

ASSEMBLY BILL 40**HEALTH**

Under current law, DHS administers the Senior Care program, which provides assistance to the elderly in the purchase of prescription drugs. To be eligible for Senior Care, a person must be a resident of the state, be at least 65 years of age, not be a recipient of prescription drug coverage through MA, have a household income that does not exceed 240 percent of the federal poverty line, and pay a program enrollment fee. This bill adds as a requirement for eligibility for Senior Care that the person must apply for and, if eligible, enroll in Medicare Part D, which is a federal prescription drug assistance program.

Under current law, in certain counties, a person who meets certain functional and financial criteria and who is either a frail elder or an adult with a physical disability or a developmental disability is eligible for community-based services through Family Care, a medical assistance waiver program known as Family Care Partnership, the Program of All-Inclusive Care for the Elderly (PACE), or a self-directed supports options program (known as IRIS). In a county where Family Care, Family Care Partnership, PACE, or IRIS is available, this bill caps enrollment in an available program at the number of participants in that program on a specific date for the 2011-13 biennium. This bill also prohibits the expansion of Family Care to counties in which the program is not available on July 1, 2011, during the 2011-13 biennium, unless DHS determines that the expansion is cost-effective.

Under current law, DHS provides funding for family planning services, including maintaining a state plan for community-based family planning programs and specific annual grants. This bill eliminates this family planning services funding.

Under current law, DHS regulates various types of long-term care providers, including one- and two-bed adult family homes. This bill eliminates the requirement that DHS regulate one- and two-bed adult family homes and the requirement that DHS certify one- and two-bed adult family homes in order for these homes to provide services to a person who is a recipient of Family Care, a community-based long-term care MA waiver program, or supplemental security income.

Under current law, the fees that a health care provider may charge for copies of patient health care records are set by statute. This bill eliminates statutory fees for copies of patient health care records and requires that DHS promulgate rules to establish maximum fees that a health care provider may charge for copies of patient health care records under certain circumstances.

This bill authorizes DHS to set fees by administrative rule for testing infants for congenital disorders.

OTHER HEALTH AND HUMAN SERVICES

Under current law, a county with a population of less than 500,000 must establish a county department of social services and may establish a county department of human services. A county with a population of 500,000 or more must establish both a department of social services and a department of human services. Two or more counties that are contiguous and that each have a population of less than

ASSEMBLY BILL 40

SECTION 2645

1 of administration collects amounts due, it shall remit those amounts to the fund to
2 which they are due and notify the department of ~~commerce~~ safety and professional
3 services of that action.

4 SECTION 2646. 146.085 (3) of the statutes is amended to read:

5 146.085 (3) ENFORCEMENT. The department, the department of ~~commerce~~
6 safety and professional services, and the public service commission shall enforce this
7 section within their respective jurisdictions.

8 SECTION 2647. 146.40 (4r) (em) of the statutes is amended to read:

9 146.40 (4r) (em) If the department receives a report under par. (a) or (am) and
10 determines that an individual who is the subject of the report holds a credential that
11 is related to the individual's employment at, or contract with, the entity, the
12 department shall refer the report to the department of ~~regulation and licensing~~
13 safety and professional services.

14 SECTION 2648. 146.59 (2) (b) of the statutes is amended to read:

15 146.59 (2) (b) If a contractual services agreement is terminated under s. 233.04
16 (4m) (b), the University of Wisconsin Hospitals and Clinics Board may negotiate and
17 enter into a contractual services agreement with the University of Wisconsin
18 Hospitals and Clinics Authority or the ~~board of regents~~ Board of Trustees of the
19 University of ~~Wisconsin System~~ Wisconsin-Madison under s. 233.04 (4m) (b).

20 SECTION 2649. 146.83 (1c) (a) of the statutes is created to read:

21 146.83 (1c) (a) Inspect the health care records of a health care provider
22 pertaining to that patient at any time during regular business hours, upon
23 reasonable notice.

24 SECTION 2650. 146.83 (1c) (b) of the statutes is created to read:

ASSEMBLY BILL 40

SECTION 2650

1 146.83 (1c) (b) Receive a copy of the patient's health care records upon payment
2 of fees, as established by rule under sub. (3f).

3 **SECTION 2651.** 146.83 (1c) (c) of the statutes is created to read:

4 146.83 (1c) (c) Receive a copy of the health care provider's X-ray reports or
5 have the X-rays referred to another health care provider of the patient's choice upon
6 payment of fees, as established by rule under sub. (3f).

7 **SECTION 2652.** 146.83 (1d) of the statutes is renumbered 146.83 (1c) (intro.) and
8 amended to read:

9 146.83 (1c) (intro.) Except as provided in s. 51.30 or 146.82 (2), any patient or
10 person authorized by the patient may, upon submitting a statement of informed
11 consent, ~~inspect the health care records of a health care provider pertaining to that~~
12 ~~patient. Except as provided in sub. (1g), the health care provider shall make the~~
13 ~~records available for inspection by the patient or person authorized by the patient~~
14 ~~during regular business hours, after the health care provider receives notice from the~~
15 ~~patient or person authorized by the patient. A health care provider may not charge~~
16 ~~a fee for inspection under this subsection.~~

17 **SECTION 2653.** 146.83 (1f) (a) of the statutes is repealed.

18 **SECTION 2654.** 146.83 (1f) (b) of the statutes is repealed.

19 **SECTION 2655.** 146.83 (1f) (c) of the statutes is repealed.

20 **SECTION 2656.** 146.83 (1f) (d) 1. of the statutes is renumbered 146.83 (1f) (am)
21 and amended to read:

22 146.83 (1f) (am) If a patient or person authorized by the patient requests copies
23 of the patient's health care records under ~~this subsection~~ section for use in appealing
24 a denial of social security disability insurance, under 42 USC 401 to 433, or
25 supplemental security income, under 42 USC 1381 to 1385, the health care provider

ASSEMBLY BILL 40

SECTION 2656

1 may charge the patient or person authorized by the patient no more than the amount
2 that the federal social security administration reimburses the department for copies
3 of patient health care records.

4 **SECTION 2657.** 146.83 (1f) (d) 2. of the statutes is renumbered 146.83 (1f) (bm)
5 and amended to read:

6 146.83 (1f) (bm) Except as provided in sub. (1g), a health care provider may not
7 charge a fee for providing one set of copies of a patient's health care records under
8 this ~~subsection~~ section if the patient is eligible for medical assistance, as defined in
9 s. 49.43 (8). A health care provider may require that a patient or person authorized
10 by the patient provide proof that the patient is eligible for medical assistance before
11 providing copies under this subdivision without charge. A health care provider may
12 charge the fees ~~under par. (e) established by rule under sub. (1c)~~ for providing a 2nd
13 or additional set of copies of patient health care records for a patient who is eligible
14 for medical assistance.

15 **SECTION 2658.** 146.83 (1g) of the statutes is amended to read:

16 146.83 (1g) The time limit for making records available for inspection and for
17 providing copies of records under sub. (1d), ~~the time limits for providing copies of~~
18 ~~records under sub. (1f) (a) and (b), (1c) and the requirement under sub. (1f) (d) 2. (bm)~~
19 to provide one set of copies of records without charge if the patient is eligible for
20 medical assistance do not apply if the health care provider is the department or the
21 department of corrections.

22 **SECTION 2659.** 146.83 (1h) of the statutes is repealed.

23 **SECTION 2660.** 146.83 (1k) of the statutes is repealed.

24 **SECTION 2661.** 146.83 (1m) of the statutes is renumbered 146.83 (1m) (a).

25 **SECTION 2662.** 146.83 (1m) (b) of the statutes is created to read:

ASSEMBLY BILL 40

1 146.83 (1m) (b) The health care provider under par. (a) may be charged
2 reasonable costs for the provision of the patient's health care records.

3 **SECTION 2663.** 146.83 (3f) of the statutes is created to read:

4 146.83 (3f) (a) The department shall, by rule, prescribe fees that are based on
5 an approximation of actual costs. The fees, plus applicable tax, are the maximum
6 amount that a health care provider may charge under sub. (1c) (b) for duplicate
7 patient health care records and under sub. (1c) (c) for duplicate X-ray reports or the
8 referral of X-rays to another health care provider of the patient's choice. The rule
9 shall also permit the health care provider to charge for actual postage or other actual
10 delivery costs. In determining the approximation of actual costs for the purposes of
11 this subsection, the department may consider all of the following factors:

12 1. Operating expenses, such as wages, rent, utilities, and duplication
13 equipment and supplies.

14 2. The varying cost of retrieval of records, based on the different media on which
15 the records are maintained.

16 3. The cost of separating requested patient health care records from those that
17 are not requested.

18 4. The cost of duplicating requested patient health care records.

19 5. The impact on costs of advances in technology.

20 (b) By July 1, 2014, and every 3 years thereafter, the department shall revise
21 the rules under par. (a) to account for increases or decreases in actual costs.

22 **SECTION 2664.** 146.84 (2) (a) 1. of the statutes is amended to read:

23 146.84 (2) (a) 1. Requests or obtains confidential information under s. 146.82
24 or 146.83 ~~(1d), (1f), or (1h)~~ (1c) under false pretenses.

25 **SECTION 2665.** 150.31 (5m) of the statutes is amended to read:

ASSEMBLY BILL 40**SECTION 9121**

1 evidence that promulgating a rule under this subsection as an emergency rule is
2 necessary for the preservation of public peace, health, safety, or welfare and is not
3 required to provide a finding of emergency for a rule promulgated under this
4 subsection.

