

2007 DRAFTING REQUEST

Bill

Received: **01/17/2007**

Received By: **dkennedy**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget 7-7980**

By/Representing: **Pink**

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

Drafter: **pkahler**

May Contact:

Addl. Drafters:

Subject: **Health - medical assistance
Dom. Rel. - child support**

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

DOA:.....Pink, BB0375 -

Topic:

Insurance payment intercept for MA liability or child support obligation

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	dkennedy 01/19/2007 pkahler 01/22/2007	jdyer 01/23/2007		_____			S&L
/1			jfrantze 01/23/2007	_____	sbasford 01/23/2007		S&L
/2	pkahler 01/26/2007	csicilia 01/26/2007	jfrantze 01/26/2007	_____	sbasford 01/26/2007		S&L

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/3	pkahler 02/02/2007	jdye 02/02/2007	rschluet 02/02/2007	_____	sbasford 02/02/2007		

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/1		<i>13 2/2 jld</i>	jfrantze 01/23/2007	_____	sbasford 01/23/2007		S&L
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/1		1/2 jjs	jfrantze 01/23/2007		sbasford 01/23/2007		
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Handwritten notes and signatures:

1/26
07

1/26

1/26

1/26

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/?	dkennedy	1/23 jld	To	Sellb			
				123			

FE Sent For:

<END>

2007-09 Budget Bill Statutory Language Drafting Request

- Topic: Casualty Insurance Intercept
- Tracking Code: BB0375
- SBO team: Health
- SBO analyst: Michelle Pink, Jim Johnston
 - Phone: 267-7980 266-3420
 - Email: michelle.pink@wisconsin.gov
James.johnston@Wisconsin.gov
- Agency acronym:
- Agency number:

Priority - High

Casualty Insurance Intercept 2007-09 Budget Bill Statutory Language Drafting Request

Current Language

None.

Proposed Change

Based on a successful program in Massachusetts, the Department of Health and Family Services (DHFS) requests the authority to require that insurance companies licensed to do business in Wisconsin verify with the state that an individual does not have a medical assistance liability or overdue child support obligation prior to payment of any claim of \$500 or more to that individual. The child support obligation first, and then the medical assistance liability, should be paid up to the amount of the liability before the individual is paid.

The Department indicates that ss. 49.89 could be used as a model for this change.

The Department will need emergency rulemaking authority to detail the specifics of the process.

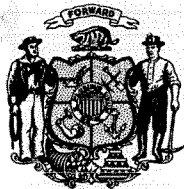
Effect of the Change

Requires insurance companies to check for the existence of a medical assistance liability or overdue child support obligation prior to making payments of \$500 or more to an individual. If a liability or obligation exists, the insurer will pay the full amount of child support obligation first, and then the full amount of medical assistance liability second, up to the amount of the claim payment, before the individual is paid.

Rationale for the Change

This change will increase child support collections and medical assistance collections.

Desired Effective Date:	1/1/2008
Agency:	DOA
Agency Contact:	Michelle Pink 267-7980



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-15487

PJK:.....

JLD

DOA:.....Pink, BB0375 - Insurance payment intercept for MA liability or child support obligation

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

(in 1-22)
D-note

do not generate

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

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES ✓

OTHER HEALTH AND HUMAN SERVICES ✓

Under current law, DHFS, which administers the Medical Assistance (MA) program, may recover incorrect payments that were made for health care services under MA that resulted from a misstatement or omission of fact by a person supplying information in an application for benefits, from the failure of a person to report the receipt of income or assets in an amount that would have affected a recipient's eligibility for benefits, or from the failure of a person to report changes in a recipient's financial or nonfinancial situation or eligibility characteristics that would have affected the recipient's eligibility for benefits or his or her cost-sharing requirements. Also under current law, if an individual who is obligated to pay court-ordered child or family support or maintenance (support) has an overdue support obligation because of a failure to pay, his or her name, social security number, and amount of support owed is posted on a statewide support lien docket.

