

2007 DRAFTING REQUEST

Bill

Received: **09/19/2006**

Received By: **pkahler**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Pink**

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

Drafter: **pkahler**

May Contact:

Addl. Drafters:

Subject: **Public Assistance - misc**

Extra Copies:

Submit via email: **NO**

Pre Topic:

DOA:.....Pink, BB0011 -

Topic:

Citizenship and identity documentation

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 10/02/2006	jdye 10/03/2006		_____			S&L
/1			rschluet 10/04/2006	_____	lparisi 10/04/2006		S&L
/2	pkahler 10/26/2006 pkahler 11/09/2006	jdye 10/27/2006	rschluet 10/27/2006	_____	lparisi 10/27/2006		S&L
/3	pkahler 12/01/2006	jdye 12/01/2006	rschluet 12/01/2006	_____	sbasford 12/01/2006		

FE Sent For:

<END>

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Subject: **Public Assistance - misc**

Extra Copies: **DIES**

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to: **forsaac@dhfs.state.wi.us**

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/?	pkahler 10/02/2006	jdyer 10/03/2006		_____			S&L
/1			rschluet 10/04/2006	_____	lparisi 10/04/2006		S&L
/2	pkahler 10/26/2006	jdyer 10/27/2006	rschluet 10/27/2006	_____	lparisi 10/27/2006		

13 12/1/06
12/16/06

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<END>

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For: **Administration-Budget**

By/Representing: **Pink**

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

Drafter: **pkahler**

May Contact:

Addl. Drafters:

Subject: **Public Assistance - misc**

Extra Copies: **DHFS**

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to: **forsaac@dhfs.state.wi.us**

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/?	pkahler 10/02/2006	jdyer 10/03/2006		_____			S&L
/1		<i>10/27 jld</i>	rschluet 10/04/2006	_____	lparisi 10/04/2006		

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2007 DRAFTING REQUEST

Bill

Received: 09/19/2006

Received By: pkahler

Wanted: As time permits

Identical to LRB:

For: Administration-Budget

By/Representing: Pink Michelle

This file may be shown to any legislator: NO

Drafter: pkahler

May Contact:

Addl. Drafters:

Subject: Public Assistance - misc

Extra Copies: DHFS

Submit via email: YES

Requester's email:

Carbon copy (CC:) to: forsaac@dhfs.state.wi.us

Pre Topic:

DOA:.....Pink, Michelle, BB0011 -

Topic:

Citizenship and identity documentation

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1/?	pkahler	1/10/3 jld	sh 10/3	R 10/4			

FE Sent For:

<END>

2007-09 Budget Bill Statutory Language Drafting Request

- Topic: Citizenship and Identity Documentation
- Tracking Code: BB0011
- SBO team: Health and Insurance
- SBO analyst: Michelle Pink
 - Phone: 7-7980
 - Email: michelle.pink@wisconsin.gov
- Agency acronym: DHFS
- Agency number: 435

Citizenship and Identity Documentation

Current Language

Section 49.84 of Wisconsin statutes states that as a condition of eligibility a person must provide documentation of citizenship required by rule. HFS 102.03 requires citizenship documentation but current state law does not permit denying eligibility because of a lack of documentation.

Proposed Change

Section 49.84 should be modified to require documentation of citizenship and identity as required under the federal Deficit Reduction Act, as a condition of Medicaid eligibility.

Background and Rationale for the Change

The federal Deficit Reduction Act (P.L. 109-171), enacted in February 2006, requires all Medicaid applicants and recipients who declare themselves to be U.S. citizens to document their citizenship and identity. The federal provision was effective July 1, 2006. This requirement is a condition of eligibility for all Medicaid subprograms, including BadgerCare. Failure to fully implement this provision for all Medicaid cases will result in lost federal Medicaid funding for benefits and administration for any case without documentation. The new requirements apply to all non-exempt applicants for and recipients of the following programs: Medicaid, BadgerCare, Healthy Start, Family Planning Waiver, IV-E Foster Care, Katie Beckett, Tuberculosis Medicaid, Wisconsin Well Woman, and Adoption Assistance.

The interim final federal regulations clarified that the citizenship documentation is not required for Medicaid applicants and recipients who are receiving Supplemental Security Income benefits or are Medicare beneficiaries, including most SeniorCare clients. The regulations also clarified that the presumptive eligibility determination for pregnant women and for the Family Planning Waiver are not subject to the citizenship documentation. However, when these women apply for regular Medicaid benefits they will need to document their citizenship and identity. The following populations are also exempt from the new requirement: anyone applying for or receiving BadgerCare Prenatal Program benefits and anyone applying for or receiving Emergency Medicaid for non-qualifying aliens.

