



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0248/12
DAK&PJK:jld:rs

D-NOTE

LPS-
Request
sheet fixed

DOA:.....Pink, BB0012 - ~~Medical Assistance~~ third-party liability ; *sharing health data* ✓
FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

don't gen

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

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

✓
INSERT A-1

Currently, DHFS may obtain from insurers information DHFS needs to identify a recipient of Medical Assistance (MA) who is eligible for benefits under a disability insurance policy or, if enrolled as the dependent of a beneficiary, would be eligible for benefits; claims submittal information; and types of benefits provided under the policy. DHFS must enter into an agreement with the insurer that identifies the information to be disclosed, safeguards confidentiality, and specifies how the insurer's reasonable costs will be determined and paid from state general purpose revenues and federal moneys. Insurers must provide the information within specified deadlines, and the commissioner of insurance may initiate enforcement proceedings for noncompliance.

This bill expands the sources from ~~whom~~ ^{which} DHFS may receive health care services coverage information to include entities that are responsible for payment of a claim for a health care item or service and ~~expands to third parties the~~ ^{payable} compensation for providing the information. These entities, termed "third parties," include, in addition to insurers, self-insured plans, service benefits plans, and pharmacy benefits managers. The bill authorizes DHFS to notify the attorney general of third parties, other than insurers, that fail to provide information requested.

makes available

about MA recipients ✓

Sources ✓

Under the bill, third parties must accept assignment to DHFS of a right of an individual to receive payment from the third party for a health care item or service for which payment under MA, or under a program administered under MA under a federal waiver, has been made. Third parties must also accept the right of DHFS to recover any third-party payment made for which assignment had not been accepted. A third party must respond to an inquiry by DHFS concerning a claim for payment of a health care item or service if the inquiry is made within 36 months after the item or service is provided. Further, third parties must agree not to deny a DHFS claim on the basis of certain circumstances, if submitted less than 36 months after the health care item or service is provided and if action by DHFS to enforce its rights is commenced less than 72 months after DHFS submits the claim.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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3-SPC

anal:

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

1 **SECTION 1.** 20.435 (4) (bm) of the statutes is amended to read:
2 20.435 (4) (bm) *Medical Assistance, food stamps, and Badger Care*
3 *administration; contract costs, insurer reports, and resource centers.* Biennially, the
4 amounts in the schedule to provide the state share of administrative contract costs
5 for the Medical Assistance program under s. 49.45, the food stamp program under
6 s. 49.79, and the Badger Care health care program under s. 49.665, other than
7 payments to counties and tribal governing bodies under s. 49.78 (8), to develop and
8 implement a registry of recipient immunizations, to reimburse ~~insurers~~ 3rd parties
9 for their costs under s. 49.475, for costs associated with outreach activities, and for
10 services of resource centers under s. 46.283. No state positions may be funded in the
11 department of health and family services from this appropriation, except positions
12 for the performance of duties under a contract in effect before January 1, 1987,
13 related to the administration of the Medical Assistance program between the
14 subunit of the department primarily responsible for administering the Medical
15 Assistance program and another subunit of the department. Total administrative

1 funding authorized for the program under s. 49.665 may not exceed 10% of the
2 amounts budgeted under pars. (bc), (p), and (x).

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

3 **SECTION 2.** 20.435 (4) (pa) of the statutes is amended to read:

4 20.435 (4) (pa) *Federal aid; Medical Assistance and food stamp contracts*
5 *administration.* All federal moneys received for the federal share of the cost of
6 contracting for payment and services administration and reporting, other than
7 moneys received under par. (nn), to reimburse ~~insurers~~ 3rd parties for their costs
8 under s. 49.475, for administrative contract costs for the food stamp program under
9 s. 49.79, and for services of resource centers under s. 46.283.

10 **SECTION 3.** 49.475 (1) (a) of the statutes is renumbered 49.475 (1) (ar).

11 **SECTION 4.** 49.475 (1) (ag) of the statutes is created to read:

12 49.475 (1) (ag) "Covered entity" means any of the following that is not an
13 insurer:

14 1. A nonprofit hospital, as defined in s. 46.21 (2) (m).

15 2. An employer, as defined in s. 101.01 (4), labor union, or other group of persons
16 organized in this state if the employer, labor union, or other group provides
17 prescription drug coverage to covered individuals who reside or are employed in this
18 state.

19 3. A comprehensive or limited health care benefits program administered by
20 the state that provides prescription drug coverage.

21 **SECTION 5.** 49.475 (1) (am) of the statutes is created to read:

22 49.475 (1) (am) "Covered individual" means an individual who is a member,
23 participant, enrollee, policyholder, certificate holder, contract holder, or beneficiary

✓
[scribble]
INSERT
3-9A

1 of a covered entity, or a dependent of the individual, and who receives prescription
2 drug coverage from or through the covered entity.

3 **SECTION 6.** 49.475 (1) (c) of the statutes is created to read:

4 49.475 (1) (c) "Pharmacy benefits management" means the procurement of
5 prescription drugs at a negotiated rate for dispensation in this state to covered
6 individuals; the administration or management of prescription drug benefits
7 provided by a covered entity for the benefit of covered individuals; or any of the
8 following services provided in the administration of pharmacy benefits:

- 9 1. Dispensation of prescription drugs by mail.
- 10 2. Claims processing, retail network management, and payment of claims to
11 pharmacies for prescription drugs dispensed to covered individuals.
- 12 3. Clinical formulary development and management services.
- 13 4. Rebate contracting and administration.
- 14 5. Conduct of patient compliance, therapeutic intervention, generic
15 substitution, and disease management programs.

16 **SECTION 7.** 49.475 (1) (d) of the statutes is created to read:

17 49.475 (1) (d) "Pharmacy benefits manager" means a person that performs
18 ✓ pharmacy benefits management functions.

19 **SECTION 8.** 49.475 (1) (e) of the statutes is created to read:

20 49.475 (1) (e) "Third party" means an entity that by statute, rule, or contract
21 is responsible for payment of a claim for a health care item or service. "Third party"
22 includes all of the following:

- 23 1. An insurer.
- 24 2. An employee benefit plan described in 29 USC 1003 (a) that is not exempt
25 under 29 USC 1003 (b) and is not a multiple employer welfare arrangement.

1 3. A service benefit plan, as specified in 42 USC 1396a (25) (I).

2 4. A pharmacy benefits manager.

3 SECTION 9. 49.475 (2) of the statutes is repealed and recreated to read:

4 49.475 (2) REQUIREMENTS OF 3RD PARTIES. As a condition of doing business in this
5 state, a 3rd party shall do all of the following: ✓ a recipient

6 (a) Upon the department's request and in the manner prescribed by the
7 department, provide information to the department necessary for the department to
8 ascertain all of the following with respect to ~~an individual or his or her spouse or~~
9 ~~dependent who has been or is a recipient of medical assistance or a program~~
10 ~~administered under medical assistance under a waiver of federal Medicaid laws:~~

11 1. Whether the ~~individual or his or her spouse or dependent~~ is being or has been
12 provided coverage or a benefit or service by a 3rd party. recipient ✓

13 2. If subd. 1. applies, the nature and period of time of any coverage, benefit, or
14 service provided, including the name, address, and identifying number of any
15 applicable coverage plan. a recipient ✓

16 (b) Accept assignment to the department of a right of ~~an individual~~ to receive
17 3rd-party payment for an item or service for which payment under medical
18 assistance has been made and accept the department's right to recover any
19 3rd-party payment made for which assignment has not been accepted.

20 (c) Respond to an inquiry by the department concerning a claim for payment
21 of a health care item or service if the department submits the inquiry less than 36
22 months after the date on which the health care item or service was provided.

23 (d) If all of the following apply, agree not to deny a claim submitted by the
24 department under par. (b) solely because of the claim's submission date, the type or
25 format of the claim form, or failure by ~~an individual described under par. (a)~~ to

✓ a recipient

1 present proper documentation at the time of delivery of the service, benefit, or item
2 that is the basis of the claim:

3 1. The department submits the claim less than 36 months after the date on
4 which the health care item or service was provided.

5 2. Action by the department to enforce the department's rights under this
6 section with respect to the claim is commenced less than 72 months after the
7 department submits the claim.

8 **SECTION 10.** 49.475 (3) (intro.) of the statutes is amended to read:

9 49.475 (3) WRITTEN AGREEMENT. (intro.) Upon requesting an insurer a 3rd party
10 to provide the information under sub. (2) (a), the department and the 3rd party shall
11 [✓] enter into a written agreement ~~with the insurer~~ that satisfies all of the following:

12 **SECTION 11.** 49.475 (3) (c) of the statutes is amended to read:

13 49.475 (3) (c) Specifies how the insurer's 3rd party's reimbursable costs under
14 sub. (5) will be determined and specifies the manner of payment.

15 **SECTION 12.** 49.475 (4) (a) of the statutes is amended to read:

16 49.475 (4) (a) ~~An insurer~~ A 3rd party shall provide the information requested
17 under sub. (2) (a) within 180 days after receiving the department's request if it is the
18 first time that the department has requested the insurer 3rd party to disclose
19 information under this section.

20 **SECTION 13.** 49.475 (4) (b) of the statutes is amended to read:

21 49.475 (4) (b) ~~An insurer~~ A 3rd party shall provide the information requested
22 under sub. (2) (a) within 30 days after receiving the department's request if the
23 department has previously requested the insurer 3rd party to disclose information
24 under this section.

25 **SECTION 14.** 49.475 (4) (d) of the statutes is created to read:

1 49.475 (4) (d) If a 3rd party other than an insurer fails to comply with par. (a)
2 or (b), the department may so notify the attorney general.

3 **SECTION 15.** 49.475 (5) of the statutes is amended to read:

4 49.475 (5) From the appropriations under s. 20.435 (4) (bm) and (pa), the
5 department shall reimburse ~~an insurer~~ A 3rd party that provides information under
6 ~~this section~~ sub. (2) (a) for the insurer's 3rd party's reasonable costs incurred in
7 providing the requested information, including its reasonable costs, if any, to develop
8 and operate automated systems specifically for the disclosure of the information
9 under this section.

10

(END)

INSERTS 7-9A ✓, 7-9B ✓, ~~7-9C~~ and 7-9D ✓

D-NOTE

LRS-INSERTS
OUT OF ORDER

INSERT A-1

PUBLIC ASSISTANCE

Under current law, DHFS provides financial assistance for the cost of medical care to persons with chronic kidney disease, cystic fibrosis, and hemophilia; this assistance is collectively referred to as the Chronic Disease Program. DHFS also provides payments to pharmacies and pharmacists for providing prescriptions to elderly persons at reduced rates; this program is referred to as Senior Care.

This bill requires health insurers, self-insured plans, service benefits plans, and pharmacy benefits managers (third parties) to provide to DHFS information from their records to enable DHFS to identify persons receiving benefits under the Chronic Disease Program and Senior Care who are eligible, or would be eligible as dependents, for health care coverage from a third party. These third parties may receive compensation for providing the information, must provide the information within certain deadlines, and may be subject to enforcement proceedings for noncompliance. The third parties must accept assignment to DHFS of a right of an individual to receive payment from the third party for a health care item or service for which payment under the Chronic Disease Program or Senior Care has been made. Third parties must also accept the right of DHFS to recover any third-party payment made for which assignment had not been accepted. A third party must respond to an inquiry by DHFS concerning a claim for payment of a health care item or service if the inquiry is made within 36 months after the item or service is provided. Further, third parties must agree not to deny a DHFS claim on the basis of certain circumstances, if submitted less than 36 months after the health care item or service is provided and if action by DHFS to enforce its rights is commenced less than 72 months after DHFS submits the claim.

INSERT A-2A

Lastly, the bill applies the information recovery, acceptance of assignment, recovery of third-party payment, and compensation provisions of current law and as affected by this bill so as to enable DHFS also to identify Badger Care recipients who are eligible, or who would be eligible as dependents, for health care coverage from a third party.

HEALTH

health care program

Currently, DHFS administers the Well-Woman Program, under which certain medical services related to breast cancer, cervical cancer, and multiple sclerosis and certain general medical services are provided to underinsured and uninsured women of low income.

This bill requires health insurers, self-insured plans, service benefits plans, and pharmacy benefits managers (third parties) to provide to DHFS information from their records to enable DHFS to identify persons receiving benefits under the Well-Woman Program who are eligible, or would be eligible as dependents, for health care coverage from a third party. These third parties may receive compensation for providing the information, must provide the information within certain deadlines,



and may be subject to enforcement proceedings for noncompliance. The third parties must accept assignment to DHFS of a right of an individual to receive payment from the third party for a health care item or service for which payment under the Well-Woman Program has been made. Third parties must also accept the right of DHFS to recover any third-party payment made for which assignment had not been accepted. A third party must respond to an inquiry by DHFS concerning a claim for payment of a health care item or service if the inquiry is made within 36 months after the item or service is provided. Further, third parties must agree not to deny a DHFS claim on the basis of certain circumstances, if submitted less than 36 months after the health care item or service is provided and if action by DHFS to enforce its rights is commenced less than 72 months after DHFS submits the claim.

OTHER HEALTH AND FAMILY SERVICES

Currently, DHFS administers Family Care, a program that provides a flexible benefit of long-term care and services to certain persons who are at least 18 years of age, meet functional and financial eligibility requirements, and have a physical or developmental disability or degenerative brain disorder.

