AN ACT to repeal 49.46 (1) (L); to renumber and amend 49.47 (4) (h); to amend

49.46 (1) (a) 1., 49.46 (1) (a) 1g., 49.46 (1) (a) 1m., 49.46 (1) (a) 6., 49.46 (1) (a)
9., 49.46 (1) (a) 10., 49.46 (1) (a) 11., 49.46 (1) (a) 12., 49.46 (1) (am) 1. a., 49.46
(1) (am) 1. b., 49.46 (1) (e), 49.47 (4) (am) 1., 49.47 (4) (am) 2., 49.47 (4) (c) 1.,
49.47 (4) (c) 3., 49.47 (4) (j), 49.665 (4) (a) 1., 49.665 (4) (am) 1. and 49.665 (4)
(ap) 1.; and to create 49.46 (1) (ar), 49.47 (4) (cg) 3. and 49.665 (4) (e) of the
statutes; relating to: exempting amounts claimed for depreciation for
purposes of calculating farm and self-employment income under the Medical
Assistance and Badger Care health care programs.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Health and Family Services (DHFS) administers the Medical Assistance (MA) program and the Badger Care health care (BadgerCare) program.

Under the AFDC-related and Healthy Start eligibility categories of MA, DHFS provides health care services and benefits, generally, to individuals who meet the nonfinancial and financial requirements for the federal Aid to Families with Dependent Children (AFDC) program that were in effect on July 16, 1996, to
low-income children and pregnant women, and to children and pregnant women whose family incomes have been reduced to eligible levels on account of medical expenses.

BadgerCare provides health care coverage to eligible low-income children who do not reside with a parent and to eligible low-income families, and provides prenatal care to unborn children whose mothers meet financial and other eligibility criteria but who are not otherwise eligible for BadgerCare or MA. Under BadgerCare, a child, family, or unborn child meets financial eligibility criteria if the income of the child, family, or unborn child’s mother, mother and spouse, or mother’s family does not exceed 185 percent of the poverty line.

Currently, in calculating an individual’s income for purposes of MA or BadgerCare eligibility, if the individual has farm or self-employment income, DHFS calculates the amount of that income by adding to the amount of the individual’s net taxable income any amount that the individual claimed for depreciation. This bill prohibits DHFS from adding any amounts claimed for depreciation to an individual’s net taxable farm or self-employment income for purposes of determining whether an individual meets the income limits for BadgerCare or for MA under the AFDC-related or Healthy Start eligibility categories.

For further information see the state 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:

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

49.46 (1) (a) 1. Notwithstanding s. 49.19 (20), any individual who, without regard to the individual’s resources and subject to par. (ar), would qualify for a grant of aid to families with dependent children under s. 49.19.

SECTION 2. 49.46 (1) (a) 1g. of the statutes is amended to read:

49.46 (1) (a) 1g. Notwithstanding s. 49.19 (20), any individual who, without regard to the individual’s resources and subject to par. (ar), would qualify for a grant of aid to families with dependent children but who would not receive the aid solely because of the application of s. 49.19 (11) (a) 7.

SECTION 3. 49.46 (1) (a) 1m. of the statutes is amended to read:
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49.46 (1) (a) 1m. Any pregnant woman whose income, determined in accordance with par. (ar), does not exceed the standard of need under s. 49.19 (11) and whose pregnancy is medically verified. Eligibility continues to the last day of the month in which the 60th day after the last day of the pregnancy falls.

SECTION 4. 49.46 (1) (a) 6. of the statutes is amended to read:

49.46 (1) (a) 6. Any person not described in pars. (c) to (e) who, without regard to the individual's resources and subject to par. (ar), would be considered, under federal law, to be receiving aid to families with dependent children for the purpose of determining eligibility for medical assistance.

SECTION 5. 49.46 (1) (a) 9. of the statutes is amended to read:

49.46 (1) (a) 9. Any pregnant woman not described under subd. 1., 1g., or 1m. whose family income, determined in accordance with par. (ar), does not exceed 133% of the poverty line for a family the size of the woman's family.

SECTION 6. 49.46 (1) (a) 10. of the statutes is amended to read:

49.46 (1) (a) 10. Any child not described under subd. 1. or 1g. who is under 6 years of age and whose family income, determined in accordance with par. (ar), does not exceed 133% of the poverty line for a family the size of the child's family.

