

2009 DRAFTING REQUEST

Bill

Received: **12/10/2008**

Received By: **pkahler**

Wanted: **As time permits**

Identical to LRB:

For: **Roger Roth (608) 266-7500**

By/Representing: **Jason Culotta**

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

Drafter: **pkahler**

May Contact:

Addl. Drafters:

Subject: **Public Assistance - med. assist.**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Roth@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Prohibit consideration of spouse's income and assets for MA eligibility

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 12/11/2008	bkraft 12/23/2008		_____			S&L
/P1			rschluet 12/23/2008	_____	sbasford 12/23/2008		S&L
/1	pkahler 03/18/2009	bkraft 03/18/2009	rschluet 03/18/2009	_____	lparisi 03/18/2009	lparisi 03/18/2009	

FE Sent For:

<END>

↳ At
Intro.

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/P1		1/bjk ^{3/18}	rschluet 12/23/2008	_____	sbasford 12/23/2008		

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"1" may be
jacketed for the
Assembly

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/?

pkahler

/PI bjk 12/23

Handwritten signature and initials
rsth

FE Sent For:

<END>

Kahler, Pam

From: Culotta, Jason
Sent: Tuesday, December 09, 2008 11:20 AM
To: Kahler, Pam
Subject: drafting request

Pam,

Representative Roth would like to re-draft 2007 LRB-0859/4 for this session, which would eliminate the marriage penalty for blind and disabled people enrolled with Medical Assistance. It had been introduced as 2007 AB 691.

Please feel free to call me at 6-7500 if you have any questions.

Thank you.

Sincerely,

Jason Culotta
Legislative assistant
Office of Representative Roger Roth

Kahler, Pam

From: Culotta, Jason
Sent: Thursday, December 11, 2008 3:14 PM
To: Kahler, Pam
Subject: RE: Redraft of 2007 AB 691

Pam,

Thank you for raising this point. Why don't we prepare the draft as is, and then I will have the Fiscal Bureau run some numbers using both the literal interpretation of that language as well as if we removed the continuous eligibility clause. Then Representative Roth can make the decision to change it or preserve the current language.

Again, thanks for catching this. Representative Wieckert introduced this bill last session even though the requestor is a constituent of Representative Roth's. Now that Representative Wieckert is retiring, the issue has been handed off to our office, so I'm still coming up to speed on it.

Thanks again,
--Jason

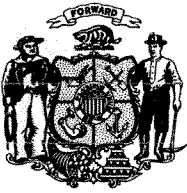
From: Kahler, Pam
Sent: Thursday, December 11, 2008 1:46 PM
To: Culotta, Jason
Subject: Redraft of 2007 AB 691

Hi, Jason:

I took a look at the fiscal estimate for this bill from last session. DHS raises an issue about the interpretation of the phrase "continuously eligible" on page 3, line 9. Their point is that people who have MA under the medically needy category usually cycle on and off because they have to keep spending down their assets over and over again to be covered under that category. They have two different fiscal estimates depending on whether "continuously eligible" is interpreted to have its literal meaning or to include the cycling on and off. We could clear this up by not requiring "continuous" eligibility. Of course, in that case, the fiscal estimate is higher. What would you like to do? Keep the language ambiguous, or clear it up so that DHS would not consider the income and assets of the spouse at any time after the marriage for the recipient?

Pam

Pamela J. Kahler
Legislative Attorney
Legislative Reference Bureau
608-266-2682



State of Wisconsin
2007-2008 LEGISLATURE
2009-2010

1081/P1
LRB-0859/4
PJK:hcpg
Lebjk

2009 ←
2007 ASSEMBLY BILL 691

January 11, 2008 - Introduced by Representatives WIECKERT, A. OTT, FIELDS, ZEPNICK, ALBERS, BERCEAU, FRISKE, GUNDERSON and M. WILLIAMS, cosponsored by Senators LASSA, OLSEN, RISSER and SCHULTZ. Referred to Committee on Health and Healthcare Reform.

(in 12-11)
D-note

SA ✓
X-ref ✓

PWF

regen.