This bill requires health insurers, self-insured plans, service benefits plans, and pharmacy benefits managers (third parties) to provide to DHFS information from their records to enable DHFS to identify persons receiving benefits under Family Care who are eligible, or would be eligible as dependents, for health care coverage from a third party. These third parties may receive compensation for providing the information, must provide the information within certain deadlines, and may be subject to enforcement proceedings for noncompliance. The third parties must accept assignment to DHFS of a right of an individual to receive payment from the third party for a health care item or service for which payment under Family Care has been made. Third parties must also accept the right of DHFS to recover any third-party payment made for which assignment had not been accepted. A third party must respond to an inquiry by DHFS concerning a claim for payment of a health care item or service if the inquiry is made within 36 months after the item or service is provided. Further, third parties must agree not to deny a DHFS claim on the basis of certain circumstances, if submitted less than 36 months after the health care item or service is provided and if action by DHFS to enforce its rights is commenced less than 72 months after DHFS submits the claim.

INSERT 3-9A

- 1 **SECTION 1.** 46.286 (3m) of the statutes is repealed and recreated to read:
- 2 46.286 (3m) INFORMATION ABOUT ENROLLEES. The department shall obtain and
- 3 share information about family care enrollees as provided in s. 49.475.

INSERT 4-18

- 4 **SECTION 2.** 49.475 (1) (e) of the statutes is created to read:



1 49.475 (1) (e) "Recipient" means an individual or his or her spouse or dependent
2 who has been or is one of the following:

3 1. A recipient of medical assistance or of a program administered under medical
4 assistance under a waiver of federal Medicaid laws.

5 2. An enrollee of family care.

6 3. A recipient of the Badger Care health care program.

7 4. An individual who receives benefits under s. 49.68, 49.683, or 49.685.

8 5. A participant in the program of prescription drug assistance for elderly
9 persons under s. 49.688.

10 6. A woman who receives services that are reimbursed under s. 255.06.

INSERT 6-11

11 **SECTION 3.** 49.475 (3) (a) of the statutes is amended to read:

12 49.475 (3) (a) Identifies ~~in detail~~ the detailed format of the information to be
13 disclosed provided to the department.

History: 1991 a. 39; 1999 a. 9.

INSERT 7-9B

14 **SECTION 4.** 49.665 (5m) of the statutes is repealed and recreated to read:

15 49.665 (5m) INFORMATION ABOUT BADGER CARE RECIPIENTS. The department
16 shall obtain and share information about Badger Care recipients as provided in s.
17 49.475. *health care program*

18 **SECTION 5.** 49.687 (6) of the statutes is created to read:

19 49.687 (6) The department shall obtain and share information about
20 individuals who receive benefits under s. 49.68, 49.683, or 49.685 as provided in s.
21 49.475.

22 **SECTION 6.** 49.688 (8m) of the statutes is repealed and recreated to read:



(INSERT A-2B) ✓

DOA:.....Fath, BB0372 - Sharing health insurance data

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

OTHER HEALTH AND HUMAN SERVICES

recipients ✓

Under current law, DHFS may request from health insurers information to enable DHFS to identify medical assistance beneficiaries who are eligible, or who would be eligible as dependents, for health insurance coverage. An insurer that receives a request must provide the information within a certain period of time. Under the bill, DHFS must provide any information that it receives from a health insurer to DWD for purposes of DWD's program related to child and spousal support, paternity establishment, and medical support liability. DWD may allow county and tribal child support agencies access to the information, subject to use and disclosure restrictions under current law, and must consult with DHFS regarding procedures to safeguard the confidentiality of the information.

self-insured plan, service benefit plan, and pharmacy benefits manager

(end ins A-2B)

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

q
LPS
AWF

2 SECTION 1. 49.22 (1) of the statutes is amended to read:

(insert A-2B)

3 49.22 (1) There is created a child and spousal support and establishment of
4 paternity and medical liability support liability program in the department. The



INSERT 3-9A cont.

PWF

1 purpose of this program is to establish paternity when possible, to establish or modify
 2 support obligations, to enforce support obligations owed by parents to their children
 3 and maintenance obligations owed to spouses or former spouses with whom the
 4 children reside in this state or owed in other states if the support order was issued
 5 in this state or owed in other states if the parent, spouse, or former spouse resides
 6 in this state, to locate persons who are alleged to have taken their child in violation
 7 of s. 948.31 or of similar laws in other states, and to locate and value property of any
 8 person having a support duty. To accomplish the objectives of this program and of
 9 other assistance programs under this chapter, county and state agencies will
 10 cooperate with one another to implement a child and spousal support and paternity
 11 establishment and medical support liability program in accordance with state and
 12 federal laws, regulations, and rules and to assure proper distribution of benefits of
 13 all assistance programs authorized under this chapter.

End of INS 3-9A

INSERT 7-9A

SECTION 2. 49.475 (6) of the statutes is created to read:

15 49.475 (6) SHARING INFORMATION. The department of health and family services
 16 shall provide to the department of workforce development, for purposes of the
 17 medical support liability program under s. 49.22, any information that the
 18 department of health and family services receives under this section. The
 19 department of workforce development may allow a county child support agency
 20 under s. 59.53 (5) or a tribal child support agency access to the information, subject
 21 to the use and disclosure restrictions under s. 49.83, and shall consult with the
 22 department of health and family services regarding procedures and methods to
 23 adequately safeguard the confidentiality of the information provided under this
 24 subsection.

End of INSERT 7-9A

INSERT 7-9B

SECTION 3. 49.855 (6) of the statutes is amended to read:

9
~~INSERT 7-90(6) & (7)~~

PWF
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~~49.855 (6) If the state implements the child and spousal support and establishment of paternity and medical support liability program under ss. 49.22 and 59.53 (5), the state may act under this section in place of the county child support agency under s. 59.53 (5).~~

~~SECTION 4. 59.40 (2) (p) of the statutes is amended to read:~~

~~59.40 (2) (p) Cooperate with the department of workforce development with respect to the child and spousal support and establishment of paternity and medical liability support liability program under ss. 49.22 and 59.53 (5), and provide that department with any information from court records which it requires to administer that program.~~

11

~~(END)~~

9
End 76
INSERT 7-90

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0248/2dn
DAK&PJK:jld:rs

date

To Michelle Pink and Sue Jablonsky:

This bill establishes third party liability for, among other programs, the Chronic Disease Program; Pam Kahler has removed from 00-1140 similar provisions that she had originally drafted for Sue. 2005 LRB @ 2007 LRB

The bill also requires DHFS to share with DWD health care data it receives; the language for this is taken from 03-1525/3, which Pam originally drafted for Erin Fath *Erin and*
~~this language is more comprehensive and recent than that provided by DHFS.~~

* As Michelle and I agreed by phone, I have in s. 49.475[✓] combined reference to all of the programs affected, with cross[†] references to that section in each program's language.

Please let me know if you need further assistance with this draft.

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137
E-mail: debora.kennedy@legis.wisconsin.gov

, except that the amendments to ss. 49.22[✓](1), 49.855[✓](6), and 59.40[✓](2)(p), Stats., in that draft were not included, since they were enacted under 2005 Wisconsin Act 25

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0248/2dn
DAK:jld:sh

January 10, 2007

To Michelle Pink and Sue Jablonsky:

This bill establishes third party liability for, among other programs, the Chronic Disease Program; Pam Kahler has removed from 2007 LRB-1140 similar provisions that she had originally drafted for Sue.

The bill also requires DHFS to share with DWD health care data it receives; the language for this is taken from 2005 LRB-1525/3, which Pam originally drafted for Erin Fath, except that the amendments to ss. 49.22 (1), 49.855 (6), and 59.40 (2) (p), stats., in that draft were not included, since they were enacted under 2005 Wisconsin Act 25.

As Michelle and I agreed by phone, I have in s. 49.475 combined reference to all of the programs affected, with cross-references to that section in each program's language.

Please let me know if you need further assistance with this draft.

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137
E-mail: debora.kennedy@legis.wisconsin.gov

Kennedy, Debora

From: Dybevik, Kenneth K - DHFS
Sent: Friday, January 12, 2007 3:00 PM
To: [wisconsin.gov]; michelle.pink
Cc: Kennedy, Debora; Dew, Karla J - DHFS; Jorgenson, Larry P - DHFS; LaPlant, Tricia L - DHFS; McIlquham, Cheryl J - DHFS; Nelson, Kirstin B - DHFS
Subject: Re: FW: LRB Draft: 07-0248/2 Third-party liability; sharing health data
Attachments: 07-02482.pdf; 07-02482dn.pdf



07-02482.pdf (55 KB)



07-02482dn.pdf (9 KB)

The TPL draft language looks great. Thanks to Debora for doing a great job on crafting these changes. Ken

* * * * *

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* * * * *

>>> "Pink, Michelle C - DOA" <michelle.pink@wisconsin.gov> 1/10/07 >>>
Ken, Please review and let me know ASAP if additional changes are necessary.

Thank you!

Michelle

From: Herritz, Shelly [mailto:Shelly.Herritz@legis.wisconsin.gov]
Sent: Wednesday, January 10, 2007 1:25 PM
To: Pink, Michelle C - DOA
Cc: Johnston, James - DOA; Hanaman, Cathlene - LEGIS; Palchik, Laurie A - DOA
Subject: LRB Draft: 07-0248/2 Third-party liability; sharing health data

Following is the PDF version of draft 07-0248/2.



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0248/23
DAK&PJK:jld:sh

D-NOTE

DOA:.....Pink, BB0012 - Third-party liability; sharing health data

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

don't gen

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

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

PUBLIC ASSISTANCE

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This bill requires health insurers, self-insured plans, service benefits plans, and pharmacy benefits managers (third parties) to provide to DHFS information from their records to enable DHFS to identify persons receiving benefits under the Chronic Disease Program and Senior Care who are eligible, or would be eligible as dependents, for health care coverage from a third party. These third parties may receive compensation for providing the information, must provide the information within certain deadlines, and may be subject to enforcement proceedings for noncompliance. The third parties must accept assignment to DHFS of a right of an individual to receive payment from the third party for a health care item or service for which payment under the Chronic Disease Program or Senior Care has been made. Third parties must also accept the right of DHFS to recover any third-party payment made for which assignment had not been accepted. A third party must respond to an inquiry by DHFS concerning a claim for payment of a health care item

or service if the inquiry is made within 36 months after the item or service is provided. Further, third parties must agree not to deny a DHFS claim on the basis of certain circumstances, if submitted less than 36 months after the health care item or service is provided and if action by DHFS to enforce its rights is commenced less than 72 months after DHFS submits the claim.

MEDICAL ASSISTANCE

Currently, DHFS may obtain from insurers information DHFS needs to identify a recipient of Medical Assistance (MA) who is eligible for benefits under a disability insurance policy or, if enrolled as the dependent of a beneficiary, would be eligible for benefits; claims submittal information; and types of benefits provided under the policy. DHFS must enter into an agreement with the insurer that identifies the information to be disclosed, safeguards confidentiality, and specifies how the insurer's reasonable costs will be determined and paid from state general purpose revenues and federal moneys. Insurers must provide the information within specified deadlines, and the commissioner of insurance may initiate enforcement proceedings for noncompliance.

This bill expands the sources from which DHFS may receive health care services coverage information about MA recipients to include entities that are responsible for payment of a claim for a health care item or service and makes available compensation for providing the information. The sources, termed "third parties," include, in addition to insurers, self-insured plans, service benefits plans, and pharmacy benefits managers. The bill authorizes DHFS to notify the attorney general of third parties, other than insurers, that fail to provide information requested.

Under the bill, third parties must accept assignment to DHFS of a right of an individual to receive payment from the third party for a health care item or service for which payment under MA, or under a program administered under MA under a federal waiver, has been made. Third parties must also accept the right of DHFS to recover any third-party payment made for which assignment had not been accepted. A third party must respond to an inquiry by DHFS concerning a claim for payment of a health care item or service if the inquiry is made within 36 months after the item or service is provided. Further, third parties must agree not to deny a DHFS claim on the basis of certain circumstances, if submitted less than 36 months after the health care item or service is provided and if action by DHFS to enforce its rights is commenced less than 72 months after DHFS submits the claim.

Lastly, the bill applies the information recovery, acceptance of assignment, recovery of third-party payment, and compensation provisions of current law and as affected by this bill so as to enable DHFS also to identify Badger Care health care program recipients who are eligible, or who would be eligible as dependents, for health care coverage from a third party.

HEALTH

Currently, DHFS administers the Well-Woman Program, under which certain medical services related to breast cancer, cervical cancer, and multiple sclerosis and certain general medical services are provided to underinsured and uninsured women of low income.

This bill requires health insurers, self-insured plans, service benefits plans, and pharmacy benefits managers (third parties) to provide to DHFS information from their records to enable DHFS to identify persons receiving benefits under the Well-Woman Program who are eligible, or would be eligible as dependents, for health care coverage from a third party. These third parties may receive compensation for providing the information, must provide the information within certain deadlines, and may be subject to enforcement proceedings for noncompliance. The third parties must accept assignment to DHFS of a right of an individual to receive payment from the third party for a health care item or service for which payment under the Well-Woman Program has been made. Third parties must also accept the right of DHFS to recover any third-party payment made for which assignment had not been accepted. A third party must respond to an inquiry by DHFS concerning a claim for payment of a health care item or service if the inquiry is made within 36 months after the item or service is provided. Further, third parties must agree not to deny a DHFS claim on the basis of certain circumstances, if submitted less than 36 months after the health care item or service is provided and if action by DHFS to enforce its rights is commenced less than 72 months after DHFS submits the claim.

OTHER HEALTH AND FAMILY SERVICES

Currently, DHFS administers Family Care, a program that provides a flexible benefit of long-term care and services to certain persons who are at least 18 years of age, meet functional and financial eligibility requirements, and have a physical or developmental disability or degenerative brain disorder.

