

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 - med. assist.**

Extra Copies:

Submit via email: **NO**

Pre Topic:

DOA:.....Pink, BB0009 -

Topic:

Medicaid requirement to enroll in Medicare Part B

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 09/20/2006	jdyer 09/21/2006		_____			State
/P1			pgreensl 09/21/2006	_____	lparisi 09/21/2006		State
/1	pkahler 10/09/2006 pkahler 11/09/2006	jdyer 10/10/2006	rschluet 10/10/2006	_____	lparisi 10/10/2006		State
/2	pkahler 12/01/2006	jdyer 12/01/2006	rschluet 12/01/2006	_____	cduerst 12/01/2006		

FE Sent For:

<END>

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Extra Copies: DHFS

Submit via email: YES

Requester's email:

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

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/P1			pgreensl 09/21/2006	_____	lparisi 09/21/2006		State
/1	pkahler 10/09/2006	jdyer 10/10/2006	rschluet 10/10/2006	_____	lparisi 10/10/2006		

Handwritten signatures and initials:
k12/jld
[Signature]

FE Sent For:

<END>

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Wanted: **As time permits**

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For: **Administration-Budget**

By/Representing: **Pink, Michelle**

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Drafter: **pkahler**

May Contact:

Addl. Drafters:

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

Extra Copies: **DHFS**

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/P1		1 10/10 jld	pgreensl 09/21/2006		lparisi 09/21/2006		

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pgreensl
lparisi
10/10
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/?	pkahler	PI 9/21/06	9/21/06	9/21/06			

FE Sent For:

<END>

2007-09 Budget Bill Statutory Language Drafting Request

- Topic: Medicaid Requirement to Enroll in Medicare Part B
- Tracking Code: BB0009
- SBO team: Health and Insurance
- SBO analyst: Michelle Pink
 - Phone: 7-7980
 - Email: michelle.pink@wisconsin.gov
- Agency acronym: DHFS
- Agency number: 435

Medicaid Requirement to Enroll in Medicare Part B

Current Language

s.49.46
s.49.468

Proposed Change

1. Amend s.49.46 to require individuals who are eligible for both Medicaid and Medicare Part B to enroll in Medicare Part B as a condition of eligibility for Medicaid.
2. Amend s.49.468 to specify that the Department must pay the Medicare Part B premiums of anyone who is eligible for both Medicaid and Medicare Part B.

Background and Rationale for the Change

Currently the Wisconsin Medical Assistance Program reimburses providers for Medicare Part B covered services for recipients who choose not to enroll in Medicare Part B. Wisconsin's Medicaid program has claimed federal financial participation (FFP) for these services. Federal officials recently clarified that federal regulations do not allow states to claim FFP for state expenditures that could have been paid by Medicare Part B for recipients who are not enrolled in Medicare Part B. Wisconsin's Medicaid payments for these individuals could be subject to a federal disallowance.

Federal regulations allow states to require, as a condition of eligibility, that the recipient enroll in Medicare Part B if eligible. However, if a state requires enrollment in Part B, the state must pay the premiums for these individuals.

This statutory language change will allow the Department to require individuals who are eligible for Medicare to enroll in Part B. As a condition of this requirement, the Department will pay for all Medicare Part B premiums for Medicaid recipients.

Desired Effective Date: Upon passage of Biennial Budget bill
Agency: DHFS
Agency Contact: Ellen Hadidian
Phone: 266-8155

does not pay for benefits to which an individual is entitled under another benefit program, MA would no longer pay for any benefits that are covered under Medicare Part B after the individual enrolls in Medicare Part B. ✓

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

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

1 SECTION 1. 49.46 (1) (n) ✓ of the statutes is created to read:

2 49.46 (1) (n) 1. An individual who is otherwise eligible under this ✓ subsection
3 and who is eligible for Medicare Part B under 42 USC 1395j to 1395L shall enroll in
4 Medicare Part B as a condition of eligibility for medical assistance.

5 2. For an individual who is eligible under this subsection ✓ and who is enrolled
6 in Medicare Part B, the ✓ department shall pay the monthly premiums for the coverage
7 under Medicare Part B.

8 (END)

D-note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-02687dn

PJK:.....

PI
JW

The instructions from DHFS said to amend s. 49.468 to require DHFS to pay Medicare Part B premiums for individuals eligible for both Medicare Part B and Medical Assistance. Section 49.468, however, applies to individuals who are enrolled in Medicare, who are not eligible for Medical Assistance under s. 49.46 (1), 49.465, or 49.47 (4), but who meet other income and resources limitations specified in s. 49.468. My understanding was that the individuals in this draft *do* meet the eligibility criteria for MA under s. 49.46 (1), therefore, I required DHFS to pay premiums in proposed s. 49.46 (1) (n) 2. OK?

Should the requirement to pay Medicare Part B premiums begin on a certain date? Is DHFS already paying premiums for MA-eligible individuals who *are* enrolled in Medicare Part B?

