

### 2003 DRAFTING REQUEST

#### Bill

Received: **01/25/2003**

Received By: **pkahler**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget 7-9546**

By/Representing: **Jablonsky**

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

Drafter: **pkahler**

May Contact:

Addl. Drafters:

Subject: **Insurance - miscellaneous  
Public Assistance - med. assist.  
Public Assistance - misc**

Extra Copies: **DAK**

Submit via email: **NO**

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#### Pre Topic:

DOA:.....Jablonsky - BB0440,

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#### Topic:

Transfer from patient's compensation fund to new segregated fund

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#### Instructions:

See Attached

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#### 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>
/?	pkahler 01/29/2003	kgilfoy 01/29/2003		_____			State
/P1			rschluet 01/30/2003	_____	lemery 01/30/2003		State
/P2	pkahler 01/31/2003	chanaman 01/31/2003	rschluet 01/31/2003	_____	lemery 01/31/2003		State
/1	pkahler 02/04/2003	kgilfoy 02/04/2003	rschluet 02/04/2003	_____	sbasford 02/04/2003		State
/2	pkahler	wjackson	chaskett	_____	amentkow		State

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	02/05/2003 pkahler 02/06/2003	02/05/2003 kgilfoy 02/06/2003	02/05/2003	_____ _____ _____	02/05/2003		
/3			pgreensl 02/06/2003	_____ _____	mbarman 02/06/2003		State
/4	pkahler 02/10/2003	wjackson 02/10/2003	pgreensl 02/10/2003	_____ _____	amentkow 02/10/2003		

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1/3 - 2/6  
KMG

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12 W/LJ 2/5      1/2 cph 2/5

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1-2/4/03  
kmj

DD CPH  
2-4-3

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Table with columns: Vers., Drafted, Reviewed, Typed, Proofed, Submitted, Jacketed, Required. Includes entries for pkahler, kgilfoy, rschluet, lemery with dates and handwritten notes.

FE Sent For:

Handwritten notes: cmh, 1/31, R2

Handwritten signature and stamp: <END>, -3-3

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1?	pkahler	1/11-1/29 King	 1-29-3				

FE Sent For:

PG

<END>

1755

# Patient Compensation

## STATE OF WISCONSIN Fund



Department of Administration  
Division of Executive Budget and Finance  
101 East Wilson Street, 10th Floor  
P.O. Box 7864  
Madison, WI 53707-7864

Insurance 145

Date: 1/24/83  
To: Steve Miller  
From: Sue Jablonsky 7-9546  
BBB <sup>440</sup> ~~426~~

**Subject:**

I need a new SE6 fund at OCI titled as described in attached [which Pam has already] to transfer \$200 million from the Patients Compensation Fund to the new fund for the purposes explained in the attached.

I also need a GAR sum sufficient in OCI that would cover PCF claims in excess of amounts remaining in the PCF

## Provider Availability and Cost Containment Strategy

### Assumptions:

The need to balance the FY 04-05 budget is likely to require a reduction in Medicaid and BadgerCare reimbursement rates and payments to health care providers of approximately \$200 million.

- This large reduction, on top of Medicaid and BadgerCare program cuts already proposed by DHFS and the Budget Office, and under consideration by the Governor, is likely to have significant adverse consequences on provider availability and costs.

### Availability Consequences:

--Reduced Medicaid and BadgerCare provider reimbursement will discourage providers of all types—doctors, hospitals, and nursing homes—from participating in these publicly-funded health care programs. Patients will have access to fewer providers at fewer locations.

### Cost Consequences:

--Reduced Medicaid and BadgerCare provider reimbursement, by depressing the number of providers willing to provide health care services to low-income persons enrolled in publicly-funded health care programs, is likely to drive up the prices charged by the remaining providers who are willing to serve this population. As in any other sector of the economy, the smaller the number of vendors, the higher the prices the remaining vendors are likely to charge.

--In addition, the reduction in Medicaid and BadgerCare provider reimbursement will put pressure on many providers—both those who continue to serve the Medicaid and BadgerCare populations at lower reimbursement rates, and those who've dropped out of these publicly-funded health care program in response to lower rates and payments—to shift costs, in order to maintain their revenue, to private-sector insurers and employers.

- Maintaining the availability of health care providers, and lowering the growth of health care costs, are the underlying purposes of Chapter 655, the "Health Care Liability and Patients Compensation" provisions of the Wisconsin statutes, and in particular Subchapter IV, Sec. 655.27, which created and defines the operation of the Patients Compensation Fund. It is to these core purposes of Chapter 655 that Sec. 655.27 (6) refers when it speaks of the purpose of the Patients Compensation fund. ("The fund shall be held in trust for the purposes of this chapter and many not be used for purposes other than those of this chapter.") These purposes of Chapter 655 are articulated in Patients Compensation Fund v. Lutheran Hospital, 223 Wis. 2d 439, 588 N.W. 2d 35, 42 (1999) when it defined the purposes of Chapter 655 as being: "to help limit 'the increasing costs and possible decrease in availability of health care in Wisconsin.'" See, also, the Patients Compensation case, 588 N.W. 2d at 40 ("to curb the rising costs of health care") and Sate ex rel Strykowski v. Wilkie, 81 Wis. 2d 491, 261 N.W. 2d 433, 442 (1978) ("[to address] increased health care costs").
- In its effort to maintain the availability of health care providers and lower the growth of health care costs, the two core purposes of Chapter 655, the Patients Compensation Fund has built up a reserve of \$500 million. This sizeable amount far exceeds—in light of Wisconsin's tough medical malpractice laws—the potential future claims on the Fund. The fund, which

continues to collect approximately \$26 million from providers in annual fees, has paid out an average of only \$18 million in claims.

- Offsetting the very large but necessary reductions in Medicaid and BadgerCare provider reimbursement rates and payments that the FY 03—05 budget will otherwise be required to include in order to balance the budget, by paying for a portion of Medicaid and BadgerCare "state match" funding from the part of the Patient's Compensation Fund reserve not needed to meet that Fund's anticipated liabilities, is an appropriate vehicle for achieving the twin purposes of Chapter 655. By keeping Medicaid and BadgerCare in a fiscally strong position that enables the two programs to continue to provide access to health care to low-income persons, and that encourages providers to refrain from pushing providers to raise their charges either to the two programs or (via "shifting") to private employers, the transfer of the unneeded portion of the Fund's reserves helps accomplish Chapter 655's goals of maintaining the availability of health care providers and lowering the growth of health care costs.

#### Proposal

Offset the \$200 million GPR reduction in Medicaid and BadgerCare reimbursement rates and payments to health care providers by transferring \$200 million from the Patient Compensation Fund's excess reserve.

This transfer will:

- Enable Medicaid and BadgerCare to avoid curtailing enrollment and benefits, and avoid putting additional pressure on provider to raise their costs to both government and private providers.
- Leave the Patients Compensation Fund with a very healthy remaining reserve of \$300 million that, together with continuing annual assessments from providers of \$26 million, will still leave the Fund with a balance that remains far greater than the \$18 million in claims the Fund has paid out in recent years.

#### Mechanism

- (1) Establish a new Provider Availability and Cost Containment Fund.
- (2) Transfer \$200 from the Patient Compensation Fund to the Provider Availability and Cost Containment Fund.
- (3) Offset \$175 million of a proposed additional GPR cut to Medicaid and \$25 million of a proposed additional GPR cut to BadgerCare with corresponding transfers to Medicaid and BadgerCare from the Provider Availability and Cost Containment Fund.

#### Alternatives:

In lieu of or in addition, funds transferred to the Provider Availability and Cost Containment Fund could be utilized to help pay for:

- The GPR component of HIRSP
- A modest (\$100,000-200,000 grant to the Wisconsin Patient Safety Institute for the purpose of continuing its work on improving patient safety (which, by helping keep provider health insurance premiums in check, results in both improved access to providers and lower health care costs...again, the core purposes of Chapter 655.

**Kahler, Pam**

---

**From:** Jablonsky, Sue  
**Sent:** Tuesday, January 28, 2003 4:42 PM  
**To:** Kahler, Pam  
**Subject:** RE: New seg fund

Yep as I thought, leave it all in MA and nothing for BadgerCare

-----Original Message-----

**From:** Kahler, Pam  
**Sent:** Tuesday, January 28, 2003 3:21 PM  
**To:** Jablonsky, Sue  
**Subject:** RE: New seg fund

Okay - I won't put any towards BadgerCare, then, unless you tell me differently.

-----Original Message-----

**From:** Jablonsky, Sue  
**Sent:** Tuesday, January 28, 2003 2:19 PM  
**To:** Kahler, Pam  
**Subject:** RE: New seg fund

We decided to put the whole \$200 mn into MA and it should just be MA benefits--not the transfers

-----Original Message-----

**From:** Kahler, Pam  
**Sent:** Tuesday, January 28, 2003 11:50 AM  
**To:** Jablonsky, Sue  
**Subject:** New seg fund

Sue:

For the \$175,000,000 from the new seg fund that will go for MA, which of the purposes under s. 20.435 (4) (b) do you want included? Everything, including the transfers? Just s. 49.45? More than s. 49.45 but not all?  
Thanks.

Pam





State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-1755/5

PJK: King

PI

DOA:.....Jablonsky - BB0440, Transfer from patient's compensation fund to new segregated fund

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

SOON  
(1-29)  
D-note

do not generate

1 AN ACT ...; relating to: the budget.

*Analysis by the Legislative Reference Bureau*

**INSURANCE**

Under current law, certain health care providers are required to carry health care liability insurance with liability limits of at least \$1,000,000 for each occurrence and at least \$3,000,000 for all occurrences in a policy year. Any portion of a medical malpractice claim against a health care provider ~~that~~ subject to the health care liability insurance requirements that exceeds the policy limits of the health care provider's health care liability insurance is paid by the patients compensation fund. Money for the fund comes from annual assessments paid by the health care providers subject to the health care liability insurance requirements.

✓ This bill transfers \$200,000,000 from the patients compensation fund to the provider availability and cost containment fund, which is a segregated fund created in the bill, and creates a general purpose revenue sum sufficient appropriation to cover payment of any medical malpractice claim that exceeds the moneys remaining in the patients compensation fund. Moneys in the provider availability and cost containment fund are used for benefits under the Medical Assistance program, which is administered by DHFS, which, among other things, provides health care benefits to low-income persons, and which is funded by a combination of state and federal funds. Use of the provider availability and cost containment fund for the Medical Assistance program allows it to be operated with less general purpose revenue.

(S)

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. 20.145 (2) (a) of the statutes is created to read:

2 20.145 (2) (a) *Claims payable by patients compensation fund.* A sum sufficient  
3 for paying any portion of a claim for damages arising out of the rendering of health  
4 care services that the patients compensation fund under s. 655.27<sup>✓</sup> is required to pay  
5 under ch. 655 but that the patients compensation fund is unable to pay because of  
6 insufficient moneys.

\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

7 SECTION 2. 20.435 (4) (b) of the statutes is amended to read:

8 20.435 (4) (b) <sup>Plain</sup> ~~Medical assistance~~ ~~Medical~~ Assistance program benefits.

9 Biennially, the amounts in the schedule to provide a portion of the state share of  
10 ~~medical assistance~~ Medical Assistance program benefits administered under s.  
11 49.45, to provide ~~medical assistance~~ Medical Assistance program benefits  
12 administered under s. 49.45 that are not also provided under par. (o), to fund the pilot  
13 project under s. 46.27 (9) and (10), to provide the facility payments under 1999  
14 Wisconsin Act 9, section 9123 (9m), to fund services provided by resource centers  
15 under s. 46.283, and for services under the family care benefit under s. 46.284 (5).  
16 Notwithstanding s. 20.002 (1), the department may transfer from this appropriation  
17 account to the appropriation account under sub. (7) (kb) funds in the amount of and<sup>✓</sup>  
18 for the purposes specified in s. 46.485. Notwithstanding ss. 20.001 (3) (b) and 20.002  
19 (1), the department may credit or deposit into this appropriation account and may  
20 transfer between fiscal years funds that it transfers from the appropriation account

1 under sub. (7) (kb) for the purposes specified in s. 46.485 (3r). Notwithstanding s.  
2 20.002 (1), the department may transfer from this appropriation account to the  
3 appropriation account ~~accounts~~ under sub. (7) (bd) funds in the amount and for the  
4 purposes specified in s. 49.45 (6v).

**History:** 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (g); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293; 1999 a. 5, 9, 32, 52, 84, 103, 109, 113, 133, 185, 186; 2001 a. 16, 69, 103, 105.

\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

5 SECTION 3. 20.435 (4) (r) of the statutes is created to read:

6 20.435 (4) (r) *Medical Assistance program*. From the provider availability and  
7 cost containment fund, as a continuing appropriation, the amounts in the schedule  
8 to provide a portion of the state share of Medical Assistance program benefits  
9 administered under s. 49.45, to provide Medical Assistance program benefits  
10 administered under s. 49.45 that are not also provided under par. (o), to fund the pilot  
11 project under s. 46.27 (9) and (10), to provide the facility payments under 1999  
12 Wisconsin Act 9, section 9123 (9m), to fund services provided by resource centers  
13 under s. 46.283, and for services under the family care benefit under s. 46.284 (5).

\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

14 SECTION 4. 25.17 (1) (ky) of the statutes is created to read:

15 25.17 (1) (ky) Provider availability and cost containment fund (s. 25.56);

16 SECTION 5. 25.56 of the statutes is created to read:

17 25.56 **Provider availability and cost containment fund**. There is created  
18 a separate nonlapsible trust fund designated as the provider availability and cost  
19 containment fund, consisting of the moneys transferred from the patients  
20 compensation fund under 2003 Wisconsin Act ... (this act), section 9228 (1).

auto ref "KA"  
(see p. 12)

1           **SECTION 6.** 46.27 (9) (a) of the statutes is amended to read:

2           46.27 (9) (a) The department may select up to 5 counties that volunteer to  
3 participate in a pilot project under which they will receive certain funds allocated for  
4 long-term care. The department shall allocate a level of funds to these counties  
5 equal to the amount that would otherwise be paid under s. 20.435 (4) (b), (r), or (w) <sup>score</sup>  
6 to nursing homes for providing care because of increased utilization of nursing home  
7 services, as estimated by the department. In estimating these levels, the department  
8 shall exclude any increased utilization of services provided by state centers for the  
9 developmentally disabled. The department shall calculate these amounts on a  
10 calendar year basis under sub. (10).

History: 1981 c. 20; 1983 a. 27; 1983 a. 189 s. 329 (5); 1983 a. 192, 239; 1985 a. 29 ss. 876s to 896am, 3200 (56); 1985 a. 120, 176; 1987 a. 27, 399; 1989 a. 31, 77, 336, 359; 1991 a. 32, 39, 235, 274; 1993 a. 16, 27, 437; 1995 a. 27; 1997 a. 13, 27, 39, 79, 237; 1999 a. 9, 63; 2001 a. 16, 103.

11           **SECTION 7.** 46.27 (10) (a) 1. of the statutes is amended to read:

12           46.27 (10) (a) 1. The department shall determine for each county participating  
13 in the pilot project under sub. (9) a funding level of state medical assistance  
14 expenditures to be received by the county. This level shall equal the amount that the  
15 department determines would otherwise be paid under s. 20.435 (4) (b), (r), or (w)  
16 because of increased utilization of nursing home services, as estimated by the  
17 department.

History: 1981 c. 20; 1983 a. 27; 1983 a. 189 s. 329 (5); 1983 a. 192, 239; 1985 a. 29 ss. 876s to 896am, 3200 (56); 1985 a. 120, 176; 1987 a. 27, 399; 1989 a. 31, 77, 336, 359; 1991 a. 32, 39, 235, 274; 1993 a. 16, 27, 437; 1995 a. 27; 1997 a. 13, 27, 39, 79, 237; 1999 a. 9, 63; 2001 a. 16, 103.

18           **SECTION 8.** 46.275 (5) (a) of the statutes is amended to read:

19           46.275 (5) (a) Medical assistance reimbursement for services a county, or the  
20 department under sub. (3r), provides under this program is available from the  
21 appropriations under s. 20.435 (4) (b), (o), (r), and (w). If 2 or more counties jointly  
22 contract to provide services under this program and the department approves the

1 contract, medical assistance reimbursement is also available for services provided  
2 jointly by these counties.

History: 1983 a. 27; 1985 a. 29 ss. 896b to 896L, 3202 (23); 1985 a. 120, 176; 1987 a. 27; 1987 a. 161 s. 13m; 1987 a. 186; 1989 a. 31; 1993 a. 16; 1995 a. 27, 77; 1997 a. 27, 114; 1999 a. 9; 2001 a. 16.

3 **SECTION 9.** 46.275 (5) (c) of the statutes is amended to read:

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

History: 1983 a. 27; 1985 a. 29 ss. 896b to 896L, 3202 (23); 1985 a. 120, 176; 1987 a. 27; 1987 a. 161 s. 13m; 1987 a. 186; 1989 a. 31; 1993 a. 16; 1995 a. 27, 77; 1997 a. 27, 114; 1999 a. 9; 2001 a. 16.

11 **SECTION 10.** 46.278 (6) (d) of the statutes is amended to read:

12 46.278 (6) (d) If a county makes available nonfederal funds equal to the state  
13 share of service costs under a waiver received under sub. (3), the department may,  
14 from the appropriation under s. 20.435 (4) (o), provide reimbursement for services  
15 that the county provides under this section to persons who are in addition to those  
16 who may be served under this section with funds from the appropriation under s.  
17 20.435 (4) (b), (r), or (w).

History: 1987 a. 27, 186; 1989 a. 31; 1991 a. 269; 1993 a. 16; 1995 a. 27; 1997 a. 27; 1999 a. 9; 2001 a. 16.

18 **SECTION 11.** 46.283 (5) of the statutes is amended to read:

19 46.283 (5) FUNDING. From the appropriation accounts under s. 20.435 (4) (b),  
20 (bm), (pa), (r), and (w) and (7) (b), (bd), and (md), the department may contract with  
21 organizations that meet standards under sub. (3) for performance of the duties under  
22 sub. (4) and shall distribute funds for services provided by resource centers.

History: 1999 a. 9; 2001 a. 16, 103.

23 **SECTION 12.** 46.284 (5) (a) of the statutes is amended to read:

1           46.284 (5) (a) From the appropriation accounts under s. 20.435 (4) (b), (g), (im),  
2           (o), (r), and (w) and (7) (b) and (bd), the department shall provide funding on a  
3           capitated payment basis for the provision of services under this section.  
4           Notwithstanding s. 46.036 (3) and (5m), a care management organization that is  
5           under contract with the department may expend the funds, consistent with this  
6           section, including providing payment, on a capitated basis, to providers of services  
7           under the family care benefit.

History: 1999 a. 9; 2001 a. 16, 103.

8           **SECTION 13.** 49.45 (2) (a) 17. of the statutes is amended to read:

9           49.45 (2) (a) 17. Notify the governor, the joint committee on legislative  
10          organization, the joint committee on finance, and appropriate standing committees,  
11          as determined by the presiding officer of each house, if the ~~appropriation~~  
12          appropriations under s. 20.435 (4) (b) ~~is~~ and (r) are insufficient to provide the state  
13          share of medical assistance.

History: 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106j, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38, 57, 67, 104, 109.

14          **SECTION 14.** 49.45 (5m) (am) of the statutes is amended to read:

15          49.45 (5m) (am) Notwithstanding sub. (3) (e), from the appropriations under  
16          s. 20.435 (4) (b), (o), (r), and (w), the department shall distribute not more than  
17          \$2,256,000 in each fiscal year, to provide supplemental funds to rural hospitals that,  
18          as determined by the department, have high utilization of inpatient services by  
19          patients whose care is provided from governmental sources, and to provide  
20          supplemental funds to critical access hospitals, except that the department may not

1 distribute funds to a rural hospital or to a critical access hospital to the extent that  
2 the distribution would exceed any limitation under 42 USC 1396b (i) (3).

**History:** 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106j, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38, 57, 67, 104, 109.

3 **SECTION 15. 49.45 (6m) (ag) (intro.)** of the statutes is amended to read:

4 **49.45 (6m) (ag) (intro.)** Payment for care provided in a facility under this  
5 subsection made under s. 20.435 (4) (b), (pa), (o), (r), (w), or (wm) shall, except as  
6 provided in pars. (bg), (bm), and (br), be determined according to a prospective  
7 payment system updated annually by the department. The payment system shall  
8 implement standards that are necessary and proper for providing patient care and  
9 that meet quality and safety standards established under subch. II of ch. 50 and ch.  
10 150. The payment system shall reflect all of the following:

**History:** 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106j, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38, 57, 67, 104, 109.

11 **SECTION 16. 49.45 (6v) (b)** of the statutes is amended to read:

12 **49.45 (6v) (b)** The department shall, each year, submit to the joint committee  
13 on finance a report for the previous fiscal year, except for the 1997–98 fiscal year, that  
14 provides information on the utilization of beds by recipients of medical assistance in  
15 facilities and a discussion and detailed projection of the likely balances,  
16 expenditures, encumbrances and carry over of currently appropriated amounts in  
17 the appropriation accounts under s. 20.435 (4) (b) and, (o), and (r).

**History:** 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106j, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38, 57, 67, 104, 109.

18 **SECTION 17. 49.45 (6x) (a)** of the statutes is amended to read:

1           49.45 (6x) (a) Notwithstanding sub. (3) (e), from the appropriations under s.  
2           20.435 (4) (b), (o), (r), and (w), the department shall distribute not more than  
3           \$4,748,000 in each fiscal year, to provide funds to an essential access city hospital,  
4           except that the department may not allocate funds to an essential access city hospital  
5           to the extent that the allocation would exceed any limitation under 42 USC 1396b  
6           (i) (3).

History: 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106j, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38, 57, 67, 104, 109.

7           **SECTION 18.** 49.45 (6y) (a) of the statutes is amended to read:

8           49.45 (6y) (a) Notwithstanding sub. (3) (e), from the appropriations under s.  
9           20.435 (4) (b), (o), (r), and (w), the department shall distribute funding in each fiscal  
10          year to provide supplemental payment to hospitals that enter into a contract under  
11          s. 49.02 (2) to provide health care services funded by a relief block grant, as  
12          determined by the department, for hospital services that are not in excess of the  
13          hospitals' customary charges for the services, as limited under 42 USC 1396b (i) (3).  
14          If no relief block grant is awarded under this chapter or if the allocation of funds to  
15          such hospitals would exceed any limitation under 42 USC 1396b (i) (3), the  
16          department may distribute funds to hospitals that have not entered into a contract  
17          under s. 49.02 (2).

