State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-2159/1
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2023 ASSEMBLY BILL 117

March 24, 2023 - Introduced by Representatives GUSTAFSON, BINSFELD, SNODGRASS, J. ANDERSON, ANDRACA, BALDEH, BARE, BEHNKE, CABRERA, CONLEY, CONSIDINE, DITTRICH, GOEBEN, JOERS, KRUG, MACCO, MURPHY, MURSAU, OHNSTAD, ORTIZ-VELEZ, PALMERI, ROZAR, SINICKI, SPIROS, STUBBS, SUBECK, TUSLER, VINING, CLANCY, MADISON and HAYWOOD, cosponsored by Senators CABRAL-GUEVARA, LARSON, HESSELBEIN, JAMES, SPREITZER, TAYLOR and WIRCH. Referred to Committee on Health, Aging and Long-Term Care.

AUTHORS SUBJECT TO CHANGE

AN ACT ***to renumber*** 632.895 (8) (a) 1.; ***to renumber and amend*** 632.895 (8) (d); ***to amend*** 40.51 (8m), 66.0137 (4), 120.13 (2) (g) and 609.80; and ***to create*** 49.46 (2) (b) 6. n., 632.895 (8) (a) 1c., 632.895 (8) (a) 1e., 632.895 (8) (a) 1g., 632.895 (8) (a) 1n., 632.895 (8) (a) 1r., 632.895 (8) (a) 4., 632.895 (8) (a) 5., 632.895 (8) (a) 6., 632.895 (8) (am), 632.895 (8) (d) 2. and 632.895 (8) (d) 3. of the statutes; **relating to:** coverage of breast cancer screenings by the Medical Assistance program and health insurance policies and plans.

Analysis by the Legislative Reference Bureau

This bill requires health insurance policies to provide coverage for supplemental breast screening examinations or diagnostic breast examinations for an individual who is at increased risk of breast cancer, as determined in accordance with the most recent applicable guidelines of the National Comprehensive Cancer Network, or has heterogeneously or extremely dense breast tissue, as defined by the Breast Imaging-Reporting and Data System established by the American College of Radiology. Health insurance policies are referred to in the statutes as disability insurance policies. Self-insured governmental health plans are also required to provide the coverage specified in the bill. The bill also requires coverage of those breast screenings by the Medical Assistance program, which is the state-administered Medicaid program that is jointly funded by the state and federal

governments and that provides health services to individuals with limited financial resources.

Under the bill, health insurance policies may not charge a cost–sharing amount for a supplemental breast screening examination or diagnostic breast examination. The limitation on cost–sharing does not apply to the extent that the limitation would result in ineligibility for a health savings account under the federal Internal Revenue Code.

Health insurance policies are required under current law to cover two mammographic breast examinations to screen for breast cancer for a woman from ages 45 to 49 if certain criteria are satisfied. Health insurance policies must currently cover annual mammograms for a woman once she attains the age of 50. The coverage required under current law is required whether or not the woman shows any symptoms of breast cancer and may be subject to only the same exclusions and limitations, including cost sharing, that apply to other radiological examinations under the policy. The bill does not change or eliminate the current coverage requirements for mammograms, except that preferred provider plans are explicitly included in the current law and the bill's requirements.

This proposal may contain a health insurance mandate requiring a social and financial impact report under s. 601.423, stats.

For further information see the state 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:

SECTION 1. 40.51 (8m) of the statutes is amended to read:

40.51 **(8m)** Every health care coverage plan offered by the group insurance board under sub. (7) shall comply with ss. 631.95, 632.729, 632.746 (1) to (8) and (10), 632.747, 632.748, 632.798, 632.83, 632.835, 632.85, 632.853, 632.855, 632.861, 632.867, 632.885, 632.89, and 632.895 (8) and (11) to (17).

SECTION 2. 49.46 (2) (b) 6. n. of the statutes is created to read:

49.46 **(2)** (b) 6. n. Breast screenings for which coverage is required under s. 632.895 (8) (am).

SECTION 3. 66.0137 (4) of the statutes is amended to read:

66.0137 **(4)** SELF-INSURED HEALTH PLANS. If a city, including a 1st class city, or a village provides health care benefits under its home rule power, or if a town

provides health care benefits, to its officers and employees on a self–insured basis, the self–insured plan shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.729, 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.798, 632.85, 632.853, 632.855, 632.861, 632.867, 632.87 (4) to (6), 632.885, 632.89, 632.895 ~~(9)~~ (8) to (17), 632.896, and 767.513 (4).

SECTION 4. 120.13 (2) (g) of the statutes is amended to read:

120.13 **(2)** (g) Every self–insured plan under par. (b) shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.729, 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.798, 632.85, 632.853, 632.855, 632.861, 632.867, 632.87 (4) to (6), 632.885, 632.89, 632.895 ~~(9)~~ (8) to (17), 632.896, and 767.513 (4).

SECTION 5. 609.80 of the statutes is amended to read:

609.80 Coverage of mammograms. Defined network plans and preferred provider plans are subject to s. 632.895 (8). Coverage of mammograms under s. 632.895 (8) may be subject to any requirements that the defined network plan or preferred provider plan imposes under s. 609.05 (2) and (3) on the coverage of other health care services obtained by enrollees.

