



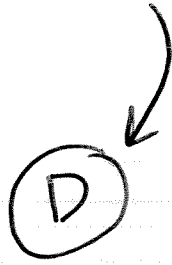
State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 03/11/2008 (Per: CMH)

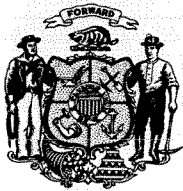
Compile Draft – Appendix A **... Part 04 of 12**

- ☞ The 2007 drafting file for LRB-4059
 - ☞ The 2007 drafting file for LRB-4072
 - ☞ The 2007 drafting file for LRB-4077
 - ☞ The 2007 drafting file for LRB-4081
 - ☞ The 2007 drafting file for LRB-4082
 - ☞ The 2007 drafting file for LRB-4168
 - ☞ The 2007 drafting file for LRB-4187
 - ☞ The 2007 drafting file for LRB-4188
 - ☞ The 2007 drafting file for LRB-4215
 - ☞ The 2007 drafting file for LRB-4240
 - ☞ The 2007 drafting file for LRB-4242
 - ☞ The 2007 drafting file for LRB-4267
- 

2007 LRB-4081 has been moved to the drafting file for

2007 LRB-4268

(Special Session Mr8 ... Budget Adjustment Bill)



MONDAY, by 10:30, if possible
State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-4081/4
DAK&RLR:bk:jt
Stays
#CS

D-NOTE

DOA:.....Gauger, BAB003 - Hospital assessment

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

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Do NOT Gen

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

**Analysis by the Legislative Reference Bureau
HEALTH AND HUMAN SERVICES**

MEDICAL ASSISTANCE

Under current federal and state law, Medical Assistance (MA) is a jointly funded, federal-state program, including BadgerCare Plus, that DHFS administers to provide health care benefits to eligible individuals with very low incomes and few assets, (generally, pregnant women, certain children, certain parents or caretaker relatives, certain adults under age 21 who were in foster care, migrant workers and their dependents, and elderly or disabled individuals). The state share of MA is paid from a combination of general purpose revenues, program revenues from hospital assessments, and segregated funds under the MA trust fund.

Under current law, DHFS annually assesses hospitals a total of \$1,500,000, in proportion to each hospital's respective gross private-pay patient revenues during the hospital's most recent fiscal year. Moneys from the assessments are credited to a program revenue appropriation account, from which is paid a portion of MA program benefits, certain long-term care MA pilot projects, and services under the Family Care Program.

This bill eliminates the current hospital assessment and the associated program revenue appropriation account and, instead, authorizes DHFS to levy, enforce, and collect an annual assessment on the gross patient revenue of hospitals, based on claims information collected by an entity from hospitals under the laws

INSERT ANALYSIS A-DAK

annual assessments

December 1, 2008,
March 1, 2009,
and June 1, 2009

\$205,532,800

relating to health care information or based on any other source that is approved in the state Medicaid plan. Under the bill, the entire ~~annual~~ assessment for fiscal year 2007-08 must be paid by June 1, 2008, and thereafter assessments must be paid ~~quarterly~~ ~~beginning~~ by September 1, 2008. DHFS must verify the amount of each hospital's gross patient revenue and determine the amount of the assessment owed by each hospital based on a uniform rate applicable to total gross patient revenue that DHFS estimates will yield ~~\$207,032,800~~ in fiscal year 2007-08 and \$214,226,000 in fiscal year 2008-09. DHFS may allow delayed payment by hospitals that are unable to pay by the ~~quarterly~~ assessment dates; a DHFS determination that a hospital may not make a delayed payment is not subject to an administrative appeal process. If DHFS determines that any portion of the revenue needed to provide MA payment increases for inpatient or outpatient hospital services as fee for service or through health maintenance organizations (HMOs) is not eligible for the federal Medicaid share, DHFS must refund that amount to hospitals in proportion to each hospital's assessment payment. The assessments must be deposited into a separate, nonlapsible trust fund, as created in the bill (the hospital assessment fund).

or to support the MA Program =

INSERT ANALYSIS B-DAK

transferred to the MA trust fund and appropriated

Moneys from the hospital assessments deposited in the hospital assessment fund are, under the bill, appropriated to provide the MA nonfederal share for increased payments, in excess of the aggregate inpatient and outpatient MA hospital payment rates in effect in fiscal year 2006-07, and refunds to hospitals for services provided under MA. They are also appropriated to provide ~~\$60,000,000~~ in fiscal year 2007-08 and \$65,000,000 in fiscal year 2008-09, for a portion of MA program benefits; the general program revenue appropriation account for MA program benefits is decreased by \$60,000,000 in fiscal year 2007-08 and by ~~\$65,000,000~~ in fiscal year 2008-09. JCF may not transfer moneys from the hospital assessment fund.

\$58,500,000

\$62,500,000

The bill requires HMOs that provide services under MA to make monthly payments to hospitals in amounts equivalent to any increase in the capitated rate that DHFS pays HMOs for serving MA recipients, which increase is intended to cover hospital services and is associated with the hospital assessment. The bill requires DHFS to determine monthly amounts, specific to each HMO and hospital, that HMOs must pay hospitals based on data that DHFS uses to calculate the capitated rates DHFS pays HMOs as well as encounter data provided by the HMOs. DHFS must redetermine the amounts at least once annually and must publicly disclose the methodology used to calculate the amounts. The bill requires that each HMO and hospital reconcile the monthly HMO payments to the hospital with actual utilization of inpatient and outpatient services by MA recipients every six months, and that the HMO or hospital, whichever is applicable, pay the other any difference within 90 days. If an HMO and hospital cannot reconcile the amount owed, upon the request of either the HMO or hospital, DHFS must determine the amount. The DHFS determination is subject to administrative review.

NR PR

Under the bill, DHFS must report, by December 31, 2008, and by December 31 ~~each year thereafter~~, to JCF all of the following information for the immediately previous state fiscal year: (1) the total amount of hospital assessments collected; (2)

2009

\$145,032,800

in the amounts of ~~\$214,226,000~~ in fiscal year 2007-08 and ~~\$214,226,000~~ in fiscal year 2008-09, \$147,726,500

the total amount of assessments collected from each hospital; (3) the total amounts that DHFS determines were paid to HMOs for increased MA payments to hospitals; (4) the total amount of these payments made to each hospital by HMOs; (5) the total amount of these payments made to each hospital and the portion of the capitated payments made to HMOs for inpatient and outpatient hospital services from general purpose revenues; (6) the total amounts, including amounts under (3), that DHFS determines were paid to HMOs for MA payments to hospitals; and (7) the results of any audits conducted by DHFS concerning these payments to HMOs and any actions taken by DHFS as the result of such an audit.

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.** 13.101 (18) of the statutes is created to read:

2 13.101 (18) Notwithstanding sub. (4), the committee may not transfer moneys
 3 from the appropriation accounts under s. 20.435 (4) (xc) or ~~(xd)~~ to another
 4 appropriation account.

5 **SECTION 2.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
 6 the following amounts for the purposes indicated:

			2007-08	2008-09
8	20.435 Health and family services, department			
9	of			
10	(4) HEALTH SERVICES PLANNING; REG & DELIVERY; HLTH			
11	CARE FIN; OTHER SUPPORT PGMS			
12	(xc) Hospital assessment fund; hospi-			
13	tal payments and refunds	SEG B	145,032,800 147,032,800	147,726,500 149,226,000
14	(xd) Hospital assessment fund; Medi-			
15	cal Assistance program benefits	SEG B	60,000,000	65,000,000

1 **SECTION 3.** 20.435 (4) (gp) of the statutes is repealed.

2 **SECTION 4.** 20.435 (4) (xc) of the statutes is created to read:

3 20.435 (4) (xc) *Hospital assessment fund; hospital payments and refunds.*

4 Biennially, from the medical assessment trust fund, the amounts in the schedule for
5 increased payments and refunds to hospitals and for higher capitated payment rates
6 under s. 49.45 (58) (a), as the Medical Assistance nonfederal share, in order to
7 increase payment rates in excess of the aggregate inpatient and outpatient hospital
8 payment rates in effect in fiscal year 2006-07 for services provided by hospitals
9 under the Medical Assistance program administered under subch. IV of ch. 49.

10 **SECTION 5.** 20.435 (4) (xd) of the statutes is created to read:

11 20.435 (4) (xd) *Hospital assessment fund; Medical Assistance program benefits.*

12 Biennially, from the hospital assessment fund, the amounts in the schedule to
13 provide a portion of the state share of Medical Assistance program benefits
14 administered under subch. IV of ch. 49.

15 **SECTION 6.** 25.17 (1) (gs) of the statutes is created to read:

16 25.17 (1) (gs) Hospital assessment fund (s. 25.772);

17 **SECTION 7.** 25.772 of the statutes is created to read:

18 **25.772 Hospital assessment fund.** There is established a separate
19 nonlapsible trust fund designated as the hospital assessment fund, to consist of all
20 moneys received under s. 50.375 from assessments on hospitals.

