



2013 ASSEMBLY BILL 311

August 23, 2013 – Introduced by Representatives RICHARDS, RIEMER, YOUNG, PASCH, KOLSTE, BEWLEY, JOHNSON, BERNARD SCHABER, SHANKLAND, MASON, SINICKI, BERCEAU, ZEPNICK, WRIGHT, SMITH, DOYLE, C. TAYLOR, KAHL, JORGENSEN, OHNSTAD, BARNES, HEBL, RINGHAND, VRUWINK, MILROY, SARGENT, BILLINGS and BARCA, cosponsored by Senators RISSER and T. CULLEN. Referred to Joint Committee on Finance.

1 **AN ACT to amend** 49.45 (23) (a), 49.46 (1) (cr), 49.471 (4) (a) 4. b. and 49.471 (10)
2 (b) 5.; **to repeal and recreate** 49.45 (23) (a), 49.46 (1) (cr) and 49.471 (10) (b)
3 5.; and **to create** 49.471 (1) (cr) and 49.471 (4g) of the statutes; **relating to:**
4 Medicaid expansion, eligibility, and other changes to BadgerCare Plus, and
5 making appropriations.

Analysis by the Legislative Reference Bureau

Currently, the Department of Health Services (DHS) administers the Medical Assistance (MA) program, which is a joint federal and state program that provides health services to individuals who have limited financial resources. Some services are provided through programs that operate under a waiver of federal Medicaid laws, including services provided through the BadgerCare Plus (BC+) and BadgerCare Plus Core (BC+ Core) programs.

Under current law, certain parents and caretaker relatives with incomes of not more than 200 percent of the federal poverty line (FPL) are eligible for BC+ benefits. Beginning on January 1, 2014, the income eligibility level for parents and caretaker relatives is 100 percent of the FPL before a 5 percent income disregard is applied. Under current law, adults who are under age 65, who have a family income that does not exceed 200 percent of the FPL and who are not otherwise eligible for MA, including BC+, are eligible for benefits under BC+ Core. Beginning January 1, 2014, only those individuals whose family incomes do not exceed 100 percent of the FPL, before a 5 percent income disregard is applied, are eligible for BC+ Core. Also,

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beginning on January 1, 2014, DHS is not limited to providing only basic primary and preventive care coverage to recipients of BC+ Core benefits. The biennial budget, 2013 Wisconsin Act 20, creates a procedure requiring DHS to maintain current income eligibility levels for a certain period for parents and caretaker relatives enrolled in BC+ and for individuals receiving BC+ Core benefits if DHS has not received certification of an American health benefit exchange, if federal law requires such certification.

This bill changes the family income eligibility level on January 1, 2014, to up to 133 percent of the FPL for parents and caretaker relatives under BC+ and for individuals under BC+ Core. The federal Patient Protection and Affordable Care Act allows a state to receive an enhanced federal medical assistance percentage (FMAP) payment for providing benefits to certain individuals through a state's MA program. The bill requires DHS to comply with all federal requirements and to request any amendment to the state MA plan, waiver of Medicaid law, or other federal approval necessary to qualify for the highest available enhanced FMAP for parents and caretaker relatives and individuals eligible for BC+ Core (collectively nonpregnant, nonelderly adults). If DHS does not qualify for the enhanced FMAP or if the FMAP is reduced, DHS is required to submit to the Joint Committee on Finance (JCF) a fiscal analysis comparing the cost of covering nonpregnant, nonelderly adults under the MA program at up to 133 percent of the FPL to the cost of reducing income eligibility to those adults to up to 100 percent of the FPL. DHS may reduce income eligibility levels for nonpregnant, nonelderly adults to up to 100 percent of the FPL only if JCF approves.

Under current law, certain individuals are eligible for transitional MA benefits. Current law allows DHS to charge a premium to a recipient of continued transitional MA benefits whose income exceeds 100 percent of the FPL if the federal Department of Health and Human Services (federal DHHS) allows. This bill eliminates the ability for DHS to charge a premium to individuals receiving continued transitional MA benefits.

Before the effective date of 2013 Wisconsin Act 20, a child whose premium for BC+ is unpaid is not eligible for BC+ for six months except for any month the child's family income does not exceed 150 percent of the FPL. Under current law, under 2013 Wisconsin Act 20, the ineligibility period for a child for nonpayment of a BC+ premium is three months, or up to 12 months if the federal DHHS approves, except for any month in which the child's family income does not exceed 150 percent of the FPL. That ineligibility period does not apply to a child who has paid the outstanding premiums. This bill returns the ineligibility period for nonpayment of BC+ premiums for a child to six months, except for any month in which the child's family income does not exceed 150 percent of the FPL. Under the bill, DHS is no longer allowed to apply an ineligibility period of longer than six months with federal DHHS approval.