Desired Effective Date: Upon passage
Agency: DHFS
Agency Contact: Kirstin Nelson
Phone: (608) 266-5362

Kahler, Pam

From: Kahler, Pam
Sent: Wednesday, September 20, 2006 2:04 PM
To: Pink, Michelle
Subject: DHFS budget draft

Hi, Michelle:

The DHFS budget draft that requires documentation of citizenship and identity as a condition of eligibility for MA references a number of programs specifically. Some of them I'm familiar with and others I am not. If I'm going to specifically mention these programs, I will need to know the citations (in Wis. Stats., Admin. Code, or USC, etc.). I could also simply reference MA and require DHFS to by rule specify the exact MA programs. What would you prefer? The programs listed in their instructions are: Medicaid, BadgerCare, Healthy Start, Family Planning Waiver, IV-E Foster Care, Katie Beckett, Tuberculosis Medicaid, Wisconsin Well Woman, and Adoption Assistance. Thanks.

Pamela J. Kahler
Legislative Attorney
Legislative Reference Bureau
608-266-2682

(no response as of 10-2)

or a failure to present proper documentation at the point-of-sale that is the basis of the claim, if—

“(I) the claim is submitted by the State within the 3-year period beginning on the date on which the item or service was furnished; and

“(II) any action by the State to enforce its rights with respect to such claim is commenced within 6 years of the State’s submission of such claim.”

(c) EFFECTIVE DATE.—Except as provided in section 6035(e), the amendments made by this section take effect on January 1, 2006.

SEC. 6036. IMPROVED ENFORCEMENT OF DOCUMENTATION REQUIREMENTS.

(a) IN GENERAL.—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended—

(1) in subsection (i), as amended by section 104 of Public Law 109–91—

(A) by striking “or” at the end of paragraph (20);

(B) by striking the period at the end of paragraph (21) and inserting “; or”; and

(C) by inserting after paragraph (21) the following new paragraph:

“(22) with respect to amounts expended for medical assistance for an individual who declares under section 1137(d)(1)(A) to be a citizen or national of the United States for purposes of establishing eligibility for benefits under this title, unless the requirement of subsection (x) is met.”; and

(2) by adding at the end the following new subsection:“(x)(1) For purposes of subsection (i)(23), the requirement of this subsection is, with respect to an individual declaring to be a citizen or national of the United States, that, subject to paragraph (2), there is presented satisfactory documentary evidence of citizenship or nationality (as defined in paragraph (3)) of the individual.”

“(2) The requirement of paragraph (1) shall not apply to an alien who is eligible for medical assistance under this title—

“(A) and is entitled to or enrolled for benefits under any part of title XVIII;

“(B) on the basis of receiving supplemental security income benefits under title XVI; or

“(C) on such other basis as the Secretary may specify under which satisfactory documentary evidence of citizenship or nationality had been previously presented.

“(3)(A) For purposes of this subsection, the term ‘satisfactory documentary evidence of citizenship or nationality’ means—

“(i) any document described in subparagraph (B); or

“(ii) a document described in subparagraph (C) and a document described in subparagraph (D).

“(B) The following are documents described in this subparagraph:

“(i) A United States passport.

“(ii) Form N–550 or N–570 (Certificate of Naturalization).

“(iii) Form N–560 or N–561 (Certificate of United States Citizenship).

“(iv) A valid State-issued driver’s license or other identity document described in section 274A(b)(1)(D) of the Immigration

and Nationality Act, but only if the State issuing the license or such document requires proof of United States citizenship before issuance of such license or document or obtains a social security number from the applicant and verifies before certification that such number is valid and assigned to the applicant who is a citizen.

“(v) Such other document as the Secretary may specify, by regulation, that provides proof of United States citizenship or nationality and that provides a reliable means of documentation of personal identity.

“(C) The following are documents described in this subparagraph:

“(i) A certificate of birth in the United States.

“(ii) Form FS–545 or Form DS–1350 (Certification of Birth Abroad).

“(iii) Form I–97 (United States Citizen Identification Card).

“(iv) Form FS–240 (Report of Birth Abroad of a Citizen of the United States).

“(v) Such other document (not described in subparagraph (B)(iv)) as the Secretary may specify that provides proof of United States citizenship or nationality.

“(D) The following are documents described in this subparagraph:

“(i) Any identity document described in section 274A(b)(1)(D) of the Immigration and Nationality Act.

“(ii) Any other documentation of personal identity of such other type as the Secretary finds, by regulation, provides a reliable means of identification.

“(E) A reference in this paragraph to a form includes a reference to any successor form.”

