



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1152/P3

RLR:kjfts

Wanted today
1/16/09

DOA:.....Willing, BAB0002 - Hospital assessment

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

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1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

INS Analysis →

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

2 SECTION 1. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
3 the following amounts for the purposes indicated:

4 2007-08 2008-09

5 20.435 Health services, department of

6 (4) HEALTH SERVICES PLANNING; REG & DELIVERY; HLTH
7 CARE FIN; OTHER SUPPORT PGMS

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171 →

8 (xc) Hospital assessment fund; hospi-

9 tal payments SEG A -0- 275,445,100

INS 2-1 →

1 **SECTION 2.** 20.285 (6) (q) of the statutes is created to read:
 2 20.285 (6) (q) *Hospital services.* All moneys transferred from the appropriation
 3 account under s. 20.435 (4) (xc) for hospital services.

 ****NOTE: Apparently DHS is still working on the purpose language for 20.285 (6)
 (q).

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4 **SECTION 3.** 20.435 (4) (gp) of the statutes is repealed.

5 **SECTION 4.** 20.435 (4) (xc) of the statutes is created to read:

6 20.435 (4) (xc) *Hospital assessment fund; hospital payments.* From the hospital
 7 assessment fund, the amounts in the schedule to reimburse hospitals for services
 8 provided under the Medical Assistance Program under subch. IV of ch. 49, make
 9 payments to health maintenance organizations under s. 49.45 (59), provide
 10 supplemental funds to rural hospitals under s. 49.45 (5m) (am), make supplemental
 11 payments to level I adult trauma centers under s. 49.45 (6y) (ap), make supplemental
 12 payments to hospitals based on performance under s. 49.45 (6y) (ar), make refunds
 13 under s. 50.38 (5) ⁽⁶⁾ and make the transfer under s. 50.38 (7) ⁽⁸⁾.

eligible

14 **SECTION 5.** 20.435 (4) (xd) of the statutes is created to read:

15 20.435 (4) (xd) *Fiscal year 2008-09 hospital refunds.* From the hospital
 16 assessment trust fund, a sum sufficient to make refunds to hospitals under 2009
 17 Wisconsin Act (this act), section 9122 (1) (c).

 ****NOTE: For state fiscal year 2008-09, DHS wants to extend the deadline
 refunding hospitals unexpended amounts in the appropriation under s. 20.435 (4) (xc).
 Since the unexpended amount will lapse to the hospital assessment trust fund at the end
 of fiscal year 2008-09, the bill creates a temporary appropriation to make the refunds.

18 **SECTION 6.** 20.435 (4) (xd) of the statutes, as created by 2009 Wisconsin Act
 19 (this act), is repealed.

20 **SECTION 7.** 25.77 (11) of the statutes is created to read:

21 25.77 (11) All moneys transferred under s. 27.772 (2) ^{50.38 (8)}

1 **SECTION 8.** 25.772 of the statutes is created to read:

2 **25.772 Hospital assessment fund. (1) CREATION.** There is established a
3 separate nonlapsible trust fund designated as the hospital assessment fund, to
4 consist of all moneys received under s. 50.38 (1) from assessments on hospitals.

5 **(2)** On June 30 of each state fiscal year, the secretary of administration shall
6 transfer from the hospital assessment fund to the medical assistance trust fund any
7 moneys accruing to the hospital assessment fund in the fiscal year that remain in the
8 hospital assessment fund after payments required under s. 49.45 (3) (e) 11. are made
9 and after any refunds required under s. 50.38 (5) or 2009 Wisconsin Act ... (this act),
10 section 9122 (1) (c) are made.

11 **SECTION 9.** 46.27 (9) (a) of the statutes is amended to read:

12 46.27 (9) (a) The department may select up to 5 counties that volunteer to
13 participate in a pilot project under which they will receive certain funds allocated for
14 long-term care. The department shall allocate a level of funds to these counties
15 equal to the amount that would otherwise be paid under s. 20.435 (4) (b), ~~(gp)~~, or (w)
16 to nursing homes for providing care because of increased utilization of nursing home
17 services, as estimated by the department. In estimating these levels, the department
18 shall exclude any increased utilization of services provided by state centers for the
19 developmentally disabled. The department shall calculate these amounts on a
20 calendar year basis under sub. (10).

21 **SECTION 10.** 46.27 (10) (a) 1. of the statutes is amended to read:

22 46.27 (10) (a) 1. The department shall determine for each county participating
23 in the pilot project under sub. (9) a funding level of state medical assistance
24 expenditures to be received by the county. This level shall equal the amount that the
25 department determines would otherwise be paid under s. 20.435 (4) (b), ~~(gp)~~, or (w)

1 because of increased utilization of nursing home services, as estimated by the
2 department.

3 **SECTION 11.** 46.275 (5) (a) of the statutes is amended to read:

4 46.275 (5) (a) Medical Assistance reimbursement for services a county, or the
5 department under sub. (3r), provides under this program is available from the
6 appropriation accounts under s. 20.435 (4) (b), (~~gp~~), (o), and (w). If 2 or more counties
7 jointly contract to provide services under this program and the department approves
8 the contract, Medical Assistance reimbursement is also available for services
9 provided jointly by these counties.

10 **SECTION 12.** 46.275 (5) (c) of the statutes is amended to read:

11 46.275 (5) (c) The total allocation under s. 20.435 (4) (b), (~~gp~~), (o), and (w) to
12 counties and to the department under sub. (3r) for services provided under this
13 section may not exceed the amount approved by the federal department of health and
14 human services. A county may use funds received under this section only to provide
15 services to persons who meet the requirements under sub. (4) and may not use
16 unexpended funds received under this section to serve other developmentally
17 disabled persons residing in the county.

18 **SECTION 13.** 46.283 (5) of the statutes is amended to read:

19 46.283 (5) FUNDING. From the appropriation accounts under s. 20.435 (4) (b),
20 (bm), (~~gp~~), (pa), and (w) and (7) (b), (bd), and (md), the department may contract with
21 organizations that meet standards under sub. (3) for performance of the duties under
22 sub. (4) and shall distribute funds for services provided by resource centers.

23 **SECTION 14.** 46.284 (5) (a) of the statutes is amended to read:

24 46.284 (5) (a) From the appropriation accounts under s. 20.435 (4) (b), (g), (~~gp~~),
25 (im), (o), and (w) and (7) (b), (bd), and (g), the department shall provide funding on

1 a capitated payment basis for the provision of services under this section.
2 Notwithstanding s. 46.036 (3) and (5m), a care management organization that is
3 under contract with the department may expend the funds, consistent with this
4 section, including providing payment, on a capitated basis, to providers of services
5 under the family care benefit.

6 SECTION 15. 46.485 (2g) (intro.) of the statutes is amended to read:

7 46.485 (2g) (intro.) From the appropriation ~~accounts~~ account under s. 20.435
8 (4) (b) ~~and (gp)~~, the department may in each fiscal year transfer funds to the
9 appropriation under s. 20.435 (7) (kb) for distribution under this section and from the
10 appropriation account under s. 20.435 (7) (mb) the department may not distribute
11 more than \$1,330,500 in each fiscal year to applying counties in this state that meet
12 all of the following requirements, as determined by the department:

13 SECTION 16. 49.45 (2) (a) 17. of the statutes is amended to read:

14 49.45 (2) (a) 17. Notify the governor, the joint committee on legislative
15 organization, the joint committee on finance and appropriate standing committees,
16 as determined by the presiding officer of each house, if the appropriation ~~accounts~~
17 account under s. 20.435 (4) (b) ~~and (gp)~~ are is insufficient to provide the state share
18 of medical assistance.

****NOTE: Do you want to add a reference to s. 20.435 (4) (xc), and to any other appropriations, in s. 49.45 (2) (a) 17.? Or perhaps refer generally to the appropriation accounts from which the state share of MA is funded?

19 SECTION 17. 49.45 (3) (e) 8. of the statutes is repealed.

20 SECTION 18. 49.45 (3) (e) 11. of the statutes is created to read:

21 49.45 (3) (e) 11. Beginning in state fiscal year 2008-09, the department shall
22 use moneys collected under s. 50.38 to increase aggregate payments, over the
23 amounts paid for state fiscal year 2007-08, for hospital services provided under the

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1 Medical Assistance Program under this subchapter to those hospitals that are
2 required to pay an assessment under s. 50.38. For state fiscal year 2008-09, total
3 payments under this subdivision shall equal the amount collected under s. 50.38 for
4 fiscal year 2008-09 divided by 57.75 percent. For each state fiscal year after state
5 fiscal year 2008-09, total payments under this subdivision shall equal the amount
6 collected under s. 50.38 for the fiscal year divided by 61.68 percent.

7 **SECTION 19.** 49.45 (5m) (am) of the statutes is amended to read:

8 49.45 **(5m)** (am) Notwithstanding sub. (3) (e), from the appropriation accounts
9 under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w) and (xc), the department shall distribute not
10 more than ~~\$2,256,000~~ \$5,000,000 in each fiscal year, to provide supplemental funds
11 to rural hospitals that, as determined by the department, have high utilization of
12 inpatient services by patients whose care is provided from governmental sources,
13 ~~and to provide supplemental funds to critical access hospitals~~, except that the
14 department may not distribute funds to a rural hospital ~~or to a critical access hospital~~
15 to the extent that the distribution would exceed any limitation under 42 USC 1396b
16 (i) (3).

17 **SECTION 20.** 49.45 (5m) (am) of the statutes, as affected by 2009 Wisconsin Act
18 ... (this act), is amended to read:

19 49.45 **(5m)** (am) Notwithstanding sub. (3) (e), from the appropriation accounts
20 under s. 20.435 (4) (b), (o), (w) and (xc), the department shall distribute not more than
21 ~~\$5,000,000~~ \$2,256,000 in each fiscal year, to provide supplemental funds to rural
22 hospitals that, as determined by the department, have high utilization of inpatient
23 services by patients whose care is provided from governmental sources, except that
24 the department may not distribute funds to a rural hospital to the extent that the
25 distribution would exceed any limitation under 42 USC 1396b (i) (3).

1 **SECTION 21.** 49.45 (6m) (ag) (intro.) of the statutes is amended to read:

2 49.45 **(6m)** (ag) (intro.) Payment for care provided in a facility under this
3 subsection made under s. 20.435 (4) (b), (~~gp~~), (o), (pa), or (w) shall, except as provided
4 in pars. (bg), (bm), and (br), be determined according to a prospective payment
5 system updated annually by the department. The payment system shall implement
6 standards that are necessary and proper for providing patient care and that meet
7 quality and safety standards established under subch. II of ch. 50 and ch. 150. The
8 payment system shall reflect all of the following:

9 **SECTION 22.** 49.45 (6v) (b) of the statutes is amended to read:

10 49.45 **(6v)** (b) The department shall, each year, submit to the joint committee
11 on finance a report for the previous fiscal year, except for the 1997-98 fiscal year, that
12 provides information on the utilization of beds by recipients of medical assistance in
13 facilities and a discussion and detailed projection of the likely balances,
14 expenditures, encumbrances and carry over of currently appropriated amounts in
15 the appropriation accounts under s. 20.435 (4) (b), (~~gp~~), and (o).

16 **SECTION 23.** 49.45 (6x) (a) of the statutes is amended to read:

17 49.45 **(6x)** (a) Notwithstanding sub. (3) (e), from the appropriation accounts
18 under s. 20.435 (4) (b), (~~gp~~), (o), and (w), the department shall distribute not more
19 than \$4,748,000 in each fiscal year, to provide funds to an essential access city
20 hospital, except that the department may not allocate funds to an essential access
21 city hospital to the extent that the allocation would exceed any limitation under 42
22 USC 1396b (i) (3).

23 **SECTION 24.** 49.45 (6y) (a) of the statutes is amended to read:

24 49.45 **(6y)** (a) Notwithstanding sub. (3) (e), from the appropriation accounts
25 under s. 20.435 (4) (b), (~~gp~~), (o), and (w), the department ~~shall~~ may distribute funding

1 in each fiscal year to provide supplemental payment to hospitals that enter into a
2 contract under s. 49.02 (2) to provide health care services funded by a relief block
3 grant, as determined by the department, for hospital services that are not in excess
4 of the hospitals' customary charges for the services, as limited under 42 USC 1396b
5 (i) (3). If no relief block grant is awarded under this chapter or if the allocation of
6 funds to such hospitals would exceed any limitation under 42 USC 1396b (i) (3), the
7 department may distribute funds to hospitals that have not entered into a contract
8 under s. 49.02 (2).

9 **SECTION 25.** 49.45 (6y) (am) of the statutes is amended to read:

10 49.45 (6y) (am) Notwithstanding sub. (3) (e), from the appropriation accounts
11 under s. 20.435 (4) (b), (h), (~~gp~~), (o), and (w), the department shall distribute funding
12 in each fiscal year to provide supplemental payments to hospitals that enter into
13 contracts under s. 49.02 (2) with a county having a population of 500,000 or more to
14 provide health care services funded by a relief block grant, as determined by the
15 department, for hospital services that are not in excess of the hospitals' customary
16 charges for the services, as limited under 42 USC 1396b (i) (3).

17 **SECTION 26.** 49.45 (6y) (ap) of the statutes is created to read:

18 49.45 (6y) (ap) Notwithstanding sub. (3) (e), from the appropriation accounts
19 under s. 20.435 (4) (o) and (xc), the department shall distribute not more than
20 \$8,000,000 in each fiscal year as supplemental payments to hospitals that satisfy the
21 criteria established by the American College of Surgeons for classification as a Level
22 I adult trauma center, except that the department ^{may} shall not make payments that
23 exceed limitations based on customary charges under 42 USC 1396b (i) (3).

24 **SECTION 27.** 49.45 (6y) (ap) of the statutes, as created by 2009 Wisconsin Act
25 ... (this act), is repealed.

1 **SECTION 28.** 49.45 (6y) (ar) of the statutes is created to read:

2 49.45 **(6y)** (ar) Notwithstanding sub (3) (e), the department may, from the
3 appropriation account under s. 20.435 (4) (xc), make supplemental payments to
4 hospitals based on hospital performance, in accordance with a payment methodology
5 developed by the department, except that the department shall not make payments
6 that exceed limitations based on customary charges under 42 USC 1396b (i) (3).

7 **SECTION 29.** 49.45 (6y) (ar) of the statutes, as created by 2009 Wisconsin Act
8 (this act), is repealed.

9 **SECTION 30.** 49.45 (6z) (a) (intro.) of the statutes is amended to read:

10 49.45 **(6z)** (a) (intro.) Notwithstanding sub. (3) (e), from the appropriation
11 accounts under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), the department may distribute
12 funding in each fiscal year to supplement payment for services to hospitals that enter
13 into indigent care agreements, in accordance with the approved state plan for
14 services under 42 USC 1396a, with relief agencies that administer the medical relief
15 block grant under this chapter, if the department determines that the hospitals serve
16 a disproportionate number of low-income patients with special needs. If no medical
17 relief block grant under this chapter is awarded or if the allocation of funds to such
18 hospitals would exceed any limitation under 42 USC 1396b (i) (3), the department
19 may distribute funds to hospitals that have not entered into indigent care
20 agreements. The department may not distribute funds under this subsection to the
21 extent that the distribution would do any of the following:

22 **SECTION 31.** 49.45 (8) (b) of the statutes is amended to read:

23 49.45 **(8)** (b) Reimbursement under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w) for home
24 health services provided by a certified home health agency or independent nurse
25 shall be made at the home health agency's or nurse's usual and customary fee per

1 patient care visit, subject to a maximum allowable fee per patient care visit that is
2 established under par. (c).

3 **SECTION 32.** 49.45 (24m) (intro.) of the statutes is amended to read:

4 49.45 (24m) (intro.) From the appropriation accounts under s. 20.435 (4) (b),
5 ~~(gp)~~, (o), and (w), in order to test the feasibility of instituting a system of
6 reimbursement for providers of home health care and personal care services for
7 medical assistance recipients that is based on competitive bidding, the department
8 shall:

9 **SECTION 33.** 49.45 (52) of the statutes is amended to read:

10 49.45 (52) PAYMENT ADJUSTMENTS. Beginning on January 1, 2003, the
11 department may, from the appropriation account under s. 20.435 (7) (b), make
12 Medical Assistance payment adjustments to county departments under s. 46.215,
13 46.22, 46.23, or 51.42, or 51.437 or to local health departments, as defined in s. 250.01
14 (4), as appropriate, for covered services under s. 49.46 (2) (a) 2. and 4. d. and f. and
15 (b) 6. b., c., f., fm., g., j., k., L., Lm., and m., 9., 12., 12m., 13., 15., and 16. Payment
16 adjustments under this subsection shall include the state share of the payments.
17 The total of any payment adjustments under this subsection and Medical Assistance
18 payments made from appropriation accounts under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w),
19 may not exceed applicable limitations on payments under 42 USC 1396a (a) (30) (A).

20 **SECTION 34.** 49.45 (59) of the statutes is created to read:

21 49.45 (59) HEALTH MAINTENANCE ORGANIZATION PAYMENTS TO HOSPITALS. (a)
22 Except as provided under par. (h), the department shall, from the appropriation
23 account under s. 20.435 (4) (xc), pay each health maintenance organization with
24 which it contracts to provide medical assistance a monthly amount that the health
25 maintenance organization shall use to make payments to hospitals under par. (b).

1 (b) Except as provided under par. (h), health maintenance organizations shall
 2 pay all of the moneys they receive under par. (a) to hospitals that are required to pay
 3 assessments under s. 50.38 within 15 days after receiving the moneys. The
 4 department shall specify in contracts with health maintenance organizations to
 5 provide medical assistance a method that health maintenance organizations shall
 6 use to allocate the amounts received under par. (a) among hospitals that are required
 7 to pay assessments under s. 50.38 based on the number of discharges from inpatient
 8 stays and the number of outpatient visits for which the health maintenance
 9 organization paid such a hospital in the previous month for enrollees who are
 10 recipients of medical assistance, except enrollees who receive medical assistance
 11 under s. 49.45 (23). Payments under this paragraph shall be in addition to any
 12 amount that a health maintenance organization is required by agreement between
 13 the health maintenance organization and a hospital to pay the hospital for providing
 14 services to the health maintenance organization's enrollees.

15 (c) Except as provided under par. (h), each health maintenance organization
 16 that provides medical assistance shall report to the department each month the
 17 amount it paid each hospital under par. (b) and the percentage of the total payments
 18 it made under par. (b) that it paid to each hospital.

19 (d) Except as provided under par. (h), each health maintenance organization
 20 that provides medical assistance shall report monthly to each hospital to which the
 21 health maintenance organization makes payments under par. (b) such information
 22 regarding the payments that the department specifies in its contract with the health
 23 maintenance organization to provide medical assistance.

24 (e) 1. If the department determines that a health maintenance organization
 25 has not complied with a requirement under pars. (b) to (d), the department shall

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as defined in s. 50.38(1)

1 order the health maintenance organization to comply with the requirement within
2 15 days after the department's determination of noncompliance.

3 2. The department may terminate a contract with a health maintenance
4 organization to provide medical assistance if the health maintenance organization
5 fails to comply with a requirement under pars. (b) to (d).

6 3. The department may audit a health maintenance organization to determine
7 whether the health maintenance organization has complied with the requirements
8 under pars. (b) to (d).

9 (f) The department shall specify in contracts with health maintenance
10 organizations to provide medical assistance the method for adjusting payments
11 under par. (b) to correct a health maintenance organization's inaccurate counting of
12 inpatient discharges or outpatient visits in calculating a monthly payment to a
13 hospital under par. (b).

14 (g) If a health maintenance organization and hospital do not agree on the
15 amount of a monthly payment that the health maintenance organization is required
16 to pay the hospital under par. (b), either the health maintenance organization or the
17 hospital, within 6 months after the first day of the month in which the payment is
18 due, may request that the department determine the amount of the payment. The
19 department shall determine the amount of the payment within 60 days after the
20 request for a determination is made. The health maintenance organization or
21 hospital is, upon request, entitled to a contested case hearing under ch. 227 on the
22 department's determination.

23 (h) Paragraphs (a) to (d) do not apply after June 30, 2013.

24 **SECTION 35.** 49.472 (6) (a) of the statutes is amended to read:

1 49.472 (6) (a) Notwithstanding sub. (4) (a) 3., from the appropriation account
 2 under s. 20.435 (4) (b), ~~(gp)~~, or (w), the department shall, on the part of an individual
 3 who is eligible for medical assistance under sub. (3), pay premiums for or purchase
 4 individual coverage offered by the individual's employer if the department
 5 determines that paying the premiums for or purchasing the coverage will not be more
 6 costly than providing medical assistance.

7 **SECTION 36.** 49.472 (6) (b) of the statutes is amended to read:

8 49.472 (6) (b) If federal financial participation is available, from the
 9 appropriation account under s. 20.435 (4) (b), ~~(gp)~~, or (w), the department may pay
 10 medicare Part A and Part B premiums for individuals who are eligible for medicare
 11 and for medical assistance under sub. (3).

12 **SECTION 37.** 49.473 (5) of the statutes is amended to read:

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

18 **SECTION 38.** 50.38 of the statutes is created to read:

19 **50.38 Hospital assessment.** (1) Except as provided in sub. (4), for the
 20 privilege of doing business in this state, there is imposed on each hospital an
 21 assessment each state fiscal year that is equal to a uniform percentage, determined
 22 ⁽³⁾ under sub. (2), of the hospital's gross patient revenues, as indicated on the annual
 23 hospital fiscal survey and verified by the department.

24 (3) (2) The department shall establish the percentage under sub. (1) so that the
 25 total amount of assessments collected under this section in a state fiscal year is equal

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reported under s. 153.46(5) and determined

Except as provided in sub. (5)

1 to the amount in the schedule under s. 20.005 (3) for the appropriation under s.
2 20.435 (4) (xc) for that fiscal year.

3 *(4)* **(3)** *eligible* Each hospital shall pay the annual assessment *under sub. (2)* in 4 equal amounts that are
4 due by September 30, December 31, March 31, and June 30 of each year.

5 *(5)* **(4)** (a) The requirement to pay an annual assessment under this section does
6 not apply to an institution for mental diseases, as defined in s. 46.011 (1m), or a
7 critical access hospital.

8 (b) At the discretion of the department, a hospital that is unable timely to make
9 a payment by a date specified under sub. *(4)* **(3)** may be allowed to make a delayed
10 payment. A determination by the department that a hospital may not make a
11 delayed payment under this subsection is final and is not subject to review under ch.
12 227.

13 *(6)* **(5)** (a) If the federal government does not provide federal financial
14 participation under the federal Medicaid program for amounts collected under this
15 section that are used to make increased payments to hospitals that are reimbursed
16 on a fee-for-service basis or to make payments under s. 49.45 (59), the department
17 shall refund hospitals the amount for which the federal government does not provide
18 federal financial participation.

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19 (b) The department shall refund to hospitals any moneys credited to the
20 appropriation account under s. 20.435 (4) (xc) in a state fiscal year that are not
21 expended or encumbered by June 30 of that year.

22 (c) The department shall allocate any refund under this subsection to hospitals
23 in proportion to the percentage of the total assessments collected under sub. *(2)* **(1)** that
24 each hospital paid.

1 (7) (6) By January 1 of each year the department shall report to the joint
2 committee on finance all of the following information for the state fiscal year ending
3 the previous June 30:

4 (a) The amount each eligible hospital paid under sub. (1). (2)

5 (b) The amounts the department paid each health maintenance organization
6 under s. 49.45 (59) (a).

7 (c) The total amounts that each eligible hospital received from health maintenance
8 organizations under s. 49.45 (59) (b).

9 (d) The total amount of payment increases the department made, in connection
10 with implementation of the hospital assessment under sub. (1), for inpatient and
11 outpatient hospital services that are reimbursed on a fee-for-service basis.

12 (7) In each state fiscal year, beginning with state fiscal year 2008-09 and
13 ending with state fiscal year 2012-13, the department shall transfer \$3,000,000 from
14 the appropriation account under s. 20.435 (4) (xc) to the appropriation account under
15 s. 20.285 (6) (q).

16 (8) Notwithstanding sub. (1) to (3), no assessments shall be collected under this
17 section after June 30, 2013. and no transfer

18 SECTION 39. 50.389 of the statutes is renumbered 50.377.

19 SECTION 40. 146.99 of the statutes is repealed.

20 SECTION 9122. Nonstatutory provisions; Health Services.

21 (1) HOSPITAL ASSESSMENT.

22 (a) Assessment payment deadlines. Notwithstanding section 50.38 (3), as
23 created by this act, hospitals shall pay the assessment for state fiscal year 2008-09
24 that is required under section 50.38 (1) of the statutes, as created by this act, in 2
25 equal amounts. Hospitals shall make the first payment by March 31, 2009, or 10

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of the statutes

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1 days after the effective date of this paragraph, whichever is later. Hospitals shall
 2 make the 2nd payment by June 30. At the discretion of the department of health
 3 services, a hospital that is unable timely to make a payment by a date specified under
 4 this paragraph may be allowed to make a delayed payment. A determination by the
 5 department that a hospital may not make a delayed payment under this paragraph
 6 is final and is not subject to review under chapter 227 of the statutes.

7 (b) *Medical assistance hospital rate and weight schedules.* 1. The inpatient and
 8 outpatient hospital diagnosis related groupings rate and weight schedules
 9 established by the department of health services for state fiscal year 2008-09 shall
 10 be the same as the schedules established for state fiscal year 2007-08.

11 2. Notwithstanding subdivision 1., the department of health services may, for
 12 fiscal year 2008-09, make fee-for-service payments to hospitals under the Medical
 13 Assistance Program, except the program under s. 49.45 (23) of the statutes, that
 14 exceed the payments calculated using the inpatient and outpatient hospital
 15 diagnosis related groupings rate and weight schedules for state fiscal year 2008-09.

16 (c) *Refunds for state fiscal year 2008-09.* By December 31, 2009, the
 17 department of health services shall refund to hospitals, in the manner provided
 18 under section 50.38 (5) (c) of the statutes, as created by this act, the amount, as
 19 determined by the secretary of administration, that reverted to the hospital
 20 assessment trust fund from the appropriation account under 20.435 (4) (xc) at the
 21 end of state fiscal year 2008-09 as provided under s. 20.001 (3) (a).

22 (d) *Independent rural hospital supplement.* In state fiscal year 2008-09, from
 23 the appropriation account under section 20.435 (4) (b) of the statutes, the
 24 department of health services shall pay independent, rural, hospitals that are in

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and (o) ✓

1 counties that border another state and that are not critical access hospitals one of the
2 following amounts:

3 1. If the percentage of the hospital's gross patient revenue that is attributable
4 to the Medical Assistance Program under subchapter IV of chapter 49 of the statutes
5 is less than 7 percent, \$250,000.

6 2. If the percentage of the hospital's gross patient revenue that is attributable
7 to the Medical Assistance Program under subchapter IV of chapter 49 of the statutes
8 is 7 percent to 14 percent, \$500,000.

****NOTE: Is the gross patient revenue attributable to MA more than 14 percent for
any hospital that qualifies for this supplement? Should subdivision 2. say in excess of 7
percent instead of 7 percent to 14 percent?

9 (e) *Budgeting practices.* This act does not affect any requirements under
10 section 16.46 of the statutes as they relate to the review and reestimate of, and
11 request for, general purpose revenues for hospital payments under the Medical
12 Assistance Program under subchapter IV of chapter 49 of the statutes. *as needed*

13 **SECTION 9322. Initial applicability; Health Services.**

14 (1) MEDICAL ASSISTANCE FEE-FOR-SERVICE HOSPITAL RATE INCREASES. Payment
15 increases under section 49.45 (3) (e) 11. of the statutes, as created by this act, for
16 inpatient and outpatient hospital services that are reimbursed on a fee-for-service
17 basis first apply to services provided on July 1, 2008.

18 **SECTION 9422. Effective dates; Health Services.**

19 (1) HOSPITAL ASSESSMENT.

20 (a) The treatment of sections 20.285 (6) (q), 20.435 (4) (gp) and (xd) (by SECTION
21 5), 46.27 (9) (a) and (10) (a) 1., 46.275 (5) (a) and (c), 46.283 (5), 46.284 (5) (a), 46.485
22 (2g) (intro.), 49.45 (2) (a) 17., (5m) (am) (by SECTION 19), (6m) (ag) (intro.), (6v) (b), (6x)
23 (a), (6y) (a), (am), (ap) (by SECTION 24), and (ar) (by SECTION 28), (6z) (a) (intro.), (8)

equal to or greater than

*JRS
17-12*

(by SECTION A.R. 1)

The departments of administration and health services shall review, reestimate, and request

1 (b), (24m) (intro.), and (52), 49.472 (6) (a) and (b), 49.473 (5), and 146.99 of the
2 statutes takes effect on July 1, 2009.

3 (b) The treatment of section 20.435 (4) (xd) (by SECTION 6) of the statutes takes
4 effect on June 30, 2010.

5 (c) The treatment of sections 49.45 (5m) (am) (by SECTION 20), 49.45 (6y) (ap)
6 (by SECTION 27) and (ar) (by SECTION 29) of the statutes takes effect on June 30, 2013.

7 (END)

20.285 (6) (g) (by SECTION A.R. 2),

CS

day after the

(b) The treatment of section 20.285 (6) (g)
(by SECTION A.R. 1) of the statutes
takes effect on the effective date
of the 2009-11 biennial
budget act.

D-Note

1

Ins analysis:

Health & Human Services
→
HOSPITAL ASSESSMENT

X Under current law, the state assesses hospitals a total of \$1,500,000 each year. The amount each hospital pays is allocated in proportion to the hospital's gross private-pay revenues. The hospital assessment revenue is used to support the Medical Assistance (MA) Program, long-term care programs, and community-based mental health services.

X This bill increases the amount of the hospital assessment to \$275,445,110 for state fiscal year 2008-09. The bill provides that the amount of the assessment in future years shall be established in the biennial budget act. The bill charges the total assessment amount against hospitals in proportion to their gross patient revenues. The bill exempts critical access hospitals, institutions for mental diseases, and certain psychiatric hospitals that are not a satellite of an acute care hospital from the assessment. Under the bill, hospitals must pay the assessment in four quarterly installments, except that in state fiscal year (SFY) 2008-09, the payments must be made in two installments, due at the end of March and June. However, the bill allows the Department of Health Services (DHS) to extend the deadline for payment of the assessment for hospitals that are unable to make timely payments.

X The bill provides that a specified portion of the assessment revenue shall be used to pay hospitals for services provided under MA and transfers the remaining amount of assessment revenue to the MA trust fund. Under the bill, the portion of the assessment revenue used to pay for hospital services in SFY 2008-09 is equal to the state share of MA times the amount of the total assessment revenue divided by 57.75 percent. Assuming a state share of 41.06 percent, DHS must use \$195,840,300 of the assessment revenue to pay hospitals, amounting to payments of \$476,961,200, all funds. In SFY 2008-09, the remaining \$79,604,800 of the assessment revenue is transferred to the MA trust fund. Of the amount transferred to the MA trust fund, one-half of one percent (\$398,000) is appropriated to DHS for the administrative costs associated with the hospital assessment and the other \$79,206,800 is appropriated for MA. For SFY 2008-09, the bill also appropriates general purpose revenue in the amount of \$750,000 for supplemental payments to certain rural hospitals in counties that border another state. Finally, in SFY 2008-09, the bill reduces the amount of general purpose revenue appropriated for MA by \$78,456,800.

X Beginning in SFY 2009-10, the portion of the assessment revenues allocated for payment of hospital services under MA is equal to the state share of MA times the amount of the total assessment revenue divided by 61.68 percent. The remainder of the hospital assessment revenue is transferred to the MA trust fund. One-half of one percent of the transferred amount is appropriated to DHS for administrative costs associated with the hospital assessment. Also beginning in SFY 09-10, the bill appropriates \$3 million annually from the MA trust fund to the University of Wisconsin Hospitals and Clinics for the costs of providing uncompensated care.

0.5

\$3,000,000

,000,000

basis

X

X

The bill provides that DHS shall spend the portion of the hospital assessment revenue that is allocated to pay for hospital services under MA on the following: increased reimbursement for hospitals that are reimbursed on a fee-for-service and are required to pay the assessment; payments to health maintenance organizations (HMOs) that the HMOs must use to increase reimbursement to hospitals that are required to pay the assessment; an increase of \$2,744,00 in supplemental payments to certain rural hospitals; \$8 million in supplemental payments to hospitals that satisfy criteria established by the American College of Surgeons for classification as a Level I adult trauma center; and supplemental payments to hospitals based on performance, under a methodology developed by DHS.

The bill provides that if the federal government does not contribute the federal share under MA for any portion of the hospital assessment revenue allocated to pay for hospital services, DHS must refund that portion of the assessment revenue to the hospitals. DHS must make any refunds to hospitals in proportion to the percentage of the assessment that the hospitals paid.

The bill eliminates the hospital assessment, and provisions for expenditure of the assessment revenue, on July 1, 2013.

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Ins 1-7:

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(gr) Hospital assessment administra-

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Ins 2-1:

Cr. A.R. 1

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~~SECTION 1~~ 20.285 (6) (q) of the statutes is created to read:

9

20.285 (6) (q) *Uncompensated care*. From the Medical Assistance trust fund,

10

the amounts in the schedule for providing hospital services for which the University

11

of Wisconsin Hospitals and Clinics is not otherwise compensated.

12

~~SECTION 2~~ 20.285 (6) (q) of the statutes, as created by 2009 Wisconsin Act ...

13

(this act), is repealed.

14

Cr. A.R. 2

15

(gr)

1 **Ins 2-4:**

2 **SECTION 3.** 20.435 (4) (q) of the statutes is created to read:

3 20.435 (4) (gr) *Hospital assessment administration.* All moneys transferred
4 under s. 50.38 (9) for administration of the hospital assessment under s. 50.38.
5 Notwithstanding s. 20.001 (3) (c), the unencumbered balance on June 30 of each
6 odd-numbered year shall be transferred to the Medical Assistance trust fund.

7

8 **Ins 5-12:**

9 **SECTION 4.** 49.45 (2) (a) 17. of the statutes is repealed.

10

11 **Ins 5-20:**

12 **SECTION 5.** 49.45 (3) (e) 11. of the statutes is created to read:

13 49.45 (3) (e) 11. The department shall use a portion of the moneys collected
14 under s. 50.38 to pay for services provided by eligible hospitals, as defined in s. 50.38
15 (1), under the Medical Assistance Program under this subchapter, including services
16 reimbursed on a fee-for-service basis and services provided under a managed care
17 system. For state fiscal year 2008-09, total payments under this subdivision shall
18 equal the state share under the Medical Assistance Program of the amount collected
19 under s. 50.38 (2) for fiscal year 2008-09 divided by 57.75 percent. For each state
20 fiscal year after state fiscal year 2008-09, total payments under this subdivision
21 shall equal the state share under the Medical Assistance Program of the amount
22 collected under s. 50.38 (2) for the fiscal year divided by 61.68 percent.

23

24

25 **Ins 13-19:**

1 *not* (1) In this section "eligible hospital" means a hospital that is not any of the
2 following:

3 (a) A critical access hospital.

4 (b) An institution for mental diseases, as defined in s. 46.011 (1m).

5 (c) A general psychiatric hospital for which the department has issued a
6 certificate of approval under ^{s.}50.35 that applies only to the psychiatric hospital, and
7 that is not a satellite of an acute care hospital.

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10 **Ins 14-18:**

11 (b) On June 30th of each state fiscal year, the department shall, from the
12 appropriation account under s. 20.435 (4) (xc), refund to hospitals the difference
13 between the amount in the schedule under s. 20.005 (3) for that appropriation and
14 the amount expended or encumbered from that appropriation in the fiscal year.

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16
17 **Ins 15-17:**

18 (8) Except as provided in sub. (10), in each state fiscal year, the secretary of
19 administration shall transfer from the hospital assessment fund to the medical
20 assistance trust fund an amount equal to the amount in the schedule under s. 20.005
21 (3) for the appropriation under s. 20.435 (4) (xc) for that fiscal year minus the state
22 share of payments to hospitals under s. 49.45 (3) (e) 11., and minus any refunds paid
23 to hospitals under sub. (6) (a) in that fiscal year.

24 (9) On June 30 of each state fiscal year, the secretary of administration shall
25 transfer from the Medical Assistance trust fund to the the appropriation account

1 under s. 20.435 (4) (gr), an amount equal to 0.5 percent of the amount transferred
2 under sub. (8).

3 (10) Assessments may not be collected under sub. (2) after June 30, 2013, and
4 transfers may not be made under subs. (9) and (10) after June 30, 2013.

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7 **Ins 16-16:**

8 ~~(a)~~ *Medical assistance fee-for-service schedule used as basis for managed care*
9 *reimbursement.* The department of health services shall present the inpatient and
10 outpatient hospital diagnosis related groupings rate and weight schedules
11 established by the department for state fiscal year 2007-08 to health maintenance
12 organizations and hospitals as the applicable schedule for reimbursement rates
13 under agreements between health maintenance organizations and hospitals that
14 reference the fee-for-services schedule to establish the rates that health
15 maintenance organizations shall reimburse hospitals for services provided to
16 recipients of the Medical Assistance Program under subchapter IV of chapter 49 of
17 the statutes in state fiscal year 2008-09.

18 (c) *Reconciliation of 2008-09 expenses.* 1. Notwithstanding the deadline under
19 section 50.38 (6) (b) of the statutes, as created by this act, for state fiscal year
20 2008-09, the department shall make the refunds required under section 50.38 (6) (b),
21 by December 31, 2009.

22 2. Notwithstanding s. 20.001 (3) (a) of the statutes, the unencumbered balance
23 in the appropriation under section 20.435 (4) (xc) of the states does not revert to the
24 hospital assessment fund at the end of state fiscal year 2008-09; and the department
25 of health services may expend in state fiscal year 2009-10 this amount in addition

section of the statutes

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to the amounts in the schedule under s. 20.005 (3) for the appropriation under section 20.435 (4) (xc) for state fiscal year 2009-10.

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Ins 17-12:

SECTION 9222. Fiscal changes; Health Services.

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(1) MEDICAL ASSISTANCE TRUST FUND. In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of health services under section 20.435 (4) (w) of the statutes, as affected by the acts of 2009, the dollar amount is increased by \$79,206,800 for the second fiscal year of the fiscal biennium in which this subsection takes effect for the purpose for which the appropriation is made.

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(2) MEDICAL ASSISTANCE GENERAL PURPOSE REVENUE APPROPRIATION. In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of health services under section 20.435 (4) (b) of the statutes, as affected by the acts of 2009, the dollar amount is decreased by \$78,456,800 for the second fiscal year of the fiscal biennium in which this subsection takes effect for the purposes for which the appropriation is made.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1152/Pydn
RER: kg

Date

Krista,

1. Please look particularly at the following: ✓

a. The provision under proposed s. 50.38 (6) (a) for refunding assessment revenue for which federal match is not provided. This does not provide for refunding assessment revenue that is transferred to the MA trust fund. ✓

b. The description of a psychiatric hospital under proposed s. 50.38 (1) (c).

X c. The nonstatutory provision under Section 9122 (1) (a) of the bill regarding fee-for-service rate schedules. (CS) ✓

2. Proposed ss. 50.38 (6) (a) and 49.45 (3) (e) 11. describe the same pot of money, so should I change proposed s. 50.38 (6) (a) to refer to payments under s. 49.45 (3) (e) 11.? For example, "If the federal government does not provide federal financial participation under the federal Medicaid program for amounts collected under this section and used to make payments under s. 49.45 (3) (e) 11., the department shall refund...." X ✓

3. This draft repeals s. 49.45 (2) (a) 17. which requires DHS to notify the governor and various committees of the legislature if the appropriation account under s. 20.435 (4) (b) is insufficient to provide the state share of MA. Since there are currently other appropriations that contribute to the state share of MA, DHS should be continuously reporting an insufficiency under this provision. If you don't want to repeal this provision, it should be updated to reference all of the appropriations that contribute to the state share of MA. ✓

Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1152/P4dn
RLR:kjf:jf

January 16, 2009

Krista,

1. Please look particularly at the following:

- a. The provision under proposed s. 50.38 (6) (a) for refunding assessment revenue for which federal match is not provided. This does not provide for refunding assessment revenue that is transferred to the MA trust fund.
- b. The description of a psychiatric hospital under proposed s. 50.38 (1) (c).
- c. The nonstatutory provision under SECTION 9122 (1) (a) of the bill regarding fee-for-service rate schedules.

2. Proposed ss. 50.38 (6) (a) and 49.45 (3) (e) 11. describe the same pot of money, so should I change proposed s. 50.38 (6) (a) to refer to payments under s. 49.45 (3) (e) 11.? For example, "If the federal government does not provide federal financial participation under the federal Medicaid program for amounts collected under this section and used to make payments under s. 49.45 (3) (e) 11., the department shall refund...."

3. This draft repeals s. 49.45 (2) (a) 17. which requires DHS to notify the governor and various committees of the legislature if the appropriation account under s. 20.435 (4) (b) is insufficient to provide the state share of MA. Since there are currently other appropriations that contribute to the state share of MA, DHS should be continuously reporting an insufficiency under this provision. If you don't want to repeal this provision, it should be updated to reference all of the appropriations that contribute to the state share of MA.

Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.wisconsin.gov

Jan '09

Kuska - changes to /P4

(1) Instead of creating new approp. for admin (4) (gr) - put the 1/2 % in 4 (ju) don't need to lapse at end of biennium

(2) Don't need sep approp for 3 mil to UW Hosps & Clinics - just pay from (4) (w)

(3) Dots e-mail a reference to which hospitals get rate increases

Ryan, Robin

From: Willing, Krista - DOA [Krista.Willing@wisconsin.gov]
Sent: Friday, January 23, 2009 4:27 PM
To: Ryan, Robin
Subject: FW: Hospital assessment DRAFT

Hi Robin,

Jim Johnston just sent me these changes for the Hospital Assessment. Please let me know if you have any questions. Michelle reviewed the draft and believes all the payment language is correct.

Thanks!
Krista

From: Johnston, James - DHS
Sent: Friday, January 23, 2009 4:23 PM
To: Willing, Krista - DOA
Cc: Albertoni, Richard S - DHS
Subject: RE: Hospital assessment DRAFT

Krista,
Please see Rich's note below. We've mentioned this issue several times. The assessment and payments are based on impacting general acute care hospitals. It is inappropriate to refer to "assessed hospitals" as shorthand for the group for providers impacted by the assessment and/or the rate changes.

From: Albertoni, Richard S - DHS
Sent: Friday, January 23, 2009 3:23 PM
To: Johnston, James - DHS
Subject: FW: Hospital assessment DRAFT
Importance: High

I read Neil's issues, but don't see any of them as requiring revisions. My only remaining issue on this is as follows:

On the summary where it says the assessment funds can be used to pay rate increases to hospitals that pay the tax. We should refer to them as general acute care, non-critical access, children's and rehabilitation hospitals located within the state of Wisconsin.