



99

2/6/09

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

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

RMR

JW

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

JNS RR-1

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.

JNS RR-2

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 **SECTION 1.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
2 the following amounts for the purposes indicated:

	2007-08	2008-09
3		
4	20.435 Health services, department of	
5	(4) HEALTH SERVICES PLANNING; REG & DELIVERY; HLTH	
6	CARE FIN; OTHER SUPPORT PGMS	
7	(xc) Hospital assessment fund; hospi-	
8	tal payments	SEG A -0- 275,445,100

9 **SECTION 2.** 20.435 (4) (gp) of the statutes is repealed.

10 **SECTION 3.** 20.435 (4) (jw) of the statutes is amended to read:

11 20.435 (4) (jw) *BadgerCare Plus and hospital assessment administrative costs.*
12 Biennially, the amounts in the schedule to provide a portion of the state share of
13 administrative costs for the BadgerCare Plus Medical Assistance program under s.
14 49.471. ~~Ten~~ and for administration of the hospital assessment under s. 50.38. All
15 moneys transferred under s. 50.38 (9) and 10 percent of all moneys received from
16 penalty assessments under s. 49.471 (9) (c) shall be credited to this appropriation
17 account.

 ****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

18 **SECTION 4.** 20.435 (4) (w) of the statutes is amended to read:

19 20.435 (4) (w) *Medical Assistance trust fund.* From the Medical Assistance
20 trust fund, biennially, the amounts in the schedule for meeting costs of medical
21 assistance administered under ss. 46.27, 46.275 (5), 46.278 (6), 46.283 (5), 46.284 (5),
22 49.45, and 49.472 (6), for refunds under s. 50.38 (6) (a), and for administrative costs

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.

15 SECTION 43. 149.10 (3m) (intro.) of the statutes is amended to read:

16 149.10 (3m) (intro.) "Health care coverage revenue" means any of the
17 following, but does not include payments to health maintenance organizations under
18 s. 49.45 (59) (a):

19 SECTION 9122. Nonstatutory provisions; Health Services.

20 (1) HOSPITAL ASSESSMENT.

21 (a) *Assessment payment deadlines.* Notwithstanding section 50.38 (4) of the
22 statutes, as created by this act, hospitals shall pay the assessment for state fiscal
23 year 2008-09 that is required under section 50.38 (2) of the statutes, as created by
24 this act, in 2 equal amounts. Hospitals shall make the first payment by March 31,
25 2009, or 10 days after the effective date of this paragraph, whichever is later.

1 Hospitals shall make the 2nd payment by June 30, 2009. At the discretion of the
2 department of health services, a hospital that is unable timely to make a payment
3 by a date specified under this paragraph may be allowed to make a delayed payment.
4 A determination by the department that a hospital may not make a delayed payment
5 under this paragraph is final and is not subject to review under chapter 227 of the
6 statutes.

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

17 (c) *Reconciliation of 2008-09 expenses.* 1. Notwithstanding the deadline under
18 section 50.38 (6) (b) of the statutes, as created by this act, for state fiscal year
19 2008-09, the department shall make the refunds required under section 50.38 (6) (b),
20 by December 31, 2009.

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

1 statutes for the appropriation under section 20.435 (4) (xc) of the statutes for state
2 fiscal year 2009-10.

3 (d) *Independent rural hospital supplement.* In state fiscal year 2008-09, from
4 the appropriation account under section 20.435 (4) (b) and (o) of the statutes, the
5 department of health services shall pay independent, rural, hospitals that are in
6 counties that border another state and that are not critical access hospitals one of the
7 following amounts:

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

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

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

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

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

1 (2) MEDICAL ASSISTANCE GENERAL PURPOSE REVENUE APPROPRIATION. In the
2 schedule under section 20.005 (3) of the statutes for the appropriation to the
3 department of health services under section 20.435 (4) (b) of the statutes, as affected
4 by the acts of 2009, the dollar amount is decreased by \$78,456,800 for the second
5 fiscal year of the fiscal biennium in which this subsection takes effect for the
6 purposes for which the appropriation is made.

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

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

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

13 (1) HOSPITAL ASSESSMENT.

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

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

23 (END)

D-Note

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1999/rrins
RLR:.....

~~no #~~ **INS RR-1:**
Under the bill, the amount allocated to hospitals for MA services in SFY 2008-09, including both the state and federal share under MA, is the amount of the hospital assessment revenue divided by 57.75 percent, which is \$476,961,200.