5 (10) PATIENT HEALTH CARE RECORDS FEES; RULES. Using the procedure under
6 section 227.24 of the statutes, the department of health services shall promulgate
7 rules required under sections 146.83 (3f) and 908.03 (6m) (e) of the statutes, as
8 created by this act, for the period before the effective date of the permanent rules
9 promulgated under sections 146.83 (3f) and 908.03 (6m) (e) of the statutes, as created
10 by this act, but not to exceed the period authorized under section 227.24 (1) (c),
11 subject to extension under section 227.24 (2) of the statutes. Notwithstanding
12 section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department of health services
13 is not required to provide evidence that promulgating a rule under this subsection
14 as an emergency rule is necessary for the preservation of public peace, health, safety,
15 or welfare and is not required to provide a finding of emergency for a rule
16 promulgated under this subsection.

17 (11) PRESCRIPTION DRUG ASSISTANCE FOR ELDERLY ELIGIBILITY. Notwithstanding
18 section 49.688 (2) of the statutes, as affected by this act, a person who is participating
19 in the program under section 49.688 of the statutes on the effective date of this
20 subsection is not required to comply with section 49.688 (2) (a) 6. of the statutes, as
21 created by this act, before January 1, 2012.

22 **SECTION 9122. Nonstatutory provisions; Higher Educational Aids**
23 **Board.**

24 **SECTION 9123. Nonstatutory provisions; Historical Society.**

ASSEMBLY BILL 40

SECTION 9321

1 (1) PAYMENT FOR SERVICES FOR RENAL DISEASE. The treatment of section 49.68 (3)
2 (b) and (e) of the statutes first applies to services that are provided on the effective
3 date of this subsection.

4 (2) FOOD STAMP TRANSFER; INCOME MAINTENANCE CONTRACTS. The treatment of
5 section 49.78 (1) (b) of the statutes first applies to contracts for the administration
6 of income maintenance programs in 2013.

7 (3) CONGENITAL TESTING FEES; RULES. The treatment of section 253.13 (2) of the
8 statutes first applies to tests specified under section 253.13 of the statutes that are
9 submitted to the state laboratory of hygiene on the effective date of this subsection.

10 (4) PATIENT HEALTH CARE RECORDS FEES; RULES. The treatment of sections 146.83
11 (1c) (a), (b), and (c), (1d), (1f) (a), (b), (c), and (d) 1. and 2., (1g), (1h), (1k), and (3f),
12 146.84 (2) (a) 1., and 908.03 (6m) (c) 3. and (e) of the statutes, the renumbering of
13 section 146.83 (1m) of the statutes, and the creation of section 146.83 (1m) (b) of the
14 statutes first apply to requests to inspect patient health care records and requests
15 for copies of patient health care records that are made on the effective date of this
16 subsection.

17 **SECTION 9322. Initial applicability; Higher Educational Aids Board.**

18 **SECTION 9323. Initial applicability; Historical Society.**

19 **SECTION 9324. Initial applicability; Housing and Economic**
20 **Development Authority.**

21 **SECTION 9325. Initial applicability; Insurance.**

22 (1) CONTRACEPTIVE COVERAGE. The treatment of sections 40.51 (8) and (8m),
23 66.0137 (4), 111.91 (2) (n), 120.13 (2) (g), 185.983 (1) (intro.), 609.805, and 632.895
24 (17) of the statutes first applies to all of the following:

ASSEMBLY BILL 40

1 (8), and (9) (a) 1., 49.793 (1), and 49.795 (1) (e) 1. and 2. of the statutes and SECTION
2 9121 (8) of this act take effect on January 1, 2013.

3 (5) CONGENITAL TESTING FEES; RULES. The treatment of section 253.13 (2) of the
4 statutes and SECTION 9321 (3) of this act take effect on the first day of the 4th month
5 beginning after publication.

6 (6) PATIENT HEALTH CARE RECORDS FEES; RULES. The treatment of sections 146.83
7 (1c) (a), (b), and (c), (1d), (1f) (a), (b), (c), and (d) 1. and 2., (1g), (1h), (1k), and (3f),
8 146.84 (2) (a) 1., and 908.03 (6m) (c) 3. and (e) of the statutes, the renumbering of
9 section 146.83 (1m) of the statutes, the creation of section 146.83 (1m) (b) of the
10 statutes, and SECTION 9321 (4) of this act take effect on the first day of the 4th month
11 beginning after publication.

12 (7) FAMILY PLANNING DEMONSTRATION PROJECT. The renumbering of section 49.45
13 (24r) (a) of the statutes and the repeal of section 49.45 (24r) (b) of the statutes take
14 effect on January 1, 2012.

15 **SECTION 9422. Effective dates; Higher Educational Aids Board.**

16 **SECTION 9423. Effective dates; Historical Society.**

17 **SECTION 9424. Effective dates; Housing and Economic Development**
18 **Authority.**

19 **SECTION 9425. Effective dates; Insurance.**

20 (1) CONTRACEPTIVE COVERAGE. The treatment of sections 40.51 (8) and (8m),
21 66.0137 (4), 111.91 (2) (n), 120.13 (2) (g), 185.983 (1) (intro.), 609.805, and 632.895
22 (17) of the statutes and SECTION 9325 (1) of this act take effect on the first day of the
23 4th month beginning after publication.

24 **SECTION 9426. Effective dates; Investment Board.**

25 **SECTION 9427. Effective dates; Joint Committee on Finance.**