

**2007 DRAFTING REQUEST**

**Bill**

Received: 11/21/2007

Received By: **pkahler**

Wanted: **As time permits**

Identical to LRB:

For: **Jon Erpenbach (608) 266-6670**

By/Representing:

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: **YES**

Requester's email: **Sen.Erpenbach@legis.wisconsin.gov**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Changes to BadgerCare Plus

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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<br>11/26/2007 | bkraft<br>11/27/2007 |                        | _____          |                       |                 | State           |
| /P1          |                       |                      | jfrantze<br>11/28/2007 | _____          | cduerst<br>11/28/2007 |                 | State           |
| /P2          | pkahler<br>12/04/2007 | bkraft<br>12/07/2007 | pgreensl<br>12/07/2007 | _____          | mbarman<br>12/07/2007 |                 | State           |
| /1           | pkahler               | bkraft               | pgreensl               | _____          | lparisi               | sbasford        | State           |

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|              | 12/10/2007            | 12/10/2007           | 12/10/2007             | _____          | 12/10/2007             | 02/15/2008             |                 |
| /2           | pkahler<br>02/15/2008 | bkraft<br>02/18/2008 | rschluet<br>02/18/2008 | _____          | sbasford<br>02/18/2008 | sbasford<br>02/18/2008 |                 |

FE Sent For:

at  
intro

<END>

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See Attached

*Jacket 1/2"  
for Sen. Erpenbach*

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| /1           | pkahler               | bkraft               | pgreensl               | _____          | lparisi               | sbasford        | State           |

*[Handwritten signature]*  
2/18/08

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| /2           | pkahler<br>02/15/2008 | bkraft          |              | _____<br>_____ |                  |                 |                 |

FE Sent For:

*1/2 bjk 2/18*

**<END>**

**2007 DRAFTING REQUEST**

**Bill**

Received: **11/21/2007**

Received By: **pkahler**

Wanted: **As time permits**

Identical to LRB:

For: **Administration**

By/Representing: **Michelle Gauger**

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: **YES**

Requester's email: **Michelle.Gauger@Wisconsin.gov**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Changes to BadgerCare Plus

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**Instructions:**

See Attached

*Jacket "12"*

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| /1           | pkahler               | bkraft               | pgreensl               | _____          | lparisi               | sbasford        |                 |

*↓  
for Sen.  
Erpenbach  
per  
DOA*

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Addl. Drafters:

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

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**Topic:**

Changes to BadgerCare Plus

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**Instructions:**

See Attached

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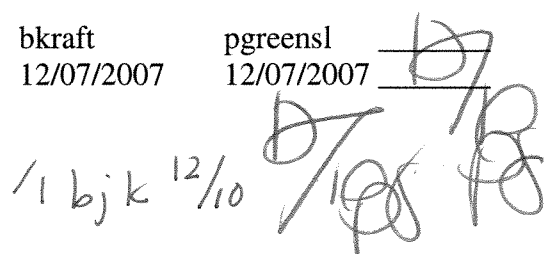
**Instructions:**

See Attached

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1 bjk 12/10  


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| /P1          |                       | 1P2Ef<br>12/7        | jfrantze<br>11/28/2007 |                | cduerst<br>11/28/2007 |                 |                 |

FE Sent For:

*pkahler* *pkahler* *pkahler*  
<END>

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| /?           | pkahler        | /PI bjk 11/28   | Jb<br>11/28  | Jb/Pg<br>11/28 |                  |                 |                 |

FE Sent For:

<END>

**Kahler, Pam**

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**From:** Gauger, Michelle C - DOA [Michelle.Gauger@Wisconsin.gov]  
**Sent:** Wednesday, November 21, 2007 10:05 AM  
**To:** Kahler, Pam  
**Cc:** Johnston, James - DOA; Jones, James D - DHFS; LaPhillip, John O - DHFS  
**Subject:** Request for Statutory Language Changes Related to BadgerCare Plus Expansion for Families  
**Attachments:** BC+ Statute Amendment Request 112207.doc

Good morning, Pam,

Per our phone call yesterday, here is the request for technical changes to statutory language adopted in the budget bill, 2007 Act 20. The Department of Health and Family Services notified us that these changes are necessary to bring state law into compliance with the agreement negotiated with the Centers for Medicare and Medicaid Services (CMS) that allows the implementation of BadgerCare Plus for Families. The citations for the current language, the proposed changes and the rationales for the changes are all explained in the attached document.

