

1991 Assembly Bill 650

Date of enactment: **November 20, 1991**

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1991 WISCONSIN ACT 80

AN ACT *to amend* 49.45 (6m) (ag) (intro.), 49.45 (6r) (title), 49.45 (6r) (a) 2, 49.45 (6r) (b), 49.45 (6r) (c), 49.45 (6r) (g), 49.45 (8m) (a) and (b), 49.45 (25) (be) and 146.022 (2) (a) 8; *to repeal and recreate* 49.45 (6r) (a) 1; and *to create* 49.45 (6r) (a) 1g, 1m and 1r of the statutes; and *to affect* 1991 Wisconsin Act 39, section 9125 (15f) (title); 1991 Wisconsin Act 39, section 9125 (15f) (a) 1; 1991 Wisconsin Act 39, section 9125 (15f) (a) 2; 1991 Wisconsin Act 39, section 9125 (15f) (b); 1991 Wisconsin Act 39, section 9125 (15f) (c) (intro.); and 1991 Wisconsin Act 39, section 9125 (15f) (e), **relating to:** changes in assessments to certain providers of medical assistance services or items, increasing rates of payment, under the medical assistance program, for respiratory care services for certain ventilator-dependent individuals and making an appropriation.

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

SECTION 1. 49.45 (6m) (ag) (intro.) of the statutes, as affected by 1991 Wisconsin Act 39, is amended to read:

49.45 (**6m**) (ag) (intro.) Payment for care provided in a facility under this subsection made under s. 20.435 (1) (b), (~~gd~~), (o) or (p) shall, except as provided in pars. (bg), (bm) and (br), be determined according to a prospective payment system updated annually by the department. The payment system shall implement standards which are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide care in conformity with this section, with federal regulations authorized under 42 USC 1396a (a) (13) (A), 1396a (a) (30), 1396b (i) (3), 1396L and 1396r (e) and with quality and safety standards established under subch. II of ch. 50 and ch. 150. In administering this payment system, the department shall allow costs it determines are necessary and proper for providing patient care. The payment system shall reflect all of the following:

SECTION 2. 49.45 (6r) (title) of the statutes, as created by 1991 Wisconsin Act 39, is amended to read:

49.45 (**6r**) (title) ASSESSMENTS TO PROVIDERS.

SECTION 3. 49.45 (6r) (a) 1. of the statutes, as created by 1991 Wisconsin Act 39, is repealed and recreated to read:

49.45 (**6r**) (a) 1. “Ambulatory surgery center” has the meaning given under 42 CFR 416.2.

SECTION 4. 49.45 (6r) (a) 1g, 1m and 1r of the statutes are created to read:

49.45 (**6r**) (a) 1g. “Facility” means a nursing home as defined in s. 50.01 (3) or a community-based residential facility that is licensed under s. 50.03 and that is certified by the department as a provider of medical assistance.

1m. “Provider” means a facility or an ambulatory surgery center, except that “provider” does not include a facility or ambulatory surgery center that is state-owned or state-operated, federally owned or federally operated or located outside the state.

1r. “Services” means services or items under this section that the provider directly provides and does not reimburse a 3rd party for providing.

SECTION 5. 49.45 (6r) (a) 2. of the statutes, as created by 1991 Wisconsin Act 39, is amended to read:

49.45 (**6r**) (a) 2. “State share” means that portion of the medical assistance costs payable payments made to a facility provider under sub. (~~6m~~) this section for the pro-

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vision of authorized services that is not reimbursed by federal funds, unless no federal financial participation is available for these services. If no federal financial participation is available for a service that is payable under sub. (6m) this section, “state share” means that portion of the costs payments that would be the state share if federal financial participation were available.

SECTION 6. 49.45 (6r) (b) of the statutes, as created by 1991 Wisconsin Act 39, is amended to read:

49.45 (6r) (b) For the privilege of doing business in this state, there is imposed on facilities a provider an assessment at the rate of 6.98% in fiscal year 1991–92 and 13.10% in fiscal year 1992–93 that shall be deposited in the general fund. The assessment shall be made on ~~October 31, 1991, of the state share of payments made to facilities under sub. (6m) a provider for services provided beginning on July 1, 1991, and ending on September 30, 1991; and in fiscal year 1991–92 and 1992–93, the assessment shall be made on the last day of every month of payments made to facilities under sub. (6m) for services provided during the month previous to the month in which the assessment invoice is sent. The department may provide to a facility an alternative to this assessment under which a facility may elect to have the assessment amounts deducted from the payments made for services provided under sub. (6m) except that assessments imposed on ambulatory surgery centers shall be made for services provided beginning on January 1, 1992.~~

SECTION 7. 49.45 (6r) (c) of the statutes, as created by 1991 Wisconsin Act 39, is amended to read:

49.45 (6r) (c) The department shall send an invoice to each facility provider on October 31, 1991, for the amount due for the 3 months preceding that month and shall, thereafter, send an invoice to each facility provider by the end of every month for the amount due, which shall be based on payments received for services to which the assessment is applicable for the month preceding the month during which the invoice is sent, except that, for an ambulatory surgery center, the department shall first send an invoice by February 29, 1992. Each facility provider shall pay the amount shown on the invoice on or before the last day of the month after the month in which the invoice is sent. The department may provide to a provider an alternative to payment by invoice under which a provider may elect to have the assessment amounts deducted from net payments made for services.

SECTION 8. 49.45 (6r) (g) of the statutes, as created by 1991 Wisconsin Act 39, is amended to read:

49.45 (6r) (g) If the federal department of health and human services limits or does not permit the state’s use of assessments under this subsection as a funding source for the state share of the payment payments made under sub. (6m) for facility care this section, this subsection does not apply.

SECTION 8m. 49.45 (8m) (a) and (b) of the statutes, as created by 1991 Wisconsin Act 39, are amended to read:

49.45 (8m) (a) For visits subsequent to an initial visit and for extended visits by a licensed registered nurse, \$30 per hour ~~for services to individuals under age 21.~~

(b) For visits subsequent to an initial visit and for extended visits by a licensed practical nurse, \$20 per hour ~~for services to individuals under age 21.~~

SECTION 9. 49.45 (25) (be) of the statutes, as created by 1991 Wisconsin Act 39, is amended to read:

49.45 (25) (be) A private nonprofit agency that is a certified case management provider may elect to provide case management services to medical assistance beneficiaries who have HIV infection, as defined in s. 146.88 (1) (d), ~~if the agency provides the.~~ The amount of the allowable charges for those services under the medical assistance program that is not provided by the federal government shall be paid from the appropriation under s. 20.435 (1) (am).

SECTION 10. 146.022 (2) (a) 8. of the statutes, as affected by 1991 Wisconsin Act 39, is amended to read:

146.022 (2) (a) 8. Life care services. The department shall allocate \$835,200 in fiscal year 1991–92 and \$1,002,200 in fiscal year 1992–93 in grants to applying organizations for the provision of needs assessments; assistance in procuring financial, medical, legal, social and pastoral services; counseling and therapy; homecare services and supplies; ~~and advocacy; and case management services.~~ The state share of payment for case management services that are provided under s. 49.45 (25) (be) to recipients of medical assistance shall be paid from the appropriation under s. 20.435 (1) (am).

SECTION 11. 1991 Wisconsin Act 39, section 9125 (15f) (title) is amended to read:

[1991 Wisconsin Act 39] Section 9125 (15f) (title) ASSESSMENTS.

SECTION 12. 1991 Wisconsin Act 39, section 9125 (15f) (a) 1. is amended to read:

[1991 Wisconsin Act 39] Section 9125 (15f) (a) 1. “Facility” has the meaning given in section 49.45 (6m) (a) 3. ~~(6r) (a) 1g~~ of the statutes.

SECTION 13. 1991 Wisconsin Act 39, section 9125 (15f) (a) 2. is amended to read:

[1991 Wisconsin Act 39] Section 9125 (15f) (a) 2. “State share” ~~means that portion of the medical assistance costs payable to a facility under section 49.45 (6m) of the statutes for the provision of authorized services that is not reimbursed by federal funds, unless no federal financial participation is available for these services. If no federal financial participation is available for a service which is payable under section 49.45 (6m) of the statutes, “state share” means that portion of the costs that would be the state share if federal financial participation were~~

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available has the meaning given in section 49.45 (6r) (a) 2. of the statutes.

SECTION 14. 1991 Wisconsin Act 39, section 9125 (15f) (b) is repealed.

SECTION 15. 1991 Wisconsin Act 39, section 9125 (15f) (c) (intro.) is amended to read:

[1991 Wisconsin Act 39] Section 9125 (15f) (c) (intro.) If the assessment is imposed on facilities under section 49.45 (6r) of the statutes, as created by this act, and permitted and not limited by the federal department of health and human services, payment for care provided in a facility after June 30, 1991, under section 49.45 (6m) of the statutes that is made from the appropriations under section 20.435 (1) (b) and (o) of the statutes shall be made under the requirements of section 49.45 (6m) of the statutes, except for all of the following:

SECTION 16. 1991 Wisconsin Act 39, section 9125 (15f) (e) is amended to read:

[1991 Wisconsin Act 39] Section 9125 (15f) (e) The department of health and social services shall, ~~by August 31, 1991,~~ request from the joint committee on finance approval for release, from the appropriation under section 20.865 (4) (a) of the statutes, of ~~\$558,300~~ up to \$440,800 in fiscal year 1991-92 and of up to \$562,300 in fiscal year 1992-93 for performance, by the department, of assessments ~~to facilities~~ under section 49.45 (6r) of the statutes, as created by this act.

SECTION 16m. Appropriation changes; corrections. (1) GENERAL PROGRAM OPERATIONS DECREASE. In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of corrections under section 20.410 (1) (a) of the statutes, as affected by the acts of 1991, the dollar amount is decreased by \$500,000 for fiscal year 1991-92 to reduce funding to operate correctional institutions.

SECTION 17. Appropriation changes; health and social services. (1) AMBULATORY SURGERY CENTER RATE

INCREASE. In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of health and social services under section 20.435 (1) (b) of the statutes, as affected by the acts of 1991, the dollar amount is increased by \$4,800 for fiscal year 1991-92 to provide an annual increase of 7% in the rate of payment, under the medical assistance program, for providers that are ambulatory surgery centers, for the period from January 1, 1992, to June 30, 1992.

(1m) RATES FOR RESPIRATORY CARE SERVICES. In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of health and social services under section 20.435 (1) (b) of the statutes, as affected by the acts of 1991, the dollar amount is increased by \$100,300 for fiscal year 1991-92 to increase rates of payment, under section 49.45 (8m) (a) and (b) of the statutes, as affected by this act, for respiratory care services to ventilator-dependent individuals aged at least 21.

(2) MEDICAL ASSISTANCE PROGRAM. In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of health and social services under section 20.435 (1) (b) of the statutes, as affected by the acts of 1991, the dollar amount is increased by \$767,136,700 for fiscal year 1992-93 to fund medical assistance program benefits, including an annual increase of 13.1%, in addition to the increase under subsection (1), in the rate of payment, under the medical assistance program, for providers that are ambulatory surgery centers.

SECTION 17m. Effective dates. This act takes effect on the day after publication, except as follows:

(1) The treatment of section 49.45 (8m) (a) and (b) of the statutes and SECTION 17 (1m) of this act take effect on January 1, 1992.