



1 **SECTION 1603.** 49.47 (6) (a) 1. of the statutes is amended to read:

2 49.47 (6) (a) 1. Except as provided in subds. 6. to 7., all beneficiaries, for all
3 services under s. 49.46 (2) (a) and (b), subject to s. 49.46 (2) (dc).

4 **SECTION 1604.** 49.47 (9m) of the statutes is repealed.

5 **SECTION 1605.** 49.471 of the statutes is created to read:

6 **49.471 BadgerCare Plus. (1) DEFINITIONS.** In this section, unless the context
7 requires otherwise:

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

10 (b) "Caretaker relative" means an individual who is maintaining a residence
11 as a child's home, who exercises primary responsibility for the child's care and
12 control, including making plans for the child, and who is any of the following with
13 respect to the child:

14 1. A blood relative, including those of half-blood, and including first cousins,
15 nephews, nieces, and individuals of preceding generations as denoted by prefixes of
16 grand, great, or great-great.

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

18 3. An individual who is the adoptive parent of the child's parent, a natural or
19 legally adopted child of such individual, or a relative of an adoptive parent.

20 4. A spouse of any individual named in this paragraph even if the marriage is
21 terminated by death or divorce.

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

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

25 1. Is related to an individual receiving benefits under this section.

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

3 3. Provides at least one of the following to an individual receiving benefits
4 under this section:

5 a. Child care that enables a caretaker to work outside the home for at least 30
6 hours per week for pay, to receive training for at least 30 hours per week, or to attend,
7 on a full-time basis as defined by the school, high school or a course of study meeting
8 the standards established by the state superintendent of public instruction for the
9 granting of a declaration of equivalency of high school graduation under s. 115.29 (4).

10 b. Care for anyone who is incapacitated.

11 (e) "Family" means all children for whom assistance is requested, their minor
12 siblings, including half brothers, half sisters, stepbrothers, and stepsisters, and any
13 parents of these minors and their spouses.

14 (f) "Family income" means the total gross earned and unearned income
15 received by all members of a family.

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

17 (h) "Health insurance coverage" has the meaning given in 42 USC 300gg-91
18 (b) (1), and also includes any arrangement under which a 3rd party agrees to pay for
19 the health care costs of the individual.

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

21 (j) "Recipient" means an individual receiving benefits under this section.

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

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

1 2. The income of the unborn child's mother, mother and her spouse, or mother
2 and her family, whichever is applicable, does not exceed 300 percent of the poverty
3 line.

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

7 a. The unborn child's mother.

8 b. The spouse of the unborn child's mother.

9 c. Members of the unborn child's mother's family.

10 4. The unborn child's mother provides medical verification of her pregnancy,
11 in the manner specified by the department. An unborn child's eligibility for coverage
12 under this section does not begin before the first day of the month in which the
13 unborn child's mother provides the medical verification.

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

17 a. The mother is not a U.S. citizen or an alien qualifying for Medicaid under
18 8 USC 1612.

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

20 c. The mother does not provide a social security number, but only if subd. 5. a.
21 applies.

22 **(2) WAIVER.** The department shall request a waiver from, and submit
23 amendments to the state Medical Assistance plan to, the secretary of the federal
24 department of health and human services to implement BadgerCare Plus. If the
25 state plan amendments are approved and a waiver that is substantially consistent

1 with the provisions of this section, excluding sub. (2m), is granted and in effect, the
2 department shall implement BadgerCare Plus beginning on January 1, 2008, the
3 effective date of the state plan amendments, or the effective date of the waiver,
4 whichever is latest. If the state plan amendments are not approved or if a waiver that
5 is substantially consistent with the provisions of this section, excluding sub. (2m),
6 is not granted, BadgerCare Plus may not be implemented. If the state plan
7 amendments are approved but approval is not continued or if a waiver that is
8 substantially consistent with the provisions of this section, excluding sub. (2m), is
9 granted but not continued in effect, BadgerCare Plus shall be discontinued.

10 **(2m) APPROVAL TO QUALIFY AS A HEALTH COVERAGE TAX CREDIT PLAN.** The
11 department shall seek any necessary federal approvals to ensure that BadgerCare
12 Plus is qualified health insurance under 26 USC 35 (e). Notwithstanding subs. (4)
13 and (5), if BadgerCare Plus is determined to be qualified health insurance under 26
14 USC 35 (e), the department shall expand eligibility under BadgerCare Plus to
15 include individuals who are eligible individuals under 26 USC 35 (c).
16 Notwithstanding sub. (10) (a) and (b) 1. to 4., individuals who are eligible for coverage
17 under BadgerCare Plus under this subsection shall pay premiums that are equal to
18 the capitation payments that the department would make on behalf of similar
19 individuals with coverage under BadgerCare Plus, or the full per member per month
20 cost of coverage, whichever is appropriate.

21 **(3) INELIGIBILITY FOR OTHER MEDICAL ASSISTANCE BENEFITS.** (a) 1.
22 Notwithstanding ss. 49.46 (1), 49.465, 49.47 (4), and 49.665 (4), if the amendments
23 to the state plan under sub. (2) are approved and a waiver under sub. (2) that is
24 consistent with all of the provisions of this section, excluding sub. (2m), is granted
25 and in effect, an individual described in sub. (4) (a) or (b) or (5) is not eligible under

1 s. 49.46, 49.465, 49.47, or 49.665 for Medical Assistance or BadgerCare health
2 program benefits. The eligibility of an individual described in sub. (4) (a) or (b) or
3 (5) for Medical Assistance benefits shall be determined under this section.

4 2. Notwithstanding subd. 1., an individual who is eligible for medical
5 assistance under s. 49.46 (1) (a) 3. or 4. may not receive benefits under this section.

6 3. Notwithstanding subd. 1., an individual described in sub. (4) (a) or (b) or (5)
7 who is eligible for medical assistance under s. 49.46 (1) (a) 5., 6m., 14., 14m., or 15.
8 or (d) or 49.47 (4) (a) or (as) may receive medical assistance benefits under this
9 section or under s. 49.46 or 49.47.

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

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

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

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

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

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

7 **(4) GENERAL ELIGIBILITY CRITERIA; APPLICABLE BENEFITS.** (a) Except as otherwise
8 provided in this section, all of the following individuals are eligible for the benefits
9 described in s. 49.46 (2) (a) and (b), subject to sub. (6) (k):

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

12 2. A child who is under one year of age, whose mother was, on the day the child
13 was born, eligible for and receiving medical assistance under subd. 1. or 5. or s. 49.46
14 or 49.47, and who lives with his or her mother in this state.

15 3. A child whose family income does not exceed 200 percent of the poverty line.
16 For a child under this subdivision who is an unborn child, benefits are limited to
17 prenatal care.

18 3m. A child who obtains eligibility under sub. (7) (b) 2.

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.

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

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

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

18 1m. A pregnant woman or unborn child who obtains eligibility under sub. (7)
19 (b) 1.

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

22 3. A child whose family income exceeds 200 percent but does not exceed 300
23 percent of the poverty line. For a child under this subdivision who is an unborn child,
24 benefits are limited to prenatal care.

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

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

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

8 (c) Except as otherwise provided in this section, a child who is not an unborn
9 child and whose family income exceeds 300 percent of the poverty line is eligible to
10 purchase coverage of the benefits described in sub. (11), at the full per member per
11 month cost of the coverage.

12 **(5) PRESUMPTIVE ELIGIBILITY.** (a) In this subsection:

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

15 2. "Qualified provider" means a provider that satisfies the requirements under
16 42 USC 1396r-1 (b) (2), as determined by the department.

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

22 2. Except as provided in sub. (6) (a), a child who is not an unborn child is eligible
23 for the benefits described in s. 49.46 (2) (a) and (b) during the period beginning on
24 the day on which a qualified entity determines, on the basis of preliminary

1 information, that the child's family income does not exceed 150 percent of the poverty
2 line and ending on the applicable day specified in subd. 3.

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

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

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

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

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

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

22 2. Notify the woman or child of the requirement under par. (d) at the time of
23 the determination.

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

4 (6) MISCELLANEOUS ELIGIBILITY AND BENEFIT PROVISIONS. (a) Any pregnant
5 woman, including a pregnant woman under sub (5) (b) 1., child who is not an unborn
6 child, including a child under sub. (5) (b) 2., parent, or caretaker relative whose
7 family income is less than 150 percent of the poverty line is eligible for medical
8 assistance under this section for any of the 3 months prior to the month of application
9 if the individual met the eligibility criteria under this section and had a family
10 income of less than 150 percent of the poverty line in that month.

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

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

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

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

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

3 (g) 1. Except as provided in subd. 2., as a condition of eligibility for coverage
4 under this section, an individual with income shall provide verification, as
5 determined by the department, of that income.

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

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

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

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

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

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

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

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

1 (k) For an individual who is eligible for medical assistance under this section
2 and who is eligible for coverage under Part D of Medicare under 42 USC 1395w-101
3 et seq., benefits under sub. (11) (a) or s. 49.46 (2) (b) 6. h. do not include payment for
4 any Part D drug, as defined in 42 CFR 423.100, regardless of whether the individual
5 is enrolled in Part D of Medicare or whether, if the individual is enrolled, his or her
6 Part D plan, as defined in 42 CFR 423.4, covers the Part D drug.

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

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

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

19 (b) 1. A pregnant woman, or an unborn child, whose family income exceeds 300
20 percent of the poverty line may become eligible for coverage under this section if the
21 difference between the pregnant woman's or unborn child's family income and the
22 applicable income limit under sub. (4) (b) is obligated or expended for any member
23 of the pregnant woman's or unborn child's family for medical care or any other type
24 of remedial care recognized under state law or for personal health insurance
25 premiums or for both. Eligibility obtained under this subdivision continues without

1 regard to any change in family income for the balance of the pregnancy and, for a
2 pregnant woman but not for an unborn child, to the last day of the month in which
3 the 60th day after the last day of the woman's pregnancy falls. Eligibility obtained
4 by a pregnant woman under this subdivision extends to all pregnant women in the
5 pregnant woman's family.

6 2. A child who is not an unborn child and whose family income exceeds 150
7 percent of the poverty line may obtain eligibility under this section if the difference
8 between the child's family income and 150 percent of the poverty line is obligated or
9 expended on behalf of the child or any member of the child's family for medical care
10 or any other type of remedial care recognized under state law or for personal health
11 insurance premiums or for both. Eligibility obtained under this subdivision during
12 any 6-month period, as determined by the department, continues for the remainder
13 of the 6-month period and extends to all children in the family.

14 3. For a pregnant woman or an unborn child to obtain eligibility under subd.
15 1., the amount that must be obligated or expended in any 6-month period is equal
16 to the sum of the differences in each of those 6 months between the pregnant woman's
17 or unborn child's monthly family income and the monthly family income that is 300
18 percent of the poverty line. For a child to obtain eligibility under subd. 2., the amount
19 that must be obligated or expended in any 6-month period is equal to the sum of the
20 differences in each of those 6 months between the child's monthly family income and
21 the monthly family income that is 150 percent of the poverty line.

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

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

- 1 2. Disregard earnings of children under 18 years of age.
- 2 3. Determine separately the family incomes of caretaker relatives and the
- 3 children for whom they are caring and not legally responsible.
- 4 4. Not include in the calculation any income of an individual receiving benefits
- 5 under s. 49.77 or federal Title XVI.

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

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

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

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

20 a. Coverage provided by an employer and for which the employer pays at least
21 80 percent of the premium.

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

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

1 3. The individual could be covered under the health insurance coverage
2 specified in subd. 1. if the coverage is applied for, and the coverage could become
3 available to the individual in the month in which the individual applies for benefits
4 under this section or in any of the next 3 calendar months.

5 (c) An unborn child, regardless of family income, is not eligible for BadgerCare
6 Plus if any of the following applies:

7 1. The unborn child or the unborn child's mother has individual or family
8 health insurance coverage.

9 2. The unborn child or the unborn child's mother, in the 12 months before
10 applying, had access to the health insurance coverage specified in par. (b) 1.

11 3. The unborn child or the unborn child's mother could be covered under
12 individual or family health insurance coverage if the coverage is applied for, and the
13 coverage could become available to the unborn child or the unborn child's mother in
14 the month in which the unborn child applies for benefits under this section or in any
15 of the next 3 calendar months.

16 (d) 1. None of the following is ineligible for BadgerCare Plus by reason of having
17 health insurance coverage or access to health insurance coverage:

18 a. A pregnant woman.

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

20 c. Except as provided in par. (c), a child who has health insurance coverage, or
21 access to health insurance coverage, as a dependent of an absent parent but who
22 resides outside of the service area of the absent parent's plan.