Should proposed s. 49.46 (1) (n) 2. be added to s. 149.12 (2) (f) 2. f.?

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-0268/P1dn
PJK:jld:pg

September 21, 2006

The instructions from DHFS said to amend s. 49.468 to require DHFS to pay Medicare Part B premiums for individuals eligible for both Medicare Part B and Medical Assistance. Section 49.468, however, applies to individuals who are enrolled in Medicare, who are not eligible for Medical Assistance under s. 49.46 (1), 49.465, or 49.47 (4), but who meet other income and resources limitations specified in s. 49.468. My understanding was that the individuals in this draft *do* meet the eligibility criteria for MA under s. 49.46 (1), therefore, I required DHFS to pay premiums in proposed s. 49.46 (1) (n) 2. OK?

Should the requirement to pay Medicare Part B premiums begin on a certain date? Is DHFS already paying premiums for MA-eligible individuals who *are* enrolled in Medicare Part B?

Should proposed s. 49.46 (1) (n) 2. be added to s. 149.12 (2) (f) 2. f.?

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

Kahler, Pam

From: Hadidian, Ellen
Sent: Thursday, October 05, 2006 3:40 PM
To: Kahler, Pam
Cc: Pink, Michelle; Cunningham, Curtis; Forsaith, Andrew; Megna, Richard
Subject: LRB 07-0268/P1

Hi Pam,

This is a response to your questions regarding this draft.

Question #1: The instructions from DHFS said to amend s. 49.468 to require DHFS to pay Medicare Part B premiums for individuals eligible for both Medicare Part B and Medical Assistance. Section 49.468, however, applies to individuals who are enrolled in Medicare, who are not eligible for Medical Assistance under s. 49.46 (1), 49.465, or 49.47 (4), but who meet other income and resources limitations specified in s. 49.468. My understanding was that the individuals in this draft do meet the eligibility criteria for MA under s. 49.46 (1), therefore, I required DHFS to pay premiums in proposed s.49.46

- (1)
- (n) 2. OK?

Yes. The policy will apply to individuals eligible for MA and Medicare.

The people we are targeting are MA eligibles that are eligible for Part B and could potentially receive Part B services through the MA program. Therefore, it should include all MA eligibles eligible under 49.46 SSI, 49.47 elderly and disabled , 49.472 MAPP, 49.665 BadgerCare, the waiver programs, and the family planning waiver. However, the policy should not apply to 49.688 SeniorCare, or 49.465 presumptive eligibility.

In addition to the reference in 49.46, could you add the requirement to 49.47 to cover these groups as well?

Question #2: Should the requirement to pay Medicare Part B premiums begin on a certain date?

We would like the statutory language to read "upon implementation of the requirement under 49.46 (1) (n) 1, for an individual who is eligible under this subsection and who is enrolled in Medicare Part B, the department shall pay the monthly premiums for the coverage under Medicare Part B." This would give us the flexibility to implement this provision when we implement the condition of eligibility (incase there is an implementation lag).

Question #3: Is DHFS already paying premiums for MA-eligible individuals who are enrolled in Medicare Part B?

Yes, DHFS is currently buying in certain individuals depending on their eligibility status, such as QMB and SLMB eligibles.

Question #4: Should proposed s. 49.46 (1) (n) 2. be added to s. 149.12 (2)

- (f)
- 2. f.?

No.

Thank you.

49.45(24) 46, 275
46.277
46.278
46.2785



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0268/P

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DOA:.....Pink, Michelle, BB0009 - Medicaid requirement to enroll in Medicare Part B

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

D-note

do not gen cat

1 AN ACT [✓]; relating to: enrolling in Medicare Part B if eligible as a condition of
2 eligibility for medical assistance.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

MEDICAL ASSISTANCE

Under current law, DHFS administers the Medical Assistance (MA) program, under which eligible individuals, generally low-income or disabled, receive health care benefits. Some individuals who are eligible for MA are also eligible for Medicare, which is a federal health insurance program for individuals who are, generally, 65 years of age or older or disabled. Medicare Part A covers hospital and related services, and coverage is automatic. Medicare Part B covers outpatient, nursing, and physician services and various other health care services, such as diagnostic tests. Enrollment in Medicare Part B is voluntary, and an enrollee must pay a premium. Current law does not require an individual who is eligible for both MA and Medicare to enroll in Medicare Part B, and DHFS reimburses providers under MA for services that would be covered under Medicare Part B if the individual were enrolled in Medicare Part B.