1 **AN ACT to amend** 49.47 (4) (b) 3., 49.47 (4) (i) 2. a. and 49.47 (4) (i) 2. c.; and **to**
2 **create** 49.47 (4m) of the statutes; **relating to:** determining eligibility of certain
3 persons for Medical Assistance without consideration of a spouse's income or
4 assets.

Analysis by the Legislative Reference Bureau

> Under current law, the Department of Health and Family Services (DHFS) administers the Medical Assistance (MA) program, under which eligible persons receive health care or long-term care services. Under one category of eligibility, commonly known as the medically needy category, a person is eligible if his or her income and assets do not exceed a specified level and he or she is blind or totally and permanently disabled. Generally, if the person is married, the income and assets of both of the spouses are taken into consideration for purposes of determining eligibility or continued eligibility.

> This bill requires DHFS to request a waiver that would allow DHFS, if the waiver is granted, to disregard the income and assets of a person's spouse and continue treating the person as single for purposes of determining the person's continued eligibility and family size if the person: 1) is blind or totally and permanently disabled; 2) is receiving MA under the medically needy category; 3) was single when he or she first became eligible for MA; and 4) marries after the bill is enacted and the waiver goes into effect. The bill makes an exception for persons who reside or begin residing in medical institutions or nursing facilities and receive long-term care services, because those persons are subject to federal law

> to ←

ASSEMBLY BILL 691

requirements relating to the assets of spouses when one spouse resides in an institution and the other does not.

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 ^X
SECTION 1. 49.47 (4) (b) 3. of the statutes is amended to read:

2 49.47 (4) (b) 3. For a person who is eligible under par. (a) 3. or 4., funds set aside
3 to meet the burial and related expenses of the person and his or her spouse, if
4 applicable, in an amount not to exceed \$1,500 each, minus the sum of the cash value
5 of any life insurance excluded under subd. 2w. and the amount in any irrevocable
6 burial trust under s. 445.125 (1) (a).

7 ^X
SECTION 2. 49.47 (4) (i) 2. a. of the statutes is amended to read:

8 49.47 (4) (i) 2. a. For the person or his or her spouse, if applicable, the sum of
9 the following, less the cash value of any life insurance excluded under par. (b) 2w. that
10 was obtained after July 1, 1993, exceeds \$8,000: the value of any burial space or
11 agreement described in par. (b) 2r. that was acquired after July 1, 1993; the amount
12 in any irrevocable burial trust under s. 445.125 (1) (a) that was acquired after
13 July 1, 1993; and any funds set aside after July 1, 1993, to meet the burial and
14 related expenses under par. (b) 3.

15 ^X
SECTION 3. 49.47 (4) (i) 2. c. of the statutes is amended to read:

16 49.47 (4) (i) 2. c. For the person or his or her spouse, if applicable, the value of
17 amounts set aside under par. (b) 3. for cemetery property and fees to open and close
18 grave sites, including mausoleum spaces, exceeds \$1,000.

19 ^X
SECTION 4. 49.47 (4m) of the statutes is created to read:

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

LRB-1081/8 dn

PJK:.....

PI
Lbjk

Date

Please note that, in its fiscal estimate for 2007 Assembly Bill 691, DHS considered "continuously eligible" under proposed s. 49.47 (4m) (a) to be subject to differing interpretations. Under the medically needy category of Medical Assistance, recipients must keep spending down their assets to be eligible. Therefore, they are technically not eligible until they "spend down" their assets again to the point of eligibility. As DHS put it, they may "cycle off and on MA." Let me know if you would like to modify the "continuously eligible" language. In that case, I may need to consult with DHS for language that meets your intent.

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

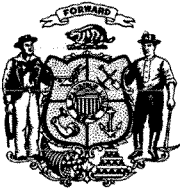
DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1081/P1dn
PJK:bjk:rs

December 23, 2008

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



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1081/BA

PJK:bjk:rs

stays

r m is n n

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SA
no changes
(in 3-18)
SOON

regen.