If you have any questions about the changes, you may contact Jim Jones or John LaPhillip (both at DHFS) directly, but please CC me on any correspondence so that I can stay informed.

Thank you, in advance!

Michelle Gauger

<<BC+ Statute Amendment Request 112207.doc>>

## Request for Statutory Technical Amendments for BadgerCare Plus

### **S. 49.471 (3) (b) 1.**

*Staff at the Centers for Medicare and Medicaid Services (CMS) have told the Department that they will only permit 12 months of transitional benefits.*

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

...

*Persons who do not meet BC+ non-financial criteria are not eligible for transitional benefits. We are not continuing old non-financial criteria after implementation of BC+.*

✓ "c. The individual continues to meet all nonfinancial eligibility requirements under this section for the coverage that he or she had in the month before the implementation of BadgerCare Plus."

### **S. 49.471 (4) (a) 4. a.**

*Modify to accommodate children with permanency plans under the Juvenile Justice statutes.*

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

### **S. 49.471 (4) (a)**

*Staff at CMS have told the Department that we must continue to grant Medical Assistance Eligibility Extensions. Add to the groups listed under (4)(a) who are eligible for regular Medicaid benefits under 49.46(2) (standard plan), persons eligible for Medical Assistance Eligibility Extensions. Under Badger Care Plus, the extensions apply to recipients when incomes exceed 100% of the poverty level due to increases in earnings or child/family support.*

✓ 7. Persons who qualify for the medical assistance eligibility extensions under s. 49.46 (1) (c), (cg), and (co) when their income increases above the poverty level."

### **S. 49.471 (4) (b) 4. a.**

*Modify to accommodate children with permanency plans under the Juvenile Justice statutes.*

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

**S. 49.471 (5) (c)**

*Modify to clarify that only pregnant women found eligible with incomes over 200% of the FPL will receive ambulatory prenatal care services through the BC+ Benchmark Plan. Pregnant women with incomes at or below 200% of the FPL will receive ambulatory services under the Standard Plan.*

✓ (c) On behalf of a woman under par. (b) 1., whose family income is greater than 200 percent of the poverty level, the department shall audit and pay allowable charges to a provider certified under s. 49.45 (2) (a) 11. only for ambulatory prenatal care services under the benefits under sub. (11). On behalf of a woman under par. (b) 1. whose family income is equal to or less than 200 percent of the poverty level, the department shall audit and pay allowable charges to a provider certified under s. 49.45 (2) (a) 11. only for ambulatory prenatal care services covered under 49.46(2).

**S. 49.471 (6) (a)**

*Backdating of eligibility for pregnant women is not limited to those with incomes below 150% of the FPL.*

✓ “(a) ~~Any pregnant woman, including a pregnant woman under sub (5) (b) 1.,~~ 1. A child who is not an unborn child, including a child under sub. (5) (b) 2., parent, or caretaker relative whose family income is less than 150 percent of the poverty line is eligible for medical assistance under this section for any of the 3 months prior to the month of application if the individual met the eligibility criteria under this section and had a family income of less than 150 percent of the poverty line in that month.

2. A pregnant woman, including a pregnant woman under sub (5) (b) 1., is eligible for medical assistance under this section for any of the 3 months prior to the month of application if the individual met the eligibility criteria under this section.”