21 **SECTION 8.** 46.27 (9) (a) of the statutes is amended to read:

22 46.27 (9) (a) The department may select up to 5 counties that volunteer to
23 participate in a pilot project under which they will receive certain funds allocated for
24 long-term care. The department shall allocate a level of funds to these counties
25 equal to the amount that would otherwise be paid under s. 20.435 (4) (b), (gp), or (w).

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1 ~~or (xd)~~, to nursing homes for providing care because of increased utilization of
 2 nursing home services, as estimated by the department. In estimating these levels,
 3 the department shall exclude any increased utilization of services provided by state
 4 centers for the developmentally disabled. The department shall calculate these
 5 amounts on a calendar year basis under sub. (10).

6 **SECTION 9.** 46.27 (10) (a) 1. of the statutes is amended to read:

7 46.27 (10) (a) 1. The department shall determine for each county participating
 8 in the pilot project under sub. (9) a funding level of state medical assistance
 9 expenditures to be received by the county. This level shall equal the amount that the
 10 department determines would otherwise be paid under s. 20.435 (4) (b), ~~(gp)~~, ~~or (w)~~,
 11 ~~or (xd)~~, or because of increased utilization of nursing home services, as estimated by
 12 the department.

13 **SECTION 10.** 46.275 (5) (a) of the statutes is amended to read:

14 46.275 (5) (a) Medical Assistance reimbursement for services a county, or the
 15 department under sub. (3r), provides under this program is available from the
 16 appropriation accounts under s. 20.435 (4) (b), ~~(gp)~~, (o), ~~and (w)~~, ~~and (xd)~~. If 2 or more
 17 counties jointly contract to provide services under this program and the department
 18 approves the contract, Medical Assistance reimbursement is also available for
 19 services provided jointly by these counties.

20 **SECTION 11.** 46.275 (5) (c) of the statutes is amended to read:

21 46.275 (5) (c) The total allocation under s. 20.435 (4) (b), ~~(gp)~~, (o), ~~and (w)~~, ~~and~~
 22 ~~(xd)~~ to counties and to the department under sub. (3r) for services provided under
 23 this section may not exceed the amount approved by the federal department of health
 24 and human services. A county may use funds received under this section only to
 25 provide services to persons who meet the requirements under sub. (4) and may not

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SECTION 11

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1 use unexpended funds received under this section to serve other developmentally
2 disabled persons residing in the county.

3 SECTION 12. 46.283 (5) of the statutes is amended to read:

4 46.283 (5) FUNDING. From the appropriation accounts under s. 20.435 (4) (b),
5 (bm), (~~gp~~), (pa), and (w), ~~and~~ (~~xd~~) and (7) (b), (bd), and (md), the department may
6 contract with organizations that meet standards under sub. (3) for performance of
7 the duties under sub. (4) and shall distribute funds for services provided by resource
8 centers.

9 SECTION 13. 46.284 (5) (a) of the statutes, as affected by 2007 Wisconsin Act 20,
10 is amended to read:

11 46.284 (5) (a) From the appropriation accounts under s. 20.435 (4) (b), (g), (~~gp~~),
12 (im), (o), and (w), ~~and~~ (~~xd~~) and (7) (b), (bd), and (g), the department shall provide
13 funding on a capitated payment basis for the provision of services under this section.
14 Notwithstanding s. 46.036 (3) and (5m), a care management organization that is
15 under contract with the department may expend the funds, consistent with this
16 section, including providing payment, on a capitated basis, to providers of services
17 under the family care benefit.

account

18 SECTION 14. 46.485 (2g) (intro.) of the statutes is amended to read:

19 46.485 (2g) (intro.) From the appropriation accounts under s. 20.435 (4) (b) and
20 (~~gp~~) ~~(xd)~~, the department may in each fiscal year transfer funds to the appropriation
21 under s. 20.435 (7) (kb) for distribution under this section and from the appropriation
22 account under s. 20.435 (7) (mb) the department ~~may not~~ shall distribute ~~more than~~
23 \$1,330,500 in each fiscal year to applying counties in this state that meet all of the
24 following requirements, as determined by the department:

25 SECTION 15. 49.45 (2) (a) 17. of the statutes is amended to read:

1 49.45 (2) (a) 17. Notify the governor, the joint committee on legislative
 2 organization, the joint committee on finance and appropriate standing committees,
 3 as determined by the presiding officer of each house, if the appropriation accounts
 4 under s. 20.435 (4) (b) and ~~(gp)~~ ~~(zd)~~ are insufficient to provide the state share of
 5 medical assistance. \$5,256,000 is

6 **SECTION 16.** 49.45 (5m) (ag) of the statutes is repealed.

7 **SECTION 17.** 49.45 (5m) (am) of the statutes is amended to read:

8 49.45 (5m) (am) Notwithstanding sub. (3) (e), from the appropriation accounts
 9 under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), the department shall distribute not more
 10 than \$2,256,000 in each fiscal year, to provide supplemental funds to rural hospitals
 11 that, as determined by the department, have high utilization of inpatient services by
 12 patients whose care is provided from governmental sources, and to provide
 13 supplemental funds to critical access hospitals, except that the department may not
 14 distribute funds to a rural hospital or to a critical access hospital to the extent that
 15 the distribution would exceed any limitation under 42 USC 1396b (i) (3).

16 **SECTION 18.** 49.45 (6m) (ag) (intro.) of the statutes is amended to read:

17 49.45 (6m) (ag) (intro.) Payment for care provided in a facility under this
 18 subsection made under s. 20.435 (4) (b), ~~(gp)~~, (o), (pa), or (w), ~~or~~ ~~(zd)~~ shall, except as
 19 provided in pars. (bg), (bm), and (br), be determined according to a prospective
 20 payment system updated annually by the department. The payment system shall
 21 implement standards that are necessary and proper for providing patient care and
 22 that meet quality and safety standards established under subch. II of ch. 50 and ch.
 23 150. The payment system shall reflect all of the following:

24 **SECTION 19.** 49.45 (6v) (b) of the statutes is amended to read:

account

2007-08 and each fiscal year thereafter

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SECTION 19

RESTORE TO PLAIN TEXT

1 49.45 (6v) (b) The department shall, each year, submit to the joint committee
2 on finance a report for the previous fiscal year, except for the 1997-98 fiscal year, that
3 provides information on the utilization of beds by recipients of medical assistance in
4 facilities and a discussion and detailed projection of the likely balances,
5 expenditures, encumbrances and carry over of currently appropriated amounts in
6 the appropriation accounts under s. 20.435 (4) (b), ~~(gp)~~, and (o), ~~and~~ ~~(xd)~~.

7 **SECTION 20.** 49.45 (6x) (a) of the statutes is amended to read:

8 49.45 (6x) (a) Notwithstanding sub. (3) (e), from the appropriation accounts
9 under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), ~~and~~ ~~(xd)~~, the department shall distribute not
10 more than \$4,748,000 in each fiscal year, to provide funds to an essential access city
11 hospital, except that the department may not allocate funds to an essential access
12 city hospital to the extent that the allocation would exceed any limitation under 42
13 USC 1396b (i) (3).

14 **SECTION 21.** 49.45 (6y) (a) of the statutes is amended to read:

15 49.45 (6y) (a) Notwithstanding sub. (3) (e), from the appropriation accounts
16 under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), ~~and~~ ~~(xd)~~, the department shall may
17 distribute funding in each fiscal year to provide supplemental payment to hospitals
18 that enter into a contract under s. 49.02 (2) to provide health care services funded
19 by a relief block grant, as determined by the department, for hospital services that
20 are not in excess of the hospitals' customary charges for the services, as limited under
21 42 USC 1396b (i) (3). If no relief block grant is awarded under this chapter or if the
22 allocation of funds to such hospitals would exceed any limitation under 42 USC
23 1396b (i) (3), the department may distribute funds to hospitals that have not entered
24 into a contract under s. 49.02 (2).

25 **SECTION 22.** 49.45 (6y) (am) of the statutes is amended to read:

RESTORE TO PLAIN TEXT

1 49.45 **(6y)** (am) Notwithstanding sub. (3) (e), from the appropriation accounts
2 under s. 20.435 (4) (b), (h), ~~(gp)~~, (o), and (w), ~~and (xd)~~, the department shall distribute
3 funding in each fiscal year to provide supplemental payments to hospitals that enter
4 into contracts under s. 49.02 (2) with a county having a population of 500,000 or more
5 to provide health care services funded by a relief block grant, as determined by the
6 department, for hospital services that are not in excess of the hospitals' customary
7 charges for the services, as limited under 42 USC 1396b (i) (3).

