

2001 ASSEMBLY BILL 272

March 30, 2001 – Introduced by Representatives HUBLER, RILEY, REYNOLDS, SHERMAN, BLACK, LADWIG, F. LASEE, FREESE, POCAN, BERCEAU, PLOUFF, SHILLING, BOCK, McCORMICK, SCHNEIDER, AINSWORTH, MUSSER, LASSA, JOHNSRUD, TURNER, STASKUNAS, GRONEMUS, COLON, J. LEHMAN, TOWNSEND, HUBER, HAHN, WASSERMAN, OLSEN, POWERS, CARPENTER, LIPPERT, RICHARDS, MORRIS-TATUM, COGGS, KREUSER, YOUNG, SKINDRUD, BALOW, SYKORA, MEYERHOFER, MILLER, BOYLE, HEBL, RYBA, SERATTI, PLALE, KRUG, PETROWSKI, TRAVIS and SCHOOFF, cosponsored by Senators JAUCH, DECKER, BURKE, GEORGE, BAUMGART, ROESSLER, SCHULTZ and HARSDFORF. 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) 1m., 49.46 (1) (a) 6., 49.46 (1) (a) 9., 49.46 (1) (a) 10.,
 3 49.46 (1) (a) 11., 49.46 (1) (a) 12., 49.46 (1) (e), 49.47 (4) (a) 1., 49.47 (4) (am) 1.,
 4 49.47 (4) (am) 2. and 49.665 (4) (a) 1.; **to repeal and recreate** 49.47 (4) (c) 1.;
 5 and **to create** 49.46 (1) (ar), 49.47 (4) (a) 1m., 49.47 (4) (cg) 1., 49.47 (4) (cg) 3.
 6 and 49.665 (4) (d) of the statutes; **relating to:** exempting amounts claimed for
 7 depreciation for purposes of calculating farm and self-employment income
 8 under the medical assistance and badger 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.

As 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, individuals who meet the nonfinancial and financial requirements for the federal aid to families with dependent children (AFDC) program that were in effect on July 16, 1996, are eligible to receive MA. The AFDC program was replaced with the federal temporary assistance for needy

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families program on July 16, 1996. Generally, individuals who may 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 19 years of age or younger, their caretaker relatives, and pregnant women throughout the entire pregnancy who meet the income and asset requirements of the AFDC program that were in effect on July, 16, 1996, 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 families and to eligible low-income children who do not reside with a parent. A family or child is generally considered low-income if the family's income or child's income does not exceed 185% of the poverty line.

Currently, in calculating an individual's income for the MA or BadgerCare programs, 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 AFDC–MA, AFDC–related MA, and Healthy Start eligibility categories and 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. ~~Any person included in the Notwithstanding s. 49.19 (20), any~~
- 3 ~~individual who, subject to par. (ar), would qualify for a grant of aid to families with~~
- 4 ~~dependent children and any person who does~~ under s. 49.19.

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1 1g. Notwithstanding s. 49.19 (20), any individual who, subject to par. (ar),
2 would qualify for a grant of aid to families with dependent children but who would
3 not receive such the aid solely because of the application of s. 49.19 (11) (a) 7.

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

5 49.46 (1) (a) 1m. Any pregnant woman ~~who meets the resource and whose~~
6 income limits does not exceed the standard of need under s. 49.19 (4) ~~(bm) and (es)~~
7 (11), as determined under par. (ar), and whose pregnancy is medically verified.
8 Eligibility continues to the last day of the month in which the 60th day after the last
9 day of the pregnancy falls.

10 **SECTION 3.** 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 is, subject to par.
12 (ar), would be considered, under federal law, to be receiving aid to families with
13 dependent children for the purpose of determining eligibility for medical assistance.

14 **SECTION 4.** 49.46 (1) (a) 9. of the statutes is amended to read:

15 49.46 (1) (a) 9. Any pregnant woman not described under subd. 1., 1g., or 1m.
16 whose family income does not exceed 133% of the poverty line for a family the size
17 of the woman's family.

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

19 49.46 (1) (a) 10. Any child not described under subd. 1. or 1g. who is under 6
20 years of age and whose family income does not exceed 133% of the poverty line for
21 a family the size of the child's family, as determined under par. (ar).

22 **SECTION 6.** 49.46 (1) (a) 11. of the statutes is amended to read:

23 49.46 (1) (a) 11. If a waiver under s. 49.665 is granted and in effect, any child
24 not described under subd. 1. or 1g. who has attained the age of 6 but has not attained
25 the age of 19 and whose family income does not exceed 100% of the poverty line for

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

6 **SECTION 7.** 49.46 (1) (a) 12. of the statutes is amended to read:

7 49.46 (1) (a) 12. Any child not described under subd. 1. or 1g. who is under 19
8 years of age and ~~who meets the resource and~~ whose income limits does not exceed the
9 standard of need under s. 49.19 (4) (11), as determined under par. (ar).

10 **SECTION 8.** 49.46 (1) (ar) of the statutes is created to read:

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

19 2. Notwithstanding s. 49.19 (5), for purposes of calculating whether an
20 individual under par. (a) 1., 1g., or 6. would qualify for a grant of aid to families with
21 dependent children under s. 49.19, or whether an individual meets the income limits
22 under par. (a) 1m., 9., 10., 11., or 12., (am), or (e), the department shall exclude from
23 the calculation of farm or self-employment income any amounts claimed for
24 depreciation for income tax purposes.

25 **SECTION 9.** 49.46 (1) (e) of the statutes is amended to read:

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1 49.46 (1) (e) If an application under s. 49.47 (3) shows that the person has
2 individual meets the income and resources within the limitations of resource limits
3 under s. 49.19, as calculated under par. (ar), or meets the income and resource
4 requirements under federal Title XVI or s. 49.77, or that the person is an essential
5 person, an accommodated person or a patient in a public medical institution, the
6 person shall be granted the benefits enumerated under sub. (2) whether or not the
7 person requests or receives a grant of any of such aids.

8 **SECTION 10.** 49.46 (1) (L) of the statutes is repealed.

9 **SECTION 11.** 49.47 (4) (a) 1. of the statutes is amended to read:

10 49.47 (4) (a) 1. ~~Under 18~~ At least 19 years of age but under 21 years of age ~~or,~~
11 if the person and resides in an intermediate care facility, skilled nursing facility or
12 inpatient psychiatric hospital, ~~under 21 years of age.~~

13 **SECTION 12.** 49.47 (4) (a) 1m. of the statutes is created to read:

14 49.47 (4) (a) 1m. Under the age of 18.

15 **SECTION 13.** 49.47 (4) (am) 1. of the statutes is amended to read:

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

22 **SECTION 14.** 49.47 (4) (am) 2. of the statutes is amended to read:

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

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1 approved state plan under s. 49.46 (1) (am) 2. is in effect, the income limit is 185%
2 of the poverty line for a family the size of the child's family in each state fiscal year
3 after the 1994–95 state fiscal year.

4 **SECTION 15.** 49.47 (4) (c) 1. of the statutes is repealed and recreated to read:

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

12 **SECTION 16.** 49.47 (4) (cg) 1. of the statutes is created to read:

13 49.47 (4) (cg) 1. Except as provided in subd. 3., for purposes of determining
14 whether an individual's income meets the income requirements under par. (c),
15 "income" includes all of the individual's earned and unearned income that would be
16 included in determining eligibility for the individual or family under s. 49.19 or
17 49.77, or for the aged, blind, or disabled individual under 42 USC 1381 to 1385 and
18 "income" does not include earned and unearned income that would be excluded in
19 determining eligibility for the individual or family under s. 49.19 or 49.77, or for the
20 aged, blind, or disabled individual under 42 USC 1381 to 1385.

21 **SECTION 17.** 49.47 (4) (cg) 3. of the statutes is created to read:

22 49.47 (4) (cg) 3. Notwithstanding s. 49.19 (5), for purposes of determining
23 whether an individual under par. (a) 1m. or 2. or (am) is eligible for medical
24 assistance, the department shall exclude from the calculation of farm or

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1 self-employment income any amounts claimed for depreciation for income tax
2 purposes.

3 **SECTION 18.** 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~~ Except as provided in subd. 3., for the purposes of par. (am),
6 “income” includes income that would be used in determining eligibility for aid to
7 families with dependent children under s. 49.19 and ~~excludes~~ does not include
8 income that would be excluded in determining eligibility for aid to families with
9 dependent children under s. 49.19.

10 **SECTION 19.** 49.665 (4) (a) 1. of the statutes is amended to read:

11 49.665 (4) (a) 1. The family’s income does not exceed 185% of the poverty line,
12 except as provided in par. (at) and except that a family that is already receiving
13 health care coverage under this section may have an income that does not exceed
14 200% of the poverty line. ~~The~~ Subject to par. (d), the department shall establish by
15 rule the criteria to be used to determine income.

16 **SECTION 20.** 49.665 (4) (d) of the statutes is created to read:

17 49.665 (4) (d) For purposes of calculating a family’s or child’s income under this
18 subsection, the department shall exclude from the calculation of farm or
19 self-employment income any amounts claimed for depreciation for income tax
20 purposes.

21 **SECTION 21. Initial applicability.**

22 (1) This act first applies to eligibility determinations for the medical assistance
23 and badger care health care programs that are made on the effective date of this
24 subsection.

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(END)