



revision

DOA:.....Pink, BB0185 - BadgerCare Plus

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

*in 1-12
(very soon)*

*do not
you cut*

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

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

MEDICAL ASSISTANCE

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:

Insert 1-1

2 SECTION 1. 49.46 (1) (a) 5. 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.

Insert 1-5

6 SECTION 2. 49.474 of the statutes is created to read:

471

- 2 -
INSERT 2-5 JOY

Insert 2-5

Insert 2-6

ⓑ
471 ✓
↑

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

3 (a) "BadgerCare Plus" means the Medical Assistance program described in this
4 section.

5 (b) "Child" ^{means} ~~includes~~ a person ^{who is born and who is under the age of 19} ~~from the time of conception until it is born alive.~~

6 (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).

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

19 (3) INELIGIBILITY FOR OTHER MEDICAL ASSISTANCE BENEFITS. (a) ^{1.} Notwithstanding
20 ss. 49.46 (1), 49.465, 49.47 (4), and 49.665 (4), if the amendment ^s to the state plan
21 under sub. (2) ^{are} ~~is~~ approved and a waiver ^s that is consistent with all of the provisions
22 of this section ~~under sub. (2)~~ ^{except as provided} is granted and in effect, ^{1.} an individual described in sub.
23 (4) (a) or (b) or (5) is not eligible under s. 49.46, 49.465, 49.47, or 49.665 for Medical

in subd. 2.

Insert 3-2

1 Assistance benefits. The eligibility of an individual described in sub. (4) (a) or (b) or
2 (5) for Medical Assistance benefits shall be ^{first} determined under this section. ✓

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

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

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

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

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

21 2. Notwithstanding subd. 1., if at any time during an individual's 18-month
22 eligibility extension under subd. 1. any criterion under subd. 1. a. to d. is not satisfied,
23 the individual's eligibility for the extended coverage is terminated and any time
24 remaining in the eligibility period is lost.

^{CS}
General ✓

on the day the child was born,

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

4 1. A pregnant woman whose family income does not exceed 200 percent of the
5 poverty line. *for and receiving medical assistance* ✓

6 2. A child who is under one year of age, whose mother was ~~determined to be~~
7 eligible under subd. 1., and who lives with his or her mother in this state. *→ or 5. or s. 49.46 or 49.47*

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

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

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

20 6. An individual who, regardless of family income, is 18 years of age and who,
21 on his or her 18th birthday, was in a foster care or treatment foster care placement
22 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.

Insert 4-22 →

Insert 4-19

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 ^{percent} 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. ^{→ insert 4-15}

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.

✓ Insert 5-18

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. *Except as provided in sub. (6)(a),* ✓
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. *Except as provided in sub. (6)(a),* ✓

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, ²child, or parent ^{insert 7-16 ✓} whose family income is less than 150 percent of the poverty
17 line is eligible for medical assistance under this section ^{any of the} for 3 months [✓] prior to the
18 month of application if the individual met the eligibility criteria under this section
19 ~~during those months.~~ ^{insert 7-19 ✓}

****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 (1) (c), (cg), and
10 (co) 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.

Section 8-13

8

14

includes self employment income and,

if an adult member of the family

a parent or caretaker relative

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

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

Insert 9-18

1. A pregnant woman, to meet the family income limit under sub. (4) (b) 1.
2. A child who has the health insurance coverage specified in sub. (8) (b) 1., so 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.

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

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

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

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 ^{→ and not} legally responsible

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 ^{para. (c) and (d) ✓} ~~para. (c)~~, an individual ^{whose} 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.

Insert 11-3

Insert 11-6

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.

None of the following

4 ~~d~~ 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 ~~(e)~~ 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 ~~f~~ 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. ~~(g)~~ 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 ~~(g)~~ par. ~~(g)~~.

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

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~~ health insurance coverage.

or because of an immediate family member's health condition

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

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

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

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

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

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

(c) 1. Subject to subd. 2., an employer that does not comply with the requirements under par. (b) shall be required to pay a penalty equal to the full per member per month cost of coverage under BadgerCare Plus for the individual about whom the information is requested for each month in which the individual was covered before the employer provides the information.

in the format specified by the department

and the individual's family members are #

(NO #), and for each of the individual's family members with coverage under BadgerCare Plus,

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 (1) (2) and (3) *and (jz)*

*****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) *Except as provided in s. 49.45 (18) (am)*
12 All cost-sharing provisions under s. 49.45 (18) apply
13 to a recipient with coverage of the benefits described in s. 49.46 (2) (a) and (b) to the
14 same extent as they apply to a person eligible for medical assistance under s. 49.46,
15 49.468, or 49.47.

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

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

eligible under sub. (4)(b) 1.

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.

Insert 14-7

8 a. 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

Insert 14-10

11 (e) 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

Insert 14-19

****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~~ ^{inpatient, ✓} 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
2 than \$15 per visit.

3 (o) Fifty percent of allowable charges for preventive and basic dental services,
4 including services for accidental injury and for the diagnosis and treatment of
5 temporomandibular disorders. The coverage under this paragraph is limited to \$750
6 per year, applies only to pregnant women and children under 19 years of age, and
7 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
13 applicant and recipient (for whom there is no data match).

****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
15 or her eligibility within 10 days after the change occurs.

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

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

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

NOTICE OF EFFECTIVE DATE

1 permanent 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 **b** 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.

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.

Insert 17 - 22 ✓

Keep ✓

Insert 17-23 →

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 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 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

Insert 18-5

471 ✓

120 percent of the poverty line would be eligible under subd. 1. or ineligible under subd. 2.

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

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

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

(END)

✓ Insert 19-2

✓ 471

Insert 19-9 ✓

	Create a section in Chapter 49 establishing the benefit package of the BC+ benchmark plan. See section 49.46(2) for reference.
Health Screenings for Children	Early childhood developmental services for children under 6 years old. Create a section in Chapter 49 establishing the benefit package of the BC+ benchmark plan.
Dental	Preventative and basic services only for pregnant women and children under 19. Coverage is for 50% of allowable charges. Annual deduction of \$200 with a maximum benefit of \$750. Includes accidental injury and diagnosis and treatment of temporomandibular disorders (TMJ). Co-pay of no more than \$15 per visit. Create a section in Chapter 49 establishing the benefit package of the BC+ benchmark plan. Reference section 49.46(2)(6)(b)1.
Vision	One refractive eye exam every two years. Co-pay of no more than \$15 per visit. Create a section in Chapter 49 establishing the benefit package of the BC+ benchmark plan. See section 49.46(2) for reference.
Smoking Cessation	Coverage for pregnant women only. Create a section in Chapter 49 establishing the benefit package of the BC+ benchmark plan. See section 49.46(2) for reference.
Prenatal Care Coordination	Pregnant women at high risk are covered. Create a section in Chapter 49 establishing the benefit package of the BC+ benchmark plan. See section 49.46(2) for reference.
Managed Care Co-Pays	Under current law, recipients of Medicaid, and those in BadgerCare who are enrolled in an HMO, may not incur co-payment fees (see §49.45(18) "Recipient Cost Sharing"). Drafting attorneys will have to amend section 49.45(18) to specifically exclude those in <u>managed care AFDC</u> and BadgerCare (including BadgerCare Plus) from this provision of the statutes and add language providing the option to charge co-pays for anyone in managed care including those enrolled in AFDC and BadgerCare. Additionally, as part of the overall effort to create a new section in the statutes for

new

	<p>BadgerCare Plus, the drafter will have to include a provision specifically permitting co-payments for those in managed care AFDC and BadgerCare. The specific co-payments will have to be identified in the statutes as per the BadgerCare Plus plan.</p> <p>Policymakers and the drafter(s) may wish to consider whether or not the co-payment structure will change in the future. If it is allowed to change, will those changes be permitted under the rule process or by statute? That point may need to be codified in the statutes.</p>
--	---

	law. This group is subject to cost sharing and is eligible for the regular Medicaid benefit plan.
Self-Employed Parents and Caretaker Relatives	Self-employed income will be calculated with all deductions allowed under federal and state tax law, except for depreciation. If family income is below 200% the parent/caretaker relative is eligible. If family income exceeds 200% FPL, any depreciation is deducted from self-employment income and the new family income is compared to 200% FPL. If the new family income, minus depreciation, is below 200%, the parent/caretaker relative is eligible for BC+ but must pay 5% of family income (the amount before depreciation was subtracted from self-employment) to buy into the BC+ benchmark plan for the adult parents/caretaker relatives. This group is eligible contingent on approval of a waiver of federal law and is subject to cost sharing.
Youths Exiting Out-of-Home Care	This is a new eligibility group that should be added to BC+. Youths who age out of foster care will automatically be added to BC+ and will be eligible until they turn 21 or move out of state. These youths will be subject to most of the same eligibility criteria as the rest of BC+ enrollees, except they will not have any income limits or requirements to verify income. They also can be insured or have access to insurance. These youths will not pay premiums. Effective January 1, 2008, youths in out-of-home care born on or before January 1, 1990 will be eligible to remain on MA until age 21.
Medicaid Extensions – earned income, loss of earnings disregards, and child support income	These extensions will be eliminated under BC+. See transitional grandfathering section (p.5). See 49.46(1)(c), (cg), and (co).
Continuously Eligible Newborns	Babies born to mothers eligible for BC+ may remain eligible for BC+ for one year if they continue to reside in Wisconsin with their mothers. See 49.46(1)(a)13.
Presumptive Eligibility (PE)	Expand to allow PE for pregnant women with incomes up to 300% FPL and for children under age 19 with incomes up to 150% FPL. Copy PE language for BC+ from s. 49.465. Add PE for women below 300% FPL with ambulatory prenatal care services under the

new
S/b
on or
after
~~1997~~
~~1994~~
18-21

Kahler, Pam

From: Wong, Donna J - DHFS
Sent: Wednesday, January 03, 2007 11:35 AM
To: Kahler, Pam
Subject: Fwd: Re: BC+ drafting instructions

Hi Pam,
The answer to #2 is yes. See Greg's response.

>>> Gregory DiMiceli 01/02/07 8:44 AM >>>
Hi Donna,

The answer to Pam's question is, yes. That section is a reference to HMO contracts.

-Greg

>>> Donna Wong 12/22/2006 3:00:51 PM >>>
Hi Greg,
Could you help me with #2 below? 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

Transmission Report

Date/Time
Local ID 1
Local ID 2

12-07-2006
608264698

04:45:16 p.m.

Transmit Header Text

Local Name 1 REFERENCE BUREAU
Local Name 2

This document : Confirmed
(reduced sample and details below)
Document size : 8.5"x11"



STEPHEN R. MILLER
CHIEF

State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

1 EAST MAIN, SUITE 200
P. O. BOX 2037
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 266-6948
REFERENCE SECTION: (608) 266-0341
REFERENCE FAX: (608) 266-5648

FAX TRANSMITTAL COVER SHEET

(From: LRB-Legal Section-Front Office ... Fax: 608-264-6948)

Date: 12-7-06 Time: 3:30

Total pages transmitted, including this page: 2

Please Deliver This FAX To: Jim Jones

Telephone Number: 266-9435

FAX Number: 261-6861

MESSAGE: Jim: Here is the list of sections to
check to see if BCT (s.49.474) needs to
be added. Thanks!

Senders Name: Pankahler 266-2682

This facsimile is intended only for the use of the addressee named herein and may contain legally privileged and confidential information. If you are not the intended recipient of this facsimile, you are hereby notified that any dissemination, distribution or copying of this facsimile is strictly prohibited. If you received this facsimile in error, or if you encounter any problems with transmission, please telephone us at (608) 266-3561.

Total Pages Scanned : 2

Total Pages Confirmed : 2

No.	Job	Remote Station	Start Time	Duration	Pages	Line	Mode	Job Type	Results
001	271	16082616861	04:44:19 p.m. 12-07-2006	00:00:16	2/2	1	EC	HS	CP31200

Abbreviations:

HS: Host send
HR: Host receive
WS: Waiting send

PL: Polled local
PR: Polled remote
MS: Mailbox save

MP: Mailbox print
CP: Completed
FA: Fail

TU: Terminated by user
TS: Terminated by system
RP: Report

G3: Group 3
EC: Error Correct

16.009 (2) (j)	49.455 (2)
46.206 (1) (bm)	49.465 (2) (a)
46.22 (1) (b) 1. d.	(2) (c)
46.27 (6u) (c) 1. a.	(4)
(6u) (d) (intro.)	(6)
(7) (am)	49.468 (1) (b)
(7) (b)	(1) (c)
46.275 (1m) (a)	(1m) (a)
46.277 (1m) (a)	(2) (a)
46.278 (1m) (b)	49.473 (2) (a)
46.283 (3) (k)	49.49 (3m) (a) (intro.)
46.40 (9) (c)	49.665 (4) (ap) (intro.)
46.485 (3g)	49.688 (5) (a) (intro.)
48.195 (5)	49.785 (1) (intro.)
48.57 (3m) (e)	49.81 (4)
(3n) (e)	49.82 (2)
49.19 (1) (c) 1.	49.89 (7) (b)
49.22 (2m) (a)	59.53 (5) (a)
(2m) (b)	66.0137 (3)
(2m) (c) 3.	149.12 (2) (f) 2. d.
49.43 (8)	302.38 (3)
49.45 (2) (a) 1.	302.386 (1)
(2) (a) 3.	632.746 (7m) (b) 1.
(2) (b) 3.	814.61 (13)
(3) (b) 1.	885.01 (5)
(3) (b) 2.	
(3) (dm)	
(3) (L) 2.	
(6c) (d) 1.	
(6c) (d) 2.	
(8) (a) 4.	
(9)	
(10)	
(18) (ac)	
(29)	
(35)	

Review for Statutory Cross References for BadgerCare Plus

Citation	Language	Should it be changed under BC+?
16.009 (2) (f)	<p>(f) Provide information and counseling to consumers regarding insurance policies available to supplement federal medicare insurance coverage, including long-term care insurance, and the eligibility requirements for medical assistance under s. 49.46 (1), 49.468 or 49.47 (4). To implement this responsibility, the board shall provide training, educational materials and technical assistance to volunteer organizations and private businesses willing and able to provide insurance and medical assistance eligibility information and counseling, in order that these organizations and businesses may provide the information and counseling to consumers.</p>	<p>This section describes one of the functions of the board of aging. Since their focus seems to be on LTC services, I don't think we need to include a BC+ reference.</p>
46.206 (1) (bm)	<p>(bm) All records of the department relating to aid provided under s. 49.46, 49.465, 49.468, 49.47 or 49.77 are open to inspection at reasonable hours by members of the legislature who require the information contained in the records in pursuit of a specific state legislative purpose. All records of any county relating to aid provided under s. 49.46, 49.465, 49.468, 49.47 or 49.77 are open to inspection at reasonable hours by members of the board of supervisors of the county or the governing body of a city, village or town located in the county who require the information contained in the records in pursuit of a specific county or municipal legislative purpose. The right to records access provided by this paragraph does not apply if access is prohibited by federal law or regulation or if this state is required to prohibit such access as a condition precedent to participation in a federal program in which this state participates.</p>	<p>This should apply to BadgerCare Plus in the same way that it applied to Medicaid.</p>
46.22(1)b)1.d.	<p>46.22(1)(b)1. 1. The county department of social services shall have the following functions, duties and powers in accordance with the rules promulgated by the department of health and family services and subject to the supervision of the department of health and family services: ... d. To submit a final budget in accordance with s. 46.031 (1) for services authorized in this section, except for the administration of and cost of aid granted under <u>ss. 49.02, 49.19 and 49.45 to 49.47.</u></p>	<p>Please add the BC+ citation to the list in this cite.</p>
46.27 (6u) (c) 1.a.	<p>(c) From the information obtained under par. (b), the county department or aging unit shall: 1. Determine the financial eligibility of the applicant or recipient of services to receive assistance for long-term community support services under the program. A person is financially eligible under this subdivision if he or she is one of the following: a. Eligible for medical assistance under s. 49.46, 49.468 or 49.47</p>	<p>It appears to me that this section concerns waivers as well as COP and is the basis for determining who is considered a Group A waiver recipient. If I remember right, we have some AFDC-MA recipients categorized as Group A. If that's correct, then I think we want to put something in here referencing BC+ or (some categories of BC+ recipients). This cross reference would apply then to the rest of the 46.27 citations below. (While that is correct, we want to show that children under age 19, pregnant women or adult caretakers,</p>

