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In 1/28/09

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

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

HOSPITAL ASSESSMENT

Under current law, the state assesses hospitals a total of \$1,500,000 each year. The amount each hospital pays is allocated in proportion to the hospital's gross private pay revenues. The hospital assessment revenue is used to support the Medical Assistance (MA) Program, long-term care programs, and community-based mental health services.

This bill increases the amount of the hospital assessment to \$275,445,110 for state fiscal year 2008-09. The bill provides that the amount of the assessment in future years shall be established in the biennial budget act. The bill charges the total assessment amount against eligible hospitals in proportion to their gross patient revenues. Under the bill, all hospitals in the state other than critical access hospitals, institutions for mental diseases, and certain psychiatric hospitals that are not a satellite of an acute care hospital from the assessment are eligible hospitals. Under the bill, eligible hospitals must pay the assessment in four quarterly installments, except that in state fiscal year (SFY) 2008-09, the payments must be made in two installments, due at the end of March and June. However, the bill allows DHS to extend the deadline for payment of the assessment for eligible hospitals that are unable to make timely payments.

The bill provides that a specified portion of the assessment revenue shall be used to pay hospitals for services provided under MA and transfers the remaining

amount of assessment revenue to the MA trust fund. Under the bill, the portion of the assessment revenue used to pay for hospital services in SFY 2008-09 is equal to the state share of MA times the amount of the total assessment revenue divided by 57.75 percent. Assuming a state share of 41.06 percent, DHS must use \$195,840,300 of the assessment revenue to pay hospitals, amounting to payments of \$476,961,200, all funds. In SFY 2008-09, the remaining \$79,604,800 of the assessment revenue is transferred to the MA trust fund. Of the amount transferred to the MA trust fund, 0.5 percent (\$398,000) is appropriated to DHS for the administrative costs associated with the hospital assessment and the other \$79,206,800 is appropriated for MA. For SFY 2008-09, the bill also appropriates general purpose revenue in the amount of \$750,000 for supplemental payments to certain rural hospitals in counties that border another state. Finally, in SFY 2008-09, the bill reduces the amount of general purpose revenues appropriated for MA by \$78,456,800.

Beginning in SFY 2009-10, the portion of the assessment revenues allocated for payment of hospital services under MA is equal to the state share of MA times the amount of the total assessment revenue divided by 61.68 percent. The remainder of the hospital assessment revenue is transferred to the MA trust fund. One-half of one percent of the transferred amount is appropriated to DHS for administrative costs associated with the hospital assessment. Also beginning in SFY 2009-10, the bill requires DHS to pay the University of Wisconsin Hospitals and Clinics \$3,000,000 annually from the MA trust fund for the costs of providing uncompensated care.

The bill provides that DHS shall spend the portion of the hospital assessment revenue that is allocated to pay for hospital services under MA on the following: increased reimbursement for eligible hospitals that are reimbursed on a fee-for-service basis; payments to health maintenance organizations (HMOs) that the HMOs must use to increase reimbursement to eligible hospitals; an increase of \$2,744,000 in supplemental payments to certain rural hospitals; \$8,000,000 in supplemental payments to hospitals that satisfy criteria established by the American College of Surgeons for classification as a Level I adult trauma center; and supplemental payments to hospitals based on performance, under a methodology developed by DHS.

The bill provides that if the federal government does not pay the federal share under MA for any payment made with hospital assessment revenue, DHS must refund to hospitals the amount of the hospital assessment revenue used to make the payment. DHS must make refunds to hospitals in proportion to the percent of the assessment that the hospitals paid. In addition, DHS must recoup any payments that are made with hospital assessment revenue and for which the federal government does not pay the federal share under MA.

The bill eliminates the hospital assessment, and provisions for expenditure of the assessment revenue, on July 1, 2013.

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

1 associated with augmenting the amount of federal moneys received under 42 CFR
2 433.51.

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

4 20.435 (4) (xc) *Hospital assessment fund; hospital payments.* From the hospital
5 assessment fund, the amounts in the schedule to reimburse eligible hospitals for
6 services provided under the Medical Assistance Program under subch. IV of ch. 49,
7 make payments to health maintenance organizations under s. 49.45 (59), provide
8 supplemental funds to rural hospitals under s. 49.45 (5m) (am), make supplemental
9 payments to Level I adult trauma centers under s. 49.45 (6y) (ap), make
10 supplemental payments to hospitals based on performance under s. 49.45 (6y) (ar),
11 make refunds under s. 50.38 (6), and make the transfer under s. 50.38 (8).

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

13 25.77 (11) All moneys transferred under s. 50.38 (8).

14 **SECTION 7.** 25.77 (12) of the statutes is created to read:

15 25.77 (12) All moneys recouped and deposited under s. 50.38 (6) (a) 4.

16 **SECTION 8.** 25.772 of the statutes is created to read:

17 **25.772 Hospital assessment fund.** There is established a separate
18 nonlapsible trust fund designated as the hospital assessment fund, to consist of all
19 moneys received under s. 50.38 (2) from assessments on hospitals and all moneys
20 recouped and deposited under s. 50.38 (6) (a) 3.

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

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

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

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

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

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

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

20 **SECTION 12.** 46.275 (5) (c) of the statutes is amended to read:

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

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

3 **SECTION 13.** 46.283 (5) of the statutes is amended to read:

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

8 **SECTION 14.** 46.284 (5) (a) of the statutes is amended to read:

9 46.284 (5) (a) From the appropriation accounts under s. 20.435 (4) (b), (g), (~~gp~~),
10 (im), (o), and (w) and (7) (b), (bd), and (g), the department shall provide funding on
11 a capitated payment basis for the provision of services under this section.
12 Notwithstanding s. 46.036 (3) and (5m), a care management organization that is
13 under contract with the department may expend the funds, consistent with this
14 section, including providing payment, on a capitated basis, to providers of services
15 under the family care benefit.

16 **SECTION 15.** 46.485 (2g) (intro.) of the statutes is amended to read:

17 46.485 (2g) (intro.) From the appropriation ~~accounts~~ account under s. 20.435
18 (4) (b) ~~and~~ (~~gp~~), the department may in each fiscal year transfer funds to the
19 appropriation under s. 20.435 (7) (kb) for distribution under this section and from the
20 appropriation account under s. 20.435 (7) (mb) the department may not distribute
21 more than \$1,330,500 in each fiscal year to applying counties in this state that meet
22 all of the following requirements, as determined by the department:

23 **SECTION 16.** 49.45 (2) (a) 17. of the statutes is repealed.

24 **SECTION 17.** 49.45 (3) (e) 8. of the statutes is repealed.

