



State of Wisconsin
2007 - 2008 LEGISLATURE

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LRB-0905/7

PJK:.....

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DOA:.....Pink, BB0185 - Badger Care Plus

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

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1 AN ACT ~~x~~; relating to: the budget. ✓

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

subhead → MEDICAL ASSISTANCE ← CS

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

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:

- 2 SECTION 1. 49.46 (1) (a) 5. ^x of the statutes is amended to read:
- 3 49.46 (1) (a) 5. Any child in an adoption assistance, foster care, [✓] kinship care,
- 4 ~~long-term kinship care~~, treatment foster care, or subsidized guardianship
- 5 placement under ch. 48 or 938, as determined by the department.

History: 1971 c. 125, 211, 215; 1973 c. 90, 147; 1975 c. 39; 1977 c. 29 ss. 592m, 1656 (18); 1977 c. 389, 418; 1979 c. 34, 221; 1981 c. 20, 93, 317; 1983 a. 27; 1983 a. 189 s. 329 (5); 1983 a. 245 ss. 10, 15; 1983 a. 538; 1985 a. 29, 120, 176, 253; 1987 a. 27, 307, 339, 399, 413; 1989 a. 9; 1989 a. 31 ss. 1454d to 1460 and 2909g, 2909i; 1989 a. 122, 173, 333, 336, 351; 1991 a. 39, 178, 269, 316; 1993 a. 16, 99, 269, 277, 446, 450, 491; 1995 a. 27, 77, 164, 289, 303, 457; 1997 a. 27, 35, 105, 237; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2005 a. 25, 253.

1 SECTION 2. 49.474^x of the statutes is created to read:

2 49.474 **BadgerCare Plus. (1) DEFINITIONS.** In this[✓] section, unless the context
3 requires otherwise:

4 (a) "BadgerCare Plus" means the Medical Assistance[✓] program described in this
5 section.[✓]

6 (b) "Child" includes a person from the time of conception until it is born alive.[✓]

7 (c) "Recipient" means an individual receiving benefits under this[✓] section.

***NOTE: Do we need to define "caretaker relative" or any other terms?

***NOTE: I didn't define "family." The term only seems to be used as part of "family income." See how I treated it in proposed s. 49.474 (12) (c).[✓]

8 (2) **WAIVER.**[✓] The department shall request a waiver from, and submit an
9 amendment to the state Medical Assistance[✓] plan to, the secretary of the federal
10 department of health and human services to implement BadgerCare Plus.[✓] If the
11 state plan amendment is approved and a waiver that is consistent with all of the
12 provisions of this section[✓] is granted and in effect, the department[✓] shall implement
13 BadgerCare Plus beginning on January 1, 2008,[✓] the date on which the state plan
14 amendment is approved, or the effective date of the waiver, whichever is latest. If
15 the state plan amendment is not approved or if a waiver that is consistent with all
16 of the provisions of this section[✓] is not granted, BadgerCare Plus may not be
17 implemented. If the state plan amendment is approved but approval is not continued
18 or if a waiver that is consistent with all of the provisions of this section is granted but
19 not continued in effect,[✓] BadgerCare Plus shall be discontinued.

20 (3) **INELIGIBILITY FOR OTHER MEDICAL ASSISTANCE[✓] BENEFITS.** (a) Notwithstanding
21 ss. 49.46 (1), 49.465,[✓] 49.47 (4),[✓] and 49.665 (4),[✓] if the amendment to the state plan
22 under sub. (2)[✓] is approved and a waiver that is consistent with all of the provisions
23 of this section[✓] under sub. (2) is granted and in effect, an individual described in sub.

1 (4) (a) or (b) or ~~sub~~ (5) is not eligible under s. 49.46, 49.465, 49.47, or 49.665 for
2 Medical Assistance benefits. The eligibility of an individual described in sub. (4) (a)
3 or (b) or ~~sub~~ (5) for Medical Assistance benefits shall be determined under this
4 section.

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

12 a. The individual's eligibility for the Medical Assistance benefits in the month
13 before the implementation of BadgerCare Plus was based on an application filed
14 before the implementation of BadgerCare Plus.

15 b. The individual continues to pay any premium that he or she was required
16 to pay for the Medical Assistance coverage in the same amount as the amount that
17 was due in the month before the implementation of BadgerCare Plus.

18 c. The individual continues to meet all nonfinancial eligibility requirements for
19 the coverage that he or she had in the month before the implementation of
20 BadgerCare Plus.

21 d. The individual continues to be ineligible for BadgerCare Plus because of his
22 or her income.

23 2. Notwithstanding subd. 1., if at any time during an individual's 18-month
24 eligibility extension under subd. 1. any criterion under subd. 1. a. to d. is not satisfied,

1 the individual's eligibility for the extended coverage is terminated and any time
2 remaining in the eligibility period is lost.

3 (4) FINANCIAL ELIGIBILITY CRITERIA; APPLICABLE BENEFITS. (a) Except as
4 otherwise provided in this section, all of the following individuals are eligible for the
5 benefits described in s. 49.46 (2) (a) and (b):

6 1. A pregnant woman whose family income does not exceed 200 percent of the
7 poverty line.

8 2. A child who is under one year of age, whose mother was determined to be
9 eligible under subd. 1., and who lives with his or her mother in this state.