8 **SECTION 23.** 49.45 (6z) (a) (intro.) of the statutes, as affected by 2007 Wisconsin
9 Act 20, is amended to read:

10 49.45 **(6z)** (a) (intro.) Notwithstanding sub. (3) (e), from the appropriation
11 accounts under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), ~~and (xd)~~, the department may
12 distribute funding in each fiscal year to supplement payment for services to hospitals
13 that enter into indigent care agreements, in accordance with the approved state plan
14 for services under 42 USC 1396a, with relief agencies that administer the medical
15 relief block grant under this chapter, if the department determines that the hospitals
16 serve a disproportionate number of low-income patients with special needs. If no
17 medical relief block grant under this chapter is awarded or if the allocation of funds
18 to such hospitals would exceed any limitation under 42 USC 1396b (i) (3), the
19 department may distribute funds to hospitals that have not entered into indigent
20 care agreements. The department may not distribute funds under this subsection
21 to the extent that the distribution would do any of the following:

22 **SECTION 24.** 49.45 (8) (b) of the statutes is amended to read:

23 49.45 **(8)** (b) Reimbursement under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), ~~and (xd)~~
24 for home health services provided by a certified home health agency or independent
25 nurse shall be made at the home health agency's or nurse's usual and customary fee

1 per patient care visit, subject to a maximum allowable fee per patient care visit that
2 is established under par. (c).

RESTORE TO PLAIN TEXT

3 **SECTION 25.** 49.45 (24m) (intro.) of the statutes is amended to read:

4 49.45 (24m) (intro.) From the appropriation accounts under s. 20.435 (4) (b),
5 (~~gp~~), (o), and (w), ~~and (x)~~, in order to test the feasibility of instituting a system of
6 reimbursement for providers of home health care and personal care services for
7 medical assistance recipients that is based on competitive bidding, the department
8 shall:

9 **SECTION 26.** 49.45 (52) of the statutes is amended to read:

10 49.45 (52) PAYMENT ADJUSTMENTS. Beginning on January 1, 2003, the
11 department may, from the appropriation account under s. 20.435 (7) (b), make
12 Medical Assistance payment adjustments to county departments under s. 46.215,
13 46.22, 46.23, or 51.42, or 51.437 or to local health departments, as defined in s. 250.01
14 (4), as appropriate, for covered services under s. 49.46 (2) (a) 2. and 4. d. and f. and
15 (b) 6. b., c., f., fm., g., j., k., L., Lm., and m., 9., 12., 12m., 13., 15., and 16. Payment
16 adjustments under this subsection shall include the state share of the payments.
17 The total of any payment adjustments under this subsection and Medical Assistance
18 payments made from appropriation accounts under s. 20.435 (4) (b), (~~gp~~), (o), and (w),
19 ~~and (x)~~ may not exceed applicable limitations on payments under 42 USC 1396a (a)
20 (30) (A).

21 **SECTION 27.** 49.45 (58) of the statutes is created to read:

22 49.45 (58) HEALTH MAINTENANCE ORGANIZATION PAYMENTS TO HOSPITALS. (a) The
23 department shall establish a schedule of amounts that each health maintenance
24 organization that contracts with the department to provide medical assistance
25 services ~~or services under s. 49.665~~ for a capitated payment rate shall pay monthly

who are enrolled in the health maintenance organization

1 to each hospital that serves recipients of medical assistance services or recipients of
 2 ~~services under s. 49.665~~. The amounts shall be based on any increase in the capitated
 3 rate that the department pays a health maintenance organization, which increase
 4 is intended to cover inpatient and outpatient hospital services and which is
 5 associated with the assessment imposed on hospitals under s. 50.375. The
 6 department shall use the information that it uses to calculate the capitated rates
 7 that the department pays health maintenance organizations and encounter data
 8 that is provided by the health maintenance organizations to calculate the amounts
 9 in the schedule. The department shall disclose publicly the methodology it uses to
 10 calculate the amounts in the schedule. The department shall recalculate the
 11 amounts in the schedule at least once every 12 months.

12 (b) The department shall require, as a term of contracts with health
 13 maintenance organizations to provide medical assistance services or services under
 14 ~~s. 49.665 for a capitated payment rate~~, that the health maintenance organization do
 15 all of the following:

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16 1. Monthly pay hospitals the applicable amounts in the schedule under par. (a).
 17 2. For each hospital to which the health maintenance organization makes
 18 payments under subd. 1., calculate the amount that results from applying the rate
 19 increase derived using the methodology under par. (a) to services for which the
 20 hospital submits claims to the health maintenance organization for providing
 21 inpatient and outpatient services to recipients of medical assistance and recipients
 22 of services under s. 49.665.

23 3. Every 6 months, and for each hospital to which the health maintenance
 24 organization makes payments under subd. 1, compare the amount that the health
 25 maintenance organization paid the hospital under subd. 1. for the previous 6 months

1 with the amount calculated under subd. 2. for services provided during that same
2 period, and, if the amount under subd. 2. exceeds the amount of the payments under
3 subd. 1., pay the hospital the difference within 90 days.

4 (c) If the total payments that a health maintenance organization made to a
5 hospital under par. (b) 1. for a 6 month period exceed the amount calculated under
6 par. (b) 2. for services provided during that same period, the hospital shall pay the
7 health maintenance organization the difference within 90 days after the end of the
8 6-month period.

9 (d) If the department determines that a health maintenance organization has
10 not complied with a condition under par. (b), the department shall require the health
11 maintenance organization to comply with the condition within 15 days after the
12 department's determination. The department may terminate a contract with a
13 health maintenance organization to provide medical assistance services or services
14 under s. 49.665 for a capitated payment rate for failure to comply with a condition
15 under par. (b). The department may audit health maintenance organizations to
16 determine whether they have complied with the conditions under par. (b).

17 (e) If a health maintenance organization and hospital cannot resolve the
18 amount that a health maintenance organization owes a hospital under par. (b) 3. or
19 that a hospital owes a health maintenance organization under par. (c), and either the
20 health maintenance organization or the hospital, within 6 months after the end of
21 the time period to which the disputed amount relates, requests that the department
22 determine the amount owed, the department shall determine the amount within 90
23 days after the request is made. The health maintenance organization or hospital is,
24 upon request, entitled to a contested case hearing under ch. 227 on the department's
25 determination.

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1 SECTION 28. 49.472 (6) (a) of the statutes is amended to read:

2 49.472 (6) (a) Notwithstanding sub. (4) (a) 3., from the appropriation account
3 under s. 20.435 (4) (b), ~~(gp)~~, or (w) ~~or (xd)~~, the department shall, on the part of an
4 individual who is eligible for medical assistance under sub. (3), pay premiums for or
5 purchase individual coverage offered by the individual's employer if the department
6 determines that paying the premiums for or purchasing the coverage will not be more
7 costly than providing medical assistance.

8 SECTION 29. 49.472 (6) (b) of the statutes is amended to read:

9 49.472 (6) (b) If federal financial participation is available, from the
10 appropriation account under s. 20.435 (4) (b), ~~(gp)~~, or (w) ~~or (xd)~~, the department may
11 pay medicare Part A and Part B premiums for individuals who are eligible for
12 medicare and for medical assistance under sub. (3).

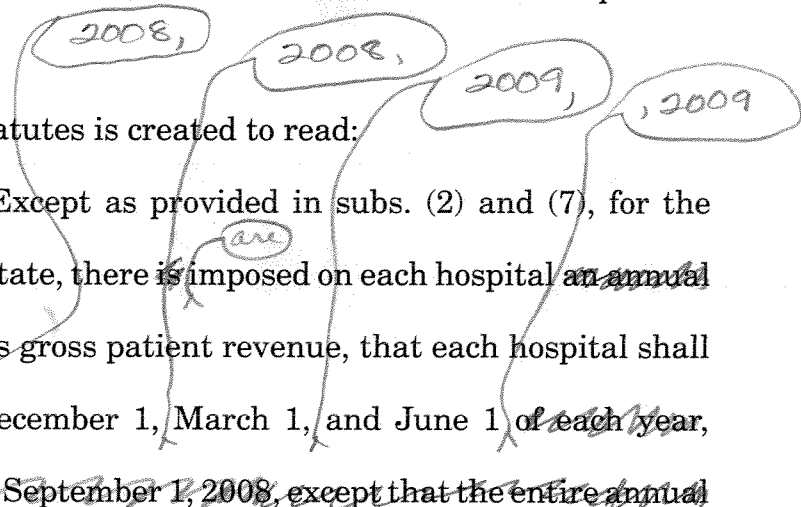
13 SECTION 30. 49.473 (5) of the statutes is amended to read:

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

19 SECTION 31. 50.375 of the statutes is created to read:

20 50.375 Assessment. (1) Except as provided in subs. (2) and (7), for the
21 privilege of doing business in this state, there ^{are} imposed on each hospital ~~an annual~~
22 assessment, based on the hospital's gross patient revenue, that each hospital shall
23 pay ~~quarterly~~ by September 1, December 1, March 1, and June 1 ~~of each year,~~
24 beginning with the payment due by September 1, 2008, except that the entire annual

by June 1, 2008, for fiscal year 2007-08; and



SECTION 31

1 assessment for fiscal year 2007-08 shall be paid by June 1, 2008. The assessments
2 shall be deposited into the hospital assessment fund.

