

2007 SENATE BILL 490

February 15, 2008 – Introduced by Senators BRESKE, KREITLOW, LASSA, LEHMAN, SULLIVAN, MILLER and DECKER, cosponsored by Representatives SEIDEL, SCHNEIDER, BLACK and A. WILLIAMS. Referred to Committee on Health, Human Services, Insurance, and Job Creation.

1 **AN ACT** *to repeal* 20.435 (4) (gp), 20.435 (4) (xe), 49.45 (5m) (ag) and 146.99; *to*
2 *amend* 46.27 (9) (a), 46.27 (10) (a) 1., 46.275 (5) (a), 46.275 (5) (c), 46.283 (5),
3 46.284 (5) (a), 46.485 (2g) (intro.), 49.45 (2) (a) 17., 49.45 (5m) (am), 49.45 (6m)
4 (ag) (intro.), 49.45 (6v) (b), 49.45 (6x) (a), 49.45 (6y) (a), 49.45 (6y) (am), 49.45
5 (6z) (a) (intro.), 49.45 (8) (b), 49.45 (24m) (intro.), 49.45 (52), 49.472 (6) (a),
6 49.472 (6) (b), 49.473 (5) and 50.375 (4); and *to create* 13.101 (18), 20.435 (4)
7 (xc), 20.435 (4) (xd), 20.435 (4) (xe), 25.17 (1) (gs), 25.772, 49.45 (58) and 50.375
8 of the statutes; **relating to:** eliminating an assessment on the gross private
9 patient revenue of hospitals, creating an assessment on the gross patient
10 revenue of hospitals, creating a hospital assessment trust fund, increasing the
11 Medical Assistance and Badger Care payment rate for hospitals, requiring
12 monthly payments by health maintenance organizations to hospitals and
13 reconciliation of payments with actual utilization of services, increasing
14 supplemental Medical Assistance payments to rural hospitals, transferring

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1 moneys from the hospital assessment fund to the injured patients and families
2 compensation fund, requiring the Department of Health and Family Services
3 annually to submit a report for review by the Joint Committee on Finance, and
4 making appropriations.

Analysis by the Legislative Reference Bureau

Under current federal and state law, Medical Assistance (MA) is a jointly funded, federal–state program that the Department of Health and Family Services (DHFS) administers to provide health care services to eligible individuals with very low incomes and few assets; the state share of MA is paid from a combination of general purpose revenues, program revenues from hospital assessments, and segregated funds under the MA trust fund. Under a waiver of federal Medicaid laws from the federal Department of Health and Human Services, DHFS also administers under MA the Badger Care Health Care Program (Badger Care). Badger Care provides health care coverage to certain low–income families and to certain low–income children who do not reside with a parent.

Under current law, DHFS annually assesses hospitals a total of \$1,500,000, in proportion to each hospital’s respective gross private–pay patient revenues during the hospital’s most recent fiscal year. Moneys from the assessments are credited to a general program revenue appropriation account, from which is paid a portion of MA program benefits, certain long–term care MA pilot projects, and services under the Family Care Program.

Currently, under MA, DHFS must distribute not more than \$2,256,000 in each fiscal year to provide supplemental funds to rural hospitals and to critical access hospitals that have a high utilization of inpatient services by patients whose care is provided from governmental sources.

This bill eliminates the current hospital assessment and the associated program revenue appropriation account and, instead, authorizes DHFS to levy, enforce, and collect an annual assessment on the gross patient revenue of hospitals, payable quarterly, based on claims information collected by an entity from hospitals under the laws relating to health care information or based on any other source that is approved in the state Medicaid plan. Under the bill, the assessments are first due before September 30, 2008. DHFS must verify the amount of each hospital’s gross patient revenue and determine the amount of the assessment owed by each hospital based on a uniform rate applicable to total gross patient revenue that DHFS estimates will yield \$210,458,300 in fiscal year 2008–09. DHFS may allow delayed payment by hospitals that are unable to pay by the quarterly assessment dates; a DHFS determination that a hospital may not make a delayed payment is not subject to an administrative appeal process. If DHFS determines that any portion of the revenue needed to provide MA payment increases for inpatient or outpatient hospital services as fee for service or through health maintenance organizations

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(HMOs) is not eligible for the federal Medicaid share, DHFS must refund that amount to hospitals in proportion to each hospital's assessment payment. The assessments must be deposited into the hospital assessment fund (a separate, nonlapsible trust fund, as created in the bill).

