



2023 ASSEMBLY BILL 148

April 7, 2023 - Introduced by Representatives PENTERMAN, MACCO, ALLEN, BEHNKE, BODDEN, BORN, BRANDTJEN, DITTRICH, EDMING, GREEN, GUNDRUM, KNODL, MAGNAFICI, MOSES, NEDWESKI, PETERSEN, PLUMER, RETTINGER, ROZAR, SNYDER, SORTWELL, STEFFEN, TITTL and WICHGERS, cosponsored by Senators STAFSHOLT, CABRAL-GUEVARA, FELZKOWSKI, NASS and STROEBEL. Referred to Committee on Health, Aging and Long-Term Care.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT to renumber and amend** 49.823; and **to create** 49.45 (2) (a) 3m., 49.471
2 (4d) and (4j) and 49.823 (2) of the statutes; **relating to:** disenrollment of
3 ineligible individuals from and redeterminations of eligibility for the
4 BadgerCare Plus program and database confirmation for public assistance
5 program eligibility.

Analysis by the Legislative Reference Bureau

This bill makes various changes to eligibility determinations for public assistance programs and, specifically, the BadgerCare Plus program. Currently, the Department of Health Services administers the Medical Assistance program, a joint federal and state program that provides health services to individuals who have limited financial resources. Some services are provided through programs that operate under a waiver of federal Medicaid laws, including the BadgerCare Plus program. Under current law, certain children, pregnant women, parents and caretaker relatives, former foster care youth, and adults aged 19 to 64 who are not receiving Medicare and who do not have dependent children are eligible for benefits under the BadgerCare Plus program if they meet certain financial criteria.

The bill prohibits DHS from automatically renewing the eligibility of a recipient under the BadgerCare Plus program. DHS must determine an individual's eligibility every six months under the bill. DHS is also prohibited from using prepopulated forms or otherwise supplying information, except for name and address, to a recipient under the BadgerCare Plus program that has been supplied

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to DHS. Additionally, any recipient under the BadgerCare Plus program that fails to timely report to DHS or its designee any change that may affect eligibility is ineligible for benefits for six months from the date DHS discovers the failure to report the change. Under current law, knowingly concealing or failing to disclose any event that an individual knows affects the initial or continued right to a Medical Assistance benefit is subject to a forfeiture of not less than \$100 nor more than \$15,000 for each concealment or failure.

The bill requires DHS to enter data sharing agreements with any agency that maintains a database of financial or personal information about residents of this state. DHS must confirm the information of an applicant for a public assistance program against the information contained in those databases. The bill also requires DHS to share data for this purpose of confirming eligibility for public assistance programs. Current law requires DHS and the Department of Children and Families to compare each department's respective databases against the databases of death records to identify deceased participants.

The bill requires DHS to promptly remove from eligibility for the BadgerCare Plus program any individual who enrolled in the program and who has been determined to be ineligible for the program. Under the federal Families First Coronavirus Act, during a federally declared public health emergency, a state may receive an enhanced amount of federal financial participation in its Medical Assistance program if the state complies with certain criteria, including refraining from disenrolling individuals from the program. Under the federal Consolidated Appropriation Act, 2023, enhanced federal financial participation ends for all states after December 31, 2023. Under the bill, if the disenrollment or any other part of the bill would cause the state not to qualify for enhanced federal financial participation under federal law, that portion of the bill that does not comply with federal law may not be implemented until January 1, 2024. During the period in which any portion of the bill is not implemented due to a conflict with federal law, DHS must audit BadgerCare Plus eligibility and report quarterly to the legislature the number of individuals who are ineligible for benefits under the BadgerCare Plus program but who are receiving benefits.

If DHS determines that it is necessary to obtain permission from the federal Department of Health and Human Services to implement any portion of this bill, the bill requires DHS to request any state plan amendment, waiver of federal law, or other federal approval to implement that portion of the bill.