Review for Statutory Cross References for BadgerCare Plus

Citation	Language	Should it be changed under BC+?
46.27 (6u) (d) (intro.)	<p>d) In determining financial eligibility under par. (c) 1. and in calculating the amount under par. (c) 2., the county department or aging unit shall include as the assets for any person, except those persons who are eligible for medical assistance under s. 49.46, 49.468 or 49.47, any portion of assets that the person or the person's spouse has, after August 12, 1993, transferred to another as specified in par. (b), unless one of the following conditions applies:</p> <ol style="list-style-type: none"> 1. The transferred asset has no current value. 2. The county department or aging unit determines that undue hardship would result to the person or to his or her family from a denial of financial eligibility or from including all or a portion of a transferred asset in the calculation of the amount of cost sharing required. 	<p>See above.</p>
46.27 (7) (am)	<p>(am) From the appropriation under s. 20.435 (7) (bd), the department shall allocate funds to each county or private nonprofit agency with which the department contracts to pay assessment and case plan costs under sub. (6) not otherwise paid by fee or under s. 49.45 or 49.78 (2). The department shall reimburse counties for the cost of assessing persons eligible for medical assistance under s. 49.46, 49.468, or 49.47 as part of the administrative services of medical assistance, payable under s. 49.45 (3) (a). Counties may use unspent funds allocated under this paragraph to pay the cost of long-term community support services and for a risk reserve under par. (fr).</p>	<p>See above.</p>
46.27 (7) (b)	<p>(b) From the appropriations under s. 20.435 (7) (bd) and (im), the department shall allocate funds to each county to pay the cost of providing long-term community support services under sub. (5) (b) not otherwise paid under s. 49.45 to persons eligible for medical assistance under s. 49.46 or 49.47 or to persons whom the county department or aging unit administering the program finds likely to become medically indigent within 6 months by spending excess income or assets for medical or remedial care. The average per person reimbursement under this paragraph may not exceed the state share of the average per person payment rate the department expects under s. 49.45 (6m). The county department or aging unit administering the program may spend funds received under this paragraph only in accordance with the case plan and service contract created for each person receiving long-term community support services. Counties may use unspent funds allocated under this paragraph from the appropriation under s. 20.435 (7) (bd) for a</p>	<p>See above.</p>

Review for Statutory Cross References for BadgerCare Plus

Citation	Language	Should it be changed under BC+?
	risk reserve under par. (fr).	
46.275 (1m) (a)	1m) Definitions. In this section: (a) "Medical assistance" means aid provided under subch. IV of ch. 49, except s. 49.468.	Add BC+ as another exception.
46.277 (1m) (a)	1m) Definitions. In this section: (a) "Medical assistance" means aid provided under subch. IV of ch. 49, except s. 49.468.	Add BC+ as another exception.
46.278(1m)(b)	(b) "Medical assistance" means aid provided under subch. IV of ch. 49, except s. 49.468.	Add BC+ as another exception.
46.283 (3) (k)	(3) Standards for operation. The department shall assure that at least all of the following are available to a person who contacts a resource center for service: (k) A determination of eligibility for state supplemental payments under s. 49.77, medical assistance under s. 49.46, 49.468 or 49.47 or the federal food stamp program under 7 USC 2011 to 2029.	This should apply to BadgerCare Plus, even though it is primarily directed to elderly and disabled persons, (who could be parents, a child, pregnant or a non-legally responsible caretaker relative).
46.40 (9) (c)	(9) Transfer or adjustment of community aids allocations. (c) Adjustment for medical assistance buy-in program. If a former recipient of services funded under the allocation under sub. (2) is a participant in the medical assistance buy-in program under s. 49.472, the department may decrease that allocation by the amount that the department estimates it will incur in providing services to that participant under s. 49.472.	Doesn't apply to BadgerCare Plus, since it deals directly with the Medicaid Purchase Plan (49.472)
46.485 (3g)	(3g) The amount that the department may transfer under sub. (2g) for counties may not exceed the estimated state share of payments under s. 49.45, 49.46 or 49.47 for mental health care and treatment that is provided in inpatient facilities for children with severe emotional disturbances.	This should apply to BadgerCare Plus, since these individuals could be eligible under a BadgerCare Plus group as a child, parent, pregnant woman or a non-legally responsible relative.
48.195 (5)	48.195 Taking a newborn child into custody. (5) Medical assistance eligibility. A child who is taken into custody under sub. (1) is presumed to be eligible for medical assistance under s. 49.46 or 49.47.	This section concerns babies abandoned by their parents within three days of birth and turned over to the police or a hospital. These children would end up in protective custody and eligible as a Foster Child. No BC+ reference is needed here.
48.57(3m)(e)	(e) The department shall determine whether the child is eligible for medical assistance under ss. 49.43 to 49.47.	This section refers to the duties of a county for a child in kinship care. We want the counties to see if these kids are eligible for BC+ and should add the reference.
48.57(3n)(e)	(e) The department shall determine whether the child is eligible for medical assistance under ss. 49.43 to 49.47.	Same as above, except this section refers to Long-term Kinship Care placement kids. Add the reference to BC+
49.19 (1) (c) 1.	1. "Aid to families with dependent children" means money payments with respect to, or vendor payments as prescribed by the department, or medical care in behalf of or any type of remedial care recognized under subs. (1) to (10) or s. 49.46 or	Please eliminate this reference. <i>Just don't include</i>

Repeal ?? or just 49.46?

Review for Statutory Cross References for BadgerCare Plus

changed number would be included

Citation	Language	Should it be changed under BC+?
49.22 (2m) (a)	<p>necessary burial expenses as defined in sub. (5) in behalf of a dependent child or dependent children.</p> <p>(a) The department may request from any person in this state information it determines appropriate and necessary for the administration of this section, ss. 49.141 to 49.161, 49.19, 49.46, 49.468 and 49.47 and programs carrying out the purposes of 7 USC 2011 to 2029. Unless access to the information is prohibited or restricted by law, or unless the person has good cause, as determined by the department in accordance with federal law and regulations, for refusing to cooperate, the person shall make a good faith effort to provide this information within 7 days after receiving a request under this paragraph. Except as provided in subs. (2p) and (2r) and subject to sub. (12), the department or the county child support agency under s. 59.53 (5) may disclose information obtained under this paragraph only in the administration of this section, ss. 49.141 to 49.161, 49.19, 49.46 and 49.47 and programs carrying out the purposes of 7 USC 2011 to 2029. Employees of the department or a county child support agency under s. 59.53 (5) are subject to s. 49.83.</p>	<p>This applies for BadgerCare Plus, too.</p>
49.22 (2m) (b)	<p>(b) The department or county child support agency under s. 59.53 (5) may issue a subpoena, in substantially the form authorized under s. 885.02, to compel the production of financial information and other documentary evidence in the administration of this section, ss. 49.145, 49.19, 49.46 and 49.47 and programs carrying out the purposes of 7 USC 2011 to 2029.</p>	<p>This applies for BadgerCare Plus, too.</p>
49.22 (2m) (c) 3.	<p>3. Any other action taken in good faith to comply with this section or a subpoena described in par. (bc) or to comply with a request for information or access to records from the department or a county child support agency under s. 59.53 (5) in the administration of this section, ss. 49.145, 49.19, 49.46 and 49.47 and programs carrying out the purposes of 7 USC 2011 to 2029.</p>	<p>This applies for BadgerCare Plus, too.</p>
49.43 (8)	<p>(8) "Medical assistance" means any services or items under ss. 49.45 to 49.473, except s. 49.472 (6), and under ss. 49.49 to 49.497, or any payment or reimbursement made for such services or items.</p>	<p>Please add that for persons eligible for BadgerCare Plus under 49.474(4)(b), "medical assistance" means services under 49.474(11)</p>
49.45 (2) (a) 1.	<p>1. Exercise responsibility relating to fiscal matters, the eligibility for benefits under standards set forth in ss. 49.46 to 49.47 and general supervision of the medical assistance program.</p>	<p>This applies for BadgerCare Plus, too.</p>
49.45 (2) (a) 3.	<p>3. Determine the eligibility of persons for medical assistance, rehabilitative, and social services under ss. 49.46, 49.468, and 49.47 and rules and policies adopted by the department and may, under a contract under s. 49.78 (2), delegate all, or any portion, of this function to the county department under s. 46.215, 46.22, or 46.23 or a tribal governing body.</p>	<p>This applies for BadgerCare Plus, too.</p>
49.45 (2) (b) 3.	<p>3. Determine the eligibility of persons for medical assistance, rehabilitative, and social services under ss. 49.46, 49.468, and 49.47 and rules and policies adopted by the department and may, under a contract under s. 49.78 (2), delegate all, or any portion, of this function to the county department under s. 46.215, 46.22, or 46.23</p>	<p>This applies for BadgerCare Plus, too.</p>

Review for Statutory Cross References for BadgerCare Plus

Citation	Language	Should it be changed under BC+?
49.45 (3) (b) 1.	<p>or a tribal governing body.</p> <p>1. The contractor, if any, administering benefits or providing prepaid health care under s. 49.46, 49.465, 49.468 or 49.47 shall be entitled to payment from the department for benefits so paid or prepaid health care so provided or made available when a certification of eligibility is properly on file with the contractor in addition to the payment of administrative expense incurred pursuant to the contract and as provided in sub. (2) (a) 4., but the contractor shall not be reimbursed for benefits erroneously paid where no certification is on file.</p>	This applies for BadgerCare Plus, too.
49.45 (3) (b) 2.	<p>2. The contractor, if any, insuring benefits under s. 49.46, 49.465, 49.468 or 49.47 shall be entitled to receive a premium, in an amount and on terms agreed, for such benefits for the persons eligible to receive them and for its services as insurer.</p>	This applies for BadgerCare Plus, too.
49.45 (3) (dm)	<p>(dm) After distribution of computer software has been made under 1993 Wisconsin Act 16, section 9126 (13h), no payment may be made for home health care services provided to persons who are enrolled in the federal medicare program and are recipients of medical assistance under s. 49.46 or 49.47 unless the provider of the services has in use the computer software to maximize payments under the federal medicare program under 42 USC 1395.</p>	This applies for BadgerCare Plus, too.
49.45 (3) (L) 2.	<p>2. The department may not pay a provider for a designated health service that is authorized under this section or s. 49.46 or 49.47, that is provided as the result of a referral made to the provider by a physician and that, under 42 USC 1396b (s), if made on behalf of a beneficiary of medicare under the requirements of 42 USC 1395nn, as amended to August 10, 1993, would result in the denial of payment for the service under 42 USC 1395nn.</p>	This applies for BadgerCare Plus, too.
49.45 (6c) (d) 1.	<p>1. No payment may be made under sub. (6m) to a facility or to an institution for mental diseases for the care of an individual who is otherwise eligible for medical assistance under s. 49.46 or 49.47, who has developmental disability or mental illness and for whom under par. (b) or (c) it is determined that he or she does not need facility care, unless it is determined that the individual requires active treatment for developmental disability or active treatment for mental illness and has continuously resided in a facility or institution for mental diseases for at least 30 months prior to the date of the determination. If that individual requires active treatment and has so continuously resided, he or she shall be offered the choice of receiving active treatment for developmental disability or active treatment for mental illness in the facility or institution for mental diseases or in an alternative setting. A facility resident who has developmental disability or mental illness, for whom under par. (c) it is determined that he or she does not need facility care and who has not continuously resided in a facility for at least 30 months prior to the date of the determination, may not continue to reside in the facility after December 31, 1993, and shall, if the department so determines, be relocated from the facility after March 31, 1990, and before December 31, 1993. The county department shall be responsible for securing alternative residence on behalf of an individual who is</p>	This applies for BadgerCare Plus, too.

Review for Statutory Cross References for BadgerCare Plus

Citation	Language	Should it be changed under BC+?
49.45 (6c) (d) 2.	<p>required to be relocated from a facility under this subdivision, and the facility shall cooperate with the county department in the relocation.</p> <p>2. Payment may be made under <u>sub. (6m)</u> to a facility or institution for mental diseases for the care of an individual who is otherwise eligible for medical assistance under <u>s. 49.46</u> or <u>49.47</u> and who has developmental disability or mental illness and is determined under <u>par. (b)</u> or <u>(c)</u> to need facility care, regardless of whether it is determined under <u>par. (b)</u> or <u>(c)</u> that the individual does or does not require active treatment for developmental disability or active treatment for mental illness.</p>	This applies for BadgerCare Plus, too.
49.45 (8) (a) 4.	<p>4. "Patient care visit" means a personal contact with a patient in a patient's home that is made by a registered nurse, licensed practical nurse, home health aide, physical therapist, occupational therapist or speech-language pathologist who is on the staff of or under contract or arrangement with a home health agency, or by a registered nurse or licensed practical nurse practicing independently, to provide a service that is covered under <u>s. 49.46</u> or <u>49.47</u>. "Patient care visit" does not include time spent by a nurse, therapist or home health aide on case management, care coordination, travel, record keeping or supervision that is related to the patient care visit.</p>	This applies for BadgerCare Plus, too.
49.45 (9)	<p>(9) Free choice. Any person eligible for medical assistance under <u>ss. 49.46</u>, <u>49.468</u> and <u>49.47</u> may use the physician, chiropractor, dentist, pharmacist, hospital, skilled nursing home, health maintenance organization, limited service health organization, preferred provider plan or other licensed, registered or certified provider of health care of his or her choice, except that free choice of a provider may be limited by the department if the department's alternate arrangements are economical and the recipient has reasonable access to health care of adequate quality. The department may also require a recipient to designate, in any or all categories of health care providers, a primary health care provider of his or her choice. After such a designation is made, the recipient may not receive services from other health care providers in the same category as the primary health care provider unless such service is rendered in an emergency or through written referral by the primary health care provider. Alternate designations by the recipient may be made in accordance with guidelines established by the department. Nothing in this subsection shall vitiate the legal responsibility of the physician, chiropractor, dentist, pharmacist, skilled nursing home, hospital, health maintenance organization, limited service health organization, preferred provider plan or other licensed, registered or certified provider of health care to patients. All contract and tort relationships with patients shall remain, notwithstanding a written referral under this section, as though dealings are direct between the physician, chiropractor, dentist, pharmacist, skilled nursing home, hospital, health maintenance organization, limited service health organization, preferred provider plan or other licensed, registered or certified provider of health care and the patient. No physician, chiropractor, pharmacist or dentist may be required to practice</p>	This does apply to BadgerCare Plus, too.

