

2005 DRAFTING REQUEST

Bill

Received: 11/16/2004

Received By: **pkahler**

Wanted: As time permits

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Blaine**

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

Drafter: **pkahler**

May Contact:

Addl. Drafters:

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

Extra Copies:

Submit via email: **NO**

Pre Topic:

DOA:.....Blaine, BB0257 -

Topic:

Requiring third parties to provide information for verifying MA and BadgerCare eligibility

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>
/?	pkahler 12/01/2004	jdyer 12/06/2004		_____			
/P1			jfrantze 12/06/2004	_____	sbasford 12/06/2004		
/1	pkahler 12/22/2004	jdyer 12/28/2004	rschluet 12/28/2004	_____	lnorthro 12/28/2004		

FE Sent For:

<END>

2005 DRAFTING REQUEST

Bill

Received: 11/16/2004

Received By: **pkahler**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Blaine**

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

Drafter: **pkahler**

May Contact:

Add. Drafters:

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

Extra Copies:

Submit via email: **NO**

Pre Topic:

DOA:.....Blaine, BB0257 -

Topic:

Requiring third parties to provide information for verifying MA and BadgerCare eligibility

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>
/?	pkahler 12/01/2004	jdyer 12/06/2004		_____			
/P1		1/12/28 jld	jfrantze 12/06/2004	_____	sbasford 12/06/2004		

FE Sent For:

[Handwritten signatures and initials: "pkahler", "jld", "jfrantze", "sbasford", "pb"]

<END>

2005 DRAFTING REQUEST

Bill

Received: 11/16/2004

Received By: **pkahler**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Blaine**

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

Drafter: **pkahler**

May Contact:

Addl. Drafters:

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

Extra Copies:

Submit via email: **NO**

Pre Topic:

DOA:.....Blaine, BB0257 -

Topic:

Requiring third parties to provide information for verifying MA and BadgerCare eligibility

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>
/?	pkahler	A1 12/6 jld		Self 12/6			

FE Sent For:

<END>

878

2003-05 Budget Bill Statutory Language Drafting Request

- Topic: Verification of Income
- Tracking Code: (Assigned by Government Operations Team)
- SBO team: Health and Insurance
- SBO analyst: Robert Blaine
 - Phone: 267-7980
 - Email: robert.blaine@doa.state.wi.us
- Agency acronym: DHFS
- Agency number: 435

BB0257

See attached.

see
49.22

DHFS

Department of Health and Family Services
2005-2007 Biennial Budget Statutory Language Request
November 16, 2004

Verification of Information

Current Language

Currently the Department does not have the authority to require third parties such as employers and banks to provide information needed to determine eligibility and benefits for recipients of Medicaid, BadgerCare and other Income Maintenance (IM) programs.

Proposed Change

Change the statutes to provide the Department with the authority to require third parties to provide information needed to determine eligibility and benefits for IM programs.

Effect of the Change

The Department will be able to verify eligibility information when the Department is unable to verify information independently through tape matches and other means.

Rationale for the Change

Income maintenance programs include Medicaid, BadgerCare, Food Stamps, Family Care, and Caretaker Supplement. Requiring third parties to provide information to assist in determining eligibility and benefits will ensure that only eligible individuals are receiving benefits and that the correct level of benefits are provided.

Desired Effective Date: Upon Passage of the Budget Bill
Agency: DHFS
Agency Contact: Curtis Cunningham
Phone: 266-5362



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-08787
PJK:.....
jld

SOON

DOA:.....Blaine, BB0257 - Requiring third parties to provide information for verifying MA and BadgerCare eligibility

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

D-note

✓ do not gen cat

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

Analysis by the Legislative Reference Bureau
HEALTH AND HUMAN SERVICES
PUBLIC ASSISTANCE

Under current law, DHFS contracts with county departments of social services or human services (county departments), and may contract with American Indian tribe governing bodies (tribal governing bodies), to administer "income maintenance" programs and reimburses the county departments and tribal governing bodies for their costs of administering those programs. An "income maintenance" program is defined as the Medical Assistance program, the Badger Care health care program, the food stamp program, or the cemetery, funeral, and burial expenses program.

