

2007 SENATE BILL 518

February 20, 2008 – Introduced by Senator ERPENBACH. Referred to Committee on Health, Human Services, Insurance, and Job Creation.

1 **AN ACT** *to repeal* 49.471 (6) (e); *to renumber* 46.286 (1) (b) (intro.), 46.286 (1)
2 (b) 1m. and 46.286 (1) (b) 3.; *to renumber and amend* 49.45 (18) (am), 49.471
3 (5) (c) and 49.471 (6) (a); *to amend* 46.286 (3) (a) 4m., 49.45 (18) (b) 2., 49.471
4 (2), 49.471 (3) (a) 1., 49.471 (3) (b) 1. (intro.), 49.471 (3) (b) 1. c., 49.471 (3) (b)
5 2., 49.471 (4) (a) 4. a., 49.471 (4) (b) 4. a., 49.471 (5) (b) 1., 49.471 (5) (b) 2., 49.471
6 (7) (b) 1., 49.471 (7) (b) 2., 49.471 (7) (b) 3., 49.471 (7) (c) 1., 49.471 (8) (d) 2. c.,
7 49.471 (10) (a), 49.471 (10) (b) 5. and 49.471 (12) (b); and *to create* 46.286 (1)
8 (b) 1c., 49.45 (18) (am) 2., 49.471 (4) (a) 7., 49.471 (5) (c) 1., 49.471 (6) (a) 1.,
9 49.471 (8) (d) 1. f. and 49.471 (10) (b) 4. g. of the statutes; **relating to:** changes
10 to BadgerCare Plus.

Analysis by the Legislative Reference Bureau

BadgerCare Plus (BC+) is a Medical Assistance (MA) program that was approved in the biennial budget act. BC+, which will be administered by the Department of Health and Family Services (DHFS), provides health care benefits under two different plans, depending on the basis for a recipient's eligibility, to recipients who satisfy financial and nonfinancial eligibility criteria. The first plan

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provides the same benefits that are provided under regular MA. Individuals eligible for BC+ benefits under that plan (regular MA plan) include: a pregnant woman whose family income does not exceed 200 percent of the poverty level (poverty); a child under one year of age whose mother, on the day on which the child was born, was eligible for and receiving benefits under MA or BC+ under the regular MA plan; any child whose family income does not exceed 200 percent of poverty; an individual whose family income does not exceed 200 percent of poverty and who is the parent or caretaker relative of a child who is, generally, living in the home of the parent or caretaker relative; certain migrant workers and their dependents; and an individual between 18 and 21 years of age who was in foster care on his or her 18th birthday.

The second plan, called the Benchmark Plan, provides specified benefits, including, but not limited to, coverage for prescription drugs; physicians' services; inpatient and outpatient hospital services; home health services; physical, occupational, and speech therapy; treatment for nervous and mental disorders and alcoholism and other drug abuse problems; durable medical equipment; and transportation to obtain emergency medical care. Individuals eligible for BC+ benefits under the Benchmark Plan include: a pregnant woman whose family income exceeds 200 percent, but does not exceed 300 percent, of poverty; a child under one year of age whose mother, on the day on which the child was born, was eligible for and receiving BC+ benefits under the Benchmark Plan; any child whose family income exceeds 200 percent, but does not exceed 300 percent, of poverty; and an individual whose family income exceeds 200 percent, but does not exceed 300 percent, of poverty and who is the parent or caretaker relative of a child who is, generally, living in the home of the parent or caretaker relative. In addition, any child whose family income exceeds 300 percent of poverty may purchase coverage under the Benchmark Plan at the full per member per month cost of the coverage.

This bill makes a number of changes to BC+, including the following:

1) Specifies that DHFS will provide prenatal care services under the regular MA plan for a pregnant woman with presumptive eligibility (has not applied for benefits but satisfies the eligibility criteria) whose income is not greater than 200 percent of the poverty level (poverty) and will provide prenatal care services under the Benchmark Plan for a pregnant woman with presumptive eligibility whose income is greater than 200 percent but not greater than 300 percent of poverty.

2) Specifies that any pregnant woman is eligible for benefits for any of the three months before applying for benefits if she met the eligibility criteria during that month. Under current law, only a pregnant woman whose income is less than 150 percent of poverty is eligible for benefits for any of the three months before she applied for benefits.

3) Specifies that only a pregnant woman with income greater than 300 percent of poverty may obtain eligibility for BC+ benefits if medical expenses reduce her income to the applicable limit for eligibility. Current law provides that any pregnant woman or unborn child may obtain eligibility if medical expenses reduce income.

4) Provides that for determining financial eligibility, a person's income will be reduced by the amount of a court-ordered obligation, up to amount of the person's income. Current law reduces income by the amount the person pays in child support.

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5) Provides that a person who loses eligibility for six months for failure to pay a premium retains eligibility in any month during that six-month period when their family income is not more than 150 percent of poverty.

6) Extends eligibility for MA coverage for 12, rather than 18, months for a person over 18 years of age who was receiving MA when BC+ was implemented, who lost eligibility for MA solely because of the implementation of BC+, and who does not meet the income eligibility criteria of BC+.

7) Clarifies that a parent or caretaker relative of a child may be eligible for BC+ if the child is absent from the home but the parent or caretaker relative is complying with a permanency plan prepared under the juvenile justice code provisions of the statutes, as well as under the children's code provisions of the statutes.

8) Provides that certain persons who are eligible for an extension of MA benefits when their household incomes increase above poverty are eligible for BC+ benefits under the regular MA plan, are not required to pay a premium for the extension of benefits, and do not lose eligibility due to having access to employer-sponsored health insurance.

9) Clarifies that a child whose family income exceeds 150 percent of poverty and who may obtain eligibility if the difference between his or her family income and 150 percent of poverty is obligated or expended for medical care or health insurance premiums is one who is ineligible solely for reasons related to having certain types of access to certain types of health insurance coverage.

10) Provides that, if approval of the state plan amendments do not allow for federal funding for benefits for any part or all of one or more of the eligibility groups, DHFS may in its discretion pay for benefits for any part of any group for which federal funding is denied with moneys from a specified general purpose revenue appropriation.

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.** 46.286 (1) (b) (intro.) of the statutes, as affected by 2007 Wisconsin
2 Act 20, is renumbered 46.286 (1) (b) 2m. (intro.).

3 **SECTION 2.** 46.286 (1) (b) 1c. of the statutes is created to read:

4 46.286 (1) (b) 1c. In this paragraph, “medical assistance” does not include
5 coverage of the benefits under s. 49.471 (11).

6 **SECTION 3.** 46.286 (1) (b) 1m. of the statutes, as affected by 2007 Wisconsin Act
7 20, is renumbered 46.286 (1) (b) 2m. a.

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1 **SECTION 4.** 46.286 (1) (b) 3. of the statutes, as affected by 2007 Wisconsin Act
2 20, is renumbered 46.286 (1) (b) 2m. b.

3 **SECTION 5.** 46.286 (3) (a) 4m. of the statutes, as affected by 2007 Wisconsin Act
4 20, is amended to read:

5 46.286 **(3)** (a) 4m. The person is financially eligible under sub. (1) (b) ~~1m.~~ 2m.
6 a., and fulfills any applicable cost-sharing requirements.

7 **SECTION 6.** 49.45 (18) (am) of the statutes, as affected by 2007 Wisconsin Act
8 20, is renumbered 49.45 (18) (am) 1. and amended to read:

9 49.45 **(18)** (am) 1. ~~No Except as provided in subd. 2., no person is liable under~~
10 ~~this subsection for services provided through prepayment contracts. This paragraph~~
11 ~~does not apply to a person who is eligible for the benefits under s. 49.46 (2) (a) and~~
12 ~~(b) under s. 49.471.~~

13 **SECTION 7.** 49.45 (18) (am) 2. of the statutes is created to read:

14 49.45 **(18)** (am) 2. A person who is eligible for the benefits under s. 49.46 (2) (a)
15 and (b) under s. 49.471 is liable under this subsection for services provided through
16 a prepayment contract in the amounts and according to the procedures specified by
17 the department.

18 **SECTION 8.** 49.45 (18) (b) 2. of the statutes is amended to read:

19 49.45 **(18)** (b) 2. Any service provided to a person who is less than 18 years old.
20 This subdivision does not apply if the person's family income exceeds 100 percent of
21 the poverty line and he or she is eligible for the benefits under s. 49.46 (2) (a) and (b)
22 under s. 49.471.

23 **SECTION 9.** 49.471 (2) of the statutes, as created by 2007 Wisconsin Act 20, is
24 amended to read:

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1 49.471 (2) WAIVER AND STATE PLAN AMENDMENTS. The department shall request
2 a waiver from, and submit amendments to the state Medical Assistance plan to, the
3 secretary of the federal department of health and human services to implement
4 BadgerCare Plus. If the state plan amendments are approved and a waiver that is
5 substantially consistent with the provisions of this section, excluding sub. (2m), is
6 granted and in effect, the department shall implement BadgerCare Plus beginning
7 on January 1, 2008, the effective date of the state plan amendments, or the effective
8 date of the waiver, whichever is latest. If the state plan amendments are approved
9 but the terms of approval do not allow for federal funding of the cost of benefits for
10 all or any part of one or more of the eligibility categories under sub. (4) (b), the
11 department may at its discretion pay for the cost of benefits for all or any part of any
12 group for which federal funding was denied exclusively with moneys from the
13 appropriation under s. 20.435 (4) (b). If the state plan amendments are not approved
14 or if a waiver that is substantially consistent with the provisions of this section,
15 excluding sub. (2m), is not granted, BadgerCare Plus may not be implemented. If
16 the state plan amendments are approved but approval is not continued or if a waiver
17 that is substantially consistent with the provisions of this section, excluding sub.
18 (2m), is granted but not continued in effect, BadgerCare Plus shall be discontinued.

19 **SECTION 10.** 49.471 (3) (a) 1. of the statutes, as created by 2007 Wisconsin Act
20 20, is amended to read:

21 49.471 (3) (a) 1. Notwithstanding ss. 49.46 (1), 49.465, 49.47 (4), and 49.665 (4),
22 if the amendments to the state plan under sub. (2) are approved and a waiver under
23 sub. (2) that is substantially consistent with ~~all~~ of the provisions of this section,
24 excluding sub. (2m), is granted and in effect, an individual described in sub. (4) (a)
25 or (b) or (5) is not eligible under s. 49.46, 49.465, 49.47, or 49.665 for Medical

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1 Assistance or BadgerCare health program benefits. The eligibility of an individual
2 described in sub. (4) (a) or (b) or (5) for Medical Assistance benefits shall be
3 determined under this section.

4 **SECTION 11.** 49.471 (3) (b) 1. (intro.) of the statutes, as created by 2007
5 Wisconsin Act 20, is amended to read:

6 49.471 (3) (b) 1. (intro.) If an individual over 18 years of age who is eligible for
7 and receiving Medical Assistance benefits under s. 49.46, 49.47, or 49.665 in the
8 month before BadgerCare Plus is implemented loses that eligibility solely due to the
9 implementation of BadgerCare Plus and, because of his or her income, is not eligible
10 for BadgerCare Plus, the individual shall continue receiving for ~~18~~ 12 consecutive
11 months the medical assistance he or she was receiving before the implementation of
12 BadgerCare Plus if all of the following are satisfied:

13 **SECTION 12.** 49.471 (3) (b) 1. c. of the statutes, as created by 2007 Wisconsin
14 Act 20, is amended to read:

15 49.471 (3) (b) 1. c. The individual ~~continues to meet~~ meets all nonfinancial
16 eligibility requirements ~~for the coverage that he or she had in the month before the~~
17 ~~implementation of BadgerCare Plus~~ under this section.

18 **SECTION 13.** 49.471 (3) (b) 2. of the statutes, as created by 2007 Wisconsin Act
19 20, is amended to read:

20 49.471 (3) (b) 2. Notwithstanding subd. 1., if at any time during an individual's
21 ~~18-month~~ 12-month eligibility extension under subd. 1. any criterion under subd.
22 1. a. to d. is not satisfied, the individual's eligibility for the extended coverage is
23 terminated and any time remaining in the eligibility period is lost.

24 **SECTION 14.** 49.471 (4) (a) 4. a. of the statutes, as created by 2007 Wisconsin
25 Act 20, is amended to read:

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1 49.471 (4) (a) 4. a. The individual is a parent or caretaker relative of a child who
2 is living in the home with the parent or caretaker relative or who is temporarily
3 absent from the home for not more than 6 months or, if the child has been removed
4 from the home for more than 6 months, the parent or caretaker relative is working
5 toward unifying the family by complying with a permanency plan under s. 48.38 or
6 938.38.

7 **SECTION 15.** 49.471 (4) (a) 7. of the statutes is created to read:

8 49.471 (4) (a) 7. Individuals who qualify for a medical assistance eligibility
9 extension under s. 49.46 (1) (c), (cg), or (co) when their income increases above the
10 poverty line.

11 **SECTION 16.** 49.471 (4) (b) 4. a. of the statutes, as created by 2007 Wisconsin
12 Act 20, is amended to read:

13 49.471 (4) (b) 4. a. The individual is a parent or caretaker relative of a child who
14 is living in the home with the parent or caretaker relative or who is temporarily
15 absent from the home for not more than 6 months or, if the child has been removed
16 from the home for more than 6 months, the parent or caretaker relative is working
17 toward unifying the family by complying with a permanency plan under s. 48.38 or
18 938.38.

19 **SECTION 17.** 49.471 (5) (b) 1. of the statutes, as created by 2007 Wisconsin Act
20 20, is amended to read:

21 49.471 (5) (b) 1. Except as provided in sub. (6) (a) 1., a pregnant woman is
22 eligible for the benefits specified in par. (c) during the period beginning on the day
23 on which a qualified provider determines, on the basis of preliminary information,
24 that the woman's family income does not exceed 300 percent of the poverty line and
25 ending on the applicable day specified in subd. 3.

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1 **SECTION 18.** 49.471 (5) (b) 2. of the statutes, as created by 2007 Wisconsin Act
2 20, is amended to read:

3 49.471 (5) (b) 2. Except as provided in sub. (6) (a) 2., a child who is not an unborn
4 child is eligible for the benefits described in s. 49.46 (2) (a) and (b) during the period
5 beginning on the day on which a qualified entity determines, on the basis of
6 preliminary information, that the child's family income does not exceed 150 percent
7 of the poverty line and ending on the applicable day specified in subd. 3.

8 **SECTION 19.** 49.471 (5) (c) of the statutes, as created by 2007 Wisconsin Act 20,
9 is renumbered 49.471 (5) (c) 2. and amended to read:

10 49.471 (5) (c) 2. On behalf of a woman under par. (b) 1. whose family income
11 exceeds 200 percent of the poverty line, the department shall audit and pay allowable
12 charges to a provider certified under s. 49.45 (2) (a) 11. only for ambulatory prenatal
13 care services under the benefits under sub. (11).

14 **SECTION 20.** 49.471 (5) (c) 1. of the statutes is created to read:

15 49.471 (5) (c) 1. On behalf of a woman under par. (b) 1. whose family income
16 does not exceed 200 percent of the poverty line, the department shall audit and pay
17 allowable charges to a provider certified under s. 49.45 (2) (a) 11. only for ambulatory
18 prenatal care services under the benefits described in s. 49.46 (2) (a) and (b).

19 **SECTION 21.** 49.471 (6) (a) of the statutes, as created by 2007 Wisconsin Act 20,
20 is renumbered 49.471 (6) (a) 2. and amended to read:

21 49.471 (6) (a) 2. ~~Any pregnant woman, including a pregnant woman under sub~~
22 ~~(5) (b) 1.,~~ child who is not an unborn child, including a child under sub. (5) (b) 2.,
23 parent, or caretaker relative whose family income is less than 150 percent of the
24 poverty line is eligible for medical assistance under this section for any of the 3
25 months prior to the month of application if the individual met the eligibility criteria

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1 under this section and had a family income of less than 150 percent of the poverty
2 line in that month.

3 **SECTION 22.** 49.471 (6) (a) 1. of the statutes is created to read:

4 49.471 **(6)** (a) 1. Any pregnant woman, including a pregnant woman under sub.
5 (5) (b) 1., is eligible for medical assistance under this section for any of the 3 months
6 prior to the month of application if she met the eligibility criteria under this section
7 in that month.

8 **SECTION 23.** 49.471 (6) (e) of the statutes, as created by 2007 Wisconsin Act 20,
9 is repealed.

10 **SECTION 24.** 49.471 (7) (b) 1. of the statutes, as created by 2007 Wisconsin Act
11 20, is amended to read:

12 49.471 **(7)** (b) 1. A pregnant woman, ~~or an unborn child,~~ whose family income
13 exceeds 300 percent of the poverty line may become eligible for coverage under this
14 section if the difference between the pregnant woman's ~~or unborn child's~~ family
15 income and the applicable income limit under sub. (4) (b) is obligated or expended
16 for any member of the pregnant woman's ~~or unborn child's~~ family for medical care
17 or any other type of remedial care recognized under state law or for personal health
18 insurance premiums or for both. Eligibility obtained under this subdivision
19 continues without regard to any change in family income for the balance of the
20 pregnancy and, ~~for a pregnant woman but not for an unborn child,~~ to the last day of
21 the month in which the 60th day after the last day of the woman's pregnancy falls.
22 Eligibility obtained by a pregnant woman under this subdivision extends to all
23 pregnant women in the pregnant woman's family.

24 **SECTION 25.** 49.471 (7) (b) 2. of the statutes, as created by 2007 Wisconsin Act
25 20, is amended to read:

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1 49.471 (7) (b) 2. A child who is not an unborn child ~~and~~, whose family income
2 exceeds 150 percent of the poverty line, and who is ineligible under this section solely
3 because of sub. (8) (b) may obtain eligibility under this section if the difference
4 between the child's family income and 150 percent of the poverty line is obligated or
5 expended on behalf of the child or any member of the child's family for medical care
6 or any other type of remedial care recognized under state law or for personal health
7 insurance premiums or for both. Eligibility obtained under this subdivision during
8 any 6-month period, as determined by the department, continues for the remainder
9 of the 6-month period and extends to all children in the family.

10 **SECTION 26.** 49.471 (7) (b) 3. of the statutes, as created by 2007 Wisconsin Act
11 20, is amended to read:

12 49.471 (7) (b) 3. For a pregnant woman ~~or an unborn child~~ to obtain eligibility
13 under subd. 1., the amount that must be obligated or expended in any 6-month
14 period is equal to the sum of the differences in each of those 6 months between the
15 pregnant woman's ~~or unborn child's~~ monthly family income and the monthly family
16 income that is 300 percent of the poverty line. For a child to obtain eligibility under
17 subd. 2., the amount that must be obligated or expended in any 6-month period is
18 equal to the sum of the differences in each of those 6 months between the child's
19 monthly family income and the monthly family income that is 150 percent of the
20 poverty line.

21 **SECTION 27.** 49.471 (7) (c) 1. of the statutes, as created by 2007 Wisconsin Act
22 20, is amended to read:

23 49.471 (7) (c) 1. Deduct from family the individual's income, up to the amount
24 of the individual's income, any payments made by amount the individual is obligated
25 to pay for court-ordered child or family support or maintenance.

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1 **SECTION 28.** 49.471 (8) (d) 1. f. of the statutes is created to read:

2 49.471 **(8)** (d) 1. f. An individual described in sub. (4) (a) 7.

3 **SECTION 29.** 49.471 (8) (d) 2. c. of the statutes, as created by 2007 Wisconsin
4 Act 20, is amended to read:

5 49.471 **(8)** (d) 2. c. One or more members of the individual's family were eligible
6 for other health insurance coverage or Medical Assistance under s. 49.46 or 49.47 at
7 the time the employee failed to enroll in the health insurance coverage under par. (b)
8 1. and no member of the family was eligible for coverage under this section at that
9 time or, if one or more members of the individual's family were eligible for coverage
10 under this section at that time, family income did not exceed 150 percent of the
11 poverty line or the individual qualified for a medical assistance eligibility extension
12 as provided in sub. (4) (a) 7.

13 **SECTION 30.** 49.471 (10) (a) of the statutes, as created by 2007 Wisconsin Act
14 20, is amended to read:

15 49.471 **(10)** (a) *Copayments.* Except as provided in s. 49.45 (18) (am) 2. and (b)
16 2., all cost-sharing provisions under s. 49.45 (18) apply to a recipient with coverage
17 of the benefits described in s. 49.46 (2) (a) and (b) to the same extent as they apply
18 to a person eligible for medical assistance under s. 49.46, 49.468, or 49.47.

19 **SECTION 31.** 49.471 (10) (b) 4. g. of the statutes is created to read:

20 49.471 **(10)** (b) 4. g. An individual described in sub. (4) (a) 7.

21 **SECTION 32.** 49.471 (10) (b) 5. of the statutes, as created by 2007 Wisconsin Act
22 20, is amended to read:

23 49.471 **(10)** (b) 5. If a recipient who is required to pay a premium under this
24 paragraph or under sub. (2m) or (4) (c) either does not pay a premium when due or
25 requests that his or her coverage under this section be terminated, the recipient's

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1 coverage terminates and the recipient is not eligible for BadgerCare Plus for 6
2 consecutive calendar months following the date on which the recipient's coverage
3 terminated, except for any month during that 6-month period when the recipient's
4 family income does not exceed 150 percent of the poverty line.

5 **SECTION 33.** 49.471 (12) (b) of the statutes, as created by 2007 Wisconsin Act
6 20, is amended to read:

7 49.471 (12) (b) If the amendments to the state plan submitted under sub. (2)
8 are approved and a waiver that is substantially consistent with ~~all of~~ the provisions
9 of this section is granted and in effect, the department shall publish a notice in the
10 Wisconsin Administrative Register that states the date on which BadgerCare Plus
11 is implemented.

12 **SECTION 34. Effective date.**

13 (1) This act takes effect on the date stated in the Wisconsin Administrative
14 Register by the department of health and family services under section 49.471 (12)
15 (b) of the statutes, as affected by this act, as the implementation date for BadgerCare
16 Plus.

17 (END)