



State of Wisconsin  
2023 - 2024 LEGISLATURE

LRB-1103/P2  
SWB:emw&cde

DOA:.....Bollhorst, BB0166 - Repeal 2017 Wisconsin Act 370 Medicaid Provisions

**FOR 2023-2025 BUDGET -- NOT READY FOR INTRODUCTION**

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

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*Analysis by the Legislative Reference Bureau*

**HEALTH AND HUMAN SERVICES**

**MEDICAL ASSISTANCE**

***Repealing implementation of childless adults demonstration waiver***

2017 Wisconsin Act 370 required DHS to implement the childless adults BadgerCare Reform waiver as approved by the federal Department of Health and Human Services. BadgerCare is part of the state's Medical Assistance program, which provides health services to individuals who have limited financial resources. The 2015 and 2017 biennial budget acts required DHS to submit a waiver request to the federal Department of Health and Human Services authorizing DHS to take certain actions, including imposing premiums on, requiring a health risk assessment of, and limiting the time of eligibility for recipients of BadgerCare Plus under the childless adults demonstration project waiver. Act 370 required DHS to implement the childless adults BadgerCare Reform waiver by no later than November 1, 2019. Under current law created by Act 370, if JCF determines that DHS has not complied with the implementation deadline, has not made sufficient progress in implementing the BadgerCare Reform waiver, or has not complied with other requirements relating to approved waiver implementation, JCF may reduce from moneys allocated for state operations or administrative functions DHS's appropriation or expenditure

authority, whichever is applicable, or change the authorized level of full-time equivalent positions for DHS related to the Medical Assistance program. This bill eliminates the statutory implementation requirement for the BadgerCare Reform waiver, including the deadline and penalties; eliminates the statutory requirement for DHS to seek the waiver; and allows DHS to modify or withdraw the waiver.

***Eliminating legislative review of Medicaid state plan amendments***

The Medical Assistance program provides health services to individuals who have limited financial resources, is the state's Medicaid program, and is jointly funded by the state and federal governments through a detailed agreement known as the state plan. Under current law created by [2017 Wisconsin Act 370](#), DHS is required to submit to JCF under its passive review process any proposed Medical Assistance state plan amendment and any proposed change to a reimbursement rate for or supplemental payment to a Medical Assistance provider that has an expected fiscal effect of \$7,500,000 or more from all revenue sources over a 12-month period. The bill eliminates this requirement to submit for JCF review Medical Assistance state plan amendments, changes to reimbursement rates, or supplemental payments.

***Eliminating legislative oversight over federal law waivers***

Current law created by [2017 Wisconsin Act 370](#) prohibits DHS from submitting a request to a federal agency for a waiver or renewal, modification, withdrawal, suspension, or termination of a waiver of federal law or rules or for authorization to implement a pilot program or demonstration project unless legislation has been enacted specifically directing the submission of the request. For any legislation that requires submission of a request that has not yet been submitted, current law created by Act 370 requires DHS to submit an implementation plan to JCF and submit its final proposed request to JCF for approval. Current law also requires DHS to take certain actions and submit monthly progress reports to JCF once a request has been submitted to the federal agency. When the federal agency has approved the request in whole or in part and the request has not been fully implemented, DHS must submit its final implementation plan to JCF for approval. Under current law created by Act 370, JCF may reduce from moneys allocated for state operations or administrative functions DHS's appropriation or expenditure authority or change the authorized level of full-time equivalent positions for DHS related to the program for which the request is required to be submitted if JCF determines that DHS has not made sufficient progress or is not acting in accordance with the enacted legislation requiring the submission of the request. The bill eliminates the requirement that legislation be enacted in order for DHS to submit a request for a waiver or renewal, modification, withdrawal, suspension, or termination of a waiver of federal law or rules or for authorization to implement a pilot program or demonstration project. The bill also eliminates the legislative

review procedure for requests for waivers, pilot programs, or demonstration projects required by Act 370.

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

**SECTION 1.** 20.940 of the statutes is repealed.

**SECTION 2.** 49.45 (2t) of the statutes is repealed.

\*\*\*NOTE: This is reconciled s. 49.45 (23) (g). The elimination from this draft has been affected by drafts with the following LRB numbers: -1103/P1 and -0696/P1.

\*\*\*NOTE: This is reconciled s. 49.45 (23b). The elimination from this draft has been affected by drafts with the following LRB numbers: -1103/P1 and -0696/P1.

**SECTION 3.** 256.23 (5) of the statutes is amended to read:

256.23 (5) ~~In accordance with s. 20.940, the~~ The department shall submit to the federal department of health and human services a request for any state plan amendment, waiver or other approval that is required to implement this section and s. 49.45 (3) (em). If federal approval is required, the department may not implement the collection of the fee under sub. (2) until it receives approval from the federal government to obtain federal matching funds.

**SECTION 4.** 601.83 (1) (a) of the statutes is amended to read:

601.83 (1) (a) The commissioner shall administer a state-based reinsurance program known as the healthcare stability plan in accordance with the specific terms and conditions approved by the federal department of health and human services dated July 29, 2018. Before December 31, 2023, the commissioner may not request from the federal department of health and human services a modification, suspension, withdrawal, or termination of the waiver under [42 USC 18052](#) under which the healthcare stability plan under this subchapter operates unless legislation has been enacted specifically directing the modification, suspension, withdrawal, or termination. Before December 31, 2023, the commissioner may

request renewal, without substantive change, of the waiver under [42 USC 18052](#) under which the health care stability plan operates in accordance with ~~s. 20.940 (4)~~ unless legislation has been enacted that is contrary to such a renewal request. ~~The commissioner shall comply with applicable timing in and requirements of s. 20.940.~~

\*\*\*\*NOTE: This is reconciled [2017 Wisconsin Act 370](#), section [44 \(2\)](#) and (3). The elimination from this draft has been affected by drafts with the following LRB numbers: -1103/P1 and -0696/P1.

**SECTION 9119. Nonstatutory provisions; Health Services.**

(1) CHILDLESS ADULTS DEMONSTRATION PROJECT REFORM WAIVER. The department of health services may submit a request to the federal department of health and human services to modify or withdraw the waiver granted under s. 49.45 (23) (g), 2021 stats.

(END)