



## 2007 ASSEMBLY BILL 24

January 24, 2007 - Introduced by Representatives HUBLER, BOYLE, MOLEPSKE, GRONEMUS, BERCEAU, ZIEGELBAUER, SHERMAN, ALBERS, STASKUNAS, MUSSER, BLACK, POCAN, SHERIDAN, HAHN, VRUWINK, TRAVIS, NELSON, SEIDEL, JORGENSEN, GARTHWAITE, HILGENBERG, SMITH, HRAYCHUCK, SHILLING, FIELDS, GUNDERSON and HEBL, cosponsored by Senators VINEHOUT, JAUCH, HARSDORF, MILLER, SCHULTZ, HANSEN and LASSA. Referred to Committee on Health and Healthcare Reform.

1     **AN ACT to repeal** 49.46 (1) (L); **to renumber and amend** 49.47 (4) (h); **to amend**  
2           49.46 (1) (a) 1., 49.46 (1) (a) 1g., 49.46 (1) (a) 1m., 49.46 (1) (a) 6., 49.46 (1) (a)  
3           9., 49.46 (1) (a) 10., 49.46 (1) (a) 11., 49.46 (1) (a) 12., 49.46 (1) (am) 1. a., 49.46  
4           (1) (am) 1. b., 49.46 (1) (e), 49.47 (4) (am) 1., 49.47 (4) (am) 2., 49.47 (4) (c) 1.,  
5           49.47 (4) (c) 3., 49.47 (4) (j), 49.665 (4) (a) 1., 49.665 (4) (am) 1. and 49.665 (4)  
6           (ap) 1.; and **to create** 49.46 (1) (ar), 49.47 (4) (cg) 3. and 49.665 (4) (e) of the  
7           statutes; **relating to:** exempting amounts claimed for depreciation for  
8           purposes of calculating farm and self-employment income under the Medical  
9           Assistance and Badger Care health care programs.

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### ***Analysis by the Legislative Reference Bureau***

Under current law, the Department of Health and Family Services (DHFS) administers the Medical Assistance (MA) program and the Badger Care health care (BadgerCare) program.

Under the AFDC-related and Healthy Start eligibility categories of MA, DHFS provides health care services and benefits, generally, to individuals who meet the nonfinancial and financial requirements for the federal Aid to Families with Dependent Children (AFDC) program that were in effect on July 16, 1996, to

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low-income children and pregnant women, and to children and pregnant women whose family incomes have been reduced to eligible levels on account of medical expenses.

BadgerCare provides health care coverage to eligible low-income children who do not reside with a parent and to eligible low-income families, and provides prenatal care to unborn children whose mothers meet financial and other eligibility criteria but who are not otherwise eligible for BadgerCare or MA. Under BadgerCare, a child, family, or unborn child meets financial eligibility criteria if the income of the child, family, or unborn child's mother, mother and spouse, or mother's family does not exceed 185 percent of the poverty line.

Currently, in calculating an individual's income for purposes of MA or BadgerCare eligibility, if the individual has farm or self-employment income, DHFS calculates the amount of that income by adding to the amount of the individual's net taxable income any amount that the individual claimed for depreciation. This bill prohibits DHFS from adding any amounts claimed for depreciation to an individual's net taxable farm or self-employment income for purposes of determining whether an individual meets the income limits for BadgerCare or for MA under the AFDC-related or Healthy Start eligibility categories.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 49.46 (1) (a) 1. of the statutes is amended to read:

2           49.46 (1) (a) 1. Notwithstanding s. 49.19 (20), any individual who, without  
3 regard to the individual's resources and subject to par. (ar), would qualify for a grant  
4 of aid to families with dependent children under s. 49.19.

5           **SECTION 2.** 49.46 (1) (a) 1g. of the statutes is amended to read:

6           49.46 (1) (a) 1g. Notwithstanding s. 49.19 (20), any individual who, without  
7 regard to the individual's resources and subject to par. (ar), would qualify for a grant  
8 of aid to families with dependent children but who would not receive the aid solely  
9 because of the application of s. 49.19 (11) (a) 7.

10           **SECTION 3.** 49.46 (1) (a) 1m. of the statutes is amended to read:

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1           49.46 (1) (a) 1m. Any pregnant woman whose income, determined in  
2 accordance with par. (ar), does not exceed the standard of need under s. 49.19 (11)  
3 and whose pregnancy is medically verified. Eligibility continues to the last day of  
4 the month in which the 60th day after the last day of the pregnancy falls.

5           **SECTION 4.** 49.46 (1) (a) 6. of the statutes is amended to read:

6           49.46 (1) (a) 6. Any person not described in pars. (c) to (e) who, without regard  
7 to the individual's resources and subject to par. (ar), would be considered, under  
8 federal law, to be receiving aid to families with dependent children for the purpose  
9 of determining eligibility for medical assistance.

10          **SECTION 5.** 49.46 (1) (a) 9. of the statutes is amended to read:

11          49.46 (1) (a) 9. Any pregnant woman not described under subd. 1., 1g., or 1m.  
12 whose family income, determined in accordance with par. (ar), does not exceed ~~133%~~  
13 133 percent of the poverty line for a family the size of the woman's family.

14          **SECTION 6.** 49.46 (1) (a) 10. of the statutes is amended to read:

15          49.46 (1) (a) 10. Any child not described under subd. 1. or 1g. who is under 6  
16 years of age and whose family income, determined in accordance with par. (ar), does  
17 not exceed ~~133%~~ 133 percent of the poverty line for a family the size of the child's  
18 family.

19          **SECTION 7.** 49.46 (1) (a) 11. of the statutes is amended to read:

20          49.46 (1) (a) 11. If a waiver under s. 49.665 is granted and in effect, any child  
21 not described under subd. 1. or 1g. who has attained the age of 6 but has not attained  
22 the age of 19 and whose family income, determined in accordance with par. (ar), does  
23 not exceed ~~100%~~ 100 percent of the poverty line for a family the size of the child's  
24 family. If a waiver under s. 49.665 is not granted or in effect, any child not described  
25 in subd. 1. or 1g. who was born after September 30, 1983, who has attained the age

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1 of 6 but has not attained the age of 19 and whose family income, determined in  
2 accordance with par. (ar), does not exceed ~~100%~~ 100 percent of the poverty line for  
3 a family the size of the child's family.

4 **SECTION 8.** 49.46 (1) (a) 12. of the statutes is amended to read:

5 49.46 (1) (a) 12. Any child not described under subd. 1. or 1g. who is under 19  
6 years of age and whose income, determined in accordance with par. (ar), does not  
7 exceed the standard of need under s. 49.19 (11).

8 **SECTION 9.** 49.46 (1) (am) 1. a. of the statutes is amended to read:

9 49.46 (1) (am) 1. a. A pregnant woman whose family income, determined in  
10 accordance with par. (ar) and before any income is disregarded under this paragraph,  
11 does not exceed, ~~in state fiscal year 1994-95, 155%~~ of the poverty line for a family the  
12 ~~size of the woman's family;~~ and, in each state fiscal year after the 1994-95 state fiscal  
13 ~~year, 185%,~~ 185 percent of the poverty line for a family the size of the woman's family.

14 **SECTION 10.** 49.46 (1) (am) 1. b. of the statutes is amended to read:

15 49.46 (1) (am) 1. b. A child who is under 6 years of age and whose family income,  
16 determined in accordance with par. (ar) and before any income is disregarded under  
17 this paragraph, does not exceed, ~~in state fiscal year 1994-95, 155%~~ of the poverty line  
18 ~~for a family the size of the child's family;~~ and, in each state fiscal year after the  
19 ~~1994-95 state fiscal year, 185%,~~ 185 percent of the poverty line for a family the size  
20 of the child's family.

