



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-0809/4
TJD:nwn:rs

DOA:.....Skwarczek, BB0165 - Allow crediting of all provider refunds and collections to MA appropriation

FOR 2011-13 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

MEDICAL ASSISTANCE

Under current law, DHS administers the Medical Assistance (MA) program, which is a joint federal and state program that provides health services to individuals with limited resources. DHS makes payments to providers of those health services and other payments related to MA out of various appropriation accounts, including a general purpose revenue (GPR) appropriation account; a program revenue (PR) appropriation account containing moneys from MA cost sharing, penalty assessments, and the pharmacy benefits purchasing pool; and the MA trust fund. These expenditures sometimes generate refunds from providers, third party liability payments, drug rebates, audit recoveries, and other collections.

Under current law, a refund of an expenditure received in the same fiscal year as the original expenditure was made is deposited in the appropriation account from which the expenditure was made, if the secretary of administration designates it as a refund of an expenditure. Under certain circumstances, an agency may expend the refund of an expenditure. Current law requires that revenue received by an agency incidentally in connection with GPR appropriations that is not designated as a refund of an expenditure and for which there is no PR appropriation be designated GPR revenue-earned. This revenue is not available for expenditure by the agency.

This bill creates a PR appropriation account into which moneys received from provider refunds, third party liability payments, drug rebates, audit recoveries, and other collections related to expenditures from the GPR appropriation account, the MA cost-sharing appropriation account, and the MA trust fund for the MA program, regardless of the fiscal year in which the expenditure was made, are deposited. DHS may expend the moneys in this PR appropriation account for the same purposes it expends moneys from the GPR appropriation account for the MA program.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

SECTION 1. 20.001 (5) of the statutes is amended to read:

20.001 (5) REFUNDS OF EXPENDITURES. Any amount not otherwise appropriated under this chapter that is received by a state agency as a result of an adjustment made to a previously recorded expenditure from a sum certain appropriation to that agency due to activities that are of a temporary nature or activities that could not be anticipated during budget development and which serves to reduce or eliminate the previously recorded expenditure in the same fiscal year in which the previously recorded expenditure was made, except as provided in s. ss. 20.435 (4) (gm) and 20.437 (2) (md), may, upon request of the agency, be designated by the secretary of administration as a refund of an expenditure. Except as otherwise provided in this subsection, the secretary of administration may designate an amount received by a state agency as a refund of an expenditure only if the agency submits to the secretary a written explanation of the circumstances under which the amount was received that includes a specific reference in a statutory or nonstatutory law to a function of the agency under which the amount was received and the appropriation from which the previously recorded expenditure was made. A refund of an expenditure shall be deposited by the receiving state agency in the appropriation account from which the

previously recorded expenditure was made. Except as otherwise provided in this subsection, a state agency which proposes to make an expenditure from moneys designated as a refund of an expenditure shall submit to the secretary of administration a written explanation of the purpose of the expenditure, including a specific reference in a statutory or nonstatutory law to a function of the agency under which the expenditure is to be made and the appropriation from which the expenditure is to be made. After submission and approval of an estimate of the amount proposed to be expended under s. 16.50 (2), a state agency may expend the moneys received from the refund of the expenditure. The secretary of administration may waive submission of any explanation required by this subsection for categories of refunds of expenditures or proposed refunds of expenditures.

SECTION 2. 20.435 (4) (gm) of the statutes is created to read:

20.435 (4) (gm) *Medical assistance; provider refunds and collections.* All moneys received from provider refunds, third party liability payments, drug rebates, audit recoveries, and other collections related to expenditures made from pars. (b), (jz), and (w), except for those moneys deposited in the appropriation accounts under par. (im) or (in) regardless of the fiscal year in which the expenditure from par. (b), (jz), or (w) is made, to provide a portion of the state share of Medical Assistance program benefits administered under subch. IV of ch. 49; to provide a portion of the Badger Care health care program under s. 49.665; to provide a portion of the Medical Assistance program benefits administered under subch. IV of ch. 49 that are not also provided under par. (o); to fund the pilot project under s. 46.27 (9) and (10); to fund services provided by resource centers under s. 46.283; to fund services under the family care benefit under s. 46.284 (5); and to assist victims of diseases, as provided in ss. 49.68, 49.683, and 49.685.

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 3. 46.27 (9) (a) of the statutes is amended to read:

46.27 (9) (a) The department may select up to 5 counties that volunteer to participate in a pilot project under which they will receive certain funds allocated for long-term care. The department shall allocate a level of funds to these counties equal to the amount that would otherwise be paid under s. 20.435 (4) (b), (gm), or (w) to nursing homes for providing care because of increased utilization of nursing home services, as estimated by the department. In estimating these levels, the department shall exclude any increased utilization of services provided by state centers for the developmentally disabled. The department shall calculate these amounts on a calendar year basis under sub. (10).

