State of Wisconsin
2011 – 2012 LEGISLATURE

LRB–3917/1
PJK:jld:ph

2011 BILL

AN ACT ***to repeal*** 49.475 (1) (ag) and 49.475 (1) (am); ***to amend*** 49.475 (title), 49.475 (1) (c) (intro.), 49.475 (1) (c) 2., 49.475 (1) (d), 49.475 (1) (f) (intro.), 49.475 (1) (f) 2. and 49.475 (1) (f) 3.; and ***to create*** 49.475 (1) (f) 5., 49.475 (1) (f) 6. and 49.475 (1) (f) 7. of the statutes; **relating to:** the provision of information regarding health care benefits provided to certain assistance program recipients.

Analysis by the Legislative Reference Bureau

Under current law, as a condition of doing business in this state, certain payers of health care benefits (called third parties) must provide to the Department of Health Services (DHS) information from their records to enable DHS to ascertain whether an individual, or his or her spouse or dependent, who has been or is a recipient under an assistance program, has received or is receiving health care coverage or benefits from a third party. The assistance programs for which DHS seeks information about recipients are the Medical Assistance (MA) program, including the Badger Care health care program, Family Care, Senior Care, the Well–Woman Program, and the program that provides financial assistance for the cost of medical care to persons with chronic kidney disease, cystic fibrosis, and hemophilia. The third parties may receive compensation for providing the information, must provide the information within certain deadlines, and may be subject to enforcement proceedings for noncompliance. The third parties must

accept assignment to DHS of a recipient's right to receive payment from the third party for a health care item or service for which payment under an assistance program has been made, as well as the right of DHS to recover any third−party payment made for which assignment had not been accepted, and may not deny a DHS claim on the basis of certain circumstances, if submitted less than 36 months after the health care item or service is provided and if action by DHS to enforce its rights is commenced less than 72 months after DHS submits the claim.

This bill makes modifications to the third parties that are required to provide information to DHS and from which DHS may recover payments for health care services provided to recipients. Under current law, a third party is defined as an insurer, an employee benefit plan, a service benefit plan, or a pharmacy benefits manager. A service benefit plan, which is a plan providing health care benefits to federal government employees, is defined by a reference to federal law. The bill corrects the federal law citation for the definition. An employee benefit plan is also defined by a reference to federal law. The bill changes the federal law citation so that government−provided health care plans, which are exempted under the current law definition, are included. The bill also changes the definition of a pharmacy benefits manager, which, under current law, includes a person that performs pharmacy benefits management functions with respect to prescription drug benefits that are provided by a nonprofit hospital, an employer, a labor union, or another organization. The bill redefines a pharmacy benefits manager simply as an entity that administers or manages prescription drug benefits provided by an insurer or other third party. Finally, the bill adds three other types of third parties: an issuer of a health insurance policy (called disability insurance policy in the statutes); a group health plan, which is a health care plan that provides medical services, directly or through insurance or reimbursement or otherwise, to employees, and specifically includes a self−insured plan; and an entity that administers benefits on behalf of another risk−bearing third party, including a third party administrator, a fiscal intermediary, or a managed care contractor.

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. 49.475 (title) of the statutes is amended to read:

49.475 (title) **Information about ~~medical~~ assistance program beneficiaries.**

SECTION 2. 49.475 (1) (ag) of the statutes is repealed.

SECTION 3. 49.475 (1) (am) of the statutes is repealed.

SECTION 4. 49.475 (1) (c) (intro.) of the statutes is amended to read:

49.475 **(1)** (c) (intro.) "Pharmacy benefits management" means the ~~procurement of prescription drugs at a negotiated rate for dispensation in this state to covered individuals; the~~ administration or management of prescription drug benefits provided by ~~a covered entity for the benefit of covered individuals; or~~ an insurer or other 3rd party, including the performance of any of the following services ~~provided in the administration of pharmacy benefits~~:

SECTION 5. 49.475 (1) (c) 2. of the statutes is amended to read:

49.475 **(1)** (c) 2. Claims processing, retail network management, ~~and~~ or payment of claims to pharmacies for prescription drugs dispensed to ~~covered~~ individuals.

SECTION 6. 49.475 (1) (d) of the statutes is amended to read:

49.475 **(1)** (d) "Pharmacy benefits manager" means ~~a person~~ an entity that performs pharmacy benefits management ~~functions~~.

SECTION 7. 49.475 (1) (f) (intro.) of the statutes is amended to read:

49.475 **(1)** (f) (intro.) "Third party" means an entity that by statute, rule, ~~or~~ contract, or agreement is responsible for payment of a claim for a health care item or service~~. "Third party" includes all~~, including any of the following:

SECTION 8. 49.475 (1) (f) 2. of the statutes is amended to read:

49.475 **(1)** (f) 2. An employee benefit plan ~~described~~, as defined in 29 USC ~~1003 (a) that is not exempt under 29 USC 1003 (b) and is not a multiple employer welfare arrangement~~ 1002 (3).

SECTION 9. 49.475 (1) (f) 3. of the statutes is amended to read:

49.475 **(1)** (f) 3. A service benefit plan, as ~~specified in 42 USC 1396a (25) (I)~~ defined in 5 USC 8903 (1).

SECTION 10. 49.475 (1) (f) 5. of the statutes is created to read:

49.475 **(1)** (f) 5. A group health plan, as defined in 29 USC 1191b (a) (1), including a self−insured plan.

SECTION 11. 49.475 (1) (f) 6. of the statutes is created to read:

49.475 **(1)** (f) 6. The issuer of a disability insurance policy.

SECTION 12. 49.475 (1) (f) 7. of the statutes is created to read:

49.475 **(1)** (f) 7. An entity that administers benefits on behalf of another risk−bearing 3rd party, including a 3rd party administrator, a fiscal intermediary, or a managed care contractor.

(END)