



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-2871/1
SWB:emw/amn/cjs

2023 SENATE BILL 716

November 21, 2023 - Introduced by Senators HESSELBEIN, SMITH, AGARD, CARPENTER, L. JOHNSON, LARSON, PFAFF, ROYS, SPREITZER, TAYLOR and WIRCH, cosponsored by Representatives RIEMER, VINING, J. ANDERSON, ANDRACA, BARE, CLANCY, CONLEY, EMERSON, HONG, JACOBSON, JOERS, MADISON, MOORE OMOKUNDE, NEUBAUER, OHNSTAD, ORTIZ-VELEZ, PALMERI, RATCLIFF, SHANKLAND, SHELTON, SINICKI and SUBECK. Referred to Committee on Insurance and Small Business.

1 **AN ACT to repeal** 49.45 (2p), 49.45 (23) and 49.45 (23b); **to amend** 20.435 (4) (jw),
2 49.471 (4) (a) 4. b. and 49.686 (3) (d); **to create** 49.471 (1) (cr), 49.471 (4) (a) 8.
3 and 49.471 (4g) of the statutes; and **to affect** 2017 Wisconsin Act 370, section
4 44 (2) and (3); **relating to:** expanding eligibility for the Medical Assistance
5 program and making an appropriation.

Analysis by the Legislative Reference Bureau

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. 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 the bill. 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

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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, as a separate program as of October 1, 2023.

2017 Wisconsin Act 370 requires by statute that DHS implement the BadgerCare Reform waiver as it relates to childless adults as approved by the federal Department of Health and Human Services effective October 31, 2018. The 2015-17 and 2017-19 biennial budget acts required DHS to submit a waiver request to the federal Department of Health and Human Services authorizing DHS to take certain actions, including imposing premiums on, requiring a health risk assessment of, and limiting the time of eligibility for recipients of BadgerCare Plus under the childless adults demonstration project waiver. Act 370 required DHS to implement the childless adults BadgerCare Reform waiver by no later than November 1, 2019. If the Joint Committee on Finance determines that DHS has not complied with the implementation deadline, has not made sufficient progress in implementing the BadgerCare Reform waiver, or has not complied with other requirements relating to approved waiver implementation, Act 370 allows JCF to reduce from moneys allocated for state operations or administrative functions DHS's appropriation or expenditure authority, whichever is applicable, or change the authorized level of full-time equivalent positions for DHS related to the Medical Assistance program. The bill eliminates the statutory implementation requirement for the BadgerCare Reform waiver, including the deadline and penalties, eliminates the statutory requirement for DHS to seek the waiver, and allows DHS to modify or withdraw the waiver.

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:

1 **SECTION 1.** 20.435 (4) (jw) of the statutes, as affected by 2023 Wisconsin Act 30,
2 is amended to read:

3 20.435 (4) (jw) *BadgerCare Plus and hospital assessment.* All moneys received
4 ~~from payment of enrollment fees under the program under s. 49.45 (23), all moneys~~
5 transferred under s. 50.38 (9), all moneys transferred under s. 256.23 (6), all moneys
6 transferred from the appropriation account under par. (jz), and 10 percent of all

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1 moneys received from penalty assessments under s. 49.471 (9) (c), ~~for administration~~
2 ~~of the program under s. 49.45 (23)~~, to provide a portion of the state share of
3 administrative costs for the BadgerCare Plus Medical Assistance program under s.
4 49.471, for administration of the hospital assessment under s. 50.38, and for
5 administration of the ambulance service provider fee under s. 256.23.

6 **SECTION 2.** 49.45 (2p) of the statutes is repealed.

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

8 **SECTION 4.** 49.45 (23b) of the statutes is repealed.

9 **SECTION 5.** 49.471 (1) (cr) of the statutes is created to read:

10 49.471 (1) (cr) “Enhanced federal medical assistance percentage” means a
11 federal medical assistance percentage described under 42 USC 1396d (y) or (z).

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

13 49.471 (4) (a) 4. b. The individual’s family income does not exceed ~~100~~ 133
14 percent of the poverty line ~~before application of the 5 percent income disregard under~~
15 ~~42 CFR 435.603 (d)~~.

16 **SECTION 7.** 49.471 (4) (a) 8. of the statutes is created to read:

17 49.471 (4) (a) 8. An individual who meets all of the following criteria:

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

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

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

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

24 49.471 (4g) **MEDICAID EXPANSION; FEDERAL MEDICAL ASSISTANCE PERCENTAGE.** For
25 services provided to individuals described under sub. (4) (a) 8., the department shall

SENATE BILL 716**SECTION 8**

1 comply with all federal requirements to qualify for the highest available enhanced
2 federal medical assistance percentage. The department shall submit any
3 amendment to the state medical assistance plan, request for a waiver of federal
4 Medicaid law, or other approval request required by the federal government to
5 provide services to the individuals described under sub. (4) (a) 8. and qualify for the
6 highest available enhanced federal medical assistance percentage. Sections 20.940
7 and 49.45 (2t) do not apply to a submission to the federal government under this
8 subsection.

9 **SECTION 9.** 49.686 (3) (d) of the statutes is amended to read:

10 49.686 (3) (d) Has applied for coverage under and has been denied eligibility
11 for medical assistance within 12 months prior to application for reimbursement
12 under sub. (2). This paragraph does not apply to an individual who is eligible for
13 benefits under the demonstration project for childless adults under s. 49.45 (23) or
14 to an individual who is eligible for benefits under BadgerCare Plus under s. 49.471
15 (4) (a) 8. or (11).

16 **SECTION 10.** 2017 Wisconsin Act 370, section 44 (2) and (3) are repealed.

17 **SECTION 11. Nonstatutory provisions.**

18 (1) CHILDLESS ADULTS DEMONSTRATION PROJECT. The department of health
19 services shall submit any necessary request to the federal department of health and
20 human services for a state plan amendment or waiver of federal Medicaid law or to
21 modify or withdraw from any waiver of federal Medicaid law relating to the childless
22 adults demonstration project under s. 49.45 (23), 2021 stats., to reflect the
23 incorporation of recipients of Medical Assistance under the demonstration project
24 into the BadgerCare Plus program under s. 49.471 and the termination of the

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1 demonstration project. Sections 20.940 and 49.45 (2t) do not apply to a request under
2 this subsection.

3 **SECTION 12. Fiscal changes.**

4 (1) **MEDICAID EXPANSION.** In the schedule under s. 20.005 (3) for the
5 appropriation to the department of health services under s. 20.435 (4) (b), the dollar
6 amount for fiscal year 2023-24 is decreased by \$250,000,000 as a result of expanding
7 eligibility for the Medical Assistance program. In the schedule under s. 20.005 (3)
8 for the appropriation to the department of health services under s. 20.435 (4) (b), the
9 dollar amount for fiscal year 2024-25 is decreased by \$230,000,000 as a result of
10 expanding eligibility for the Medical Assistance program.

11 (2) **FEDERAL MEDICAL ASSISTANCE PERCENTAGE INCENTIVE LAPSE.** Notwithstanding
12 s. 20.001 (3) (b), on July 1, 2025, there is lapsed to the general fund \$1,020,000,000
13 from the appropriation account of the department of health services under s. 20.435
14 (4) (b).

15 (3) **INCOME MAINTENANCE.** In the schedule under s. 20.005 (3) for the
16 appropriation to the department of health services under s. 20.435 (4) (bn), the dollar
17 amount for fiscal year 2023-24 is increased by \$340,500 and the dollar amount for
18 fiscal year 2024-25 is increased by \$342,200.

19 **SECTION 13. Effective dates.** This act takes effect on the day after publication,
20 except as follows:

21 (1) **MEDICAID EXPANSION.** The treatment of ss. 20.435 (4) (jw), 49.45 (23) and
22 (23b), 49.471 (1) (cr), (4) (a) 4. b. and 8., and (4g), and 49.686 (3) (d) and 2017
23 Wisconsin Act 370, section 44 (2) and (3) and SECTION 11 (1) of this act take effect
24 retroactively to October 1, 2023.

25

(END)