



State of Wisconsin
2021 - 2022 LEGISLATURE

LRBs0064/1
TJD:amn

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 236**

April 13, 2021 - Offered by Representatives ANDERSON, BALDEH, BILLINGS, BOWEN, BROSTOFF, CABRERA, CONLEY, CONSIDINE, DOYLE, DRAKE, EMERSON, GOYKE, HAYWOOD, HEBL, HESSELBEIN, HINTZ, HONG, MCGUIRE, B. MEYERS, MILROY, MOORE OMOKUNDE, L. MYERS, NEUBAUER, OHNSTAD, ORTIZ-VELEZ, POPE, RIEMER, S. RODRIGUEZ, SHANKLAND, SHELTON, SINICKI, SNODGRASS, SPREITZER, STUBBS, SUBECK, VINING and VRUWINK.

1 **AN ACT to repeal** 49.45 (2p) and 49.45 (23); **to amend** 20.435 (4) (jw), 49.45 (23b)
2 (title), 49.45 (23b) (b), 49.45 (23b) (c), 49.45 (23b) (e), 49.471 (4) (a) 4. b. and
3 49.686 (3) (d); and **to create** 49.471 (1) (cr), 49.471 (4) (a) 8. and 49.471 (4g) of
4 the statutes; **relating to:** payments to certain long-term care facilities and
5 their staff and expanding eligibility for Medical Assistance program.

Analysis by the Legislative Reference Bureau

Payments to long-term care facilities and their staff

This bill requires the Department of Health Services to distribute \$300,000,000 to nursing homes and assisted living facilities that apply to DHS for a onetime payment. The payment may be used for purposes including capital projects and for integration into the statewide health information exchange system. The bill defines assisted living facilities to be community-based residential facilities, adult family homes, and residential care apartment complexes. To receive a payment, the nursing home or assisted living facility must ensure that no less than 50 percent of the payment provides bonuses to employees.

Medicaid expansion

BadgerCare Plus and BadgerCare Plus Core are programs under the state's Medical Assistance program, which provides health services to individuals who have

limited financial resources. The federal Patient Protection and Affordable Care Act allows a state to receive an enhanced federal medical assistance percentage payment for providing benefits to certain individuals through a state's Medical Assistance program. This bill changes the family income eligibility level to up to 133 percent of the federal poverty line for parents and caretaker relatives under BadgerCare Plus and for childless adults currently covered under BadgerCare Plus Core and who are incorporated into BadgerCare Plus in this bill. The bill requires DHS to comply with all federal requirements and to request any amendment to the state Medical Assistance plan, waiver of Medicaid law, or other federal approval necessary to qualify for the highest available enhanced federal medical assistance percentage for childless adults under the BadgerCare Plus program.

Under current law, certain parents and caretaker relatives with incomes of not more than 100 percent of the federal poverty line, before a 5 percent income disregard is applied, are eligible for BadgerCare Plus benefits. Under current law, childless adults who 1) are under age 65; 2) have family incomes that do not exceed 100 percent of the federal poverty line, before the 5 percent income disregard is applied; and 3) are not otherwise eligible for Medical Assistance, including BadgerCare Plus, are eligible for benefits under BadgerCare Plus Core. The bill eliminates the childless adults demonstration project, known as BadgerCare Plus Core, as a separate program.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.435 (4) (jw) of the statutes is amended to read:

2 20.435 (4) (jw) *BadgerCare Plus and hospital assessment.* All moneys received
3 ~~from payment of enrollment fees under the program under s. 49.45 (23),~~ all moneys
4 transferred under s. 50.38 (9), all moneys transferred from the appropriation account
5 under par. (jz), and 10 percent of all moneys received from penalty assessments
6 under s. 49.471 (9) (c), ~~for administration of the program under s. 49.45 (23),~~ to
7 provide a portion of the state share of administrative costs for the BadgerCare Plus
8 Medical Assistance program under s. 49.471, and for administration of the hospital
9 assessment under s. 50.38.

10 **SECTION 2.** 49.45 (2p) of the statutes is repealed.

11 **SECTION 3.** 49.45 (23) of the statutes is repealed.

1 **SECTION 4.** 49.45 (23b) (title) of the statutes is amended to read:

2 49.45 **(23b)** (title) CHILDLESS ADULTS ~~DEMONSTRATION PROJECT~~ REFORM WAIVER
3 IMPLEMENTATION REQUIRED.

4 **SECTION 5.** 49.45 (23b) (b) of the statutes is amended to read:

5 49.45 **(23b)** (b) Beginning as soon as practicable after October 31, 2018, and
6 ending no sooner than December 31, 2023, the department shall do all of the
7 following with regard to the childless adults ~~demonstration project~~ under sub. ~~(23)~~
8 s. 49.471 (4) (a) 8.:

9 1. Require in each month persons, except exempt individuals, who are eligible
10 to receive Medical Assistance under sub. ~~(23)~~ s. 49.471 (4) (a) 8. and who are at least
11 19 years of age but have not attained the age of 50 to participate in, document, and
12 report 80 hours per calendar month of community engagement activities. The
13 department, after finding good cause, may grant a temporary exemption from the
14 requirement under this subdivision upon request of a Medical Assistance recipient.

15 2. Require persons with incomes of at least 50 percent of the poverty line to pay
16 premiums in accordance with par. (c) as a condition of eligibility for Medical
17 Assistance under sub. ~~(23)~~ s. 49.471 (4) (a) 8.

18 3. Require as a condition of eligibility for Medical Assistance under sub. ~~(23)~~
19 s. 49.471 (4) (a) 8. completion of a health risk assessment.

20 4. Charge recipients of Medical Assistance under sub. ~~(23)~~ s. 49.471 (4) (a) 8.
21 an \$8 copayment for nonemergency use of the emergency department in accordance
22 with 42 USC 1396o-1 (e) (1) and 42 CFR 447.54.

23 5. Disenroll from Medical Assistance under sub. ~~(23)~~ s. 49.471 (4) (a) 8. for 6
24 months any individual who does not pay a required premium under subd. 2. and any
25 individual who is required under subd. 1. to participate in a community engagement

1 activity but who does not participate for 48 aggregate months in the community
2 engagement activity.

3 **SECTION 6.** 49.45 (23b) (c) of the statutes is amended to read:

4 49.45 **(23b)** (c) 1. Persons who are eligible for the demonstration project under
5 ~~sub. (23) s. 49.471 (4) (a) 8.~~ and who have monthly household income that exceeds
6 50 percent of the poverty line shall pay a monthly premium amount of \$8 per
7 household. A person who is eligible to receive an item or service furnished by an
8 Indian health care provider is exempt from the premium requirement under this
9 subdivision.

10 2. The department may disenroll under par. (b) 5. a person for nonpayment of
11 a required monthly premium only at annual eligibility redetermination after
12 providing notice and reasonable opportunity for the person to pay. If a person who
13 is disenrolled for nonpayment of premiums pays all owed premiums or becomes
14 exempt from payment of premiums, he or she may reenroll in Medical Assistance
15 under ~~sub. (23) s. 49.471 (4) (a) 8.~~

16 3. The department shall reduce the amount of the required household premium
17 by up to half for a recipient of Medical Assistance under ~~sub. (23) s. 49.471 (4) (a) 8.~~
18 who does not engage in certain behaviors that increase health risks or who attests
19 to actively managing certain unhealthy behaviors.

20 **SECTION 7.** 49.45 (23b) (e) of the statutes is amended to read:

21 49.45 **(23b)** (e) Before December 31, 2023, the demonstration project
22 requirements under this subsection may not be withdrawn and the department may
23 not request from the federal government withdrawal, suspension, or termination of
24 the demonstration project requirements under this subsection unless legislation has
25 been enacted specifically allowing for the withdrawal, suspension, or termination.

1 **SECTION 8.** 49.471 (1) (cr) of the statutes is created to read:

2 49.471 (1) (cr) “Enhanced federal medical assistance percentage” means a
3 federal medical assistance percentage described under 42 USC 1396d (y) or (z).

4 **SECTION 9.** 49.471 (4) (a) 4. b. of the statutes is amended to read:

5 49.471 (4) (a) 4. b. The individual’s family income does not exceed ~~100~~ 133
6 percent of the poverty line ~~before application of the 5 percent income disregard under~~
7 ~~42 CFR 435.603 (d).~~

8 **SECTION 10.** 49.471 (4) (a) 8. of the statutes is created to read:

9 49.471 (4) (a) 8. An individual who meets all of the following criteria:

10 a. The individual is an adult under the age of 65.

11 b. The individual has a family income that does not exceed 133 percent of the
12 poverty line, except as provided in sub. (4g).

13 c. The individual is not otherwise eligible for the Medical Assistance program
14 under this subchapter or the Medicare program under 42 USC 1395 et seq.

15 **SECTION 11.** 49.471 (4g) of the statutes is created to read:

16 49.471 (4g) **MEDICAID EXPANSION; FEDERAL MEDICAL ASSISTANCE PERCENTAGE.** For
17 services provided to individuals described under sub. (4) (a) 8., the department shall
18 comply with all federal requirements to qualify for the highest available enhanced
19 federal medical assistance percentage. The department shall submit any
20 amendment to the state medical assistance plan, request for a waiver of federal
21 Medicaid law, or other approval request required by the federal government to
22 provide services to the individuals described under sub. (4) (a) 8. and qualify for the
23 highest available enhanced federal medical assistance percentage. Sections 20.940
24 and 49.45 (2t) do not apply to a submission to the federal government under this
25 subsection.

1 **SECTION 12.** 49.686 (3) (d) of the statutes is amended to read:

2 49.686 (3) (d) Has applied for coverage under and has been denied eligibility
3 for medical assistance within 12 months prior to application for reimbursement
4 under sub. (2). This paragraph does not apply to an individual ~~who is eligible for~~
5 ~~benefits under the demonstration project for childless adults under s. 49.45 (23) or~~
6 ~~to an individual~~ who is eligible for benefits under BadgerCare Plus under s. 49.471
7 (4) (a) 8. or (11).

8 **SECTION 9119. Nonstatutory provisions; Health Services.**

9 (1) CHILDLESS ADULTS DEMONSTRATION PROJECT. The department of health
10 services shall submit any necessary request to the federal department of health and
11 human services for a state plan amendment or waiver of federal Medicaid law or to
12 modify or withdraw from any waiver of federal Medicaid law relating to the childless
13 adults demonstration project under s. 49.45 (23), 2019 stats., to reflect the
14 incorporation of recipients of Medical Assistance under the demonstration project
15 into the BadgerCare Plus program under s. 49.471 and the termination of the
16 demonstration project. Sections 20.940 and 49.45 (2t) do not apply to a submission
17 to the federal government under this subsection.

18 (2) PAYMENTS TO LONG-TERM CARE FACILITIES.

19 (a) In this subsection, “assisted living facility” means a community-based
20 residential facility, as defined in s. 50.01 (1g), an adult family home, as defined in s.
21 50.01 (1), or a residential care apartment complex, as defined in s. 50.01 (6d).

22 (b) From the appropriation under s. 20.435 (6) (ky), in fiscal year 2021–22, the
23 department of health services shall distribute \$300,000,000 to nursing homes, as
24 defined in s. 50.01 (3), and assisted living facilities that apply to the department a
25 onetime payment, which may be used by the nursing home or assisted living facility

1 for purposes including capital projects and for assisting with integration into the
2 statewide health information exchange system. To receive a payment under this
3 paragraph, the nursing home or assisted living facility shall ensure that no less than
4 50 percent of the payment received by the nursing home or assisted living facility
5 provides bonus payments to its employees, with an emphasis on providing bonuses
6 to those employees who have direct contact with residents of the nursing home or
7 assisted living facility.

8 **SECTION 9219. Fiscal changes; Health Services.**

9 (1) MEDICAID EXPANSION. In the schedule under s. 20.005 (3) for the
10 appropriation to the department of health services under s. 20.435 (4) (b), the dollar
11 amount for fiscal year 2021-22 is decreased by \$849,788,000 as a result of expanding
12 eligibility for the Medical Assistance program. In the schedule under s. 20.005 (3)
13 for the appropriation to the department of health services under s. 20.435 (4) (b), the
14 dollar amount for fiscal year 2022-23 is decreased by \$841,925,400 as a result of
15 expanding eligibility for the Medical Assistance program.

16 (2) PAYMENTS TO LONG-TERM CARE FACILITIES AND STAFF. In fiscal year 2021-22,
17 there is transferred from the general fund to the appropriation account under s.
18 20.435 (6) (ky), \$300,000,000.

19 **SECTION 9419. Effective dates; Health Services.**

20 (1) MEDICAID EXPANSION; LONG-TERM CARE FACILITY PAYMENTS. This act takes
21 effect on July 1, 2021.

22 (END)