1 AN ACT to amend 49.47 (4) (b) 3., 49.47 (4) (i) 2. a. and 49.47 (4) (i) 2. c.; and to
2 create 49.47 (4m) of the statutes; relating to: determining eligibility of certain
3 persons for Medical Assistance without consideration of a spouse's income or
4 assets.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Health Services (DHS) administers the Medical Assistance (MA) program, under which eligible persons receive health care or long-term care services. Under one category of eligibility, commonly known as the medically needy category, a person is eligible if his or her income and assets do not exceed a specified level and he or she is blind or totally and permanently disabled. Generally, if the person is married, the income and assets of both of the spouses are taken into consideration for purposes of determining eligibility or continued eligibility.

This bill requires DHS to request a waiver that would allow DHS, if the waiver is granted, to disregard the income and assets of a person's spouse and to continue treating the person as single for purposes of determining the person's continued eligibility and family size if the person: 1) is blind or totally and permanently disabled; 2) is receiving MA under the medically needy category; 3) was single when he or she first became eligible for MA; and 4) marries after the bill is enacted and the waiver goes into effect. The bill makes an exception for persons who reside or begin residing in medical institutions or nursing facilities and receive long-term care services, because those persons are subject to federal law requirements relating to

the assets of spouses when one spouse resides in an institution and the other does not.

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

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

1 **SECTION 1.** 49.47 (4) (b) 3. of the statutes is amended to read:

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3 to meet the burial and related expenses of the person and his or her spouse, if
4 applicable, in an amount not to exceed \$1,500 each, minus the sum of the cash value
5 of any life insurance excluded under subd. 2w. and the amount in any irrevocable
6 burial trust under s. 445.125 (1) (a).

7 **SECTION 2.** 49.47 (4) (i) 2. a. of the statutes is amended to read:

8 49.47 (4) (i) 2. a. For the person or his or her spouse, if applicable, the sum of
9 the following, less the cash value of any life insurance excluded under par. (b) 2w. that
10 was obtained after July 1, 1993, exceeds \$8,000: the value of any burial space or
11 agreement described in par. (b) 2r. that was acquired after July 1, 1993; the amount
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13 July 1, 1993; and any funds set aside after July 1, 1993, to meet the burial and
14 related expenses under par. (b) 3.

15 **SECTION 3.** 49.47 (4) (i) 2. c. of the statutes is amended to read:

16 49.47 (4) (i) 2. c. For the person or his or her spouse, if applicable, the value of
17 amounts set aside under par. (b) 3. for cemetery property and fees to open and close
18 grave sites, including mausoleum spaces, exceeds \$1,000.

19 **SECTION 4.** 49.47 (4m) of the statutes is created to read:

1 49.47 (4m) WAIVER TO DISREGARD SPOUSE'S INCOME AND ASSETS. (a) Subject to par.
2 (b) 2., except as provided in ss. 49.453 to 49.455 and notwithstanding ch. 766 and the
3 income and resources limitations under sub. (4), if a beneficiary described in sub. (4)
4 (a) 4. who was unmarried when he or she first became eligible for medical assistance
5 under this section marries, when determining the individual's continued eligibility
6 for medical assistance under this section the department shall not consider the
7 income or assets of the individual's spouse and shall continue to treat the individual
8 as if he or she is unmarried for purposes of the individual's family size, as long as the
9 individual remains continuously eligible for medical assistance under this section
10 while married to the spouse.

11 (b) 1. No later than the first day of the 4th month beginning after the effective
12 date of this subdivision [LRB inserts date], the department shall request a waiver
13 from the secretary of the federal department of health and human services to
14 implement the determination of continued eligibility of an individual described in
15 par. (a) in the manner provided in par. (a).

16 2. The department shall implement the determination of continued eligibility
17 in the manner provided in par. (a) only if a waiver under subd. 1. that is consistent
18 with par. (a) is granted and in effect.

19 **SECTION 5. Initial applicability.**

20 (1) The treatment of section 49.47 (4m) (a) of the statutes first applies to
21 individuals receiving medical assistance under section 49.47 of the statutes who
22 marry on the date that a waiver under section 49.47 (4m) (b) of the statutes, as
23 created by this act, goes into effect.

24 (END)