History: 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106j, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38, 57, 67, 104, 109.

18          **SECTION 19.** 49.45 (6y) (am) of the statutes is amended to read:

19          49.45 (6y) (am) Notwithstanding sub. (3) (e), from the appropriations under s.  
20          20.435 (4) (b), (h), (o), (r), and (w), the department shall distribute funding in each  
21          fiscal year to provide supplemental payments to hospitals that enter into contracts



1 under s. 49.02 (2) with a county having a population of 500,000 or more to provide  
2 health care services funded by a relief block grant, as determined by the department,  
3 for hospital services that are not in excess of the hospitals' customary charges for the  
4 services, as limited under 42 USC 1396b (i) (3).

**History:** 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106j, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38, 57, 67, 104, 109.

5 **SECTION 20. 49.45 (6z) (a) (intro.)** of the statutes is amended to read:

6 **49.45 (6z) (a) (intro.)** Notwithstanding sub. (3) (e), from the appropriations  
7 under s. 20.435 (4) (b), (o), (r), and (w), the department shall distribute funding in  
8 each fiscal year to supplement payment for services to hospitals that enter into a  
9 contract under s. 49.02 (2) to provide health care services funded by a relief block  
10 grant under this chapter, if the department determines that the hospitals serve a  
11 disproportionate number of low-income patients with special needs. If no medical  
12 relief block grant under this chapter is awarded or if the allocation of funds to such  
13 hospitals would exceed any limitation under 42 USC 1396b (i) (3), the department  
14 may distribute funds to hospitals that have not entered into a contract under s. 49.02  
15 (2). The department may not distribute funds under this subsection to the extent  
16 that the distribution would do any of the following:

**History:** 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106j, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38, 57, 67, 104, 109.

17 **SECTION 21. 49.45 (8) (b)** of the statutes is amended to read:

18 **49.45 (8) (b)** Reimbursement under s. 20.435 (4) (b), (o), (r), and (w) for home  
19 health services provided by a certified home health agency or independent nurse  
20 shall be made at the home health agency's or nurse's usual and customary fee per

1 patient care visit, subject to a maximum allowable fee per patient care visit that is  
2 established under par. (c).

**History:** 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106i, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38, 57, 67, 104, 109.

3 **SECTION 22. 49.45 (24m) (intro.)** of the statutes is amended to read:

4 **49.45 (24m) HOME HEALTH CARE AND PERSONAL CARE PILOT PROGRAM. (intro.)**  
5 From the appropriations under s. 20.435 (4) (b), (o), (r), and (w), in order to test the  
6 feasibility of instituting a system of reimbursement for providers of home health care  
7 and personal care services for medical assistance recipients that is based on  
8 competitive bidding, the department shall:

**History:** 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106i, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38, 57, 67, 104, 109.

9 **SECTION 23. 49.472 (6) (a)** of the statutes is amended to read:

10 **49.472 (6) (a)** Notwithstanding sub. (4) (a) 3., from the appropriation under s.  
11 20.435 (4) (b), (r), or (w), the department shall, on the part of an individual who is  
12 eligible for medical assistance under sub. (3), pay premiums for or purchase  
13 individual coverage offered by the individual's employer if the department  
14 determines that paying the premiums for or purchasing the coverage will not be more  
15 costly than providing medical assistance.

**History:** 1999 a. 9, 185; 2001 a. 16.

16 **SECTION 24. 49.472 (6) (b)** of the statutes is amended to read:

17 **49.472 (6) (b)** If federal financial participation is available, from the  
18 appropriation under s. 20.435 (4) (b), (r), or (w), the department may pay medicare  
19 Part A and Part B premiums for individuals who are eligible for medicare and for  
20 medical assistance under sub. (3).

**History:** 1999 a. 9, 185; 2001 a. 16.

1           **SECTION 25.** 49.473 (5) of the statutes is amended to read:

2           49.473 (5) The department shall audit and pay, from the appropriation  
3 accounts under s. 20.435 (4) (b) ~~and~~, (o), and (r), allowable charges to a provider who  
4 is certified under s. 49.45 (2) (a) 11. for medical assistance on behalf of a woman who  
5 meets the requirements under sub. (2) for all benefits and services specified under  
6 s. 49.46 (2).

History: 2001 a. 16, 104.

7           **SECTION 26.** 655.26 (2) of the statutes is amended to read:

8           655.26 (2) By the 15th day of each month, the board of governors shall report  
9 the information specified in sub. (1) to the medical examining board for each claim  
10 paid by the fund or from the appropriation under s. 20.145 (2) (a) during the previous  
11 month for damages arising out of the rendering of health care services by a health  
12 care provider or an employee of a health care provider.

History: 1985 a. 29, 340; 1989 a. 187; 1991 a. 214.

13           **SECTION 27.** 655.27 (3) (am) of the statutes is amended to read:

14           655.27 (3) (am) *Assessments for peer review council.* The fund, a mandatory  
15 health care liability risk-sharing plan established under s. 619.04, and a private  
16 health care liability insurer shall be assessed, as appropriate, fees sufficient to cover  
17 the costs of the patients compensation fund peer review council, including costs of  
18 administration, for reviewing claims paid by the fund <sup>J ← strike</sup> or from the appropriation  
19 under s. 20.145 (2) (a), by the plan, and by the insurer, respectively, under s. 655.275  
20 (5). The fees shall be set by the commissioner by rule, after approval by the board  
21 of governors, and shall be collected by the commissioner for deposit in the fund. The  
22 costs of the patients compensation fund peer review council shall be funded from the  
23 appropriation under s. 20.145 (2) (um).

History: 1975 c. 37, 79, 199; 1977 c. 29, 131; 1979 c. 34, 194; 1981 c. 20; 1983 a. 27, 158; 1985 a. 340; 1987 a. 27, 186, 247, 399; 1989 a. 102, 187, 332; 1991 a. 214, 315; 1993 a. 473; 1995 a. 10; 2001 a. 65.

1 SECTION 28. 655.27 (4) (a) of the statutes is amended to read:

2 655.27 (4) (a) Moneys shall be withdrawn from the fund, or paid from the  
3 appropriation under s. 20.145 (2) (a), by the commissioner only upon vouchers  
4 approved and authorized by the board of governors.

History: 1975 c. 37, 79, 199; 1977 c. 29, 131; 1979 c. 34, 194; 1981 c. 20; 1983 a. 27, 158; 1985 a. 340; 1987 a. 27, 186, 247, 399; 1989 a. 102, 187, 332; 1991 a. 214, 315; 1993 a. 473; 1995 a. 10; 2001 a. 65.

5 SECTION 29. 655.27 (5) (e) of the statutes is amended to read:

6 655.27 (5) (e) Claims filed against the fund shall be paid in the order received  
7 within 90 days after filing unless appealed by the fund. If the amounts in the fund  
8 are not sufficient to pay all of the claims, claims received after the funds are  
9 exhausted shall be ~~immediately payable the following year in the order in which they~~  
10 ~~were received~~ paid from the appropriation under s. 20.145 (2) (a).

History: 1975 c. 37, 79, 199; 1977 c. 29, 131; 1979 c. 34, 194; 1981 c. 20; 1983 a. 27, 158; 1985 a. 340; 1987 a. 27, 186, 247, 399; 1989 a. 102, 187, 332; 1991 a. 214, 315; 1993 a. 473; 1995 a. 10; 2001 a. 65.

11 SECTION 30. 655.275 (5) (a) (intro.) of the statutes is amended to read:

12 655.275 (5) (a) (intro.) The council shall review, within one year of the date of  
13 first payment on the claim, each claim that is paid by the fund <sup>5</sup> ~~or from the~~ *← strike*  
14 appropriation under s. 20.145 (2) (a), by a mandatory health care liability  
15 risk-sharing plan established under s. 619.04, by a private health care liability  
16 insurer, or by a self-insurer for damages arising out of the rendering of medical care  
17 by a health care provider or an employee of the health care provider and shall make  
18 recommendations to all of the following:

History: 1985 a. 340; 1989 a. 187; 1991 a. 214, 315; 1999 a. 9.

19 **SECTION 9228. Appropriation changes; insurance.**

20 *auto* *net* (1) PATIENTS COMPENSATION FUND TRANSFER. There is transferred from the  
21 patients compensation fund to the provider availability and cost containment fund  
22 \$200,000,000 in fiscal year 2003-04.

23 (END)

*D-note*

DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1755/Edn

PJK:.....

PI  
*[Handwritten signature]*

*those  
to sections  
in chs. 46 and 49*

Sue:

1. I'm not sure of the fiscal significance of adding the appropriation under s. 20.435 (4) (r) to some of the sections in chs. 46 and 49 (in this draft). I followed Debora Kennedy's lead on adding the new MA appropriation ~~there~~. She has a couple of budget drafts that do something similar to what is being done in this draft.

2. Even though s. 655.27 (6) prohibits the patients compensation fund from being used for any purpose other than those of ch. 655, I did not include language in this draft that "notwithstands" that subsection. I know that the argument for transferring moneys out of the fund to be used for Medical Assistance is that this use is one of the purposes of ch. 655. The memo detailing that argument will be in the drafting file. Although I may not necessarily agree that this use is one of the purposes of ch. 655, I certainly can't be sure that a court would not agree. Therefore, I will not jeopardize the argument, should it ever need to be made, or impose my own view of its legitimacy by notwithstanding s. 655.27 (6) in this draft.

*proposed*

*create a new MA appropriation and*

Pamela J. Kahler  
Senior Legislative Attorney  
Phone: (608) 266-2682  
E-mail: pam.kahler@legis.state.wi.us

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

LRB-1755/P1dn  
PJK:kmg:rs

January 29, 2003

Sue:

1. I'm not sure of the fiscal significance of adding the appropriation under proposed s. 20.435 (4) (r) to some of the sections in chs. 46 and 49 (in this draft). I followed Debora Kennedy's lead on adding the new MA appropriation to those sections. She has a couple of budget drafts that create a new MA appropriation and do something similar to what is being done in this draft.

2. Even though s. 655.27 (6) prohibits the patients compensation fund from being used for any purpose other than those of ch. 655, I did not include language in this draft that "notwithstands" that subsection. I know that the argument for transferring moneys out of the fund to be used for Medical Assistance is that this use is one of the purposes of ch. 655. The memo detailing that argument will be in the drafting file. Although I may not necessarily agree that this use is one of the purposes of ch. 655, I certainly can't be sure that a court would not agree. Therefore, I will not jeopardize the argument, should it ever need to be made, or impose my own view of its legitimacy by notwithstanding s. 655.27 (6) in this draft.

Pamela J. Kahler  
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Phone: (608) 266-2682  
E-mail: pam.kahler@legis.state.wi.us

Riemer, David

To: Johnston, James  
Cc: Schmiedicke, David  
Subject: Patient Comp Fund Language

Jim--

I don't know where we stand with LRB in terms of drafting the amendments to Ch. 655 necessary to move money from the Patient Compensation Fund to Medicaid. I would like to look carefully at this language, to make sure it accomplishes the purpose and minimizes legal risk.

Following are my thoughts about how these amendments should be drafted. (This should be pretty similar to what we discussed before, but I may have added a few new wrinkles.)

The key, I believe, is to create 2 new provisions.

The first provision should be within Chapter 655 but outside Subchapter IV. This provision should create a new fund (and thus a new purpose of the overall Chapter 655, but a purpose that directly relates to the underlying purposes of Ch. 655 as now written and articulated by the Supreme Court), and it should allow any amount credited to this new fund to be transferred to Medicaid to offset provider rate cuts.

The second provision, I believe, must be within Subchapter IV, specifically within Sec. 655.27, and I suspect specifically within Sec. 655.27 (6). This provision needs to make clear that it's OK to transfer money from the Patient Comp Fund to the new fund.

Suggested language follows.  
Let me know what you think.

David

Amend Chapter 655 (perhaps by adding a Subchapter II--there is none now) to create a new section on "Health Care Provider Availability and Cost Control Fund."

The new section would read something like this:

**655.10 Health Care Provider Availability and Cost Control Fund** (1) For the purpose of ensuring the availability of health care providers in Wisconsin and controlling the cost of health care services to Wisconsin taxpayers, workers, and employers, there is established a Health Care Provider Availability and Cost Control Fund.

(2) The amounts credited to the fund may be used to:

(a) Assist in the education and training of health care providers;

(b) Ensure that the health care providers who serve individuals enrolled in the Medical Assistance program, the BadgerCare program, and other health care programs established by the state receive levels of payment sufficient to retain their participation in these programs and reduce the risk of cost-shifting to private-sector employers; or

(c) Defray the cost of other health-related programs that the Secretary of Health and Family Services determines to be effective in ensuring the availability of health care providers in Wisconsin and controlling the cost of health care services to Wisconsin taxpayers, workers, and employers.

In addition, amend the section in the Patients Compensation Fund (Subchapter IV) that deals with the "Integrity of Fund", Sec. 655.27, along the following lines. New text is shown in underline.

(6) INTEGRITY OF FUND. The fund shall be held in trust for the purposes of this chapter and may not be used for purposes other than those of this chapter. The Secretary of Administration, in consultation with the Commissioner of Insurance, may transfer to the fund created by Sec. \_\_\_\_\_ (i.e., the new Health Care Provider Availability and Cost Control Fund outlined above) a portion of the account balance of the fund established under this section (i.e., Sec. 655.27, the Patients Compensation Fund) if the Secretary of Administration, in consultation with the Commissioner of Insurance, determines that the provision of actual compensation to patients under the fund established under this section will not, as a result of the transfer, be delayed or diminished.

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State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-1755/1

PJK:kmg:rs

Kmg:cmh

r m is run

DOA:.....Jablonsky - BB0440, Transfer from patient's compensation fund to new segregated fund

FOR 2003-05 BUDGET - NOT READY FOR INTRODUCTION

today - Fair

do not get cat

1 AN ACT relating to: the budget.

Analysis by the Legislative Reference Bureau  
INSURANCE

Under current law, certain health care providers are required to carry health care liability insurance with liability limits of at least \$1,000,000 for each occurrence and at least \$3,000,000 for all occurrences in a policy year. Any portion of a medical malpractice claim against a health care provider subject to the health care liability insurance requirements that exceeds the policy limits of the health care provider's health care liability insurance is paid by the patients compensation fund. Money for the fund comes from annual assessments paid by the health care providers subject to the health care liability insurance requirements.

This bill transfers \$200,000,000 from the patients compensation fund to the provider availability and cost containment fund. ~~Money~~ ~~is~~ ~~segregated~~ ~~and~~ ~~used~~ ~~to~~ ~~cover~~ ~~payment~~ ~~of~~ ~~any~~ ~~medical~~ ~~malpractice~~ ~~claim~~ ~~that~~ ~~exceeds~~ ~~the~~ ~~moneys~~ ~~remaining~~ ~~in~~ ~~the~~ ~~patients~~ ~~compensation~~ ~~fund~~. ~~Money~~ ~~in~~ ~~the~~ ~~provider~~ ~~availability~~ ~~and~~ ~~cost~~ ~~containment~~ ~~fund~~ ~~are~~ ~~used~~ ~~for~~ ~~benefits~~ ~~under~~ ~~the~~ ~~Medical~~ ~~Assistance~~ ~~program~~, which is administered by DHFS, which, among other things, provides health care benefits to low-income persons, and which is funded by a combination of state and federal funds. ~~Use~~ ~~of~~ ~~the~~ ~~provider~~ ~~availability~~ ~~and~~ ~~cost~~ ~~containment~~ ~~fund~~ ~~for~~ ~~the~~ ~~Medical~~ ~~Assistance~~ ~~program~~ ~~allows~~ ~~it~~ ~~to~~ ~~be~~ ~~operated~~ ~~with~~ ~~less~~ ~~general~~ ~~purpose~~ ~~revenue~~.

Creates the health care provider availability and cost control fund and

health care

control

Insert A

Under the bill, money

period



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.** 20.145 (2) (a) of the statutes is created to read:

2           20.145 (2) (a) *Claims payable by patients compensation fund.* A sum sufficient  
3 for paying any portion of a claim for damages arising out of the rendering of health  
4 care services that the patients compensation fund under s. 655.27 is required to pay  
5 under ch. 655 but that the patients compensation fund is unable to pay because of  
6 insufficient moneys.

      \*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

7           **SECTION 2.** 20.435 (4) (b) of the statutes is amended to read:

8           20.435 (4) (b) *Medical ~~assistance~~ Assistance program benefits.* Biennially, the  
9 amounts in the schedule to provide a portion of the state share of medical assistance  
10 Medical Assistance program benefits administered under s. 49.45, to provide  
11 ~~medical assistance~~ Medical Assistance program benefits administered under s.  
12 49.45 that are not also provided under par. (o), to fund the pilot project under s. 46.27  
13 (9) and (10), to provide the facility payments under 1999 Wisconsin Act 9, section  
14 9123 (9m), to fund services provided by resource centers under s. 46.283, and for  
15 services under the family care benefit under s. 46.284 (5). Notwithstanding s. 20.002  
16 (1), the department may transfer from this appropriation account to the  
17 appropriation account under sub. (7) (kb) funds in the amount of and for the purposes  
18 specified in s. 46.485. Notwithstanding ss. 20.001 (3) (b) and 20.002 (1), the  
19 department may credit or deposit into this appropriation account and may transfer  
20 between fiscal years funds that it transfers from the appropriation account under

1 sub. (7) (kb) for the purposes specified in s. 46.485 (3r). Notwithstanding s. 20.002  
2 (1), the department may transfer from this appropriation account to the  
3 appropriation account under sub. (7) (bd) funds in the amount and for the purposes  
4 specified in s. 49.45 (6v).

\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

5 SECTION 3. 20.435 (4) (r) of the statutes is created to read:

6 20.435 (4) (r) *Medical Assistance program*. From the provider availability and  
7 cost ~~containment~~ fund, as a continuing appropriation, the amounts in the schedule  
8 to provide a portion of the state share of Medical Assistance program benefits  
9 administered under s. 49.45, to provide Medical Assistance program benefits  
10 administered under s. 49.45 that are not also provided under par. (o), to fund the pilot  
11 project under s. 46.27 (9) and (10), to provide the facility payments under 1999  
12 Wisconsin Act 9, section 9123 (9m), to fund services provided by resource centers  
13 under s. 46.283, and for services under the family care benefit under s. 46.284 (5).

\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

14 SECTION 4. 25.17 (1) (ky) of the statutes is created to read:

15 25.17 (1) (ky) *health care* Provider availability and cost ~~containment~~ fund (s. ~~25.56~~);

16 SECTION 5. 25.56 of the statutes is created to read:

17 **25.56 Provider availability and cost containment fund.** There is created  
18 a separate nonlapsible trust fund designated as the provider availability and cost  
19 containment fund, consisting of the moneys transferred from the patients  
20 compensation fund under 2003 Wisconsin Act .... (this act), section 9228 (1).

21 SECTION 6. 46.27 (9) (a) of the statutes is amended to read:

Control

Insert 3-14

control 655.75 ✓

Insert 3-20

1           46.27 (9) (a) The department may select up to 5 counties that volunteer to  
2 participate in a pilot project under which they will receive certain funds allocated for  
3 long-term care. The department shall allocate a level of funds to these counties  
4 equal to the amount that would otherwise be paid under s. 20.435 (4) (b), (r), or (w)  
5 to nursing homes for providing care because of increased utilization of nursing home  
6 services, as estimated by the department. In estimating these levels, the department  
7 shall exclude any increased utilization of services provided by state centers for the  
8 developmentally disabled. The department shall calculate these amounts on a  
9 calendar year basis under sub. (10).

10           **SECTION 7.** 46.27 (10) (a) 1. of the statutes is amended to read:

11           46.27 (10) (a) 1. The department shall determine for each county participating  
12 in the pilot project under sub. (9) a funding level of state medical assistance  
13 expenditures to be received by the county. This level shall equal the amount that the  
14 department determines would otherwise be paid under s. 20.435 (4) (b), (r), or (w)  
15 because of increased utilization of nursing home services, as estimated by the  
16 department.

17           **SECTION 8.** 46.275 (5) (a) of the statutes 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 appropriations under s. 20.435 (4) (b), (o), (r), and (w). If 2 or more counties jointly  
21 contract to provide services under this program and the department approves the  
22 contract, medical assistance reimbursement is also available for services provided  
23 jointly by these counties.

24           **SECTION 9.** 46.275 (5) (c) of the statutes is amended to read:

1           46.275 (5) (c) The total allocation under s. 20.435 (4) (b), (o), (r), and (w) to  
2 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.** 46.278 (6) (d) of the statutes is amended to read:

9           46.278 (6) (d) If a county makes available nonfederal funds equal to the state  
10 share of service costs under a waiver received under sub. (3), the department may,  
11 from the appropriation under s. 20.435 (4) (o), provide reimbursement for services  
12 that the county provides under this section to persons who are in addition to those  
13 who may be served under this section with funds from the appropriation under s.  
14 20.435 (4) (b), (r), or (w).

15           **SECTION 11.** 46.283 (5) of the statutes is amended to read:

16           46.283 (5) FUNDING. From the appropriation accounts under s. 20.435 (4) (b),  
17 (bm), (pa), (r), and (w) and (7) (b), (bd), and (md), the department may contract with  
18 organizations that meet standards under sub. (3) for performance of the duties under  
19 sub. (4) and shall distribute funds for services provided by resource centers.

20           **SECTION 12.** 46.284 (5) (a) of the statutes is amended to read:

21           46.284 (5) (a) From the appropriation accounts under s. 20.435 (4) (b), (g), (im),  
22 (o), (r), and (w) and (7) (b) and (bd), the department shall provide funding on a  
23 capitated payment basis for the provision of services under this section.  
24 Notwithstanding s. 46.036 (3) and (5m), a care management organization that is  
25 under contract with the department may expend the funds, consistent with this

1 section, including providing payment, on a capitated basis, to providers of services  
2 under the family care benefit.

3 **SECTION 13.** 49.45 (2) (a) 17. of the statutes is amended to read:

4 49.45 (2) (a) 17. Notify the governor, the joint committee on legislative  
5 organization, the joint committee on finance, and appropriate standing committees,  
6 as determined by the presiding officer of each house, if the ~~appropriation~~  
7 appropriations under s. 20.435 (4) (b) ~~is~~ and (r) are insufficient to provide the state  
8 share of medical assistance.

