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State of Wisconsin
Department of Health and Family Services

Tommy G. Thompson, Governor
Joe Leean, Secretary

July 11, 2000

The Honorable Judy Robson, Co-Chairperson
Joint Committee for Review of Administrative Rules
Room 15 South, State Capitol
P.O. Box 7882
Madison, Wisconsin 53707-7882

Dear Senator Robson:

The Department of Health and Family Services has an emergency rulemaking order in effect that will expire before the emergency rules are replaced by permanent rules unless the effective period of the emergency order is extended. Pursuant to s. 227.24 (2), Stats., I ask the Joint Committee to extend the effective period of the emergency orders by 60 days as indicated below. The emergency rules are as follows:

MA Purchase Plan. The emergency rulemaking order amending and creating Medical Assistance rules for what is known as the "MA Purchase Plan" was published and effective on March 15, 2000, and **will expire on August 15, 2000**, unless extended. The Department's rulemaking order created rules specifying the manner in which a new program called the Medicaid Purchase Plan, established under s. 49.472, Stats., as created by 1999 Wisconsin Act 9, operates. Under the Medicaid Purchase Plan, working adults with disabilities whose family net income is less than 250% of the poverty line are eligible to purchase Medicaid, the name given to Medical Assistance in Wisconsin, on a sliding-fee scale. The order incorporates the rules for operation of the Medicaid Purchase Plan into chs. HFS 101 to 103 and 108, four of the Department's chapters of rules for operation of the Medical Assistance program.

As stated in the emergency rulemaking order, the Medicaid Purchase Plan is projected to provide health care coverage to 1,200 Wisconsin residents with disabilities by the end of Fiscal Year 2001. To date, 150 persons receive health care coverage under the Plan.

Health care coverage under the Medicaid Purchase Plan is identical to the comprehensive package of services provided by Medical Assistance. Individuals enrolled in the Medicaid Purchase Plan would also be eligible for Wisconsin's home and community-based waivers under s. 46.27, Stats., provided they meet the functional criteria for these waivers.

Department rules for the operation of the Medicaid Purchase Plan had to be in effect before the Medicaid Purchase Plan could begin. The program statute, s. 49.472, Stats., as created by Act 9, effective October 27, 1999, states that the Department is to implement the Medical Assistance eligibility expansion no later than January 1, 2000, or 3 months after full federal approval, whichever was later. The Department received full federal approval on January 7, 2000. The Department published the rules by emergency order with an effective date of March 15, 2000 to meet the legislative intent in order to provide health care coverage as quickly as possible to working people with disabilities.

The emergency rules:

- provide more specificity than s. 49.472, Stats., as created by Act 9, regarding the non-financial and financial conditions of eligibility for persons under the Medicaid Purchase Plan;
- define whose income is used when determining eligibility and the monthly premium amount;
- explain statutory conditions for continuing eligibility;
- explain how the monthly premium amount is calculated;
- describe the processes associated with the independence account; and
- set forth how the Department, in addition to providing Medical Assistance coverage, is to purchase group health coverage offered by the employer of an eligible person or an ineligible family member of an eligible member for the Medicaid Purchase Plan if the Department determines that purchasing that coverage would not cost more than providing Medical Assistance coverage.

Replacement permanent rules were sent to the Legislative Council for review on April 28, 2000 and taken to four public hearings during the period June 15-20, 2000. The proposed permanent rules differ from those in the emergency rulemaking order insofar as they provide definitions, explain program components, and describe the means for determining continuing eligibility for the *Health and Employment Counseling* program. The *Health and Employment Counseling* program is a program that enables an individual to participate in the Medicaid Purchase Plan prior to achieving employment (see s. HFS 103.03 (1) (g) 1. b.). At the time the emergency rules were published, the Department had not determined the details of the *Health and Employment Counseling* program. A copy of the proposed permanent rules indicating changes from the emergency rules is attached to this letter. All of the changes appear in sections 3 and 4 of the permanent rulemaking order.

The Department intends to send the Legislative Report on the proposed permanent rules to the Presiding Officers of the Senate and Assembly by August 11, 2000. Consequently, the Department will not be able to file the rules until at least September 11 for a November 1, 2000, effective date. Therefore, I request an extension of the effective period of the emergency rules by **60 days**, through September 14, 2000. If the effective period of the emergency rules is not extended, in the interim, the Department will not have the authority to continue the implementation of the MA Purchase Plan.

A copy of the emergency rulemaking order is attached to this letter. If you have any questions about the rules, you may contact Melissa Whitman of the Department's Office of Strategic Finance at 264-9964.

Sincerely,

Joe Leean
Secretary

Attachments

cc Representative Grothman
Senator Risser
Representative Jensen

ORDER OF THE
DEPARTMENT OF HEALTH AND FAMILY SERVICES
AMENDING AND CREATING RULES

FINDING OF EMERGENCY

The Department of Health and Family Services finds that an emergency exists and that the rules included in this order are necessary for the immediate preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

This order creates rules that specify the manner in which a new program called the Medicaid Purchase Plan, established under s. 49.472, Stats., as created by 1999 Wisconsin Act 9, will operate. Under the Medicaid Purchase Plan, working adults with disabilities whose family net income is less than 250% of the poverty line are eligible to purchase Medical Assistance, the name given to Medicaid in Wisconsin, on a sliding-fee scale. The order incorporates the rules for operation of the Medicaid Purchase Plan into chs. HFS 101 to 103 and 108, four of the Department's chapters of rules for operation of the Medical Assistance program.

The Medicaid Purchase Plan is projected to provide health care coverage to 1,200 Wisconsin residents with disabilities by the end of Fiscal Year 2001.

Health care coverage under the Medicaid Purchase Plan is identical to the comprehensive package of services provided by Medical Assistance. Individuals enrolled in the Medicaid Purchase Plan would also be eligible for Wisconsin's home and community-based waivers under s. 46.27, Stats., provided they meet the functional criteria for these waivers.

Department rules for the operation of the Medicaid Purchase Plan must be in effect before the Medicaid Purchase Plan may begin. The program statute, s. 49.472, Stats., as created by Act 9, effective October 27, 1999, states that the Department is to implement the Medical Assistance eligibility expansion under this section not later than January 1, 2000, or 3 months after full federal approval, whichever is later. Full federal approval was received on January 7, 2000. The Department is publishing the rules by emergency order with an effective date of March 15, 2000 to meet the expected program implementation date and the legislative intent in order to provide health care coverage as quickly as possible to working people with disabilities.

The rules created and amended by this order modify the current Medical Assistance rules to accommodate the Medicaid Purchase Plan and in the process provide more specificity than s. 49.472, Stats., as created by Act 9, regarding the non-financial and financial conditions of eligibility for individuals under the Medicaid Purchase Plan; define whose income is used when determining eligibility and the monthly premium amount; explain statutory conditions for continuing eligibility; explain how the monthly premium amount is calculated; describe the processes associated with the independence account; and set forth how the Department, in addition to providing Medical Assistance coverage, is to purchase group health coverage offered by the employer of an eligible individual or an ineligible family member of an eligible member for the Medicaid Purchase Plan if the Department determines that purchasing that coverage would not cost more than providing Medical Assistance coverage.

ORDER

Pursuant to the authority vested in the Department of Health and Family Services by ss. 49.45 (10) and 49.472 (3) (h), (4) (a) (intro.) and 2. a., Stats., as created by 1999 Wisconsin Act 9, and ss. 227.11 (2) and 227.24 (1), Stats., the Department of Health and Family Services hereby amends and creates rules interpreting s. 49.472, Stats., as created by 1999 Wisconsin Act 9 as follows:

SECTION 1. HFS 102.04 (3) (d) is amended to read:

HFS 102.04 (3) (d) Within 365 days after the date eligibility was last determined for SSI-related persons and persons eligible for the medicaid purchase plan except that when a person is determined to be permanently disabled no further determination shall be made of that disability unless the county agency becomes aware of information that would affect the determination of permanent disability; and

SECTION 2. HFS 103.01 (1) (a) is amended to read:

HFS 103.03 (1) (a) Eligibility for medical assistance shall be determined pursuant to ss. 49.455, 49.46(1), 49.47(4) and 49.472, Stats., and this chapter, except that medical assistance shall be provided without eligibility determination to persons receiving SSI or those persons who would currently be eligible under the AFDC program that was in place on July 16, 1996 in this state pursuant to s. 49.19, Stats.

SECTION 3. HFS 101.03 (34m), (36m), (42m), (51m), (52g), (78u), (80m), (94m), (94p), (94r), (152m), (170m), (172m), (180m) and (183) are created to read:

HFS 101.03 (34m) "Cost-effectiveness" means the cost of paying premiums or purchasing health insurance for a medicaid purchase plan recipient through an employer is likely to be less than the cost of providing medical assistance.

(36m) "Date of account creation" means the date the recipient establishes an independence account with a financial institution.

(42m) "Direct deposit" means an electronic transfer of funds from the recipient's financial institution to the medicaid purchase plan or the department's fiscal agent, initiated by the completion of all registration forms deemed necessary by the department, the recipient's financial institution, or the department's fiscal agent and prepared with evidence of authorized consent for all parties involved in the transaction.

(51m) "Electronic funds transfer" means any electronic transfer of a recipient's financial holdings or a portion of these holdings as determined by the recipient to another account, initiated by the completion of all registration forms deemed necessary by the department, the recipient's financial institution, or the department's fiscal agent and prepared with evidence of authorized consent for all parties involved in the transaction.

(52g) "Employed" means the individual receives income for ongoing services and as a result of this income has incurred a potential tax liability. Any of the following may be used to verify employment:

(a) Pay stubs.

(b) Wage tax receipts.

(c) State or federal income tax returns.

(d) Self-employment bookkeeping records.

(e) Employer's wage records.

(f) Statements from employers. Employer statements may include those from personnel officers, supervisors or other employes of the company who have direct knowledge of the applicant or recipient's wages. The person making the statement must provide evidence (such as employment records, business correspondence, etc.) that they are or were employes of the company.

(g) Other agencies who receive reports of the applicant or recipient's income directly from the employer.

(78u) "Impairment related work expense" means a cost paid for by a medicaid purchase plan applicant or recipient to work that is all the following:

(a) Related to the applicant's or recipient's disability.

(b) Not a cost that any similar worker, without a disability, would also have.

(c) Not reimbursable by another source such as medicare, medical assistance, private insurance or an employer.

(d) Representative of the standard charge for the item or service in the applicant or recipient's community.

(80m) "Independence account" means an account approved by the department that consists solely of savings, dividends and gains derived from savings and income earned from paid employment after the initial date that an individual began receiving medical assistance under the medicaid purchase plan.

(94m) "Medicaid purchase plan" means the medical assistance program allowed under 42 USC 1396a (a) (10) (A) (ii) and s. 49.472, Stats.

(94p) "Medicaid review period" is the medical assistance recipient's application month plus 11 months or the medicaid eligibility review month plus 11 months.

(94r) "Medical expense" means a cost paid by a medicaid purchase plan recipient for goods or services that have been prescribed or provided by a medical practitioner licensed in Wisconsin or another state. The cost is not reimbursable by another source such as medicare, medical assistance, private insurance or an employer.

(152m) "Remedial expense" means a cost paid by a medicaid purchase plan recipient that may be considered to be related to that individual's health, employment or disability. The cost is not reimbursable by another source such as medicare, medical assistance, private insurance or an employer.

(170m) "Standard maintenance allowance" means a deduction established by the department and adjusted annually in accordance with the cost of living. The standard maintenance allowance may not be less than the sum of $20, plus the federal supplemental security income payment level described under 42 USC 1382 (b) plus the state supplemental security income payment described

under s. 49.77 (2m), Stats.

