

2013 DRAFTING REQUEST

Bill

Received: 12/14/2012 Received By: tdodge
Wanted: 12/18/2012 4:00:00 PM Same as LRB: -1145
For: Jon Richards (608) 266-0650 By/Representing: Christian Moran/ Brian Larson
May Contact: Brian Larson LC Drafter: tdodge
Sen. Erpenbach's office Addl. Drafters:
LFB Extra Copies:
Subject: Medical Assistance

Submit via email: YES
Requester's email: Rep.Richards@legis.wisconsin.gov
Carbon copy (CC) to: pam.kahler@legis.wisconsin.gov
tamara.dodge@legis.wisconsin.gov
kelly.becker@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Expand medical assistance to childless adults as allowed in the Patient Protection and Affordable Care Act

Instructions:

See attached

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>
/?	tdodge 12/17/2012			_____			
/P1	tdodge	jdye	rschlue	_____	mbarman		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	1/4/2013	12/17/2012	12/17/2012	_____	12/17/2012		
/P2	tdodge 1/10/2013	jdyer 1/11/2013	pherry 1/14/2013	_____	mbarman 1/7/2013		State
/1	tdodge 1/22/2013	jdyer 1/22/2013	pherry 1/22/2013	_____	sbasford 1/14/2013		State
/2				_____	lparisi 1/22/2013	srose 2/18/2013	State

FE Sent For:

*at
intro*

<END>

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/?	tdodge 12/17/2012	2 1/22 jld	1/20 ph	ph			
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/1				_____ _____	sbasford 1/14/2013		State

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/?	tdodge 12/17/2012	<i>1/2 1/5 jld</i>					
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 Extra Copies: JLD
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1/?	tdodge	12/17 jld					

2/17/12 sm

FE Sent For:

<END>

T/C w/ Brian Larson (Leg. Council)

Implement Medicaid expansion (PPACA)

Add expansion population (childless adults to BC+

End expansion after 3 years (corresponds w/ decrease in FMAP

Ensure expansion only occurs if DHS obtains 100% Fed match on that population

Ensure that DHS obtains any federal approval necessary to cover expansion population - or no expansion

Confirm that DHS seek the enhanced FMAP for that population

Elim. BC+ Core or not

Per Christian Moran

Draft a PI

Can share drafts w/ Brian & correspond

leave BC+Core in effect ~~is~~ if expansion wouldn't be funded by federal government



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0830?

TJD:....

In: 12/17/12

Due Tues
12/18/12
Am

RMR Jld

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

4

Gen

1

AN ACT ...; relating to: Medical Assistance for certain adults who are not eligible

2

for other Medical Assistance programs.

Analysis by the Legislative Reference Bureau

Currently, the Department of Health Services (DHS) administers the Medical Assistance (MA) program, which is a joint federal and state program that provides health services to individuals who have limited resources. Some services are provided through programs that operate under a waiver of federal Medicaid laws, including services provided through the BadgerCare Plus (BC+) and BadgerCare Plus Core (BC+ Core) programs. Under current law, BC+ provides health and medical services to eligible recipients and has a standard plan with a larger set of benefits and a Benchmark plan with fewer benefits. Recipients of standard BC+ benefits may be required to pay certain copayments for services and with some exceptions, to pay premiums. Recipients of BC+ under the Benchmark plan have increased copayments and coinsurance for certain services and higher premiums compared to recipients under the standard plan.

Under current law, unless DHS has a policy that conflicts with current state law eligibility requirements, the following individuals, among others, are eligible for benefits under the BC+ standard plan: a pregnant women whose family income does not exceed 200% of the federal poverty line (FPL); a child meeting certain criteria whose family income does not exceed 200% of the FPL; a child meeting certain criteria whose family income exceeds 150% of the FPL but the difference between the actual family income and 150% of the FPL is expended on behalf of a member of the child's family or the child for certain medicator health reasons; a parent or caretaker

percent

relative of a child whose family income does not exceed 200% of the FPL; and an individual who qualifies for a transitional extension of MA benefits even though his or her income increases above the poverty line. The following individuals, among others, are eligible for benefits under the BC+ Benchmark plan, under current law: a pregnant woman whose family income exceeds 200%, but does not exceed 300% of the FPL; a pregnant woman and everyone in her family if her family income exceeds 300% of the FPL but the difference between her actual family income and 300% of the FPL is expended for any family member's or her medical or health care; a child whose family income exceeds 200%, but does not exceed 300% of the FPL; and a parent or caretaker of a child whose income includes self-employment income but does not exceed 200% of the FPL after depreciation is deducted.

Under current law, DHS also administers BC+ Core, which provides basic primary and preventive care to eligible individuals. Adults who are under age 65, who have family incomes that do not exceed 200% of the FPL, and who are not otherwise eligible for MA, including BC+, are eligible for benefits under BC+ Core, unless DHS has a policy that conflicts with current state law eligibility requirements.

Currently, beginning on January 1, 2014, the federal Patient Protection and Affordable Care Act (PPACA) requires states that participate in the Medicaid program to offer medical assistance benefits to adults who are under 65 years of age, are not pregnant, are not entitled to Medicare benefits, are not otherwise eligible for Medicaid, and have an income that does not exceed 133 percent of the federal poverty line (expansion population). PPACA requires the state to provide benefits to the expansion population that meet the standards of benchmark coverage as defined in PPACA. The federal Department of Health and Human Services (federal DHHS) pays a matching rate, known as the federal medical assistance percentage or FMAP, to states that participate in the Medicaid program. PPACA sets the FMAP for coverage of newly eligible individuals in the expansion population at 100 percent for calendar years 2014, 2015, and 2016. The United States Supreme Court decision, in *National Federation of Independent Business v. Sebelius*, 567 U.S. ___, 132 S.Ct. 2566 (2012), makes coverage of the expansion population by states optional instead of mandatory.

This bill makes adults who are under 65 years of age, who are not pregnant, who are not otherwise eligible for MA under the state's traditional MA program or BC+, and whose income do not exceed 133 percent of the federal poverty line (Wisconsin expansion population) eligible for the BC+ Benchmark plan between January 1, 2014, and December 31, 2016. However, if the federal DHHS does not pay the 100 percent FMAP on services provided to the Wisconsin expansion population, the Wisconsin expansion population is not eligible for BC+ but may receive benefits under BC+ Core. The department may only administer BC+ Core between January 1, 2014, and December 31, 2016, if the federal DHHS does not pay the 100 percent FMAP on the Wisconsin expansion population.

The bill requires that if the benefits under the BC+ Benchmark plan are not sufficient to qualify DHS to obtain the 100 percent FMAP, DHS must provide coverage that complies with PPACA in order to qualify for the 100 percent FMAP.

Additionally, if the federal DHHS[✓] prohibits charging a copayment or premium to the Wisconsin expansion population in order to qualify for the 100 percent FMAP, DHS may not charge copayments or premiums[✓].

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

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

1

^x
SECTION 1. 49.45 (23) (c) of the statutes is created to read:

2
3

49.45 (23) (c) The department[✓] may not administer the demonstration project under this section[✓] unless the federal department of health[✓] and human services declines to provide the 100 percent federal medical assistance percentage described under 42 USC 1396d (y) for coverage of individuals described in s. 49.471 (4) (b) 5. The department may not create a policy under sub. (2m) (c)[✓] that conflicts with this paragraph.[✓]

8
9

^x
SECTION 2. ^{AutoRef A} 49.45 (23) (c) of the statutes, as[✓] created by 2013 Wisconsin Act ... (this act), is amended to read:

11

12 49.45 (23) (c) The department may not administer the demonstration project under this section unless the federal department of health[✓] and ^{← plain} human services declines to provide the 100 percent federal medical assistance percentage described under 42 USC 1396d (y) for coverage of individuals described in s. 49.471 (4) (b) 5. ^g The department may not create a policy under sub. (2m) (c) that conflicts with this paragraph.[✓]

16
17

^x
SECTION 3. 49.45 (23) (c) of the statutes, as ^{affected} created by 2013 Wisconsin Act ... (this act), ^{section 2} is repealed. ^{Auto Ref A}

18

^x
SECTION 4. 49.471 (4) (b) 5. of the statutes is created to read:

1 49.471 (4) (b) 5. Subject to sub. (4m),[✓] an adult who is under 65[✓] years of age; who
2 is not pregnant; who is not otherwise eligible for Medical Assistance[✓] under par. (a)[✓]
3 or (b) 1. to 4.[✓] or s. 49.46 (1),[✓] except s. 49.45 (23);[✓] and whose income does not exceed
4 133[✓] percent of the poverty line for a family the size of the individual's family.

5 **SECTION 5.** 49.471 (4) (b) 5.[✓] of the statutes, as created by 2013 Wisconsin Act
6 (this act), is repealed.

7 **SECTION 6.** 49.471 (4m)[✓] of the statutes is created to read:

8 49.471 (4m) **MEDICAID EXPANSION.**[✓] For services provided to individuals
9 described under sub. (4) (b) 5.,[✓] the department shall comply with all federal
10 requirements to qualify for the 100[✓] percent federal medical assistance percentage
11 described under 42 USC 1396d (y). The department shall submit any amendment
12 to the state medical assistance plan, request for a waiver of federal[✓] Medicaid law, or
13 other approval required by the federal government to provide services to the
14 individuals described under sub. (4) (b) 5. and qualify for the 100 percent federal
15 medical assistance percentage described under 42 USC 1396d (y). If the federal
16 department of health and human services[✓] does not pay the 100 percent federal
17 medical assistance percentage for services provided to individuals described in sub.
18 (4) (b) 5.,[✓] individuals described in sub. (4) (b) 5. are not eligible for medical assistance
19 under this section.[✓]

20 **SECTION 7.** 49.471 (4m)[✓] of the statutes, as created by 2013 Wisconsin Act
21 (this act), is repealed.

22 **SECTION 8.** 49.471 (11)[✓] (intro.) of the statutes is amended to read:

23 49.471 (11) **BENCHMARK PLAN BENEFITS AND COPAYMENTS.** (intro.) **Recipients**
24 Subject to sub. (11g),[✓] recipients who are not eligible for the benefits described in s.

1 49.46 (2) (a) and (b) shall have coverage of the following benefits and pay the
2 following copayments:

Auto Ref B

3 History: 2007 a. 20; 2009 a. 28, 180, 219; 2011 a. 10, 32.
SECTION 9. 49.471 (11) (intro.) of the statutes, as affected by 2013 Wisconsin
4 Act ... (this act), is amended to read:

5 49.471 (11) BENCHMARK PLAN BENEFITS AND COPAYMENTS. (intro.) ~~Subject to sub.~~
6 ~~(11g), recipients~~ Recipients who are not eligible for the benefits described in s. 49.46
7 (2) (a) and (b) shall have coverage of the following benefits and pay the following
8 copayments:

Auto Ref C

9 SECTION 10. 49.471 (11g) of the statutes is created to read:

10 49.471 (11g) MEDICAID EXPANSION BENCHMARK COVERAGE. (a) If, to obtain the 100
11 percent federal medical assistance percentage under 42 USC 1396d(y), the federal
12 department of health and human services prohibits charging of a copayment or
13 premium to an individual described under sub (4) (b) 5., the department may not
14 charge the copayments described under sub. (11) or a premium.

15 (b) If the federal department of health and human services determines that the
16 benefits provided under sub. (11) are not sufficient to qualify the department to
17 obtain the 100 percent federal medical assistance percentage under 42 USC 1396d
18 (y) for benefits provided to individuals described under sub. (4) (b) 5., the department
19 shall provide any benchmark coverage or benchmark equivalent coverage that
20 complies with 42 USC 1396u-7 to qualify to obtain the 100 percent federal medical
21 assistance percentage under 42 USC 1396d (y).

22 (c) Notwithstanding sub. (13), the department may not create a policy under
23 s. 49.45 (2m) (c) that affects the eligibility or benefits of the individuals described

SECTION 10

1 under sub. (4) (b) 5 such that the department fails to obtain the 100 percent federal
2 medical assistance percentage under 42 USC 1396d (y).

3 SECTION 11. 49.471 (11g) (c) of the statutes, as created by 2013 Wisconsin Act
4 (this act), is repealed.

5 SECTION 12. 49.471 (11g) of the statutes, as created by 2013 Wisconsin Act ...
6 (this act), is repealed.

7 SECTION 13. Effective dates. This act takes effect on January 1, 2014, except
8 as follows:

9 (1) The treatment of section 49.45 (23) (c) (by SECTION Auto# of the statutes) and
10 the repeal of section 49.471 (11g) (c) of the statutes take effect on January 1, 2015.

11 (2) The treatment of section 49.471 (11) (intro.) (by SECTION Auto#) and the
12 repeal of sections 49.45 (23) (c) and 49.471 (4) (b) 5., (4m), and (11g) of the statutes
13 take effect on December 31, 2016.

14

(END)

auto ref D

affected by

sections 10 and 11

auto ref C

auto ref D

Ins AutoRef A

stet

In AutoRef B

of the statute

12



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0830/P1
TJD:jld:rs

P2

In. 1/4/13 (Due Friday 1/11 if possible)

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

X

regen

1 AN ACT *to repeal* 49.45 (23) (c), 49.471 (4) (b) 5., 49.471 (4m), 49.471 (11g) and
2 49.471 (11g) (c); *to amend* 49.45 (23) (c), 49.471 (11) (intro.) and 49.471 (11)
3 (intro.); and *to create* 49.45 (23) (c), 49.471 (4) (b) 5., 49.471 (4m) and 49.471
4 (11g) of the statutes; **relating to:** Medical Assistance for certain adults who are
5 not eligible for other Medical Assistance programs.

Analysis by the Legislative Reference Bureau

Currently, the Department of Health Services (DHS) administers the Medical Assistance (MA) program, which is a joint federal and state program that provides health services to individuals who have limited resources. Some services are provided through programs that operate under a waiver of federal Medicaid laws, including services provided through the BadgerCare Plus (BC+) and BadgerCare Plus Core (BC+ Core) programs. Under current law, BC+ provides health and medical services to eligible recipients and has a standard plan with a larger set of benefits and a Benchmark plan with fewer benefits. Recipients of standard BC+ benefits may be required to pay certain copayments for services and, with some exceptions, to pay premiums. Recipients of BC+ under the Benchmark plan have increased copayments and coinsurance for certain services and higher premiums compared to recipients under the standard plan.