9 **SECTION 14.** 49.45 (5m) (am) of the statutes is amended to read:

10 49.45 (5m) (am) Notwithstanding sub. (3) (e), from the appropriations under  
11 s. 20.435 (4) (b), (o), (r), and (w), the department shall distribute not more than  
12 \$2,256,000 in each fiscal year, to provide supplemental funds to rural hospitals that,  
13 as determined by the department, have high utilization of inpatient services by  
14 patients whose care is provided from governmental sources, and to provide  
15 supplemental funds to critical access hospitals, except that the department may not  
16 distribute funds to a rural hospital or to a critical access hospital to the extent that  
17 the distribution would exceed any limitation under 42 USC 1396b (i) (3).

18 **SECTION 15.** 49.45 (6m) (ag) (intro.) of the statutes is amended to read:

19 49.45 (6m) (ag) (intro.) Payment for care provided in a facility under this  
20 subsection made under s. 20.435 (4) (b), (pa), (o), (r), (w), or (wm) shall, except as  
21 provided in pars. (bg), (bm), and (br), be determined according to a prospective  
22 payment system updated annually by the department. The payment system shall  
23 implement standards that are necessary and proper for providing patient care and  
24 that meet quality and safety standards established under subch. II of ch. 50 and ch.  
25 150. The payment system shall reflect all of the following:

1           **SECTION 16.** 49.45 (6v) (b) of the statutes is amended to read:

2           49.45 (6v) (b) The department shall, each year, submit to the joint committee  
3 on finance a report for the previous fiscal year, except for the 1997–98 fiscal year, that  
4 provides information on the utilization of beds by recipients of medical assistance in  
5 facilities and a discussion and detailed projection of the likely balances,  
6 expenditures, encumbrances and carry over of currently appropriated amounts in  
7 the appropriation accounts under s. 20.435 (4) (b) ~~and, (o), and (r)~~.

8           **SECTION 17.** 49.45 (6x) (a) of the statutes is amended to read:

9           49.45 (6x) (a) Notwithstanding sub. (3) (e), from the appropriations under s.  
10 20.435 (4) (b), (o), ~~(r)~~, and (w), the department shall distribute not more than  
11 \$4,748,000 in each fiscal year, to provide funds to an essential access city hospital,  
12 except that the department may not allocate funds to an essential access city hospital  
13 to the extent that the allocation would exceed any limitation under 42 USC 1396b  
14 (i) (3).

15           **SECTION 18.** 49.45 (6y) (a) of the statutes is amended to read:

16           49.45 (6y) (a) Notwithstanding sub. (3) (e), from the appropriations under s.  
17 20.435 (4) (b), (o), ~~(r)~~, and (w), the department shall distribute funding in each fiscal  
18 year to provide supplemental payment to hospitals that enter into a contract under  
19 s. 49.02 (2) to provide health care services funded by a relief block grant, as  
20 determined by the department, for hospital services that are not in excess of the  
21 hospitals' customary charges for the services, as limited under 42 USC 1396b (i) (3).  
22 If no relief block grant is awarded under this chapter or if the allocation of funds to  
23 such hospitals would exceed any limitation under 42 USC 1396b (i) (3), the  
24 department may distribute funds to hospitals that have not entered into a contract  
25 under s. 49.02 (2).

1           **SECTION 19.** 49.45 (6y) (am) of the statutes is amended to read:

2           49.45 (6y) (am) Notwithstanding sub. (3) (e), from the appropriations under s.  
3 20.435 (4) (b), (h), (o), (r), and (w), the department shall distribute funding in each  
4 fiscal year to provide supplemental payments to hospitals that enter into contracts  
5 under s. 49.02 (2) with a county having a population of 500,000 or more to provide  
6 health care services funded by a relief block grant, as determined by the department,  
7 for hospital services that are not in excess of the hospitals' customary charges for the  
8 services, as limited under 42 USC 1396b (i) (3).

9           **SECTION 20.** 49.45 (6z) (a) (intro.) of the statutes is amended to read:

10           49.45 (6z) (a) (intro.) Notwithstanding sub. (3) (e), from the appropriations  
11 under s. 20.435 (4) (b), (o), (r), and (w), the department shall distribute funding in  
12 each fiscal year to supplement payment for services to hospitals that enter into a  
13 contract under s. 49.02 (2) to provide health care services funded by a relief block  
14 grant under this chapter, if the department determines that the hospitals serve a  
15 disproportionate number of low-income patients with special needs. If no medical  
16 relief block grant under this chapter is awarded or if the allocation of funds to such  
17 hospitals would exceed any limitation under 42 USC 1396b (i) (3), the department  
18 may distribute funds to hospitals that have not entered into a contract under s. 49.02  
19 (2). The department may not distribute funds under this subsection to the extent  
20 that the distribution would do any of the following:

21           **SECTION 21.** 49.45 (8) (b) of the statutes is amended to read:

22           49.45 (8) (b) Reimbursement under s. 20.435 (4) (b), (o), (r), and (w) for home  
23 health services provided by a certified home health agency or independent nurse  
24 shall be made at the home health agency's or nurse's usual and customary fee per

1 patient care visit, subject to a maximum allowable fee per patient care visit that is  
2 established under par. (c).

3 **SECTION 22.** 49.45 (24m) (intro.) of the statutes is amended to read:

4 **49.45 (24m) HOME HEALTH CARE AND PERSONAL CARE PILOT PROGRAM.** (intro.)  
5 From the appropriations under s. 20.435 (4) (b), (o), (r), and (w), in order to test the  
6 feasibility of instituting a system of reimbursement for providers of home health care  
7 and personal care services for medical assistance recipients that is based on  
8 competitive bidding, the department shall:

9 **SECTION 23.** 49.472 (6) (a) of the statutes is amended to read:

10 **49.472 (6) (a)** Notwithstanding sub. (4) (a) 3., from the appropriation under s.  
11 20.435 (4) (b), (r), or (w), the department shall, on the part of an individual who is  
12 eligible for medical assistance under sub. (3), pay premiums for or purchase  
13 individual coverage offered by the individual's employer if the department  
14 determines that paying the premiums for or purchasing the coverage will not be more  
15 costly than providing medical assistance.

16 **SECTION 24.** 49.472 (6) (b) of the statutes is amended to read:

17 **49.472 (6) (b)** If federal financial participation is available, from the  
18 appropriation under s. 20.435 (4) (b), (r), or (w), the department may pay medicare  
19 Part A and Part B premiums for individuals who are eligible for medicare and for  
20 medical assistance under sub. (3).

21 **SECTION 25.** 49.473 (5) of the statutes is amended to read:

22 **49.473 (5)** The department shall audit and pay, from the appropriation  
23 accounts under s. 20.435 (4) (b) and, (o), and (r), allowable charges to a provider who  
24 is certified under s. 49.45 (2) (a) 11. for medical assistance on behalf of a woman who



1 meets the requirements under sub. (2) for all benefits and services specified under  
2 s. 49.46 (2).

3 **SECTION 26.** 655.26 (2) of the statutes is amended to read:

4 655.26 (2) By the 15th day of each month, the board of governors shall report  
5 the information specified in sub. (1) to the medical examining board for each claim  
6 paid by the fund or from the appropriation under s. 20.145 (2) (a) during the previous  
7 month for damages arising out of the rendering of health care services by a health  
8 care provider or an employee of a health care provider.