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to determinations of initial eligibility for medical assistance made on or after July 1, 2006, and to redeterminations of eligibility made on or after such date in the case of individuals for whom the requirement of section 1903(z) of the Social Security Act, as added by such amendments, was not previously met.

(c) IMPLEMENTATION REQUIREMENT.—As soon as practicable after the date of enactment of this Act, the Secretary of Health and Human Services shall establish an outreach program that is designed to educate individuals who are likely to be affected by the requirements of subsections (i)(23) and (x) of section 1903 of the Social Security Act (as added by subsection (a)) about such requirements and how they may be satisfied.

CHAPTER 4—FLEXIBILITY IN COST SHARING AND BENEFITS

SEC. 6041. STATE OPTION FOR ALTERNATIVE MEDICAID PREMIUMS AND COST SHARING.

(a) IN GENERAL.—Title XIX of the Social Security Act is amended by inserting after section 1916 the following new section:

“STATE OPTION FOR ALTERNATIVE PREMIUMS AND COST SHARING

“SEC. 1916A. (a) STATE FLEXIBILITY.—

“(1) IN GENERAL.—Notwithstanding sections 1916 and 1902(a)(10)(B), a State, at its option and through a State plan



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0265/

PJK:.....

LPS - please fix
request sheet

jd

DOA:.....Pink, Michelle BB0011 - Citizenship and identity documentation

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

D-note

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gen cat

1 AN ACT ...; relating to: providing documentary evidence of citizenship for
2 medical assistance eligibility and granting rule-making authority. ✓

Analysis by the Legislative Reference Bureau

✓HEALTH AND HUMAN SERVICES

✓PUBLIC ASSISTANCE

Under current law, as a condition of eligibility for Wisconsin Works, Medical Assistance (MA), or the food stamp program, a person who applies for any of those programs must provide a declaration of citizenship or satisfactory immigration status and may be required to provide additional verification of citizenship or satisfactory immigration status. Wisconsin Works, MA, and the food stamp program are public assistance programs that provide cash benefits and job assistance, medical care, or assistance with food purchases to low-income persons who satisfy other eligibility criteria generally relating to age, pregnancy, or disability.

Federal law now requires that medical assistance may not be provided to any person who, as a condition of eligibility, declares that he or she is a citizen or national of the United States unless the person presents satisfactory documentary evidence of citizenship or nationality. Federal law specifies the documentary evidence that is satisfactory and certain exemptions to the requirement based on the basis for the person's eligibility for medical assistance.

This bill provides that, as a condition of eligibility for the programs or subprograms specified by DHFS by rule, a person must provide satisfactory

documentary evidence that he or she is a citizen or national of the United States. Under the bill, DHFS must promulgate rules, consistent with the federal law, specifying what programs or subprograms the requirement applies to, including any exemptions under those programs or subprograms, and what types of documentary evidence satisfy the requirement.

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. 49.84 (6) of the statutes is created to read:

2 49.84 (6) (a) Notwithstanding any other eligibility requirements for the
3 programs or subprograms specified by the department by rule under par. (b) 1., a
4 person who is an applicant for, or recipient under, any of those programs or
5 subprograms, unless exempted under the rule under par. (b) 1., shall provide, as a
6 further condition of eligibility, satisfactory documentary evidence that he or she is
7 a citizen or national of the United States.

8 (b) The department shall by rule specify all of the following, consistent with 42
9 USC 1396b (i) (22) and (x):

****NOTE: It seems that nothing is ever very clear under the federal law! The Deficit Reduction Act creates 42 USC 1396b (i) (22) with the requirement to meet the requirement under "subsection (x)," which is the requirement to provide documentary evidence, but (x) says, "for purposes of subsection (i) (23)" instead of (i) (22). The Implementation Requirement also refers to (i) (23). Which is it, (i) (22) or (i) (23)?

10 1. The programs or subprograms to which the requirement under par. (a)
11 applies, including any exemptions under those programs or subprograms.

12 2. The types of documentary evidence that satisfy the requirement under par.

13 (a).

14 (END)

D-note

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

LRB-0265/dn
PJK:.....

date

Jid

✓ If you would prefer that the programs be specified in the statute, as opposed to being specified by the department by rule, please provide me with the correct citations to the programs listed in the instructions. I'm not familiar with most of them and they are not specified in the statutes by the name given in the instructions.

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-0265/1dn
PJK:jld:sh

October 3, 2006

If you would prefer that the programs be specified in the statute, as opposed to being specified by the department by rule, please provide me with the correct citations to the programs listed in the instructions. I'm not familiar with most of them and they are not specified in the statutes by the name given in the instructions.