10 3. A child under 19 years of age whose family income does not exceed 200
11 percent of the poverty line.

12 4. Unless the individual is eligible under par. (b) 4., an individual who is a
13 parent of a child under 19 years of age and whose family income, calculated as
14 provided in sub. (7) (a), does not exceed 200 percent of the poverty line. If there is
15 no child under 19 years of age in the individual's home because all of the individual's
16 children under 19 years of age have been removed from the home, the individual is
17 eligible under this subdivision only if he or she is working toward unifying the family
18 by complying with a permanency plan under s. 48.38.

19 5. Unless the individual is eligible under par. (b) 5., an individual who is a
20 caretaker relative of a child under 19 years of age and whose family income,
21 calculated as provided in sub. (7) (a), does not exceed 200 percent of the poverty line.

22 6. An individual who, regardless of family income, is 18 years of age and who,
23 on his or her 18th birthday, was in a foster care or treatment foster care placement
24 under ch. 48 or 938, as determined by the department.

*
****NOTE: This is part of the out-of-home youths phase-in, assuming the first year affects only 18-year-olds.

1 (b) Except as otherwise provided in this section, all of the following individuals
2 are eligible for the benefits described in sub. (11):

3 1. A pregnant woman whose family income exceeds 200 percent but does not
4 exceed 300 percent of the poverty line.

5 2. A child who is under one year of age, whose mother was determined to be
6 eligible under subd. 1., and who lives with his or her mother in this state.

7 3. A child under 19 years of age whose family income exceeds 200 percent but
8 does not exceed 300 of the poverty line.

9 4. Unless the individual is eligible under par. (a) 4., an individual who is a
10 parent of a child under 19 years of age and whose family income, calculated as
11 provided in sub. (7) (a), does not exceed 200 percent of the poverty line. If there is
12 no child under 19 years of age in the individual's home because all of the individual's
13 children under 19 years of age have been removed from the home, the individual is
14 eligible under this subdivision only if he or she is working toward unifying the family
15 by complying with a permanency plan under s. 48.38.

16 5. Unless the individual is eligible under par. (a) 5., an individual who is a
17 caretaker relative of a child under 19 years of age and whose family income,
18 calculated as provided in sub. (7) (a), does not exceed 200 percent of the poverty line.

19 (c) Except as otherwise provided in this section, a child under 19 years of age
20 who does not have health insurance coverage and whose family income exceeds 300
21 percent of the poverty line is eligible to purchase coverage of the benefits described
22 in sub. (11), at the full per member per month cost of the child's coverage.

****NOTE: Should this specifically be the insurance coverage under sub. (8) (b) 1.?

23 (5) PRESUMPTIVE ELIGIBILITY. (a) In this subsection:

1 1. "Qualified entity" means an entity that satisfies the requirements under 42
2 USC 1396r-1a (b) (3) (A), as determined by the department.

3 2. "Qualified provider" means a provider that satisfies the requirements under
4 42 USC 1396r-1 (b) (2), as determined by the department.

5 (b) 1. A pregnant woman is eligible for the benefits specified in par. (c) during
6 the period beginning on the day on which a qualified provider determines, on the
7 basis of preliminary information, that the woman's family income does not exceed
8 300 percent of the poverty line and ending on the applicable day specified in subd.

9 3.

10 2. A child under 19 years of age is eligible for the benefits described in s. 49.46
11 (2) (a) and (b) during the period beginning on the day on which a qualified entity
12 determines, on the basis of preliminary information, that the child's family income
13 does not exceed 150 percent of the poverty line and ending on the applicable day
14 specified in subd. 3.

15 3. a. If the woman or child applies for benefits under sub. (4) within the time
16 required under par. (d), the benefits specified in subd. 1. or 2., whichever is
17 applicable, end on the day on which the department or the county department under
18 s. 46.215, 46.22, or 46.23 determines whether the woman or child is eligible for
19 benefits under sub. (4).

20 b. If the woman or child does not apply for benefits under sub. (4) within the
21 time required under par. (d), the benefits specified in subd. 1. or 2., whichever is
22 applicable, end on the last day of the month following the month in which the
23 provider or entity makes the determination under this paragraph.

1 (c) On behalf of a woman under par. (b) 1., the department shall audit and pay
2 allowable charges to a provider certified under s. 49.45 (2) (a) 11. only for ambulatory
3 prenatal care services under the benefits under sub. (11).

4 (d) A woman or child who is determined to be eligible under par. (b) shall apply
5 for benefits under sub. (4) on or before the last day of the month following the month
6 in which the qualified provider or entity makes the eligibility determination.

7 (e) A qualified provider or entity that determines that a woman or child is
8 eligible under par. (b) shall do all of the following:

9 1. Notify the department of that determination within 5 working days after the
10 day on which the determination is made.

11 2. Notify the woman or child of the requirement under par. (d).

12 (f) The department shall provide qualified providers and qualified entities with
13 application forms for the benefits under sub. (4) and information on how to assist
14 women and children in completing the forms.

15 (6) MISCELLANEOUS ELIGIBILITY AND BENEFIT PROVISIONS. (a) Any pregnant
16 woman, child, or parent whose family income is less than 150 percent of the poverty
17 line is eligible for medical assistance under this section for 3 months prior to the
18 month of application if the individual met the eligibility criteria under this section
19 during those months.

****NOTE: Should this include or exclude those eligible under presumptive
eligibility?

20 (b) A pregnant woman who is determined to be eligible for benefits under sub.
21 (4) remains eligible for benefits under sub. (4) for the balance of the pregnancy and
22 to the last day of the month in which the 60th day after the last day of the pregnancy
23 falls without regard to any change in the woman's family income.

1 (c) If a child who is eligible for benefits under sub. (4) is receiving inpatient
2 services covered under sub. (4) on the day before his or her 19th birthday and, but
3 for attaining 19 years of age, the child would remain eligible for benefits under sub.
4 (4), the child remains eligible for benefits until the end of the stay for which the
5 inpatient services are being furnished.

6 (d) If an application under this section shows that an individual is an essential
7 person, the individual shall be provided the benefits specified under sub. (4) (a) or
8 (b), regardless of whether the individual requests the benefits.

9 (e) The medical assistance eligibility extensions under s. 49.46(c), (cg), and (co)
10 for individuals who lose eligibility due to increased income do not apply to
11 BadgerCare Plus.

12 (f) The medical assistance eligibility provisions for migrant workers and their
13 dependents under s. 49.47 (4) (av) apply to BadgerCare Plus.

14 (g) All of the following apply to BadgerCare Plus in the same respect as they
15 apply under s. 49.46:

16 1. Section 49.46 (2) (c) and (cm), relating to benefits for individuals who are
17 eligible for Medicare.

18 2. Section 49.46 (2) (d), relating to prohibiting payments for any part of any
19 service payable through 3rd-party liability or any governmental or private benefit
20 system.

21 3. Section 49.46 (2) (dm), relating to prohibiting payment for services to
22 residents of institutions for mental diseases.

23 4. Section 49.46 (2) (f), relating to prohibiting payment for gastric bypass or
24 stapling surgery.

1 (7) SPECIAL INCOME PROVISIONS. (a) In the calculation of family income for
2 purposes of determining the eligibility of a parent or caretaker relative under sub.
3 (4) (a) 4. or 5. or (b) 4. or 5., if the parent or caretaker relative has self-employment
4 income the department shall allow all deductions allowed under federal and state tax
5 law, except for depreciation. If a parent's or caretaker relative's family income
6 without deducting depreciation does not exceed 200 percent of the poverty line, the
7 parent or caretaker relative is eligible under sub. (4) (a) 4. or 5. If family income
8 without deducting depreciation equals or exceeds 200 percent of the poverty line,
9 however, the parent or caretaker relative is eligible under sub. (4) (b) 4. or 5. if his
10 or her family income does not exceed 200 percent of the poverty line after
11 depreciation is deducted.

12 (b) To meet the eligibility requirements under this section, the department
13 shall allow all of the following to obligate or expend income for medical care or for any
14 other type of remedial care recognized under state law or for personal health
15 insurance premiums or both:

- 16 1. A pregnant woman, to meet the family income limit under sub. (4) (b) 1.
- 17 2. A child who has the health insurance coverage specified in sub. (8) (b) 1., so
18 that his or her family income does not exceed 150 percent of the poverty line.

****NOTE: It would seem that such a child would be eligible for "regular MA"
benefits if their family income went down to below 150 percent of poverty.

19 (c) When calculating an individual's family income, the department shall do all
20 of the following:

- 21 1. Deduct from family income any payments made by the individual for
22 court-ordered child or family support.

****NOTE: Do we need to define "support" to include everything in s. 49.854 (1) (f)?

- 23 2. Disregard earnings of children under 18 years of age.

1 3. Determine separately the family incomes of caretaker relatives and the
2 children for whom they are caring.

3 4. Not include in the calculation any income of an individual receiving benefits
4 under s. 49.77 or federal Title XVI.

5 (8) HEALTH INSURANCE COVERAGE AND ELIGIBILITY. (a) 1. Except as provided in
6 subd. 2., any individual who is otherwise eligible under this section and who is
7 eligible for enrollment in a group health plan shall, as a condition of eligibility for
8 medical assistance and if the department determines that it is cost-effective to do
9 so, apply for enrollment in the group health plan, except that, for a minor, the parent
10 of the minor shall apply on the minor's behalf.

11 2. If a parent of a minor fails to enroll the minor in a group health plan in
12 accordance with subd. 1., the failure does not affect the minor's eligibility under this
13 section.

14 (b) Except as provided in par. (c), an individual with a family income that
15 exceeds 150 percent of the poverty line is not eligible for BadgerCare Plus if any of
16 the following applies:

17 1. The individual has individual or family health insurance coverage that is any
18 of the following:

19 a. Coverage provided by an employer and for which the employer pays at least
20 80 percent of the premium.

21 b. Coverage under the state employee health plan under s. 40.51 (6).

22 2. The individual, in the 12 months before applying, had access to the health
23 insurance coverage specified in subd. 1.

1 3. Access to the health insurance coverage specified in subd. 1. will become
2 available to the individual in the month in which the individual applies for coverage
3 under this section or in any of the next 3 calendar months.

4 (c) 1. Except as provided in subd. 2., a pregnant woman, regardless of family
5 income, is not ineligible for BadgerCare Plus by reason of having health insurance
6 coverage or access to health insurance coverage.

7 2. If a pregnant woman has health insurance coverage and her family income
8 exceeds 200 percent of the poverty line, the woman is required, as a condition of
9 eligibility, to maintain the health insurance coverage.

10 (d) If an individual with a family income that exceeds 150 percent of the poverty
11 line had the health insurance coverage specified in par. (b) 1. and lost the coverage,
12 or if a pregnant woman specified in par. (c) 2. has health insurance coverage and does
13 not maintain the coverage, the individual or pregnant woman is not eligible for
14 BadgerCare Plus for the 3 calendar months following the month in which the
15 insurance coverage ended without a good cause reason specified in par. (e).

16 (e) Any of the following is a good cause reason for purposes of par. (d):

17 1. The individual or pregnant woman was covered by a group health insurance
18 plan that was provided by a subscriber through his or her employer, and the
19 subscriber's employment ended for a reason other than voluntary termination,
20 unless the voluntary termination was a result of the incapacitation of the subscriber.

21 2. The individual or pregnant woman was covered by a group health insurance
22 plan that was provided by a subscriber through his or her employer, the subscriber
23 changed employers, and the new employer does not offer family coverage.

1 3. The individual or pregnant woman was covered by a group health insurance
2 plan that was provided by a subscriber through his or her employer, and the
3 subscriber's employer discontinued health plan coverage for all employees.

4 4. The individual's or pregnant woman's coverage was continuation coverage
5 and the continuation coverage was exhausted in accordance with 29 CFR 2590.701-2
6 (4).

7 5. The individual's or pregnant woman's coverage terminated due to the death
8 or change in marital status of the subscriber.

9 6. Any other reason determined by the department to be a good cause reason.

10 (9) EMPLOYER VERIFICATION OF INSURANCE COVERAGE. (a) For an applicant or
11 recipient with a family income that exceeds 150 percent of the poverty line, except
12 for an applicant or recipient who is a pregnant woman, the department shall verify
13 insurance coverage and access information directly with the employer through
14 which the applicant or recipient may have health insurance coverage or access to
15 coverage.

16 (b) An employer that receives a request from the department for insurance
17 coverage and access to coverage information shall supply the information requested
18 by the department within 30 calendar days after receiving a request regarding an
19 individual who is an applicant and within 10 calendar days after receiving a request
20 regarding an individual who is a recipient.

21 (c) 1. Subject to subd. 2., an employer that does not comply with the
22 requirements under par. (b) shall be required to pay a penalty equal to the
23 individual's full per member per month cost of coverage under BadgerCare for each
24 month in which the individual is covered before the employer provides the
25 information.

Plus
for the individual about whom the
information is requested

1 2. An employer with fewer than 250 employees may not be required to pay more
2 than \$1,000 in penalties under this paragraph in any 6-month period. An employer
3 with 250 or more employees may not be required to pay more than \$15,000 in
4 penalties under this paragraph in any 6-month period.

5 3. All penalty assessments collected under subd. 2. shall be credited to the
6 appropriation account under s. 20.435 (?) (?).

 ***NOTE: Further information needed on appropriation or fund in which penalties
are deposited.

7 (d) An employer may contest a penalty assessment under par. (c) by sending
8 a written request for hearing to the division of hearings and appeals in the
9 department of administration. Proceedings before the division are governed by ch.
10 227.

 ***NOTE: This provision was included in BadgerCare. Do you want it in
BadgerCare Plus, too?

11 (10) COST SHARING. (a) All cost-sharing provisions under s. 49.45 (18) apply
12 to a recipient with coverage of the benefits described in s. 49.46 (2) (a) and (b) to the
13 same extent as they apply to a person eligible for medical assistance under s. 49.46,
14 49.468, or 49.47.

15 (b) A recipient who is an adult, who is not a pregnant woman, and whose family
16 income is greater than 150 percent but not greater than 200 percent of the poverty
17 line shall pay a premium for coverage under BadgerCare Plus that does not exceed
18 5 percent of his or her family income. If the recipient has self-employment income
19 and is eligible under sub. (4) (b) 4. or 5., the premium may not exceed 5 percent of
20 family income calculated before depreciation was deducted.

21 (c) A recipient who is a pregnant woman whose family income is greater than
22 200 percent of the poverty line shall pay a premium for coverage of the benefits

1 described in sub. (11) that does not exceed the full per member per month cost of
2 coverage for an adult with a family income of 300 percent of the poverty line.

3 (d) 1. Except as provided in subd. 2., a recipient who is a child whose family
4 income is greater than 200 percent of the poverty line shall pay a premium for
5 coverage of the benefits described in sub. (11) that does not exceed the full per
6 member per month cost of coverage for a child with a family income of 300 percent
7 of the poverty line.

8 2. A child who is a Native American or an Alaskan Native with a family income
9 that does not exceed 300 percent of the poverty line may not be required to pay a
10 premium.

11 (e) (1) If a recipient who is required to pay a premium under this subsection or
12 under sub. (4) (c) does not pay a premium when due, the recipient's coverage
13 terminates and the recipient is not eligible for BadgerCare Plus for 6 calendar
14 months following the date on which the recipient's coverage terminated.

15 (11) BENCHMARK PLAN BENEFITS AND COPAYMENTS. Recipients who are not eligible
16 for the benefits described in s. 49.46 (2) (a) and (b) shall have coverage of the following
17 benefits and pay the following copayments:

18 (a) Prescription drugs bearing only a generic name, as defined in s. 450.12 (1)

19 (b), with a copayment of no more than \$5 per prescription.

****NOTE: I need the correct terminology for the BadgerCareRx(?) discounts, if that
language is still necessary.

20 (b) Physicians' services, including one annual routine physical examination,
21 with a copayment of no more than \$15 per visit.

1 (c) Inpatient hospital services as medically necessary, with a copayment of \$100[✓]
2 for medical and surgical services and a copayment of no more than \$50[✓] per admission
3 for psychiatric services.

4 (d) Outpatient hospital services, with a copayment of no more than \$15[✓], except
5 that nonemergency use of emergency room services shall require a copayment of no
6 more than \$75[✓].

****NOTE: Do we need a definition for "emergency medical condition," as was suggested in the drafting instructions, or can the department determine whether the emergency room use was for a nonemergency purpose?

7 (e) Laboratory and x-ray services, including mammography.

8 (f) Home health services, limited to 60[✓] visits per year.

9 (g) Skilled nursing home services, limited to 30[✓] days per year.

10 (h) Inpatient rehabilitation services, limited to 60[✓] days per year.

11 (i) Physical, occupational, and speech therapy, limited to 20[✓] visits per year for
12 each type of therapy, with a copayment of no more than \$15[✓] per visit.

13 (j) Cardiac rehabilitation, limited to 36 visits per year, with a copayment of no
14 more than \$15[✓] per visit.

15 (k) Outpatient and transitional treatment for nervous or mental disorders and
16 alcoholism and other drug abuse problems, with a copayment of no more than \$15
17 per visit and coverage limits that are the same as those under the state employee
18 health plan under s. 40.51 (6)[✓].

****NOTE: Are inpatient services not covered? I assumed you did not want to specify the current limits, in case they change under the state plan.

19 (L) Durable medical equipment, limited to \$2,500[✓] per year, with a copayment
20 of no more than \$5[✓].

21 (m) Transportation to obtain emergency medical care only, as medically
22 necessary, with a copayment of no more than \$5[✓].

1

(n) One refractive eye examination every 2 years, with a copayment of no more than \$15 per visit.

3

(o) Fifty percent of allowable charges for preventive and basic dental services, including services for accidental injury and for the diagnosis and treatment of temporomandibular disorders. The coverage under this paragraph is limited to \$750 per year, applies only to pregnant women and children under 19 years of age, and requires an annual deductible of \$200 and a copayment of no more than \$15 per visit.

8

(p) Early childhood developmental services, for children under 6 years of age.

9

(q) Smoking cessation treatment, for pregnant women only.

10

(r) Prenatal care coordination, for pregnant women at high risk only.

11

(12) ADMINISTRATIVE PROVISIONS; RULES. (a) Except for an individual under sub.

12

(4) (a) 6., the department shall verify the income information provided by every applicant and recipient (for whom there is no data match).

13

****NOTE: The drafting instructions contained the language in parentheses, but wouldn't "verifying" include checking data matches?

14

(b) A recipient shall report to the department any change that might affect his or her eligibility within 10 days after the change occurs.

16

(c) For purposes of determining eligibility and family income, the department shall include a family member who is temporarily absent from the home for not more than 6 months, as determined by the department.

19

(d) 1. The department may promulgate any rules necessary for and consistent with its administrative responsibilities under this section, including additional eligibility criteria.

22

2. The department may promulgate emergency rules under s. 227.24 for the administration of this section for the period before the effective date of any

23

1 premanent rules promulgated under subd. 1., but not to exceed the period authorized
2 under s. 227.24(1) (c) and (2). Notwithstanding s. 227.24 (1) (a), (2) (b), and (3), the
3 department is not required to provide evidence that promulgating a rule under this
4 subdivision as an emergency rule is necessary for the preservation of the public
5 peace, health, safety, or welfare and is not required to provide a finding of emergency
6 for a rule promulgated under this subdivision.

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

****NOTE: This last paragraph may not be needed in the end, but I've included it
in case we need an effective date for some provision that is dependent on the effective date
of BadgerCare Plus. We don't have an actual effective date since it could be any of three
different ones.

11 SECTION 3. 49.474 (4) (a) 6. of the statutes, as created by 2007 Wisconsin Act
12 ... (this act), is amended to read:

13 49.474 (4) (a) 6. An individual who, regardless of family income, is at least 18
14 years of age but less than 20 years of age and who, on his or her 18th birthday, was
15 in a foster care or treatment foster care placement under ch. 48 or 938, as determined
16 by the department.

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17 SECTION 4. 49.474 (4) (a) 6. of the statutes, as affected by 2007 Wisconsin Act
18 ... (this act), section 3 is amended to read:

19 49.474 (4) (a) 6. An individual who, regardless of family income, is at least 18
20 years of age but less than 20 21 years of age and who, on his or her 18th birthday, was
21 in a foster care or treatment foster care placement under ch. 48 or 938, as determined
22 by the department.

23 SECTION 5. 49.665 (4) (ap) 2. of the statutes is repealed.

1 **SECTION 6.** 49.665 (7) (a) 1. of the statutes is amended to read:

2 49.665 (7) (a) 1. Notwithstanding sub. (4) (a) 3m. ✓ and (ap) 2., the department
3 shall mail information verification forms to the employers of the individuals required
4 to provide the verifications under sub. (4) (a) 3m. ✓ and (ap) 2. to obtain the information
5 specified.

6 **History:** 1997 a. 27, 237; 1999 a. 9; 2001 a. 16, 109; 2003 a. 33; 2005 a. 25 ✓

6 **SECTION 7.** 49.785 (1) (intro.) of the statutes is amended to read:

7 49.785 (1) (intro.) Except as provided in sub. (1m), if any recipient of benefits
8 under s. 49.148, 49.46 or 49.77, or under 42 USC 1381 to 1385 in effect on
9 May 8, 1980, specified in sub. (1c) ✓ dies and the estate of the deceased recipient is
10 insufficient to pay the funeral, burial, and cemetery expenses of the deceased
11 recipient, the county or applicable tribal governing body or organization responsible
12 for burial of the recipient shall pay, to the person designated by the county
13 department under s. 46.215, 46.22, ✓ or 46.23 or applicable tribal governing body or
14 organization responsible for the burial of the recipient, all of the following:

15 **History:** 1973 c. 147, 333; 1975 c. 39, 224; 1979 c. 206; 1981 c. 20; 1985 a. 29, 176, 332; 1989 a. 31, 239; 1995 a. 27, 289; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 33
s. 1302; Stats. 2003 s. 49.785; 2005 a. 25. ✓

15 **SECTION 8.** 49.785 (1c) of the statutes is created to read:

16 49.785 (1c) All of the following are eligible recipients under this section: ✓

17 (a) A recipient of benefits under s. 49.148, ✓ 49.46, ✓ or 49.77, ✓ or under 42 USC 1381
18 to 1385 in effect on May 8, 1980.

19 (b) A recipient of benefits under s. 49.474 ✓ who is any of the following:

20 1. A pregnant woman or a child under 6 ✓ years of age with a family income not
21 exceeding 185 ✓ percent of the poverty line at the time of death.

22 2. A child at least 6 ✓ years of age but less than 19 ✓ years of age with a family
23 income not exceeding 100 ✓ percent of the poverty line at the time of death.

****NOTE: The drafting instruction said "a child between the ages of 5 and 19" but I changed this to "at least 6 but less than 19" or there would be a conflict between subds. 1. and 2. For example, one wouldn't know whether a 5-year-old with a family income of 120 percent of the poverty line would be eligible under subd. 1. or ineligible under subd. 2.

1 3. A parent or caretaker relative with a family income not exceeding 50 percent
2 of the poverty line at the time of death.

3 **SECTION 9.** 49.82 (2) of the statutes is amended to read:

4 49.82 (2) ELIGIBILITY VERIFICATION. Proof shall be provided for each person
5 included in an application for public assistance under this chapter, except for a child
6 who is eligible for medical assistance under s. 49.46 or, 49.47, or 49.474 because of
7 42 USC 1396a (e) (4) or an unborn child who is eligible for coverage under s. 49.474
8 or the Badger Care health care program under s. 49.665 (4) (ap), of his or her social
9 security number or that an application for a social security number has been made.

History: 1995 a. 27 ss. 3088, 3125, 3209, 9126 (19), 9130 (4); 1997 a. 3; 2001 a. 107; 2005 a. 25.

10

(END)

D - note

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

date

LRB-0905/7dn

PJK:.....

PI
JJD

Jim Johnston and Michelle Pink:

This preliminary draft does not include any necessary cross-references to s. 49.474 or appropriations treatment. Those will be included in a later draft.

I have e-mailed this draft to Jim Jones at DHFS.

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-0905/P1dn
PJK:jld:nwn

December 12, 2006

Jim Johnston and Michelle Pink:

This preliminary draft does not include any necessary cross-references to s. 49.474 or appropriations treatment. Those will be included in a later draft.

I have e-mailed this draft to Jim Jones at DHFS.

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

Kahler, Pam

From: Kahler, Pam
Sent: Thursday, December 28, 2006 10:58 AM
To: Pink, Michelle C - DOA
Subject: FW: Cross-reference table

Attachments: crossreftable1.doc

Hi, Michelle:

Quite some time ago I faxed DHFS a list of statute sections to review to see if BadgerCare Plus needed to be cross-referenced in any of them. I haven't heard anything back yet. (Since that time, I added a couple of sections to the list.) I am sending you a copy of the list. Although I'm sure that BC+ needs to be added to some of the sections and that it should not be added to some, I'm really not sure about some others. Please review the list and let me know where BC+ needs to be added. Thanks! (P.S. I may discover other sections, too, and will forward them to you if I do.)

Pam

From: Natzke, Noah
Sent: Thursday, December 28, 2006 10:07 AM
To: Kahler, Pam
Subject: Cross-reference table



crossreftable1.doc
(35 KB)

made it 471

16.009 (2) (j)
46.206 (1) (bm)
46.22 (1) (b) 1. d.
46.27 (6u) (c) 1. a.
(6u) (d) (intro.)
(7) (am)
(7) (b)
46.275 (1m) (a)
46.277 (1m) (a)
46.278 (1m) (b)
46.283 (3) (k)
46.40 (9) (c)
46.485 (3g)
48.195 (5)
48.57 (3m) (e)
(3n) (e)
49.19 (1) (c) 1.
49.22 (2m) (a)
(2m) (b)
(2m) (c) 3.
49.43 (8)
49.45 (2) (a) 1.
(2) (a) 3.
(2) (b) 3.
(3) (b) 1.
(3) (b) 2.
(3) (dm)
(3) (L) 2.
(6c) (d) 1.
(6c) (d) 2.
(8) (a) 4.
(9)
(10)
(18) (ac)
(29)
(35)

49.455 (2)
49.465 (2) (a)
(2) (c)
(4)
(6)
49.468 (1) (b)
(1) (c)
(1m) (a)
(2) (a)
49.473 (2) (a)
49.49 (3m) (a) (intro.)
49.665 (4) (ap) (intro.)
49.688 (5) (a) (intro.)
49.785 (1) (intro.)
49.81 (4)
49.82 (2)
49.89 (7) (b)
59.53 (5) (a)
66.0137 (3)
149.12 (2) (f) 2. d.
302.38 (3)
302.386 (1)
632.746 (7m) (b) 1.
814.61 (13)
885.01 (5)

Kahler, Pam

From: Pink, Michelle C - DOA
Sent: Tuesday, January 02, 2007 8:51 AM
To: Kahler, Pam
Subject: Appropriation changes for BadgerCare Plus
Attachments: Appropriation Changes for BadgerCare Plus.doc

Good morning, Pam,

Here's a table of the proposed appropriation changes for BadgerCare Plus, which are mostly just shifting the existing BadgerCare numerics into the Medical Assistance alphas. Please let me know if you need any additional clarification. Thank you!

Michelle Pink

<<Appropriation Changes for BadgerCare Plus.doc>>

Appropriation Changes for BadgerCare Plus

Current		Proposed under BadgerCare Plus			
Alpha	Numeric		Alpha	Numeric	
4b	404 406 471 475	Medical Assistance program benefits	4b	404 406 471 475 472	Medical Assistance and Badger Care Plus health care benefits; general purpose revenue
4bc	472	Badger Care health care program; general purpose revenue	4bc		Delete
4jz	434	Badger Care cost sharing and employer penalty assessments	4jz	434	Medical Assistance and Badger Care Plus cost sharing and employer penalty assessments
4o	453 456	Federal aid; medical assistance	4o	453 456 451	Medical Assistance and Badger Care Plus health benefits; federal aid
4p	451	Federal aid; Badger Care health program	4p		Delete
4w	493 494 496 497	Medical Assistance trust fund	4w	493 494 496 497 495	Medical Assistance trust fund
4x	495	BadgerCare health care program; Medical Assistance trust fund	4x		Delete

Kahler, Pam

From: Pink, Michelle C - DOA
Sent: Tuesday, December 26, 2006 8:21 AM
To: Kahler, Pam
Subject: FW: BC+ drafting instructions

Attachments: DHFSDraftingInstructionsforBC+.doc



DHFSDraftingInstru
ctionsforBC+...

Hi Pam,

Just sending another email to say that these changes have my seal of approval. Also I'll be writing up drafting instructions for the appropriation changes but, in brief, we will be asking to combine the existing BadgerCare alpha appropriations with the existing Medicaid alphas and keep separate numerics (as we have for Family Care). You should be receiving those drafting instructions soon.

I hope you enjoyed the long weekend!

Michelle Pink

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

From: Wong, Donna [mailto:WongDJ@dhfs.state.wi.us]
Sent: Friday, December 22, 2006 10:35 AM
To: Pink, Michelle C - DOA; [legis.wisconsin.gov]; .Pam.Kahler
Subject: BC+ drafting instructions

Hi Pam and Michelle,

Attached are updated drafting instructions for BC+. There are 2 new items that need to be incorporated. I highlighted them both in yellow. One is regarding HMO copays and the other - kids aging out of foster care.

We're not done reviewing the first draft, but I wanted to get you these additions now.

Thanks and happy holidays,
Donna

Donna Wong
Senior Policy Analyst
Policy Implementation Center
Office of the Secretary
Department of Health and Family Services 608.266.8070

Kahler, Pam

From: Wong, Donna J - DHFS
Sent: Friday, December 22, 2006 3:00 PM
To: Kahler, Pam
Cc: Pink, Michelle C - DOA
Subject: RE: BC+ drafting instructions

Pam,

Regarding #1 - no that was not the intent. The intent is simply that effective Jan. 1, 2008, teens in out-of-home care born on or before January 1, 1990 would be eligible to remain on MA until age 21. So - we will cover 18-21 year olds. Sorry that must have been worded incorrectly.

Regarding the HMO copays, I need to ask our benefit guy and he is out until next week. I will get back to you soon.

thanks!
Donna

>>> "Kahler, Pam" <Pam.Kahler@legis.wisconsin.gov> 12/22/06 12:04 PM

>>>

Donna:

I have a couple of questions on the new items. 1) For the kids aging out of foster care, by specifying that the person be born on or before January 1, 1990, and under 21 year of age, no one will be eligible (under that criterion) on and after January 1, 2011. Is that the intent? 2) For the HMO copays, is HMO coverage what is being referred to as "prepayment contracts" in s. 49.45 (18) (am)? If not, which provision is it that excludes persons in HMO's from copays? Thanks.