21 **SECTION 11.** 49.46 (1) (ar) of the statutes is created to read:

22 49.46 (1) (ar) 1. Except as provided in subd. 2. and except to the extent that the  
23 determination is inconsistent with 42 USC 1396a (a) (17), for purposes of  
24 determining under par. (a) 1., 1g., or 6. whether an individual would qualify for a  
25 grant of aid to families with dependent children under s. 49.19 or would be

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1 considered, under federal law, to be receiving aid to families with dependent  
2 children, or of determining whether an individual meets the income limits under par.  
3 (a) 1m., 9., 10., 11., or 12., “income” includes income that would be included in  
4 determining eligibility for aid to families with dependent children under s. 49.19 and  
5 excludes income that would be excluded in determining eligibility for aid to families  
6 with dependent children under s. 49.19.

7 2. Notwithstanding s. 49.19 (5), for purposes of determining under par. (a) 1.,  
8 1g., or 6. whether an individual would qualify for a grant of aid to families with  
9 dependent children under s. 49.19 or would be considered, under federal law, to be  
10 receiving aid to families with dependent children, or of determining whether an  
11 individual meets the income limits under par. (a) 1m., 9., 10., 11., or 12., (am), or (e),  
12 the department shall exclude from the calculation of farm or self-employment  
13 income any amounts claimed for depreciation for income tax purposes.

14 **SECTION 12.** 49.46 (1) (e) of the statutes is amended to read:

15 49.46 (1) (e) If an application under s. 49.47 (3) shows that the individual  
16 individual’s income, determined in accordance with par. (ar), meets the income limits  
17 under s. 49.19, or that the individual meets the income and resource requirements  
18 under federal Title XVI or s. 49.77, or ~~that the individual~~ is an essential person, an  
19 accommodated person, or a patient in a public medical institution, the individual  
20 shall be granted the benefits enumerated under sub. (2) whether or not the  
21 individual requests or receives a grant of any of such aids.

22 **SECTION 13.** 49.46 (1) (L) of the statutes is repealed.

23 **SECTION 14.** 49.47 (4) (am) 1. of the statutes is amended to read:

24 49.47 (4) (am) 1. A pregnant woman whose family income, determined in  
25 accordance with par. (cg), does not exceed ~~155%~~ 155 percent of the poverty line for

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1 a family the size of the woman’s family, except that, if a waiver under par. (j) or a  
2 change in the approved state plan under s. 49.46 (1) (am) 2. is in effect, the income  
3 limit is ~~185%~~ 185 percent of the poverty line for a family the size of the woman’s  
4 family in each state fiscal year ~~after the 1994–95 state fiscal year.~~

5 **SECTION 15.** 49.47 (4) (am) 2. of the statutes is amended to read:

6 49.47 (4) (am) 2. A child who is under 6 years of age and whose family income,  
7 determined in accordance with par. (cg), does not exceed ~~155%~~ 155 percent of the  
8 poverty line for a family the size of the child’s family, except that, if a waiver under  
9 par. (j) or a change in the approved state plan under s. 49.46 (1) (am) 2. is in effect,  
10 the income limit is ~~185%~~ 185 percent of the poverty line for a family the size of the  
11 child’s family in each state fiscal year ~~after the 1994–95 state fiscal year.~~

12 **SECTION 16.** 49.47 (4) (c) 1. of the statutes is amended to read:

13 49.47 (4) (c) 1. Except as provided in par. (am) and as limited by subd. 3.,  
14 eligibility exists if income, determined in accordance with par. (cg), does not exceed  
15 ~~133 1/3%~~ 133 1/3 percent of the maximum aid to families with dependent children  
16 payment under s. 49.19 (11) for the applicant’s family size or the combined benefit  
17 amount available under supplemental security income under 42 USC 1381 to 1383c  
18 and state supplemental aid under s. 49.77, whichever is higher. ~~In this subdivision~~

19 (cg) 1. Except as provided in subd. 3., for purposes of determining whether an  
20 individual’s income meets the income requirements under par. (c), “income” includes  
21 earned or unearned income that would be included in determining eligibility for the  
22 individual or family under s. 49.19 or 49.77, or for the aged, blind, or disabled under  
23 42 USC 1381 to 1385. ~~“Income” does not include and excludes~~ earned or unearned  
24 income ~~which~~ that would be excluded in determining eligibility for the individual or

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1 family under s. 49.19 or 49.77, or for the aged, blind, or disabled individual under 42  
2 USC 1381 to 1385.

3 **SECTION 17.** 49.47 (4) (c) 3. of the statutes is amended to read:

4 49.47 (4) (c) 3. Except as provided in par. (am), no person is eligible for medical  
5 assistance under this section if the person's income, determined in accordance with  
6 par. (cg), exceeds the maximum income levels that the U.S. department of health and  
7 human services sets for federal financial participation under 42 USC 1396b (f).

8 **SECTION 18.** 49.47 (4) (cg) 3. of the statutes is created to read:

9 49.47 (4) (cg) 3. Notwithstanding s. 49.19 (5), for purposes of determining  
10 whether an individual under par. (ag) or (am) is eligible for medical assistance, the  
11 department shall exclude from the calculation of farm or self-employment income  
12 any amounts claimed for depreciation for income tax purposes.

13 **SECTION 19.** 49.47 (4) (h) of the statutes is renumbered 49.47 (4) (cg) 2. and  
14 amended to read:

15 49.47 (4) (cg) 2. ~~For the~~ Except as provided in subd. 3., for purposes of  
16 determining whether an individual meets the income limits under par. (am),  
17 "income" includes income that would be used included in determining eligibility for  
18 aid to families with dependent children under s. 49.19 and excludes income that  
19 would be excluded in determining eligibility for aid to families with dependent  
20 children under s. 49.19.

21 **SECTION 20.** 49.47 (4) (j) of the statutes is amended to read:

22 49.47 (4) (j) If the change in the approved state plan under s. 49.46 (1) (am) 2.  
23 is denied, the department shall request a waiver from the secretary of the federal  
24 department of health and human services to allow the use of federal matching funds  
25 to provide ~~medical assistance~~ Medical Assistance coverage under par. (am) 1. and 2.

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1 to individuals whose family incomes, determined in accordance with par. (cg), do not  
2 exceed ~~185%~~ 185 percent of the poverty line in each state fiscal year ~~after the 1994-95~~  
3 ~~state fiscal year.~~

4 **SECTION 21.** 49.665 (4) (a) 1. of the statutes is amended to read:

5 49.665 (4) (a) 1. The family's income does not exceed ~~185%~~ 185 percent of the  
6 poverty line, except as provided in par. (at) and except that a family that is already  
7 receiving health care coverage under this section may have an income that does not  
8 exceed ~~200%~~ 200 percent of the poverty line. ~~The Subject to par. (e), the~~ department  
9 shall establish by rule the criteria to be used to determine income.

10 **SECTION 22.** 49.665 (4) (am) 1. of the statutes is amended to read:

11 49.665 (4) (am) 1. The child's income does not exceed ~~185%~~ 185 percent of the  
12 poverty line, except as provided in par. (at) and except that a child ~~that~~ who is already  
13 receiving health care coverage under this section may have an income that does not  
14 exceed ~~200%~~ 200 percent of the poverty line. The department shall use the criteria  
15 established under par. (a) 1., subject to par. (e), to determine income under this  
16 subdivision.

17 **SECTION 23.** 49.665 (4) (ap) 1. of the statutes is amended to read:

18 49.665 (4) (ap) 1. The income of the unborn child's mother, mother and her  
19 spouse, or mother and her family, whichever is applicable, does not exceed 185  
20 percent of the poverty line, except as provided in par. (at) and except that, if an  
21 unborn child is already receiving health care coverage under this section, the  
22 applicable specified person or persons may have an income that does not exceed 200  
23 percent of the poverty line. ~~The Subject to par. (e), the~~ department shall establish  
24 by rule the criteria to be used to determine income.

25 **SECTION 24.** 49.665 (4) (e) of the statutes is created to read:



