



## Legislative Fiscal Bureau

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June 8, 2007

Joint Committee on Finance

Paper #385

### **Require MA Recipients to Enroll in Medicare Part B (DHFS -- MA -- General)**

#### *Bill Section*

[LFB 2007-09 Budget Summary: Page 271, #9]

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#### **CURRENT LAW**

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) administers Medicare, a health insurance program for people 65 years of age and older, some disabled people under 65 years of age, and people with end-stage renal disease (permanent kidney failure treated with dialysis or a transplant).

After reaching age 65, most individuals are entitled to coverage under Medicare Part A and do not pay a monthly premium for this coverage. Medicare Part A covers inpatient hospital care, limited care in skilled nursing facilities following an inpatient hospital stay, home health care and hospice care services.

In addition, all persons over age 65 and all persons enrolled in Medicare Part A may enroll in Medicare Part B by paying a monthly premium. In calendar year 2007, individuals with monthly income less than \$80,000 and couples with income less than \$160,000 pay a monthly premium of \$93.50 for coverage under Medicare Part B. Individuals and couples with higher incomes pay higher monthly premiums. In 2007, there is an annual deductible of \$131 for Medicare Part B services. Individuals who are eligible for Part B who choose not to enroll in Medicare Part B may be subject to a premium penalty increase of 10% for each full 12-month period that the individual could have had Medicare Part B but didn't choose to enroll.

By federal law, Medicare Part B premiums must be sufficient to support 25% of the program's costs for elderly beneficiaries, while the federal government pays the remaining 75%

of Medicare Part B benefits costs. Consequently, CMS increases the Medicare Part B monthly premiums each year.

Medicare Part B provides coverage for physicians' services, laboratory services, durable medical equipment, hospital outpatient services, and other medical services.

Individuals that are eligible for both Medicare and medical assistance (MA) are referred to as "dual eligibles." The state's MA program pays the monthly Medicare Part B premium for all dual eligibles. The state also pays other Medicare cost-sharing amounts (such as out-of-pocket costs that would otherwise be paid by the recipient during a deductible period) for dual eligibles. The premium payments and cost sharing, similar to most MA benefits in Wisconsin (including MA-funded services provided to dual eligibles), are funded on a 42% GPR/58% FED basis. While dual eligibles receive services funded from both MA and Medicare, MA is always the payer of last resort.

Under federal law [CFR 431.625(d)(3)], states may not receive MA federal matching funds for state MA costs that could have been paid under Medicare Part B, but were not because the person was not enrolled in Part B.

## **GOVERNOR**

Provide \$4,438,300 (\$1,924,500 GPR and \$2,513,800 FED) in 2007-08 and \$7,876,500 (\$3,348,900 GPR and \$4,527,600 FED) in 2008-09 to fund benefits and implementation costs of requiring all MA recipients (including recipients that participate in MA home-and community-based waiver programs, Family Care, the MA purchase plan, the program for all-inclusive care for elderly (PACE) and MA demonstration programs) and BadgerCare recipients to enroll in Medicare Part B as a condition of receiving MA services, if they are eligible for Medicare Part B. Specify that, if DHFS requires an individual to enroll in Medicare Part B, DHFS must pay the monthly Medicare Part B premiums for the individual.

*Benefits.* Provide \$3,938,300 (\$1,674,500 GPR and \$2,263,800 FED) in 2007-08 and \$7,876,500 (\$3,348,900 GPR and \$4,527,600 FED) in 2008-09 to reflect the net projected change in benefit costs, assuming a January 1, 2008, effective date for the new requirement.

This item includes: (a) additional funding to pay premiums for approximately 3,200 individuals who are currently not enrolled in Medicare but for whom the state is required to pay premiums, and 5,800 individuals who are enrolled in Part B but are currently paying the Part B premiums themselves (\$2,354,100 GPR and \$3,195,400 FED in 2007-08 and \$4,708,100 GPR and \$6,390,700 FED in 2008-09); and (b) reduced funding to reflect that some services currently funded from MA for these individuals would instead be funded under Medicare Part B (-\$679,600 GPR and -\$931,600 FED in 2007-08 and -\$1,359,200 GPR and -\$1,863,100 FED in 2008-09).

*Implementation.* Provide \$500,000 (\$250,000 GPR and \$250,000 FED) in 2007-08 to fund programming costs of modifying the MA eligibility system (CARES).

## DISCUSSION POINTS

1. Federal regulation prohibits states from receiving federal MA matching funds for MA payments that the state makes on behalf of MA recipients who were eligible for, but not enrolled in, Medicare Part B. DHFS recently became aware that the state is out of compliance with this regulation. CMS has indicated that states may require individuals to enroll in Medicare Part B as a condition of eligibility for MA, but only if the state pays the premiums for these individuals. It is possible that the state would be subject to federal disallowances if the state continues to make MA payments for services on behalf of MA recipients who were eligible for, but not enrolled in, Medicare Part B.

CMS has not notified Wisconsin that the state will be subject to disallowances if the state continues to be out of compliance with the rule. However, the Governor's provision would ensure that the state's MA program complies with this requirement.

2. Beginning on the bill's general effective date, DHFS would be permitted to require any individual who is eligible to enroll in Medicare Part B to enroll in Part B as a condition of MA eligibility, but the state would pay all Part B premiums for these individuals. The premium penalty for late entry into Part B would not be applied if the state pays the premiums.

3. The administration estimates that there are currently approximately 3,200 MA recipients who are eligible for, but not enrolled in, Medicare Part B. In addition, the administration estimates that the state would pay Part B premiums for approximately 26,200 individuals who are currently paying Part B premiums, but that only 5,800 of those individuals would result in additional costs to the MA program because most of the rest are individuals who either participate in the MA long-term care waiver programs or reside in nursing homes.

For these individuals, if the state paid their Medicare Part B premiums, the income available to them to pay for MA services would increase by the amount of the Medicare premium (\$93.50 per month in 2007). Consequently, these MA waiver recipients would pay a greater share of the costs of the MA-funded services they receive (resulting in savings to the MA waiver programs). For MA recipients in nursing homes, an increase in their countable income would result in a corresponding increase in the recipient's "patient liability" (revenue a nursing home receives from the resident's available funds, rather than from an MA payment), which would result in a decrease in the MA payment the nursing home receives.

4. The estimate assumes that there would be no net increase in MA costs for approximately 20,400 dual eligibles who are currently paying their own Part B premiums. Of that total, approximately 13,800 individuals are in nursing homes and 1,200 individuals are in the waiver programs would not result in additional costs due to increased cost-sharing. DHFS would need to account for these offsetting increases MA recipients' available resources in budgeting funding for the MA waiver program and nursing home services to ensure that these assumed savings are realized.

5. The administration estimates that the state currently expends approximately

\$3,222,300 (\$1,366,900 GPR and \$1,855,400 FED) annually for MA- funded services for Part B eligible individuals that would otherwise be covered under Part B if the individual enrolled in Medicare Part B. Under the proposal, these costs would no longer be incurred by the MA program, and instead be funded from Medicare Part B. However, the MA program would begin paying the Part B premiums for all those individuals, as well as the individuals who are currently paying Medicare Part B premiums themselves.

6. The bill would provide \$500,000 (\$250,000 GPR and \$250,000 FED) in 2007-08 for administrative costs. There are several computer systems that would need to be modified to implement the proposal, including the client assistance for reemployment and economic support system (CARES) the beneficiary data exchange (BENDEX) system and the Medicaid management information system (MMIS). These systems are necessary to identify the recipients eligible for Part B and to ensure that the state would not pay claims that Part B would be responsible for paying. In addition, some changes to the codes that identify MA recipient eligibility might be necessary.

7. The bill would bring the state into compliance with federal law requirements, reduce MA costs for services that would instead be paid under Medicare Part B, and provide premium payment assistance to all MA recipients eligible for Part B, including individuals who are currently paying these premiums themselves. For these reasons, the Committee may wish to approve the Governor's recommendations.

8. However, the state is not required to pay Part B premiums for MA recipients who are eligible for Part B. The state could instead continue to pay the costs associated with Part B eligible services (approximately \$3,222,300 per year) for those recipients with GPR funds, exclusively, rather than with a combination of GPR and FED funds to comply with the federal rule that prohibits the use of federal matching funds for these services. Under this alternative (Alternative 2), the state's MA costs of paying Medicare Part B premiums would not increase, and the state would be in compliance with federal law.

9. DHFS indicates that this alternative would also require changes to the computer systems, because the recipients and the associated claims would still need to be identified as services that do not qualify for federal matching funds. The funding relating to this alternative assumes that DHFS would implement this change on January 1, 2008.

10. A third option would be to authorize DHFS to deny MA payment for Medicare Part B eligible services that could have been paid for by Medicare had the individual been enrolled in Medicare Part B. Under this option, DHFS would also need to make systems changes to identify these individuals so that a health care provider would know, before providing the a Medicare Part B eligible service, that MA would not reimburse the provider for providing the service. Instead, the MA recipient would be responsible for the costs of these services.

This alternative (Alternative 3) may provide an incentive for some individuals who are not currently enrolled in Medicare Part B, to enroll. However, for some, the monthly premium may not be affordable. These individuals would be enrolled in MA, but would be responsible for the entire cost of Medicare Part B-eligible services they receive. Consequently, they may be dissuaded from

using outpatient services (such as physician services), which may result in increased inpatient costs (which would be funded by Medicare Part A, and, to some extent, MA for their Medicare Part A deductible and copayment costs.)

**ALTERNATIVES TO BILL**

1. Approve the Governor's recommendations.

<b>ALT 1</b>	<b>Change to Bill Funding</b>	<b>Change to Base Funding</b>
GPR	\$0	\$5,273,400
FED	<u>0</u>	<u>7,041,400</u>
Total	\$0	\$12,314,800

2. Delete the Governor's provision (-\$1,924,500 GPR and -\$2,513,800 FED in 2007-08 and -\$3,348,900 GPR and -\$4,527,600 FED in 2008-09), including all statutory changes in the bill. Instead, provide \$927,700 GPR in 2007-08 and \$1,855,400 GPR in 2008-09 and reduce FED funding by corresponding amounts to fund MA payments for services for MA recipients that are eligible for Medicare Part B, but who are not enrolled in the program with GPR funds only, effective January 1, 2008. In addition, provide \$250,000 GPR and \$250,000 FED in 2007-08 to modify DHFS computer systems to implement this proposal.

<b>ALT 2</b>	<b>Change to Bill Funding</b>	<b>Change to Base Funding</b>
GPR	-\$2,240,300	\$3,033,100
FED	<u>-9,574,500</u>	<u>-2,533,100</u>
Total	-\$11,814,800	\$500,000

3. Delete the Governor's provision (-\$1,924,500 GPR and -\$2,513,800 FED in 2007-08 and -\$3,348,900 GPR and -\$4,527,600 FED in 2008-09), including all statutory changes in the bill. Instead, modify statutes to prohibit DHFS from making MA payments for Medicare Part B-eligible services received by MA recipients who are eligible for, but not enrolled in Medicare Part B. In addition, provide \$250,000 GPR and \$250,000 FED in 2007-08 to modify DHFS computer systems to implement this proposal.

<b>ALT 3</b>	<b>Change to Bill Funding</b>	<b>Change to Base Funding</b>
GPR	-\$5,023,400	\$250,000
FED	<u>-6,791,400</u>	<u>250,000</u>
Total	-\$11,814,800	\$500,000

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