25 **SECTION 18.** 49.45 (3) (e) 11. of the statutes is created to read:

1 49.45 (3) (e) 11. The department shall use a portion of the moneys collected
 2 under s. 50.38 to pay for services provided by eligible hospitals, as defined in s. 50.38
 3 (1), under the Medical Assistance Program under this subchapter, including services
 4 reimbursed on a fee-for-service basis and services provided under a managed care
 5 system. For state fiscal year 2008-09, total payments under this subdivision shall
 6 equal the state share under the Medical Assistance Program of the amount collected
 7 under s. 50.38 (2) for fiscal year 2008-09 divided by 57.75 percent. For each state
 8 fiscal year after state fiscal year 2008-09, total payments under this subdivision
 9 shall equal the state share under the Medical Assistance Program of the amount
 10 collected under s. 50.38 (2) for the fiscal year divided by 61.68 percent.

including both the federal and state share of Medical Assistance

11 **SECTION 19.** 49.45 (5m) (am) of the statutes is amended to read:

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

21 **SECTION 20.** 49.45 (5m) (am) of the statutes, as affected by 2009 Wisconsin Act
 22 (this act), is amended to read:

23 49.45 (5m) (am) Notwithstanding sub. (3) (e), from the appropriation accounts
 24 under s. 20.435 (4) (b), (o), (w) and (xc), the department shall distribute not more than
 25 ~~\$5,000,000~~ \$2,256,000 in each fiscal year, to provide supplemental funds to rural

1 hospitals that, as determined by the department, have high utilization of inpatient
2 services by patients whose care is provided from governmental sources, except that
3 the department may not distribute funds to a rural hospital to the extent that the
4 distribution would exceed any limitation under 42 USC 1396b (i) (3).

5 **SECTION 21.** 49.45 (6m) (ag) (intro.) of the statutes is amended to read:

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

13 **SECTION 22.** 49.45 (6v) (b) of the statutes is amended to read:

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

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

21 49.45 (6x) (a) Notwithstanding sub. (3) (e), from the appropriation accounts
22 under s. 20.435 (4) (b), (~~gp~~), (o), and (w), the department shall distribute not more
23 than \$4,748,000 in each fiscal year, to provide funds to an essential access city
24 hospital, except that the department may not allocate funds to an essential access

1 city hospital to the extent that the allocation would exceed any limitation under 42
2 USC 1396b (i) (3).

3 **SECTION 24.** 49.45 (6y) (a) of the statutes is amended to read:

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

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

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

22 **SECTION 26.** 49.45 (6y) (ap) of the statutes is created to read:

23 49.45 (6y) (ap) Notwithstanding sub. (3) (e), from the appropriation accounts
24 under s. 20.435 (4) (o) and (xc), the department shall distribute not more than
25 \$8,000,000 in each fiscal year as supplemental payments to hospitals that satisfy the

1 criteria established by the American College of Surgeons for classification as a Level
2 I adult trauma center, except that the department may not make payments that
3 exceed limitations based on customary charges under 42 USC 1396b (i) (3).

4 **SECTION 27.** 49.45 (6y) (ap) of the statutes, as created by 2009 Wisconsin Act
5 (this act), is repealed.

6 **SECTION 28.** 49.45 (6y) (ar) of the statutes is created to read:

7 49.45 (6y) (ar) Notwithstanding sub (3) (e), the department may, from the
8 appropriation account under s. 20.435 (4) (xc), make supplemental payments to
9 hospitals based on hospital performance, in accordance with a payment methodology
10 developed by the department, except that the department may not make payments
11 that exceed limitations based on customary charges under 42 USC 1396b (i) (3).

12 **SECTION 29.** 49.45 (6y) (ar) of the statutes, as created by 2009 Wisconsin Act
13 (this act), is repealed.

14 **SECTION 30.** 49.45 (6y) (at) of the statutes is created to read:

15 49.45 (6y) (at) Notwithstanding sub. (3) (e), from the appropriation account
16 under s. 20.435 (4) (w), the department shall distribute \$3,000,000 in each fiscal year
17 to the University of Wisconsin Hospital and Clinics for care that is not otherwise
18 compensated, except that the department may not make payments that exceed
19 limitations based on customary charges under 42 USC 1396b (i) (3).

20 **SECTION 31.** 49.45 (6y) (at) of the statutes, as created by 2009 Wisconsin Act
21 (this act), is repealed.

22 **SECTION 32.** 49.45 (6z) (a) (intro.) of the statutes is amended to read:

23 49.45 (6z) (a) (intro.) Notwithstanding sub. (3) (e), from the appropriation
24 accounts under s. 20.435 (4) (b), (gp), (o), and (w), the department may distribute
25 funding in each fiscal year to supplement payment for services to hospitals that enter

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

10 **SECTION 33.** 49.45 (8) (b) of the statutes is amended to read:

11 49.45 (8) (b) Reimbursement under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w) for home
12 health services provided by a certified home health agency or independent nurse
13 shall be made at the home health agency's or nurse's usual and customary fee per
14 patient care visit, subject to a maximum allowable fee per patient care visit that is
15 established under par. (c).

16 **SECTION 34.** 49.45 (24m) (intro.) of the statutes is amended to read:

17 49.45 (24m) (intro.) From the appropriation accounts under s. 20.435 (4) (b),
18 ~~(gp)~~, (o), and (w), in order to test the feasibility of instituting a system of
19 reimbursement for providers of home health care and personal care services for
20 medical assistance recipients that is based on competitive bidding, the department
21 shall:

22 **SECTION 35.** 49.45 (52) of the statutes is amended to read:

23 49.45 (52) PAYMENT ADJUSTMENTS. Beginning on January 1, 2003, the
24 department may, from the appropriation account under s. 20.435 (7) (b), make
25 Medical Assistance payment adjustments to county departments under s. 46.215,

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

8 **SECTION 36.** 49.45 (59) of the statutes is created to read:

9 49.45 (59) HEALTH MAINTENANCE ORGANIZATION PAYMENTS TO HOSPITALS. (a)
10 Except as provided under par. (h), the department shall, from the appropriation
11 account under s. 20.435 (4) (xc), pay each health maintenance organization with
12 which it contracts to provide medical assistance a monthly amount that the health
13 maintenance organization shall use to make payments to hospitals under par. (b).

14 (b) Except as provided under par. (h), health maintenance organizations shall
15 pay all of the moneys they receive under par. (a) to eligible hospitals, as defined in
16 s. 50.38 (1), within 15 days after receiving the moneys. The department shall specify
17 in contracts with health maintenance organizations to provide medical assistance a
18 method that health maintenance organizations shall use to allocate the amounts
19 received under par. (a) among eligible hospitals based on the number of discharges
20 from inpatient stays and the number of outpatient visits for which the health
21 maintenance organization paid such a hospital in the previous month for enrollees
22 who are recipients of medical assistance, except enrollees who receive medical
23 assistance under s. 49.45 (23). Payments under this paragraph shall be in addition
24 to any amount that a health maintenance organization is required by agreement

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

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

7 (d) Except as provided under par. (h), each health maintenance organization
8 that provides medical assistance shall report monthly to each hospital to which the
9 health maintenance organization makes payments under par. (b) such information
10 regarding the payments that the department specifies in its contract with the health
11 maintenance organization to 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 inaccurate counting of

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

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 (h) Paragraphs (a) to (d) do not apply after June 30, 2013.