~~no #~~ **INS RR-2:**
amount of payments to hospitals for MA services from hospital assessment revenue plus the federal share of MA is equal to

~~no #~~ **Ins RR-3:**
In addition to the decrease in general purpose revenue appropriated for MA in association with the hospital assessment, the

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1152/P9

RLR: *kgf*

Date

This redraft eliminates the sunset.

I also revised the analysis description of the amount of assessment money to be spent on hospital services under MA. Since we took reference to the state share out of proposed s. 49.45 (3) (e) 11. in the prior version, I made a similar change to the analysis.

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/P9dn

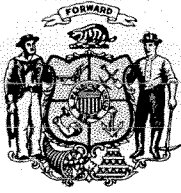
RLR:kjf:ph

February 9, 2009

This redraft eliminates the sunset.

I also revised the analysis description of the amount of assessment money to be spent on hospital services under MA. Since we took reference to the state share out of proposed s. 49.45 (3) (e) 11. in the prior version, I made a similar change to the analysis.

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



2/9/09

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

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 amount allocated to hospitals for MA services in SFY 2008-09, including both the state and federal share under MA, is the amount of the hospital assessment revenue divided by 57.75 percent, which is \$476,961,200. In SFY 2008-09, \$79,604,800 in 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 amount of payments to hospitals for MA services from hospital assessment revenue plus the federal share of MA is equal to 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 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)

INS
4-11

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 (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 21.** 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 22.** 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 23.** 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 24.** 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 25.** 49.45 (6y) (ap) of the statutes is created to read:

14 49.45 (6y) (ap) Notwithstanding sub. (3) (e), from the appropriation accounts
15 under s. 20.435 (4) (o) and (xc), the department shall distribute not more than
16 \$8,000,000 in each fiscal year as supplemental payments to hospitals that satisfy the
17 criteria established by the American College of Surgeons for classification as a Level
18 I adult trauma center, except that the department may not make payments that
19 exceed limitations based on customary charges under 42 USC 1396b (i) (3).

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

21 49.45 (6y) (ar) Notwithstanding sub (3) (e), the department may, from the
22 appropriation account under s. 20.435 (4) (xc), make supplemental payments to
23 hospitals based on hospital performance, in accordance with a payment methodology
24 developed by the department, except that the department may not make payments
25 that exceed limitations based on customary charges under 42 USC 1396b (i) (3).

1 **SECTION 27.** 49.45 (6y) (at) of the statutes is created to read:

2 49.45 **(6y)** (at) Notwithstanding sub. (3) (e), from the appropriation account
3 under s. 20.435 (4) (w), the department shall distribute \$3,000,000 in each fiscal year
4 to the University of Wisconsin Hospital and Clinics for care that is not otherwise
5 compensated, except that the department may not make payments that exceed
6 limitations based on customary charges under 42 USC 1396b (i) (3).

7 **SECTION 28.** 49.45 (6z) (a) (intro.) of the statutes is amended to read:

8 49.45 **(6z)** (a) (intro.) Notwithstanding sub. (3) (e), from the appropriation
9 accounts under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), the department may distribute
10 funding in each fiscal year to supplement payment for services to hospitals that enter
11 into indigent care agreements, in accordance with the approved state plan for
12 services under 42 USC 1396a, with relief agencies that administer the medical relief
13 block grant under this chapter, if the department determines that the hospitals serve
14 a disproportionate number of low-income patients with special needs. If no medical
15 relief block grant under this chapter is awarded or if the allocation of funds to such
16 hospitals would exceed any limitation under 42 USC 1396b (i) (3), the department
17 may distribute funds to hospitals that have not entered into indigent care
18 agreements. The department may not distribute funds under this subsection to the
19 extent that the distribution would do any of the following:

20 **SECTION 29.** 49.45 (8) (b) of the statutes is amended to read:

21 49.45 **(8)** (b) Reimbursement under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w) for home
22 health services provided by a certified home health agency or independent nurse
23 shall be made at the home health agency's or nurse's usual and customary fee per
24 patient care visit, subject to a maximum allowable fee per patient care visit that is
25 established under par. (c).

1 **SECTION 30.** 49.45 (24m) (intro.) of the statutes is amended to read:

2 49.45 (**24m**) (intro.) From the appropriation accounts under s. 20.435 (4) (b),
3 (~~gp~~), (o), and (w), in order to test the feasibility of instituting a system of
4 reimbursement for providers of home health care and personal care services for
5 medical assistance recipients that is based on competitive bidding, the department
6 shall:

7 **SECTION 31.** 49.45 (52) of the statutes is amended to read:

8 49.45 (**52**) PAYMENT ADJUSTMENTS. Beginning on January 1, 2003, the
9 department may, from the appropriation account under s. 20.435 (7) (b), make
10 Medical Assistance payment adjustments to county departments under s. 46.215,
11 46.22, 46.23, or 51.42, or 51.437 or to local health departments, as defined in s. 250.01
12 (4), as appropriate, for covered services under s. 49.46 (2) (a) 2. and 4. d. and f. and
13 (b) 6. b., c., f., fm., g., j., k., L., Lm., and m., 9., 12., 12m., 13., 15., and 16. Payment
14 adjustments under this subsection shall include the state share of the payments.
15 The total of any payment adjustments under this subsection and Medical Assistance
16 payments made from appropriation accounts under s. 20.435 (4) (b), (~~gp~~), (o), and (w),
17 may not exceed applicable limitations on payments under 42 USC 1396a (a) (30) (A).

18 **SECTION 32.** 49.45 (59) of the statutes is created to read:

19 49.45 (**59**) HEALTH MAINTENANCE ORGANIZATION PAYMENTS TO HOSPITALS. (a) The
20 department shall, from the appropriation account under s. 20.435 (4) (xc), pay each
21 health maintenance organization with which it contracts to provide medical
22 assistance a monthly amount that the health maintenance organization shall use to
23 make payments to hospitals under par. (b).

24 (b) Health maintenance organizations shall pay all of the moneys they receive
25 under par. (a) to eligible hospitals, as defined in s. 50.38 (1), within 15 days after

1 receiving the moneys. The department shall specify in contracts with health
2 maintenance organizations to provide medical assistance a method that health
3 maintenance organizations shall use to allocate the amounts received under par. (a)
4 among eligible hospitals based on the number of discharges from inpatient stays and
5 the number of outpatient visits for which the health maintenance organization paid
6 such a hospital in the previous month for enrollees who are recipients of medical
7 assistance, except enrollees who receive medical assistance under s. 49.45 (23).
8 Payments under this paragraph shall be in addition to any amount that a health
9 maintenance organization is required by agreement between the health
10 maintenance organization and a hospital to pay the hospital for providing services
11 to the health maintenance organization's enrollees.

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

16 (d) Each health maintenance organization that provides medical assistance
17 shall report monthly to each hospital to which the health maintenance organization
18 makes payments under par. (b) such information regarding the payments that the
19 department specifies in its contract with the health maintenance organization to
20 provide medical assistance.

21 (e) 1. If the department determines that a health maintenance organization
22 has not complied with a requirement under pars. (b) to (d), the department shall
23 order the health maintenance organization to comply with the requirement within
24 15 days after the department's determination of noncompliance.

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

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

7 (f) The department shall specify in contracts with health maintenance
8 organizations to provide medical assistance the method for adjusting payments
9 under par. (b) to correct a health maintenance organization's inaccurate counting of
10 inpatient discharges or outpatient visits in calculating a monthly payment to a
11 hospital under par. (b).

12 (g) If a health maintenance organization and hospital do not agree on the
13 amount of a monthly payment that the health maintenance organization is required
14 to pay the hospital under par. (b), either the health maintenance organization or the
15 hospital, within 6 months after the first day of the month in which the payment is
16 due, may request that the department determine the amount of the payment. The
17 department shall determine the amount of the payment within 60 days after the
18 request for a determination is made. The health maintenance organization or
19 hospital is, upon request, entitled to a contested case hearing under ch. 227 on the
20 department's determination.

21 **SECTION 33.** 49.472 (6) (a) of the statutes is amended to read:

22 49.472 (6) (a) Notwithstanding sub. (4) (a) 3., from the appropriation account
23 under s. 20.435 (4) (b), ~~(gp)~~, or (w), the department shall, on the part of an individual
24 who is eligible for medical assistance under sub. (3), pay premiums for or purchase
25 individual coverage offered by the individual's employer if the department

1 determines that paying the premiums for or purchasing the coverage will not be more
2 costly than providing medical assistance.