**S. 49.471 (6) (e)**

*Delete this section as we will grant extensions to some BadgerCare Plus recipients.*

✓ “(e) ~~The medical assistance eligibility extensions under s. 49.46 (1) (c), (cg), and (co) for individuals who lose eligibility due to increased income do not apply to BadgerCare Plus.”~~

**S. 49.471 (7) (b) 1.**

*Eligibility for unborn children is under the State Child Health Insurance Program (SCHIP), which does not have a spenddown policy.*

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



**S. 49.471 (7) (c) 1.**

*Clarify that we will deduct a child support obligation up to the amount of the individual's income. We are not limiting the deduction to actual payments. Such a policy simplifies program administration.*

✓ "1. Deduct from family an individual's income any payments made by the obligation that individual for has to pay court-ordered child or family support or maintenance."

**S. 49.471 (8) (d) 1.**

*Add a cross reference to show that persons eligible for the extensions will not lose eligibility due to coverage or access to employer sponsored health insurance while eligible for an extension.*

✓ f. Persons eligible for a medical assistance eligibility extension under sub. (4) (a) 7.

**S. 49.471 (8) (d) 2. c.**

*We do not require BC+ recipients to take employer sponsored insurance when their income is at or below 150% or they are in an extension, we want to be clear that we will not later penalize them for declining that insurance coverage when they are that poor. We also want to clarify that the reference to Medical Assistance does not include BC+.*

✓ "c. One or more members of the individual's family were eligible for other health insurance coverage or Medical Assistance under s. 49.46 or s. 49.47 at the time the employee failed to enroll in the health insurance coverage under par. (b) 1. and no member of the family was eligible for coverage under this section at that time, or if eligible for coverage under this section, family income was at or below 150 percent of the poverty line, or the individual was eligible for an extension under sub. (4) (a) 7.."

**S. 49.471 (10) (b) 4.**

*Add a cross reference to show that persons eligible for the extensions will not pay premiums while eligible for the extension.*

✓ g. Persons eligible for a medical assistance eligibility extension under sub. (4) (a) 7..

**S. 49.471 (10) (b) 5.**

*Add the voluntary quit provision that currently exists under the Wisconsin Administrative Code to prevent adverse selection for BadgerCare. Just as nonpayment of BC premiums currently does not affect Medicaid eligibility, we want to clarify that nonpayment of BC+ premiums does not affect eligibility for families with incomes below 150% of the poverty level.*

✓ "5. If a recipient who is required to pay a premium under this paragraph or under sub. (4) (c) either does not pay a premium when due, or requests that their benefits under this section be terminated, the recipient's coverage terminates and the recipient is not eligible for BadgerCare Plus for 6 consecutive calendar months following the date on which the recipient's coverage terminated, except for any months during that 6-month period when family income is at or below 150 percent of the poverty line."

✓ The Department also requests the following changes be made to statutes.

**S. 46.286(1)(b)1.**

*Someone who is eligible for the BC+ benchmark plan could end up being considered eligible for Family Care as a "Group A" person under current statutes and administrative rules. This could only happen in the case of a pregnant woman or a parent with a self-employed spouse, so it is likely to occur only rarely. To prevent this problem from occurring, we would suggest that a change be made to the Statutes at s. 46.286(1)(b)1. Please change the references to medical assistance below to exclude any persons eligible under the BC+ benchmark plan at s. 49.471(4)(b).*

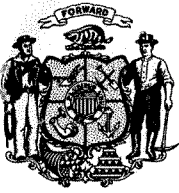
"(b) Financial eligibility. A person is financially eligible if all of the following apply:

1. As determined by the department or its designee, either of the following applies:

a. The person would qualify for medical assistance except for financial or disability criteria, and the projected cost of the person's care plan, as calculated by the department or its designee, exceeds the person's gross monthly income, plus one-twelfth of his or her countable assets, less deductions and allowances permitted by rule by the department.

b. The person is eligible under ch. 49 for medical assistance.

2. If subd. 1. b. applies, the person accepts medical assistance unless he or she is exempt from the acceptance under rules promulgated by the department."



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-3510

PJK.....

JPI  
bjk

Inserts

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION ✓

SA ✓  
x-ref ✓  
D-note  
(by Wed, 11-28,  
please)  
you cut

1 AN ACT ...; relating to: changes to BadgerCare Plus.

**Analysis by the Legislative Reference Bureau**

This is a preliminary draft. An analysis will be provided in a later version.  
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:**

- 2 SECTION 1. 46.286 (1) (b) (intro.) of the statutes, as affected by 2007 Wisconsin
- 3 Act 20, is renumbered 46.286 (1) (b) 2m. (intro.).
- 4 SECTION 2. 46.286 (1) (b) 1c. of the statutes is created to read:
- 5 46.286 (1) (b) 1c. In this paragraph, "medical assistance" does not include
- 6 coverage of the benefits under s. 49.471 (11).
- 7 SECTION 3. 46.286 (1) (b) 1m. of the statutes, as affected by 2007 Wisconsin Act
- 8 20, is renumbered 46.286 (1) (b) 2m. a.
- 9 SECTION 4. 46.286 (1) (b) 3. of the statutes, as affected by 2007 Wisconsin Act
- 10 20, is renumbered 46.286 (1) (b) 2m. b.

Insert 1-10 →

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

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

History: 2007 a. 20.

10           ~~SECTION 6.~~ 49.471 (3) (b) 1. c. of the statutes, as created by 2007 Wisconsin Act  
11 20, is amended to read:

12           ~~49.471 (3) (b) 1. c.~~ The individual ~~continues to meet~~ meets all nonfinancial  
13 eligibility requirements ~~for the coverage that he or she had in the month before the~~  
14 ~~implementation of BadgerCare Plus~~ under this section.

History: 2007 a. 20.

15           ~~SECTION 7.~~ 49.471 (3) (b) 2. of the statutes, as created by 2007 Wisconsin Act  
16 20, is amended to read:

17           ~~49.471 (3) (b) 2.~~ Notwithstanding subd. 1., if at any time during an individual's  
18 ~~18-month~~ 12-month eligibility extension under subd. 1. any criterion under subd.  
19 1. a. to d. is not satisfied, the individual's eligibility for the extended coverage is  
20 terminated and any time remaining in the eligibility period is lost.

History: 2007 a. 20.

21           ~~SECTION 8.~~ 49.471 (4) (a) 4. a. of the statutes, as created by 2007 Wisconsin Act  
22 20, is amended to read:

*not in the draft ↓ on this page*

*on p. 2  
line 21*

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

3 ✓ 49.471 (4) (a) 4. a. The individual is a parent or caretaker relative of a child who  
4 is living in the home with the parent or caretaker relative or who is temporarily  
5 absent from the home for not more than 6 months or, if the child has been removed  
6 from the home for more than 6 months, the parent or caretaker relative is working  
7 toward unifying the family by complying with a permanency plan under s. 48.38 or  
8 938.38.

History: 2007 a. 20.

9 ~~SECTION 9.~~ 49.471 (4) (a) 7. of the statutes is created to read:

10 ✓ 49.471 (4) (a) 7. Individuals who qualify for a medical assistance eligibility  
11 extension under s. 49.46 (1) (c), (cg), or (co) when they lose eligibility due to increased  
12 income. ✓

13 ~~SECTION 10.~~ 49.471 (4) (b) 4. a. of the statutes, as created by 2007 Wisconsin  
14 Act 20, is amended to read:

15 ✓ 49.471 (4) (b) 4. a. The individual is a parent or caretaker relative of a child who  
16 is living in the home with the parent or caretaker relative or who is temporarily  
17 absent from the home for not more than 6 months or, if the child has been removed  
18 from the home for more than 6 months, the parent or caretaker relative is working  
19 toward unifying the family by complying with a permanency plan under s. 48.38 or  
20 938.38.

History: 2007 a. 20.

21 ~~SECTION 11.~~ 49.471 (5) (c) of the statutes, as created by 2007 Wisconsin Act 20,  
22 is renumbered 49.471 (5) (c) 2. and amended to read:

*insert 3-20 ✓*

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

History: 2007 a. 20.

5        ~~SECTION 12.~~ 49.471 (5) (c) 1. of the statutes is created to read:

6        ✓ 49.471 (5) (c) 1. On behalf of a woman under par. (b) 1. whose family income  
 7        does not exceed 200 percent of the poverty line, the department shall audit and pay  
 8        allowable charges to a provider certified under s. 49.45 (2) (a) 11. only for ambulatory  
 9        prenatal care services under the benefits described in s. 49.46 (2) (a) and (b).

10        ~~SECTION 13.~~ 49.471 (6) (a) of the statutes, as created by 2007 Wisconsin Act 20,  
 11        is renumbered 49.471 (6) (a) 2. and amended to read:

12        49.471 (6) (a) <sup>2.</sup> Any pregnant woman, including a pregnant woman under sub  
 13        ~~(5) (b) 1.~~, child who is not an unborn child, including a child under sub. (5) (b) 2.,  
 14        parent, or caretaker relative whose family income is less than 150 percent of the  
 15        poverty line is eligible for medical assistance under this section for any of the 3  
 16        months prior to the month of application if the individual met the eligibility criteria  
 17        under this section and had a family income of less than 150 percent of the poverty  
 18        line in that month.

History: 2007 a. 20.

19        ~~SECTION 14.~~ 49.471 (6) (a) 1. of the statutes is created to read:

20        ✓ 49.471 (6) (a) 1. Any pregnant woman, including a pregnant woman under sub  
 21        (5) (b) 1., is eligible for medical assistance under this section for any of the 3 months  
 22        prior to the month of application if she met the eligibility criteria under this section  
 23        in that month. ✓

1           SECTION ~~15~~<sup>X</sup>. 49.471 (6) (e) of the statutes, as created by 2007 Wisconsin Act 20,  
2 is repealed.

3           SECTION ~~16~~<sup>X</sup>. 49.471 (7) (b) 1. of the statutes, as created by 2007 Wisconsin Act  
4 20, is amended to read:

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

History: 2007 a. 20.

17           SECTION ~~17~~<sup>X</sup>. 49.471 (7) (b) 3. of the statutes, as created by 2007 Wisconsin Act  
18 20, is amended to read:

19           <sup>✓</sup>49.471 (7) (b) 3. For a pregnant woman ~~or an unborn child~~<sup>✓</sup> to obtain eligibility  
20 under subd. 1., the amount that must be obligated or expended in any 6-month  
21 period is equal to the sum of the differences in each of those 6 months between the  
22 pregnant woman's ~~or unborn child's~~<sup>✓</sup> monthly family income and the monthly family  
23 income that is 300 percent of the poverty line. For a child to obtain eligibility under  
24 subd. 2., the amount that must be obligated or expended in any 6-month period is

1 equal to the sum of the differences in each of those 6 months between the child's  
2 monthly family income and the monthly family income that is 150 percent of the  
3 poverty line.

History: 2007 a. 20.

4 **SECTION 18.** 49.471 (7) (c) 1. of the statutes, as created by 2007 Wisconsin Act  
5 20, is amended to read:

6 49.471 (7) (c) 1. Deduct from family income any payments made by amount the  
7 individual is obligated to pay for court-ordered child or family support or  
8 maintenance.

History: 2007 a. 20.

9 **SECTION 19.** 49.471 (8) (d) 1. f. of the statutes is created to read:

10 49.471 (8) (d) 1. f. An individual who qualifies for a medical assistance  
11 eligibility extension under sub. (4) (a) 7.

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

14 49.471 (8) (d) 2. c. One or more members of the individual's family were eligible  
15 for other health insurance coverage or Medical Assistance under s. 49.46 or 49.47 at  
16 the time the employee failed to enroll in the health insurance coverage under par. (b)  
17 1. and no member of the family was eligible for coverage under this section at that  
18 time or, if one or more members of the individual's family were eligible for coverage  
19 under this section at that time, family income did not exceed 150 percent of the  
20 poverty line or the individual qualified for a medical assistance eligibility extension  
21 under sub. (4) (a) 7.

History: 2007 a. 20.

22 **SECTION 21.** 49.471 (10) (b) 4. g. of the statutes is created to read:

*described in*

*as provided in*



*described in*

1 ✓ 49.471 (10) (b) 4. g. An individual who qualifies for a medical assistance  
2 eligibility extension under sub. (4) (a) 7.

3 SECTION 22. 49.471 (10) (b) 5. of the statutes, as created by 2007 Wisconsin Act  
4 20, is amended to read:

5 ✓ 49.471 (10) (b) 5. If a recipient who is required to pay a premium under this  
6 paragraph or under sub. (2m) or (4) (c) either does not pay a premium when due or  
7 requests that his or her coverage under this section be terminated, the recipient's  
8 coverage terminates and the recipient is not eligible for BadgerCare Plus for 6  
9 consecutive calendar months following the date on which the recipient's coverage  
10 terminated, except for any month during that 6-month period when the recipient's  
11 family income does not exceed 150 percent of the poverty line. ✓

History: 2007 a. 20.

12 (END) ✓

*→ D - vote*

2007-2008 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3510/?ins  
PJK:.....

Lbjk

INSERT 1-10

1            ~~SECTION 1.~~ 46.286 (3) (a) 4m. of the statutes, as affected by 2007 Wisconsin Act  
2            20, is amended to read:  
3            46.286 (3) (a) 4m. The person is financially eligible under sub. (1) (b) ~~1m.~~ 2m.  
4            a., and fulfills any applicable cost-sharing requirements.

History: 2007 a. 20.

(END OF INSERT 1-10)

INSERT 3-20

5            ~~SECTION 2.~~ 49.471 (5) (b) 1. of the statutes, as created by 2007 Wisconsin Act  
6            20, is amended to read:  
7            49.471 (5) (b) 1. Except as provided in sub. (6) (a) 1., a pregnant woman is  
8            eligible for the benefits specified in par. (c) during the period beginning on the day  
9            on which a qualified provider determines, on the basis of preliminary information,  
10           that the woman's family income does not exceed 300 percent of the poverty line and  
11           ending on the applicable day specified in subd. 3.

History: 2007 a. 20.

12           ~~SECTION 3.~~ 49.471 (5) (b) 2. of the statutes, as created by 2007 Wisconsin Act  
13           20, is amended to read:  
14           49.471 (5) (b) 2. Except as provided in sub. (6) (a) 2., a child who is not an unborn  
15           child is eligible for the benefits described in s. 49.46 (2) (a) and (b) during the period  
16           beginning on the day on which a qualified entity determines, on the basis of  
17           preliminary information, that the child's family income does not exceed 150 percent  
18           of the poverty line and ending on the applicable day specified in subd. 3.

History: 2007 a. 20.

(END OF INSERT 3-20)

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

LRB-3510/1<sup>PI</sup>dn

PJK:.....  
Lbjk

Date

Do we need to provide an effective date for these changes that is the same as the effective date for BC+ in Act 20, or will the implementation date for BC+ definitely have been noticed in the Wisconsin Administrative Register by the earliest time that this bill could pass? ✓

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

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

LRB-3510/P1dn  
PJK:bjk:jf

November 28, 2007

Do we need to provide an effective date for these changes that is the same as the effective date for BC+ in Act 20, or will the implementation date for BC+ definitely have been noticed in the Wisconsin Administrative Register by the earliest time that this bill could pass?

Pamela J. Kahler  
Senior Legislative Attorney  
Phone: (608) 266-2682  
E-mail: [pam.kahler@legis.wisconsin.gov](mailto:pam.kahler@legis.wisconsin.gov)

## DHFS Request for Corrections to Statutory Technical Amendments for BadgerCare Plus

December 2, 2007

The Department of Health and Family Services requests the following changes to the draft Technical Amendments to Wisconsin Act 20, which concerns the BadgerCare Plus program.