This bill requires every insurer authorized to do business in this state, before paying any claim that is \$500 or more, to verify with DHFS that the individual to whom the claim is to be paid does not owe an amount that was paid under MA incorrectly (medical assistance liability) and to check the statewide support lien

of

docket to ensure that the individual does not have an overdue support obligation (support liability).[✓] If the individual has a support liability, the insurer must pay the claim proceeds, up to the amount of the support liability, to DWD.[✓] If the individual has a medical assistance liability, the insurer must pay the claim proceeds, up to the amount of the medical assistance liability, to DHFS. If the individual has both liabilities, the support liability must be paid first. After any liability is paid, the individual is paid any claim proceeds that remain.[✓]

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

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

1 SECTION 1. 49.895[✓] of the statutes is created to read:

2 **49.895[✓] Insurance claim intercept.** (1) In this[✓] section:

3 (a) "Medical assistance liability" means an amount that may be recovered
4 under s. 49.497[✓] or 49.847.[✓]

5 (b) "Support liability" means an amount that is entered in the statewide
6 support lien docket under s. 49.854.[✓]

7 (2) Before paying an insurance claim of \$500[✓] or more to any individual, an
8 insurer that is authorized to do business in this state shall do all of the following:

9 (a) Verify with the department of health and family services, in the manner
10 required by the department, whether the individual to whom the claim is to be paid
11 has a medical assistance liability.[✓]

12 (b) Check the[✓] statewide support lien docket to determine whether the
13 individual to whom the claim is to be paid has a[✓] support liability.

14 (3) If an individual to whom a claim of \$500[✓] or more is to be paid has a support
15 liability or a medical assistance liability, or both, the insurer shall distribute the
16 claim proceeds as follows:

1 (a) First, if there is a support liability, to the department of workforce
2 development[✓] to pay the support liability, up to the amount of the support liability or
3 the amount of the claim, whichever is less.

4 (b) Next, if there is a medical assistance liability, to the department of health
5 and family services to pay the medical assistance liability, up to the amount of the
6 medical assistance liability or the amount of the claim proceeds remaining,
7 whichever is less.

8 (c) Last, to the individual, the remainder of the claim proceeds, if any.

9 (4) The department of health and family services shall promulgate rules[✓] for the
10 administration of this section,[✓] including procedures for insurers to follow and any
11 notice and hearing requirements. Notwithstanding s. 227.24 (3)[✓], the rules under this
12 subsection[✓] may be promulgated as emergency rules under s. 227.24 without a finding
13 of emergency.

14 **SECTION 9321. Initial applicability;[✓] Health and Family Services.**

15 (1) INSURANCE CLAIM INTERCEPT. If any insurance policy that is in effect on the
16 effective date of this subsection[✓] contains a provision that is inconsistent with the
17 treatment of section 49.895[✓] of the statutes, the treatment of section 49.895[✓] of the
18 statutes first applies to that policy on the date on which it is renewed.

19 (END)[✓]

D-note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

date

LRB-1548/dn

PJK:.....

Jld

Do you want this to apply to all types of insurance? ✓

I provided that, in case there is a provision in an insurance policy that is inconsistent with the new requirement, the new requirement would not apply to that policy until it is renewed. You could also limit the new requirement to claims paid under policies issued or renewed on the effective date. Either way, you need something to address any possible impairment of contract. ✓

I wasn't sure what was meant by "medical assistance liability," so I defined it as any amount that may be recovered under s. 49.497 or 49.847. ✓ Are there any other types of "liabilities" that you want to include?

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1548/1dn
PJK:jld:jf

January 23, 2007

Do you want this to apply to all types of insurance?

I provided that, in case there is a provision in an insurance policy that is inconsistent with the new requirement, the new requirement would not apply to that policy until it is renewed. You could also limit the new requirement to claims paid under policies issued or renewed on the effective date. Either way, you need something to address any possible impairment of contract.

I wasn't sure what was meant by "medical assistance liability," so I defined it as any amount that may be recovered under s. 49.497 or 49.847. Are there any other types of "liabilities" that you want to include?

