

2011 DRAFTING REQUEST

Bill

Received: **01/21/2011**

Received By: **tdodge**

Wanted: **As time permits**

Companion to LRB:

For: **Administration-Budget 7-7980**

By/Representing: **Skwarczek**

May Contact:

Drafter: **tdodge**

Subject: **Health - medical assistance**

Addl. Drafters:

Extra Copies: **PJK**

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to: **tamara.dodge@legis.wisconsin.gov**

Pre Topic:

DOA:.....Skwarczek, BAB0031 -

Topic:

Direct DHS to study and implement changes to Medical Assistance and authorize DHS to change existing standards and procedures

Instructions:

See attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	tdodge 01/25/2011	csicilia 01/26/2011		_____			State
/1			jfrantze 01/26/2011	_____	sbasford 01/26/2011		State
/2	tdodge 01/31/2011	wjackson 02/01/2011	rschluet 02/01/2011	_____	lparisi 02/01/2011		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/3	tdodge 02/01/2011	csicilia 02/01/2011	jfrantze 02/01/2011	_____	mbarman 02/01/2011		State
/4	tdodge 02/03/2011	csicilia 02/03/2011	mduchek 02/03/2011	_____	lparisi 02/03/2011		State
/5	tdodge 02/03/2011	wjackson 02/03/2011	jfrantze 02/03/2011	_____	sbasford 02/03/2011		

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ADP 2/3

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Handwritten notes:
/3 ijs 2/11
11
Jb 2/1

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Direct DHS to study and implement changes to Medical Assistance and authorize DHS to change existing standards and procedures

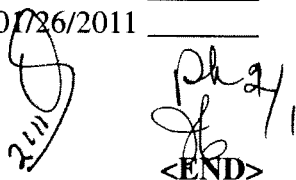
Instructions:

See attached.

Drafting History:

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/?	tdodge 01/25/2011	csicilia 01/26/2011		_____			State
/1		1/26/11/31	jfrantze 01/26/2011	_____	sbasford 01/26/2011		

FE Sent For:


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<END>

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Carbon copy (CC:) to: **tamara.dodge@legis.wisconsin.gov**

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DOA:.....Skwarczek, BAB0031 -


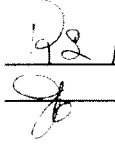
Topic:

Direct DHS to study and implement changes to Medical Assistance and authorize DHS to change existing standards and procedures

Instructions:

See attached.

Drafting History:

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/?	tdodge	1 gjs 1/26 11	 1/26	 1/26			

FE Sent For:

<END>

Dodge, Tamara

From: Hanaman, Cathlene
Sent: Friday, January 21, 2011 2:42 PM
To: Dodge, Tamara
Subject: FW: Statutory Language Drafting Request - Budget Adjustment Bill
Attachments: Drafting instr medicaid reform MAS.doc

From: Marta.Skwarczek@Wisconsin.gov [mailto:Marta.Skwarczek@Wisconsin.gov]
Sent: Friday, January 21, 2011 1:57 PM
To: Hanaman, Cathlene
Cc: Hetzel, Shayna - DOA; Thornton, Scott - DOA; Gauger, Michelle C - DOA; Skwarczek, Marta A - DOA
Subject: Statutory Language Drafting Request - Budget Adjustment Bill

Topic: Medicaid Reform

Tracking Code: BAB0031

SBO Team: HSI

SBO Analyst: Skwarczek, Marta A - DOA
Phone: (608) 267-7980
E-mail: Marta.Skwarczek@Wisconsin.gov

Agency Acronym: DHS

Agency Number: 435

Priority: High

Intent:
Please see attached memo.

Attachments: True

Medicaid Reform
Drafting Instructions

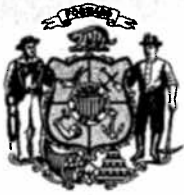
1. Direct the Department of Health Services to study and implement changes to Medicaid state plan and waivers programs on an ongoing basis to for the purposes of
 - Increasing the cost effectiveness and efficiency of care and the care delivery system
 - Limiting crowd out of private health insurance
 - Ensuring the long-term viability and sustainability of the programs
 - Advancing the accuracy and reliability of eligibility and claims determinations and payments
 - Improving enrollee health status
 - Aligning enrollee and provider incentives with care outcomes
 - Supporting individual responsibility and choice.

2. Notwithstanding existing statutes, the Department is authorized to:
 - Set cost sharing up to the maximum allowed by federal law or waiver
 - Authorize providers to deny care or services because the recipient is unable to share costs, to the extent allowed by federal law or waiver
 - Modify existing benefits or establish various benefit packages and offer different packages to different groups of recipients
 - Develop reimbursement models based on particular services *provider*
 - Mandate enrollment in managed care -
 - Modify eligibility standards and methodologies to:
 - Restrict or eliminate presumptive eligibility
 - Impose restrictions on services to non-US citizens to the extent permitted by federal law
 - Set standards for establishing residency
 - Determine and redetermine eligibility to assure accurate determinations and continuing eligibility
 - Reduce eligibility income levels to 133% FPL for non-pregnant, non-disabled adults
 - Adopt other measures that achieve one or more of the purposes to the extent allowed by federal law or waiver.

3. The Department is authorized to request a federal waiver or submit a state plan amendment to the extent necessary to achieve any of the purposes.

4. The Department may adopt or repeal administrative rules as it deems necessary. Permit emergency rule-making without a finding of emergency.

5. Indicate the new authorizing section is notwithstanding the provisions in chapters 46 and 49 that may conflict with it. This notwithstanding provision should not be any broader than absolutely necessary to accomplish the reforms listed above.



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-1143?
TJD: :....

In: 1/25/11

g's RmNR

DOA:.....Skwarczek, BAB0031 - Direct DHS to study and implement changes to Medical Assistance and authorize DHS to change existing standards and procedures

FOR 2011-13 BUDGET -- NOT READY FOR INTRODUCTION

D-note

st ✓

do NOT gen

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

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES ✓

MEDICAL ASSISTANCE ✓

Under current law, DHS administers the Medical Assistance (MA) program, which is a joint federal and state program that provides health services to individuals who have limited resources. Some services are provided through programs that operate under a waiver of federal laws related to medical assistance (MA waiver programs). This bill requires DHS to study potential changes to the MA state plan and to waivers of federal law relating to medical assistance for certain purposes, including increasing the cost effectiveness and efficiency of care for the MA program and MA waiver programs and improving the health status of individuals who receive benefits under the MA program or an MA waiver program. If DHS determines, as a result of the study, that an alteration of the laws or adoption of additional rules advances the purposes for which the study was conducted, DHS may promulgate rules to do any of the following: require cost sharing from program benefit recipients up to the maximum allowed by the federal government; authorize providers to deny care or services if the recipient of medical assistance is unable to share costs; modify existing benefits or establish various benefits packages and offer

would advance any of

a program benefit

different packages to different groups of recipients; develop provider reimbursement models based on particular services; mandate that recipients of benefits of the MA program or an MA waiver program enroll in managed care; restrict or eliminate presumptive eligibility; impose restrictions on providing services to individuals who are not citizens of the United States; set standards for establishing residency; determine eligibility to assure accurate eligibility determinations and redetermine continuing eligibility; and reduce income levels for purposes of determining eligibility to 133 percent of the federal poverty line for adults who are not pregnant and not disabled. DHS must submit an amendment to the state MA plan or request a waiver of federal laws related to medical assistance, if necessary, to the extent necessary to implement any proposal. If the federal Department of Health and Human Services does not allow the amendment or does not grant the waiver, DHS may not promulgate rules or implement the proposal. The bill also requires DHS, at the time of promulgating the permanent rule, to request the Legislative Reference Bureau to draft and to submit to the appropriate standing committees legislation that would conform the statutes to rules with which the statutes conflict.

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

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

SECTION 1. 49.45 (2m) of the statutes is created to read:

49.45 (2m) AUTHORIZATION FOR MODIFICATIONS TO PROGRAMS; STUDY. (a) In this subsection, "Medical Assistance program" includes any program operated under this subchapter, demonstration program operated under 42 USC 1315, and program operated under a waiver of federal law relating to medical assistance that is granted by the federal department of health and human services.

(b) The department shall study potential changes to the Medical Assistance state plan and to waivers of federal law relating to medical assistance obtained from the federal department of health and human services for all of the following purposes:

1. Increasing the cost effectiveness and efficiency of care and the care delivery system for Medical Assistance programs.

Develop standards and methodologies

assure

Program benefit

benefits

Waiver

of the legislature

any conflicting

the rule

1 2. Limiting switching from private health insurance to Medical Assistance
2 programs.

3 3. Ensuring the long-term viability and sustainability of Medical Assistance
4 programs.

5 4. Advancing the accuracy and reliability of eligibility for Medical Assistance
6 programs and claims determinations and payments.

7 5. Improving the health status of individuals who receive benefits under a
8 Medical Assistance program.

9 6. Aligning Medical Assistance program enrollee and service provider
10 incentives with health care outcomes.

11 7. Supporting responsibility and choice of medical assistance recipients.

12 (c) If the department determines, would as a result of the study under par. (b), that
13 an alteration of laws or adoption of additional rules advances the purposes under par.

14 (b) 1. to 7., the department may promulgate rules to do any of the following related
15 to Medical Assistance programs: that described in

16 1. Require cost sharing from program benefit recipients up to the maximum
17 allowed by federal law or a waiver of federal law. a program benefit

18 2. Authorize providers to deny care or services if the recipient of medical
19 assistance is unable to share costs, to the extent allowed by federal law or waiver.

20 3. Modify existing benefits or establish various benefit packages and offer
21 different packages to different groups of recipients.

22 4. Develop provider reimbursement models based on particular services.

23 5. Mandate that recipients of benefits under a Medical Assistance program
24 enroll in managed care.

25 6. Restrict or eliminate presumptive eligibility.

benefits

7. To the extent permitted by federal law, impose restrictions on providing services to individuals who are not citizens of the United States.

8. Set standards for establishing residency.

Develop standards and methodologies

9. Determine eligibility to assure accurate eligibility determinations and redetermine continuing eligibility.

10. Reduce income levels for purposes of determining eligibility in a Medical Assistance program to 133 percent of the federal poverty line for adults who are not pregnant and not disabled, to the extent allowed by federal law or waiver.

(d) The department shall submit an amendment to the state Medical Assistance plan or request a waiver of federal laws related to medical assistance, if necessary, to the extent necessary to implement any action under par. (c). If the federal department of health and human services does not allow the amendment or does not grant the waiver, the department may not promulgate the rule or implement the action suggested in the proposed rule.

described

(e) Notwithstanding s. 227.24 (3), a rule promulgated under par. (c) may be promulgated as an emergency rule under s. 227.24 without a finding of emergency.

(f) At the time the department promulgates a permanent rule under par. (c), the department shall request that the legislative reference bureau draft legislation to conform any ^{conflicting} statute to the rule promulgated under par. (c) with which the statute

conflicts. The secretary shall submit proposed legislation to the standing committee of each house of the legislature that has jurisdiction over medical assistance matters under s. 13.172 (3).

the

SECTION 2. 49.45 (3) (n) of the statutes is created to read:

1 [^]
 2 49.45 (3) (n) This subsection does not apply if the department promulgates a
 3 rule under s. 49.45 (2m) (c) 4., to the extent that the rule conflicts with this
 4 subsection. [✓] sub.

4 **SECTION 3.** 49.45 (6m) (n) of the statutes is created to read:

5 49.45 (6m) (n) This subsection does not apply if the department promulgates
 6 a rule under s. 49.45 (2m) (c) 4., to the extent that the rule conflicts with this
 7 subsection. sub.

8 **SECTION 4.** 49.45 (8r) of the statutes is amended to read:

9 49.45 (8r) PAYMENT FOR CERTAIN OBSTETRIC AND GYNECOLOGICAL CARE. The Unless
 10 otherwise provided by the department by rule promulgated under sub. (2m) (c), the
 11 rate of payment for obstetric and gynecological care provided in primary care
 12 shortage areas, as defined in s. 36.60 (1) (cm), or provided to recipients of medical
 13 assistance who reside in primary care shortage areas, that is equal to 125% of the
 14 rates paid under this section to primary care physicians in primary care shortage
 15 areas, shall be paid to all certified primary care providers who provide obstetric or
 16 gynecological care to those recipients.

History: 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106j, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38, 57, 67, 104, 109; 2003 a. 33, 318, 321; 2005 a. 22; 2005 a. 25 ss. 1120 to 1149f, 2503 to 2510; 2005 a. 107, 165, 253, 254, 264, 301, 340, 386, 441; 2007 a. 20 ss. 1513 to 1559h, 9121 (6) (a); 2007 a. 90, 97, 104, 141, 153; 2009 a. 2, 28, 113, 177, 180, 190, 221, 334, 342.

17 **SECTION 5.** 49.45 (18) (ac) of the statutes is amended to read:

18 49.45 (18) (ac) Except as provided in pars. (am) to (d), and subject to par. (ag),
 19 any person eligible for medical assistance under s. 49.46, 49.468, or 49.47, or for the
 20 benefits under s. 49.46 (2) (a) and (b) under s. 49.471 shall pay up to the maximum
 21 amounts allowable under 42 CFR 447.53 to 447.58 for purchases of services provided
 22 under s. 49.46 (2). The service provider shall collect the specified or allowable

1 copayment, coinsurance, or deductible, unless the service provider determines that
2 the cost of collecting the copayment, coinsurance, or deductible exceeds the amount
3 to be collected. The department shall reduce payments to each provider by the
4 amount of the specified or allowable copayment, coinsurance, or deductible. ~~No~~
5 Unless otherwise provided by the department by rule promulgated under sub. (2m)
6 (c), no provider may deny care or services because the recipient is unable to share
7 costs, but an inability to share costs specified in this subsection does not relieve the
8 recipient of liability for these costs.

History: 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106j, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38, 57, 67, 104, 109; 2003 a. 33, 318, 321; 2005 a. 22; 2005 a. 25 ss. 1120 to 1149f, 2503 to 2510; 2005 a. 107, 165, 253, 254, 264, 301, 340, 386, 441; 2007 a. 20 ss. 1513 to 1559h, 9121 (6) (a); 2007 a. 90, 97, 104, 141, 153; 2009 a. 2, 28, 113, 177, 180, 190, 221, 334, 342.

9 **SECTION 6. 49.45 (18) (ag) (intro.) of the statutes is amended to read:**

10 49.45 (18) (ag) (intro.) Except as provided in pars. (am), (b), and (c), and subject
11 to par. (d), a recipient specified in par. (ac) shall pay all of the following, unless
12 otherwise provided by the department by rule promulgated under sub. (2m) (c):

History: 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106j, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38, 57, 67, 104, 109; 2003 a. 33, 318, 321; 2005 a. 22; 2005 a. 25 ss. 1120 to 1149f, 2503 to 2510; 2005 a. 107, 165, 253, 254, 264, 301, 340, 386, 441; 2007 a. 20 ss. 1513 to 1559h, 9121 (6) (a); 2007 a. 90, 97, 104, 141, 153; 2009 a. 2, 28, 113, 177, 180, 190, 221, 334, 342.

13 **SECTION 7. 49.45 (18) (b) (intro.) of the statutes is amended to read:**

14 49.45 (18) (b) (intro.) The Unless otherwise provided by the department by rule
15 promulgated under sub. (2m) (c), the following services are not subject to recipient
16 cost sharing under this subsection:

History: 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106j, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38, 57, 67, 104, 109; 2003 a. 33, 318, 321; 2005 a. 22; 2005 a. 25 ss. 1120 to 1149f, 2503 to 2510; 2005 a. 107, 165, 253, 254, 264, 301, 340, 386, 441; 2007 a. 20 ss. 1513 to 1559h, 9121 (6) (a); 2007 a. 90, 97, 104, 141, 153; 2009 a. 2, 28, 113, 177, 180, 190, 221, 334, 342.

17 **SECTION 8. 49.45 (18) (d) of the statutes is amended to read:**

1 49.45 (18) (d) No person who designates a pharmacy or pharmacist as his or
 2 her sole provider of prescription drugs and who so uses that pharmacy or pharmacist
 3 is liable under this subsection for more than \$12 per month for prescription drugs
 4 received, unless otherwise provided by the department by rule promulgated under
 5 sub. (2m) (c).

History: 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106j, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38, 57, 67, 104, 109; 2003 a. 33, 318, 321; 2005 a. 22; 2005 a. 25 ss. 1120 to 1149f, 2503 to 2510; 2005 a. 107, 165, 253, 254, 264, 301, 340, 386, 441; 2007 a. 20 ss. 1513 to 1559h, 9121 (6) (a); 2007 a. 90, 97, 104, 141, 153; 2009 a. 2, 28, 113, 177, 180, 190, 221, 334, 342.

6 **SECTION 9.** 49.45 (23) (a) of the statutes is amended to read:

7 49.45 (23) (a) The department shall request a waiver from the secretary of the
 8 federal department of health and human services to permit the department to
 9 conduct a demonstration project to provide health care coverage for basic primary
 10 and preventive care to adults who are under the age of 65, who have family incomes
 11 not to exceed 200 percent of the poverty line, and who are not otherwise eligible for
 12 medical assistance under this subchapter, the Badger Care health care program
 13 under s. 49.665, or Medicare under 42 USC 1395 et seq. If the department
 14 promulgates a rule under sub. (2m) (c) 10., paragraph does not apply to the extent
 15 that ^{is} conflicts with the rule. *this*

History: 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106j, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38, 57, 67, 104, 109; 2003 a. 33, 318, 321; 2005 a. 22; 2005 a. 25 ss. 1120 to 1149f, 2503 to 2510; 2005 a. 107, 165, 253, 254, 264, 301, 340, 386, 441; 2007 a. 20 ss. 1513 to 1559h, 9121 (6) (a); 2007 a. 90, 97, 104, 141, 153; 2009 a. 2, 28, 113, 177, 180, 190, 221, 334, 342.

16 **SECTION 10.** 49.45 (23) (b) of the statutes is amended to read:

17 49.45 (23) (b) If the waiver is granted and in effect, the department may
 18 promulgate rules defining the health care benefit plan, including more specific
 19 eligibility requirements and cost-sharing requirements. Cost Unless otherwise
 20 provided by the department by rule promulgated under sub. (2m) (c), cost sharing

1 may include an annual enrollment fee, which may not exceed \$75 per year.
 2 Notwithstanding s. 227.24 (3), the plan details under this subsection may be
 3 promulgated as an emergency rule under s. 227.24 without a finding of emergency.
 4 If the waiver is granted and in effect, the demonstration project under this subsection
 5 shall begin on January 1, 2009, or on the effective date of the waiver, whichever is
 6 later.

History: 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106j, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38, 57, 67, 104, 109; 2003 a. 33, 318, 321; 2005 a. 22; 2005 a. 25 ss. 1120 to 1149f, 2503 to 2510; 2005 a. 107, 165, 253, 254, 264, 301, 340, 386, 441; 2007 a. 20 ss. 1513 to 1559h, 9121 (6) (a); 2007 a. 90, 97, 104, 141, 153; 2009 a. 2, 28, 113, 177, 180, 190, 221, 334, 342.

7 **SECTION 11. 49.45 (24g) (c) of the statutes is amended to read:**

8 **49.45 (24g) (c)** The department's proposal under par. (a) shall specify increases
 9 in reimbursement rates for providers that satisfy the conditions under par. (a) 1. or
 10 2., and shall provide for payment of a monthly per-patient care coordination fee to
 11 those providers. The department shall set the increases in reimbursement rates and
 12 the monthly per-patient care coordination fee so that together they provide
 13 sufficient incentive for providers to satisfy a condition under par. (a) 1. or 2. The
 14 proposal shall specify effective dates for the increases in reimbursement rates and
 15 the monthly per-patient care coordination fee that are no sooner than July 1, 2011.

16 To the extent this paragraph conflicts with the rule, this paragraph does not apply
 17 if the department promulgates a rule under sub. (2m) (c) 4.

History: 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106j, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38, 57, 67, 104, 109; 2003 a. 33, 318, 321; 2005 a. 22; 2005 a. 25 ss. 1120 to 1149f, 2503 to 2510; 2005 a. 107, 165, 253, 254, 264, 301, 340, 386, 441; 2007 a. 20 ss. 1513 to 1559h, 9121 (6) (a); 2007 a. 90, 97, 104, 141, 153; 2009 a. 2, 28, 113, 177, 180, 190, 221, 334, 342.

18 **SECTION 12. 49.45 (24r) (a) of the statutes is amended to read:**

19 **49.45 (24r) (a)** The department shall implement any waiver granted by the
 20 secretary of the federal department of health and human services to permit the

score that
 this paragraph does not apply to the extent it conflicts with the rule.

1 department to conduct a demonstration project to provide family planning, as
2 defined in s. 253.07 (1) (a), under medical assistance to any woman between the ages
3 of 15 and 44 whose family income does not exceed 200% of the poverty line for a family
4 the size of the woman's family. If the department promulgates a rule^e under sub.
5 (2m) (c) 10., this paragraph does not apply to the extent it conflicts with the rule.

History: 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106j, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38, 57, 67, 104, 109; 2003 a. 33, 318, 321; 2005 a. 22; 2005 a. 25 ss. 1120 to 1149f, 2503 to 2510; 2005 a. 107, 165, 253, 254, 264, 301, 340, 386, 441; 2007 a. 20 ss. 1513 to 1559h, 9121 (6) (a); 2007 a. 90, 97, 104, 141, 153; 2009 a. 2, 28, 113, 177, 180, 190, 221, 334, 342.

6 **SECTION 13.** 49.45 (24r) (b) of the statutes is amended to read:

7 49.45 (24r) (b) The department may request an amended waiver from the
8 secretary to permit the department to conduct a demonstration project to provide
9 family planning to any man between the ages of 15 and 44 whose family income does
10 not exceed 200 percent of the poverty line for a family the size of the man's family.
11 If the amended waiver is granted, the department may implement the waiver. If the
12 department promulgates a rule^e under sub. (2m) (c) 10., this paragraph does not
13 apply to the extent it conflicts with the rule.

History: 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106j, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38, 57, 67, 104, 109; 2003 a. 33, 318, 321; 2005 a. 22; 2005 a. 25 ss. 1120 to 1149f, 2503 to 2510; 2005 a. 107, 165, 253, 254, 264, 301, 340, 386, 441; 2007 a. 20 ss. 1513 to 1559h, 9121 (6) (a); 2007 a. 90, 97, 104, 141, 153; 2009 a. 2, 28, 113, 177, 180, 190, 221, 334, 342.

14 **SECTION 14.** 49.45 (25g) (c) of the statutes is amended to read:

15 49.45 (25g) (c) The department's proposal under par. (b) shall specify increases
16 in reimbursement rates for providers that satisfy the conditions under par. (b), and
17 shall provide for payment of a monthly per-patient care coordination fee to those
18 providers. The department shall set the increases in reimbursement rates and the
19 monthly per-patient care coordination fee so that together they provide sufficient
20 incentive for providers to satisfy a condition under par. (b) 1. or 2. The proposal shall

1 specify effective dates for the increases in reimbursement rates and the monthly
2 per-patient care coordination fee that are no sooner than January 1, 2011. The
3 increases in reimbursement rates and monthly per-patient care coordination fees
4 that are not provided by the federal government shall be paid from the appropriation
5 under s. 20.435 (1) (am). If the department promulgates a rule under sub. (2m) (c)
6 4., this paragraph does not apply to the extent it conflicts with the rule.

History: 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106j, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38, 57, 67, 104, 109; 2003 a. 33, 318, 321; 2005 a. 22; 2005 a. 25 ss. 1120 to 1149f, 2503 to 2510; 2005 a. 107, 165, 253, 254, 264, 301, 340, 386, 441; 2007 a. 20 ss. 1513 to 1559h, 9121 (6) (a); 2007 a. 90, 97, 104, 141, 153; 2009 a. 2, 28, 113, 177, 180, 190, 221, 334, 342.

7 **SECTION 15.** 49.45 (27) of the statutes is amended to read:

8 **49.45 (27) ELIGIBILITY OF ALIENS.** A person who is not a U.S. citizen or an alien
9 lawfully admitted for permanent residence or otherwise permanently residing in the
10 United States under color of law may not receive medical assistance benefits except
11 as provided under 8 USC 1255a (h) (3) or 42 USC 1396b (v), unless otherwise
12 provided by the department by rule promulgated under sub. (2m) (c).

History: 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106j, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38, 57, 67, 104, 109; 2003 a. 33, 318, 321; 2005 a. 22; 2005 a. 25 ss. 1120 to 1149f, 2503 to 2510; 2005 a. 107, 165, 253, 254, 264, 301, 340, 386, 441; 2007 a. 20 ss. 1513 to 1559h, 9121 (6) (a); 2007 a. 90, 97, 104, 141, 153; 2009 a. 2, 28, 113, 177, 180, 190, 221, 334, 342.

13 **SECTION 16.** 49.46 (1) (a) (intro.) of the statutes is amended to read:

14 **49.46 (1) (a) (intro.)** The Unless otherwise provided by the department by rule
15 under s. 49.45 (2m) (c), the following shall receive medical assistance under this
16 section:

History: 1971 c. 125, 211, 215; 1973 c. 90, 147; 1975 c. 39; 1977 c. 29 ss. 592m, 1656 (18); 1977 c. 389, 418; 1979 c. 34, 221; 1981 c. 20, 93, 317; 1983 a. 27; 1983 a. 189 s. 329 (5); 1983 a. 245 ss. 10, 15; 1983 a. 538; 1985 a. 29, 120, 176, 253; 1987 a. 27, 307, 339, 399, 413; 1989 a. 9; 1989 a. 31 ss. 1454d to 1460 and 2909g, 2909i; 1989 a. 122, 173, 333, 336, 351; 1991 a. 39, 178, 269, 316; 1993 a. 16, 99, 269, 277, 446, 450, 491; 1995 a. 27, 77, 164, 289, 303, 457; 1997 a. 27, 35, 105, 237; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2005 a. 25, 253; 2007 a. 20, 91; 2009 a. 28, 221.

17 **SECTION 17.** 49.46 (2) (a) (intro.) of the statutes is amended to read:

18 **49.46 (2) (a) (intro.)** Except as provided in par. (be) and unless otherwise
19 provided by the department by rule promulgated under s. 49.45 (2m) (c), the

1 department shall audit and pay allowable charges to certified providers for medical
2 assistance on behalf of recipients for the following federally mandated benefits:

History: 1971 c. 125, 211, 215; 1973 c. 90, 147; 1975 c. 39; 1977 c. 29 ss. 592m, 1656 (18); 1977 c. 389, 418; 1979 c. 34, 221; 1981 c. 20, 93, 317; 1983 a. 27; 1983 a. 189 s. 329 (5); 1983 a. 245 ss. 10, 15; 1983 a. 538; 1985 a. 29, 120, 176, 253; 1987 a. 27, 307, 339, 399, 413; 1989 a. 9; 1989 a. 31 ss. 1454d to 1460 and 2909g, 2909i; 1989 a. 122, 173, 333, 336, 351; 1991 a. 39, 178, 269, 316; 1993 a. 16, 99, 269, 277, 446, 450, 491; 1995 a. 27, 77, 164, 289, 303, 457; 1997 a. 27, 35, 105, 237; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2005 a. 25, 253; 2007 a. 20, 91; 2009 a. 28, 221.

3 **SECTION 18. 49.465 (2) (intro.)** of the statutes is amended to read:

4 49.465 (2) (intro.) A Unless otherwise provided by the department by rule
5 promulgated under s. 49.45 (2m) (c), a pregnant woman is eligible for medical
6 assistance benefits, as provided under sub. (3), during the period beginning on the
7 day on which a qualified provider determines, on the basis of preliminary
8 information, that the woman's family income does not exceed the highest level for
9 eligibility for benefits under s. 49.46 (1) or 49.47 (4) (am) or (c) 1. and ending as
10 follows:

History: 1987 a. 27, 307, 413; 1989 a. 9; 1989 a. 31 ss. 1460p, 2909g, 2909i; 1991 a. 269; 1995 a. 289; 1997 a. 27.

11 **SECTION 19. 49.47 (4) (a) (intro.)** of the statutes is amended to read:

12 49.47 (4) (a) (intro.) Any Unless otherwise provided by the department by rule
13 under s. 49.45 (2m) (c), any individual who meets the limitations on income and
14 resources under pars. (b) to (c) and who complies with pars. (cm) and (cr) shall be
15 eligible for medical assistance under this section if such individual is:

History: 1971 c. 125; 1971 c. 213 s. 5; 1971 c. 215; 1973 c. 90, 147, 333; 1977 c. 29 ss. 593, 1656 (18); 1977 c. 105 s. 59; 1977 c. 273, 418; 1979 c. 34; 1981 c. 20, 93; 1981 c. 314 s. 144; 1983 a. 27, 245; 1985 a. 29; 1987 a. 27, 307, 399, 413; 1989 a. 9; 1989 a. 31 ss. 1462k to 1466d, 2909c to 2909i; 1989 a. 173, 336, 351; 1991 a. 39, 178, 269, 316; 1993 a. 16, 269, 277, 437; 1995 a. 27 ss. 3026 to 3028, 9126 (19); 1995 a. 225, 289, 295; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2005 a. 25, 253; 2007 a. 11, a. 20 ss. 1596 to 1604, 9121 (6) (a); 2009 a. 28, 180.

16 **SECTION 20. 49.47 (5) (intro.)** of the statutes is amended to read:

17 49.47 (5) INVESTIGATION BY DEPARTMENT. (intro.) The department may make
18 additional investigation of eligibility at any of the following times:

History: 1971 c. 125; 1971 c. 213 s. 5; 1971 c. 215; 1973 c. 90, 147, 333; 1977 c. 29 ss. 593, 1656 (18); 1977 c. 105 s. 59; 1977 c. 273, 418; 1979 c. 34; 1981 c. 20, 93; 1981 c. 314 s. 144; 1983 a. 27, 245; 1985 a. 29; 1987 a. 27, 307, 399, 413; 1989 a. 9; 1989 a. 31 ss. 1462k to 1466d, 2909c to 2909i; 1989 a. 173, 336, 351; 1991 a. 39, 178, 269, 316; 1993 a. 16, 269, 277, 437; 1995 a. 27 ss. 3026 to 3028, 9126 (19); 1995 a. 225, 289, 295; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2005 a. 25, 253; 2007 a. 11, a. 20 ss. 1596 to 1604, 9121 (6) (a); 2009 a. 28, 180.

19 **SECTION 21. 49.47 (5) (a)** of the statutes is amended to read:

1 49.47 (5) (a) When there is reasonable ground for belief that an applicant may
2 not be eligible or that the beneficiary may have received benefits to which the
3 beneficiary is not entitled;~~or,~~

History: 1971 c. 125; 1971 c. 213 s. 5; 1971 c. 215; 1973 c. 90, 147, 333; 1977 c. 29 ss. 593, 1656 (18); 1977 c. 105 s. 59; 1977 c. 273, 418; 1979 c. 34; 1981 c. 20, 93; 1981 c. 314 s. 144; 1983 a. 27, 245; 1985 a. 29; 1987 a. 27, 307, 399, 413; 1989 a. 9; 1989 a. 31 ss. 1462k to 1466d, 2909c to 2909i; 1989 a. 173, 336, 351; 1991 a. 39, 178, 269, 316; 1993 a. 16, 269, 277, 437; 1995 a. 27 ss. 3026 to 3028, 9126 (19); 1995 a. 225, 289, 295; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2005 a. 25, 253; 2007 a. 11, a. 20 ss. 1596 to 1604, 9121 (6) (a); 2009 a. 28, 180.

4 **SECTION 22.** 49.47 (5) (c) of the statutes is created to read:

5 49.47 (5) (c) If the department promulgates a rule under s. 49.45 (2m) (c), ^A any
6 time determined by the department by rule ^{to determine eligibility or to reevaluate}
7 continuing eligibility. ^{promulgated under s 49.45(2m)(c)}

8 **SECTION 23.** 49.47 (6) (a) (intro.) of the statutes is amended to read:

9 49.47 (6) (a) (intro.) The Unless otherwise provided by the department by rule
10 promulgated under s. 49.45 (2m) (c), the department shall audit and pay charges to
11 certified providers for medical assistance on behalf of the following:

History: 1971 c. 125; 1971 c. 213 s. 5; 1971 c. 215; 1973 c. 90, 147, 333; 1977 c. 29 ss. 593, 1656 (18); 1977 c. 105 s. 59; 1977 c. 273, 418; 1979 c. 34; 1981 c. 20, 93; 1981 c. 314 s. 144; 1983 a. 27, 245; 1985 a. 29; 1987 a. 27, 307, 399, 413; 1989 a. 9; 1989 a. 31 ss. 1462k to 1466d, 2909c to 2909i; 1989 a. 173, 336, 351; 1991 a. 39, 178, 269, 316; 1993 a. 16, 269, 277, 437; 1995 a. 27 ss. 3026 to 3028, 9126 (19); 1995 a. 225, 289, 295; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2005 a. 25, 253; 2007 a. 11, a. 20 ss. 1596 to 1604, 9121 (6) (a); 2009 a. 28, 180.

12 **SECTION 24.** 49.471 (13) of the statutes is created to read:

13 49.471 (13) APPLICABILITY. If the department promulgates a rule under s. 49.45
14 (2m) (c), subs. (4), (5), (8), (10), and (11) do not apply to the extent that those
15 subsections conflict with the rule.

16 **SECTION 25.** 49.472 (3) (intro.) of the statutes is amended to read:

17 49.472 (3) ELIGIBILITY. (intro.) Except as provided in sub. (6) (a) and unless
18 otherwise provided by the department by rule promulgated under s. 49.45 (2m) (c),
19 an individual is eligible for and shall receive medical assistance under this section
20 if all of the following conditions are met:

History: 1999 a. 9, 185; 2001 a. 16; 2003 a. 33; 2009 a. 2.

21 **SECTION 26.** 49.472 (4) (b) (intro.) of the statutes is amended to read:

1 49.472 (4) (b) (intro.) The department may waive monthly premiums that are
2 calculated to be below \$10 per month. The Unless otherwise provided by the
3 department by rule promulgated under s. 49.45 (2m) (c), the department may not
4 assess a monthly premium for any individual whose income level, after adding the
5 individual's earned income and unearned income, is below 150% of the poverty line.

6 History: 1999 a. 9, 185; 2001 a. 16; 2003 a. 33; 2009 a. 2.

6 **SECTION 27.** 49.473 (2) (intro.) of the statutes is amended to read:

7 49.473 (2) (intro.) A Unless otherwise provided by the department by rule
8 promulgated under s. 49.45 (2m) (c), a woman is eligible for medical assistance as
9 provided under sub. (5) if, after applying to the department or a county department,
10 the department or a county department determines that she meets all of the
11 following requirements:

12 History: 2001 a. 16, 104; 2003 a. 33; 2007 a. 20; 2009 a. 2.

12 **SECTION 28.** 49.473 (5) of the statutes is amended to read:

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

19 History: 2001 a. 16, 104; 2003 a. 33; 2007 a. 20; 2009 a. 2.

(END)

D-note

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

LRB-1143/1dn

TJD/.....

95

Dato

To Marta Skwarczek:

The language of this request raises a potential constitutional issue regarding the separation of powers. Under the separation of powers doctrine, the legislature cannot delegate its lawmaking function to another branch of government, in this case the ~~executive~~ ^{executive} branch. A court may invalidate a statute if the legislative language does not provide adequate standards for the agency that is determining the law. Some of the language in the request would allow DHS to change any Medical Assistance law, for any reason, at any time, and potentially without notice or public hearing. Aside from the practical problem that only DHS would know what the law is at any given time, this may create an impermissible delegation leading a court to invalidate the statute. In an attempt to avoid this problem, I have drafted the language as narrowly as would still effectuate the intent of the request and have inserted some provisions such as requiring rule-making, prohibiting implementation of an action until a waiver is granted, and requiring DHS to submit legislation to conform the statutes to the rules.

Are the provisions of this request intended to be temporary or to be in effect only during a certain circumstance, such as a budget deficit? If the provisions are temporary or are triggered by a certain measurable event, this would minimize the delegation issue.

You may want to ask DHS if all of the statutory provisions that could conflict with the potential changes referenced in the bill are addressed.

Tamara J. Dodge
Legislative Attorney
Phone: (608) 267-7380
E-mail: tamara.dodge@legis.wisconsin.gov

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

LRB-1143/1dn
TJD:cjs:jf

January 26, 2011

To Marta Skwarczek:

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Tamara J. Dodge
Legislative Attorney
Phone: (608) 267-7380
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Dodge, Tamara

From: Skwarczek, Marta A - DOA [Marta.Skwarczek@Wisconsin.gov]
Sent: Thursday, January 27, 2011 12:20 PM
To: Dodge, Tamara
Subject: LRB-1143/1 BAB0031
Importance: High
Attachments: MA legn 11.pdf

Tami,

I apologize for the piecemeal way I am giving this to you; however, DHS's legal team has made most of these changes. Their marked up version of the bill is attached here; I think it should reflect changes a-c.

This is a summary of the changes:

a) Eliminate the provision that DHS should submit legislation to conform statutes to any rules promulgated to implement reform items.

b) Make the paragraph about emergency rule authority more broad. New language to replace paragraph (e), page 4, lines 14 -16 is included below. The proposed language will allow the emergency rule to remain in effect until repealed and we wouldn't need to make a finding of emergency.

(e) The department may use the procedure under s. 227.24 to promulgate a rule under par. (c). Notwithstanding s. 227.24 (1) (c) and (2), a rule promulgated under this subsection remains in effect until the department modifies or repeals the rule. Notwithstanding s. 227.24 (1) (a) and (3), the department is not required to determine that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

c) Replace line 3, page 4, to read: "8. Set standards for establishing and verifying eligibility requirements."

d) The provision reducing eligibility of individuals over 133% of the federal poverty level should be amended:

The department shall request a waiver from the secretary of the federal Department of Health and Human Services to permit the department to have in effect eligibility standards, methodologies and procedures under the Medicaid State Plan or Medicaid waivers that are more restrictive than those in place on the date of enactment of the Patient Protection and Affordable Care Act. If this waiver request does not receive federal approval prior to July 1, 2012, the department shall reduce income levels for the purposes of determining eligibility to 133 percent of the federal poverty line for adults who are not pregnant and not disabled, to the extent permitted under the Patient Protection and Affordable Care Act (or section 1902 of the Social Security Act as amended by PPACA).

Here is the PPACA language as a reference:

Patient Protection and Affordable Care Act (PPACA); Public Law 111-148

(b) MAINTENANCE OF MEDICAID INCOME ELIGIBILITY.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended—

(1) in subsection (a)—

(A) by striking “and” at the end of paragraph (72);

(B) by striking the period at the end of paragraph (73) and inserting “; and”; and

(C) by inserting after paragraph (73) the following new paragraph:

“(74) provide for maintenance of effort under the State plan or under any waiver of the plan in accordance with subsection (gg).”; and

(2) by adding at the end the following new subsection:

“(gg) MAINTENANCE OF EFFORT.—

“(1) GENERAL REQUIREMENT TO MAINTAIN ELIGIBILITY

STANDARDS UNTIL STATE EXCHANGE IS FULLY OPERATIONAL.—

Subject to the succeeding paragraphs of this subsection, during the period that begins on the date of enactment of the Patient Protection and Affordable Care Act and ends on the date on which the Secretary determines that an Exchange established by the State under section 1311 of the Patient Protection and Affordable Care Act is fully operational, as a condition for receiving any Federal payments under section 1903(a) for calendar quarters occurring during such period, a State shall not have in effect eligibility standards, methodologies, or procedures under the State plan under this title or under any waiver of such plan that is in effect during that period, that are more restrictive than the eligibility standards, methodologies, or procedures, respectively, under the plan or waiver that are in effect on the date of enactment of the Patient Protection and Affordable Care Act.

“(2) CONTINUATION OF ELIGIBILITY STANDARDS FOR CHILDREN

UNTIL OCTOBER 1, 2019.—The requirement under paragraph

(1) shall continue to apply to a State through September 30, 2019, with respect to the eligibility standards, methodologies, and procedures under the State plan under this title or under any waiver of such plan that are applicable to determining the eligibility for medical assistance of any child who is under 19 years of age (or such higher age as the State may have elected).

“(3) NONAPPLICATION.—During the period that begins on January 1, 2011, and ends on December 31, 2013, the requirement under paragraph (1) shall not apply to a State with respect to nonpregnant, nondisabled adults who are eligible for medical assistance under the State plan or under a waiver of the plan at the option of the State and whose income exceeds 133 percent of the poverty line (as defined in section 2110(c)(5)) applicable to a family of the size involved if, on or after December 31, 2010, the State certifies to the Secretary that, with respect to the State fiscal year during which the certification is made, the State has a budget deficit, or with respect to the succeeding State fiscal year, the State is projected to have a budget deficit. Upon submission of such a certification to the Secretary, the requirement under paragraph (1) shall not apply to the State with respect to any remaining portion of the period described in the preceding sentence.

DHS also has the following question: you add the phrase “Unless otherwise provided by the Department by rule promulgated under sub. (2m)(c)...” to a number of paragraphs under s.49.45 and 49.46 but not to every paragraph. For example, the draft inserts the “notwithstanding” language in s. 49.46(2)(a), relating to mandatory benefits, but not s. 49.46(2)(b), relating to optional benefits. DHS would like to know how you decided which paragraphs were given that phrase.

← 49.46(2)(b)

Thanks.

Marta Skwarczek

Wisconsin Department of Administration
Division of Executive Budget and Finance
Health Services and Insurance Team
Executive Policy and Budget Analyst
608-267-7980

1/27/2011



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-1143/1

TJD:cjs:jf

DOA:.....Skwarczek, BAB0031 - Direct DHS to study and implement changes to Medical Assistance and authorize DHS to change existing standards and procedures

FOR 2011-13 BUDGET — NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

MEDICAL ASSISTANCE

Under current law, DHS administers the Medical Assistance (MA) program, which is a joint federal and state program that provides health services to individuals who have limited resources. Some services are provided through programs that operate under a waiver of federal laws related to medical assistance (MA waiver programs). This bill requires DHS to study potential changes to the MA state plan and to waivers of federal law relating to medical assistance for certain purposes, including increasing the cost effectiveness and efficiency of care for the MA program and MA waiver programs and improving the health status of individuals who receive benefits under the MA program or an MA waiver program. If DHS determines, as a result of the study, that an alteration of the laws or adoption of additional rules would advance any of the purposes for which the study was conducted, DHS may promulgate rules to do any of the following: require cost sharing from program benefit recipients up to the maximum allowed by the federal government; authorize providers to deny care or services if a program benefit recipient is unable to share costs; modify existing benefits or establish various

benefits packages and offer different packages to different groups of recipients; develop provider reimbursement models based on particular services; mandate that program benefit recipients enroll in managed care; restrict or eliminate presumptive eligibility; impose restrictions on providing benefits to individuals who are not citizens of the United States; set standards for establishing residency; develop standards and methodologies to assure accurate eligibility determinations and redetermine continuing eligibility; and reduce income levels for purposes of determining eligibility to 133 percent of the federal poverty line for adults who are not pregnant and not disabled. DHS must submit an amendment to the state MA plan or request a waiver of federal laws related to medical assistance, if necessary, to the extent necessary to implement any proposal. If the federal Department of Health and Human Services does not allow the amendment or does not grant the waiver, DHS may not promulgate rules or implement the proposal. The bill also requires DHS, at the time of promulgating the permanent rule, to request the Legislative Reference Bureau to draft and to submit to the appropriate standing committees of the legislature legislation that would conform any conflicting statutes to the rule.

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

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

1 **SECTION 1.** 49.45 (2m) of the statutes is created to read:

2 **49.45 (2m) AUTHORIZATION FOR MODIFICATIONS TO PROGRAMS; STUDY.** (a) In this
3 subsection, "Medical Assistance program" includes any program operated under this
4 subchapter, demonstration program operated under 42 USC 1315, and program
5 operated under a waiver of federal law relating to medical assistance that is granted
6 by the federal department of health and human services.

7 (b) The department shall study potential changes to the Medical Assistance
8 state plan and to waivers of federal law relating to medical assistance obtained from
9 the federal department of health and human services for all of the following
10 purposes:

11 1. Increasing the cost effectiveness and efficiency of care and the care delivery
12 system for Medical Assistance programs.

1 2. Limiting switching from private health insurance to Medical Assistance
2 programs.

3 3. Ensuring the long-term viability and sustainability of Medical Assistance
4 programs.

5 4. Advancing the accuracy and reliability of eligibility for Medical Assistance
6 programs and claims determinations and payments.

7 5. Improving the health status of individuals who receive benefits under a
8 Medical Assistance program.

9 6. Aligning Medical Assistance program benefit recipient and service provider
10 incentives with health care outcomes.

11 7. Supporting responsibility and choice of medical assistance recipients.

12 (c) If the department determines, as a result of the study under par. (b), that
13 *revision of existing statutes or* ~~an alteration of laws or adoption of additional~~ *be necessary to* rules would advance a purpose
14 described in par. (b) 1. to 7., the department may promulgate rules that do any of the
15 following related to Medical Assistance programs:

16 1. Require cost sharing from program benefit recipients up to the maximum
17 allowed by federal law or a waiver of federal law.

18 2. Authorize providers to deny care or services if a program benefit recipient
19 is unable to share costs, to the extent allowed by federal law or waiver.

20 3. Modify existing benefits or establish various benefit packages and offer
21 different packages to different groups of recipients.

22 4. *Revise* ~~Develop~~ provider reimbursement models *for* ~~based on~~ particular services.

23 5. Mandate that program benefit recipients enroll in managed care.

24 6. Restrict or eliminate presumptive eligibility.

1 7. To the extent permitted by federal law, impose restrictions on providing
2 benefits to individuals who are not citizens of the United States.

3 8. Set standards for establishing residency ^{and other eligibility requirements.}

4 9. Develop standards and methodologies to assure accurate eligibility
5 determinations and redetermine continuing eligibility.

6 10. Reduce income levels for purposes of determining eligibility ~~to 133 percent~~
7 ~~of the federal poverty line for adults who are not pregnant and not disabled,~~ to the
8 extent allowed by federal law or waiver.

9 (d) The department shall submit an amendment to the state Medical
10 Assistance plan or request a waiver of federal laws related to medical assistance, if ^{and}
11 ~~necessary,~~ to the extent necessary to implement ^{rule proposed or promulgated} any ~~action~~ under par. (c). If the
12 federal department of health and human services does not allow the amendment or
13 does not grant the waiver, ^{rule may not take effect and} the ~~department may not promulgate the rule or implement~~
14 the action described in the ~~proposed rule,~~ ^{may not be implemented}

15 (e) The department may use the procedure under s. 227.24 to promulgate a rule under par. (c).
16 Notwithstanding s. 227.24 (1) (c) and (2), a rule promulgated under this subsection remains in effect until the
17 department modifies or repeals the rule. Notwithstanding s. 227.24 (1) (a) and (3), the department is not required to
18 determine that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the
19 public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated
20 under this subsection.

21 (f) At the time the department ^{promulgates} a ~~permanent~~ rule under par. (c),
22 the department shall ~~request that the legislative reference bureau draft legislation~~
23 ~~to conform any conflicting statute to the rule. The secretary shall submit the~~ ^{rule}
24 ~~proposed legislation~~ to the standing committee of each house of the legislature that
25 has jurisdiction over medical assistance matters under s. 13.172 (3).

22 SECTION 2. 49.45 (3) (n) of the statutes is created to read:

23 49.45 (3) (n) This subsection does not apply if the department promulgates a
24 rule under sub. (2m) (c) 4., to the extent that the rule conflicts with this subsection.

25 SECTION 3. 49.45 (6m) (n) of the statutes is created to read:

1 49.45 **(6m)** (n) This subsection does not apply if the department promulgates
2 a rule under sub. (2m) (c) 4., to the extent that the rule conflicts with this subsection.

3 **SECTION 4.** 49.45 (8r) of the statutes is amended to read:

4 49.45 **(8r)** PAYMENT FOR CERTAIN OBSTETRIC AND GYNECOLOGICAL CARE. ~~The~~ Unless
5 otherwise provided by the department by rule promulgated under sub. (2m) (c), the
6 rate of payment for obstetric and gynecological care provided in primary care
7 shortage areas, as defined in s. 36.60 (1) (cm), or provided to recipients of medical
8 assistance who reside in primary care shortage areas, that is equal to 125% of the
9 rates paid under this section to primary care physicians in primary care shortage
10 areas, shall be paid to all certified primary care providers who provide obstetric or
11 gynecological care to those recipients.

12 **SECTION 5.** 49.45 (18) (ac) of the statutes is amended to read:

13 49.45 **(18)** (ac) Except as provided in pars. (am) to (d), and subject to par. (ag),
14 any person eligible for medical assistance under s. 49.46, 49.468, or 49.47, or for the
15 benefits under s. 49.46 (2) (a) and (b) under s. 49.471 shall pay up to the maximum
16 amounts allowable under 42 CFR 447.53 to 447.58 for purchases of services provided
17 under s. 49.46 (2). The service provider shall collect the specified or allowable
18 copayment, coinsurance, or deductible, unless the service provider determines that
19 the cost of collecting the copayment, coinsurance, or deductible exceeds the amount
20 to be collected. The department shall reduce payments to each provider by the
21 amount of the specified or allowable copayment, coinsurance, or deductible. ~~No~~
22 Unless otherwise provided by the department by rule promulgated under sub. (2m)
23 (c), no provider may deny care or services because the recipient is unable to share
24 costs, but an inability to share costs specified in this subsection does not relieve the
25 recipient of liability for these costs.

1 **SECTION 6.** 49.45 (18) (ag) (intro.) of the statutes is amended to read:

2 49.45 **(18)** (ag) (intro.) Except as provided in pars. (am), (b), and (c), and subject
3 to par. (d), a recipient specified in par. (ac) shall pay all of the following, unless
4 otherwise provided by the department by rule promulgated under sub. (2m) (c):

5 **SECTION 7.** 49.45 (18) (b) (intro.) of the statutes is amended to read:

6 49.45 **(18)** (b) (intro.) ~~The~~ Unless otherwise provided by the department by rule
7 promulgated under sub. (2m) (c), the following services are not subject to recipient
8 cost sharing under this subsection:

9 **SECTION 8.** 49.45 (18) (d) of the statutes is amended to read:

10 49.45 **(18)** (d) No person who designates a pharmacy or pharmacist as his or
11 her sole provider of prescription drugs and who so uses that pharmacy or pharmacist
12 is liable under this subsection for more than \$12 per month for prescription drugs
13 received, unless otherwise provided by the department by rule promulgated under
14 sub. (2m) (c).

15 **SECTION 9.** 49.45 (23) (a) of the statutes is amended to read:

16 49.45 **(23)** (a) The department shall request a waiver from the secretary of the
17 federal department of health and human services to permit the department to
18 conduct a demonstration project to provide health care coverage for basic primary
19 and preventive care to adults who are under the age of 65, who have family incomes
20 not to exceed 200 percent of the poverty line, and who are not otherwise eligible for
21 medical assistance under this subchapter, the Badger Care health care program
22 under s. 49.665, or Medicare under 42 USC 1395 et seq. If the department
23 promulgates a rule under sub. (2m) (c) 10., this paragraph does not apply to the
24 extent that it conflicts with the rule.

25 **SECTION 10.** 49.45 (23) (b) of the statutes is amended to read:

1 49.45 (23) (b) If the waiver is granted and in effect, the department may
2 promulgate rules defining the health care benefit plan, including more specific
3 eligibility requirements and cost-sharing requirements. ~~Cost~~ Unless otherwise
4 provided by the department by rule promulgated under sub. (2m) (c), cost sharing
5 may include an annual enrollment fee, which may not exceed \$75 per year.
6 Notwithstanding s. 227.24 (3), the plan details under this subsection may be
7 promulgated as an emergency rule under s. 227.24 without a finding of emergency.
8 If the waiver is granted and in effect, the demonstration project under this subsection
9 shall begin on January 1, 2009, or on the effective date of the waiver, whichever is
10 later.

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

12 49.45 (24g) (c) The department's proposal under par. (a) shall specify increases
13 in reimbursement rates for providers that satisfy the conditions under par. (a) 1. or
14 2., and shall provide for payment of a monthly per-patient care coordination fee to
15 those providers. The department shall set the increases in reimbursement rates and
16 the monthly per-patient care coordination fee so that together they provide
17 sufficient incentive for providers to satisfy a condition under par. (a) 1. or 2. The
18 proposal shall specify effective dates for the increases in reimbursement rates and
19 the monthly per-patient care coordination fee that are no sooner than July 1, 2011.
20 If the department promulgates a rule under sub. (2m) (c) 4., this paragraph does not
21 apply to the extent that it conflicts with the rule.

22 **SECTION 12.** 49.45 (24r) (a) of the statutes is amended to read:

23 49.45 (24r) (a) The department shall implement any waiver granted by the
24 secretary of the federal department of health and human services to permit the
25 department to conduct a demonstration project to provide family planning, as

1 defined in s. 253.07 (1) (a), under medical assistance to any woman between the ages
2 of 15 and 44 whose family income does not exceed 200% of the poverty line for a family
3 the size of the woman's family. If the department promulgates a rule under sub. (2m)
4 (c) 10., this paragraph does not apply to the extent it conflicts with the rule.

5 **SECTION 13.** 49.45 (24r) (b) of the statutes is amended to read:

6 49.45 (24r) (b) The department may request an amended waiver from the
7 secretary to permit the department to conduct a demonstration project to provide
8 family planning to any man between the ages of 15 and 44 whose family income does
9 not exceed 200 percent of the poverty line for a family the size of the man's family.
10 If the amended waiver is granted, the department may implement the waiver. If the
11 department promulgates a rule under sub. (2m) (c) 10., this paragraph does not apply
12 to the extent it conflicts with the rule.

13 **SECTION 14.** 49.45 (25g) (c) of the statutes is amended to read:

14 49.45 (25g) (c) The department's proposal under par. (b) shall specify increases
15 in reimbursement rates for providers that satisfy the conditions under par. (b), and
16 shall provide for payment of a monthly per-patient care coordination fee to those
17 providers. The department shall set the increases in reimbursement rates and the
18 monthly per-patient care coordination fee so that together they provide sufficient
19 incentive for providers to satisfy a condition under par. (b) 1. or 2. The proposal shall
20 specify effective dates for the increases in reimbursement rates and the monthly
21 per-patient care coordination fee that are no sooner than January 1, 2011. The
22 increases in reimbursement rates and monthly per-patient care coordination fees
23 that are not provided by the federal government shall be paid from the appropriation
24 under. s. 20.435 (1) (am). If the department promulgates a rule under sub. (2m) (c)
25 4., this paragraph does not apply to the extent it conflicts with the rule.

1 **SECTION 15.** 49.45 (27) of the statutes is amended to read:

2 49.45 (27) ELIGIBILITY OF ALIENS. A person who is not a U.S. citizen or an alien
3 lawfully admitted for permanent residence or otherwise permanently residing in the
4 United States under color of law may not receive medical assistance benefits except
5 as provided under 8 USC 1255a (h) (3) or 42 USC 1396b (v), unless otherwise
6 provided by the department by rule promulgated under sub. (2m) (c).

7 **SECTION 16.** 49.46 (1) (a) (intro.) of the statutes is amended to read:

8 49.46 (1) (a) (intro.) ~~The~~ Unless otherwise provided by the department by rule
9 under s. 49.45 (2m) (c), the following shall receive medical assistance under this
10 section:

11 **SECTION 17.** 49.46 (2) (a) (intro.) of the statutes is amended to read:

12 49.46 (2) (a) (intro.) Except as provided in par. (be) and unless otherwise
13 provided by the department by rule promulgated under s. 49.45 (2m) (c), the
14 department shall audit and pay allowable charges to certified providers for medical
15 assistance on behalf of recipients for the following federally mandated benefits:

16 **SECTION 18.** 49.465 (2) (intro.) of the statutes is amended to read:

17 49.465 (2) (intro.) A Unless otherwise provided by the department by rule
18 promulgated under s. 49.45 (2m) (c), a pregnant woman is eligible for medical
19 assistance benefits, as provided under sub. (3), during the period beginning on the
20 day on which a qualified provider determines, on the basis of preliminary
21 information, that the woman's family income does not exceed the highest level for
22 eligibility for benefits under s. 49.46 (1) or 49.47 (4) (am) or (c) 1. and ending as
23 follows:

24 **SECTION 19.** 49.47 (4) (a) (intro.) of the statutes is amended to read:

1 49.47 (4) (a) (intro.) Any Unless otherwise provided by the department by rule
2 under s. 49.45 (2m) (c), any individual who meets the limitations on income and
3 resources under pars. (b) to (c) and who complies with pars. (cm) and (cr) shall be
4 eligible for medical assistance under this section if such individual is:

5 **SECTION 20.** 49.47 (5) (intro.) of the statutes is amended to read:

6 49.47 (5) INVESTIGATION BY DEPARTMENT. (intro.) The department may make
7 additional investigation of eligibility at any of the following times:

8 **SECTION 21.** 49.47 (5) (a) of the statutes is amended to read:

9 49.47 (5) (a) When there is reasonable ground for belief that an applicant may
10 not be eligible or that the beneficiary may have received benefits to which the
11 beneficiary is not entitled; ~~or,~~

12 **SECTION 22.** 49.47 (5) (c) of the statutes is created to read:

13 49.47 (5) (c) Any time determined by the department by rule promulgated
14 under s. 49.45 (2m) (c) to determine eligibility or to reevaluate continuing eligibility.

15 **SECTION 23.** 49.47 (6) (a) (intro.) of the statutes is amended to read:

16 49.47 (6) (a) (intro.) The Unless otherwise provided by the department by rule
17 promulgated under s. 49.45 (2m) (c), the department shall audit and pay charges to
18 certified providers for medical assistance on behalf of the following:

19 **SECTION 24.** 49.471 (13) of the statutes is created to read:

20 49.471 (13) APPLICABILITY. If the department promulgates a rule under s. 49.45
21 (2m) (c), subs. (4), (5), (8), (10), and (11) do not apply to the extent that those
22 subsections conflict with the rule.

23 **SECTION 25.** 49.472 (3) (intro.) of the statutes is amended to read:

24 49.472 (3) ELIGIBILITY. (intro.) Except as provided in sub. (6) (a) and unless
25 otherwise provided by the department by rule promulgated under s. 49.45 (2m) (c),

1 an individual is eligible for and shall receive medical assistance under this section
2 if all of the following conditions are met:

3 **SECTION 26.** 49.472 (4) (b) (intro.) of the statutes is amended to read:

4 49.472 (4) (b) (intro.) The department may waive monthly premiums that are
5 calculated to be below \$10 per month. The Unless otherwise provided by the
6 department by rule promulgated under s. 49.45 (2m) (c), the department may not
7 assess a monthly premium for any individual whose income level, after adding the
8 individual's earned income and unearned income, is below 150% of the poverty line.

9 **SECTION 27.** 49.473 (2) (intro.) of the statutes is amended to read:

10 49.473 (2) (intro.) ~~A- Unless otherwise provided by the department by rule~~
11 promulgated under s. 49.45 (2m) (c), a woman is eligible for medical assistance as
12 provided under sub. (5) if, after applying to the department or a county department,
13 the department or a county department determines that she meets all of the
14 following requirements:

15 **SECTION 28.** 49.473 (5) of the statutes is amended to read:

16 49.473 (5) The department shall audit and pay, from the appropriation
17 accounts under s. 20.435 (4) (b) and (o), allowable charges to a provider who is
18 certified under s. 49.45 (2) (a) 11. for medical assistance on behalf of a woman who
19 meets the requirements under sub. (2) for all benefits and services specified under
20 s. 49.46 (2), unless otherwise provided by the department by rule promulgated under
21 s. 49.45 (2m) (c).

22

(END)

Dodge, Tamara

From: Skwarczek, Marta A - DOA [Marta.Skwarczek@Wisconsin.gov]

Sent: Thursday, January 27, 2011 5:51 PM

To: Dodge, Tamara

Cc: Gauger, Michelle C - DOA

Subject: RE: LRB-1143/1 BAB0031

Tami,

As a follow up, DHS has recommended that the "unless otherwise provided..." clause be inserted in the following additional statutory provisions:

49.45 (2)(a) – general requirements

✓ 49.45 (8) – per-visit limits on home health reimbursement

✓ 49.45 (8v) – incentive-based pharmacy payment system

✓ 49.45 (39) – school-based services (60% requirement)

✓ 49.46 (1) – eligibility [consider creating a par (n) such that the "unless otherwise provided" clause covers all eligibility provisions of sub. (1), rather than just par. (a)]

✓ 49.46(2)(b) – covered optional benefits

Marta Skwarczek

Health Services and Insurance Team
Executive Policy and Budget Analyst
608-267-7980

From: Skwarczek, Marta A - DOA

Sent: Thursday, January 27, 2011 12:20 PM

To: Dodge, Tamara - LEGIS

Subject: LRB-1143/1 BAB0031

Importance: High

Tami,

I apologize for the piecemeal way I am giving this to you; however, DHS's legal team has made most of these changes. Their marked up version of the bill is attached here; I think it should reflect changes a-c.

This is a summary of the changes:

a) Eliminate the provision that DHS should submit legislation to conform statutes to any rules promulgated to implement reform items.

b) Make the paragraph about emergency rule authority more broad. New language to replace paragraph (e), page 4, lines 14 -16 is included below. The proposed language will allow the emergency rule to remain in effect until repealed and we wouldn't need to make a finding of emergency.

(e) The department may use the procedure under s. 227.24 to promulgate a rule under par. (c). Notwithstanding s. 227.24 (1) (c) and (2), a rule promulgated under this subsection remains in effect until the department modifies or repeals the rule. Notwithstanding s. 227.24 (1) (a) and (3), the department is not required to determine that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

c) Replace line 3, page 4, to read: "8. Set standards for establishing and verifying eligibility requirements."

d) The provision reducing eligibility of individuals over 133% of the federal poverty level should be amended:

The department shall request a waiver from the secretary of the federal Department of Health and Human Services to permit the department to have in effect eligibility standards, methodologies and procedures under the Medicaid State Plan or Medicaid waivers that are more restrictive than those in place on the date of enactment of the Patient Protection and Affordable Care Act. If this waiver request does not receive federal approval prior to July 1, 2012, the department shall reduce income levels for the purposes of determining eligibility to 133 percent of the federal poverty line for adults who are not pregnant and not disabled, to the extent permitted under the Patient Protection and Affordable Care Act (or section 1902 of the Social Security Act as amended by PPACA).

Here is the PPACA language as a reference:

Patient Protection and Affordable Care Act (PPACA); Public Law 111-148

(b) MAINTENANCE OF MEDICAID INCOME ELIGIBILITY.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended—

(1) in subsection (a)—

(A) by striking “and” at the end of paragraph (72);

(B) by striking the period at the end of paragraph (73)

and inserting “; and”; and

(C) by inserting after paragraph (73) the following new paragraph:

“(74) provide for maintenance of effort under the State plan or under any waiver of the plan in accordance with subsection (gg).”; and

(2) by adding at the end the following new subsection:

“(gg) MAINTENANCE OF EFFORT.—

“(1) GENERAL REQUIREMENT TO MAINTAIN ELIGIBILITY

STANDARDS UNTIL STATE EXCHANGE IS FULLY OPERATIONAL.—

Subject to the succeeding paragraphs of this subsection, during the period that begins on the date of enactment of the Patient Protection and Affordable Care Act and ends on the date on which the Secretary determines that an Exchange established by the State under section 1311 of the Patient Protection and Affordable Care Act is fully operational, as a condition for receiving any Federal payments under section 1903(a) for calendar quarters occurring during such period, a State shall not have in effect eligibility standards, methodologies, or procedures under the State plan under this title or under any waiver of such plan that is in effect during that period, that are more restrictive than the eligibility standards, methodologies, or procedures, respectively, under the plan or waiver that are in effect on the date of enactment of the Patient Protection and Affordable Care Act.

“(2) CONTINUATION OF ELIGIBILITY STANDARDS FOR CHILDREN

UNTIL OCTOBER 1, 2019.—The requirement under paragraph

(1) shall continue to apply to a State through September

30, 2019, with respect to the eligibility standards, methodologies,

and procedures under the State plan under this title or

under any waiver of such plan that are applicable to determining

the eligibility for medical assistance of any child who

is under 19 years of age (or such higher age as the State may have elected).

“(3) NONAPPLICATION.—During the period that begins on

January 1, 2011, and ends on December 31, 2013, the requirement

under paragraph (1) shall not apply to a State with respect

to nonpregnant, nondisabled adults who are eligible for

medical assistance under the State plan or under a waiver of

the plan at the option of the State and whose income exceeds

133 percent of the poverty line (as defined in section 2110(c)(5))

applicable to a family of the size involved if, on or after December 31, 2010, the State certifies to the Secretary that, with respect to the State fiscal year during which the certification is made, the State has a budget deficit, or with respect to the succeeding State fiscal year, the State is projected to have a budget deficit. Upon submission of such a certification to the Secretary, the requirement under paragraph (1) shall not apply to the State with respect to any remaining portion of the period described in the preceding sentence.

DHS also has the following question: you add the phrase "Unless otherwise provided by the Department by rule promulgated under sub. (2m)(c)..." to a number of paragraphs under s.49.45 and 49.46 but not to every paragraph. For example, the draft inserts the "notwithstanding" language in s. 49.46(2)(a), relating to mandatory benefits, but not s. 49.46(2)(b), relating to optional benefits. DHS would like to know how you decided which paragraphs were given that phrase.

Thanks.

Marta Skwarczek

Wisconsin Department of Administration
Division of Executive Budget and Finance
Health Services and Insurance Team
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608-267-7980