Under current law, unless DHS has a policy that conflicts with current state law eligibility requirements, the following individuals, among others, are eligible for benefits under the BC+ standard plan: a pregnant women whose family income does

not exceed 200 percent of the federal poverty line (FPL); a child meeting certain criteria whose family income does not exceed 200 percent of the FPL; a child meeting certain criteria whose family income exceeds 150 percent of the FPL but the difference between the actual family income and 150 percent of the FPL is expended on behalf of a member of the child's family or the child for certain medical or health reasons; a parent or caretaker relative of a child whose family income does not exceed 200 percent of the FPL; and an individual who qualifies for a transitional extension of MA benefits even though his or her income increases above the poverty line. The following individuals, among others, are eligible for benefits under the BC+ Benchmark plan, under current law: a pregnant woman whose family income exceeds 200 percent, but does not exceed 300 percent, of the FPL; a pregnant woman and everyone in her family if her family income exceeds 300 percent of the FPL but the difference between her actual family income and 300 percent of the FPL is expended for any family member's or her medical or health care; a child whose family income exceeds 200 percent, but does not exceed 300 percent, of the FPL; and a parent or caretaker of a child whose income includes self-employment income but does not exceed 200 percent of the FPL after depreciation is deducted.

Under current law, DHS also administers BC+ Core, which provides basic primary and preventive care to eligible individuals. Adults who are under age 65, who have family incomes that do not exceed 200 percent of the FPL, and who are not otherwise eligible for MA, including BC+, are eligible for benefits under BC+ Core, unless DHS has a policy that conflicts with current state law eligibility requirements.

Currently, beginning on January 1, 2014, the federal Patient Protection and Affordable Care Act (PPACA) requires states that participate in the Medicaid program to offer medical assistance benefits to adults who are under 65 years of age, are not pregnant, are not entitled to Medicare benefits, are not otherwise eligible for Medicaid, and have an income that does not exceed 133 percent of the FPL (expansion population). PPACA requires the state to provide benefits to the expansion population that meet the standards of benchmark coverage as defined in PPACA. The federal Department of Health and Human Services (federal DHHS) pays a matching rate, known as the federal medical assistance percentage or FMAP, to states that participate in the Medicaid program. PPACA sets the FMAP for coverage of newly eligible individuals in the expansion population at 100 percent for calendar years 2014, 2015, and 2016. The United States Supreme Court decision, in *National Federation of Independent Business v. Sebelius*, 567 U.S. ___, 132 S.Ct. 2566 (2012), makes coverage of the expansion population by states optional instead of mandatory.

This bill makes adults who are under 65 years of age, who are not pregnant, who are not otherwise eligible for MA under the state's traditional MA program or BC+, and whose income do not exceed 133 percent of the FPL (Wisconsin expansion population) eligible for the BC+ Benchmark plan between January 1, 2014, and December 31, 2016. However, if the federal DHHS does not pay the 100 percent FMAP on services provided to the Wisconsin expansion population, the Wisconsin expansion population is not eligible for BC+ but may receive benefits under BC+

✓
Insert
AKR-1

✓
Insert
A-1

Insert A-2 ✓

beginning ✓

Core. DHS may only administer BC+ Core between January 1, 2014, and December 31, 2016, if the federal DHHS does not pay the 100 percent FMAP on the Wisconsin expansion population.

The bill requires that, if the benefits under the BC+ Benchmark plan are not sufficient to qualify DHS to obtain the 100 percent FMAP, DHS must provide coverage that complies with PPACA in order to qualify for the 100 percent FMAP. Additionally, if the federal DHHS prohibits charging a copayment or premium to the Wisconsin expansion population in order to qualify for the 100 percent FMAP, DHS may not charge copayments or premiums.

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

use 3x

an enhanced

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

Insert
3-1-XR

Change
component

repealed

INSERT
3-2-XR

SECTION 1. 49.45 (23) (c) of the statutes is created to read:

49.45 (23) (c) The department may not administer the demonstration project under this section unless the federal department of health and human services declines to provide the 100 percent federal medical assistance percentage described under 42 USC 1396d (y) for coverage of individuals described in s. 49.471 (4) (b) 5. The department may not create a policy under sub. (2m) (c) that conflicts with this paragraph.

SECTION 2. 49.45 (23) (c) of the statutes, as created by 2013 Wisconsin Act ... (this act), is amended to read:

49.45 (23) (c) The department may not administer the demonstration project under this section unless the federal department of health and human services declines to provide the 100 percent federal medical assistance percentage described under 42 USC 1396d (y) for coverage of individuals described in s. 49.471 (4) (b) 5. The department may not create a policy under sub. (2m) (c) that conflicts with this paragraph.

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1 SECTION 3. 49.45 (23) (c) of the statutes, as affected by 2013 Wisconsin Act ...
 2 (this act), section 2, is repealed.

3 SECTION 4. 49.471 (4) (b) 5. of the statutes is created to read:

4 49.471 (4) (b) 5. Subject to sub. (4m), an adult who is under 65 years of age; who
 5 is not pregnant; who is not otherwise eligible for Medical Assistance under par. (a)
 6 or (b) 1. to 4. or s. 49.46 (1), ~~except s. 49.45 (23)~~; and whose income does not exceed
 7 133 percent of the poverty line for a family the size of the individual's family.

8 SECTION 5. 49.471 (4) (b) 5. of the statutes, as created by 2013 Wisconsin Act
 9 ... (this act), is repealed.

10 SECTION 6. 49.471 (4m) of the statutes is created to read:

11 49.471 (4m) MEDICAID EXPANSION. For services provided to individuals
 12 described under sub. (4) (b) 5., the department shall comply with all federal
 13 requirements to qualify for the 100 percent federal medical assistance percentage
 14 described under 42 USC 1396d (y). The department shall submit any amendment
 15 to the state medical assistance plan, request for a waiver of federal Medicaid law, or
 16 other approval required by the federal government to provide services to the
 17 individuals described under sub. (4) (b) 5. and qualify for the 100 percent federal
 18 medical assistance percentage described under 42 USC 1396d (y). If the federal
 19 department of health and human services does not pay the 100 percent federal
 20 medical assistance percentage for services provided to individuals described in sub.
 21 (4) (b) 5., individuals described in sub. (4) (b) 5. are not eligible for medical assistance
 22 under this section.

23 SECTION 7. 49.471 (4m) of the statutes, as created by 2013 Wisconsin Act ...
 24 (this act), is repealed.

25 SECTION 8. 49.471 (11) (intro.) of the statutes is amended to read:

Insert
4-3

highest available enhanced

highest available enhanced

1 49.471 (11) BENCHMARK PLAN BENEFITS AND COPAYMENTS. (intro.) Recipients
 2 Subject to sub. (11g), recipients who are not eligible for the benefits described in s.
 3 49.46 (2) (a) and (b) shall have coverage of the following benefits and pay the
 4 following copayments:

5 **SECTION 9.** 49.471 (11) (intro.) of the statutes, as affected by 2013 Wisconsin
 6 Act (this act), is amended to read:

7 49.471 (11) BENCHMARK PLAN BENEFITS AND COPAYMENTS. (intro.) ~~Subject to sub.~~
 8 ~~(11g), recipients~~ Recipients who are not eligible for the benefits described in s. 49.46
 9 (2) (a) and (b) shall have coverage of the following benefits and pay the following
 10 copayments:

11 **SECTION 10.** 49.471 (11g) of the statutes is created to read:

12 49.471 (11g) MEDICAID EXPANSION BENCHMARK COVERAGE. (a) If, to obtain the 100
 13 percent federal medical assistance percentage under 42 USC 1396d (y), the federal
 14 department of health and human services prohibits charging of a copayment or
 15 premium to an individual described under sub (4) (b) 5., the department may not
 16 charge the copayments described under sub. (11) or a premium.

17 an enhanced (b) If the federal department of health and human services determines that the
 18 benefits provided under sub. (11) are not sufficient to qualify the department to
 19 obtain the 100 percent federal medical assistance percentage under 42 USC 1396d
 20 (y) for benefits provided to individuals described under sub. (4) (b) 5., the department
 21 shall provide any benchmark coverage or benchmark equivalent coverage that
 22 complies with 42 USC 1396u-7 to qualify to obtain the 100 percent federal medical
 23 assistance percentage under 42 USC 1396d (y). highest available enhanced

24 (c) Notwithstanding sub. (13), the department may not create a policy under
 25 s. 49.45 (2m) (c) that affects the eligibility or benefits of the individuals described

an enhanced

1 under sub. (4) (b) 5. such that the department fails to obtain the 100 percent federal
2 medical assistance percentage under 42 USC 1396d (y).

3 SECTION 11. 49.471 (11g) of the statutes, as affected by 2013 Wisconsin Act
4 (this act), sections 10 and 12, is repealed.

5 SECTION 12. 49.471 (11g) (c) of the statutes, as created by 2013 Wisconsin Act
6 (this act), is repealed.

Insert
6-7-X12

7 SECTION 13. Effective dates. This act takes effect on January 1, 2014, except
8 as follows:

9 (1) The treatment of section 49.45 (23) (c) (by SECTION 2) of the statutes and the
10 repeal of section 49.471 (11g) (c) of the statutes take effect on January 1, 2015.

11 (2) The treatment of section 49.471 (11) (intro.) (by SECTION 9) of the statutes
12 and the repeal of sections 49.45 (23) (c) and 49.471 (4) (b) 5., (4m), and (11g) of the
13 statutes take effect on December 31, 2016.

14 (END)

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0830/P2ins
TJD:.....

LPS -
inserts
out of order

1
no TI

INSERT A-1

→ PPACA[✓] creates enhanced FMAPs[✓], which are rates that are higher than the typical matching rate, for states to cover newly eligible individuals in the expansion population and for states that already covered certain individuals in the expansion population to cover the entire expansion population.[✓]

(END INSERT A-1)

#26

the language regarding
BC+
Basic
LPS-
plus sign

2
no TI

INSERT A-2

→ The bill also eliminates BC+ Core[✓] and[✓]
(END INSERT A-2)

3

INSERT 4-3

4

SECTION 1. 49.471 (1) (cr) of the statutes is created to read:

5

49.471 (1) (cr) "Enhanced federal medical assistance percentage" means a

6

federal medical assistance percentage described under 42 USC 1396d (y) or (z).

(END INSERT 4-3)

2013-2014 DRAFTING INSERT
FROM THE
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LRB-0830/P2insXR
TJD:.....

1 INSERT AXR-1

↪ DHS also currently administers the BadgerCare Plus Basic (BC+ Basic) plan, which is not an MA program but is funded by premiums paid by plan participants. To be eligible for the BC+ Basic plan, an individual must be on the waiting list for BC+ Core. BC+ Basic provides health care benefits that do not exceed those benefits provided by BC+ Core. Under current law, BC+ Basic terminates on January 1, 2014.

(END INSERT AXR-1)

2 INSERT 3-1-XR

3 SECTION 1. 20.435 (4) (h) of the statutes is repealed.

4 SECTION 2. 20.435 (4) (hm) of the statutes is repealed.

5 SECTION 3. 20.435 (4) (jw) of the statutes is amended to read:

6 20.435 (4) (jw) *BadgerCare Plus, hospital assessment, and pharmacy benefits*
7 *purchasing pool administrative costs.* All moneys received from payment of
8 ~~enrollment fees under the program under s. 49.45 (23),~~ all moneys transferred under
9 s. 50.38 (9), all moneys transferred from the appropriation account under par. (jz),
10 and 10 percent of all moneys received from penalty assessments under s. 49.471 (9)
11 (c), ~~for administration of the program under s. 49.45 (23),~~ to provide a portion of the
12 state share of administrative costs for the BadgerCare Plus Medical Assistance
13 program under s. 49.471, for administration of the hospital assessment under s.
14 50.38, and to administer a contract with an entity to operate the pharmacy benefits
15 purchasing pool under s. 146.45. (end ins 3-1-XR)

→ INSERT J ←
History: 1971 c. 125 ss. 138 to 156, 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 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (g); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293; 1999 a. 5, 9, 32, 52, 84, 103, 109, 113, 133, 185, 186; 2001 a. 16, 69, 103, 105; 2003 a. 33, 139, 186, 318, 320, 326, 327; 2005 a. 15, 22; 2005 a. 25 ss. 299 to 331, 2498 to 2500, 2510; 2005 a. 74, 107, 199, 228, 264, 388, 406, 434; 2007 a. 20 ss. 331 to 422, 9121 (6) (a); 2007 a. 39, 88, 107, 111, 130; 2009 a. 2, 15; 2009 a. 28 ss. 325 to 470, 485, 488, 490; 2009 a. 76, 180, 190, 219, 274, 276, 279, 318, 334; 2011 a. 32, 70, 257; s. 35.17 correction in (4) (gr).

16 SECTION 4. 49.45 (59) (b) of the statutes is amended to read:



INSERT
3-2-XR CONT

1 49.45 (59) (b) Health maintenance organizations shall pay all of the moneys
 2 they receive under par. (a) to eligible hospitals, as defined in s. 50.38 (1), within 15
 3 days after receiving the moneys. The department shall specify in contracts with
 4 health maintenance organizations to provide medical assistance a method that
 5 health maintenance organizations shall use to allocate the amounts received under
 6 par. (a) among eligible hospitals based on the number of discharges from inpatient
 7 stays and the number of outpatient visits for which the health maintenance
 8 organization paid such a hospital in the previous month for enrollees who are
 9 recipients of medical assistance, ~~except enrollees who receive medical assistance~~
 10 ~~under s. 49.45 (23).~~ Payments under this paragraph shall be in addition to any
 11 amount that a health maintenance organization is required by agreement between
 12 the health maintenance organization and a hospital to pay the hospital for providing
 13 services to the health maintenance organization's enrollees.

History: 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106j, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38, 57, 67, 104, 109; 2003 a. 33, 318, 321; 2005 a. 22; 2005 a. 25 ss. 1120 to 1149f, 2503 to 2510; 2005 a. 107, 165, 253, 254, 264, 301, 340, 386, 441; 2007 a. 20 ss. 1513 to 1559h, 9121 (6) (a); 2007 a. 90, 97, 104, 141, 153; 2009 a. 2, 28, 113, 177, 180, 190, 221, 334, 342; 2011 a. 10, 32, 120, 126, 158, 192, 209, 258; 2011 a. 260 s. 81; s. 13.92 (1) (bm) 2.

(END INSERT 3-2-XR)

2

14 INSERT 6-7-XR

15 SECTION 5. 49.67 of the statutes is repealed.

*

****NOTE: Please note that since BadgerCare Basic is designed for people on the waiting list for BadgerCare Plus Core and Core is eliminated in this draft, I repealed BadgerCare Basic. If you would like to retain BadgerCare Basic, please let me know what eligibility criteria to use. However, a provision in BadgerCare Plus Basic provides that the plan terminates on January 1, 2014, which is the effective date of this draft, anyway.

16 SECTION 6. 49.686 (3) (d) of the statutes is amended to read:

17 49.686 (3) (d) Has applied for coverage under and has been denied eligibility
 18 for medical assistance within 12 months prior to application for reimbursement



1 under sub. (2). This paragraph does not apply to an individual who is eligible for
2 benefits under ~~the demonstration project for childless adults under s. 49.45 (23) or~~
3 ~~to an individual who is eligible for benefits under~~ [✓]BadgerCare Plus under s. 49.471
4 (11).

History: 1989 a. 31; 1991 a. 39; 1993 a. 16; 1995 a. 27 ss. 3061 to 3062[✓] Stats. 1995 s. 49.686; 1997 a. 27; 2001 a. 81; 2007 a. 20, 89; 2009 a. 28, 209.

5 **SECTION 7.** 149.12 (2) (f) 2. g. of the statutes is repealed.

6 **SECTION 8.** 227.01 (13) (ur)[✓] of the statutes is repealed.

7 **SECTION 9.** 227.42 (7)[✓] of the statutes is repealed.

(END INSERT 6-7-XR)

INSERT J (to INS 3-1-XR)

SECTION #. Am; 25.77(2)

Ⓢ ~~25.77~~ (2) All public funds that are related to payments under s. 49.45 and that are transferred or certified under 42 CFR 433.51 (b) and used as the nonfederal and federal share of Medical Assistance funding, except funds that are deposited into the appropriation accounts under s. 20.435 (4) ~~(j)~~; (kx); or (ky).

(end ins J)



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0830/P2
TJD:jld:ph

In: 1/10/13 Due end of business Monday 1/14

RMNR

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

2013 BILL

x Regen

1 AN ACT to repeal 20.435 (4) (h), 20.435 (4) (hm), 49.45 (23), 49.471 (11g) (c), 49.67,
 2 149.12 (2) (f) 2. g., 227.01 (13) (ur) and 227.42 (7); to amend 20.435 (4) (jw),
 3 25.77 (2), 49.45 (59) (b), 49.471 (11) (intro.) and 49.686 (3) (d); and to create
 4 49.471 (1) (cr), 49.471 (4) (b) 5., 49.471 (4m) and 49.471 (11g) of the statutes;
 5 relating to: Medical Assistance for certain adults who are not eligible for other
 6 Medical Assistance programs.

Certain recipients under the Benchmark Plan may be charged

Analysis by the Legislative Reference Bureau

Currently, the Department of Health Services (DHS) administers the Medical Assistance (MA) program, which is a joint federal and state program that provides health services to individuals who have limited resources. Some services are provided through programs that operate under a waiver of federal Medicaid laws, including services provided through the BadgerCare Plus (BC+) and BadgerCare Plus Core (BC+ Core) programs. Under current law, BC+ provides health and medical services to eligible recipients and has a standard plan with a larger set of benefits and a Benchmark plan with fewer benefits. Recipients of standard BC+ benefits may be required to pay certain copayments for services and, with some exceptions, to pay premiums. Recipients of BC+ under the Benchmark plan have increased copayments and coinsurance for certain services, and higher premiums compared to recipients under the standard plan.

Certain

Under current law, unless DHS has a policy that conflicts with current state law eligibility requirements, the following individuals, among others, are eligible for

benefits under the BC+ standard plan: a pregnant women whose family income does not exceed 200 percent of the federal poverty line (FPL); a child meeting certain criteria whose family income does not exceed 200 percent of the FPL; a child meeting certain criteria whose family income exceeds 150 percent of the FPL but the difference between the actual family income and 150 percent of the FPL is expended on behalf of a member of the child's family or the child for certain medical or health reasons; a parent or caretaker relative of a child whose family income does not exceed 200 percent of the FPL; and an individual who qualifies for a transitional extension of MA benefits even though his or her income increases above the poverty line. The following individuals, among others, are eligible for benefits under the BC+ Benchmark plan, under current law: a pregnant woman whose family income exceeds 200 percent, but does not exceed 300 percent, of the FPL; a pregnant woman and everyone in her family if her family income exceeds 300 percent of the FPL but the difference between her actual family income and 300 percent of the FPL is expended for any family member's or her medical or health care; a child whose family income exceeds 200 percent, but does not exceed 300 percent, of the FPL; and a parent or caretaker of a child whose income includes self-employment income but does not exceed 200 percent of the FPL after depreciation is deducted.

Under current law, DHS also administers BC+ Core, which provides basic primary and preventive care to eligible individuals. Adults who are under age 65, who have family incomes that do not exceed 200 percent of the FPL, and who are not otherwise eligible for MA, including BC+, are eligible for benefits under BC+ Core, unless DHS has a policy that conflicts with current state law eligibility requirements.

DHS also currently administers the BadgerCare Plus Basic (BC+ Basic) plan, which is not an MA program but is funded by premiums paid by plan participants. To be eligible for the BC+ Basic plan, an individual must be on the waiting list for BC+ Core. BC+ Basic provides health care benefits that do not exceed those benefits provided by BC+ Core. Under current law, BC+ Basic terminates on January 1, 2014.

Currently, beginning on January 1, 2014, the federal Patient Protection and Affordable Care Act (PPACA) requires states that participate in the Medicaid program to offer medical assistance benefits to adults who are under 65 years of age, are not pregnant, are not entitled to Medicare benefits, are not otherwise eligible for Medicaid, and have an income that does not exceed 133 percent of the FPL (expansion population). PPACA requires the state to provide benefits to the expansion population that meet the standards of benchmark coverage as defined in PPACA. The federal Department of Health and Human Services (federal DHHS) pays a matching rate, known as the federal medical assistance percentage or FMAP, to states that participate in the Medicaid program. PPACA creates enhanced FMAPs, which are rates that are higher than the typical matching rate, for states to cover newly eligible individuals in the expansion population and for states that already covered certain individuals in the expansion population to cover the entire expansion population. The United States Supreme Court decision, in *National Federation of Independent Business v. Sebelius*, 567 U.S. ___, 132 S.Ct. 2566 (2012), makes coverage of the expansion population by states optional instead of mandatory. *

This bill makes adults who are under 65 years of age, who are not pregnant, who are not otherwise eligible for MA under the state's traditional MA program or BC+, and whose income do not exceed 133 percent of the FPL (Wisconsin expansion population) eligible for the BC+ Benchmark plan beginning January 1, 2014. The bill also eliminates BC+ Core and the language regarding BC+ Basic.

The bill requires that, if the benefits under the BC+ Benchmark plan are not sufficient to qualify DHS to obtain an enhanced FMAP, DHS must provide coverage that complies with PPACA in order to qualify for an enhanced FMAP. Additionally, if the federal DHHS prohibits charging a copayment or premium to the Wisconsin expansion population in order to qualify for an enhanced FMAP, DHS may not charge copayments or premiums.

*

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

that disqualify DHS from obtaining an enhanced FMAP

*Insert ✓
3-2*

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

1 SECTION 1. 20.435 (4) (h) of the statutes is repealed.

2 SECTION 2. 20.435 (4) (hm) of the statutes is repealed.

3 SECTION 3. 20.435 (4) (jw) of the statutes is amended to read:

4 20.435 (4) (jw) *BadgerCare Plus, hospital assessment, and pharmacy benefits*
5 *purchasing pool administrative costs. All moneys received from payment of*
6 *enrollment fees under the program under s. 49.45 (23), all moneys transferred under*
7 *s. 50.38 (9), all moneys transferred from the appropriation account under par. (jz),*
8 *and 10 percent of all moneys received from penalty assessments under s. 49.471 (9)*
9 *(c), for administration of the program under s. 49.45 (23), to provide a portion of the*
10 *state share of administrative costs for the BadgerCare Plus Medical Assistance*
11 *program under s. 49.471, for administration of the hospital assessment under s.*
12 *50.38, and to administer a contract with an entity to operate the pharmacy benefits*
13 *purchasing pool under s. 146.45.*

14 SECTION 4. 25.77 (2) of the statutes is amended to read:

1 25.77 (2) All public funds that are related to payments under s. 49.45 and that
2 are transferred or certified under 42 CFR 433.51 (b) and used as the nonfederal and
3 federal share of Medical Assistance funding, except funds that are deposited into the
4 appropriation accounts under s. 20.435 (4) (h),[✓](kx), or (ky).

5 **SECTION 5.** 49.45 (23) of the statutes is repealed.

6 **SECTION 6.** 49.45 (59) (b) of the statutes is amended to read:

7 49.45 (59) (b) Health maintenance organizations shall pay all of the moneys
8 they receive under par. (a) to eligible hospitals, as defined in s. 50.38 (1), within 15
9 days after receiving the moneys. The department shall specify in contracts with
10 health maintenance organizations to provide medical assistance a method that
11 health maintenance organizations shall use to allocate the amounts received under
12 par. (a) among eligible hospitals based on the number of discharges from inpatient
13 stays and the number of outpatient visits for which the health maintenance
14 organization paid such a hospital in the previous month for enrollees who are
15 recipients of medical assistance, ~~except enrollees who receive medical assistance~~
16 ~~under s. 49.45 (23)~~. Payments under this paragraph shall be in addition to any
17 amount that a health maintenance organization is required by agreement between
18 the health maintenance organization and a hospital to pay the hospital for providing
19 services to the health maintenance organization's enrollees.

20 **SECTION 7.** 49.471 (1) (cr) of the statutes is created to read:

21 49.471 (1) (cr) "Enhanced federal medical assistance percentage" means a
22 federal medical assistance percentage described under 42 USC 1396d (y) or (z).

23 **SECTION 8.** 49.471 (4) (b) 5. of the statutes is created to read:

24 49.471 (4) (b) 5. Subject to sub. (4m), an adult who is under 65 years of age; who
25 is not pregnant; who is not otherwise eligible for Medical Assistance under par. (a)

1 or (b) 1. to 4. or s. 49.46 (1); and whose income does not exceed 133 percent of the
2 poverty line for a family the size of the individual's family.

3 **SECTION 9.** 49.471 (4m) of the statutes is created to read:

4 49.471 (4m) MEDICAID EXPANSION. For services provided to individuals
5 described under sub. (4) (b) 5., the department shall comply with all federal
6 requirements to qualify for the highest available enhanced federal medical
7 assistance percentage. The department shall submit any amendment to the state
8 medical assistance plan, request for a waiver of federal Medicaid law, or other
9 approval required by the federal government to provide services to the individuals
10 described under sub. (4) (b) 5. and qualify for the highest available enhanced federal
11 medical assistance percentage.

12 **SECTION 10.** 49.471 (11) (intro.) of the statutes is amended to read:

13 49.471 (11) BENCHMARK PLAN BENEFITS AND COPAYMENTS. (intro.) Recipients
14 Subject to sub. (11g), recipients who are not eligible for the benefits described in s.
15 49.46 (2) (a) and (b) shall have coverage of the following benefits and pay the
16 following copayments:

*that would disqualify the department from
obtaining an enhanced federal medical assistance
Percentage* ✓

17 **SECTION 11.** 49.471 (11g) of the statutes is created to read:

18 49.471 (11g) MEDICAID EXPANSION BENCHMARK COVERAGE. (a) If, to obtain an
19 enhanced federal medical assistance percentage, the federal department of health
20 and human services prohibits charging of a copayment or premium to an individual
21 described under sub (4) (b) 5., the department may not charge the copayments
22 described under sub. (11) or a premium.

23 (b) If the federal department of health and human services determines that the
24 benefits provided under sub. (11) are not sufficient to qualify the department to
25 obtain an enhanced federal medical assistance percentage for benefits provided to

1 individuals described under sub. (4) (b) 5., the department shall provide any
2 benchmark coverage or benchmark equivalent coverage that complies with 42 USC
3 1396u-7 to qualify to obtain the highest available enhanced federal medical
4 assistance percentage.

5 (c) Notwithstanding sub. (13), the department may not create a policy under
6 s. 49.45 (2m) (c) that affects the eligibility or benefits of the individuals described
7 under sub. (4) (b) 5. such that the department fails to obtain an enhanced federal
8 medical assistance percentage.

9 **SECTION 12.** 49.471 (11g) (c) of the statutes, as created by 2013 Wisconsin Act
10 (this act), is repealed.

11 **SECTION 13.** 49.67 of the statutes is repealed.

***NOTE: Please note that, since BadgerCare Basic is designed for people on the waiting list for BadgerCare Plus Core and Core is eliminated in this draft, I repealed BadgerCare Basic. If you would like to retain BadgerCare Basic, please let me know what eligibility criteria to use. However, a provision in BadgerCare Plus Basic provides that the plan terminates on January 1, 2014, which is the effective date of this draft, anyway.

12 **SECTION 14.** 49.686 (3) (d) of the statutes is amended to read:

13 49.686 (3) (d) Has applied for coverage under and has been denied eligibility
14 for medical assistance within 12 months prior to application for reimbursement
15 under sub. (2). This paragraph does not apply to an individual who is eligible for
16 benefits under ~~the demonstration project for childless adults under s. 49.45 (23) or~~
17 ~~to an individual who is eligible for benefits under~~ BadgerCare Plus under s. 49.471
18 (11).

19 **SECTION 15.** 149.12 (2) (f) 2. g. of the statutes is repealed.

20 **SECTION 16.** 227.01 (13) (ur) of the statutes is repealed.

21 **SECTION 17.** 227.42 (7) of the statutes is repealed.

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LEGISLATIVE REFERENCE BUREAU

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TJD:.....

1 INSERT 3-2

2 SECTION 1. 20.435 (4) (hm) of the statutes is amended to read:

3 20.435 (4) (hm) *BadgerCare Plus Basic Plan; benefits and administration*. All
4 moneys received from premiums under s. 49.67 (4), 2011 stats., to pay for the
5 provision of services under the BadgerCare Plus Basic Plan under s. 49.67, 2011
6 stats. and for administration of the plan.

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 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (g); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293; 1999 a. 5, 9, 32, 52, 84, 103, 109, 113, 133, 185, 186; 2001 a. 16, 69, 103, 105; 2003 a. 33, 139, 186, 318, 320, 326, 327; 2005 a. 15, 22; 2005 a. 25 ss. 299 to 331, 2498 to 2500, 2510; 2005 a. 74, 107, 199, 228, 264, 388, 406, 434; 2007 a. 20 ss. 331 to 422, 9121 (6) (a); 2007 a. 39, 88, 107, 111, 130; 2009 a. 2, 15; 2009 a. 28 ss. 325 to 470, 485, 488, 490; 2009 a. 76, 180, 190, 219, 274, 276, 279, 318, 334; 2011 a. 32, 70, 257; s. 35.17 correction in (4) (gr).

7 SECTION 2. 20.435 (4) (jw) of the statutes is amended to read:

8 20.435 (4) (jw) *BadgerCare Plus, hospital assessment, and pharmacy benefits*
9 *purchasing pool administrative costs*. All moneys received from payment of
10 enrollment fees under the program under s. 49.45 (23), 2011 stats., all moneys
11 transferred under s. 50.38 (9), all moneys transferred from the appropriation account
12 under par. (jz), and 10 percent of all moneys received from penalty assessments
13 under s. 49.471 (9) (c), for administration of the program under s. 49.45 (23), 2011
14 stats., to provide a portion of the state share of administrative costs for the
15 BadgerCare Plus Medical Assistance program under s. 49.471, for administration of
16 the hospital assessment under s. 50.38, and to administer a contract with an entity
17 to operate the pharmacy benefits purchasing pool under s. 146.45.

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 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (g); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293; 1999 a. 5, 9, 32, 52, 84, 103, 109, 113, 133, 185, 186; 2001 a. 16, 69, 103, 105; 2003 a. 33, 139, 186, 318, 320, 326, 327; 2005 a. 15, 22; 2005 a. 25 ss. 299 to 331, 2498 to 2500, 2510; 2005 a. 74, 107, 199, 228, 264, 388, 406, 434; 2007 a.



20 ss. 331 to 422, 9121 (6) (a); 2007 a. 39, 88, 107, 111, 130; 2009 a. 2, 15; 2009 a. 28 ss. 325 to 470, 485, 488, 490; 2009 a. 76, 180, 190, 219, 274, 276, 279, 318, 334; 2011 a. 32, 70, 257; s. 35.17 correction in (4) (gr).

(END INSERT 3-2)

-0830

Concern about 133% FPL vs. 138% FPL confusion

Suggestion to add to "income" → MAGI

Suggestion to add reference to code

* Add to Section 8 in s. 49.471(4)(b)5.

"...income, as determined under the method described in 42 USC
1396a(e)14,"

↑ This change takes effect 1/1/14 under fed law.
add idea to analysis too

I raised concern about precision of relating clause
Change to "MA for certain adults who are not currently
eligible for traditional Medicaid or Badger Care Plus"



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0830/L
TJD:jld:ph

2

In: 1/22/13

Due Wed
1/23, if
possible

RMNR

2013 BILL

DWFV

~~Editor
Companion bill -
Please edit with
LRB-1145~~

✓
traditional Medicaid or BadgerCare Plus
Regen

✓

1 AN ACT to repeal 20.435 (4) (h), 49.45 (23), 49.471 (11g) (c), 49.67, 149.12 (2) (f)
2 2. g., 227.01 (13) (ur) and 227.42 (7); to amend 20.435 (4) (hm), 20.435 (4) (jw),
3 25.77 (2), 49.45 (59) (b), 49.471 (11) (intro.) and 49.686 (3) (d); and to create
4 49.471 (1) (cr), 49.471 (4) (b) 5., 49.471 (4m) and 49.471 (11g) of the statutes;
5 relating to: Medical Assistance for certain adults who are not eligible for other
6 Medical Assistance programs.

✓
Currently

Analysis by the Legislative Reference Bureau

Currently, the Department of Health Services (DHS) administers the Medical Assistance (MA) program, which is a joint federal and state program that provides health services to individuals who have limited resources. Some services are provided through programs that operate under a waiver of federal Medicaid laws, including services provided through the BadgerCare Plus (BC+) and BadgerCare Plus Core (BC+ Core) programs. Under current law, BC+ provides health and medical services to eligible recipients and has a standard plan with a larger set of benefits and a Benchmark plan with fewer benefits. Recipients of standard BC+ benefits may be required to pay certain copayments for services and, with some exceptions, to pay premiums. Recipients of BC+ under the Benchmark plan have increased copayments and coinsurance for certain services, and certain recipients under the Benchmark plan may be charged higher premiums compared to certain recipients under the standard plan.

BILL

Under current law, unless DHS has a policy that conflicts with current state law eligibility requirements, the following individuals, among others, are eligible for benefits under the BC+ standard plan: a pregnant women whose family income does not exceed 200 percent of the federal poverty line (FPL); a child meeting certain criteria whose family income does not exceed 200 percent of the FPL; a child meeting certain criteria whose family income exceeds 150 percent of the FPL but the difference between the actual family income and 150 percent of the FPL is expended on behalf of a member of the child's family or the child for certain medical or health reasons; a parent or caretaker relative of a child whose family income does not exceed 200 percent of the FPL; and an individual who qualifies for a transitional extension of MA benefits even though his or her income increases above the poverty line. The following individuals, among others, are eligible for benefits under the BC+ Benchmark plan, under current law: a pregnant woman whose family income exceeds 200 percent, but does not exceed 300 percent, of the FPL; a pregnant woman and everyone in her family if her family income exceeds 300 percent of the FPL but the difference between her actual family income and 300 percent of the FPL is expended for any family member's or her medical or health care; a child whose family income exceeds 200 percent, but does not exceed 300 percent, of the FPL; and a parent or caretaker of a child whose income includes self-employment income but does not exceed 200 percent of the FPL after depreciation is deducted.

Under current law, DHS also administers BC+ Core, which provides basic primary and preventive care to eligible individuals. Adults who are under age 65, who have family incomes that do not exceed 200 percent of the FPL, and who are not otherwise eligible for MA, including BC+, are eligible for benefits under BC+ Core, unless DHS has a policy that conflicts with current state law eligibility requirements.

DHS also currently administers the BadgerCare Plus Basic (BC+ Basic) plan, which is not an MA program but is funded by premiums paid by plan participants. To be eligible for the BC+ Basic plan, an individual must be on the waiting list for BC+ Core. BC+ Basic provides health care benefits that do not exceed those benefits provided by BC+ Core. Under current law, BC+ Basic terminates on January 1, 2014.

Currently, beginning on January 1, 2014, the federal Patient Protection and Affordable Care Act (PPACA) requires states that participate in the Medicaid program to offer medical assistance benefits to adults who are under 65 years of age, are not pregnant, are not entitled to Medicare benefits, are not otherwise eligible for Medicaid, and have an income that does not exceed 133 percent of the FPL (expansion population). PPACA requires the state to provide benefits to the expansion population that meet the standards of benchmark coverage as defined in PPACA. The federal Department of Health and Human Services (federal DHHS) pays a matching rate, known as the federal medical assistance percentage or FMAP, to states that participate in the Medicaid program. PPACA creates enhanced FMAPs, which are rates that are higher than the typical matching rate, for states to cover newly eligible individuals in the expansion population and for states that already covered certain individuals in the expansion population to cover the entire expansion population. The United States Supreme Court decision, in *National*

1
as calculated
under a specified
method

BILL

3
 as determined under
 federal law; ✓

Federation of Independent Business v. Sebelius, 567 U.S. ___, 132 S. Ct. 2566 (2012), makes coverage of the expansion population by states optional instead of mandatory.

This bill makes adults who are under 65 years of age, who are not pregnant, who are not otherwise eligible for MA under the state's traditional MA program or BC+, and whose income do not exceed 133 percent of the FPL (Wisconsin expansion population) eligible for the BC+ Benchmark plan beginning January 1, 2014. The bill also eliminates BC+ Core and the language regarding BC+ Basic.

The bill requires that, if the benefits under the BC+ Benchmark plan are not sufficient to qualify DHS to obtain an enhanced FMAP, DHS must provide coverage that complies with PPACA in order to qualify for an enhanced FMAP. Additionally, if the federal DHHS prohibits charging a copayment or premium to the Wisconsin expansion population in order to qualify for an enhanced FMAP, DHS may not charge copayments or premiums that disqualify DHS from obtaining an enhanced FMAP.

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

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

1 **SECTION 1.** 20.435 (4) (h) of the statutes is repealed.

2 **SECTION 2.** 20.435 (4) (hm) of the statutes is amended to read:

3 20.435 (4) (hm) *BadgerCare Plus Basic Plan; benefits and administration.* All
 4 moneys received from premiums under s. 49.67 (4), 2011 stats., to pay for the
 5 provision of services under the BadgerCare Plus Basic Plan under s. 49.67, 2011
 6 stats., and for administration of the plan.

7 **SECTION 3.** 20.435 (4) (jw) of the statutes is amended to read:

8 20.435 (4) (jw) *BadgerCare Plus, hospital assessment, and pharmacy benefits*
 9 *purchasing pool administrative costs.* All moneys received from payment of
 10 enrollment fees under the program under s. 49.45 (23), 2011 stats., all moneys
 11 transferred under s. 50.38 (9), all moneys transferred from the appropriation account
 12 under par. (jz), and 10 percent of all moneys received from penalty assessments
 13 under s. 49.471 (9) (c), for administration of the program under s. 49.45 (23), 2011
 14 stats., to provide a portion of the state share of administrative costs for the

BILL**SECTION 3**

1 BadgerCare Plus Medical Assistance program under s. 49.471, for administration of
2 the hospital assessment under s. 50.38, and to administer a contract with an entity
3 to operate the pharmacy benefits purchasing pool under s. 146.45.

4 **SECTION 4.** 25.77 (2) of the statutes is amended to read:

5 25.77 (2) All public funds that are related to payments under s. 49.45 and that
6 are transferred or certified under 42 CFR 433.51 (b) and used as the nonfederal and
7 federal share of Medical Assistance funding, except funds that are deposited into the
8 appropriation accounts under s. 20.435 (4) (h), (kx), or (ky).

9 **SECTION 5.** 49.45 (23) of the statutes is repealed.

10 **SECTION 6.** 49.45 (59) (b) of the statutes is amended to read:

11 49.45 (59) (b) Health maintenance organizations shall pay all of the moneys
12 they receive under par. (a) to eligible hospitals, as defined in s. 50.38 (1), within 15
13 days after receiving the moneys. The department shall specify in contracts with
14 health maintenance organizations to provide medical assistance a method that
15 health maintenance organizations shall use to allocate the amounts received under
16 par. (a) among eligible hospitals based on the number of discharges from inpatient
17 stays and the number of outpatient visits for which the health maintenance
18 organization paid such a hospital in the previous month for enrollees who are
19 recipients of medical assistance, ~~except enrollees who receive medical assistance~~
20 ~~under s. 49.45 (23)~~. Payments under this paragraph shall be in addition to any
21 amount that a health maintenance organization is required by agreement between
22 the health maintenance organization and a hospital to pay the hospital for providing
23 services to the health maintenance organization's enrollees.

24 **SECTION 7.** 49.471 (1) (cr) of the statutes is created to read:

BILL

1 49.471 (1) (cr) "Enhanced federal medical assistance percentage" means a
2 federal medical assistance percentage described under 42 USC 1396d (y) or (z).

3 **SECTION 8.** 49.471 (4) (b) 5. of the statutes is created to read:

4 49.471 (4) (b) 5. Subject to sub. (4m), an adult who is under 65 years of age; who
5 is not pregnant; who is not otherwise eligible for Medical Assistance under par. (a)
6 or (b) 1. to 4. or s. 49.46 (1); and whose income ^{does not exceed 133 percent of the} ✓
7 poverty line for a family the size of the individual's family ^{as determined}
^{under the method}
^{described in}

8 **SECTION 9.** 49.471 (4m) of the statutes is created to read:

9 49.471 (4m) **MEDICAID EXPANSION.** For services provided to individuals
10 described under sub. (4) (b) 5., the department shall comply with all federal
11 requirements to qualify for the highest available enhanced federal medical
12 assistance percentage. The department shall submit any amendment to the state
13 medical assistance plan, request for a waiver of federal Medicaid law, or other
14 approval required by the federal government to provide services to the individuals
15 described under sub. (4) (b) 5. and qualify for the highest available enhanced federal
16 medical assistance percentage.

17 **SECTION 10.** 49.471 (11) (intro.) of the statutes is amended to read:

18 49.471 (11) **BENCHMARK PLAN BENEFITS AND COPAYMENTS.** (intro.) **Recipients**
19 Subject to sub. (11g), recipients who are not eligible for the benefits described in s.
20 49.46 (2) (a) and (b) shall have coverage of the following benefits and pay the
21 following copayments:

22 **SECTION 11.** 49.471 (11g) of the statutes is created to read:

23 49.471 (11g) **MEDICAID EXPANSION BENCHMARK COVERAGE.** (a) If, to obtain an
24 enhanced federal medical assistance percentage, the federal department of health
25 and human services prohibits charging of a copayment or premium to an individual

BILL**SECTION 11**

1 described under sub (4) (b) 5., the department may not charge the copayments
2 described under sub. (11) or a premium that would disqualify the department from
3 obtaining an enhanced federal medical assistance percentage.

4 (b) If the federal department of health and human services determines that the
5 benefits provided under sub. (11) are not sufficient to qualify the department to
6 obtain an enhanced federal medical assistance percentage for benefits provided to
7 individuals described under sub. (4) (b) 5., the department shall provide any
8 benchmark coverage or benchmark equivalent coverage that complies with 42 USC
9 1396u-7 to qualify to obtain the highest available enhanced federal medical
10 assistance percentage.

11 (c) Notwithstanding sub. (13), the department may not create a policy under
12 s. 49.45 (2m) (c) that affects the eligibility or benefits of the individuals described
13 under sub. (4) (b) 5. such that the department fails to obtain an enhanced federal
14 medical assistance percentage.

15 **SECTION 12.** 49.471 (11g) (c) of the statutes, as created by 2013 Wisconsin Act
16 (this act), is repealed.

17 **SECTION 13.** 49.67 of the statutes is repealed.

18 **SECTION 14.** 49.686 (3) (d) of the statutes is amended to read:

19 49.686 (3) (d) Has applied for coverage under and has been denied eligibility
20 for medical assistance within 12 months prior to application for reimbursement
21 under sub. (2). This paragraph does not apply to an individual who is eligible for
22 benefits under ~~the demonstration project for childless adults under s. 49.45 (23) or~~
23 ~~to an individual who is eligible for benefits under BadgerCare Plus under s. 49.471~~
24 (11).

25 **SECTION 15.** 149.12 (2) (f) 2. g. of the statutes is repealed.

Rose, Stefanie

From: Moran, Christian
Sent: Monday, February 18, 2013 9:55 AM
To: LRB.Legal
Subject: please jacket LRB-0830/2 for introduction in the Assembly

Thanks.

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