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

24 e. A child who obtains eligibility under sub. (7) (b) 2., but only for the remainder
25 of the child's eligibility period under sub. (7) (b) 2.

1 2. An individual under par. (b) 2., or an individual who is an unborn child or
2 an unborn child's mother under par. (c) 2., is not ineligible if any of the following good
3 cause reasons is the reason that the individual did not obtain the health insurance
4 coverage under par. (b) 1. to which they had access:

5 a. The individual's employment ended.

6 b. The individual's employer discontinued health insurance coverage for all
7 employees.

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

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

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

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

18 (f) If an individual with a family income that exceeds 150 percent of the poverty
19 line had the health insurance coverage specified in par. (b) 1. but no longer has the
20 coverage, if an individual who is an unborn child or an unborn child's mother,
21 regardless of family income, had health insurance coverage but no longer has the
22 coverage, or if a pregnant woman specified in par. (e) has health insurance coverage
23 and does not maintain the coverage, the individual or pregnant woman is not eligible
24 for BadgerCare Plus for the 3 calendar months following the month in which the
25 insurance coverage ended without a good cause reason specified in par. (g).

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

2 1. The individual or pregnant woman was covered by a group health plan that
3 was provided by a subscriber through his or her employer, and the subscriber's
4 employment ended for a reason other than voluntary termination, unless the
5 voluntary termination was a result of the incapacitation of the subscriber or because
6 on an immediate family member's health condition.

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

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

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

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

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

18 **(9) EMPLOYER VERIFICATION OF INSURANCE COVERAGE.** (a) 1. Except as provided
19 in subd. 2., for an applicant or recipient with a family income that exceeds 150
20 percent of the poverty line, the department shall verify insurance coverage and
21 access information directly with the employer through which the applicant or
22 recipient may have health insurance coverage or access to coverage.

23 2. Subdivision 1. does not apply to any of the following:

24 a. A pregnant woman.

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

1 c. An individual described in sub. (4) (a) 5.

2 (b) An employer that receives a request from the department for insurance
3 coverage and access to coverage information shall supply the information requested
4 by the department in the format specified by the department within 30 calendar days
5 after receiving the request.

6 (c) 1. Subject to subds. 2. and 3., an employer that does not comply with the
7 requirements under par. (b) shall be required to pay, within 45 days after the
8 requested information was due, a penalty equal to the full per member per month
9 cost of coverage under BadgerCare Plus for the individual about whom the
10 information is requested, and for each of the individual's family members with
11 coverage under BadgerCare Plus, for each month in which the individual and the
12 individual's family members are covered before the employer provides the
13 information.

14 2. An employer with fewer than 250 employees may not be required to pay more
15 than \$1,000 in penalties under this paragraph that are attributable to any 6-month
16 period. An employer with 250 or more employees may not be required to pay more
17 than \$15,000 in penalties under this paragraph that are attributable to any 6-month
18 period.

19 3. Notwithstanding subd. 1., an employer shall not be subject to any penalties
20 if the employer, at least once per year, timely provides to the department, in the
21 manner and format specified by the department, information from which the
22 department may determine whether the employer provides its employees with
23 access to health insurance coverage.

24 4. All penalty assessments collected under this paragraph shall be credited to
25 the appropriation accounts under s. 20.435 (4) (jw) and (jz).

1 (d) An employer may contest a penalty assessment under par. (c) by sending
2 a written request for hearing to the division of hearings and appeals in the
3 department of administration. Proceedings before the division are governed by ch.
4 227.

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

9 (b) *Premiums.* 1. Except as provided in subd. 4., a recipient who is an adult,
10 who is not a pregnant woman, and whose family income is greater than 150 percent
11 but not greater than 200 percent of the poverty line shall pay a premium for coverage
12 under BadgerCare Plus that does not exceed 5 percent of his or her family income.
13 If the recipient has self-employment income and is eligible under sub. (4) (b) 4., the
14 premium may not exceed 5 percent of family income calculated before depreciation
15 was deducted.

16 2. Except as provided in subds. 3. and 4., a recipient who is a child whose family
17 income is greater than 200 percent of the poverty line shall pay a premium for
18 coverage of the benefits described in sub. (11) that does not exceed the full per
19 member per month cost of coverage for a child with a family income of 300 percent
20 of the poverty line.

21 3. Except as provided in subd. 4., a recipient who is an unborn child, or a
22 pregnant woman eligible under sub. (4) (b) 1., whose family income is greater than
23 200 percent of the poverty line shall pay a premium for coverage of the benefits
24 described in sub. (11) that does not exceed the full per member per month cost of
25 coverage for an adult with a family income of 300 percent of the poverty line.

- 1 4. None of the following shall pay a premium:
- 2 a. A child who is a Native American or an Alaskan Native with a family income
3 that does not exceed 300 percent of the poverty line.
- 4 b. A child who is eligible under sub. (4) (a) 2. or (b) 2.
- 5 c. A child whose family income does not exceed 200 percent of the poverty line.
- 6 d. A pregnant woman whose family income does not exceed 200 percent of the
7 poverty line.
- 8 e. A child who obtains eligibility under sub. (7) (b) 2.
- 9 f. An individual who is eligible under sub. (4) (a) 5.
- 10 5. If a recipient who is required to pay a premium under this paragraph or
11 under sub. (2m) or (4) (c) does not pay a premium when due, the recipient's coverage
12 terminates and the recipient is not eligible for BadgerCare Plus for 6 calendar
13 months following the date on which the recipient's coverage terminated.
- 14 **(11) BENCHMARK PLAN BENEFITS AND COPAYMENTS.** Recipients who are not eligible
15 for the benefits described in s. 49.46 (2) (a) and (b) shall have coverage of the following
16 benefits and pay the following copayments:
- 17 (a) Subject to sub. (6) (k), prescription drugs bearing only a generic name, as
18 defined in s. 450.12 (1) (b), with a copayment of no more than \$5 per prescription, and
19 subject to the Badger Rx Gold program discounts.
- 20 (b) Physicians' services, including one annual routine physical examination,
21 with a copayment of no more than \$15 per visit.
- 22 (c) Inpatient hospital services as medically necessary, subject to coinsurance
23 payment per inpatient stay of no more than 10 percent of the allowable payment
24 rates under s. 49.46 (2) for the services provided and a copayment of no more than
25 \$50 per admission for psychiatric services.

1 (d) Outpatient hospital services, subject to coinsurance payment of no more
2 than 10 percent of the allowable payment rates under s. 49.46 (2) for the services
3 provided, except that use of emergency room services for treatment of a condition
4 that is not an emergency medical condition, as defined in s. 632.85 (1) (a), shall
5 require a copayment of no more than \$75.

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

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

8 (g) Skilled nursing home services, limited to 30 days per year, and subject to
9 coinsurance payment of no more than 10 percent of the allowable payment rates
10 under s. 49.46 (2) for the services provided.

11 (h) Inpatient rehabilitation services, limited to 60 days per year, and subject
12 to coinsurance payment of no more than 10 percent of the allowable payment rates
13 under s. 49.46 (2) for the services provided.

14 (i) Physical, occupational, speech, and pulmonary therapy, limited to 20 visits
15 per year for each type of therapy, and subject to coinsurance payment of no more than
16 10 percent of the allowable payment rates under s. 49.46 (2) for the services provided.

17 (j) Cardiac rehabilitation, limited to 36 visits per year and subject to
18 coinsurance payment of no more than 10 percent of the allowable payment rates
19 under s. 49.46 (2) for the services provided.

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

1 (L) Durable medical equipment, limited to \$2,500 per year, and subject to
2 coinsurance payment of no more than 10 percent of the allowable payment rates
3 under s. 49.46 (2) for the articles provided.

4 (m) Transportation to obtain emergency medical care only, as medically
5 necessary, and subject to coinsurance payment of no more than 10 percent of the
6 allowable payment rates under s. 49.46 (2) for the services provided.

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

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

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

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

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

17 **(11m) PROVIDER PAYMENTS AND REQUIREMENTS.** The provider of a service or
18 equipment under sub. (11) shall collect the specified or allowable copayment or
19 coinsurance, unless the provider determines that the cost of collecting the copayment
20 or coinsurance exceeds the amount to be collected. The department shall reduce
21 payments for services or equipment under sub. (11) by the amount of the specified
22 or allowable copayment or coinsurance. A provider may deny care or services or
23 equipment under sub. (11) if the recipient does not pay the specified or allowable
24 copayment or coinsurance. If a provider provides care or services or equipment

1 under sub. (11) to a recipient who is unable to share costs as specified in sub. (11),
2 the recipient is not relieved of liability for those costs.