SECTION 6. 632.895 (8) (a) 1. of the statutes is renumbered 632.895 (8) (a) 1w.

SECTION 7. 632.895 (8) (a) 1c. of the statutes is created to read:

632.895 **(8)** (a) 1c. "Breast magnetic resonance imaging" means a diagnostic tool that uses a powerful magnetic field, radio waves, and a computer to produce detailed pictures of the structures within the breast.

SECTION 8. 632.895 (8) (a) 1e. of the statutes is created to read:

632.895 **(8)** (a) 1e. "Breast tomosynthesis" means a procedure that uses X–rays to take a series of pictures of the inside of the breast from many different angles.

SECTION 9. 632.895 (8) (a) 1g. of the statutes is created to read:

632.895 **(8)** (a) 1g. "Breast ultrasound" means a noninvasive diagnostic tool that uses high–frequency sound.

SECTION 10. 632.895 (8) (a) 1n. of the statutes is created to read:

632.895 **(8)** (a) 1n. "Diagnostic breast examination" means a medically necessary and appropriate examination of the breast, including an examination using diagnostic mammography, breast magnetic resonance imaging, breast tomosynthesis, or breast ultrasound that is used to evaluate any of the following:

a. An abnormality seen or suspected from a screening examination for breast cancer.

b. An abnormality that is detected by another means of examination.

SECTION 11. 632.895 (8) (a) 1r. of the statutes is created to read:

632.895 **(8)** (a) 1r. "Diagnostic mammography" means a diagnostic tool that uses X–rays and is designed to evaluate an abnormality in the breast.

SECTION 12. 632.895 (8) (a) 4. of the statutes is created to read:

632.895 **(8)** (a) 4. "Screening mammography" means an X–ray examination of the breasts taken to check for breast cancer in the absence of signs or symptoms.

SECTION 13. 632.895 (8) (a) 5. of the statutes is created to read:

632.895 **(8)** (a) 5. "Self–insured health plan" has the meaning given in s. 632.745 (24).

SECTION 14. 632.895 (8) (a) 6. of the statutes is created to read:

632.895 **(8)** (a) 6. "Supplemental breast screening examination" means a medically necessary and appropriate examination of the breast, including an examination using breast magnetic resonance imaging or breast ultrasound that is used to screen for breast cancer when there is no abnormality seen or suspected,

based on personal or family medical history or additional factors that may increase an individual's risk of breast cancer.

SECTION 15. 632.895 (8) (am) of the statutes is created to read:

632.895 **(8)** (am) Every disability insurance policy and self–insured health plan shall provide coverage to an individual who is at increased risk of breast cancer, as determined in accordance with the most recent applicable guidelines of the National Comprehensive Cancer Network, or has heterogeneously or extremely dense breast tissue, as defined by the Breast Imaging–Reporting and Data System established by the American College of Radiology, for supplemental breast screening examinations or diagnostic breast examinations for the detection of breast cancer, including diagnostic mammography, breast ultrasounds, breast magnetic resonance imaging, or other technologies as determined in accordance with applicable criteria and guidelines. Coverage required under this paragraph shall be subject to the limits on cost–sharing described under par. (d) 2. and 3.

SECTION 16. 632.895 (8) (d) of the statutes is renumbered 632.895 (8) (d) 1. and amended to read:

632.895 **(8)** (d) 1. Coverage is required under this subsection despite whether the woman shows any symptoms of breast cancer. Except as provided in subds. 2. and 3. and pars. (b), (c) and (e), coverage under this subsection may only be subject to exclusions and limitations, including deductibles, copayments and restrictions on excessive charges, that are applied to other radiological examinations covered under the disability insurance policy.

SECTION 17. 632.895 (8) (d) 2. of the statutes is created to read:

632.895 (8) (d) 2. A disability insurance policy or self–insured health plan may not impose on a covered individual a cost–sharing amount for a supplemental breast screening examination or diagnostic breast examination.

SECTION 18. 632.895 (8) (d) 3. of the statutes is created to read:

632.895 **(8)** (d) 3. If, under federal law, application of this paragraph would result in ineligibility for a health savings account under section 223 of the Internal Revenue Code, this paragraph shall apply to a health–savings–account–qualified high deductible health plan with respect to the deductible of such a plan only after the enrollee has satisfied the minimum deductible under section 223 of the Internal Revenue Code, except with respect to items or services that are preventive care pursuant to section 223 (c) (2) (C) of the Internal Revenue Code, in which case this paragraph shall apply regardless of whether the minimum deductible under section 223 of the Internal Revenue Code has been satisfied.

SECTION 19. Initial applicability.

(1) For policies and plans containing provisions inconsistent with this act, the act first applies to policy or plan years beginning on January 1 of the year following the year in which this subsection takes effect, except as provided in sub. (2).

(2) For policies and plans that are affected by a collective bargaining agreement containing provisions inconsistent with this act, this act first applies to policy or plan years beginning on the effective date of this subsection or on the day on which the collective bargaining agreement is newly established, extended, modified, or renewed, whichever is later.

SECTION 20. Effective date.

(1) This act takes effect on the first day of the 4th month beginning after publication.

(END)