9 **SECTION 27.** 655.27 (3) (am) of the statutes is amended to read:

10 655.27 (3) (am) *Assessments for peer review council.* The fund, a mandatory  
11 health care liability risk-sharing plan established under s. 619.04, and a private  
12 health care liability insurer shall be assessed, as appropriate, fees sufficient to cover  
13 the costs of the patients compensation fund peer review council, including costs of  
14 administration, for reviewing claims paid by the fund, or from the appropriation  
15 under s. 20.145 (2) (a), by the plan, and by the insurer, respectively, under s. 655.275  
16 (5). The fees shall be set by the commissioner by rule, after approval by the board  
17 of governors, and shall be collected by the commissioner for deposit in the fund. The  
18 costs of the patients compensation fund peer review council shall be funded from the  
19 appropriation under s. 20.145 (2) (um).

20 **SECTION 28.** 655.27 (4) (a) of the statutes is amended to read:

21 655.27 (4) (a) Moneys shall be withdrawn from the fund, or paid from the  
22 appropriation under s. 20.145 (2) (a), by the commissioner only upon vouchers  
23 approved and authorized by the board of governors.

24 **SECTION 29.** 655.27 (5) (e) of the statutes is amended to read:

Insert 11-5

Insert 11-13

1 655.27 (5) (e) Claims filed against the fund shall be paid in the order received  
2 within 90 days after filing unless appealed by the fund. If the amounts in the fund  
3 are not sufficient to pay all of the claims, claims received after the funds are  
4 exhausted shall be ~~immediately payable the following year in the order in which they~~  
5 ~~were received~~ paid from the appropriation under s. 20.145 (2) (a).

6 SECTION 30. 655.275 (5) (a) (intro.) of the statutes is amended to read:

7 655.275 (5) (a) (intro.) The council shall review, within one year of the date of  
8 first payment on the claim, each claim that is paid by the fund, or from the  
9 appropriation under s. 20.145 (2) (a), by a mandatory health care liability  
10 risk-sharing plan established under s. 619.04, by a private health care liability  
11 insurer, or by a self-insurer for damages arising out of the rendering of medical care  
12 by a health care provider or an employee of the health care provider and shall make  
13 recommendations to all of the following:

14 SECTION 9228. Appropriation changes; insurance.

*create auto ref "a"*

*control*

15 (1) PATIENTS COMPENSATION FUND TRANSFER. There is transferred from the  
16 patients compensation fund to the provider availability and cost ~~control~~ fund  
17 \$200,000,000 in fiscal year 2003-04.

18 (END)

*Health care*

2003-2004 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1755/P2ins  
PJK:kmg:rs

INSERT A

*WS* ✓  
The health care provider availability and cost control fund may be used to assist in the education and training of health care providers, ensure that health care providers serving recipients under the Medical Assistance program and individuals with coverage under the Badger Care health care program and other health care programs established by the state receive payment sufficient to retain their participation in these programs, and to defray the cost of other health-related programs that the secretary of DHFS determines are effective in ensuring the availability of health care providers in the state and controlling the cost of health care services. The bill authorizes the secretary of DOA, in consultation with the commissioner of insurance, to transfer a portion of the account balance of the patients compensation fund to the health care provider availability and cost control fund if the secretary determines that compensation to patients from the patients compensation fund will not be delayed or diminished as a result of the transfer. The bill

(END OF INSERT A) *lower case*

INSERT 3-14

- X*
- 1 SECTION 1. 25.14 (1) (a) 9m. of the statutes is created to read:  
2 25.14 (1) (a) 9m. The health care provider availability and cost control fund.

(END OF INSERT 3-14)

INSERT 3-20

- 3 SECTION 2. 25.17 (3) (a) of the statutes is amended to read:  
4 25.17 (3) (a) Invest the fixed retirement investment trust, state life fund,  
5 veterans trust fund and, patients compensation fund, and health care provider  
6 availability and cost control fund in loans, securities and any other investments  
7 authorized by s. 620.22, and in bonds or other evidences of indebtedness or preferred  
8 stock of companies engaged in the finance business whether as direct lenders or as  
9 holding companies owning subsidiaries engaged in the finance business.  
10 Investments permitted by sub. (4) are permitted investments under this subsection.



c. 34 ss. 705 to 707b, 2102 (56) (a); 1979 c. 102; 1979 c. 109 s. 16; 1979 c. 221; 1979 c. 318 ss. 1 to 3; 1979 c. 361 s. 113; 1981 c. 20, 86; 1981 c. 96 ss. 18 to 21, 67; 1981 c. 169, 386; 1983 a. 27; 1983 a. 36 ss. 31, 96 (4); 1983 a. 81 s. 11; 1983 a. 83 s. 20; 1983 a. 142, 189, 192, 368, 410; 1985 a. 25, 29, 53, 120; 1985 a. 332 s. 251 (1); 1987 a. 27, 38, 119, 186, 252, 399; 1989 a. 13, 31, 64, 187, 307, 335, 359, 366; 1991 a. 32, 38, 39, 152, 174, 221, 269, 315; 1993 a. 16, 112, 263, 477; 1995 a. 27 ss. 1394m to 1396, 9116 (5); 1995 a. 56, 213, 227, 274, 403; 1997 a. 27, 35, 191; 1999 a. 9, 11, 63, 65, 83, 167, 196; 2001 a. 7, 13, 16, 92, 104, 109.

(END OF INSERT 3-20)

INSERT 11-5

1 SECTION 3. 655.27 (6) of the statutes is amended to read:

2 655.27 (6) INTEGRITY OF FUND. The fund shall be held in trust for the purposes  
3 of this chapter and may not be used for purposes other than those of this chapter.

4 The secretary of administration, in consultation with the commissioner, may  
5 transfer to the health care provider availability and cost control fund a portion of the  
6 account balance of the patients compensation fund if the secretary, in consultation  
7 with the commissioner, determines that the provision of compensation to patients by  
8 the patients compensation fund will not as a result of the transfer be delayed or  
9 diminished.

underscore

History: 1975 c. 37, 79, 199; 1977 c. 29, 131; 1979 c. 34, 194; 1981 c. 20; 1983 a. 27, 158; 1985 a. 340; 1987 a. 27, 186, 247, 399; 1989 a. 102, 187, 332; 1991 a. 214, 315; 1993 a. 473; 1995 a. 10; 2001 a. 65.

(END OF INSERT 11-5)

INSERT 11-13

10 SECTION 4. Subchapter VIII of chapter 655 [precedes 655.75] of the statutes is  
11 created to read:

CHAPTER 655  
SUBCHAPTER VIII  
HEALTH CARE PROVIDER AVAILABILITY  
AND COST CONTROL FUND

12 655.75 Health care provider availability and cost control fund. (1)

13 There is created a health care provider availability and cost control fund to ensure the

↓

1 availability of health care providers in the state and to control the cost of health care  
2 services to state taxpayers, workers, and employers. The fund may be used for all  
3 of the following purposes:

4 (a) To assist in the education and training of health care providers.

5 (b) To ensure that <sup>e</sup>the health care providers who serve recipients under the  
6 Medical Assistance program and individuals with coverage under the Badger Care  
7 health care program or other health care programs established by the state receive  
8 levels of payment sufficient to retain their participation in the programs and <sup>to</sup>reduce  
9 the risk of shifting costs to private sector employers.

10 (c) To defray the cost of other health-related programs that the secretary of  
11 health and family services determines are effective in ensuring the availability of  
12 health care providers in the state and controlling the cost of health care services to  
13 state taxpayers, workers, and employers.

14 (2) The health care provider availability and cost control fund shall be  
15 administered by the commissioner.

16 (3) The health care provider availability and cost control fund shall be ~~financed~~ <sup>funded</sup>  
17 <sup>with</sup> the transfer of moneys from the patients compensation fund under 2003  
18 Wisconsin Act ... (this act), section 9228 (1).

(END OF INSERT 11-13)

use auto-ref "a"

auto-ref