Moneys from the hospital assessments deposited in the hospital assessment fund are, under the bill, appropriated to provide the MA nonfederal share for increased payments, in excess of the aggregate inpatient and outpatient MA hospital payment rates in effect in fiscal year 2007–08, and refunds to hospitals for services provided under MA and Badger Care. They are also appropriated to increase (together with federal Medicaid matching moneys) the amount of moneys DHFS must distribute to rural hospitals for fiscal year 2008–09 and each fiscal year thereafter, by \$3,000,000. Additionally, they are appropriated to provide \$1,500,000 in each fiscal year for a portion of MA program benefits. Lastly, they are transferred from the hospital assessment fund to the injured patients and families compensation fund in the amounts of \$60,000,000 in fiscal years 2008–09, \$65,000,000 in fiscal year 2009–10 and 2010–11, and \$10,000,000 in fiscal year 2011–12. The Joint Committee on Finance of the legislature (JCF) may not transfer moneys from the hospital assessment fund.

The bill requires HMOs that provide services under MA and Badger Care to make monthly payments to hospitals in amounts equivalent to any increase in the capitated rate that DHFS pays HMOs for serving MA and Badger Care recipients, which increase is intended to cover hospital services and is associated with the hospital assessment. The bill requires DHFS to determine monthly amounts, specific to each HMO and hospital, that HMOs must pay hospitals based on data that DHFS uses to calculate the capitated rates DHFS pays HMOs as well as encounter data provided by the HMOs. DHFS must redetermine the amounts at least once annually and must publicly disclose the methodology used to calculate the amounts. The bill requires that each HMO and hospital reconcile the monthly HMO payments to the hospital with actual utilization of inpatient and outpatient services by MA and Badger Care recipients every six months, and that the HMO or hospital, whichever is applicable, pay the other any difference within 90 days. If an HMO and hospital cannot reconcile the amount owed, upon the request of either the HMO or hospital, DHFS must determine the amount. The DHFS determination is subject to administrative review.

Under the bill, DHFS must report, by December 31, 2009 and by December 31 each year thereafter, to JCF all of the following information for the immediately previous state fiscal year: (1) the total amount of hospital assessments collected; (2) the total amount of assessments collected from each hospital; (3) the total amounts that DHFS determines were paid to HMOs for increased MA and Badger Care payments to hospitals; (4) the total amount of these payments made to each hospital by HMOs; (5) the total amount of these payments made to each hospital and the portion of the capitated payments made to HMOs for inpatient and outpatient hospital services from general purpose revenues; (6) the total amounts obtained under (3) and (5); and (7) the results of any audits conducted by DHFS concerning

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1 **SECTION 4.** 20.435 (4) (xc) of the statutes is created to read:

2 20.435 **(4)** (xc) *Hospital assessment fund; hospital payments and refunds.*
3 Biennially, from the medical assessment trust fund, the amounts in the schedule for
4 increased payments and refunds to hospitals and for higher capitated payment rates
5 under s. 49.45 (58) (a), as the Medical Assistance nonfederal share, in order to
6 increase payment rates in excess of the aggregate inpatient and outpatient hospital
7 payment rates in effect in fiscal year 2007–08 for services provided by hospitals
8 under the Medical Assistance program administered under subch. IV of ch. 49 and
9 the Badger Care health care program under s. 49.665.

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

11 20.435 **(4)** (xd) *Hospital assessment fund; Medical Assistance and Badger Care*
12 *program benefits.* Biennially, from the hospital assessment fund, the amounts in the
13 schedule to provide a portion of the state share of Medical Assistance program
14 benefits administered under subch. IV of ch. 49 and to provide a portion of the costs
15 of benefits under the Badger Care health care program under s. 49.665.

16 **SECTION 6.** 20.435 (4) (xe) of the statutes is created to read:

17 20.435 **(4)** (xe) *Hospital assessment fund; transfer.* From the hospital
18 assessment fund, a sum sufficient, equal to \$60,000,000 in the 2008–09 fiscal year,
19 to be transferred to the injured patients and families compensation fund on
20 December 1, 2008; equal to \$65,000,000 in the 2009–10 fiscal year, to be transferred
21 to the injured patients and families compensation fund on December 1, 2009; equal
22 to \$65,000,000 in the 2010–11 fiscal year, to be transferred to the injured patients
23 and families compensation fund on December 1, 2010; and equal to \$10,000,000 in
24 the 2011–12 fiscal year, to be transferred to the injured patients and families
25 compensation fund on December 1, 2011.

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1 **SECTION 7.** 20.435 (4) (xe) of the statutes, as created by 2007 Wisconsin Act ...
2 (this act), is repealed.

3 **SECTION 8.** 25.17 (1) (gs) of the statutes is created to read:

4 25.17 (1) (gs) Hospital assessment fund (s. 25.772);

5 **SECTION 9.** 25.772 of the statutes is created to read:

6 **25.772 Hospital assessment fund.** There is established a separate
7 nonlapsible trust fund designated as the hospital assessment fund, to consist of all
8 moneys received under s. 50.375 from assessments on hospitals.

9 **SECTION 10.** 46.27 (9) (a) of the statutes is amended to read:

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

19 **SECTION 11.** 46.27 (10) (a) 1. of the statutes is amended to read:

20 46.27 (10) (a) 1. The department shall determine for each county participating
21 in the pilot project under sub. (9) a funding level of state medical assistance
22 expenditures to be received by the county. This level shall equal the amount that the
23 department determines would otherwise be paid under s. 20.435 (4) (b), ~~(gp), or (w),~~
24 or (xd), or because of increased utilization of nursing home services, as estimated by
25 the department.

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1 **SECTION 12.** 46.275 (5) (a) of the statutes is amended to read:

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

8 **SECTION 13.** 46.275 (5) (c) of the statutes is amended to read:

9 46.275 (5) (c) The total allocation under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), and
10 (xd) to counties and to the department under sub. (3r) for services provided under
11 this section may not exceed the amount approved by the federal department of health
12 and human services. A county may use funds received under this section only to
13 provide services to persons who meet the requirements under sub. (4) and may not
14 use unexpended funds received under this section to serve other developmentally
15 disabled persons residing in the county.

16 **SECTION 14.** 46.283 (5) of the statutes is amended to read:

17 46.283 (5) FUNDING. From the appropriation accounts under s. 20.435 (4) (b),
18 (bm), ~~(gp)~~, (pa), and (w), and (xd) and (7) (b), (bd), and (md), the department may
19 contract with organizations that meet standards under sub. (3) for performance of
20 the duties under sub. (4) and shall distribute funds for services provided by resource
21 centers.

22 **SECTION 15.** 46.284 (5) (a) of the statutes, as affected by 2007 Wisconsin Act 20,
23 is amended to read:

24 46.284 (5) (a) From the appropriation accounts under s. 20.435 (4) (b), (g), ~~(gp)~~,
25 (im), (o), and (w), and (xd) and (7) (b), (bd), and (g), the department shall provide

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1 funding on a capitated payment basis for the provision of services under this section.
2 Notwithstanding s. 46.036 (3) and (5m), a care management organization that is
3 under contract with the department may expend the funds, consistent with this
4 section, including providing payment, on a capitated basis, to providers of services
5 under the family care benefit.