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

6 2. The department may promulgate emergency rules under s. 227.24 for the
7 administration of this section for the period before the effective date of any
8 permanent rules promulgated under subd. 1., but not to exceed the period authorized
9 under s. 227.24 (1) (c) and (2). Notwithstanding s. 227.24 (1) (a), (2) (b), and (3), the
10 department is not required to provide evidence that promulgating a rule under this
11 subdivision as an emergency rule is necessary for the preservation of the public
12 peace, health, safety, or welfare and is not required to provide a finding of emergency
13 for a rule promulgated under this subdivision.

14 (b) If the amendments to the state plan submitted under sub. (2) are approved
15 and a waiver that is consistent with all of the provisions of this section is granted and
16 in effect, the department shall publish a notice in the Wisconsin Administrative
17 Register that states the date on which BadgerCare Plus is implemented.

18 **SECTION 1606.** 49.472 (6) (a) of the statutes is amended to read:

19 49.472 (6) (a) Notwithstanding sub. (4) (a) 3., from the appropriation account
20 under s. 20.435 (4) (b), ~~(gp)~~, or (w), or (xd), the department shall, on the part of an
21 individual who is eligible for medical assistance under sub. (3), pay premiums for or
22 purchase individual coverage offered by the individual's employer if the department
23 determines that paying the premiums for or purchasing the coverage will not be more
24 costly than providing medical assistance.

25 **SECTION 1607.** 49.472 (6) (b) of the statutes is amended to read:

1 49.472 (6) (b) If federal financial participation is available, from the
2 appropriation account under s. 20.435 (4) (b), ~~(gp)~~, ~~or (w)~~, or (xd), the department may
3 pay medicare Part A and Part B premiums for individuals who are eligible for
4 medicare and for medical assistance under sub. (3).

5 **SECTION 1608.** 49.473 (2) (a) of the statutes is amended to read:

6 49.473 (2) (a) The woman is not eligible for medical assistance under ss. 49.46
7 (1) and (1m), 49.465, 49.468, 49.47, 49.471, and 49.472, and is not eligible for health
8 care coverage under s. 49.665.

9 **SECTION 1609.** 49.473 (5) of the statutes is amended to read:

10 49.473 (5) The department shall audit and pay, from the appropriation
11 accounts under s. 20.435 (4) (b), ~~(gp)~~, and (o), and (xd), allowable charges to a provider
12 who is certified under s. 49.45 (2) (a) 11. for medical assistance on behalf of a woman
13 who meets the requirements under sub. (2) for all benefits and services specified
14 under s. 49.46 (2).

15 **SECTION 1610.** 49.475 (1) (a) of the statutes is renumbered 49.475 (1) (ar).

16 **SECTION 1611.** 49.475 (1) (ag) of the statutes is created to read:

17 49.475 (1) (ag) "Covered entity" means any of the following that is not an
18 insurer:

- 19 1. A nonprofit hospital, as defined in s. 46.21 (2) (m).
- 20 2. An employer, as defined in s. 101.01 (4), labor union, or other group of persons
21 organized in this state if the employer, labor union, or other group provides
22 prescription drug coverage to covered individuals who reside or are employed in this
23 state.
- 24 3. A comprehensive or limited health care benefits program administered by
25 the state that provides prescription drug coverage.

1 **SECTION 1612.** 49.475 (1) (am) of the statutes is created to read:

2 49.475 (1) (am) "Covered individual" means an individual who is a member,
3 participant, enrollee, policyholder, certificate holder, contract holder, or beneficiary
4 of a covered entity, or a dependent of the individual, and who receives prescription
5 drug coverage from or through the covered entity.

6 **SECTION 1613.** 49.475 (1) (c) of the statutes is created to read:

7 49.475 (1) (c) "Pharmacy benefits management" means the procurement of
8 prescription drugs at a negotiated rate for dispensation in this state to covered
9 individuals; the administration or management of prescription drug benefits
10 provided by a covered entity for the benefit of covered individuals; or any of the
11 following services provided in the administration of pharmacy benefits:

- 12 1. Dispensation of prescription drugs by mail.
- 13 2. Claims processing, retail network management, and payment of claims to
14 pharmacies for prescription drugs dispensed to covered individuals.
- 15 3. Clinical formulary development and management services.
- 16 4. Rebate contracting and administration.
- 17 5. Conduct of patient compliance, therapeutic intervention, generic
18 substitution, and disease management programs.