Pam

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

From: Wong, Donna J - DHFS
Sent: Friday, December 22, 2006 10:36 AM
To: Michelle Pink; Kahler, Pam
Subject: BC+ drafting instructions

Hi Pam and Michelle,

Attached are updated drafting instructions for BC+. There are 2 new items that need to be incorporated. I highlighted them both in yellow.

One is regarding HMO copays and the other - kids aging out of foster care.

We're not done reviewing the first draft, but I wanted to get you these additions now.

Thanks and happy holidays,
Donna

Donna Wong
Senior Policy Analyst
Policy Implementation Center
Office of the Secretary
Department of Health and Family Services 608.266.8070

Kahler, Pam

From: Pink, Michelle C - DOA
Sent: Tuesday, January 02, 2007 12:08 PM
To: Kahler, Pam
Subject: BadgerCare Plus Stat Lang - Delete Enrollment Trigger



In conjunction with the appropriation changes for BadgerCare Plus, the enrollment trigger and associated process defined in s. 49.665(4)(at) should be deleted.

Under current law, the Department of Health and Family Services must establish a lower maximum income level for initial BadgerCare eligibility determinations if BadgerCare funding is not sufficient to meet projected enrollment levels, after submitting a plan to the Joint Finance Committee. To offset the projected shortfall, the Joint Finance Committee may transfer GPR from any state agency that is not in a sum-sufficient appropriation. Under the federal Medicaid waiver, the state will not receive enhanced federal funding for adults with incomes over 100% of the federal poverty level if the "enrollment trigger" authorized by current law is activated.

As part of the BadgerCare Plus statutory language changes, delete the provisions under s. 49.665(4)(at) authorizing DHFS to establish a lower maximum income level for initial eligibility determinations if BadgerCare funding is insufficient to meet program needs based on projected enrollment.

Kahler, Pam

From: Pink, Michelle C - DOA
Sent: Tuesday, January 09, 2007 8:14 AM
To: Kahler, Pam
Subject: FW: Statutory Cross Reference Table for BC+

Attachments: Matrix of statutory cross references.doc



Matrix of statutory
cross refe...

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

From: Jones, James [mailto:JONESJD@dhfs.state.wi.us]
Sent: Tuesday, January 09, 2007 8:02 AM
To: Johnston, James - DOA; Pink, Michelle C - DOA; DiMiceli, Gregory M - DHFS; LaPhilliph, John O - DHFS; Matano, Alfred - DHFS; Nelson, Kirstin B - DHFS; Wong, Donna J - DHFS
Subject: Statutory Cross Reference Table for BC+

I've attached a revised, reformatted table that has all items, but one, resolved. I wanted you to have a document that was a little easier to read, and that was as updated as we could make it. When I get the final item resolved, I'll revise the final table again.

Kahler, Pam

From: Pink, Michelle C - DOA
Sent: Tuesday, January 09, 2007 8:27 AM
To: Kahler, Pam
Subject: FW: BC+ Statutory Language & Cross References

Attachments: Response to LRB.doc



Response to
LRB.doc (58 KB)

Here's more changes on BC+. Thanks!

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

From: Wong, Donna [mailto:WongDJ@dhfs.state.wi.us]
Sent: Monday, January 08, 2007 10:07 AM
To: Johnston, James - DOA; Pink, Michelle C - DOA; DiMiceli, Gregory M - DHFS; Jones, James D - DHFS; Matano, Alfred - DHFS; Nelson, Kirstin B - DHFS
Cc: Malofsky, Shelley F - DHFS
Subject: Re: BC+ Statutory Language & Cross References

thanks! Michelle - attached is the 1st document Jim just sent with Greg's comments also attached.

>>> James Jones 01/08/07 9:56 AM >>>

I've attached two documents:

1. Responses to Pam's questions and comments about the BadgerCare draft statutory language. I think we're ready to share with Pam.

2. A matrix of statutory cross references that Pam sent to us. John and I have gone through the list of statutory references, looked at the d statutory language and determined whether we need to include a cross-reference to BC+.

I still have a couple of outstanding issues that I need to get resolved, but I'm comfortable sharing what we have with the group and with Pam.

James Jones, Director
Bureau of Eligibility Management
Division of Health Care Financing
Wisconsin Department of Health & Family Services jonesjd@dhfs.state.wi.us

Kahler, Pam

From: Wong, Donna J - DHFS
Sent: Wednesday, January 10, 2007 8:59 AM
To: DiMiceli, Gregory M - DHFS; James Johnston; Jones, James D - DHFS; LaPhilliph, John O - DHFS; Matano, Alfred - DHFS; Nelson, Kirstin B - DHFS; Michelle Pink; Kahler, Pam
Subject: Re: Final Comments and Matrix

Attachments: Response to LRB.doc; Matrix of statutory cross references.doc



Response to
LRB.doc (81 KB)



Matrix of statutory
cross refe...

Thanks all. Attached is Jim's document with Greg's comments added.

>>> James Jones 01/09/07 5:01 PM >>>

I've gotten all of my outstanding questions answered and received an additional comment that I've incorporated. Therefore I'm sending to you the latest response to LRB comments and questions about the BadgerCare Plus statutory language and the BadgerCare Plus Statutory Cross Reference Matrix.