

2007 DRAFTING REQUEST

Bill

Received: 01/17/2008

Received By: mshovers

Wanted: As time permits

Identical to LRB:

For: Pat Kreitlow (608) 266-7511

By/Representing: Stephanie Hilton

This file may be shown to any legislator: NO

Drafter: mshovers

May Contact:

Addl. Drafters: dkennedy  
jkreye

Subject: Tax, Individual - income credit  
Tax, Business - crp inc, fran  
Health - medical assistance

Extra Copies:

Submit via email: YES

Requester's email: Sen.Kreitlow@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Nonrefundable individual income tax credit for MA providers who provide a high rate of services

Instructions:

See Attached. Senate companion for LRB -2637/1

Drafting History:

| <u>Vers.</u> | <u>Drafted</u>         | <u>Reviewed</u>    | <u>Typed</u>           | <u>Proofed</u> | <u>Submitted</u>      | <u>Jacketed</u> | <u>Required</u> |
|--------------|------------------------|--------------------|------------------------|----------------|-----------------------|-----------------|-----------------|
| /?           | mshovers<br>01/17/2008 | jdye<br>01/23/2008 |                        | _____          |                       |                 | State           |
| /1           |                        |                    | pgreensl<br>01/23/2008 | _____          | lparisi<br>01/23/2008 |                 |                 |

FE Sent For: *none*

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By/Representing: **Stephanie Hilton**

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Drafter: **mshovers**

May Contact:

Addl. Drafters: **dkennedy  
jkreye**

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|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|
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/? mshovers

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FE Sent For:

<END>

## Shovers, Marc

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**From:** Hilton, Stephanie  
**Sent:** Thursday, January 17, 2008 10:45 AM  
**To:** Shovers, Marc  
**Cc:** Pagel, Matt; Clark, Lloyd  
**Subject:** LRB 2637, tax credits for MA providers

Hi Marc,

LRB 2637 was originally requested by Rep. Staskunas, but he gave it to Rep. Hraychuck to introduce. Sen. Kreitlow's office has offered to do the Senate companion for LRB 2637. Could you draft a companion bill and send it over to Sen. Kreitlow? Thanks!

-Stephanie

Stephanie Hilton  
Legislative Assistant  
Office of Rep. Ann Hraychuck  
608-267-2365 or 1-888-529-0028  
Room 6 North State Capitol

-3881/1

stays

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2007 BILL

in 1-22-08

due FRI 1-25

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1 AN ACT *to amend* 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a), 71.34 (1) (g), 71.45 (2)

2 (a) 10. and 77.92 (4); and *to create* 49.45 (2) (a) 25g., 71.07 (5r), 71.10 (4) (cd),

3 71.28 (5r), 71.30 (3) (dr), 71.47 (5r) and 71.49 (1) (dr) of the statutes; **relating**

4 **to:** creating a nonrefundable individual and corporate income tax credit for

5 health care providers who provide services to Medical Assistance recipients at

6 a higher than average rate.

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

This bill creates a nonrefundable individual and corporate income tax credit for primary care physicians and dentists who provide services to Medical Assistance (MA) recipients at a high rate of service, compared to other physicians and dentists who serve MA patients. The credit is for certain costs of providing medical and dental services that are not reimbursed under the MA program. Sole proprietorships and corporations may claim the credit. Partnerships, limited liability companies, and tax-option corporations compute the credit but pass it on to the partners, members, and shareholders in proportion to their ownership interests.

The credit that may be claimed is equal to a physician's or dentist's unreimbursed costs that are incurred in the taxable year to which the claim relates. Because the credit is nonrefundable, it may only be claimed up to the amount of the taxpayer's tax liability. The bill defines unreimbursed costs as the difference between a physician's or dentist's usual and customary charges for providing a

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medical or dental service, and the amount paid to the physician or dentist for providing such services to MA recipients. The bill defines rate of service as the percentage of a dentist's or physician's patients who receive MA, and defines high rate of service as a rate of service provided by a dentist or a physician to MA recipients that is at least 200 percent greater than the average rate of service provided by all dentists or physicians, as required to be determined by the Department of Health and Family Services.

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

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

**SECTION 1.** 49.45 (2) (a) 25g. of the statutes is created to read:

49.45 (2) (a) 25g. Determine the average rate of service to medical assistance recipients provided by all dentists, as defined in s. 447.01 (7), and physicians, as defined in s. 448.01 (5), for purposes of computing a high rate of service of a dentist or physician under ss. 71.07 (5r), 71.28 (5r), and 71.47 (5r).

**SECTION 2.** 71.05 (6) (a) 15. of the statutes is amended to read:

71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3n), (3s), (3t), (3w), (5b), (5d) and (5e), (5f), and (5h) and (5r) and not passed through by a partnership, limited liability company, or tax-option corporation that has added that amount to the partnership's, company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

**SECTION 3.** 71.07 (5r) of the statutes is created to read:

71.07 (5r) HIGH RATE OF MEDICAL AND DENTAL SERVICES TAX CREDIT. (a)

*Definitions.* In this subsection:

1. "Claimant" means a sole proprietor, a partner, a member of a limited liability company, or a shareholder of a tax-option corporation who is a physician or dentist who provides a high rate of service and who files a claim under this subsection.

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1           2. “Dentist” means a dentist, as defined in s. 447.01 (7), who is licensed under  
2 ch. 447, who practices general or pediatric dentistry, and who provides services to  
3 medical assistance recipients.

4           3. “High rate of service” means a rate of service provided by a dentist or a  
5 physician to medical assistance recipients that is at least 200 percent greater than  
6 the average rate of service provided by all dentists or physicians, as determined by  
7 the department of health and family services.

8           4. “Medical assistance” has the meaning given in s. 49.43 (8).

9           5. “Physician” means a physician, as defined in s. 448.01 (5), specializing in  
10 family medical practice, general internal medicine, or pediatrics and who provides  
11 services to medical assistance recipients.

12           6. “Rate of service” means the percentage of a dentist’s or physician’s patients  
13 who receive medical assistance.

14           7. “Unreimbursed costs” means the difference between either a physician’s  
15 usual and customary charges for providing a service specified under s. 49.46 (2) (a)  
16 1., and the amount paid to the physician under s. 49.45 (3) for providing such service  
17 to recipients of medical assistance, or the difference between a dentist’s usual and  
18 customary charges for providing a dental service, and the amount paid to the dentist  
19 under s. 49.45 (3) for providing such service to recipients of medical assistance.

20           (b) *Filing claims.* Subject to the limitations provided in this subsection, a  
21 claimant may claim as a credit against the tax imposed under s. 71.02, up to the  
22 amount of those taxes, an amount equal to the claimant’s unreimbursed costs that  
23 are incurred in the taxable year to which the claim relates.

24           (c) *Limitations.* 1. No credit may be allowed under this subsection unless it  
25 is claimed within the time period under s. 71.75 (2).

**BILL****SECTION 3**

1           2. The carry-over provisions of s. 71.28 (4) (e) and (f), as they apply to the credit  
2 under s. 71.28 (4), apply to the credit under this subsection.

3           3. Partnerships, limited liability companies, and tax-option corporations may  
4 not claim the credit under this subsection, but the eligibility for, and the amount of,  
5 that credit shall be determined on the basis of their economic activity, not that of their  
6 partners, members, or shareholders. A partnership, limited liability company, or  
7 tax-option corporation shall compute the amount of credit that each of its partners,  
8 members, or shareholders may claim and shall provide that information to each of  
9 them. Partners, members of limited liability companies, and shareholders of  
10 tax-option corporations may claim the credit in proportion to their ownership  
11 interest.

12           4. For a claimant who is a nonresident or part-year resident of this state and  
13 who is a single person or a married person filing a separate return, multiply the  
14 credit for which the claimant is eligible under par. (b) by a fraction the numerator of  
15 which is the individual's Wisconsin adjusted gross income and the denominator of  
16 which is the individual's federal adjusted gross income. If a claimant is married and  
17 files a joint return, and if the claimant or the claimant's spouse, or both, are  
18 nonresidents or part-year residents of this state, multiply the credit for which the  
19 claimant is eligible under par. (b) by a fraction the numerator of which is the couple's  
20 joint Wisconsin adjusted gross income and the denominator of which is the couple's  
21 joint federal adjusted gross income.

22           (d) *Administration.* Subsection (9e) (d), to the extent that it applies to the credit  
23 under that subsection, applies to the credit under this subsection.

24           **SECTION 4.** 71.10 (4) (cd) of the statutes is created to read:

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(5i), (5j), and (5k)  
↑ plain comma

1 71.10 (4) (cd) The high rate of medical and dental services tax credit under s.  
2 71.07 (5r).

is affected by 2007 Wisconsin Act 20,

3 SECTION 5. 71.21 (4) of the statutes is amended to read:

4 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),  
5 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), (3w), (3h), (5e), (5f), (5g), and (5h),  
6 and (5r) and passed through to partners shall be added to the partnership's income.

7 SECTION 6. 71.26 (2) (a) of the statutes is amended to read:

8 71.26 (2) (a) Corporations in general. The "net income" of a corporation means  
9 the gross income as computed under the Internal Revenue Code as modified under  
10 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit  
11 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)  
12 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income  
13 under this paragraph at the time that the taxpayer first claimed the credit plus the  
14 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),  
15 (1ds), (1dx), (3g), (3n), (3t), (3w), (5b), (5e), (5f), (5g), and (5h) and not passed  
16 through by a partnership, limited liability company, or tax-option corporation that  
17 has added that amount to the partnership's, limited liability company's, or  
18 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus the amount  
19 of losses from the sale or other disposition of assets the gain from which would be  
20 wholly exempt income, as defined in sub. (3) (L), if the assets were sold or otherwise  
21 disposed of at a gain and minus deductions, as computed under the Internal Revenue  
22 Code as modified under sub. (3), plus or minus, as appropriate, an amount equal to  
23 the difference between the federal basis and Wisconsin basis of any asset sold,  
24 exchanged, abandoned, or otherwise disposed of in a taxable transaction during the  
25 taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

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**BILL****SECTION 7**

1           **SECTION 7.** 71.28 (5r) of the statutes is created to read:

2           **71.28 (5r) HIGH RATE OF MEDICAL AND DENTAL SERVICES TAX CREDIT.** (a)

3           *Definitions.* In this subsection:

4           1. “Claimant” means a corporation that includes at least one physician or  
5 dentist who provides a high rate of service and that files a claim under this  
6 subsection.

7           2. “Dentist” means a dentist, as defined in s. 447.01 (7), who is licensed under  
8 ch. 447, who practices general or pediatric dentistry, and who provides services to  
9 medical assistance recipients.

10           3. “High rate of service” means a rate of service provided by a dentist or a  
11 physician to medical assistance recipients that is at least 200 percent greater than  
12 the average rate of service provided by all dentists or physicians, as determined by  
13 the department of health and family services.

14           4. “Medical assistance” has the meaning given in s. 49.43 (8).

15           5. “Physician” means a physician, as defined in s. 448.01 (5), specializing in  
16 family medical practice, general internal medicine, or pediatrics and who provides  
17 services to medical assistance recipients.

18           6. “Rate of service” means the percentage of a dentist’s or physician’s patients  
19 who receive medical assistance.

20           7. “Unreimbursed costs” means the difference between either a physician’s  
21 usual and customary charges for providing a service specified under s. 49.46 (2) (a)  
22 1., and the amount paid to the physician under s. 49.45 (3) for providing such service  
23 to recipients of medical assistance, or the difference between a dentist’s usual and  
24 customary charges for providing a dental service, and the amount paid to the dentist  
25 under s. 49.45 (3) for providing such service to recipients of medical assistance.

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1           (b) *Filing claims.* Subject to the limitations provided in this subsection, a  
2 claimant may claim as a credit against the tax imposed under s. 71.23, up to the  
3 amount of those taxes, an amount equal to the claimant's unreimbursed costs that  
4 are incurred in the taxable year to which the claim relates.

5           (c) *Limitations.* 1. No credit may be allowed under this subsection unless it  
6 is claimed within the time period under s. 71.75 (2).

7           2. The carry-over provisions of sub. (4) (e) and (f), as they apply to the credit  
8 under sub. (4), apply to the credit under this subsection.

9           3. Partnerships, limited liability companies, and tax-option corporations may  
10 not claim the credit under this subsection, but the eligibility for, and the amount of,  
11 that credit shall be determined on the basis of their economic activity, not that of their  
12 partners, members, or shareholders. A partnership, limited liability company, or  
13 tax-option corporation shall compute the amount of credit that each of its partners,  
14 members, or shareholders may claim and shall provide that information to each of  
15 them. Partners, members of limited liability companies, and shareholders of  
16 tax-option corporations may claim the credit in proportion to their ownership  
17 interest.

18           4. The credits under this subsection may not be claimed by a partnership,  
19 except a publicly traded partnership treated as a corporation under s. 71.22 (1k),  
20 limited liability company, except a limited liability company treated as a corporation  
21 under s. 71.22 (1k), or tax-option corporation or by partners, including partners of  
22 a publicly traded partnership, members of a limited liability company, or  
23 shareholders of a tax-option corporation.

24           (d) *Administration.* Subsection (4) (g), to the extent that it applies to the credit  
25 under that subsection, applies to the credit under this subsection.

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**SECTION 8**

*, as effective 2007 Wisconsin Oct 20,*

1 **SECTION 8.** 71.30 (3) (dr) of the statutes is created to read:

2 71.30 (3) (dr) The high rate of medical and dental services tax credit under s.  
3 71.28 (5r).

4 **SECTION 9.** 71.34 (1) (g) of the statutes is amended to read:

5 71.34 (1) (g) An addition shall be made for credits computed by a tax-option  
6 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),  
7 (3n), <sup>(3p)</sup>(3t), (3w), <sup>e</sup>(5b), (5e), (5f), (5g), ~~(5h)~~ <sup>e</sup>(5h) and (5r) and passed through to  
8 shareholders. *(3h), (5i), (5j) and (5k)*

9 **SECTION 10.** 71.45 (2) (a) 10. of the statutes is amended to read:

10 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit  
11 computed under s. 71.47 (1dd) to (1dx), <sup>(3p)</sup>(3n), <sup>e</sup>(3w), <sup>e</sup>(5b), (5e), (5f), (5g), ~~(5h)~~ <sup>e</sup>(5h) and  
12 (5r) and not passed through by a partnership, limited liability company, or  
13 tax-option corporation that has added that amount to the partnership's, limited  
14 liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1)  
15 (g) and the amount of credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

16 **SECTION 11.** 71.47 (5r) of the statutes is created to read:

17 71.47 (5r) HIGH RATE OF MEDICAL AND DENTAL SERVICES TAX CREDIT. (a)

18 *Definitions.* In this subsection:

19 1. "Claimant" means a corporation that includes at least one physician or  
20 dentist who provides a high rate of service and that files a claim under this  
21 subsection.

22 2. "Dentist" means a dentist, as defined in s. 447.01 (7), who is licensed under  
23 ch. 447, who practices general or pediatric dentistry, and who provides services to  
24 medical assistance recipients.

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2007 Wisconsin*

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1           3. “High rate of service” means a rate of service provided by a dentist or a  
2 physician to medical assistance recipients that is at least 200 percent greater than  
3 the average rate of service provided by all dentists or physicians, as determined by  
4 the department of health and family services.

5           4. “Medical assistance” has the meaning given in s. 49.43 (8).

6           5. “Physician” means a physician, as defined in s. 448.01 (5), specializing in  
7 family medical practice, general internal medicine, or pediatrics and who provides  
8 services to medical assistance recipients.

9           6. “Rate of service” means the percentage of a dentist’s or physician’s patients  
10 who receive medical assistance.

11           7. “Unreimbursed costs” means the difference between either a physician’s  
12 usual and customary charges for providing a service specified under s. 49.46 (2) (a)  
13 1., and the amount paid to the physician under s. 49.45 (3) for providing such service  
14 to recipients of medical assistance, or the difference between a dentist’s usual and  
15 customary charges for providing a dental service, and the amount paid to the dentist  
16 under s. 49.45 (3) for providing such service to recipients of medical assistance.

17           (b) *Filing claims.* Subject to the limitations provided in this subsection, a  
18 claimant may claim as a credit against the tax imposed under s. 71.43, up to the  
19 amount of those taxes, an amount equal to the claimant’s unreimbursed costs that  
20 are incurred in the taxable year to which the claim relates.

21           (c) *Limitations.* 1. No credit may be allowed under this subsection unless it  
22 is claimed within the time period under s. 71.75 (2).

23           2. The carry-over provisions of s. 71.28 (4) (e) and (f), as they apply to the credit  
24 under s. 71.28 (4), apply to the credit under this subsection.

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1           3. Partnerships, limited liability companies, and tax-option corporations may  
 2 not claim the credit under this subsection, but the eligibility for, and the amount of,  
 3 that credit shall be determined on the basis of their economic activity, not that of their  
 4 partners, members, or shareholders. A partnership, limited liability company, or  
 5 tax-option corporation shall compute the amount of credit that each of its partners,  
 6 members, or shareholders may claim and shall provide that information to each of  
 7 them. Partners, members of limited liability companies, and shareholders of  
 8 tax-option corporations may claim the credit in proportion to their ownership  
 9 interest.

10           4. The credits under this subsection may not be claimed by a partnership,  
 11 except a publicly traded partnership treated as a corporation under s. 71.22 (1k),  
 12 limited liability company, except a limited liability company treated as a corporation  
 13 under s. 71.22 (1k), or tax-option corporation or by partners, including partners of  
 14 a publicly traded partnership, members of a limited liability company, or  
 15 shareholders of a tax-option corporation.

16           (d) *Administration.* Section 71.28 (4) (g), to the extent that it applies to the  
 17 credit under that subsection, applies to the credit under this subsection.

18           **SECTION 12.** 71.49 (1) (dr) of the statutes is created to read:

19           71.49 (1) (dr) The high rate of medical and dental services tax credit under s.  
 20 71.47 (5r).

21           **SECTION 13.** 77.92 (4) of the statutes is amended to read:

22           77.92 (4) "Net business income," with respect to a partnership, means taxable  
 23 income as calculated under section 703 of the Internal Revenue Code; plus the items  
 24 of income and gain under section 702 of the Internal Revenue Code, including taxable  
 25 state and municipal bond interest and excluding nontaxable interest income or

*as affected by 2007 Wisconsin Act 20,*

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dividend income from federal government obligations; minus the items of loss and deduction under section 702 of the Internal Revenue Code, except items that are not deductible under s. 71.21; plus guaranteed payments to partners under section 707 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), <sup>(3h)</sup>(3s), (3n), <sup>(3p)</sup>(3t), (3w), ~~(5b)~~ (5e), (5f), (5g), ~~(5h)~~ <sup>e</sup>(5h), and (5r); and plus or minus, as appropriate, transitional adjustments, depreciation differences, and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding income, gain, loss, and deductions from farming. "Net business income," with respect to a natural person, estate, or trust, means profit from a trade or business for federal income tax purposes and includes net income derived as an employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

**SECTION 14. Initial applicability.**

(1) This act first applies to taxable years beginning on January 1 of the year in which this subsection takes effect, except that if this subsection takes effect after July 31 this act first applies to taxable years beginning on January 1 of the year following the year in which this subsection takes effect.

(END)

<sup>e</sup>(5i), (5j) and (5k)  
↑  
plain comma