13 **SECTION 37.** 49.472 (6) (a) of the statutes is amended to read:

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

20 **SECTION 38.** 49.472 (6) (b) of the statutes is amended to read:

21 49.472 (6) (b) If federal financial participation is available, from the
22 appropriation account under s. 20.435 (4) (b), ~~(gp)~~, or (w), the department may pay
23 medicare Part A and Part B premiums for individuals who are eligible for medicare
24 and for medical assistance under sub. (3).

25 **SECTION 39.** 49.473 (5) of the statutes is amended to read:

1 49.473 (5) The department shall audit and pay, from the appropriation
2 accounts under s. 20.435 (4) (b), ~~(gp)~~, and (o), allowable charges to a provider who is
3 certified under s. 49.45 (2) (a) 11. for medical assistance on behalf of a woman who
4 meets the requirements under sub. (2) for all benefits and services specified under
5 s. 49.46 (2).

6 **SECTION 40.** 50.38 of the statutes is created to read:

7 **50.38 Hospital assessment.** (1) In this section "eligible hospital" means a
8 hospital that is not any of the following:

9 (a) A critical access hospital.

10 (b) An institution for mental diseases, as defined in s. 46.011 (1m).

11 (c) A general psychiatric hospital for which the department has issued a
12 certificate of approval under s. 50.35 that applies only to the psychiatric hospital, and
13 that is not a satellite of an acute care hospital.

14 (2) Except as provided in sub. (10), for the privilege of doing business in this
15 state, there is imposed on each eligible hospital an assessment each state fiscal year
16 that is equal to a uniform percentage, determined under sub. (3), of the hospital's
17 gross patient revenues, as reported under s. 153.46 (5) and determined by the
18 department. The assessments shall be deposited in the hospital assessment fund.

19 (3) The department shall establish the percentage under sub. (2) so that the
20 total amount of assessments collected under this section in a state fiscal year is equal
21 to the amount in the schedule under s. 20.005 (3) for the appropriation under s.
22 20.435 (4) (xc) for that fiscal year.

23 (4) Except as provided in sub. (5), each eligible hospital shall pay the annual
24 assessment under sub. (2) in 4 equal amounts that are due by September 30,
25 December 31, March 31, and June 30 of each year.

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

6 (6) (a) 1. If the federal government does not provide federal financial
7 participation under the federal Medicaid program for amounts collected under this
8 section that are used to make payments under s. 49.45 (3) (e) 11., (5m) (am), (6y) (ap),
9 (ar), or (at), or (59), that are transferred under sub. (8) and used to make payments
10 from the Medical Assistance trust fund, or that are transferred under sub. (9) and
11 expended under under s. 20.435 (4) (jw), the department shall, from the fund from
12 which the payment or expenditure was made, refund hospitals the amount for which
13 the federal government does not provide federal financial participation.

14 2. If the department makes a refund under subd. 1. as result of failure to obtain
15 federal financial participation under the federal Medicaid program for a payment
16 under s. 49.45 (3) (e) 11., (5m) (am), (6y) (ap), (ar), or (at), or (59) or a payment from
17 the Medical Assistance trust fund, the department shall recoup the part of the
18 payment for which the federal government does not provide federal financial
19 participation.

20 3. Moneys recouped under subd. 2. for payments made from the hospital
21 assessment fund shall be deposited in the hospital assessment fund.

22 4. Moneys recouped under subd. 2. for payments made from the Medical
23 Assistance trust fund shall be deposited in the Medical Assistance trust fund.

24 (b) On June 30 of each state fiscal year, the department shall, from the
25 appropriation account under s. 20.435 (4) (xc), refund to hospitals the difference

1 between the amount in the schedule under s. 20.005 (3) for that appropriation and
2 the amount expended or encumbered from that appropriation in the fiscal year.

3 (c) The department shall allocate any refund under this subsection to hospitals
4 in proportion to the percentage of the total assessments collected under sub. (2) that
5 each hospital paid.

6 (7) By January 1 of each year the department shall report to the joint
7 committee on finance all of the following information for the state fiscal year ending
8 the previous June 30:

9 (a) The amount each eligible hospital paid under sub. (2).

10 (b) The amounts the department paid each health maintenance organization
11 under s. 49.45 (59) (a).

12 (c) The total amounts that each eligible hospital received from health
13 maintenance organizations under s. 49.45 (59) (b).

14 (d) The total amount of payment increases the department made, in connection
15 with implementation of the hospital assessment under sub. (2), for inpatient and
16 outpatient hospital services that are reimbursed on a fee-for-service basis.

17 (e) The total amount of payments that the department makes to each hospital
18 under the Medical Assistance Program under subch. IV of ch. 49.

19 (f) The portion of capitated payments that the department makes to each
20 health maintenance organization under the Medical Assistance Program under
21 subch. IV of ch. 49 from appropriation accounts of general purpose revenues that is
22 for inpatient and outpatient hospital services.

23 (g) The results of any audits conducted by the department under s. 49.45 (59)

24 (e) 3. and any actions taken by the department as a result of the audits.

1 (8) Except as provided in sub. (10), in each state fiscal year, the secretary of
 2 administration shall transfer from the hospital assessment fund to the Medical
 3 Assistance trust fund an amount equal to the amount in the schedule under s. 20.005
 4 (3) for the appropriation under s. 20.435 (4) (xc) for that fiscal year minus the state
 5 share of payments to hospitals under s. 49.45 (3) (e) 11., and minus any refunds paid
 6 to hospitals under sub. (6) (a) in that fiscal year.

7 (9) On June 30 of each state fiscal year, the secretary of administration shall
 8 transfer from the Medical Assistance trust fund to the appropriation account under
 9 s. 20.435 (4) (jw), an amount equal to 0.5 percent of the amount transferred under
 10 sub. (8).

11 (10) Assessments may not be collected under sub. (2) after June 30, 2013, and
 12 transfers may not be made under subs. (8) and (9) after June 30, 2013.

13 **SECTION 41.** 50.389 of the statutes is renumbered 50.377.

14 **SECTION 42.** 146.99 of the statutes is repealed.

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

16 (1) HOSPITAL ASSESSMENT.

17 (a) *Assessment payment deadlines.* Notwithstanding section 50.38 (4) of the
 18 statutes, as created by this act, hospitals shall pay the assessment for state fiscal
 19 year 2008-09 that is required under section 50.38 (2) of the statutes, as created by
 20 this act, in 2 equal amounts. Hospitals shall make the first payment by March 31,
 21 2009, or 10 days after the effective date of this paragraph, whichever is later.
 22 Hospitals shall make the 2nd payment by June 30, 2009. At the discretion of the
 23 department of health services, a hospital that is unable timely to make a payment
 24 by a date specified under this paragraph may be allowed to make a delayed payment.
 25 A determination by the department that a hospital may not make a delayed payment

from the hospital assessment fund

Except as provided in sub. (10)

1 under this paragraph is final and is not subject to review under chapter 227 of the
2 statutes.

3 (b) *Medical Assistance fee-for-service schedule used as basis for managed care*
4 *reimbursement.* The department of health services shall present the inpatient and
5 outpatient hospital diagnosis related groupings rate and weight schedules
6 established by the department for state fiscal year 2007-08 to health maintenance
7 organizations and hospitals as the applicable schedule for reimbursement rates
8 under agreements between health maintenance organizations and hospitals that
9 reference the fee-for-services schedule to establish the rates that health
10 maintenance organizations shall reimburse hospitals for services provided to
11 recipients of the Medical Assistance Program under subchapter IV of chapter 49 of
12 the statutes in state fiscal year 2008-09.

13 (c) *Reconciliation of 2008-09 expenses.* 1. Notwithstanding the deadline under
14 section 50.38 (6) (b) of the statutes, as created by this act, for state fiscal year
15 2008-09, the department shall make the refunds required under section 50.38 (6) (b),
16 by December 31, 2009.

17 2. Notwithstanding section 20.001 (3) (a) of the statutes, the unencumbered
18 balance in the appropriation under section 20.435 (4) (xc) of the statutes does not
19 revert to the hospital assessment fund at the end of state fiscal year 2008-09; and
20 the department of health services may expend in state fiscal year 2009-10 this
21 amount in addition to the amounts in the schedule under section 20.005 (3) of the
22 statutes for the appropriation under section 20.435 (4) (xc) of the statutes for state
23 fiscal year 2009-10.

24 (d) *Independent rural hospital supplement.* In state fiscal year 2008-09, from
25 the appropriation account under section 20.435 (4) (b) and (o) of the statutes, the

1 department of health services shall pay independent, rural, hospitals that are in
2 counties that border another state and that are not critical access hospitals one of the
3 following amounts:

4 1. If the percentage of the hospital's gross patient revenue that is attributable
5 to the Medical Assistance Program under subchapter IV of chapter 49 of the statutes
6 is less than 7 percent, \$250,000.

7 2. If the percentage of the hospital's gross patient revenue that is attributable
8 to the Medical Assistance Program under subchapter IV of chapter 49 of the statutes
9 is equal to or greater than 7 percent, \$500,000.

10 (e) *Budgeting practices.* This act does not affect any requirements under
11 section 16.46 of the statutes. The departments of administration and health services
12 shall review, reestimate, and request general purpose revenue for hospital payments
13 under the Medical Assistance Program under subchapter IV of chapter 49 of the
14 statutes as needed.

15 **SECTION 9222. Fiscal changes; Health Services.**

16 (1) MEDICAL ASSISTANCE TRUST FUND. In the schedule under section 20.005 (3)
17 of the statutes for the appropriation to the department of health services under
18 section 20.435 (4) (w) of the statutes, as affected by the acts of 2009, the dollar amount
19 is increased by \$79,206,800 for the second fiscal year of the fiscal biennium in which
20 this subsection takes effect for the purpose for which the appropriation is made.

21 (2) MEDICAL ASSISTANCE GENERAL PURPOSE REVENUE APPROPRIATION. In the
22 schedule under section 20.005 (3) of the statutes for the appropriation to the
23 department of health services under section 20.435 (4) (b) of the statutes, as affected
24 by the acts of 2009, the dollar amount is decreased by \$78,456,800 for the second

1 fiscal year of the fiscal biennium in which this subsection takes effect for the
2 purposes for which the appropriation is made.

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

4 (1) MEDICAL ASSISTANCE FEE-FOR-SERVICE HOSPITAL RATE INCREASES. Payments
5 under section 49.45 (3) (e) 11. of the statutes, as created by this act, for inpatient and
6 outpatient hospital services that are reimbursed on a fee-for-service basis first
7 apply to services provided on July 1, 2008.

8 **SECTION 9422. Effective dates; Health Services.**

9 (1) HOSPITAL ASSESSMENT.

10 (a) The treatment of sections 20.435 (4) (gp), 46.27 (9) (a) and (10) (a) 1., 46.275
11 (5) (a) and (c), 46.283 (5), 46.284 (5) (a), 46.485 (2g) (intro.), 49.45 (5m) (am) (by
12 SECTION 19), (6m) (ag) (intro.), (6v) (b), (6x) (a), (6y) (a), (am), (ap) (by SECTION 24),
13 (ar) (by SECTION 28), and (at) (by SECTION 30), (6z) (a) (intro.), (8) (b), (24m) (intro.),
14 and (52), 49.472 (6) (a) and (b), 49.473 (5), and 146.99 of the statutes takes effect on
15 July 1, 2009.

16 (b) The treatment of sections 49.45 (5m) (am) (by SECTION 20), 49.45 (6y) (ap)
17 (by SECTION 27), (ar) (by SECTION 29), and (at) (by SECTION 31) of the statutes takes
18 effect on June 30, 2013.

19 (END)

D-Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1152/P7dn

RLR:.....

Krista,

This draft makes the change you requested to s. 49.45 (3) (e) 11.

X I also changed proposed s. 50.38 (6) (a). In the P6 draft, proposed s. 50.38 (6) (a) refers to payments under s. 49.45 (e) (3) 11., (5m) (am) [rural hospitals], (6y) (ap) [trauma centers], (ar) [pay for performance], and (at) [UW Hospitals and Clinics], and (59) [HMOs]. However, all those sections listed after 49.45 (e) 11., except for s. 49.45 (6y) (at), are included in s. 49.45 (3) (e) 11., so it is confusing to list them separately. I therefore eliminated the references to 49.45 (5m) (a), (6y) (a) and (ar), and (59) in s. 50.38 (6) (a) 1. and 2. If you want, I could also add a specification in proposed s. 49.45 (3) (e) 11. that the payments under that subdivision include payments for trauma centers, pay for performance, and a portion of the rural hospital supplement.

X I also amended proposed s. 50.38 (8) to add "from the hospital assessment fund" after "minus any refunds paid to hospitals." Otherwise this description would cover refunds paid from the MA trust fund as well.

In proposed s. 50.38 (7) (e) and (f), I changed to past tense to match paragraphs (a) to (d).

X In Proposed s. 50.38 (9), I added "Except as provided in sub. (10)".

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/P7dn
RLR:kjf:md

January 28, 2009

Krista,

This draft makes the change you requested to s. 49.45 (3) (e) 11.

I also changed proposed s. 50.38 (6) (a). In the /P6 draft, proposed s. 50.38 (6) (a) refers to payments under s. 49.45 (3) (e) 11., (5m) (am) [rural hospitals], (6y) (ap) [trauma centers], (ar) [pay for performance], and (at) [UW Hospital and Clinics], and (59) [HMOs]. However, all those sections listed after 49.45 (e) 11., except for s. 49.45 (6y) (at), are included in s. 49.45 (3) (e) 11., so it is confusing to list them separately. I therefore eliminated the references to 49.45 (5m) (a), (6y) (a) and (ar), and (59) in s. 50.38 (6) (a)1. and 2. If you want, I could also add a specification in proposed s. 49.45 (3) (e) 11. that the payments under that subdivision include payments for trauma centers, pay for performance, and a portion of the rural hospital supplement.

