



2007 ASSEMBLY BILL 748

February 4, 2008 - Introduced by Representatives HRAYCHUCK, GARTHWAITE, STASKUNAS, BERCEAU, BOYLE, CULLEN, FIELDS, HILGENBERG, HIXSON, MASON, MOLEPSKE, MUSSER, NELSON, ROTH, SHERIDAN, SHILLING, SINICKI, SOLETSKI, TURNER, VRUWINK, A. WILLIAMS and TOLES, cosponsored by Senators KREITLOW, HARSDFORF, COGGS, HANSEN, ROESSLER and SCHULTZ. Referred to Committee on Health and Healthcare Reform.

1 **AN ACT to amend** 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a), 71.34 (1) (g), 71.45 (2)
2 (a) 10. and 77.92 (4); and **to create** 49.45 (2) (a) 25g., 71.07 (5r), 71.10 (4) (cd),
3 71.28 (5r), 71.30 (3) (dr), 71.47 (5r) and 71.49 (1) (dr) of the statutes; **relating**
4 **to:** creating a nonrefundable individual and corporate income tax credit for
5 health care providers who provide services to Medical Assistance recipients at
6 a higher than average rate.

Analysis by the Legislative Reference Bureau

This bill creates a nonrefundable individual and corporate income tax credit for primary care physicians and dentists who provide services to Medical Assistance (MA) recipients at a high rate of service, compared to other physicians and dentists who serve MA patients. The credit is for certain costs of providing medical and dental services that are not reimbursed under the MA program. Sole proprietorships and corporations may claim the credit. Partnerships, limited liability companies, and tax-option corporations compute the credit but pass it on to the partners, members, and shareholders in proportion to their ownership interests.

The credit that may be claimed is equal to a physician's or dentist's unreimbursed costs that are incurred in the taxable year to which the claim relates. Because the credit is nonrefundable, it may only be claimed up to the amount of the taxpayer's tax liability. The bill defines unreimbursed costs as the difference between a physician's or dentist's usual and customary charges for providing a

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medical or dental service, and the amount paid to the physician or dentist for providing such services to MA recipients. The bill defines rate of service as the percentage of a dentist's or physician's patients who receive MA, and defines high rate of service as a rate of service provided by a dentist or a physician to MA recipients that is at least 200 percent greater than the average rate of service provided by all dentists or physicians, as required to be determined by the Department of Health and Family Services.

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.** 49.45 (2) (a) 25g. of the statutes is created to read:

2 49.45 (2) (a) 25g. Determine the average rate of service to medical assistance
3 recipients provided by all dentists, as defined in s. 447.01 (7), and physicians, as
4 defined in s. 448.01 (5), for purposes of computing a high rate of service of a dentist
5 or physician under ss. 71.07 (5r), 71.28 (5r), and 71.47 (5r).

6 **SECTION 2.** 71.05 (6) (a) 15. of the statutes is amended to read:

7 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
8 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3n), (3s), (3t), (3w), (5b), (5d), and
9 (5e), (5f), and (5h), and (5r) and not passed through by a partnership, limited liability
10 company, or tax-option corporation that has added that amount to the partnership's,
11 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

12 **SECTION 3.** 71.07 (5r) of the statutes is created to read:

13 71.07 (5r) HIGH RATE OF MEDICAL AND DENTAL SERVICES TAX CREDIT. (a)

14 *Definitions.* In this subsection:

15 1. "Claimant" means a sole proprietor, a partner, a member of a limited liability
16 company, or a shareholder of a tax-option corporation who is a physician or dentist
17 who provides a high rate of service and who files a claim under this subsection.

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1 2. “Dentist” means a dentist, as defined in s. 447.01 (7), who is licensed under
2 ch. 447, who practices general or pediatric dentistry, and who provides services to
3 medical assistance recipients.

4 3. “High rate of service” means a rate of service provided by a dentist or a
5 physician to medical assistance recipients that is at least 200 percent greater than
6 the average rate of service provided by all dentists or physicians, as determined by
7 the department of health and family services.

8 4. “Medical assistance” has the meaning given in s. 49.43 (8).

9 5. “Physician” means a physician, as defined in s. 448.01 (5), specializing in
10 family medical practice, general internal medicine, or pediatrics and who provides
11 services to medical assistance recipients.

12 6. “Rate of service” means the percentage of a dentist’s or physician’s patients
13 who receive medical assistance.

14 7. “Unreimbursed costs” means the difference between either a physician’s
15 usual and customary charges for providing a service specified under s. 49.46 (2) (a)
16 1., and the amount paid to the physician under s. 49.45 (3) for providing such service
17 to recipients of medical assistance, or the difference between a dentist’s usual and
18 customary charges for providing a dental service, and the amount paid to the dentist
19 under s. 49.45 (3) for providing such service to recipients of medical assistance.

20 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
21 claimant may claim as a credit against the tax imposed under s. 71.02, up to the
22 amount of those taxes, an amount equal to the claimant’s unreimbursed costs that
23 are incurred in the taxable year to which the claim relates.

24 (c) *Limitations.* 1. No credit may be allowed under this subsection unless it
25 is claimed within the time period under s. 71.75 (2).

ASSEMBLY BILL 748**SECTION 3**

1 2. The carry-over provisions of s. 71.28 (4) (e) and (f), as they apply to the credit
2 under s. 71.28 (4), apply to the credit under this subsection.

3 3. Partnerships, limited liability companies, and tax-option corporations may
4 not claim the credit under this subsection, but the eligibility for, and the amount of,
5 that credit shall be determined on the basis of their economic activity, not that of their
6 partners, members, or shareholders. A partnership, limited liability company, or
7 tax-option corporation shall compute the amount of credit that each of its partners,
8 members, or shareholders may claim and shall provide that information to each of
9 them. Partners, members of limited liability companies, and shareholders of
10 tax-option corporations may claim the credit in proportion to their ownership
11 interest.

12 4. For a claimant who is a nonresident or part-year resident of this state and
13 who is a single person or a married person filing a separate return, multiply the
14 credit for which the claimant is eligible under par. (b) by a fraction the numerator of
15 which is the individual's Wisconsin adjusted gross income and the denominator of
16 which is the individual's federal adjusted gross income. If a claimant is married and
17 files a joint return, and if the claimant or the claimant's spouse, or both, are
18 nonresidents or part-year residents of this state, multiply the credit for which the
19 claimant is eligible under par. (b) by a fraction the numerator of which is the couple's
20 joint Wisconsin adjusted gross income and the denominator of which is the couple's
21 joint federal adjusted gross income.

22 (d) *Administration.* Subsection (9e) (d), to the extent that it applies to the credit
23 under that subsection, applies to the credit under this subsection.

24 **SECTION 4.** 71.10 (4) (cd) of the statutes is created to read:

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1 71.10 (4) (cd) The high rate of medical and dental services tax credit under s.
2 71.07 (5r).

3 **SECTION 5.** 71.21 (4) of the statutes is amended to read:

4 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
5 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), (3w), (5b), (5e), (5f), (5g), ~~and (5h),~~
6 and (5r) and passed through to partners shall be added to the partnership's income.

7 **SECTION 6.** 71.26 (2) (a) of the statutes is amended to read:

8 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means
9 the gross income as computed under the Internal Revenue Code as modified under
10 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
11 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)
12 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income
13 under this paragraph at the time that the taxpayer first claimed the credit plus the
14 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),
15 (1ds), (1dx), (3g), (3n), (3t), (3w), (5b), (5e), (5f), (5g), ~~and (5h), and (5r)~~ and not passed
16 through by a partnership, limited liability company, or tax-option corporation that
17 has added that amount to the partnership's, limited liability company's, or
18 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus the amount
19 of losses from the sale or other disposition of assets the gain from which would be
20 wholly exempt income, as defined in sub. (3) (L), if the assets were sold or otherwise
21 disposed of at a gain and minus deductions, as computed under the Internal Revenue
22 Code as modified under sub. (3), plus or minus, as appropriate, an amount equal to
23 the difference between the federal basis and Wisconsin basis of any asset sold,
24 exchanged, abandoned, or otherwise disposed of in a taxable transaction during the
25 taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

ASSEMBLY BILL 748**SECTION 7**

1 **SECTION 7.** 71.28 (5r) of the statutes is created to read:

2 71.28 **(5r)** HIGH RATE OF MEDICAL AND DENTAL SERVICES TAX CREDIT. (a)

3 *Definitions.* In this subsection:

4 1. “Claimant” means a corporation that includes at least one physician or
5 dentist who provides a high rate of service and that files a claim under this
6 subsection.

7 2. “Dentist” means a dentist, as defined in s. 447.01 (7), who is licensed under
8 ch. 447, who practices general or pediatric dentistry, and who provides services to
9 medical assistance recipients.

10 3. “High rate of service” means a rate of service provided by a dentist or a
11 physician to medical assistance recipients that is at least 200 percent greater than
12 the average rate of service provided by all dentists or physicians, as determined by
13 the department of health and family services.

14 4. “Medical assistance” has the meaning given in s. 49.43 (8).

15 5. “Physician” means a physician, as defined in s. 448.01 (5), specializing in
16 family medical practice, general internal medicine, or pediatrics and who provides
17 services to medical assistance recipients.

18 6. “Rate of service” means the percentage of a dentist’s or physician’s patients
19 who receive medical assistance.

20 7. “Unreimbursed costs” means the difference between either a physician’s
21 usual and customary charges for providing a service specified under s. 49.46 (2) (a)
22 1., and the amount paid to the physician under s. 49.45 (3) for providing such service
23 to recipients of medical assistance, or the difference between a dentist’s usual and
24 customary charges for providing a dental service, and the amount paid to the dentist
25 under s. 49.45 (3) for providing such service to recipients of medical assistance.

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1 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
2 claimant may claim as a credit against the tax imposed under s. 71.23, up to the
3 amount of those taxes, an amount equal to the claimant's unreimbursed costs that
4 are incurred in the taxable year to which the claim relates.

5 (c) *Limitations.* 1. No credit may be allowed under this subsection unless it
6 is claimed within the time period under s. 71.75 (2).

7 2. The carry-over provisions of sub. (4) (e) and (f), as they apply to the credit
8 under sub. (4), apply to the credit under this subsection.

9 3. Partnerships, limited liability companies, and tax-option corporations may
10 not claim the credit under this subsection, but the eligibility for, and the amount of,
11 that credit shall be determined on the basis of their economic activity, not that of their
12 partners, members, or shareholders. A partnership, limited liability company, or
13 tax-option corporation shall compute the amount of credit that each of its partners,
14 members, or shareholders may claim and shall provide that information to each of
15 them. Partners, members of limited liability companies, and shareholders of
16 tax-option corporations may claim the credit in proportion to their ownership
17 interest.

18 4. The credits under this subsection may not be claimed by a partnership,
19 except a publicly traded partnership treated as a corporation under s. 71.22 (1k),
20 limited liability company, except a limited liability company treated as a corporation
21 under s. 71.22 (1k), or tax-option corporation or by partners, including partners of
22 a publicly traded partnership, members of a limited liability company, or
23 shareholders of a tax-option corporation.

24 (d) *Administration.* Subsection (4) (g), to the extent that it applies to the credit
25 under that subsection, applies to the credit under this subsection.

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1 **SECTION 8.** 71.30 (3) (dr) of the statutes is created to read:

2 71.30 **(3)** (dr) The high rate of medical and dental services tax credit under s.
3 71.28 (5r).

4 **SECTION 9.** 71.34 (1) (g) of the statutes is amended to read:

5 71.34 **(1)** (g) An addition shall be made for credits computed by a tax-option
6 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),
7 (3n), (3t), (3w), (5b), (5e), (5f), (5g), ~~and (5h)~~, and (5r) and passed through to
8 shareholders.

9 **SECTION 10.** 71.45 (2) (a) 10. of the statutes is amended to read:

10 71.45 **(2)** (a) 10. By adding to federal taxable income the amount of credit
11 computed under s. 71.47 (1dd) to (1dx), (3n), (3w), (5b), (5e), (5f), (5g), ~~and (5h)~~, and
12 (5r) and not passed through by a partnership, limited liability company, or
13 tax-option corporation that has added that amount to the partnership's, limited
14 liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1)
15 (g) and the amount of credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

16 **SECTION 11.** 71.47 (5r) of the statutes is created to read:

17 71.47 **(5r)** HIGH RATE OF MEDICAL AND DENTAL SERVICES TAX CREDIT. (a)
18 *Definitions.* In this subsection:

19 1. "Claimant" means a corporation that includes at least one physician or
20 dentist who provides a high rate of service and that files a claim under this
21 subsection.

22 2. "Dentist" means a dentist, as defined in s. 447.01 (7), who is licensed under
23 ch. 447, who practices general or pediatric dentistry, and who provides services to
24 medical assistance recipients.