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:

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1 49.45 (2) (a) 3m. Remove promptly from eligibility for the Medical Assistance
2 program under sub. (23) or s. 49.471 any individual who has been determined to be
3 ineligible.

4 **SECTION 2.** 49.471 (4d) and (4j) of the statutes are created to read:

5 49.471 (4d) REDETERMINATION OF ELIGIBILITY. The department may not
6 automatically renew the eligibility of a recipient of Medical Assistance benefits
7 under this section or s. 49.45 (23). The department shall redetermine eligibility for
8 the Medical Assistance program under this section or s. 49.45 (23) for each individual
9 every 6 months. In collecting information from a recipient of Medical Assistance
10 benefits or an applicant, the department may not use any form that is prepopulated
11 with, or otherwise provide to the recipient or applicant, information that has been
12 supplied to the department except for the recipient's or applicant's name and
13 address.

14 (4j) FAILURE TO REPORT. Any recipient of Medical Assistance benefits under this
15 section or s. 49.45 (23) who fails to timely report to the department or an entity
16 designated by the department any change that may affect the recipient's eligibility
17 for benefits shall be ineligible for benefits under this section or s. 49.45 (23) for 6
18 months following the date that the department discovers the failure to report the
19 change.

20 **SECTION 3.** 49.823 of the statutes is renumbered 49.823 (1) and amended to
21 read:

22 49.823 (1) The department of health services and the department of children
23 and families shall, at least once every 3 months, perform a comparison of each
24 department's respective public benefit database information against nationally
25 recognized databases that contain information on death records, including the

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1 federal social security administration's Death Master File, to identify participants
2 in public benefit programs that are deceased. If a department determines during a
3 review under this ~~section~~ subsection that a participant is deceased, the department
4 shall designate that individual as ineligible for benefits in any applicable database.
5 The requirements under this ~~section~~ subsection do not apply to the department of
6 children and families with regard to child care subsidies under s. 49.155.

7 **SECTION 4.** 49.823 (2) of the statutes is created to read:

8 49.823 (2) The department of health services shall enter a data sharing
9 agreement with the department of children and families, the department of
10 workforce development, and any other agency that maintains a database of financial
11 or personal information about residents of this state. The department of health
12 services, through the data sharing agreement, shall confirm the information
13 submitted by the applicant for a public assistance program with the information
14 contained in other databases held by other agencies. The department of health
15 services shall share data with other agencies for the purposes of confirming
16 eligibility for public assistance programs.

17 **SECTION 5. Nonstatutory provisions.**

18 (1) EFFECTIVE DATE OF DISENROLLMENT; REPORT ON INELIGIBILITY. If
19 implementation of s. 49.45 (2) (a) 3m. or any other part of this act does not comply
20 with section 6008 (b) or (f) of the federal Families First Coronavirus Response Act,
21 P.L. 116-127, as amended by the federal Consolidated Appropriations Act, 2021, P.L.
22 116-260, and the federal Consolidated Appropriations Act, 2023, P.L. 117-328, to
23 receive an enhanced federal medical assistance percentage, the department of
24 health services shall implement any part of the act that does not comply beginning
25 January 1, 2024. During any period in which any provision of this act is not

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1 implemented, the department of health services shall perform an audit of Medical
2 Assistance eligibility and report quarterly to the legislature under s. 13.172 (2) the
3 number of individuals who are ineligible for Medical Assistance under s. 49.45 (23)
4 or 49.471 but who are still receiving benefits pursuant to s. 49.45 (23) or 49.471.

5 (2) FEDERAL APPROVAL. If the department of health services determines that it
6 is necessary to obtain permission from the federal department of health and human
7 services to implement any portion of this act, the department shall request any state
8 plan amendment, waiver of federal law, or other federal approval to implement that
9 portion of the act. If federal approval is necessary under this subsection but not
10 obtained, the department of health services is not required to implement the portion
11 of the act for which approval is not obtained.

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(END)