19 **SECTION 1614.** 49.475 (1) (d) of the statutes is created to read:

20 49.475 (1) (d) "Pharmacy benefits manager" means a person that performs
21 pharmacy benefits management functions.

22 **SECTION 1615.** 49.475 (1) (e) of the statutes is created to read:

23 49.475 (1) (e) "Recipient" means an individual or his or her spouse or dependent
24 who has been or is one of the following:

1 1. A recipient of medical assistance or of a program administered under medical
2 assistance under a waiver of federal Medicaid laws.

3 2. An enrollee of family care.

4 3. A recipient of the Badger Care health care program.

5 4. An individual who receives benefits under s. 49.68, 49.683, or 49.685.

6 5. A participant in the program of prescription drug assistance for elderly
7 persons under s. 49.688.

8 6. A woman who receives services that are reimbursed under s. 255.06.

9 **SECTION 1616.** 49.475 (1) (f) of the statutes is created to read:

10 49.475 (1) (f) "Third party" means an entity that by statute, rule, or contract
11 is responsible for payment of a claim for a health care item or service. "Third party"
12 includes all of the following:

13 1. An insurer.

14 2. An employee benefit plan described in 29 USC 1003 (a) that is not exempt
15 under 29 USC 1003 (b) and is not a multiple employer welfare arrangement.

16 3. A service benefit plan, as specified in 42 USC 1396a (25) (I).

17 4. A pharmacy benefits manager.

18 **SECTION 1617.** 49.475 (2) of the statutes is repealed and recreated to read:

19 49.475 (2) REQUIREMENTS OF 3RD PARTIES. As a condition of doing business in this
20 state, a 3rd party shall do all of the following:

21 (a) Upon the department's request and in the manner prescribed by the
22 department, provide information to the department necessary for the department to
23 ascertain all of the following with respect to a recipient:

24 1. Whether the recipient is being or has been provided coverage or a benefit or
25 service by a 3rd party.

1 2. If subd. 1. applies, the nature and period of time of any coverage, benefit, or
2 service provided, including the name, address, and identifying number of any
3 applicable coverage plan.

4 (b) Accept assignment to the department of a right of a recipient to receive
5 3rd-party payment for an item or service for which payment under medical
6 assistance has been made and accept the department's right to recover any
7 3rd-party payment made for which assignment has not been accepted.

8 (c) Respond to an inquiry by the department concerning a claim for payment
9 of a health care item or service if the department submits the inquiry less than 36
10 months after the date on which the health care item or service was provided.

11 (d) If all of the following apply, agree not to deny a claim submitted by the
12 department under par. (b) solely because of the claim's submission date, the type or
13 format of the claim form, or failure by a recipient to present proper documentation
14 at the time of delivery of the service, benefit, or item that is the basis of the claim:

15 1. The department submits the claim less than 36 months after the date on
16 which the health care item or service was provided.

17 2. Action by the department to enforce the department's rights under this
18 section with respect to the claim is commenced less than 72 months after the
19 department submits the claim.

20 **SECTION 1618.** 49.475 (3) (intro.) of the statutes is amended to read:

21 49.475 (3) WRITTEN AGREEMENT. (intro.) Upon requesting an ~~insurer~~ 3rd party
22 to provide the information under sub. (2) (a), the department and the 3rd party shall
23 enter into a written agreement ~~with the insurer~~ that satisfies all of the following:

24 **SECTION 1619.** 49.475 (3) (a) of the statutes is amended to read:

1 49.475 (3) (a) Identifies ~~in detail~~ the detailed format of the information to be
2 disclosed provided to the department.

3 **SECTION 1620.** 49.475 (3) (c) of the statutes is amended to read:

4 49.475 (3) (c) Specifies how the insurer's 3rd party's reimbursable costs under
5 sub. (5) will be determined and specifies the manner of payment.

