 (1) and 185.983 (1), a sickness health care plan that is operated by a cooperative association and that qualifies as a health maintenance organization, as defined in s. 609.01 (2), is subject to s. 609.655.

**SECTION 17.** 185.981 (8) of the statutes is amended to read:

185.981 (8) ~~A sickness care plan operated by a cooperative association is subject to s. 632.895 (8). Coverage by a health care plan operated by a cooperative association that qualifies as a health maintenance organization, as defined in s. 609.01 (2), of mammograms under s. 632.895 (8) may be subject to any requirements that the sickness health care plan imposes under s. 609.05 (2) and (3) on the coverage of other health care services obtained by members and their dependents.~~

**SECTION 18.** 185.981 (9) of the statutes is amended to read:

185.981 (9) ~~Every cooperative sickness care association organized under this section that provides coverage for dependent children of members shall provide coverage for adopted children and children placed for adoption, as required under s. 632.896. Coverage by a health care plan operated by a cooperative association that qualifies as a health maintenance organization, as defined in s. 609.01 (2), of health care services obtained by adopted children and children placed for adoption may be subject to any requirements that the sickness health care plan imposes under s. 609.05 (2) and (3) on the coverage of health care services obtained by other members and their dependents.~~

**SECTION 19.** 185.982 (1) of the statutes, as affected by 2009 Wisconsin Act 113, is amended to read:

185.982 (1) No sickness health care plan or contract issued thereunder by such a cooperative association shall interfere with the manner or mode of the practice of medicine, optometry, chiropractic, dentistry, or podiatry, the manner or mode of providing wellness or other services, the relationship of physician, chiropractor, optometrist, dentist, ~~or podiatrist, or other provider~~ and patient, nor the responsibility of physician, chiropractor, optometrist, dentist, ~~or podiatrist, or other provider~~ to patient. ~~A plan Plans~~ may require persons covered to utilize health care providers designated by the cooperative association. The cooperative association may provide health care services directly through providers who are employees of the cooperative association or through agreements with individual providers or groups of providers organized on a group practice or individual practice basis. ~~In making such agreements, no plan may refuse to provide coverage for vision care services or procedures provided by an optometrist licensed under ch. 449 within the scope of the practice of optometry, as defined in s. 449.01 (1), if the plan provides coverage for the same services or procedures when provided by another health care provider.~~

**SECTION 20.** 185.982 (2) of the statutes is amended to read:

185.982 (2) Any cooperative association operating a voluntary sickness health care plan plans under the provisions of this chapter may pay physicians and surgeons, optometrists, chiropractors ~~or~~ dentists, or other providers on a salary, per person, or fee-for-service basis to provide sickness health care to members of ~~such~~ the association. Every cooperative association ~~shall contract only with its own members for the benefits of any plan which it operates, but any may offer its health care services to nonmembers. Any cooperative association which that~~ operates a hospital may make the hospital's facilities ~~thereof~~ available to nonmembers and to nonparticipating physicians, optometrists ~~or~~ dentists, or other providers.

**SECTION 21.** 185.982 (3) of the statutes is repealed.

**SECTION 22.** 185.983 (1) (intro.) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

185.983 (1) (intro.) Every ~~such~~ voluntary nonprofit sickness health care plan operated by a cooperative association organized under s. 185.981 shall be exempt from chs. 600 to 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41, 601.42, 601.43, 601.44, 601.45, 611.26, 611.67, 619.04, 623.11, 623.12, 628.34 (10), 631.17, 631.89, 631.93, 631.95, 632.72 (2), 632.745 to 632.749, 632.775, 632.79, 632.795, 632.85, 632.853, 632.855, 632.87 (2), (2m), (3), (4), (5), and (6), 632.885, 632.895 (5) and ~~(9) (8)~~ to (17), 632.896, and 632.897 (10) and chs. 609, 620, 630, 635, 645, and 646, but the sponsoring association shall:

**SECTION 23.** 185.983 (1) (a) of the statutes is amended to read:

185.983 (1) (a) File with the commissioner of insurance a declaration defining the organization and operation of the plan, all printed literature, and specimen copies of all proposed contracts of insurance with persons covered and with participating physicians ~~and~~ hospitals, and other providers, including all amendments thereto. The form of all such contracts and amendments shall be subject to approval by the commissioner of insurance but the commissioner may not withhold approval if the form of ~~such~~ the contracts or changes ~~therein in the contracts~~ comply with the provisions of ss. 185.981 to 185.985.