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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 (23) (a) of the statutes, as affected by 2013 Wisconsin Act 20,
2 section 1046, is amended to read:

3 49.45 **(23)** (a) The department shall request a waiver from the secretary of the
4 federal department of health and human services to permit the department to
5 conduct a demonstration project to provide health care coverage to adults who are
6 under the age of 65, who have family incomes not to exceed ~~100~~ 133 percent of the
7 poverty line ~~before application of the 5 percent income disregard under 42 CFR~~
8 ~~435.603 (d) and~~, except as provided in s. 49.471 (4g) and (4m), and who are not
9 otherwise eligible for medical assistance under this subchapter, the Badger Care
10 health care program under s. 49.665, or Medicare under 42 USC 1395 et seq. If the
11 department creates a policy under sub. (2m) (c) 10., this paragraph does not apply
12 to the extent that it conflicts with the policy.

13 **SECTION 2.** 49.45 (23) (a) of the statutes, as affected by 2011 Wisconsin Act 32,
14 2013 Wisconsin Act 20, section 1047, and 2013 Wisconsin Act (this act), is repealed
15 and recreated to read:

16 49.45 **(23)** (a) The department shall request a waiver from the secretary of the
17 federal department of health and human services to permit the department to
18 conduct a demonstration project to provide health care coverage to adults who are
19 under the age of 65, who have family incomes not to exceed 133 percent of the poverty
20 line, except as provided in s. 49.471 (4g) and (4m), and who are not otherwise eligible

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1 for medical assistance under this subchapter, the Badger Care health care program
2 under s. 49.665, or Medicare under 42 USC 1395 et seq.

3 **SECTION 3.** 49.46 (1) (cr) of the statutes, as affected by 2013 Wisconsin Act 20,
4 section 1076, is amended to read:

5 49.46 (1) (cr) To the extent approved by the federal department of health and
6 human services, an individual or family described in par. (c), (cg), or (co) is not eligible
7 for Medical Assistance if the federal department of health and human services
8 approves a request from the department to deny all or some transitional Medical
9 Assistance benefits to that individual or family, if approval is required. The
10 department shall allow individuals who are receiving transitional Medical
11 Assistance benefits on December 31, 2013, to continue to receive those benefits until
12 their 12-month period ends, if required under federal law. ~~If the federal department~~
13 ~~of health and human services approves the department's request to charge a~~
14 ~~premium to recipients of continued transitional Medical Assistance benefits, the~~
15 ~~department may charge a premium to any recipient of continued transitional~~
16 ~~Medical Assistance benefits whose income exceeds 100 percent of the poverty line.~~

17 **SECTION 4.** 49.46 (1) (cr) of the statutes, as affected by 2013 Wisconsin Act 20,
18 section 1076b, and 2013 Wisconsin Act ... (this act), is repealed and recreated to read:

19 49.46 (1) (cr) To the extent approved by the federal department of health and
20 human services, an individual or family described in par. (c) or (cg) is not eligible for
21 Medical Assistance if the federal department of health and human services approves
22 a request from the department to deny all or some transitional Medical Assistance
23 benefits to that individual or family, if approval is required. The department shall
24 allow individuals who are receiving transitional Medical Assistance benefits on

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1 December 31, 2013, to continue to receive those benefits until their 12-month period
2 ends, if required under federal law.

3 **SECTION 5.** 49.471 (1) (cr) of the statutes is created to read:

4 49.471 (1) (cr) "Enhanced federal medical assistance percentage" means a
5 federal medical assistance percentage described under 42 USC 1396d (y) or (z).

6 **SECTION 6.** 49.471 (4) (a) 4. b. of the statutes, as affected by 2013 Wisconsin Act
7 20, section 1097, is amended to read:

8 49.471 (4) (a) 4. b. Except as provided in ~~sub.~~ subs. (4g) and (4m), the
9 individual's family income does not exceed ~~100~~ 133 percent of the poverty line ~~before~~
10 ~~application of the 5 percent income disregard under 42 CFR 435.603 (d).~~

11 **SECTION 7.** 49.471 (4g) of the statutes is created to read:

12 49.471 (4g) MEDICAID EXPANSION FEDERAL MEDICAL ASSISTANCE PERCENTAGE. (a)
13 For services provided to individuals described under sub. (4) (a) 4. and s. 49.45 (23),
14 the department shall comply with all federal requirements to qualify for the highest
15 available enhanced federal medical assistance percentage. The department shall
16 submit any amendment to the state medical assistance plan, request for a waiver of
17 federal Medicaid law, or other approval required by the federal government to
18 provide services to the individuals described under sub. (4) (a) 4. and s. 49.45 (23) and
19 qualify for the highest available enhanced federal medical assistance percentage.

20 (b) If the department does not qualify for an enhanced federal medical
21 assistance percentage, or if the enhanced federal medical assistance percentage
22 obtained by the department is lower than printed in federal law as of July 1, 2013,
23 for individuals eligible under sub. (4) (a) 4. or s. 49.45 (23) the department shall
24 submit to the joint committee on finance a fiscal analysis comparing the cost to
25 maintain coverage for adults who are not pregnant and not elderly at up to 133

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1 percent of the poverty line to the cost of reducing eligibility to those adults with
2 family incomes up to 100 percent of the poverty line. The department may reduce
3 income eligibility for adults who are not pregnant and not elderly from up to 133
4 percent of the poverty line to up to 100 percent of the poverty line only if this
5 reduction in income eligibility levels is approved by the joint committee on finance.