This bill provides that DHFS, a county department, or a tribal governing body may request from any person in this state information that is appropriate and necessary for determining or verifying eligibility or benefits for a recipient under any of the income maintenance programs. A person who receives such a request must, within seven days, provide the information unless its access is prohibited or restricted by law. The bill also authorizes DHFS, a county department, or a tribal governing body to issue a subpoena to compel production of financial information or other documentary evidence for determining or verifying eligibility or benefits for an

income maintenance program recipient. Under the bill, DHFS, a county department, or a tribal governing body, or an employee of any of them, is prohibited from disclosing, for any purpose not connected with administration of the income maintenance program for which the information was requested or subpoenaed, information obtained as a result of a request or subpoena. In addition, the bill provides that no person is liable for allowing access to, or disclosing, information in response to a request or subpoena from DHFS, a county department, or a tribal governing body or for any other action taken in good faith to comply with such a request.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 49.845 of the statutes is created to read:

2 **49.845 Requirement to provide information for income maintenance**
3 **programs.** (1) In this section:

4 (a) "County department" means a county department under s. 46.215, 46.22,
5 or 46.23.

6 (b) "Department" means the department of health and family services.

7 (c) "Income maintenance program" has the meaning given in s. 49.78 (1) (b).

8 (d) "Tribal governing body" has the meaning given in s. 49.78 (1) (cr).

9 (2) (a) The department, a county department, or a tribal governing body may
10 request from any person in this state information it determines appropriate and
11 necessary for determining or verifying eligibility or benefits for a recipient under any
12 income maintenance program. Unless access to the information is prohibited or
13 restricted by law, or unless the person has good cause, as determined by the
14 department in accordance with federal law and regulations, for refusing to
15 cooperate, the person shall make a good faith effort to provide the information within
16 7 days after receiving a request under this paragraph. The department, county
17 department, or tribal governing body, or employees of any of them, may not disclose

1 information obtained under this paragraph for any purpose not connected with the
2 administration of the income maintenance program for which the information was
3 requested.

4 (b) In conjunction with any request for information under par. (a), including a
5 request made by subpoena under sub. (3), the department, county department, or
6 tribal governing body shall advise the person of the time by which the information
7 must be provided.

8 (3) The department, a county department, or a tribal governing body may issue
9 a subpoena, in substantially the form authorized under s. 885.02, to compel the
10 production of financial information or other documentary evidence for determining
11 or verifying eligibility or benefits for a recipient under any income maintenance
12 program.

13 (4) A person is not liable to any person for any of the following:

14 (a) Allowing access to financial or other records by the department, a county
15 department, or a tribal governing body in response to a request under sub. (2) or a
16 subpoena described in sub. (3).

17 (b) Disclosing information from financial or other records to the department,
18 a county department, or a tribal governing body in response to a request under sub.
19 (2) or a subpoena described in sub. (3).

20 (c) Any other action taken in good faith to comply with this section or a
21 subpoena described in sub. (3) or to comply with a request for information or access
22 to records from the department, a county department, or a tribal governing body for
23 determining or verifying eligibility or benefits for a recipient under any income
24 maintenance program.

25 (END)

1 **SECTION 2.** 49.78 (11) of the statutes is created to read:

2 49.78 (11) REQUIREMENT TO PROVIDE INFORMATION. (a) 1. The department, a
3 county department under s. 46.215, 46.22, or 46.23, or a tribal governing body may
4 request from any person in this state information it determines appropriate and
5 necessary for determining or verifying eligibility or benefits for a recipient under any
6 income maintenance program. Unless access to the information is prohibited or
7 restricted by law, or unless the person has good cause, as determined by the
8 department in accordance with federal law and regulations, for refusing to
9 cooperate, the person shall make a good faith effort to provide the information within
10 7 days after receiving a request under this paragraph. The department, county
11 department, or tribal governing body, or employees of any of them, may not disclose
12 information obtained under this subdivision for any purpose not connected with the
13 administration of the income maintenance program for which the information was
14 requested.