SECTION 7. 49.46 (1) (a) 11. of the statutes is amended to read:

49.46 (1) (a) 11. If a waiver under s. 49.665 is granted and in effect, any child not described under subd. 1. or 1g. who has attained the age of 6 but has not attained the age of 19 and whose family income, determined in accordance with par. (ar), does not exceed 100% of the poverty line for a family the size of the child's family. If a waiver under s. 49.665 is not granted or in effect, any child not described in subd. 1. or 1g. who was born after September 30, 1983, who has attained the age
of 6 but has not attained the age of 19 and whose family income, determined in accordance with par. (ar), does not exceed 100% of the poverty line for a family the size of the child's family.

SECTION 8. 49.46 (1) (a) 12. of the statutes is amended to read:

49.46 (1) (a) 12. Any child not described under subd. 1. or 1g. who is under 19 years of age and whose income, determined in accordance with par. (ar), does not exceed the standard of need under s. 49.19 (11).

SECTION 9. 49.46 (1) (am) 1. a. of the statutes is amended to read:

49.46 (1) (am) 1. a. A pregnant woman whose family income, determined in accordance with par. (ar) and before any income is disregarded under this paragraph, does not exceed, in state fiscal year 1994−95, 155% of the poverty line for a family the size of the woman's family; and, in each state fiscal year after the 1994−95 state fiscal year, 185%, 185 percent of the poverty line for a family the size of the woman's family.

SECTION 10. 49.46 (1) (am) 1. b. of the statutes is amended to read:

49.46 (1) (am) 1. b. A child who is under 6 years of age and whose family income, determined in accordance with par. (ar) and before any income is disregarded under this paragraph, does not exceed, in state fiscal year 1994−95, 155% of the poverty line for a family the size of the child's family; and, in each state fiscal year after the 1994−95 state fiscal year, 185%, 185 percent of the poverty line for a family the size of the child's family.

SECTION 11. 49.46 (1) (ar) of the statutes is created to read:

49.46 (1) (ar) 1. Except as provided in subd. 2. and except to the extent that the determination is inconsistent with 42 USC 1396a (a) (17), for purposes of determining under par. (a) 1., 1g., or 6. whether an individual would qualify for a grant of aid to families with dependent children under s. 49.19 or would be
considered, under federal law, to be receiving aid to families with dependent
children, or of determining whether an individual meets the income limits under par.
(a) 1m., 9., 10., 11., or 12., “income” includes income that would be included in
determining eligibility for aid to families with dependent children under s. 49.19 and
excludes income that would be excluded in determining eligibility for aid to families
with dependent children under s. 49.19.

2. Notwithstanding s. 49.19 (5), for purposes of determining under par. (a) 1.,
1g., or 6. whether an individual would qualify for a grant of aid to families with
dependent children under s. 49.19 or would be considered, under federal law, to be
receiving aid to families with dependent children, or of determining whether an
individual meets the income limits under par. (a) 1m., 9., 10., 11., or 12., (am), or (e),
the department shall exclude from the calculation of farm or self-employment
income any amounts claimed for depreciation for income tax purposes.

SECTION 12. 49.46 (1) (e) of the statutes is amended to read:

49.46 (1) (e) If an application under s. 49.47 (3) shows that the individual
individual’s income, determined in accordance with par. (ar), meets the income limits
under s. 49.19, or that the individual meets the income and resource requirements
under federal Title XVI or s. 49.77, or that the individual is an essential person, an
accommodated person, or a patient in a public medical institution, the individual
shall be granted the benefits enumerated under sub. (2) whether or not the
individual requests or receives a grant of any of such aids.

SECTION 13. 49.46 (1) (L) of the statutes is repealed.

SECTION 14. 49.47 (4) (am) 1. of the statutes is amended to read:

49.47 (4) (am) 1. A pregnant woman whose family income, determined in
accordance with par. (cg), does not exceed 155% of the poverty line for
a family the size of the woman’s family, except that, if a waiver under par. (j) or a
change in the approved state plan under s. 49.46 (1) (am) 2. is in effect, the income
limit is 185% of the poverty line for a family the size of the woman’s
family in each state fiscal year after the 1994–95 state fiscal year.

SECTION 15. 49.47 (4) (am) 2. of the statutes is amended to read:

49.47 (4) (am) 2. A child who is under 6 years of age and whose family income, determined in accordance with par. (cg), does not exceed 155% of the poverty line for a family the size of the child’s family, except that, if a waiver under par. (j) or a change in the approved state plan under s. 49.46 (1) (am) 2. is in effect, the income limit is 185% of the poverty line for a family the size of the child’s family in each state fiscal year after the 1994–95 state fiscal year.

SECTION 16. 49.47 (4) (c) 1. of the statutes is amended to read:

49.47 (4) (c) 1. Except as provided in par. (am) and as limited by subd. 3., eligibility exists if income, determined in accordance with par. (cg), does not exceed 133 1/3% of the maximum aid to families with dependent children payment under s. 49.19 (11) for the applicant’s family size or the combined benefit amount available under supplemental security income under 42 USC 1381 to 1383c and state supplemental aid under s. 49.77, whichever is higher. In this subdivision:

(cg) 1. Except as provided in subd. 3., for purposes of determining whether an individual’s income meets the income requirements under par. (c), “income” includes earned or unearned income that would be included in determining eligibility for the individual or family under s. 49.19 or 49.77, or for the aged, blind, or disabled under 42 USC 1381 to 1385. “Income” does not include and excludes earned or unearned income which would be excluded in determining eligibility for the individual or
family under s. 49.19 or 49.77, or for the aged, blind, or disabled individual under 42
USC 1381 to 1385.

SECTION 17. 49.47 (4) (c) 3. of the statutes is amended to read:

49.47 (4) (c) 3. Except as provided in par. (am), no person is eligible for medical
assistance under this section if the person’s income, determined in accordance with
par. (cg), exceeds the maximum income levels that the U.S. department of health and
human services sets for federal financial participation under 42 USC 1396b (f).

SECTION 18. 49.47 (4) (cg) 3. of the statutes is created to read:

49.47 (4) (cg) 3. Notwithstanding s. 49.19 (5), for purposes of determining
whether an individual under par. (ag) or (am) is eligible for medical assistance, the
department shall exclude from the calculation of farm or self-employment income
any amounts claimed for depreciation for income tax purposes.

SECTION 19. 49.47 (4) (h) of the statutes is renumbered 49.47 (4) (cg) 2. and
amended to read:

49.47 (4) (cg) 2. For the Except as provided in subd. 3., for purposes of
determining whether an individual meets the income limits under par. (am),
“income” includes income that would be used included in determining eligibility for
aid to families with dependent children under s. 49.19 and excludes income that
would be excluded in determining eligibility for aid to families with dependent
children under s. 49.19.

SECTION 20. 49.47 (4) (j) of the statutes is amended to read:

49.47 (4) (j) If the change in the approved state plan under s. 49.46 (1) (am) 2.
is denied, the department shall request a waiver from the secretary of the federal
department of health and human services to allow the use of federal matching funds
to provide Medical Assistance coverage under par. (am) 1. and 2.
to individuals whose family incomes, determined in accordance with par. (cg), do not exceed 185% of the poverty line in each state fiscal year after the 1994–95 state fiscal year.

SECTION 21. 49.665 (4) (a) 1. of the statutes is amended to read:

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

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

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

SECTION 23. 49.665 (4) (ap) 1. of the statutes is amended to read:

49.665 (4) (ap) 1. The income of the unborn child’s mother, mother and her spouse, or mother and her family, whichever is applicable, does not exceed 185% of the poverty line, except as provided in par. (at) and except that, if an unborn child is already receiving health care coverage under this section, the applicable specified person or persons may have an income that does not exceed 200% of the poverty line. The department shall establish by rule the criteria to be used to determine income.

SECTION 24. 49.665 (4) (e) of the statutes is created to read:
49.665 (4) (e) For purposes of determining income under this section, the department shall exclude from the calculation of farm or self-employment income any amounts claimed for depreciation for income tax purposes.

SECTION 25. Initial applicability.

(1) This act first applies to eligibility determinations for the Medical Assistance and Badger Care health care programs that are made on the effective date of this subsection.