

2001 DRAFTING REQUEST

Bill

Received: **09/20/2000**

Received By: **isagerro**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Mullikin**

This file may be shown to any legislator: **NO**

Drafter: **isagerro**

May Contact:

Alt. Drafters:

Subject: **Public Assistance - med. assist.**

Extra Copies: **DAK**

Pre Topic:

DOA:.....Mullikin -

Topic:

All MA services subject to estate recovery

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>
/1	isagerro 09/27/2000	gilfokm 09/27/2000	rschluet 09/29/2000	_____	lrb_docadmin 09/29/2000		
/2	isagerro 01/11/2001	jdyer 01/11/2001	jfrantze 01/11/2001	_____	lrb_docadmin 01/11/2001		S&L
/3	isagerro 01/12/2001	gilfokm 01/12/2001	rschluet 01/14/2001	_____	lrb_docadmin 01/14/2001		S&L

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1-11-1

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1-14-1

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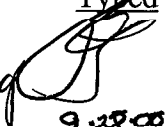
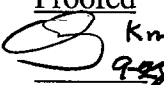
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01-0465

DHFS

Department of Health and Family Services 2001-2003 Biennial Budget Statutory Language Request August 21, 2000

All Medicaid Services Subject to Estate Recovery

Current Language

Current s. 49.496, Wis. Stats. language limits recovery for recipients 55 or older who live in the community to only certain services during a specific time period.

Proposed Changes

A. Repeal and recreate s. 49.496(3)(a)2. to recover all Medicaid that was paid for services received by persons 55 and older.

B. Also include in s. 49.496(3)(a)2. language that indicates that the recoveries will be made on a fee for service basis except the following.

1. For Family Care recipients the state does not recover the capitation rate. It recovers the actual cost of services received as reported by the CMO to the department. Family care is in s. 46.286, Wis. Stats. *for receiving the family care benefit,*

2. For PACE and Partnership recipients, the department will recover the Medicaid capitation rate. PACE should be cited as a program of all-inclusive care for the elderly authorized under 42 USC 1315 and 1396u-4. Partnership should be cited as a demonstration program known as the Wisconsin partnership program under a federal waiver authorized under 42 USC 1315.

3. For recipients who receive services through participation in a managed care organization, the department will recover the capitation rate.

on card
MA
fee for service
vs. actual costs that CMO pays

how is this different from fee for service

no family care record-keeping

42 USC § 1396p

Effect and Rationale for Change

Under Federal law, states have the option to recover any service provided under the state plan for recipients age 55 and older. At least 15 other states currently recover all services, and several more recover services beyond the minimum required by OBRA 93.

This proposal will increase Medicaid recoveries that are used to offset current Medicaid costs. Dollars recovered may be utilized to either serve additional recipients or to increase the level, type or cost of services provided to recipients. The expectation is that additional funds are

available to offset increased services (cost or utilization) and/or to provide services to additional recipients.

Desired Effective Date: Upon Passage
Agency: DHFS
Agency Contact: Richard T. Chao
Phone: 267-0356



DOA:.....Mullikin – All MA services subject to estate recovery

FOR 2001-03 BUDGET – NOT READY FOR INTRODUCTION

Seem

1 AN ACT ^{Don't SEN. CAT.} relating to: the budget.

Analysis by the Legislative Reference Bureau
HEALTH AND HUMAN SERVICES

MEDICAL ASSISTANCE

Currently, DHFS is required to recover from the estate of a medical assistance (MA) recipient who is not survived by a spouse or a child who is under 21 or disabled the following ~~amounts~~:

- 1. ~~the amount of~~ MA paid on behalf of the recipient while the recipient resided in a hospital and was required to contribute to the cost of care or in a nursing home.
- 2. ~~the amount of~~ MA paid on behalf of a recipient after the recipient reached age 55 for home-based or community-based services, community-supported living, personal care services, and hospital and prescription drug services as defined by DHFS by rule.

This bill expands the types of services ^{that are} subject to the estate recovery program to include all health care services for which MA was paid on behalf of the recipient after the recipient reached age 55. The bill requires that if the health care services were provided by a managed care organization, under a program of all-inclusive care for the elderly (PACE program) that provides health and social services to low-income elderly individuals at home, or under the Wisconsin partnership program which provides health care and long-term care services to low-income elderly and disabled individuals, DHFS must calculate the amount of MA as the capitation rate that was paid on behalf of the recipient. If the health care services

were provided under ~~Family Care~~, DHFS must calculate the amount of MA as the cost of the actual health care services that were paid for with MA. For all other services provided, DHFS is required to calculate the amount of MA on a fee-for-service basis.

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.** 46.286 (7) of the statutes is amended to read:

2 46.286 (7) RECOVERY OF FAMILY CARE BENEFIT PAYMENTS; RULES. The department
3 shall promulgate rules relating to the recovery from persons who receive the family
4 care benefit, including by liens and from estates, of correctly and incorrectly paid
5 family care benefits, that are substantially similar to applicable provisions under ss.
6 49.496 and 49.497. ^{plain} This subsection does not apply to the recovery of a family care
7 benefit that is provided under medical assistance and is recoverable under s. 49.496

8 (3) ^{scored}

History: 1999 a. 9, 185.

9 **SECTION 2.** 49.496 (3) (a) 2. of the statutes is repealed and recreated to read:

10 49.496 (3) (a) 2. Subject to par. (ae), the amount of medical assistance paid on
11 behalf of the recipient after the recipient reaches the age of 55.

12 **SECTION 3.** 49.496 (3) (ae) of the statutes is created to read:

13 49.496 (3) (ae) The department shall, under par. (a) 2., calculate the amount
14 of medical assistance paid on a fee-for-service basis, ^vexcept as follows:

15 1. If medical assistance was paid for health care services that were provided
16 by a managed care organization, under a program of all-inclusive care authorized
17 under 42 USC 1396u-4 ^{or} under a demonstration program known as the Wisconsin
18 partnership program authorized under a federal waiver under 42 USC 1315, the

1 department shall calculate the amount of medical assistance as the capitation rate
2 paid on behalf of the recipient.

3 2. If medical assistance was paid for health care services as part of the family
4 care benefit received under s. 46.286, the department shall calculate the amount of
5 medical assistance as the actual cost of those services paid for by medical assistance,
6 as reported to the department by a care management organization, as defined in s.
7 46.2805 (1).

8 **SECTION 9323. Initial applicability; health and family services.**

9 (1) MEDICAL ASSISTANCE ESTATE RECOVERY. The treatment of sections 46.286 (7)
10 and 49.496 (3) (a) 2. and ~~49.496~~ (ae) of the statutes first applies to estate recoveries
11 beginning on the effective date of this subsection.

12

(END)

Per DHS (approved by Melissa Mullikin) 1/10/01

- Peggy
- delete

"paid for by medical assistance" on pg. 3, l. 5

- want this section to mirror ^{adm. rule} DHS 10.61

- want the initial app to apply to services received on or after effective date

≈ Act 9 recovery for personal care services Initial App.



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0465/R

ISR:kmg:rs

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RMR

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medical assistance that is paid for health care services that are provided to an individual

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0465/2dn

ISR:.....

^
JL

January 11, 2001

Melissa Mullikin:

This "/2" version makes a few technical changes to the bill that were suggested by DHFS.

If you have questions, please feel free to contact me.

Ivy G. Sager-Rosenthal
Legislative Attorney
Phone: (608) 261-4455
E-mail: ivy.sager-rosenthal@legis.state.wi.us

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