### SECTION 10. - S. 49.471 (4) (a) 7.

*Under Badger Care Plus (BC+), the extensions apply to recipients when incomes exceed 100% of the federal poverty level due to increases in earnings or child/family support. They are not losing eligibility for BC+. In addition, the references in (c), (cg) and (co) to losing eligibility for the old AFDC program are obsolete. As such, we believe the BC+ statute should specify the reference to the poverty level. Please remove the reference to eligibility and in it's place, use the reference to income exceeding the poverty level.*

7. Individuals who qualify for a medical assistance eligibility extensions under s. 49.46 (1) (c), (cg), and (co) when they lose eligibility due to increased income. their income increases above the poverty level.

*The following request was not included in the draft.*

### S. 49.471 (7) (b) 2.

*Eligibility for children through a deductible is limited to children with families over 150% of the poverty level and who are ineligible for BadgerCare Plus solely because of access or coverage to an employer's health insurance plan.*

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

### SECTION 21. - S. 49.471 (7) (c) 1.

*We requested a change to deduct a child support obligation up to the amount of the individual's income. The draft still makes the deduction from the family's income. The difference would mean that we would be subtracting one parent's child support obligation from anyone's income in the household, including unrelated children and unmarried partners. Please make the changes indicated in bold below.*

"1. Deduct from **family an individual's** income any ~~payments made by~~ amount the individual is obligated to pay for court-ordered child or family support or maintenance."

**Response to DRAFTER's NOTE**

We are not certain at this time when the BadgerCare Plus effective date will be published in the Wisconsin Administrative Register.

## Additional Statutory Changes

We would like the following draft proposed WI legislative changes to implement the BC+ copayments for services to children with family incomes above 100% FPL to be reviewed, revised and included by the Legislative Reference Bureau with the other changes previously sent. The effect of the amendments would be to create exceptions to two generally-applicable prohibitions against imposing copayments:

- an exception to the prohibition against copayments for services for recipients under 18, such that copayments could be imposed for services for children in families with incomes over 100% FPL who are eligible for BC+ standard plan benefits; and
- an exception to the prohibition against imposing copayments for services provided through prepayment contracts, such that BC+ members receiving standard plan benefits through HMOs are liable for copayments.

**SECTION 1.** 49.45 (18) (am) of the statutes is renumbered 49.45 (18) (am) 1 and amended to read:

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

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

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

**SECTION 3.** 49.45 (18) (b) 2. of the statutes is amended to read:

49.45 (18) (b) 2. Any service provided to a person who is less than 18 years old. This provision does not apply to a person who is less than 18 years old, whose family income exceeds 100 percent of the poverty line and who is eligible for the benefits under s. 49.46 (2) (a) and (b) under s. 49.471.

**SECTION 4.** 49.471(10) (a) of the statutes is amended to read:

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

We would also like the following draft proposed WI legislative changes to implement the 100% state funding of BadgerCare Plus benefits for children ages 0 to 18 years with family incomes that exceed 250% of the federal poverty level, but are not greater than 300% of the federal poverty level, to be reviewed, revised and included by the Legislative Reference Bureau with the other statutory changes previously sent.

**SECTION 1.** 49.471 (2) of the statutes is amended to read:

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



**Kahler, Pam**

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**From:** Gauger, Michelle C - DOA [Michelle.Gauger@Wisconsin.gov]  
**Sent:** Tuesday, December 04, 2007 11:19 AM  
**To:** Kahler, Pam  
**Cc:** Johnston, James - DOA; Jones, James D - DHFS; Gebhart, Neil R - DHFS; LaPhilliph, John O - DHFS; Plona, Katie P - DHFS  
**Subject:** Edits to Draft LRB 07-3510/P1  
**Attachments:** Additional Changes.doc; BC+ Statute Amendment DRAFT CORRECTIONS.DOC

Pam,

Please see the two attached documents from DHFS. They have reviewed draft LRB 07-3510/P1 and have a few changes. Can you please incorporate these changes into the draft? If you have questions, please feel free to contact Jim Jones or John LaPhilliph directly and cc me on any correspondence.

Thank you,

Michelle Gauger

(2) ← done  
✓ (3)(a) 1.  
✓ (12)(b)