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

Kahler, Pam

From: Pink, Michelle C - DOA
Sent: Thursday, January 25, 2007 9:29 PM
To: Kahler, Pam
Subject: RE: FW: LRB Draft: 07-1548/1 Insurance payment intercept for MA liability or child support obligation

Sounds good. Thank you.

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

From: Kahler, Pam [mailto:Pam.Kahler@legis.wisconsin.gov]
Sent: Thursday, January 25, 2007 2:47 PM
To: Pink, Michelle C - DOA
Subject: FW: FW: LRB Draft: 07-1548/1 Insurance payment intercept for MA liability or child support obligation

Michelle:

Unless you hear differently, from the email Kirstin sent it appears that only amounts DHFS may recover under s. 49.89 for MA payments are what they are looking for. So I will limit the definition to amounts that DHFS may recover under any of those specified sections.

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

From: Kahler, Pam
Sent: Thursday, January 25, 2007 10:43 AM
To: Pink, Michelle C - DOA
Subject: RE: FW: LRB Draft: 07-1548/1 Insurance payment intercept for MA liability or child support obligation

Michelle:

Should this addition be limited to what DHFS may recover under s. 49.89? Under that section, DHFS, DWD, counties, and tribal governing bodies may all recover public assistance they have provided, but I don't know if the insurer should be required to check with all those entities, and I don't know whether DHFS would have info about the other entities.

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

From: Pink, Michelle C - DOA
Sent: Wednesday, January 24, 2007 7:39 PM
To: Kahler, Pam
Cc: Johnston, James - DOA
Subject: FW: FW: LRB Draft: 07-1548/1 Insurance payment intercept for MA liability or child support obligation

Pam,

Can you please revise this draft to address the concern below? Thank you.

Michelle

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

From: Kirstin Nelson [mailto:NelsoKB@dhfs.state.wi.us]
Sent: Tuesday, January 23, 2007 4:35 PM
To: Pink, Michelle C - DOA
Cc: Bailey, Kevin D - DHFS; Dybevik, Kenneth K - DHFS; Megna, Richard H - DHFS; Olson, James L - DHFS
Subject: Re: FW: LRB Draft: 07-1548/1 Insurance payment intercept for MA liability or child support obligation

Michelle,

Could the drafter add 'or 49.89' to the definition of 'medical assistance liability' under

49.895(1)(a) so we can try to collect in third party liability situations where medical assistance payments are made and the recipient later recovers damages (including medical expenses) in a lawsuit or through settlement with an insurer. We would also need to add some language in the analysis section to address these third party liability situations.

I'm still waiting for a couple others to review, so if there are any other comments I'll send them tomorrow.

Thanks much.
Kirstin

>>> "Pink, Michelle C - DOA" <michelle.pink@wisconsin.gov> 1/23/2007
11:41 AM >>>
Please review and let me know if changes are necessary ASAP. Thanks.

Michelle

From: Frantzen, Jean [mailto:Jean.Frantzen@legis.wisconsin.gov]
Sent: Tuesday, January 23, 2007 10:02 AM
To: Pink, Michelle C - DOA
Cc: Johnston, James - DOA; Hanaman, Cathlene - LEGIS; Palchik, Laurie A
- DOA
Subject: LRB Draft: 07-1548/1 Insurance payment intercept for MA liability or child support obligation

Following is the PDF version of draft 07-1548/1.



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1548/1

PJK:jld:jb

Stays

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DOA:.....Pink, BB0375 - Insurance payment intercept for MA liability or child support obligation

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

(in 1-26)

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

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

OTHER HEALTH AND HUMAN SERVICES

Under current law, DHFS, which administers the Medical Assistance (MA) program, may recover incorrect payments that were made for health care services under MA that resulted from a misstatement or omission of fact by a person supplying information in an application for benefits, from the failure of a person to report the receipt of income or assets in an amount that would have affected a recipient's eligibility for benefits, or from the failure of a person to report changes in a recipient's financial or nonfinancial situation or eligibility characteristics that would have affected the recipient's eligibility for benefits or his or her cost-sharing requirements. Also under current law, if an individual who is obligated to pay court-ordered child or family support or maintenance (support) has an overdue support obligation because of a failure to pay, his or her name, social security number, and amount of support owed is posted on a statewide support lien docket.

Insert A

This bill requires every insurer authorized to do business in this state, before paying any claim of \$500 or more, to verify with DHFS that the individual to whom the claim is to be paid does not owe an amount that was paid under MA incorrectly (medical assistance liability) and to check the statewide support lien docket to ensure

that the individual does not have an overdue support obligation (support liability). If the individual has a support liability, the insurer must pay the claim proceeds, up to the amount of the support liability, to DWD. If the individual has a medical assistance liability, the insurer must pay the claim proceeds, up to the amount of the medical assistance liability, to DHFS. If the individual has both liabilities, the support liability must be paid first. After any liability is paid, the individual is paid any claim proceeds that remain.

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2 49.895 Insurance claim intercept. (1) In this section:

3 (a) "Medical assistance liability" means an amount that may be recovered

4 under s. 49.497 ^{or} 49.847, ^{or} 49.89

5 (b) "Support liability" means an amount that is entered in the statewide
6 support lien docket under s. 49.854.

7 (2) Before paying an insurance claim of \$500 or more to any individual, an
8 insurer that is authorized to do business in this state shall do all of the following:

9 (a) Verify with the department of health and family services, in the manner
10 required by the department, whether the individual to whom the claim is to be paid
11 has a medical assistance liability.

12 (b) Check the statewide support lien docket to determine whether the
13 individual to whom the claim is to be paid has a support liability.

14 (3) If an individual to whom a claim of \$500 or more is to be paid has a support
15 liability or a medical assistance liability, or both, the insurer shall distribute the
16 claim proceeds as follows:

*the department of
health and family
services*
recover

1 (a) First, if there is a support liability, to the department of workforce
2 development to pay the support liability, up to the amount of the support liability or
3 the amount of the claim, whichever is less.

4 (b) Next, if there is a medical assistance liability, to the department of health
5 and family services to pay the medical assistance liability, up to the amount of the
6 medical assistance liability or the amount of the claim proceeds remaining,
7 whichever is less.

8 (c) Last, to the individual, the remainder of the claim proceeds, if any.

9 (4) The department of health and family services shall promulgate rules for the
10 administration of this section, including procedures for insurers to follow and any
11 notice and hearing requirements. Notwithstanding s. 227.24 (3), the rules under this
12 subsection may be promulgated as emergency rules under s. 227.24 without a finding
13 of emergency.

14 **SECTION 9321. Initial applicability; Health and Family Services.**

15 (1) INSURANCE CLAIM INTERCEPT. If any insurance policy that is in effect on the
16 effective date of this subsection contains a provision that is inconsistent with the
17 treatment of section 49.895 of the statutes, the treatment of section 49.895 of the
18 statutes first applies to that policy on the date on which it is renewed.

19 (END)

**2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1548/2ins
PJK:jld:jf

*not
not*

INSERT A

If DHFS provides any medical assistance to a person as a result of an injury, for example, that was caused by a third party, DHFS may recover from the third party the amount of the medical assistance provided.

(END OF INSERT A)



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1548/3
PJK:jld&cs:jf
r mis run

DOA:.....Pink, BB0375 - Insurance payment intercept for MA liability or child support obligation

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

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1 AN ACT . . . relating to: the budget.

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This bill requires every insurer authorized to do business in this state, before paying any claim of \$500 or more, to verify with DHFS that the individual to whom

✓ *Insert A-2*

the claim is to be paid does not owe an amount that was paid under MA incorrectly (medical assistance liability) and to check the statewide support lien docket to ensure that the individual does not have an overdue support obligation (support liability). If the individual has a support liability, the insurer must pay the claim proceeds, up to the amount of the support liability, to DWD. If the individual has a medical assistance liability, the insurer must pay the claim proceeds, up to the amount of the medical assistance liability, to DHFS. If the individual has both liabilities, the support liability must be paid first. After any liability is paid, the individual is paid any claim proceeds that remain.

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19 (END)

D-note

**2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1548/3ins
PJK:.....

INSERT A-2

not or an amount that DHFS *✓* may recover because of medical assistance provided *✓*
to another person

(END OF INSERT A-2)

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

LRB-1548/3dn
PJK:jld&cs:jf

date

Michelle:

This redraft just adds some text to the analysis. ✓

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

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

LRB-1548/3dn
PJK:jld&cs:rs

February 2, 2007

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



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1548/3
PJK:jld&cs:rs

DOA:.....Pink, BB0375 - Insurance payment intercept for MA liability or
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FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

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Under current law, DHFS, which administers the Medical Assistance (MA) program, may recover incorrect payments that were made for health care services under MA that resulted from a misstatement or omission of fact by a person supplying information in an application for benefits, from the failure of a person to report the receipt of income or assets in an amount that would have affected a recipient's eligibility for benefits, or from the failure of a person to report changes in a recipient's financial or nonfinancial situation or eligibility characteristics that would have affected the recipient's eligibility for benefits or his or her cost-sharing requirements. If DHFS provides any medical assistance to a person as a result of an injury, for example, that was caused by a third party, DHFS may recover from the third party the amount of the medical assistance provided. Also under current law, if an individual who is obligated to pay court-ordered child or family support or maintenance (support) has an overdue support obligation because of a failure to pay, his or her name, social security number, and amount of support owed is posted on a statewide support lien docket.

This bill requires every insurer authorized to do business in this state, before paying any claim of \$500 or more, to verify with DHFS that the individual to whom

the claim is to be paid does not owe an amount that was paid under MA incorrectly or an amount that DHFS may recover because of medical assistance provided to another person (medical assistance liability) and to check the statewide support lien docket to ensure that the individual does not have an overdue support obligation (support liability). If the individual has a support liability, the insurer must pay the claim proceeds, up to the amount of the support liability, to DWD. If the individual has a medical assistance liability, the insurer must pay the claim proceeds, up to the amount of the medical assistance liability, to DHFS. If the individual has both liabilities, the support liability must be paid first. After any liability is paid, the individual is paid any claim proceeds that remain.

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

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

1 **SECTION 1.** 49.895 of the statutes is created to read:

2 **49.895 Insurance claim intercept.** (1) In this section:

3 (a) "Medical assistance liability" means an amount that the department of
4 health and family services may recover under s. 49.497, 49.847, or 49.89.

5 (b) "Support liability" means an amount that is entered in the statewide
6 support lien docket under s. 49.854.

7 (2) Before paying an insurance claim of \$500 or more to any individual, an
8 insurer that is authorized to do business in this state shall do all of the following:

9 (a) Verify with the department of health and family services, in the manner
10 required by the department, whether the individual to whom the claim is to be paid
11 has a medical assistance liability.

12 (b) Check the statewide support lien docket to determine whether the
13 individual to whom the claim is to be paid has a support liability.

1 **(3)** If an individual to whom a claim of \$500 or more is to be paid has a support
2 liability or a medical assistance liability, or both, the insurer shall distribute the
3 claim proceeds as follows:

4 (a) First, if there is a support liability, to the department of workforce
5 development to pay the support liability, up to the amount of the support liability or
6 the amount of the claim, whichever is less.

7 (b) Next, if there is a medical assistance liability, to the department of health
8 and family services to pay the medical assistance liability, up to the amount of the
9 medical assistance liability or the amount of the claim proceeds remaining,
10 whichever is less.

11 (c) Last, to the individual, the remainder of the claim proceeds, if any.

12 **(4)** The department of health and family services shall promulgate rules for the
13 administration of this section, including procedures for insurers to follow and any
14 notice and hearing requirements. Notwithstanding s. 227.24 (3), the rules under this
15 subsection may be promulgated as emergency rules under s. 227.24 without a finding
16 of emergency.

17 **SECTION 9321. Initial applicability; Health and Family Services.**

18 (1) **INSURANCE CLAIM INTERCEPT.** If any insurance policy that is in effect on the
19 effective date of this subsection contains a provision that is inconsistent with the
20 treatment of section 49.895 of the statutes, the treatment of section 49.895 of the
21 statutes first applies to that policy on the date on which it is renewed.

22 **(END)**