3 (2) At the discretion of the department, a hospital that is unable timely to make
4 a payment by a date specified under sub. (1) may be allowed to make a delayed
5 payment. A determination by the department that a hospital may not make a
6 delayed payment under this subsection is final and is not subject to review under ch.
7 227.

*and the amounts specified under
2007 Wisconsin Act ... (this act), section
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8 (3) The amount of each hospital's assessment shall be based on the information
9 that shall be provided to the department under s. 153.46 (5) or shall be based on any
10 other source that is approved in the state plan for services under 42 USC 1396.

11 (4) The department shall verify the amount of each hospital's gross patient
12 revenue and shall determine the amount of the assessment owed by each hospital
13 based on a uniform rate that is applicable to total gross patient revenue that the
14 department estimates will yield the amounts specified in the appropriation schedule
15 under s. 20.005 (3) for the appropriation accounts under s. 20.435 (4) (xc) and (xd).

16 (5) The department shall levy, enforce, and collect the assessments under this
17 section and shall develop and distribute forms necessary for these purposes.

18 (6) If the department determines that any portion of the revenue needed to
19 provide Medical Assistance payment increases for inpatient and outpatient hospital
20 services as fee for service or through health maintenance organizations is not eligible
21 for federal financial participation, the department will refund that amount of
22 revenue to hospitals in proportion to each hospital's payment of the assessment.

23 (7) This section does not apply to a critical access hospital, as defined in s. 50.33
24 (1g), or to an institution for mental diseases, as defined in s. 46.011 (1m).

collected under sub. (5)

*or to support
the Medical
Assistance Program*

1 (8) Sections 77.59 (1) to (5), (6) (intro.), (a), and (c), and (7) to (10), 77.60 (1) to
2 (7), (9), and (10), 77.61 (9) and (12) to (14), and 77.62, as they apply to the taxes under
3 subch. III of ch. 77, apply to the assessment under this section, except that the
4 amount of any assessment collected under sub. (1) shall be deposited in the ~~Medical~~
5 ~~Assistance trust fund.~~ *hospital assessment*, 2009.

6 (9) By December 31, 2008, and by ~~every~~ December 31 ~~thereafter~~, the
7 department shall report to the joint committee on finance all of the following
8 information for the immediately previous state fiscal year:

9 (a) The total amount of assessments collected under this section.

10 (b) The total amount of assessments collected from each hospital under this
11 section.

12 (c) The total amounts that the department determines were paid to health
13 maintenance organizations for increased Medical Assistance payments to hospitals.

14 (d) The total amount of payments made to each hospital by health maintenance
15 organizations under s. 49.45 (58) (b) 1.

16 (e) The total amount of Medical Assistance payments made to each hospital and
17 the portion of the Medical Assistance capitated payments made to health
18 maintenance organizations for inpatient and outpatient hospital services from
19 appropriation accounts of general purpose revenues.

20 (f) The total amounts, including the amounts specified under par. (c), that the
21 department determines were paid to health maintenance organizations for Medical
22 Assistance payments to hospitals.

23 (g) The results of any audits conducted by the department under s. 49.45 (58)
24 concerning Medical Assistance payments and any actions taken by the department
25 as a result of such an audit.

(H) (10) This section does not apply after December 31,
2009.

SECTION 32

(S)
*GENERAL PURPOSE
REVENUE DECREASE*

1 **SECTION 32.** 146.99 of the statutes is repealed.

2 **SECTION 9221. Fiscal changes; Health and Family Services.**

3 (1) **MEDICAL ASSISTANCE.** In the schedule under section 20.005 (3) of the statutes
4 for the appropriation to the department of health and family services under section
5 20.435 (4) (b) of the statutes, as affected by the acts of 2007, the dollar amount is
6 decreased by \$60,000,000 for fiscal year 2007-08 and the dollar amount is decreased
7 by ~~\$65,000,000~~ for fiscal year 2008-09 for the purposes for which the appropriation
8 is made.

\$62,500,000

(END)

INSERT 16-8

D-NOTE

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4081/4ins
DAK&RLR:.....

INSERT ANALYSIS A-DAK

Currently, under MA, DHFS must distribute not more than \$2,256,000 in each fiscal year to provide supplemental funds to rural hospitals and to critical access hospitals that have a high utilization of inpatient services by patients whose care is provided from governmental sources.

INSERT ANALYSIS B-DAK

and to increase (together with federal Medicaid matching moneys) the amount of moneys DHFS must distribute to rural hospitals for fiscal year 2007-07 and each fiscal year thereafter, by \$3,000,000. ✓

Ins RR:

The bill further requires HMOs to compare the monthly payments to hospitals with the amount derived by applying the rate increase that is associated with the hospital assessment to actual utilization of hospital services by MA recipients. If the amount based on actual utilization exceeds the monthly payments, HMOs must pay hospitals the difference. *These requirements do not apply after*

INSERT 4-16:DAK

SECTION 1. 25.77 (11) of the statutes is created to read:

25.77 (11) All moneys transferred under 2007 Wisconsin Act (this act), section 9221 (*).

via
AUTOREF A

Ins 11-16:

2. Calculate the amounts that result from applying the rate increase that is derived using the methodology under par. (a) to services for recipients of medical assistance for which hospitals submit claims to the health maintenance organization.

Ins 12-16:

(d) This subsection does not apply after December 31, 2009.

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

D-NOTE

Gauger:
To Michele Gauger:

Note that, since s. 146.99, Stats., is repealed, and s. 50.375 is sunset, there will be no hospital assessments at all after June 1, 2009.

DAK

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

LRB-4081/4dn
DAK:bk&cs:rs

March 10, 2008

To Michele Gauger:

Note that, since s. 146.99, stats., is repealed, and s. 50.375 is sunset, there will be no hospital assessments at all after June 1, 2009.

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137
E-mail: debora.kennedy@legis.wisconsin.gov

Ryan, Robin

From: James Johnston [JohnsJT@dhfs.state.wi.us]
Sent: Monday, March 10, 2008 3:10 PM
To: Kennedy, Debora; Ryan, Robin
Cc: Albertoni, Richard S - DHFS; Gebhart, Neil R - DHFS; Helgerson, Jason A - DHFS; McIlquham, Cheryl J - DHFS; Gauger, Michelle C - DOA
Subject: LRB#4081

Attachments: PIP rewrite v2.doc



PIP rewrite v2.doc
(32 KB)

Hi Robin,

Attached are some more revisions mainly to section 27. I'll call to follow up.

Jim

* * * * *

NOTICE: This email and any attachments may contain confidential information. Use and further disclosure of the information by the recipient must be consistent with applicable laws, regulations and agreements. If you received this email in error, please notify the sender; delete the email; and do not use, disclose or store the information it contains.

*New federal rules
Affect 42 CFR Part 433
Published in Fed Register
Feb 22nd 2008 pp. 9685-9699*

Changes to LRB#4081/3

Amend s. 49.45(58) (1) to replace the payment “schedule” with a payment methodology

Amend s. 49.45 (58) (b) 2 to specific the payment calculation

Amend s. 49.45 (58) (b) 3. to state that every 6 months the HMOs need to review and as appropriate adjust their payments to hospitals to reflect the actual number of discharges. The review period should be lagged 3 months to allow time for the hospital claims to be filed.

Amend s. 49.45 (58) (c) to require hospitals to repay HMOs if the adjustment indicates that the hospital was overpaid for the prior period.

Amend s. 49.45 (58) (d) to require the department to audit the HMOs to ensure they are making these payments.

Delete sunset provision under s. 49.45 (58) (d)

Also repeal current assessment under s. 20.435(4(gp)) and authority under s.146.99 starting 7/1/08.

Section 27 49.45 (58) Health Maintenance Organization Payments to Hospitals.

- (a) The department shall establish a payment methodology that each HMO that contracts with the department to provide MA services shall employ in making monthly payments to hospitals that serve MA recipients who are members of the HMO. The methodology shall be apply to the increase in the capitated rate that the department pays the HMO which is intended to cover inpatient and outpatient hospital services and which is associated with the assessment imposed on hospitals under s. 50.375. The department shall use the information that it uses to calculate the capitated rates that the department pays health maintenance organizations and encounter data that is provided by the health maintenance organizations to calculate the amounts in the schedule. The department shall disclose publicly the methodology it uses to calculate the amounts in the schedule. The department shall recalculate the amounts in the schedule at least once every 12 months.
- (b) The department shall require, as a term of contracts with HMOs to provide MA services that the HMO shall do all of the following:
1. Monthly pay hospitals the applicable amounts identified under par (a).
 2. For the payments made under subd. 1, the HMO shall calculate the amounts that result from applying the rate increase derived from using the methodology under par. (a) for services for which hospitals submit claims to the HMOs. The HMO shall calculate the number of hospital discharges for the previous quarter times the amount per discharge used in applying the methodology used in (a) above to calculate its payments to hospitals.
 3. Every 6 months the HMO shall compare the amount that the HMO paid to hospitals under subd. 1. for the previous 6 months, ending 90 days before the calculation adjustment, with the amount calculated under subd.2. for services provided during that same period, and, if the amount under subd. 2. exceed the amount of the payments under subd.1 pay hospitals the difference within 90 days. If this amount is less than the amount of the payments under subd.1 recoup from hospitals the difference within 90 days.
- (c) If the department determines that a HMO has not complied with a condition under par. (b), the department shall require the HMO to comply with the condition within 15 days after the department's determination. The department may terminate a contract with a HMO for failure to comply with a condition under par. (b). The department shall audit HMOs to determine whether they have complied with the conditions under par. (b).

per Jim
don't
use
this

NO sunset for this subsection.
Actual Hosp. Assess. sunsets so
presume that since this language
linked to assessment, it will
also sunset.

Ryan, Robin

From: James Johnston [JohnsJT@dhfs.state.wi.us]
Sent: Monday, March 10, 2008 6:47 PM
To: Ryan, Robin
Cc: Albertoni, Richard S - DHFS; Gebhart, Neil R - DHFS; Helgerson, Jason A - DHFS; David Schmiedicke; Gauger, Michelle C - DOA
Subject: Re: FW:

Hi Robin,

In our last conversation we discussed using language from earlier versions of the bill that requires hospitals to pay HMOs if the payments to them exceed the amount calculated by the methodology, rather than having the HMOs attempt to recoup the payments. If possible, we would like to use this earlier repayment language. [see LRB#4081/3 s.49.45(58)(c)]

Also we want to keep the language allowing hospital or HMOs to pursue a ch 227 hearing if they can't reach resolution on payments [See LRB#4081/3 section s.4945 (58) (e) for the language we want added back into the bill]

Thank you for sending us the insert draft. If possible please send an updated insert draft to us with these changes.

Thanks,
Jim

* * * * *

NOTICE: This email and any attachments may contain confidential information. Use and further disclosure of the information by the recipient must be consistent with applicable laws, regulations and agreements. If you received this email in error, please notify the sender; delete the email; and do not use, disclose or store the information it contains.

>>> "Ryan, Robin" <Robin.Ryan@legis.wisconsin.gov> 3/10/2008 5:40 PM >>>

Jim, here is my second attempt to send the following.

>
> _____
> From: Ryan, Robin
> Sent: Monday, March 10, 2008 5:38 PM
> To: Johnson Curry, Tina - GOV
> Cc: Gauger, Michelle C - DOA; Gebhart, Neil R - DHFS; Albertoni,
> Richard S - DHFS
> Subject:
>
> <<07-4081/5ins>>
>
>
> Jim,
> Here is a revised draft of the HMO pass-through language. Please get
> back to me by 10 am on Tuesday so I can insert the revised language
> into the budget adjustment bill.
>
> Thanks,
> Robin
>



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-4081/4
DAK&RLR:bk&cs:rs

stays

RMNR

DOA:.....Gauger, BAB003 - Hospital assessment

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

Releen

✓

1 **AN ACT** *to repeal* 20.435 (4) (gp), 49.45 (5m) (ag) and 146.99; *to amend* 46.27
2 (9) (a), 46.27 (10) (a) 1., 46.275 (5) (a), 46.275 (5) (c), 46.283 (5), 46.284 (5) (a),
3 46.485 (2g) (intro.), 49.45 (2) (a) 17., 49.45 (5m) (am), 49.45 (6m) (ag) (intro.),
4 49.45 (6v) (b), 49.45 (6x) (a), 49.45 (6y) (a), 49.45 (6y) (am), 49.45 (6z) (a) (intro.),
5 49.45 (8) (b), 49.45 (24m) (intro.), 49.45 (52), 49.472 (6) (a), 49.472 (6) (b) and
6 49.473 (5); and *to create* 13.101 (18), 20.435 (4) (xc), 25.17 (1) (gs), 25.77 (11),
7 25.772, 49.45 (58) and 50.375 of the statutes; **relating to:** the budget
8 adjustment bill.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

MEDICAL ASSISTANCE

Under current federal and state law, Medical Assistance (MA) is a jointly funded, federal-state program, including BadgerCare Plus, that DHFS administers to provide health care benefits to eligible individuals with very low incomes and few assets, (generally, pregnant women, certain children, certain parents or caretaker relatives, certain adults under age 21 who were in foster care, migrant workers and

their dependents, and elderly or disabled individuals). The state share of MA is paid from a combination of general purpose revenues, program revenues from hospital assessments, and segregated funds under the MA trust fund.

Under current law, DHFS annually assesses hospitals a total of \$1,500,000, in proportion to each hospital's respective gross private-pay patient revenues during the hospital's most recent fiscal year. Moneys from the assessments are credited to a program revenue appropriation account, from which is paid a portion of MA program benefits, certain long-term care MA pilot projects, and services under the Family Care Program.

Currently, under MA, DHFS must distribute not more than \$2,256,000 in each fiscal year to provide supplemental funds to rural hospitals and to critical access hospitals that have a high utilization of inpatient services by patients whose care is provided from governmental sources.

This bill eliminates the current annual hospital assessment and the associated program revenue appropriation account and, instead, authorizes DHFS to levy, enforce, and collect assessments on the gross patient revenue of hospitals, based on claims information collected by an entity from hospitals under the laws relating to health care information or based on any other source that is approved in the state Medicaid plan. Under the bill, the entire assessment for fiscal year 2007-08 must be paid by June 1, 2008, and thereafter assessments must be paid by September 1, 2008, December 1, 2008, March 1, 2009, and June 1, 2009. DHFS must verify the amount of each hospital's gross patient revenue and determine the amount of the assessment owed by each hospital based on a uniform rate applicable to total gross patient revenue that DHFS estimates will yield \$205,532,800 in fiscal year 2007-08 and \$214,226,000 in fiscal year 2008-09. DHFS may allow delayed payment by hospitals that are unable to pay by the assessment dates; a DHFS determination that a hospital may not make a delayed payment is not subject to an administrative appeal process. If DHFS determines that any portion of the revenue needed to provide MA payment increases for inpatient or outpatient hospital services as fee for service or through health maintenance organizations (HMOs) or to support the MA Program is not eligible for the federal Medicaid share, DHFS must refund that amount to hospitals in proportion to each hospital's assessment payment. The assessments must be deposited into a separate, nonlapsible trust fund, as created in the bill (the hospital assessment fund).

Moneys from the hospital assessments deposited in the hospital assessment fund are, under the bill, appropriated in the amounts of \$145,032,800 in fiscal year 2007-08 and \$147,726,500 in fiscal year 2008-09 to provide the MA nonfederal share for increased payments, in excess of the aggregate inpatient and outpatient MA hospital payment rates in effect in fiscal year 2006-07, and refunds to hospitals for services provided under MA. They are also transferred to the MA trust fund and appropriated to provide \$58,500,000 in fiscal year 2007-08 and \$65,000,000 in fiscal year 2008-09, for a portion of MA program benefits and to increase (together with federal Medicaid matching moneys) the amount of moneys DHFS must distribute to rural hospitals for fiscal year 2007-08 and each fiscal year thereafter, by \$3,000,000. The general program revenue appropriation account for MA program benefits is

decreased by \$60,000,000 in fiscal year 2007-08 and by \$62,500,000 in fiscal year 2008-09. JCF may not transfer moneys from the hospital assessment fund.

INS
B

~~The bill requires HMOs that provide services under MA to make monthly payments to hospitals in amounts equivalent to any increase in the capitated rate that DHFS pays HMOs for serving MA recipients, which increase is intended to cover hospital services and is associated with the hospital assessment. The bill requires DHFS to determine monthly amounts that HMOs must pay hospitals based on data that DHFS uses to calculate the capitated rates DHFS pays HMOs as well as encounter data provided by the HMOs. DHFS must redetermine the amounts at least once annually and must publicly disclose the methodology used to calculate the amounts. The bill further requires HMOs to compare the monthly payments to hospitals with the amount derived by applying the rate increase that is associated with the hospital assessment to actual utilization of hospital services by MA recipients. If the amount based on actual utilization exceeds the monthly payments, HMOs must pay hospitals the difference. These requirements do not apply after December 31, 2009.~~

Under the bill, DHFS must report, by December 31, 2008, and by December 31, 2009, to JCF all of the following information for the immediately previous state fiscal year: (1) the total amount of hospital assessments collected; (2) the total amount of assessments collected from each hospital; (3) the total amounts that DHFS determines were paid to HMOs for increased MA payments to hospitals; (4) the total amount of these payments made to each hospital by HMOs; (5) the total amount of these payments made to each hospital and the portion of the capitated payments made to HMOs for inpatient and outpatient hospital services from general purpose revenues; (6) the total amounts, including amounts under (3), that DHFS determines were paid to HMOs for MA payments to hospitals; and (7) the results of any audits conducted by DHFS concerning these payments to HMOs and any actions taken by DHFS as the result of such an audit.

