



State of Wisconsin  
2021 - 2022 LEGISLATURE

LRB-1996/1  
TJD:skw

## 2021 SENATE BILL 129

February 24, 2021 - Introduced by Senators BEWLEY, AGARD, CARPENTER, ERPENBACH, JOHNSON, LARSON, PFAFF, RINGHAND, ROYS, SMITH and WIRCH, cosponsored by Representatives HINTZ, ANDERSON, ANDRACA, BALDEH, BILLINGS, BOWEN, BROSTOFF, CABRERA, CONLEY, CONSIDINE, DOYLE, DRAKE, EMERSON, GOYKE, HAYWOOD, HEBL, HESSELBEIN, HONG, MCGUIRE, B. MEYERS, MILROY, MOORE OMOKUNDE, L. MYERS, NEUBAUER, OHNSTAD, ORTIZ-VELEZ, POPE, RIEMER, S. RODRIGUEZ, SHANKLAND, SHELTON, SINICKI, SNODGRASS, SPREITZER, STUBBS, SUBECK, VINING and VRUWINK. Referred to Committee on Government Operations, Legal Review and Consumer Protection.

\*\*\*AUTHORS SUBJECT TO CHANGE\*\*\*

- 1     **AN ACT to amend** 609.205 (2) (intro.) and (a) and 609.205 (3) (intro.); and **to**  
2             **create** 609.205 (3m) of the statutes; **relating to:** out-of-network charges and  
3             payments related to health coverage during COVID-19 pandemic.

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### *Analysis by the Legislative Reference Bureau*

The bill prohibits, until the conclusion of a national emergency declared by the U.S. president in response to the 2019 novel coronavirus or June 30, 2021, whichever is earlier, a defined network plan, including a health maintenance organization, or preferred provider plan from requiring an enrollee of the plan to pay more for a service, treatment, or supply provided by an out-of-network provider than if the service, treatment, or supply is provided by an in-network provider. This prohibition applies to any service, treatment, or supply that is related to the diagnosis of or treatment for COVID-19 and that is provided by an out-of-network provider because a participating provider is unavailable due to the emergency. For a service, treatment, or supply provided under those circumstances, the bill requires the plan to reimburse the out-of-network provider at 225 percent of the federal Medicare program rate. Also, under those circumstances, any health care provider or facility that provides a service, treatment, or supply to an enrollee of a plan but is not a participating provider of that plan shall accept as payment in full any payment by a plan that is at least 225 percent of the federal Medicare program rate and may not charge the enrollee an amount that exceeds the amount that the provider or facility is reimbursed by the plan. Similar prohibitions and requirements to these were created in 2019 Wisconsin Act 185, but those prohibitions and requirements applied

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only during the state of emergency related to public health declared on March 12, 2020, by the governor and for 60 days following the termination of that state of emergency. The bill's prohibitions and requirements, however, do not apply to reimbursement of the administration of the COVID-19 vaccine.

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

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

1           **SECTION 1.** 609.205 (2) (intro.) and (a) of the statutes are amended to read:

2           609.205 **(2)** (intro.) All of the following apply to a defined network plan or  
3 preferred provider plan ~~during the state of emergency related to public health~~  
4 ~~declared under s. 323.10 on March 12, 2020, by executive order 72, and for the 60 days~~  
5 ~~following the date that the state of emergency terminates~~ until the conclusion of a  
6 national emergency declared by the U.S. president under 50 USC 1621 in response  
7 to the 2019 novel coronavirus or June 30, 2021, whichever is earlier:

8           (a) The plan may not require an enrollee to pay, including cost sharing, for a  
9 service, treatment, or supply provided by a provider that is not a participating  
10 provider in the plan's network of providers more than the enrollee would pay if the  
11 service, treatment, or supply is provided by a provider that is a participating  
12 provider. This subsection applies to any service, treatment, or supply that is related  
13 to diagnosis or treatment for COVID-19 and to any service, treatment, or supply that  
14 is provided by a provider that is not a participating provider because a participating  
15 provider is unavailable due to the ~~public health~~ emergency.

16           **SECTION 2.** 609.205 (3) (intro.) of the statutes is amended to read:

17           609.205 **(3)** (intro.) ~~During the state of emergency related to public health~~  
18 ~~declared under s. 323.10 on March 12, 2020, by executive order 72, and for the 60 days~~  
19 ~~following the date that the state of emergency terminates~~ Until the conclusion of a

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1 national emergency declared by the U.S. president under 50 USC 1621 in response  
2 to the 2019 novel coronavirus or June 30, 2021, whichever is earlier, all of the  
3 following apply to any health care provider or health care facility that provides a  
4 service, treatment, or supply to an enrollee of a defined network plan or preferred  
5 provider plan but is not a participating provider of that plan:

6 **SECTION 3.** 609.205 (3m) of the statutes is created to read:

7 609.205 **(3m)** This section does not apply to the reimbursement for  
8 administration of the vaccine against the SARS-CoV-2 coronavirus, which results  
9 in COVID-19. The reimbursement administration of the SARS-CoV-2 vaccine shall  
10 be consistent with Section 3203 of the federal Coronavirus Aid, Relief, and Economic  
11 Security Act and 45 CFR 147.130 (a).

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(END)