

## 2009 DRAFTING REQUEST

### Bill

Received: 12/16/2008

Received By: rryan

Wanted: As time permits

Identical to LRB:

For: Administration-Budget

By/Representing: Willing

This file may be shown to any legislator: NO

Drafter: rryan

May Contact: Jim Johnston, DHS

Addl. Drafters:

Subject: Health - medical assistance

Extra Copies: TJD

Submit via email: YES

Requester's email:

Carbon copy (CC:) to:

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### Pre Topic:

DOA:.....Willing, BAB0002 -

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### Topic:

Hospital assessment

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### Instructions:

See attached

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### 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>
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## 2009-11 Budget Bill Statutory Language Drafting Request

- Topic: Hospital Assessment
- Tracking Code: *BAB 0002*
- SBO team: Health and Insurance
- SBO analyst: Krista Willing
  - Phone: 267-7980
  - Email: [krista.willing@wisconsin.gov](mailto:krista.willing@wisconsin.gov)
- Agency acronym: DHS
- Agency number: 435
- Priority (Low, Medium, High): High

### Intent:

Modify statutes in order to put a hospital assessment in place. Please see attached paper for details. This request is patterned on the Budget Adjustment Bill LRB #4081/6 and March 2008 Special Session LRB #1284/2.

We need this drafted for both the budget and the budget adjustment bill. Please feel free to call me if you have any questions.

Drafting Instructions patterned on Budget Adjustment Bill  
LRB# 4081/6 & March 2008 Special Session LRB# 1284/2

- 13.101(18)
- new 20.435(4)(c)
- 25.772
- 146.99
- also refunds?
- add share 100%? NO
- 1) Prohibition on JCF transferring funds from the Hospital Assessment fund/appropriation
  - 2) Create new SEG, continuing, appropriation for the Hospital Assessment Fund; hospital payments. The purpose of the appropriation is providing Medical Assistance reimbursement to hospitals through rate increases, access payments, pay-for-performance measures and a supplement for Level I Trauma Center providers. The appropriation will also fund fee increases to HMOs to be used as access payments for hospital reimbursement.
  - 3) Repeal the existing hospital assessment appropriation [s.20.435 (4) (gp)] and all references to it, effective 7/1/09.
  - 4) Create a new Hospital Assessment Fund under Chapter 25 to receive assessment revenue. Transfer funds from the Hospital Assessment Fund to the Medical Assistance Trust Fund in the amount of any remaining revenue after hospital rates and supplemental payment amounts have been established.
  - 5) BadgerCare Plus Core Plan inpatient and outpatient services will not be eligible for the access payments, either through Fee-for-Service claims or HMO encounters. *Childless Adults - 49.45(23)*
  - 6) Establish a requirement for HMOs to pay hospital access payments based on a methodology developed by DHS and detailed in the State-HMO contract. HMO access payments to hospitals will be based on a payment amount per discharge and per visit. DHS will require as a term of the State-HMO contract that HMOs do all of the following:
    - a. By contract, HMOs will be required to use 100% of access payment funds to pay hospital providers in the same month they receive the payments according to the methodology developed by DHS. HMOs will divide the inpatient access funding pool provided to them by DHS each month by the total number of Medicaid discharges the HMO paid in the previous month. Based on this, the HMO will calculate and pay a "per discharge" inpatient access payment to each hospital. In addition, HMOs will divide the outpatient access funding pool provided to them by DHS each month by the total number of Medicaid visits the HMO paid in the previous month. Based on this, the HMO will calculate and pay a "per visit" outpatient access payment to each hospital.
    - b. The amount funded in the cap rate for access payments for January – June 2009 will reflect the total assessment revenue to be passed-through on the HMO side for all of SFY09.

✓ c. Statutory language will be developed to clarify the source of the "fee-for-service rate schedule" that may be referenced in HMO-hospital contracts and used as the basis of HMO DRG payments. This schedule will be the SFY08 fee-for-service hospital rate schedule. The purpose of this language is to disconnect HMO DRG payments in 2009 from the SFY09 FFS hospital DRG rates and weights. This language would expire on June 30, <sup>2009</sup> 2008, when FFS assessment payments convert to volume-based supplements.

d. HMO to hospital access payments are sum certain, meaning that when funding is exhausted, the state will make no further payments to the HMOs during that contract year. HMO liability to hospitals for access payments would also end when funds are exhausted. Any unexpended funds would carry-over into the next contract year.