SECTION 4. 46.27 (10) (a) 1. of the statutes is amended to read:

46.27 (10) (a) 1. The department shall determine for each county participating in the pilot project under sub. (9) a funding level of state medical assistance expenditures to be received by the county. This level shall equal the amount that the department determines would otherwise be paid under s. 20.435 (4) (b), (gm), or (w) because of increased utilization of nursing home services, as estimated by the department.

SECTION 5. 46.275 (5) (a) of the statutes is amended to read:

46.275 (5) (a) Medical Assistance reimbursement for services a county, or the department under sub. (3r), provides under this program is available from the appropriation accounts under s. 20.435 (4) (b), (gm), (o), and (w). If 2 or more counties jointly contract to provide services under this program and the department approves

the contract, Medical Assistance reimbursement is also available for services provided jointly by these counties.

SECTION 6. 46.275 (5) (c) of the statutes is amended to read:

46.275 (5) (c) The total allocation under s. 20.435 (4) (b), (gm), (o), and (w) to counties and to the department under sub. (3r) for services provided under this section may not exceed the amount approved by the federal department of health and human services. A county may use funds received under this section only to provide services to persons who meet the requirements under sub. (4) and may not use unexpended funds received under this section to serve other developmentally disabled persons residing in the county.

SECTION 7. 46.278 (6) (d) of the statutes is amended to read:

46.278 (6) (d) If a county makes available nonfederal funds equal to the state share of service costs under a waiver received under sub. (3), the department may, from the appropriation under s. 20.435 (4) (o), provide reimbursement for services that the county provides under this section to persons who are in addition to those who may be served under this section with funds from the appropriation accounts under s. 20.435 (4) (b), (gm), or (w).

SECTION 8. 46.2785 (5) (a) of the statutes is amended to read:

46.2785 (5) (a) Medical assistance reimbursement for services a county or private agency contracts for or provides under the waiver program shall be made from the appropriation accounts under s. 20.435 (4) (b), (gm), and (o).

SECTION 9. 46.283 (5) of the statutes is amended to read:

46.283 (5) FUNDING. From the appropriation accounts under s. 20.435 (4) (b), (bm), (gm), (pa), and (w) and (7) (b), (bd), and (md), the department may contract with

organizations that meet standards under sub. (3) for performance of the duties under sub. (4) and shall distribute funds for services provided by resource centers.

SECTION 10. 46.284 (5) (a) of the statutes is amended to read:

46.284 **(5)** (a) From the appropriation accounts under s. 20.435 (4) (b), (g), (gm), (im), (o), and (w) and (7) (b), (bd), and (g), the department shall provide funding on a capitated payment basis for the provision of services under this section. Notwithstanding s. 46.036 (3) and (5m), a care management organization that is under contract with the department may expend the funds, consistent with this section, including providing payment, on a capitated basis, to providers of services under the family care benefit.

SECTION 11. 49.45 (5m) (am) of the statutes is amended to read:

49.45 **(5m)** (am) Notwithstanding sub. (3) (e), from the appropriation accounts under s. 20.435 (4) (b), (gm), (o), (w) and (xc), the department shall distribute not more than \$5,000,000 in each fiscal year, to provide supplemental funds to rural hospitals that, as determined by the department, have high utilization of inpatient services by patients whose care is provided from governmental sources, except that the department may not distribute funds to a rural hospital to the extent that the distribution would exceed any limitation under [42 USC 1396b](#) (i) (3).

SECTION 12. 49.45 (6m) (ag) (intro.) of the statutes is amended to read:

49.45 **(6m)** (ag) (intro.) Payment for care provided in a facility under this subsection made under s. 20.435 (4) (b), (gm), (o), (pa), or (w) shall, except as provided in pars. (bg), (bm), and (br), be determined according to a prospective payment system updated annually by the department. The payment system shall implement standards that are necessary and proper for providing patient care and that meet

quality and safety standards established under subch. II of ch. 50 and ch. 150. The payment system shall reflect all of the following:

SECTION 13. 49.45 (6v) (b) of the statutes is amended to read:

49.45 (6v) (b) The department shall, each year, submit to the joint committee on finance a report for the previous fiscal year, except for the 1997-98 fiscal year, that provides information on the utilization of beds by recipients of medical assistance in facilities and a discussion and detailed projection of the likely balances, expenditures, encumbrances and carry over of currently appropriated amounts in the appropriation accounts under s. 20.435 (4) (b), (gm), and (o).