3 **SECTION 34.** 49.472 (6) (b) of the statutes is amended to read:

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

8 **SECTION 35.** 49.473 (5) of the statutes is amended to read:

9 49.473 **(5)** The department shall audit and pay, from the appropriation
10 accounts under s. 20.435 (4) (b), ~~(gp)~~, and (o), allowable charges to a provider who is
11 certified under s. 49.45 (2) (a) 11. for medical assistance on behalf of a woman who
12 meets the requirements under sub. (2) for all benefits and services specified under
13 s. 49.46 (2).

14 **SECTION 36.** 50.38 of the statutes is created to read:

15 **50.38 Hospital assessment.** (1) In this section "eligible hospital" means a
16 hospital that is not any of the following:

17 (a) A critical access hospital.

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

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

22 **(2)** For the privilege of doing business in this state, there is imposed on each
23 eligible hospital an assessment each state fiscal year that is equal to a uniform
24 percentage, determined under sub. (3), of the hospital's gross patient revenues, as

1 reported under s. 153.46 (5) and determined by the department. The assessments
2 shall be deposited in the hospital assessment fund.

3 (3) The department shall establish the percentage under sub. (2) so that the
4 total amount of assessments collected under this section in a state fiscal year is equal
5 to the amount in the schedule under s. 20.005 (3) for the appropriation under s.
6 20.435 (4) (xc) for that fiscal year.

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

10 (5) At the discretion of the department, a hospital that is unable timely to make
11 a payment by a date specified under sub. (4) may be allowed to make a delayed
12 payment. A determination by the department that a hospital may not make a
13 delayed payment under this subsection is final and is not subject to review under ch.
14 227.

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

23 2. If the department makes a refund under subd. 1. as result of failure to obtain
24 federal financial participation under the federal Medicaid program for a payment
25 under s. 49.45 (3) (e) 11. or (6y) (at) or a payment from the Medical Assistance trust

1 fund, the department shall recoup the part of the payment for which the federal
2 government does not provide federal financial participation.

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

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

7 (b) On June 30 of each state fiscal year, the department shall, from the
8 appropriation account under s. 20.435 (4) (xc), refund to hospitals the difference
9 between the amount in the schedule under s. 20.005 (3) for that appropriation and
10 the amount expended or encumbered from that appropriation in the fiscal year.

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

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

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

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

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

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

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

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

7 (g) The results of any audits conducted by the department under s. 49.45 (59)
8 (e) 3. and any actions taken by the department as a result of the audits.

9 **(8)** In each state fiscal year, the secretary of administration shall transfer from
10 the hospital assessment fund to the Medical Assistance trust fund an amount equal
11 to the amount in the schedule under s. 20.005 (3) for the appropriation under s.
12 20.435 (4) (xc) for that fiscal year minus the state share of payments to hospitals
13 under s. 49.45 (3) (e) 11., and minus any refunds paid to hospitals from the hospital
14 assessment fund under sub. (6) (a) in that fiscal year.

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

19 **SECTION 37.** 50.389 of the statutes is renumbered 50.377.

20 **SECTION 38.** 146.99 of the statutes is repealed.

21 **SECTION 39.** 149.10 (3m) (intro.) of the statutes is amended to read:

22 149.10 **(3m)** (intro.) "Health care coverage revenue" means any of the
23 following, but does not include payments to health maintenance organizations under
24 s. 49.45 (59) (a):

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

1 (1) HOSPITAL ASSESSMENT.

2 (a) *Assessment payment deadlines.* Notwithstanding section 50.38 (4) of the
3 statutes, as created by this act, hospitals shall pay the assessment for state fiscal
4 year 2008-09 that is required under section 50.38 (2) of the statutes, as created by
5 this act, in 2 equal amounts. Hospitals shall make the first payment by March 31,
6 2009, or 10 days after the effective date of this paragraph, whichever is later.
7 Hospitals shall make the 2nd payment by June 30, 2009. At the discretion of the
8 department of health services, a hospital that is unable timely to make a payment
9 by a date specified under this paragraph may be allowed to make a delayed payment.
10 A determination by the department that a hospital may not make a delayed payment
11 under this paragraph is final and is not subject to review under chapter 227 of the
12 statutes.