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

Kahler, Pam

From: Nelson, Kirstin [NelsoKB@dhfs.state.wi.us]
Sent: Wednesday, October 25, 2006 1:06 PM
To: Kahler, Pam
Cc: Jones, James; Forsaith, Andrew; Megna, Richard
Subject: Fwd: BEM Comments on Citizenship Stat Language

Attachments: LRB stat lang 2_.doc



LRB stat lang
2_.doc (41 KB)

Pam,

Attached are the Department's comments on the Citizenship draft stat language.
Let me know if you have any questions.

Regards,
Kirstin

Kirstin Nelson
Budget and Policy Analyst
Office of Strategic Finance
Department of Health and Family Services
(608) 266-5362
nelsokb@dhfs.state.wi.us

* * * * *

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

Date: 10/25/2006 12:56 pm -0500 (Wednesday)
From: James Jones
To: Kirstin Nelson; Richard Megna
CC: John LaPhilliph; Mary Moyer
Subject: BEM Comments on Citizenship Stat Language

I've attached our comments. They came from Mary Moyer with the assistance of Mr. LaPhilliph.

Draft review of statutory language for 2007-09 budget

LRB 07-0265/1

Topic: Citizenship and identity documentation

General Comments

1. The LRB background section and statutory language characterize the citizenship provision as a condition of eligibility. Technically, however, in federal law it is not a condition of eligibility. Rather, the new law prohibits federal financial participation in state expenditures for MA with respect to an individual who has declared to be a US citizen or national unless the state obtains satisfactory documentary evidence of citizenship or an exemption applies.

At the state law level this should be written as an eligibility requirement since we are not planning to incur 100% GPR costs for benefits and administration for those without the documentation. Therefore the background analysis language should be altered but the actual statutory language can stand as is.

2. Another item to point out is that the preamble to the federal regulation refers to obtaining citizenship **and identity** documentation while the actual regulation at 42 CFR 435.406 only refers to citizenship documentation. I see the law as a citizenship documentation requirement. It only becomes necessary to provide identity documentation when a person can't provide citizenship documentation from the primary list of documentation. An applicant or recipient is initially asked to provide citizenship documentation, and if s/he cannot provide documentation from the primary list then s/he is also obligated to provide separate identity documentation. The rule is different depending on what kind of documentation an individual can provide. I'm not sure how the state statutory language could accommodate this paradox in the law. My recommendation is to leave the statutory language as is referring only to a citizenship requirement.

3. Regarding the LRB's note/question on confusing language in the DRA, this is a known scrivener's error as discussed in the preamble to the federal regulation. It should be (i) 22.

4. The draft statutory language suggests that the department specify by rule the programs affected and the exemptions and the types of acceptable documentation (49.84 (6) (b)). However we are recommending that statutory language address the citizenship requirement instead of trying to promulgate administrative rules on this due to time delays associated with the administrative rules process.

We do want included in the state statute the specific programs that are subject to the requirement and those that are exempted (see language below in edits).

However, we recommend against including all acceptable documentation types that can satisfy the requirement in the state statute. This list is very long,

cumbersome and subject to change. Also, at least temporarily, Wisconsin is allowing the use of documentation outside of the federal list and if we include the federal list in state law or administrative rule we would find ourselves out of compliance with our own law.

An alternative to listing the documentation types in state statute or rule is to provide a cross reference to the federal regulation citation which lists the documentation. (42 CFR 435.407 & 42 CFR 436.407) Given these recommendations par.(b) in the draft statutory language would be irrelevant and should be removed.

Recommended Edits

1. Below is the suggested language to identify the specific programs that are subject to the requirement and those that are exempted:

- ✓(1) All applicants for and recipients of Medical Assistance benefits under Chapter 49, Subchapter IV, except,
 - ✓(a) persons who are entitled to benefits or enrolled in any part of the Medicare program under Title 18 of the Social Security Act,
 - ✓(b) persons receiving Supplemental Security Income under Title 16 of the Social Security Act,
 - ✓(c) persons eligible for Medical assistance under 49.45(27)
 - (d) persons eligible for Medical assistance under 49.46(1)(a)13., or 49.47(4)(am)3. from the time they are initially determined eligible for Medical Assistance until the time of their first redetermination of eligibility, and
 - ✓(e) persons eligible for Medical Assistance under s. 49.465.
- ✓(2) All applicants for and recipients of Badger care under s. 49.665, except unborn children eligible under paragraph 49.665(4)(ap).
- ✓(3) All applicants for and recipients of drug assistance benefits under s. 49.688, except those persons with annual household incomes, as determined by the department, is more than 200% of the federal poverty line for a family the size of the person's eligible family.

✓ 2. We need to include somewhere in 49.84(6)(a) the inclusion of the following:

The requirement applies to applicants and recipients who declare themselves to be U.S. citizens or nationals.

