



MON 1/5 (cmh)
State of Wisconsin
2009 - 2010 LEGISLATURE

1/6 a.m.

LRB-1152/?
RLR.....

PI
gf

PWF

Jan 12/19/08

DOA:.....Willing, BAB0002 - Hospital assessment

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

RMR
D-N

Don't Gen

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

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

2 SECTION 1. 13.101 (18) of the statutes is created to read:
3 13.101 (18) Notwithstanding sub. (4), the committee may not transfer moneys
4 from the appropriation account under s. 20.435 (4) (xc) to another appropriation
5 account.

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

Stet
leave
in

SECTION 2

leave in

2007-08

2008-09

1

2 **20.435 Health services, department of**

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

(4) HEALTH SERVICES PLANNING; REG & DELIVERY; HLTH

CARE FIN; OTHER SUPPORT PGMS

(xc) Hospital assessment fund; hospi-

tal payments

SEG C

-0-

-0-

SECTION 3. 20.435 (4) (gp) of the statutes is repealed.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*. From the hospital assessment fund, as a continuing appropriation, the amounts in the schedule to reimburse hospitals for services provided under the Medical Assistance Program under subch. IV of ch. 49 other than services provided under the childless adults program under s. 49.45 (23), make payments to health maintenance organizations under s. 49.45 (59), make supplemental payments to level I adult trauma centers under s. 49.45 (6y) (ap), make supplemental payments to hospitals based on performance under s. 49.45 (6y) (ar), and make refunds under s. 50.38 (5).

SECTION 5. 25.77 (11) of the statutes is created to read:

25.77 (11) All moneys transferred under s. 27.772 (2).

SECTION 6. 25.772 of the statutes is created to read:

25.772 Hospital assessment fund. (1) CREATION. There is established a separate nonlapsible trust fund designated as the hospital assessment fund, to consist of all moneys received under s. 50.38 (1) from assessments on hospitals.

(2) TRANSFER. On June 30 of each fiscal year, the secretary of administration shall transfer from the hospital assessment fund to the medical assistance trust fund

1 an amount equal to the amount by which the moneys accruing to the hospital
 2 assessment fund in the fiscal year exceed the amounts in the schedule under s.
 3 20.435 (4) (xc).

INS
3-3
4 **SECTION 7.** 49.45 (5m) (am) of the statutes is amended to read:

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

History: 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106j, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38, 57, 67, 104, 109; 2003 a. 33, 318, 321; 2005 a. 22; 2005 a. 25 ss. 1120 to 1149f, 2503 to 2510; 2005 a. 107, 165, 253, 254, 264, 301, 340, 386, 441; 2007 a. 20 ss. 1513 to 1559h, 9121 (6) (a); 2007 a. 90, 97, 104, 141, 153.

INS
3-12
13 **SECTION 8.** 49.45 (6y) (ap) of the statutes is created to read:

14 49.45 (6y) (ap) Notwithstanding sub. (3) (e), from the appropriation account
 15 under s. 20.435 (4) (xc), the department may make supplemental payments to
 16 hospitals that satisfy the criteria established by the American College of Surgeons
 17 for classification as a Level I adult trauma center.

18 **SECTION 9.** 49.45 (6y) (ar) of the statutes is created to read:

19 49.45 (6y) (ar) Notwithstanding sub (3) (e), the department may, from the
 20 appropriation account under s. 20.435 (4) (xc), make supplemental payments to
 21 hospitals based on hospital performance, in accordance with a payment methodology
 22 developed by the department.

SECTION 10

JNS 4-1

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

SECTION 10. 49.45 (59) of the statutes is created to read:

49.45 (59) HEALTH MAINTENANCE ORGANIZATION PAYMENTS TO HOSPITALS. (1) The department shall, from the appropriation account under s. 20.435 (4) (xc), pay each health maintenance organization with which it contracts to provide medical assistance a monthly amount that the health maintenance organization shall use to make payments to hospitals under sub. (2).

(b) (2) Health maintenance organizations shall pay all of the moneys they receive under sub. (1) to hospitals. The department shall specify in contracts with health maintenance organizations to provide medical assistance a method that health maintenance organizations shall use to allocate the amounts received under sub. (1) among hospitals based on the number of discharges from inpatient stays and the number of outpatient visits for which the health maintenance organization paid a hospital in the previous month for enrollees who are recipients of medical assistance, except enrollees who receive medical assistance under s. 49.45 (23). Payments under this subsection shall be in addition to any amount that a health maintenance organization is required by agreement between the health maintenance organization and a hospital to pay the hospital for providing services to the health maintenance organization's enrollees.

(c) (3) Each health maintenance organization that provides medical assistance shall report to the department each month the amount it paid each hospital under sub. (2) and the percentage of the total payments it made under sub. (2) that it paid to each hospital.

(d) (4) Each health maintenance organization that provides medical assistance shall report monthly to each hospital to which the health maintenance organization makes payments under sub. (2) such information regarding the payments that the

par. (b)

(a)

par. (b)

(b) par. (a)

par. (a)

par. (b)

1 department specifies in its contract with the health maintenance organization to
2 provide medical assistance.

3 (e) (5) (a) If the department determines that an health maintenance organization
4 has not complied with a requirement under subs. (2) to (4), the department shall
5 order the health maintenance organization to comply with the requirement within
6 15 days after the department's determination of noncompliance.

7 2. (b) The department may terminate a contract with a health maintenance
8 organization to provide medical assistance if the health maintenance organization
9 fails to comply with a requirement under subs. (2) to (4).

10 3. (c) The department may audit an health maintenance organization to
11 determine whether the health maintenance organization has complied with the
12 requirements under subs. (2) to (4).

13 (f) (6) The department shall specify in contracts with health maintenance
14 organizations to provide medical assistance the method for adjusting payments
15 under sub. (2) to correct a health maintenance organization's failure to count
16 inpatient discharges or outpatient visits in calculating a monthly payment to a
17 hospital under sub. (2).

****NOTE: Should the department also specify a method to correct overcounting of
inpatient discharges or outpatient visits?

18 (g) (7) If a health maintenance organization and hospital do not agree on the
19 amount of a monthly payment that the health maintenance organization is required
20 to pay the hospital under sub. (2), either the health maintenance organization or the
21 hospital, within 6 months after the first day of the month in which the payment is
22 due, may request that the department determine the amount of the payment. The
23 department shall determine the amount of the payment within 60 days after the

par. (b) to (d)

par. (b) to (d)

par. (b) to (d)

par. (b)

par (b)

par. (b)

SECTION 10

1 request for a determination is made. The health maintenance organization or
2 hospital is, upon request, entitled to a contested case hearing under ch. 227 on the
3 department's determination.

4 **SECTION 11.** 50.38 of the statutes is created to read:

5 **50.38 Hospital assessment.** (1) Except as provided in sub. (4), for the
6 privilege of doing business in this state, there is imposed on each hospital an
7 assessment each state fiscal year that is equal to a percentage, determined under
8 sub. (2), of the hospital's gross patient revenues.

9 (2) The department shall establish the percentage under sub. (1) so that the
10 total amount of assessments collected under this section in a state fiscal year is equal
11 to 61.68 percent of the difference between the amount budgeted for reimbursement
12 and supplemental payments to hospitals under the Medical Assistance Program
13 under subch. IV of ch. 49 for that fiscal year and the amount budgeted for the
14 previous fiscal year.