This bill requires health insurers, self-insured plans, service benefits plans, and pharmacy benefits managers (third parties) to provide to DHFS information from their records to enable DHFS to identify persons receiving benefits under Family Care who are eligible, or would be eligible as dependents, for health care coverage from a third party. These third parties may receive compensation for providing the information, must provide the information within certain deadlines, and may be subject to enforcement proceedings for noncompliance. The third parties must accept assignment to DHFS of a right of an individual to receive payment from the third party for a health care item or service for which payment under Family Care has been made. Third parties must also accept the right of DHFS to recover any third-party payment made for which assignment had not been accepted. A third party must respond to an inquiry by DHFS concerning a claim for payment of a health care item or service if the inquiry is made within 36 months after the item or service is provided. Further, third parties must agree not to deny a DHFS claim on the basis of certain circumstances, if submitted less than 36 months after the health care item or service is provided and if action by DHFS to enforce its rights is commenced less than 72 months after DHFS submits the claim.

Under current law, DHFS may request from health insurers information to enable DHFS to identify Medical Assistance recipients who are eligible, or who would be eligible as dependents, for health insurance coverage. An insurer that receives a request must provide the information within a certain period of time. Under the bill, DHFS must provide any information that it receives from a health insurer, self-insured plan, service benefit plan, and pharmacy benefits manager to

DWD for purposes of DWD's program related to child and spousal support, paternity establishment, and medical support liability. DWD may allow county and tribal child support agencies access to the information, subject to use and disclosure restrictions under current law, and must consult with DHFS regarding procedures to safeguard the confidentiality of the information.

For further information see the *state and local* 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 ⁻⁰²⁴⁸ **SECTION 1.** 20.435 (4) (bm) of the statutes is amended to read:
2 ⁻⁰⁸⁹² 20.435 (4) (bm) *Medical Assistance, food stamps, and Badger Care*
3 ⁻⁰⁹⁰⁵ *administration; contract costs, insurer reports, and resource centers.* Biennially, the
4 amounts in the schedule to provide the state share of administrative contract costs
5 for the Medical Assistance program under s. 49.45, the food stamp program under
6 s. 49.79, and the Badger Care health care program under s. 49.665, other than
7 payments to counties and tribal governing bodies under s. 49.78 (8), to develop and
8 implement a registry of recipient immunizations, to reimburse insurers 3rd parties
9 for their costs under s. 49.475, for costs associated with outreach activities, and for
10 services of resource centers under s. 46.283. No state positions may be funded in the
11 department of health and family services from this appropriation, except positions
12 for the performance of duties under a contract in effect before January 1, 1987,
13 related to the administration of the Medical Assistance program between the
14 subunit of the department primarily responsible for administering the Medical
15 Assistance program and another subunit of the department. Total administrative
16 funding authorized for the program under s. 49.665 may not exceed 10% of the
17 amounts budgeted under pars. (bc), (p), and (x).

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

1 **SECTION 2.** 20.435 (4) (pa) of the statutes is amended to read:

2 20.435 (4) (pa) *Federal aid; Medical Assistance and food stamp contracts*
3 *administration.* All federal moneys received for the federal share of the cost of
4 contracting for payment and services administration and reporting, other than
5 moneys received under par. (nn), to reimburse insurers 3rd parties for their costs
6 under s. 49.475, for administrative contract costs for the food stamp program under
7 s. 49.79, and for services of resource centers under s. 46.283.

8 **SECTION 3.** 46.286 (3m) of the statutes is repealed and recreated to read:

9 46.286 (3m) INFORMATION ABOUT ENROLLEES. The department shall obtain and
10 share information about family care enrollees as provided in s. 49.475.

11 **SECTION 4.** 49.475 (1) (a) of the statutes is renumbered 49.475 (1) (ar).

12 **SECTION 5.** 49.475 (1) (ag) of the statutes is created to read:

13 49.475 (1) (ag) "Covered entity" means any of the following that is not an
14 insurer:

15 1. A nonprofit hospital, as defined in s. 46.21 (2) (m).

16 2. An employer, as defined in s. 101.01 (4), labor union, or other group of persons
17 organized in this state if the employer, labor union, or other group provides
18 prescription drug coverage to covered individuals who reside or are employed in this
19 state.

20 3. A comprehensive or limited health care benefits program administered by
21 the state that provides prescription drug coverage.

22 **SECTION 6.** 49.475 (1) (am) of the statutes is created to read:

1 49.475 (1) (am) "Covered individual" means an individual who is a member,
2 participant, enrollee, policyholder, certificate holder, contract holder, or beneficiary
3 of a covered entity, or a dependent of the individual, and who receives prescription
4 drug coverage from or through the covered entity.

5 **SECTION 7.** 49.475 (1) (c) of the statutes is created to read:

6 49.475 (1) (c) "Pharmacy benefits management" means the procurement of
7 prescription drugs at a negotiated rate for dispensation in this state to covered
8 individuals; the administration or management of prescription drug benefits
9 provided by a covered entity for the benefit of covered individuals; or any of the
10 following services provided in the administration of pharmacy benefits:

11 1. Dispensation of prescription drugs by mail.

12 2. Claims processing, retail network management, and payment of claims to
13 pharmacies for prescription drugs dispensed to covered individuals.

14 3. Clinical formulary development and management services.

15 4. Rebate contracting and administration.

16 5. Conduct of patient compliance, therapeutic intervention, generic
17 substitution, and disease management programs.

18 **SECTION 8.** 49.475 (1) (d) of the statutes is created to read:

19 49.475 (1) (d) "Pharmacy benefits manager" means a person that performs
20 pharmacy benefits management functions.

21 **SECTION 9.** 49.475 (1) (e) of the statutes is created to read:

22 49.475 (1) (e) "Recipient" means an individual or his or her spouse or dependent
23 who has been or is one of the following:

24 1. A recipient of medical assistance or of a program administered under medical
25 assistance under a waiver of federal Medicaid laws.

1 2. An enrollee of family care.

2 3. A recipient of the Badger Care health care program.

3 4. An individual who receives benefits under s. 49.68, 49.683, or 49.685.

4 5. A participant in the program of prescription drug assistance for elderly
5 persons under s. 49.688.

6 6. A woman who receives services that are reimbursed under s. 255.06.

7 **SECTION 10.** 49.475 (1) (f) of the statutes is created to read:

8 49.475 (1) (f) "Third party" means an entity that by statute, rule, or contract
9 is responsible for payment of a claim for a health care item or service. "Third party"
10 includes all of the following:

11 1. An insurer.

12 2. An employee benefit plan described in 29 USC 1003 (a) that is not exempt
13 under 29 USC 1003 (b) and is not a multiple employer welfare arrangement.

14 3. A service benefit plan, as specified in 42 USC 1396a (25) (I).

15 4. A pharmacy benefits manager.

16 **SECTION 11.** 49.475 (2) of the statutes is repealed and recreated to read:

17 49.475 (2) REQUIREMENTS OF 3RD PARTIES. As a condition of doing business in this
18 state, a 3rd party shall do all of the following:

19 (a) Upon the department's request and in the manner prescribed by the
20 department, provide information to the department necessary for the department to
21 ascertain all of the following with respect to a recipient:

22 1. Whether the recipient is being or has been provided coverage or a benefit or
23 service by a 3rd party.

