

2009 DRAFTING REQUEST

Assembly Amendment (AA-AB586)

Received: 12/04/2009

Received By: gmalaise

Wanted: Soon

Identical to LRB:

For: Gary Sherman (608) 266-7690

By/Representing: Joe Hooley

This file may be shown to any legislator: NO

Drafter: gmalaise

May Contact:

Addl. Drafters:

Subject: Health - medical assistance

Extra Copies:

Submit via email: YES

Requester's email: Rep.Sherman@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Use of federal moneys to pay for costs related to collections and other recoveries of Medical Assistance payments

Instructions:

See attached--amend s. 20.435 (4) (pa) to permit DHS to use federal moneys to pay for costs related to collections and other recoveries of Medical Assistance payments, i.e., to pay attorney who obtained reimbursement of MA payments made from a worker's compensation award

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>
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/2	gmalaise	jdye	jfrantze	_____	cduerst	cduerst	

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	12/08/2009	12/15/2009	12/15/2009 _____		12/15/2009	12/15/2009	

FE Sent For:

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			<i>To</i> 2/15	<i>JPH</i> 2/15			

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1/?	gmalaise	12/7 JLD	12/7 PH	12/7 PH			

FE Sent For:

<END>

Malaise, Gordon

From: Hoey, Joseph
Sent: Thursday, December 03, 2009 2:43 PM
To: Malaise, Gordon
Subject: RE: WC atty fees

AB 586

Gordon,

Gary would like you to draft this as an amendment to the bill. Let me know if you have any questions.

Thanks,

Joe

From: Malaise, Gordon
Sent: Thursday, December 03, 2009 12:27 PM
To: Hoey, Joseph
Subject: RE: WC atty fees

Joe:

What this is all about is that Section 3 of the draft requires a governmental unit that receives reimbursement to pay 20 percent of the amount of reimbursement to the attorney who collected the reimbursement. Section 20.435 (4) (im) permits DHS to use state moneys to pay "for costs related to collections and other recoveries," but there is no authority in the DHS appropriations to use federal moneys to pay for those costs. Accordingly, what DHS is recommending is that s. 20.435 (4) (pa) be amended to authorize DHS to use federal moneys from that appropriation to pay "for costs related to collections and other recoveries." By adding that language to s. 20.435 (4) (pa), DHS would be able to pay attorney fees with federal dollars as well as state.

Gordon

From: Hoey, Joseph
Sent: Wednesday, December 02, 2009 2:59 PM
To: Malaise, Gordon
Subject: FW: WC atty fees

Gordon,

Appreciate having your help with this. Here is the e-mail that was forwarded to me. I wasn't sure if you'd want to see the whole thread, so I sent it along. The proposed statutory change is at the bottom.

Thnaks,

Joe

*Joseph P. Hoey
Office of Rep. Gary Sherman
74th Assembly District
(608) 266-7690 / (888) 534-0074*

-----Original Message-----

12/03/2009

From: Thurow, Walter - DWD [mailto:Walter.Thurow@dwd.wisconsin.gov]
Sent: Tuesday, November 24, 2009 9:01 AM
To: 'john edmondson'
Subject: FW: WC atty fees

John: In reviewing the fee file I note the attchd which was received from Kevin sometime after our last meeting. Have not heard from him since. Have invited him or someone from his office to our meeting. Have a good holiday weekend. Wally

ALJ Thurow,

The consensus from our fiscal folks is that we will need a statutory change in order to do this properly. We have statutory language for most of the issues, but we will need to add language to the statute that deals with receiving federal funds in order to complete the process for reimbursement for the payment of attorney's fees.

I don't know if you/we intend to pursue the additional change to s. 102.27 that Jon proposed, but the below language is merely a suggestion for the statutory language change that DHS would need/like to see. If this is the course selected, I'll work with our staff to come up with specific suggestions for the language.

Kevin

Kevin D. Bailey
 Attorney, Office of Legal Counsel
 State of Wisconsin
 Department of Health Services
 (608) 266-9543
 kevin.bailey@wisconsin.gov

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From: Gebhart, Neil R - DHFS
Sent: Thursday, September 11, 2008 1:25 PM
To: Bailey, Kevin D - DHFS
Subject: WC atty fees

Catherine is correct that a statutory amendment will be required in light of the language of 20.435(4)(im). That section currently provides:

*Medical assistance; correct payment recovery; collections; other recoveries. **All moneys received from the recovery of correct medical assistance payments under ss. 49.496 and 867.035 and rules promulgated under s. 46.286 (7) and all moneys received as collections and other recoveries from providers, drug manufacturers, and other 3rd parties under medical assistance performance-based contracts, for payments to counties and tribal governing bodies under s. 49.496 (4), for payment of claims under s. 867.035 (3), for payments to the federal government for its share of medical assistance benefits recovered, for the state share of medical assistance benefits provided under subch. IV of ch. 49, and for costs related to collections and other recoveries.***

Based on the current language, all WC 3rd party liability is deposited in this account, and the language provides for payment to the feds of the federal share of the recovery and payment of costs of recovery from the account. This would allow for payment of attorney fees, but only after the federal share of the recovery is repaid, which means that 100% of the attorney fees would come from state funds. There may be a number of ways to amend

12/03/2009

the statutes to achieve our objective in this regard, but perhaps the most obvious would be to amend 20.435(4) (pa) along the following lines:

Federal aid; Medical Assistance and food stamp contracts administration. All federal moneys received for the federal share of the cost of contracting for payment and services administration and reporting, other than moneys received under par. (nn), and costs related to collections and and other recoveries to reimburse 3rd parties for their costs under s. 49.475, ~~for administrative contract costs for the food stamp program under s. 49.79, and for services of resource centers under s. 46.283,~~

Just some initial thoughts...



State of Wisconsin
2009 - 2010 LEGISLATURE

IN 1214
S = on

LRBa11977/1
GMM...
jld

ASSEMBLY AMENDMENT,
TO 2009 ASSEMBLY BILL 586

1 At the locations indicated, amend the bill as follows:

2 1. Page 1, line 4: delete "claimed and" and substitute "claimed," ✓

3 2. Page 1, line 6: delete "injury" and substitute "injury, ✓ and making an
4 appropriation." ✓

5 3. Page 2, line 1: delete lines 1 and 2 ✓ and substitute:

6 "SECTION 1g. ✓ 20.435 (4) (pa) ✓ of the statutes is amended to read:

7 20.435 (4) (pa) *Federal aid; Medical Assistance and food stamp contracts*
8 *administration.* All federal moneys received for the federal share of the cost of
9 contracting for payment and services administration and reporting, other than
10 moneys received under par. (nn), to reimburse 3rd parties for their costs under s.
11 49.475, for administrative contract costs for the food stamp program under s. 49.79,
12 and ✓ for services of resource centers under s. 46.283, and for costs related to collections
13 and other recoveries. ✓

History: 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977



State of Wisconsin
2009-2010 LEGISLATURE

LRBa1197/1
GMM:jld:ph
2
DWR

IN 12/8
5000

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