

State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0905/P2
PJK:jld:rs

TODAY (if possible)

Stamp

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

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

D-note
(Fin or amount estimate)
do not get 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:

NOTE: bad

- 2 SECTION 1. 20.435 (4) (bc) of the statutes is repealed.
- 3 SECTION 2. 20.435 (4) (bm) of the statutes is amended to read:
- 4 20.435 (4) (bm) *Medical Assistance, and food stamps, and Badger Care stamp*
- 5 *program administration; contract costs, insurer reports, and resource centers.*
- 6 Biennially, the amounts in the schedule to provide the state share of administrative

1 contract costs for the Medical Assistance program under s. 49.45, the food stamp
2 program under s. 49.79, and the ~~Badger Care health care program under s. 49.665,~~
3 other than payments to counties and tribal governing bodies under s. 49.78 (8), to
4 develop and implement a registry of recipient immunizations, to reimburse insurers
5 for their costs under s. 49.475, for costs associated with outreach activities, and for
6 services of resource centers under s. 46.283. No state positions may be funded in the
7 department of health and family services from this appropriation, except positions
8 for the performance of duties under a contract in effect before January 1, 1987,
9 related to the administration of the Medical Assistance program between the
10 subunit of the department primarily responsible for administering the Medical
11 Assistance program and another subunit of the department. Total administrative
12 funding authorized for the program under s. 49.665 may not exceed 10% of the
13 amounts budgeted under pars. (bc), (p), and (x).

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

15 20.435 (4) (bn) *Income maintenance.* Biennially, the amounts in the schedule
16 for funeral expenses under s. 49.785 and for payments under s. 49.78 (8) relating to
17 the administration of the Medical Assistance program, the ~~Badger Care health care~~
18 ~~program under s. 49.665,~~ the food stamp program, and the cemetery, funeral, and
19 burial expenses program under s. 49.785.

20 **SECTION 4.** 20.435 (4) (jw) of the statutes is created to read:

21 20.435 (4) (jw) *BadgerCare Plus administrative costs.* Biennially, the amounts
22 in the schedule to provide a portion of the state share of administrative costs for the
23 BadgerCare Plus Medical Assistance program under s. 49.471. Ten percent of all
24 moneys received from penalty assessments under s. 49.471 (9) (c) shall be credited
25 to this appropriation account.

NOTE: bud ✓ →

1 SECTION 5. 20.435 (4) (jz) of the statutes is amended to read:

2 20.435 (4) (jz) ~~Badger-Care~~ Medical Assistance cost sharing and employer
3 penalty assessments. All moneys received in cost-sharing from payments under s.
4 49.665 (5) medical assistance recipients and 90 percent of all moneys received from
5 penalty assessments under s. 49.665 (7) (b) 2. 49.471 (9) (c) to be used for the Badger
6 Care health care Medical Assistance program under s. 49.665.

7 SECTION 6. 20.435 (4) (nn) of the statutes is amended to read:

8 20.435 (4) (nn) *Federal aid; income maintenance*. All moneys received from the
9 federal government for the costs of contracting for the administration of the Medical
10 Assistance program under subch. IV of ch. 49 and the ~~Badger-Care health care~~
11 ~~program under s. 49.665~~ and the food stamp program, other than moneys received
12 under par. (pa), for payments under s. 49.78 (8).

13 SECTION 7. 20.435 (4) (o) of the statutes is amended to read:

14 20.435 (4) (o) *Federal aid; medical assistance*. All federal moneys received for
15 meeting costs of ~~medical assistance~~ Medical Assistance administered under ss.
16 46.284 (5), and 49.45 and ~~49.665~~, to be used for those purposes and for transfer to the
17 ~~medical assistance~~ Medical Assistance trust fund, for those purposes.

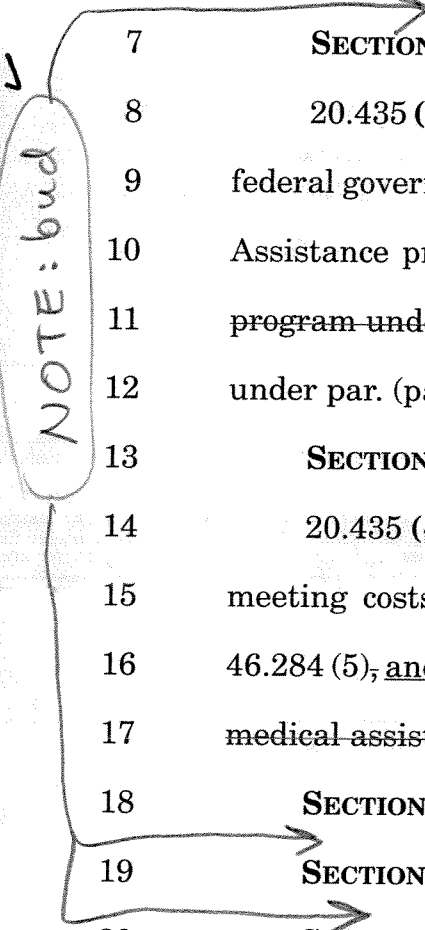
18 SECTION 8. 20.435 (4) (p) of the statutes is repealed.

19 SECTION 9. 20.435 (4) (x) of the statutes is repealed.

20 SECTION 10. 46.206 (1) (bm) of the statutes is amended to read:

21 46.206 (1) (bm) All records of the department relating to aid provided under
22 s. 49.46, 49.465, 49.468, 49.47, 49.471, or 49.77 are open to inspection at reasonable
23 hours by members of the legislature who require the information contained in the
24 records in pursuit of a specific state legislative purpose. All records of any county
25 relating to aid provided under s. 49.46, 49.465, 49.468, 49.47, 49.471, or 49.77 are

NOTE: bud



1 open to inspection at reasonable hours by members of the board of supervisors of the
2 county or the governing body of a city, village or town located in the county who
3 require the information contained in the records in pursuit of a specific county or
4 municipal legislative purpose. The right to records access provided by this
5 paragraph does not apply if access is prohibited by federal law or regulation or if this
6 state is required to prohibit such access as a condition precedent to participation in
7 a federal program in which this state participates.

8 **SECTION 11.** 46.22 (1) (b) 1. d. of the statutes is amended to read:

9 46.22 (1) (b) 1. d. To submit a final budget in accordance with s. 46.031 (1) for
10 services authorized in this section, except for the administration of and cost of aid
11 granted under ss. 49.02, 49.19 and 49.45 to ~~49.47~~ 49.471.

12 **SECTION 12.** 46.27 (6u) (c) 1. a. of the statutes is amended to read:

13 46.27 (6u) (c) 1. a. Eligible for medical assistance under s. 49.46, 49.468 ~~or,~~
14 49.47, or 49.471 (4) (a).

15 **SECTION 13.** 46.27 (6u) (d) (intro.) of the statutes is amended to read:

16 46.27 (6u) (d) (intro.) In determining financial eligibility under par. (c) 1. and
17 in calculating the amount under par. (c) 2., the county department or aging unit shall
18 include as the assets for any person, except those persons who are eligible for medical
19 assistance under s. 49.46, 49.468 ~~or,~~ 49.47, or 49.471 (4) (a), any portion of assets that
20 the person or the person's spouse has, after August 12, 1993, transferred to another
21 as specified in par. (b), unless one of the following conditions applies:

22 **SECTION 14.** 46.27 (7) (am) of the statutes is amended to read:

23 46.27 (7) (am) From the appropriation under s. 20.435 (7) (bd), the department
24 shall allocate funds to each county or private nonprofit agency with which the
25 department contracts to pay assessment and case plan costs under sub. (6) not

1 otherwise paid by fee or under s. 49.45 or 49.78 (2). The department shall reimburse
2 counties for the cost of assessing persons eligible for medical assistance under s.
3 49.46, 49.468, or 49.47, or 49.471 (4) (a) as part of the administrative services of
4 medical assistance, payable under s. 49.45 (3) (a). Counties may use unspent funds
5 allocated under this paragraph to pay the cost of long-term community support
6 services and for a risk reserve under par. (fr).

7 **SECTION 15.** 46.27 (7) (b) of the statutes is amended to read:

8 46.27 (7) (b) From the appropriations under s. 20.435 (7) (bd) and (im), the
9 department shall allocate funds to each county to pay the cost of providing long-term
10 community support services under sub. (5) (b) not otherwise paid under s. 49.45 to
11 persons eligible for medical assistance under s. 49.46 or, 49.47, or 49.471 (4) (a) or
12 to persons whom the county department or aging unit administering the program
13 finds likely to become medically indigent within 6 months by spending excess income
14 or assets for medical or remedial care. The average per person reimbursement under
15 this paragraph may not exceed the state share of the average per person payment
16 rate the department expects under s. 49.45 (6m). The county department or aging
17 unit administering the program may spend funds received under this paragraph
18 only in accordance with the case plan and service contract created for each person
19 receiving long-term community support services. Counties may use unspent funds
20 allocated under this paragraph from the appropriation under s. 20.435 (7) (bd) for a
21 risk reserve under par. (fr).

22 **SECTION 16.** 46.275 (1m) (a) of the statutes is amended to read:

23 46.275 (1m) (a) "Medical assistance" means aid provided under subch. IV of ch.
24 49, except s. ss. 49.468 and 49.471.

25 **SECTION 17.** 46.277 (1m) (a) of the statutes is amended to read:

1 46.277 **(1m)** (a) "Medical assistance" means aid provided under subch. IV of ch.
2 49, except s. ss. 49.468 and 49.471.

3 **SECTION 18.** 46.278 (1m) (b) of the statutes is amended to read:

4 46.278 **(1m)** (b) "Medical assistance" means aid provided under subch. IV of ch.
5 49, except s. ss. 49.468 and 49.471.

6 **SECTION 19.** 46.283 (3) (k) of the statutes is amended to read:

7 46.283 **(3)** (k) A determination of eligibility for state supplemental payments
8 under s. 49.77, medical assistance under s. 49.46, 49.468 ~~or~~, 49.47, or 49.471, or the
9 federal food stamp program under 7 USC 2011 to 2029.

10 **SECTION 20.** 46.485 (3g) of the statutes is amended to read:

11 46.485 **(3g)** The amount that the department may transfer under sub. (2g) for
12 counties may not exceed the estimated state share of payments under s. 49.45, 49.46
13 ~~or~~, 49.47, or 49.471 for mental health care and treatment that is provided in inpatient
14 facilities for children with severe emotional disturbances.

15 **SECTION 21.** 48.57 (3m) (e) of the statutes is amended to read:

16 48.57 **(3m)** (e) The department shall determine whether the child is eligible
17 for medical assistance under ss. 49.43 to 49.47 49.471.

18 **SECTION 22.** 48.57 (3n) (e) of the statutes is amended to read:

19 48.57 **(3n)** (e) The department shall determine whether the child is eligible for
20 medical assistance under ss. 49.43 to 49.47 49.471.

21 **SECTION 23.** 49.19 (1) (c) 1. of the statutes is amended to read:

22 49.19 **(1)** (c) 1. "Aid to families with dependent children" means money
23 payments with respect to, or vendor payments as prescribed by the department, or
24 medical care in behalf of or any type of remedial care recognized under subs. (1) to

1 (10) ~~or s. 49.46~~ or necessary burial expenses as defined in sub. (5) in behalf of a
2 dependent child or dependent children.

3 **SECTION 24.** 49.22 (2m) (a) of the statutes is amended to read:

4 49.22 (2m) (a) The department may request from any person in this state
5 information it determines appropriate and necessary for the administration of this
6 section, ss. 49.141 to 49.161, 49.19, 49.46, 49.468 and, 49.47, and 49.471 and
7 programs carrying out the purposes of 7 USC 2011 to 2029. Unless access to the
8 information is prohibited or restricted by law, or unless the person has good cause,
9 as determined by the department in accordance with federal law and regulations, for
10 refusing to cooperate, the person shall make a good faith effort to provide this
11 information within 7 days after receiving a request under this paragraph. Except
12 as provided in subs. (2p) and (2r) and subject to sub. (12), the department or the
13 county child support agency under s. 59.53 (5) may disclose information obtained
14 under this paragraph only in the administration of this section, ss. 49.141 to 49.161,
15 49.19, 49.46 and, 49.47, and 49.471 and programs carrying out the purposes of 7 USC
16 2011 to 2029. Employees of the department or a county child support agency under
17 s. 59.53 (5) are subject to s. 49.83.

18 **SECTION 25.** 49.22 (2m) (b) of the statutes is amended to read:

19 49.22 (2m) (b) The department or county child support agency under s. 59.53
20 (5) may issue a subpoena, in substantially the form authorized under s. 885.02, to
21 compel the production of financial information and other documentary evidence in
22 the administration of this section, ss. 49.145, 49.19, 49.46 and, 49.47, and 49.471 and
23 programs carrying out the purposes of 7 USC 2011 to 2029.

24 **SECTION 26.** 49.22 (2m) (c) 3. of the statutes is amended to read:

1 49.22 (2m) (c) 3. Any other action taken in good faith to comply with this section
2 or a subpoena described in par. (bc) or to comply with a request for information or
3 access to records from the department or a county child support agency under s. 59.53
4 (5) in the administration of this section, ss. 49.145, 49.19, 49.46 and, 49.47, and
5 49.471 and programs carrying out the purposes of 7 USC 2011 to 2029.

6 **SECTION 27.** 49.45 (2) (a) 1. of the statutes is amended to read:

7 49.45 (2) (a) 1. Exercise responsibility relating to fiscal matters, the eligibility
8 for benefits under standards set forth in ss. 49.46 to 49.47 49.471, and general
9 supervision of the medical assistance program.

10 **SECTION 28.** 49.45 (2) (a) 3. of the statutes is amended to read:

11 49.45 (2) (a) 3. Determine the eligibility of persons for medical assistance,
12 rehabilitative, and social services under ss. 49.46, 49.468, and 49.47, and 49.471 and
13 rules and policies adopted by the department and may, under a contract under s.
14 49.78 (2), delegate all, or any portion, of this function to the county department under
15 s. 46.215, 46.22, or 46.23 or a tribal governing body.

16 **SECTION 29.** 49.45 (2) (b) 3. of the statutes is amended to read:

17 49.45 (2) (b) 3. Audit all claims filed by any contractor making the payment of
18 benefits paid under ss. 49.46 to 49.47 49.471 and make proper fiscal adjustments.

19 **SECTION 30.** 49.45 (3) (b) 1. of the statutes is amended to read:

20 49.45 (3) (b) 1. The contractor, if any, administering benefits or providing
21 prepaid health care under s. 49.46, 49.465, 49.468 ~~or~~, 49.47, or 49.471 shall be
22 entitled to payment from the department for benefits so paid or prepaid health care
23 so provided or made available when a certification of eligibility is properly on file
24 with the contractor in addition to the payment of administrative expense incurred

1 pursuant to the contract and as provided in sub. (2) (a) 4., but the contractor shall
2 not be reimbursed for benefits erroneously paid where no certification is on file.

3 **SECTION 31.** 49.45 (3) (b) 2. of the statutes is amended to read:

4 49.45 (3) (b) 2. The contractor, if any, insuring benefits under s. 49.46, 49.465,
5 49.468 ~~or~~, 49.47, or 49.471 shall be entitled to receive a premium, in an amount and
6 on terms agreed, for such benefits for the persons eligible to receive them and for its
7 services as insurer.

8 **SECTION 32.** 49.45 (3) (dm) of the statutes is amended to read:

9 49.45 (3) (dm) After distribution of computer software has been made under
10 1993 Wisconsin Act 16, section 9126 (13h), no payment may be made for home health
11 care services provided to persons who are enrolled in the federal medicare program
12 and are recipients of medical assistance under s. 49.46 ~~or~~, 49.47, or 49.471 unless the
13 provider of the services has in use the computer software to maximize payments
14 under the federal medicare program under 42 USC 1395.

15 **SECTION 33.** 49.45 (3) (L) 2. of the statutes is amended to read:

16 49.45 (3) (L) 2. The department may not pay a provider for a designated health
17 service that is authorized under this section or s. 49.46 ~~or~~, 49.47, or 49.471, that is
18 provided as the result of a referral made to the provider by a physician and that,
19 under 42 USC 1396b (s), if made on behalf of a beneficiary of medicare under the
20 requirements of 42 USC 1395nn, as amended to August 10, 1993, would result in the
21 denial of payment for the service under 42 USC 1395nn.

22 **SECTION 34.** 49.45 (6c) (d) 1. of the statutes is amended to read:

23 49.45 (6c) (d) 1. No payment may be made under sub. (6m) to a facility or to
24 an institution for mental diseases for the care of an individual who is otherwise
25 eligible for medical assistance under s. 49.46 ~~or~~, 49.47, or 49.471, who has

1 developmental disability or mental illness and for whom under par. (b) or (c) it is
2 determined that he or she does not need facility care, unless it is determined that the
3 individual requires active treatment for developmental disability or active
4 treatment for mental illness and has continuously resided in a facility or institution
5 for mental diseases for at least 30 months prior to the date of the determination. If
6 that individual requires active treatment and has so continuously resided, he or she
7 shall be offered the choice of receiving active treatment for developmental disability
8 or active treatment for mental illness in the facility or institution for mental diseases
9 or in an alternative setting. A facility resident who has developmental disability or
10 mental illness, for whom under par. (c) it is determined that he or she does not need
11 facility care and who has not continuously resided in a facility for at least 30 months
12 prior to the date of the determination, may not continue to reside in the facility after
13 December 31, 1993, and shall, if the department so determines, be relocated from the
14 facility after March 31, 1990, and before December 31, 1993. The county department
15 shall be responsible for securing alternative residence on behalf of an individual who
16 is required to be relocated from a facility under this subdivision, and the facility shall
17 cooperate with the county department in the relocation.

18 **SECTION 35.** 49.45 (6c) (d) 2. of the statutes is amended to read:

19 49.45 (6c) (d) 2. Payment may be made under sub. (6m) to a facility or
20 institution for mental diseases for the care of an individual who is otherwise eligible
21 for medical assistance under s. 49.46 ~~or~~, 49.47, or 49.471 and who has developmental
22 disability or mental illness and is determined under par. (b) or (c) to need facility care,
23 regardless of whether it is determined under par. (b) or (c) that the individual does
24 or does not require active treatment for developmental disability or active treatment
25 for mental illness.

1 **SECTION 36.** 49.45 (8) (a) 4. of the statutes is amended to read:

2 49.45 (8) (a) 4. "Patient care visit" means a personal contact with a patient in
3 a patient's home that is made by a registered nurse, licensed practical nurse, home
4 health aide, physical therapist, occupational therapist, or speech-language
5 pathologist who is on the staff of or under contract or arrangement with a home
6 health agency, or by a registered nurse or licensed practical nurse practicing
7 independently, to provide a service that is covered under s. 49.46 ~~or~~, 49.47, or 49.471.
8 "Patient care visit" does not include time spent by a nurse, therapist, or home health
9 aide on case management, care coordination, travel, record keeping, or supervision
10 that is related to the patient care visit.

11 **SECTION 37.** 49.45 (9) of the statutes is amended to read:

12 49.45 (9) FREE CHOICE. Any person eligible for medical assistance under ~~ss. s.~~
13 49.46, 49.468 and, 49.47, or 49.471 may use the physician, chiropractor, dentist,
14 pharmacist, hospital, skilled nursing home, health maintenance organization,
15 limited service health organization, preferred provider plan or other licensed,
16 registered or certified provider of health care of his or her choice, except that free
17 choice of a provider may be limited by the department if the department's alternate
18 arrangements are economical and the recipient has reasonable access to health care
19 of adequate quality. The department may also require a recipient to designate, in any
20 or all categories of health care providers, a primary health care provider of his or her
21 choice. After such a designation is made, the recipient may not receive services from
22 other health care providers in the same category as the primary health care provider
23 unless such service is rendered in an emergency or through written referral by the
24 primary health care provider. Alternate designations by the recipient may be made
25 in accordance with guidelines established by the department. Nothing in this

1 subsection shall vitiate the legal responsibility of the physician, chiropractor,
 2 dentist, pharmacist, skilled nursing home, hospital, health maintenance
 3 organization, limited service health organization, preferred provider plan or other
 4 licensed, registered or certified provider of health care to patients. All contract and
 5 tort relationships with patients shall remain, notwithstanding a written referral
 6 under this section, as though dealings are direct between the physician, chiropractor,
 7 dentist, pharmacist, skilled nursing home, hospital, health maintenance
 8 organization, limited service health organization, preferred provider plan or other
 9 licensed, registered or certified provider of health care and the patient. No physician,
 10 chiropractor, pharmacist or dentist may be required to practice exclusively in the
 11 medical assistance program.

12 **SECTION 38.** 49.45 (18) (ac) of the statutes is amended to read:

13 49.45 (18) (ac) Except as provided in pars. (am) to (d), and subject to par. (ag),
 14 any person eligible for medical assistance under s. 49.46, 49.468, ^{plain} or 49.47, or 49.471 ✓

15 (4) (a) shall pay up to the maximum amounts allowable under 42 CFR 447.53 to
 16 447.58 for purchases of services provided under s. 49.46 (2). The service provider
 17 shall collect the specified or allowable copayment, coinsurance, or deductible, unless
 18 the service provider determines that the cost of collecting the copayment,
 19 coinsurance, or deductible exceeds the amount to be collected. The department shall
 20 reduce payments to each provider by the amount of the specified or allowable
 21 copayment, coinsurance, or deductible. No provider may deny care or services
 22 because the recipient is unable to share costs, but an inability to share costs specified
 23 in this subsection does not relieve the recipient of liability for these costs.

24 **SECTION 39.** 49.45 (18) (am) of the statutes is amended to read:

for the benefits under A, 49.46(2)(a) and
 (b) under A.

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Insert 13-5

1 49.45 (18) (am) No person is liable under this subsection for services provided
 2 through prepayment contracts. This paragraph does not apply to a person who has
 3 coverage under s. 49.471 of the benefits described in s. 49.46 (2) (a) and (b), a person
 4 receiving aid to families with dependent children, or a person receiving health care
 5 coverage under s. 49.665.

6 SECTION 40. 49.45 (24r) of the statutes is amended to read:

7 49.45 (24r) FAMILY PLANNING DEMONSTRATION PROJECT. The department shall
 8 request a waiver from the secretary of the federal department of health and human
 9 services to permit the department to conduct a demonstration project to provide
 10 family planning services, as defined in s. 253.07 (1) (b), under ~~medical assistance~~
 11 Medical Assistance to any woman between the ages of 15 and 44 whose family income
 12 does not exceed ~~185%~~ 200 percent of the poverty line for a family the size of the
 13 woman's family. If the waiver is granted and in effect, the department shall
 14 implement the waiver no later than July 1, 1998, or on the effective date of the
 15 waiver, whichever is later.

16 SECTION 41. 49.45 (29) of the statutes is amended to read:

17 49.45 (29) HOSPICE REIMBURSEMENT. The department shall promulgate rules
 18 limiting aggregate payments made to a hospice under ss. 49.46 and, 49.47, and
 19 49.471.

SECTION #. RP; 49.45 (35) x

20 SECTION 42. 49.46 (1) (a) 5. of the statutes is amended to read:

21 49.46 (1) (a) 5. Any child in an adoption assistance, foster care, ~~kinship care,~~
 22 ~~long-term kinship care,~~ treatment foster care, or subsidized guardianship
 23 placement under ch. 48 or 938, as determined by the department.

24 SECTION 43. 49.468 (1) (b) of the statutes is amended to read:

1 49.468 (1) (b) For an elderly or disabled individual who is entitled to coverage
2 under part A of medicare, entitled to coverage under part B of medicare and who does
3 not meet the eligibility criteria for medical assistance under s. 49.46 (1), 49.465 or,
4 49.47 (4), or [✓]49.471(4) but meets the limitations on income and resources under par.
5 (d), medical assistance shall pay the deductible and coinsurance portions of medicare
6 services under 42 USC 1395 to 1395zz which are not paid under 42 USC 1395 to
7 1395zz, including those medicare services that are not included in the approved state
8 plan for services under 42 USC 1396; the monthly premiums payable under 42 USC
9 1395v; the monthly premiums, if applicable, under 42 USC 1395i-2 (d); and the late
10 enrollment penalty, if applicable, for premiums under part A of medicare. Payment
11 of coinsurance for a service under part B of medicare under 42 USC 1395j to 1395w,
12 other than payment of coinsurance for outpatient hospital services, may not exceed
13 the allowable charge for the service under medical assistance minus the medicare
14 payment.

15 **SECTION 44.** 49.468 (1) (c) of the statutes is amended to read:

16 49.468 (1) (c) For an elderly or disabled individual who is only entitled to
17 coverage under part A of medicare and who does not meet the eligibility criteria for
18 medical assistance under s. 49.46 (1), 49.465 or, 49.47 (4), or [✓]49.471(4) but meets the
19 limitations on income and resources under par. (d), medical assistance shall pay the
20 deductible and coinsurance portions of medicare services under 42 USC 1395 to
21 1395i which are not paid under 42 USC 1395 to 1395i, including those medicare
22 services that are not included in the approved state plan for services under 42 USC
23 1396; the monthly premiums, if applicable, under 42 USC 1395i-2 (d); and the late
24 enrollment penalty for premiums under part A of medicare, if applicable.

25 **SECTION 45.** 49.468 (1m) (a) of the statutes is amended to read:

1 49.468 (1m) (a) Beginning on January 1, 1993, for an elderly or disabled
 2 individual who is entitled to coverage under part A of medicare and is entitled to
 3 coverage under part B of medicare, does not meet the eligibility criteria for medical
 4 assistance under s. 49.46 (1), 49.465 or, 49.47 (4), or 49.471 (4) but meets the
 5 limitations on income and resources under par. (b), medical assistance shall pay the
 6 monthly premiums under 42 USC 1395r.

7 **SECTION 46.** 49.468 (2) (a) of the statutes is amended to read:

8 49.468 (2) (a) Beginning on January 1, 1991, for a disabled working individual
 9 who is entitled under P.L. 101-239, section 6012 (a), to coverage under part A of
 10 medicare and who does not meet the eligibility criteria for medical assistance under
 11 s. 49.46 (1), 49.465 or, 49.47 (4), or 49.471 (4) but meets the limitations on income and
 12 resources under par. (b), medical assistance shall pay the monthly premiums for the
 13 coverage under part A of medicare, including late enrollment fees, if applicable.

14 **SECTION 47.** 49.471 of the statutes is created to read:

15 **49.471 BadgerCare Plus. (1) DEFINITIONS.** In this section, unless the context
 16 requires otherwise:

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

19 (b) "Caretaker relative" means *an individual* ~~any of the following~~ who is maintaining a
 20 residence as *a* ~~the~~ child's home *and* ~~and~~ who exercises primary responsibility for the child's
 21 care and control, including making plans for the child *), and who is any*

22 1. A blood relative, including those of half-blood, and including first cousins,
 23 nephews, nieces, and ~~persons~~ *individuals* of preceding generations as denoted by prefixes of
 24 grand, great, or great-great.

25 2. A stepfather, stepmother, stepbrother, or stepsister.

of the following with respect to the child

An individual ✓

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Insert 16-6

Insert 16-11

3. A ~~person~~ ^{individual} who is the adoptive parent of the child's parent, a natural or legally adopted child of such ~~person~~ ^{individual}, or a relative of an adoptive parent.

4. A spouse of any ~~person~~ ^{individual} named in this paragraph even if the marriage is terminated by death or divorce.

(c) "Child" means an individual who is under the age of 19 years. "Child" includes an unborn child.

(d) "Family" means all children for whom assistance is requested, their minor siblings, including half brothers, half sisters, stepbrothers, and stepsisters, and any parents of these minors and their spouses. ^{Insert 16-9 ✓}

"Family income" means the total gross earned and unearned income received by all members of a family.

"Recipient" means an individual receiving benefits under this section.

"Unborn child" means an individual from conception until he or she is born alive for whom all of the following requirements are met:

1. The unborn child's mother is not eligible for medical assistance under this subchapter, except that she may be eligible for benefits under s. 49.45 (27).

2. The income of the unborn child's mother, mother and her spouse, or mother and her ~~family~~ ^{NO I}, whichever is applicable, does not exceed 300 percent of the poverty line.

3. Each of the following applicable persons who is employed provides verification from his or her employer, in the manner specified by the department, of his or her earnings:

- a. The unborn child's mother.
- b. The spouse of the unborn child's mother. ^{NO I}
- c. Members of the unborn child's mother's ~~family~~ ^{NO I}.

Please remove italics

1 4. The unborn child's mother provides medical verification of her pregnancy,
2 in the manner specified by the department.

3 5. The unborn child and the mother of the unborn child meet all other
4 applicable eligibility requirements under this chapter or established by the
5 department by rule except for any of the following:

6 a. The mother is not a U.S. citizen or an alien qualifying for Medicaid under
7 8 USC 1612.

8 b. The mother is an inmate of a public institution.

****NOTE: What about this one?

9 c. The mother does not provide a social security number, but only if subd. 4. a.
10 applies.

****NOTE: The definition of family does seem to work in this definition.

****NOTE: Can an unborn child buy coverage under sub. (4) (c), or is it ineligible altogether if family income exceeds 300% of poverty, unlike a born child?

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

(3) INELIGIBILITY FOR OTHER MEDICAL ASSISTANCE BENEFITS. (a) 1. Notwithstanding ss. 49.46 (1), 49.465, 49.47 (4), and 49.665 (4), if the amendments to the state plan under sub. (2) are approved and a waiver under sub. (2) that is consistent with all of the provisions of this section is granted and in effect, except as provided in subd. 2. an individual described in sub. (4) (a) or (b) or (5) is not eligible under s. 49.46, 49.465, 49.47, or 49.665 for Medical Assistance benefits. The eligibility of an individual described in sub. (4) (a) or (b) or (5) for Medical Assistance benefits shall first be determined under this section.

2. Subdivision 1. does not apply to an individual who is eligible for medical assistance under s. 49.46 (1) (a) 3., 4., 5., 6m., 14., 14m., 15. or (d) or 49.47 (4) (a) or (as).

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

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

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

Insert 18-11

BadgerCare health care program

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

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

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

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

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

15 2. A child who is under one year of age, whose mother was, *add a space after comma*
16 was born, eligible for and receiving medical assistance under subd. 1. or 5. or s. 49.46
17 or 49.47, and who lives with his or her mother in this state.

18 3. A child whose family income does not exceed 200 percent of the poverty line.

19 4. An individual who satisfies all of the following criteria:

20 a. The individual is a parent or caretaker relative of a child who is living in the
21 home with the parent or caretaker relative or who is temporarily absent from the
22 home for not more than 6 months or, if the child has been removed from the home for
23 more than 6 months, the parent or caretaker relative is working toward unifying the
24 family by complying with a permanency plan under s. 48.38.

1 b. Except as provided in subd. 4. c., the individual's family income does not
2 exceed 200 percent of the poverty line and does not include self-employment income.

3 c. If the individual's family income includes self-employment income, the
4 individual's family income does not exceed 200 percent of the poverty line as
5 calculated under sub. (7) (a) 2.