(172m) "Substantial gainful activity level" means the income standards as described in 20 CFR 404.1572 and the Federal social security administration's program operations manual.

(180m) "Income disregard" means earned or unearned income that is not considered when calculating an applicant or recipient's monthly premium amount.

(183) "Wrap-around coverage" means the supplemental health care coverage necessary to provide any services which would be covered under medical assistance but which are not covered under the coverage offered by the employer.

SECTION 4. HFS 103.03 (1) (g) is created to read:

HFS 103.03 (1) (g) *Medicaid purchase plan eligibility.* To be non-financially eligible for the medicaid purchase plan a person shall meet the conditions described in this chapter for SSI-related persons and shall be age 18 or older and the person shall meet all of the following conditions:

1. a. The individual shall be employed; or

b. The individual shall be enrolled in a department-certified health and employment counseling program; or

c. The health of the individual participating in the medicaid purchase plan for at least 6 months shall have deteriorated to the point that he or she is unable to work or participate in the health and employment counseling program under this paragraph and the county agency on a case-specific basis has waived the requirement. The county agency may waive the requirement for an individual for up to 6 months if the person is hospitalized, injured or suffers any other health setback. The individual shall supply proof of health difficulties. The department may also provide a temporary waiver of the work requirement on a case-specific basis.

2. The person meets SSI-related non-financial eligibility requirements under s. HFS 103.03 (1) (c) as verified under s. HFS 103.03 (1) (d) and s. 49.472 (3) (c), Stats.

3. The applicant meets the eligibility requirements described in s. HFS 103.087.

SECTION 5. HFS 103.04 (8) and (9) are created to read:

HFS 103.04 (8) MEDICAID PURCHASE PLAN ELIGIBILITY CRITERIA. (a) An individual who meets the requirements of ss. HFS 103.03(1) (g) and (2) to (9) and the income and asset limits described in this subsection is eligible for the medicaid purchase plan.

(b) The individual's total net family income is less than 250% of the federal poverty line as determined by the individual's family size. Net income is calculated using the standard SSI disregards and exemptions. The income disregards are the following:

1. Sixty-five dollars and one-half of the family's remaining earned income. If the family does not have any unearned income, $85 and one-half of the family's remaining earned income.

2. Twenty dollars of any unearned income.

3. Impairment-related work expenses.

(c) The individual has non-exempt assets less than the asset limit described under s. 49.472 (3) (b), Stats.

(d) If the individual leaves the medicaid purchase plan and subsequently re-enrolls in the program, the individual's independence account and any interest, gains, or dividends from that account are disregarded for purposes of subsequent eligibility determinations.

(9) SPECIAL MEDICAID PURCHASE PLAN BUDGETING PROCEDURES. (a) *Medicaid purchase plan group.* Any of the following persons who reside in the home with the applicant or recipient shall be included in determining the family size of the individual applying for the medicaid purchase plan, with this family size used in calculating the individual's financial eligibility under this section:

1. The applicant.

2. The applicant's spouse.

3. Any dependent child of the applicant as described in s. 49.141, Stats.

(b) *Medicaid purchase plan fiscal test group.* The income of any person listed in par. (a) 1. or 2. shall be included when determining financial eligibility of the applicant.

(c) *Medicaid purchase plan coverage.* 1. Medical assistance under the medicaid purchase plan applies to the applicant or recipient only.

2. The monthly premium for the medicaid purchase plan is calculated using only the income of the applicant or recipient.

SECTION 6. HFS 103.06 (15) is created to read:

HFS 103.06 (15) INDEPENDENCE ACCOUNTS. (a) *Account provisions.* 1. Contributions to any of the recipient's registered independence accounts are subject to the rules described in this section and to any policies of the respective financial institution governing the account.

2. All contributions to the recipient's independence account or accounts, including interest, dividends, or other gains from the principal, shall be treated as an exempt asset for the purpose of calculating eligibility for the medicaid purchase plan.

3. The purpose of an independence account is to allow the recipient to purchase any items or services that may aid in his or her pursuit of personal or financial independence.

4. The medicaid purchase plan recipient shall be the sole owner of any account registered as an independence account.

5. Retirement or pension accounts registered as independence accounts are not required to remain as separate holdings from the recipient's other non-exempt resources.

6. The county agency shall monitor the recipient's independence account as described in the medicaid review period for the medicaid purchase plan. The review process shall include verifying all contributions to the recipient's independence account with the financial institution holding the recipient's account.

7. The sum total a medical assistance recipient deposits in all independence accounts may not exceed 50% of the recipient's gross earned income for the medicaid review period. If a recipient's contributions to his or her independence accounts total more than 50% of his or her gross earned income within the medicaid review period, an amount equal to one-twelfth of the contributions greater than 50% of gross earned income shall be added to the recipient's monthly premium payment under s. HFS 103.087 for the next 12 months of eligibility.

(b) *Independence account registration.* 1. An individual shall register each independence account with the county agency. An individual shall re-register the independence account with the county agency if the financial institution or other information for the independence account changes.

2. A medicaid purchase plan recipient shall complete an account registration form at the time of an eligibility determination or at any time during eligibility.

3. The applicant or recipient shall report any changes in personal or financial status to the county agency as described in s. HFS 104.02 (6).

4. For all registered independence accounts that are not retirement or pension accounts, the date of account creation may be no earlier than the date a medicaid purchase plan recipient is determined eligible for medical assistance under this section. For all registered independence accounts that are not retirement or pension accounts, the funds in the independence account shall be held separate from a recipient's non-exempt assets.

SECTION 7. HFS 103.087 is created to read:

HFS 103.087 Conditions for continuation of eligibility. (1) PREMIUMS. (a) *Authority.* Subject to this section and s. 49.472, Stats., an individual eligible for the medicaid purchase plan shall pay a monthly premium.

(b) *Applicability.* 1. An applicant or recipient eligible for the medicaid purchase plan whose total earned and unearned income is at or above 150% of the poverty line for the applicable household size shall pay a monthly premium and the applicant shall pay all retroactive premium amounts assessed or other premium payments due.

2. An applicant or recipient eligible for the medicaid purchase plan whose total earned and unearned income is below 150% of the poverty line for the applicable household size need not pay a monthly premium.

3. An applicant or recipient eligible for the medicaid purchase plan whose premium, calculated as described in par. (c), is greater than $10.00 shall pay a premium for the cost of the health care coverage offered under the medicaid purchase plan.

(c) *Premium Amounts.* 1. An applicant or recipient eligible for the medicaid purchase plan shall pay a monthly premium in accordance with this subsection and the premium schedule in Table 103.087.

2. The county agency shall determine the amount of the premium an applicant shall pay according to the guidelines described in this subsection at the time of application.

3. All earned and unearned sources of income available to the applicant or recipient, except for the interest, dividends or other gains accrued from a recipient's independence account, shall be

used in the premium determination.

4. The applicant or recipient's monthly premium shall be calculated by locating the sum of the monthly adjusted unearned income plus the monthly adjusted earned income on the premium schedule in Table 103.087.

(d) *Calculating the monthly adjusted unearned income.* An applicant or recipient's monthly adjusted unearned income shall be calculated by subtracting the monthly income disregards in subdivs. 1. to 3. from 100% of the applicant or recipient's gross monthly countable unearned income.

1. The standard maintenance allowance. The allowance shall be equal to the sum of the monthly federal supplemental security income cash benefit, the monthly state supplemental cash benefit, and 20 dollars, rounded to the nearest dollar.

2. Monthly impairment related work expenses for an applicant or recipient. To be claimed as a monthly income disregard, the cost may not have been claimed by the applicant or recipient under any other medicaid purchase plan income disregard.

3. Monthly medical and remedial expenses for an applicant or recipient. To be claimed as a monthly income disregard, the cost may not have been claimed by the applicant or recipient under any other medicaid purchase plan income disregard.

4. If the applicant or recipient has monthly unearned income equal to $0, the monthly income disregards described in subdivs. 1. to 3. apply to the applicant's or recipient's gross monthly earned income. If the applicant or recipient has monthly income disregards greater than his or her monthly unearned income, the difference shall be applied as a deduction to the applicant or recipient's monthly earned income.

(e) *Calculating monthly adjusted earned income.* An applicant or recipient's monthly adjusted earned income shall be 3 percent of the applicant or recipient's gross monthly earned income after the amount of any monthly income disregards greater than the applicant or recipient's total unearned income have been subtracted.

(f) *Calculating the total monthly premium.* 1. The sum of the amounts determined in pars. (d) and (e) shall be applied to the premium schedule in Table 103.087. If the sum of the monthly adjusted earned and monthly adjusted unearned income is greater than $1025.00, the total monthly premium amount is the exact amount of the sum.

Table 103.087: Medicaid Purchase Plan Premium Schedule

PREMIUM SCHEDULE					
Sum of Monthly Adjusted Earned and Adjusted Unearned Income		The premium is:	Sum of Monthly Adjusted Earned and Adjusted Unearned Income		The premium is:
FROM	TO	**PREMIUM**	FROM	TO	**PREMIUM**
$0	$10.00	$0.00	500.01	525.00	500.00
10.01	25.00	10.00	525.01	550.00	525.00
25.01	50.00	25.00	550.01	575.00	550.00
50.01	75.00	50.00	575.01	600.00	575.00
75.01	100.00	75.00	600.01	625.00	600.00
100.01	125.00	100.00	625.01	650.00	625.00
125.01	150.00	125.00	650.01	675.00	650.00
150.01	175.00	150.00	675.01	700.00	675.00
175.01	200.00	175.00	700.01	725.00	700.00
200.01	225.00	200.00	725.01	750.00	725.00
225.01	250.00	225.00	750.01	775.00	750.00
250.01	275.00	250.00	775.01	800.00	775.00
275.01	300.00	275.00	800.01	825.00	800.00
300.01	325.00	300.00	825.01	850.00	825.00
325.01	350.00	325.00	850.01	875.00	850.00
350.01	375.00	350.00	875.01	900.00	875.00
375.01	400.00	375.00	900.01	925.00	900.00
400.01	425.00	400.00	925.01	950.00	925.00
425.01	450.00	425.00	950.01	975.00	950.00
450.01	475.00	450.00	975.01	1000.00	975.00
475.01	500.00	475.00	1000.01	1025.00	1000.00

2. The monthly premium shall be recalculated by the county agency to reflect any changes in earned or unearned income as reported by the recipient. A recipient's premium amount may change for any of the following reasons:

a. Termination of the recipient from the medicaid purchase plan.

b. A change in the poverty line or SSI federal or state benefit payment rate.

c. Changes in income, impairment related work expense costs or medical and remedial expense costs.

d. Contributions to a recipient's independence account greater than 50% of earned income as described in s. HFS 103.06 (15).

e. Other changes in personal or financial status that alter medical assistance eligibility.

(g) *Monthly payments.* 1. Before the county agency may certify an applicant as eligibile for the medicaid purchase plan, the applicant who owes a premium under this subsection shall pay the premium amount. The premium amount owed shall include the premiums for all retroactive and current months in which the applicant owes a premium as of the date eligibility is determined.

2. An applicant may claim retroactive medicaid purchase plan eligibility for a period of up to 3 months prior to the month of application, but not prior to January 1, 2000. To be eligible for retroactive eligibility, an applicant shall pay the retroactive premium amount for each month claimed, in full, to the county agency prior to the county agency certifying the applicant's eligibility for the medicaid purchase plan.

3. Based on arrangements made by the applicant or recipient, entities other than the applicant or recipient may pay monthly premiums on behalf of the applicant or recipient. The applicant or recipient shall be ultimately responsible for his or her monthly premium payment.

4. If the county agency does not receive payment by the last day of the calendar month for which the premium is owed, the department shall terminate the recipient's eligibility for the medicaid purchase plan, effective the last calendar day of the month.

5. An applicant or recipient may pay monthly premiums in advance, but only for the months in the applicant or recipient's current medicaid review period. The applicant or recipient shall pay advance monthly premium amounts in full.

6. If no premium is required and the applicant meets all other eligibility factors, the county agency shall approve the applicant for the medicaid purchase plan.

(h) *Non-payment of medicaid purchase plan premiums.* 1. An applicant or recipient required to pay a monthly premium shall be ineligible for re-enrollment for the period specified in par. (i) 2. when the applicant or recipient fails to pay his or her monthly premium within the time specified in par. (g) 4. resulting in a finding of premium non-payment.

2. Premium non-payment shall include attempted payment with an instrument such as a check or direct deposit, that has been returned, refused or dishonored. A guaranteed form of payment such as a cashier's check or money order shall be required to replace a returned, refused or dishonored payment.

3. Failure to pay premiums due to circumstances beyond the recipient's control may not be considered non-payment, provided that all past due premiums are paid in full. Circumstances beyond the recipient's control are any of the following:

a. Problems with an electronic funds transfer or direct deposit from a financial institution to the medicaid purchase plan program.

b. Problems with an employer's wage withholding.

c. Administrative error in processing the premium.

d. Any other causes found by the county agency to be out of the control of the recipient, but not including insufficient funds.

4. At the time of application or anytime thereafter, an applicant or recipient may sign a release form identifying an emergency contact to receive copies of the individual's notice of

decision letters.

(i) *Consequences of premium non-payment.* 1. A person eligible for the medicaid purchase plan who fails to pay his or her monthly premium shall be terminated from the medicaid purchase plan and subject to restrictive re-enrollment as described under subdiv. 2.

2. A medicaid purchase plan participant who fails to make his or her monthly premium payments in the medicaid purchase plan shall be ineligible for a period of at least 6 consecutive calendar months following the date that the medicaid purchase plan eligibility ends. After 6 calendar months, the individual shall be eligible for the medicaid purchase plan only if all past premiums due are paid in full or 12 calendar months have passed since the expiration of medicaid purchase plan eligibility, whichever is sooner.

(2) COOPERATION WITH BUY-IN TO EMPLOYER-PROVIDED HEALTH CARE COVERAGE. (a) The applicant eligible for the medicaid purchase plan and the applicant's parent, if the applicant is a dependent child, shall cooperate when the department determines whether it is cost-effective to purchase coverage under the employer-provided health plan for the individual under s. HFS 108.02 (14). In this subsection, "cooperate" means provide necessary information in order to determine cost-effectiveness, sign up with the health plan when requested by the department and comply with any other requirements of the health plan.

(b) 1. Except as provided in subd. 2., a person who fails or refuses to cooperate with the department's buy-in to employer-provided health care coverage is not eligible for the medicaid purchase plan.

2. An exception to subd. 1. shall be made in cases where an individual who is otherwise eligible for medical assistance is unable to enroll in the group health plan on his or her own behalf.

Note: An example of an individual who is otherwise eligible for medical assistance but unable to enroll in the group health plan on his or her own behalf may be a child whose parent refuses to enroll the child or a spouse unable to enroll on his or her own behalf.

SECTION 8. HFS 108.02 (14) is created to read:

HFS 108.02 (14) MEDICAID PURCHASE PLAN BUY-IN TO EMPLOYER-PROVIDED HEALTH CARE COVERAGE. (a) *Authority.* The department may purchase a group health plan offered by the employer of an eligible individual or non-eligible family member if the department determines that purchasing that coverage would not be more costly than providing the medical assistance coverage described under this chapter.

(b) Buy-in to employer-provided coverage. 1. The department shall pay on behalf of the recipient all deductibles, coinsurance and other cost sharing obligations under the group health plan that are for services covered under the state plan, except for the nominal cost sharing amounts otherwise permitted under section 1916 of the social security act that are the responsibility of the recipient.

2. The department shall purchase coverage by making payment to one of the following:

a. The employer of the recipient.

b. The insurance company that provides the health care coverage offered by the employer.

c. The employe.

3. If a non-medical assistance eligible family member is enrolled in the group health plan in order to obtain coverage for the medical assistance eligible member, the department shall pay for premiums only and not other cost sharing expenses for the non-medical assistance eligible family member. Premium payments for non-eligible members shall be included in the determination of cost-effectiveness under par. (c).

4. If an individual's group health plan offers more services than covered under the state plan, the department may not pay any deductibles, coinsurance or other cost sharing obligations for non-covered services.

5. Medicaid purchase plan eligible individuals enrolled in a group health plan under this section shall be eligible for wrap-around coverage as described in ch. HFS 101.

(c) *Cost-effectiveness determination.* An individual's enrollment in a group health plan shall be cost-effective when the amount the department pays for premiums, coinsurance, deductibles, other cost sharing obligations, wrap-around costs and additional administrative costs is likely to be less than the medical assistance expenditures for an equivalent set of services.

SECTION 9. HFS 108.02 (15) is created to read:

HFS 108.02 (15) ESTATE RECOVERY FOR MEDICAID PURCHASE PLAN. (a) Except as provided in par. (b), estate recovery requirements of sub. (11) and ss. 46.27 (7g), 49.496, and 867.035, Stats., apply to recipients of the medicaid purchase plan.

(b) Amounts recovered in estate recovery from a recipient of the medicaid purchase plan shall be reduced by the total amount of monthly premiums paid by the recipient as a condition of eligibility for the medicaid purchase plan.

The rules contained in this order shall take effect as emergency rules on March 15, 2000.

Wisconsin Department of Health and Family Services

Dated: March 6, 2000

By: _____
Joseph Leean
Secretary

SEAL:

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JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

July 25, 2000

Secretary Joe Leean
Department of Health and Family Services
1 West Wilson Street
Madison, Wisconsin

Re: Emergency Rule HFS 103 (Medicaid Purchase Plan)

Dear Secretary Leean:

We are writing to inform you that the Joint Committee for the Review of Administrative Rules (JCRAR) held a public hearing and executive session on July 25, 2000. At that meeting, the JCRAR received public testimony regarding Emergency Rule HFS 103, relating to the Medicaid Purchase Plan.

Based on that testimony, the committee adopted a motion extending the effective period of Emergency Rule HFS 103 (Medicaid Purchase Plan) for 60 days. The committee approved the motion on a 7 to 0 vote.

Pursuant to § 227.24(2)(c), *Stats.*, we are notifying the Secretary of State and the Revisor of Statutes of the Committee's action through copies of this letter.

Sincerely,

Senator Judith B. Robson
15th Senate District

Representative Glenn Grothman
59th Assembly District

JBR:GG:da

State of Wisconsin
Department of Health and Family Services

SEP 0 8 2000

Tommy G. Thompson, Governor
Joe Leean, Secretary

September 6, 2000

The Honorable Judith Robson
Senate Co-Chair, Joint Committee on Review of Administrative Rules
Room 15 South, State Capitol
Madison, WI 53702

The Honorable Glenn Grothman
Assembly Co-Chair, Joint Committee on Review of Administrative Rules
Room 15 North, State Capitol
Madison, WI 53702

Dear Senator Robson and Representative Grothman:

Attached please find additional information regarding the effect of the Division of Vocational Rehabilitation (DVR) moratorium on new enrollments of *Medicaid Purchase Plan* participants, in response to your request dated August 3, 2000.

We are concerned that the moratorium may limit access to the *Medicaid Purchase Plan* for those individuals who may need DVR's assistance in developing an employment plan. The moratorium may also limit the number of enrollees in the *Pathways to Independence* demonstration project. However, DVR and DHFS staff worked diligently in the days leading up to the moratorium to prepare plans for as many current and potential *Pathways* participants as possible.

The information attached describes:

- Basic program, eligibility and enrollment processes for the *Medicaid Purchase Plan*
- Potential reduction of consumer access to employment services
- Department efforts to lessen the effects of the DVR moratorium on persons with disabilities who are working or interested in work

We sincerely appreciate your continued interest in the issues facing working persons with disabilities in Wisconsin. Should you have further questions regarding the *Medicaid Purchase Plan*, please contact Judith Frye in the Center for Delivery Systems Development at (608) 266-9043.

Sincerely,

Joe Leean
Secretary

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Issue Paper: Initial Estimate on the Potential Effect of DVR Restrictive Enrollment

Purpose

To outline any potential effect on people with disabilities who want to participate in the *Medicaid Purchase Plan* (MAPP) resulting from the Division of Vocational Rehabilitation's (DVR) enrollment moratorium.

Background

MAPP is an opportunity for working people with disabilities to buy health care coverage through the Wisconsin Medicaid program. Individuals may pay a monthly premium for this health care coverage, based on income.

To be eligible for MAPP, individuals must be:

- determined disabled by the Disability Determination Bureau (DDB); and
- working, or enrolled in a Department-certified (DHFS) Health and Employment Counseling program (HEC).

Potential Effect on MAPP

Based on the program eligibility criteria, the DVR enrollment moratorium may affect the extent to which people with disabilities can access:

1) a Health and Employment Counseling program and
2) other necessary services to achieve employment.

There is no requirement for MAPP participants to be affiliated with DVR. However, if a consumer does not have access to vocational services—including a HEC program and other necessary employment services—the ability of individuals with disabilities to return to the workforce may be limited, even with health care coverage available through the *Medicaid Purchase Plan*.

1) Limited Access to Health and Employment Counseling Programs

If an individual is not yet working, s/he may enroll in a "Health and Employment Counseling program" to meet the employment requirement for MAPP eligibility. A HEC program is the combination of services an individual obtains—from a provider/agency of the consumer's choice—to help that consumer achieve employment.

Minimum services required in a HEC program include benefits counseling, employment barrier identification and networking with community resources.

How HEC Works

An interested MAPP applicant must complete an Employment Plan and submit it for review to a HEC "screener". Once the screener has reviewed the plan and submitted a recommendation to DHFS, the consumer is considered "enrolled" in a HEC. See page 4 for an illustration of the MAPP/HEC Application Process.

Approximately 134 people at 34 agencies[1] statewide are DHFS-certified HEC screeners. About 33% of these screeners are DVR counselors. HEC screeners are not required to serve consumers who are not current clients of that screening agency.

Individuals statewide without local access to a HEC screener may use a DHFS-funded toll-free telephone number to receive screening services from a remote location.

How Will Consumers Know about HEC Programs?
The *Medicaid Purchase Plan* is administered through the counties, with local Medicaid application stations processing MAPP applications. Each county agency has received an Operations Memo detailing the requirements of HEC. Each county worker has received a list of all current DHFS-certified HEC screeners across the state (including name, address and telephone number) with which to refer interested consumers.

Table 1. Current Enrollment: MAPP/HEC*

Medicaid Purchase Plan	**361**
Health & Employment Counseling Program	**8 (~2% of MAPP enrollment)**

*Numbers reflect enrollment as of August 25, 2000.

Beyond MAPP and the Health and Employment Counseling program, the DVR enrollment moratorium may affect the success of other return to work efforts by people with disabilities.

2) Limited Access to Other Necessary Services to Achieve Employment

a. DVR Employment Services

DVR is the major provider of vocational rehabilitation services to people with disabilities statewide. The DVR enrollment moratorium required that clients complete an Individual Plan for Employment (IPE) by August 21 to be eligible for DVR services. The enrollment moratorium has created three groups of consumers:

- **Cases in Open Status.** Approximately 17,500 individuals are currently in open status and thereby have access to DVR services to the extent DVR funding is available.
- **Cases in Closed Status.** Data from August 25 indicate DVR has reduced its enrollment numbers approximately 23% by closing cases without a completed IPE by August 21. Potential causes for these closures may reflect either the consumer's or the DVR counselor's inability to meet the time constraints imposed by the IPE deadline. It is also possible that a percentage of cases did not complete IPEs because the consumer was not actively pursuing employment or in need of vocational services.
- **Cases Added to the DVR Waiting List.** Those individuals interested in DVR services, who did not complete an IPE by August 21 but would likely have become eligible for DVR service during the moratorium, will be placed on a DVR waiting list. The availability of alternative vocational services and the extent to which individuals may access these services through programs other than DVR will likely vary by disability group. For example, the HIV/AIDS population may have greater opportunity to access service programs funded through grant monies; whereas the mental health population, who may be relying on Community Support Programs with limited enrollment capacities, may have less opportunity.

[1] For the purpose of this paper, all DVR offices statewide are counted as one agency.

b. *Pathways to Independence* Program

The Department of Health and Family Services is currently involved in several efforts coordinating and promoting the employment of people with disabilities who want to work. Included in these efforts is the *Pathways to Independence* program—a research and demonstration project proposed by the Governor and administered jointly through DHFS and the Department of Workforce Development (specifically, DVR). Individuals must have an open case status at DVR to receive *Pathways* services, which include:

- benefits counseling;
- a comprehensive assistance network for community supports; and
- person-centered vocational modeling.

Consumers with significant[2] disabilities who may need employment services to meet their employment goals are ideal candidates for the *Pathways* program. DVR clients participating in *Pathways* were also required to have a completed Individual Plan for Employment (IPE) as of August 21 to be eligible for services.

Directions given by DVR managers to field staff regarding the planned moratorium urged them to give priority to current and already referred *Pathways* participants to ensure that IPEs were completed.

Based on information from completed IPEs as of August 25, as many as 510 DVR-open status participants, including 277 current participants, may be appropriate for *Pathways* services. Availability for *Pathways* as of October 1 is estimated at 500 to 530 slots. Since it will take some time to enroll the additional 200^{+} individuals now identified as potential *Pathways* participants, *Pathways* administrators anticipate that there are sufficient participants to keep the program at service capacity until January 1. By that time, however, DVR may need to re-open at least some categories in order to enable *Pathways* participants to fill available slots.

Data from August 25 also show that no more than 9 *Pathways* enrollees failed to complete an IPE by the deadline. These individuals will be placed on the DVR waiting list if they wish to re-apply for DVR services.

Department Efforts to Address the Effect on Consumer Access

DHFS is pursuing several efforts to lessen the effect of the DVR moratorium on consumer access for the *Medicaid Purchase Plan* and *Pathways to Independence*. For example:

- To date, DHFS has conducted 7 training sessions to certify HEC screeners. On August 17, approximately 20 additional DVR counselors were certified statewide to aid in the screening of current DVR cases for HEC. The Department will conduct an open training for other providers in the fall (October/November) to meet HEC screening demands.
- *Pathways* staff have examined provider caseloads to identify any current or potential consumers who may benefit from *Pathways* services. DHFS worked with providers and central office DVR staff to ensure open case status and completion of IPEs by August 21 as discussed earlier.

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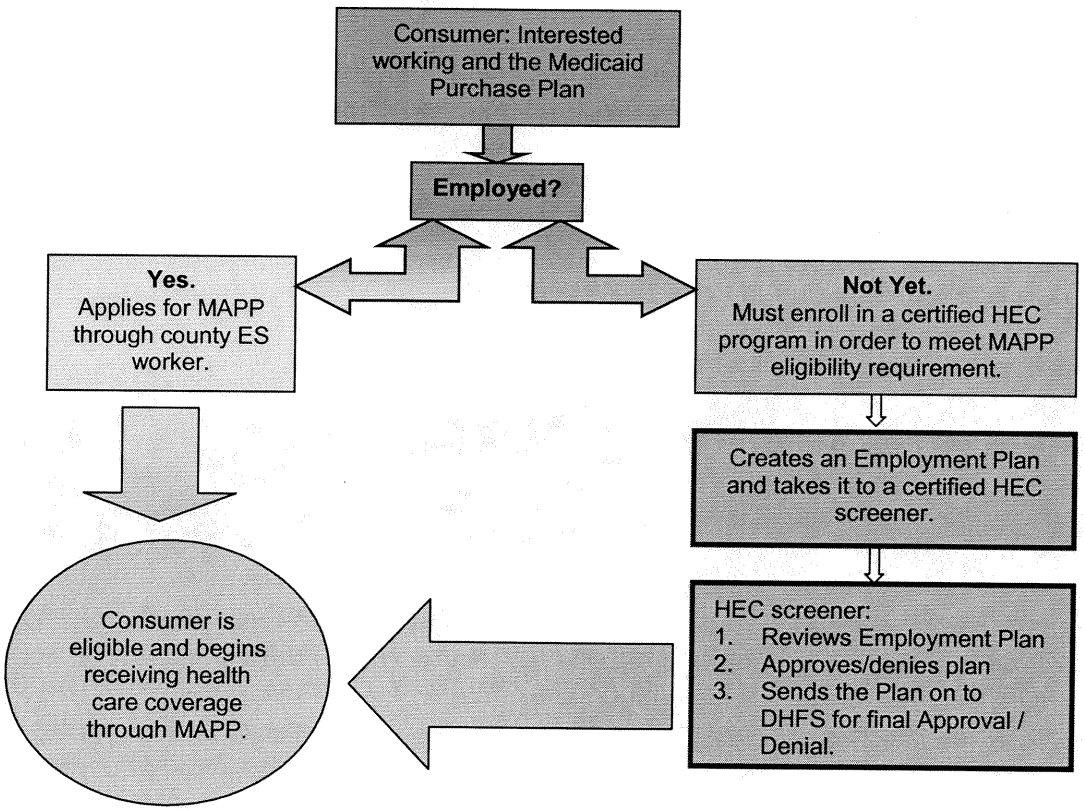
[2] "Significant" refers to a disabling condition that meets both the DVR Order of Selection and the definition of disability as determined in Wisconsin by the Disability Determination Bureau.

MAPP and HEC Application Process



PROPOSED ORDER OF THE
DEPARTMENT OF HEALTH AND FAMILY SERVICES
AMENDING AND CREATING RULES

To amend and create chapters HFS 101 to 103 and 108, relating to the Medicaid Purchase Plan.

Analysis Prepared by the Department of Health and Family Services

This order creates rules that specify the manner in which a new program called the Medicaid Purchase Plan, established under s. 49.472, Stats., as created by 1999 Wisconsin Act 9, will operate. Under the Medicaid Purchase Plan, working adults with disabilities whose family net income is less than 250% of the poverty line are eligible to purchase Medical Assistance, the name given to Medicaid in Wisconsin, on a sliding-fee scale. The order incorporates the rules for operation of the Medicaid Purchase Plan into chs. HFS 101 to 103 and 108, four of the Department's chapters of rules for operation of the Medical Assistance program.

The Medicaid Purchase Plan is projected to provide health care coverage to 1,200 Wisconsin residents with disabilities by the end of Fiscal Year 2001.

Health care coverage under the Medicaid Purchase Plan is identical to the comprehensive package of services provided by Medical Assistance. Persons enrolled in the Medicaid Purchase Plan would also be eligible for Wisconsin's home and community-based waivers under s. 46.27, Stats., provided they meet the functional criteria for these waivers.

The rules created and amended by this order modify the current Medical Assistance rules to accommodate the Medicaid Purchase Plan and in the process provide more specificity than s. 49.472, Stats., as created by Act 9, regarding the non-financial and financial conditions of eligibility for persons under the Medicaid Purchase Plan; define whose income is used when determining eligibility and the monthly premium amount; explain statutory conditions for continuing eligibility; explain how the monthly premium amount is calculated; describe the processes associated with the independence account; and set forth how the Department, in addition to providing Medical Assistance coverage, is to purchase group health coverage offered by the employer of an eligible person or an ineligible family member of an eligible member for the Medicaid Purchase Plan if the Department determines that purchasing that coverage would not cost more than providing Medical Assistance coverage.

The Department's authority to amend and create these rules is found in ss. 49.45 (10) and 49.472 (3) (h), (4) (a) (intro.) and 2. a., Stats., as created by 1999 Wisconsin Act 9, and ss. 227.11 (2) and 227.24 (1), Stats. The Department of Health and Family Services hereby amends and creates rules interpreting s. 49.472, Stats., as created by 1999 Wisconsin Act 9 as follows:

SECTION 1. HFS 102.04 (3) (d) is amended to read:

HFS 102.04 (3) (d) Within 365 days after the date eligibility was last determined for SSI-related persons and persons eligible for the medicaid purchase plan except that when a person is determined to be permanently disabled no further determination shall be made of that disability unless the county agency becomes aware of information that would affect the determination of permanent disability; and

SECTION 2. HFS 103.01 (1) (a) is amended to read:

HFS 103.03 (1) (a) Eligibility for medical assistance shall be determined pursuant to ss. 49.455, 49.46(1), 49.47(4) and 49.472, Stats., and this chapter, except that medical assistance shall be provided without eligibility determination to persons receiving SSI or those persons who would

currently be eligible under the AFDC program that was in place on July 16, 1996 in this state pursuant to s. 49.19, Stats.

SECTION 3. HFS 101.03 (17x), (34m), (36m), (42m), (51m), (52g), (52r), (52s), (69g), (78u), (80m), (94m), (94p), (94r), (101m), (114q), 115m), (152m), (160m), (160r), (170m), (172m), (180m) and (183) are created to read:

HFS 101.03 (17x) "Benefits counseling" means counseling that describes the effect of earned income on a person's public benefits and other support services, such as food stamps, housing assistance, supplemental security income, social security disability insurance or medical assistance.

(34m) "Cost-effectiveness" means the cost of paying premiums or purchasing health insurance for a medicaid purchase plan recipient through an employer is likely to be less than the cost of providing medical assistance.

(36m) "Date of account creation" means the date the recipient establishes an independence account with a financial institution.

(42m) "Direct deposit" means an electronic transfer of funds from the recipient's financial institution to the medicaid purchase plan or the department's fiscal agent, initiated by the completion of all registration forms deemed necessary by the department, the recipient's financial institution, or the department's fiscal agent and prepared with evidence of authorized consent for all parties involved in the transaction.

(51m) "Electronic funds transfer" means any electronic transfer of a recipient's financial holdings or a portion of these holdings as determined by the recipient to another account, initiated by the completion of all registration forms deemed necessary by the department, the recipient's financial institution, or the department's fiscal agent and prepared with evidence of authorized consent for all parties involved in the transaction.

(52g) "Employed" means the person receives income for ongoing services and as a result of this income has incurred a potential tax liability. Any of the following may be used to verify employment:

(a) Pay stubs.

(b) Wage tax receipts.

(c) State or federal income tax returns.

(d) Self-employment bookkeeping records.

(e) Employer's wage records.

(f) Statements from employers. Employer statements may include those from personnel officers, supervisors or other employes of the company who have direct knowledge of the applicant's or recipient's wages. The person making the statement must provide evidence (such as employment records, business correspondence, etc.) that they are or were employes of the company.

(g) Other agencies who receive reports of the applicant's or recipient's income directly from the employer.

(52r) "Employment barriers assessment" means an analysis that identifies a person's potential employment barriers, such as physical limitations or problems associated with the person's living situation, education or availability of transportation, and strategies for overcoming these potential barriers.

(52s) "Employment plan" means a plan developed by a person describing the manner in which a person shall meet the requirements of a health and employment counseling program.

(69g) "Health and employment counseling program" means services provided within a period of eligibility, which assist a person in pursuing and maintaining employment, that are assembled into an employment plan, reviewed by a screening agency, approved by the department and include all of the following:

(a) Benefits counseling.

(b) Employment barriers assessment.

(c) Resource networking.

(78u) "Impairment-related work expense" means a cost paid for by a medicaid purchase plan applicant or recipient to work that is all the following:

(a) Related to the applicant's or recipient's disability.

(b) Not a cost that any similar worker, without a disability, would also have.

(c) Not reimbursable by another source such as medicare, medical assistance, private insurance or an employer.

(d) Representative of the standard charge for the item or service in the applicant's or recipient's community.

(80m) "Independence account" means an account approved by the department that consists solely of savings, dividends and gains derived from savings and income earned from paid employment after the initial date that a person began receiving medical assistance under the medicaid purchase plan.

(94m) "Medicaid purchase plan" means the medical assistance program allowed under 42 USC 1396a (a) (10) (A) (ii) and s. 49.472, Stats.

(94p) "Medicaid review period" is the medical assistance recipient's application month plus 11 months or the medicaid eligibility review month plus 11 months.

(94r) "Medical expense" means a cost paid by a medicaid purchase plan recipient for goods or services that have been prescribed or provided by a medical practitioner licensed in Wisconsin or another state. The cost is not reimbursable by another source such as medicare, medical assistance, private insurance or an employer.

(101m) "Networking of existing resources" means the identification of and referral to an agency in the person's community for any services necessary to overcome the person's barriers to employment.

(114q) "Participant" means a person who is participating in a health and employment counseling program.

(115m) "Period of eligibility" means nine months from the initial month of participation in a health and employment counseling program.

(152m) "Remedial expense" means a cost paid by a medicaid purchase plan recipient that may be considered to be related to that person's health, employment or disability. The cost is not reimbursable by another source such as medicare, medical assistance, private insurance or an employer.

(160m) "Screener" means a person certified by the department and employed at a screening agency to review employment plans.

(160r) "Screening agency" means an agency certified by the department to review employment plans.

(170m) "Standard maintenance allowance" means a deduction established by the department and adjusted annually in accordance with the cost of living. The standard maintenance allowance may not be less than the sum of $20, plus the federal supplemental security income payment level described under 42 USC 1382 (b) plus the state supplemental security income payment described under s. 49.77 (2m), Stats.

(172m) "Substantial gainful activity level" means the income standards as described in 20 CFR 404.1572 and the federal social security administration's program operations manual.

(180m) "Income disregard" means earned or unearned income that is not considered when calculating an applicant's or recipient's monthly premium amount.

(183) "Wrap-around coverage" means the supplemental health care coverage necessary to provide any services which would be covered under medical assistance but which are not covered under the group health plan offered by the employer.

SECTION 4. HFS 103.03 (1) (g) is created to read:

HFS 103.03 (1) (g) *Medicaid purchase plan eligibility.* To be non-financially eligible for the medicaid purchase plan a person shall meet the conditions described in par. (c) for SSI-related persons and shall be age 18 or older and the person shall meet all of the following conditions:

1. a. The person shall be employed; or

b. The person shall be enrolled in a department-certified health and employment counseling program; or

c. The health of the person participating in the medicaid purchase plan for at least 6 months shall have deteriorated to the point that he or she is unable to work or participate in the health and employment counseling program under this paragraph and the county agency on a case-specific basis has waived the requirement. The county agency may waive the requirement for a person for up to 6 months if the person is hospitalized, injured or suffers any other health setback. The person shall supply proof of health difficulties. The department may also provide a temporary waiver of the work requirement on a case-specific basis.

2. The person meets SSI-related non-financial eligibility requirements under s. HFS 103.03 (1) (c) as verified under s. HFS 103.03 (1) (d) and s. 49.472 (3) (c), Stats.

3. The applicant meets the eligibility requirements described in s. HFS 103.087.

(h) *Medicaid purchase plan health and employment counseling eligibility*. 1. 'Initial eligibility.' To be eligible for the health and employment counseling program within the medicaid purchase plan, a person shall complete an employment plan.

a. The employment plan shall be reviewed by a screening agency and approved by the department before the person's approval from the department as a participant.

b. The screening agency shall refer the person to community resources as appropriate to meet all employment plan requirements. The screening agency may assist the person in completing the written employment plan or providing any other services required under the plan.

c. A notice of participation status shall be sent by the department to the person, the screener and the appropriate county or tribal economic support office.

2. 'Period of eligibility.' a. A person may participate in a health and employment counseling program for a period of up to nine consecutive months.

b. Upon completion of a period of eligibility, a person shall be ineligible for a health and employment counseling program for a period of six consecutive months. Following the 6-month period, a person may begin a new period of eligibility, but a given person may only use two periods of eligibility within a period of five consecutive years.

c. Participation in a health and employment counseling program approved by the department meets the eligibility requirement in s. HFS 103.03 (1) (g) (1) b.

3. 'Extending eligibility.' a. If a person is not employed at the end of the period of eligibility, the person may request an extended period of eligibility from the department. The extended period of eligibility shall be valid for a period of three consecutive months.

b. The extended period of eligibility shall be approved by the department.

c. The person may not request more than one extension of eligibility per period of eligibility.

d. After participation in a health and employment counseling ends, a person may continue to receive services from an agency that also provides screening services, in accordance with the agency's rules.

4. 'Retroactive eligibility.' a. A person may request retroactive participation in a health and employment counseling program for a period of up to three months if the person demonstrates he or she met all eligibility requirements of the employment plan during those months.

b. Any retroactive months of eligibility requested by the person shall count toward the period of eligibility as described in this paragraph.

c. The department shall approve requested months of retroactive eligibility.

SECTION 5. HFS 103.04 (8) and (9) are created to read:

HFS 103.04 (8) MEDICAID PURCHASE PLAN ELIGIBILITY CRITERIA. (a) A person who meets the requirements of ss. HFS 103.03(1) (g) and (2) to (9) and the income and asset limits described in this subsection is eligible for the medicaid purchase plan.

(b) The person's total net family income is less than 250% of the federal poverty line as determined by the person's family size. Net income is calculated using the standard SSI disregards and exemptions. The income disregards are the following:

1. Sixty-five dollars and one-half of the family's remaining earned income. If the family does not have any unearned income, $85 and one-half of the family's remaining earned income.

2. Twenty dollars of any unearned income.

3. Impairment-related work expenses.

(c) The person has non-exempt assets less than the asset limit described under s. 49.472 (3) (b), Stats.

(d) If the person leaves the medicaid purchase plan and subsequently re-enrolls in the program, the person's independence account and any interest, gains, or dividends from that account are disregarded for purposes of subsequent eligibility determinations.

(9) SPECIAL MEDICAID PURCHASE PLAN BUDGETING PROCEDURES. (a) *Medicaid purchase plan group.* Any of the following persons who reside in the home with the applicant or recipient shall be included in determining the family size of the person applying for the medicaid purchase plan, with this family size used in calculating the person's financial eligibility under this section:

1. The applicant.

2. The applicant's spouse.

3. Any dependent child of the applicant as described in s. 49.141, Stats.

(b) *Medicaid purchase plan fiscal test group.* The income of any person listed in par. (a) 1. or 2. shall be included when determining financial eligibility of the applicant.

(c) *Medicaid purchase plan coverage.* 1. Medical assistance under the medicaid purchase plan applies to the applicant or recipient only.

2. The monthly premium for the medicaid purchase plan is calculated using only the income of the applicant or recipient.

SECTION 6. HFS 103.06 (15) is created to read:

HFS 103.06 (15) INDEPENDENCE ACCOUNTS. (a) *Account provisions.* 1. Contributions to any of the recipient's registered independence accounts are subject to the rules described in this section and to any policies of the respective financial institution governing the account.

2. All contributions to the recipient's independence account or accounts, including interest, dividends, or other gains from the principal, shall be treated as an exempt asset for the purpose of

calculating eligibility for the medicaid purchase plan.

3. The purpose of an independence account is to allow the recipient to purchase any items or services that may aid in his or her pursuit of personal or financial independence.

4. The medicaid purchase plan recipient shall be the sole owner of any account registered as an independence account.

5. Retirement or pension accounts registered as independence accounts are not required to remain as separate holdings from the recipient's other non-exempt resources.

6. The county agency shall monitor the recipient's independence account as described in the medicaid review period for the medicaid purchase plan. The review process shall include verifying all contributions to the recipient's independence account with the financial institution holding the recipient's account.

7. The sum total a medical assistance recipient deposits in all independence accounts may not exceed an amount equal to 50% of the recipient's gross earned income for the medicaid review period. If a recipient's contributions to his or her independence accounts total more than an amount equal to 50% of his or her gross earned income within the medicaid review period, an amount equal to one-twelfth of the contributions greater than an amount equal to 50% of gross earned income shall be added to the recipient's monthly premium payment under s. HFS 103.087 for the next 12 months of eligibility.

(b) *Independence account registration.* 1. A person shall register each independence account with the county agency. A person shall re-register the independence account with the county agency if the financial institution or other information for the independence account changes.

2. A medicaid purchase plan recipient shall complete an account registration form at the time of an eligibility determination or at any time during eligibility.

3. The applicant or recipient shall report any changes in personal or financial status to the county agency as described in s. HFS 104.02 (6).

4. For all registered independence accounts that are not retirement or pension accounts, the date of account creation may be no earlier than the date a medicaid purchase plan recipient is determined eligible for medical assistance under this section. For all registered independence accounts that are not retirement or pension accounts, the funds in the independence account shall be held separate from a recipient's non-exempt assets.

SECTION 7. HFS 103.087 is created to read:

HFS 103.087 Conditions for continuation of eligibility. (1) PREMIUMS. (a) *Authority.* Subject to this section and s. 49.472, Stats., a person eligible for the medicaid purchase plan shall pay a monthly premium.

(b) *Applicability.* 1. An applicant or recipient eligible for the medicaid purchase plan whose total earned and unearned income is at or above 150% of the poverty line for the applicable household size shall pay a monthly premium and the applicant shall pay all retroactive premium amounts assessed or other premium payments due.

2. An applicant or recipient eligible for the medicaid purchase plan whose total earned and

unearned income is below 150% of the poverty line for the applicable household size need not pay a monthly premium.

3. An applicant or recipient eligible for the medicaid purchase plan whose premium, calculated as described in par. (c), is greater than $10.00 shall pay a premium for the cost of the health care coverage offered under the medicaid purchase plan.

(c) *Premium Amounts.* 1. An applicant or recipient eligible for the medicaid purchase plan shall pay a monthly premium in accordance with this subsection and the premium schedule in Table 103.087.

2. The county agency shall determine the amount of the premium an applicant shall pay according to the guidelines described in this subsection at the time of application.

3. All earned and unearned sources of income available to the applicant or recipient, except for the interest, dividends or other gains accrued from a recipient's independence account, shall be used in the premium determination.

4. The applicant's or recipient's monthly premium shall be calculated by locating the sum of the monthly adjusted unearned income plus the monthly adjusted earned income on the premium schedule in Table 103.087.

(d) *Calculating the monthly adjusted unearned income.* An applicant's or recipient's monthly adjusted unearned income shall be calculated by subtracting the monthly income disregards in subdivs. 1. to 3. from 100% of the applicant's or recipient's gross monthly countable unearned income.

1. The standard maintenance allowance. The allowance shall be equal to the sum of the monthly federal supplemental security income cash benefit, the monthly state supplemental cash benefit, and 20 dollars, rounded to the nearest dollar.

2. Monthly impairment-related work expenses for an applicant or recipient. To be claimed as a monthly income disregard, the cost may not have been claimed by the applicant or recipient under any other medicaid purchase plan income disregard.

3. Monthly medical and remedial expenses for an applicant or recipient. To be claimed as a monthly income disregard, the cost may not have been claimed by the applicant or recipient under any other medicaid purchase plan income disregard.

4. If the applicant or recipient has monthly unearned income equal to $0, the monthly income disregards described in subdivs. 1. to 3. apply to the applicant's or recipient's gross monthly earned income. If the applicant or recipient has monthly income disregards greater than his or her monthly unearned income, the difference shall be applied as a deduction to the applicant's or recipient's monthly earned income.

(e) *Calculating monthly adjusted earned income.* An applicant's or recipient's monthly adjusted earned income shall be 3 percent of the applicant's or recipient's gross monthly earned income after the amount of any monthly income disregards greater than the applicant's or recipient's total unearned income have been subtracted.

(f) *Calculating the total monthly premium.* 1. The sum of the amounts determined in pars. (d) and (e) shall be applied to the premium schedule in Table 103.087. If the sum of the

monthly adjusted earned and monthly adjusted unearned income is greater than $1025.00, the total monthly premium amount is the exact amount of the sum.

Table 103.087: Medicaid Purchase Plan Premium Schedule

PREMIUM SCHEDULE					
Sum of Monthly Adjusted Earned and Adjusted Unearned Income		The premium is:	Sum of Monthly Adjusted Earned and Adjusted Unearned Income		The premium is:
FROM	TO	**PREMIUM**	FROM	TO	**PREMIUM**
$0	$10.00	$0.00	500.01	525.00	500.00
10.01	25.00	10.00	525.01	550.00	525.00
25.01	50.00	25.00	550.01	575.00	550.00
50.01	75.00	50.00	575.01	600.00	575.00
75.01	100.00	75.00	600.01	625.00	600.00
100.01	125.00	100.00	625.01	650.00	625.00
125.01	150.00	125.00	650.01	675.00	650.00
150.01	175.00	150.00	675.01	700.00	675.00
175.01	200.00	175.00	700.01	725.00	700.00
200.01	225.00	200.00	725.01	750.00	725.00
225.01	250.00	225.00	750.01	775.00	750.00
250.01	275.00	250.00	775.01	800.00	775.00
275.01	300.00	275.00	800.01	825.00	800.00
300.01	325.00	300.00	825.01	850.00	825.00
325.01	350.00	325.00	850.01	875.00	850.00
350.01	375.00	350.00	875.01	900.00	875.00
375.01	400.00	375.00	900.01	925.00	900.00
400.01	425.00	400.00	925.01	950.00	925.00
425.01	450.00	425.00	950.01	975.00	950.00
450.01	475.00	450.00	975.01	1000.00	975.00
475.01	500.00	475.00	1000.01	1025.00	1000.00

2. The monthly premium shall be recalculated by the county agency to reflect any changes in earned or unearned income as reported by the recipient. A recipient's premium amount may change for any of the following reasons:

a. Termination of the recipient from the medicaid purchase plan.

b. A change in the poverty line or SSI federal or state benefit payment rate.

c. Changes in income, impairment-related work expense costs or medical and remedial expense costs.

d. Contributions to a recipient's independence account greater than an amount equal to 50% of earned income as described in s. HFS 103.06 (15).

e. Other changes in personal or financial status that alter medical assistance eligibility.

(g) *Monthly payments.* 1. Before the county agency may certify an applicant as eligibile for the medicaid purchase plan, the applicant who owes a premium under this subsection shall pay the premium amount. The premium amount owed shall include the premiums for all retroactive and current months in which the applicant owes a premium as of the date eligibility is determined.

2. An applicant may claim retroactive medicaid purchase plan eligibility for a period of up to 3 months prior to the month of application, but not prior to January 1, 2000. To be eligible for retroactive eligibility, an applicant shall pay the retroactive premium amount for each month claimed, in full, to the county agency prior to the county agency certifying the applicant's eligibility for the medicaid purchase plan.

3. Based on arrangements made by the applicant or recipient, entities other than the applicant or recipient may pay monthly premiums on behalf of the applicant or recipient. The applicant or recipient shall be ultimately responsible for his or her monthly premium payment.

4. If the county agency does not receive payment by the last day of the calendar month for which the premium is owed, the department shall terminate the recipient's eligibility for the medicaid purchase plan, effective the last calendar day of the month.

5. An applicant or recipient may pay monthly premiums in advance, but only for the months in the applicant's or recipient's current medicaid review period. The applicant or recipient shall pay advance monthly premium amounts in full.

6. If no premium is required and the applicant meets all other eligibility factors, the county agency shall approve the applicant for the medicaid purchase plan.

(h) *Non-payment of medicaid purchase plan premiums.* 1. An applicant or recipient required to pay a monthly premium shall be ineligible for re-enrollment for the period specified in par. (i) 2. when the applicant or recipient fails to pay his or her monthly premium within the time specified in par. (g) 4. resulting in a finding of premium non-payment.

2. Premium non-payment shall include attempted payment with an instrument such as a check or direct deposit, that has been returned, refused or dishonored. A guaranteed form of payment such as a cashier's check or money order shall be required to replace a returned, refused or dishonored payment.

3. Failure to pay premiums due to circumstances beyond the recipient's control may not be considered non-payment, provided that all past due premiums are paid in full. Circumstances beyond the recipient's control are any of the following:

a. Problems with an electronic funds transfer or direct deposit from a financial institution to the medicaid purchase plan program.

b. Problems with an employer's wage withholding.

c. Administrative error in processing the premium.

d. Any other causes found by the county agency to be out of the control of the recipient, but not including insufficient funds.

4. At the time of application or anytime thereafter, an applicant or recipient may sign a release form identifying an emergency contact to receive copies of the person's notice of decision letters.

(i) *Consequences of premium non-payment.* 1. A person eligible for the medicaid purchase plan who fails to pay his or her monthly premium shall be terminated from the medicaid purchase plan and subject to restrictive re-enrollment as described under subdiv. 2.

2. A medicaid purchase plan participant who fails to make his or her monthly premium payments in the medicaid purchase plan shall be ineligible for a period of at least 6 consecutive calendar months following the date that the medicaid purchase plan eligibility ends. After 6 calendar months, the person shall be eligible for the medicaid purchase plan only if all past premiums due are paid in full or 12 calendar months have passed since the expiration of medicaid purchase plan eligibility, whichever is sooner.

(2) COOPERATION WITH BUY-IN TO EMPLOYER-PROVIDED HEALTH CARE COVERAGE. (a) The applicant eligible for the medicaid purchase plan and the applicant's parent, if the applicant is a dependent child, shall cooperate when the department determines whether it is cost-effective to purchase coverage under the employer-provided health plan for the person under s. HFS 108.02 (14). In this subsection, "cooperate" means provide necessary information in order to determine cost-effectiveness, sign up with the health plan when requested by the department and comply with any other requirements of the health plan.

(b) 1. Except as provided in subd. 2., a person who fails or refuses to cooperate with the department's buy-in to employer-provided health care coverage is not eligible for the medicaid purchase plan.

2. An exception to subd. 1. shall be made in cases where a person who is otherwise eligible for medical assistance is unable to enroll in the group health plan on his or her own behalf.

Note: An example of a person who is otherwise eligible for medical assistance but unable to enroll in the group health plan on his or her own behalf may be a child whose parent refuses to enroll the child or a spouse unable to enroll on his or her own behalf.

SECTION 8. HFS 108.02 (14) is created to read:

HFS 108.02 (14) MEDICAID PURCHASE PLAN BUY-IN TO EMPLOYER-PROVIDED HEALTH CARE COVERAGE. (a) *Authority.* The department may purchase a group health plan offered by the employer of an eligible person or non-eligible family member if the department determines that purchasing that coverage would not be more costly than providing the medical assistance coverage described under this chapter.

(b) Buy-in to employer-provided coverage. 1. The department shall pay on behalf of the recipient all deductibles, coinsurance and other cost sharing obligations under the group health plan that are for services covered under the state plan, except for the nominal cost sharing amounts otherwise permitted under section 1916 of the social security act that are the responsibility of the recipient.

2. The department shall purchase coverage by making payment to one of the following:

a. The employer of the recipient.

b. The insurance company that provides the health care coverage offered by the employer.

c. The employe.

3. If a non-medical assistance eligible family member is enrolled in the group health plan in order to obtain coverage for the medical assistance eligible family member, the department shall pay for premiums only and not other cost sharing expenses for the non-medical assistance eligible family member. Premium payments for non-eligible members shall be included in the determination of cost-effectiveness under par. (c).

4. If a person's group health plan offers more services than covered under the state plan, the department may not pay any deductibles, coinsurance or other cost sharing obligations for non-covered services.

5. Medicaid purchase plan eligible persons enrolled in a group health plan under this section shall be eligible for wrap-around coverage as described in ch. HFS 101.

(c) *Cost-effectiveness determination.* A person's enrollment in a group health plan shall be cost-effective when the amount the department pays for premiums, coinsurance, deductibles, other cost sharing obligations, wrap-around costs and additional administrative costs is likely to be less than the medical assistance expenditures for an equivalent set of services.

SECTION 9. HFS 108.02 (15) is created to read:

HFS 108.02 (15) ESTATE RECOVERY FOR MEDICAID PURCHASE PLAN. (a) Except as provided in par. (b), estate recovery requirements of sub. (11) and ss. 46.27 (7g), 49.496, and 867.035, Stats., apply to recipients of the medicaid purchase plan.

(b) Amounts recovered in estate recovery from a recipient of the medicaid purchase plan shall be reduced by the total amount of monthly premiums paid by the recipient as a condition of eligibility for the medicaid purchase plan.

The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, as provided in s. 227.22 (2), Stats.

Wisconsin Department of Health and Family Services

Dated:

By:_____
Joseph Leean
Secretary

SEAL:

SENATOR JUDITH B. ROBSON
CO-CHAIR
PO BOX 7882
MADISON, WI 53707-7882
(608) 266-2253

REPRESENTATIVE GLENN GROTHMAN
CO-CHAIR
PO BOX 8952
MADISON, WI 53708-8952
(608) 264-8486

JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

Emergency Rule Extension Motion Form

Last Modified May2000

Date: July 25, 2000 Location: 300 Southeast, State Capitol

Moved by Robson, Seconded by Schultz

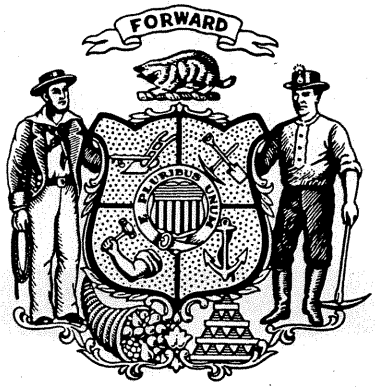
THAT, pursuant to § 227.24(2)(a), *Wisconsin State Statutes,* the Joint Committee for the Review of Administrative Rules extend the effective period of Emergency Rule HFS 103 (medicaid purchase plan) by 60 days, at the request of the Department of Health and Family Services.

w/ ltr from co-chairs re DVR eligibility problems

COMMITTEE MEMBER	Aye	No	Absent
1. Senator ROBSON	✓		
2. Senator GROBSCHMIDT	✓		
3. Senator SHIBLISKI	✓		
4. Senator WELCH	✓		
5. Senator SCHULTZ	✓		
6. Representative GROTHMAN	✓		
7. Representative GUNDERSON			
8. Representative SERATTI			
9. Representative KREUSER			
10. Representative BLACK	✓		
Totals			

☐Motion Carried ☐Motion Failed

END



END

DEPARTMENT OF COMMERCE

EMERGENCY RULE RELATING TO THE EFFECTIVE DATE OF REVISIONS TO THE UNIFORM DWELLING CODE

Finding of Emergency and Rule Analysis

The Department of Commerce finds that an emergency exists and that the adoption of the rule included in this order is necessary for the immediate preservation of public health, safety and welfare. The facts constituting the emergency are as follows:

The rule change that was to go into effect on February 1, 1999 consists of a complete rewrite of chapter Comm 22, which relates to energy efficiency in one- and 2-family dwellings, as well as miscellaneous changes to chapters Comm 20, 21 and 23. The department planned for a lead time of approximately 2 months between the time the code was made available and the code effective date. Because of difficulties in printing the code, the anticipated lead time could not be achieved. Several constituent groups, including builders, inspectors, and the Uniform Dwelling Code Council have asked for extra time to become familiar with the changes, once the complete code is made available. If this is not done, a great deal of confusion and economic hardship could result for builders, as well as homeowners. Enforcement of the new requirements could vary greatly from one municipality to the next.

This emergency rule delays the effective date of the proposed changes to chapters Comm 20, 21, 22 and 23 from February 1, 1999 to May 1, 1999.

These rules are therefore adopted as emergency rules to take effect on February 1, 1999 following publication in the official state newspaper and filing with the Secretary of State and Revisor of Statutes, as provided in section 227.24, Stats.

Dated at Madison, Wisconsin this 19th

day of January, A.D. 1999.

Department of Commerce.

Brenda J. Blanchard, Secretary

SECTION 1. Clearinghouse Rule No. 97-138, Effective Date Clause is amended to read:

* *

EFFECTIVE DATE

Pursuant to s. 227.22 (2) (b), Stats., these rules shall take effect on ~~February 1, 1999~~ May 1, 1999.

* *

1997 Session

FISCAL ESTIMATE WORKSHEET
Detailed Estimate of Annual Fiscal Effect
DOA-2047(R10/94)

☒ ORIGINAL ☐ UPDATED
☐ CORRECTED ☐ SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.	Amendment No.
Chapters ILHR 20-25	

Subject
Emergency Rule to delay the effective date of the Uniform Dwelling Code from 2/1/99 to 5/1/99.

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):
None

II. Annualized Costs:	**Annualized Fiscal impact on State funds from:**	
	Increased Costs	**Decreased Costs**
A. State Costs By Category State Operations - Salaries and Fringes	$	$ -
(FTE Position Changes)	(0 FTE)	(- 0 FTE)
State Operations - Other Costs		-
Local Assistance		-
Aids to Individuals or Organizations		-
TOTAL State Costs By Category	$ 0	$ -0
B. State Costs By Source of Funds	**Increased Costs**	**Decreased Costs**
GPR	$	$ -
FED		-
PRO/PRS	0	-0
SEG/SEG-S		-
III. State Revenues- Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	**Increased Rev.**	**Decreased Rev.**
GPR Taxes	$	$ -
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S		-
TOTAL State Revenues	$ 0	$ -0

NET ANNUALIZED FISCAL IMPACT

	STATE	LOCAL
NET CHANGE IN COSTS	$ 0	$ 0
NET CHANGE IN REVENUES	$ 0	$ 0

Agency/Prepared by: (Name & Phone No.)	Authorized Signature/Telephone No.	Date
Commerce, Safety & Buildings Division Duane Hubeler (608)266-1390	6-7088	1/19/99

1997 Session

FISCAL ESTIMATE
DOA-2048 (R10/94)

[X] ORIGINAL [ ] UPDATED
[ ] CORRECTED [ ] SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
Chapters ILHR 20-25
Amendment No. if Applicable

Subject
Emergency Rule to delay the effective date of the Uniform Dwelling Code from 2/1/99 to 5/1/99.

Fiscal Effect

State: [X] No State Fiscal Effect
Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation
[ ] Increase Existing Appropriation [ ] Increase Existing Revenues
[ ] Decrease Existing Appropriation [ ] Decrease Existing Revenues
[ ] Create New Appropriation

[ ] Increase Costs - May be Possible to Absorb Within Agency's Budget [ ] Yes [ ] No
[ ] Decrease Costs

Local: [X] No local government costs

1. [ ] Increase Costs
   [ ] Permissive [ ] Mandatory
2. [ ] Decrease Costs
   [ ] Permissive [ ] Mandatory
3. [ ] Increase Revenues
   [ ] Permissive [ ] Mandatory
4. [ ] Decrease Revenues
   [ ] Permissive [ ] Mandatory
5. Types of Local Governmental Units Affected:
   [ ] Towns [ ] Villages [ ] Cities
   [ ] Counties [ ] Others _____
   [ ] School Districts [ ] WTCS Districts

Fund Sources Affected
[ ] GPR [ ] FED [ ] PRO [ ] PRS [ ] SEG [ ] SEG-S

Affected Ch. 20 Appropriations
Not applicable

Assumptions Used in Arriving at Fiscal Estimate

The Uniform Dwelling Code has been in effect since 1980. There are no new regulation schemes contained in these proposed changes. Although there is a time lag or learning curve involved in any administrative rule change, we do not expect revenues to be affected. This emergency rule merely delays the effective date of the rules for 3 months, from 2/1/99 to 5/1/99.

Long-Range Fiscal Implications

None known or anticipated

Agency/Prepared by: (Name & Phone No.)	Authorized Signature/Telephone No.	Date
Commerce, Safety & Buildings Division Duane Hubeler (608)266-1390	6-7088	1/19/99

Metropolitan Builders Association

of Greater Milwaukee, Inc.

COMM 22

January 7, 1998

VIA FACSIMILE: (608) 266-7038

State Senator Judy Robson
Wisconsin State Senate
PO Box 7882
Madison, WI 53707

Dear Senator Robson:

On behalf of the Metropolitan Builders Association of Greater Milwaukee, I am writing **to request that the implementation date of the revised Uniform Dwelling Code be delayed until such time that proper educational seminars and training sessions can be conducted** throughout the State for builders and building inspectors. *Our organization believes the implementation date should be moved to May 1, 1999.* Since significant changes have been made to the energy conservation requirements of the UDC, it is in the best interest of all parties involved to delay the implementation until proper training can be completed.

By moving forward with the current February 1st implementation date, substantial headaches for all parties involved, including the homeowners, will occur. Members of our Single Family Builders Council became particularly concerned about the implementation date after their recent review of the rules in final draft form. To close this review, a unanimous vote was taken by the nearly 100 hundred members of the MBA to seek a further delay. Please find attached a list of these members for your review. (Note: Since our homeshow begins today and lasts through Sunday, our members will be unable to write you individually to seek this delay.)

During this review, the Committee felt that several provisions in the energy code needed further clarifying, which would normally occur at a sanctioned training session. However, the training sessions will be held in January and February, and the revised codebooks will not be available until the end of January. This puts all parties involved in a precarious situation of having to comply with a code that is implemented on February 1st without enough advance information on the new revisions and how they relate to other code provisions.

By not delaying the implementation date, a real danger for non-uniform enforcement exists. In addition, the builder is put in a vulnerable position of pricing a home for a prospective client without the confidence of knowing for certain what the provisions of the new energy code will require in additional costs. Most homes are designed and contracted for several months before the beginning of actual construction, so this is a real problem.

6511 West Bluemound Road Milwaukee, Wisconsin 53213 (414) 258-9850 FAX (414) 258-9878

Please consider making an emergency rule to delay the implementation date until such a time that all parties can obtain the appropriate level of education on the new provisions.

If you have any questions, please feel free to call MBA Government Affairs Director, Matt Moroney, at 258-9850.

Thank you.

Very truly yours,

Ted Janka
MBA President

CC: Frank Madden, Single Family Builders Council (SFBC) Chairman
Al Eckhart, 1998 SFBC Chairman
Matt Moroney, MBA Government Affairs Director
Sandi Anderson Reinholdt, Interim Executive Director
Jerry Deschane, Wisconsin Builders Association
Scott Satula, Chairman of the Area Building Inspector Association

Attachment

UDC SEMINAR 12-16-98

NAME	COMPANY
Steve Krentz	Bulter Homes
Todd Mahaffy	KW/KC Homes
Ted Janka	Janka Builders
Dean London	London Building
Jon Lestina	Greystone Builders
Randy Walters	Greystone Builders
Sheldon Synstad	Fondel Builders
Keith Fondel	Fondel Builders
Bob Sameels	Sameels Builders
Barry Campbell	Campbell Contracting
[illegible]	Gaslight Homes
Pat Flanigan	Flan-Co, Inc.
Jim Ruggio	Thomson Realty - Meadows Apts.
Brian Brown	[illegible] Homes
[illegible]	[illegible] Homes
Kathy Karaganis	[illegible] Homes
Gary Belman	Gary Belman Design Builders Corp
Al Eckhart	Woodhaven
Aaron Eckhart	Wood haven
Bob Thierfelder	Thierfelder Builders
Jim Burkholz	Burkholz Builders
Sandra Jakob	Talon Bld
John Jakob	Talon Bld
Joe [illegible]	Dan Belman (Sims)
Fred Albanella	A.W.I. Contractors
[illegible]	AWI Contractors
[illegible]	Chamberlain & Platz

UDC SEMINAR 12-16-98

NAME	COMPANY
BOB FLANAGAN	FLANAGAN CO.
Don Belman	Don Belman Homes LLC
Don Maupin	Kings Way Homes
Rich BARRICELLI	HALCYON HOMES
Earl Olenski	Don Belman Homes Inc.
Gary Coulan	
Joe Wendelberger	J. ANTHONY CONSTRUCTION
Mike Holzschuh	Wi. Gen. Contrs
john broumeister	trumpeter homes
Ed Wisz	Wisz Builders
KENT HANSON	KHLH inc
Patrick Dann	Fonda Builders
Kevin Kleppe	Kleppe Builders Inc.
KEVIN LOKAN	DFK BUILDERS INC
[illegible]	Heritage Homes
[illegible]	STENSON BUILDERS
MARK BENKOWSKI	Custom Design Assoc
TIM FLEMING	WALTER BROTHERS BLDRS
Ken Kerkman	Kerkman Brothers
Dan Smith	KERKMAN BROS.
Gary Kerkman	Kerkman Bros.
Ralph Kerkman	Kerkman Bros
Jim Kempfer	James Const Co
Paul Lurie	Mark Carstensen Const
Doug Alt	Matt Heisler
Ron Dekker	Koch Waterproof
BRIAN Keller	Keller Homes

UDC SEMINAR 12-16-98

NAME	COMPANY
Brad Chamberlain	Chamberlain & Platz
Shelly Paige	Mark Carstensen
Bob Silverman	DMS Construction
Bill Grosskopf	Grosskopf Construction
William R. Klaffke	Klaffke Builders
MARK BREUCHEL	TRUSTWAY HOMES
Ron Weisflog Jr.	Weisflog Home & Remod.
John Helm	Mark E. Carstensen Const.
Ray Bies	Level Homes
Jeff Bruins	Bruins Carpentry
Bill Dallmann	Thomson Corp.
Scott Raymond	Serene Bldrs.
Jeff Nelson	Kramer Custom Homes
Ulrich Standaert	U.S. Builders
Dan Denk	Brookside Bldrs.
[illegible] Jewell	Jewell Homes
BOB ANDERSON	RMA CONSTR.
Dennis Janka	Carefree Homes
Tom Higmte	MIRACLE Homes

UDC SEMINAR 12-16-98

NAME	COMPANY
DALE KOLBECK	ANDERS INC.
Mike Schmitz	Deshur Homes
John Luellwitz	Claire Homes LTD
MIKE HASENSTAB	M. HASENSTAB HOMES
Robb Westphal	trustway Homes
Robert Weisflog	Weisflog's
Eugene DelFosse	DelFosse Inc.
JAMES BIERMAN	HARTLAND Builders
Jim Samuels	J.G. SAMUELS CO.
Jim Samuels	J.G. Samuels Inc.
Rick Nakles	Lemal Homes Inc.
Paul Polum	Newcastle Homes
Mike Olencak	Stenson Builders Inc

CO-CHAIR, JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

January 20, 1999

Secretary Blanchard
Department of Commerce
201 West Washington Avenue
Madison, WI 53703

Dear Secretary:

Thank you for taking the time to meet with me. It was a pleasure to meet you and I look forward to working with you and the rest of the staff at the Department of Commerce in the future.

As we discussed in our meeting, a hasty implementation of the Uniform Dwelling Code (Comm 20-25) could negatively impact both the building trades industry and the municipalities that are charged with enforcing the new codes. I have heard from builders and inspectors from the City of Janesville, and both groups have addressed concerns about a February 1, 1999 implementation date. In response to these concerns, I support an implementation date of May 1, 1999.

Their concerns seem well founded. The builders don't feel they have enough time to learn the new code and finish buildings that are already under contract to meet the February 1 implementation date. The City of Janesville won't be able to train its employees and the builders in the Janesville area on the new UDC code before February 1. I have received correspondence from builders in the Milwaukee and Green Bay areas that concur with this perspective. Should the February 1 date be enforced, it increases the chance that the code will be implemented unsafely and incorrectly. As a carpenter once told me, "Measure twice, cut once."

Out of concern for the builders, the inspectors, and ultimately the homeowners, I believe the UDC revision should be changed from February 1, 1999 to May 1, 1999. I appreciate your willingness to be flexible with the date of implementation on this matter.

Thank you for your cooperation on this matter. Do not hesitate to call on me with any other concerns that may arise on this or any other issue.

Sincerely,

Judith B. Robson
State Senator
15th Senate District

JBR:chmiv

Wisconsin Builders Association

January 6, 1999

Speaker Scott Jensen and Senate President Fred Risser
State Capitol
Madison, WI 53702

Dear Sirs:

I am writing on behalf of the more than 6,200 members of the Wisconsin Builders Association to make you aware of a recent incident regarding delays in the publication of an administrative code. Those delays, apparently caused by an oversight in the office of the Revisor of Statutes, have created considerable confusion in the housing construction industry and with municipal building inspectors statewide.

The Wisconsin Department of Commerce completed revisions to CR97-138 (an update of the Uniform Dwelling Code) last Summer. The revisions were to be incorporated into the UDC and published prior to their December 1, 1998 effective date. We have been told by the Department that the Revisor's office did not do the printing, and that the new code books would not be available until early January. On that basis, the Revisor agreed to delay the effective date until February 1, 1999.

We recently learned that the code books are still not available. Some of our members have been told they will not be available until February, after the code changes take effect. These code changes require design modifications and other processes that need lead time to be built into a new home plan. They will also impose costs of up to $4,000 per home. Builders and home buyers need time to absorb these higher costs.

On the basis of these problems, we have asked the Department and the Joint Committee for Review of Administrative Rules to delay the effective date of the changes to May 1, 1999. The Department has agreed.

This did not need to happen. The code changes were complete months ago. We respectfully request that you investigate this miscue in hopes that steps will be taken to assure that it will not re-occur.

If you have any questions, please call me at (608) 252-5155, ext. 15.

Sincerely,

Gerard J. Deschane
Director of Government Affairs

cc: Department of Commerce
JCRAR Co-Chairs

NAHB

4868 High Crossing Boulevard • Madison, Wisconsin 53704-7403
(608) 242-5151 • (800) 362-9066 • Fax (608) 242-5150

Glenn Grothman
STATE REPRESENTATIVE
59TH ASSEMBLY DISTRICT

Office:
Room 125 West, State Capitol · Post Office Box 8952
Madison, Wisconsin 53708-8952 · (608) 264-8486
Toll-Free: (888) 534-0059 · Rep.Grothman@legis.state.wi.us
http://www.legis.state.wi.us/assembly/asm59/news/index.html

Home:
111 South 6th Avenue
West Bend, Wisconsin 53095
(414) 338-8061

January 12, 1999

Secretary Brenda Blanchard
Department of Commerce
201 W. Washington Avenue
Madison, WI 53703

Dear Secretary:

Thank you for taking the time to meet with me. I enjoyed talking with you on Friday regarding the revisions to Comm (previously ILHR) 20 to 25 relating to the Uniform Dwelling Code.

As discussed in our meeting, I am concerned about the potential impact of these changes upon the building industry in our state. Because of the number of concerns have been brought to my attention, I am requesting that the Department of Commerce delay the implementation date to May 1, 1999.

First of all, it is my understanding that building inspector's training regarding the code revisions will not be completed until March. In addition, builders in both the Green Bay and Milwaukee areas will not receive proper training until spring. Also, I am concerned with the fact that publications of the code revisions are not available till February. Without proper notification and training of the code revision, it is impossible for builders to account for likely cost differences in their contracts. It is my understanding that a number of builders already have contracted into the summer months. Another related concern is the danger of non-uniform enforcement. Without proper knowledge and training, there is a good possibility that the UDC revisions might not be carried out as intended, leaving the homeowner as the injured party.

In light of these circumstances, I am requesting that the effective date of the UDC revision be changed from February 1, 1999 to May 1, 1999.

Thank you for your time and attention to this matter.

Sincerely,

Glenn Grothman
State Representative
59th Assembly District

GG:mjg

cc: Senator Judy Robson
Michael Corry, Buildings and Safety
Wisconsin Builders Association
West Bend Builders Association
Gordon Hoffmann
Richard Simmons
Metropolitan Builders Association of Greater Milwaukee, Inc.
Mary Yahr
Glenn Peters
Kirst Builders

Cory Mason

Legislative Assistant
Committee Clerk

State Senator Judy Robson, 15th Senate District
Human Services & Aging
Joint Committee for Review of Administrative Rules

TO: Judy

FROM: Cory

RE: DoC Rule 20-25, Uniform Dwelling Code

DATE: January 13, 1999

Contact person at the Department of Commerce is Mike Corry—6-1816

Background
The Department of Commerce (DoC) is required to update building standards in a number of areas on a regular basis. Last year, when the DoC updated them, they put the rule in for promulgation on September 1, 1998. The rule was to go into effect on December 1. The rule reviser did not even get to the rule to revise it until December 1. Then the reviser decided (given the circumstances) that it was within his purview to extend the implementation date to February 1, 1999.

Since that time builders have complained, upon hearing about this rule that it was in the middle of the building season and in the middle of contract already in process that were not up to the code. They asked for a further delay of May 1, 1999. In addition DoC would not be able to have inspector trained on the new codes until the end of February at the earliest. DoC wants to extend until April 1, 1999.

Procedure
Procedurally, there is no official action that JCRAR needs to take. However, agencies often check changes they want to make right before publication of a rule to make sure the co-chairs do not object. No sense in promulgating a rule that JCRAR will suspend the next day, is generally the thinking behind such a protocol.

Questions raised
Why the discrepancy between the DoC and the Builders on April vs. May?

Is there any consequential difference between the two?

If this could have gone into effect on December 1, why can't it go into effect now?

Contacts

The following correspondence we have received supports a May 1 change:

- Schauder Homes of Janesville
- Milwaukee Metropolitan Builders Association
- Brown County Home Builders Association
- Glenn Grothman has sent a letter to Secretary Blanchard stating he supports a May 1st Change.

However, the following correspondence requested an April 1 change:

- City of Janesville
- Over the phone, the Department of Commerce

SCHAUDER HOMES

January 12, 1999

Dear Ms. Robson:

The Uniform State Building code for one and two family dwellings is scheduled to initiate some major changes on February 1, 1999. These changes have just recently been published and are being distributed to builders.

However, there is simply not enough time for builders to digest and understand the code changes and redesign homes to meet the changes by February 1, 1999.

We request a delay until at least May of 1999 to adapt to the changes and revise our plans.

Sincerely,

Lawrence E. Schauder,
President

LES/as

4115 North U.S. Highway 51, Janesville, WI 53545-9674 **Phone: 608/754-8006 Fax: 608/754-1158**

SCHAUDER HOMES

Wausau Homes

January 12, 1999

Attn: State Senator Judy Robson
Fax: 608-267-5171

From: Lawrence E. Schauder
Fax: 608-754-1158

Total Pages Including This Cover Sheet: 2

4115 North U.S. Highway 51, Janesville, WI 53545-9674 Phone: 608/754-8006 Fax: 608/754-1158

BROWN COUNTY HOME BUILDERS ASSOCIATION
811 Packerland Dr. ■ P.O. Box 13194 ■ Green Bay, WI 54307-9194 ■ (920) 494-9020 ■ Fax (920) 494-5965

January 6, 1999

State Senator Judy Robson
Wisconsin State Senate
PO Box 7882
Madison WI 53707

Dear Senator Robson:

On behalf of the Brown County Home Builders Assocaition (BCHBA) and building inspectors throughtout Northeast Wisconsin, we are writing **to request that the the Joint Committee for Administration Rules delay the implementation date of the revised Uniform Dwelling Code until such time that proper educational seminars and training sessions can be conducted throughout the State for builders and building inspectors. We would urge that this date be moved to May 1, 1999.** Since significant changes have been made to the energy conservation requirements of the UDC, it is in the best interest of all parties involved to delay the implementation until proper training can be completed.

By moving forward with the current February 1, 1999 implementation date, substantial headaches for all parties involved, including the homeowner, will occur. We are particularly concerned about the implementation date after their recent review of the rules in final draft form. After this review, we feel that several provisions in the energy code needed further clarifying, which would normally occur at a sanctioned training session. However, the training sessions will be held in January and February and revised code books will not be available until the end of January. This puts all parties involved in a precarious situation of having to comply with a code that is implemented on February 1, 1999 without enough advance information on the new revisions and how they relate to other code provisions.

By not delaying the implementation date, a real danger for non-uniform enforcement exists. In addition, the builder is put in a vulnerable position of pricing a home for a prospective client without the confidence of knowing for certain what the provisions of the new energy code will require in additional costs. Most homes are designed and contracted for several months before the beginning of actual construction, so this is a real problem.

Please consider making the implementation date until May 1, 1999 so that all parties can obtain the appropriate level of education on the new provisions.

If you have any questions, please feel free to call BCHBA Government Affairs Director Jeff Landin at 920/494-9020. Thank you.

Very truly yours,

Mark Arndt
BCHBA President

cc: Jerry Deschane, Wisconsin Builders Association

CITY OF JANESVILLE

Wisconsin's Park Place

01/13/99

FAX TO: State Senator Judy Robson
608-267-5171

FROM: Christine Wilson, Code Administration Director (CW)
City of Janesville, Wisconsin

Subject: Uniform Dwelling Code Change Effective Date

The Uniform Dwelling Code Reviews and suggests changes to the code on an annual basis. I have served on the Dwelling Council for fifteen years. At the November 4, 1998, meeting a motion was made to delay the effective date for the new code changes until April 1, 1999. This motion was passed by the council members. The reason for selecting the April 1, 1999, date was for the following reasons.

1. The revised Uniform Dwelling Code book will not be available for purchase until after January 25, 1999.

2. The inspectors training for the new revisions is not held until March. Training seminars are held in each of the Wisconsin Building Inspectors Association four sections during the month of March.

3. With the delay of the printing of the code books, the Wisconsin Builders Association would not be able to give their membership information on the code revisions in their newsletters and seminars.

4. The council members felt the delay would not cause a health or safety problem and with time to distribute the code revisions to the inspectors, builders and suppliers; there would be a smooth transition. In the past when code changes have been made prior to allowing time to distribute the information we have had major confusion.

In your membership on the committee that can change the effective date from February 1, 1999, to April 1, 1999, please do what you can to make this change.

Thank you for your anticipated cooperation regarding this matter.

CODE ADMINISTRATION
MUNICIPAL BUILDING • 18 N. JACKSON ST., P.O. BOX 5005 • JANESVILLE, WI 53547-5005 • (608) 755-3060 • FAX (608) 755-3196