



2003 SENATE BILL 567

May 18, 2004 - Introduced by COMMITTEE ON SENATE ORGANIZATION. Referred to Joint Committee on Finance.

1 **AN ACT to repeal** 20.435 (4) (hm), 25.77 (5), 46.40 (9) (d), 49.45 (6t) (b), 49.45 (6tt),
2 49.45 (6tu), 49.45 (52), 49.45 (53) and 59.53 (24); **to renumber** 49.45 (6t) (a);
3 **to amend** 20.435 (4) (w), 20.435 (4) (w), 20.435 (4) (w), 20.435 (7) (b), 20.435 (7)
4 (b), 46.275 (5) (a), 46.275 (5) (c), 46.495 (1) (d) and 46.495 (1) (d); **to create** 46.40
5 (9) (d), 49.45 (6tu), 49.45 (52) and 49.45 (53) of the statutes; and **to affect** 2003
6 Wisconsin Act 33, section 9124 (8); **relating to:** Medical Assistance Program
7 and Community Aids Program funding and programs and making
8 appropriations.

Analysis by the Legislative Reference Bureau

Under current law, Medical Assistance (MA) is a joint federal-state program administered by the Department of Health and Family Services (DHFS), under which persons with low income and few assets are provided health care services. The health care service providers are reimbursed for their services by a combination of state general purpose revenues, state segregated revenue from the MA trust fund, and federal Medicaid matching moneys.

Currently, under the Community Aids Program, DHFS distributes to county departments of social services, human services, community programs, and developmental disabilities services moneys for community social, mental health,

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developmental disabilities, and alcohol and other drug abuse services, and other services, including child abuse and neglect and unborn child abuse services and Alzheimer's family and caregiver support services. Moneys for the Community Aids Program are provided from, among other sources, state general purpose revenues, county revenues, and federal moneys under the federal social services block grant, converted Temporary Assistance for Needy Families block grant moneys, and moneys under Title IV-B of the federal Social Security Act.

Under current law under 2003 Wisconsin Act 33 (the biennial budget act), an appropriation account of program revenue was created to provide supplemental MA program benefits for numerous services and to receive moneys that, upon demand by DHFS, were required, under the biennial budget act, to be paid by counties through intergovernmental transfers to obtain federal Medicaid matching moneys.

Also under current law under the biennial budget act, the community services deficit reduction benefit (CSDRB), under which counties and local health departments can claim federal Medicaid matching funds to cover costs for MA services provided that are not fully reimbursed, was made inapplicable if increased federal Medicaid matching funds through the use of intergovernmental transfers were approved before July 1, 2005. Any county or local health department that received a CSDRB distribution after 2002 would be required to return the distribution to DHFS. However, moneys from the MA trust fund were required to provide payments to county departments and local health departments to hold them harmless from the elimination of the CSDRB.

This bill authorizes DHFS, beginning on January 1, 2003, to make, from the general purpose revenue appropriation account for the Community Aids Program, MA payment adjustments to county departments of social services, human services, community programs, or developmental disabilities services or to local health departments for MA services. The MA services for which this funding is provided include early and periodic screening and diagnosis; home health services; services and supplies for family planning; physical and occupational therapy; speech, hearing, and language disorder services; medical day treatment services; certain mental health and alcohol and other drug abuse services; certain nursing services; personal care services; respiratory care services; care coordination for high-risk pregnancies; prenatal, postpartum, and young child care coordination; lead poisoning and lead exposure services; mental health crisis intervention services; and certain case management services. The bill also authorizes payment under the Community Aids appropriation account, until January 1, 2006, of MA payments to providers of personal care, home health, and respiratory care services. The bill decreases the Community Aids Program general purpose revenues appropriation for fiscal year 2004-05, and increases the MA general purpose revenues appropriation by a like amount for the same fiscal year. The bill also requires DHFS to submit program and financial information to the Department of Administration and the Legislative Fiscal Bureau for the 2005-07 biennial budget bill as if the increase and decrease had not been made.

The bill eliminates the appropriation account of program revenue created under the biennial budget act to supplement MA program benefits, eliminates the

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requirements for counties, upon demand by DHFS, to make payments to DHFS for inclusion in that appropriation account, and eliminates the designation of moneys transferred from that appropriation account to the MA trust fund.