6 **SECTION 16.** 46.485 (2g) (intro.) of the statutes is amended to read:

7 46.485 (2g) (intro.) From the appropriation accounts under s. 20.435 (4) (b) and
8 ~~(gp)~~ (xd), the department may in each fiscal year transfer funds to the appropriation
9 under s. 20.435 (7) (kb) for distribution under this section and from the appropriation
10 account under s. 20.435 (7) (mb) the department ~~may not shall~~ distribute ~~more than~~
11 \$1,330,500 in each fiscal year to applying counties in this state that meet all of the
12 following requirements, as determined by the department:

13 **SECTION 17.** 49.45 (2) (a) 17. of the statutes is amended to read:

14 49.45 (2) (a) 17. Notify the governor, the joint committee on legislative
15 organization, the joint committee on finance and appropriate standing committees,
16 as determined by the presiding officer of each house, if the appropriation accounts
17 under s. 20.435 (4) (b) and ~~(gp)~~ (xd) are insufficient to provide the state share of
18 medical assistance.

19 **SECTION 18.** 49.45 (5m) (ag) of the statutes is repealed.

20 **SECTION 19.** 49.45 (5m) (am) of the statutes is amended to read:

21 49.45 (5m) (am) Notwithstanding sub. (3) (e), from the appropriation accounts
22 under s. 20.435 (4) (b), ~~(gp)~~, (o), (xc), (xd), and (w), the department shall distribute
23 not more than \$2,256,000 in each fiscal year 2007–08 and not more than \$5,256,000
24 in fiscal year 2008–09 and each fiscal year thereafter, to provide supplemental funds
25 to rural hospitals that, as determined by the department, have high utilization of

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1 inpatient services by patients whose care is provided from governmental sources,
2 and to provide supplemental funds to critical access hospitals, except that the
3 department may not distribute funds to a rural hospital or to a critical access hospital
4 to the extent that the distribution would exceed any limitation under 42 USC 1396b
5 (i) (3).

6 **SECTION 20.** 49.45 (6m) (ag) (intro.) of the statutes is amended to read:

7 49.45 **(6m)** (ag) (intro.) Payment for care provided in a facility under this
8 subsection made under s. 20.435 (4) (b), ~~(gp)~~, (o), (pa), ~~or~~ (w), or (xd) shall, except as
9 provided in pars. (bg), (bm), and (br), be determined according to a prospective
10 payment system updated annually by the department. The payment system shall
11 implement standards that are necessary and proper for providing patient care and
12 that meet quality and safety standards established under subch. II of ch. 50 and ch.
13 150. The payment system shall reflect all of the following:

14 **SECTION 21.** 49.45 (6v) (b) of the statutes is amended to read:

15 49.45 **(6v)** (b) The department shall, each year, submit to the joint committee
16 on finance a report for the previous fiscal year, except for the 1997–98 fiscal year, that
17 provides information on the utilization of beds by recipients of medical assistance in
18 facilities and a discussion and detailed projection of the likely balances,
19 expenditures, encumbrances and carry over of currently appropriated amounts in
20 the appropriation accounts under s. 20.435 (4) (b), ~~(gp)~~, and (o), and (xd).

21 **SECTION 22.** 49.45 (6x) (a) of the statutes is amended to read:

22 49.45 **(6x)** (a) Notwithstanding sub. (3) (e), from the appropriation accounts
23 under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), and (xd), the department shall distribute not
24 more than \$4,748,000 in each fiscal year, to provide funds to an essential access city
25 hospital, except that the department may not allocate funds to an essential access

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1 city hospital to the extent that the allocation would exceed any limitation under 42
2 USC 1396b (i) (3).

3 **SECTION 23.** 49.45 (6y) (a) of the statutes is amended to read:

4 49.45 (6y) (a) Notwithstanding sub. (3) (e), from the appropriation accounts
5 under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), and (xd), the department shall may
6 distribute funding in each fiscal year to provide supplemental payment to hospitals
7 that enter into a contract under s. 49.02 (2) to provide health care services funded
8 by a relief block grant, as determined by the department, for hospital services that
9 are not in excess of the hospitals' customary charges for the services, as limited under
10 42 USC 1396b (i) (3). If no relief block grant is awarded under this chapter or if the
11 allocation of funds to such hospitals would exceed any limitation under 42 USC
12 1396b (i) (3), the department may distribute funds to hospitals that have not entered
13 into a contract under s. 49.02 (2).

14 **SECTION 24.** 49.45 (6y) (am) of the statutes is amended to read:

15 49.45 (6y) (am) Notwithstanding sub. (3) (e), from the appropriation accounts
16 under s. 20.435 (4) (b), (h), ~~(gp)~~, (o), and (w), and (xd), the department shall distribute
17 funding in each fiscal year to provide supplemental payments to hospitals that enter
18 into contracts under s. 49.02 (2) with a county having a population of 500,000 or more
19 to provide health care services funded by a relief block grant, as determined by the
20 department, for hospital services that are not in excess of the hospitals' customary
21 charges for the services, as limited under 42 USC 1396b (i) (3).

22 **SECTION 25.** 49.45 (6z) (a) (intro.) of the statutes, as affected by 2007 Wisconsin
23 Act 20, is amended to read:

24 49.45 (6z) (a) (intro.) Notwithstanding sub. (3) (e), from the appropriation
25 accounts under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), and (xd), the department may

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1 distribute funding in each fiscal year to supplement payment for services to hospitals
2 that enter into indigent care agreements, in accordance with the approved state plan
3 for services under 42 USC 1396a, with relief agencies that administer the medical
4 relief block grant under this chapter, if the department determines that the hospitals
5 serve a disproportionate number of low-income patients with special needs. If no
6 medical relief block grant under this chapter is awarded or if the allocation of funds
7 to such hospitals would exceed any limitation under 42 USC 1396b (i) (3), the
8 department may distribute funds to hospitals that have not entered into indigent
9 care agreements. The department may not distribute funds under this subsection
10 to the extent that the distribution would do any of the following:

11 **SECTION 26.** 49.45 (8) (b) of the statutes is amended to read:

12 49.45 **(8)** (b) Reimbursement under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), and (xd)
13 for home health services provided by a certified home health agency or independent
14 nurse shall be made at the home health agency's or nurse's usual and customary fee
15 per patient care visit, subject to a maximum allowable fee per patient care visit that
16 is established under par. (c).

17 **SECTION 27.** 49.45 (24m) (intro.) of the statutes is amended to read:

18 49.45 **(24m)** (intro.) From the appropriation accounts under s. 20.435 (4) (b),
19 ~~(gp)~~, (o), and (w), and (xd), in order to test the feasibility of instituting a system of
20 reimbursement for providers of home health care and personal care services for
21 medical assistance recipients that is based on competitive bidding, the department
22 shall:

23 **SECTION 28.** 49.45 (52) of the statutes is amended to read:

24 49.45 **(52)** PAYMENT ADJUSTMENTS. Beginning on January 1, 2003, the
25 department may, from the appropriation account under s. 20.435 (7) (b), make

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1 Medical Assistance payment adjustments to county departments under s. 46.215,
2 46.22, 46.23, or 51.42, or 51.437 or to local health departments, as defined in s. 250.01
3 (4), as appropriate, for covered services under s. 49.46 (2) (a) 2. and 4. d. and f. and
4 (b) 6. b., c., f., fm., g., j., k., L., Lm., and m., 9., 12., 12m., 13., 15., and 16. Payment
5 adjustments under this subsection shall include the state share of the payments.
6 The total of any payment adjustments under this subsection and Medical Assistance
7 payments made from appropriation accounts under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w),
8 and (xd) may not exceed applicable limitations on payments under 42 USC 1396a (a)
9 (30) (A).

