



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-1619/1
TJD:amn

2017 ASSEMBLY BILL 798

December 28, 2017 - Introduced by Representatives SANFELIPPO, BERNIER, R. BROOKS, DUCHOW, HORLACHER, HUTTON, JAGLER, KATZMA, KNODL, KOLSTE, KOOYENGA, KREMER, KUGLITSCH, KULP, MURPHY, QUINN, ROHRKASTE, SKOWRONSKI, SPIROS, STAFSHOLT, TAUCHEN, THIESFELDT, TITTL, VORPAGEL, WEATHERSTON, WICHGERS and BALLWEG, cosponsored by Senators KAPENGA, CRAIG, COWLES, MOULTON, STROEBEL and TIFFANY. Referred to Committee on Small Business Development.

AUTHORS SUBJECT TO CHANGE

- 1 **AN ACT to create** 49.45 (24d), 146.78 and 600.01 (1) (b) 13. of the statutes;
2 **relating to:** direct primary care program for Medical Assistance recipients and
3 direct primary care agreements.

Analysis by the Legislative Reference Bureau

The bill allows a health care provider and an individual patient or employer to enter into a direct primary care agreement and requires the Department of Health Services to establish and implement a direct primary care program for Medical Assistance recipients. A direct primary care agreement is a contract in which the health care provider agrees to provide routine health services such as screening, assessment, diagnosis, and treatment for the purpose of promotion of health or the detection and management of disease or injury, dispensing of medical supplies and prescription drugs, and certain laboratory services for a specified fee over a specified duration. A valid direct primary care agreement outside of the Medical Assistance program must, among other things, state that the agreement is not health insurance and that the agreement alone may not satisfy individual or employer insurance coverage requirements under federal law. The bill exempts direct primary care agreements from the application of insurance law. The bill also allows DHS to investigate complaints related to private direct primary care agreements.

For the direct primary care program for Medical Assistance recipients, the bill specifies requirements that must be in an agreement between a direct primary care provider and DHS and requires DHS to submit a report on implementation of the program. If necessary, DHS must seek federal approval for the program and may not implement the program if the federal government disapproves.

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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:

1 **SECTION 1.** 49.45 (24d) of the statutes is created to read:

2 49.45 (24d) DIRECT PRIMARY CARE PROGRAM. (a) In this subsection:

3 1. “Primary care provider” means an individual primary care provider, such as
4 a physician, or a collaboration of health care providers that includes at least one
5 individual primary care provider.

6 2. “Routine health care service” has the meaning given in s. 146.78 (1) (c).

7 (b) Subject to par. (f), the department shall establish and implement a direct
8 primary care program for Medical Assistance recipients. By October 1, 2018, the
9 department shall issue a request for proposals for at least one primary care provider
10 to implement a direct primary care program that complies with par. (c) for Medical
11 Assistance recipients in at least one location. The department may implement direct
12 primary care programs in different populations of Medical Assistance recipients in
13 different locations. By January 1, 2019, after reviewing the proposals submitted
14 under this paragraph, the department shall enter into a contract with at least one
15 primary care provider to implement a direct primary care program.

16 (c) No later than March 1, 2019, at any location selected under par. (b), the
17 department shall enter each participant in the direct primary care program under
18 this subsection in an agreement with a primary care provider to provide routine
19 health care service for a capitated fee. The department shall include in the
20 agreement under this paragraph all of the following provisions:

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1 1. The monthly fee for each participant in the direct primary care program is
2 no more than the amount determined under par. (d).

3 2. A primary care provider providing services to a participant in the direct
4 primary care program may not accept 3rd-party payments for health care services
5 provided to that participant, except the primary care provider may accept retainer
6 fees from any managed care organization with which he or she has a contract.

7 3. If a participant in the direct primary care program is enrolled in managed
8 care through the Medical Assistance program, all of the following:

9 a. The managed care provider shall designate a primary care provider who is
10 accepting participants in the direct primary care program to be the care manager for
11 the participant as it relates to access to care and services that are not routine health
12 care services.

13 b. The managed care provider may not impose conditions on the primary care
14 provider that would alter the delivery of service under a direct primary care
15 agreement.

16 c. The managed care provider is not liable for increased costs resulting from
17 participation of primary care providers in their network of providers in the direct
18 primary care program.

19 (d) The department, after consulting with primary care providers who are
20 willing to accept agreements with participants in the direct primary care program,
21 shall determine a monthly fee for an enrollee in each population of Medical
22 Assistance recipients participating in the program such that the average fee would
23 be \$70 per month if there are equal numbers of participants from each population.

24 (e) By March 1, 2020, and annually thereafter, the department shall submit a
25 report under s. 13.172 (3) to the joint committee on finance and the appropriate

ASSEMBLY BILL 798**SECTION 1**

1 standing committees of the legislature with jurisdiction over health, Medical
2 Assistance, or public assistance programs on the implementation of the direct
3 primary care program under this subsection that includes all of the following:

4 1. The number of participants in the direct primary care program, including
5 the number of participants by population, if applicable.

6 2. The number and dollar value of all claims to the Medical Assistance program
7 by participants in the direct primary care program.

8 3. An estimate of the amount of costs saved by providing services to
9 participants under a direct primary care program model.

10 (f) If the department determines that federal approval is needed to implement
11 the direct primary care program under this subsection, the department shall request
12 from the federal department of health and human services a state plan amendment
13 or waiver of federal Medicaid law to implement this subsection. If a state plan
14 amendment or a waiver is not necessary or if the federal department of health and
15 human services does not disapprove the state plan amendment or the waiver
16 request, the department shall implement this subsection. The department may not
17 implement this subsection if the federal department of health and human services
18 disapproves the state plan amendment or the waiver request.

19 **SECTION 2.** 146.78 of the statutes is created to read:

20 **146.78 Direct primary care agreement. (1) DEFINITIONS.** In this section:

21 (a) "Direct primary care agreement" means a contract between a health care
22 provider and an individual patient or his or her legal representative or employer in
23 which the health care provider agrees to provide routine health care services to the
24 individual patient or employees for an agreed-upon fee and period of time.

25 (b) "Health care provider" has the meaning given in s. 146.81 (1) (a) to (p).

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1 (c) "Routine health care service" means any of the following:

2 1. Screening, assessment, diagnosis, and treatment for the purpose of
3 promotion of health or the detection and management of disease or injury.

4 2. Dispensing of medical supplies and prescription drugs in the health care
5 provider's office or facility including payments for the medical supplies and
6 prescription drugs.

7 3. Laboratory services including routine blood screening or routine pathology
8 screening performed by a laboratory that meets any of the following criteria:

9 a. The laboratory is associated with the health care provider that is a party to
10 the direct primary care agreement.

11 b. The laboratory has entered into an agreement with the health care provider
12 that is a party to the direct primary care agreement to provide the laboratory services
13 without charging a fee to the individual patient or employer for those services.

14 **(2) VALID AGREEMENT.** A health care provider and an individual patient or an
15 employer may enter into a direct primary care agreement. A valid direct primary
16 care agreement meets all of the following criteria:

17 (a) The agreement is in writing.

18 (b) The agreement is signed by the health care provider or an agent of the
19 health care provider and the individual patient, the patient's legal representative,
20 or a representative of the employer.

21 (c) The agreement allows either party to the agreement to terminate the
22 agreement upon written notice to the other party.

23 (d) The agreement describes and quantifies the specific routine health care
24 services that are provided under the agreement.

25 (e) The agreement specifies the fee for the agreement.

ASSEMBLY BILL 798**SECTION 2**

1 (f) The agreement specifies the duration of the agreement.

2 (g) The agreement prominently states, in writing, that the agreement is not
3 health insurance and that the agreement alone may not satisfy individual or
4 employer insurance coverage requirements under federal law.

5 (h) The health care provider and the patient are prohibited from billing an
6 insurer or any other 3rd party for the routine health care services provided under the
7 agreement.

8 (i) The agreement prominently states, in writing, that the individual patient
9 must pay the provider for all services that are not specified under the agreement and
10 are not otherwise covered by insurance.

11 **(3) INVESTIGATION AUTHORITY.** The department may investigate complaints
12 related to direct primary care agreements under this section. The department may
13 require a health care provider to provide the department with a copy of the direct
14 primary care agreement and additional records related to the agreement. The
15 department shall refer any complaints about individual health care providers or any
16 allegations of unprofessional conduct to the department of safety and professional
17 services or the appropriate examining board.

18 **SECTION 3.** 600.01 (1) (b) 13. of the statutes is created to read:

19 600.01 (1) (b) 13. Valid direct primary care agreements under s. 146.78 (2).

20 **(END)**