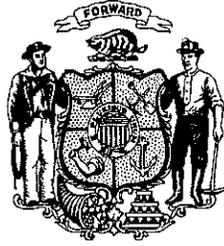


State of Wisconsin

SENATE CHAIR
Alberta Darling

317 East, State Capitol
P.O. Box 7882
Madison, WI 53707-7882
Phone: (608) 266-5830



ASSEMBLY CHAIR
John Nygren

308 East, State Capitol
P.O. Box 8593
Madison, WI 53708-8953
Phone: (608) 266-2343

Joint Committee on Finance

MEMORANDUM

To: Members
Joint Committee on Finance

From: Senator Alberta Darling
Representative John Nygren

Date: February 21, 2020

Re: 14-Day Passive Review Approval – DHS

Pursuant to s. 20.940(3)(a)2, Stats., attached is a 14-day passive review request from the Department of Health Services, received on February 21, 2020.

Please review the material and notify **Senator Darling** or **Representative Nygren** no later than **Wednesday, March 11, 2020**, if you have any concerns about the request or if you would like the Committee to meet formally to consider it.

Also, please contact us if you need further information.

Attachments

AD:JN;jm



State of Wisconsin
Department of Health Services

Tony Evers, Governor
Andrea Palm, Secretary

February 20, 2020

FEB 21 2020

St. FINANCE

The Honorable Alberta Darling, Senate Co-Chair
Joint Committee on Finance
Room 317 East
State Capitol
P.O. Box 7882
Madison, WI 53707

The Honorable John Nygren, Assembly Co-Chair
Joint Committee on Finance
Room 309 East
State Capitol
P.O. Box 8953
Madison, WI 53708

Dear Senator Darling and Representative Nygren:

Per s. 20.940(3)(a)2., created by 2017 Wisconsin Act 370, I am submitting the proposed federal waiver request for the Medicaid Health Savings Account Program as required under s. 49.45(60), created by 2017 Wisconsin Act 271. Please find a copy of the proposed waiver attached.

Section 49.45(60) directs DHS to submit a waiver to the Centers for Medicare & Medicaid Services (CMS) to establish and implement a savings account program within the Medicaid program that is similar in function and operation to health savings accounts. The statute specifically directs DHS to exclude children and individuals who are elderly, blind, or disabled (EBDs) from the program.

As mentioned in prior communications, DHS has been researching savings account programs in other states' Medicaid programs.

Using lessons learned from these other programs, DHS proposes to request an amendment to Wisconsin Medicaid's 1115 BadgerCare Reform Demonstration Project to create a Health Savings Account Program for childless adults that would deposit the premiums paid by childless adult enrollees into accounts that could be used for eligible medical expenses after they exit the Medicaid program, including health insurance premiums on the exchanges.

Senator Alberta Darling
Representative John Nygren
February 20, 2020
Page 2

Under current policy, as of February 1, 2020, childless adults between 50% and 100% are required to pay a monthly premium of \$8. However, members may be able to qualify for a premium reduction based on their responses to the BadgerCare Plus Health Survey. The intent of the proposed demonstration project amendment is to allow participating members to save the premium dollars invested in Medicaid to be used when they leave Medicaid and transition to the private insurance market.

The proposed demonstration project amendment seeks federal financial participation (FFP) in two ways. First, it seeks authority to deposit the full amount of member premiums into health savings accounts rather than only the portion that the state will retain under the current demonstration project (which is 40.64% in FFY20). Second, the waiver amendment seeks federal funds to make up the difference between the premium discount earned through healthy behaviors and the full premium cost so that all members will have \$8 per month deposited into their accounts. These two elements are crucial to the success of the proposed program. The proposed health savings program incentivizes participants to save for future health care needs, and the additional federal funding ensures that interests align with the state's desire to have individuals pursuing healthy behaviors. The impact of the requested federal funding is estimated to be between \$2.0 million and \$2.7 million annually.

If the committee approves the proposed amendment, DHS will begin the 30-day public comment period (including public notices and two public hearings), consult with our tribal government partners (which requires 60 days), compile and consider all public comments, and submit the waiver amendment to CMS.

Please contact me if you have any questions about this request.

Sincerely,

A handwritten signature in black ink, appearing to read 'Andrea Palm', followed by a long horizontal line extending to the right.

Andrea Palm
Secretary-designee

State of Wisconsin
BadgerCare Reform Demonstration Project

Medicaid Health Savings Account

Section 1115 Demonstration Waiver Amendment Application

Table of Contents

1.0 Introduction	4
2.0 Background	4
3.0 Demonstration Objectives and Summary	5
3.1 Project Objectives of the Waiver Amendment	5
3.2 Demonstration Project Amendment Overview	5
3.3 Demonstration Population	7
3.4 Demonstration Project Descriptions	7
3.5 Implementation	8
4.0 Requested Waivers and Expenditure Authorities	9
5.0 Budget Neutrality	9
5.1 Budget Neutrality for the Childless Adults Population Not Exceeding 100% FPL	10
5.1.1 Methodology for Without Waiver Amendment Calculation:	10
5.1.2 Methodology for With Waiver Amendment (WWA) Calculation:	10
5.2 Introduction of Medicaid Health Savings Account	10
6.0 Evaluation Design	11
7.0 Public Involvement and Public Comment	11
7.1 Public Notice Requirements	12
7.2 Summary of Public Comments and Wisconsin DHS Response	12
8.0 Demonstration Administration	12

1.0 Introduction

The Wisconsin Department of Health Services (DHS) is seeking approval to implement policies specific to the childless adult population, as required by section 49.45(60) of the Wisconsin Statutes, created by 2017 Wisconsin Act 271. This section of the statutes requires the Department to establish and implement a savings account program within the Medicaid/BadgerCare Plus program that is similar in function and operation to health savings accounts (HSAs).

The Medicaid Health Savings Account as envisioned in this request would use the premiums that have been paid by BadgerCare Plus childless adults with incomes above 50% FPL, as allowed under the BadgerCare Plus Reform waiver, for health care expenses after the member leaves the program. Wisconsin is seeking CMS approval of the Medicaid Health Savings Account program, to smooth the financial cliff of increased health care-related costs that members face when they leave the Medicaid program due to increased income. When this occurs, funds they have saved in a health savings account will help support their transition to the private marketplace or fund other health care costs incurred by members as they move off of Medicaid coverage.

2.0 Background

Prior to the existing demonstration project (BadgerCare Plus Reform Demonstration Project), Wisconsin has a history of successfully providing widespread access to health care to its residents. In 1999, Wisconsin implemented BadgerCare, which provided a health care safety net for low-income families transitioning from welfare to work. In addition, BadgerCare Plus expanded coverage to families at income levels that had not previously been covered under the Medicaid Program.

In 2008, Wisconsin Medicaid-eligible groups included all uninsured children through the age of 18, pregnant women with incomes at or below 300 percent of the federal poverty level (FPL), and parents and caretaker relatives with incomes at or below 200 percent of the FPL.

In 2009, Wisconsin received approval through a Section 1115 Demonstration Waiver to expand coverage to childless adults with incomes at or below 200 percent of the FPL. This population became eligible for the BadgerCare Plus Core Plan, which provided a limited set of benefits.

In 2011, Wisconsin submitted and received approval to amend the BadgerCare and BadgerCare Plus Core Plan demonstrations, allowing Wisconsin to require that non-pregnant, non-disabled adult parents and caretaker relatives whose incomes exceed 133 percent of the FPL pay a monthly premium.

In 2013, CMS approved a five-year Section 1115 Demonstration Waiver known as the Wisconsin BadgerCare Plus Reform Demonstration Project. The waiver became effective January 1, 2014, and expired on December 31, 2018. Under this waiver, Wisconsin was eligible for federal Medicaid matching funds for providing health care coverage for childless adults between the ages of 19 and 64 years old who have income at or below 100 percent of the FPL. The childless adult population received the standard benefit plan, which is the same benefit plan that covers parents, caretakers, and children.

Additionally, the previous BadgerCare Reform Demonstration Project enabled Wisconsin to test the impact of providing Transitional Medical Assistance to individuals who were paying a premium that aligns with the insurance affordability program in the federal marketplace based on their household income when compared to the FPL.

On June 7, 2017 Wisconsin requested an extension and amendment to the BadgerCare Reform Demonstration Project. On October 21, 2018 CMS approved portions of the waiver amendment request, detailing implementation parameters as negotiated by the Department and CMS in the Special Terms and Conditions (STCs). The waiver provisions expire on December 23, 2023. In 2020, Wisconsin implemented the following components of the amendment: a premium requirement; a health risk assessment as a condition of eligibility for all childless adults; healthy behavior incentives under which DHS offers premium reductions for members who report behaviors that lead to better health outcomes; and a copayment requirement for non-emergent use of the emergency department. We continue to work through implementation issues associated with the childless adult community engagement requirement and the implementation of our SUD residential treatment program in our current demonstration.

3.0 Demonstration Objectives and Summary

3.1 Project Objectives of the Waiver Amendment

Wisconsin is committed to the implementation of policies that result in high quality health coverage for our citizens and leverages the state's tradition of strong health outcomes, innovation, and provision of high quality health care to do so. Specifically, Wisconsin's overall goals for the Medicaid program, with regard to this amendment, are to:

- Ensure that those Wisconsin residents with limited financial resources have access to high-quality health coverage.
- Provide financial support to BadgerCare Plus childless adult members and help smooth the financial 'cliff' that exists when an individual leaves the BadgerCare Plus program and needs to pay premiums, cost-sharing, or other health care costs that are substantially higher than those imposed by the public program.

3.2 Demonstration Project Amendment Overview

This amendment is prompted by 2017 Wisconsin Act 271, which requires the Wisconsin Department of Health Services (DHS) to submit an 1115 Demonstration Project waiver to the Centers for Medicare and Medicaid Services that would implement a Health Savings Account in the Medicaid/BadgerCare Plus program.

3.2.1 Connection to Current Waiver

This amendment builds on the previously approved BadgerCare Plus Reform 1115 Demonstration Project waiver, which allowed the Department to include, as a condition of eligibility and enrollment, the payment of a monthly premium for those BadgerCare Plus childless adults with incomes that exceed 50%, but are not greater than 100% of the federal poverty guidelines. BadgerCare Plus childless adults pay a monthly premium of \$8 per month. The waiver also allows the Department to reduce the monthly premium when the individual completes a Health Survey indicating that they engage in a healthy behavior or are managing an unhealthy behavior. The waiver also requires as a condition of eligibility and enrollment that all childless adults answer a Health Risk Assessment targeted at identifying those suffering from Substance Use Disorder and interested in getting treatment for that condition. Those members who are either engaging in a healthy behavior, managing an unhealthy behavior or answer 'Yes' to the Health Risk Assessment (HRA) question -exempt BadgerCare Plus childless adult to pay either \$4 per month for an individual or \$6 per month for a couple. These changes were all implemented on February 1, 2020.

This amendment would ensure that members realize the financial benefit associated with these premium payments.

3.2.2 Amended Waiver Overview

This waiver amendment proposes having the Department deposit the full amount paid by individuals as premiums into a Medicaid Health Savings Account. That MHSA could then be used by the individual or couple upon their disenrollment from the Medicaid/BadgerCare program to pay for qualifying health expenses. Qualifying health expenses would include:

- Health insurance premiums available through the commercial market, the Federally Facilitated Marketplace or employer health plans.
- Cost-sharing associated with those health insurance plans.
- Out-of-pocket expenses for those health-related items not covered by the health plan; and,
- Any health-related expense that is not covered by a health plan, including those where the individual has not enrolled in a health plan.

The BadgerCare Plus childless adults' premium will total between \$48 and \$96 per person per year, depending on responses to the HRA and the healthy behaviors survey. The Department projects, based upon current enrollment and 100% compliance with the premium requirement that total annual premium collections will range between \$1.7 million and \$3.3 million, depending upon the amount of premium contributions collected after healthy behavior premium reductions are applied.

Under the existing demonstration project waiver as outlined in the STCs, the FMAP portion of each premium is returned to CMS through an offset to Wisconsin's Medicaid federal claim. In order to include enough funding to make the MHSA viable and meaningful for members, we propose that CMS allow the state to keep the entire premium payment, both the federal and non-federal share, and invest this funding into the member's MHSA.

Promoting and incentivizing healthier lifestyles remains a main focus of Wisconsin's current demonstration. As such, we reward members who practice healthy behaviors (or are managing unhealthy behaviors) with lower premiums. The demonstration posits that this will help support members to develop the life skills needed to maintain employment or to utilize the employment and training programs also offered under this proposal. Similarly, the Medicaid HSA allows our members who have left the BadgerCare Plus program to use the funds they paid into their own Medicaid HSA to transition to the private health coverage market.

However, with the reduction in premiums for those members who have chosen a healthier lifestyle, we have also reduced the amount that would be contributed to their Medicaid HSA and would then be available at disenrollment to help them make that transition. In order to 'level the playing field' between these two groups, Wisconsin is asking that CMS match the amount available in the MHSA with federal money that makes up the difference in premiums for those who have engaged in healthier behaviors and those who have not. For instance, if Person A does not indicate that they have engaged in healthy behaviors and pays a premium, the total amount in their MHSA at their disenrollment after two years will be \$192. For Person B, who engages in healthy behaviors and pays their premium, their MHSA in two years would be \$96. The proposed approach would mitigate one possible disincentive for healthy behaviors.

3.3 Demonstration Population

The amendment request pertains to non-pregnant, childless adults, ages 19 through 64 years old, with incomes between 50 percent and 100 percent of the FPL, and subject to the BadgerCare Plus monthly premium requirement. Less than 24% of the childless adults enrolled in Wisconsin's Medicaid program have incomes above 50% of FPL, and DHS estimates that approximately 35,000 childless adults will pay premiums under the policies implemented on February 1, 2020.

3.4 Demonstration Project Descriptions

The approved demonstration's special terms and conditions allow Wisconsin to submit an application for an amendment to the current waiver. Under 2017 Wisconsin Act 271, DHS is required to submit an 1115 demonstration project waiver to CMS that would allow Wisconsin to implement a Health Savings Account for Medicaid members. Considering the close association between the BadgerCare Reform Demonstration Project Waiver recently implemented in Wisconsin and the MHSA, the Department has determined that an amendment to the current waiver is the most expedient and logical approach.

Current Waiver

Under the authority of a Section 1115(a) Demonstration Waiver, Wisconsin's BadgerCare Reform Demonstration Project covers two populations: non-pregnant childless adults between ages 19 and 64 years old, and the all other Medicaid and BadgerCare members subject to the ER copayment requirement.

The demonstration allows Wisconsin to provide state plan benefits other than family planning services and tuberculosis-related services to childless adults who have household income up to 100 percent of the FPL. Cost sharing for the childless adult population is the same as that indicated in the Medicaid State Plan. The focus for this population is to improve health outcomes, reduce unnecessary services, and improve the cost-effectiveness of Medicaid services. The current demonstration also allows DHS to:

- Establish monthly premiums;
- Establish lower premiums for members engaged in healthy behaviors or managing unhealthy behaviors;
- Require completion of a Health Risk Assessment;
- Charge an increased copayment for emergency department utilization for childless adults;
- Establish a work component for childless adults; and
- Provide full coverage of residential substance use disorder treatment for all BadgerCare Plus and Medicaid members.

All approved provisions in the BadgerCare Reform Demonstration project will be maintained.

Amendment Proposal

This amendment includes the following policy changes:

1. Establish a Medicaid HSA for any BadgerCare Plus childless adult who has paid a monthly premium as a condition of their eligibility.
2. Allow the individual or couple to use the Medicaid HSA to pay for qualifying health expenses after they disenroll for the program.

3. Use the state and federal share of the premium collected to fund the Medicaid HSA.
4. For those members who have lowered their premium because of their engagement in healthy behaviors (as described in the approved waiver), the federal agency will match the amount contributed to make sure that the amount in the Medicaid HSA upon disenrollment is equivalent to the amount that they would receive if they had not engaged in those healthy behaviors.
5. The Medicaid HSA can only be used when the individual is not enrolled in the Wisconsin Medicaid or BadgerCare Plus programs.
6. Amounts remaining in a Medicaid HSA that has not been used for 24 consecutive months will be returned to CMS and to Wisconsin's General Fund.
7. No amount will be contributed for those BadgerCare Plus childless adults who are exempted from the premium requirement or for those months that the individual or couple are not subject to the premium requirement.
8. Allow Wisconsin DHS to receive FMAP for the administration of the Medicaid HSA.

3.5 Implementation

Wisconsin plans to implement any approved amended provisions at least one year after CMS approval. This time period allows sufficient time to communicate with members the changes in the BadgerCare program and for the state to prepare and implement operational and administrative changes. This will also allow DHS to work to secure the operational funding needed to operate the Medicaid HSA and to procure a vendor that will administer the accounts. Immediately after CMS approval, DHS will work on communication and implementation plans that outlines the timing, content, and methodology in which childless adults will be notified of program changes. Internally, employees will be educated and systems updated to ensure a smooth transition to the new waiver amendments.

4.0 Requested Waivers and Expenditure Authorities

Wisconsin seeks waiver of the following requirements of the Social Security Act:

- 1. Comparability – Section 1902(a)(17)/Section 1902(a)(10)(B)**
 - To the extent necessary to enable Wisconsin to establish an Medicaid HSA for childless adults who have paid a monthly premium and is not doing so for any other group currently in our State Plan or eligible via waiver, including those who are exempt from the premium obligation.
- 2. Costs Not Otherwise Matchable – Section 1905(a)(29)(B)**
 - Wisconsin requests that the FMAP portion of premiums collected for the demonstration population not be an offset within our federal claiming.

- Wisconsin requests that FMAP be available to match the amount in Medicaid HSA for the demonstration project in a manner that does not dis-incentivize healthy behaviors.
- Wisconsin requests that FMAP be available for non-federal funding sources used to design, develop, implement and operate the Medicaid HSA.

5.0 Budget Neutrality

Federal policy requires Section 1115 waiver demonstrations be budget neutral to the federal government. This means that a demonstration should not cost the federal government more than what would have otherwise been spent absent the demonstration. Determination of federal budget neutrality for purposes of a Section 1115 demonstration application must follow a unique process that is distinct from federal and state budgeting and health plan rate setting. The processes, methods, and calculations required to appropriately demonstrate federal budget neutrality are for that express purpose only. Therefore, the budget neutrality model shown here should not be construed as a substitute for budgeting and rate setting or imply any guarantee of any specific payment.

To ensure budget neutrality for each federal fiscal year of this amendment through the current five-year BadgerCare Demonstration, Wisconsin will continue to use a per-member per-month (PMPM) methodology specific to the Wisconsin childless adult population. This calculation has been established in the context of current federal and state law and with the appropriate, analytically sound baselines and adjustments. The demonstration will measure the financial impact to the program. The following calculations are extended beyond the remaining waiver period for demonstration purposes.

5.1 Budget Neutrality for the Childless Adults Population Not Exceeding 100% FPL

5.1.1 Methodology for Without Waiver Amendment Calculation:

The Without Waiver Amendment (WOWA) historical amount and future projections were determined using the following process:

Overall PMPM and Enrollment

The initial baseline PMPM and enrollment figures for the Wisconsin childless adult enrollee were determined by:

- a. Reviewing historical PMPM and enrollment figures for childless adults under the current waiver from April 2014 through December 2016;
- b. Trending the historical data for both PMPM and enrollment into the waiver amendment periods through December 2023; and
- c. Multiplying PMPM by enrollment to determine an annual spend under the current waiver terms and conditions through December 2023.

Using nearly three years' of historical data provides an accurate figure for the historical cost of this population that can be trended forward as a baseline through 2023. The PMPM growth rate is an average across the demonstration years; individual years may fluctuate.

5.1.2 Methodology for With Waiver Amendment (WWA) Calculation:

Calculating with Waiver Amendment (WWA) PMPM and enrollment requires analyzing WWA policy areas that impact PMPM and enrollment. The following area was determined to impact PMPM and enrollment:

- Introduction of Medicaid Health Savings Account

5.2 Introduction of Medicaid Health Savings Account

Introducing the Medicaid HSA, when coupled with the premium, health survey and HRA requirements, will impact both PMPM and enrollment. By providing financial assistance during the transition from public to private health coverage for the demonstration population, the expectation is that fewer individuals and couples will return to BadgerCare Plus enrollment; reducing the overall churn between public and private coverage.

Wisconsin DHS will develop the tables that provide federal budget neutrality when the waiver amendment application is approved by the Wisconsin Legislature's Committee on Joint Finance.

6.0 Evaluation Design

Wisconsin will accordingly update the BadgerCare Reform Demonstration Project evaluation design to account for the amendment provisions,

The amended demonstration evaluation will include an assessment of the following hypotheses related to members' personal responsibility in their health care:

- Creation of a Medicaid HSA will incentivize current BadgerCare Plus childless adult members to shorten their enrollment in the program; and
- Creation of the Medicaid HSA will incentivize those BadgerCare Plus childless adult members who disenroll from the program to remain in the private market and not return to the BadgerCare Plus or Medicaid programs within 24 months.

The evaluation will analyze how the demonstration impacts access, outcomes, and costs. Comparisons will be examined between the covered childless adult population, prior waiver programs, and other BadgerCare populations. As with the existing demonstration, this

amendment will consider policy choices related to the alignment of benefits and the equity of cost-share provisions for Medicaid and subsidized health insurance offered through the federally facilitated marketplace.

A detailed evaluation design will be developed for review and approval by CMS. The evaluator will use relevant data from the BadgerCare program and its managed care organizations. This may include eligibility, enrollment, claims, payment, encounter/utilization, chart reviews, and other administrative data. The evaluator may also conduct surveys and focus groups of beneficiaries and providers and other original data collection, as appropriate.

Both interim and final evaluations will be conducted to help inform the state, CMS, stakeholders, and the general public about the performance of the demonstration. All evaluation reports will be made public and posted on the DHS website.

7.0 Public Involvement and Public Comment

Providing information and obtaining input on changes from the public is of high importance for DHS as we prepare to submit the amendment request. By law, individuals and organizations will have the opportunity to review the official waiver amendment application and provide comments for 30 days starting on [TBD], and ending on [TBD]. Individuals and organizations may also provide comments through written or verbal statements made during public hearings (see below). Public comments will be included in the waiver request submitted to CMS and will be available on DHS's website.

7.1 Public Notice Requirements

DHS will follow the requirements set forth in the Special Terms and Conditions (STC) for the currently approved waiver, the Wisconsin BadgerCare Reform Demonstration Project. STC 7 instructs the State on the amendment process and DHS will accordingly comply with the requirements in Public Notice 42 CFR 431.408.

Additionally, DHS will employ several other modes of communication to inform the public of the notice:

- Email to the Medicaid Distribution list, including BadgerCare Plus and ForwardHealth Partners, for a total of 11,477 recipients notified; and
- Posting in different forums, including:
 - DHS BadgerCare Plus webpage,
 - 1 W. Wilson Street (DHS Building), ForwardHealth Community Partners announcement,
 - Milwaukee Journal Sentinel,

- o Wisconsin State Journal, and
- o Wausau Daily Herald.

Public Hearings: As required by Section 1115 of the Social Security Act, the Department will conduct two public hearings.

Tribal Consultation: The Department will conduct tribal consultation in accordance with the Department's consultation process 60 days prior to submitting this Demonstration amendment application.

Availability of Waiver Materials and Comment Mechanisms: [TBD]

Public Comment Availability: The Department will initiate the required 30-day public comment period.

7.2 Summary of Public Comments and Wisconsin DHS Response

[This section will be populated with information following public comments]

8.0 Demonstration Administration

Wisconsin's point of contact for this demonstration waiver amendment is as follows:

Name and Title: Jim Jones, Medicaid Director
Phone Number: 608-266-5151
Email Address: jamesd.jones@dhs.wisconsin.gov

Copies of Waiver Documents

Copies of waiver documents, including the full public notice, which will be posted on [TBD], and the final waiver amendment application once complete, may be obtained from DHS at no charge by downloading the documents at <https://www.dhs.wisconsin.gov/badgercareplus/waiverscla.htm> or by contacting Laura Brauer at:

Mail: Laura Brauer
Division of Medicaid Services
P.O. Box 309
Madison, WI 53707-0309
Phone: 608-266-5368
Fax: 608-266-1096
Email: laura.brauer1@dhs.wisconsin.gov

Written Comments

Written comments on the proposed changes are welcome and will be accepted from [TBD], through [TBD]. Written comments may be sent to the Division of Medicaid Services at:

Fax: 608-266-1096
Email: wisconsin1115clawaver@dhs.wisconsin.gov
Mail: P.O. Box 309, Madison, WI 53707-0309