

2003 DRAFTING REQUEST

Bill

Received: **08/01/2003**

Received By: **rryan**

Wanted: **As time permits**

Identical to LRB:

For: **David Hansen (608) 266-5670**

By/Representing: **Jay Wadd**

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

Drafter: **rryan**

May Contact:

Addl. Drafters:

Subject: **Health - miscellaneous**

Extra Copies: **DAK**

Submit via email: **YES**

Requester's email: **Sen.Hansen@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Reducing household income by amount of property taxes for purposes of Senior Care eligibility and deductibles

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>
/?				_____			State
/1	rryan 08/04/2003	kfollett 08/05/2003	pgreensl 08/06/2003	_____	lemery 08/06/2003	lnorthro 10/29/2003	

10/29/2003 10:54:53 AM

Page 2

FE Sent For: 08/07/2003.

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<END>

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/?	rryan	1/1 kjb 8/5	8/6 PJ	8/6 Pslch			State
FE Sent For:							

<END>

Kennedy, Debora

From: Wadd, Jay
Sent: Thursday, July 31, 2003 2:58 PM
To: Kennedy, Debora
Subject: DRAFTING REQUEST

Hi, Debora,

In the budget Sen. Lazich included a provision that would have allowed seniors to use payments made on long-term care insurance to meet the spend down requirements for SeniorCare.

Sen. Hansen would like to draft legislation that permits seniors to use their property tax payments toward meeting the spend down requirements.

Additionally, although I'm sure you're busy, we need a draft as soon as possible.

I'll be out of the office on Friday, however, if you leave a message in our office I'll make certain i get back to you tomorrow.

Thanks--

Jay Wadd
Sen. Hansen's Office

Unofficial Text (See Printed Volume). Current through date and Register shown on Title Page.

(5) ELIGIBILITY DETERMINATION PROCESS. (a) *Decision date.*

1. Except as provided in subd. 2., the department shall determine the applicant's eligibility for SeniorCare as soon as possible, but not later than 30 days from the date the department receives a signed application that contains, at a minimum, the name and address of the applicant.

2. If a delay in processing the application occurs because of a delay in securing necessary information, the department shall notify the applicant in writing that there is a delay in processing the application, specify the reason for the delay, and inform the applicant of his or her right under s. HFS 109.17 to appeal the delay.

(b) *Notice of Decision.* 1. Except as provided under subd. 2., the department shall send timely and adequate notice to an applicant or participant to indicate that the applicant's or participant's participation in SeniorCare has been authorized, reduced, denied or terminated. In this paragraph, "timely" means in accordance with 42 CFR 431.211, and "adequate notice" means a written notice that contains a statement of the action taken, the reasons for and specific rules supporting the action, and an explanation of the individual's right to request a hearing under s. HFS 109.17, and the circumstances under which the benefits and services under s. HFS 109.13 will be continued if a hearing is requested.

2. When the department determines a prescription drug billing must be corrected due to an incorrect billing, and that correction results in a change in the benefits and services received under s. HFS 109.13, the timely notice requirements under subd. 1. do not apply.

(c) *Withdrawal of application.* Except as provided in par. (d), an applicant may withdraw a SeniorCare application and request a refund of the enrollment fee in s. HFS 109.16 at any time before the department has made an eligibility determination.

(d) *Withdrawal from program.* 1. Deadline for refund of enrollment fee. An applicant who is notified that he or she is eligible for SeniorCare and who has not received any SeniorCare prescription drug benefit or service described in s. HFS 109.13 may request to withdraw the application and receive a refund of the enrollment fee in s. HFS 109.16 up to the latter of the following:

- a. Ten days following the issuance of the eligibility notice.
- b. Thirty days from the date the application was filed.

2. A recipient may ask to withdraw from the program after the deadline in subd. 1., but will not receive a refund of the enrollment fee.

3. The effective date of a withdrawal under this paragraph will be the date the department issues a notice of decision concerning the withdrawal.

(e) *Applications during program suspensions.* If the department makes the determination under s. 49.688 (7) (b), Stats., to suspend benefits and services for new applicants or the entire program, the department shall continue to process applications and determine eligibility while the suspension is in effect.

(6) REVIEW OF ELIGIBILITY. The department shall redetermine a SeniorCare participant's eligibility any time one of the following conditions is met:

(a) Promptly after the department learns of a change in the person's circumstances that may affect eligibility or indicates the need for redetermination.

(b) Within 12 months after the date the person has been determined to be eligible as part of the annual review conducted under s. HFS 109.14 (7).

(c) At any time the department has a reasonable basis for believing that a participant is no longer eligible for SeniorCare.

(d) When the department learns that the program enrollment fee payment has been returned for non-sufficient funds and the recipient fails to provide the enrollment fee within 10 days of the date the department sends a letter requesting payment.

History: CR 02-154; cr. Register April 2003 No. 568, eff. 5-1-03.

HFS 109.12 Calculation of eligible benefits and services.

Persons the department determines to be eligible for SeniorCare benefits and services under s. HFS 109.11 may be subject to program deductible and spend-down amounts that participants must pay before the participant may receive the full SeniorCare benefits and services for the remainder of a benefit period. Whether and to what extent the deductibles and spend-down amounts under s. HFS 109.13 apply to a given participant depends on the annual income of the participant's fiscal test group. The department shall calculate income for the participant's fiscal test group as follows:

(1) **SENIORCARE FISCAL TEST GROUP.** The SeniorCare fiscal test group shall consist solely of the applicant unless the applicant is residing with a spouse. If the applicant is residing with a spouse, the SeniorCare fiscal test group shall consist of the applicant and the applicant's spouse, unless the spouse is an SSI recipient or the spouses are living together in a nursing home.

(2) **ANNUAL INCOME.** The department shall calculate annual income for SeniorCare applicants as follows:

(a) Income shall be based on a prospective estimate of annual budgetable income under par. (c) for all persons in the SeniorCare fiscal test group.

(b) The annual period used as the basis for the estimate shall be the 12 calendar months beginning with the month in which the SeniorCare application was filed.

(c) Budgetable income shall consist of gross earned and unearned income with the following exceptions:

1. Self-employment income shall be calculated by deducting only estimated business expenses, losses, and depreciation from gross self-employment income.

2. Income from sources exempted under federal law from consideration for Medicaid eligibility will also be exempt for SeniorCare.

History: CR 02-154; cr. Register April 2003 No. 568, eff. 5-1-03.

HFS 109.13 SeniorCare benefits and services.

(1) CONDITIONS FOR RECEIVING SENIORCARE BENEFITS AND SERVICES. A person who meets the eligibility requirements under s. HFS 109.11 (1) may receive SeniorCare benefits or services, subject to the conditions under this section. Except during a period of program suspension under s. 49.688 (7) (b), Stats., SeniorCare benefits and services shall be available only for prescription drugs prescribed for the eligible person and dispensed with a date of service during the eligible person's benefit period.

(2) PRESCRIPTION BENEFIT. (a) *Income category applicability.* A person may receive the prescription benefit in par. (b) under any of the following conditions:

1. The person is a member of a fiscal test group with an annual income less than or equal to 160% of the poverty line for a family the size of the fiscal test group.

2. The person is a member of a fiscal test group with an annual income greater than 160% but not in excess of 240% of the poverty line for a family the size of the fiscal test group and has met the deductible as described in sub. (3) (d) during the current benefit period.

3. The person is a member of a fiscal test group with an annual income greater than 240% of the poverty line for a family the size of the fiscal test group and has met both of the following thresholds during the current benefit period, in the following order:

- a. The spend-down as described in sub. (4) (c).
- b. The deductible as described in sub. (3) (d).

(b) *Copayment.* Except as provided under sub. (3) (e), a person receiving the SeniorCare prescription benefit may purchase prescription drugs from participating SeniorCare providers for one of the following copayment amounts:

1. A copayment of \$5 for each prescription drug that bears only a generic name.

Plc to Jay Wadd 8/31/13

03-3048

- (1) Is OK to treat property tax paid as a reduction to income vs. as spend-down (since DHS can't track prop tax payments as currently tracks drug purchases for Sen-Care)
- (2) DHS rules: income calculated prospectively
How should DHS calculate prop tax reduction?
use previous yr. taxes
- (3) Want to adjust income for prop. tax for determining deductible?
Yes



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-30482

RLR: [Signature]

Wanted Soon

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

CPS: Please fix request sheet

Note

Gen [Signature]

- 1 AN ACT ...; relating to: treating property taxes as a deduction to annual
- 2 household income for purposes of determining eligibility and deductible
- 3 amounts under the prescription drug assistance program for the elderly.

Analysis by the Legislative Reference Bureau

Under current law, elderly persons may purchase prescription drugs at reduced amounts under a program commonly known as "Senior Care." A person is eligible for Senior Care if he or she is a state resident, is at least 65 years of age, is not a medical assistance (MA) recipient or does not receive prescription drug coverage as an MA recipient, and his or her annual household income, as determined by the Department of Health and Family Services (DHFS), does not exceed 240% of the federal poverty line. A person must pay an annual \$30 fee to enroll in Senior Care. An enrollee pays the "program payment rate" for prescription drugs (105% of the MA prescription drug payment rate plus a dispensing fee) until the enrollee has met an annual deductible, if applicable, and thereafter pays only a copayment of \$5 for generic prescription drugs and a copayment of \$15 for nongeneric prescription drugs. A person whose annual household income is 160% or less of the federal poverty line pays no deductible; if the person's annual household income is more than 160% but not more than 200% of the federal poverty line, the deductible is \$500; and if the person's annual household income exceeds 200% of the federal poverty line, the deductible is \$850. Other persons who meet all of the requirements except the income limitation are also eligible to purchase prescription drugs for the \$5 and \$15 copayment amounts for the time remaining in a 12-month period after spending the difference between their annual household income and 240% of the federal poverty

line by paying for prescription drugs at the retail price and satisfying the \$850 deductible by purchasing prescription drugs at the program payment rate.

This bill requires that in determining a person's annual household income for purposes of Senior Care eligibility, DHFS must deduct the amount that the person paid in property taxes on his or her primary residence in the previous 12 months. DHFS must also use the annual household income adjusted for property taxes to determine the appropriate deductible amount for persons who are enrolled in Senior Care.

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. 49.688 (4^r) of the statutes is created to read:

2 49.688 (4^r) In determining a person's annual household income under sub. (2)
3 (a) 4. and (b) for purposes of determining eligibility for prescription drug assistance
4 and under sub. (3) (b) 1. and 2. a. for purposes of establishing the required deductible
5 amount, the department shall deduct the amount of property taxes that the person
6 or any member of his or her household paid on the person's primary residence in the
7 12-month period before the department makes an eligibility determination under
8 sub. (4).

9 SECTION 2. Initial applicability.

10 (1) DEDUCTIBLE. The treatment of section ~~49.688 (3) (b) 1 and 2~~ ^{49.688(4r)} of the
11 statutes first applies to deductible amounts paid on the effective date of this
12 subsection.

13 SECTION 3. Effective date.

14 (1) This act takes effect on the first day of the 2nd month beginning after
15 publication.

16 (END)

O-Note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3048/1dn

RLR: *kif*

August 4, 2003

Jay Wadd:

the

second

This bill is effective on the first day of the *2nd* month beginning after publication of the bill as an act. DHFS will have to recalculate the required deductibles for people who are already enrolled on the effective date. The change in the deductible first applies to deductible amounts paid on effective date of the bill. This means that if an enrollee's deductible is decreased as a result of the bill and the enrollee has already paid more than the revised deductible but less than his or her current deductible, the person will not receive a refund. Please let me know if you would like the bill changed so that DHFS must pay refunds in those cases in which an enrollee's deductible is decreased and the person has already paid more than the revised deductible.

X
X

Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3048/1dn
RLR:kjf:pg

August 5, 2003

Jay Wadd:

This bill is effective on the first day of the second month beginning after publication of the bill as an act. DHFS will have to recalculate the required deductibles for people who are already enrolled on the effective date. The change in the deductible first applies to deductible amounts paid on the effective date of the bill. This means that if an enrollee's deductible is decreased as a result of the bill and the enrollee has already paid more than the revised deductible but less than his or her current deductible, the person will not receive a refund. Please let me know if you would like the bill changed so that DHFS must pay refunds in those cases in which an enrollee's deductible is decreased and the person has already paid more than the revised deductible.

Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.state.wi.us

Northrop, Lori

From: Wagnitz, John
Sent: Wednesday, October 29, 2003 10:44 AM
To: LRB.Legal
Subject: Draft review: LRB 03-3048/1 Topic: Reducing household income by amount of property taxes for purposes of Senior Care eligibility and deductibles

It has been requested by <Wagnitz, John> that the following draft be jacketed for the SENATE:

Draft review: LRB 03-3048/1 Topic: Reducing household income by amount of property taxes for purposes of Senior Care eligibility and deductibles