✓ e. HMOs will be required to report monthly to DHS on the amount and percentage of the total hospital access payments made to each hospital. HMOs will also provide monthly remittance and status reports to hospitals indicating the hospital's in patient and out patient access payment amounts, the "per discharge" and "per visit" amount used to calculate the total payment and the hospital proportion of the HMO's total inpatient discharges and out patient visits for the month.).

✓ f. If the department determines that a health maintenance organization has not complied with a condition listed above, 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. The department may audit the health maintenance organization to determine whether they have complied with the conditions.

✓ g. If there is a dispute concerning the amount a health maintenance organization owes a hospital, the hospital and the health maintenance organization may agree to include in a future month's payment any uncounted discharges or visits that the health maintenance organization should have counted. If the hospital and health maintenance organization cannot resolve the amount that a health maintenance organization owes a hospital under the access payments, either the health maintenance organization or the hospital, within 6 months after the end of the time period to which the disputed amount relates, may request that the department determine the amount owed. The department shall determine the amount within 60 days after a 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.



- ✓ 7) Create a new hospital assessment administered by the Department of Health Services, starting in FY09, based on a hospital's gross patient revenues. The annual assessment payment is payable in four quarterly installments due the last day of September, December March and June. Allow the Department of Health Services to grant hardship appeals. Critical Access and IMDs are exempt from the assessment. DHS will set the assessment rate so that the assessment collected is equal to 61.68% of the rate and supplement payment increases provided in aggregate to hospitals.
- ✓ 8) If any portion of assessment revenue allocated to hospital rate increases and supplemental payments is deemed ineligible for federal matching funds, DHS will refund assessment payments to hospitals in proportion to each hospital's assessment payments.
- ✓ 9) Reporting to JCF – Require DHS to annually report, on a fiscal year basis, for both in-patient and out-patient services, the total assessment collected by hospital, the total amount paid to each HMO, the total access payments paid to each hospital both through Fee-For-Service rates and through HMO payments. Report will be due by January 31 of each year beginning in 2010.
- 10) Establish non-statutory language for SFY09 assessment payments and associated rate and supplemental payment increases. In SFY09, the assessment related fee-for-service (FFS) rate increases will be effective for claims with dates of service on or after July 1, 2008. Rates will be adjusted prospectively for claims processed after passage of the assessment. FFS claims with dates of service on or after July 1, 2008 that have already been paid prior to passage of the assessment will be retroactively adjusted to be reconciled with assessment related rate increases. HMO access payment requirements begin in January 2009. All SFY09 HMO access payments will be paid prospectively beginning in the month the assessment is passed. SFY09 assessment payments due from hospitals to the Assessment Trust Fund will be payable in two installments. 50% of the SFY09 annual assessment will be due March 31, 2009 and 50% will be due June 30, 2009.

12/18/08

Curtis, DHS

Calculation of assessment rate & supplemental payment increase are the increase in amount set in budget neutrality projection - upper payment limit (UPL)

UPL applies to fee for service reimbursement, but not managed care

⇒ so refer to rate increase as diff between budgeted amt. from one fiscal year to the next ???

Don't need to specify formula for calculating HMO payments to hospitals in statute

Level I Trauma Center is designated by Amer. College of Surgeons  
specify adult trauma center

Item 6.c. - HMOs have already contracted based on fee-for-service schedule. For HMO contracts with hospitals, want the old rate to apply.

12/18 - p.m.

Call from Jim Johnston  
Can't describe amount of  
rate increase  
as difference between budgeted  
amount from one year to  
the next

$0\% = \frac{\text{tax revenue}}{\text{payments to hospitals (FFS \& HMO)}}$

Will likely put the  $0\%$  of gross  
patient revenue in the stat. lang.