



State of Wisconsin
2015 - 2016 LEGISLATURE

LRBs0198/1
PJK:jld&kjf

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 414**

January 28, 2016 - Offered by Representative JACQUE.

1 **AN ACT to repeal** 49.472 (4) (a) 2m.; **to renumber** 49.472 (2); **to renumber and**
2 **amend** 49.472 (3) (a) and 49.472 (4) (a) (intro.); **to amend** 49.468 (1) (d), 49.468
3 (1m) (b), 49.468 (2) (b), 49.472 (1) (c), 49.472 (3) (b), 49.472 (3) (f), 49.472 (4) (a)
4 2. (intro.), 49.472 (4) (a) 3. and 49.472 (5); **to repeal and recreate** 49.472 (4)
5 (a) 1. and 49.472 (4) (b); and **to create** 46.269, 49.46 (1) (em), 49.472 (2) (b),
6 49.472 (3) (a) 2., 49.472 (4) (a) 4. and 49.472 (4) (c) of the statutes; **relating to:**
7 eligibility for and premiums under the Medical Assistance purchase plan and
8 disregarding assets in an independence account and retirement benefits for
9 purposes of determining eligibility and cost-sharing requirements under a
10 number of Medical Assistance and long-term care programs.

Analysis by the Legislative Reference Bureau

This substitute amendment makes various changes to the Medical Assistance purchase plan (MAPP) and requires the Department of Health Services (DHS) to exclude certain types of assets when determining eligibility and cost-sharing requirements for certain Medical Assistance (MA) and long-term care programs.

Under current law, an individual who would be eligible for MA based on eligibility for supplemental security income (SSI), but who is not eligible for SSI because he or she is employed and has too much earned and unearned income to be eligible, may pay premiums for health care coverage under MA if his or her family's net income is less than 250 percent of the poverty line and his or her assets do not exceed \$15,000, excluding certain assets. This program is known as MAPP. When determining the value of the individual's assets for continued eligibility under MAPP, DHS excludes amounts in a DHS-approved account that consists solely of savings from the individual's employment after the individual's coverage under MAPP began. These accounts are known as "independence accounts."

This substitute amendment makes changes to the eligibility and premium requirements under MAPP. Under current law, when determining whether an individual's family's net income is less than 250 percent of the poverty line, certain disregards are deducted from the individual's and his or her spouse's total earned income, then the individual's and his or her spouse's total unearned income is added, and then another general disregard is deducted. Under the substitute amendment, an individual's family's total net income is determined by subtracting the same disregards as under current law from the individual's and his or her spouse's total earned and unearned income, then the individual's out-of-pocket medical and remedial expenses and long-term care costs, if any, are deducted. In addition, the substitute amendment provides that, if an individual whose family's total net income is equal to or greater than 250 percent of the poverty line satisfies all of the other eligibility requirements, he or she is eligible for MAPP if DHS determines that his or her family's earnings are insufficient to replace all of the publicly funded benefits that he or she would be eligible to receive in the absence of those earnings. The substitute amendment also requires DHS, when determining eligibility for MAPP, to exclude from assets, to the extent approved by the federal government, income or assets from retirement benefits that accumulated or were earned from employment income or employer contributions while the individual was employed and receiving MA health care coverage under MAPP or long-term care under the long-term support community options program (COP).

Premiums for MA health care coverage under MAPP currently are calculated for an individual by adding together all of the individual's unearned income, after certain specified amounts are deducted, and then adding 3 percent of the individual's earned income. DHS may waive any premiums that are calculated to be below \$10 per month. In addition, the statutes prohibit DHS from assessing a premium to an individual whose earned and unearned income is below 150 percent of the poverty line. Under the substitute amendment, an individual whose total income is at least 150 percent of the poverty line for a family the size of the individual's family is required to pay a monthly premium that is not more than 3 percent of the individual's total earned and unearned income, after deducting the same specified amounts that are deducted under current law from an individual's unearned income, with a minimum premium payment of \$35. An individual whose total income is less than 150 percent of the poverty line for a family the size of the individual's family is required to pay a monthly premium of \$35. DHS may waive the requirement for an

individual to pay monthly premiums if DHS determines that payment of the premiums would work an undue hardship on the individual. In addition, DHS may request a waiver of federal law or an amendment to the existing waiver if DHS determines that a waiver or amendment to the existing waiver is necessary for requiring all MAPP participants, regardless of income, to pay a premium.

Finally, certain other MA and long-term care programs, including Family Care, COP, the community integration program, the self-directed services option program, and the expanded Medicare buy-in MA program, consider an individual's income and assets when determining eligibility and any cost-sharing requirements. The substitute amendment requires DHS to exclude, to the extent approved by the federal government, amounts in an independence account and assets and income from retirement benefits that accumulated or were earned through employment income or employer contributions while an individual was employed and receiving MA health care coverage under MAPP or long-term care under COP when DHS determines the individual's eligibility or cost-sharing requirements under any of those MA or long-term care programs.

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

1 **SECTION 1.** 46.269 of the statutes is created to read:
2 **46.269 Determining financial eligibility and cost sharing for**
3 **long-term care programs.** To the extent approved by the federal government, the
4 department or its designee shall exclude any assets accumulated in a person's
5 independence account, as defined in s. 49.472 (1) (c), and any income or assets from
6 retirement benefits earned or accumulated from employment income or employer
7 contributions while the person was employed and eligible for and receiving medical
8 assistance under s. 46.27 or 49.472 in determining that person's financial eligibility
9 and cost-sharing requirements, if any, for the long-term care program under s.
10 46.27, 46.275, or 46.277, for the family care benefit under s. 46.286, for the Family
11 Care Partnership program, or for the long-term care program defined in s. 46.2899
12 (1).

13 **SECTION 2.** 49.46 (1) (em) of the statutes is created to read:

1 49.46 (1) (em) For purposes of determining the eligibility and any cost-sharing
2 requirements of an individual under par. (a) 6m., 14., or 14m., (d) 2., or (e), to the
3 extent approved by the federal government, the department shall exclude any assets
4 accumulated in an independence account, as defined in s. 49.472 (1) (c), and any
5 income or assets from retirement benefits earned or accumulated from employment
6 income or employer contributions while the individual was employed and eligible for
7 and receiving medical assistance under s. 46.27 or 49.472.

8 **SECTION 3.** 49.468 (1) (d) of the statutes is amended to read:

9 49.468 (1) (d) Benefits under par. (b) or (c) are available for an individual who
10 has resources that are equal to or less than 200% of the allowable resources as
11 determined under 42 USC 1381 to 1385, excluding, to the extent approved by the
12 federal government, any assets accumulated in an independence account, as defined
13 in s. 49.472 (1) (c), and any income or assets from retirement benefits earned or
14 accumulated from income or employer contributions while the individual was
15 employed and eligible for and receiving medical assistance under s. 46.27 or 49.472,
16 and who has income that is equal to or less than 100% of the poverty line.

17 **SECTION 4.** 49.468 (1m) (b) of the statutes is amended to read:

18 49.468 (1m) (b) Benefits under par. (a) are available for an individual who has
19 resources that are equal to or less than 200% of the allowable resources determined
20 under 42 USC 1381 to 1385, excluding, to the extent approved by the federal
21 government, any assets accumulated in an independence account, as defined in s.
22 49.472 (1) (c), and any income or assets from retirement benefits earned or
23 accumulated from income or employer contributions while the individual was
24 employed and eligible for and receiving medical assistance under s. 46.27 or 49.472,

1 and who has income that is greater than 100% of the poverty line but less than 120%
2 of the poverty line.

3 **SECTION 5.** 49.468 (2) (b) of the statutes is amended to read:

4 49.468 (2) (b) Benefits under par. (a) are available for an individual who has
5 resources that are equal to or less than 200% of the allowable resources under 42
6 USC 1381 to 1385, excluding, to the extent approved by the federal government, any
7 assets accumulated in an independence account, as defined in s. 49.472 (1) (c), and
8 any income or assets from retirement benefits earned or accumulated from income
9 or employer contributions while the individual was employed and eligible for and
10 receiving medical assistance under s. 46.27 or 49.472, and who has income that is
11 equal to or less than 200% of the poverty line.

12 **SECTION 6.** 49.472 (1) (c) of the statutes is amended to read:

13 49.472 (1) (c) “Independence account” means an account approved by the
14 department that consists solely of savings, and dividends or other gains derived from
15 those savings, from income earned from paid employment ~~after the initial date on~~
16 ~~which~~ while an individual ~~began~~ is receiving medical assistance under this section.

17 **SECTION 7.** 49.472 (2) of the statutes is renumbered 49.472 (2) (a).

18 **SECTION 8.** 49.472 (2) (b) of the statutes is created to read:

19 49.472 (2) (b) If the department determines that a waiver, or an amendment
20 to the waiver under par. (a), is necessary to require all individuals receiving medical
21 assistance under this section, regardless of income, to pay a monthly premium, the
22 department shall submit to the federal department of health and human services an
23 amendment to the state medical assistance plan and shall request the necessary
24 waiver or amendment to the waiver from the secretary of the federal department of
25 health and human services and may not require every individual receiving medical

1 assistance under this section, regardless of income, to pay a monthly premium unless
2 the state plan amendment and waiver or amendment to the waiver are approved and
3 in effect.

4 **SECTION 9.** 49.472 (3) (a) of the statutes is renumbered 49.472 (3) (a) 1. and
5 amended to read:

6 49.472 (3) (a) 1. The ~~Except as provided in subd. 2.,~~ the individual's family's
7 total net income is less than ~~250%~~ 250 percent of the poverty line for a family the size
8 of the individual's family. In calculating the net income, the department shall apply
9 all of the exclusions specified under 42 USC 1382a (b), ~~except that exclusions applied~~
10 under 42 USC 1382a (b) (4) to earned income shall also be applied to unearned
11 income, and shall exclude the individual's out-of-pocket costs for medical and
12 remedial expenses and long-term care costs, if any.

13 **SECTION 10.** 49.472 (3) (a) 2. of the statutes is created to read:

14 49.472 (3) (a) 2. The individual's family's total net income equals or exceeds 250
15 percent of the poverty line for a family the size of the individual's family, but the
16 department determines that the individual's family's earnings are insufficient to
17 replace all of the publicly funded benefits that the individual would be eligible to
18 receive in the absence of those earnings.

19 **SECTION 11.** 49.472 (3) (b) of the statutes is amended to read:

20 49.472 (3) (b) The individual's assets do not exceed \$15,000. In determining
21 assets, the department may not include assets that are excluded from the resource
22 calculation under 42 USC 1382b (a) ~~or~~; assets accumulated in an independence
23 account; or, to the extent approved by the federal government, income or assets from
24 retirement benefits earned or accumulated from income or employer contributions
25 while the individual was employed and eligible for and receiving medical assistance

1 under this section or s. 46.27. The department may exclude, in whole or in part, the
2 value of a vehicle used by the individual for transportation to paid employment.

3 **SECTION 12.** 49.472 (3) (f) of the statutes is amended to read:

4 49.472 (3) (f) The individual maintains premium payments calculated by the
5 department in accordance with sub. (4), unless the individual is exempted from
6 premium payments under sub. (4) ~~(b)~~ (c) or (5).

7 **SECTION 13.** 49.472 (4) (a) (intro.) of the statutes is renumbered 49.472 (4)
8 (intro.) and amended to read:

9 49.472 (4) PREMIUMS. (intro.) Except as provided in par. ~~(b)~~ (c) and sub. (5), an
10 individual who is eligible for medical assistance under sub. (3) and receives medical
11 assistance shall pay a monthly premium to the department. ~~The department shall~~
12 ~~establish the monthly premiums by rule in accordance with the following guidelines,~~
13 calculated as follows:

14 **SECTION 14.** 49.472 (4) (a) 1. of the statutes is repealed and recreated to read:

15 49.472 (4) (a) 1. Except as provided in subds. 3. and 4., an individual whose
16 total income is equal to or greater than 150 percent of the poverty line for a family
17 the size of the individual's family shall pay a premium that is not more than 3 percent
18 of the individual's total earned and unearned income, after the deductions specified
19 in subd. 2.

20 **SECTION 15.** 49.472 (4) (a) 2. (intro.) of the statutes is amended to read:

21 49.472 (4) (a) 2. (intro.) In determining an individual's total earned and
22 unearned income for purposes of determining the premium under subd. 1., the
23 department shall disregard all of the following:

24 **SECTION 16.** 49.472 (4) (a) 2m. of the statutes is repealed.

25 **SECTION 17.** 49.472 (4) (a) 3. of the statutes is amended to read:

1 49.472 (4) (a) 3. The Subject to subd. 4., the department may reduce the
2 premium by 25% determined under subd. 1. by 25 percent for an individual who is
3 covered by private health insurance.

4 **SECTION 18.** 49.472 (4) (a) 4. of the statutes is created to read:

5 49.472 (4) (a) 4. An individual's premium under this paragraph may not be less
6 than \$35.

7 **SECTION 19.** 49.472 (4) (b) of the statutes is repealed and recreated to read:

8 49.472 (4) (b) An individual whose total income is less than 150 percent of the
9 poverty line for a family the size of the individual's family shall pay a premium of \$35.

10 **SECTION 20.** 49.472 (4) (c) of the statutes is created to read:

11 49.472 (4) (c) The department may waive monthly premiums for an individual
12 if the department determines that payment of a premium would work an undue
13 hardship on the individual.

14 **SECTION 21.** 49.472 (5) of the statutes, as affected by 2015 Wisconsin Act 55,
15 is amended to read:

16 49.472 (5) COMMUNITY OPTIONS PARTICIPANTS. From the appropriation under s.
17 20.435 (4) (bd), the department may pay all or a portion of the monthly premium
18 calculated under sub. (4) (a) for an individual who is a participant in the community
19 options program under s. 46.27 (11).

20 **SECTION 22. Initial applicability.**

21 (1) ELIGIBILITY FOR THE MEDICAL ASSISTANCE PURCHASE PLAN. The treatment of
22 section 49.472 (3) (b) and (f) of the statutes, the renumbering and amendment of
23 section 49.472 (3) (a) of the statutes, and the creation of section 49.472 (3) (a) 2. of
24 the statutes first apply to individuals who apply for the Medical Assistance purchase

1 plan, or whose continued eligibility for the Medical Assistance purchase plan is
2 reviewed, on the effective date of this subsection.

3 (2) **ELIGIBILITY FOR CERTAIN MEDICAL ASSISTANCE PROGRAMS.**

4 (a) *Long-term care.* The treatment of section 46.269 of the statutes first applies
5 to individuals who apply for any of the programs listed in section 46.269 of the
6 statutes, as created by this act, or whose continued eligibility for any of the programs
7 listed in section 46.269 of the statutes, as created by this act, is reviewed, on the
8 effective date of this paragraph.

9 (b) *Medical Assistance.* The treatment of section 49.46 (1) (em) of the statutes
10 first applies to individuals who apply for Medical Assistance, or whose continued
11 eligibility for Medical Assistance is reviewed, on the effective date of this paragraph.

12 (c) *Medicare buy-in.* The treatment of section 49.468 (1) (d), (1m) (b), and (2)
13 (b) of the statutes first applies to individuals who apply for the expanded medicare
14 buy-in program, or whose continued eligibility for the expanded medicare buy-in
15 program is reviewed, on the effective date of this paragraph.

16 (3) **PREMIUMS FOR THE MEDICAL ASSISTANCE PURCHASE PLAN.** The treatment of
17 section 49.472 (4) (a) (intro.), 1., 2. (intro.), 2m., 3., and 4., (b), and (c) and (5) of the
18 statutes, the renumbering of section 49.472 (2) of the statutes, and the creation of
19 section 49.472 (2) (b) of the statutes first apply to premiums for the Medical
20 Assistance purchase plan that are payable on the effective date of this subsection.

21 (END)