****NOTE: Jim Johnston says that this language does not accurately describe the rate and supplemental pay increases provided to hospitals, and that DHS will likely state the percentage of gross patient revenues for each fiscal year in the statutory language.

15 (3) Each hospital shall pay the annual assessment in 4 equal amounts that are
16 due by September 30, December 31, March 31, and June 30 of each year.

17 (4) (a) The requirement to pay an annual assessment under this section does
18 not apply to an institution for mental diseases, as defined in s. 46.011 (1m), or a
19 critical access hospital.

20 (b) The department may on the basis of a hospital's hardship waive the
21 requirement for a hospital to pay the assessment under this section.

22 (5) If the federal government does not provide federal financial participation
23 under the federal Medicaid program for the total amount of assessments paid under

INS
6-3

1 this section, the department shall refund hospitals the amount for which the federal
2 government does not provide federal financial participation. The department shall
3 allocate any refund under this subsection to hospitals in proportion to the percentage
4 of the total assessments collected under sub. (1) that each hospital paid.

5 (6) By January 31 of each year, beginning in 2010, the department shall report
6 to the joint committee on finance all of the following information for the state
7 fiscal year ending the previous June 30:

8 (a) The amount each hospital paid under sub. (1).

9 (b) The amounts the department paid each health maintenance organization
10 under s. 45.59 (2) for inpatient hospital services. 49.45 (59) (6)

11 (c) The amounts the department paid each health maintenance organization
12 under s. 45.59 (2) for outpatient hospital services. 49.45 (59) (6)

13 (d) The total amounts that each hospital received from health maintenance
14 organizations under s. 49.59 (2) for inpatient hospital services. 49.45 (59) (6)

15 (e) The total amounts that each hospital received from health maintenance
16 organizations under s. 49.59 (2) for outpatient hospital services. 49.45 (59) (6)

17 (f) The total amount of payment increases the department made, in connection
18 with implementation of the hospital assessment under sub. (1), for inpatient hospital
19 services that are reimbursed on a fee-for-service basis.

20 (g) The total amount of payment increases the department made, in connection
21 with implementation of the hospital assessment under sub. (1), for services
22 outpatient hospital services that are reimbursed on a fee-for-service basis.

23 **SECTION 12.** 50.389 of the statutes is renumbered 50.377.

24 **SECTION 13.** 146.99 of the statutes is repealed.

25 **SECTION 9122. Nonstatutory provisions; Health Services.**

1 (1) HOSPITAL ASSESSMENT.

2 (a) *Assessment payment deadlines.* Notwithstanding section 50.38 (3), as
 3 created by this act, hospitals shall pay the assessment for state fiscal year 2008-09
 4 that is required under section 50.38 (1) of the statutes, as created by this act, in 2
 5 equal amounts. Hospitals shall make the first payment by March 31, 2009, or 10
 6 days after the effective date of this paragraph, whichever is later. Hospitals shall
 7 make the 2nd payment by June 30.

8 (b) *Medical assistance hospital rate and weight schedules.* 1. The inpatient
 9 and outpatient hospital diagnosis related groupings rate and weight schedules
 10 established by the Department of Health services for state fiscal year 2008-09 shall
 11 be the same as the schedules established for state fiscal year 2007-08.

12 2. Notwithstanding subdivision 1., the Department of Health Services may, for
 13 fiscal year 2008-09, make fee-for-service payments to hospitals under the Medical
 14 Assistance Program, except the program under s. 49.45 (23) of the statutes, that
 15 exceed the payments calculated using the inpatient and outpatient hospital
 16 diagnosis related groupings rate and weight schedules for state fiscal year 2008-09.

X *****NOTE: My understanding of the request is that DHS wants language that tells
 private entities (an HMO and a hospital) how to interpret language in a contract between
 those entities. I presume that some of these contracts may be pre-existing contracts.
 Does the above language address the department's concern without interfering with
 private contracts?

17 **SECTION 9322. Initial applicability; Health Services.**

18 (1) MEDICAL ASSISTANCE FEE-FOR-SERVICE HOSPITAL RATE INCREASES. Rate
 19 increases under the Medical Assistance Program for inpatient and outpatient
 20 hospital services reimbursed on a fee-for-service basis that are made in connection
 21 with implementation of the hospital assessment under s. 50.38 of the statutes, as
 22 created by this act, first apply to services provided on July 1, 2008.

1 SECTION 9422. Effective dates; Health Services.

2 (1) HOSPITAL ASSESSMENT. The treatment of sections 20.435 (4) (gp), 46.27 (9) ✓
 3 (a) and (10) (a) 1., 46.275 (5) (a) and (c), 46.283 (5), 46.284 (5) (a), 46.485 (2g) (intro.), ✓
 4 49.45 (2) (a) 17., (5m) (am), (6m) (ag) (intro.), (6v) (b), (6x) (a), (6y) (a) and (am), (6z)
 5 (a) (intro.), (8) (b), (2m) (intro.), and (52), 49.472 (6) (a) and (b), 49.473 (5), and 146.99 ✓
 6 of the statutes takes effect on July 1, 2009.

7 (END)

O-Note

INSERT for LRB-1152/P1

THIS
INS
3-3

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

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

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

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

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

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

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

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.

EMS INSERT

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:

*INS
3-12*

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). *END INSERT*

INS 16 **SECTION 23.** 49.45 (6z) (a) (intro.) ✓ of the statutes, as affected by 2007 Wisconsin

4-1 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

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), (g^v), (o), and (w),
2 may not exceed applicable limitations on payments under 42 USC 1396a (a) (30) (A).

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 develop a methodology for calculating rate increases for inpatient
6 and outpatient hospital services in connection with the assessment imposed on
7 hospitals under s. 50.375. The methodology shall incorporate encounter data
8 provided by health maintenance organizations and information that the department
9 uses to calculate the capitated rates that the department pays health maintenance
10 organizations for providing services to recipients of medical assistance. The
11 department shall publicly disclose the methodology. The department shall review
12 the methodology at least once every 12 months.

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

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

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

23 3. Within 90 days after the end of each 6-month period, compare the amounts
24 that the health maintenance organization paid hospitals under subd. 1. for the
25 6-month period with the amounts calculated under subd. 2. for services provided

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

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

8 (d) If the department determines that a health maintenance organization has
9 not complied with a condition under par. (b), the department shall require the health
10 maintenance organization to comply with the condition within 15 days after the
11 department's determination. The department may terminate a contract with a
12 health maintenance organization for failure to comply with a condition under par.

13 (b). The department shall audit health maintenance organizations to determine
14 whether they have complied with the conditions under par. (b).

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

24 INS SECTION 28. 49.472 (6) (a) of the statutes is amended to read:
16-3

1 49.472 (6) (a) Notwithstanding sub. (4) (a) 3., from the appropriation account
2 under s. 20.435 (4) (b), ~~(gp)~~, or (w), the department shall, on the part of an individual
3 who is eligible for medical assistance under sub. (3), pay premiums for or purchase
4 individual coverage offered by the individual's employer if the department
5 determines that paying the premiums for or purchasing the coverage will not be more
6 costly than providing medical assistance.

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

8 49.472 (6) (b) If federal financial participation is available, from the
9 appropriation account under s. 20.435 (4) (b), ~~(gp)~~, or (w), the department may pay
10 medicare Part A and Part B premiums for individuals who are eligible for medicare
11 and for medical assistance under sub. (3).

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

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

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

19 ~~**50.375 Assessment.** (1) Except as provided in subs. (2) and (7), for the~~
20 ~~privilege of doing business in this state, there are imposed on each hospital~~
21 ~~assessments, based on the hospital's gross patient revenue, that each hospital shall~~
22 ~~pay by June 1, 2008, for fiscal year 2007-08; and by September 1, 2008, December~~
23 ~~1, 2008, March 1, 2009, and June 1, 2009. The assessments shall be deposited into~~
24 ~~the hospital assessment fund.~~

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1152/P1dn

RLR...*kf*

Date

Krista Willing:

X This draft is for the budget adjustment bill.

X The draft does not provide any specifics about how the department will pay rate increases for hospital services that are reimbursed on a fee-for-service basis? Should it? Item 9 in the drafting instructions, regarding reports to the joint committee on finance, indicates that DHS will make "access" payments to hospitals for services that are reimbursed on a fee-for-service basis. Should this draft include language for such payments under s. 49.45?

Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.wisconsin.gov

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

LRB-1152/P1dn
RLR:kjf:md

January 5, 2009

Krista Willing:

This draft is for the budget adjustment bill.

The draft does not provide any specifics about how the department will pay rate increases for hospital services that are reimbursed on a fee-for-service basis. Should it? Item 9 in the drafting instructions, regarding reports to the Joint Committee on Finance, indicates that DHS will make "access" payments to hospitals for services that are reimbursed on a fee-for-service basis. Should this draft include language for such payments under s. 49.45?

Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.wisconsin.gov

Ryan, Robin

From: Ryan, Robin
Sent: Monday, January 05, 2009 10:52 AM
To: Johnston, James - DHS
Cc: Willing, Krista - DOA; Albertoni, Richard S - DHS
Subject: RE: Revised Drafting Instructions

Jim and Krista,

I put a first draft of the hospital assessment into editing on Dec. 19th. An editor started going through it this morning and wants to finish. So, you will receive ^{in an} initial draft based on the prior instructions. I will redraft off that as soon as I get a clean copy.

Robin

-----Original Message-----

From: Johnston, James - DHS [mailto:James.Johnston@dhs.wisconsin.gov]
Sent: Monday, January 05, 2009 8:42 AM
To: Ryan, Robin
Cc: Willing, Krista - DOA; Albertoni, Richard S - DHS
Subject: FW: Revised Drafting Instructions

Hi Robin,

Attached are some revisions to the drafting instructions. This version lists the assessment amounts in the Chapter 20 schedule and authorizes the department to impose an assessment that yields the Chapter 20 funding levels.

Happy New Year!

Jim

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

- 1) Create new SEG, annual, appropriation for the Hospital Assessment Fund; hospital payments and refunds, 20.435(4)(xc). The purpose of the appropriation is providing Medical Assistance reimbursement to hospitals through rate increase, access payments and pay-for-performance programs. The appropriation will also fund fee increases to HMOs to be used as access payments for hospital reimbursement. The fee for service access payments and access payments provided to the HMOs will be in excess of the aggregate inpatient and outpatient hospital payment rates in effect in fiscal year 2007-2008 for MA services provided by hospitals assessed. All funds not spent by December 31 of each year shall be refunded as described in (5) below to hospital in proportion to each hospital's assessment payments allocated proportionately to assessed hospitals. The appropriation will also transfer \$3 million/ FY to a new SEG-S appropriation for the UW Hospital and Clinics Authority.

+ Rural Hosp
suppl - see
#8

+ Adult Level
I Trauma
Center - see
#9

- need stat
long for
inclusion under
FFS?

Why not make
approp directly
from HATEF?

? goes w/ Item 10?

Appropriation Levels are:
FY2009 \$275,445,100
FY2010 \$310,021,000
FY2011 \$339,695,800

- 2) Repeal existing hospital assessment appropriation [s.20.435(4)(gp)] and all references to it, effective 7/1/09.
- 3) Create 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 the assessment under (5) that is in excess of the state share of the "access payment hospital share". Access payment hospital share is defined as the state and federal share of increased MA payment rates to hospitals that are assessed that are in excess of the aggregate inpatient and outpatient hospital payment rates in effect in FY 2006-2007 for services provided by hospitals under the MA program.
- 4) Establish requirement for HMOs to pay hospitals access payments based on a methodology developed by DHS and detailed in the State-HMO contract. Access payments will be based on number of discharges and visits provided by each hospital, excluding the BadgerCare Plus Core Plan. DHS will require as a term of the State-HMO contract that HMOs do all of the following:
 - a. Require HMOs 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 their access funding pool each month by the total number of Medicaid discharges and visits paid in the previous month. The HMO will calculate a "per discharge" and

X

1/5/09

“per visit” access payment for each hospital. HMOs must pay access payments to hospitals within 15 calendar days of receiving the payment from DHS. ✓

- ✓ 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. The source of the “fee-for-service rate schedule” that shall be referenced in HMO-hospital contracts and used as the basis of HMO DRG payments for fiscal year 2008-09 is 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 will apply for dates of service provided from July 1, 2008, through June 30, 2009. This subsection sunsets on July 1, 2009 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
 - 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 hospitals’ in-patient and out-patient access payments and the hospitals’ proportion of the HMOs total inpatient discharges and out patient visits and funding 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 calendar 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.
- 5) ✓ 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

don't have to report "per discharge" & "per visit" amts.

1/5/09

determine the amount owed. The department shall determine the amount within 60 business 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.

- ✓ 6) Create a new hospital assessment administered by the Department of Health Services, starting in FY09, based on a hospital's gross patient revenues as indicated on the hospital fiscal survey. The assessment payments will be due quarterly. All assessment revenue is to be deposited in the Hospital Assessment Trust Fund. 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 57.75% in FY09 and 61.68% starting in FY10 of the funding for access payment rate increases provided to hospitals. The department shall verify the amount of each hospital's gross patient revenue and shall determine the amount of the assessment owed by each hospital based on a uniform rate that is applicable to the total gross patient revenue that the department estimates will yield that e amounts specified in the appropriation schedule under s. 20.005 (3) for the appropriation account for the hospital assessment.

needn't be in state?

- 7) If the department determines that any portion of the revenue collected to provide MA program benefits and payment increases to hospitals as FFS or through HMO payments is deemed ineligible for federal funding match funds or is otherwise not used for the Medical Assistance program or if an amount equal to the "access payment hospital share" is not used for rate increases for hospital that pay the assessment under (6) for inpatient and outpatient services as fee for service or through health maintenance organizations in the year in which it was assessed, the department will refund that portion of revenue to hospitals in proportion to each hospitals' payment of the ineligible assessment amount collected.

is transfer to univ. Hosp. & Clinics part of MA?

circular? because this term defined as the amt of rate increase?

- ✓ 8) Modify the Rural Hospital supplement program under s. 49.45(5m) (am) to distribute not more than \$5 million/ fiscal year. Delete reference to providing reimbursement to critical access hospitals. Add the new Hospital Assessment SEG appropriation as a funding source for these payments. Change is effective July 1, 2009.