**SECTION 24.** 185.983 (1m) of the statutes is amended to read:

185.983 (1m) In addition to ss. 601.04, 601.31, 632.79, and 632.895 (5), the commissioner of insurance may by rule subject a medicare supplement policy, as defined in s. 600.03 (28r), a medicare replacement policy, as defined in s. 600.03 (28p), or a long-term care insurance policy, as defined in s. 600.03 (28g), that is sold by a voluntary nonprofit sickness cooperative health care plan association organized under s. 185.981 to other provisions of chs. 600 to 646, except ~~that~~ the commissioner may not subject a medicare supplement policy, a medi-

care replacement policy, or a long-term care insurance policy to s. 632.895 (8).

**SECTION 25.** 185.983 (2) of the statutes is amended to read:

185.983 (2) Every ~~such~~ voluntary nonprofit health care plan operated by a cooperative association organized under s. 185.981 shall make provision for a minimum of one physician and surgeon, or dentist to each 2,000 persons covered for medical or dental care and a minimum of 6 hospital beds for each 2,000 persons covered for hospital care.

**SECTION 26.** 185.985 of the statutes is amended to read:

**185.985 Inconsistent provisions of the statutes.** Sickness Health care or hospital plans operated by cooperative associations organized under this chapter shall be operated exclusively under the provisions of ss. 185.981 to 185.985. Other provisions of the statutes ~~that are~~ inconsistent with any of ~~such~~ those provisions shall not be applicable to cooperative associations or sickness health care plans operated by cooperative associations ~~pursuant to under~~ this chapter.

**SECTION 27.** 252.14 (1) (ar) 12. of the statutes is amended to read:

252.14 (1) (ar) 12. ~~An operational~~ A cooperative sickness health care plan association organized under ~~ss. s. 185.981 to 185.985~~ that directly provides services through salaried employees in its own facility.

**SECTION 28.** 254.11 (13) of the statutes is amended to read:

254.11 (13) "Third-party payer" means a disability insurance policy that is required to provide coverage for a blood lead test under s. 632.895 (10) (a); a health maintenance organization or preferred provider plan under ch. 609; a health care coverage plan offered by the state under s. 40.51 (6); a self-insured health plan offered by a city or village under s. 66.0137 (4), a political subdivision under s. 66.0137 (4m), a town under s. 60.23 (25), a county under s. 59.52 (11) (c), or a school district under s. 120.13 (2) (b); or a sickness health care plan operated by a cooperative association organized under s. 185.981.

**SECTION 29.** 632.86 (1) (a) of the statutes is amended to read:

632.86 (1) (a) "Disability insurance policy" has the meaning given in s. 632.895 (1) (a), except that the term does not include coverage under a health maintenance organization, as defined in s. 609.01 (2), a limited service health organization, as defined in s. 609.01 (3), a preferred provider plan, as defined in s. 609.01 (4), or a sickness health care plan operated by a cooperative association organized under ~~ss. s. 185.981 to 185.985~~.

**SECTION 30.** 655.002 (1) (f) of the statutes is amended to read:

655.002 (1) (f) A cooperative sickness health care association organized under ~~ss. s. 185.981 to 185.985~~ that operates ~~a~~ nonprofit sickness health care plan plans in

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this state and that directly provides services through salaried employees in its own facility.

**SECTION 31. Effective date.**

(1) This act takes effect on January 1, 2010, or on the day after publication, whichever is later.

