



## 2001 ASSEMBLY BILL 366

May 1, 2001 – Introduced by JOINT LEGISLATIVE COUNCIL. Referred to Committee on Health.

1     **AN ACT to renumber and amend** 250.15 (1); **to amend** 20.235 (1) (d) and 20.435  
2           (4) (b); and **to create** 20.435 (5) (h), 49.45 (2) (a) 25., 49.46 (2) (b) 1m., 250.13,  
3           250.15 (1) (b) and 250.15 (2) (d) of the statutes; **relating to:** the state contract  
4           for dental education; authorizing licensed dental health professional positions  
5           in the department of health and family services; funding for dental services at  
6           community health centers; grants for community water fluoridation;  
7           increasing the medical assistance reimbursement rates for dental services;  
8           making topical fluoride varnish a covered service under the early and periodic  
9           screening, diagnosis, and treatment program; creating a fluoride varnish  
10          education program; reimbursement for dental hygienist services under medical  
11          assistance; medical assistance reimbursement for dental cleanings; requiring  
12          the exercise of rule-making authority; and making appropriations.

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***Analysis by the Legislative Reference Bureau***

This bill is explained in the NOTES provided by the joint legislative council in the bill.

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

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

PREFATORY NOTE: This bill was prepared for the joint legislative council's special committee on dental care access. The bill contains the following provisions:

Tuition Assistance: Marquette University School of Dentistry

Under current law, \$1,167,000 is appropriated in each fiscal year to provide tuition assistance of \$11,670 per year for up to 100 Wisconsin residents attending Marquette University School of Dentistry.

The bill increases the per student tuition assistance to \$15,000 per year and increases the maximum number of Wisconsin residents who qualify to 160. The amount appropriated for this purpose is increased from the current \$1,167,000 to \$1,725,000 (115 x \$15,000) in fiscal year 2001-02 to reflect an additional 15 Wisconsin residents in the fall 2001 incoming class and to \$1,950,000 (130 x \$15,000) in fiscal year 2002-03 to reflect those 15 students and an additional 15 Wisconsin residents in the fall 2002 incoming class. When fully implemented in the fall of 2004, the amount of the appropriation would be \$2,400,000 (160 x \$15,000).

Licensed Dental Health Professionals in the Department of Health and Family Services (DHFS)

This bill increases the current appropriation for DHFS under s. 20.435 (4) (bm), stats., for medical assistance (MA) administration by \$132,000 in each year of the 2001-03 biennium to increase the authorized general purpose revenue (GPR) positions for DHFS by five GPR positions beginning on July 1, 2001. This funding would provide one licensed dental health professional in each of the five DHFS administrative regions for the division of public health, as prescribed by DHFS. These five licensed dental health professionals would be responsible for performing dental health outreach services and for providing dental care, primarily to persons eligible for MA.

Grants for Community Dental Services

The bill increases DHFS' current appropriation for community health services under s. 20.435 (5) (fh), stats., by \$1,600,000 in each year of the 2001-03 biennium. The department must distribute these funds to qualified applicants for the provision or expansion of dental care services. Under the bill, a "qualified applicant" is an entity that provides, or seeks to provide or expand, dental services to low-income individuals and that is not a federally qualified health center. A qualified applicant that receives a grant must ensure that the following criteria are met:

1. The applicant must make every attempt to collect appropriate reimbursement for its costs in providing dental services to persons who are entitled to BadgerCare, MA, or assistance for medical expenses under any other public assistance or private insurance program.
2. The applicant must prepare and utilize a fee schedule for its services consistent with locally prevailing charges for these services that is designed to cover its reasonable costs. The applicant must also have a sliding fee scale for its patients.
3. The applicant must establish a governing board which, except in the case of an applicant that is an Indian tribe or band, is composed of individuals who are

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representative of persons served by the entity and a majority of whom are served by the entity. The bill sets forth the responsibilities of the governing board.

4. The applicant must use any funds provided under the grant program to supplement, and not supplant, other funds that are or may be available to the entity.

5. The applicant must implement a patient screening process to determine patient eligibility for MA, BadgerCare, and the sliding fee scale.

6. The applicant must ensure that the following services are also provided:

a. Oral health education.

b. Dental screening, risk assessment, and preventive dental treatment to pregnant women, infants, preschoolers, persons with diabetes, heart disease, and lung disease, and persons using psychotropic medication.

Under this program, preference for funding is given to applicants that are located in a dental health professional shortage area.

Grants for Community Water Fluoridation

The bill provides \$25,000 GPR in each year of the 2001-03 biennium for a community water fluoridation grant program. Under the program, DHFS must award grants each year to applying communities in Wisconsin for any of the following purposes:

1. Purchase of water fluoridation equipment.

2. Construction of additional building space to house water fluoridation equipment.

3. Payment of salaries of employees who operate water fluoridation equipment.

Coverage of Topical Fluoride Varnish Under Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program

This bill provides \$162,930 GPR in fiscal year 2001-02 and \$325,859 GPR in fiscal year 2002-03 to provide coverage under the MA program for topical fluoride varnish through the EPSDT program. The bill requires DHFS to promulgate rules regarding coverage of topical fluoride varnish, which specify the following:

a. Coverage is provided through the EPSDT program for children ages 0 to 60 months of age.

b. The fluoride varnish may be applied by any EPSDT health care provider acting within his or her scope of practice and licensure.

c. Payment shall be made for up to three applications per child per year of fluoride varnish.

d. Application of fluoride varnish may be, but is not required to be, provided in conjunction with an EPSDT examination which includes a limited oral screening.

e. Health care professionals providing services under this program shall refer or facilitate referral of children receiving topical fluoride varnish applications to comprehensive dental care rendered by a dental professional.

The bill also requires DHFS to disseminate information to health care professionals providing services under the EPSDT program and to parents or guardians of children eligible for EPSDT services on the availability of, and coverage for, fluoride varnish under EPSDT and the efficacy of fluoride varnish treatments in preventing early childhood caries.



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1 student. The maximum number of Wisconsin residents to be funded under this  
2 appropriation is ~~100~~ 160 in the ~~1993-94~~ each fiscal year and thereafter.

NOTE: Increases the per-student tuition assistance for Wisconsin residents attending the Marquette University School of Dentistry from \$11,670 per year to \$15,000 per year. Also increases the maximum number of Wisconsin residents who qualify for this assistance from 100 to 160.

3 **SECTION 3.** 20.435 (4) (b) of the statutes is amended to read:

4 20.435 (4) (b) *Medical assistance program benefits.* Biennially, the amounts in  
5 the schedule to provide the state share of medical assistance program benefits  
6 administered under s. 49.45, to provide medical assistance program benefits  
7 administered under s. 49.45 that are not also provided under par. (o), to fund the pilot  
8 project under s. 46.27 (9) and (10), to provide the facility payments under 1999  
9 Wisconsin Act 9, section 9123 (9m), to fund services provided by resource centers  
10 under s. 46.283 and ~~for~~, to fund services under the family care benefit under s. 46.284  
11 (5), and to provide coverage for topical fluoride varnish under 2001 Wisconsin Act ...  
12 (this act), section 11. Notwithstanding s. 20.002 (1), the department may transfer  
13 from this appropriation to the appropriation under sub. (7) (kb) funds in the amount  
14 of and for the purposes specified in s. 46.485. Notwithstanding ss. 20.001 (3) (b) and  
15 20.002 (1), the department may credit or deposit into this appropriation and may  
16 transfer between fiscal years funds that it transfers from the appropriation under  
17 sub. (7) (kb) for the purposes specified in s. 46.485 (3r). Notwithstanding s. 20.002  
18 (1), the department may transfer from this appropriation to the appropriation  
19 account under sub. (7) (bd) funds in the amount and for the purposes specified in s.  
20 49.45 (6v).

21 **SECTION 4.** 20.435 (5) (h) of the statutes is created to read:

22 20.435 (5) (h) *Community water fluoridation.* The amounts in the schedule for  
23 community water fluoridation grants under s. 250.13.

**ASSEMBLY BILL 366****SECTION 5**

1           **SECTION 5.** 49.45 (2) (a) 25. of the statutes is created to read:

2           49.45 **(2)** (a) 25. Disseminate to health care professionals providing services  
3 under the early and periodic screening, diagnosis and treatment program under 42  
4 CFR 441, and to parents or guardians of children eligible for services under the  
5 program, information on the availability of, and coverage for, topical fluoride varnish  
6 under that program and on the efficacy of topical fluoride varnish treatments in  
7 preventing early childhood caries.

          NOTE: Requires DHFS to disseminate information to health care professionals  
providing services under the EPSDT program regarding fluoride varnish.

8           **SECTION 6.** 49.46 (2) (b) 1m. of the statutes is created to read:

9           49.46 **(2)** (b) 1m. Dental hygienists' services, limited to services that are  
10 payable under subd. 1. and that are within the scope of practice of a dental hygienist.

          NOTE: Provides for reimbursement under the MA program, of dental hygienists'  
services, limited to those dental services currently payable under the MA program and  
that are within the scope of practice of a dental hygienist.

11           **SECTION 7.** 250.13 of the statutes is created to read:

12           **250.13 Community water fluoridation grants.** From the appropriation  
13 under s. 20.435 (5) (h), the department shall award grants each year to applying  
14 communities for any of the following purposes:

15           **(1)** Purchase of water fluoridation equipment.

16           **(2)** Construction of additional building space to house water fluoridation  
17 equipment.

18           **(3)** Payment of salaries of employees who operate water fluoridation  
19 equipment.

          NOTE: SECTIONS 1, 4, and 7 of this bill provide \$25,000 GPR in each year of the  
2001-03 biennium for a community water fluoridation grant program. The grants may  
be used for: (a) purchase of water fluoridation equipment; (b) construction of additional  
building space to house water fluoridation equipment; and (c) payment of salaries of  
employees who operate water fluoridation equipment.

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1           **SECTION 8.** 250.15 (1) of the statutes is renumbered 250.15 (1) (intro.) and  
2 amended to read:

3           250.15 (1) DEFINITIONS. (intro.) In this section, ~~“community: (a) “Community~~  
4 health center” means a health care entity that provides primary health care, health  
5 education, and social services to low-income individuals.

6           **SECTION 9.** 250.15 (1) (b) of the statutes is created to read:

7           250.15 (1) (b) “Qualified applicant” means an entity that provides, or seeks to  
8 provide, dental care services to low-income individuals and that does not receive a  
9 federal grant under 42 USC 254b (c), (g), or (h).

10          **SECTION 10.** 250.15 (2) (d) of the statutes is created to read:

11          250.15 (2) (d) From the appropriation under s. 20.435 (5) (fh), the department  
12 shall distribute to qualified applicants grants totaling \$1,600,000 in fiscal year  
13 2001-02 and \$1,600,000 in fiscal year 2002-03 to enable the applicants to provide  
14 or expand provision of dental care services. The department shall give preference  
15 for grants to qualified applicants that are located in dental health professional  
16 shortage areas, as designated under 42 CFR part V, appendix B. Applicants who  
17 receive grants under this paragraph shall do all of the following:

18           1. Make every attempt to collect appropriate reimbursement for its costs in  
19 providing dental services to persons who are eligible for and receiving badger care  
20 health care, medical assistance, or assistance for medical expenses under any other  
21 public assistance program or have coverage under a private insurance program.

22           2. Prepare and utilize a fee schedule for the provision of its services consistent  
23 with locally prevailing charges that is designed to cover its reasonable costs of  
24 operation and prepare a corresponding schedule of discounts to be applied to the

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1 payment of such fees. The discounts shall be adjusted on the basis of the patient's  
2 ability to pay.

3 3. Establish a governing board that, except in the case of an applicant that is  
4 an Indian tribe or band, is composed of individuals who are representative of persons  
5 served by the applicant and a majority of whom are being served by the applicant.

6 The board shall be responsible for the following:

7 a. Establishing policies surrounding the entity's program operations.

8 b. Holding regularly scheduled meetings and keeping minutes of the meetings.

9 c. Approving the selection or dismissal of an entity's director or chief executive  
10 officer.

11 d. Establishing personnel policies and procedures, including employee  
12 selection and dismissal procedures, salary and benefit scales, employee grievance  
13 procedures, and equal opportunity practices.

14 e. Adopting policies for financial management practices, including a system to  
15 ensure accountability for resources, approval of the annual budget, priorities,  
16 eligibility for services, including criteria for the fee schedule under subd. 2., and  
17 long-range financial planning.

18 f. Evaluating the entity's activities including service utilization patterns,  
19 productivity, patient satisfaction, achievement of objectives, and development of a  
20 process for hearing and resolving patient grievances.

21 g. Ensuring that the entity is operated in compliance with applicable federal,  
22 state, and local laws.

23 h. Adopting health care policies including scope and availability of services,  
24 location, hours of services, and quality of care audit procedures.

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1           4. Use any funds provided under this paragraph to supplement, and not  
2           supplant, other funds that are or may be available to the entity.

3           5. Implement a patient screening process to determine patient eligibility for  
4           medical assistance, badger care health care, and the payment schedule under subd.  
5           2.

6           6. Provide oral health education in programs operated by and affiliated with  
7           the department, including the special supplemental food program for women,  
8           infants, and children and head start.

9           7. Provide dental screening, risk assessments, and preventive dental  
10          treatment to pregnant women; infants; preschoolers; persons with diabetes, heart  
11          disease, or lung disease; and persons using psychotropic medication.

NOTE: SECTIONS 8, 9, and 10 provide \$1,600,000 GPR in each fiscal year of the  
2001-03 biennium for grants for the provision of dental care services by entities to  
provide or expand dental services to low-income individuals. Among other requirements,  
the recipients of funds under this program must implement a sliding fee scale for their  
patients, and must also be governed by a board representative of persons served by the  
entity.

12          **SECTION 11. Nonstatutory provisions; health and family services.** In  
13          state fiscal years 2001-02 and 2002-03, from the appropriation under section 20.435  
14          (4) (b) of the statutes, as affected by this act, the department of health and family  
15          services shall provide medical assistance coverage under the early and periodic  
16          screening, diagnosis and treatment program under 42 CFR 441 for topical fluoride  
17          varnish, for the purpose of preventing early childhood caries in eligible children 0 to  
18          60 months of age, when rendered by health care professionals providing services  
19          under the program and acting within their scope of practice and licensure. The  
20          department shall promulgate rules relating to coverage of fluoride varnish  
21          treatments under the early and periodic screening, diagnosis and treatment  
22          program that contain the following provisions:

**ASSEMBLY BILL 366****SECTION 11**

1 (1) The department shall provide payment for up to 3 applications per year of  
2 topical fluoride varnish per eligible child.

3 (2) Application of topical fluoride varnish may be, but is not required to be,  
4 provided in conjunction with an early and periodic screening, diagnosis and  
5 treatment examination that includes a limited oral screening.

6 (3) Health care professionals providing services under this program shall refer  
7 or facilitate referral of children receiving applications of topical fluoride varnish for  
8 comprehensive dental care rendered by a dental professional.

9 **SECTION 12. Appropriation changes; health and family services.**

10 (1) In the schedule under section 20.005 (3) of the statutes for the appropriation  
11 to the department of health and family services under section 20.435 (4) (bm) of the  
12 statutes, as affected by the acts of 2001, the dollar amount is increased by \$132,000  
13 for fiscal year 2001-02 and the dollar amount is increased by \$132,000 for fiscal year  
14 2002-03 to increase the authorized FTE positions for the department by 5.0 GPR  
15 positions on July 1, 2001, for a licensed dental health professional in each of the 5  
16 administrative regions of the state, as prescribed by the department.

NOTE: Provides funding for positions within DHFS for licensed dental health  
professionals in each of the five DHFS administrative regions that would be funded  
through the MA program to perform dental health outreach services and to provide  
dental care primarily to persons eligible for MA.

17 (2) In the schedule under s. 20.005 (3) of the statutes for the appropriation to  
18 the department of health and family services under s. 20.435 (4) (b) of the statutes,  
19 as affected by the acts of 2001, the dollar amount is increased by \$8,614,045 for fiscal  
20 year 2001-02 and the dollar amount is increased by \$11,628,960 for fiscal year  
21 2002-03 to increase the medical assistance reimbursement rates for dental services  
22 to equal the fee at which 75% of dentists in the east north central region charge equal  
23 or less amounts, as specified in the annual Survey of Dental Fees of the American

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1 Dental Association. For each fiscal year, reimbursement rates shall be set based on  
2 the most recently published American Dental Association fee survey for that year.

NOTE: Increases the MA reimbursement rate for dental services to the 75th percentile of the fees from the most recently published ADA fee survey for the east north central region.

3 (3) In the schedule under section 20.005 (3) of the statutes for the appropriation  
4 to the department of health and family services under section 20.435 (4) (b) of the  
5 statutes, as affected by the acts of 2001, the dollar amount is increased by \$378,466  
6 for fiscal year 2001-02 and by \$378,466 for fiscal year 2002-03 to provide medical  
7 assistance coverage for 2 dental cleanings per year for adults.

NOTE: Provides funds for two dental cleanings per year for adults under the MA program.

8 (4) In the schedule under section 20.005 (3) of the statutes for the appropriation  
9 to the department of health and family services under section 20.435 (4) (b) of the  
10 statutes, as affected by the acts of 2001, the dollar amount is increased by \$162,930  
11 for fiscal year 2001-02 and the dollar amount is increased by \$325,859 for fiscal year  
12 2002-03 to provide coverage of fluoride varnish treatments under SECTION 11 of this  
13 act.

NOTE: Provides funds for coverage of topical fluoride varnish through the EPSDT program under MA.

14 (5) In the schedule under section 20.005 (3) of the statutes for the appropriation  
15 to the department of health and family services under section 20.435 (5) (fh) of the  
16 statutes, as affected by the acts of 2001, the dollar amount is increased by \$1,600,000  
17 for fiscal year 2001-02 and the dollar amount is increased by \$1,600,000 for fiscal  
18 year 2002-03 for the purposes of funding dental services as specified in section  
19 250.15 (2) (d) of the statutes, as created by this act.

NOTE: Provides funds to entities that provide, or seek to provide, dental services to low-income individuals.

**ASSEMBLY BILL 366****SECTION 13****1 SECTION 13. Appropriation changes; higher educational aids board.**

2 (1) In the schedule under section 20.005 (3) of the statutes for the appropriation  
3 to the higher education aids board under section 20.235 (1) (d) of the statutes, as  
4 affected by the acts of 2001, the dollar amount is increased by \$558,000 for fiscal year  
5 2001-02 and the dollar amount is increased by \$783,000 for fiscal year 2002-03 for  
6 the purpose of increasing the amount of assistance for Wisconsin residents pursuing  
7 a doctor of dental surgery degree and the maximum number of students who qualify  
8 for this assistance.

NOTE: Provides funds to increase the per-student tuition assistance for Wisconsin residents attending the Marquette University School of Dentistry from \$11,670 per year to \$15,000. Also provides funds to increase the total number of Wisconsin resident students eligible for this assistance from 100 to a total of 160.

**9 SECTION 14. Effective date.**

10 (1) This act takes effect on the 2nd day after publication of the 2001-03 biennial  
11 budget act.

12 (END)