- ✓ 9) Create a new supplemental payment program to provide a total of not more than \$8 million in reimbursement to be distributed to hospitals designated as Level One Trauma Centers for the adult care using criteria as established by the American College of Surgeons (ACS). Change is effective July 1, 2009. Supplement to be funded from hospital assessment SEG appropriation and 20.435 (4)(o). Don't need to amend (4)(o)

- ✓ 10) Create a new State Hospital Supplement Appropriation under s.20.285 (6) as a SEG-Service continuing appropriation to provide reimbursement for State Hospital Services. Change is effective July 1, 2009.

goes w/ \$3 mil transfer under item #12

1/5/09

- ✓ 11) 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 first of each year.

- 12) Establish non-statutory language for FY09 Assessment payments and associated rate/fee increases. The assessment related rate increases January, 2009 with a retroactive adjustment back to July 2008 for fee-for-service rate increases and starting in January 2009 monthly HMO access payments to hospitals. The first assessment payment due from hospitals to the Assessment Trust Fund will be in March 2009 and the balance for FY09 will be due in June 2009.

- * 13) The program sunsets on June 30, 2014.



In 1/6/08
Wanted 1/7/08

DOA:.....Willing, BAB0002 - Hospital assessment

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

RMRE
D-N

Don't Gen

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

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

2 SECTION 1. 13.101 (18) of the statutes is created to read:

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

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

2007-08

2008-09

20.435 Health services, department of

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

(xc) Hospital assessment fund; hospital payments

SEG

-0-

Handwritten note: 275,445,100 in a circle with a line through it and -0- below it.

Handwritten initials 'A' and 'C' with arrows pointing to the SEG and -0- fields.

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. From the hospital assessment fund, as a continuing appropriation, the amounts in the schedule to reimburse hospitals for services provided under the Medical Assistance Program under subch. IV of ch. 49 other than services provided under the childless adults program under s. 49.45 (23), make payments to health maintenance organizations under s. 49.45 (59), make supplemental payments to level I adult trauma centers under s. 49.45 (6y) (ap), make supplemental payments to hospitals based on performance under s. 49.45 (6y) (ar), and make refunds under s. 50.38 (5).

SECTION 5. 25.77 (11) of the statutes is created to read:

25.77 (11) All moneys transferred under s. 27.772 (2).

SECTION 6. 25.772 of the statutes is created to read:

25.772 Hospital assessment fund. (1) CREATION. There is established a separate nonlapsible trust fund designated as the hospital assessment fund, to consist of all moneys received under s. 50.38 (1) from assessments on hospitals.

(2) TRANSFER. On June 30 of each fiscal year, the secretary of administration shall transfer from the hospital assessment fund to the medical assistance trust fund

Vertical handwritten note: provide supplemental funds to rural hospitals under s. 49.45 (5m) (am).

Vertical handwritten note: and to make the transfer under s. 50.38(1)

Handwritten note: INS 75-6 with an arrow pointing to SECTION 3.

Handwritten note: INS 2-22 with an arrow pointing to SECTION 6.

1 an amount equal to the amount by which the moneys accruing to the hospital
2 assessment fund in the fiscal year exceed the amounts in the schedule under s.
3 20.435 (4) (xc).

4 **SECTION 7.** 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 8.** 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 because of increased utilization of nursing home services, as estimated by the
20 department.

21 **SECTION 9.** 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

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

3 **SECTION 10.** 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 11.** 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 12.** 46.284 (5) (a) of the statutes is amended to read:

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

24 **SECTION 13.** 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 14.** 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 15.** 49.45 (5m) (am) of the statutes is amended to read:

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

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

23 49.45 (6m) (ag) (intro.) Payment for care provided in a facility under this
24 subsection made under s. 20.435 (4) (b), ~~(gp)~~, (o), (pa), or (w) shall, except as provided
25 in pars. (bg), (bm), and (br), be determined according to a prospective payment

1 system updated annually by the department. The payment system shall implement
2 standards that are necessary and proper for providing patient care and that meet
3 quality and safety standards established under subch. II of ch. 50 and ch. 150. The
4 payment system shall reflect all of the following:

5 **SECTION 17.** 49.45 (6v) (b) of the statutes is amended to read:

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

12 **SECTION 18.** 49.45 (6x) (a) of the statutes is amended to read:

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

19 **SECTION 19.** 49.45 (6y) (a) of the statutes is amended to read:

20 49.45 (6y) (a) Notwithstanding sub. (3) (e), from the appropriation accounts
21 under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), the department ~~shall~~ may distribute funding
22 in each fiscal year to provide supplemental payment to hospitals that enter into a
23 contract under s. 49.02 (2) to provide health care services funded by a relief block
24 grant, as determined by the department, for hospital services that are not in excess
25 of the hospitals' customary charges for the services, as limited under 42 USC 1396b

1 (i) (3). If no relief block grant is awarded under this chapter or if the allocation of
2 funds to such hospitals would exceed any limitation under 42 USC 1396b (i) (3), the
3 department may distribute funds to hospitals that have not entered into a contract
4 under s. 49.02 (2).

5 **SECTION 20.** 49.45 (6y) (am) of the statutes is amended to read:

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

13 **SECTION 21.** 49.45 (6y) (ap) of the statutes is created to read:

14 49.45 (6y) (ap) Notwithstanding sub. (3) (e), from the appropriation account
15 under s. 20.435 (4) (xc), the department may make supplemental payments to
16 hospitals that satisfy the criteria established by the American College of Surgeons
17 for classification as a Level I adult trauma center.

18 **SECTION 22.** 49.45 (6y) (ar) of the statutes is created to read:

19 49.45 (6y) (ar) Notwithstanding sub (3) (e), the department may, from the
20 appropriation account under s. 20.435 (4) (xc), make supplemental payments to
21 hospitals based on hospital performance, in accordance with a payment methodology
22 developed by the department.

23 **SECTION 23.** 49.45 (6z) (a) (intro.) of the statutes is amended to read:

24 49.45 (6z) (a) (intro.) Notwithstanding sub. (3) (e), from the appropriation
25 accounts under s. 20.435 (4) (b), (~~gp~~), (o), and (w), the department may distribute

INS
7-12

1 funding in each fiscal year to supplement payment for services to hospitals that enter
2 into indigent care agreements, in accordance with the approved state plan for
3 services under 42 USC 1396a, with relief agencies that administer the medical relief
4 block grant under this chapter, if the department determines that the hospitals serve
5 a disproportionate number of low-income patients with special needs. If no medical
6 relief block grant under this chapter is awarded or if the allocation of funds to such
7 hospitals would exceed any limitation under 42 USC 1396b (i) (3), the department
8 may distribute funds to hospitals that have not entered into indigent care
9 agreements. The department may not distribute funds under this subsection to the
10 extent that the distribution would do any of the following:

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

12 49.45 (8) (b) Reimbursement under s. 20.435 (4) (b), (~~gp~~), (o), and (w) for home
13 health services provided by a certified home health agency or independent nurse
14 shall be made at the home health agency's or nurse's usual and customary fee per
15 patient care visit, subject to a maximum allowable fee per patient care visit that is
16 established under par. (c).

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

18 49.45 (24m) (intro.) From the appropriation accounts under s. 20.435 (4) (b),
19 (~~gp~~), (o), and (w), in order to test the feasibility of instituting a system of
20 reimbursement for providers of home health care and personal care services for
21 medical assistance recipients that is based on competitive bidding, the department
22 shall:

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

24 49.45 (52) PAYMENT ADJUSTMENTS. Beginning on January 1, 2003, the
25 department may, from the appropriation account under s. 20.435 (7) (b), make

1 Medical Assistance payment adjustments to county departments under s. 46.215,
2 46.22, 46.23, or 51.42, or 51.437 or to local health departments, as defined in s. 250.01
3 (4), as appropriate, for covered services under s. 49.46 (2) (a) 2. and 4. d. and f. and
4 (b) 6. b., c., f., fm., g., j., k., L., Lm., and m., 9., 12., 12m., 13., 15., and 16. Payment
5 adjustments under this subsection shall include the state share of the payments.
6 The total of any payment adjustments under this subsection and Medical Assistance
7 payments made from appropriation accounts under s. 20.435 (4) (b), ~~(g)~~, (o), and (w),
8 may not exceed applicable limitations on payments under 42 USC 1396a (a) (30) (A).

9 **SECTION 27.** 49.45 (59) of the statutes is created to read:

10 49.45 (59) HEALTH MAINTENANCE ORGANIZATION PAYMENTS TO HOSPITALS. (a) The
11 department shall, from the appropriation account under s. 20.435 (4) (xc), pay each
12 health maintenance organization with which it contracts to provide medical
13 assistance a monthly amount that the health maintenance organization shall use to
14 make payments to hospitals under par. (b).

*within 15 days after
receiving the moneys*

15 (b) Health maintenance organizations shall pay all of the moneys they receive
16 under par. (a) to hospitals. The department shall specify in contracts with health
17 maintenance organizations to provide medical assistance a method that health
18 maintenance organizations shall use to allocate the amounts received under par. (a)
19 among hospitals based on the number of discharges from inpatient stays and the
20 number of outpatient visits for which the health maintenance organization paid a
21 hospital in the previous month for enrollees who are recipients of medical assistance,
22 except enrollees who receive medical assistance under s. 49.45 (23). Payments under
23 this paragraph shall be in addition to any amount that a health maintenance
24 organization is required by agreement between the health maintenance

1 organization and a hospital to pay the hospital for providing services to the health
2 maintenance organization's enrollees.

3 (c) Each health maintenance organization that provides medical assistance
4 shall report to the department each month the amount it paid each hospital under
5 par. (b) and the percentage of the total payments it made under par. (b) that it paid
6 to each hospital.

7 (d) Each health maintenance organization that provides medical assistance
8 shall report monthly to each hospital to which the health maintenance organization
9 makes payments under par. (b) such information regarding the payments that the
10 department specifies in its contract with the health maintenance organization to
11 provide medical assistance.

12 (e) 1. If the department determines that a health maintenance organization
13 has not complied with a requirement under pars. (b) to (d), the department shall
14 order the health maintenance organization to comply with the requirement within
15 15 days after the department's determination of noncompliance.

16 2. The department may terminate a contract with a health maintenance
17 organization to provide medical assistance if the health maintenance organization
18 fails to comply with a requirement under pars. (b) to (d).

19 3. The department may audit a health maintenance organization to determine
20 whether the health maintenance organization has complied with the requirements
21 under pars. (b) to (d).

22 (f) The department shall specify in contracts with health maintenance
23 organizations to provide medical assistance the method for adjusting payments
24 under par. (b) to correct a health maintenance organization's failure to count

1 inpatient discharges or outpatient visits in calculating a monthly payment to a
2 hospital under par. (b).

****NOTE: Should the department also specify a method to correct overcounting of
inpatient discharges or outpatient visits?

3 (g) If a health maintenance organization and hospital do not agree on the
4 amount of a monthly payment that the health maintenance organization is required
5 to pay the hospital under par. (b), either the health maintenance organization or the
6 hospital, within 6 months after the first day of the month in which the payment is
7 due, may request that the department determine the amount of the payment. The
8 department shall determine the amount of the payment within 60 days after the
9 request for a determination is made. The health maintenance organization or
10 hospital is, upon request, entitled to a contested case hearing under ch. 227 on the
11 department's determination.

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

13 49.472 (6) (a) Notwithstanding sub. (4) (a) 3., from the appropriation account
14 under s. 20.435 (4) (b), ~~(gp)~~, or (w), the department shall, on the part of an individual
15 who is eligible for medical assistance under sub. (3), pay premiums for or purchase
16 individual coverage offered by the individual's employer if the department
17 determines that paying the premiums for or purchasing the coverage will not be more
18 costly than providing medical assistance.

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

20 49.472 (6) (b) If federal financial participation is available, from the
21 appropriation account under s. 20.435 (4) (b), ~~(gp)~~, or (w), the department may pay
22 medicare Part A and Part B premiums for individuals who are eligible for medicare
23 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.** 50.38 of the statutes is created to read:

8 **50.38 Hospital assessment.** (1) Except as provided in sub. (4), for the
9 privilege of doing business in this state, there is imposed on each hospital an
10 assessment each state fiscal year that is equal to a percentage, determined under
11 sub. (2), of the hospital's gross patient revenues.

uniform

INS 12-11

12 (2) The department shall establish the percentage under sub. (1) so that the
13 total amount of assessments collected under this section in a state fiscal year is equal
14 to 61.68 percent of the difference between the amount budgeted for reimbursement
15 and supplemental payments to hospitals under the Medical Assistance Program
16 under subch. IV of ch. 49 for that fiscal year and the amount budgeted for the
17 previous fiscal year.

****NOTE: Jim Johnston says that this language does not accurately describe the rate and supplemental pay increases provided to hospitals, and that DHS will likely state the percentage of gross patient revenues for each fiscal year in the statutory language.

INS 12-17

18 (3) Each hospital shall pay the annual assessment in 4 equal amounts that are
19 due by September 30, December 31, March 31, and June 30 of each year.

20 (4) (a) The requirement to pay an annual assessment under this section does
21 not apply to an institution for mental diseases, as defined in s. 46.011 (1m), or a
22 critical access hospital.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

Ins 7-12:

SECTION 2. 49.45 (6y) (ap) of the statutes is created to read:

49.45 (6y) (ap) Notwithstanding sub. (3) (e), from the appropriation accounts under s. 20.435 (4) (o) and (xc), the department shall distribute not more than \$8,000,000 in each fiscal year as supplemental payments to hospitals that satisfy the criteria established by the American College of Surgeons for classification as a Level I adult trauma center.

Ins 12-11:

no # , as indicated on the annual hospital fiscal survey and verified by the department

Ins 12-17:

(2) The department shall establish the percentage under sub. (1) so that the total amount of assessments collected under this section in a state fiscal year is equal to the amount in the schedule under s. 20.005 (3) for the appropriation under s. 20.435 (4) (xc) for that fiscal year.

Ins 13-6:

(b) The department shall refund to hospitals any moneys credited to the appropriation account under s. 20.435 (4) (xc) in a state fiscal year that are not expended by December 31 of that year.

***NOTE: Is December 31 the correct date?

1 (b) The department may on the basis of a hospital's hardship waive the
2 requirement for a hospital to pay the assessment under this section.

3 (a) (5) If the federal government does not provide federal financial participation
4 under the federal Medicaid program for the total amount of assessments paid under
5 this section, the department shall refund hospitals the amount for which the federal
6 government does not provide federal financial participation. The department shall
7 allocate any refund under this subsection to hospitals in proportion to the percentage
8 of the total assessments collected under sub. (1) that each hospital paid.

INS
13-6

9 (6) By January 31 of each year, beginning in 2010, the department shall report
10 to the joint committee on finance all of the following information for the state fiscal
11 year ending the previous June 30:

12 (a) The amount each hospital paid under sub. (1).

13 (a) (b) The amounts the department paid each health maintenance organization
14 under s. 49.45 (59) (b) for inpatient hospital services.

15 (c) The amounts the department paid each health maintenance organization
16 under s. 49.45 (59) (b) for outpatient hospital services.

17 (c) (d) The total amounts that each hospital received from health maintenance
18 organizations under s. 49.45 (59) (b) for inpatient hospital services.

19 (e) The total amounts that each hospital received from health maintenance
20 organizations under s. 49.45 (59) (b) for outpatient hospital services.

21 (d) (f) The total amount of payment increases the department made, in connection
22 with implementation of the hospital assessment under sub. (1), for inpatient hospital
23 services that are reimbursed on a fee-for-service basis.

and outpatient

1 (g) The total amount of payment increases the department made, in connection
 2 with implementation of the hospital assessment under sub. (1), for outpatient
 3 hospital services that are reimbursed on a fee-for-service basis.

4 **SECTION 32.** 50.389 of the statutes is renumbered 50.377.

5 **SECTION 33.** 146.99 of the statutes is repealed.

6 **SECTION 9122. Nonstatutory provisions; Health Services.**

7 (1) HOSPITAL ASSESSMENT.

8 (a) *Assessment payment deadlines.* Notwithstanding section 50.38 (3), as
 9 created by this act, hospitals shall pay the assessment for state fiscal year 2008-09
 10 that is required under section 50.38 (1) of the statutes, as created by this act, in 2
 11 equal amounts. Hospitals shall make the first payment by March 31, 2009, or 10
 12 days after the effective date of this paragraph, whichever is later. Hospitals shall
 13 make the 2nd payment by June 30.

14 (b) *Medical assistance hospital rate and weight schedules.* 1. The inpatient and
 15 outpatient hospital diagnosis related groupings rate and weight schedules
 16 established by the department of health services for state fiscal year 2008-09 shall
 17 be the same as the schedules established for state fiscal year 2007-08.

18 2. Notwithstanding subdivision 1., the department of health services may, for
 19 fiscal year 2008-09, make fee-for-service payments to hospitals under the Medical
 20 Assistance Program, except the program under s. 49.45 (23) of the statutes, that
 21 exceed the payments calculated using the inpatient and outpatient hospital
 22 diagnosis related groupings rate and weight schedules for state fiscal year 2008-09.

****NOTE: My understanding of the request is that DHS wants language that tells private entities (an HMO and a hospital) how to interpret language in a contract between those entities. I presume that some of these contracts may be preexisting contracts. Does the above language address the department's concern without interfering with private contracts?

INS
14-3

1

2

3

Ins 14-3:

4

(7) Beginning July 1, 2009, in each state fiscal year, by December 30, the

5

department shall transfer \$3,000,000 from the appropriation account under s.

6

20.435 (4) (xc) to the appropriation account under s. 20.285 (6) (q).

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1152/2dn

RLR: *lgf*

Date

Krista Willing and Jim Johnston:

This draft reflects the revised instructions for the hospital assessment that I received on January 5, 2009.

Like the previous version, this draft does not provide any specifics about how the department will pay rate increases for hospital services that are reimbursed on a fee-for-service basis. How specific do you want to be?

This draft does not include a sunset. Could you please give me more specifics on what you want. Do you want to go back to the current hospital assessment? If so, do you want to keep the hospital assessment trust fund? Do you want to keep s. 20.435 (4) (xc) or reinstate s. 20.435 (4) (gp)? Do you want to sunset the changes in addition to the actual hospital assessment, such as the \$3 million transfer to UW Hospital and Clinics, the change to rural hospital supplements, the supplemental payment for Level I adult trauma centers, and pay-for-performance?

1 **Ins 2-6:**

2 **SECTION 1.** 20.285 (6) (q) of the statutes is created to read:

3 20.285 (6) (q) *Hospital services*. All moneys transferred from the appropriation
4 account under s. 20.435 (4) (xc) for hospital services.

X
X
X
 ****NOTE: Is this where the \$3 million for UW Hospital and Clinics is supposed to
 be transferred as directed in item #1 in the January 5, 2009, drafting instructions? What
 is the purpose of this appropriation supposed to be? Item #10 in the drafting instructions
 says for "State Hospital Services." Also, do you want this appropriation to be effective
 July 1, 2009, regardless of whether the budget is enacted by then (in which case, I need
 to add a schedule entry), or should it be effective on the July 1, 2009, or the effective date
 of the budget, whichever is later?

5
6
7 **Ins 2-22:**

8 (2) (a) In this subsection "payment increase" means the difference between
9 aggregate payments under the Medical Assistance Program under subch. IV of ch.
10 49 for inpatient and outpatient services provided by hospitals, that are required to
11 pay the hospital assessment under s. 50.38, in the fiscal year and aggregate
12 payments under the Medical Assistance Program for inpatient and outpatient
13 service provided by such hospitals in state fiscal year 2006-07.

14 (b) On June 30 of each state fiscal year, the secretary of administration shall
15 transfer from the hospital assessment trust fund to the medical assistance trust fund
16 any moneys accruing to the hospital assesement trust fund in the fiscal year in
17 excess of the amount, as determined by the secretary of health services, that is equal
18 to the state share, under the Medical Assistance Program, of the payment increase
19 for the fiscal year.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1152/2dn

RLR:kjf:md

January 7, 2009

Krista Willing and Jim Johnston:

This draft reflects the revised instructions for the hospital assessment that I received on January 5, 2009.

Like the previous version, this draft does not provide any specifics about how the department will pay rate increases for hospital services that are reimbursed on a fee-for-service basis. How specific do you want to be?

This draft does not include a sunset. Could you please give me more specifics on what you want. Do you want to go back to the current hospital assessment? If so, do you want to keep the hospital assessment trust fund? Do you want to keep s. 20.435 (4) (xc) or reinstate s. 20.435 (4) (gp)? Do you want to sunset the changes in addition to the actual hospital assessment, such as the \$3 million transfer to UW Hospitals and Clinics, the change to rural hospital supplements, the supplemental payment for Level I adult trauma centers, and pay-for-performance?

Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.wisconsin.gov

Ryan, Robin

From: Johnston, James - DHS [James.Johnston@dhs.wisconsin.gov]
Sent: Thursday, January 08, 2009 10:53 AM
To: Ryan, Robin
Cc: Willing, Krista - DOA; Gauger, Michelle C - DOA; Helgerson, Jason A - DHS; Albertoni, Richard S - DHS; McIlquham, Cheryl J - DHS
Subject: Hospital Assessment Language
Attachments: Revised Drafting Instructions 1 08 09.doc



Revised Drafting
Instructions ...

Hi Robin,

Attached are more changes to the hospital assessment language. I've attempted highlight the latest changes. Please call with any questions.