Applicants must provide the required documentation at the time of application. Recipients must provide the required documentation at the time of the next review of eligibility. Applicants and recipients are granted a reasonable opportunity period to submit the documentation before eligibility can be denied or terminated.



DOA:.....Pink, BB0011 - Citizenship and identity documentation

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

D-note

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AN ACT ...; relating to: providing documentary evidence of citizenship for medical assistance eligibility and granting rule-making authority.

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**Analysis by the Legislative Reference Bureau
HEALTH AND HUMAN SERVICES**

PUBLIC ASSISTANCE

Under current law, as a condition of eligibility for Wisconsin Works, Medical Assistance (MA), or the food stamp program, a person who applies for any of those programs must provide a declaration of citizenship or satisfactory immigration status and may be required to provide additional verification of citizenship or satisfactory immigration status. Wisconsin Works, MA, and the food stamp program are public assistance programs that provide cash benefits and job assistance, medical care, or assistance with food purchases to low-income persons who satisfy other eligibility criteria generally relating to age, pregnancy, or disability.

Federal law now requires that medical assistance may not be provided to any person who, as a condition of eligibility, declares that he or she is a citizen or national of the United States unless the person presents satisfactory documentary evidence of citizenship or nationality. Federal law specifies the documentary evidence that is satisfactory and certain exemptions to the requirement based on the basis for the person's eligibility for medical assistance.

This bill provides that, as a condition of eligibility for the programs or subprograms specified by DHFS by rule, a person must provide satisfactory

documentary evidence that he or she is a citizen or national of the United States. Under the bill, DHFS must promulgate rules, consistent with the federal law, specifying what programs or subprograms the requirement applies to, including any exemptions under those programs or subprograms, and what types of documentary evidence satisfy the requirement.

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

Insert A

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

SECTION 1. 49.84 (6) of the statutes is created to read:

49.84 (6) (a) Notwithstanding any other eligibility requirements for the programs or subprograms specified by the department by rule under par. (b) 1., a person who is an applicant for, or recipient under, any of those programs or subprograms, unless exempted under the rule under par. (b) 1., shall provide, as a further condition of eligibility, satisfactory documentary evidence that he or she is a citizen or national of the United States.

(b) The department shall by rule specify all of the following, consistent with 42 USC 1396b (i) (22) and (x):

****NOTE: It seems that nothing is ever very clear under the federal law! The Deficit Reduction Act creates 42 USC 1396b (i) (22) with the requirement to meet the requirement under "subsection (x)," which is the requirement to provide documentary evidence, but (x) says, "for purposes of subsection (i) (23)" instead of (i) (22). The Implementation Requirement also refers to (i) (23). Which is it, (i) (22) or (i) (23)?

1. The programs or subprograms to which the requirement under par. (a) applies, including any exemptions under those programs or subprograms.

2. The types of documentary evidence that satisfy the requirement under par.

(a).

(END)

Insert 2-13

D-note

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0265/2ins
PJK:jld:sh

INSERT A

Federal law now provides that no federal financial participation will be provided to a state for MA expenditures made on behalf of a person who declares that he or she is a citizen or national of the United States unless the person presents satisfactory documentary evidence of citizenship or nationality. Federal law specifies the documentary evidence that is satisfactory and certain exemptions to the requirement based on the basis of the person's eligibility for medical assistance. MA

This bill provides that, as a condition of eligibility for MA, with some exceptions, for Badger Care, with one exception, or for Senior Care, with one exception, an applicant or recipient who declares himself or herself to be a United States citizen or national must provide satisfactory documentary evidence that he or she is a citizen or national. An applicant must provide the documentation at the time of application and a recipient who was not required to provide documentation when he or she applied must provide the documentation at his or her first eligibility review after the bill is enacted. The bill provides that satisfactory documentation consists of those documents and other forms of evidence specified under federal law.

(END OF INSERT A)

INSERT 2-13

1 SECTION 1. 49.84 (6) of the statutes is created to read:

2 49.84 (6) (a) In this subsection, "department" means the department of health
3 and family services.

4 (b) 1. Notwithstanding any other eligibility requirements for the programs
5 specified in par. (c), unless excepted by par. (c) an applicant for or recipient under any
6 of those programs who declares himself or herself to be a citizen or national of the
7 United States shall provide, as a further condition of eligibility, satisfactory
8 documentary evidence, as provided in par. (d), that he or she is a citizen or national
9 of the United States.

10 2. An applicant shall provide the documentation at the time of application. If
11 a recipient was not required to provide documentation at the time he or she applied,
12 the recipient shall provide the documentation the first time his or her eligibility is
13 reviewed or redetermined after the effective date of this subdivision [revisor

1 inserts date]. An applicant or recipient shall be granted a reasonable time, as
2 determined by the department, to submit the documentation before his or her
3 eligibility is denied or terminated.

4 (c) The requirement to provide satisfactory documentary evidence under par.
5 (b) applies to applicants for and recipients under all of the following programs:

6 1. The Medical Assistance program under subch. IV, except for any of the
7 following:

8 a. Applicants or recipients who are eligible for benefits under any part of
9 Medicare under 42 USC 1395 et seq., as amended.

10 b. Applicants or recipients who are receiving supplemental security income
11 under 42 USC 1381 to 1383c.

12 c. Applicants or recipients who are eligible for medical assistance under s. 49.45
13 (27).

14 d. Applicants for medical assistance under s. 49.46 (1) (a) 13. or 49.47 (4) (am)
15 3.

16 e. Applicants or recipients who are eligible for medical assistance under s.
17 49.465.

18 2. The Badger Care health care program under s. 49.665, except for applicants
19 or recipients who are eligible under s. 49.665 (4) (ap).

20 3. The prescription drug assistance for elderly persons program under s.
21 49.688, except for applicants or recipients with annual household incomes, as
22 determined by the department, of more than 200 percent of the federal poverty line,
23 as defined in s. 49.688 (1) (b), for a family the size of the applicant's or recipient's
24 eligible family.

1 (d) Satisfactory documentary evidence that an applicant or a recipient[✓] is a
2 citizen or national of the United States consists of the documents or other forms of
3 evidence specified in 42 CFR 435.407 and 436.407.

(END OF INSERT 2-13)

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

LRB-0265/2dn

PJK::

Jld

~~#~~, or is there a difference between being entitled to Medicare and being eligible for Medicare

For proposed s. 49.84 (6) (c) [✓]1. a., I limited the exception to those who are *eligible* for Medicare because I assumed that anyone *enrolled* in Medicare would be eligible. Is this okay?

For proposed s. [✓]49.84 (6) (c) 1. d., I limited the exception to applicants (did not include recipients) because, under proposed s. [✓]49.84 (6) (b) 2., a recipient does not have to provide documentation until their next eligibility review or redetermination anyway. Is this okay?

In this draft, I assumed that a person has to provide documentation only at the first review of eligibility after the effective date rather than at every review.

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0265/2dn
PJK:jld:rs

October 27, 2006

For proposed s. 49.84 (6) (c) 1. a., I limited the exception to those who are *eligible* for Medicare because I assumed that anyone *enrolled* in Medicare would be eligible. Is this okay, or is there a difference between being entitled to Medicare and being eligible for Medicare?

For proposed s. 49.84 (6) (c) 1. d., I limited the exception to applicants (did not include recipients) because, under proposed s. 49.84 (6) (b) 2., a recipient does not have to provide documentation until their next eligibility review or redetermination anyway. Is this okay?

In this draft, I assumed that a person has to provide documentation only at the first review of eligibility after the effective date rather than at every review.

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

Kahler, Pam

From: Pink, Michelle C - DOA
Sent: Friday, December 01, 2006 7:15 AM
To: Kahler, Pam
Subject: FW: Citizenship/identity Documentation Draft LBR 0265/2

Pam, Please see the attached comments from DHFS on the draft.

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

From: Megna, Richard [mailto:MegnaRH@dhfs.state.wi.us]
Sent: Thursday, November 30, 2006 5:15 PM
To: Pink, Michelle C - DOA
Cc: Kahler, Pam; Jessup, Vicki L - DHFS; LaPhilliph, John O - DHFS; Moyer, Mary M - DHFS; Nelson, Kirstin B - DHFS
Subject: Citizenship/identity Documentation Draft LBR 0265/2

Michelle,

There are several changes that we would recommend for the citizenship draft, as follows:

✓ 1. Modify s. 49.84(6)(c)a. to read:

"Applicants or recipients who are entitled to benefits or enrolled in any parts of Medicare under 42 USC 1395 et sep. as amended."

The rationale for this changes is that this language would mirror the federal language, and as such, would remove the question whether the phrase "are eligible" in the current draft is equivalent to the federal language.

✓ 2. Delete s. 49.84(6)(c)1.d. and instead add s. 49.84(6)(b)3. to say:

"Anyone eligible under 49.46 (1)(a)13 or 49.47 (4) (am)3, is not subject to the requirement until his/her first redetermination."

The reason for this is that the recipients referred to here are Continuously Eligible Newborns (CENs), and as such, are never in applicant status or redetermination status so it does not exactly fit to put them in under (6)c..

✓ 3. Modify S. 49.84(6)(c)3. to be more flexible in case there are changes in the federal waiver concerning who in SeniorCare is part of Medicaid. Replace the current language with: "The part of the prescription drug assistance for elderly persons program under s. 49.688 that is supported by a Medicaid Assistance waiver under 42 UCS 1315(a) as authorized under s. 49.688(11)."

✓ 4. Delete the reference to "436.407 in the last line of the draft since this provision only relates to the administration of MA in Guam, Puerto Rico and Virgin Islands.

Richard



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0265/2

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DOA:.....Pink, BB0011 - Citizenship and identity documentation

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

D-note
do not get cut

1 AN ACT ...; relating to: requiring documentary evidence of U.S. citizenship or
2 nationality for Medical Assistance eligibility.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

PUBLIC ASSISTANCE

Under current law, as a condition of eligibility for Wisconsin Works, Medical Assistance (MA), or the food stamp program, a person who applies for any of those programs must provide a declaration of citizenship or satisfactory immigration status and may be required to provide additional verification of citizenship or satisfactory immigration status. Wisconsin Works, MA, and the food stamp program are public assistance programs that provide cash benefits and job assistance, medical care, or assistance with food purchases to low-income persons who satisfy other eligibility criteria generally relating to age, pregnancy, or disability.

Federal law now provides that no federal financial participation will be provided to a state for MA expenditures made on behalf of a person who declares that he or she is a citizen or national of the United States unless the person presents satisfactory documentary evidence of citizenship or nationality. Federal law specifies the documentary evidence that is satisfactory and certain exemptions to the requirement based on the basis of the person's eligibility for MA.

This bill provides that, ~~as a condition of eligibility for MA, with some exceptions, for Badger Care, with one exception, or for Senior Care, with one exception, an~~

as a condition of eligibility for MA

↑ keep

applicant or recipient who declares himself or herself to be a United States citizen or national must provide satisfactory documentary evidence that he or she is a citizen or national. An applicant must provide the documentation at the time of application and a recipient who was not required to provide documentation when he or she applied must provide the documentation at his or her first eligibility review after the bill is enacted. The bill provides that satisfactory documentation consists of those documents and other forms of evidence specified under federal law.

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.** 49.84 (6) of the statutes is created to read:

2 49.84 (6) (a) In this subsection, "department" means the department of health
3 and family services.

4 (b) 1. Notwithstanding any other eligibility requirements for the programs
5 specified in par. (c), unless excepted by par. (c) an applicant for or recipient under any
6 of those programs who declares himself or herself to be a citizen or national of the
7 United States shall provide, as a further condition of eligibility, satisfactory
8 documentary evidence, as provided in par. (d), that he or she is a citizen or national
9 of the United States.

10 2. An applicant shall provide the documentation at the time of application. If
11 a recipient was not required to provide documentation at the time he or she applied,
12 the recipient shall provide the documentation the first time his or her eligibility is
13 reviewed or redetermined after the effective date of this subdivision [revisor
14 inserts date]. An applicant or recipient shall be granted a reasonable time, as
15 determined by the department, to submit the documentation before his or her
16 eligibility is denied or terminated.

1 (c) The requirement to provide satisfactory documentary evidence under par.

2 (b) applies to applicants for and recipients under all of the following programs ~~keep~~

3 1. The Medical Assistance program under subch. IV, except for any of the
4 following:

5 a. Applicants or recipients who are eligible for benefits under any part of
6 Medicare under 42 USC 1395 et seq., as amended.

7 b. Applicants or recipients who are receiving supplemental security income
8 under 42 USC 1381 to 1383c.

9 c. Applicants or recipients who are eligible for medical assistance under s. 49.45
10 (27).

11 d. Applicants for medical assistance under s. 49.46 (1) (a) 13. or 49.47 (4) (am)

12 3.

13 e. Applicants or recipients who are eligible for medical assistance under s.
14 49.465.

15 2. The Badger Care health care program under s. 49.665, except for applicants
16 or recipients who are eligible under s. 49.665 (4) (ap).

17 3. The prescription drug assistance for elderly persons program under s.
18 49.688, except for applicants or recipients with annual household incomes, as
19 determined by the department, of more than 200 percent of the federal poverty line,
20 as defined in s. 49.688 (1) (b), for a family the size of the applicant's or recipient's
21 eligible family.

22 (d) Satisfactory documentary evidence that an applicant or a recipient is a
23 citizen or national of the United States consists of the documents or other forms of
24 evidence specified in 42 CFR 435.407 and 436.407.

25

(END)

D-into

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0265/3ins
PJK:jld:rs

INSERT 3-21

WGH

that is supported by a Medical Assistance ✓ waiver under 42 USC 1315 (a), as
authorized under s. 49.688 (11) ✓ 

(END OF INSERT 3-21)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0265/3dn
PJK:jld:rs

date

1. Regarding the DHFS comment number 2, I was a little confused as to why a provision should be added that says a "continuously eligible newborn" is not subject to the requirement *until his or her first redetermination*, as suggested, if they "are never in applicant status or *redetermination* status." Instead of the suggested language, I exempted "continuously eligible newborns" altogether by exempting recipients under s. 49.46 (1) (a) 13. or 49.47 (4) (am) 3. If this is still not satisfactory, I would be happy to change it, but I may need some further education on that eligibility category. (I'm assuming that when a continuously eligible newborn reaches one year of age, their eligibility must be determined under a different category and they would thus be an applicant at that time.)

ST&T

By the same token, I modified the MA presumptive eligibility exemption and the Badger Care unborn child exemption. In neither of these cases does the recipient apply, either, until they seek benefits under a different category of eligibility.

2. I assume the change to s. 49.84 (6) (c) 1. a. is needed because, theoretically, a person enrolled in Medicare may, in fact, not be entitled to (eligible for) benefits.

Pamela J. Kahler
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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0265/3dn
PJK:jld:rs

December 1, 2006

1. Regarding the DHFS comment number 2, I was a little confused as to why a provision should be added that says a "continuously eligible newborn" is not subject to the requirement *until his or her first redetermination*, as suggested, if they "are never in applicant status or *redetermination* status." Instead of the suggested language, I exempted "continuously eligible newborns" altogether by exempting recipients under s. 49.46 (1) (a) 13. or 49.47 (4) (am) 3. If this is still not satisfactory, I would be happy to change it, but I may need some further education on that eligibility category. (I'm assuming that, when a continuously eligible newborn reaches one year of age, their eligibility must be determined under a different category and they would thus be an applicant at that time.)

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State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0265/3

PJK:jld:rs

DOA:.....Pink, BB0011 - Citizenship and identity documentation

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

- 1 AN ACT ...; **relating to:** requiring documentary evidence of U.S. citizenship or
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Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

PUBLIC ASSISTANCE

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Federal law now provides that no federal financial participation will be provided to a state for MA expenditures made on behalf of a person who declares that he or she is a citizen or national of the United States unless the person presents satisfactory documentary evidence of citizenship or nationality. Federal law specifies the documentary evidence that is satisfactory and certain exemptions to the requirement based on the basis of the person's eligibility for MA.

This bill provides that, with some exceptions, as a condition of eligibility for MA, Badger Care, or Senior Care an applicant or recipient who declares himself or herself

to be a United States citizen or national must provide satisfactory documentary evidence that he or she is a citizen or national. An applicant must provide the documentation at the time of application and a recipient who was not required to provide documentation when he or she applied must provide the documentation at his or her first eligibility review after the bill is enacted. The bill provides that satisfactory documentation consists of those documents and other forms of evidence specified under federal law.

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.** 49.84 (6) of the statutes is created to read:

2 49.84 (6) (a) In this subsection, "department" means the department of health
3 and family services.

4 (b) 1. Notwithstanding any other eligibility requirements for the programs
5 specified in par. (c), unless excepted by par. (c) an applicant for or recipient under any
6 of those programs who declares himself or herself to be a citizen or national of the
7 United States shall provide, as a further condition of eligibility, satisfactory
8 documentary evidence, as provided in par. (d), that he or she is a citizen or national
9 of the United States.

10 2. An applicant shall provide the documentation at the time of application. If
11 a recipient was not required to provide documentation at the time he or she applied,
12 the recipient shall provide the documentation the first time his or her eligibility is
13 reviewed or redetermined after the effective date of this subdivision [revisor
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4 following:

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6 part of Medicare under 42 USC 1395 et seq., as amended.

7 b. An applicant or recipient who is receiving supplemental security income
8 under 42 USC 1381 to 1383c.

9 c. A person who is eligible for medical assistance under s. 49.45 (27).

10 d. A child who is receiving medical assistance under s. 49.46 (1) (a) 13. or 49.47
11 (4) (am) 3.

12 e. A pregnant woman who is receiving medical assistance under s. 49.465.

13 2. The Badger Care health care program under s. 49.665, except for an unborn
14 child under s. 49.665 (4) (ap).

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16 under s. 49.688 that is supported by a Medical Assistance waiver under 42 USC 1315
17 (a), as authorized under s. 49.688 (11).

18 (d) Satisfactory documentary evidence that an applicant or a recipient is a
19 citizen or national of the United States consists of the documents or other forms of
20 evidence specified in 42 CFR 435.407.

21 (END)