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1 3. “High rate of service” means a rate of service provided by a dentist or a
2 physician to medical assistance recipients that is at least 200 percent greater than
3 the average rate of service provided by all dentists or physicians, as determined by
4 the department of health and family services.

5 4. “Medical assistance” has the meaning given in s. 49.43 (8).

6 5. “Physician” means a physician, as defined in s. 448.01 (5), specializing in
7 family medical practice, general internal medicine, or pediatrics and who provides
8 services to medical assistance recipients.

9 6. “Rate of service” means the percentage of a dentist’s or physician’s patients
10 who receive medical assistance.

11 7. “Unreimbursed costs” means the difference between either a physician’s
12 usual and customary charges for providing a service specified under s. 49.46 (2) (a)
13 1., and the amount paid to the physician under s. 49.45 (3) for providing such service
14 to recipients of medical assistance, or the difference between a dentist’s usual and
15 customary charges for providing a dental service, and the amount paid to the dentist
16 under s. 49.45 (3) for providing such service to recipients of medical assistance.

17 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
18 claimant may claim as a credit against the tax imposed under s. 71.43, up to the
19 amount of those taxes, an amount equal to the claimant’s unreimbursed costs that
20 are incurred in the taxable year to which the claim relates.

21 (c) *Limitations.* 1. No credit may be allowed under this subsection unless it
22 is claimed within the time period under s. 71.75 (2).

23 2. The carry-over provisions of s. 71.28 (4) (e) and (f), as they apply to the credit
24 under s. 71.28 (4), apply to the credit under this subsection.

ASSEMBLY BILL 748**SECTION 11**

1 3. Partnerships, limited liability companies, and tax-option corporations may
2 not claim the credit under this subsection, but the eligibility for, and the amount of,
3 that credit shall be determined on the basis of their economic activity, not that of their
4 partners, members, or shareholders. A partnership, limited liability company, or
5 tax-option corporation shall compute the amount of credit that each of its partners,
6 members, or shareholders may claim and shall provide that information to each of
7 them. Partners, members of limited liability companies, and shareholders of
8 tax-option corporations may claim the credit in proportion to their ownership
9 interest.

10 4. The credits under this subsection may not be claimed by a partnership,
11 except a publicly traded partnership treated as a corporation under s. 71.22 (1k),
12 limited liability company, except a limited liability company treated as a corporation
13 under s. 71.22 (1k), or tax-option corporation or by partners, including partners of
14 a publicly traded partnership, members of a limited liability company, or
15 shareholders of a tax-option corporation.

16 (d) *Administration.* Section 71.28 (4) (g), to the extent that it applies to the
17 credit under that subsection, applies to the credit under this subsection.

18 **SECTION 12.** 71.49 (1) (dr) of the statutes is created to read:

19 71.49 (1) (dr) The high rate of medical and dental services tax credit under s.
20 71.47 (5r).

21 **SECTION 13.** 77.92 (4) of the statutes is amended to read:

22 77.92 (4) “Net business income,” with respect to a partnership, means taxable
23 income as calculated under section 703 of the Internal Revenue Code; plus the items
24 of income and gain under section 702 of the Internal Revenue Code, including taxable
25 state and municipal bond interest and excluding nontaxable interest income or

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1 dividend income from federal government obligations; minus the items of loss and
2 deduction under section 702 of the Internal Revenue Code, except items that are not
3 deductible under s. 71.21; plus guaranteed payments to partners under section 707
4 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
5 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3s), (3n), (3t), (3w), (5b), (5e), (5f),
6 (5g), ~~and (5h), and (5r)~~; and plus or minus, as appropriate, transitional adjustments,
7 depreciation differences, and basis differences under s. 71.05 (13), (15), (16), (17), and
8 (19); but excluding income, gain, loss, and deductions from farming. “Net business
9 income,” with respect to a natural person, estate, or trust, means profit from a trade
10 or business for federal income tax purposes and includes net income derived as an
11 employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

SECTION 14. Initial applicability.

12
13 (1) This act first applies to taxable years beginning on January 1 of the year
14 in which this subsection takes effect, except that if this subsection takes effect after
15 July 31 this act first applies to taxable years beginning on January 1 of the year
16 following the year in which this subsection takes effect.

17 (END)