Review for Statutory Cross References for BadgerCare Plus

Citation	Language	Should it be changed under BC+?
49.45 (10)	<p>exclusively in the medical assistance program.</p> <p>(10) Rule-making powers and duties. The department is authorized to promulgate such rules as are consistent with its duties in administering medical assistance. The department shall promulgate a rule defining the term "part-time intermittent care" for the purpose of s. 49.46.</p>	<p>There is no mention of intermittent care in the BadgerCare Plus statute, so don't need a reference to BC+.</p>
49.45 (18) (ac)	<p>18) Recipient cost sharing. (ac) Except as provided in pars. (am) to (dl), and subject to par. (ag), any person eligible for medical assistance under s. 49.46, 49.468, or 49.47 shall pay up to the maximum amounts allowable under 42 CFR 447.53 to 447.58 for purchases of services provided under s. 49.46 (2). The service provider shall collect the specified or allowable copayment, coinsurance, or deductible, unless the service provider determines that the cost of collecting the copayment, coinsurance, or deductible exceeds the amount to be collected. The department shall reduce payments to each provider by the amount of the specified or allowable copayment, coinsurance, or deductible. No provider may deny care or services because the recipient is unable to share costs, but an inability to share costs specified in this subsection does not relieve the recipient of liability for these costs.</p>	<p>This needs to be re-worked in light of the changes in the federal law regarding co-payments and with the new requirements for the BadgerCare Plus benchmark plan.</p> <p><i>add to standard plan people under BC+</i></p>
49.45 (29)	<p>(29) Hospice reimbursement. The department shall promulgate rules limiting aggregate payments made to a hospice under ss. 49.46 and 49.47.</p>	<p>This applies for BadgerCare Plus, too.</p>
49.45 (35)	<p>(35) Training for nonprofit organizations. The department shall provide training to employees and volunteers of private nonprofit organizations concerning medical assistance eligibility under s. 49.47 of persons whose incomes exceed the levels under s. 49.47 (4) (am) and (c) 1. before consideration, under s. 49.47 (4) (c) 2., of the level of those persons' medical expenses.</p>	<p>This reference is no longer needed with BC+.</p>
49.455 (2)	<p>(2) Applicability. The department shall use the provisions of this section in determining the eligibility for medical assistance under s. 49.46 or 49.47 and the required contribution toward care of an institutionalized spouse.</p>	<p>BadgerCare Plus shouldn't apply to eligibility under Medicaid institutionalized care and here it doesn't need to be referenced in the spousal impoverishment section.</p>
49.465 (2) (a)	<p>2) A pregnant woman is eligible for medical assistance benefits, as provided under sub. (3), during the period beginning on the day on which a qualified provider determines, on the basis of preliminary information, that the woman's family income does not exceed the highest level for eligibility for benefits under s. 49.46 (1) or 49.47 (4) (am) or (c) 1. and ending as follows: (a) If the woman applies for benefits under s. 49.46 or 49.47 within the time required under sub. (4), the day on which the department or the county department under s. 46.215, 46.22 or 46.23 determines whether the woman is eligible for benefits under s. 49.46 or 49.47.</p>	<p>These sections (49.665) concerning Presumptive Eligibility for pregnant women should be left alone. When BC+ is implemented this section will not apply to anyone. PE rules are part of the BC+ statute. Should BC+ not get approved or end, then this section continues the regular MA PE program.</p>
49.465 (2) (c)	<p>(c) If the woman does not apply for benefits under s. 49.46 or 49.47 within the time required under sub. (4), the last day of the month following the month in which the provider makes the determination under this subsection.</p>	<p>See above</p>
49.465 (4)	<p>(4) A woman who is determined to be eligible under this section shall apply for</p>	<p>See above</p>

Review for Statutory Cross References for BadgerCare Plus

Citation	Language	Should it be changed under BC+?
49.465 (6)	<p>benefits under s. <u>49.46</u> or <u>49.47</u> on or before the last day of the month following the month in which the qualified provider makes that determination.</p> <p>(6) The department shall provide qualified providers with application forms for medical assistance under ss. <u>49.46</u> and <u>49.47</u> and information on how to assist women in completing the forms.</p>	See above
49.468 (1) (b)	<p>b) For an elderly or disabled individual who is entitled to coverage under part A of medicare, entitled to coverage under part B of medicare and who does not meet the eligibility criteria for medical assistance under s. <u>49.46 (1)</u>, <u>49.465</u> or <u>49.47 (4)</u> but meets the limitations on income and resources under par. (d), medical assistance shall pay the deductible and coinsurance portions of medicare services under 42 USC 1395 to 1395zz which are not paid under 42 USC 1395 to 1395zz, including those medicare services that are not included in the approved state plan for services under 42 USC 1396; the monthly premiums payable under 42 USC 1395v; the monthly premiums, if applicable, under 42 USC 1395i-2 (d); and the late enrollment penalty, if applicable, for premiums under part A of medicare. Payment of coinsurance for a service under part B of medicare under 42 USC 1395j to 1395w, other than payment of coinsurance for outpatient hospital services, may not exceed the allowable charge for the service under medical assistance minus the medicare payment.</p>	We should reference BadgerCare Plus in case any disabled or elderly persons are eligible as children, parents, pregnant women or non-legally responsible relatives.
49.468 (1) (c)	<p>(c) For an elderly or disabled individual who is only entitled to coverage under part A of medicare and who does not meet the eligibility criteria for medical assistance under s. <u>49.46 (1)</u>, <u>49.465</u> or <u>49.47 (4)</u> but meets the limitations on income and resources under par. (d), medical assistance shall pay the deductible and coinsurance portions of medicare services under 42 USC 1395 to 1395i which are not paid under 42 USC 1395 to 1395i, including those medicare services that are not included in the approved state plan for services under 42 USC 1396; the monthly premiums, if applicable, under 42 USC 1395i-2 (d); and the late enrollment penalty for premiums under part A of medicare, if applicable.</p>	We should reference BadgerCare Plus in case any disabled or elderly persons are eligible as children, parents, pregnant women or non-legally responsible relatives.
49.468 (1m) (a)	<p>(a) Beginning on January 1, 1993, for an elderly or disabled individual who is entitled to coverage under part A of medicare and is entitled to coverage under part B of medicare, does not meet the eligibility criteria for medical assistance under s. <u>49.46 (1)</u>, <u>49.465</u> or <u>49.47 (4)</u> but meets the limitations on income and resources under par. (b), medical assistance shall pay the monthly premiums under 42 USC 1395r.</p>	We should reference BadgerCare Plus in case any disabled or elderly persons are eligible as children, parents, pregnant women or non-legally responsible relatives.
49.468 (2) (a)	<p>(a) Beginning on January 1, 1991, for a disabled working individual who is entitled under P.L. 101-239, section 6012 (a), to coverage under part A of medicare and who does not meet the eligibility criteria for medical assistance under s. <u>49.46 (1)</u>, <u>49.465</u> or <u>49.47 (4)</u> but meets the limitations on income and resources under par. (b), medical assistance shall pay the monthly premiums for the coverage under part A of medicare, including late enrollment fees, if applicable.</p>	We should reference BadgerCare Plus in case any disabled or elderly persons are eligible as children, parents, pregnant women or non-legally responsible relatives.
49.473 (2) (a)	<p>(2) A woman is eligible for medical assistance as provided under sub. (5) if, after</p>	This is the Wisconsin Well Woman Program

Review for Statutory Cross References for BadgerCare Plus

Citation	Language	Should it be changed under BC+?
	<p>applying to the department or a county department, the department or a county department determines that she meets all of the following requirements:</p> <p>(a) The woman is not eligible for medical assistance under <u>ss. 49.46 (1)</u> and <u>(1m)</u>, <u>49.465</u>, <u>49.468</u>, <u>49.47</u>, and <u>49.472</u>, and is not eligible for health care coverage under <u>s. 49.665</u>.</p>	<p>and women eligible for BC+ shouldn't qualify for it, in the same way that women eligible under Medicaid, Healthy Start or BadgerCare were not eligible. Add BC+ to the list.</p>
49.49 (3m) (a) intro.	<p>(a) No provider may knowingly impose upon a recipient charges in addition to payments received for services under <u>ss. 49.45 to 49.47</u> or knowingly impose direct charges upon a recipient in lieu of obtaining payment under <u>ss. 49.45 to 49.47</u> except under the following conditions:</p>	<p>This applies for BadgerCare Plus, too.</p>
49.665 (4) (ap) (intro)	<p>(ap) An unborn child whose mother is not eligible for health care coverage under <u>par. (a) or (am)</u> or for medical assistance under <u>s. 49.46 or 49.47</u>, except that she may be eligible for benefits under <u>s. 49.45 (27)</u>, is eligible for health care coverage under this section, which shall be limited to coverage for prenatal care, if all of the following requirements are met:</p>	<p>BadgerCare – We still want to keep the unborn children under BC+. No changes needed to this section.</p>
49.688 (5) (a) (intro)	<p>(a) Beginning on September 1, 2002, except as provided in <u>sub. (7) (b)</u>, as a condition of participation by a pharmacy or pharmacist in the program under <u>s. 49.45</u>, <u>49.46</u>, or <u>49.47</u>, the pharmacy or pharmacist may not charge a person who presents a valid prescription order and a card indicating that he or she meets eligibility requirements under <u>sub. (2)</u> an amount for a prescription drug under the order that exceeds the following:</p>	<p>This is SeniorCare, but we still want to keep the requirement that a pharmacist who wants business from Medicaid or BadgerCare Plus, must not charge a person who presents a valid prescription order and SeniorCare card as described in this section.</p>
49.785 (1) (intro)	<p>(1) Except as provided in <u>sub. (1m)</u>, if any recipient of benefits under <u>s. 49.148</u>, <u>49.46</u> or <u>49.77</u>, or under 42 USC 1381 to 1385 in effect on May 8, 1980, dies and the estate of the deceased recipient is insufficient to pay the funeral, burial and cemetery expenses of the deceased recipient, the county or applicable tribal governing body or organization responsible for burial of the recipient shall pay, to the person designated by the county department under <u>s. 46.215</u>, <u>46.22</u> or <u>46.23</u> or applicable tribal governing body or organization responsible for the burial of the recipient, all of the following:</p>	<p>The LRB draft already modified this section.</p>
49.81 (4)	<p>(4) The right to a speedy determination of the recipient's status or eligibility for public assistance, to notice of any proposed change in such status or eligibility, and, in the case of assistance granted under <u>s. 49.19</u>, <u>49.46</u>, <u>49.468</u> or <u>49.47</u>, to a speedy appeals process for resolving contested determinations.</p>	<p>This provision, which is part of the Public Assistance Bill of Rights, applies to BadgerCare Plus as well.</p>
49.82 (2)	<p>(2) Eligibility verification. Proof shall be provided for each person included in an application for public assistance under this chapter, except for a child who is eligible for medical assistance under <u>s. 49.46</u> or <u>49.47</u> because of 42 USC 1396a (e) (4) or an unborn child who is eligible for coverage under the Badger Care health care program under <u>s. 49.665 (4) (ap)</u>, of his or her social security number or that an application for a social security number has been made.</p>	<p>This provision applies to BadgerCare Plus as well.</p>
49.89 (7) (b)	<p>(7) Payments to local units of government. (b) The incentive payment shall be an amount equal to 15% of the amount</p>	<p>This applies to BadgerCare Plus as well.</p>

Review for Statutory Cross References for BadgerCare Plus

Citation	Language	Should it be changed under BC+?
59.53 (5) (a)	<p>recovered because of benefits paid under <u>s. 49.46, 49.465, 49.468 or 49.47</u>. The incentive payment shall be taken from the federal share of the sum recovered as provided under 42 CFR 433.153 and 433.154.</p> <p>(5) Child and spousal support; paternity program; medical support liability program.</p> <p>(a) The board shall contract with the department of workforce development to implement and administer the child and spousal support and establishment of paternity and the medical support liability programs provided for by Title IV of the federal social security act. The board may designate by board resolution any officer, board, department or agency, except the clerk of circuit court, as the county child support agency. The board or county child support agency shall implement and administer the programs in accordance with the contract with the department of workforce development. The attorneys responsible for support enforcement under sub. (6) (a), circuit court commissioners and all other county officials shall cooperate with the county and the department of workforce development as necessary to provide the services required under the programs. The county shall charge the fee established by the department of workforce development under <u>s. 49.22</u> for services provided under this paragraph to persons not receiving benefits under <u>s. 49.148 or 49.155</u> or assistance under <u>s. 46.261, 49.19 or 49.47</u>.</p>	<p>This needs to be corrected to make sure that anyone receiving benefits under 49.46, 49.47, 49.465, 49.472 and BadgerCare Plus should not have to pay this fee to CS.</p>
66.0137 (3)	<p>(3) Health insurance for unemployed persons. Any city, village, town or county may purchase health or dental insurance for unemployed persons residing in the city, village, town or county who are not eligible for medical assistance under <u>s. 49.46, 49.468 or 49.47</u>.</p>	<p>Resolved: This should include a reference to BC+ for children and pregnant women that does not exceed 300% of the FPL and for adult caretaker relatives (parents and other relatives) that does not exceed 200% of the FPL.</p>
149.12 (2) (f) 2. d.	<p>2. Subdivision 1. does not apply to a person who is otherwise eligible for coverage under the plan and who is eligible for only any of the following types of medical assistance:</p> <ul style="list-style-type: none"> a. Family planning services under <u>s. 49.45 (24)</u>. b. Care and services for the treatment of an emergency medical condition under 42 USC 1396b (v), as provided in <u>s. 49.45 (27)</u>. c. Medical assistance under <u>s. 49.46 (1) (a) 15</u>. d. Ambulatory prenatal care under <u>s. 49.465</u>. 	<p>This section refers to HIRSP eligibility. No change needed here as long as BC+ is left in Subch. IV. The references here are to the limited benefit MA categories (FPW, Emergency MA and TB) and should be left alone.</p>
302.38 (3)	<p>302.38 Medical care of prisoners.</p> <p>(3) The maximum amount that a governmental unit may pay for the costs of medical or hospital care under this section is limited for that care to the amount payable by medical assistance under <u>subch. IV of ch. 49, except s. 49.468</u>, for care for which a medical assistance rate exists. No provider of medical or hospital care may bill a prisoner under <u>sub. (1)</u> for the cost of care exceeding the amount paid under this subsection by the governmental unit. If no medical assistance rate exists for the care provided, there is no limitation under this subsection.</p>	<p>This is complicated by the fact that BadgerCare Plus has two benefit plans. We need to say that the government unit shouldn't pay more than the regular Medicaid or BadgerCare Plus plan (not the Benchmark Plan).</p>

yes
 ?
 (-)(a) + (b)

Review for Statutory Cross References for BadgerCare Plus

Citation	Language	Should it be changed under BC+?
302.386 (1)	<p>302.386 Medical and dental services for prisoners and forensic patients. (1) Except as provided in sub. (5), liability for medical and dental services furnished to residents housed in prisons identified in s. 302.01, in a juvenile correctional facility, or in a secured residential care center for children and youth, or to forensic patients in state institutions for those services that are not provided by employees of the department shall be limited to the amounts payable under ss. 49.43 to 49.47, except s. 49.468, for similar services. The department may waive any such limit if it determines that needed services cannot be obtained for the applicable amount. No provider of services may bill the resident or patient for the cost of services exceeding the amount of the liability under this subsection.</p>	<p>This is complicated by the fact that BadgerCare Plus has two benefit plans. We need to say that the government unit shouldn't pay more than the regular Medicaid or BadgerCare Plus plan (not the Benchmark Plan).</p>
632.746 (7m) (b) 1.	<p>632.746 Preexisting condition; portability; restrictions; and special enrollment periods. 1. The employee or dependent is eligible for benefits under the Medical Assistance program under s. 49.472 or for coverage under the Badger Care health care program under s. 49.665.</p>	<p>This should be changed to include a reference to BadgerCare Plus, as well as MAPP and BadgerCare.</p>
814.61 (13)	<p>(13) Support or maintenance petition. For the cost of court services, whenever a person not receiving benefits under s. 49.148 or 49.155 or aid under s. 49.19, 49.46, 49.465, 49.468 or 49.47 files a petition requesting child support, maintenance or family support payments, \$10 in addition to any other fee required under this section. This subsection does not apply to a petition filed by the state or its delegate.</p>	<p>This should include BadgerCare Plus, as well.</p>
885.01 (5)	<p>885.01 Subpoenas, who may issue. The subpoena need not be sealed, and may be signed and issued as follows: (5) By the department of workforce development or a county child support agency under s. 59.53 (5) in the administration of ss. 49.145, 49.19, 49.22, 49.46 and 49.47 and programs carrying out the purposes of 7 USC 2011 to 2029.</p>	<p>This should include BadgerCare Plus as well.</p>

Handwritten notes:
 7
 1
 200
 100

BEM Response to LRB Draft of Statutes for BadgerCare Plus Provisions - DRAFT
January 5, 2007

The following remarks are comments and/or edits to the LRB draft dated 12/12/06. The headers refer to the page and line number of the draft document.

Page 2, Line 5: Please change the definition of a child to exclude an unborn child and add a specific definition for "unborn child". The eligibility criteria for an unborn child are dependent on specific criteria that the mother has to meet. For example, for an unborn child to qualify, his/her mother must not be eligible for BC+ because of her immigrant status. Those criteria are spelled out in 49.665(4)(ap) and should be added into the BC+ statutes with one change. The income limit will change from 185% and 200% of the FPL to 300%. As for other BC+ eligibility rules;

- Premiums will be required for unborn children just as they are for born children,
- Unborn children with family incomes above 200% of the FPL may only receive benefits under the benchmark plan,
- Unborn children and their mothers, whatever their income, may not have any health insurance coverage. Health insurance coverage is defined in HFS 101.03(69m).
- Unborn children and their mothers, whatever their income, may not have access to any employer-subsidized health care coverage [using the criteria in 49.665(1)(c)] or to a state employee's health plan. *isn't this a subset of the one above it?*

Page 2, Line 6: LRB Question: Do we need to define "Caretaker Relative"? Response: Yes. The following language taken from 49.19(1)(a)2.a. and the Medicaid Eligibility Handbook should suffice.

"A blood relative, including those of half-blood, and including first cousins, nephews or nieces and persons of preceding generations as denoted by prefixes of grand, great or great-great; a stepfather, stepmother, stepbrother or stepsister; a person who is the adoptive parent of the child's parent, a natural or legally adopted child of such person or a relative of an adoptive parent; or a spouse of any person named in this paragraph even if the marriage is terminated by death or divorce; who is maintaining a residence as the child's home and exercises primary responsibility for the child's care and control, including making plans for him/her."

Page 2, Line 12: Please change the reference to the "date on which the state plan amendment is approved". Like the waiver, it should reference the "effective date" as opposed to the date the plan is approved. This wording would avoid potential problems caused by an inadvertent delay in receiving federal approval. We also recommend referring to amendments in the plural as we anticipate more than one plan amendment being needed.

Page 2, Line 23: Subsection (3) is saying that persons who fit in the BC+ categories are not eligible for Medicaid under "s. 49.46, 49.465, 49.47, or 49.665". The references to 49.465 and 49.665 are fine, but not 49.46 or 49.47. We need to clarify that the persons in the BC+ categories are not eligible for Medicaid only under certain groups in 49.46, such as those who would meet the old AFDC criteria [s. (49.46(1)(a)1.]. Children, pregnant women, parents and caretakers who may not be eligible for BC+, may still qualify for Medicaid under other groups in sections. 49.46 and 49.47 such as SSI and foster care recipients, the disabled, elderly and other groups. Here's the list of citations that the BC+ population could still qualify for: 49.46(1)(a)3., 4., 5., 6m., 14., 14m., 15., (d), 49.47(4)(a) & (as) .

so these people could be eligible under both + if so, would be covered under 49.46 or 49.47?

what about burying in under (4)(c)?

asap. category? worked. mother's elig criteria into def

** check this!*

? why

Page 3, Line 1: Please add "or BadgerCare" between "Assistance" and "benefits".

?

Page 3, Line 2: Please make the following change, "...Medical Assistance benefits shall **first** be determined under this section."

does first still make sense in light of subd. 2.?

Page 4, Line 6: We need to include those pregnant women giving birth who are not eligible for BadgerCare Plus, but are eligible under other categories of Medicaid at the time they give birth, such as SSI beneficiaries and Foster Care children. These women's babies would also be eligible for Continuous Newborn Eligibility for their first year of life. Please modify subd. 2. to include a child born to a mother who was receiving Medicaid under s. 49.46 or 49.47 at the time of the child's birth and who lives with his or her mother in this state. In addition, some babies may be born to women who are not eligible under subd. 1. but are eligible as a foster care youth. Please modify subd. 2 to include a child born to a woman who was eligible under subd. 6. Lastly, please clarify in subd 2. that the mothers were eligible for and receiving these MA or BC+ benefits on the day the child was born.

new

Page 4, Lines 10-19 & Page 5, Lines 9-18: The wording is not clear in subds. (4)(a)4. & 5. and (b) 4. & 5. about which benefits parents and caretakers are eligible for, especially if they are not self-employed.

Parents and caretakers are eligible for regular BC+ benefits in (4)(a) as long as their family income does not exceed 200% of the FPL. Parents and caretakers with self-employment income are also eligible for regular BC+ benefits if their family income does not exceed 200% FPL when depreciation is not deducted from the self-employment income. If the parents or caretakers have income at or below 200% FPL only after the depreciation expenses have been deducted, then they qualify for the BadgerCare Plus' Benchmark Plan.

Please revise these sections and make corresponding changes to (7)(a).

Page 4, Line 10: Please modify the language in subd. 4. to clarify that the child is either living in the home with the parent, temporarily absent for 6 months or less, or in the case of a child removed from the home for more than 6 months, the parent is working toward unifying the family by complying with a permanency plan under s. 48.38.

Page 4, Line 17: Please modify the language in subd. 5. to clarify that the child is either living in the home with the caretaker relative, temporarily absent for 6 months or less, or in the case of a child removed from the home for more than 6 months, the caretaker relative is working toward unifying the family by complying with a permanency plan under s. 48.38.

Page 4, Line 20: Please modify the criteria in subd. 6. for a youth leaving foster care to limit it to persons born on or after January 1, 1990. We also need to state that the coverage ends the last day of the month in which the individual turns 21 years of age, unless they otherwise lose eligibility. The department has decided that the best method to phase-in of eligibility for this group will be using the birth date. Therefore, we will not need the additional phase-in language in Sections 3 & 4 of the draft. In addition, the federal law does not allow us to restrict eligibility to kids getting foster care through Wisconsin. Please change the wording to remove the references to Wisconsin statutes. The federal law wording that you may want to consider to use instead is "was in foster care under the responsibility of a State."

✓ **Page 5, Line 9:** Please modify the language in subd. 4. to clarify that the child is either living in the home with the parent, temporarily absent for 6 months or less, or in the case of a child removed from the home for more than 6 months, the parent is working toward unifying the family by complying with a permanency plan under s. 48.38.

✓ **Page 5, Line 16:** Please modify the language in subd. 5. to clarify that the child is either living in the home with the caretaker relative, temporarily absent for 6 months or less, or in the case of a child removed from the home for more than 6 months, the caretaker relative is working toward unifying the family by complying with a permanency plan under s. 48.38.

? **Page 5, Line 22: LRB Question:** Should this specifically be the insurance coverage under sub. (8) (b) 1.? **Response:** Actually, it should be all the coverage and access conditions under (8) (b) with the exceptions and good cause reasons provided in (8) (c) to (e).

just take out "who does not have health ins cov" ? why wouldn't (8) apply?

✓ **Page 7, Line 16:** Please include a caretaker relative in that list of persons who may qualify for backdating. Please change wording to clarify that the listed persons may be eligible for BC+ for any of the three calendar months prior to the month of application if they otherwise meet the BC+ eligibility criteria and had family income less than 150% of the poverty line in that month.

990.01(21)

✓ **Page 7, Line 19: LRB Question:** Should this include or exclude those eligible under presumptive eligibility? **Response:** This should include those eligible under presumptive eligibility.

✓ **Page 8, Line 8:** Please delete the phrase, "regardless of whether the individual requests the benefits."

Page 9, Line 1: Please change the wording in (a) to the following:

✓ "In the calculation of family income for purposes of determining the eligibility of a parent or caretaker relative under sub. (4) (a) 4. or 5. or (b) 4. or 5., If an adult member of the family the parent or caretaker relative has self-employment income the department shall count the net self-employment earnings. Net earnings shall be determined by subtracting from gross self-employment income allow all deductions self-employment expenses allowed under federal and state tax law, except for depreciation. ..."

✓ We also suggest either reordering (7) or putting a definition of family income into subsection (1) to make it clear that family income is the gross income everyone receives with five exceptions: child support paid, earnings of minors, SSI recipients, caretaker relatives and self-employment expenses. See comment for line 19 below concerning the definition of family income.

✓ **Page 9, Line 8:** Please delete "equals or" from this line. The eligibility income limit for persons with self-employment income is the same as for other parents and caretakers.

? **Page 9, Line 12:** Please add wording to (b) to clarify that the amount of money to be expended or obligated is the difference between the family income and the specified income limits. In addition, please add wording to the effect that the spenddown amount is equal to the difference between income and the limits for six months. Once a spenddown is met during a six-month period, eligibility for the child continues for the remainder of the six-month period. (A pregnant

6 month period - how define - just when eligible is first month?

woman who meets a spenddown remains eligible for the duration of her pregnancy and for the 60-day post partum period).

✓ **Page 9, Line 18:** LRB 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. Response: This is correct. Any insured child who meets a spenddown would be entitled to the MA benefits, not the benchmark plan.

✓ **Page 9, Line 19:** Please clarify that “family income” consists of total gross earned and unearned income received by all members of the family with the exceptions provided in subd 1. & 2.. In this context, “family” means the parents and their natural or adoptive children living in the home or considered temporarily absent from the home. Here is another way of describing who is in the family. The family consists of all children for whom assistance is requested, their minor full-, half- or step-siblings and any parents of these minors and their spouses unless the individual is an SSI recipient

✓ **Page 9, Line 22:** LRB Question: Do we need to define “support” to include everything in s. 49.854 (1) (f)? Response: No. We mean payment of a current child or family support obligation or maintenance.

✓ **Page 10, line 2:** Please add at the end of the line, “...and for whom they are not legally responsible”. We would want the caretakers’ income to be included with any of their own children who may also be living in the home with them.

✓ **Page 11, Line 9:** Please add a subd. 3. under (c) to add two more groups of individuals who would still be eligible for BC+ even if they do not meet the crowd out requirements in (b). These groups are the continuously eligible newborns listed in (4) (a) 2. & (4) (b) 2.. Also, please add a subd. 4. that adds another group not subject to the insurance coverage/access policy. These are children who have health insurance coverage under, or access to, an absent parent’s plan, but reside outside of the service area covered by that plan.

✓ **Page 11, Line 20:** Please modify the end of line 20 as follows: ...incapacitation of the subscriber, or because of an immediate family member’s health condition.

✓ **Page 11, Line 23:** Please delete the word, “family” from this line. The BC+ insurance coverage policies are not limited to family coverage insurance policies.

✓ **Page 12, Line 4:** Please delete subd. 4. BC+ eligibility would not be impacted by COBRA health insurance coverage.

✓ **Page 12, Line 9:** Please add in subsection (8) good cause reasons relevant to the past access provision in (b)2. Good cause reasons for past access are in the admin rules at HFS 103.03(f)5:

“5. ...

- a. The employment ended.
- b. The person’s employer discontinued health care coverage for all employees.
- c. A member or members of the family were eligible for other health insurance coverage or MA at the time the employee failed to enroll in the employer–subsidized health care coverage and no member of the group was eligible for BadgerCare at that time.

*relates
good
cause
for
access -
(8)(b)2.*

- d. The person was covered by insurance that has ended due to the death or change in marital status of the subscriber.
- e. Any other reason determined by the department to be a good cause reason."

?
why
need?

Page 12, Line 21: Please add after, "Subject to subd. 2.," "and 3." We wish to add another subd. 3. under (c) that says that the fines would not apply to employers who provide timely information to the department in the format specified by the department needed to determine whether the employer provides access to individual or family health insurance coverage as provided for under state law and Department policy.

different
from 10 or 30
calendar days?

but if they only apply to those
who don't, why do we have to say they don't
apply to those who do?

Page 12, Line 23: Please change this line to read, "member per month cost of coverage under BadgerCare Plus for all of the individuals about" to make it clear that the employer would have to pay the costs for all members of the family who could be covered by BC+ and not just the coverage cost for the employee.

Page 13, Line 6: Please indicate that we will credit the employer fines in the following manner. Transfer 10% of the fines into the administrative appropriations for DHFS and its contractors (401, 414 and 412), with 90% plus any lapsed funding going back to the BadgerCare Plus benefit GPR appropriation. Any fiscal penalties that accrue to the administrative appropriation(s) that are not expended during a biennial period will lapse into the general fund..

2 PR appo
or 1 PR +
other existing

Page 13, Line 10: LRB Question: This provision (regarding the right of employers to request a fair hearing concerning fines) was included in BadgerCare. Do you want it in BadgerCare Plus, too? Response: Yes.

Page 13, Line 21: Please clarify that (10) (c) is referring to a pregnant woman eligible under (4)(b), and not a pregnant woman found presumptively eligible under (5).

Page 14, Line 3: Please add after, "Except as provided in subd. 2.," "and 3." We wish to add another subd. 3. under (d) to add two more groups who are not subject to the premium requirement. These groups are the continuously eligible newborns listed in (4) (a) 2. & (4) (b) 2..

Page 14, Line 19 Drafter's Note: The correct terminology is "Badger Rx Gold".

Page 15, Line 6 Drafter's Note: Yes, the emergency room language should be added or cross referenced if placed in another section. The language is from the federal register (42 USC 1396u-2 and 42 CFR 438.114) and should be added to the statutes. Language is as follows:

"Emergency medical condition means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in the following: (1) Placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy. (2) Serious impairment to bodily functions. (3) Serious dysfunction of any bodily organ or part."

Page 15, Line 18 Drafter's Note: Inpatient services are covered. The limits are established under our state plan.

Page 16, Line 11: We do not wish the verification of income to appear in the statutes as an administrative task of the department, but rather as a condition of eligibility. Please modify (a)

to clarify that as a condition of eligibility for BC+, individuals with earned income that does not appear in a computer data match used by the department, must provide verification of that earned income. This requirement would not apply to children under age 18 and the youths aging out of foster care.

Page 16, Line 13: LRB Question: The drafting instructions contained the language in parentheses, but wouldn't "verifying" include checking data matches? **Response:** See previous comment.

Page 16, Line 15: Please add that a change that would move them from non-premium to premium paying status must also be reported within 10 days.

Page 17, Lines 11 & 17: Please remove Sections 3 & 4 since they are no longer needed for phasing in the coverage for youths aging out of Foster Care.

Page 19, Line 6: Please remove the references to 49.46 & 49.47 since all of our continuously eligible newborns will fall under BC+, if it is approved.

ADDITIONAL CHANGES

49.45 (24r): Please amend the Family Planning Demonstration Project statute to change the income limit from 185% to 200% of the FPL.

no - or would have to go through all statute "take care of" x-reps

if remove, will I need to do so in other (ATS) states??

Benchmark Plan – Page 14, Line 15 through Page 16, Line 10

Page 14, Line 19 Drafter's Note: The correct terminology is "Badger Rx Gold".

Page 15, Line 6 Drafter's Note: Yes, the emergency room language should be added or cross referenced if placed in another section. The language is from the federal register (42 USC 1396u-2 and 42 CFR 438.114) and should be added to the statutes. Language is as follows:

"Emergency medical condition means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in the following: (1) Placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy. (2) Serious impairment to bodily functions. (3) Serious dysfunction of any bodily organ or part."

Page 15, Line 18 Drafter's Note: Inpatient services are covered. The limits are established under our state plan.

duplicate ↑