15 2. In conjunction with any request for information under subd. 1., including a
16 request made by subpoena under par. (b), the department, county department, or
17 tribal governing body shall advise the person of the time by which the information
18 must be provided.

19 (b) The department, a county department, or a tribal governing body may issue
20 a subpoena, in substantially the form authorized under s. 885.02, to compel the
21 production of financial information or other documentary evidence for determining
22 or verifying eligibility or benefits for a recipient under any income maintenance
23 program.

24 (c) A person is not liable to any person for any of the following:

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

LRB-0878/7dn
PJK:.....
Jld

Robert:

The language in this draft was "lifted" from s. 49.22 (2m).[✓] You might want to take a look at that subsection in case you would like to include some of the paragraphs I eliminated for this draft.

The language says that a person must provide information on request unless access is prohibited or restricted by law. There may very well be privacy or confidentiality requirements that relate to various types of third parties that DHFS is interested in, but unless DHFS wants to specify and limit the possible third parties, it would be impossible to think of all possible ones. Therefore, I do not recommend providing any exceptions to confidentiality anywhere[✓] because then, if any are left out, it will appear to have been intentional. I assume that DHFS may obtain a "Release of Information"[✓] from a recipient if a third party claims that the information is confidential.

✓
in the
statutes

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-0878/P1dn
PJK:jld:jf

Robert:

The language in this draft was “lifted” from s. 49.22 (2m). You might want to take a look at that subsection in case you would like to include some of the paragraphs I eliminated for this draft.

The language says that a person must provide information on request unless access is prohibited or restricted by law. There may very well be privacy or confidentiality requirements that relate to various types of third parties that DHFS is interested in, but unless DHFS wants to specify and limit the possible third parties, it would be impossible to think of all possible ones. Therefore, I do not recommend providing any exceptions to confidentiality anywhere in the statutes because then, if any are left out, it will appear to have been intentional. I assume that DHFS may obtain a “Release of Information” from a recipient if a third party claims that the information is confidential.

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



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-0878/

PJK:jld:jf

revision

due 12/29

DOA:.....Blaine, BB0257 - Requiring third parties to provide information for verifying MA and BadgerCare eligibility

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

(just analysis changes)

do not get cut ✓

1 AN ACT; relating to: the budget.

Analysis by the Legislative Reference Bureau
HEALTH AND HUMAN SERVICES

(MA)

PUBLIC ASSISTANCE

Under current law, DHFS contracts with county departments of social services or human services (county departments), and may contract with American Indian tribe governing bodies (tribal governing bodies), to administer "income maintenance" programs and reimburses the county departments and tribal governing bodies for their costs of administering those programs. An "income maintenance" program is defined as the Medical Assistance program, the Badger Care health care program, the food stamp program, or the cemetery, funeral, and burial expenses program.

This bill provides that DHFS, a county department, or a tribal governing body may request from any person in this state information that is appropriate and necessary for determining or verifying eligibility or benefits for a recipient under any of the income maintenance programs. A person who receives ~~such~~ a request must, within seven days, provide the information unless its access is prohibited or restricted by law. The bill also authorizes DHFS, a county department, or a tribal governing body to issue a subpoena to compel production of financial information or other documentary evidence for determining or verifying eligibility or benefits for an

for information

Insert A-1 ✓

income maintenance program recipient. Under the bill, DHFS, a county department, or a tribal governing body, or an employee of any of them, is prohibited from disclosing, for any purpose not connected with administration of the income maintenance program for which the information was requested or subpoenaed, information obtained as a result of a request or subpoena. In addition, the bill provides that no person is liable for allowing access to, or disclosing, information in response to a request or subpoena from DHFS, a county department, or a tribal governing body or for any other action taken in good faith to comply with such a request.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 49.78 (11) of the statutes is created to read:

2 **49.78 (11) REQUIREMENT TO PROVIDE INFORMATION.** (a) 1. The department, a
3 county department under s. 46.215, 46.22, or 46.23, or a tribal governing body may
4 request from any person in this state information it determines appropriate and
5 necessary for determining or verifying eligibility or benefits for a recipient under any
6 income maintenance program. Unless access to the information is prohibited or
7 restricted by law, or unless the person has good cause, as determined by the
8 department in accordance with federal law and regulations, for refusing to
9 cooperate, the person shall make a good faith effort to provide the information within
10 7 days after receiving a request under this paragraph. The department, county
11 department, or tribal governing body, or employees of any of them, may not disclose
12 information obtained under this subdivision for any purpose not connected with the
13 administration of the income maintenance program for which the information was
14 requested.

15 2. In conjunction with any request for information under subd. 1., including a
16 request made by subpoena under par. (b), the department, county department, or

1 tribal governing body shall advise the person of the time by which the information
2 must be provided.

3 (b) The department, a county department, or a tribal governing body may issue
4 a subpoena, in substantially the form authorized under s. 885.02, to compel the
5 production of financial information or other documentary evidence for determining
6 or verifying eligibility or benefits for a recipient under any income maintenance
7 program.

8 (c) A person is not liable to any person for any of the following:

9 1. Allowing access to financial or other records by the department, a county
10 department, or a tribal governing body in response to a request under par. (a) or a
11 subpoena described in par. (b).

12 2. Disclosing information from financial or other records to the department, a
13 county department, or a tribal governing body in response to a request under par. (a)
14 or a subpoena described in par. (b).

15 3. Any other action taken in good faith to comply with this subsection or a
16 subpoena described in par. (b) or to comply with a request for information or access
17 to records from the department, a county department, or a tribal governing body for
18 determining or verifying eligibility or benefits for a recipient under any income
19 maintenance program.

20

(END)

**2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0878/lins
PJK:jdj

INSERT A-1

wdf (With respect to MA[✓] and the food stamp program[✓], the bill reinstates authority that DHFS had before administration of those programs was transferred to DWD and then back to DHFS.)

(END OF INSERT A-1)

put in file for
878

Kahler, Pam

From: Blaine, Robert
Sent: Wednesday, December 22, 2004 1:10 PM
To: Kahler, Pam
Subject: FW: Fwd: FW: LRB Draft: 05-0878/P1 Requiring third parties to provide information for verifying MA

Pam -- I always hate to make requests that affect the analysis part of the draft. Please see Jim Jones's comments below. If you feel this would be a reasonable, helpful clarification in the draft, I think it would be great if it could be concluded. If not, I'm not going to push it.

As always, thanks.

Robert

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

From: Cunningham, Curtis
Sent: Wednesday, December 22, 2004 11:11 AM
To: Blaine, Robert
Subject: Re: Fwd: FW: LRB Draft: 05-0878/P1 Requiring third parties to provide information for verifying MA

Robert,
Please see Jim's comments. I agree with him that it would be nice if the note explained that this is not new authority but reinstating authority the program had in the past.

-Curtis

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

Date: 12/22/2004 10:24 am -0600 (Wednesday)
From: James Jones
To: Cunningham, Curtis
Subject: Re: Fwd: FW: LRB Draft: 05-0878/P1 Requiring third parties to provide information for verifying MA and

I was wondering if the note at the top of the proposed stat language could mention that DHFS had this capability before the responsibility for determining eligibility for AFDC, MA, CC and FS programs were transferred to the newly created Department of Workforce Development. At that point the statute was changed to give DWD this authority. With the transfer of responsibilities for Medicaid and FS back to DHFS, this authority should've been shifted back to DHFS for those programs, but was missed. This statutory change is merely cleaning up that oversight.

The drafter, Pam, is correct that there should be no exceptions. DHFS and our agents need to be able to gain access to any information that affects eligibility determinations and benefit calculations. If a third party claimed that the information was confidential, we would obtain a release of information from the applicant/recipient.

>>> Curtis Cunningham 12/22/04 10:14AM >>>
Jim,
Did you have any comments on this stat. language?

Thanks



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-0878/1

PJK:jld:rs

DOA:.....Blaine, BB0257 – Requiring third parties to provide information for verifying MA and BadgerCare eligibility

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

PUBLIC ASSISTANCE

Under current law, DHFS contracts with county departments of social services or human services (county departments), and may contract with American Indian tribe governing bodies (tribal governing bodies), to administer “income maintenance” programs and reimburses the county departments and tribal governing bodies for their costs of administering those programs. An “income maintenance” program is defined as the Medical Assistance (MA) program, the Badger Care health care program, the food stamp program, or the cemetery, funeral, and burial expenses program.

This bill provides that DHFS, a county department, or a tribal governing body may request from any person in this state information that is appropriate and necessary for determining or verifying eligibility or benefits for a recipient under any of the income maintenance programs. (With respect to MA and the food stamp program, the bill reinstates authority that DHFS had before administration of those programs was transferred to DWD and then back to DHFS.) A person who receives a request for information must, within seven days, provide the information unless its access is prohibited or restricted by law. The bill also authorizes DHFS, a county

department, or a tribal governing body to issue a subpoena to compel production of financial information or other documentary evidence for determining or verifying eligibility or benefits for an income maintenance program recipient. Under the bill, DHFS, a county department, or a tribal governing body, or an employee of any of them, is prohibited from disclosing, for any purpose not connected with administration of the income maintenance program for which the information was requested or subpoenaed, information obtained as a result of a request or subpoena. In addition, the bill provides that no person is liable for allowing access to, or disclosing, information in response to a request or subpoena from DHFS, a county department, or a tribal governing body or for any other action taken in good faith to comply with such a request.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 49.78 (11) of the statutes is created to read:

2 **49.78 (11) REQUIREMENT TO PROVIDE INFORMATION.** (a) 1. The department, a
3 county department under s. 46.215, 46.22, or 46.23, or a tribal governing body may
4 request from any person in this state information it determines appropriate and
5 necessary for determining or verifying eligibility or benefits for a recipient under any
6 income maintenance program. Unless access to the information is prohibited or
7 restricted by law, or unless the person has good cause, as determined by the
8 department in accordance with federal law and regulations, for refusing to
9 cooperate, the person shall make a good faith effort to provide the information within
10 7 days after receiving a request under this paragraph. The department, county
11 department, or tribal governing body, or employees of any of them, may not disclose
12 information obtained under this subdivision for any purpose not connected with the
13 administration of the income maintenance program for which the information was
14 requested.

15 2. In conjunction with any request for information under subd. 1., including a
16 request made by subpoena under par. (b), the department, county department, or

1 tribal governing body shall advise the person of the time by which the information
2 must be provided.

3 (b) The department, a county department, or a tribal governing body may issue
4 a subpoena, in substantially the form authorized under s. 885.02, to compel the
5 production of financial information or other documentary evidence for determining
6 or verifying eligibility or benefits for a recipient under any income maintenance
7 program.

8 (c) A person is not liable to any person for any of the following:

9 1. Allowing access to financial or other records by the department, a county
10 department, or a tribal governing body in response to a request under par. (a) or a
11 subpoena described in par. (b).

12 2. Disclosing information from financial or other records to the department, a
13 county department, or a tribal governing body in response to a request under par. (a)
14 or a subpoena described in par. (b).

15 3. Any other action taken in good faith to comply with this subsection or a
16 subpoena described in par. (b) or to comply with a request for information or access
17 to records from the department, a county department, or a tribal governing body for
18 determining or verifying eligibility or benefits for a recipient under any income
19 maintenance program.

20

(END)