



WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

Memo No. 2

TO: MEMBERS OF THE SPECIAL COMMITTEE ON REVIEW OF EMERGENCY
DETENTION AND ADMISSION OF MINORS UNDER CHAPTER 51

FROM: Brian T. Larson, Staff Attorney

RE: Medical Assistance Eligibility for Incarcerated Persons

DATE: July 18, 2012

This Memo describes suggestions made to the committee concerning Medical Assistance (MA) eligibility for incarcerated persons. Section 49.47 (6) (c) 3., Stats., provides that MA benefits shall not include any payment with respect to care or services for an individual who is an inmate of a public institution, except as a patient in a medical institution or a resident in an intermediate care facility. Memo No. 1 included the following suggestions aimed at providing continuity of medical care to individuals who are released from prison:

- Suspend, rather than terminate, MA eligibility for someone who enters a correctional facility. This suggestion would require the amendment of state statutes and administrative rules to allow inmates to retain MA eligibility while incarcerated.
- Retain current law but institute an expedited MA application process 30 days prior to their release from custody, so that MA would be in place upon release.

The Memo provides additional background related to these suggestions, including details regarding an agreement reached by the Department of Health Services (DHS) and the Department of Corrections (DOC) to address MA eligibility issues. This Memo also contains, as attachments, copies of several documents referred to below.

MA Eligibility for Inmates

The federal Center for Medicare and Medicaid Services (CMS) has encouraged states not to terminate eligibility for individuals who are inmates of public institutions or residents of an institution

for mental disease based solely on their status as inmates or residents. Instead, CMS encourages states to establish a process under which an eligible inmate or resident is placed in a suspended status so that the state does not claim federal financial participation for services the individual receives, but the person remains eligible for MA (assuming the person continues to meet all applicable requirements). Once the person's discharge from a facility is anticipated, CMS encourages the state to take whatever steps are necessary to ensure that an eligible individual is placed in payment status so that he or she can begin receiving MA-covered services immediately upon leaving the facility. If an individual is not already eligible for MA prior to discharge from the facility, but has filed an application for MA, the state should take whatever steps are necessary to ensure that the application is processed in a timely manner so that the individual can receive MA-covered services upon discharge from the facility.

The publication *Returning Home: Access to Health Care After Prison*, by the National Conference of State Legislatures (NCSL), provides additional information on this issue and is included as an attachment to this Memo.

DHS and DOC Collaboration

The DHS and DOC collaborated in 2004 to devise procedures to assist individuals in obtaining supplemental security income (SSI) and MA benefits upon release from prison. The procedures included a role for DOC in identifying potential MA applicants, assisting them in completing the applications, and compiling necessary information to determine eligibility. In addition, the agencies agreed that completed applications for MA will be accepted and processed by DHS up to 23 days prior to an individual's anticipated release date. However, both DHS and DOC report that these procedures have not been widely implemented.

Included as attachments to this Memo are the following documents related to the DHS and DOC collaboration to assist individuals in obtaining benefits upon release from prison:

- DOC document, revised May 6, 2003 – *Draft Process/Timeline: Processing SSI/MA Benefit Applications for Prison Inmates*.
- DOC document, dated July 1, 2004 – Executive Directive #30 (entitlement programs for eligible offenders).
- DHS document, dated July 1, 2004 – Operations Memo 04-30 (applications for Medicaid benefits for DOC offenders released into the community).

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Attachments