SECTION 11

1 2. If subd. 1. applies, the nature and period of time of any coverage, benefit, or
2 service provided, including the name, address, and identifying number of any
3 applicable coverage plan.

4 (b) Accept assignment to the department of a right of a recipient to receive
5 3rd-party payment for an item or service for which payment under medical
6 assistance has been made and accept the department's right to recover any
7 3rd-party payment made for which assignment has not been accepted.

8 (c) Respond to an inquiry by the department concerning a claim for payment
9 of a health care item or service if the department submits the inquiry less than 36
10 months after the date on which the health care item or service was provided.

11 (d) If all of the following apply, agree not to deny a claim submitted by the
12 department under par. (b) solely because of the claim's submission date, the type or
13 format of the claim form, or failure by a recipient to present proper documentation
14 at the time of delivery of the service, benefit, or item that is the basis of the claim:

15 1. The department submits the claim less than 36 months after the date on
16 which the health care item or service was provided.

17 2. Action by the department to enforce the department's rights under this
18 section with respect to the claim is commenced less than 72 months after the
19 department submits the claim.

20 **SECTION 12.** 49.475 (3) (intro.) of the statutes is amended to read:

21 49.475 (3) WRITTEN AGREEMENT. (intro.) Upon requesting ~~an insurer~~ a 3rd party
22 to provide the information under sub. (2) (a), the department and the 3rd party shall
23 enter into a written agreement ~~with the insurer~~ that satisfies all of the following:

24 **SECTION 13.** 49.475 (3) (a) of the statutes is amended to read:

1 49.475 (3) (a) Identifies ~~in detail~~ the detailed format of the information to be
2 disclosed provided to the department.

3 **SECTION 14.** 49.475 (3) (c) of the statutes is amended to read:

4 49.475 (3) (c) Specifies how the insurer's 3rd party's reimbursable costs under
5 sub. (5) will be determined and specifies the manner of payment.

6 **SECTION 15.** 49.475 (4) (a) of the statutes is amended to read:

7 49.475 (4) (a) ~~An insurer~~ A 3rd party shall provide the information requested
8 under sub. (2) (a) within 180 days after receiving the department's request if it is the
9 first time that the department has requested the ~~insurer~~ 3rd party to disclose
10 information under this section.

11 **SECTION 16.** 49.475 (4) (b) of the statutes is amended to read:

12 49.475 (4) (b) ~~An insurer~~ A 3rd party shall provide the information requested
13 under sub. (2) (a) within 30 days after receiving the department's request if the
14 department has previously requested the ~~insurer~~ 3rd party to disclose information
15 under this section.

16 **SECTION 17.** 49.475 (4) (d) of the statutes is created to read:

17 49.475 (4) (d) If a 3rd party other than an insurer fails to comply with par. (a)
18 or (b), the department may so notify the attorney general.

19 **SECTION 18.** 49.475 (5) of the statutes is amended to read:

20 49.475 (5) From the appropriations under s. 20.435 (4) (bm) and (pa), the
21 department shall reimburse ~~an insurer~~ A 3rd party that provides information under
22 ~~this section~~ sub. (2) (a) for the insurer's 3rd party's reasonable costs incurred in
23 providing the requested information, including its reasonable costs, if any, to develop
24 and operate automated systems specifically for the disclosure of the information
25 ~~under this section.~~

SECTION 19

1 **SECTION 19.** 49.475 (6) of the statutes is created to read:

2 49.475 **(6)** SHARING INFORMATION. The department of health and family services
3 shall provide to the department of workforce development, for purposes of the
4 medical support liability program under s. 49.22, any information that the
5 department of health and family services receives under this section. The
6 department of workforce development may allow a county child support agency
7 under s. 59.53 (5) or a tribal child support agency access to the information, subject
8 to the use and disclosure restrictions under s. 49.83, and shall consult with the
9 department of health and family services regarding procedures and methods to
10 adequately safeguard the confidentiality of the information provided under this
11 subsection.

12 **SECTION 20.** 49.665 (5m) of the statutes is repealed and recreated to read:

13 49.665 **(5m)** INFORMATION ABOUT BADGER CARE RECIPIENTS. The department
14 shall obtain and share information about Badger Care health care program
15 recipients as provided in s. 49.475.

16 **SECTION 21.** 49.687 (6) of the statutes is created to read:

17 49.687 **(6)** The department shall obtain and share information about
18 individuals who receive benefits under s. 49.68, 49.683, or 49.685 as provided in s.
19 49.475.

20 **SECTION 22.** 49.688 (8m) of the statutes is repealed and recreated to read:

21 49.688 **(8m)** The department shall obtain and share information about
22 participants in the program under this section as provided in s. 49.475.

23 **SECTION 23.** 255.06 (4) of the statutes is created to read:

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

D-NOTE

To Michelle Pink:

This draft reconciles LRB-0248/2,
LRB-0892/9, and LRB-0905/1. ✓ LRB-0248,
LRB-0892, and LRB-0905 should all continue
to appear in the compiled bill.

DAK

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

LRB-0248/3dn
DAK:jld:pg

January 31, 2007

Michelle Pink:

This draft reconciles LRB-0248/2, LRB-0892/9, and LRB-0905/1, LRB-0248, LRB-0892, and LRB-0905 should all continue to appear in the compiled bill.

Debora A. Kennedy
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State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0248/3
DAK&PJK:jld:pg

DOA:.....Pink, BB0012 - Third-party liability; sharing health data

FOR 2007-09 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 provides financial assistance for the cost of medical care to persons with chronic kidney disease, cystic fibrosis, and hemophilia; this assistance is collectively referred to as the Chronic Disease Program. DHFS also provides payments to pharmacies and pharmacists for providing prescriptions to elderly persons at reduced rates; this program is referred to as Senior Care.

This bill requires health insurers, self-insured plans, service benefits plans, and pharmacy benefits managers (third parties) to provide to DHFS information from their records to enable DHFS to identify persons receiving benefits under the Chronic Disease Program and Senior Care who are eligible, or would be eligible as dependents, for health care coverage from a third party. These third parties may receive compensation for providing the information, must provide the information within certain deadlines, and may be subject to enforcement proceedings for noncompliance. The third parties must accept assignment to DHFS of a right of an individual to receive payment from the third party for a health care item or service for which payment under the Chronic Disease Program or Senior Care has been made. Third parties must also accept the right of DHFS to recover any third-party payment made for which assignment had not been accepted. A third party must respond to an inquiry by DHFS concerning a claim for payment of a health care item

or service if the inquiry is made within 36 months after the item or service is provided. Further, third parties must agree not to deny a DHFS claim on the basis of certain circumstances, if submitted less than 36 months after the health care item or service is provided and if action by DHFS to enforce its rights is commenced less than 72 months after DHFS submits the claim.