The bill eliminates the allocation of moneys from the MA trust fund to hold county departments and local health departments harmless for the loss of moneys under the elimination of the CSDRB and reduces the MA trust fund by \$17,000,000 for fiscal year 2004-05. However, the bill permits DHFS to make payments from the Community Aids general purpose revenue appropriation account in fiscal year 2004-05 to city health departments that had been receiving CSDRB payments. As of January 1, 2006, the bill also eliminates provisions that would have made the CSDRB inapplicable if increased federal Medicaid matching funds through the use of intergovernmental transfers had been approved, and restores the CSDRB. To ensure that county departments and local health departments are held harmless from any payment gap that would exist in 2006, the bill recreates, for that year only, authority to expend moneys from the MA trust fund to provide payment for that purpose.

Lastly, the act is void on the earlier of July 1, 2005, if an amendment to the state MA plan that provides for MA payment adjustments to be made from the Community Aids Program to county departments of social services, human services, community programs, or developmental disabilities services or to local health departments is not approved in writing by the federal Centers for Medicare and Medicaid Services by that date, or any date on which the amendment is disapproved, and the secretary of administration must notify the revisor of statutes of the lack of approval or disapproval.

For further information see the *state and local* 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) (hm) of the statutes, as created by 2003 Wisconsin Act
2 33, is repealed.

3 **SECTION 2.** 20.435 (4) (w) of the statutes, as affected by 2003 Wisconsin Act 33,
4 is amended to read:

5 20.435 (4) (w) *Medical Assistance trust fund.* From the Medical Assistance
6 trust fund, biennially, the amounts in the schedule for meeting costs of medical
7 assistance administered under ss. 46.27, 46.275 (5), 46.278 (6), 46.283 (5), 46.284 (5),
8 49.45, and 49.472 (6), ~~for providing distributions under s. 49.45 (6tt), and for~~

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1 administrative costs associated with augmenting the amount of federal moneys
2 received under 42 CFR 433.51.

3 **SECTION 3.** 20.435 (4) (w) of the statutes, as affected by 2003 Wisconsin Act ...
4 (this act), section 2, is amended to read:

5 20.435 (4) (w) *Medical Assistance trust fund.* From the Medical Assistance
6 trust fund, biennially, the amounts in the schedule for meeting costs of medical
7 assistance administered under ss. 46.27, 46.275 (5), 46.278 (6), 46.283 (5), 46.284 (5),
8 49.45, and 49.472 (6), for providing distributions under s. 49.45 (6tu), and for
9 administrative costs associated with augmenting the amount of federal moneys
10 received under 42 CFR 433.51.

11 **SECTION 4.** 20.435 (4) (w) of the statutes, as affected by 2003 Wisconsin Act ...
12 (this act), section 3, is amended to read:

13 20.435 (4) (w) *Medical Assistance trust fund.* From the Medical Assistance
14 trust fund, biennially, the amounts in the schedule for meeting costs of medical
15 assistance administered under ss. 46.27, 46.275 (5), 46.278 (6), 46.283 (5), 46.284 (5),
16 49.45, and 49.472 (6), ~~for providing distributions under s. 49.45 (6tu)~~, and for
17 administrative costs associated with augmenting the amount of federal moneys
18 received under 42 CFR 433.51.

19 **SECTION 5.** 20.435 (7) (b) of the statutes is amended to read:

20 20.435 (7) (b) *Community aids and Medical Assistance payments.* The
21 amounts in the schedule for human services under s. 46.40, to fund services provided
22 by resource centers under s. 46.283 (5), for services under the family care benefit
23 under s. 46.284 (5), for reimbursement to counties having a population of less than
24 500,000 for the cost of court attached intake services under s. 48.06 (4), for shelter
25 care under ss. 48.58 and 938.22 ~~and~~, for foster care and treatment foster care under

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1 s. 49.19 (10), for Medical Assistance payment adjustments under s. 49.45 (52), for
2 Medical Assistance payments under s. 49.45 (53), and for payments under SECTION
3 25 (3). Social services disbursements under s. 46.03 (20) (b) may be made from this
4 appropriation. Refunds received relating to payments made under s. 46.03 (20) (b)
5 for the provision of services for which moneys are appropriated under this paragraph
6 shall be returned to this appropriation. Notwithstanding ss. 20.001 (3) (a) and
7 20.002 (1), the department of health and family services may transfer funds between
8 fiscal years under this paragraph. The department shall deposit into this
9 appropriation funds it recovers under ss. 46.495 (2) (b) and 51.423 (15) from prior
10 year audit adjustments including those resulting from audits of services under s.
11 46.26, 1993 stats., or s. 46.27. Except for amounts authorized to be carried forward
12 under s. 46.45, all funds recovered under ss. 46.495 (2) (b) and 51.423 (15) and all
13 funds allocated under s. 46.40 and not spent or encumbered by December 31 of each
14 year shall lapse to the general fund on the succeeding January 1 unless carried
15 forward to the next calendar year by the joint committee on finance.

16 **SECTION 6.** 20.435 (7) (b) of the statutes, as affected by 2003 Wisconsin Act
17 (this act), is amended to read:

18 20.435 **(7)** (b) *Community aids and ~~Medical Assistance payments.~~* The
19 amounts in the schedule for human services under s. 46.40, to fund services provided
20 by resource centers under s. 46.283 (5), for services under the family care benefit
21 under s. 46.284 (5), for reimbursement to counties having a population of less than
22 500,000 for the cost of court attached intake services under s. 48.06 (4), for shelter
23 care under ss. 48.58 and 938.22, and for foster care and treatment foster care under
24 s. 49.19 (10), ~~for Medical Assistance payment adjustments under s. 49.45 (52), for~~
25 ~~Medical Assistance payments under s. 49.45 (53), and for payments under Section~~

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1 25(3). Social services disbursements under s. 46.03 (20) (b) may be made from this
2 appropriation. Refunds received relating to payments made under s. 46.03 (20) (b)
3 for the provision of services for which moneys are appropriated under this paragraph
4 shall be returned to this appropriation. Notwithstanding ss. 20.001 (3) (a) and
5 20.002 (1), the department of health and family services may transfer funds between
6 fiscal years under this paragraph. The department shall deposit into this
7 appropriation funds it recovers under ss. 46.495 (2) (b) and 51.423 (15) from prior
8 year audit adjustments including those resulting from audits of services under s.
9 46.26, 1993 stats., or s. 46.27. Except for amounts authorized to be carried forward
10 under s. 46.45, all funds recovered under ss. 46.495 (2) (b) and 51.423 (15) and all
11 funds allocated under s. 46.40 and not spent or encumbered by December 31 of each
12 year shall lapse to the general fund on the succeeding January 1 unless carried
13 forward to the next calendar year by the joint committee on finance.

14 **SECTION 7.** 25.77 (5) of the statutes, as created by 2003 Wisconsin Act 33, is
15 repealed.

16 **SECTION 8.** 46.275 (5) (a) of the statutes, as affected by 2003 Wisconsin Act 33,
17 is amended to read:

18 46.275 (5) (a) Medical Assistance reimbursement for services a county, or the
19 department under sub. (3r), provides under this program is available from the
20 appropriation accounts under s. 20.435 (4) (b), (gp), (~~hm~~), (o), and (w). If 2 or more
21 counties jointly contract to provide services under this program and the department
22 approves the contract, Medical Assistance reimbursement is also available for
23 services provided jointly by these counties.

24 **SECTION 9.** 46.275 (5) (c) of the statutes, as affected by 2003 Wisconsin Act 33,
25 is amended to read:

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1 46.275 (5) (c) The total allocation under s. 20.435 (4) (b), (gp), ~~(hm)~~, (o), and (w)
2 to counties and to the department under sub. (3r) for services provided under this
3 section may not exceed the amount approved by the federal department of health and
4 human services. A county may use funds received under this section only to provide
5 services to persons who meet the requirements under sub. (4) and may not use
6 unexpended funds received under this section to serve other developmentally
7 disabled persons residing in the county.

8 **SECTION 10.** 46.40 (9) (d) of the statutes is created to read:

9 46.40 (9) (d) *Payment adjustments for certain Medical Assistance services.* The
10 department may decrease a county's allocation under sub. (2) by the amount of any
11 payment adjustments under s. 49.45 (52) made for that county from the
12 appropriation account under s. 20.435 (7) (b). The total amount of the decrease for
13 a county under this paragraph during any fiscal year may not exceed that part of the
14 county's allocation under sub. (2) that derives from the appropriation account under
15 s. 20.435 (7) (b) for that fiscal year.

16 **SECTION 11.** 46.40 (9) (d) of the statutes, as created by 2003 Wisconsin Act ...
17 (this act), is repealed.

18 **SECTION 12.** 46.495 (1) (d) of the statutes is amended to read:

19 46.495 (1) (d) From the appropriations under s. 20.435 (3) (o) and (7) (b) and
20 (o), the department shall distribute the funding for social services, including funding
21 for foster care or treatment foster care of a child on whose behalf aid is received under
22 s. 46.261, to county departments under ss. 46.215, 46.22, and 46.23 as provided
23 under s. 46.40. County matching funds are required for the distributions under s.
24 46.40 (2), (8), and (9) (b). Each county's required match for the distributions
25 distribution under s. 46.40 (2) and shall be specified in a schedule established

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1 annually by the department of health and family services. Each county's required
2 match for the distribution under s. 46.40 (8) for a year equals 9.89% of the total of
3 the county's distributions under s. 46.40 (2) and (8) for that year for which matching
4 funds are required plus the amount the county was required by s. 46.26 (2) (c), 1985
5 stats., to spend for juvenile delinquency-related services from its distribution for
6 1987. Each county's required match for the distribution under s. 46.40 (9) (b) for a
7 year equals 9.89% of that county's amounts described in s. 46.40 (9) (a) (intro.) for
8 that year. Matching funds may be from county tax levies, federal and state revenue
9 sharing funds, or private donations to the county that meet the requirements
10 specified in s. 51.423 (5). Private donations may not exceed 25% of the total county
11 match. If the county match is less than the amount required to generate the full
12 amount of state and federal funds distributed for this period, the decrease in the
13 amount of state and federal funds equals the difference between the required and the
14 actual amount of county matching funds.

15 **SECTION 13.** 46.495 (1) (d) of the statutes, as affected by 2003 Wisconsin Act ...
16 (this act), is amended to read:

17 46.495 (1) (d) From the appropriations under s. 20.435 (3) (o) and (7) (b) and
18 (o), the department shall distribute the funding for social services, including funding
19 for foster care or treatment foster care of a child on whose behalf aid is received under
20 s. 46.261, to county departments under ss. 46.215, 46.22, and 46.23 as provided
21 under s. 46.40. County matching funds are required for the distributions under s.
22 46.40 (2), (8), and (9) (b). Each county's required match for the ~~distribution~~
23 distributions under s. 46.40 (2) ~~shall be specified in a schedule established annually~~
24 ~~by the department of health and family services. Each county's required match for~~
25 ~~the distribution under s. 46.40~~ and (8) for a year equals 9.89% of the total of the

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1 county's distributions under s. 46.40 (2) and (8) for that year for which matching
2 funds are required plus the amount the county was required by s. 46.26 (2) (c), 1985
3 stats., to spend for juvenile delinquency-related services from its distribution for
4 1987. Each county's required match for the distribution under s. 46.40 (9) (b) for a
5 year equals 9.89% of that county's amounts described in s. 46.40 (9) (a) (intro.) for
6 that year. Matching funds may be from county tax levies, federal and state revenue
7 sharing funds, or private donations to the county that meet the requirements
8 specified in s. 51.423 (5). Private donations may not exceed 25% of the total county
9 match. If the county match is less than the amount required to generate the full
10 amount of state and federal funds distributed for this period, the decrease in the
11 amount of state and federal funds equals the difference between the required and the
12 actual amount of county matching funds.

13 **SECTION 14.** 49.45 (6t) (a) of the statutes, as affected by 2001 Wisconsin Act 16
14 and 2003 Wisconsin Act 33, is renumbered 49.45 (6t).

15 **SECTION 15.** 49.45 (6t) (b) of the statutes, as created by 2003 Wisconsin Act 33,
16 is repealed.

17 **SECTION 16.** 49.45 (6tt) of the statutes, as created by 2003 Wisconsin Act 33,
18 is repealed.

19 **SECTION 17.** 49.45 (6tu) of the statutes is created to read:

20 49.45 **(6tu)** DISTRIBUTIONS TO COUNTY DEPARTMENTS AND LOCAL HEALTH
21 DEPARTMENTS. From the appropriation under s. 20.435 (4) (w), the department may
22 in each fiscal year distribute moneys to county departments under s. 46.215, 46.22,
23 46.23, or 51.42 or to local health departments, as defined in s. 250.01 (4), under a plan
24 developed by the department.

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1 **SECTION 18.** 49.45 (6tu) of the statutes, as created by 2003 Wisconsin Act ...
2 (this act), is repealed.

3 **SECTION 19.** 49.45 (52) of the statutes is created to read:

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

14 **SECTION 20.** 49.45 (52) of the statutes, as created by 2003 Wisconsin Act (this
15 act), is repealed.

16 **SECTION 21.** 49.45 (53) of the statutes is created to read:

17 49.45 **(53)** PAYMENTS FOR CERTAIN SERVICES. Beginning on January 1, 2003, the
18 department may, from the appropriation account under s. 20.435 (7) (b), make
19 Medical Assistance payments to providers for covered services under s. 49.46 (2) (a)
20 4. d. and (b) 6. j. and m.

21 **SECTION 22.** 49.45 (53) of the statutes, as created by 2003 Wisconsin Act (this
22 act), is repealed.

23 **SECTION 23.** 59.53 (24) of the statutes, as created by 2003 Wisconsin Act 33, is
24 repealed.

25 **SECTION 24.** 2003 Wisconsin Act 33, section 9124 (8) is repealed.

SENATE BILL 567**1 SECTION 25. Nonstatutory provisions.**

2 (1) COMMUNITY AIDS FUNDING DECREASE. Notwithstanding section 16.42 (1) (e)
3 of the statutes, in submitting information under section 16.42 of the statutes for
4 purposes of the 2005-07 biennial budget bill, the department of health and family
5 services shall submit information concerning the appropriation under section 20.435
6 (7) (b) of the statutes as though the decrease in the dollar amount of that
7 appropriation by SECTION 26 (1) of this act had not been made.

8 (2) MEDICAL ASSISTANCE FUNDING INCREASE. Notwithstanding section 16.42 (1)
9 (e) of the statutes, in submitting information under section 16.42 of the statutes for
10 purposes of the 2005-07 biennial budget bill, the department of health and family
11 services shall submit information concerning the appropriation under section 20.435
12 (4) (b) of the statutes as though the increase in the dollar amount of that
13 appropriation by SECTION 26 (2) of this act had not been made.

14 (3) PAYMENTS TO CITY HEALTH DEPARTMENTS. From the appropriation account
15 under section 20.435 (7) (b) of the statutes, as affected by this act, in state fiscal year
16 2004-05 the department of health and family services may make payments to local
17 health departments, as defined under s. 250.01 (4) (a) 3. of the statutes. Payment
18 under this subsection to such a local health department may not exceed on an
19 annualized basis payment made by the department of health and family services to
20 the local health department under section 49.45 (6t) of the statutes for services
21 provided by the local health department in 2002.

22 (4) If an amendment to the state medical assistance plan that provides for a
23 revised payment methodology for Medical Assistance services that are provided by
24 a county department or local health department under section 49.45 (52) of the
25 statutes, as created by this act, is not approved in writing by the federal centers for

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1 medicare and medicaid services by July 1, 2005, or if on any date the amendment is
2 disapproved, whichever is earlier, all of the following apply:

3 (a) This act, except for this subsection, is void.

4 (b) The secretary of administration shall notify the revisor of statutes
5 concerning the lack of approval or disapproval.

6 **SECTION 26. Appropriation changes.**

7 (1) COMMUNITY AIDS PROGRAM DECREASE. In the schedule under section 20.005
8 (3) of the statutes for the appropriation to the department of health and family
9 services under section 20.435 (7) (b) of the statutes, as affected by the acts of 2003,
10 the dollar amount is decreased by \$53,204,600 for fiscal year 2004-05 for the
11 purposes for which the appropriation is made.

12 (2) MEDICAL ASSISTANCE PROGRAM INCREASE. In the schedule under section
13 20.005 (3) of the statutes for the appropriation to the department of health and family
14 services under section 20.435 (4) (b) of the statutes, as affected by the acts of 2003,
15 the dollar amount is increased by \$53,204,600 for fiscal year 2004-05 for the
16 purposes for which the appropriation is made.

17 (3) MEDICAL ASSISTANCE TRUST FUND. In the schedule under section 20.005 (3)
18 of the statutes for the appropriation to the department of health and family services
19 under section 20.435 (4) (w) of the statutes, as affected by the acts of 2003, the dollar
20 amount is decreased by \$17,000,000 for fiscal year 2004-05 to for the purposes for
21 which the appropriation is made.

22 **SECTION 27. Effective dates.** This act takes effect on the day after publication,
23 except as follows:

24 (1) MEDICAL ASSISTANCE PAYMENT ADJUSTMENTS. The treatment of section 49.45
25 (6t) (a) and (b) of the statutes, the repeal of sections 46.40 (9) (d) and 49.45 (52) and

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1 (53) of the statutes and section 9124 (8) of 2003 Wisconsin Act 33, the amendment
2 of sections 20.435 (4) (w) (by SECTION 3) and (7) (b) (by SECTION 6) and 46.495 (1) (d)
3 (by SECTION 13) of the statutes, and the creation of section 49.45 (6tu) of the statutes
4 take effect on January 1, 2006.

5 (2) COMMUNITY SERVICES DEFICIT REDUCTION BENEFIT. The amendment of section
6 20.435 (4) (w) (by SECTION 4) of the statutes and the repeal of section 49.45 (6tu) of
7 the statutes take effect on January 1, 2007.

8 (END)