

2005 SENATE BILL 698

April 25, 2006 – Introduced by Senator DECKER, cosponsored by Representative MUSSER. Referred to Committee on Agriculture and Insurance.

1 **AN ACT** *to repeal* 40.05 (4) (ag), 40.05 (4) (ar), 609.10, 609.20 (1m) (c), 609.20 (1m)
2 (d), 628.36 (4) (b) 1., 628.36 (4) (b) 2. and 628.36 (4) (b) 3.; *to renumber and*
3 **amend** 40.51 (6) and 62.61; *to amend* 40.51 (2), 40.51 (7), 40.51 (8), 40.51 (8m),
4 40.52 (1) (intro.), 40.52 (2), 49.473 (2) (c), 49.68 (3) (d) 1., 49.683 (3), 49.685 (6)
5 (b), 59.52 (11) (c), 60.23 (25), 66.0137 (4), 66.0137 (4m) (b), 66.0137 (5), 111.70
6 (1) (dm), 120.12 (24), 120.13 (2) (b), 120.13 (2) (g), 254.11 (13), 628.36 (4) (a)
7 (intro.), 632.87 (5), 632.895 (10) (a), 632.895 (11) (a) (intro.), 632.895 (11) (c) 1.,
8 632.895 (11) (d) and 632.895 (14) (b); *to repeal and recreate* 149.12 (2) (e); and
9 **to create** 15.07 (2) (i), 15.735, 20.145 (6), 40.51 (6) (b), 40.52 (1m), 49.474,
10 49.665 (4) (e), 62.61 (1) (b), 109.075 (9), 111.91 (2) (pm), 227.01 (13) (nm),
11 632.895 (8) (f) 4., 632.895 (9) (d) 4., 632.895 (10) (b) 6., 632.895 (11) (e) 3.,
12 632.895 (14) (d) 7. and chapter 634 of the statutes; **relating to:** creating a
13 health care plan to cover all individuals employed in the state, requiring every
14 employer in the state to pay an assessment for the costs of the health care plan,

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1 creating a Wisconsin Health Care Plan Board, requesting waivers of federal
2 law, requiring the exercise of rule-making authority, and making
3 appropriations.

Analysis by the Legislative Reference Bureau

This bill creates a health care coverage plan called the Wisconsin Health Care Plan (WHCP) and creates the Wisconsin health care plan board (board), which must develop and administer WHCP. The board, which is attached to the Office of the Commissioner of Insurance (OCI), is composed of the commissioner of insurance, who is the nonvoting chairperson of the board, five persons who represent employers and who are nominated by Wisconsin Manufacturers and Commerce, and five persons who represent employees and who are nominated by the Wisconsin State AFL-CIO. In addition, the governor may appoint nonvoting members who represent hospitals, physicians, or state agencies or organizations with a connection to health care.

WHCP provides mandatory health care coverage for all persons not eligible for Medicare, regardless of where they reside, who are employed by private or public employers in this state, or who are unemployed but were employed in this state within the preceding two months, and for all dependents of those two categories of persons. Any resident of this state who is under 65 years of age and who is not automatically covered, including self-employed persons, may purchase coverage under WHCP, for himself or herself and his or her dependents, at a cost determined by the board that reflects the actual cost of their coverage. The bill defines a dependent as a spouse, an unmarried child or stepchild under the age of 19 years or, if the unmarried child or stepchild is a full-time student and financially dependent on the parent, under the age of 21 years, or an unmarried child or stepchild of any age who is disabled and dependent on the parent.

WHCP covers all reasonable medical services and prescription drugs necessary to maintain health, enable diagnosis, or provide treatment or rehabilitation for an injury, condition, disability, or disease. Specifically excluded from coverage, however, unless determined to be medically necessary under criteria specified by the board by rule, are dental and vision care, long-term care, and reconstructive or cosmetic surgery. An employer may provide employee health care benefits that are not covered under WHCP.

WHCP costs are partly paid through enrollee cost sharing and premiums paid by persons who are not automatically covered and who purchase their coverage. During the first year of WHCP's operation: 1) the total cost-sharing amount may not exceed \$300 for a single individual or \$600 for a family, excluding prescription drug copayments, health care services copayments, and premiums paid by persons purchasing coverage; 2) copayments for prescription drugs may not exceed \$15 per prescription for a generic drug or \$20 per prescription for a brand name drug; and 3) each time a covered person receives services, he or she must pay a health care

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services copayment in the amount of \$15 if the services are provided by the primary care physician that he or she selects to coordinate his or her health care or by another health care provider to which he or she has been referred or in the amount of 25 percent of the cost of the services if the services are provided by a specialist provider to whom he or she has not been referred. After the first year of WHCP's operation, the board may annually increase the specified cost-sharing amounts by not more than a percentage equal to medical inflation. An employer may pay any or all of the cost sharing on behalf of the employer's employees.

All employers in the state pay part of the costs of WHCP through a monthly assessment based on a flat rate for each employee that an employer has. The board must determine the basis for calculating the assessments and must set the flat rate for each employee at a level that is sufficient to cover WHCP's costs not covered by enrollee payments. If an employer has fewer than ten employees and the average annual gross income of all of the employer's employees is not more than \$20,000, however, the employer's monthly assessment is reduced by 50 percent.

In addition to the responsibilities of the board that have been mentioned, the board must negotiate, or contract with a third party to negotiate, with drug manufacturers and distributors for discounts on prescription drug prices for WHCP enrollees; may seek to extend to other health care programs covering state residents, such as Medical Assistance (MA), the Badger Care health care program (Badger Care), and Worker's Compensation, any agreements negotiated for prescription drug discounts for WHCP enrollees; must establish provider payment rates for services and articles covered under WHCP; must seek federal funds for payment of WHCP costs related to covered persons who would otherwise be eligible for coverage under MA, Badger Care, or any other health care program other than Medicare that is financed at least in part with federal funds; and must select one or more administrators of WHCP using a competitive bidding process.

The bill provides that WHCP is to be considered a group health insurance policy and is subject to all requirements in current law that apply to group health insurance policies, such as the requirements known as the health insurance mandates that require health insurance policies to cover certain persons, certain conditions, or the services of certain types of providers.

Finally, under the bill, OCI is required to request waivers from federal law to allow persons who are eligible for MA, Badger Care, or any other health care program other than Medicare funded at least in part with federal funds to be covered under WHCP; to allow the use of federal financial participation to fund benefits provided under WHCP to persons who are eligible for MA, Badger Care, or any other health care program other than Medicare funded at least in part with federal funds; and to allow persons with coverage under MA or Badger Care to purchase prescription drugs under a purchasing program negotiated for WHCP participants.

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For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 15.07 (2) (i) of the statutes is created to read:

2 15.07 (2) (i) The commissioner of insurance shall serve as nonvoting
3 chairperson of the Wisconsin health care plan board.

4 **SECTION 2.** 15.735 of the statutes is created to read:

5 **15.735 Same; attached boards. (1) WISCONSIN HEALTH CARE PLAN BOARD.** (a)
6 There is created a Wisconsin health care plan board, attached to the office of the
7 commissioner of insurance under s. 15.03, consisting of the following members:

8 1. Five persons who represent employers, including at least one person who
9 represents small employers, and who are nominated by Wisconsin Manufacturers
10 and Commerce.

11 2. Five persons who represent employees and who are nominated by the
12 Wisconsin State AFL–CIO.

13 3. The commissioner of insurance, who shall serve as nonvoting chairperson.

14 (b) Notwithstanding par. (a), the governor may appoint to the board nonvoting
15 members who represent hospitals, physicians, and other state agencies or
16 organizations with a connection to health care.

17 (c) The members of the board under par. (a) 1. and 2. shall be appointed for
18 3–year terms and may be reappointed.

19 (d) Notwithstanding s. 15.07 (4), 8 votes are required for approval of any matter
20 within the jurisdiction of the board.

SENATE BILL 698**SECTION 4**

1 (m) *Federal funds; state operations.* All moneys received from the federal
2 government, as authorized by the governor under s. 16.54, for the purposes for which
3 made and received.

4 (s) *Employer assessments received from the state; segregated revenue.* From the
5 appropriate segregated funds, a sum sufficient to pay employer assessments for state
6 employees whose salaries are paid from segregated funds for the operating costs of
7 the Wisconsin Health Care Plan.

8 **SECTION 5.** 40.05 (4) (ag) of the statutes is repealed.

9 **SECTION 6.** 40.05 (4) (ar) of the statutes is repealed.

10 **SECTION 7.** 40.51 (2) of the statutes is amended to read:

11 40.51 **(2)** Except as provided in subs. (10), (10m), (11) and (16), any eligible
12 employee may become covered by group health insurance benefits under this
13 subchapter by electing coverage within 30 days of being hired, to be effective as of
14 the first day of the month which begins on or after the date the application is received
15 by the employer, or by electing coverage prior to becoming eligible for any employer
16 contribution towards the premium cost as provided in s. 40.05 (4) (a) to be effective
17 upon becoming eligible for employer contributions. ~~An eligible employee who is not~~
18 ~~insured, but who is eligible for an employer contribution under s. 40.05 (4) (ag) 1.,~~
19 ~~may elect coverage prior to becoming eligible for an employer contribution under s.~~
20 ~~40.05 (4) (ag) 2., with the coverage to be effective upon becoming eligible for the~~
21 ~~increase in the employer contribution.~~ Any employee who does not so elect at one of
22 these times, or who subsequently cancels the insurance, shall not thereafter become
23 insured unless the employee furnishes evidence of insurability satisfactory to the
24 insurer, at the employee's own expense or obtains coverage subject to contractual

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1 waiting periods. The method to be used shall be specified in the health insurance
2 contract.

3 **SECTION 8.** 40.51 (6) of the statutes is renumbered 40.51 (6) (a) and amended
4 to read:

5 40.51 (6) (a) This state shall offer to all of its eligible employees described in
6 subs. (10), (10m), and (16) at least 2 insured or uninsured health care coverage plans
7 providing substantially equivalent hospital and medical benefits, including a health
8 maintenance organization or a preferred provider plan, if those health care plans are
9 ~~determined by the group insurance board to be available in the area of the place of~~
10 ~~employment and are approved by the group insurance board.~~ The group insurance
11 board shall place each of the plans into one of 3 tiers established in accordance with
12 standards adopted by the group insurance board. The tiers shall be separated
13 according to ~~the employee's share of premium costs.~~

14 **SECTION 9.** 40.51 (6) (b) of the statutes is created to read:

15 40.51 (6) (b) The state may offer to its employees coverage for health care
16 benefits not provided to the employees under the Wisconsin Health Care Plan under
17 ch. 634.

18 **SECTION 10.** 40.51 (7) of the statutes is amended to read:

19 40.51 (7) Any employer, other than the state, may offer to all of its employees
20 ~~a health care coverage plan~~ coverage for health care benefits not provided to the
21 employees under the Wisconsin Health Care Plan under ch. 634 through a program
22 offered by the group insurance board. Notwithstanding sub. (2) and ss. 40.05 (4) and
23 40.52 (1), the department may by rule establish different eligibility standards or
24 contribution requirements for such employees and employers and may by rule limit

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1 the categories of employers, other than the state, which may be included as
2 participating employers under this subchapter.

3 **SECTION 11.** 40.51 (8) of the statutes, as affected by 2005 Wisconsin Act 194,
4 is amended to read:

5 40.51 **(8)** Every health care coverage plan offered by the state under sub. (6)
6 (a) shall comply with ss. 631.89, 631.90, 631.93 (2), 631.95, 632.72 (2), 632.746 (1) to
7 (8) and (10), 632.747, 632.748, 632.83, 632.835, 632.85, 632.853, 632.855, 632.87 (3)
8 to (6), 632.895 (5m) and (8) to (14), and 632.896.

9 **SECTION 12.** 40.51 (8m) of the statutes is amended to read:

10 40.51 **(8m)** Every health care coverage plan offered by the group insurance
11 board under ~~sub.~~ subs. (6) (b) and (7) shall comply with ss. 631.89, 631.90, 631.93 (2),
12 631.95, 632.72 (2), 632.746 (1) to (8) and (10), 632.747, 632.748, 632.83, 632.835,
13 632.85, 632.853, 632.855, and ~~632.895 (11) to (14)~~ 632.87 (3) to (6).

14 **SECTION 13.** 40.52 (1) (intro.) of the statutes is amended to read:

15 40.52 **(1)** (intro.) The group insurance board shall establish by contract a
16 standard health insurance plan in which all insured employees shall participate
17 except as otherwise provided in this chapter. The Except as provided in sub. (1m),
18 the standard plan shall provide:

19 **SECTION 14.** 40.52 (1m) of the statutes is created to read:

20 40.52 **(1m)** The standard health insurance plan described under sub. (1) shall
21 not provide employees any health care coverage that the employees receive under the
22 Wisconsin Health Care Plan under ch. 634.

23 **SECTION 15.** 40.52 (2) of the statutes is amended to read:

24 40.52 **(2)** Health insurance benefits under this subchapter shall be integrated,
25 with exceptions determined appropriate by the group insurance board, with benefits

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1 under federal plans for hospital and health care for the aged and disabled and with
2 benefits provided under the Wisconsin Health Care Plan under ch. 634. Exclusions
3 and limitations with respect to benefits and different rates may be established for
4 persons eligible under federal plans for hospital and health care for the aged and
5 disabled in recognition of the utilization by persons within the age limits eligible
6 under the federal program and for employees who receive benefits under the
7 Wisconsin Health Care Plan under ch. 634. The plan may include special provisions
8 for spouses and other dependents covered under a plan established under this
9 subchapter where one spouse is eligible under federal plans for hospital and health
10 care for the aged or under the Wisconsin Health Care Plan under ch. 634 but the
11 others are not eligible because of age or other reasons. As part of the integration, the
12 department may, out of premiums collected under s. 40.05 (4), pay premiums for the
13 federal health insurance.

14 **SECTION 16.** 49.473 (2) (c) of the statutes is amended to read:

15 49.473 (2) (c) The woman is not covered under the Wisconsin Health Care Plan
16 under ch. 634 and is not eligible for any other health care coverage that qualifies as
17 creditable coverage in 42 USC 300gg (c), excluding the coverage specified in 42 USC
18 300gg (c) (1) (F).

19 **SECTION 17.** 49.474 of the statutes is created to read:

20 **49.474 Eligibility for Wisconsin Health Care Plan.** Notwithstanding ss.
21 49.46, 49.465, 49.47, and 49.472, if a waiver under 2005 Wisconsin Act (this act),
22 section 57 (2) (a) 2., is granted and in effect, a person who is covered under the
23 Wisconsin Health Care Plan under s. 634.10 (2) (a) is eligible for medical assistance
24 only with respect to health care benefits not provided under the Wisconsin Health
25 Care Plan.

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1 **SECTION 18.** 49.665 (4) (e) of the statutes is created to read:

2 49.665 (4) (e) Notwithstanding pars. (a) to (ap), if a waiver under 2005
3 Wisconsin Act (this act), section 57 (2) (a) 2., is granted and in effect, a person who
4 is covered under the Wisconsin Health Care Plan under s. 634.10 (2) (a) is eligible
5 for health care coverage under this section only with respect to health care benefits
6 not provided under the Wisconsin Health Care Plan.

7 **SECTION 19.** 49.68 (3) (d) 1. of the statutes is amended to read:

8 49.68 (3) (d) 1. No aid may be granted under this subsection ~~unless~~ if the
9 recipient has ~~no other form of~~ aid available from the federal ~~medicare~~ Medicare
10 program, from private health, accident, sickness, medical, ~~and~~ or hospital insurance
11 coverage, from the Wisconsin Health Care Plan under ch. 634, or from other health
12 care coverage specified by rule under s. 49.687 (1m). If insufficient aid is available
13 from other sources and if the recipient has paid an amount equal to the annual
14 ~~medicare~~ Medicare deductible amount specified in subd. 2., the state shall pay the
15 difference in cost to a qualified recipient. If at any time sufficient federal or private
16 insurance aid or other health care coverage becomes available during the treatment
17 period, state aid under this subsection shall be terminated or appropriately reduced.
18 Any patient who is eligible for the federal ~~medicare~~ Medicare program shall register
19 and pay the premium for ~~medicare~~ Medicare medical insurance coverage where
20 permitted, and shall pay an amount equal to the annual ~~medicare~~ Medicare
21 deductible amounts required under 42 USC 1395e and 1395L (b), prior to becoming
22 eligible for state aid under this subsection.

23 **SECTION 20.** 49.683 (3) of the statutes is amended to read:

24 49.683 (3) No payment shall be made under this section for any portion of
25 medical care costs that are payable under any state, federal, or other health care

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1 coverage program, including the Wisconsin Health Care Plan under ch. 634 or a
2 health care coverage program specified by rule under s. 49.687 (1m), or under any
3 grant, contract, or other contractual arrangement.

4 **SECTION 21.** 49.685 (6) (b) of the statutes is amended to read:

5 49.685 **(6)** (b) Reimbursement shall not be made under this section for any
6 blood products or supplies that are not purchased from or provided by a
7 comprehensive hemophilia treatment center, or a source approved by the treatment
8 center. Reimbursement shall not be made under this section for any portion of the
9 costs of blood products or supplies that are payable under any other state, federal,
10 or other health care coverage program, including the Wisconsin Health Care Plan
11 under ch. 634 or a health care coverage program specified by rule under s. 49.687
12 (1m), or under any grant, contract, or other contractual arrangement.

13 **SECTION 22.** 59.52 (11) (c) of the statutes is amended to read:

14 59.52 **(11)** (c) *Employee insurance.* Provide for individual or group hospital,
15 surgical and life insurance for county officers and employees and for payment of
16 premiums for county officers and employees. A county may elect to provide health
17 care benefits not provided under the Wisconsin Health Care Plan under ch. 634 to
18 its officers and employees and a county with at least 100 employees may elect to
19 provide health care benefits not provided under the Wisconsin Health Care Plan
20 under ch. 634 on a self-insured basis to its officers and employees. A county and one
21 or more cities, villages, towns, or other counties that together have at least 100
22 employees may jointly provide health care benefits not provided under the Wisconsin
23 Health Care Plan under ch. 634 to their officers and employees on a self-insured
24 basis. Counties that elect to provide health care benefits not provided under the
25 Wisconsin Health Care Plan under ch. 634 on a self-insured basis to their officers

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1 and employees shall be subject to the requirements set forth under s. 120.13 (2) (c)
2 to (e) and (g).

3 **SECTION 23.** 60.23 (25) of the statutes is amended to read:

4 **60.23 (25) SELF-INSURED HEALTH PLANS.** Provide health care benefits not
5 provided under the Wisconsin Health Care Plan under ch. 634 to its officers and
6 employees on a self-insured basis, subject to s. 66.0137 (4).

7 **SECTION 24.** 62.61 of the statutes is renumbered 62.61 (1) (intro.) and amended
8 to read:

9 **62.61 (1) (intro.)** The common council of a 1st class city may, by ordinance or
10 resolution, provide do any of the following:

11 (a) Provide for, including the payment of premiums of, general hospital,
12 surgical and group insurance for ~~both active and~~ retired city officers and city
13 employees and their respective dependents in private companies, ~~or may, by~~
14 ~~ordinance or resolution, elect.~~

15 (c) Elect to offer to all of its employees a health care coverage plan through a
16 program offered by the group insurance board under ch. 40. Municipalities ~~which~~
17 that elect to participate under s. 40.51 (7) are subject to the applicable sections of ch.
18 40 instead of this section.

19 **(2)** Contracts for insurance under this section may be entered into for active
20 officers and employees separately from contracts for retired officers and employees.
21 Appropriations may be made for the purpose of financing insurance under this
22 section. Moneys accruing to a fund to finance insurance under this section, by
23 investment or otherwise, may not be diverted for any other purpose than those for
24 which the fund was set up or to defray management expenses of the fund or to

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1 partially pay premiums to reduce costs to the city or to persons covered by the
2 insurance, or both.

3 **SECTION 25.** 62.61 (1) (b) of the statutes is created to read:

4 62.61 (1) (b) Subject to s. 634.40, provide for, including the payment of
5 premiums of, group health insurance for active city officers and city employees and
6 their respective dependents.

7 **SECTION 26.** 66.0137 (4) of the statutes, as affected by 2005 Wisconsin Act 194,
8 is amended to read:

9 66.0137 (4) SELF-INSURED HEALTH PLANS. If a city, including a 1st class city, or
10 a village provides health care benefits not provided under the Wisconsin Health Care
11 Plan under ch. 634 under its home rule power, or if a town provides health care
12 benefits not provided under the Wisconsin Health Care Plan under ch. 634, to its
13 officers and employees on a self-insured basis, the self-insured plan shall comply
14 with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747
15 (3), 632.85, 632.853, 632.855, 632.87 (4), ~~(5), and (6)~~, 632.895 ~~(9) to (14)~~, 632.896, and
16 767.25 (4m) (d).

17 **SECTION 27.** 66.0137 (4m) (b) of the statutes is amended to read:

18 66.0137 (4m) (b) A political subdivision and one or more other political
19 subdivisions, that together have at least 100 employees, may jointly provide health
20 care benefits not provided under the Wisconsin Health Care Plan under ch. 634 to
21 their officers and employees on a self insured self-insured basis.

22 **SECTION 28.** 66.0137 (5) of the statutes is amended to read:

23 66.0137 (5) HOSPITAL, ACCIDENT, AND LIFE INSURANCE. ~~The~~ Subject to s. 634.40,
24 the state or a local governmental unit may provide for the payment of premiums for
25 ~~hospital, surgical and other~~ health and accident insurance and life insurance for

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1 employees and officers and their spouses and dependent children. A local
2 governmental unit may also provide for the payment of premiums for hospital and
3 surgical care for its retired employees. In addition, a local governmental unit may,
4 by ordinance or resolution, elect to offer to all of its employees a health care coverage
5 plan through a program offered by the group insurance board under ch. 40. A local
6 governmental unit that elects to participate under s. 40.51 (7) is subject to the
7 applicable sections of ch. 40 instead of this subsection.

8 **SECTION 29.** 109.075 (9) of the statutes is created to read:

9 109.075 (9) This section does not apply to an employer that ceases providing
10 health care benefits to its employees because the employees are covered under the
11 Wisconsin Health Care Plan under ch. 634.

12 **SECTION 30.** 111.70 (1) (dm) of the statutes is amended to read:

13 111.70 (1) (dm) “Economic issue” means salaries, overtime pay, sick leave,
14 payments in lieu of sick leave usage, vacations, clothing allowances in excess of the
15 actual cost of clothing, length-of-service credit, continuing education credit, shift
16 premium pay, longevity pay, extra duty pay, performance bonuses, health insurance
17 coverage of benefits not provided under the Wisconsin Health Care Plan under ch.
18 634, life insurance, dental insurance, disability insurance, vision insurance,
19 long-term care insurance, worker’s compensation and unemployment insurance,
20 social security benefits, vacation pay, holiday pay, lead worker pay, temporary
21 assignment pay, retirement contributions, supplemental retirement benefits,
22 severance or other separation pay, hazardous duty pay, certification or license
23 payment, limitations on layoffs that create a new or increased financial liability on
24 the employer and contracting or subcontracting of work that would otherwise be

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1 performed by municipal employees in the collective bargaining unit with which there
2 is a labor dispute.

3 **SECTION 31.** 111.91 (2) (pm) of the statutes is created to read:

4 111.91 (2) (pm) Health care coverage of employees under the Wisconsin Health
5 Care Plan under ch. 634.

6 **SECTION 32.** 120.12 (24) of the statutes is amended to read:

7 120.12 (24) HEALTH CARE BENEFITS. Prior to the selection for school district
8 professional employees, as defined in s. 111.70 (1) (ne), of any provider of group
9 health care benefits provider for school district professional employees, as defined
10 in s. 111.70 (1) (ne) not provided under the Wisconsin Health Care Plan under ch. 634,
11 solicit sealed bids for the provision of such benefits.

12 **SECTION 33.** 120.13 (2) (b) of the statutes is amended to read:

13 120.13 (2) (b) Provide health care benefits not provided under the Wisconsin
14 Health Care Plan under ch. 634 on a self-insured basis to the employees of the school
15 district if the school district has at least 100 employees. In addition, any 2 or more
16 school districts which together have at least 100 employees may jointly provide
17 health care benefits not provided under the Wisconsin Health Care Plan under ch.
18 634 on a self-insured basis to employees of the school districts.

19 **SECTION 34.** 120.13 (2) (g) of the statutes, as affected by 2005 Wisconsin Act
20 194, is amended to read:

21 120.13 (2) (g) Every self-insured plan under par. (b) shall comply with ss.
22 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3),
23 632.85, 632.853, 632.855, 632.87 (4), ~~(5), and (6), 632.895 (9) to (14), 632.896, and~~
24 767.25 (4m) (d).

25 **SECTION 35.** 149.12 (2) (e) of the statutes is repealed and recreated to read:

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1 149.12 (2) (e) No person who is covered under the Wisconsin Health Care Plan
2 under s. 634.10 (2) (a) is eligible for coverage under the plan established under this
3 chapter.

4 **SECTION 36.** 227.01 (13) (nm) of the statutes is created to read:

5 227.01 (13) (nm) Relates to determining coverage under s. 634.10 (4) or setting
6 premiums or assessments under s. 634.25.

7 **SECTION 37.** 254.11 (13) of the statutes is amended to read:

8 254.11 (13) “Third-party payer” means a disability insurance policy that is
9 required to provide coverage for a blood lead test under s. 632.895 (10) (a); a health
10 maintenance organization or preferred provider plan under ch. 609; ~~a health care~~
11 ~~coverage plan offered by the state under s. 40.51 (6); a self-insured health plan~~
12 ~~offered by a city or village under s. 66.0137 (4), a political subdivision under s.~~
13 ~~66.0137 (4m), a town under s. 60.23 (25), a county under s. 59.52 (11) (c), or a school~~
14 ~~district under s. 120.13 (2) (b); or a sickness care plan operated by a cooperative~~
15 association under s. 185.981.

16 **SECTION 38.** 609.10 of the statutes is repealed.

17 **SECTION 39.** 609.20 (1m) (c) of the statutes is repealed.

18 **SECTION 40.** 609.20 (1m) (d) of the statutes is repealed.

19 **SECTION 41.** 628.36 (4) (a) (intro.) of the statutes is amended to read:

20 628.36 (4) (a) (intro.) The commissioner shall provide information and
21 assistance to ~~the department of employee trust funds,~~ employers and their
22 employees, providers of health care services, and members of the public, as provided
23 in par. (b), for the following purposes:

24 **SECTION 42.** 628.36 (4) (b) 1. of the statutes is repealed.

25 **SECTION 43.** 628.36 (4) (b) 2. of the statutes is repealed.

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1 **SECTION 44.** 628.36 (4) (b) 3. of the statutes is repealed.

2 **SECTION 45.** 632.87 (5) of the statutes is amended to read:

3 632.87 (5) No insurer ~~or self-insured school district, city or village~~ may, under
4 a policy, plan, or contract covering gynecological services or procedures, exclude or
5 refuse to provide coverage for Papanicolaou tests, pelvic examinations, or associated
6 laboratory fees when the test or examination is performed by a licensed nurse
7 practitioner, as defined in s. 632.895 (8) (a) 3., within the scope of the nurse
8 practitioner's professional license, if the policy, plan, or contract includes coverage
9 for Papanicolaou tests, pelvic examinations, or associated laboratory fees when the
10 test or examination is performed by a physician.

11 **SECTION 46.** 632.895 (8) (f) 4. of the statutes is created to read:

12 632.895 (8) (f) 4. A disability insurance policy providing only health care
13 benefits not provided under the Wisconsin Health Care Plan under ch. 634.

14 **SECTION 47.** 632.895 (9) (d) 4. of the statutes is created to read:

15 632.895 (9) (d) 4. A disability insurance policy providing only health care
16 benefits not provided under the Wisconsin Health Care Plan under ch. 634.

17 **SECTION 48.** 632.895 (10) (a) of the statutes is amended to read:

18 632.895 (10) (a) Except as provided in par. (b), every disability insurance policy
19 ~~and every health care benefits plan provided on a self-insured basis by a county~~
20 ~~board under s. 59.52 (11), by a city or village under s. 66.0137 (4), by a political~~
21 ~~subdivision under s. 66.0137 (4m), by a town under s. 60.23 (25), or by a school district~~
22 ~~under s. 120.13 (2)~~ shall provide coverage for blood lead tests for children under 6
23 years of age, which shall be conducted in accordance with any recommended lead
24 screening methods and intervals contained in any rules promulgated by the
25 department of health and family services under s. 254.158.

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1 **SECTION 49.** 632.895 (10) (b) 6. of the statutes is created to read:

2 632.895 **(10)** (b) 6. A disability insurance policy providing only health care
3 benefits not provided under the Wisconsin Health Care Plan under ch. 634.

4 **SECTION 50.** 632.895 (11) (a) (intro.) of the statutes is amended to read:

5 632.895 **(11)** (a) (intro.) Except as provided in par. (e), every disability
6 insurance policy, ~~and every self-insured health plan of the state or a county, city,~~
7 ~~village, town or school district,~~ that provides coverage of any diagnostic or surgical
8 procedure involving a bone, joint, muscle, or tissue shall provide coverage for
9 diagnostic procedures and medically necessary surgical or nonsurgical treatment for
10 the correction of temporomandibular disorders if all of the following apply:

11 **SECTION 51.** 632.895 (11) (c) 1. of the statutes is amended to read:

12 632.895 **(11)** (c) 1. The coverage required under this subsection may be subject
13 to any limitations, exclusions, or cost-sharing provisions that apply generally under
14 the disability insurance policy ~~or self-insured health plan.~~

15 **SECTION 52.** 632.895 (11) (d) of the statutes is amended to read:

16 632.895 **(11)** (d) Notwithstanding par. (c) 1., an insurer ~~or a self-insured health~~
17 ~~plan of the state or a county, city, village, town or school district~~ may require that an
18 insured obtain prior authorization for any medically necessary surgical or
19 nonsurgical treatment for the correction of temporomandibular disorders.

20 **SECTION 53.** 632.895 (11) (e) 3. of the statutes is created to read:

21 632.895 **(11)** (e) 3. A disability insurance policy providing only health care
22 benefits not provided under the Wisconsin Health Care Plan under ch. 634.

23 **SECTION 54.** 632.895 (14) (b) of the statutes is amended to read:

24 632.895 **(14)** (b) Except as provided in par. (d), every disability insurance policy,
25 ~~and every self-insured health plan of the state or a county, city, town, village or school~~

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1 ~~district,~~ that provides coverage for a dependent of the insured shall provide coverage
2 of appropriate and necessary immunizations, from birth to the age of 6 years, for a
3 dependent who is a child of the insured.

4 **SECTION 55.** 632.895 (14) (d) 7. of the statutes is created to read:

5 632.895 **(14)** (d) 7. A disability insurance policy providing only health care
6 benefits not provided under the Wisconsin Health Care Plan under ch. 634.

7 **SECTION 56.** Chapter 634 of the statutes is created to read:

8 **CHAPTER 634**

9 **WISCONSIN HEALTH CARE PLAN**

10 **634.01 Definitions.** In this chapter:

11 **(1)** “Board” means the Wisconsin health care plan board.

12 **(2)** “Dependent” means any of the following:

13 (a) A spouse.

14 (b) An unmarried child under the age of 19 years, including a stepchild of the
15 current marriage if the stepchild is dependent on the stepparent for support and
16 maintenance.

17 (c) An unmarried child over the age of 18 years and under the age of 21 years,
18 including a stepchild of the current marriage, if the child or stepchild is a full-time
19 student and is financially dependent on the parent or stepparent.

20 (d) An unmarried child of any age, including a stepchild of the current
21 marriage, if the child or stepchild is medically certified as disabled and is dependent
22 on the parent or stepparent.

23 **(3)** “Disability insurance policy” has the meaning given in s. 632.895 (1) (a).

24 **(4)** “Distributor” has the meaning given in s. 450.01 (9).

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1 **(5)** “Employee” means an individual who is employed in this state by an
2 employer, regardless of whether the individual is a resident. “Employee” does not
3 include a self-employed individual, regardless of whether the self-employed
4 individual has other employees.

5 **(6)** “Employer” means any person engaged in any activity, enterprise, or
6 business employing one or more individuals within this state. “Employer” includes
7 the state and its political subdivisions and charitable, nonprofit, or tax-exempt
8 organizations or institutions. “Employer” does not include a self-employed
9 individual who has no other employees.

10 **(7)** “Manufacturer” has the meaning given in s. 450.01 (12).

11 **(8)** “Medicare” means coverage under part A, part B, or Part D of Title XVIII
12 of the federal Social Security Act, 42 USC 1395 et seq., as amended.

13 **(9)** “Plan” means the Wisconsin Health Care Plan.

14 **(10)** “Prescription drug” has the meaning given in s. 450.01 (20).

15 **(11)** “Resident” means an individual who maintains his or her place of
16 permanent abode in this state.

17 **634.10 Plan features. (1) CREATION.** (a) The board shall develop a health care
18 coverage plan, to be known as the Wisconsin Health Care Plan. Coverage under the
19 plan shall begin on the first day of the 13th month beginning after the effective date
20 of this paragraph [revisor inserts date]. The plan shall be considered to be a group
21 or blanket disability insurance policy and is subject to the provisions of chs. 600 to
22 646 that apply to group or blanket disability insurance policies to the same extent
23 as any other group or blanket disability insurance policy.

24 **(2) COVERED INDIVIDUALS.** (a) Except as provided in par. (c), all of the following
25 shall be covered under the plan:

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1 1. An employee.

2 2. An individual who is not employed but who, within the preceding 2 months,
3 was employed in this state by an employer.

4 3. A dependent of an individual specified in subd. 1. or 2., regardless of the
5 dependent's residency.

6 (b) Subject to par. (c), any resident not specified in par. (a) who is under 65 years
7 of age may purchase coverage under the plan, for himself or herself and his or her
8 dependents who are under 65 years of age, at a cost determined by the board under
9 s. 634.25 (1) (a) 2.

10 (c) An individual who is eligible for Medicare is not eligible for coverage under
11 the plan.

12 **(3) CARE COORDINATOR.** Each individual covered under the plan shall select a
13 primary care physician, as defined in s. 609.01 (4m), to coordinate the individual's
14 health care.

15 **(4) BENEFITS AND EXCLUSIONS.** (a) Except as provided in par. (b), the plan shall
16 cover all reasonable medical services and prescription drugs necessary to maintain
17 health, enable diagnosis, or provide treatment or rehabilitation for an injury,
18 condition, disability, or disease, including mental health services and alcohol or other
19 drug abuse treatment to the same extent as the plan covers treatment for physical
20 conditions. The plan shall cover wellness programs and chronic disease
21 management, and shall include quality control standards generally accepted in the
22 medical field.

23 (b) The plan shall not cover dental or vision care, long-term care, or
24 reconstructive or cosmetic surgery, unless the care or surgery is determined to be
25 medically necessary under criteria promulgated as rules by the board.

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1 (c) Covered expenses under the plan shall not include any charge for care for
2 injury or disease for which benefits are payable without regard to fault under
3 coverage statutorily required to be contained in any motor vehicle or other liability
4 insurance policy or equivalent self-insurance, or for which benefits are payable
5 under a worker's compensation or similar law.

6 **634.15 Prescription drug purchasing arrangement. (1)** AGREEMENTS FOR
7 DISCOUNTS. The board shall negotiate, or contract with a 3rd party to negotiate, with
8 prescription drug manufacturers and distributors to reach agreements for discounts
9 in the prices of prescription drugs for individuals covered under the plan.

10 **(2)** JOINING WITH OTHER STATES. The board may join the prescription drug
11 purchasing arrangement under the plan with similar arrangements or programs in
12 other states to form a multistate purchasing group to negotiate, or contract with a
13 3rd party to negotiate, with prescription drug manufacturers and distributors for
14 reduced prescription drug prices.

15 **(3)** APPLICATION TO OTHER HEALTH-RELATED PROGRAMS. The board may seek to
16 extend the application of the agreements for discounted prescription drug prices
17 negotiated under sub. (1) or (2) to other health care programs under which residents
18 are covered, such as Medical Assistance, the Badger Care health care program, and
19 Worker's Compensation.

20 **634.25 Financing. (1)** COST-SHARING REQUIREMENTS. (a) 1. Subject to pars.
21 (b) to (e), the board shall determine the deductibles, copayments, coinsurance, and
22 any other cost sharing that individuals with coverage under the plan must pay.

23 2. The board shall determine the premium amounts that must be paid by
24 individuals who purchase coverage under the plan under s. 634.10 (2) (b). The
25 premium amounts shall reflect the actual cost of coverage for those individuals. Any

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1 individual who purchases coverage under s. 634.10 (2) (b) and who fails to pay a
2 premium when due loses coverage.

3 (b) Except as provided in par. (d), during the first year of the plan's operation
4 all of the following apply:

5 1. The total amount of cost sharing, excluding prescription drug copayments
6 under subd. 2., health care services copayments and coinsurance under subds. 3. and
7 4., and premiums determined under par. (a) 2., may not exceed \$300 for a single
8 individual or \$600 for a family.

9 2. Copayments for prescription drugs may not exceed \$15 per prescription for
10 a generic drug or \$20 per prescription for a brand name drug.

11 3. A covered individual shall pay a copayment of \$15 each time the individual
12 receives services from the individual's care coordinator under s. 634.10 (3) or any
13 other health care provider to whom the individual has been referred by his or her care
14 coordinator.

15 4. Subject to par. (c), a covered individual who receives health care services
16 from a specialist provider without a referral from his or her care coordinator under
17 s. 634.10 (3) shall be required to pay 25 percent of the cost of the services provided.

18 (c) The board shall establish guidelines for obtaining emergency treatment
19 from a specialist provider without a referral and without the cost-sharing
20 requirement under par. (b) 4.

21 (d) The board may modify the maximum cost-sharing amounts specified in par.
22 (b) 1. and the copayment and coinsurance amounts specified in par. (b) 2. to 4. as long
23 as any modification does not have a substantial effect on the total cost for covered
24 individuals.

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1 (e) After the first year of the plan's operation, the board annually may increase
2 the maximum cost-sharing amounts and the copayment and coinsurance amounts
3 under the plan by not more than a percentage equal to medical inflation.

4 **(2) EMPLOYER ASSESSMENT.** (a) Subject to pars. (b), (c), and (d), each employer
5 shall pay a monthly assessment at a flat rate for each of the employer's employees.
6 The board shall determine the basis for calculating the assessments and, taking into
7 consideration the reductions under par. (c), shall set the flat rate per employee at a
8 level that is sufficient to cover the administrative and operating costs of the plan that
9 are not covered by the cost sharing under sub. (1).

10 (b) An employer may pay, at the employer's discretion, the per employee
11 assessment amount determined under par. (a) for an employee who leaves the
12 employer's employment, for the period, or for any portion of the period, during which
13 the former employee is not employed by another employer.

14 (c) If an employer has fewer than 10 employees and the average gross income
15 of all of the employer's employees is not more than \$20,000, the assessment amount
16 that the employer would be required to pay under par. (a) or may pay under par. (b)
17 shall be reduced by 50 percent.

18 (d) For an employee who is a member of a labor union, the employer
19 assessments under pars. (a) to (c) may be paid through a Taft-Hartley Trust
20 established by the labor union.

21 **(3) FEDERAL FUNDS.** The board shall seek to obtain federal funds for paying plan
22 costs related to individuals covered under the plan who would otherwise be eligible
23 for coverage under Medical Assistance, the Badger Care health care program, or any
24 other health care program other than Medicare financed at least in part with federal
25 funds.

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1 **634.30 Provider payment rates. (1)** ESTABLISHMENT AND INCREASES. The
2 board shall establish the provider payment rates for services and articles covered
3 under the plan. The provider payment rates established shall be fair and adequate
4 to ensure that this state is able to retain the highest quality of medical practitioners.
5 The board shall limit increases in the provider payment rate for each service or
6 article such that any increase in per person spending under the plan does not exceed
7 medical inflation.

8 **(2)** PAYMENT IS PAYMENT IN FULL. Except for deductibles, copayments,
9 coinsurance, and any other cost sharing required or authorized under the plan, a
10 provider of a covered service or article shall accept as payment in full for the covered
11 service or article the payment rate determined under sub. (1) and may not bill a
12 covered individual who receives the service or article for any amount by which the
13 charge for the service or article is reduced under sub. (1).

14 **634.35 Administration.** The plan may be administered on either a statewide
15 or a regional basis. The board shall select one or more administrators of the plan
16 using a competitive bidding process.

17 **634.40 Other employer–provided health care benefits.** Nothing in this
18 chapter prevents an employer, or a Taft–Hartly Trust on behalf of an employer, from
19 paying all or part of any employee cost sharing under s. 634.25 (1) or from providing
20 for the employer’s employees any health care benefits not provided under the plan.

SECTION 57. Nonstatutory provisions.

21 **(1) TERMS OF INITIAL MEMBERS OF HEALTH PLAN BOARD.** Notwithstanding the
22 length of terms specified for the members of the Wisconsin health plan board under
23 section 15.735 (1) (c) of the statutes, as created by this act, the initial members of the
24 Wisconsin health plan board shall be appointed for the following terms:
25

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1 (a) Two members specified under section 15.735 (1) (a) 1. of the statutes, as
2 created by this act, and one member specified under section 15.735 (1) (a) 2. of the
3 statutes, as created by this act, for terms expiring on May 1, 2010.

4 (b) One member specified under section 15.735 (1) (a) 1. of the statutes, as
5 created by this act, and 2 members specified under section 15.735 (1) (a) 2. of the
6 statutes, as created by this act, for terms expiring on May 1, 2011.

7 (c) Two members specified under section 15.735 (1) (a) 1. of the statutes, as
8 created by this act, and 2 members specified under section 15.735 (1) (a) 2. of the
9 statutes, as created by this act, for terms expiring on May 1, 2012.

10 (2) WAIVERS. The office of the commissioner of insurance shall, no later than
11 the first day of the 7th month beginning after the effective date of this subsection,
12 do all of the following:

13 (a) Request waivers from the secretary of the federal department of health and
14 human services for all of the following purposes:

15 1. To allow the use of federal financial participation to fund the benefits
16 provided under the Wisconsin Health Care Plan to individuals who are eligible to
17 receive health care services under Medical Assistance, the Badger Care health care
18 program, or any other health care program other than Medicare financed at least in
19 part with federal funds.

20 2. To allow individuals who are eligible for coverage under Medical Assistance,
21 the Badger Care health care program, or any other health care program other than
22 Medicare financed at least in part with federal funds to be covered under the
23 Wisconsin Health Care Plan.

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1 3. To allow individuals with coverage under Medical Assistance or the Badger
2 Care health care program to purchase prescription drugs at discounted prices under
3 agreements negotiated for Wisconsin Health Care Plan participants.

4 (b) Request a waiver of federal laws related to a program providing benefits
5 comparable to state worker's compensation benefits to allow individuals paying for
6 prescription drugs under the federal program to purchase prescription drugs at
7 discounted prices under agreements negotiated for Wisconsin Health Care Plan
8 participants.

9 **SECTION 58. Initial applicability.**

10 (1) If a comprehensive health insurance policy covering an employee is in effect
11 on the effective date of this subsection and has a term that extends beyond the first
12 day of the 13th month beginning after effective date of this subsection, this act first
13 applies to that employee, with respect to coverage and cost sharing under the
14 Wisconsin Health Care Plan, and to the employee's employer, with respect to paying
15 an assessment for the employee, on the day on which the policy terminates.

16 (2) If compliance with the requirements of this act would impair any provision
17 of a contract to which an employer is a party, that is related to providing health care
18 benefits to the employer's employees on a self-insured basis, and that is in effect on
19 the effective date of this subsection, this act first applies to that employer, with
20 respect to paying assessments for the employer's employees, and to the employer's
21 employees, with respect to coverage and cost sharing under the Wisconsin Health
22 Care Plan, on the day on which the contract terminates.

23 (3) If an employer provides comprehensive health care coverage to its
24 employees under a collective bargaining agreement that is in effect on the effective
25 date of this subsection, this act first applies to that employer, with respect to paying

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1 assessments for the employer's employees, and to the employer's employees, with
2 respect to coverage and cost sharing under the Wisconsin Health Care Plan, on the
3 earlier of the following:

4 (a) The day on which the collective bargaining agreement expires.

5 (b) The day on which the collective bargaining agreement is extended,
6 modified, or renewed.

7 **SECTION 59. Effective dates.** This act takes effect on the first day of the 13th
8 month beginning after the day after publication, except as follows:

9 (1) The treatment of sections 15.07 (2) (i), 15.735, 20.145 (6), and 227.01 (13)
10 (nm) and chapter 634 of the statutes and SECTIONS 57 and 58 of this act take effect
11 on the day after publication.

12 (END)