6 5. An individual who, regardless of family income, was born on or after January
7 1, 1990, and who, on his or her 18th birthday, was in a foster care or treatment foster
8 care placement under the responsibility of a state, as determined by the department.
9 The coverage for an individual under this subdivision ends on the last day of the
10 month in which the individual becomes 21 years of age, unless he or she otherwise
11 loses eligibility sooner.

***NOTE: ~~How could~~ *Is it possible for* an individual under this subdivision *to* lose eligibility sooner?

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

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

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

18 3. A child whose family income exceeds 200 percent but does not exceed 300
19 percent of the poverty line.

20 4. An individual who satisfies all of the following criteria:

21 a. The individual is a parent or caretaker relative of a child who is living in the
22 home with the parent or caretaker relative or who is temporarily absent from the
23 home for not more than 6 months or, if the child has been removed from the home for

✓
Substat 20-11



Is it possible for
to

1 more than 6 months, the parent or caretaker relative is working toward unifying the
2 family by complying with a permanency plan under s. 48.38.

3 b. The individual's family income includes self-employment income and does
4 not exceed 200 percent of the poverty line as calculated under sub. (7) (a) 3.

5 (c) Except as otherwise provided in this section, a child whose family income
6 exceeds 300 percent of the poverty line is eligible to purchase coverage of the benefits
7 described in sub. (11), at the full per member per month cost of the child's coverage.

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

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

11 2. "Qualified provider" means a provider that satisfies the requirements under
12 42 USC 1396r-1 (b) (2), as determined by the department.

13 (b) 1. Except as provided in sub. (6) (a), a pregnant woman is eligible for the
14 benefits specified in par. (c) during the period beginning on the day on which a
15 qualified provider determines, on the basis of preliminary information, that the
16 woman's family income does not exceed 300 percent of the poverty line and ending
17 on the applicable day specified in subd. 3.

18 2. Except as provided in sub. (6) (a), a child is eligible for the benefits described
19 in s. 49.46 (2) (a) and (b) during the period beginning on the day on which a qualified
20 entity determines, on the basis of preliminary information, that the child's family
21 income does not exceed 150 percent of the poverty line and ending on the applicable
22 day specified in subd. 3.

23 3. a. If the woman or child applies for benefits under sub. (4) within the time
24 required under par. (d), the benefits specified in subd. 1. or 2., whichever is
25 applicable, end on the day on which the department or the county department under

1 s. 46.215, 46.22, or 46.23 determines whether the woman or child is eligible for
2 benefits under sub. (4).

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

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

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

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

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

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

✓ at the time of the determination

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

21 **(6) MISCELLANEOUS ELIGIBILITY AND BENEFIT PROVISIONS.** (a) Any pregnant
22 woman, including a pregnant woman under sub (5) (b) 1., child, including a child
23 under sub. (5) (b) 2., parent, or caretaker relative whose family income is less than
24 150 percent of the poverty line is eligible for medical assistance under this section
25 for any of the 3 months prior to the month of application if the individual met the

1 eligibility criteria under this section and had a family income of less than 150 percent
2 of the poverty line in that month.

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

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

12 (d) If an application under this section shows that an individual is an essential
13 person, the individual shall be provided the benefits specified under sub. (4) (a) or
14 (b).

15 (e) The medical assistance eligibility extensions under s. 49.46 (1) (c), (cg), and
16 (co) for individuals who lose eligibility due to increased income do not apply to
17 BadgerCare Plus.

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

20 (g) 1. Except as provided in subd. 2., as a condition of eligibility for coverage
21 under this section, an individual with earned income that does not appear in a
22 computer data match used by the department shall provide verification, as
23 determined by the department, of that earned income.

24 2. Subdivision 1. does not apply to an individual under sub. (4) (a) 5. or a child
25 under the age of 18.

1 (h) Within 10 days after the change occurs, a recipient shall report to the
2 department any change that might affect his or her eligibility or any change that
3 might require premium payment by a recipient who was not required to pay
4 premiums before the change.

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

8 (j) All of the following apply to BadgerCare Plus in the same respect as they
9 apply under s. 49.46:

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

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

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

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

19 (7) SPECIAL INCOME PROVISIONS. (a) 1. In the calculation of family income, if an
20 adult member of the family has self-employment income, the department shall count
21 the net self-employment earnings. Net self-employment earnings shall be
22 determined by subtracting from gross self-employment income all self-employment
23 expenses that are allowed under federal and state tax law, except for depreciation.

1 2. If a parent's or caretaker relative's family income includes self-employment
2 income and, without deducting depreciation, does not exceed 200 percent of the
3 poverty line, the parent or caretaker relative is eligible under sub. (4) (a) 4.

4 3. If a parent's or caretaker relative's family income includes self-employment
5 income and, without deducting depreciation, exceeds 200 percent of the poverty line,
6 the parent or caretaker relative is eligible under sub. (4) (b) 4. if his or her family
7 income does not exceed 200 percent of the poverty line after depreciation is deducted.

8 (b) 1. To obtain eligibility for coverage under this section, the department shall
9 allow a pregnant woman whose family income exceeds 300 percent of the poverty line
10 to obligate or expend for medical care or any other type of remedial care recognized
11 under state law or for personal health insurance premiums or for both the difference
12 between her family income and the income limit under sub. (4) (b) 1. A pregnant
13 woman who obtains eligibility under this subdivision remains eligible for the balance
14 of the pregnancy and to the last day of the month in which the 60th day after the last
15 day of the pregnancy falls without regard to any change in the woman's family
16 income.

17 2. To obtain eligibility for coverage under this section, the department shall
18 allow a child who has the health insurance coverage specified in sub. (8) (b) 1. and
19 whose family income exceeds 150 percent of the poverty line to obligate or expend for
20 medical care or any other type of remedial care recognized under state law or for
21 personal health insurance premiums or for both the difference between the child's
22 family income and 150 percent of the poverty line. A child who obtains eligibility
23 under this subdivision during any 6-month period remains eligible for the
24 remainder of the 6-month period.

Insert 25-24



****NOTE: Does DHFS designate specific 6-month periods, such as January through June and July through December, or do you mean that the child remains eligible for 6 months, including the month in which he or she became eligible, or beginning with the month after he or she became eligible, etc.?

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

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

5 2. Disregard earnings of children under 18 years of age.

6 3. Determine separately the family incomes of caretaker relatives and the
7 children for whom they are caring and not legally responsible.

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

→ BadgerCare Plus

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

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

19 (b) Except as provided in pars. (c) and (d), an individual whose family income
20 exceeds 150 percent of the poverty line is not eligible for BadgerCare Plus if any of
21 the following applies:

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

1 a. Coverage provided by an employer and for which the employer pays at least
2 80 percent of the premium.

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

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

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

9 (c) An unborn child, regardless of family income, is not eligible for BadgerCare
10 Plus if the unborn child or the unborn child's mother has individual or family health
11 insurance coverage, as defined in 42 USC 300gg-91 (b) (1), or other health care
12 coverage under an arrangement in which a 3rd party agrees to pay for the health care
13 costs of the unborn child or the unborn child's mother.

14 (d) 1. None of the following, regardless of family income, is ineligible for
15 BadgerCare Plus by reason of having health insurance coverage or access to health
16 insurance coverage:

17 a. A pregnant woman.

18 b. A child described in sub. (4) (a) 2. or (b) 2.

19 c. A child who has coverage or access to health insurance as a dependent
20 of an absent parent but who resides outside of the service area of the absent parent's
21 plan.

22 2. An individual under par. (b) 2. is not ineligible if any of the following good
23 cause reasons applies to the individual's access to the health insurance coverage
24 under par. (b) 1.:

25 a. The individual's employment ended.

Insert 27-21

if the coverage is applied for, and the coverage covered

health insurance

coverage

The individual could be covered under

1 b. The individual's employer discontinued health insurance coverage for all
2 employees.

3 c. One or more members of the individual's family were eligible for other health
4 insurance coverage or Medical Assistance at the time the employee failed to enroll
5 in the health insurance coverage under par. (b) 1. and no member of the family was
6 eligible for coverage under this section at that time.

****NOTE: I changed "coverage under BadgerCare" to "coverage under this section."
Is that correct?

7 d. The individual's health insurance coverage has ended due to the death or
8 change in marital status of the subscriber.

9 e. Any other reason that the department determines is a good cause reason.

10 (e) If a pregnant woman has health insurance coverage and her family income
11 exceeds 200 percent of the poverty line, the woman is required, as a condition of
12 eligibility, to maintain the health insurance coverage.

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

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

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

but no longer has the coverage

1 unless the voluntary termination was a result of the incapacitation of the subscriber
2 or because on an immediate family member's health condition.

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

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

9 ~~5~~ 4. The individual's or pregnant woman's coverage terminated due to the death
10 or change in marital status of the subscriber.

11 ~~6~~ 5. Any other reason determined by the department to be a good cause reason.

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

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

23 (c) 1. Subject to subd. 2., an employer that does not comply with the
24 requirements under par. (b) shall be required to pay a penalty equal to the full per
25 member per month cost of coverage under BadgerCare Plus for the individual about

Insert 29-8

health insurance

health insurance

1 whom the information is requested, and for each of the individual's family members
2 with coverage under BadgerCare Plus, for each month in which the individual and
3 the individual's family members are covered before the employer provides the
4 information.

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

9 3. All penalty assessments collected under subd. 2. shall be credited to the
10 appropriation accounts under s. 20.435 (4) (jw) and (jz).

11 (d) An employer may contest a penalty assessment under par. (c) by sending
12 a written request for hearing to the division of hearings and appeals in the
13 department of administration. Proceedings before the division are governed by ch.
14 227.

15 (10) COST SHARING. (a) Except as provided in s. 49.45 (18) (am), all cost-sharing
16 provisions under s. 49.45 (18) apply to a recipient with coverage of the benefits
17 described in s. 49.46 (2) (a) and (b) to the same extent as they apply to a person eligible
18 for medical assistance under s. 49.46, 49.468, or 49.47.

19 (b) A recipient who is an adult, who is not a pregnant woman, and whose family
20 income is greater than 150 percent but not greater than 200 percent of the poverty
21 line shall pay a premium for coverage under BadgerCare Plus that does not exceed
22 5 percent of his or her family income. If the recipient has self-employment income
23 and is eligible under sub. (4) (b) 4., the premium may not exceed 5 percent of family
24 income calculated before depreciation was deducted.

→ Except as provided in
✓ par. (d) 2.)

an unborn child, or

1 (c) A recipient who is a pregnant woman eligible under sub. (4) (b) 1. whose
2 family income is greater than 200 percent of the poverty line shall pay a premium
3 for coverage of the benefits described in sub. (11) that does not exceed the full per
4 member per month cost of coverage for an adult with a family income of 300 percent
5 of the poverty line.

and par. (c)

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

Subs. 31-14

11 2. None of the following shall pay a premium:
12 a. A child who is a Native American or an Alaskan Native with a family income
13 that does not exceed 300 percent of the poverty line.

14 b. A child who is eligible under sub. (4) (a) 2. or (b) 2.

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

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

22 (a) Prescription drugs bearing only a generic name, as defined in s. 450.12 (1)
23 (b), with a copayment of no more than \$5 per prescription, and subject to the Badger
24 Rx Gold program discounts.

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

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

6 (d) Outpatient hospital services, with a copayment of no more than \$15, except
7 that use of emergency room services for treatment of a condition that is not an
8 emergency medical condition, as defined in s. 632.85 (1) (a), shall require a
9 copayment of no more than \$75.

10 (e) Laboratory and X-ray services, including mammography.

11 (f) Home health services, limited to 60 visits per year.

12 (g) Skilled nursing home services, limited to 30 days per year.

13 (h) Inpatient rehabilitation services, limited to 60 days per year.

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

16 (j) Cardiac rehabilitation, limited to 36 visits per year, with a copayment of no
17 more than \$15 per visit.

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

22 (L) Durable medical equipment, limited to \$2,500 per year, with a copayment
23 of no more than \$5. *per unit of equipment* ✓

24 (m) Transportation to obtain emergency medical care only, as medically
25 necessary, with a copayment of no more than \$5. *\$50* ✓

1 per inpatient stay

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) RULES; NOTICE OF EFFECTIVE DATE.** (a) 1. The department may promulgate
12 any rules necessary for and consistent with its administrative responsibilities under
13 this section, including additional eligibility criteria.

14 2. The department may promulgate emergency rules under s. 227.24 for the
15 administration of this section for the period before the effective date of any
16 permanent rules promulgated under subd. 1., but not to exceed the period authorized
17 under s. 227.24 (1) (c) and (2). Notwithstanding s. 227.24 (1) (a), (2) (b), and (3), the
18 department is not required to provide evidence that promulgating a rule under this
19 subdivision as an emergency rule is necessary for the preservation of the public
20 peace, health, safety, or welfare and is not required to provide a finding of emergency
21 for a rule promulgated under this subdivision.

22 (b) If the amendment ^A to the state plan submitted under sub. (2) ^{are} is approved and
23 a waiver that is consistent with all of the provisions of this section is granted and in
24 effect, the department shall publish a notice in the Wisconsin Administrative
25 Register that states the date on which BadgerCare Plus is implemented.

1 **SECTION 48.** 49.473 (2) (a) of the statutes is amended to read:

2 49.473 (2) (a) The woman is not eligible for medical assistance under ss. 49.46
3 (1) and (1m), 49.465, 49.468, 49.47, 49.471, and 49.472, and is not eligible for health
4 care coverage under s. 49.665.

5 **SECTION 49.** 49.49 (3m) (a) (intro.) of the statutes is amended to read:

6 49.49 (3m) (a) (intro.) No provider may knowingly impose upon a recipient
7 charges in addition to payments received for services under ss. 49.45 to ~~49.47~~ 49.471
8 or knowingly impose direct charges upon a recipient in lieu of obtaining payment
9 under ss. 49.45 to ~~49.47~~ 49.471 except under the following conditions:

10 **SECTION 50.** 49.665 (4) (a) 1. of the statutes is amended to read:

11 49.665 (4) (a) 1. The family's income does not exceed 185% of the poverty line,
12 except as provided in par. (at) and except that a family that is already receiving
13 health care coverage under this section may have an income that does not exceed
14 200% of the poverty line. The department shall establish by rule the criteria to be
15 used to determine income.

16 **SECTION 51.** 49.665 (4) (am) 1. of the statutes is amended to read:

17 49.665 (4) (am) 1. The child's income does not exceed 185% of the poverty line,
18 except as provided in par. (at) and except that a child that is already receiving health
19 care coverage under this section may have an income that does not exceed 200% of
20 the poverty line. The department shall use the criteria established under par. (a) 1.
21 to determine income under this subdivision.

22 **SECTION 52.** 49.665 (4) (ap) 1. of the statutes is amended to read:

23 49.665 (4) (ap) 1. The income of the unborn child's mother, mother and her
24 spouse, or mother and her family, whichever is applicable, does not exceed 185
25 percent of the poverty line, except as provided in par. (at) and except that, if an

1 unborn child is already receiving health care coverage under this section, the
2 applicable specified person or persons may have an income that does not exceed 200
3 percent of the poverty line. The department shall establish by rule the criteria to be
4 used to determine income.

5 **SECTION 53.** 49.665 (4) (ap) 2. of the statutes is repealed.

6 **SECTION 54.** 49.665 (4) (at) of the statutes is repealed.

7 **SECTION 55.** 49.665 (7) (a) 1. of the statutes is amended to read:

8 49.665 (7) (a) 1. Notwithstanding sub. (4) (a) 3m. and ~~(ap) 2.~~, the department
9 shall mail information verification forms to the employers of the individuals required
10 to provide the verifications under sub. (4) (a) 3m. and ~~(ap) 2.~~ to obtain the information
11 specified.

12 **SECTION 56.** 49.688 (5) (a) (intro.) of the statutes is amended to read:

13 49.688 (5) (a) (intro.) Beginning on September 1, 2002, except as provided in
14 sub. (7) (b), as a condition of participation by a pharmacy or pharmacist in the
15 program under s. 49.45, 49.46, ~~or 49.47, or 49.471~~, the pharmacy or pharmacist may
16 not charge a person who presents a valid prescription order and a card indicating
17 that he or she meets eligibility requirements under sub. (2) an amount for a
18 prescription drug under the order that exceeds the following:

19 **SECTION 57.** 49.785 (1) (intro.) of the statutes is amended to read:

20 49.785 (1) (intro.) Except as provided in sub. (1m), if any recipient of benefits
21 under ~~s. 49.148, 49.46 or 49.77, or under 42 USC 1381 to 1385 in effect on~~
22 ~~May 8, 1980, specified in sub. (1c)~~ dies and the estate of the deceased recipient is
23 insufficient to pay the funeral, burial, and cemetery expenses of the deceased
24 recipient, the county or applicable tribal governing body or organization responsible
25 for burial of the recipient shall pay, to the person designated by the county

1 department under s. 46.215, 46.22, or 46.23 or applicable tribal governing body or
2 organization responsible for the burial of the recipient, all of the following:

3 **SECTION 58.** 49.785 (1c) of the statutes is created to read:

4 49.785 (1c) All of the following are eligible recipients under this section:

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

7 (b) A recipient of benefits under s. 49.471 who is any of the following:

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

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

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

14 **SECTION 59.** 49.81 (4) of the statutes is amended to read:

15 49.81 (4) The right to a speedy determination of the recipient's status or
16 eligibility for public assistance, to notice of any proposed change in such status or
17 eligibility, and, in the case of assistance granted under s. 49.19, 49.46, 49.468 or,
18 49.47, or 49.471, to a speedy appeals process for resolving contested determinations.

19 **SECTION 60.** 49.82 (2) of the statutes is amended to read:

20 49.82 (2) ELIGIBILITY VERIFICATION. Proof shall be provided for each person
21 included in an application for public assistance under this chapter, except for a child
22 who is eligible for medical assistance under s. 49.46 or, 49.47, or 49.471 because of
23 42 USC 1396a (e) (4) or an unborn child who is eligible for coverage under s. 49.471
24 or the Badger Care health care program under s. 49.665 (4) (ap), of his or her social
25 security number or that an application for a social security number has been made.

1 **SECTION 61.** 49.89 (7) (b) of the statutes is amended to read:

2 49.89 (7) (b) The incentive payment shall be an amount equal to 15% of the
3 amount recovered because of benefits paid under s. 49.46, 49.465, 49.468 ~~or~~, 49.47,
4 or 49.471. The incentive payment shall be taken from the federal share of the sum
5 recovered as provided under 42 CFR 433.153 and 433.154.

6 **SECTION 62.** 59.53 (5) (a) of the statutes is amended to read:

7 59.53 (5) (a) The board shall contract with the department of workforce
8 development to implement and administer the child and spousal support and
9 establishment of paternity and the medical support liability programs provided for
10 by Title IV of the federal social security act. The board may designate by board
11 resolution any office, officer, board, department or agency, except the clerk of circuit
12 court, as the county child support agency. The board or county child support agency
13 shall implement and administer the programs in accordance with the contract with
14 the department of workforce development. The attorneys responsible for support
15 enforcement under sub. (6) (a), circuit court commissioners and all other county
16 officials shall cooperate with the county and the department of workforce
17 development as necessary to provide the services required under the programs. The
18 county shall charge the fee established by the department of workforce development
19 under s. 49.22 for services provided under this paragraph to persons not receiving
20 benefits under s. 49.148 or 49.155 or assistance under s. 46.261, 49.19 ~~or~~, 49.46,
21 49.465, 49.47, 49.471, or 49.472.

22 **SECTION 63.** 66.0137 (3) of the statutes is amended to read:

23 66.0137 (3) HEALTH INSURANCE FOR UNEMPLOYED PERSONS. Any city, village,
24 town, or county may purchase health or dental insurance for unemployed persons

1 residing in the city, village, town, or county who are not eligible for medical
2 assistance under s. 49.46, 49.468 ~~or~~, 49.47, or 49.471 (4) (a) or (b).

3 **SECTION 64.** 302.38 (3) of the statutes is amended to read:

4 302.38 (3) The maximum amount that a governmental unit may pay for the
5 costs of medical or hospital care under this section is limited for that care to the
6 amount payable by medical assistance under subch. IV of ch. 49, ~~except s. excluding~~
7 ss. 49.468 and 49.471 (11), for care for which a medical assistance rate exists. No
8 provider of medical or hospital care may bill a prisoner under sub. (1) for the cost of
9 care exceeding the amount paid under this subsection by the governmental unit. If
10 no medical assistance rate exists for the care provided, there is no limitation under
11 this subsection.

12 **SECTION 65.** 632.746 (7m) (b) 1. of the statutes is amended to read:

13 632.746 (7m) (b) 1. The employee or dependent is eligible for benefits under the
14 Medical Assistance program under s. 49.471 or 49.472 or for coverage under the
15 Badger Care health care program under s. 49.665.

16 **SECTION 66.** 814.61 (13) of the statutes is amended to read:

17 814.61 (13) SUPPORT OR MAINTENANCE PETITION. For the cost of court services,
18 whenever a person not receiving benefits under s. 49.148 or 49.155 or aid under s.
19 49.19, 49.46, 49.465, 49.468 ~~or~~, 49.47, or 49.471 files a petition requesting child
20 support, maintenance or family support payments, \$10 in addition to any other fee
21 required under this section. This subsection does not apply to a petition filed by the
22 state or its delegate.

23 **SECTION 67.** 885.01 (5) of the statutes is amended to read:

24 885.01 (5) By the department of workforce development or a county child
25 support agency under s. 59.53 (5) in the administration of ss. 49.145, 49.19, 49.22,

1 49.46 and, 49.47, and 49.471 and programs carrying out the purposes of 7 USC 2011
2 to 2029.

3 **SECTION 9421. Effective dates; Health and Family Services.**

4 (1) ??????. The treatment of sections ??? (??) of the statutes takes effect on ???.

***NOTE: Need to wait until inserts are added.

5 (END)

Insert 39-4

d-note
↓

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0905/P2ins
PJK:jld:nwn

INSERT 13-5

- 1 49.45 (18) (am) No person is liable under this subsection for services provided
2 through prepayment contracts. This paragraph does not apply to a person who is
3 eligible for the benefits under s. 49.46 (2) (a) and (b) under s. 49.471.

(END OF INSERT 13-5)

INSERT 16-6

4 (d) "Essential person" means an individual who satisfies all of the following:

5 1. Is related to a BadgerCare Plus group member.

****NOTE: We do not have a definition for or use the concept of a "BadgerCare Plus group." Should this be something like "is related to a member of a family (or individual?) receiving benefits under this section"? Alternatively, do you want to define "group"? The definition would apply only to this definition.

6 2. Is otherwise nonfinancially eligible, except that the individual need not have
7 a minor child under his or her care.

8 3. Provides at least one of the following to another member of the BadgerCare
9 Plus group:

****NOTE: We do not have a definition for or use the concept of a "BadgerCare Plus group." See question on language above.

- 10 a. Child care that enables a caretaker to work outside the home for at least 30
11 hours per week for pay, to receive training for at least 30 hours per week, or to attend,
12 on a full-time basis as defined by the school, high school or a course of study meeting
13 the standards established by the state superintendent of public instruction for the
14 granting of a declaration of equivalency of high school graduation under s. 115.29 (4).
15 b. Care for anyone who is incapacitated.

(END OF INSERT 16-6)

INSERT 16-9



1501
ens 16-9

1 For an unborn child, a sibling is a child of the unborn child's mother. ✓

****NOTE: This definition does not include stepbrothers and sisters of an unborn child, and may not include half brothers and sisters, of an unborn child. Is that or? ★

okay

(END OF INSERT 16-9)

INSERT 16-11

2 (g) "Group health plan" ✓ has the meaning given in 42 USC 300gg-91 (a) (1).

3 (h) "Health insurance coverage" has the meaning given in 42 USC 300gg-91

4 (b) (1), and also includes any arrangement under which a 3rd ✓ party agrees to pay for
5 the health care costs of the individual.

6 (i) "Parent" has the meaning given in s. 49.141 (1) (j). ✓

(END OF INSERT 16-11)

INSERT 18-11

7 2. Subdivision 1. ✓ does not apply to an individual described in sub. (4) (a) or (b) ✓
8 or (5) ✓ who is eligible for medical assistance under s. 49.46 (1) (a) 3. or 4.

9 3. Notwithstanding subd. 1., ✓ the department shall determine whether an
10 individual described in sub. (4) (a) or (b) or (5) ✓ who is eligible for medical assistance
11 under s. 49.46 (1) (a) 5., 6m., 14., 14m., ^{or} 15. or (d) or 49.47 (4) (a) or (as) ✓ is eligible for
12 medical assistance under this section or under s. 49.46 or 49.47. ✓

(END OF INSERT 18-11)

INSERT 20-11

13 6. Migrant workers and their dependents who are determined eligible under
14 sub. (6) (f). ✓

(END OF INSERT 20-11)

INSERT 25-24



ins 25-24

1 (b) 1. A pregnant woman, or an unborn child, whose family income exceeds 300
 2 percent of the poverty line may become eligible for coverage under this section if the
 3 difference between the pregnant woman's or unborn child's family income and the
 4 applicable income limit under sub. (4) (b) is obligated or expended for any member
 5 of the pregnant woman's or unborn child's family for medical care or any other type
 6 of remedial care recognized under state law or for personal health insurance
 7 premiums or for both. Eligibility obtained under this subdivision continues for the
 8 balance of the pregnancy and to the last day of the month in which the 60th day after
 9 the last day of the pregnancy falls without regard to any change in family income.

10 2. A child who has the health insurance coverage specified in sub. (8) (b) 1. and
 11 whose family income exceeds 150 percent of the poverty line may obtain eligibility
 12 under this section if the difference between the child's family income and 150 percent
 13 of the poverty line is obligated or expended on behalf of the child or any member of
 14 child's family for medical care or any other type of remedial care recognized under
 15 state law or for personal health insurance premiums or for both. Eligibility obtained
 16 under this subdivision during any 6-month period, as determined by the
 17 department, continues for the remainder of the 6-month period.

***NOTE: I'm sure these provisions are still not correct. I'm not quite sure of what is meant by all pregnant women and all children in the household becoming eligible. *

(END OF INSERT 25-24)

INSERT 27-21

18 d. An individual described in sub. (4) (a) 5.

(END OF INSERT 27-21)

INSERT 29-8



Ins 29-8

④ ✓

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

(END OF INERT 29-8)

INSERT 31-14

3 c. An individual who is eligible under sub. (4) (a) 5. ✓

(END OF INSERT 31-14)

INSERT 39-4

4 **SECTION 9421. Effective dates; Health and Family Services.** → *Ins 39-4a*

5 (1) **BADGERCARE PLUS.** The treatment of sections ~~29.22(2)~~ of the statutes takes
6 effect on the date stated in the Wisconsin Administrative Register by the department
7 of health and family services under section 49.471 (12) (b) of the statutes, as created
8 by this act, as the implementation date for BadgerCare Plus.

(END OF INSERT 39-4)

Insert 39-4a (to Ins 39-4)

100
4

20.435(4)(bc), (bm), (bn), (jw), (jz),
 (nn), (o), (p), and (x),
 46.206(1)(bm), 46.22(1)(b)1.d.,
 46.27(6u)(c)1.a. and (d)(intro.),
 and (7)(am) and (b), 46.275(1m)(a),
 46.277(1m)(a), 46.278(1m)(b),
 46.283(3)(k), 46.485(3g),
 48.57(3m)(e) and (3n)(e), 49.22(2m)(a),
 (b), and (c)3., 49.45(2)(a)1. and 3.
 and (b)³3., (3)(b)1. and 2., (dm), and
 (L)2., (bc)(d)1. and 2., (8)(a)4.,
 (9), (18)(ac) and (am), ~~24~~ (29), and
 (35),
~~49.468(1)(b) and (c),~~
 (1m)(a), and (2)(a), 49.473(2)(a),

Ins 39-4a cont'd

49.49(3m)(a)(intro.)[✓], ~~~~~

49.665(4)(a)1.[✓], (am)1.[✓], (ap)1.[✓] and 2.[✓],

and (at)[✓] and (7)(a)1.[✓], 49.688(5)(a)

(intro.)[✓], 49.785(1)(intro.)[✓] and (1c)[✓],

49.81(4)[✓], 49.82(2)[✓], 49.89(7)(b)[✓],

59.53(5)(a)[✓], ~~~~~ 66.0137(3)[✓],

302.38(3)[✓], ~~~~~ 632.746(7m)(b)1.[✓],

814.61(13)[✓], and 885.01(5)[✓] (NO #)

(end of insert 39-4a)
(to INS 39-4)

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

LRB-0905/P2dn
PJK:jld:rs

date

Any comments that you (DOA and DHFS) have on this version will be the last chance before this draft gets rolled into the budget. I need all comments and changes by no later than Friday, the 26th. In addition to comments on this version of the draft, I still need: 1) comments on the second list of cross-references that I sent; 2) some comments or changes that I was told would be coming from Jim Jones; and 3) an answer to my question about whether specifically to include a cross-reference to children with presumptive eligibility in s. 66.0137 (3). Thanks.

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

LRB-0905/P2dn
PJK:jld:nwn

January 19, 2007

Any comments that you (DOA and DHFS) have on this version will be the last chance before this draft gets rolled into the budget. I need all comments and changes by no later than Friday, the 26th. In addition to comments on this version of the draft, I still need: 1) comments on the second list of cross-references that I sent; 2) some comments or changes that I was told would be coming from Jim Jones; and 3) an answer to my question about whether specifically to include a cross-reference to children with presumptive eligibility in s. 66.0137 (3). Thanks.

Pamela J. Kahler
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Kahler, Pam

From: Kahler, Pam
Sent: Friday, January 12, 2007 3:48 PM
To: Pink, Michelle C - DOA; Jones, James D - DHFS
Subject: BC+ x-refs

And Michelle and Jim:

Here are some more statutes for DHFS to review to see if anything from BadgerCare Plus needs to be added. Many of them refer to a specific benefit under s. 49.46 (2) and may (or may not) need a benefit under the benchmark plan added.

45.51 (13) (intro.), (a), and (b)
46.515 (6g) (a)
49.22 (6)
49.43 (intro.)
49.45 (2) (a) 22. and (b) 7. (intro.)
 (3) (f) 2. and (m)
 (8m) (intro.)
 (18) (b) 3.
 (21) (ar)
 (24g) (a)
 (24m) (a)
 (25) (am) (intro.) and (d)
 (30) (a) and (b)
 (30e) (a) (intro.), 1., and 2., (b) 2., and (c)
 (35m)
 (37) (intro.)
 (38)
 (42) (intro.)
 (42m) (a)
 (44) (intro.), (a), and (c)
 (45) (a) (intro.), 1., and 2. and (b)
 (48)
 (49m) (c) 1.
 (51) (a)
 (52)
 (53)
49.49 (3m) (a) 1., 2., and 3.
49.496 (3) (a) 2. d.
51.038
51.04
59.58 (5)
108.02 (15) (k) 20. a. and b.
227.01 (13) (um)
253.10 (3) (d) 1.
255.056 (7) (e)
449.17 (8)

Thanks again for going over that last set of statutes. That was very helpful.

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