10 **SECTION 29.** 49.45 (58) of the statutes is created to read:

11 49.45 (58) HEALTH MAINTENANCE ORGANIZATION PAYMENTS TO HOSPITALS. (a) The
12 department shall establish a schedule of amounts that each health maintenance
13 organization that contracts with the department to provide medical assistance
14 services or services under s. 49.665 for a capitated payment rate shall pay monthly
15 to each hospital that serves recipients of medical assistance services or recipients of
16 services under s. 49.665. The amounts shall be based on any increase in the capitated
17 rate that the department pays a health maintenance organization, which increase
18 is intended to cover inpatient and outpatient hospital services and which is
19 associated with the assessment imposed on hospitals under s. 50.375. The
20 department shall use the information that it uses to calculate the capitated rates
21 that the department pays health maintenance organizations and encounter data
22 that is provided by the health maintenance organizations to calculate the amounts
23 in the schedule. The department shall disclose publicly the methodology it uses to
24 calculate the amounts in the schedule. The department shall recalculate the
25 amounts in the schedule at least once every 12 months.

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1 (b) The department shall require, as a term of contracts with health
2 maintenance organizations to provide medical assistance services or services under
3 s. 49.665 for a capitated payment rate, that the health maintenance organization do
4 all of the following:

5 1. Monthly pay hospitals the applicable amounts in the schedule under par. (a).

6 2. For each hospital to which the health maintenance organization makes
7 payments under subd. 1., calculate the amount that results from applying the rate
8 increase derived using the methodology under par. (a) to services for which the
9 hospital submits claims to the health maintenance organization for providing
10 inpatient and outpatient services to recipients of medical assistance and recipients
11 of services under s. 49.665.

12 3. Every 6 months, and for each hospital to which the health maintenance
13 organization makes payments under subd. 1, compare the amount that the health
14 maintenance organization paid the hospital under subd. 1. for the previous 6 months
15 with the amount calculated under subd. 2. for services provided during that same
16 period, and, if the amount under subd. 2. exceeds the amount of the payments under
17 subd. 1., pay the hospital the difference within 90 days.

18 (c) If the total payments that a health maintenance organization made to a
19 hospital under par. (b) 1. for a 6 month period exceed the amount calculated under
20 par. (b) 2. for services provided during that same period, the hospital shall pay the
21 health maintenance organization the difference within 90 days after the end of the
22 6-month period.

23 (d) If the department determines that a health maintenance organization has
24 not complied with a condition under par. (b), the department shall require the health
25 maintenance organization to comply with the condition within 15 days after the

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1 department's determination. The department may terminate a contract with a
2 health maintenance organization to provide medical assistance services or services
3 under s. 49.665 for a capitated payment rate for failure to comply with a condition
4 under par. (b). The department may audit health maintenance organizations to
5 determine whether they have complied with the conditions under par. (b).

6 (e) If a health maintenance organization and hospital cannot resolve the
7 amount that a health maintenance organization owes a hospital under par. (b) 3. or
8 that a hospital owes a health maintenance organization under par. (c), and either the
9 health maintenance organization or the hospital, within 6 months after the end of
10 the time period to which the disputed amount relates, requests that the department
11 determine the amount owed, the department shall determine the amount within 90
12 days after the request is made. The health maintenance organization or hospital is,
13 upon request, entitled to a contested case hearing under ch. 227 on the department's
14 determination.

15 **SECTION 30.** 49.472 (6) (a) of the statutes is amended to read:

16 49.472 (6) (a) Notwithstanding sub. (4) (a) 3., from the appropriation account
17 under s. 20.435 (4) (b), ~~(gp), or (w), or (xd)~~, the department shall, on the part of an
18 individual who is eligible for medical assistance under sub. (3), pay premiums for or
19 purchase individual coverage offered by the individual's employer if the department
20 determines that paying the premiums for or purchasing the coverage will not be more
21 costly than providing medical assistance.

22 **SECTION 31.** 49.472 (6) (b) of the statutes is amended to read:

23 49.472 (6) (b) If federal financial participation is available, from the
24 appropriation account under s. 20.435 (4) (b), ~~(gp), or (w), or (xd)~~, the department may

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1 pay medicare Part A and Part B premiums for individuals who are eligible for
2 medicare and for medical assistance under sub. (3).

3 **SECTION 32.** 49.473 (5) of the statutes is amended to read:

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

9 **SECTION 33.** 50.375 of the statutes is created to read:

10 **50.375 Assessment. (1)** Except as provided in subs. (2) and (7), for the
11 privilege of doing business in this state, there is imposed on each hospital an annual
12 assessment, based on the hospital's gross patient revenue, that each hospital shall
13 pay quarterly before September 30, December 31, March 31, and June 30 of each
14 year, beginning with the payment due before September 30, 2008. The assessments
15 shall be deposited into the hospital assessment fund.

16 **(2)** At the discretion of the department, a hospital that is unable timely to make
17 a payment by a date specified under sub. (1) may be allowed to make a delayed
18 payment. A determination by the department that a hospital may not make a
19 delayed payment under this subsection is final and is not subject to review under ch.
20 227.

21 **(3)** The amount of each hospital's assessment shall be based on the information
22 that shall be provided to the department under s. 153.46 (5) or shall be based on any
23 other source that is approved in the state plan for services under 42 USC 1396.

24 **(4)** The department shall verify the amount of each hospital's gross patient
25 revenue and shall determine the amount of the assessment owed by each hospital

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1 based on a uniform rate that is applicable to total gross patient revenue that the
2 department estimates will yield the amounts specified in the appropriation schedule
3 under s. 20.005 (3) for the appropriation accounts under s. 20.435 (4) (xc), (xd), and
4 (xe).

5 (5) The department shall levy, enforce, and collect the assessments under this
6 section and shall develop and distribute forms necessary for these purposes.

7 (6) If the department determines that any portion of the revenue needed to
8 provide Medical Assistance payment increases for inpatient and outpatient hospital
9 services as fee for service or through health maintenance organizations is not eligible
10 for federal financial participation, the department will refund that amount of
11 revenue to hospitals in proportion to each hospital's payment of the assessment.

12 (7) This section does not apply to a critical access hospital, as defined in s. 50.33
13 (1g), or to an institution for mental diseases, as defined in s. 46.011 (1m).

14 (8) Sections 77.59 (1) to (5), (6) (intro.), (a), and (c), and (7) to (10), 77.60 (1) to
15 (7), (9), and (10), 77.61 (9) and (12) to (14), and 77.62, as they apply to the taxes under
16 subch. III of ch. 77, apply to the assessment under this section, except that the
17 amount of any assessment collected under sub. (1) shall be deposited in the Medical
18 Assistance trust fund.

19 (9) By December 31, 2009, and by every December 31 thereafter, the
20 department shall report to the joint committee on finance all of the following
21 information for the immediately previous state fiscal year:

22 (a) The total amount of assessments collected under this section.

23 (b) The total amount of assessments collected from each hospital under this
24 section.

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1 (c) The total amounts that the department determines were paid to health
2 maintenance organizations for increased Medical Assistance payments to hospitals.

3 (d) The total amount of payments made to each hospital by health maintenance
4 organizations under s. 49.45 (58) (b) 1.

5 (e) The total amount of Medical Assistance payments made to each hospital and
6 the portion of the Medical Assistance capitated payments made to health
7 maintenance organizations for inpatient and outpatient hospital services from
8 appropriation accounts of general purpose revenues.

9 (f) The total amounts obtained under pars. (c) and (e).

10 (g) The results of any audits conducted by the department under s. 49.45 (58)
11 concerning Medical Assistance payments and any actions taken by the department
12 as a result of such an audit.

13 **SECTION 34.** 50.375 (4) of the statutes, as created by 2007 Wisconsin Act (this
14 act), is amended to read:

15 50.375 (4) The department shall verify the amount of each hospital's gross
16 patient revenue and shall determine the amount of the assessment owed by each
17 hospital based on a uniform rate that is applicable to total gross patient revenue that
18 the department estimates will yield the amounts specified in the appropriation
19 schedule under s. 20.005 (3) for the appropriation accounts under s. 20.435 (4) (xc),
20 and (xd), ~~and (xe)~~.

21 **SECTION 35.** 146.99 of the statutes is repealed.

22 **SECTION 36. Effective dates.** This act takes effect on July 1, 2008, except as
23 follows:

