



2003 ASSEMBLY BILL 129

March 6, 2003 - Introduced by Representatives HUBLER, GRONEMUS, SCHNEIDER, MUSSER, BALOW, BLACK, AINSWORTH, TURNER, POPE-ROBERTS, PLOUFF, J. WOOD, MILLER, HAHN, BIES, LASSA, LADWIG, BERCEAU, GUNDERSON, OTT, COLON, TOWNS, FREESE and SUDER, cosponsored by Senators JAUCH, HARS DORF and CARPENTER. Referred to Committee on Health.

1 **AN ACT to repeal** 49.46 (1) (L); **to renumber and amend** 49.47 (4) (h); **to amend**
2 49.46 (1) (a) 1., 49.46 (1) (a) 1g., 49.46 (1) (a) 1m., 49.46 (1) (a) 6., 49.46 (1) (a)
3 9., 49.46 (1) (a) 10., 49.46 (1) (a) 11., 49.46 (1) (a) 12., 49.46 (1) (e), 49.47 (4) (am)
4 1., 49.47 (4) (am) 2., 49.47 (4) (c) 1., 49.47 (4) (c) 3. and 49.665 (4) (a) 1.; and **to**
5 **create** 49.46 (1) (ar), 49.47 (4) (cg) 3. and 49.665 (4) (d) of the statutes; **relating**
6 **to:** exempting amounts claimed for depreciation for purposes of calculating
7 farm and self-employment income under the Medical Assistance and Badger
8 Care health care programs.

Analysis by the Legislative Reference Bureau

Currently, the Department of Health and Family Services (DHFS) administers the Medical Assistance (MA) and Badger Care health care (BadgerCare) programs.

Under part of the MA program, DHFS provides health care services and benefits to individuals who meet the requirements under one of the following MA eligibility categories:

1. **AFDC-MA.** Under this category, an individual who meets the nonfinancial and financial requirements for the federal Aid to Families with Dependent Children (AFDC) program that were in effect on July 16, 1996, without regard to the individual's assets, is eligible to receive MA. The AFDC program was replaced with

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the federal Temporary Assistance for Needy Families (TANF) program on July 16, 1996. Generally, individuals who qualify under the AFDC-MA category are certain children under 19 years of age, their caretaker relatives, and pregnant women in the eighth or ninth month of pregnancy.

2. *AFDC-related MA.* This category includes certain children under the age of 19, their caretaker relatives, and pregnant women throughout the entire pregnancy who meet the income requirements of the AFDC program that were in effect on July, 16, 1996, without regard to assets, but who would not have received an AFDC payment. Also eligible under this category are children under the age of 18 and pregnant women whose incomes do not exceed 133.33% of the maximum payment under the AFDC program, and whose assets do not exceed certain asset limits.

3. *Healthy Start.* This category includes children between the ages of six and 19 whose incomes do not exceed 100% of the federal poverty line, children under the age of six and pregnant women whose incomes do not exceed 133.33% of the federal poverty line, and children under the age of six and pregnant women whose incomes do not exceed 185% of the federal poverty line.

The BadgerCare program provides health care coverage to eligible low-income children who do not reside with a parent and to eligible low-income families. A child or family is generally considered low-income if the child's or family's income does not exceed 185% of the poverty line.

Currently, in calculating an individual's income for the MA or BadgerCare program, if the individual has farm or self-employment income, DHFS calculates the amount of that income by adding the amount that the individual claimed for depreciation to the amount of the individual's net taxable income.

This bill prohibits DHFS from adding any amounts claimed for depreciation to an individual's net taxable farm or self-employment income for purposes of determining whether an individual meets the income limits for the MA program under the AFDC-MA, AFDC-related MA, or Healthy Start eligibility categories or for the BadgerCare program.

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.** 49.46 (1) (a) 1. of the statutes is amended to read:

2 49.46 (1) (a) 1. Notwithstanding s. 49.19 (20), any individual who, without
3 regard to the individual's resources and subject to par. (ar), would qualify for a grant
4 of aid to families with dependent children under s. 49.19.

5 **SECTION 2.** 49.46 (1) (a) 1g. of the statutes is amended to read:

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1 49.46 (1) (a) 1g. Notwithstanding s. 49.19 (20), any individual who, without
2 regard to the individual's resources and subject to par. (ar), would qualify for a grant
3 of aid to families with dependent children but who would not receive the aid solely
4 because of the application of s. 49.19 (11) (a) 7.

5 **SECTION 3.** 49.46 (1) (a) 1m. of the statutes is amended to read:

6 49.46 (1) (a) 1m. Any pregnant woman whose income, determined in
7 accordance with par. (ar), does not exceed the standard of need under s. 49.19 (11)
8 and whose pregnancy is medically verified. Eligibility continues to the last day of
9 the month in which the 60th day after the last day of the pregnancy falls.

10 **SECTION 4.** 49.46 (1) (a) 6. of the statutes is amended to read:

11 49.46 (1) (a) 6. Any person not described in pars. (c) to (e) who, without regard
12 to the individual's resources and subject to par. (ar), would be considered, under
13 federal law, to be receiving aid to families with dependent children for the purpose
14 of determining eligibility for medical assistance.

15 **SECTION 5.** 49.46 (1) (a) 9. of the statutes is amended to read:

16 49.46 (1) (a) 9. Any pregnant woman not described under subd. 1., 1g., or 1m.
17 whose family income, determined in accordance with par. (ar), does not exceed 133%
18 of the poverty line for a family the size of the woman's family.

19 **SECTION 6.** 49.46 (1) (a) 10. of the statutes is amended to read:

20 49.46 (1) (a) 10. Any child not described under subd. 1. or 1g. who is under 6
21 years of age and whose family income, determined in accordance with par. (ar), does
22 not exceed 133% of the poverty line for a family the size of the child's family.

23 **SECTION 7.** 49.46 (1) (a) 11. of the statutes is amended to read:

24 49.46 (1) (a) 11. If a waiver under s. 49.665 is granted and in effect, any child
25 not described under subd. 1. or 1g. who has attained the age of 6 but has not attained

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1 the age of 19 and whose family income, determined in accordance with par. (ar), does
2 not exceed 100% of the poverty line for a family the size of the child's family. If a
3 waiver under s. 49.665 is not granted or in effect, any child not described in subd. 1.
4 or 1g. who was born after September 30, 1983, who has attained the age of 6 but has
5 not attained the age of 19 and whose family income, determined in accordance with
6 par. (ar), does not exceed 100% of the poverty line for a family the size of the child's
7 family.

8 **SECTION 8.** 49.46 (1) (a) 12. of the statutes is amended to read:

9 49.46 (1) (a) 12. Any child not described under subd. 1. or 1g. who is under 19
10 years of age and whose income, determined in accordance with par. (ar), does not
11 exceed the standard of need under s. 49.19 (11).

12 **SECTION 9.** 49.46 (1) (ar) of the statutes is created to read:

13 49.46 (1) (ar) 1. Except as provided in subd. 2. and except to the extent that the
14 determination is inconsistent with 42 USC 1396a (a) (17), for purposes of
15 determining under par. (a) 1., 1g., or 6. whether an individual would qualify for a
16 grant of aid to families with dependent children under s. 49.19 or would be
17 considered, under federal law, to be receiving aid to families with dependent
18 children, or of determining whether an individual meets the income limits under par.
19 (a) 1m., 9., 10., 11., or 12., "income" includes income that would be included in
20 determining eligibility for aid to families with dependent children under s. 49.19 and
21 excludes income that would be excluded in determining eligibility for aid to families
22 with dependent children under s. 49.19.

23 2. Notwithstanding s. 49.19 (5), for purposes of determining under par. (a) 1.,
24 1g., or 6. whether an individual would qualify for a grant of aid to families with
25 dependent children under s. 49.19 or would be considered, under federal law, to be

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1 receiving aid to families with dependent children, or of determining whether an
2 individual meets the income limits under par. (a) 1m., 9., 10., 11., or 12., (am), or (e),
3 the department shall exclude from the calculation of farm or self-employment
4 income any amounts claimed for depreciation for income tax purposes.

5 **SECTION 10.** 49.46 (1) (e) of the statutes is amended to read:

6 49.46 (1) (e) If an application under s. 49.47 (3) shows that the individual
7 individual's income, determined in accordance with par. (ar), meets the income limits
8 under s. 49.19, or that the individual meets the income and resource requirements
9 under federal Title XVI or s. 49.77, or ~~that the individual~~ is an essential person, an
10 accommodated person, or a patient in a public medical institution, the individual
11 shall be granted the benefits enumerated under sub. (2) whether or not the
12 individual requests or receives a grant of any of such aids.

13 **SECTION 11.** 49.46 (1) (L) of the statutes is repealed.

14 **SECTION 12.** 49.47 (4) (am) 1. of the statutes is amended to read:

15 49.47 (4) (am) 1. A pregnant woman whose family income, determined in
16 accordance with par. (cg), does not exceed 155% of the poverty line for a family the
17 size of the woman's family, except that, if a waiver under par. (j) or a change in the
18 approved state plan under s. 49.46 (1) (am) 2. is in effect, the income limit is 185%
19 of the poverty line for a family the size of the woman's family in each state fiscal year
20 after the 1994-95 state fiscal year.

21 **SECTION 13.** 49.47 (4) (am) 2. of the statutes is amended to read:

22 49.47 (4) (am) 2. A child who is under 6 years of age and whose family income,
23 determined in accordance with par. (cg), does not exceed 155% of the poverty line for
24 a family the size of the child's family, except that, if a waiver under par. (j) or a change
25 in the approved state plan under s. 49.46 (1) (am) 2. is in effect, the income limit is

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1 185% of the poverty line for a family the size of the child's family in each state fiscal
2 year after the 1994–95 state fiscal year.

3 **SECTION 14.** 49.47 (4) (c) 1. of the statutes is amended to read:

4 49.47 (4) (c) 1. Except as provided in par. (am) and as limited by subd. 3.,
5 eligibility exists if income, determined in accordance with par. (cg), does not exceed
6 133 1/3% of the maximum aid to families with dependent children payment under
7 s. 49.19 (11) for the applicant's family size or the combined benefit amount available
8 under supplemental security income under 42 USC 1381 to 1383c and state
9 supplemental aid under s. 49.77, whichever is higher. ~~In this subdivision~~

10 (cg) 1. Except as provided in subd. 3., for purposes of determining whether an
11 individual's income meets the income requirements under par. (c), "income" includes
12 earned or unearned income that would be included in determining eligibility for the
13 individual or family under s. 49.19 or 49.77, or for the aged, blind or disabled under
14 42 USC 1381 to 1385. "Income" does not include and excludes earned or unearned
15 income which that would be excluded in determining eligibility for the individual or
16 family under s. 49.19 or 49.77, or for the aged, blind or disabled individual under 42
17 USC 1381 to 1385.

18 **SECTION 15.** 49.47 (4) (c) 3. of the statutes is amended to read:

19 49.47 (4) (c) 3. Except as provided in par. (am), no person is eligible for medical
20 assistance under this section if the person's income, determined in accordance with
21 par. (cg), exceeds the maximum income levels that the U.S. department of health and
22 human services sets for federal financial participation under 42 USC 1396b (f).

23 **SECTION 16.** 49.47 (4) (cg) 3. of the statutes is created to read:

24 49.47 (4) (cg) 3. Notwithstanding s. 49.19 (5), for purposes of determining
25 whether an individual under par. (ag) or (am) is eligible for medical assistance, the

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1 department shall exclude from the calculation of farm or self-employment income
2 any amounts claimed for depreciation for income tax purposes.

3 **SECTION 17.** 49.47 (4) (h) of the statutes is renumbered 49.47 (4) (cg) 2. and
4 amended to read:

5 49.47 (4) (cg) 2. ~~For the~~ Except as provided in subd. 3., for purposes of
6 determining whether an individual meets the income limits under par. (am),
7 “income” includes income that would be used included in determining eligibility for
8 aid to families with dependent children under s. 49.19 and excludes income that
9 would be excluded in determining eligibility for aid to families with dependent
10 children under s. 49.19.

11 **SECTION 18.** 49.665 (4) (a) 1. of the statutes is amended to read:

12 49.665 (4) (a) 1. The family’s income does not exceed 185% of the poverty line,
13 except as provided in par. (at) and except that a family that is already receiving
14 health care coverage under this section may have an income that does not exceed
15 200% of the poverty line. ~~The~~ Subject to par. (d), the department shall establish by
16 rule the criteria to be used to determine income.

17 **SECTION 19.** 49.665 (4) (d) of the statutes is created to read:

18 49.665 (4) (d) For purposes of determining a family’s or child’s income under
19 this section, the department shall exclude from the calculation of farm or
20 self-employment income any amounts claimed for depreciation for income tax
21 purposes.

22 **SECTION 20. Initial applicability.**

