



Legislative Fiscal Bureau

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Joint Committee on Finance

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BadgerCare Eligibility (DHFS -- Medical Assistance)

[LFB 2001-03 Budget Summary: Page 353, #6]

CURRENT LAW

BadgerCare provides health insurance for low-income families and individuals who are ineligible for medical assistance (MA). However, BadgerCare is closely linked to MA in that BadgerCare recipients are eligible for all MA-covered services and receive those services from MA-certified providers. Many of the MA requirements for eligibility determinations, provision of services and payments to providers also apply to BadgerCare. BadgerCare is funded from a combination of state general purpose revenue (GPR), federal funds available under MA and the federal children's health insurance program (CHIP) and premium revenue paid by certain BadgerCare enrollees. For these reasons, BadgerCare could be described as an expansion of the MA program.

BadgerCare operates under waivers of federal MA and CHIP law approved by the U.S. Department of Health and Human Services, Health Care Financing Administration (HCFA). These waivers authorize the use of federal CHIP funds to provide family coverage to low-income families and to claim enhanced federal funding for a portion of the adults participating in the program. These waivers were granted by HCFA based on a plan submitted by DHFS to HCFA. Under the terms of the waivers, changes to the BadgerCare plan must be approved by HCFA or the waiver approval may be rescinded.

Financial Eligibility Criteria. Certain families with dependent children who are not eligible for MA may qualify for coverage under BadgerCare if the family's countable income is at or below 185% of the federal poverty level (FPL). In 2001, 185% of the FPL is equivalent to \$27,066 annually for a family of three. Once enrolled, a family's countable income may increase to 200% of the FPL before the family is no longer eligible for the program. There is no asset limit for BadgerCare eligibility. In some families, certain family members may be enrolled in MA, while the other members may be enrolled in BadgerCare.

Health Insurance Coverage. Families that have health insurance coverage or have had health insurance coverage within the three calendar months prior to application are not eligible for BadgerCare. If the family had health insurance coverage within the three calendar months prior to application, that family may be eligible if they meet the following good cause criteria:

- The family was covered by a group health insurance plan that was provided through an employer, and the employment was involuntarily terminated, unless the involuntary termination was as a result of the employee's incapacitation;
- The family was covered by a group health insurance plan, but the employee changed employers and the new employer does not offer family health care coverage;
- The family was covered by a group health insurance plan, but the employer discontinued health care coverage for all employees;
- The family has exhausted continuation coverage, as defined under the federal Consolidated Omnibus Budget Reconciliation Act (P.L. 99-272);
- The family was covered by insurance that has ended due to the death or change in the marital status of the employee; and
- Any other reason determined by DHFS to be a good cause reason.

Since BadgerCare was implemented in July, 1999, 16,477 individuals have been denied BadgerCare eligibility as a result of having insurance coverage within the three months prior to application for BadgerCare.

Health Care Access. Families are not eligible for BadgerCare if the family has access or has had access to family coverage, at any time within the 18 calendar months prior to application, through an employer-sponsored group health insurance plan for which the employer pays at least 80% of the plan's costs, excluding any deductibles or copayments. Families with access to a state employee health plan are also not eligible for BadgerCare if that access was available at any time in the 18 months immediately preceding the application for BadgerCare.

The 18-month period does not apply if: (a) employment ended; (b) the employer discontinued health care coverage for all employees; (c) a family member was eligible for other health insurance or MA at the time the employee failed to enroll in the employer-sponsored health care plan and no member of the group was eligible for BadgerCare at the time; (d) the coverage ended due to the death or change in marital status of the employee; (e) any other reason determined by DHFS to be a good cause reason.

Eligibility Determination Process. Under a contract with the state, counties determine whether a family is eligible for MA or BadgerCare. All applicants are first screened for eligibility for MA. Any family members found eligible for MA are enrolled in MA. Any other family members that meet the BadgerCare criteria are enrolled in BadgerCare. The county

eligibility determination process involves gathering as much information from the applicant about his or her family's income, employment status and health insurance status as possible. This information is entered into the client assistance for reemployment and economic support (CARES) system. Based on the information provided to the county by the applicant and entered into CARES, a determination is made regarding whether or not a family is eligible.

Once enrolled, DHFS attempts to verify the employment and insurance information provided by the BadgerCare applicant. DHFS mails an employer verification of insurance coverage form to each applicant's employer. This form asks the employer to verify the insurance information provided by the applicant and collects information regarding the benefits provided under the employer's plan and the portion of the premium paid by the employer.

If the employer returns the form and indicates that the employer does provide to its employees health insurance coverage that meets the criteria for major medical health insurance, as defined in federal law and the employer supports at least 80% of the premium for that coverage, the individual is ineligible for BadgerCare and is disenrolled. Of the approximately 58,000 forms sent to employers for individuals initially enrolled in BadgerCare, a total of 32 cases were found to have access to health insurance where the employer paid at least 80% of the premium. As a result, these individuals were disenrolled from BadgerCare.

Additionally, DHFS matches applicants to data contained in a DHFS database of insurance coverage provided in Wisconsin. This database is made up of information reported to DHFS by insurance companies writing policies in Wisconsin. However, the database does not always accurately represent an enrollee's current health insurance coverage, since most insurance companies update the database on a monthly basis, but some companies may only update the database on a quarterly or semiannual basis. Additionally, self-insured insurance plans are not required to provide information for the database and therefore, individuals covered under these plans would not be included in the database.

GOVERNOR

Require DHFS, not later than January 1, 2002, to request a waiver from the federal Department of Health and Human Services (DHHS) Secretary to: (a) permit DHFS to verify whether a family or a child has access or has had access to employer-subsidized health care prior to enrolling the family or child in BadgerCare; and (b) increase the time period a family or a child is required to be without access to employer-subsidized health care before the family or child would be eligible for BadgerCare.

Specify that the waiver request would propose to increase the time period that a family must be without access to employer-subsidized health care before being eligible for BadgerCare. The waiver request would propose to increase the waiting period from three months to six months, with the following exceptions:

- If a family or child had access to employer-subsidized health care coverage during the six months immediately preceding the date of application for BadgerCare but no longer has access because the coverage was terminated through no fault of the family or the child, as determined by DHFS, the waiting period would be 45 days.

- If a family or child had access to employer-subsidized health care coverage during the six months immediately preceding the date of application for BadgerCare but no longer has access because the family or child has exhausted their COBRA coverage, the waiting period would be at least three months.

- If a family or child had access to employer-subsidized health care coverage during the six months immediately preceding the date of application for BadgerCare, but no longer has access because employment has been terminated, the waiting period would be at least three months.

DISCUSSION POINTS

1. The bill would require DHFS to request a waiver to verify an applicant's insurance information before enrolling the applicant and his or her family members in BadgerCare and to increase time period that an applicant would have to be without access to employer-subsidized health care from three months to six months the to be eligible for BadgerCare. The changes to BadgerCare recommended by the Governor do not appear to contradict provisions under federal law and regulations. However, such changes would have to be approved by HCFA since they represent a change to the state's BadgerCare plan as approved under the existing BadgerCare waivers.

Eligibility Waiting Period

2. The bill specifies that the waiver request would propose to increase the period of time that a family or child is required to be without access to employer-subsidized health care coverage before the family or child would be eligible for BadgerCare. However, in a letter to the Committee's Co-chairs dated March 21, 2001, the administration indicated that the language in the bill does not reflect the Governor's intent. The Governor intended to require DHFS to seek a waiver requesting to extend the period of time a family or child would have to be without health care coverage, rather than access, as specified in the bill. This change would be required to ensure that the bill reflects the Governor's intent.

3. By increasing the waiting period before a family could be eligible for BadgerCare, the administration hopes to prevent decisions by individuals and employers to discontinue health care coverage to become eligible for, or have their employees become eligible for BadgerCare. The phenomenon of replacing private health care coverage with publicly funded health care coverage is commonly referred to as "crowd out."

4. Most states use some waiting period during which a child would have to be without health care coverage before being eligible for a state's CHIP program. This is one of the only ways states can try to prevent crowd out. The National Conference of State Legislatures reports that, as of April, 2000, 14 states had three-month waiting periods, 15 states had six-month waiting periods and three states had 12-month waiting periods before a child could be eligible for coverage under these states' CHIP programs.

5. It is not known how many potential BadgerCare applicants the Governor's provisions would affect if HCFA approved the proposed changes to the waiting period for BadgerCare eligibility. It is likely that it would only affect a small portion of potential applicants, since a small portion of BadgerCare enrollees have income that suggests they would have access to health care coverage. As of March, 2001, approximately 34% of BadgerCare enrollees had income less than 100% of the FPL and approximately 85% had income less than 150% of the FPL.

6. While preventing crowd out may be an important policy objective, it is difficult to measure the extent to which this is occurring in Wisconsin since there is no common definition of crowd out and the difficulty in determining when an incident of crowd out has occurred. DHFS defines crowd out as action taken by an employer or an individual to discontinue health care coverage as a direct result of the presence or availability of publicly-funded health care programs. Others may define crowd out as any shift of funding for health care from the private sector to publicly-funded programs, whether or not that shift was the direct result of the availability of the program or not.

7. DHFS does not believe that crowd out is a problem in Wisconsin. When designing BadgerCare, DHFS met with representatives of the insurance industry and employers for advice in designing BadgerCare in its effort to prevent crowd out associated with employer-sponsored health care coverage. Additionally, DHFS requested the representatives of the insurance industry and employers to report any examples of crowd out so that DHFS could investigate. DHFS indicates that to date, DHFS has not received any reports from these individuals alleging crowd out.

8. The National Federation of Independent Businesses (NFIB) has indicated that, based on a recent survey of its members, the portion of small businesses that do not offer health insurance to their employees has increased from 23% in 1998 to 26% in 2000. However, NFIB indicates that these decisions are based on increasing health care costs, not the availability of BadgerCare. NFIB reports that almost 40% of small business owners saw a 25% increase in premiums for health care for their employees in 2000 and another 31% saw premium increases ranging from 16% to 25% in 2000.

9. Almost 90% of NFIB members indicate that they are aware of BadgerCare, but only 3% of those members' employees were enrolled in the program at the time of the survey, suggesting that small business employers are not encouraging their employees to participate in BadgerCare, or if they are, these efforts have not been successful.

10. It is not clear to what extent employers are interested in discontinuing health care coverage for their employees to take advantage of BadgerCare. State law requires that if an employer provides health care coverage to its employees, this coverage must be available to all employees. Therefore, if an employer chooses to discontinue health care coverage for its employees, it must do so for all its employees, including employees with income that would make them ineligible for BadgerCare.

11. Another reason that employers may wish to continue to provide health care coverage to employees is to remain competitive in the current tight labor market. Employers that do not offer new employees health care benefits are disadvantaged in recruiting workers compared with employers that offer such benefits. In a different labor market, maintaining a competitive edge by providing health care coverage may not be as important to employers.

12. The Governor's recommendations could be viewed as an effort to prevent crowd out should increasing health care premiums and threats of economic downturns combine in the future to force more employers to discontinue health care coverage for their employees. However, it is not clear that extending the waiting period before a family would be eligible for BadgerCare would influence employers' decisions to discontinue health care coverage should premiums continue to increase at their current rate and the economy continues to slow.

13. It is possible that if approved by HCFA, the provisions in the bill could affect an individual's decision to discontinue individually purchased family health care coverage in order to enroll in BadgerCare. However, it is reasonable to assume that very few families that meet the financial eligibility criteria for BadgerCare would be able to afford family health care coverage. Therefore, to the extent this provision would affect such decisions, it is likely that the impact on the BadgerCare caseload would be minimal.

14. The administration indicates that another reason for increasing the time period before an individual would be without health care coverage before being eligible for BadgerCare is to make the program's eligibility criteria more consistent with the state's group health insurance coverage for state employees. Most new state employees are eligible for state group health insurance coverage immediately upon employment, but many do not become eligible for the state's contribution towards health insurance premiums until after six months of service under the Wisconsin Retirement System.

However, not all new full-time state employees are subject to the six-month waiting period before the state begins making contributions towards health insurance premium costs. State constitutional officers, members and employees of the Assembly and Senate, justices of the Supreme Court, Court of Appeals or Circuit Court judges, district attorneys, University of Wisconsin faculty and staff and Wisconsin Conservation Corps crew leaders receive the employer contribution immediately upon hire. University of Wisconsin faculty and staff and members of the Legislature and their staff represent approximately 45% of the state's 66,604 positions authorized in the state's base for the 2001-03 biennium.

15. If the Governor's recommendations relating to the time period an individual would be without health insurance coverage were implemented, it is likely that there would be a one-time reduction in the caseload growth for the first several months that the provision would be implemented. It is likely that its effect on the overall BadgerCare caseload would be minimal.

Insurance Verification

16. The Governor's recommendations relating to insurance verification are intended to address concerns that some individuals are being improperly enrolled in BadgerCare because they have access to health care coverage or did have health care coverage within the three months preceding application for BadgerCare.

17. While it appears that, during the first year of BadgerCare implementation, a number of individuals were improperly enrolled in BadgerCare, DHFS has since taken steps to improve the eligibility determination process to minimize the number of individuals improperly enrolled in the program.

18. Health care insurance coverage and access are eligibility criteria under BadgerCare that do not affect eligibility for MA. Therefore, adding this new criteria to the eligibility determination process initially created some complications. The eligibility system and the claims payment system did not properly transfer information. Additionally, county workers were not as familiar with the procedures used to determine eligibility based on an individual's health care coverage or access. Many of these complications have been addressed through programming changes and eligibility worker training. DHFS indicates that it continues to monitor the eligibility determination process to ensure that it is operating properly.

19. Counties would likely incur additional administrative costs if counties are required to verify insurance information prior to enrolling an individual in BadgerCare. Because counties determine eligibility, the Governor's recommendation, if implemented, would require county eligibility workers to conduct the insurance verification, rather than having DHFS perform the verification function as a follow-up to enrollment.

From April 14, 2000, through April 16, 2001, approximately 26,000 applications for BadgerCare were approved. Assuming the additional workload associated with this requirement increased application processing time by one half-hour per application, the increased workload could cost counties approximately \$305,000 (all funds) per year, assuming that 26,000 applications would be approved each year. Additionally, some programming changes may be necessary to certain information systems so that county eligibility workers would have access to additional insurance data collected by the state. As a result, some one-time costs would be associated with such changes.

20. It does not appear that this provision, if implemented, would have a significant impact on the length of time an individual would have to wait before finding out if they were eligible for BadgerCare, nor would it affect the date on which eligibility begins. Under both

federal and state law, MA and BadgerCare recipients are entitled to timely processing of applications. Administrative rule specifies that applications must be processed within 30 days of application, otherwise the applicant has a right to appeal the lack of a decision. Therefore, if a county worker is unable to verify insurance information within the 30 days of application, it appears that an assumption would have to be made as to whether the information provided by the individual is accurate. Once a determination of eligibility is made, that eligibility is retroactive to the first day of the month in which the individual applied for BadgerCare.

In *Grandberry v. Schmidt*, the U.S. Supreme Court found that if a presumption is made with regard to determining whether an individual is eligible for public assistance, which would include MA and BadgerCare, that presumption must be made in favor of the applicant. Therefore, it appears that if a county worker could not verify the insurance data within 30 days of the application, the worker would be required to assume that the individual is eligible for BadgerCare, assuming the individual meets all of the other eligibility criteria.

21. The Committee may wish to adopt the Governor's recommendations relating to insurance verification on the grounds that, as a matter of program integrity, DHFS should not be enrolling individuals in BadgerCare before the state can verify that they are eligible. Avoiding the risk of providing health care benefits to individuals that are not eligible to receive such benefits may outweigh the administrative costs of verifying information provided by applicants prior to eligibility determination. Since making such a change would not significantly affect the length of time an individual would have to wait for their application to be processed, there would be minimal effect to applicants.

22. Alternatively, the Committee could determine that requiring insurance verification prior to an eligibility determination would be an unnecessary burden to place on counties and that issues regarding the integrity of the eligibility determination process are more appropriately handled through quality assurance activities conducted by DHFS.

The Committee could require DHFS to annually conduct a sample of BadgerCare enrollees that would likely have access to insurance and to verify the insurance status of those individuals to ensure that the eligibility determination process is properly processing applications for BadgerCare. This process has been used by DHFS in the past to identify problems in the eligibility determination process. The Committee could require DHFS to report annually to the Committee on the results of its survey and on DHFS efforts to improve the integrity of the eligibility determination process. These reports could first be required beginning March 1, 2002.

23. Alternatively, if the Committee determines that the current eligibility determination process is appropriate and that any difficulties with the eligibility process are being appropriately handled by DHFS, the Committee could maintain current law.

ALTERNATIVES TO BASE

A. Extension of Waiting Period for Eligibility

1. Adopt the Governor's recommendations, as technically modified, to require DHFS to request a waiver extending the period of time that a family or child would have to be without health care coverage, rather than access to health care coverage.
2. Delete provision.

B. Insurance Verification

1. Adopt the Governor's recommendations.
2. Require DHFS to annually conduct a sample of BadgerCare enrollees that would likely have access to health insurance coverage to verify whether these individuals were properly enrolled in BadgerCare. Further, require DHFS to report annually, beginning March 1, 2002, to the Committee on the results of this survey and on DHFS efforts to improve the integrity of the eligibility determination process.
3. Delete provision.

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