



2011 SENATE BILL 474

February 14, 2012 - Introduced by Senators GALLOWAY, LASEE and COWLES, cosponsored by Representatives NYGREN, BALLWEG, BIES, JACQUE, KAUFERT, KNUDSON, LEMAHIEU, MARKLEIN, A. OTT, RIVARD, PETERSEN, SEVERSON, STEINEKE, STRACHOTA, VAN ROY, WYNN and VOS. Referred to Committee on Insurance and Housing.

- 1 **AN ACT** *to create* 49.45 (4m) and 224.42 of the statutes; **relating to:** matching
2 financial records for Medical Assistance eligibility and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Health Services (DHS) administers the Medical Assistance (MA) program, under which DHS, among other things, provides health care benefits to low-income families and individuals. Federal law requires each state to implement an asset verification program for purposes of determining eligibility for MA. This bill requires DHS to operate a financial record matching program (program) for MA applicants and recipients for whom asset verification is required for eligibility for MA. Under the program, financial institutions in this state must enter into agreements with DHS to participate in a financial institution matching option or a state matching option. DHS must pay such a financial institution up to \$125 per calendar quarter for participating.

Under the financial institution matching option, at least once every calendar quarter DHS sends information to the financial institution, including names, addresses, and social security numbers, about MA applicants, recipients, and other individuals whose resources are required by law to be disclosed to determine the eligibility of an MA applicant or recipient. The financial institution determines whether any MA applicant, recipient, or other individual has an ownership interest in an account at the financial institution and, if so, sends DHS information about the account, such as the type, number, and balance.

Under the state matching option, at least once every calendar quarter the financial institution sends DHS information about accounts maintained at the

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financial institution, including the name and social security number of each person having an ownership interest in each account. On the basis of that information, DHS determines whether any MA applicant, recipient, or other individual has an ownership interest in an account at the financial institution and, if so, may request further information from the financial institution, including the person's address of record and the account balance.

The bill prohibits DHS from disclosing or retaining information concerning account holders who are not MA applicants, recipients, or other individuals; prohibits employees, agents, officers, and directors of financial institutions from disclosing or retaining information concerning MA applicants, recipients, or other individuals; and prohibits both DHS and financial institutions from using any information received under the program for any purpose not related to the program or administering MA. The bill provides penalties for any employee, agent, officer, or director of a financial institution who violates any of the prohibitions. The bill also provides that a financial institution is not liable for disclosing financial information, or taking other action, in compliance with the program.

The Department of Children and Families operates a similar financial record matching program with financial institutions for individuals who are obligated to pay court-ordered child support.

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 (4m) of the statutes is created to read:

2 49.45 (4m) FINANCIAL RECORD MATCHING PROGRAM. (a) *Definitions.* In this
3 subsection:

4 1. "Account" means a demand deposit account, checking account, negotiable
5 withdrawal order account, savings account, time deposit account, or money market
6 mutual fund account.

7 2. "Applicant" means an individual applying for benefits under this subchapter.

8 3. "Financial institution" has the meaning given in 12 USC 3401 (1).

9 4. "Other individual" means an individual whose resources are required by law
10 to be disclosed to determine the eligibility of an applicant or recipient.

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1 5. “Recipient” means an individual who receives benefits under this
2 subchapter.

3 (b) *Matching program and agreements.* 1. The department shall operate a
4 financial record matching program under this subsection for the purpose of verifying
5 the assets of applicants, recipients, and other individuals with respect to any
6 program under this subchapter that requires asset verification.

7 2. The department shall enter into agreements with financial institutions
8 doing business in this state to operate the financial record matching program under
9 this subsection. An agreement shall require the financial institution to participate
10 in the financial record matching program by electing either the financial institution
11 matching option under par. (c) or the state matching option under par. (d). Any
12 changes to the conditions of the agreement shall be submitted by the financial
13 institution or the department at least 60 days before the effective date of the change.
14 The department shall furnish the financial institution with a signed copy of the
15 agreement.

16 3. The department shall reimburse a financial institution up to \$125 per
17 calendar quarter for participating in the financial record matching program under
18 this subsection.

19 4. To the extent feasible, the information to be exchanged under the matching
20 program shall be provided by electronic data exchange as prescribed by the
21 department in the agreement under subd. 2.

22 (c) *Financial institution matching option.* If a financial institution with which
23 the department has an agreement under par. (b) elects the financial institution
24 matching option under this paragraph, all of the following apply:

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1 1. At least once each calendar quarter, the department shall provide to the
2 financial institution, in the manner specified in the agreement under par. (b) 2.,
3 information regarding applicants, recipients, and other individuals. The
4 information shall include names and social security or other taxpayer identification
5 numbers.

6 2. Based on the information received under subd. 1., the financial institution
7 shall take actions necessary to determine whether any applicant, recipient, or other
8 individual has an ownership interest in an account maintained at the financial
9 institution. If the financial institution determines that an applicant, recipient, or
10 other individual has an ownership interest in an account at the financial institution,
11 the financial institution shall provide the department with a notice containing the
12 applicant's, recipient's, or other individual's name, address of record, social security
13 number or other taxpayer identification number, and account information. The
14 account information shall include the account number, the account type, the nature
15 of the ownership interest in the account, and the balance of the account at the time
16 that the record match is made. The notice under this subdivision shall be provided
17 in the manner specified in the agreement under par. (b) 2. and, to the extent feasible,
18 by an electronic data exchange.

19 (d) *State matching option.* If a financial institution with which the department
20 has an agreement under par. (b) elects the state matching option under this
21 paragraph, all of the following apply:

22 1. At least once each calendar quarter, the financial institution shall provide
23 the department with information concerning all accounts maintained at the
24 financial institution. For each account maintained at the financial institution, the
25 financial institution shall notify the department of the name and social security

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1 number or other tax identification number of each person having an ownership
2 interest in the account, together with a description of each person's interest. The
3 information required under this subdivision shall be provided in the manner
4 specified in the agreement under par. (b) 2. and, to the extent feasible, by an
5 electronic data exchange.

6 2. The department shall take actions necessary to determine whether any
7 applicant, recipient, or other individual has an ownership interest in an account
8 maintained at the financial institution providing information under subd. 1. Upon
9 the request of the department, the financial institution shall provide to the
10 department, for each applicant, recipient, or other individual who matches
11 information provided by the financial institution under subd. 1., the address of
12 record, the account number and account type, and the balance of the account.

13 (e) *Use of information by financial institution; penalty.* A financial institution
14 participating in the financial record matching program under this subsection, and
15 the employees, agents, officers, and directors of the financial institution, may use
16 information received from the department under par. (c) only for the purpose of
17 matching records and may use information provided by the department in
18 requesting additional information under par. (d) only for the purpose of providing the
19 additional information. Neither the financial institution nor any employee, agent,
20 officer, or director of the financial institution may disclose or retain information
21 received from the department concerning applicants, recipients, or other
22 individuals. Any person who violates this paragraph may be fined not less than \$50
23 nor more than \$1,000 or imprisoned in the county jail for not less than 10 days or
24 more than one year or both.

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1 (f) *Use of information by department.* The department may use information
2 provided by a financial institution under this subsection only for matching records
3 under par. (d), for administering the financial record matching program under this
4 subsection, and for determining eligibility or continued eligibility under this
5 subchapter. The department may not disclose or retain information received from
6 a financial institution under this subsection concerning account holders who are not
7 applicants, recipients, or other individuals.

8 (g) *Financial institution liability.* A financial institution is not liable to any
9 person for disclosing information to the department under this subsection or for any
10 other action that the financial institution takes in good faith to comply with this
11 subsection.

12 **SECTION 2.** 224.42 of the statutes is created to read:

13 **224.42 Disclosure of financial records for Medical Assistance**
14 **eligibility. (1) DEFINITIONS.** In this section:

15 (a) “Financial institution” has the meaning given in 12 USC 3401 (1).

16 (b) “Financial record” has the meaning given in 12 USC 3401 (2).

17 **(2) FINANCIAL RECORD MATCHING AGREEMENTS.** A financial institution is required
18 to enter into an agreement with the department of health services under s. 49.45
19 (4m).

20 **(3) LIMITED LIABILITY.** A financial institution is not liable for any of the
21 following:

22 (a) Disclosing a financial record of an individual or other information to the
23 department of health services in accordance with an agreement, and its participation
24 in the program, under s. 49.45 (4m).

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1 (b) Any other action taken in good faith to comply with s. 49.45 (4m).

2 (END)