MEDICAL ASSISTANCE

Currently, DHFS may obtain from insurers information DHFS needs to identify a recipient of Medical Assistance (MA) who is eligible for benefits under a disability insurance policy or, if enrolled as the dependent of a beneficiary, would be eligible for benefits; claims submittal information; and types of benefits provided under the policy. DHFS must enter into an agreement with the insurer that identifies the information to be disclosed, safeguards confidentiality, and specifies how the insurer's reasonable costs will be determined and paid from state general purpose revenues and federal moneys. Insurers must provide the information within specified deadlines, and the commissioner of insurance may initiate enforcement proceedings for noncompliance.

This bill expands the sources from which DHFS may receive health care services coverage information about MA recipients to include entities that are responsible for payment of a claim for a health care item or service and makes available compensation for providing the information. The sources, termed "third parties," include, in addition to insurers, self-insured plans, service benefits plans, and pharmacy benefits managers. The bill authorizes DHFS to notify the attorney general of third parties, other than insurers, that fail to provide information requested.

Under the bill, third parties must accept assignment to DHFS of a right of an individual to receive payment from the third party for a health care item or service for which payment under MA, or under a program administered under MA under a federal waiver, has been made. Third parties must also accept the right of DHFS to recover any third-party payment made for which assignment had not been accepted. A third party must respond to an inquiry by DHFS concerning a claim for payment of a health care item or service if the inquiry is made within 36 months after the item or service is provided. Further, third parties must agree not to deny a DHFS claim on the basis of certain circumstances, if submitted less than 36 months after the health care item or service is provided and if action by DHFS to enforce its rights is commenced less than 72 months after DHFS submits the claim.

Lastly, the bill applies the information recovery, acceptance of assignment, recovery of third-party payment, and compensation provisions of current law and as affected by this bill so as to enable DHFS also to identify Badger Care health care program recipients who are eligible, or who would be eligible as dependents, for health care coverage from a third party.

HEALTH

Currently, DHFS administers the Well-Woman Program, under which certain medical services related to breast cancer, cervical cancer, and multiple sclerosis and certain general medical services are provided to underinsured and uninsured women of low income.

This bill requires health insurers, self-insured plans, service benefits plans, and pharmacy benefits managers (third parties) to provide to DHFS information from their records to enable DHFS to identify persons receiving benefits under the Well-Woman Program who are eligible, or would be eligible as dependents, for health care coverage from a third party. These third parties may receive compensation for providing the information, must provide the information within certain deadlines, and may be subject to enforcement proceedings for noncompliance. The third parties must accept assignment to DHFS of a right of an individual to receive payment from the third party for a health care item or service for which payment under the Well-Woman Program has been made. Third parties must also accept the right of DHFS to recover any third-party payment made for which assignment had not been accepted. A third party must respond to an inquiry by DHFS concerning a claim for payment of a health care item or service if the inquiry is made within 36 months after the item or service is provided. Further, third parties must agree not to deny a DHFS claim on the basis of certain circumstances, if submitted less than 36 months after the health care item or service is provided and if action by DHFS to enforce its rights is commenced less than 72 months after DHFS submits the claim.

OTHER HEALTH AND FAMILY SERVICES

Currently, DHFS administers Family Care, a program that provides a flexible benefit of long-term care and services to certain persons who are at least 18 years of age, meet functional and financial eligibility requirements, and have a physical or developmental disability or degenerative brain disorder.

This bill requires health insurers, self-insured plans, service benefits plans, and pharmacy benefits managers (third parties) to provide to DHFS information from their records to enable DHFS to identify persons receiving benefits under Family Care who are eligible, or would be eligible as dependents, for health care coverage from a third party. These third parties may receive compensation for providing the information, must provide the information within certain deadlines, and may be subject to enforcement proceedings for noncompliance. The third parties must accept assignment to DHFS of a right of an individual to receive payment from the third party for a health care item or service for which payment under Family Care has been made. Third parties must also accept the right of DHFS to recover any third-party payment made for which assignment had not been accepted. A third party must respond to an inquiry by DHFS concerning a claim for payment of a health care item or service if the inquiry is made within 36 months after the item or service is provided. Further, third parties must agree not to deny a DHFS claim on the basis of certain circumstances, if submitted less than 36 months after the health care item or service is provided and if action by DHFS to enforce its rights is commenced less than 72 months after DHFS submits the claim.

Under current law, DHFS may request from health insurers information to enable DHFS to identify Medical Assistance recipients who are eligible, or who would be eligible as dependents, for health insurance coverage. An insurer that receives a request must provide the information within a certain period of time. Under the bill, DHFS must provide any information that it receives from a health insurer, self-insured plan, service benefit plan, and pharmacy benefits manager to

DWD for purposes of DWD's program related to child and spousal support, paternity establishment, and medical support liability. DWD may allow county and tribal child support agencies access to the information, subject to use and disclosure restrictions under current law, and must consult with DHFS regarding procedures to safeguard the confidentiality of the information.

For further information see the *state and local* 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.** 20.435 (4) (pa) of the statutes is amended to read:

2 20.435 (4) (pa) *Federal aid; Medical Assistance and food stamp contracts*
3 *administration.* All federal moneys received for the federal share of the cost of
4 contracting for payment and services administration and reporting, other than
5 moneys received under par. (nn), to reimburse ~~insurers~~ 3rd parties for their costs
6 under s. 49.475, for administrative contract costs for the food stamp program under
7 s. 49.79, and for services of resource centers under s. 46.283.

8 **SECTION 2.** 46.286 (3m) of the statutes is repealed and recreated to read:

9 46.286 (3m) INFORMATION ABOUT ENROLLEES. The department shall obtain and
10 share information about family care enrollees as provided in s. 49.475.

11 **SECTION 3.** 49.475 (1) (a) of the statutes is renumbered 49.475 (1) (ar).

12 **SECTION 4.** 49.475 (1) (ag) of the statutes is created to read:

13 49.475 (1) (ag) "Covered entity" means any of the following that is not an
14 insurer:

15 1. A nonprofit hospital, as defined in s. 46.21 (2) (m).

16 2. An employer, as defined in s. 101.01 (4), labor union, or other group of persons
17 organized in this state if the employer, labor union, or other group provides

1 prescription drug coverage to covered individuals who reside or are employed in this
2 state.

3 3. A comprehensive or limited health care benefits program administered by
4 the state that provides prescription drug coverage.

5 **SECTION 5.** 49.475 (1) (am) of the statutes is created to read:

6 49.475 (1) (am) "Covered individual" means an individual who is a member,
7 participant, enrollee, policyholder, certificate holder, contract holder, or beneficiary
8 of a covered entity, or a dependent of the individual, and who receives prescription
9 drug coverage from or through the covered entity.