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.** 13.101 (18) of the statutes is created to read:
2 13.101 (18) Notwithstanding sub. (4), the committee may not transfer moneys
3 from the appropriation account under s. 20.435 (4) (xc) to another appropriation
4 account.

5 **SECTION 2.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
6 the following amounts for the purposes indicated:

2007-08 2008-09

**20.435 Health and family services, department
of**

(4) HEALTH SERVICES PLANNING; REG & DELIVERY; HLTH
CARE FIN; OTHER SUPPORT PGMS

(xc) Hospital assessment fund; hospital payments and refunds SEG B 145,032,800 147,726,500

SECTION 3. 20.435 (4) (gp) of the statutes is repealed.

SECTION 4. 20.435 (4) (xc) of the statutes is created to read:

20.435 (4) (xc) *Hospital assessment fund; hospital payments and refunds.*

Biennially, from the medical assessment trust fund, the amounts in the schedule for increased payments and refunds to hospitals and for higher capitated payment rates under s. 49.45 (58) (a), as the Medical Assistance nonfederal share, in order to increase payment rates in excess of the aggregate inpatient and outpatient hospital payment rates in effect in fiscal year 2006-07 for services provided by hospitals under the Medical Assistance program administered under subch. IV of ch. 49.

SECTION 5. 25.17 (1) (gs) of the statutes is created to read:

25.17 (1) (gs) Hospital assessment fund (s. 25.772);

SECTION 6. 25.77 (11) of the statutes is created to read:

25.77 (11) All moneys transferred under 2007 Wisconsin Act (this act), section 9221 (2).

SECTION 7. 25.772 of the statutes is created to read:

1 **25.772 Hospital assessment fund.** There is established a separate
2 nonlapsible trust fund designated as the hospital assessment fund, to consist of all
3 moneys received under s. 50.375 from assessments on hospitals.

4 **SECTION 8.** 46.27 (9) (a) of the statutes is amended to read:

5 **46.27 (9)** (a) The department may select up to 5 counties that volunteer to
6 participate in a pilot project under which they will receive certain funds allocated for
7 long-term care. The department shall allocate a level of funds to these counties
8 equal to the amount that would otherwise be paid under s. 20.435 (4) (b), ~~(gp)~~, or (w),
9 to nursing homes for providing care because of increased utilization of nursing home
10 services, as estimated by the department. In estimating these levels, the department
11 shall exclude any increased utilization of services provided by state centers for the
12 developmentally disabled. The department shall calculate these amounts on a
13 calendar year basis under sub. (10).

14 **SECTION 9.** 46.27 (10) (a) 1. of the statutes is amended to read:

15 **46.27 (10)** (a) 1. The department shall determine for each county participating
16 in the pilot project under sub. (9) a funding level of state medical assistance
17 expenditures to be received by the county. This level shall equal the amount that the
18 department determines would otherwise be paid under s. 20.435 (4) (b), ~~(gp)~~, or (w),
19 or because of increased utilization of nursing home services, as estimated by the
20 department.

21 **SECTION 10.** 46.275 (5) (a) of the statutes is amended to read:

22 **46.275 (5)** (a) Medical Assistance reimbursement for services a county, or the
23 department under sub. (3r), provides under this program is available from the
24 appropriation accounts under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w). If 2 or more counties
25 jointly contract to provide services under this program and the department approves

SECTION 10

1 the contract, Medical Assistance reimbursement is also available for services
2 provided jointly by these counties.

3 **SECTION 11.** 46.275 (5) (c) of the statutes is amended to read:

4 46.275 (5) (c) The total allocation under s. 20.435 (4) (b), (~~gp~~), (o), and (w) to
5 counties and to the department under sub. (3r) for services provided under this
6 section may not exceed the amount approved by the federal department of health and
7 human services. A county may use funds received under this section only to provide
8 services to persons who meet the requirements under sub. (4) and may not use
9 unexpended funds received under this section to serve other developmentally
10 disabled persons residing in the county.

11 **SECTION 12.** 46.283 (5) of the statutes is amended to read:

12 46.283 (5) FUNDING. From the appropriation accounts under s. 20.435 (4) (b),
13 (bm), (~~gp~~), (pa), and (w) and (7) (b), (bd), and (md), the department may contract with
14 organizations that meet standards under sub. (3) for performance of the duties under
15 sub. (4) and shall distribute funds for services provided by resource centers.

16 **SECTION 13.** 46.284 (5) (a) of the statutes, as affected by 2007 Wisconsin Act 20,
17 is amended to read:

18 46.284 (5) (a) From the appropriation accounts under s. 20.435 (4) (b), (g), (~~gp~~),
19 (im), (o), and (w) and (7) (b), (bd), and (g), the department shall provide funding on
20 a capitated payment basis for the provision of services under this section.
21 Notwithstanding s. 46.036 (3) and (5m), a care management organization that is
22 under contract with the department may expend the funds, consistent with this
23 section, including providing payment, on a capitated basis, to providers of services
24 under the family care benefit.

25 **SECTION 14.** 46.485 (2g) (intro.) of the statutes is amended to read:

1 46.485 **(2g)** (intro.) From the appropriation ~~accounts~~ account under s. 20.435
2 (4) (b) ~~and (gp)~~, the department may in each fiscal year transfer funds to the
3 appropriation under s. 20.435 (7) (kb) for distribution under this section and from the
4 appropriation account under s. 20.435 (7) (mb) the department ~~may not~~ shall
5 distribute ~~more than~~ \$1,330,500 in each fiscal year to applying counties in this state
6 that meet all of the following requirements, as determined by the department:

7 **SECTION 15.** 49.45 (2) (a) 17. of the statutes is amended to read:

8 49.45 **(2)** (a) 17. Notify the governor, the joint committee on legislative
9 organization, the joint committee on finance and appropriate standing committees,
10 as determined by the presiding officer of each house, if the appropriation ~~accounts~~
11 account under s. 20.435 (4) (b) ~~and (gp)~~ are is insufficient to provide the state share
12 of medical assistance.

13 **SECTION 16.** 49.45 (5m) (ag) of the statutes is repealed.

14 **SECTION 17.** 49.45 (5m) (am) of the statutes is amended to read:

15 49.45 **(5m)** (am) Notwithstanding sub. (3) (e), from the appropriation accounts
16 under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), the department shall distribute not more
17 than ~~\$2,256,000~~ \$5,256,000 in each fiscal year 2007-08 and each fiscal year
18 thereafter, to provide supplemental funds to rural hospitals that, as determined by
19 the department, have high utilization of inpatient services by patients whose care
20 is provided from governmental sources, ~~and to provide supplemental funds to critical~~
21 ~~access hospitals~~, except that the department may not distribute funds to a rural
22 hospital ~~or to a critical access hospital~~ to the extent that the distribution would
23 exceed any limitation under 42 USC 1396b (i) (3).

24 **SECTION 18.** 49.45 (6m) (ag) (intro.) of the statutes is amended to read:

SECTION 18

1 49.45 **(6m)** (ag) (intro.) Payment for care provided in a facility under this
2 subsection made under s. 20.435 (4) (b), ~~(gp)~~, (o), (pa), or (w) shall, except as provided
3 in pars. (bg), (bm), and (br), be determined according to a prospective payment
4 system updated annually by the department. The payment system shall implement
5 standards that are necessary and proper for providing patient care and that meet
6 quality and safety standards established under subch. II of ch. 50 and ch. 150. The
7 payment system shall reflect all of the following:

8 **SECTION 19.** 49.45 (6v) (b) of the statutes is amended to read:

9 49.45 **(6v)** (b) The department shall, each year, submit to the joint committee
10 on finance a report for the previous fiscal year, except for the 1997-98 fiscal year, that
11 provides information on the utilization of beds by recipients of medical assistance in
12 facilities and a discussion and detailed projection of the likely balances,
13 expenditures, encumbrances and carry over of currently appropriated amounts in
14 the appropriation accounts under s. 20.435 (4) (b), ~~(gp)~~, and (o).

15 **SECTION 20.** 49.45 (6x) (a) of the statutes is amended to read:

16 49.45 **(6x)** (a) Notwithstanding sub. (3) (e), from the appropriation accounts
17 under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), the department shall distribute not more
18 than \$4,748,000 in each fiscal year, to provide funds to an essential access city
19 hospital, except that the department may not allocate funds to an essential access
20 city hospital to the extent that the allocation would exceed any limitation under 42
21 USC 1396b (i) (3).

22 **SECTION 21.** 49.45 (6y) (a) of the statutes is amended to read:

23 49.45 **(6y)** (a) Notwithstanding sub. (3) (e), from the appropriation accounts
24 under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), the department shall may distribute funding
25 in each fiscal year to provide supplemental payment to hospitals that enter into a

1 contract under s. 49.02 (2) to provide health care services funded by a relief block
2 grant, as determined by the department, for hospital services that are not in excess
3 of the hospitals' customary charges for the services, as limited under 42 USC 1396b
4 (i) (3). If no relief block grant is awarded under this chapter or if the allocation of
5 funds to such hospitals would exceed any limitation under 42 USC 1396b (i) (3), the
6 department may distribute funds to hospitals that have not entered into a contract
7 under s. 49.02 (2).

8 **SECTION 22.** 49.45 (6y) (am) of the statutes is amended to read:

9 49.45 (6y) (am) Notwithstanding sub. (3) (e), from the appropriation accounts
10 under s. 20.435 (4) (b), (h), (~~gp~~), (o), and (w), the department shall distribute funding
11 in each fiscal year to provide supplemental payments to hospitals that enter into
12 contracts under s. 49.02 (2) with a county having a population of 500,000 or more to
13 provide health care services funded by a relief block grant, as determined by the
14 department, for hospital services that are not in excess of the hospitals' customary
15 charges for the services, as limited under 42 USC 1396b (i) (3).

16 **SECTION 23.** 49.45 (6z) (a) (intro.) of the statutes, as affected by 2007 Wisconsin
17 Act 20, is amended to read:

18 49.45 (6z) (a) (intro.) Notwithstanding sub. (3) (e), from the appropriation
19 accounts under s. 20.435 (4) (b), (~~gp~~), (o), and (w), the department may distribute
20 funding in each fiscal year to supplement payment for services to hospitals that enter
21 into indigent care agreements, in accordance with the approved state plan for
22 services under 42 USC 1396a, with relief agencies that administer the medical relief
23 block grant under this chapter, if the department determines that the hospitals serve
24 a disproportionate number of low-income patients with special needs. If no medical
25 relief block grant under this chapter is awarded or if the allocation of funds to such

SECTION 23

1 hospitals would exceed any limitation under 42 USC 1396b (i) (3), the department
2 may distribute funds to hospitals that have not entered into indigent care
3 agreements. The department may not distribute funds under this subsection to the
4 extent that the distribution would do any of the following:

5 **SECTION 24.** 49.45 (8) (b) of the statutes is amended to read:

6 49.45 (8) (b) Reimbursement under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w) for home
7 health services provided by a certified home health agency or independent nurse
8 shall be made at the home health agency's or nurse's usual and customary fee per
9 patient care visit, subject to a maximum allowable fee per patient care visit that is
10 established under par. (c).

11 **SECTION 25.** 49.45 (24m) (intro.) of the statutes is amended to read:

12 49.45 (24m) (intro.) From the appropriation accounts under s. 20.435 (4) (b),
13 ~~(gp)~~, (o), and (w), in order to test the feasibility of instituting a system of
14 reimbursement for providers of home health care and personal care services for
15 medical assistance recipients that is based on competitive bidding, the department
16 shall:

17 **SECTION 26.** 49.45 (52) of the statutes is amended to read:

18 49.45 (52) PAYMENT ADJUSTMENTS. Beginning on January 1, 2003, the
19 department may, from the appropriation account under s. 20.435 (7) (b), make
20 Medical Assistance payment adjustments to county departments under s. 46.215,
21 46.22, 46.23, or 51.42, or 51.437 or to local health departments, as defined in s. 250.01
22 (4), as appropriate, for covered services under s. 49.46 (2) (a) 2. and 4. d. and f. and
23 (b) 6. b., c., f., fm., g., j., k., L., Lm., and m., 9., 12., 12m., 13., 15., and 16. Payment
24 adjustments under this subsection shall include the state share of the payments.
25 The total of any payment adjustments under this subsection and Medical Assistance

1 payments made from appropriation accounts under s. 20.435 (4) (b), (~~gp~~), (o), and (w),
2 may not exceed applicable limitations on payments under 42 USC 1396a (a) (30) (A).

3 ^ INSA

3 **SECTION 27.** 49.45 (58) of the statutes is created to read:

4 49.45 (58) HEALTH MAINTENANCE ORGANIZATION PAYMENTS TO HOSPITALS. (a) The
5 department shall establish a schedule of amounts that each health maintenance
6 organization that contracts with the department to provide medical assistance
7 services shall pay monthly to hospitals that serve recipients of medical assistance
8 who are enrolled in the health maintenance organization. The amounts shall be
9 based on any increase in the capitated rate that the department pays a health
10 maintenance organization, which is intended to cover inpatient and outpatient
11 hospital services and which is associated with the assessment imposed on hospitals
12 under s. 50.375. The department shall use the information that it uses to calculate
13 the capitated rates that the department pays health maintenance organizations and
14 encounter data that is provided by the health maintenance organizations to calculate
15 the amounts in the schedule. The department shall disclose publicly the
16 methodology it uses to calculate the amounts in the schedule. The department shall
17 recalculate the amounts in the schedule at least once every 12 months.

18 (b) The department shall require, as a term of contracts with health
19 maintenance organizations to provide medical assistance services, that the health
20 maintenance organization do all of the following:

- 21 1. Monthly pay hospitals the applicable amounts in the schedule under par. (a).
- 22 2. Calculate the amounts that result from applying the rate increase that is
23 derived using the methodology under par. (a) to services for recipients of medical
24 assistance for which hospitals submit claims to the health maintenance
25 organization.

1 3. Every 6 months, compare the amounts that the health maintenance
2 organization paid hospitals under subd. 1. for the previous 6 months with the
3 amounts calculated under subd. 2. for services provided during that same period,
4 and, if the amounts under subd. 2. exceed the amounts of the payments under subd.
5 1., pay hospitals the difference within 90 days.

6 (c) If the department determines that a health maintenance organization has
7 not complied with a condition under par. (b), the department shall require the health
8 maintenance organization to comply with the condition within 15 days after the
9 department's determination. The department may terminate a contract with a
10 health maintenance organization for failure to comply with a condition under par.
11 (b). The department may audit health maintenance organizations to determine
12 whether they have complied with the conditions under par. (b).

13 (d) This subsection does not apply after December 31, 2009.

14 **SECTION 28.** 49.472 (6) (a) of the statutes is amended to read:

15 49.472 (6) (a) Notwithstanding sub. (4) (a) 3., from the appropriation account
16 under s. 20.435 (4) (b), ~~(gp)~~, or (w), the department shall, on the part of an individual
17 who is eligible for medical assistance under sub. (3), pay premiums for or purchase
18 individual coverage offered by the individual's employer if the department
19 determines that paying the premiums for or purchasing the coverage will not be more
20 costly than providing medical assistance.

21 **SECTION 29.** 49.472 (6) (b) of the statutes is amended to read:

22 49.472 (6) (b) If federal financial participation is available, from the
23 appropriation account under s. 20.435 (4) (b), ~~(gp)~~, or (w), the department may pay
24 medicare Part A and Part B premiums for individuals who are eligible for medicare
25 and for medical assistance under sub. (3).

1 **SECTION 30.** 49.473 (5) of the statutes is amended to read:

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

7 **SECTION 31.** 50.375 of the statutes is created to read:

8 **50.375 Assessment.** (1) Except as provided in subs. (2) and (7), for the
9 privilege of doing business in this state, there are imposed on each hospital
10 assessments, based on the hospital's gross patient revenue, that each hospital shall
11 pay by June 1, 2008, for fiscal year 2007-08; and by September 1, 2008, December
12 1, 2008, March 1, 2009, and June 1, 2009. The assessments shall be deposited into
13 the hospital assessment fund.

14 (2) At the discretion of the department, a hospital that is unable timely to make
15 a payment by a date specified under sub. (1) may be allowed to make a delayed
16 payment. A determination by the department that a hospital may not make a
17 delayed payment under this subsection is final and is not subject to review under ch.
18 227.

19 (3) The amount of each hospital's assessment shall be based on the information
20 that shall be provided to the department under s. 153.46 (5) or shall be based on any
21 other source that is approved in the state plan for services under 42 USC 1396.

22 (4) The department shall verify the amount of each hospital's gross patient
23 revenue and shall determine the amount of the assessment owed by each hospital
24 based on a uniform rate that is applicable to total gross patient revenue that the
25 department estimates will yield the amounts specified in the appropriation schedule

1 under s. 20.005 (3) for the appropriation account under s. 20.435 (4) (xc) and the
2 amounts specified under 2007 Wisconsin Act ... (this act), section 9221 (2).