SECTION 14. 49.45 (6y) (a) of the statutes is amended to read:

49.45 (6y) (a) Notwithstanding sub. (3) (e), from the appropriation accounts under s. 20.435 (4) (b), (gm), (o), and (w), the department may distribute funding in each fiscal year to provide supplemental payment to hospitals that enter into a contract under s. 49.02 (2) to provide health care services funded by a relief block grant, as determined by the department, for hospital services that are not in excess of the hospitals' customary charges for the services, as limited under [42 USC 1396b](#) (i) (3). If no relief block grant is awarded under this chapter or if the allocation of funds to such hospitals would exceed any limitation under [42 USC 1396b](#) (i) (3), the department may distribute funds to hospitals that have not entered into a contract under s. 49.02 (2).

SECTION 15. 49.45 (6z) (a) (intro.) of the statutes is amended to read:

49.45 (6z) (a) (intro.) Notwithstanding sub. (3) (e), from the appropriation accounts under s. 20.435 (4) (b), (gm), (o), and (w), the department may distribute funding in each fiscal year to supplement payment for services to hospitals that enter into indigent care agreements, in accordance with the approved state plan for

services under [42 USC 1396a](#), with relief agencies that administer the medical relief block grant under this chapter, if the department determines that the hospitals serve a disproportionate number of low-income patients with special needs. If no medical relief block grant under this chapter is awarded or if the allocation of funds to such hospitals would exceed any limitation under [42 USC 1396b](#) (i) (3), the department may distribute funds to hospitals that have not entered into indigent care agreements. The department may not distribute funds under this subsection to the extent that the distribution would do any of the following:

SECTION 16. 49.45 (8) (b) of the statutes is amended to read:

49.45 **(8)** (b) Reimbursement under s. 20.435 (4) (b), ~~(gm)~~, (o), and (w) for home health services provided by a certified home health agency or independent nurse shall be made at the home health agency's or nurse's usual and customary fee per patient care visit, subject to a maximum allowable fee per patient care visit that is established under par. (c).

SECTION 17. 49.45 (24m) (intro.) of the statutes is amended to read:

49.45 **(24m)** (intro.) From the appropriation accounts under s. 20.435 (4) (b), ~~(gm)~~, (o), and (w), in order to test the feasibility of instituting a system of reimbursement for providers of home health care and personal care services for medical assistance recipients that is based on competitive bidding, the department shall:

SECTION 18. 49.45 (51) (a) of the statutes is amended to read:

49.45 **(51)** (a) By November 1 annually, the department shall provide to the department of revenue information concerning the estimated amounts of supplements payable from the appropriation accounts under s. 20.435 (4) (b) and (gm) to specific local governmental units for the provision of transportation for

medical care, as specified under s. 49.46 (2) (b) 3., during the fiscal year. Beginning November 1, 2004, the information that the department provides under this paragraph shall include any adjustments necessary to reflect actual claims submitted by service providers in the previous fiscal year.

SECTION 19. 49.472 (6) (a) of the statutes is amended to read:

49.472 (6) (a) Notwithstanding sub. (4) (a) 3., from the appropriation ~~account~~ accounts under s. 20.435 (4) (b), (gm), or (w), the department shall, on the part of an individual who is eligible for medical assistance under sub. (3), pay premiums for or purchase individual coverage offered by the individual's employer if the department determines that paying the premiums for or purchasing the coverage will not be more costly than providing medical assistance.

SECTION 20. 49.472 (6) (b) of the statutes is amended to read:

49.472 (6) (b) If federal financial participation is available, from the appropriation ~~account~~ accounts under s. 20.435 (4) (b), (gm), or (w), the department may pay medicare Part A and Part B premiums for individuals who are eligible for medicare and for medical assistance under sub. (3).

SECTION 21. 49.473 (5) of the statutes is amended to read:

49.473 (5) The department shall audit and pay, from the appropriation accounts under s. 20.435 (4) (b), (gm), and (o), allowable charges to a provider who is certified under s. 49.45 (2) (a) 11. for medical assistance on behalf of a woman who meets the requirements under sub. (2) for all benefits and services specified under s. 49.46 (2).

SECTION 22. 79.02 (3) (e) of the statutes is amended to read:

79.02 (3) (e) For the distribution in 2004 and subsequent years, the total amount of the November payments to each county and municipality under s. 79.035

shall be reduced by an amount equal to the amount of supplements paid from the appropriation accounts under s. 20.435 (4) (b) and (gm) that the county or municipality received for the fiscal year in which a payment is made under this section, as determined under s. 49.45 (51).

(END)