This bill requires an individual who is eligible for both MA and Medicare to enroll in Medicare Part B as a condition of eligibility for MA and requires DHFS to pay the monthly premiums for the coverage under Medicare Part B. Because MA

Insert A ✓

INSERT A

wof
provides that DHFS[✓] may require an individual who is eligible for Medicare and for MA[✓] services under a number of eligibility categories to enroll in Medicare Part B as a condition of receiving those MA services. The bill also provides that, if DHFS requires an individual to enroll in Medicare Part B, DHFS must ~~not~~^{NO}

(END OF INSERT A)

INSERT 2-7

1 SECTION 1. 49.45[✓] (18m) of the statutes is created to read:

2 49.45 (18m) MEDICARE PART B[✓] ENROLLMENT AND PREMIUM PAYMENT. (a) The
3 department may require an individual who is eligible for Medicare Part B under 42
4 USC 1395j to 1395L and who^{also} is eligible for any of the following medical assistance
5 services under any of the following to enroll in Medicare Part B[✓] as a condition of
6 receiving those medical assistance services:

7 1. Medical assistance services under s. 49.46[✓], 49.47[✓], or 49.472[✓].

8 2. Health care coverage under the Badger Care health care program under s.
9 49.665[✓].

10 3. Services under s. 46.27[✓] (11), 46.275[✓], 46.277[✓], or 46.278[✓]. *or 46.2785*

11 4. Medical assistance services provided as part of a family care benefit, as
12 defined in s. 46.2805 (4).

13 5. Services provided under a waiver requested under 2001 Wisconsin Act 16,
14 section 9123 (16rs), or 2003 Wisconsin Act 33, section 9124 (8c).

15 6. Services provided under the program of all-inclusive[✓] care for persons aged
16 55 or older authorized under 42 USC 1396u-4.

17 7. Services provided under the demonstration program under a federal waiver
18 authorized under 42 USC 1315.

19 8. Family planning services under s. 49.45 (24r).
8

Ins 2-7 contd

1 (b) If the department requires an individual specified in par. (a) to enroll in
2 Medicare Part B, the department shall pay the monthly premiums for the coverage
3 under Medicare Part B.

(END OF INSERT 2-7)

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

LRB-0268/1dn

PJK/jld/pg

Keep

date

I created a general provision in s. 49.45[✓] to apply to all of the groups listed in Ellen Hadidian's redraft instructions. I took a stab at the groups by using a budget draft from last session (LRB-0270) that also referenced the "waiver programs" and the "family planning waiver" [resulting in s. 149.12 (2) (f) 2. a[✓] and g[✓]]. Let me know if I've included too much or not enough or if any of the citations are inaccurate.

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-0268/1dn
PJK:jld:rs

October 10, 2006

I created a general provision in s. 49.45 to apply to all of the groups listed in Ellen Hadidian's redraft instructions. I took a stab at the groups by using a budget draft from last session (LRB-0270) that also referenced the "waiver programs" and the "family planning waiver" [resulting in s. 149.12 (2) (f) 2. a. and (g)]. Let me know if I've included too much or not enough or if any of the citations are inaccurate.

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 10:11 AM
To: Kahler, Pam
Subject: LRB 07-0268

Good morning, Pam,

DHFS would like a change to the draft pertaining to Medicare Part B enrollment requirements.

Thank you!

Michelle Pink

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

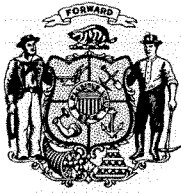
From: Hadidian, Ellen [mailto:HADIDEC@dhfs.state.wi.us]
Sent: Friday, December 01, 2006 10:05 AM
To: Pink, Michelle C - DOA
Cc: Megna, Richard
Subject: LRB 07-0268

Michelle,

This is the draft for Medicare Part B requirement. We would like to have the reference to recipients in the Family Planning Waiver removed so they are not required to enroll. Most of the FPW recipients enroll on their own and their average costs per month are less than the Part B premium. It would be better to pay 100% GPR for the few FPW recipis who do not enroll on their own rather than pay the premium for all FPW families (about 150 families).

Also, we would probably have to renegotiate the waiver to include them and that would be difficult.

thanks



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0268/1

PJK:jld:rs

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DOA:.....Pink, BB0009 – Medicaid requirement to enroll in Medicare Part B
FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

Handwritten: D-note

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This bill provides that DHFS may require an individual who is eligible for Medicare and for MA services under a number of eligibility categories to enroll in Medicare Part B as a condition of receiving those MA services. The bill also provides that, if DHFS requires an individual to enroll in Medicare Part B, DHFS must pay

the monthly premiums for the coverage under Medicare Part B. Because MA does not pay for benefits to which an individual is entitled under another benefit program, MA would no longer pay for any benefits that are covered under Medicare Part B after the individual enrolls in Medicare Part B.

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

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5 assistance services under any of the following to enroll in Medicare Part B as a
6 condition of receiving those medical assistance services:

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

LRB-0268/2dn
PJK:jld:rs

date

This draft removes the reference to the family planning waiver from the requirement to enroll in Medicare Part B. ✓

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

**DRAFTER'S NOTE
FROM THE
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LRB-0268/2dn
PJK:jld:rs

December 1, 2006

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Phone: (608) 266-2682
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State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0268/2

PJK:jld:rs

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