



2005 ASSEMBLY BILL 119

February 22, 2005 - Introduced by Representatives HUBLER, VRUWINK, KREUSER, ZEPNICK, GRONEMUS, SHERMAN, BERCEAU, VAN AKKEREN, RICHARDS, POCAN, AINSWORTH, MUSSER, HINES, FREESE, HAHN, STASKUNAS, POPE-ROBERTS, SHILLING, MOLEPSKE, GUNDERSON, BLACK, ALBERS, SEIDEL and OTT, cosponsored by Senators JAUCH, MILLER, A. LASEE, HARSDORF, LASSA and HANSEN. Referred to Committee on Health.

1 **AN ACT to repeal** 49.46 (1) (L); **to renumber and amend** 49.47 (4) (h); **to amend**
2 49.46 (1) (a) 1., 49.46 (1) (a) 1g., 49.46 (1) (a) 1m., 49.46 (1) (a) 6., 49.46 (1) (a)
3 9., 49.46 (1) (a) 10., 49.46 (1) (a) 11., 49.46 (1) (a) 12., 49.46 (1) (am) 1. a., 49.46
4 (1) (am) 1. b., 49.46 (1) (e), 49.47 (4) (am) 1., 49.47 (4) (am) 2., 49.47 (4) (c) 1.,
5 49.47 (4) (c) 3., 49.47 (4) (j) and 49.665 (4) (a) 1.; and **to create** 49.46 (1) (ar),
6 49.47 (4) (cg) 3. and 49.665 (4) (d) of the statutes; **relating to:** exempting
7 amounts claimed for depreciation for purposes of calculating farm and
8 self-employment income under the Medical Assistance and Badger Care
9 health care programs.

Analysis by the Legislative Reference Bureau

Currently, the Department of Health and Family Services (DHFS) administers the Medical Assistance (MA) and Badger Care health care (BadgerCare) programs.

Under part of the MA program, DHFS provides health care services and benefits to individuals who meet the requirements under one of the following MA eligibility categories:

1. *AFDC-MA*. Under this category, an individual who meets the nonfinancial and financial requirements for the federal Aid to Families with Dependent Children

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(AFDC) program that were in effect on July 16, 1996, without regard to the individual's assets, is eligible to receive MA. The AFDC program was replaced with the federal Temporary Assistance for Needy Families (TANF) program on July 16, 1996. Generally, individuals who qualify under the AFDC-MA category are certain children under 19 years of age, their caretaker relatives, and pregnant women in the eighth or ninth month of pregnancy.

2. *AFDC-related MA.* This category includes certain children under the age of 19, their caretaker relatives, and pregnant women throughout the entire pregnancy who meet the income requirements of the AFDC program that were in effect on July 16, 1996, without regard to assets, but who would not have received an AFDC payment. Also eligible under this category are children under the age of 18 and pregnant women whose incomes do not exceed 133.33 percent of the maximum payment under the AFDC program, and whose assets do not exceed certain asset limits.

3. *Healthy Start.* This category includes children between the ages of six and 19 whose incomes do not exceed 100 percent of the federal poverty line, children under the age of six and pregnant women whose incomes do not exceed 133.33 percent of the federal poverty line, and children under the age of six and pregnant women whose incomes do not exceed 185 percent of the federal poverty line.

The BadgerCare program provides health care coverage to eligible low-income children who do not reside with a parent and to eligible low-income families. A child or family is generally considered low-income if the child's or family's income does not exceed 185 percent of the poverty line.

Currently, in calculating an individual's income for the MA or BadgerCare program, if the individual has farm or self-employment income, DHFS calculates the amount of that income by adding the amount that the individual claimed for depreciation to the amount of the individual's net taxable income.

This bill prohibits DHFS from adding any amounts claimed for depreciation to an individual's net taxable farm or self-employment income for purposes of determining whether an individual meets the income limits for the MA program under the AFDC-MA, AFDC-related MA, or Healthy Start eligibility categories or for the BadgerCare program.

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.** 49.46 (1) (a) 1. of the statutes is amended to read:
2 49.46 (1) (a) 1. Notwithstanding s. 49.19 (20), any individual who, without
3 regard to the individual's resources and subject to par. (ar), would qualify for a grant
4 of aid to families with dependent children under s. 49.19.

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1 **SECTION 2.** 49.46 (1) (a) 1g. of the statutes is amended to read:

2 49.46 (1) (a) 1g. Notwithstanding s. 49.19 (20), any individual who, without
3 regard to the individual's resources and subject to par. (ar), would qualify for a grant
4 of aid to families with dependent children but who would not receive the aid solely
5 because of the application of s. 49.19 (11) (a) 7.

6 **SECTION 3.** 49.46 (1) (a) 1m. of the statutes is amended to read:

7 49.46 (1) (a) 1m. Any pregnant woman whose income, determined in
8 accordance with par. (ar), does not exceed the standard of need under s. 49.19 (11)
9 and whose pregnancy is medically verified. Eligibility continues to the last day of
10 the month in which the 60th day after the last day of the pregnancy falls.

11 **SECTION 4.** 49.46 (1) (a) 6. of the statutes is amended to read:

12 49.46 (1) (a) 6. Any person not described in pars. (c) to (e) who, without regard
13 to the individual's resources and subject to par. (ar), would be considered, under
14 federal law, to be receiving aid to families with dependent children for the purpose
15 of determining eligibility for medical assistance.

16 **SECTION 5.** 49.46 (1) (a) 9. of the statutes is amended to read:

17 49.46 (1) (a) 9. Any pregnant woman not described under subd. 1., 1g., or 1m.
18 whose family income, determined in accordance with par. (ar), does not exceed ~~133%~~
19 133 percent of the poverty line for a family the size of the woman's family.

20 **SECTION 6.** 49.46 (1) (a) 10. of the statutes is amended to read:

21 49.46 (1) (a) 10. Any child not described under subd. 1. or 1g. who is under 6
22 years of age and whose family income, determined in accordance with par. (ar), does
23 not exceed ~~133%~~ 133 percent of the poverty line for a family the size of the child's
24 family.

25 **SECTION 7.** 49.46 (1) (a) 11. of the statutes is amended to read:

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1 49.46 (1) (a) 11. If a waiver under s. 49.665 is granted and in effect, any child
2 not described under subd. 1. or 1g. who has attained the age of 6 but has not attained
3 the age of 19 and whose family income, determined in accordance with par. (ar), does
4 not exceed ~~100%~~ 100 percent of the poverty line for a family the size of the child's
5 family. If a waiver under s. 49.665 is not granted or in effect, any child not described
6 in subd. 1. or 1g. who was born after September 30, 1983, who has attained the age
7 of 6 but has not attained the age of 19 and whose family income, determined in
8 accordance with par. (ar), does not exceed ~~100%~~ 100 percent of the poverty line for
9 a family the size of the child's family.

10 **SECTION 8.** 49.46 (1) (a) 12. of the statutes is amended to read:

11 49.46 (1) (a) 12. Any child not described under subd. 1. or 1g. who is under 19
12 years of age and whose income, determined in accordance with par. (ar), does not
13 exceed the standard of need under s. 49.19 (11).

14 **SECTION 9.** 49.46 (1) (am) 1. a. of the statutes is amended to read:

15 49.46 (1) (am) 1. a. A pregnant woman whose family income, determined in
16 accordance with par. (ar) and before any income is disregarded under this paragraph,
17 does not exceed, in state fiscal year 1994-95, ~~155%~~ 155 percent of the poverty line
18 for a family the size of the woman's family; and, in each state fiscal year after the
19 1994-95 state fiscal year, ~~185%~~ 185 percent of the poverty line for a family the size
20 of the woman's family.

21 **SECTION 10.** 49.46 (1) (am) 1. b. of the statutes is amended to read:

22 49.46 (1) (am) 1. b. A child who is under 6 years of age and whose family income,
23 determined in accordance with par. (ar) and before any income is disregarded under
24 this paragraph, does not exceed, in state fiscal year 1994-95, ~~155%~~ 155 percent of the
25 poverty line for a family the size of the child's family; and, in each state fiscal year

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1 after the 1994-95 state fiscal year, ~~185%~~ 185 percent of the poverty line for a family
2 the size of the child's family.

3 **SECTION 11.** 49.46 (1) (ar) of the statutes is created to read:

4 49.46 (1) (ar) 1. Except as provided in subd. 2. and except to the extent that the
5 determination is inconsistent with 42 USC 1396a (a) (17), for purposes of
6 determining under par. (a) 1., 1g., or 6. whether an individual would qualify for a
7 grant of aid to families with dependent children under s. 49.19 or would be
8 considered, under federal law, to be receiving aid to families with dependent
9 children, or of determining whether an individual meets the income limits under par.
10 (a) 1m., 9., 10., 11., or 12., "income" includes income that would be included in
11 determining eligibility for aid to families with dependent children under s. 49.19 and
12 excludes income that would be excluded in determining eligibility for aid to families
13 with dependent children under s. 49.19.

14 2. Notwithstanding s. 49.19 (5), for purposes of determining under par. (a) 1.,
15 1g., or 6. whether an individual would qualify for a grant of aid to families with
16 dependent children under s. 49.19 or would be considered, under federal law, to be
17 receiving aid to families with dependent children, or of determining whether an
18 individual meets the income limits under par. (a) 1m., 9., 10., 11., or 12., (am), or (e),
19 the department shall exclude from the calculation of farm or self-employment
20 income any amounts claimed for depreciation for income tax purposes.

21 **SECTION 12.** 49.46 (1) (e) of the statutes is amended to read:

22 49.46 (1) (e) If an application under s. 49.47 (3) shows that the ~~individual~~
23 individual's income, determined in accordance with par. (ar), meets the income limits
24 under s. 49.19, or that the individual meets the income and resource requirements
25 under federal Title XVI or s. 49.77, or ~~that the individual~~ is an essential person, an

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1 accommodated person, or a patient in a public medical institution, the individual
2 shall be granted the benefits enumerated under sub. (2) whether or not the
3 individual requests or receives a grant of any of such aids.

4 **SECTION 13.** 49.46 (1) (L) of the statutes is repealed.

5 **SECTION 14.** 49.47 (4) (am) 1. of the statutes is amended to read:

6 49.47 (4) (am) 1. A pregnant woman whose family income, determined in
7 accordance with par. (cg), does not exceed ~~155%~~ 155 percent of the poverty line for
8 a family the size of the woman's family, except that, if a waiver under par. (j) or a
9 change in the approved state plan under s. 49.46 (1) (am) 2. is in effect, the income
10 limit is ~~185%~~ 185 percent of the poverty line for a family the size of the woman's
11 family in each state fiscal year after the 1994–95 state fiscal year.

12 **SECTION 15.** 49.47 (4) (am) 2. of the statutes is amended to read:

13 49.47 (4) (am) 2. A child who is under 6 years of age and whose family income,
14 determined in accordance with par. (cg), does not exceed ~~155%~~ 155 percent of the
15 poverty line for a family the size of the child's family, except that, if a waiver under
16 par. (j) or a change in the approved state plan under s. 49.46 (1) (am) 2. is in effect,
17 the income limit is ~~185%~~ 185 percent of the poverty line for a family the size of the
18 child's family in each state fiscal year after the 1994–95 state fiscal year.

19 **SECTION 16.** 49.47 (4) (c) 1. of the statutes is amended to read:

20 49.47 (4) (c) 1. Except as provided in par. (am) and as limited by subd. 3.,
21 eligibility exists if income, determined in accordance with par. (cg), does not exceed
22 ~~133 1/3%~~ 133 1/3 percent of the maximum aid to families with dependent children
23 payment under s. 49.19 (11) for the applicant's family size or the combined benefit
24 amount available under supplemental security income under 42 USC 1381 to 1383c
25 and state supplemental aid under s. 49.77, whichever is higher. ~~In this subdivision~~

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1 ~~(cg) 1. Except as provided in subd. 3., for purposes of determining whether an~~
2 ~~individual's income meets the income requirements under par. (c), "income" includes~~
3 ~~earned or unearned income that would be included in determining eligibility for the~~
4 ~~individual or family under s. 49.19 or 49.77, or for the aged, blind, or disabled under~~
5 ~~42 USC 1381 to 1385. "Income" does not include and excludes earned or unearned~~
6 ~~income which that would be excluded in determining eligibility for the individual or~~
7 ~~family under s. 49.19 or 49.77, or for the aged, blind, or disabled individual under 42~~
8 ~~USC 1381 to 1385.~~

9 **SECTION 17.** 49.47 (4) (c) 3. of the statutes is amended to read:

10 49.47 (4) (c) 3. Except as provided in par. (am), no person is eligible for medical
11 assistance under this section if the person's income, determined in accordance with
12 par. (cg), exceeds the maximum income levels that the U.S. department of health and
13 human services sets for federal financial participation under 42 USC 1396b (f).

14 **SECTION 18.** 49.47 (4) (cg) 3. of the statutes is created to read:

15 49.47 (4) (cg) 3. Notwithstanding s. 49.19 (5), for purposes of determining
16 whether an individual under par. (ag) or (am) is eligible for medical assistance, the
17 department shall exclude from the calculation of farm or self-employment income
18 any amounts claimed for depreciation for income tax purposes.

19 **SECTION 19.** 49.47 (4) (h) of the statutes is renumbered 49.47 (4) (cg) 2. and
20 amended to read:

21 49.47 (4) (cg) 2. ~~For the~~ Except as provided in subd. 3., for purposes of
22 determining whether an individual meets the income limits under par. (am),
23 "income" includes income that would be used included in determining eligibility for
24 aid to families with dependent children under s. 49.19 and excludes income that

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1 would be excluded in determining eligibility for aid to families with dependent
2 children under s. 49.19.

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

4 49.47 (4) (j) If the change in the approved state plan under s. 49.46 (1) (am) 2.
5 is denied, the department shall request a waiver from the secretary of the federal
6 department of health and human services to allow the use of federal matching funds
7 to provide medical assistance coverage under par. (am) 1. and 2. to individuals whose
8 family incomes, determined in accordance with par. (cg), do not exceed ~~185%~~ 185
9 percent of the poverty line in each state fiscal year after the 1994-95 state fiscal year.

10 **SECTION 21.** 49.665 (4) (a) 1. of the statutes is amended to read:

11 49.665 (4) (a) 1. The family's income does not exceed ~~185%~~ 185 percent of the
12 poverty line, except as provided in par. (at) and except that a family that is already
13 receiving health care coverage under this section may have an income that does not
14 exceed ~~200%~~ 200 percent of the poverty line. The Subject to par. (d), the department
15 shall establish by rule the criteria to be used to determine income.

16 **SECTION 22.** 49.665 (4) (d) of the statutes is created to read:

17 49.665 (4) (d) For purposes of determining a family's or child's income under
18 this section, the department shall exclude from the calculation of farm or
19 self-employment income any amounts claimed for depreciation for income tax
20 purposes.

21 **SECTION 23. Initial applicability.**

22 (1) This act first applies to eligibility determinations for the Medical Assistance
23 and Badger Care health care programs that are made on the effective date of this
24 subsection.

25

(END)