



## WISCONSIN LEGISLATIVE COUNCIL STUDY COMMITTEE MEMORANDUM

TO: MEMBERS OF THE STUDY COMMITTEE ON CHILD PLACEMENT AND SUPPORT

FROM: Margit S. Kelley, Senior Staff Attorney; and Rachel E. Letzing, Principal Attorney

RE: Description of the Birth Cost Recovery Program

DATE: November 9, 2018

This memorandum provides a brief description of the birth cost recovery program that is enforced by local child support agencies. Under this program, if a woman was covered by the state's BadgerCare Plus medical assistance program for a pregnancy and birth, a court is required to include a birth cost judgment in a paternity judgment for recovery of up to half of the cost of the pregnancy and birth.

### **BACKGROUND**

Under state and federal child support laws, child support services must be provided when a child is receiving medical assistance. The child support and medical assistance services are structured to work together to enforce parents' legal responsibility for a child and to reduce parents' reliance on public assistance. Under this structure, a state medical assistance program is sometimes referred to as a payer of "last resort," and state and local agencies are required to take "reasonable measures" to determine when anyone other than the state has legal responsibility for the cost of medical care and services. [42 U.S.C. ss. 654 (4) (A) (i) and 1396a (a) (25); s. 49.22 (1), Stats.]

### **CURRENT STATE LAW**

Under current state law, as a condition of eligibility for medical assistance, a person assigns to the state any rights to medical support from any other person. In practice, a local income maintenance agency refers a person who is receiving BadgerCare Plus to the local child support agency, which then determines whether child support services will be provided to establish paternity and financial obligations, including medical support obligations. [s. 49.45 (19)

(a), Stats.; Department of Health Services, Medicaid Eligibility Handbook, ch. 8 Medical Support, Release 18-02 (Aug. 10, 2018).]

In particular, state law provides that if a mother was enrolled in medical assistance at the time of a child's birth, birth costs paid to a health maintenance organization (HMO) under the program may be recovered by the state. If birth costs paid under the BadgerCare Plus program are recovered, 85% of the amount is returned to the medical assistance program, and 15% is routed to the local child support agency from the federal share of the sum recovered, as an incentive payment. [ss. 49.45 (19) (c) and 49.89 (7) (b), Stats.]

The amount that may be ordered for recovery is up to half of the actual costs of the pregnancy and birth, subject to an additional income limitation formula. Under the income limitation cap, the amount that may be ordered is no more than 5% of the payer's monthly gross income multiplied by 36 months. Also, if a person's income is below certain thresholds related to the federal poverty line, the amount is determined either under a specific schedule or as appropriate for the father's total economic circumstances. [s. 767.89 (3) (e), Stats.; s. DCF 150.05 (2) (b) and ch. DCF 150 App. D, Wis. Adm. Code.]

Effective July 1, 2018, recovery from a father is inappropriate in cases where the family is intact at the time that paternity or support is established and the father's income, if any, contributes to the support of the child. [s. DCF 150.05 (2) (a), Wis. Adm. Code and Clearinghouse Rule 16-075.]

### **MEDICAID PAYMENT FOR BIRTH EXPENSES**

The current BadgerCare Plus reimbursement rate to an HMO for a birth varies by region. One reimbursement rate is used per region. The rates are determined from an average of the costs for single, multiple, and caesarean births. The reimbursement rate for each region is as follows:

- Region 1
  - \$7,005.44
  - Ashland, Barron, Bayfield, Burnett, Chippewa, Douglas, Dunn, Forest, Iron, Langlade, Lincoln, Marathon, Oneida, Pepin, Pierce, Polk, Price, Rusk, Sawyer, Shawano, St. Croix, Taylor, Vilas, and Washburn Counties.
- Region 2
  - \$5,206.45
  - Brown, Calumet, Door, Florence, Fond du Lac, Kewaunee, Manitowoc, Marinette, Menominee, Oconto, Outagamie, Sheboygan, Waupaca, and Winnebago Counties.
- Region 3
  - \$5,860.01

- Adams, Buffalo, Clark, Crawford, Eau Claire, Green Lake, Jackson, Juneau, La Crosse, Marquette, Monroe, Portage, Richland, Trempealeau, Vernon, Waushara, and Wood Counties.
- Region 4
  - \$5,610.53
  - Columbia, Dane, Dodge, Grant, Green, Iowa, Jefferson, Lafayette, Rock, Sauk, and Walworth Counties.
- Region 5
  - \$5,660.49
  - Kenosha, Ozaukee, Racine, Waukesha, and Washington Counties.
- Region 6
  - \$6,336.76
  - Milwaukee County.

[Department of Children and Families (DCF), Average Birth Costs, Fact Sheet (Jan. 3, 2018).]

**TOTAL AMOUNTS RECOVERED**

According to data provided by DCF, the following total dollar amounts were collected from birth cost recovery orders, with 85% returned to the medical assistance program and 15% returned to counties:

Year	Total Birth Cost Recovery Collections	15% County-Retained Birth Cost Recovery Collections
2016	\$16,511,200	\$2,476,680
2015	\$17,002,661	\$2,550,399
2014	\$17,499,093	\$2,624,864
2013	\$17,742,903	\$2,661,435
2012	\$18,261,493	\$2,739,224
2011	\$18,870,896	\$2,830,634