



State of Wisconsin

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STEPHEN R. MILLER
CHIEF

June 21, 2005

MEMORANDUM

To: Representative Staskunas

From: Marc E. Shovers, Sr. Legislative Attorney, (608) 266-0129
Joseph T. Kreye, Sr. Legislative Attorney, (608) 266-2263

Subject: Technical Memorandum to **2005 AB-446** (LRB 05-2680/1)

We received the attached technical memorandum relating to your bill. This copy is for your information and your file. If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

MEMORANDUM

June 10, 2005

TO: Marc Shovers and Joseph Kreye
Legislative Reference Bureau

FROM: Rebecca Boldt
Department of Revenue

SUBJECT: Technical Memorandum on Assembly Bill 446 – Individual, Corporate Income Tax Credit For Primary Care Physicians Who Are Under-Reimbursed By Medical Assistance

The bill does not define "usual and customary charges" and does not require the dentist to submit any verification of the "unreimbursed costs." The Department of Revenue (DOR) has no expertise in determining what these amounts might be. Therefore, as drafted, the bill could encourage inflated or fraudulent credit claims that DOR would be unable to review for accuracy. A solution would be to require a primary care physician to submit verification from the Department of Health and Family Services of the "usual and customary charge" and the amount reimbursed under the medical assistance program.

Under sec. 71.07(5r)(a)1, "claimant" means a sole proprietor, a partner, a member of a limited liability company, or a shareholder of a tax-option corporation who is a primary care physician (physician specializing in family medical practice, general internal medicine or pediatrics). Section 71.28(5r)(c)3 provides that the credit is computed by the partnership, LLC, or tax-option corporation. Partners, members of LLCs, and shareholders of tax-option corporations may claim the credit in proportion to their ownership interest. This allocation may result in an unfair distribution of the credit. A possible solution is for credits to be allocated based on each person's billings rather than on their ownership interest. This is not uncommon for the profits of a pass-through entity. If a non-primary care physician (such as a surgeon) may be a partner, member, or shareholder, no portion of the credit should be allocated to that person.

The proration for nonresidents or part-year residents creates an impossible situation. Par. (c)4 requires the credit to be prorated on the basis of Wisconsin adjusted gross income (AGI) to federal AGI. Section 71.05 (6)(a)15 requires the amount of the credit to be added to federal AGI when computing Wisconsin AGI. Therefore, you cannot compute Wisconsin AGI until you know the amount of the credit, and you cannot compute the amount of the credit until you know Wisconsin AGI. It would be preferable to eliminate the proration for nonresidents and part-year residents.

The proposed legislation makes no provision for the funding of the costs involved in

administering the activities required. If the author wishes to provide funding, appropriation language could be developed and costs allocated in the following manner:

	<u>Chapter 20</u>	<u>Amount</u>
one-time	s. 20.566 (3) (a)	\$38,900

If you have any questions regarding this technical memorandum, please contact Kirstin Nelson at (608) 261-8984; for administrative costs contact Julie Feavel at (608) 267-9892.

cc: Representative Staskunas