3 (5) The department shall levy, enforce, and collect the assessments under this
4 section and shall develop and distribute forms necessary for these purposes.

5 (6) If the department determines that any portion of the revenue collected
6 under sub. (5) to provide Medical Assistance payment increases for inpatient and
7 outpatient hospital services as fee for service or through health maintenance
8 organizations or to support the Medical Assistance Program is not eligible for federal
9 financial participation, the department will refund that amount of revenue to
10 hospitals in proportion to each hospital's payment of the assessment.

11 (7) This section does not apply to a critical access hospital, as defined in s. 50.33
12 (1g), or to an institution for mental diseases, as defined in s. 46.011 (1m).

13 (8) Sections 77.59 (1) to (5), (6) (intro.), (a), and (c), and (7) to (10), 77.60 (1) to
14 (7), (9), and (10), 77.61 (9) and (12) to (14), and 77.62, as they apply to the taxes under
15 subch. III of ch. 77, apply to the assessment under this section, except that the
16 amount of any assessment collected under sub. (1) shall be deposited in the hospital
17 assessment fund.

18 (9) By December 31, 2008, and by December 31, 2009, the department shall
19 report to the joint committee on finance all of the following information for the
20 immediately previous state fiscal year:

21 (a) The total amount of assessments collected under this section.

22 (b) The total amount of assessments collected from each hospital under this
23 section.

24 (c) The total amounts that the department determines were paid to health
25 maintenance organizations for increased Medical Assistance payments to hospitals.

1 (d) The total amount of payments made to each hospital by health maintenance
2 organizations under s. 49.45 (58) (b) 1.

3 (e) The total amount of Medical Assistance payments made to each hospital and
4 the portion of the Medical Assistance capitated payments made to health
5 maintenance organizations for inpatient and outpatient hospital services from
6 appropriation accounts of general purpose revenues.

7 (f) The total amounts, including the amounts specified under par. (c), that the
8 department determines were paid to health maintenance organizations for Medical
9 Assistance payments to hospitals.

10 (g) The results of any audits conducted by the department under s. 49.45 (58)
11 concerning Medical Assistance payments and any actions taken by the department
12 as a result of such an audit.

13 **(10)** This section does not apply after December 31, 2009.

14 **SECTION 32.** 146.99 of the statutes is repealed.

15 **SECTION 9221. Fiscal changes; Health and Family Services.**

16 (1) **MEDICAL ASSISTANCE GENERAL PURPOSE REVENUE DECREASE.** In the schedule
17 under section 20.005 (3) of the statutes for the appropriation to the department of
18 health and family services under section 20.435 (4) (b) of the statutes, as affected by
19 the acts of 2007, the dollar amount is decreased by \$60,000,000 for fiscal year
20 2007-08 and the dollar amount is decreased by \$62,500,000 for fiscal year 2008-09
21 for the purposes for which the appropriation is made.

22 (2) **HOSPITAL ASSESSMENT FUND TRANSFER.** There is transferred from the hospital
23 assessment fund to the Medical Assistance trust fund \$58,500,000 in fiscal year
24 2007-08 and \$65,000,000 in fiscal year 2008-09.

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4081/5rlr
RLR:.....

INS B (ANALYSIS P. 3)

1

The bill requires HMOs, in connection with the hospital assessment, to pay increased rates to hospitals for inpatient and outpatient services provided to MA recipients. ✓ The bill requires DHFS to develop a methodology for HMOs to use in calculating these rate increases. ✓ Under the bill, the HMOs must make prospective monthly payments to hospitals for the rate increases, then must adjust the payment amounts based on actual utilization of hospital services by MA recipients enrolled in the HMO. ✓ The bill provides that if an HMO and hospital cannot agree on the amount of a payment adjustment, DHFS must, upon the request of either the HMO or hospital, determine the amount. ✓ The DHFS determination is subject to administrative review. ✓

end of ins B

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4081/5ins
RLR:.....

INSA

SECTION ~~1~~. 49.45 (58) of the statutes is created to read:

49.45 (58) HEALTH MAINTENANCE ORGANIZATION PAYMENTS TO HOSPITALS. (a) The department shall develop a methodology for calculating rate increases for inpatient and outpatient hospital services in connection with the assessment imposed on hospitals under s. 50.375. The methodology shall incorporate encounter data provided by health maintenance organizations and information that the department uses to calculate the capitated rates that the department pays health maintenance organizations for providing services to recipients of medical assistance. The department shall publicly disclose the methodology. The department shall review the methodology at least once every 12 months.

(b) The department shall require, as a term of contracts with health maintenance organizations to provide medical assistance services, that the health maintenance organization do all of the following:

1. Make monthly prospective payments, calculated using the methodology under par. (a), to hospitals that serve medical assistance recipients who are enrolled in the health maintenance organization.

2. Calculate the amounts that result from applying the rate increases that are derived using the methodology under par. (a) to services for recipients of medical assistance for which hospitals submit claims to the health maintenance organization.

3. Within 90 days after the end of each 6-month period, compare the amounts that the health maintenance organization paid hospitals under subd. 1. for the 6-month period with the amounts calculated under subd. 2. for services provided

during that same period. If the amounts under subd. 2. exceed the amounts of the payments under subd. 1., pay hospitals the difference within 90 days.

(c) If the amounts that a health maintenance organization paid hospitals under par. (b) 1. for a 6-month period exceed the amounts calculated under par. (b) 2. for services provided during the same period, hospitals shall pay the health maintenance organization the difference within 90 days after the comparison of amounts under par. (b) ^{or 3} is completed.

(d) If the department determines that a health maintenance organization has not complied with a condition under par. (b), the department shall require the health maintenance organization to comply with the condition within 15 days after the department's determination. The department may terminate a contract with a health maintenance organization for failure to comply with a condition under par. (b). The department shall audit health maintenance organizations to determine whether they have complied with the conditions under par. (b).

(e) If a health maintenance organization and hospital cannot resolve the amount that a health maintenance organization owes a hospital under par. (b) 3. or that a hospital owes a health maintenance organization under par. (c), and either the health maintenance organization or the hospital, within 6 months after the end of the time period to which the disputed amount relates, requests that the department determine the amount owed, the department shall determine the amount within 90 days after the request is made. The health maintenance organization or hospital is, upon request, entitled to a contested case hearing under ch. 227 on the department's determination.

end of ins A

Kennedy, Debora

From: Gauger, Michelle C - DOA [Michelle.Gauger@Wisconsin.gov]
Sent: Tuesday, March 11, 2008 10:50 AM
To: Ryan, Robin; Kennedy, Debora
Cc: Schmiedicke, David P - DOA; Helgerson, Jason A - DHFS; James Johnston; Albertoni, Richard S - DHFS; Kraus, Jennifer - DOA; Grinde, Kirsten - DOA; Hanaman, Cathlene
Subject: FW: /P3 BAB
Importance: High
Attachments: 07-4268/P3

Good morning, Debora and Robin,

There are two changes that need to be made to the hospital assessment section of this draft.

1. Under section 36, s. 50.375(6) should read:

If the department determines that any portion of the revenue collected under sub. (5) to provide Medical Assistance **program benefits and** payment increases for inpatient and outpatient hospital services as fee for service or through health maintenance organizations and to support the Medical Assistance Program is not eligible for federal financial participation, the department will refund that amount of revenue to hospitals in proportion to each hospital's payment of the assessment.

2. Under section 9221, Fiscal changes, Health and Family Services sub. (2) should read:

HOSPITAL ASSESSMENT FUND TRANSFER. There is transferred from the hospital assessment fund to the Medical Assistance trust fund \$58,500,000 in fiscal year 2007-08 and \$65,000,000 in fiscal year 2008-09. **The Department of Health and Family Services and the Department of Administration shall reduce the amount of the transfer to meet the requirements of s. 50.375(6).**

The intent of these changes is that if not all of the revenue used to increase payments to hospitals is eligible for matching federal revenue, the amount of the assessment used to support the Medical Assistance program is decreased proportionally to the decrease in hospital supplemental payments.

Please let me know ASAP if you have any questions. I will be at or near my desk for the next couple hours.

Thank you, once again.

Michelle Gauger

(608) 266-3420

Michelle.Gauger@wisconsin.gov

From: Natzke, Noah [mailto:Noah.Natzke@legis.wisconsin.gov]
Sent: Tuesday, March 11, 2008 9:51 AM
To: Grinde, Kirsten - DOA; Schmiedicke, David P - DOA; Kraus, Jennifer - DOA
Subject: /P3 BAB

<<07-4268/P3>>

03/11/2008

Noah Natzke

Legislative Reference Bureau

266-0132