



State of Wisconsin
2019 - 2020 LEGISLATURE

LRBs0033/1
TJD:amn&ahe

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 76**

May 15, 2019 - Offered by Representatives ANDERSON, BILLINGS, BOWEN, BROSTOFF, CABRERA, CONSIDINE, CROWLEY, DOYLE, EMERSON, FIELDS, GOYKE, GRUSZYNSKI, HAYWOOD, HEBL, HESSELBEIN, HINTZ, KOLSTE, MCGUIRE, B. MEYERS, MILROY, L. MYERS, NEUBAUER, OHNSTAD, POPE, RIEMER, SARGENT, SHANKLAND, SINICKI, SPREITZER, STUBBS, STUCK, SUBECK, C. TAYLOR, VINING, VRUWINK and ZAMARRIPA.

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:** eligibility expansion under the Medical Assistance
5 program, increasing reimbursement rates for certain direct care workers, and
6 making an appropriation.

Analysis by the Legislative Reference Bureau

This bill implements the Medicaid expansion and increases reimbursement rates under the Medical Assistance program for certain direct care workers.

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. 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. The bill requires the Department of Health Services 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 a 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.

This bill requires DHS to increase the rates paid for direct care to nursing homes, also known as nursing facilities, and intermediate care facilities for persons with an intellectual disability. A portion of the increase is related to an increase in patient acuity in those facilities and an additional increase is designated to support staff in those facilities who perform direct care. This bill also requires DHS to increase the rates paid for direct care to agencies that provide personal care services. A 1.5 percent increase per year is designated to support staff in those agencies who perform direct care.

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.

1 **SECTION 3.** 49.45 (23) of the statutes is repealed.

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

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

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

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

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

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

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

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

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

1 individual who is required under subd. 1. to participate in a community engagement
2 activity but who does not participate for 48 aggregate months in the community
3 engagement activity.

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

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

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

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

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

22 49.45 **(23b)** (e) Before December 31, 2023, the ~~demonstration project~~
23 requirements under this subsection may not be withdrawn and the department may
24 not request from the federal government withdrawal, suspension, or termination of

1 the ~~demonstration project~~ requirements under this subsection unless legislation has
2 been enacted specifically allowing for the withdrawal, suspension, or termination.

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

4 49.471 (1) (cr) “Enhanced federal medical assistance percentage” means a
5 federal medical assistance percentage described under 42 USC 1396d (y) or (z).

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

7 49.471 (4) (a) 4. b. The individual’s family income does not exceed ~~100~~ 133
8 percent of the poverty line ~~before application of the 5 percent income disregard under~~
9 ~~42 CFR 435.603 (d)~~.

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

11 49.471 (4) (a) 8. An individual who meets all of the following criteria:

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

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

15 c. The adult is not otherwise eligible for the Medical Assistance program under
16 this subchapter or the Medicare program under 42 USC 1395 et seq.

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

18 49.471 (4g) **MEDICAID EXPANSION; FEDERAL MEDICAL ASSISTANCE PERCENTAGE.** For
19 services provided to individuals described under sub. (4) (a) 8., the department shall
20 comply with all federal requirements to qualify for the highest available enhanced
21 federal medical assistance percentage. The department shall submit any
22 amendment to the state medical assistance plan, request for a waiver of federal
23 Medicaid law, or other approval request required by the federal government to
24 provide services to the individuals described under sub. (4) (a) 8. and qualify for the
25 highest available enhanced federal medical assistance percentage. Sections 20.940

1 and 49.45 (2t) do not apply to a submission to the federal government under this
2 subsection.

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

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

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

11 (1) MEDICAL ASSISTANCE REIMBURSEMENT RATE INCREASE FOR DIRECT CARE. The
12 department of health services shall increase the Medical Assistance rates paid for
13 direct care to nursing facilities and intermediate care facilities for persons with an
14 intellectual disability with a 1 percent annual rate increase related to an increase
15 in acuity of patients in those facilities and an additional 1.5 percent annual rate
16 increase to support staff in those facilities who perform direct care.

17 (2) MEDICAL ASSISTANCE REIMBURSEMENT RATE INCREASE FOR DIRECT CARE IN
18 PERSONAL CARE AGENCIES. The department of health services shall increase the
19 Medical Assistance rates paid for direct care to agencies that provide personal care
20 services by 1.5 percent annually to support staff in those agencies who perform direct
21 care.

22 (3) CHILDLESS ADULTS DEMONSTRATION PROJECT. The department of health
23 services shall submit any necessary request to the federal department of health and
24 human services for a state plan amendment or waiver of federal Medicaid law or to
25 modify or withdraw from any waiver of federal Medicaid law relating to the childless

1 adults demonstration project under s. 49.45 (23), 2017 stats., to reflect the
2 incorporation of recipients of Medical Assistance under the demonstration project
3 into the BadgerCare Plus program under s. 49.471 and the termination of the
4 demonstration project. Sections 20.940 and 49.45 (2t) do not apply to a submission
5 to the federal government under this subsection.

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

7 (1) **MEDICAID EXPANSION.** In the schedule under s. 20.005 (3) for the
8 appropriation to the department of health services under s. 20.435 (4) (b), the dollar
9 amount for fiscal year 2019-20 is decreased by \$159,473,300 to expand eligibility
10 under the Medical Assistance program under s. 49.471 (4) (a) 4. and 8. In the
11 schedule under s. 20.005 (3) for the appropriation to the department of health
12 services under s. 20.435 (4) (b), the dollar amount for fiscal year 2020-21 is decreased
13 by \$165,011,600 to expand eligibility under the Medical Assistance program under
14 s. 49.471 (4) (a) 4. and 8.

15 (2) **REIMBURSEMENT RATE FOR DIRECT CARE; NURSING FACILITIES AND INTERMEDIATE**
16 **CARE FACILITIES.** In the schedule under s. 20.005 (3) for the appropriation to the
17 department of health services under s. 20.435 (4) (b), the dollar amount for fiscal year
18 2019-20 is increased by \$3,525,900 to increase the Medical Assistance rates paid for
19 direct care to nursing facilities and intermediate care facilities in accordance with
20 SECTION 9119 (1) of this act. In the schedule under s. 20.005 (3) for the appropriation
21 to the department of health services under s. 20.435 (4) (b), the dollar amount for
22 fiscal year 2020-21 is increased by \$7,216,600 to increase the Medical Assistance
23 rates paid for direct care to nursing facilities and intermediate care facilities in
24 accordance with SECTION 9119 (1) of this act.