10 **SECTION 6.** 49.475 (1) (c) of the statutes is created to read:

11 49.475 (1) (c) "Pharmacy benefits management" means the procurement of
12 prescription drugs at a negotiated rate for dispensation in this state to covered
13 individuals; the administration or management of prescription drug benefits
14 provided by a covered entity for the benefit of covered individuals; or any of the
15 following services provided in the administration of pharmacy benefits:

16 1. Dispensation of prescription drugs by mail.

17 2. Claims processing, retail network management, and payment of claims to
18 pharmacies for prescription drugs dispensed to covered individuals.

19 3. Clinical formulary development and management services.

20 4. Rebate contracting and administration.

21 5. Conduct of patient compliance, therapeutic intervention, generic
22 substitution, and disease management programs.

23 **SECTION 7.** 49.475 (1) (d) of the statutes is created to read:

24 49.475 (1) (d) "Pharmacy benefits manager" means a person that performs
25 pharmacy benefits management functions.

1 **SECTION 8.** 49.475 (1) (e) of the statutes is created to read:

2 49.475 (1) (e) "Recipient" means an individual or his or her spouse or dependent
3 who has been or is one of the following:

4 1. A recipient of medical assistance or of a program administered under medical
5 assistance under a waiver of federal Medicaid laws.

6 2. An enrollee of family care.

7 3. A recipient of the Badger Care health care program.

8 4. An individual who receives benefits under s. 49.68, 49.683, or 49.685.

9 5. A participant in the program of prescription drug assistance for elderly
10 persons under s. 49.688.

11 6. A woman who receives services that are reimbursed under s. 255.06.

12 **SECTION 9.** 49.475 (1) (f) of the statutes is created to read:

13 49.475 (1) (f) "Third party" means an entity that by statute, rule, or contract
14 is responsible for payment of a claim for a health care item or service. "Third party"
15 includes all of the following:

16 1. An insurer.

17 2. An employee benefit plan described in 29 USC 1003 (a) that is not exempt
18 under 29 USC 1003 (b) and is not a multiple employer welfare arrangement.

19 3. A service benefit plan, as specified in 42 USC 1396a (25) (I).

20 4. A pharmacy benefits manager.

21 **SECTION 10.** 49.475 (2) of the statutes is repealed and recreated to read:

22 49.475 (2) REQUIREMENTS OF 3RD PARTIES. As a condition of doing business in this
23 state, a 3rd party shall do all of the following:

1 (a) Upon the department's request and in the manner prescribed by the
2 department, provide information to the department necessary for the department to
3 ascertain all of the following with respect to a recipient:

4 1. Whether the recipient is being or has been provided coverage or a benefit or
5 service by a 3rd party.

6 2. If subd. 1. applies, the nature and period of time of any coverage, benefit, or
7 service provided, including the name, address, and identifying number of any
8 applicable coverage plan.

9 (b) Accept assignment to the department of a right of a recipient to receive
10 3rd-party payment for an item or service for which payment under medical
11 assistance has been made and accept the department's right to recover any
12 3rd-party payment made for which assignment has not been accepted.

13 (c) Respond to an inquiry by the department concerning a claim for payment
14 of a health care item or service if the department submits the inquiry less than 36
15 months after the date on which the health care item or service was provided.

16 (d) If all of the following apply, agree not to deny a claim submitted by the
17 department under par. (b) solely because of the claim's submission date, the type or
18 format of the claim form, or failure by a recipient to present proper documentation
19 at the time of delivery of the service, benefit, or item that is the basis of the claim:

20 1. The department submits the claim less than 36 months after the date on
21 which the health care item or service was provided.

22 2. Action by the department to enforce the department's rights under this
23 section with respect to the claim is commenced less than 72 months after the
24 department submits the claim.

25 **SECTION 11.** 49.475 (3) (intro.) of the statutes is amended to read:

1 49.475 (3) WRITTEN AGREEMENT. (intro.) Upon requesting ~~an insurer~~ a 3rd party
2 to provide the information under sub. (2) (a), the department and the 3rd party shall
3 enter into a written agreement ~~with the insurer~~ that satisfies all of the following:

4 **SECTION 12.** 49.475 (3) (a) of the statutes is amended to read:

5 49.475 (3) (a) Identifies ~~in detail~~ the detailed format of the information to be
6 disclosed provided to the department.

7 **SECTION 13.** 49.475 (3) (c) of the statutes is amended to read:

8 49.475 (3) (c) Specifies how the ~~insurer's~~ 3rd party's reimbursable costs under
9 sub. (5) will be determined and specifies the manner of payment.

10 **SECTION 14.** 49.475 (4) (a) of the statutes is amended to read:

11 49.475 (4) (a) ~~An insurer~~ A 3rd party shall provide the information requested
12 under sub. (2) (a) within 180 days after receiving the department's request if it is the
13 first time that the department has requested the ~~insurer~~ 3rd party to disclose
14 information under this section.

15 **SECTION 15.** 49.475 (4) (b) of the statutes is amended to read:

16 49.475 (4) (b) ~~An insurer~~ A 3rd party shall provide the information requested
17 under sub. (2) (a) within 30 days after receiving the department's request if the
18 department has previously requested the ~~insurer~~ 3rd party to disclose information
19 under this section.

20 **SECTION 16.** 49.475 (4) (d) of the statutes is created to read:

21 49.475 (4) (d) If a 3rd party other than an insurer fails to comply with par. (a)
22 or (b), the department may so notify the attorney general.

23 **SECTION 17.** 49.475 (5) of the statutes is amended to read:

24 49.475 (5) From the appropriations under s. 20.435 (4) (bm) and (pa), the
25 department shall reimburse ~~an insurer~~ A 3rd party that provides information under

1 ~~this section sub. (2) (a) for the insurer's 3rd party's~~ reasonable costs incurred in
2 providing the requested information, including its reasonable costs, if any, to develop
3 and operate automated systems specifically for the disclosure of the information
4 ~~under this section.~~

5 **SECTION 18.** 49.475 (6) of the statutes is created to read:

6 49.475 (6) SHARING INFORMATION. The department of health and family services
7 shall provide to the department of workforce development, for purposes of the
8 medical support liability program under s. 49.22, any information that the
9 department of health and family services receives under this section. The
10 department of workforce development may allow a county child support agency
11 under s. 59.53 (5) or a tribal child support agency access to the information, subject
12 to the use and disclosure restrictions under s. 49.83, and shall consult with the
13 department of health and family services regarding procedures and methods to
14 adequately safeguard the confidentiality of the information provided under this
15 subsection.

16 **SECTION 19.** 49.665 (5m) of the statutes is repealed and recreated to read:

17 49.665 (5m) INFORMATION ABOUT BADGER CARE RECIPIENTS. The department
18 shall obtain and share information about Badger Care health care program
19 recipients as provided in s. 49.475.

20 **SECTION 20.** 49.687 (6) of the statutes is created to read:

21 49.687 (6) The department shall obtain and share information about
22 individuals who receive benefits under s. 49.68, 49.683, or 49.685 as provided in s.
23 49.475.

24 **SECTION 21.** 49.688 (8m) of the statutes is repealed and recreated to read:

