



State of Wisconsin
1999 - 2000 LEGISLATURE

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**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 815**

March 1, 2000 – Offered by Representatives KRUSICK, HUBER, BALOW, BLACK, BOCK, CARPENTER, HEBL, LA FAVE, J. LEHMAN, MEYER, MILLER, MUSSER, PLOUFF, RYBA, SCHOOFF, WASSERMAN and WAUKAU.

1 **AN ACT to amend** 49.47 (4) (b) 2m. b., 49.47 (4) (b) 2r., 49.47 (4) (b) 2w., 49.47 (4)
2 (b) 3., 49.47 (4) (c) 1., 49.47 (4) (c) 3. and 49.47 (4) (i) 2. (intro.); and **to create**
3 20.435 (4) (bv), 20.435 (4) (j), 20.435 (4) (jb), 49.47 (4) (aq) and 49.688 of the
4 statutes; **relating to:** expanding medical assistance income eligibility
5 requirements for elderly persons; requiring pharmacies and pharmacists, as a
6 condition of medical assistance participation, to charge elderly, low-income
7 persons for prescription drugs no more than specific amounts; requiring the
8 department of health and family services to attempt to negotiate rebate
9 agreements with drug manufacturers; and making appropriations.

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

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

	1999-00	2000-01
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20.435 Health and family services, department

of

(4) HEALTH SERVICES PLANNING, REGULATION AND
DELIVERY; HEALTH CARE FINANCING

(bv) Prescription drug assistance for

elderly; aids	GPR	A	-0-	5,575,000
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SECTION 2. 20.435 (4) (bv) of the statutes is created to read:

20.435 (4) (bv) *Prescription drug assistance for elderly; aids.* The amounts in the schedule for the program for prescription drug assistance for elderly persons under s. 49.688.

SECTION 3. 20.435 (4) (j) of the statutes is created to read:

20.435 (4) (j) *Prescription drug assistance for elderly; deductibles and manufacturer rebates.* All moneys received from payments of monthly deductibles under s. 49.688 (5) and rebate payments by manufacturers under s. 49.688 (7), to be used for prescription drug assistance for elderly persons under s. 49.688.

SECTION 4. 20.435 (4) (jb) of the statutes is created to read:

20.435 (4) (jb) *Prescription drug assistance for elderly; enrollment fees.* All moneys received from payment of enrollment fees under s. 49.688 (2), to be used for administration of the program under s. 49.688.

SECTION 5. 49.47 (4) (aq) of the statutes is created to read:

49.47 (4) (aq) 1. Subject to subd. 2., an individual who does not meet the limitation on income under par. (c) is eligible for medical assistance if the individual

1 is 65 years of age or older and the individual's income does not exceed 100% of the
2 federal poverty level.

3 2. If a federal waiver is necessary to provide medical assistance to individuals
4 specified in subd. 1., the department shall request a waiver from the secretary of the
5 federal department of health and human services before providing medical
6 assistance under this paragraph.

7 **SECTION 6.** 49.47 (4) (b) 2m. b. of the statutes is amended to read:

8 49.47 (4) (b) 2m. b. For persons who are eligible under par. (a) ~~3. or~~ 4. or (aq),
9 motor vehicles are exempt from consideration as an asset to the same extent as
10 provided under 42 USC 1381 to 1385.

11 **SECTION 7.** 49.47 (4) (b) 2r. of the statutes is amended to read:

12 49.47 (4) (b) 2r. For a person who is eligible under par. (a) ~~3. or~~ 4. or (aq), the
13 value of any burial space or agreement representing the purchase of a burial space
14 held for the purpose of providing a place for the burial of the person or any member
15 of his or her immediate family.

16 **SECTION 8.** 49.47 (4) (b) 2w. of the statutes is amended to read:

17 49.47 (4) (b) 2w. For a person who is eligible under par. (a) ~~3. or~~ 4. or (aq), life
18 insurance with cash surrender values if the total face value of all life insurance
19 policies is not more than \$1,500.

20 **SECTION 9.** 49.47 (4) (b) 3. of the statutes is amended to read:

21 49.47 (4) (b) 3. For a person who is eligible under par. (a) ~~3. or~~ 4. or (aq), funds
22 set aside to meet the burial and related expenses of the person and his or her spouse
23 in an amount not to exceed \$1,500 each, minus the sum of the cash value of any life
24 insurance excluded under subd. 2w. and the amount in any irrevocable burial trust
25 under s. 445.125 (1) (a).

1 **SECTION 10.** 49.47 (4) (c) 1. of the statutes is amended to read:

2 49.47 (4) (c) 1. Except as provided in ~~par. pars.~~ (am) and (aq) and as limited by
3 subd. 3., eligibility exists if income does not exceed 133 1/3% of the maximum aid to
4 families with dependent children payment under s. 49.19 (11) for the applicant's
5 family size or the combined benefit amount available under supplemental security
6 income under 42 USC 1381 to 1383c and state supplemental aid under s. 49.77
7 whichever is higher. In this subdivision "income" includes earned or unearned
8 income that would be included in determining eligibility for the individual or family
9 under s. 49.19 or 49.77, or for the aged, blind or disabled under 42 USC 1381 to 1385.
10 "Income" does not include earned or unearned income which would be excluded in
11 determining eligibility for the individual or family under s. 49.19 or 49.77, or for the
12 aged, blind or disabled individual under 42 USC 1381 to 1385.

13 **SECTION 11.** 49.47 (4) (c) 3. of the statutes is amended to read:

14 49.47 (4) (c) 3. Except as provided in ~~par. pars.~~ (am) and (aq), no person is
15 eligible for medical assistance under this section if the person's income exceeds the
16 maximum income levels that the U.S. department of health and human services sets
17 for federal financial participation under 42 USC 1396b (f).

18 **SECTION 12.** 49.47 (4) (i) 2. (intro.) of the statutes is amended to read:

19 49.47 (4) (i) 2. (intro.) Notwithstanding par. (b) 2r. and 3., a person who is
20 described in par. (a) ~~3. or 4.~~ or (aq) is not eligible for benefits under this section if any
21 of the following criteria is met:

22 **SECTION 13.** 49.688 of the statutes is created to read:

23 **49.688 Prescription drug assistance for low-income elderly persons.**

24 **(1)** In this section:

1 (a) "Poverty line" means the nonfarm federal poverty line for the continental
2 United States, as defined by the federal department of labor under 42 USC 9902 (2).

3 (b) "Prescription drug" means a prescription drug, as defined in s. 450.01 (20),
4 that is included in the drugs specified under s. 49.46 (2) (b) 6. h.

5 (c) "Prescription order" has the meaning given in s. 450.01 (21).

6 **(2)** A person who is at least 65 years of age, who is ineligible for medical
7 assistance, whose income does not exceed 185% of the poverty line and who pays the
8 program enrollment fee specified in sub. (3) (a) is eligible to purchase a prescription
9 drug at the amount specified in sub. (6) (b). The person may apply to the department,
10 on a form provided by the department together with program enrollment fee
11 payment, for a determination of eligibility and issuance of a prescription drug card
12 for purchase of prescription drugs under this section.

13 **(3)** Program participants shall pay all of the following:

14 (a) Annually, a program enrollment fee of \$25.

15 (b) Monthly, a deductible of \$40.

16 (c) Annually for prescription drugs, all of the following:

17 1. Fifty percent of the first \$2,000 in charges, as specified in sub. (6) (a).

18 2. Thirty percent of the charges, as specified in sub. (6) (a), that exceed \$2,000
19 but that do not exceed \$6,250.

20 3. One hundred percent of the charges, calculated at the retail price of the
21 pharmacy or pharmacist, that exceed \$6,250.

22 **(4)** The department shall devise and distribute a form for application for the
23 program under sub. (2), shall determine eligibility of applicants and shall issue to
24 eligible persons a prescription drug card for use in purchasing prescription drugs, as
25 specified in sub. (5).

1 **(5)** Beginning April 1, 2001, as a condition of participation by a pharmacy or
2 pharmacist in the program under ss. 49.45, 49.46 or 49.47, the pharmacy or
3 pharmacist may not charge a person who presents a valid prescription order, a card
4 indicating that he or she meets eligibility requirements under sub. (2) and payment,
5 if applicable, of the monthly deductible amount specified in sub. (3) (b) an amount
6 for a prescription drug under the order that exceeds the amount specified in sub. (6)
7 (b). The pharmacy or pharmacist shall forward to the state treasurer, for deposit in
8 the appropriation account under s. 20.435 (4) (j), the monthly deductible amount.

9 **(6)** (a) The charge for prescription drugs shall be calculated at the average
10 wholesale price minus 10% or the maximum allowable cost, as determined by the
11 department, whichever is less, plus a dispensing fee. The charge does not include a
12 deductible, as specified in sub. (3) (b).

13 (b) The amounts that a pharmacy or pharmacist may charge a person specified
14 in sub. (2) in a calendar year period for the prescription drugs are the following:

15 1. If applicable, a deductible, as specified in sub. (3) (b), for prescription drugs
16 that are charged at the rate specified in par. (a).

17 2. Fifty percent of the first \$2,000 in charges, as specified in par. (a), for the
18 prescription drugs after the deductible, if applicable, is charged.

19 3. Thirty percent of the charges, as specified in par. (a), that exceed the amount
20 specified in subd. 2. but that do not exceed \$6, 250, for the prescription drugs.

21 4. One hundred percent of charges, calculated at the retail price of the
22 pharmacy or pharmacist, that exceed \$6,250, for the prescription drugs.

23 (c) The department shall, for the purposes of par. (a), calculate and transmit
24 to pharmacies and pharmacists that are certified providers of medical assistance
25 amounts that may be used in calculating charges under par. (a). The department

1 shall periodically update this information and transmit the updated amounts to
2 pharmacies and pharmacists.

3 **(7)** The department or an entity with which the department contracts shall
4 attempt to negotiate with a drug manufacturer that sells drugs for prescribed use in
5 this state a rebate agreement that is modeled on the rebate agreement specified
6 under 42 USC 1396r-8. The rebate agreement, if negotiated, shall include all of the
7 following as requirements:

8 (a) That the manufacturer shall make rebate payments for each prescription
9 drug of the manufacturer that is prescribed for persons who are eligible under sub.
10 (2), to the state treasurer to be credited to the appropriation under s. 20.435 (4) (j),
11 each calendar quarter or according to a schedule established by the department.

12 (b) That the amount of the rebate payment shall be determined by a method
13 specified in 42 USC 1396r-8 (c).

14 **(8)** From the appropriation accounts under s. 20.435 (4) (bv) and (j), beginning
15 April 1, 2001, the department shall provide to pharmacies and pharmacists
16 payments, under a schedule that is identical to that used by the department for
17 payment of pharmacy provider claims under medical assistance, that correspond to
18 the discounts specified under sub. (6) (a) and (b) provided by the pharmacies and
19 pharmacists to persons who meet criteria for eligibility under sub. (2). The
20 department shall devise and distribute a form for reports by pharmacies and
21 pharmacists under this subsection.

22 **(9)** The department shall identify and list prescription drugs that account for
23 significant prescription order expenditure by persons who are aged at least 65 years.
24 Provision of a prescription drug so listed is reimbursable under sub. (8) only if the
25 pharmacy or pharmacist that provides the drug receives prior authorization from the

1 department for the provision. The department shall distribute to pharmacies and
2 pharmacists the list required under this subsection.

3 (10) The department may enter into a contract with an entity to perform the
4 duties and exercise the powers of the department under this section.

5 **SECTION 14. Nonstatutory provisions.**

6 (1) PRESCRIPTION DRUG ASSISTANCE FOR ELDERLY PERSONS; ADMINISTRATION. The
7 department of health and family services may request the joint committee on finance
8 to supplement, from the appropriation account under section 20.865 (4) (a) of the
9 statutes, the appropriation account under section 20.435 (4) (a) of the statutes, to pay
10 the costs of administration of the program of prescription drug assistance for elderly
11 persons under section 49.688 of the statutes, as created by this act. If the department
12 of health and family services requests supplementation of the appropriation account
13 under section 20.435 (4) (a) of the statutes, the department shall submit a plan to the
14 joint committee on finance to expend not more than \$1,500,000 for fiscal year
15 1999–2000 and not more than \$1,500,000 for fiscal year 2000–01. If the
16 cochairpersons of the committee do not notify the secretary of the department within
17 14 working days after the date of the department’s submittal that the committee
18 intends to schedule a meeting to review the request, the appropriation account shall
19 be supplemented as provided in the request. If, within 14 working days after the date
20 of the department’s submittal, the cochairpersons of the committee notify the
21 secretary of the department that the committee intends to schedule a meeting to
22 review the request, the appropriation account shall be supplemented only as
23 approved by the committee. Notwithstanding section 13.101 (3) (a) 1. of the statutes,
24 the committee is not required to find that an emergency exists.

25 **SECTION 15. Appropriation changes.**

1 (1) PRESCRIPTION DRUG ASSISTANCE FOR ELDERLY; ADMINISTRATION. In the schedule
2 under section 20.005 (3) of the statutes for the appropriation to the joint committee
3 on finance under section 20.865 (4) (a) of the statutes, as affected by the acts of 1999,
4 the dollar amount is increased by \$1,500,000 for fiscal year 1999-00 and the dollar
5 amount is increased by \$1,500,000 for fiscal year 2000-01 to increase funding for
6 administration of the prescription drug assistance for elderly program under section
7 49.688 of the statutes, as created by this act.

8 (2) EXPANDED MEDICAL ASSISTANCE ELIGIBILITY. In the schedule under section
9 20.005 (3) of the statutes for the appropriation to the department of health and family
10 services under section 20.435 (4) (b) of the statutes, as affected by the acts of 1999,
11 the dollar amount is increased by \$1,200,000 for fiscal year 2000-01 to increase
12 funding for expanded eligibility for medical assistance program benefits.

13 **SECTION 16. Initial applicability.**

14 (1) The treatment of section 49.47 (4) (aq), (b) 2m. b., 2r., 2w. and 3., (c) 1. and
15 3. and (i) (2) (intro.) of the statutes first applies to eligibility determinations made
16 for medical assistance on January 1, 2001.

17 (END)