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In proposed s. 50.38 (9), I added "Except as provided in sub. (10)".

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

Ryan, Robin

From: Willing, Krista - DOA [Krista.Willing@wisconsin.gov]
Sent: Thursday, January 29, 2009 2:32 PM
To: Ryan, Robin
Subject: FW: One More Change to Hospital Assessment Draft
Importance: High
Attachments: image001.gif; image002.gif; image003.gif

Hi Robin,

Unfortunately we have one more change to the Hospital Assessment. Michelle's email outlines it below. Let me know if you have any questions.

Thanks,
Krista

From: Gauger, Michelle C - DOA
Sent: Thursday, January 29, 2009 2:28 PM
To: Willing, Krista - DOA
Subject: One More Change to Hospital Assessment Draft
Importance: High

Krista,

This will be the last one.

I need another version of the hospital assessment drafted – this one exempting the supplemental payments that HMOs pass through to hospitals from the calculation of the HIRSP assessment under s. 149.13.

I am not sure if which version of the bill will be approved but apparently this decision is being revisited.

Thanks!



P8

In 4/29/09

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

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

P. 18

RMR

Don't Gen

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

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

HOSPITAL ASSESSMENT

Under current law, the state assesses hospitals a total of \$1,500,000 each year. The amount each hospital pays is allocated in proportion to the hospital's gross private pay revenues. The hospital assessment revenue is used to support the Medical Assistance (MA) Program, long-term care programs, and community-based mental health services.

This bill increases the amount of the hospital assessment to \$275,445,110 for state fiscal year 2008-09. The bill provides that the amount of the assessment in future years shall be established in the biennial budget act. The bill charges the total assessment amount against eligible hospitals in proportion to their gross patient revenues. Under the bill, all hospitals in the state other than critical access hospitals, institutions for mental diseases, and certain psychiatric hospitals that are not a satellite of an acute care hospital from the assessment are eligible hospitals. Under the bill, eligible hospitals must pay the assessment in four quarterly installments, except that in state fiscal year (SFY) 2008-09, the payments must be made in two installments, due at the end of March and June. However, the bill allows DHS to extend the deadline for payment of the assessment for eligible hospitals that are unable to make timely payments.

The bill provides that a specified portion of the assessment revenue shall be used to pay hospitals for services provided under MA and transfers the remaining

amount of assessment revenue to the MA trust fund. Under the bill, the portion of the assessment revenue used to pay for hospital services in SFY 2008-09 is equal to the state share of MA times the amount of the total assessment revenue divided by 57.75 percent. Assuming a state share of 41.06 percent, DHS must use \$195,840,300 of the assessment revenue to pay hospitals, amounting to payments of \$476,961,200, all funds. In SFY 2008-09, the remaining \$79,604,800 of the assessment revenue is transferred to the MA trust fund. Of the amount transferred to the MA trust fund, 0.5 percent (\$398,000) is appropriated to DHS for the administrative costs associated with the hospital assessment and the other \$79,206,800 is appropriated for MA. For SFY 2008-09, the bill also appropriates general purpose revenue in the amount of \$750,000 for supplemental payments to certain rural hospitals in counties that border another state. Finally, in SFY 2008-09, the bill reduces the amount of general purpose revenues appropriated for MA by \$78,456,800.

Beginning in SFY 2009-10, the portion of the assessment revenues allocated for payment of hospital services under MA is equal to the state share of MA times the amount of the total assessment revenue divided by 61.68 percent. The remainder of the hospital assessment revenue is transferred to the MA trust fund. One-half of one percent of the transferred amount is appropriated to DHS for administrative costs associated with the hospital assessment. Also beginning in SFY 2009-10, the bill requires DHS to pay the University of Wisconsin Hospitals and Clinics \$3,000,000 annually from the MA trust fund for the costs of providing uncompensated care.

The bill provides that DHS shall spend the portion of the hospital assessment revenue that is allocated to pay for hospital services under MA on the following: increased reimbursement for eligible hospitals that are reimbursed on a fee-for-service basis; payments to health maintenance organizations (HMOs) that the HMOs must use to increase reimbursement to eligible hospitals; an increase of \$2,744,000 in supplemental payments to certain rural hospitals; \$8,000,000 in supplemental payments to hospitals that satisfy criteria established by the American College of Surgeons for classification as a Level I adult trauma center; and supplemental payments to hospitals based on performance, under a methodology developed by DHS.

The bill provides that if the federal government does not pay the federal share under MA for any payment made with hospital assessment revenue, DHS must refund to hospitals the amount of the hospital assessment revenue used to make the payment. DHS must make refunds to hospitals in proportion to the percent of the assessment that the hospitals paid. In addition, DHS must recoup any payments that are made with hospital assessment revenue and for which the federal government does not pay the federal share under MA.

The bill eliminates the hospital assessment, and provisions for expenditure of the assessment revenue, on July 1, 2013.

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

1 associated with augmenting the amount of federal moneys received under 42 CFR
2 433.51.

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

4 20.435 (4) (xc) *Hospital assessment fund; hospital payments.* From the hospital
5 assessment fund, the amounts in the schedule to reimburse eligible hospitals for
6 services provided under the Medical Assistance Program under subch. IV of ch. 49,
7 make payments to health maintenance organizations under s. 49.45 (59), provide
8 supplemental funds to rural hospitals under s. 49.45 (5m) (am), make supplemental
9 payments to Level I adult trauma centers under s. 49.45 (6y) (ap), make
10 supplemental payments to hospitals based on performance under s. 49.45 (6y) (ar),
11 make refunds under s. 50.38 (6), and make the transfer under s. 50.38 (8).

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

13 25.77 (11) All moneys transferred under s. 50.38 (8).

14 **SECTION 7.** 25.77 (12) of the statutes is created to read:

15 25.77 (12) All moneys recouped and deposited under s. 50.38 (6) (a) 4.

16 **SECTION 8.** 25.772 of the statutes is created to read:

17 **25.772 Hospital assessment fund.** There is established a separate
18 nonlapsible trust fund designated as the hospital assessment fund, to consist of all
19 moneys received under s. 50.38 (2) from assessments on hospitals and all moneys
20 recouped and deposited under s. 50.38 (6) (a) 3.

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

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

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

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

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

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

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

20 **SECTION 12.** 46.275 (5) (c) of the statutes is amended to read:

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

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

3 **SECTION 13.** 46.283 (5) of the statutes is amended to read:

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

8 **SECTION 14.** 46.284 (5) (a) of the statutes is amended to read:

9 46.284 (5) (a) From the appropriation accounts under s. 20.435 (4) (b), (g), (~~gp~~),
10 (im), (o), and (w) and (7) (b), (bd), and (g), the department shall provide funding on
11 a capitated payment basis for the provision of services under this section.
12 Notwithstanding s. 46.036 (3) and (5m), a care management organization that is
13 under contract with the department may expend the funds, consistent with this
14 section, including providing payment, on a capitated basis, to providers of services
15 under the family care benefit.

16 **SECTION 15.** 46.485 (2g) (intro.) of the statutes is amended to read:

17 46.485 (2g) (intro.) From the appropriation ~~accounts~~ account under s. 20.435
18 (4) (b) and (~~gp~~), the department may in each fiscal year transfer funds to the
19 appropriation under s. 20.435 (7) (kb) for distribution under this section and from the
20 appropriation account under s. 20.435 (7) (mb) the department may not distribute
21 more than \$1,330,500 in each fiscal year to applying counties in this state that meet
22 all of the following requirements, as determined by the department:

23 **SECTION 16.** 49.45 (2) (a) 17. of the statutes is repealed.

24 **SECTION 17.** 49.45 (3) (e) 8. of the statutes is repealed.

25 **SECTION 18.** 49.45 (3) (e) 11. of the statutes is created to read:

1 49.45 (3) (e) 11. The department shall use a portion of the moneys collected
2 under s. 50.38 to pay for services provided by eligible hospitals, as defined in s. 50.38
3 (1), under the Medical Assistance Program under this subchapter, including services
4 reimbursed on a fee-for-service basis and services provided under a managed care
5 system. For state fiscal year 2008-09, total payments under this subdivision,
6 including both the federal and state share of Medical Assistance, shall equal the
7 amount collected under s. 50.38 (2) for fiscal year 2008-09 divided by 57.75 percent.
8 For each state fiscal year after state fiscal year 2008-09, total payments under this
9 subdivision, including both the federal and state share of Medical Assistance, shall
10 equal the amount collected under s. 50.38 (2) for the fiscal year divided by 61.68
11 percent.

12 **SECTION 19.** 49.45 (5m) (am) of the statutes is amended to read:

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

22 **SECTION 20.** 49.45 (5m) (am) of the statutes, as affected by 2009 Wisconsin Act
23 ... (this act), is amended to read:

24 49.45 (5m) (am) Notwithstanding sub. (3) (e), from the appropriation accounts
25 under s. 20.435 (4) (b), (o), (w) and (xc), the department shall distribute not more than

1 \$5,000,000 ~~\$2,256,000~~ in each fiscal year, to provide supplemental funds to rural
2 hospitals that, as determined by the department, have high utilization of inpatient
3 services by patients whose care is provided from governmental sources, except that
4 the department may not distribute funds to a rural hospital to the extent that the
5 distribution would exceed any limitation under 42 USC 1396b (i) (3).

6 **SECTION 21.** 49.45 (6m) (ag) (intro.) of the statutes is amended to read:

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

14 **SECTION 22.** 49.45 (6v) (b) of the statutes is amended to read:

15 49.45 **(6v)** (b) The department shall, each year, submit to the joint committee
16 on finance a report for the previous fiscal year, except for the 1997-98 fiscal year, that
17 provides information on the utilization of beds by recipients of medical assistance in
18 facilities and a discussion and detailed projection of the likely balances,
19 expenditures, encumbrances and carry over of currently appropriated amounts in
20 the appropriation accounts under s. 20.435 (4) (b), ~~(gp)~~, and (o).

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

22 49.45 **(6x)** (a) Notwithstanding sub. (3) (e), from the appropriation accounts
23 under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), the department shall distribute not more
24 than \$4,748,000 in each fiscal year, to provide funds to an essential access city
25 hospital, except that the department may not allocate funds to an essential access

1 city hospital to the extent that the allocation would exceed any limitation under 42
2 USC 1396b (i) (3).

3 **SECTION 24.** 49.45 (6y) (a) of the statutes is amended to read:

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

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

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

22 **SECTION 26.** 49.45 (6y) (ap) of the statutes is created to read:

23 49.45 (6y) (ap) Notwithstanding sub. (3) (e), from the appropriation accounts
24 under s. 20.435 (4) (o) and (xc), the department shall distribute not more than
25 \$8,000,000 in each fiscal year as supplemental payments to hospitals that satisfy the

1 criteria established by the American College of Surgeons for classification as a Level
2 I adult trauma center, except that the department may not make payments that
3 exceed limitations based on customary charges under 42 USC 1396b (i) (3).

4 **SECTION 27.** 49.45 (6y) (ap) of the statutes, as created by 2009 Wisconsin Act
5 (this act), is repealed.

6 **SECTION 28.** 49.45 (6y) (ar) of the statutes is created to read:

7 49.45 (6y) (ar) Notwithstanding sub (3) (e), the department may, from the
8 appropriation account under s. 20.435 (4) (xc), make supplemental payments to
9 hospitals based on hospital performance, in accordance with a payment methodology
10 developed by the department, except that the department may not make payments
11 that exceed limitations based on customary charges under 42 USC 1396b (i) (3).

12 **SECTION 29.** 49.45 (6y) (ar) of the statutes, as created by 2009 Wisconsin Act
13 (this act), is repealed.

14 **SECTION 30.** 49.45 (6y) (at) of the statutes is created to read:

15 49.45 (6y) (at) Notwithstanding sub. (3) (e), from the appropriation account
16 under s. 20.435 (4) (w), the department shall distribute \$3,000,000 in each fiscal year
17 to the University of Wisconsin Hospital and Clinics for care that is not otherwise
18 compensated, except that the department may not make payments that exceed
19 limitations based on customary charges under 42 USC 1396b (i) (3).

20 **SECTION 31.** 49.45 (6y) (at) of the statutes, as created by 2009 Wisconsin Act
21 (this act), is repealed.

22 **SECTION 32.** 49.45 (6z) (a) (intro.) of the statutes is amended to read:

23 49.45 (6z) (a) (intro.) Notwithstanding sub. (3) (e), from the appropriation
24 accounts under s. 20.435 (4) (b), (~~gp~~), (o), and (w), the department may distribute
25 funding in each fiscal year to supplement payment for services to hospitals that enter

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

10 **SECTION 33.** 49.45 (8) (b) of the statutes is amended to read:

11 49.45 (8) (b) Reimbursement under s. 20.435 (4) (b), (~~gp~~), (o), and (w) for home
12 health services provided by a certified home health agency or independent nurse
13 shall be made at the home health agency's or nurse's usual and customary fee per
14 patient care visit, subject to a maximum allowable fee per patient care visit that is
15 established under par. (c).

16 **SECTION 34.** 49.45 (24m) (intro.) of the statutes is amended to read:

17 49.45 (24m) (intro.) From the appropriation accounts under s. 20.435 (4) (b),
18 (~~gp~~), (o), and (w), in order to test the feasibility of instituting a system of
19 reimbursement for providers of home health care and personal care services for
20 medical assistance recipients that is based on competitive bidding, the department
21 shall:

22 **SECTION 35.** 49.45 (52) of the statutes is amended to read:

23 49.45 (52) PAYMENT ADJUSTMENTS. Beginning on January 1, 2003, the
24 department may, from the appropriation account under s. 20.435 (7) (b), make
25 Medical Assistance payment adjustments to county departments under s. 46.215,

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

8 **SECTION 36.** 49.45 (59) of the statutes is created to read:

9 49.45 (59) HEALTH MAINTENANCE ORGANIZATION PAYMENTS TO HOSPITALS. (a)
10 Except as provided under par. (h), the department shall, from the appropriation
11 account under s. 20.435 (4) (xc), pay each health maintenance organization with
12 which it contracts to provide medical assistance a monthly amount that the health
13 maintenance organization shall use to make payments to hospitals under par. (b).