13 (b) *Medical Assistance fee-for-service schedule used as basis for managed care*
14 *reimbursement.* The department of health services shall present the inpatient and
15 outpatient hospital diagnosis related groupings rate and weight schedules
16 established by the department for state fiscal year 2007-08 to health maintenance
17 organizations and hospitals as the applicable schedule for reimbursement rates
18 under agreements between health maintenance organizations and hospitals that
19 reference the fee-for-services schedule to establish the rates that health
20 maintenance organizations shall reimburse hospitals for services provided to
21 recipients of the Medical Assistance Program under subchapter IV of chapter 49 of
22 the statutes in state fiscal year 2008-09.

23 (c) *Reconciliation of 2008-09 expenses.* 1. Notwithstanding the deadline under
24 section 50.38 (6) (b) of the statutes, as created by this act, for state fiscal year

1 2008-09, the department shall make the refunds required under section 50.38 (6) (b),
2 by December 31, 2009.

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

10 (d) *Independent rural hospital supplement.* In state fiscal year 2008-09, from
11 the appropriation account under section 20.435 (4) (b) and (o) of the statutes, the
12 department of health services shall pay independent, rural, hospitals that are in
13 counties that border another state and that are not critical access hospitals one of the
14 following amounts:

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

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

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

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

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

7 (2) **MEDICAL ASSISTANCE GENERAL PURPOSE REVENUE APPROPRIATION.** In the
8 schedule under section 20.005 (3) of the statutes for the appropriation to the
9 department of health services under section 20.435 (4) (b) of the statutes, as affected
10 by the acts of 2009, the dollar amount is decreased by \$78,456,800 for the second
11 fiscal year of the fiscal biennium in which this subsection takes effect for the
12 purposes for which the appropriation is made.

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

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

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

19 (1) **HOSPITAL ASSESSMENT.** (a) The treatment of sections 20.435 (4) (gp), 46.27
20 (9) (a) and (10) (a) 1., 46.275 (5) (a) and (c), 46.283 (5), 46.284 (5) (a), 46.485 (2g)
21 (intro.), 49.45 (5m) (am), (6m) (ag) (intro.), (6v) (b), (6x) (a), (6y) (a), (am), (ap), (ar),
22 and (at), (6z) (a) (intro.), (8) (b), (24m) (intro.), and (52), 49.472 (6) (a) and (b), 49.473
23 (5), and 146.99 of the statutes takes effect on July 1, 2009.

24

(END)

O-Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1152/P10dn

RLR: 

Date

I redrafted to add the hospital assessment fund to the list of funds under s. 25.17, over which the state investment board has control. ✓

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

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1152/P10ins
RLR:.....

- 1 **Ins 4-11:** ✓
- 2 **SECTION 1.** 25.17 (1) (gs) of the statutes is created to read: ✓
- 3 25.17 (1) (gs) Hospital assessment fund (s. 25.772);

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1152/P10dn
RLR:kjf:md

February 9, 2009

I redrafted to add the hospital assessment fund to the list of funds under s. 25.17, over which the state investment board has control.

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: Tuesday, February 10, 2009 11:06 AM
To: Ryan, Robin
Subject: FW: Final Changes to the Hospital Assessment draft
Importance: High
Attachments: image001.gif; image002.gif; image003.gif

From: Gauger, Michelle C - DOA
Sent: Tuesday, February 10, 2009 10:52 AM
To: Willing, Krista - DOA
Cc: Johnston, James - DHS; Albertoni, Richard S - DHS
Subject: Final Changes to the Hospital Assessment draft
Importance: High

There are two final changes to the hospital assessment draft that need to also be included in the compiled bill:

- 1) DHS is concerned that the language regarding the payment to the University of Wisconsin Hospital and Clinics is in 49.45 with the rest of the hospital assessment details. This could be construed by CMS as insufficiently redistributive. Can we move this requirement to pay \$3,000,000 to s.25.77 where the MA trust fund is defined? If this is not acceptable, moving it elsewhere in the statutes so that it is not in the middle of the hospital assessment language is preferable to its location now.
- 2) Under section 9122 (1)(b) regarding the fee-for-service schedule used as a basis for managed care reimbursement, remove the reference to the weight schedule. The sentence should read, "... shall present the inpatient and outpatient hospital diagnosis related groups rate schedule established by the department..."

Please let me know if you have any questions or concerns.

Michelle

Call with michelle - moving to ch. 25 not appropriate - but OK to move within 49.45