

1 ~~SECTION 1587.~~ ***-0263/4.1* SECTION 1587.** 49.46 (2) (b) (intro.) of the statutes is amended to
2 read:

3 49.46 (2) (b) (intro.) Except as provided in ~~par.~~ pars. (be) and (dc), the
4 department shall audit and pay allowable charges to certified providers for medical
5 assistance on behalf of recipients for the following services:

6 ***-0336/3.6* SECTION 1588.** 49.46 (2) (b) 8. of the statutes is amended to read:

7 49.46 (2) (b) 8. Home or community-based services, if provided under s. 46.27
8 (11), 46.275, 46.277, 46.278, or 46.2785, under the family care benefit if a waiver is
9 in effect under s. 46.281 (1) ~~(e)~~ (1d), or under ~~a waiver requested under 2001~~
10 ~~Wisconsin Act 16, section 9123 (16rs), or 2003 Wisconsin Act 33, section 9124 (8e)~~ the
11 disabled children's long-term support program, as defined in s. 46.011 (1g).

****NOTE: This is reconciled s. 49.46 (2) (b) 8. This SECTION has been affected by
drafts with the following LRB numbers: -0330 and -0336.

12 ***-0263/4.2* SECTION 1589.** 49.46 (2) (dc) of the statutes is created to read:

13 49.46 (2) (dc) For an individual who is eligible for medical assistance and who
14 is eligible for coverage under Part D of Medicare under 42 USC 1395w-101 et seq.,
15 benefits under par. (b) 6. h. do not include payment for any Part D drug, as defined
16 in 42 CFR 423.100, regardless of whether the individual is enrolled in Part D of
17 Medicare or whether, if the individual is enrolled, his or her Part D plan, as defined
18 in 42 CFR 423.4, covers the Part D drug.

19 ***-0905/3.52* SECTION 1590.** 49.468 (1) (b) of the statutes is amended to read:

20 49.468 (1) (b) For an elderly or disabled individual who is entitled to coverage
21 under part A of medicare, entitled to coverage under part B of medicare and who does
22 not meet the eligibility criteria for medical assistance under s. 49.46 (1), 49.465 or,
23 49.47 (4), or 49.471 but meets the limitations on income and resources under par. (d),

1 medical assistance shall pay the deductible and coinsurance portions of medicare
2 services under 42 USC 1395 to 1395zz which are not paid under 42 USC 1395 to
3 1395zz, including those medicare services that are not included in the approved state
4 plan for services under 42 USC 1396; the monthly premiums payable under 42 USC
5 1395v; the monthly premiums, if applicable, under 42 USC 1395i-2 (d); and the late
6 enrollment penalty, if applicable, for premiums under part A of medicare. Payment
7 of coinsurance for a service under part B of medicare under 42 USC 1395j to 1395w,
8 other than payment of coinsurance for outpatient hospital services, may not exceed
9 the allowable charge for the service under medical assistance minus the medicare
10 payment.

11 ***-0905/3.53* SECTION 1591.** 49.468 (1) (c) of the statutes is amended to read:

12 49.468 (1) (c) For an elderly or disabled individual who is only entitled to
13 coverage under part A of medicare and who does not meet the eligibility criteria for
14 medical assistance under s. 49.46 (1), 49.465 or, 49.47 (4), or 49.471 but meets the
15 limitations on income and resources under par. (d), medical assistance shall pay the
16 deductible and coinsurance portions of medicare services under 42 USC 1395 to
17 1395i which are not paid under 42 USC 1395 to 1395i, including those medicare
18 services that are not included in the approved state plan for services under 42 USC
19 1396; the monthly premiums, if applicable, under 42 USC 1395i-2 (d); and the late
20 enrollment penalty for premiums under part A of medicare, if applicable.

21 ***-0905/3.54* SECTION 1592.** 49.468 (1m) (a) of the statutes is amended to read:

22 49.468 (1m) (a) Beginning on January 1, 1993, for an elderly or disabled
23 individual who is entitled to coverage under part A of medicare and is entitled to
24 coverage under part B of medicare, does not meet the eligibility criteria for medical
25 assistance under s. 49.46 (1), 49.465 or, 49.47 (4), or 49.471 but meets the limitations

1 on income and resources under par. (b), medical assistance shall pay the monthly
2 premiums under 42 USC 1395r.

3 ***-0905/3.55* SECTION 1593.** 49.468 (2) (a) of the statutes is amended to read:
4 49.468 (2) (a) Beginning on January 1, 1991, for a disabled working individual
5 who is entitled under P.L. 101-239, section 6012 (a), to coverage under part A of
6 medicare and who does not meet the eligibility criteria for medical assistance under
7 s. 49.46 (1), 49.465 ~~or~~, 49.47 (4), or 49.471 but meets the limitations on income and
8 resources under par. (b), medical assistance shall pay the monthly premiums for the
9 coverage under part A of medicare, including late enrollment fees, if applicable.

10 ***-0266/3.29* SECTION 1594.** 49.47 (4) (a) (intro.) of the statutes is amended to
11 read:

12 49.47 (4) (a) (intro.) Any individual who meets the limitations on income and
13 resources under pars. (b) ~~and~~ to (c) and who complies with ~~par. pars. (cm) and (cr)~~
14 shall be eligible for medical assistance under this section if such individual is:

15 ***-0330/P6.42* SECTION 1595.** 49.47 (4) (as) 1. of the statutes is amended to
16 read:

17 49.47 (4) (as) 1. The person would meet the financial and other eligibility
18 requirements for home or community-based services under s. 46.27 (11), 46.277, or
19 46.2785 or under the family care benefit if a waiver is in effect under s. 46.281 ~~(1)(e)~~
20 (1d) but for the fact that the person engages in substantial gainful activity under 42
21 USC 1382c (a) (3).

22 ***-0330/P6.43* SECTION 1596.** 49.47 (4) (as) 3. of the statutes is amended to
23 read:

1 49.47 (4) (as) 3. Funding is available for the person under s. 46.27 (11), 46.277,
2 or 46.2785 or under the family care benefit if a waiver is in effect under s. 46.281 (1)
3 (e) (1d).

4 ***-0266/3.30* SECTION 1597.** 49.47 (4) (b) 1. of the statutes is amended to read:

5 49.47 (4) (b) 1. ~~A~~ Subject to par. (bc), a home and the land used and operated
6 in connection therewith or in lieu thereof a mobile home if the home or mobile home
7 is used as the person's or his or her family's place of abode.

8 ***-0266/3.31* SECTION 1598.** 49.47 (4) (bc) of the statutes is created to read:

9 49.47 (4) (bc) 1. Subject to subd. 2., a person shall be ineligible under this
10 section for medical assistance for nursing facility services or other long-term care
11 services described in s. 49.453 (2) if the equity in his or her home and the land used
12 and operated in connection with the home exceeds \$750,000. This subdivision does
13 not apply if any of the following persons lawfully resides in the home:

14 a. The person's spouse.

15 b. The person's child who is under age 21 or who is disabled, as defined in s.
16 49.468 (1) (a) 1.

17 2. Subdivision 1. applies to all of the following:

18 a. At the time of application, to a person who applies for medical assistance for
19 nursing facility services or other long-term care services described in s. 49.453 (2)
20 after the effective date of this subd. 2. a. [revisor inserts date].

21 b. At the time of the person's first recertification after the effective date of this
22 subd. 2. b. [revisor inserts date], to a person not specified in subd. 2. a. who applied
23 for medical assistance for nursing facility services or other long-term care services
24 described in s. 49.453 (2) on or after January 1, 2006, and who was eligible for medical

1 assistance for those services on the effective date of this subd. 2. b. [revisor inserts
2 date].

3 ***-0266/3.32* SECTION 1599.** 49.47 (4) (bm) of the statutes is created to read:

4 49.47 (4) (bm) For purposes of determining eligibility or benefits amount for
5 a person described in par. (a) 3. or 4. who resides in a continuing care retirement
6 community or a life care community, any entrance fee paid on admission to the
7 community shall be considered a resource available to the person to the extent that
8 all of the following apply:

9 1. The person has the ability to use the entrance fee, or the contract provides
10 that the entrance fee may be used, to pay for care if the person's other resources or
11 income are insufficient to pay for the care.

12 2. The person is eligible for a refund of any remaining entrance fee when the
13 person dies or terminates the continuing care retirement community or life care
14 community contract and leaves the community.

15 3. The entrance fee does not confer an ownership interest in the continuing care
16 retirement community or life care community.

17 ***-0266/3.33* SECTION 1600.** 49.47 (4) (cr) of the statutes is created to read:

18 49.47 (4) (cr) 1. As a condition of receiving medical assistance for long-term
19 care services described in s. 49.453 (2) (a), an applicant for or recipient of the
20 long-term care services shall disclose on the application or recertification form a
21 description of any interest the individual or his or her community spouse, as defined
22 in s. 49.453 (1) (ar), has in an annuity, regardless of whether the annuity is
23 irrevocable or is treated as an asset. The application or recertification form shall
24 include a statement that the state becomes a remainder beneficiary under any
25 annuity in which the individual or his or her spouse has an interest by virtue of the

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1 provision of the medical assistance. The applicant or recipient shall, no later than
2 30 days after the department receives the application or recertification form, take
3 any action required by the annuity issuer to make the state a remainder beneficiary.

4 2. The department shall notify the issuer of an annuity disclosed under subd.
5 1. of the state's right as a remainder beneficiary and shall request that the issuer
6 notify the department of any changes to or payments made under the annuity
7 contract.

8 3. This paragraph applies to all of the following:

9 a. Annuities purchased on or after February 8, 2006.

10 b. Annuities purchased before February 8, 2006, for which a transaction, as
11 defined in s. 49.453 (4) (ac), has occurred on or after February 8, 2006.

12 *-0263/4.3* SECTION 1601. 49.47 (6) (a) 1. of the statutes is amended to read:

13 49.47 (6) (a) 1. Except as provided in subds. 6. to 7., all beneficiaries, for all
14 services under s. 49.46 (2) (a) and (b), subject to s. 49.46 (2) (dc).

15 *-0930/2.2* SECTION 1602. 49.47 (9m) of the statutes is repealed.

16 *-0905/3.56* SECTION 1603. 49.471 of the statutes is created to read:

17 **49.471 BadgerCare Plus. (1) DEFINITIONS.** In this section, unless the context
18 requires otherwise:

19 (a) "BadgerCare Plus" means the Medical Assistance program described in this
20 section.

21 (b) "Caretaker relative" means an individual who is maintaining a residence
22 as a child's home, who exercises primary responsibility for the child's care and
23 control, including making plans for the child, and who is any of the following with
24 respect to the child:

1 1. A blood relative, including those of half-blood, and including first cousins,
2 nephews, nieces, and individuals of preceding generations as denoted by prefixes of
3 grand, great, or great-great.

4 2. A stepfather, stepmother, stepbrother, or stepsister.

5 3. An individual who is the adoptive parent of the child's parent, a natural or
6 legally adopted child of such individual, or a relative of an adoptive parent.

7 4. A spouse of any individual named in this paragraph even if the marriage is
8 terminated by death or divorce.

9 (c) "Child" means an individual who is under the age of 19 years. "Child"
10 includes an unborn child.

11 (d) "Essential person" means an individual who satisfies all of the following:

12 1. Is related to an individual receiving benefits under this section.

13 2. Is otherwise nonfinancially eligible, except that the individual need not have
14 a minor child under his or her care.

15 3. Provides at least one of the following to an individual receiving benefits
16 under this section:

17 a. Child care that enables a caretaker to work outside the home for at least 30
18 hours per week for pay, to receive training for at least 30 hours per week, or to attend,
19 on a full-time basis as defined by the school, high school or a course of study meeting
20 the standards established by the state superintendent of public instruction for the
21 granting of a declaration of equivalency of high school graduation under s. 115.29 (4).

22 b. Care for anyone who is incapacitated.

23 (e) "Family" means all children for whom assistance is requested, their minor
24 siblings, including half brothers, half sisters, stepbrothers, and stepsisters, and any
25 parents of these minors and their spouses.

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1 (f) "Family income" means the total gross earned and unearned income
2 received by all members of a family.

3 (g) "Group health plan" has the meaning given in 42 USC 300gg-91 (a) (1).

4 (h) "Health insurance coverage" has the meaning given in 42 USC 300gg-91
5 (b) (1), and also includes any arrangement under which a 3rd party agrees to pay for
6 the health care costs of the individual.

7 (i) "Parent" has the meaning given in s. 49.141 (1) (j).

8 (j) "Recipient" means an individual receiving benefits under this section.

9 (k) "Unborn child" means an individual from conception until he or she is born
10 alive for whom all of the following requirements are met:

11 1. The unborn child's mother is not eligible for medical assistance under this
12 subchapter, except that she may be eligible for benefits under s. 49.45 (27).

13 2. The income of the unborn child's mother, mother and her spouse, or mother
14 and her family, whichever is applicable, does not exceed 300 percent of the poverty
15 line.

16 3. Each of the following applicable persons who is employed provides
17 verification from his or her employer, in the manner specified by the department, of
18 his or her earnings:

19 a. The unborn child's mother.

20 b. The spouse of the unborn child's mother.

21 c. Members of the unborn child's mother's family.

22 4. The unborn child's mother provides medical verification of her pregnancy,
23 in the manner specified by the department. An unborn child's eligibility for coverage
24 under this section does not begin before the first day of the month in which the
25 unborn child's mother provides the medical verification.

1 5. The unborn child and the mother of the unborn child meet all other
2 applicable eligibility requirements under this chapter or established by the
3 department by rule except for any of the following:

4 a. The mother is not a U.S. citizen or an alien qualifying for Medicaid under
5 8 USC 1612.

6 b. The mother is an inmate of a public institution.

7 c. The mother does not provide a social security number, but only if subd. 5. a.
8 applies.

9 **(2) WAIVER.** The department shall request a waiver from, and submit
10 amendments to the state Medical Assistance plan to, the secretary of the federal
11 department of health and human services to implement BadgerCare Plus. If the
12 state plan amendments are approved and a waiver that is consistent with all of the
13 provisions of this section is granted and in effect, the department shall implement
14 BadgerCare Plus beginning on January 1, 2008, the effective date of the state plan
15 amendments, or the effective date of the waiver, whichever is latest. If the state plan
16 amendments are not approved or if a waiver that is consistent with all of the
17 provisions of this section is not granted, BadgerCare Plus may not be implemented.
18 If the state plan amendments are approved but approval is not continued or if a
19 waiver that is consistent with all of the provisions of this section is granted but not
20 continued in effect, BadgerCare Plus shall be discontinued.

21 **(3) INELIGIBILITY FOR OTHER MEDICAL ASSISTANCE BENEFITS.** (a) 1.
22 Notwithstanding ss. 49.46 (1), 49.465, 49.47 (4), and 49.665 (4), if the amendments
23 to the state plan under sub. (2) are approved and a waiver under sub. (2) that is
24 consistent with all of the provisions of this section is granted and in effect, an
25 individual described in sub. (4) (a) or (b) or (5) is not eligible under s. 49.46, 49.465,

1 49.47, or 49.665 for Medical Assistance or BadgerCare health program benefits. The
2 eligibility of an individual described in sub. (4) (a) or (b) or (5) for Medical Assistance
3 benefits shall be determined under this section.

4 2. Notwithstanding subd. 1., an individual who is eligible for medical
5 assistance under s. 49.46 (1) (a) 3. or 4. may not receive benefits under this section.

6 3. Notwithstanding subd. 1., an individual described in sub. (4) (a) or (b) or (5)
7 who is eligible for medical assistance under s. 49.46 (1) (a) 5., 6m., 14., 14m., or 15.
8 or (d) or 49.47 (4) (a) or (as) may receive medical assistance benefits under this
9 section or under s. 49.46 or 49.47.

10 (b) 1. If an individual over 18 years of age who is eligible for and receiving
11 Medical Assistance benefits under s. 49.46, 49.47, or 49.665 in the month before
12 BadgerCare Plus is implemented loses that eligibility solely due to the
13 implementation of BadgerCare Plus and, because of his or her income, is not eligible
14 for BadgerCare Plus, the individual shall continue receiving for 18 consecutive
15 months the medical assistance he or she was receiving before the implementation of
16 BadgerCare Plus if all of the following are satisfied:

17 a. The individual's eligibility for the Medical Assistance benefits in the month
18 before the implementation of BadgerCare Plus was based on an application filed
19 before the implementation of BadgerCare Plus.

20 b. The individual continues to pay any premium that he or she was required
21 to pay for the Medical Assistance coverage in the same amount as the amount that
22 was due in the month before the implementation of BadgerCare Plus.

23 c. The individual continues to meet all nonfinancial eligibility requirements for
24 the coverage that he or she had in the month before the implementation of
25 BadgerCare Plus.

1 d. The individual continues to be ineligible for BadgerCare Plus because of his
2 or her income.

3 2. Notwithstanding subd. 1., if at any time during an individual's 18-month
4 eligibility extension under subd. 1. any criterion under subd. 1. a. to d. is not satisfied,
5 the individual's eligibility for the extended coverage is terminated and any time
6 remaining in the eligibility period is lost.

7 (4) GENERAL ELIGIBILITY CRITERIA; APPLICABLE BENEFITS. (a) Except as otherwise
8 provided in this section, all of the following individuals are eligible for the benefits
9 described in s. 49.46 (2) (a) and (b), subject to sub. (6) (k):

10 1. A pregnant woman whose family income does not exceed 200 percent of the
11 poverty line.

12 2. A child who is under one year of age, whose mother was, on the day the child
13 was born, eligible for and receiving medical assistance under subd. 1. or 5. or s. 49.46
14 or 49.47, and who lives with his or her mother in this state.

15 3. A child whose family income does not exceed 200 percent of the poverty line.
16 For a child under this subdivision who is an unborn child, benefits are limited to
17 prenatal care.

18 3m. A child who obtains eligibility under sub. (7) (b) 2.

19 4. An individual who satisfies all of the following criteria:

20 a. The individual is a parent or caretaker relative of a child who is living in the
21 home with the parent or caretaker relative or who is temporarily absent from the
22 home for not more than 6 months or, if the child has been removed from the home for
23 more than 6 months, the parent or caretaker relative is working toward unifying the
24 family by complying with a permanency plan under s. 48.38.

1 b. Except as provided in subd. 4. c., the individual's family income does not
2 exceed 200 percent of the poverty line and does not include self-employment income.

3 c. If the individual's family income includes self-employment income, the
4 individual's family income does not exceed 200 percent of the poverty line as
5 calculated under sub. (7) (a) 2.

6 5. An individual who, regardless of family income, was born on or after January
7 1, 1990, and who, on his or her 18th birthday, was in a foster care or treatment foster
8 care placement under the responsibility of a state, as determined by the department.
9 The coverage for an individual under this subdivision ends on the last day of the
10 month in which the individual becomes 21 years of age, unless he or she otherwise
11 loses eligibility sooner.

12 6. Migrant workers and their dependents who are determined eligible under
13 sub. (6) (f).

14 (b) Except as otherwise provided in this section, all of the following individuals
15 are eligible for the benefits described in sub. (11):

16 1. A pregnant woman whose family income exceeds 200 percent but does not
17 exceed 300 percent of the poverty line.

18 1m. A pregnant woman or unborn child who obtains eligibility under sub. (7)
19 (b) 1.

20 2. A child who is under one year of age, whose mother was determined to be
21 eligible under subd. 1., and who lives with his or her mother in this state.

22 3. A child whose family income exceeds 200 percent but does not exceed 300
23 percent of the poverty line. For a child under this subdivision who is an unborn child,
24 benefits are limited to prenatal care.

25 4. An individual who satisfies all of the following criteria:

1 a. The individual is a parent or caretaker relative of a child who is living in the
2 home with the parent or caretaker relative or who is temporarily absent from the
3 home for not more than 6 months or, if the child has been removed from the home for
4 more than 6 months, the parent or caretaker relative is working toward unifying the
5 family by complying with a permanency plan under s. 48.38.

6 b. The individual's family income includes self-employment income and does
7 not exceed 200 percent of the poverty line as calculated under sub. (7) (a) 3.

8 (c) Except as otherwise provided in this section, a child who is not an unborn
9 child and whose family income exceeds 300 percent of the poverty line is eligible to
10 purchase coverage of the benefits described in sub. (11), at the full per member per
11 month cost of the coverage.

12 **(5) PRESUMPTIVE ELIGIBILITY.** (a) In this subsection:

13 1. "Qualified entity" means an entity that satisfies the requirements under 42
14 USC 1396r-1a (b) (3) (A), as determined by the department.

15 2. "Qualified provider" means a provider that satisfies the requirements under
16 42 USC 1396r-1 (b) (2), as determined by the department.

17 (b) 1. Except as provided in sub. (6) (a), a pregnant woman is eligible for the
18 benefits specified in par. (c) during the period beginning on the day on which a
19 qualified provider determines, on the basis of preliminary information, that the
20 woman's family income does not exceed 300 percent of the poverty line and ending
21 on the applicable day specified in subd. 3.

22 2. Except as provided in sub. (6) (a), a child who is not an unborn child is eligible
23 for the benefits described in s. 49.46 (2) (a) and (b) during the period beginning on
24 the day on which a qualified entity determines, on the basis of preliminary

1 information, that the child's family income does not exceed 150 percent of the poverty
2 line and ending on the applicable day specified in subd. 3.

3 3. a. If the woman or child applies for benefits under sub. (4) within the time
4 required under par. (d), the benefits specified in subd. 1. or 2., whichever is
5 applicable, end on the day on which the department or the county department under
6 s. 46.215, 46.22, or 46.23 determines whether the woman or child is eligible for
7 benefits under sub. (4).

8 b. If the woman or child does not apply for benefits under sub. (4) within the
9 time required under par. (d), the benefits specified in subd. 1. or 2., whichever is
10 applicable, end on the last day of the month following the month in which the
11 provider or entity makes the determination under this paragraph.

12 (c) On behalf of a woman under par. (b) 1., the department shall audit and pay
13 allowable charges to a provider certified under s. 49.45 (2) (a) 11. only for ambulatory
14 prenatal care services under the benefits under sub. (11).

15 (d) A woman or child who is determined to be eligible under par. (b) shall apply
16 for benefits under sub. (4) on or before the last day of the month following the month
17 in which the qualified provider or entity makes the eligibility determination.

18 (e) A qualified provider or entity that determines that a woman or child is
19 eligible under par. (b) shall do all of the following:

20 1. Notify the department of that determination within 5 working days after the
21 day on which the determination is made.

22 2. Notify the woman or child of the requirement under par. (d) at the time of
23 the determination.

1 (f) The department shall provide qualified providers and qualified entities with
2 application forms for the benefits under sub. (4) and information on how to assist
3 women and children in completing the forms.

4 (6) MISCELLANEOUS ELIGIBILITY AND BENEFIT PROVISIONS. (a) Any pregnant
5 woman, including a pregnant woman under sub (5) (b) 1., child who is not an unborn
6 child, including a child under sub. (5) (b) 2., parent, or caretaker relative whose
7 family income is less than 150 percent of the poverty line is eligible for medical
8 assistance under this section for any of the 3 months prior to the month of application
9 if the individual met the eligibility criteria under this section and had a family
10 income of less than 150 percent of the poverty line in that month.

11 (b) A pregnant woman who is determined to be eligible for benefits under sub.
12 (4) remains eligible for benefits under sub. (4) for the balance of the pregnancy and
13 to the last day of the month in which the 60th day after the last day of the pregnancy
14 falls without regard to any change in the woman's family income.

15 (c) If a child who is eligible for benefits under sub. (4) is receiving inpatient
16 services covered under sub. (4) on the day before his or her 19th birthday and, but
17 for attaining 19 years of age, the child would remain eligible for benefits under sub.
18 (4), the child remains eligible for benefits until the end of the stay for which the
19 inpatient services are being furnished.

20 (d) If an application under this section shows that an individual is an essential
21 person, the individual shall be provided the benefits specified under sub. (4) (a) or
22 (b).

23 (e) The medical assistance eligibility extensions under s. 49.46 (1) (c), (cg), and
24 (co) for individuals who lose eligibility due to increased income do not apply to
25 BadgerCare Plus.

1 (f) The medical assistance eligibility provisions for migrant workers and their
2 dependents under s. 49.47 (4) (av) apply to BadgerCare Plus.

3 (g) 1. Except as provided in subd. 2., as a condition of eligibility for coverage
4 under this section, an individual with income shall provide verification, as
5 determined by the department, of that income.

6 2. Subdivision 1. does not apply to an individual under sub. (4) (a) 5. or a child
7 under the age of 18.

8 (h) Within 10 days after the change occurs, a recipient shall report to the
9 department any change that might affect his or her eligibility or any change that
10 might require premium payment by a recipient who was not required to pay
11 premiums before the change.

12 (i) For purposes of determining eligibility and family income, the department
13 shall include a family member who is temporarily absent from the home for not more
14 than 6 months, as determined by the department.

15 (j) All of the following apply to BadgerCare Plus in the same respect as they
16 apply under s. 49.46:

17 1. Section 49.46 (2) (c) and (cm), relating to benefits for individuals who are
18 eligible for Medicare.

19 2. Section 49.46 (2) (d), relating to prohibiting payments for any part of any
20 service payable through 3rd-party liability or any governmental or private benefit
21 system.

22 3. Section 49.46 (2) (dm), relating to prohibiting payment for services to
23 residents of institutions for mental diseases.

24 4. Section 49.46 (2) (f), relating to prohibiting payment for gastric bypass or
25 stapling surgery.

1 (k) For an individual who is eligible for medical assistance under this section
2 and who is eligible for coverage under Part D of Medicare under 42 USC 1395w-101
3 et seq., benefits under sub. (11) (a) or s. 49.46 (2) (b) 6. h. do not include payment for
4 any Part D drug, as defined in 42 CFR 423.100, regardless of whether the individual
5 is enrolled in Part D of Medicare or whether, if the individual is enrolled, his or her
6 Part D plan, as defined in 42 CFR 423.4, covers the Part D drug.

****NOTE: This is reconciled s. 49.471 (6) (k). This SECTION has been affected by
drafts with the following LRB numbers: -0263 and -0905.

7 (7) SPECIAL INCOME PROVISIONS. (a) 1. In the calculation of family income, if an
8 adult member of the family has self-employment income, the department shall count
9 the net self-employment earnings. Net self-employment earnings shall be
10 determined by subtracting from gross self-employment income all self-employment
11 expenses that are allowed under federal and state tax law, except for depreciation.

12 2. If a parent's or caretaker relative's family income includes self-employment
13 income and, without deducting depreciation, does not exceed 200 percent of the
14 poverty line, the parent or caretaker relative is eligible under sub. (4) (a) 4.

15 3. If a parent's or caretaker relative's family income includes self-employment
16 income and, without deducting depreciation, exceeds 200 percent of the poverty line,
17 the parent or caretaker relative is eligible under sub. (4) (b) 4. if his or her family
18 income does not exceed 200 percent of the poverty line after depreciation is deducted.

19 (b) 1. A pregnant woman, or an unborn child, whose family income exceeds 300
20 percent of the poverty line may become eligible for coverage under this section if the
21 difference between the pregnant woman's or unborn child's family income and the
22 applicable income limit under sub. (4) (b) is obligated or expended for any member
23 of the pregnant woman's or unborn child's family for medical care or any other type

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1 of remedial care recognized under state law or for personal health insurance
2 premiums or for both. Eligibility obtained under this subdivision continues without
3 regard to any change in family income for the balance of the pregnancy and, for a
4 pregnant woman but not for an unborn child, to the last day of the month in which
5 the 60th day after the last day of the woman's pregnancy falls. Eligibility obtained
6 by a pregnant woman under this subdivision extends to all pregnant women in the
7 pregnant woman's family.

8 2. A child who is not an unborn child and whose family income exceeds 150
9 percent of the poverty line may obtain eligibility under this section if the difference
10 between the child's family income and 150 percent of the poverty line is obligated or
11 expended on behalf of the child or any member of the child's family for medical care
12 or any other type of remedial care recognized under state law or for personal health
13 insurance premiums or for both. Eligibility obtained under this subdivision during
14 any 6-month period, as determined by the department, continues for the remainder
15 of the 6-month period and extends to all children in the family.

16 3. For a pregnant woman or an unborn child to obtain eligibility under subd.
17 1., the amount that must be obligated or expended in any 6-month period is equal
18 to the sum of the differences in each of those 6 months between the pregnant woman's
19 or unborn child's monthly family income and the monthly family income that is 300
20 percent of the poverty line. For a child to obtain eligibility under subd. 2., the amount
21 that must be obligated or expended in any 6-month period is equal to the sum of the
22 differences in each of those 6 months between the child's monthly family income and
23 the monthly family income that is 150 percent of the poverty line.

24 (c) When calculating an individual's family income, the department shall do all
25 of the following:

1 1. Deduct from family income any payments made by the individual for
2 court-ordered child or family support or maintenance.

3 2. Disregard earnings of children under 18 years of age.

4 3. Determine separately the family incomes of caretaker relatives and the
5 children for whom they are caring and not legally responsible.

6 4. Not include in the calculation any income of an individual receiving benefits
7 under s. 49.77 or federal Title XVI.

8 **(8) HEALTH INSURANCE COVERAGE AND ELIGIBILITY.** (a) 1. Except as provided in
9 subd. 2., any individual who is otherwise eligible under this section and who is
10 eligible for enrollment in a group health plan shall, as a condition of eligibility for
11 BadgerCare Plus and if the department determines that it is cost-effective to do so,
12 apply for enrollment in the group health plan, except that, for a minor, the parent
13 of the minor shall apply on the minor's behalf.

14 2. If a parent of a minor fails to enroll the minor in a group health plan in
15 accordance with subd. 1., the failure does not affect the minor's eligibility under this
16 section.

17 (b) Except as provided in pars. (c) and (d), an individual whose family income
18 exceeds 150 percent of the poverty line is not eligible for BadgerCare Plus if any of
19 the following applies:

20 1. The individual has individual or family health insurance coverage that is any
21 of the following:

22 a. Coverage provided by an employer and for which the employer pays at least
23 80 percent of the premium.

24 b. Coverage under the state employee health plan under s. 40.51 (6).

1 2. The individual, in the 12 months before applying, had access to the health
2 insurance coverage specified in subd. 1.

3 3. The individual could be covered under the health insurance coverage
4 specified in subd. 1. if the coverage is applied for, and the coverage could become
5 available to the individual in the month in which the individual applies for benefits
6 under this section or in any of the next 3 calendar months.

7 (c) An unborn child, regardless of family income, is not eligible for BadgerCare
8 Plus if any of the following applies:

9 1. The unborn child or the unborn child's mother has individual or family
10 health insurance coverage.

11 2. The unborn child or the unborn child's mother, in the 12 months before
12 applying, had access to the health insurance coverage specified in par. (b) 1.

13 3. The unborn child or the unborn child's mother could be covered under
14 individual or family health insurance coverage if the coverage is applied for, and the
15 coverage could become available to the unborn child or the unborn child's mother in
16 the month in which the unborn child applies for benefits under this section or in any
17 of the next 3 calendar months.

18 (d) 1. None of the following is ineligible for BadgerCare Plus by reason of having
19 health insurance coverage or access to health insurance coverage:

20 a. A pregnant woman.

21 b. A child described in sub. (4) (a) 2. or (b) 2.

22 c. Except as provided in par. (c), a child who has health insurance coverage, or
23 access to health insurance coverage, as a dependent of an absent parent but who
24 resides outside of the service area of the absent parent's plan.

25 d. An individual described in sub. (4) (a) 5.

1 e. A child who obtains eligibility under sub. (7) (b) 2., but only for the remainder
2 of the child's eligibility period under sub. (7) (b) 2.

3 2. An individual under par. (b) 2., or an individual who is an unborn child or
4 an unborn child's mother under par. (c) 2., is not ineligible if any of the following good
5 cause reasons is the reason that the individual did not obtain the health insurance
6 coverage under par. (b) 1. to which they had access:

7 a. The individual's employment ended.

8 b. The individual's employer discontinued health insurance coverage for all
9 employees.

10 c. One or more members of the individual's family were eligible for other health
11 insurance coverage or Medical Assistance at the time the employee failed to enroll
12 in the health insurance coverage under par. (b) 1. and no member of the family was
13 eligible for coverage under this section at that time.

14 d. The individual's access to health insurance coverage has ended due to the
15 death or change in marital status of the subscriber.

16 e. Any other reason that the department determines is a good cause reason.

17 (e) If a pregnant woman has health insurance coverage and her family income
18 exceeds 200 percent of the poverty line, the woman is required, as a condition of
19 eligibility, to maintain the health insurance coverage.

20 (f) If an individual with a family income that exceeds 150 percent of the poverty
21 line had the health insurance coverage specified in par. (b) 1. but no longer has the
22 coverage, if an individual who is an unborn child or an unborn child's mother,
23 regardless of family income, had health insurance coverage but no longer has the
24 coverage, or if a pregnant woman specified in par. (e) has health insurance coverage
25 and does not maintain the coverage, the individual or pregnant woman is not eligible

1 for BadgerCare Plus for the 3 calendar months following the month in which the
2 insurance coverage ended without a good cause reason specified in par. (g).

3 (g) Any of the following is a good cause reason for purposes of par. (f):

4 1. The individual or pregnant woman was covered by a group health plan that
5 was provided by a subscriber through his or her employer, and the subscriber's
6 employment ended for a reason other than voluntary termination, unless the
7 voluntary termination was a result of the incapacitation of the subscriber or because
8 on an immediate family member's health condition.

9 2. The individual or pregnant woman was covered by a group health plan that
10 was provided by a subscriber through his or her employer, the subscriber changed
11 employers, and the new employer does not offer health insurance coverage.

12 3. The individual or pregnant woman was covered by a group health plan that
13 was provided by a subscriber through his or her employer, and the subscriber's
14 employer discontinued health plan coverage for all employees.

15 4. The pregnant woman's coverage was continuation coverage and the
16 continuation coverage was exhausted in accordance with 29 CFR 2590.701-2 (4).

17 5. The individual's or pregnant woman's coverage terminated due to the death
18 or change in marital status of the subscriber.

19 6. Any other reason determined by the department to be a good cause reason.

20 (9) EMPLOYER VERIFICATION OF INSURANCE COVERAGE. (a) 1. Except as provided
21 in subd. 2., for an applicant or recipient with a family income that exceeds 150
22 percent of the poverty line, the department shall verify insurance coverage and
23 access information directly with the employer through which the applicant or
24 recipient may have health insurance coverage or access to coverage.

25 2. Subdivision 1. does not apply to any of the following:

1 a. A pregnant woman.

2 b. A child described in sub. (4) (a) 2. or (b) 2.

3 c. An individual described in sub. (4) (a) 5.

4 (b) An employer that receives a request from the department for insurance
5 coverage and access to coverage information shall supply the information requested
6 by the department in the format specified by the department within 30 calendar days
7 after receiving the request.

8 (c) 1. Subject to subds. 2. and 3., an employer that does not comply with the
9 requirements under par. (b) shall be required to pay, within 45 days after the
10 requested information was due, a penalty equal to the full per member per month
11 cost of coverage under BadgerCare Plus for the individual about whom the
12 information is requested, and for each of the individual's family members with
13 coverage under BadgerCare Plus, for each month in which the individual and the
14 individual's family members are covered before the employer provides the
15 information.

16 2. An employer with fewer than 250 employees may not be required to pay more
17 than \$1,000 in penalties under this paragraph that are attributable to any 6-month
18 period. An employer with 250 or more employees may not be required to pay more
19 than \$15,000 in penalties under this paragraph that are attributable to any 6-month
20 period.

21 3. Notwithstanding subd. 1., an employer shall not be subject to any penalties
22 if the employer, at least once per year, timely provides to the department, in the
23 manner and format specified by the department, information from which the
24 department may determine whether the employer provides its employees with
25 access to health insurance coverage.

1 4. All penalty assessments collected under this paragraph shall be credited to
2 the appropriation accounts under s. 20.435 (4) (jw) and (jz).

3 (d) An employer may contest a penalty assessment under par. (c) by sending
4 a written request for hearing to the division of hearings and appeals in the
5 department of administration. Proceedings before the division are governed by ch.
6 227.

7 **(10) COST SHARING.** (a) *Copayments.* Except as provided in s. 49.45 (18) (am),
8 all cost-sharing provisions under s. 49.45 (18) apply to a recipient with coverage of
9 the benefits described in s. 49.46 (2) (a) and (b) to the same extent as they apply to
10 a person eligible for medical assistance under s. 49.46, 49.468, or 49.47.

11 (b) *Premiums.* 1. Except as provided in subd. 4., a recipient who is an adult,
12 who is not a pregnant woman, and whose family income is greater than 150 percent
13 but not greater than 200 percent of the poverty line shall pay a premium for coverage
14 under BadgerCare Plus that does not exceed 5 percent of his or her family income.
15 If the recipient has self-employment income and is eligible under sub. (4) (b) 4., the
16 premium may not exceed 5 percent of family income calculated before depreciation
17 was deducted.

18 2. Except as provided in subds. 3. and 4., a recipient who is a child whose family
19 income is greater than 200 percent of the poverty line shall pay a premium for
20 coverage of the benefits described in sub. (11) that does not exceed the full per
21 member per month cost of coverage for a child with a family income of 300 percent
22 of the poverty line.

23 3. Except as provided in subd. 4., a recipient who is an unborn child, or a
24 pregnant woman eligible under sub. (4) (b) 1., whose family income is greater than
25 200 percent of the poverty line shall pay a premium for coverage of the benefits

1 described in sub. (11) that does not exceed the full per member per month cost of
2 coverage for an adult with a family income of 300 percent of the poverty line.

3 4. None of the following shall pay a premium:

4 a. A child who is a Native American or an Alaskan Native with a family income
5 that does not exceed 300 percent of the poverty line.

6 b. A child who is eligible under sub. (4) (a) 2. or (b) 2.

7 c. A child whose family income does not exceed 200 percent of the poverty line.

8 d. A pregnant woman whose family income does not exceed 200 percent of the
9 poverty line.

10 e. A child who obtains eligibility under sub. (7) (b) 2.

11 f. An individual who is eligible under sub. (4) (a) 5.

12 5. If a recipient who is required to pay a premium under this paragraph or
13 under sub. (4) (c) does not pay a premium when due, the recipient's coverage
14 terminates and the recipient is not eligible for BadgerCare Plus for 6 calendar
15 months following the date on which the recipient's coverage terminated.

16 (11) BENCHMARK PLAN BENEFITS AND COPAYMENTS. Recipients who are not eligible
17 for the benefits described in s. 49.46 (2) (a) and (b) shall have coverage of the following
18 benefits and pay the following copayments:

19 (a) Subject to sub. (6) (k), prescription drugs bearing only a generic name, as
20 defined in s. 450.12 (1) (b), with a copayment of no more than \$5 per prescription, and
21 subject to the Badger Rx Gold program discounts.

22 (b) Physicians' services, including one annual routine physical examination,
23 with a copayment of no more than \$15 per visit.

24 (c) Inpatient hospital services as medically necessary, subject to coinsurance
25 payment per inpatient stay of no more than 10 percent of the allowable payment

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1 rates under s. 49.46 (2) for the services provided and a copayment of no more than
2 \$50 per admission for psychiatric services.

3 (d) Outpatient hospital services, subject to coinsurance payment of no more
4 than 10 percent of the allowable payment rates under s. 49.46 (2) for the services
5 provided, except that use of emergency room services for treatment of a condition
6 that is not an emergency medical condition, as defined in s. 632.85 (1) (a), shall
7 require a copayment of no more than \$75.

8 (e) Laboratory and X-ray services, including mammography.

9 (f) Home health services, limited to 60 visits per year.

10 (g) Skilled nursing home services, limited to 30 days per year, and subject to
11 coinsurance payment of no more than 10 percent of the allowable payment rates
12 under s. 49.46 (2) for the services provided.

13 (h) Inpatient rehabilitation services, limited to 60 days per year, and subject
14 to coinsurance payment of no more than 10 percent of the allowable payment rates
15 under s. 49.46 (2) for the services provided.

16 (i) Physical, occupational, speech, and pulmonary therapy, limited to 20 visits
17 per year for each type of therapy, and subject to coinsurance payment of no more than
18 10 percent of the allowable payment rates under s. 49.46 (2) for the services provided.

19 (j) Cardiac rehabilitation, limited to 36 visits per year and subject to
20 coinsurance payment of no more than 10 percent of the allowable payment rates
21 under s. 49.46 (2) for the services provided.

22 (k) Inpatient, outpatient, and transitional treatment for nervous or mental
23 disorders and alcoholism and other drug abuse problems, with a copayment of no
24 more than \$15 per visit and coverage limits that are the same as those under the state
25 employee health plan under s. 40.51 (6).

1 (L) Durable medical equipment, limited to \$2,500 per year, and subject to
2 coinsurance payment of no more than 10 percent of the allowable payment rates
3 under s. 49.46 (2) for the articles provided.

4 (m) Transportation to obtain emergency medical care only, as medically
5 necessary, and subject to coinsurance payment of no more than 10 percent of the
6 allowable payment rates under s. 49.46 (2) for the services provided.

7 (n) One refractive eye examination every 2 years, with a copayment of no more
8 than \$15 per visit.

9 (o) Fifty percent of allowable charges for preventive and basic dental services,
10 including services for accidental injury and for the diagnosis and treatment of
11 temporomandibular disorders. The coverage under this paragraph is limited to \$750
12 per year, applies only to pregnant women and children under 19 years of age, and
13 requires an annual deductible of \$200 and a copayment of no more than \$15 per visit.

14 (p) Early childhood developmental services, for children under 6 years of age.

15 (q) Smoking cessation treatment, for pregnant women only.

16 (r) Prenatal care coordination, for pregnant women at high risk only.

17 **(11m) PROVIDER PAYMENTS AND REQUIREMENTS.** The provider of a service or
18 equipment under sub. (11) shall collect the specified or allowable copayment or
19 coinsurance, unless the provider determines that the cost of collecting the copayment
20 or coinsurance exceeds the amount to be collected. The department shall reduce
21 payments for services or equipment under sub. (11) by the amount of the specified
22 or allowable copayment or coinsurance. A provider may deny care or services or
23 equipment under sub. (11) if the recipient does not pay the specified or allowable
24 copayment or coinsurance. If a provider provides care or services or equipment

1 under sub. (11) to a recipient who is unable to share costs as specified in sub. (11),
2 the recipient is not relieved of liability for those costs.

3 (12) RULES; NOTICE OF EFFECTIVE DATE. (a) 1. The department may promulgate
4 any rules necessary for and consistent with its administrative responsibilities under
5 this section, including additional eligibility criteria.

6 2. The department may promulgate emergency rules under s. 227.24 for the
7 administration of this section for the period before the effective date of any
8 permanent rules promulgated under subd. 1., but not to exceed the period authorized
9 under s. 227.24 (1) (c) and (2). Notwithstanding s. 227.24 (1) (a), (2) (b), and (3), the
10 department is not required to provide evidence that promulgating a rule under this
11 subdivision as an emergency rule is necessary for the preservation of the public
12 peace, health, safety, or welfare and is not required to provide a finding of emergency
13 for a rule promulgated under this subdivision.

14 (b) If the amendments to the state plan submitted under sub. (2) are approved
15 and a waiver that is consistent with all of the provisions of this section is granted and
16 in effect, the department shall publish a notice in the Wisconsin Administrative
17 Register that states the date on which BadgerCare Plus is implemented.

18 *-0892/11.32* SECTION 1604. 49.472 (6) (a) of the statutes is amended to read:
19 49.472 (6) (a) Notwithstanding sub. (4) (a) 3., from the appropriation account
20 under s. 20.435 (4) (b), ~~(gp)~~, or (w), or (xd), the department shall, on the part of an
21 individual who is eligible for medical assistance under sub. (3), pay premiums for or
22 purchase individual coverage offered by the individual's employer if the department
23 determines that paying the premiums for or purchasing the coverage will not be more
24 costly than providing medical assistance.

25 *-0892/11.33* SECTION 1605. 49.472 (6) (b) of the statutes is amended to read:

1 49.472 (6) (b) If federal financial participation is available, from the
2 appropriation account under s. 20.435 (4) (b), ~~(gp)~~, ~~or (w)~~, or (xd), the department may
3 pay medicare Part A and Part B premiums for individuals who are eligible for
4 medicare and for medical assistance under sub. (3).

5 ***-0905/3.57*** SECTION 1606. 49.473 (2) (a) of the statutes is amended to read:

6 49.473 (2) (a) The woman is not eligible for medical assistance under ss. 49.46
7 (1) and (1m), 49.465, 49.468, 49.47, 49.471, and 49.472, and is not eligible for health
8 care coverage under s. 49.665.

9 ***-0892/11.34*** SECTION 1607. 49.473 (5) of the statutes is amended to read:

10 49.473 (5) The department shall audit and pay, from the appropriation
11 accounts under s. 20.435 (4) (b), ~~(gp)~~, and (o), and (xd), allowable charges to a provider
12 who is certified under s. 49.45 (2) (a) 11. for medical assistance on behalf of a woman
13 who meets the requirements under sub. (2) for all benefits and services specified
14 under s. 49.46 (2).

15 ***-0248/3.3*** SECTION 1608. 49.475 (1) (a) of the statutes is renumbered 49.475
16 (1) (ar).

17 ***-0248/3.4*** SECTION 1609. 49.475 (1) (ag) of the statutes is created to read:

18 49.475 (1) (ag) "Covered entity" means any of the following that is not an
19 insurer:

- 20 1. A nonprofit hospital, as defined in s. 46.21 (2) (m).
- 21 2. An employer, as defined in s. 101.01 (4), labor union, or other group of persons
22 organized in this state if the employer, labor union, or other group provides
23 prescription drug coverage to covered individuals who reside or are employed in this
24 state.

1 3. A comprehensive or limited health care benefits program administered by
2 the state that provides prescription drug coverage.

3 ***-0248/3.5* SECTION 1610.** 49.475 (1) (am) of the statutes is created to read:

4 49.475 (1) (am) "Covered individual" means an individual who is a member,
5 participant, enrollee, policyholder, certificate holder, contract holder, or beneficiary
6 of a covered entity, or a dependent of the individual, and who receives prescription
7 drug coverage from or through the covered entity.

8 ***-0248/3.6* SECTION 1611.** 49.475 (1) (c) of the statutes is created to read:

9 49.475 (1) (c) "Pharmacy benefits management" means the procurement of
10 prescription drugs at a negotiated rate for dispensation in this state to covered
11 individuals; the administration or management of prescription drug benefits
12 provided by a covered entity for the benefit of covered individuals; or any of the
13 following services provided in the administration of pharmacy benefits:

14 1. Dispensation of prescription drugs by mail.

15 2. Claims processing, retail network management, and payment of claims to
16 pharmacies for prescription drugs dispensed to covered individuals.

17 3. Clinical formulary development and management services.

18 4. Rebate contracting and administration.

19 5. Conduct of patient compliance, therapeutic intervention, generic
20 substitution, and disease management programs.

21 ***-0248/3.7* SECTION 1612.** 49.475 (1) (d) of the statutes is created to read:

22 49.475 (1) (d) "Pharmacy benefits manager" means a person that performs
23 pharmacy benefits management functions.

24 ***-0248/3.8* SECTION 1613.** 49.475 (1) (e) of the statutes is created to read:

1 49.475 (1) (e) "Recipient" means an individual or his or her spouse or dependent
2 who has been or is one of the following:

3 1. A recipient of medical assistance or of a program administered under medical
4 assistance under a waiver of federal Medicaid laws.

5 2. An enrollee of family care.

6 3. A recipient of the Badger Care health care program.

7 4. An individual who receives benefits under s. 49.68, 49.683, or 49.685.

8 5. A participant in the program of prescription drug assistance for elderly
9 persons under s. 49.688.

10 6. A woman who receives services that are reimbursed under s. 255.06.

11 *-0248/3.9* SECTION 1614. 49.475 (1) (f) of the statutes is created to read:

12 49.475 (1) (f) "Third party" means an entity that by statute, rule, or contract
13 is responsible for payment of a claim for a health care item or service. "Third party"
14 includes all of the following:

15 1. An insurer.

16 2. An employee benefit plan described in 29 USC 1003 (a) that is not exempt
17 under 29 USC 1003 (b) and is not a multiple employer welfare arrangement.

18 3. A service benefit plan, as specified in 42 USC 1396a (25) (I).

19 4. A pharmacy benefits manager.

20 *-0248/3.10* SECTION 1615. 49.475 (2) of the statutes is repealed and
21 recreated to read:

22 49.475 (2) REQUIREMENTS OF 3RD PARTIES. As a condition of doing business in this
23 state, a 3rd party shall do all of the following:

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1 (a) Upon the department's request and in the manner prescribed by the
2 department, provide information to the department necessary for the department to
3 ascertain all of the following with respect to a recipient:

4 1. Whether the recipient is being or has been provided coverage or a benefit or
5 service by a 3rd party.

6 2. If subd. 1. applies, the nature and period of time of any coverage, benefit, or
7 service provided, including the name, address, and identifying number of any
8 applicable coverage plan.

9 (b) Accept assignment to the department of a right of a recipient to receive
10 3rd-party payment for an item or service for which payment under medical
11 assistance has been made and accept the department's right to recover any
12 3rd-party payment made for which assignment has not been accepted.

13 (c) Respond to an inquiry by the department concerning a claim for payment
14 of a health care item or service if the department submits the inquiry less than 36
15 months after the date on which the health care item or service was provided.

16 (d) If all of the following apply, agree not to deny a claim submitted by the
17 department under par. (b) solely because of the claim's submission date, the type or
18 format of the claim form, or failure by a recipient to present proper documentation
19 at the time of delivery of the service, benefit, or item that is the basis of the claim:

20 1. The department submits the claim less than 36 months after the date on
21 which the health care item or service was provided.

22 2. Action by the department to enforce the department's rights under this
23 section with respect to the claim is commenced less than 72 months after the
24 department submits the claim.

1 ***-0248/3.11*** SECTION 1616. 49.475 (3) (intro.) of the statutes is amended to
2 read:

3 49.475 (3) WRITTEN AGREEMENT. (intro.) Upon requesting ~~an insurer~~ a 3rd party
4 to provide the information under sub. (2) (a), the department and the 3rd party shall
5 enter into a written agreement ~~with the insurer~~ that satisfies all of the following:

6 ***-0248/3.12*** SECTION 1617. 49.475 (3) (a) of the statutes is amended to read:
7 49.475 (3) (a) Identifies ~~in detail~~ the detailed format of the information to be
8 disclosed provided to the department.

9 ***-0248/3.13*** SECTION 1618. 49.475 (3) (c) of the statutes is amended to read:
10 49.475 (3) (c) Specifies how the ~~insurer's~~ 3rd party's reimbursable costs under
11 sub. (5) will be determined and specifies the manner of payment.

12 ***-0248/3.14*** SECTION 1619. 49.475 (4) (a) of the statutes is amended to read:
13 49.475 (4) (a) ~~An insurer~~ A 3rd party shall provide the information requested
14 under sub. (2) (a) within 180 days after receiving the department's request if it is the
15 first time that the department has requested the ~~insurer~~ 3rd party to disclose
16 information under this section.

17 ***-0248/3.15*** SECTION 1620. 49.475 (4) (b) of the statutes is amended to read:
18 49.475 (4) (b) ~~An insurer~~ A 3rd party shall provide the information requested
19 under sub. (2) (a) within 30 days after receiving the department's request if the
20 department has previously requested the ~~insurer~~ 3rd party to disclose information
21 under this section.

22 ***-0248/3.16*** SECTION 1621. 49.475 (4) (d) of the statutes is created to read:
23 49.475 (4) (d) If a 3rd party other than an insurer fails to comply with par. (a)
24 or (b), the department may so notify the attorney general.

25 ***-0248/3.17*** SECTION 1622. 49.475 (5) of the statutes is amended to read:

1 49.475 (5) From the appropriations under s. 20.435 (4) (bm) and (pa), the
2 department shall reimburse ~~an insurer~~ A 3rd party that provides information under
3 ~~this section sub. (2) (a)~~ for the insurer's 3rd party's reasonable costs incurred in
4 providing the requested information, including its reasonable costs, if any, to develop
5 and operate automated systems specifically for the disclosure of the information
6 ~~under this section.~~

7 ***-0248/3.18* SECTION 1623.** 49.475 (6) of the statutes is created to read:

8 49.475 (6) SHARING INFORMATION. The department of health and family services
9 shall provide to the department of workforce development, for purposes of the
10 medical support liability program under s. 49.22, any information that the
11 department of health and family services receives under this section. The
12 department of workforce development may allow a county child support agency
13 under s. 59.53 (5) or a tribal child support agency access to the information, subject
14 to the use and disclosure restrictions under s. 49.83, and shall consult with the
15 department of health and family services regarding procedures and methods to
16 adequately safeguard the confidentiality of the information provided under this
17 subsection.

18 ***-1261/5.581* SECTION 1624.** 49.475 (6) of the statutes, as created by 2007
19 Wisconsin Act (this act), is amended to read:

20 49.475 (6) SHARING INFORMATION. The department of health and family services
21 shall provide to the department of ~~workforce development~~ children and families, for
22 purposes of the medical support liability program under s. 49.22, any information
23 that the department of health and family services receives under this section. The
24 department of ~~workforce development~~ children and families may allow a county child
25 support agency under s. 59.53 (5) or a tribal child support agency access to the

1 information, subject to the use and disclosure restrictions under s. 49.83, and shall
2 consult with the department of health and family services regarding procedures and
3 methods to adequately safeguard the confidentiality of the information provided
4 under this subsection.

****NOTE: This is reconciled s. 49.475 (6). This SECTION has been affected by drafts
with the following LRB numbers: -0248 and -1261.

5 ~~*-1261/5.582*~~ ~~*-1267/P1.126*~~ SECTION 1625. 49.48 (1m) of the statutes is
6 amended to read:

7 49.48 (1m) If an individual who applies for or to renew a certification under
8 sub. (1) does not have a social security number, the individual, as a condition of
9 obtaining the certification, shall submit a statement made or subscribed under oath
10 or affirmation to the department that the applicant does not have a social security
11 number. The form of the statement shall be prescribed by the department of
12 ~~workforce development~~ children and families. A certification issued or renewed in
13 reliance upon a false statement submitted under this subsection is invalid.

14 ~~*-1261/5.583*~~ ~~*-1267/P1.127*~~ SECTION 1626. 49.48 (2) of the statutes is
15 amended to read:

16 49.48 (2) The department of ~~health and family services~~ may not disclose any
17 information received under sub. (1) to any person except to the department of
18 ~~workforce development~~ children and families for the purpose of making
19 certifications required under s. 49.857.

20 ~~*-1261/5.584*~~ ~~*-1267/P1.128*~~ SECTION 1627. 49.48 (3) of the statutes is
21 amended to read:

22 49.48 (3) The department of ~~health and family services~~ shall deny an
23 application for the issuance or renewal of a certification specified in sub. (1), shall

1 suspend a certification specified in sub. (1) or may, under a memorandum of
2 understanding under s. 49.857 (2), restrict a certification specified in sub. (1) if the
3 department of workforce development children and families certifies under s. 49.857
4 that the applicant for or holder of the certificate is delinquent in the payment of
5 court-ordered payments of child or family support, maintenance, birth expenses,
6 medical expenses or other expenses related to the support of a child or former spouse
7 or fails to comply, after appropriate notice, with a subpoena or warrant issued by the
8 department of workforce development children and families or a county child
9 support agency under s. 59.53 (5) and related to paternity or child support
10 proceedings.

11 ***-0905/3.58* SECTION 1628.** 49.49 (3m) (a) (intro.) of the statutes is amended
12 to read:

13 49.49 (3m) (a) (intro.) No provider may knowingly impose upon a recipient
14 charges in addition to payments received for services under ss. 49.45 to 49.47 49.471
15 or knowingly impose direct charges upon a recipient in lieu of obtaining payment
16 under ss. 49.45 to 49.47 49.471 except under the following conditions:

17 ***-0905/3.59* SECTION 1629.** 49.49 (3m) (a) 1. of the statutes is amended to
18 read:

19 49.49 (3m) (a) 1. Benefits or services are not provided under s. 49.46 (2) or
20 49.471 (11) and the recipient is advised of this fact prior to receiving the service.

21 ***-0250/2.1* SECTION 1630.** 49.49 (3m) (a) 2. of the statutes is amended to read:

22 49.49 (3m) (a) 2. If an applicant is determined to be eligible retroactively under
23 s. 49.46 (1) (b) or 49.47 (4) (d) and a provider bills the applicant directly for services
24 and benefits rendered during the retroactive period, the provider shall, upon
25 notification of the applicant's retroactive eligibility, submit claims for

1 ~~reimbursement payment~~ under s. 49.45 for covered services or benefits rendered to
2 ~~the recipient~~ during the retroactive period. Upon receipt of payment under s. 49.45,
3 the provider shall reimburse the ~~applicant~~ recipient or other person who has made
4 prior payment to the provider. ~~No provider may be required to reimburse the~~
5 ~~applicant or other person in excess of the amount reimbursed under s. 49.45 for~~
6 ~~services provided to the recipient during the retroactive eligibility period, by the~~
7 ~~amount of the prior payment made.~~

8 ***-0905/3.60* SECTION 1631.** 49.49 (3m) (a) 2. of the statutes, as affected by
9 2007 Wisconsin Act (this act), is amended to read:

10 49.49 (3m) (a) 2. If an applicant is determined to be eligible retroactively under
11 s. 49.46 (1) (b) or, 49.47 (4) (d), or 49.471 and a provider bills the applicant directly
12 for services and benefits rendered during the retroactive period, the provider shall,
13 upon notification of the applicant's retroactive eligibility, submit claims for payment
14 under s. 49.45 for covered services or benefits rendered to the recipient during the
15 retroactive period. Upon receipt of payment under s. 49.45, the provider shall
16 reimburse the recipient or other person who has made prior payment to the provider
17 for services provided to the recipient during the retroactive eligibility period, by the
18 amount of the prior payment made.

****NOTE: This is reconciled s. 49.49 (3m) (a) 2. This SECTION has been affected by
LRB-0250 and LRB-0905.

19 ***-0905/3.61* SECTION 1632.** 49.49 (3m) (a) 3. of the statutes is amended to
20 read:

21 49.49 (3m) (a) 3. Benefits or services for which recipient copayment,
22 coinsurance, or deductible is required under s. 49.45 (18), not to exceed maximum

1 amounts allowable under 42 CFR 447.53 to 447.58, or for which recipient copayment
2 or coinsurance is required under s. 49.471 (11).

3 ***-0905/3.62* SECTION 1633.** 49.497 (title) of the statutes is amended to read:

4 **49.497 (title) Recovery of incorrect Medical Assistance or Badger Care**
5 **payments and of unpaid employer penalties.**

6 ***-0905/3.63* SECTION 1634.** 49.497 (1r) of the statutes is created to read:

7 49.497 (1r) (a) The department may recover any penalty assessment not paid
8 under s. 49.471 (9) (c) from the employer against which the penalty was assessed.
9 If, after notice that payment of a penalty is overdue, the employer who is liable fails
10 to pay the penalty amount, or enter into or comply with an agreement for payment,
11 the department may bring an action to enforce the liability or may issue an order to
12 compel payment of the liability. Any person aggrieved by an order issued by the
13 department under this paragraph may appeal the order as a contested case under
14 ch. 227 by filing with the department a request for a hearing within 30 days after the
15 date of the order. The only issue at the hearing shall be the determination by the
16 department that the person has not paid the penalty or entered into, or complied
17 with, an agreement for payment.

18 (b) If any employer named in an order to compel payment issued under par. (a)
19 fails to pay the department any amount due under the terms of the order and no
20 contested case to review the order is pending and the time for filing for a contested
21 case review has expired, the department may present a certified copy of the order to
22 the circuit court for any county. The sworn statement of the secretary shall be
23 evidence of the failure to pay the penalty. The circuit court shall, without notice,
24 render judgment in accordance with the order. A judgment rendered under this
25 paragraph shall have the same effect and shall be entered in the judgment and lien

1 docket and may be enforced in the same manner as if the judgment had been
2 rendered in an action tried and determined by the circuit court.

3 (c) The recovery procedure under this subsection is in addition to any other
4 recovery procedure authorized by law.

5 ***-0905/3.64* SECTION 1635.** 49.497 (4) of the statutes is amended to read:

6 49.497 (4) The department may appear for the state in any and all collection
7 matters under this section, and may commence suit in the name of the department
8 to recover an incorrect payment from the recipient to whom or on whose behalf it was
9 made or to recover an unpaid penalty from the employer against which the penalty
10 was assessed.

11 ***-0905/3.65* SECTION 1636.** 49.665 (4) (ap) 2. of the statutes is repealed.

12 ***-0892/11.35* SECTION 1637.** 49.665 (4) (at) 1. a. of the statutes is amended
13 to read:

14 49.665 (4) (at) 1. a. Except as provided in subd. 1. b., the department shall
15 establish a lower maximum income level for the initial eligibility determination if
16 funding under s. 20.435 (4) (~~be~~), (jz), (p), and (x), and (xd) is insufficient to
17 accommodate the projected enrollment levels for the health care program under this
18 section. The adjustment may not be greater than necessary to ensure sufficient
19 funding.

20 ***-0892/11.36* SECTION 1638.** 49.665 (4) (at) 1. cm. of the statutes is amended
21 to read:

22 49.665 (4) (at) 1. cm. Notwithstanding s. 20.001 (3) (b), if, after reviewing the
23 plan submitted under subd. 1. b., the joint committee on finance determines that the
24 amounts appropriated under s. 20.435 (4) (~~be~~), (jz), (p), and (x), and (xd) are
25 insufficient to accommodate the projected enrollment levels, the committee may

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1 transfer appropriated moneys from the general purpose revenue appropriation
2 account of any state agency, as defined in s. 20.001 (1), other than a sum sufficient
3 appropriation account, to the appropriation account under s. 20.435 (4) (bc) to
4 supplement the health care program under this section if the committee finds that
5 the transfer will eliminate unnecessary duplication of functions, result in more
6 efficient and effective methods for performing programs, or more effectively carry out
7 legislative intent, and that legislative intent will not be changed by the transfer.

8 ***-0892/11.37* SECTION 1639.** 49.665 (4) (at) 2. of the statutes is amended to
9 read:

10 49.665 (4) (at) 2. If, after the department has established a lower maximum
11 income level under subd. 1., projections indicate that funding under s. 20.435 (4) (be),
12 (jz), (p), and (x), and (xd) is sufficient to raise the level, the department shall, by state
13 plan amendment, raise the maximum income level for initial eligibility, but not to
14 exceed 185% of the poverty line.

15 ***-0248/3.19* SECTION 1640.** 49.665 (5m) of the statutes is repealed and
16 recreated to read:

17 49.665 (5m) INFORMATION ABOUT BADGER CARE RECIPIENTS. The department
18 shall obtain and share information about Badger Care health care program
19 recipients as provided in s. 49.475.

20 ***-0242/1.7* SECTION 1641.** 49.665 (6) of the statutes is repealed.

21 ***-0905/3.66* SECTION 1642.** 49.665 (7) (a) 1. of the statutes is amended to read:

22 49.665 (7) (a) 1. Notwithstanding sub. (4) (a) 3m. and ~~(ap) 2.~~, the department
23 shall mail information verification forms to the employers of the individuals required
24 to provide the verifications under sub. (4) (a) 3m. and ~~(ap) 2.~~ to obtain the information
25 specified.

1 ***-1140/2.1*** SECTION 1643. 49.68 (3) (e) of the statutes is amended to read:

2 49.68 (3) (e) ~~State aids for services provided under this section shall be equal~~
3 ~~to the allowable charges under the federal Medicare program. In no case shall state~~
4 ~~rates for individual service elements exceed the federally defined allowable costs.~~
5 ~~The rate of charges for services not covered by public and private insurance shall not~~
6 ~~exceed the reasonable charges as established by medicare fee determination~~
7 ~~procedures. A person that provides to a patient a service for which aid is provided~~
8 ~~under this section shall accept the amount paid under this section for the service as~~
9 ~~payment in full and may not bill the patient for any amount by which the charge for~~
10 ~~the service exceeds the amount paid for the service under this section. The state may~~
11 ~~not pay for the cost of travel, lodging, or meals for persons who must travel to receive~~
12 ~~inpatient and outpatient dialysis treatment for kidney disease. This paragraph shall~~
13 ~~not apply to donor related costs as defined in par. (b).~~

14 ***-1609/2.2*** SECTION 1644. 49.686 (6) of the statutes is created to read:

15 49.686 (6) HEALTH INSURANCE RISK-SHARING PLAN PILOT PROGRAM. (a) Subject
16 to par. (b), the department shall conduct a 3-year pilot program under which the
17 department may pay premiums for coverage under the Health Insurance
18 Risk-Sharing Plan under subch. II of ch. 149, and pay copayments under that plan
19 for prescription drugs for which reimbursement may be provided under sub. (2), for
20 individuals who satisfy all of the following:

- 21 1. The individuals are eligible for reimbursement under this section.
- 22 2. The individuals are currently taking antiretroviral drugs.
- 23 3. The individuals do not have health insurance coverage.
- 24 4. The individuals are not eligible for premium subsidies under s. 252.16 or
25 252.17 because they are not on unpaid medical leave, are not unable to continue

1 employment, and have not had to reduce their employment hours because of an
2 illness or medical condition arising from or related to HIV.

3 (b) The pilot program shall be limited to no more than 100 individuals at any
4 given time.

5 (c) The department may promulgate rules for the administration of the pilot
6 program. Notwithstanding s. 227.24 (3), rules under this paragraph may be
7 promulgated as emergency rules under s. 227.24 without a finding of emergency.

8 ***-1140/2.2* SECTION 1645.** 49.687 (title) of the statutes is amended to read:

9 **49.687 (title) Disease aids; patient requirements; rebate agreements;**
10 **cost containment general provisions.**

11 ***-1140/2.3* SECTION 1646.** 49.687 (2r) of the statutes is created to read:

12 **49.687 (2r)** A person that provides a patient with a service for which aid is
13 provided under s. 49.68, 49.683, or 49.685 shall accept the amount paid under s.
14 49.68, 49.683, or 49.685 for the service as payment in full and may not bill the patient
15 for any amount by which the charge for the service exceeds the amount paid for the
16 service under s. 49.68, 49.683, or 49.685.

17 ***-1140/2.4* SECTION 1647.** 49.687 (5) of the statutes is created to read:

18 **49.687 (5)** The department may investigate suspected fraudulent activity and
19 other abuses on the part of persons receiving benefits under the programs under ss.
20 49.68, 49.683, and 49.685. The activities of the department under this subsection
21 may include comparisons of information provided to the department by an applicant
22 with information provided by the applicant to other federal, state, and local agencies
23 and the development of an advisory welfare investigation prosecution standard. The
24 department shall cooperate with district attorneys regarding fraud prosecutions.

25 ***-0248/3.20* SECTION 1648.** 49.687 (6) of the statutes is created to read:

1 49.687 (6) The department shall obtain and share information about
2 individuals who receive benefits under s. 49.68, 49.683, or 49.685 as provided in s.
3 49.475.

4 ***-0905/3.67* SECTION 1649.** 49.688 (5) (a) (intro.) of the statutes is amended
5 to read:

6 49.688 (5) (a) (intro.) Beginning on September 1, 2002, except as provided in
7 sub. (7) (b), as a condition of participation by a pharmacy or pharmacist in the
8 program under s. 49.45, 49.46, or 49.47, or 49.471, the pharmacy or pharmacist may
9 not charge a person who presents a valid prescription order and a card indicating
10 that he or she meets eligibility requirements under sub. (2) an amount for a
11 prescription drug under the order that exceeds the following:

12 ***-0892/11.38* SECTION 1650.** 49.688 (7) (a) of the statutes is amended to read:

13 49.688 (7) (a) Except as provided in par. (b), from the appropriation accounts
14 under s. 20.435 (4) (bv), (j), and (pg), and (xh), beginning on September 1, 2002, the
15 department shall, under a schedule that is identical to that used by the department
16 for payment of pharmacy provider claims under medical assistance, provide to
17 pharmacies and pharmacists payments for prescription drugs sold by the
18 pharmacies or pharmacists to persons eligible under sub. (2) who have paid the
19 deductible specified under sub. (3) (b) 1. or 2. or who, under sub. (3) (b) 1., are not
20 required to pay a deductible. The payment for each prescription drug under this
21 paragraph shall be at the program payment rate, minus any copayment paid by the
22 person under sub. (5) (a) 2. or 4., and plus, if applicable, incentive payments that are
23 similar to those provided under s. 49.45 (8v). The department shall devise and
24 distribute a claim form for use by pharmacies and pharmacists under this paragraph
25 and may limit payment under this paragraph to those prescription drugs for which

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1 payment claims are submitted by pharmacists or pharmacies directly to the
2 department. The department may apply to the program under this section the same
3 utilization and cost control procedures that apply under rules promulgated by the
4 department to medical assistance under subch. IV of ch. 49.

5 ***-0892/11.39* SECTION 1651.** 49.688 (7) (b) of the statutes is amended to read:

6 49.688 (7) (b) During any period in which funding under s. 20.435 (4) (bv) and,
7 (pg), and (xh) is completely expended for the payments specified in par. (a), the
8 requirements of par. (a) and subs. (3) (c), (5), and (6) (a) and (b) do not apply to drugs
9 purchased during that period, but the department shall continue to accept
10 applications and determine eligibility under sub. (4) and shall indicate to applicants
11 that the eligibility of program participants to purchase prescription drugs as
12 specified in sub. (3), under the requirements of sub. (5), is conditioned on the
13 availability of funding under s. 20.435 (4) (bv) and, (pg), and (xh).

14 ***-0242/1.8* SECTION 1652.** 49.688 (8) of the statutes is amended to read:

15 49.688 (8) The department shall, under methods promulgated by the
16 department by rule, monitor compliance by pharmacies and pharmacists that are
17 certified providers of medical assistance with the requirements of sub. (5) ~~and shall~~
18 ~~annually report to the legislature under s. 13.172 (2) concerning the compliance. The~~
19 ~~report shall include information on any pharmacies or pharmacists that discontinue~~
20 ~~participation as certified providers of medical assistance and the reasons given for~~
21 ~~the discontinuance.~~

22 ***-0248/3.21* SECTION 1653.** 49.688 (8m) of the statutes is repealed and
23 recreated to read:

24 49.688 (8m) The department shall obtain and share information about
25 participants in the program under this section as provided in s. 49.475.