14 (b) Except as provided under par. (h), health maintenance organizations shall
15 pay all of the moneys they receive under par. (a) to eligible hospitals, as defined in
16 s. 50.38 (1), within 15 days after receiving the moneys. The department shall specify
17 in contracts with health maintenance organizations to provide medical assistance a
18 method that health maintenance organizations shall use to allocate the amounts
19 received under par. (a) among eligible hospitals based on the number of discharges
20 from inpatient stays and the number of outpatient visits for which the health
21 maintenance organization paid such a hospital in the previous month for enrollees
22 who are recipients of medical assistance, except enrollees who receive medical
23 assistance under s. 49.45 (23). Payments under this paragraph shall be in addition
24 to any amount that a health maintenance organization is required by agreement

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

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

7 (d) Except as provided under par. (h), each health maintenance organization
8 that provides medical assistance shall report monthly to each hospital to which the
9 health maintenance organization makes payments under par. (b) such information
10 regarding the payments that the department specifies in its contract with the health
11 maintenance organization to 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 inaccurate counting of

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

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 (h) Paragraphs (a) to (d) do not apply after June 30, 2013.

13 **SECTION 37.** 49.472 (6) (a) of the statutes is amended to read:

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

20 **SECTION 38.** 49.472 (6) (b) of the statutes is amended to read:

21 49.472 (6) (b) If federal financial participation is available, from the
22 appropriation account under s. 20.435 (4) (b), ~~(gp)~~, or (w), the department may pay
23 medicare Part A and Part B premiums for individuals who are eligible for medicare
24 and for medical assistance under sub. (3).

25 **SECTION 39.** 49.473 (5) of the statutes is amended to read:

1 49.473 (5) The department shall audit and pay, from the appropriation
2 accounts under s. 20.435 (4) (b), ~~(gp)~~, and (o), allowable charges to a provider who is
3 certified under s. 49.45 (2) (a) 11. for medical assistance on behalf of a woman who
4 meets the requirements under sub. (2) for all benefits and services specified under
5 s. 49.46 (2).

6 **SECTION 40.** 50.38 of the statutes is created to read:

7 **50.38 Hospital assessment. (1)** In this section "eligible hospital" means a
8 hospital that is not any of the following:

9 (a) A critical access hospital.

10 (b) An institution for mental diseases, as defined in s. 46.011 (1m).

11 (c) A general psychiatric hospital for which the department has issued a
12 certificate of approval under s. 50.35 that applies only to the psychiatric hospital, and
13 that is not a satellite of an acute care hospital.

14 **(2)** Except as provided in sub. (10), for the privilege of doing business in this
15 state, there is imposed on each eligible hospital an assessment each state fiscal year
16 that is equal to a uniform percentage, determined under sub. (3), of the hospital's
17 gross patient revenues, as reported under s. 153.46 (5) and determined by the
18 department. The assessments shall be deposited in the hospital assessment fund.

19 **(3)** The department shall establish the percentage under sub. (2) so that the
20 total amount of assessments collected under this section in a state fiscal year is equal
21 to the amount in the schedule under s. 20.005 (3) for the appropriation under s.
22 20.435 (4) (xc) for that fiscal year.

23 **(4)** Except as provided in sub. (5), each eligible hospital shall pay the annual
24 assessment under sub. (2) in 4 equal amounts that are due by September 30,
25 December 31, March 31, and June 30 of each year.

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

6 (6) (a) 1. If the federal government does not provide federal financial
7 participation under the federal Medicaid program for amounts collected under this
8 section that are used to make payments under s. 49.45 (3) (e) 11. or (6y) (at), that are
9 transferred under sub. (8) and used to make payments from the Medical Assistance
10 trust fund, or that are transferred under sub. (9) and expended under under s. 20.435
11 (4) (jw), the department shall, from the fund from which the payment or expenditure
12 was made, refund hospitals the amount for which the federal government does not
13 provide federal financial participation.

14 2. If the department makes a refund under subd. 1. as result of failure to obtain
15 federal financial participation under the federal Medicaid program for a payment
16 under s. 49.45 (3) (e) 11. or (6y) (at) or a payment from the Medical Assistance trust
17 fund, the department shall recoup the part of the payment for which the federal
18 government does not provide federal financial participation.

19 3. Moneys recouped under subd. 2. for payments made from the hospital
20 assessment fund shall be deposited in the hospital assessment fund.

21 4. Moneys recouped under subd. 2. for payments made from the Medical
22 Assistance trust fund shall be deposited in the Medical Assistance trust fund.

23 (b) On June 30 of each state fiscal year, the department shall, from the
24 appropriation account under s. 20.435 (4) (xc), refund to hospitals the difference

1 between the amount in the schedule under s. 20.005 (3) for that appropriation and
2 the amount expended or encumbered from that appropriation in the fiscal year.

3 (c) The department shall allocate any refund under this subsection to hospitals
4 in proportion to the percentage of the total assessments collected under sub. (2) that
5 each hospital paid.

6 (7) By January 1 of each year the department shall report to the joint
7 committee on finance all of the following information for the state fiscal year ending
8 the previous June 30:

9 (a) The amount each eligible hospital paid under sub. (2).

10 (b) The amounts the department paid each health maintenance organization
11 under s. 49.45 (59) (a).

12 (c) The total amounts that each eligible hospital received from health
13 maintenance organizations under s. 49.45 (59) (b).

14 (d) The total amount of payment increases the department made, in connection
15 with implementation of the hospital assessment under sub. (2), for inpatient and
16 outpatient hospital services that are reimbursed on a fee-for-service basis.

17 (e) The total amount of payments that the department made to each hospital
18 under the Medical Assistance Program under subch. IV of ch. 49.

19 (f) The portion of capitated payments that the department made to each health
20 maintenance organization under the Medical Assistance Program under subch. IV
21 of ch. 49 from appropriation accounts of general purpose revenues that is for
22 inpatient and outpatient hospital services.

23 (g) The results of any audits conducted by the department under s. 49.45 (59)

24 (e) 3. and any actions taken by the department as a result of the audits.

1 (8) Except as provided in sub. (10), in each state fiscal year, the secretary of
2 administration shall transfer from the hospital assessment fund to the Medical
3 Assistance trust fund an amount equal to the amount in the schedule under s. 20.005
4 (3) for the appropriation under s. 20.435 (4) (xc) for that fiscal year minus the state
5 share of payments to hospitals under s. 49.45 (3) (e) 11., and minus any refunds paid
6 to hospitals from the hospital assessment fund under sub. (6) (a) in that fiscal year.

7 (9) Except as provided in sub. (10), on June 30 of each state fiscal year, the
8 secretary of administration shall transfer from the Medical Assistance trust fund to
9 the appropriation account under s. 20.435 (4) (jw), an amount equal to 0.5 percent
10 of the amount transferred under sub. (8).

11 (10) Assessments may not be collected under sub. (2) after June 30, 2013, and
12 transfers may not be made under subs. (8) and (9) after June 30, 2013.

13 SECTION 41. 50.389 of the statutes is renumbered 50.377.

14 SECTION 42. 146.99 of the statutes is repealed.

INS
18-14

15 SECTION 9122. Nonstatutory provisions; Health Services.

16 (1) HOSPITAL ASSESSMENT.

17 (a) *Assessment payment deadlines.* Notwithstanding section 50.38 (4) of the
18 statutes, as created by this act, hospitals shall pay the assessment for state fiscal
19 year 2008-09 that is required under section 50.38 (2) of the statutes, as created by
20 this act, in 2 equal amounts. Hospitals shall make the first payment by March 31,
21 2009, or 10 days after the effective date of this paragraph, whichever is later.
22 Hospitals shall make the 2nd payment by June 30, 2009. At the discretion of the
23 department of health services, a hospital that is unable timely to make a payment
24 by a date specified under this paragraph may be allowed to make a delayed payment.
25 A determination by the department that a hospital may not make a delayed payment

1 under this paragraph is final and is not subject to review under chapter 227 of the
2 statutes.

3 (b) *Medical Assistance fee-for-service schedule used as basis for managed care*
4 *reimbursement.* The department of health services shall present the inpatient and
5 outpatient hospital diagnosis related groupings rate and weight schedules
6 established by the department for state fiscal year 2007-08 to health maintenance
7 organizations and hospitals as the applicable schedule for reimbursement rates
8 under agreements between health maintenance organizations and hospitals that
9 reference the fee-for-services schedule to establish the rates that health
10 maintenance organizations shall reimburse hospitals for services provided to
11 recipients of the Medical Assistance Program under subchapter IV of chapter 49 of
12 the statutes in state fiscal year 2008-09.

13 (c) *Reconciliation of 2008-09 expenses.* 1. Notwithstanding the deadline under
14 section 50.38 (6) (b) of the statutes, as created by this act, for state fiscal year
15 2008-09, the department shall make the refunds required under section 50.38 (6) (b),
16 by December 31, 2009.

17 2. Notwithstanding section 20.001 (3) (a) of the statutes, the unencumbered
18 balance in the appropriation under section 20.435 (4) (xc) of the statutes does not
19 revert to the hospital assessment fund at the end of state fiscal year 2008-09; and
20 the department of health services may expend in state fiscal year 2009-10 this
21 amount in addition to the amounts in the schedule under section 20.005 (3) of the
22 statutes for the appropriation under section 20.435 (4) (xc) of the statutes for state
23 fiscal year 2009-10.

24 (d) *Independent rural hospital supplement.* In state fiscal year 2008-09, from
25 the appropriation account under section 20.435 (4) (b) and (o) of the statutes, the

1 department of health services shall pay independent, rural, hospitals that are in
2 counties that border another state and that are not critical access hospitals one of the
3 following amounts:

4 1. If the percentage of the hospital's gross patient revenue that is attributable
5 to the Medical Assistance Program under subchapter IV of chapter 49 of the statutes
6 is less than 7 percent, \$250,000.

7 2. If the percentage of the hospital's gross patient revenue that is attributable
8 to the Medical Assistance Program under subchapter IV of chapter 49 of the statutes
9 is equal to or greater than 7 percent, \$500,000.

10 (e) *Budgeting practices.* This act does not affect any requirements under
11 section 16.46 of the statutes. The departments of administration and health services
12 shall review, reestimate, and request general purpose revenue for hospital payments
13 under the Medical Assistance Program under subchapter IV of chapter 49 of the
14 statutes as needed.

15 **SECTION 9222. Fiscal changes; Health Services.**

16 (1) **MEDICAL ASSISTANCE TRUST FUND.** In the schedule under section 20.005 (3)
17 of the statutes for the appropriation to the department of health services under
18 section 20.435 (4) (w) of the statutes, as affected by the acts of 2009, the dollar amount
19 is increased by \$79,206,800 for the second fiscal year of the fiscal biennium in which
20 this subsection takes effect for the purpose for which the appropriation is made.

21 (2) **MEDICAL ASSISTANCE GENERAL PURPOSE REVENUE APPROPRIATION.** In the
22 schedule under section 20.005 (3) of the statutes for the appropriation to the
23 department of health services under section 20.435 (4) (b) of the statutes, as affected
24 by the acts of 2009, the dollar amount is decreased by \$78,456,800 for the second

1 fiscal year of the fiscal biennium in which this subsection takes effect for the
2 purposes for which the appropriation is made.

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

4 (1) **MEDICAL ASSISTANCE FEE-FOR-SERVICE HOSPITAL RATE INCREASES.** Payments
5 under section 49.45 (3) (e) 11. of the statutes, as created by this act, for inpatient and
6 outpatient hospital services that are reimbursed on a fee-for-service basis first
7 apply to services provided on July 1, 2008.

8 **SECTION 9422. Effective dates; Health Services.**

9 (1) **HOSPITAL ASSESSMENT.**

10 (a) The treatment of sections 20.435 (4) (gp), 46.27 (9) (a) and (10) (a) 1., 46.275
11 (5) (a) and (c), 46.283 (5), 46.284 (5) (a), 46.485 (2g) (intro.), 49.45 (5m) (am) (by
12 SECTION 19), (6m) (ag) (intro.), (6v) (b), (6x) (a), (6y) (a), (am), (ap) (by SECTION 24),
13 (ar) (by SECTION 28), and (at) (by SECTION 30), (6z) (a) (intro.), (8) (b), (24m) (intro.),
14 and (52), 49.472 (6) (a) and (b), 49.473 (5), and 146.99 of the statutes takes effect on
15 July 1, 2009.

16 (b) The treatment of sections 49.45 (5m) (am) (by SECTION 20), 49.45 (6y) (ap)
17 (by SECTION 27), (ar) (by SECTION 29), and (at) (by SECTION 31) of the statutes takes
18 effect on June 30, 2013.

19 (END)

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1152/P8ins
RLR:.....

1 **Ins 18-14:**

2 **SECTION 1.** 149.10 (3m) (intro.) of the statutes is amended to read:

3 149.10 **(3m)** (intro.) "Health care coverage revenue" means any of the

4 following, but does not include payments to health maintenance organizations under

5 s. 49.45 (59) (a):

History: 1997 a. 27 ss. 3014 to 3024, 4814, 4817 to 4824; Stats. 1997 s. 149.10; 1999 a. 9; 2001 a. 38; 2003 a. 33; 2005 a. 74.