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Joint Committee on Finance

Paper #354

BadgerCare Plus Coverage for Childless Adults (Health Services -- Medical Assistance -- General)

[LFB 2015-17 Budget Summary: Page 210, #12 (Part)]

CURRENT LAW

BadgerCare Plus, part of the state's medical assistance program (known as MA, or "Medicaid"), provides health care coverage to individuals and families, including adults without dependent children ("childless adults") with household income of no more than 100% of the federal poverty level (FPL). In 2015, 100% of the FPL equals annual income of \$11,770 for an individual and \$15,930 for a two-person household.

The Department of Health Service (DHS) administers the program under a framework of state and federal law, as specified in the state Medicaid plan approved by the federal Centers for Medicare and Medicaid Services (CMS) in the Department of Health Human Services (HHS). Currently, coverage for childless adults in Wisconsin is provided under a waiver of federal Medicaid law that allows states to claim federal matching funds for programs and services not generally envisioned or permitted under federal law.

GOVERNOR

Require DHS to submit to the HHS Secretary an amendment to the current waiver of federal law that extended MA coverage to childless adults with household income of up to 100% of the FPL. Specify that the amendment would authorize DHS to do all of the following with respect to the childless adults demonstration project:

- a. Impose monthly premiums as determined by DHS;
- b. Impose higher premiums for enrollees who engage in behaviors that increase their health risks, as determined by DHS;

- c. Require a health risk assessment for all childless adults;
- d. Limit a childless adult's MA eligibility to no more than 48 months, and require DHS to specify the eligibility formula in the amendment; and
- e. Require, as a condition of eligibility, that an applicant or enrollee submit to a drug screening assessment and, if indicated, a drug test, as specified by DHS in the waiver amendment. [A separate budget paper addresses this provision of the amendment request.]

If the HHS Secretary approves the amendment in whole or in part, require DHS to do all the following: (a) implement the changes to the program approved by the HHS Secretary, consistent with that approval; (b) identify in its quarterly report on the MA budget to the Joint Committee on Finance any costs incurred or savings realized in the 2015-17 biennium as a result of the actions taken under these provisions, as approved by the HHS Secretary; and (c) in the agency budget request for the 2017-19 biennium, include any future fiscal impact resulting from the actions taken under these provisions, as approved by the HHS Secretary.

Repeal the current statutory provision that requires childless adults with income over 133% of the FPL to pay premiums of between 3% and 9.5% of household income. This change would delete an obsolete statutory provision.

DISCUSSION POINTS

1. Childless adult in households with income up to 100% of the FPL qualify for BadgerCare Plus. Prior to 2013 Act 20 (the biennial budget act), childless adults could only receive BadgerCare Plus coverage if they had income under 200% of the FPL, and had enrolled in the "Core Plan" prior to enrollment being capped in October, 2009. Act 20 extended BadgerCare Plus eligibility to all childless adults with household income under 100% of the FPL, while simultaneously reducing income eligibility for parents and caretaker relatives from 200% to 100% of the FPL. As a result, all adults in households with income under 100% of the FPL in Wisconsin meet the income eligibility requirements for BadgerCare Plus coverage. Under provisions of the federal Affordable Care Act (ACA), adults with income between 100% and 400% of the FPL meet income eligibility criteria to qualify for subsidies to purchase private health insurance coverage.

2. As of April, 2015, 157,065 childless adults were enrolled in BadgerCare Plus. Enrollment has grown rapidly since implementation of the Act 20 changes in April, 2014.

3. The BadgerCare Plus eligibility changes under Act 20 are commonly referred to as a "partial expansion" of Medicaid eligibility for adults. This is compared to a "full expansion" under provisions of the ACA, where the federal government provides enhanced funding for services to newly-eligible enrollees in states that set income eligibility standard for adults at 133% of the FPL.

4. The current eligibility level for childless adults is implemented under a waiver of federal law approved by CMS, which 2013 Wisconsin Act 20 directed DHS to seek. The waiver process is a common way for states to make changes to their Medicaid program not normally

allowed under federal law. For instance, Wisconsin has implemented both the Family Care and SeniorCare programs through CMS-approved waivers.

5. The current childless adult waiver agreement expires on December 31, 2018. The waiver document stipulates that the state must submit any changes related to "eligibility, enrollment, benefits, enrollee rights, delivery systems, cost sharing, evaluation design, sources of nonfederal share of funding, budget neutrality, and other comparable program elements" to CMS as amendments to the waiver. CMS must approve all amendments, and the approval may not be applied retroactively. The state must submit any amendment at least 120 days prior to the planned implementation date, and the amendment request must include at least the following items: (a) documentation of compliance with public notice and tribal consultation requirements; (b) a detailed description of the amendment, including impact on beneficiaries, the objective of the change, and desired outcomes; (c) a list and programmatic description of the waivers and expenditure authorities requested; (d) a summary and detailed projections of the change in expenditures that would result from the amendment; and (e) a description of how the evaluation design will be modified to incorporate the amendment.

6. To provide DHS with flexibility when seeking federal approval for the waiver, the administration drafted the bill without specifying the specific parameters of the proposal. DHS indicates that, if approved by the Legislature, it would work with CMS to develop the amendment to the waiver, but that process has not yet begun.

7. Some of the provisions that DHS would presumably have to develop include, but are not limited to, the following: (a) the amount of premiums; (b) the penalty for non-payment of premiums; (c) what behaviors DHS would define as increasing health risks; (d) how DHS would determine or confirm whether the individual engages in those behaviors; (e) the additional premium for engaging in those behaviors; (f) the information collected under the health risk assessment; (g) the eligibility formula for the 48-month limit on program eligibility (such as a continuous month limit vs. lifetime limit); and (h) whether DHS would apply any exceptions or exclusions from any of these provisions.

8. Though there would be administrative costs and potential program benefit savings associated with this proposal, it is not possible to estimate these effects without additional information on what DHS would propose in the amendment.

9. The uncertainty of whether CMS would approve the amendment to the waiver further complicates assigning any fiscal estimate of this provision. It is possible that CMS may approve certain parts of this proposal while denying others.

10. For instance, though DHS has not yet developed the health risk assessment, it may resemble a "health needs assessment" (HNA) that CMS approved as part of the original Core Plan waiver. The Core Plan HNA required enrollees to self-report basic health information and history across a range of conditions such as cancer, depression, diabetes, and high blood pressure. Given that CMS has approved such requirements in the past, it may allow DHS to implement a similar assessment.

11. In contrast, no state has gained federal approval to broadly limit the length of time individuals may receive Medicaid benefits. As Medicaid is administered as an entitlement, it appears unlikely that the administration would gain federal approval for this provision.

12. Generally, state MA programs cannot charge premiums to individuals with household income under 150% of the FPL. Prior to the implementation of the ACA, Wisconsin gained federal approval to apply premiums to adults with income over 133% of the FPL designed to replicate the subsidized premiums charged for private coverage on the health insurance exchange. Adults at that income level no longer qualify for BadgerCare Plus, except for parents with time-limited "transitional Medicaid" coverage, whose income has increased above the program's eligibility limit.

13. Although CMS has allowed several states to charge premiums to certain adults with household income under 100% of the FPL, the recent approvals for premium proposals have come in the context of a state implementing a "full expansion" of Medicaid under the ACA. For instance, Indiana implemented a full expansion of that state's Medicaid program that includes charging premiums to all adults with household income under 133% of the FPL, with a monthly premium of up to 2% of household income (approximately \$20 for an individual with household income equal to 133% of the FPL). Under that plan, adults with household income between 0% and 100% of the FPL who fail to pay premiums receive a more limited set of Medicaid-funded benefits, and adults with household income between 100% and 133% of the FPL are locked out of the program for six months. It is not clear how CMS would respond to the premium provision in the bill, since the administration's proposal is not part of a proposal to enact a "full expansion" of Medicaid, as provided under the ACA.

14. If CMS approves the premium proposal, it is likely that some childless adults currently enrolled in or eligible for BadgerCare Plus would not pay the required premiums. If the approved amendment includes an enrollment penalty for non-payment of premiums, this policy would result in individuals losing or not accessing BadgerCare Plus coverage. As previously indicated, the Department has not yet determined the premium amounts it would request, or whether there would be a penalty for non-payment.

15. As the waiver request has not been developed, the administration has not prepared any estimates of costs or cost savings of implementing these provisions. Due to the uncertainty of what DHS would include in the amendment to the waiver, and what proposals CMS may potentially approve, it is not possible to provide such estimates.

16. If the Committee agrees with the administration's proposal to request these changes to the waiver agreement it could approve the Governor's recommendations (Alternative 1), or delete parts of the proposed changes (Alternatives 4 a, b, c, or d). If the Committee deletes the provision to charge premiums generally, it should also delete the provision to charge higher premiums to individuals who engage in behaviors that increase their health risk. Alternatively, the Committee could delete the provision entirely (Alternative 5).

17. Other options relate to the Committee's oversight of potential changes to the waiver agreement. Currently, DHS is required to submit to the Committee a quarterly report on the status of the Medicaid budget. The bill would require DHS to identify in that report any costs incurred or

savings realized in the 2015-17 biennium as a result of this proposal. If the Committee wanted to increase Legislative oversight or control over the provisions of the waiver, it could impose certain requirements DHS must fulfill prior to requesting or implementing these changes.

18. For instance, it could require DHS reporting to the Committee, without requiring Committee action, under either or both of the following provisions: (a) prior to submitting the amendment to CMS, require DHS to submit a report that summarizes the provisions and estimates the fiscal effect of the amendment (Alternative 2a); and (b) prior to implementing any approved amendment, require DHS to submit a report that summarizes the provisions and estimates the fiscal effect of the approved amendment (Alternative 2b).

19. Alternatively, the bill could be amended to require Committee approval of any changes, under either or both of the following provisions: (a) prior to submitting the amendment to CMS, require DHS to submit a proposal to the Committee that summarizes the provisions and estimates the fiscal effect of the amendment, and prohibit DHS from submitting the amendment unless the Committee approves of the proposal under a 14-day passive review process (Alternative 3a); and (b) prior to implementing any CMS-approved amendment, require DHS to submit a proposal to the Committee that summarizes the provisions and estimates the fiscal effect of the approved amendment, and prohibit DHS from implementing the amendment unless the Committee approves of the proposal under a 14-day passive review process (Alternative 3b).

ALTERNATIVES

1. Approve the Governor's recommendation.
2. Approve the Governor's recommendation. In addition, adopt one or both of the following provisions related to information DHS would be required to provide to the Joint Committee on Finance:
 - a. Require DHS, prior to submitting an amendment to the current childless adults waiver agreement, to submit a report to the Committee that summarizes the provisions and estimates the fiscal effect of that proposed amendment.
 - b. Require DHS, if CMS approves an amendment to the current childless adults waiver agreement, and prior to implementing that policy, to submit a report to the Committee that summarizes the provisions and estimates the fiscal effect of the CMS-approved amendment.
3. Approve the Governor's recommendation. In addition, adopt one or both of the following provisions that would require DHS to report information and seek approval from the Joint Committee on Finance:
 - a. Require DHS, prior to submitting an amendment to the current childless adults waiver agreement, to submit a proposal to the Committee that summarizes the provisions and estimates the fiscal effect of that amendment. Prohibit DHS from submitting the amendment to CMS unless the Committee approves of the proposal under a 14-day passive review process.

b. Require DHS, if CMS approves an amendment to the current childless adults waiver agreement, and prior to implementing that policy, to submit a report to the Committee that summarizes the provisions and estimates the fiscal effect of that amendment. Prohibit DHS from implementing this policy unless the Committee approves of the implementation under a 14-day passive review process.

4. Delete any of the following components of the proposed amendment to the existing childless adults waiver:

a. Impose monthly premiums as determined by DHS.

b. Impose higher premiums for enrollees who engage in behaviors that increase their health risks, as determined by DHS.

c. Require a health risk assessment for all childless adults.

d. Limit a childless adult's MA eligibility to no more than 48 months, and require DHS to specify the eligibility formula.

5. Delete provision.

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