6 **SECTION 1621.** 49.475 (4) (a) of the statutes is amended to read:

7 49.475 (4) (a) ~~An insurer~~ A 3rd party shall provide the information requested
8 under sub. (2) (a) within 180 days after receiving the department's request if it is the
9 first time that the department has requested the insurer 3rd party to disclose
10 information under this section.

11 **SECTION 1622.** 49.475 (4) (b) of the statutes is amended to read:

12 49.475 (4) (b) ~~An insurer~~ A 3rd party shall provide the information requested
13 under sub. (2) (a) within 30 days after receiving the department's request if the
14 department has previously requested the insurer 3rd party to disclose information
15 under this section.

16 **SECTION 1623.** 49.475 (4) (d) of the statutes is created to read:

17 49.475 (4) (d) If a 3rd party other than an insurer fails to comply with par. (a)
18 or (b), the department may so notify the attorney general.

19 **SECTION 1624.** 49.475 (5) of the statutes is amended to read:

20 49.475 (5) From the appropriations under s. 20.435 (4) (bm) and (pa), the
21 department shall reimburse ~~an insurer~~ A 3rd party that provides information under
22 ~~this section~~ sub. (2) (a) for the insurer's 3rd party's reasonable costs incurred in
23 providing the requested information, including its reasonable costs, if any, to develop
24 and operate automated systems specifically for the disclosure of the information
25 under this section.

1 **SECTION 1625.** 49.475 (6) of the statutes is created to read:

2 49.475 (6) SHARING INFORMATION. The department of health and family services
3 shall provide to the department of workforce development, for purposes of the
4 medical support liability program under s. 49.22, any information that the
5 department of health and family services receives under this section. The
6 department of workforce development may allow a county child support agency
7 under s. 59.53 (5) or a tribal child support agency access to the information, subject
8 to the use and disclosure restrictions under s. 49.83, and shall consult with the
9 department of health and family services regarding procedures and methods to
10 adequately safeguard the confidentiality of the information provided under this
11 subsection.

12 **SECTION 1626.** 49.475 (6) of the statutes, as created by 2007 Wisconsin Act
13 (this act), is amended to read:

14 49.475 (6) SHARING INFORMATION. The department of health and family services
15 shall provide to the department of ~~workforce development~~ children and families, for
16 purposes of the medical support liability program under s. 49.22, any information
17 that the department of health and family services receives under this section. The
18 department of ~~workforce development~~ children and families may allow a county child
19 support agency under s. 59.53 (5) or a tribal child support agency access to the
20 information, subject to the use and disclosure restrictions under s. 49.83, and shall
21 consult with the department of health and family services regarding procedures and
22 methods to adequately safeguard the confidentiality of the information provided
23 under this subsection.

24 **SECTION 1627.** 49.48 (1m) of the statutes is amended to read:

1 49.48 (1m) If an individual who applies for or to renew a certification under
2 sub. (1) does not have a social security number, the individual, as a condition of
3 obtaining the certification, shall submit a statement made or subscribed under oath
4 or affirmation to the department that the applicant does not have a social security
5 number. The form of the statement shall be prescribed by the department of
6 ~~workforce development~~ children and families. A certification issued or renewed in
7 reliance upon a false statement submitted under this subsection is invalid.

8 **SECTION 1628.** 49.48 (2) of the statutes is amended to read:

9 49.48 (2) The department of ~~health and family services~~ may not disclose any
10 information received under sub. (1) to any person except to the department of
11 ~~workforce development~~ children and families for the purpose of making
12 certifications required under s. 49.857.

13 **SECTION 1629.** 49.48 (3) of the statutes is amended to read:

14 49.48 (3) The department of ~~health and family services~~ shall deny an
15 application for the issuance or renewal of a certification specified in sub. (1), shall
16 suspend a certification specified in sub. (1) or may, under a memorandum of
17 understanding under s. 49.857 (2), restrict a certification specified in sub. (1) if the
18 department of ~~workforce development~~ children and families certifies under s. 49.857
19 that the applicant for or holder of the certificate is delinquent in the payment of
20 court-ordered payments of child or family support, maintenance, birth expenses,
21 medical expenses or other expenses related to the support of a child or former spouse
22 or fails to comply, after appropriate notice, with a subpoena or warrant issued by the
23 department of ~~workforce development~~ children and families or a county child
24 support agency under s. 59.53 (5) and related to paternity or child support
25 proceedings.