6 **SECTION 8.** 49.471 (10) (b) 5. of the statutes, as affected by 2013 Wisconsin Act
7 20, section 1151, is amended to read:

8 49.471 (10) (b) 5. If a recipient who is required to pay a premium under this
9 paragraph or under sub. (2m) or (4) (c) either does not pay a premium when due or
10 requests that his or her coverage under this section be terminated, the recipient's
11 coverage terminates. If the recipient is an adult, the recipient is not eligible for
12 BadgerCare Plus for 12 consecutive calendar months following the date on which the
13 recipient's coverage terminated, except for any month during that 12-month period
14 when the recipient's family income does not exceed 133 percent of the poverty line.
15 If the recipient is a child, the recipient is not eligible for BadgerCare Plus for 3 6
16 consecutive calendar months, ~~or up to 12 consecutive calendar months if the federal~~
17 ~~department of health and human services approves~~, following the date on which the
18 recipient's coverage terminated, except for any month during that period when the
19 recipient's family income does not exceed 150 percent of the poverty line. This period
20 of ineligibility for a child does not apply to any child who has paid the outstanding
21 premiums.

22 **SECTION 9.** 49.471 (10) (b) 5. of the statutes, as affected by 2013 Wisconsin Act
23 20, section 1152, and 2013 Wisconsin Act (this act), is repealed and recreated to
24 read:

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1 49.471 (10) (b) 5. If a recipient who is required to pay a premium under this
2 paragraph or under sub. (2m) either does not pay a premium when due or requests
3 that his or her coverage under this section be terminated, the recipient's coverage
4 terminates. If the recipient is an adult, the recipient is not eligible for BadgerCare
5 Plus for 12 consecutive calendar months following the date on which the recipient's
6 coverage terminated, except for any month during that 12-month period when the
7 recipient's family income does not exceed 133 percent of the poverty line. If the
8 recipient is a child, the recipient is not eligible for BadgerCare Plus for 6 consecutive
9 calendar months following the date on which the recipient's coverage terminated,
10 except for any month during that period when the recipient's family income does not
11 exceed 150 percent of the poverty line. This period of ineligibility for a child does not
12 apply to any child who has paid the outstanding premiums.

SECTION 10. Fiscal changes.

13 (1) In the schedule under section 20.005 (3) of the statutes for the appropriation
14 to the department of health services under section 20.435 (4) (a) of the statutes, as
15 affected by the acts of 2013, the dollar amount is increased by \$171,000 for the first
16 fiscal year of the fiscal biennium in which this subsection takes effect to pay
17 administrative costs of providing Medical Assistance benefits to certain adults with
18 incomes up to 133 percent of the poverty line. In the schedule under section 20.005
19 (3) of the statutes for the appropriation to the department of health services under
20 section 20.435 (4) (a) of the statutes, as affected by the acts of 2013, the dollar amount
21 is increased by \$491,600 for the second fiscal year of the fiscal biennium in which this
22 subsection takes effect to pay administrative costs of providing Medical Assistance
23 benefits to certain adults with incomes up to 133 percent of the poverty line.
24

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1 (2) In the schedule under section 20.005 (3) of the statutes for the appropriation
2 to the department of health services under section 20.435 (4) (b) of the statutes, as
3 affected by the acts of 2013, the dollar amount is decreased by \$25,894,300 for the
4 first fiscal year of the fiscal biennium in which this subsection takes effect to provide
5 Medical Assistance benefits to certain adults with incomes up to 133 percent of the
6 poverty line. In the schedule under section 20.005 (3) of the statutes for the
7 appropriation to the department of health services under section 20.435 (4) (b) of the
8 statutes, as affected by the acts of 2013, the dollar amount is decreased by
9 \$91,760,000 for the second fiscal year of the fiscal biennium in which this subsection
10 takes effect to provide Medical Assistance benefits to certain adults with incomes up
11 to 133 percent of the poverty line.

12 (3) In the schedule under section 20.005 (3) of the statutes for the appropriation
13 to the department of health services under section 20.435 (4) (bn) of the statutes, as
14 affected by the acts of 2013, the dollar amount is increased by \$315,600 for the first
15 fiscal year of the fiscal biennium in which this subsection takes effect to pay
16 administrative costs of providing Medical Assistance benefits to certain adults with
17 incomes up to 133 percent of the poverty line. In the schedule under section 20.005
18 (3) of the statutes for the appropriation to the department of health services under
19 section 20.435 (4) (bn) of the statutes, as affected by the acts of 2013, the dollar
20 amount is increased by \$1,110,700 for the second fiscal year of the fiscal biennium
21 in which this subsection takes effect to pay administrative costs of providing Medical
22 Assistance benefits to certain adults with incomes up to 133 percent of the poverty
23 line.

24 **SECTION 11. Effective dates.** This act takes effect on the day after publication,
25 except as follows:

