



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1096/3
PJK:sac/eev/wlj:ph

DOA:.....Iwata, BB0356 – Reducing work disincentives under MAPP

FOR 2013-2015 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, an individual who would be eligible for the Medical Assistance (MA) program 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 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 the MA purchase plan (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 bill makes a number of changes to the eligibility and premium requirements under MAPP. Under current law, when determining whether an individual'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 bill, the same disregards as under current law are deducted from the individual's and his or her spouse's total earned

and unearned income, then a new deduction of up to \$500 per month of the individual's out-of-pocket medical and remedial expenses and long-term care costs is applied, and then the same general disregard as under current law is deducted. The bill also requires DHS to verify an individual's income from work activities through documentation provided by the individual, and requires that, to be engaged in gainful employment, an individual must be paying, or having withheld, certain taxes and must document that payment or withholding to DHS.

Premiums for MA coverage under MAPP are calculated for an individual by adding together all of the individual's unearned income, after certain specified amounts are deducted, and then adding, in practice, 3 percent of the individual's earned income, although the statutes provide that 3.5 percent of the individual's earned income is to be added. DHS may waive any premiums that are calculated to be below \$10 per month, although, in practice, DHS waives any premiums below \$25 per month. In addition, DHS is prohibited from assessing a premium to an individual whose earned and unearned income is below 150 percent of the poverty line for a family the size of the individual's family, and, in practice, DHS uses the individual's total earned and unearned income. Under the bill, an individual whose total earned and unearned income is at least 150 percent of the poverty line for an individual is required to pay a premium. The premium payable is equal to 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, and rounded down to the nearest \$25. A minimum monthly premium of \$50 is set, however, for anyone whose premium calculation is below that amount.

Finally, certain MA programs consider an individual's income and assets when determining eligibility and any cost-sharing requirements for the program. The bill requires DHS to exclude, to the extent approved by the federal government, independence accounts and retirement benefits that accumulated or were earned through employment income or employer contributions while the individual was employed and receiving MA coverage under MAPP when determining eligibility or cost-sharing requirements under various MA programs, including Family Care and MAPP, except that independence accounts are already excluded under current law with respect to MAPP.

For further information see the *state and local* 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. 46.286 (1m) of the statutes is created to read:

46.286 (1m) INCOME AND ASSETS EXCLUDED. For purposes of determining a person's financial eligibility under sub. (1) (b) and cost-sharing requirements under

sub. (2), to the extent approved by the federal government, the department or its designee shall exclude any assets accumulated in an independence account, as defined in s. 49.472 (1) (c), and any income or assets from retirement benefits earned or accumulated from employment income or employer contributions while the person was employed and eligible for and receiving medical assistance under s. 49.472.

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

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

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

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

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

49.468 (1m) (b) Benefits under par. (a) are available for an individual who has resources that are equal to or less than 200% of the allowable resources determined

under 42 USC 1381 to 1385, excluding, to the extent approved by the federal government, any assets accumulated in an independence account, as defined in s. 49.472 (1) (c), and any income or assets from retirement benefits earned or accumulated from income or employer contributions while the individual was employed and eligible for and receiving medical assistance under s. 49.472, and who has income that is greater than 100% of the poverty line but less than 120% of the poverty line.

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

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

SECTION 6. 49.47 (4) (b) (intro.) of the statutes is amended to read:

49.47 (4) (b) (intro.) Eligibility exists if the applicant's property, ~~subject to the exclusion of~~ excluding any amounts under the Long-Term Care Partnership Program established under s. 49.45 (31); ~~and, to the extent approved by the federal government,~~ any amounts assets accumulated in an independence account, as defined in s. 49.472 (1) (c), ~~or~~ and any income or assets from retirement assets that ~~accrued~~ benefits earned or accumulated from employment income or employer contributions while the applicant was employed and eligible for ~~the community options program under s. 46.27 (11), or any other Medical Assistance program,~~

~~including deferred compensation or the value of retirement accounts in the Wisconsin Retirement System or under the federal Social Security Act and receiving medical assistance under s. 49.472,~~ does not exceed the following:

SECTION 7. 49.472 (1) (c) of the statutes is amended to read:

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

SECTION 8. 49.472 (3) (a) of the statutes is amended to read:

49.472 (3) (a) The individual’s ~~family’s and his or her spouse’s total~~ net income is less than 250% of the poverty line for a family the size of the individual’s family. ~~In~~ For purposes of calculating the net income under this paragraph, the department shall apply all of the exclusions specified under [42 USC 1382a](#) (b), except that exclusions applied under [42 USC 1382a](#) (b) (4) to earned income shall be applied to earned and unearned income combined, and shall exclude up to \$500 per month of the individual’s out-of-pocket medical and remedial expenses and long-term care costs, if any.

SECTION 9. 49.472 (3) (b) of the statutes is amended to read:

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

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

SECTION 10. 49.472 (3) (f) of the statutes is amended to read:

49.472 (3) (f) The individual, if required to pay a premium under sub. (4) (a) 1., maintains premium payments calculated by ~~the department~~ in accordance with sub. (4), unless the individual is exempted from premium payments under sub. (4) ~~(b) or~~ (5).

SECTION 11. 49.472 (3m) of the statutes is created to read:

49.472 (3m) VERIFYING INCOME. The department shall verify income from work activity under sub. (3) (a) and (g) through documentation provided by the individual. The department shall require that, for an individual to be engaged in gainful employment under sub. (3) (g), the individual must be working and paying, or having withheld, federal social security and Medicare taxes and other applicable state or federal income taxes. The department shall require that the individual provide documentation of the taxes paid or withheld.

SECTION 12. 49.472 (4) (a) (intro.) of the statutes is repealed.

SECTION 13. 49.472 (4) (a) 1. of the statutes is repealed and recreated to read:

49.472 (4) (a) 1. An individual who is eligible for medical assistance under sub. (3) and receives medical assistance shall pay a monthly premium to the department if the individual's total earned and unearned income is equal to at least 150 percent of the poverty line for an individual.

SECTION 14. 49.472 (4) (a) 1m. of the statutes is created to read:

49.472 (4) (a) 1m. Except as provided in par. (b), the premium required under subd. 1. shall be equal to 3 percent of the individual's total earned and unearned income, after the deductions specified in subd. 2., rounded down to the nearest \$25.

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

49.472 (4) (a) 2. (intro.) In determining an individual's total earned and unearned income under subd. ~~1.~~ 1m., the department shall disregard all of the following:

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

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

49.472 (4) (a) 3. ~~The~~ Subject to par. (b), the department may reduce the premium by 25% for an individual who is covered by private health insurance.

SECTION 18. 49.472 (4) (b) of the statutes is amended to read:

49.472 (4) (b) ~~The department may waive monthly premiums that are calculated to be below \$10~~ minimum premium payable by an individual specified in par. (a) 1. is \$50 per month. Unless otherwise provided by the department by a policy created under s. 49.45 (2m) (c), the department may not assess a monthly premium for any individual whose ~~income level, after adding the individual's~~ total earned income and unearned income, is below 150% of the poverty line for an individual.

SECTION 19. 49.472 (4) (b) of the statutes, as affected by [2011 Wisconsin Act 32](#) and 2013 Wisconsin Act (this act), is repealed and recreated to read:

49.472 (4) (b) The minimum premium payable by an individual specified in par. (a) 1. is \$50 per month. The department may not assess a monthly premium for any individual whose total earned and unearned income is below 150 percent of the poverty line for an individual.

SECTION 20. 49.472 (5) of the statutes is amended to read:

49.472 (5) COMMUNITY OPTIONS PARTICIPANTS. From the appropriation under s. 20.435 (7) (bd), the department may pay all or a portion of the monthly premium

calculated under sub. (4) ~~(a)~~ for an individual who is a participant in the community options program under s. 46.27 (11).

SECTION 9118. Nonstatutory provisions; Health Services.

(1) ELIGIBILITY AND PREMIUMS UNDER THE MEDICAL ASSISTANCE PURCHASE PLAN.

(a) *Notification of federal approval.* The department of health services shall request from the federal government approval of the treatment of section 49.472 (3) (a) and (f), (3m), (4) (a) (intro.), 1., 1m., 2. (intro.), 2m., and 3. and (b) (by SECTIONS 18 and 19), and (5) of the statutes by this act, and shall notify the legislative reference bureau when each provision is approved. The legislative reference bureau shall publish each notice in the Wisconsin Administrative Register.

(b) *Void provisions.*

1. Notwithstanding SECTION 9418 (1) of this act, if, by January 1, 2015, the department of health services has not notified the legislative reference bureau under paragraph (a) that federal approval has been given with respect to the treatment of section 49.472 (4) (b) (by SECTION 18) of the statutes by this act, that treatment is void.

2. Notwithstanding SECTION 9418 (1) and (3) of this act, if, by January 1, 2016, the department of health services has not notified the legislative reference bureau under paragraph (a) that federal approval has been given with respect to the treatment of section 49.472 (3) (a) or (f), (3m), (4) (a) (intro.), 1., 1m., 2. (intro.), 2m., or 3. or (b) (by SECTION 19), or (5) of the statutes by this act, that treatment is void.

SECTION 9318. Initial applicability; Health Services.

(1) ELIGIBILITY FOR THE MEDICAL ASSISTANCE PURCHASE PLAN. The treatment of section 49.472 (3) (a) and (f) and (3m) of the statutes first applies to individuals who apply for the Medical Assistance purchase plan, or whose continued eligibility for the Medical Assistance purchase plan is reviewed, on January 1, 2014, or on the day after

the applicable publication of the notice of approval in the Wisconsin Administrative Register under SECTION 9118 (1) (a) of this act, whichever is later.

(2) ELIGIBILITY FOR CERTAIN MEDICAL ASSISTANCE PROGRAMS.

(a) *Family care.* The treatment of section 46.286 (1m) of the statutes first applies to individuals who apply for the family care benefit, or whose continued eligibility for the family care benefit is reviewed, on the effective date of this paragraph.

(b) *Medical Assistance.* The treatment of sections 49.46 (1) (em), 49.47 (4) (b) (intro.), and 49.472 (3) (b) of the statutes first applies to individuals who apply for Medical Assistance or the Medical Assistance purchase plan, or whose continued eligibility for Medical Assistance or the Medical Assistance purchase plan is reviewed, on the effective date of this paragraph.

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

(3) PREMIUMS FOR THE MEDICAL ASSISTANCE PURCHASE PLAN.

(a) The treatment of section 49.472 (4) (a) (intro.), 1., 1m., 2. (intro.), 2m., and 3. and (b) (by SECTION 18) and (5) of the statutes first applies to premiums for the Medical Assistance purchase plan that are payable on January 1, 2014, or on the day after the applicable publication of the notice of approval in the Wisconsin Administrative Register under SECTION 9118 (1) (a) of this act, whichever is later.

(b) The treatment of section 49.472 (4) (b) (by SECTION 19) of the statutes first applies to premiums for the Medical Assistance purchase plan that are payable on January 1, 2015, or on the day after publication of the notice of approval of the

treatment of section 49.472 (4) (b) (by SECTION 19) of the statutes in the Wisconsin Administrative Register under SECTION 9118 (1) (a) of this act, whichever is later.

SECTION 9418. Effective dates; Health Services.

(1) ELIGIBILITY AND PREMIUMS FOR THE MEDICAL ASSISTANCE PURCHASE PLAN. The treatment of section 49.472 (3) (a) and (f), (3m), (4) (a) (intro.), 1., 1m., 2. (intro.), 2m., and 3. and (b) (by SECTION 18), and (5) of the statutes takes effect on January 1, 2014, or on the day after the applicable publication of the notice of approval in the Wisconsin Administrative Register under SECTION 9118 (1) (a) of this act, whichever is later.

(2) ELIGIBILITY FOR CERTAIN MEDICAL ASSISTANCE PROGRAMS. The treatment of sections 46.286 (1m), 46.46 (1) (em), 49.468 (1) (d), (1m) (b), and (2) (b), 49.47 (4) (b) (intro.), and 49.472 (3) (b) of the statutes and SECTION 9318 (2) of this act take effect on January 1, 2014.

(3) TERMINATION OF DEPARTMENT POLICIES. The treatment of section 49.472 (4) (b) (by SECTION 19) of the statutes takes effect on January 1, 2015, or on the day after publication of the notice of approval of the treatment of section 49.472 (4) (b) (by SECTION 19) of the statutes in the Wisconsin Administrative Register under SECTION 9118 (1) (a) of this act, whichever is later.

(END)