Thanks,
Jim

Call from Jim 1/8/09

Also repeat 49, 45-3)(e) &

For sunset - elim. hospital assess.
Don't re-rotate current assess.
Cut & cut access hosp back to
current &
Elim & 8 mil for new hosp. & clinics
- basically elim. all new funding
under 20.435(4)(c)

1152/p2

p. 2, 2 3 - transfer is correct - still working
on purpose language
Effective July 1, 2009

p. 11, 2 8 - yes

Jan 8 - 10:53 AM

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

- 1) Create new SEG, annual, appropriation for the Hospital Assessment Fund; hospital payments and refunds, 20.435(4)(xc). The purpose of the appropriation is providing Medical Assistance reimbursement to hospitals through rate increase, access payments and pay-for-performance programs. The appropriation will also fund fee increases to HMOs to be used as access payments for hospital reimbursement. For SFY09 all funds not spent or encumbered by December 31, 2009 shall be refunded to hospitals in proportion to each hospital's assessment payments allocated proportionately to assessed hospitals. Starting in SFY10 all funds not spent or encumbered by the end of the fiscal year shall be refunded to hospitals in proportion to each hospital's assessment payments allocated proportionately to assessed hospitals. The appropriation will also transfer \$3 million/ FY to a new SEG-S appropriation for the UW Hospital and Clinics Authority.

Appropriation Levels are:
 FY2009 \$275,445,100
 FY2010 \$310,021,000
 FY2011 \$339,695,800

- 2) Repeal existing hospital assessment appropriation [s.20.435(4)(gp)]and all references to it, effective 7/1/09.
- 3) Create 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 the assessment that is in excess of the state share of the "access payment hospital share". Access payment hospital share is defined as the state and federal share of increased MA payment rates to hospitals that are assessed that are in excess of the aggregate inpatient and outpatient hospital payment rates in effect in FY 2006-2007 for services provided by hospitals under the MA program.
- 4) Establish requirement for HMOs to pay hospitals access payments based on a methodology developed by DHS and detailed in the State-HMO contract. Access payments will be based on number of discharges and visits provided by each hospital, excluding the BadgerCare Plus Core Plan. DHS will require as a term of the State-HMO contract that HMOs do all of the following:
 - a. Require HMOs 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 their access funding pool each month by the total number of Medicaid discharges and visits paid in the previous month. The HMO will calculate a "per discharge" and

“per visit” access payment for each hospital. HMOs must pay access payments to hospitals within 15 calendar days of receiving the payment from DHS.

- 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. The source of the “fee-for-service rate schedule” that shall be referenced in HMO-hospital contracts and used as the basis of HMO DRG payments for fiscal year 2008-09 is 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 will apply for dates of service provided from July 1, 2008, through June 30, 2009. This subsection sunsets on July 1, 2009 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
 - 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 hospitals’ in-patient and out-patient access payments and the hospitals’ proportion of the HMOs total inpatient discharges and out patient visits and funding 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 calendar 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.
- 5) 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 business 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.

- 6) Create a new hospital assessment administered by the Department of Health Services, starting in FY09, based on a hospital's gross patient revenues as indicated on the hospital fiscal survey. The assessment payments will be due quarterly. All assessment revenue is to be deposited in the Hospital Assessment Trust Fund. 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 57.75% in FY09 and 61.68% starting in FY10 of the funding for access payment rate increases provided to hospitals. Total access payment rate increases provided to hospitals will be \$476,961,200 in FY09, \$502,628,100 in FY10, and \$550,739,000 in FY11. The department shall verify the amount of each hospital's gross patient revenue and shall determine the amount of the assessment owed by each hospital based on a uniform rate that is applicable to the total gross patient revenue that the department estimates will yield the amounts specified in the appropriation schedule under s. 20.005 (3) for the appropriation account for the hospital assessment.
Amts. reflect all payments FFS, HMO, UW etc...
- 7) If the department determines that any portion of the revenue collected to provide MA payment increases for fee for service inpatient and outpatients services or provided through health maintenance organizations for inpatient and outpatient services is deemed ineligible for federal funding match funds, the department shall refund to assessed hospitals that portion of revenue in proportion to each hospital's payment of the ineligible assessment amount collected. The amount refunded will include proportional refunds for both the amount appropriated under s. 20.435(4)(xc) that is deemed ineligible for federal participation and the amount transferred from the Hospital Assessment Fund to the MA Trust Fund.
already covered in refund language?
- 8) Modify the Rural Hospital supplement program under s. 49.45(5m) (am) to distribute not more than \$5 million/ fiscal year. Delete reference to providing reimbursement to critical access hospitals. Add the new Hospital Assessment SEG appropriation as a funding source for these payments. Change is effective July 1, 2009.
- 9) Create a new supplemental payment program to provide a total of not more than \$8 million in reimbursement to be distributed to hospitals designated as Level One Trauma Centers for the adult care using criteria as established by the American College of Surgeons (ACS). Change is effective July 1, 2009. Supplement to be funded from hospital assessment SEG appropriation and 20.435 (4)(o).

- 10) Create a new State Hospital Supplement Appropriation under s.20.285 (6) as a SEG-Service continuing appropriation to provide reimbursement for State Hospital Services. Change is effective July 1, 2009.
- 11) 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 first of each year.
- 12) Establish non-statutory language for FY09 Assessment payments and associated rate/fee increases. The assessment related rate increases January, 2009 with a retroactive adjustment back to July 2008 for fee-for-service rate increases and starting in January 2009 monthly HMO access payments to hospitals. The first assessment payment due from hospitals to the Assessment Trust Fund will be in March 2009 and the balance for FY09 will be due in June 2009.
- ✓ 13) Establish non-statutory language applicable only for FY09 to provide supplemental payments to independent, rural, non-critical access hospitals in counties that border another state in order to recognize the important services provided by these hospitals to government pay patients in their community that are not included in any state's Medicaid access payments. Funding to be provided from s. 20.435(4)(b). Qualifying hospitals would receive \$10,000 per daily census in SFY 2009.
- ✓ 14) Establish non-statutory language to reaffirm the State's commitment to continue normal budgetary practices as generally described under s.16.46 to biennially review, reestimate and request continued GPR support for hospital payments under the Medicaid program.
- ✓ 15) The hospital assessment program sunsets on June 30, 2013.

48
Ryan, Robin

From: Johnston, James - DHS [James.Johnston@dhs.wisconsin.gov]
Sent: Thursday, January 08, 2009 5:50 PM
To: Ryan, Robin
Cc: Cunningham, Curtis J - DHS; Albertoni, Richard S - DHS; Gauger, Michelle C - DOA; Willing, Krista - DOA
Subject: Hospital Assessment
Attachments: Revised Drafting Instructions 1 08 09 PM.doc



Revised Drafting
Instructions ...

Hi Robin,

A few more tweaks highlighted in blue. The formula is designed to link the assessment amount to the total amount provided to hospitals.

Jim

Jan 8
5:50 pm

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

- 1) Create new SEG, annual, appropriation for the Hospital Assessment Fund; hospital payments and refunds, 20.435(4)(xc). The purpose of the appropriation is providing Medical Assistance reimbursement to hospitals through rate increase, access payments and pay-for-performance programs. The appropriation will also fund fee increases to HMOs to be used as access payments for hospital reimbursement. For SFY09 all funds not spent or encumbered by December 31, 2009 shall be refunded to hospitals in proportion to each hospital's assessment payments allocated proportionately to assessed hospitals. Starting in SFY10 all funds not spent or encumbered by the end of the fiscal year shall be refunded to hospitals in proportion to each hospital's assessment payments allocated proportionately to assessed hospitals. The appropriation will also transfer \$3 million/ FY to a new SEG-S appropriation for the UW Hospital and Clinics Authority.

Appropriation Levels are:

FY2009 \$275,445,100
FY2010 \$310,021,000
FY2011 \$339,695,800

- 2) Repeal existing hospital assessment appropriation [s.20.435(4)(gp)] and all references to it, effective 7/1/09.
- 3) Create 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 the assessment that is in excess of the state share of the "access payment hospital share". Access payment hospital share is defined as the state and federal share of increased MA payment rates to hospitals that are assessed that are in excess of the aggregate inpatient and outpatient hospital payment rates in effect in FY 2006-2007 for services provided by hospitals under the MA program.
- 4) Establish requirement for HMOs to pay hospitals access payments based on a methodology developed by DHS and detailed in the State-HMO contract. Access payments will be based on number of discharges and visits provided by each hospital, excluding the BadgerCare Plus Core Plan. DHS will require as a term of the State-HMO contract that HMOs do all of the following:
 - a. Require HMOs 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 their access funding pool each month by the total number of Medicaid discharges and visits paid in the previous month. The HMO will calculate a "per discharge" and

“per visit” access payment for each hospital. HMOs must pay access payments to hospitals within 15 calendar days of receiving the payment from DHS.

- 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. The source of the “fee-for-service rate schedule” that shall be referenced in HMO-hospital contracts and used as the basis of HMO DRG payments for fiscal year 2008-09 is 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 will apply for dates of service provided from July 1, 2008, through June 30, 2009. This subsection sunsets on July 1, 2009 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
 - 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 hospitals’ in-patient and out-patient access payments and the hospitals’ proportion of the HMOs total inpatient discharges and out patient visits and funding 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 calendar 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.
- 5) 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 business 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.

- 6) Create a new hospital assessment administered by the Department of Health Services, starting in FY09, based on a hospital's gross patient revenues as indicated on the hospital fiscal survey. The assessment payments will be due quarterly. All assessment revenue is to be deposited in the Hospital Assessment Trust Fund. 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 57.75% in FY09 and 61.68% starting in FY10 of the funding for access payment rate increases provided to hospitals. Total access payment rate increases provided to hospitals will be \$476,961,200 in FY09, \$502,628,100 in FY10, and \$550,739,000 in FY11. The department shall verify the amount of each hospital's gross patient revenue and shall determine the amount of the assessment owed by each hospital based on a uniform rate that is applicable to the total gross patient revenue that the department estimates will yield the amounts specified in the appropriation schedule under s. 20.005 (3) for the appropriation account for the hospital assessment.
- 7) If the department determines that any portion of the revenue collected to provide MA payment increases for fee for service inpatient and outpatient services or provided through health maintenance organizations for inpatient and outpatient services is deemed ineligible for federal funding match funds, the department shall refund to assessed hospitals that portion of revenue in proportion to each hospital's payment of the ineligible assessment amount collected. The amount refunded will include proportional refunds for both the amount appropriated under s. 20.435(4)(xc) that is deemed ineligible for federal participation and the amount transferred from the Hospital Assessment Fund to the MA Trust Fund.
- 8) Modify the Rural Hospital supplement program under s. 49.45(5m) (am) to distribute not more than \$5 million/ fiscal year. Delete reference to providing reimbursement to critical access hospitals. Add the new Hospital Assessment SEG appropriation as a funding source for these payments. Change is effective July 1, 2009.
- 9) Create a new supplemental payment program to provide a total of not more than \$8 million in reimbursement to be distributed to hospitals designated as Level One Trauma Centers for the adult care using criteria as established by the American College of Surgeons (ACS). Change is effective July 1, 2009. Supplement to be funded from hospital assessment SEG appropriation and 20.435 (4)(o).

10) Create a new State Hospital Supplement Appropriation under s.20.285 (6) as a SEG-Service continuing appropriation to provide reimbursement for State Hospital Services. Change is effective July 1, 2009.

11) 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 first of each year.

12) Establish non-statutory language for FY09 Assessment payments and associated rate/fee increases. The assessment related rate increases January, 2009 with a retroactive adjustment back to July 2008 for fee-for-service rate increases and starting in January 2009 monthly HMO access payments to hospitals. The first assessment payment due from hospitals to the Assessment Trust Fund will be in March 2009 and the balance for FY09 will be due in June 2009.

✓ 13) Establish non-statutory language applicable only for FY09 to provide supplemental payments to independent, rural, non-critical access hospitals in counties that border another state in order to recognize the important services provided by these hospitals to government pay patients in their community that are not included in any state's Medicaid access payments. Funding to be provided from s. 20.435(4)(b). Qualifying hospitals will receive payments based the percent of gross patient revenues attributable to MA. Hospitals with up to 7% percent of gross patient revenues attributable to MA receive \$250,000 and hospitals between 7-14% receive \$500,000.] New

14) Establish non-statutory language to reaffirm the State's commitment to continue normal budgetary practices as generally described under s.16.46 to biennially review, reestimate and request continued GPR support for hospital payments under the Medicaid program.

15) The hospital assessment program sunsets on June 30, 2013.

✓ 16) Repeal s.49.45(3)(e)8] New

Ryan, Robin

From: Ryan, Robin
Sent: Friday, January 09, 2009 12:28 PM
To: Johnston, James - DHS
Cc: Willing, Krista - DOA
Subject: RE: Hospital Assessment Modifications to LRB Draft 1152\2

Jim, can you point to a description in the statues of a separately licensed general psychiatric hospital? where is the separate licensing?

From: Johnston, James - DHS [mailto:James.Johnston@dhs.wisconsin.gov]
Sent: Friday, January 09, 2009 11:46 AM
To: Ryan, Robin
Cc: Gauger, Michelle C - DOA; Willing, Krista - DOA; Albertoni, Richard S - DHS
Subject: Hospital Assessment Modifications to LRB Draft 1152\2

Hi Robin,

I have a few more changes for the hospital assessment language, LRB draft# 1152\2

Thanks,
 Jim

✓ Section 13 - Please retain "not more than" \$1,330,500 language

✓ Section 21 Trauma Center Supplement - At the end of this section please add a clause limiting payments. Supplemental payments under this section cannot exceed hospitals' customary charges for services, as limited under 42 USC 1396b (i) (3).

✓ Section 22 Pay for Performance Supplement - At the end of this section please add a clause limiting payments. Supplemental payments under this section cannot exceed hospitals' customary charges for services, as limited under 42 USC 1396b (i) (3).

Section 27 HMO payments to Hospitals

✓ All citations referencing hospitals should state "eligible" hospitals

✓ Section 27 (f) In response to your Note - Yes a method is needed to correct both under and over counting.

The department shall specify in contracts with health maintenance organizations to provide medical assistance the method for adjusting payments under par. (b) to correct a health maintenance organization's failure to appropriately account for inpatient discharges or outpatient visits in calculating a monthly payment to a hospital under par. (b).

* Section 31 Hospital Assessment

(4)(a) Replace reference to IMD exclusion to exclude separately licensed general psychiatric hospitals. - *need more info.*

✓ (4)(b) Hardship Waiver - Please delete the hardship waiver language and replace it with language that matches the delayed payment option detailed in LRB 4081/6 s.50.375(2).

01/09/2009

At the discretion of the department, a hospital that is unable to timely make a payment by a date specified may be allowed to make a delayed payment. A determination by the department that a hospital may not make a delayed payment under this subsection is final and is not subject to review under ch. 227.