

## 2007 DRAFTING REQUEST

### Bill

Received: 01/18/2007

Received By: rryan

Wanted: As time permits

Identical to LRB:

For: James Soletski 266-0485

By/Representing: Dan Young

This file may be shown to any legislator: NO

Drafter: rryan

May Contact:

Addl. Drafters:

Subject: Health - medical assistance

Extra Copies: DAK

Submit via email: YES

Requester's email: Rep.Soletski@legis.wisconsin.gov

Carbon copy (CC:) to:

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### Pre Topic:

No specific pre topic given

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### Topic:

Eligibility for Senior Care

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### Instructions:

Companion to LRB-0895

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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>
/?	rryan 01/18/2007	kfollett 01/18/2007		_____			State
/1			nmatzke 01/19/2007	_____	cduerst 01/19/2007	cduerst 02/15/2007	

FE Sent For: /1 @ intro.  
3-2-2007

<END>

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/?	rryan	1/18 jf	nwn 1/19	nwn 1/19			

FE Sent For:

<END>

In 1/18/07

2007 BILL

RMNR  
D-Note

Regen

1 AN ACT *to renumber and amend* 49.688 (4) and 49.688 (11); and *to create*  
 2 49.688 (4) (b) 2., 49.688 (4) (b) 3. and 49.688 (11) (b) of the statutes; **relating**  
 3 **to:** eligibility for and deductible amounts under the prescription drug  
 4 assistance program for the elderly, providing an exemption from emergency  
 5 rule procedures, and requiring the exercise of rule-making authority.

***Analysis by the Legislative Reference Bureau***

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

**BILL**

Other persons who meet all of the requirements except the income limitation are also eligible to purchase prescription drugs for the \$5 and \$15 copayment amounts for the time remaining in a 12-month period after spending the difference between their annual household income and 240 percent of the federal poverty line by paying for prescription drugs at the retail price and satisfying the \$850 deductible by purchasing prescription drugs at the program payment rate.

The U.S. Department of Health and Family Services granted DHFS a Medicaid waiver that allows DHFS to use federal Medicaid dollars to partially fund Senior Care.

This bill directs DHFS to seek an amendment to the federal Medicaid waiver for Senior Care that would allow DHFS to deduct the amount of property taxes that a person is assessed on his or her principal dwelling when calculating the person's household income for purposes of determining eligibility for and the deductible amount under Senior Care. The bill requires DHFS to implement the waiver amendment if the U.S. Department of Health and Human Services approves it.

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:*

*Change Component*  
2 SECTION 1. 49.688 (4) of the statutes is renumbered 49.688 (4) (a) and amended

to read:

3 49.688 (4) (a) The department shall devise and distribute a form for application  
4 for the program under sub. (2), shall determine eligibility for each 12-month benefit  
5 period of applicants and shall issue to eligible persons a prescription drug card for  
6 use in purchasing prescription drugs, as specified in sub. (5).

7 (b) 1. The department shall promulgate rules that specify the criteria to be used  
8 to determine household income under sub. (2) (a) 4. and (b) and (3) (b) 1. and 2.

9 SECTION 2. 49.688 (4) (b) 2. of the statutes is created to read:

10 49.688 (4) (b) 2. The rules under subd. 1. shall require that when determining  
11 a person's household income the department deduct any amount that the person, or  
12 any member of his or her household, is assessed in property taxes on the person's

**BILL**

1 principal dwelling for the calendar year in which the determination of household  
2 income is made.

3 **SECTION 3.** 49.688 (4) (b) 3. of the statutes is created to read:

4 49.688 (4) (b) 3. Subdivision 2. does not apply unless the waiver amendment  
5 requested by the department under sub. (11) (b) is approved by the U.S. secretary of  
6 health and human services.

7 **SECTION 4.** 49.688 (11) of the statutes is renumbered 49.688 (11) (a) and  
8 amended to read:

9 49.688 (11) (a) The department shall request from the federal U.S. secretary  
10 of health and human services a waiver, under 42 USC 1315 (a), of federal medicaid  
11 laws necessary to permit the department of health and family services to conduct a  
12 project, under all of the requirements of this section, to expand eligibility for medical  
13 assistance, for purposes of receipt of prescription drugs as a benefit, to include  
14 individuals who are eligible under sub. (2). The department may implement a waiver  
15 requested under this subsection only if the conditions of the waiver are consistent  
16 with the requirements of this section.

17 (c) The Except as provided in sub. (4) (b) 3., the department shall implement  
18 the program under this section regardless of whether a waiver, as specified in this  
19 subsection, is received.

20 **SECTION 5.** 49.688 (11) (b) of the statutes is created to read:

21 49.688 (11) (b) By the first day of the 4th month beginning after the effective  
22 date of this paragraph .... [revisor inserts date], the department of health and family  
23 services shall request from the U.S. secretary of health and human services an  
24 amendment to the waiver received under par. (a) that allows the department of  
25 health and family services to implement the requirement under sub. (4) (b) 2.

**BILL****SECTION 6. Nonstatutory provisions.**

(1) EMERGENCY RULES. If the U.S. secretary of health and human services approves a request for a waiver amendment that is submitted under section 49.688 (11) (b) of the statutes, as created by this act, the department of health and family services shall, using the procedure under section 227.24 of the statutes, promulgate the rule required under section 49.688 (4) (b) 2. of the statutes, as created by this act, for the period before the effective date of the permanent rule promulgated under section 49.688 (4) (b) 2. of the statutes, as created by this act, but not to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

**SECTION 7. Initial applicability.**

(1) This act first applies to program eligibility determinations and determinations of deductible amounts that are made on the first day of the 4th month beginning after the secretary of the U.S. department of health and human services approves a request for a waiver amendment that is submitted under section 49.688 (11) (b) of the statutes, as created by this act.

(END)

O-Note

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

LRB-1573/1dn

RLR: *kyf*

*Date*

Dan Young:

This is a companion to LRB-0895/1.

*[Handwritten signature]*  
Robin Ryan  
Legislative Attorney  
Phone: (608) 261-6927  
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**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1573/1dn  
RLR:kjf:nwn

January 19, 2007

Dan Young:

This is a companion to LRB-0895.

Robin Ryan  
Legislative Attorney  
Phone: (608) 261-6927  
E-mail: [robin.ryan@legis.wisconsin.gov](mailto:robin.ryan@legis.wisconsin.gov)

**Duerst, Christina**

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**From:** Young, Dan  
**Sent:** Thursday, February 15, 2007 1:03 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 07-1573/1 Topic: Eligibility for Senior Care

Please Jacket LRB 07-1573/1 for the ASSEMBLY.