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February 1, 2013

TO: Representative Jon Richards
Room 118 North, State Capitol

FROM: Bob Lang, Director

SUBJECT: LRB Draft Bill 0830/2: MA Expansion Under the Affordable Care Act

As requested, this memorandum summarizes LRB bill draft 0830/2. As drafted, the bill would make several changes to the state's medical assistance (MA) and MA-related programs effective January 1, 2014. Those changes include the following: (a) make non-pregnant, non-elderly adults who are not otherwise eligible for MA under BadgerCare Plus or certain other MA-related eligibility provisions, and whose incomes are not greater than 133% of the federal poverty level (FPL), eligible for BadgerCare Plus; and (b) repeal sections of current law that authorize DHS to provide services under the BadgerCare Plus Core Plan and the BadgerCare Plus Basic Plan.

The bill does not change funding levels in any state budget appropriation and therefore does not have an explicit fiscal effect. As requested, however, the memorandum provides estimates of how the changes to the MA program that would occur under the bill might impact MA benefit expenditures beginning January 1, 2014. Given the uncertainties and limitations identified below, the estimates are preliminary and subject to revision as additional information becomes available.

BACKGROUND

State Law. Wisconsin's MA program pays providers for the primary, preventive, acute, and long-term care services they provide to program enrollees. Those service costs are financed by a combination of federal and non-federal funding sources. The federal contribution is based on the state's federal medical assistance percentage, or FMAP. Each state's FMAP is calculated annually under a formula that compares a three-year average of the state's per capita income to national per capita income. In recent years, Wisconsin's standard FMAP has been approximately 60%, meaning that federal matching funds have supported sixty cents of each dollar the program spends on benefits. In the current federal fiscal year, Wisconsin's standard FMAP is 59.74%.

The state's MA program can be viewed in terms of its two primary components. The first, EBD MA, provides elderly, blind, and disabled individuals traditional MA services such as physician services, inpatient and outpatient hospital services, and nursing home care. Some EBD MA recipients also receive additional long-term care services under Family Care and other home- and community-based waiver programs.

The second main component of the MA program is BadgerCare Plus, which provides coverage to low-income children, their parents, and pregnant women. Subject to non-financial requirements such as citizenship and state residency, children under age 19 are eligible for BadgerCare Plus regardless of their family's income. Children in families with incomes greater than 200% of the FPL may be required to pay monthly premiums. Parents and caretaker relatives of children under age 19 are eligible for BadgerCare Plus if their family income does not exceed 200% of the FPL. These adults may be required to pay monthly premiums if their family income exceeds 133% of the FPL. Pregnant women are eligible for BadgerCare Plus if their family income does not exceed 300% of the FPL, and they are generally exempt from paying premiums. As of December 2012, there were approximately 731,500 individuals enrolled in BadgerCare Plus, broken out as follows: (a) 469,500 children; (b) 243,100 parent/caretaker relatives; and (c) 18,900 pregnant women.

BadgerCare Plus Core Plan. In late 2008, Wisconsin received a waiver of federal MA law to provide healthcare services under the BadgerCare Plus Core Plan. The Core Plan serves non-elderly adults who are not otherwise eligible for MA or Medicare, whose incomes do not exceed 200% of the FPL, and who do not have dependent children. These individuals, often referred to as "childless adults," were not previously eligible for MA. Services provided under the Core Plan are more limited and require greater recipient cost-sharing than traditional MA coverage. Effective July 1, 2012, Core Plan enrollees with incomes greater than 133% of the FPL are required to pay premiums. The current Core Plan waiver expires on December 31, 2013.

After expanding statewide in July 2009, enrollment in the Core Plan quickly exceeded all budget projections. DHS responded by closing the program to new enrollees. Since that enrollment cap was put in place, enrollment in the Core Plan has declined from 65,000 in January 2010, to 20,500 as of December 2012.

BadgerCare Plus Basic Plan. When DHS closed the Core Plan to new enrollees, it established a waitlist for the program. For these waitlisted individuals, 2009 Wisconsin Act 219 authorized DHS to create the BadgerCare Plus Basic Plan. Under that legislation, people on the Core Plan waitlist who satisfied all of the Core Plan's eligibility requirements were eligible to enroll in the Basic Plan. The Basic Plan is not an MA program, and its costs are intended to be financed wholly from premiums paid by participants. DHS began providing services to Basic Plan participants in July 2010, and monthly premiums were initially set at $130. DHS subsequently indicated that the $130 monthly premiums were not sufficient to cover the program's costs. DHS increased premiums (currently set at $325 per month) and closed the program to new enrollment. There were approximately 1,700 people enrolled in the Basic Plan as of December 2012. Under current law, the program is scheduled to terminate on January 1, 2014.

Federal Law. The Patient Protection and Affordable Care Act (ACA) went into effect on March 23, 2010. As enacted, the ACA required states to provide MA coverage to virtually all non-elderly adults with incomes not greater than 133% of the FPL beginning January 1, 2014. The ACA's new eligibility requirement extended not just to parents and other caretaker relatives of minor children, but also to non-pregnant, non-elderly adults without dependent children.

Following the U.S. Supreme Court's decision in *National Federation of Independent Business v. Sebelius*, the MA expansion required under the ACA became optional for states. States that implement the expansion are eligible for the enhanced federal matching rates the ACA provides for that purpose. Specifically, if the individuals covered by a state's MA expansion are "newly eligible" as that term is defined in the ACA, the state is eligible for an enhanced FMAP for those individuals' benefit costs that starts at 100% in calendar years 2014, 2015, and 2016, and declines thereafter as follows: 2017 (95%); 2018 (94%); 2019 (93%); and 2020 and beyond (90%). If, on the other hand, a state is deemed an "expansion state" under the ACA, it may still qualify for an enhanced FMAP, albeit one slightly lower than the ACA's FMAP for "newly eligible" enrollees. In Wisconsin's case, the "expansion state" FMAP would start at approximately 80% in 2014 and reach 90% in 2020 and beyond.

States that choose not to expand their MA programs will not qualify for the ACA's enhanced federal matching rates, but neither will they risk losing federal matching funds for their existing MA programs.

SUMMARY OF BILL

Expansion of BadgerCare Plus Eligibility. Effective January 1, 2014, the bill would create a new eligibility category under BadgerCare Plus for non-pregnant adults who are under age 65, who are not otherwise eligible for MA under BadgerCare Plus or certain other MA-related eligibility provisions, and whose income does not exceed 133% of the FPL as determined using modified adjusted gross income (MAGI) as required under the ACA. Note that because the ACA requires states to disregard 5% of income when determining MA eligibility under MAGI starting in 2014, the bill's income standard for the new eligibility group is effectively 138% of the FPL.

DHS Requirements. The bill would require DHS to comply with all federal requirements to qualify for the highest available enhanced federal medical assistance percentage for the services provided to individuals in the new eligibility category, including submitting any amendment to the state MA plan or requesting any waivers of federal law as necessary. As defined in the bill, the term "enhanced federal medical assistance percentage" refers to the "newly eligible" and "expansion state" FMAPs under the ACA.

Under the bill, individuals described in the new eligibility category would be eligible for coverage under the benchmark plan currently available to certain higher-income BadgerCare Plus enrollees. That plan covers a more limited range of benefits and requires greater recipient cost-sharing than traditional MA coverage. The bill specifies, however, that if the federal government determines that the benefits provided under the existing benchmark plan are not sufficient to

qualify DHS for an enhanced FMAP for the new eligibility group, DHS shall provide any benchmark or benchmark equivalent coverage that complies with the ACA so as to qualify for the highest available enhanced FMAP for those individuals. Similarly, the bill specifies that if, to obtain an enhanced FMAP, the federal government prohibits charging a copayment or premium to individuals in the new eligibility category, DHS may not charge copayments or premiums that would disqualify DHS from obtaining an enhanced FMAP for those individuals.

The bill would prohibit DHS from creating a policy that affects the eligibility or benefits of individuals in the new eligibility category such that DHS fails to obtain an enhanced FMAP for their service costs. In the context of the bill, a DHS "policy" refers to provisions enacted as part of the 2011-13 biennial budget (2011 Act 32) which temporarily allow DHS to implement certain changes to the MA program, even if they conflict with existing MA-related state statutes, provided the changes are approved by the Legislature's Joint Finance Committee and, where necessary, the federal government. This provision of the bill would go into effect January 1, 2014, and would be repealed effective January 1, 2015, the latter date coinciding with repeal of the Act 32 provisions under current law.

Repeal of the Core Plan and Basic Plan. The bill would repeal current statutory sections relating to the BadgerCare Plus Core Plan. The effect of these provisions would be to terminate the Core Plan effective January 1, 2014. The bill would also repeal various statutory references to the Badger Care Plus Basic Plan, which under current law terminates effective January 1, 2014.

Finally, effective January 1, 2014, the bill would repeal various references to the Core Plan and the Basic Plan in Chapter 227 (administrative procedure and review), in statutes relating to eligibility for the AIDS/HIV drug reimbursement program, and in statutes related to plans offered by the Health Insurance Risk-Sharing Plan (HIRSP) Authority.

FISCAL EFFECT

The bill does not change funding levels in any state budget appropriation and therefore does not have an explicit fiscal effect. This office has, however, developed preliminary estimates of how the bill might impact MA benefit expenditures beginning January 1, 2014. These preliminary estimates are subject to the assumptions and limitations described below. Among other limitations, the estimates do not include any additional administrative costs that might occur as a result of the bill's MA eligibility expansion.

As indicated, the bill would create a new eligibility category under BadgerCare Plus for non-pregnant, non-elderly adults who are not otherwise eligible for MA under BadgerCare Plus or certain other MA-related eligibility provisions, and whose income does not exceed 133% of the FPL as determined using MAGI. This definition does not expressly refer to childless adults. However, because parents and caretaker relatives of minor children with family incomes up to 200% of the FPL are already eligible for MA coverage under BadgerCare Plus, this analysis assumes the bill's new eligibility category would most directly impact non-pregnant, non-elderly childless adults.

Cost Estimate Methodology. Estimating the costs of the MA expansion envisioned under the bill requires, at a minimum, consideration of the following factors: (a) the number of uninsured and privately insured childless adults with incomes not greater than 133% of the FPL who would become eligible for MA under an expansion; (b) the number of such adults who would actually enroll in MA; (c) the per person costs associated with these new enrollees; and (d) the federal matching rates the state would receive toward the new enrollees' costs.

Number of New MA Enrollees: This memorandum presents preliminary cost estimates under two enrollment scenarios. The first assumes that 125,000 childless adults would enroll in MA under an expansion to 133% of the FPL. The second assumes that 175,000 childless adults would enroll under such an expansion. Both scenarios assume that 50% of the new enrollees would join the program on January 1, 2014, and that 100% of the new enrollees would be enrolled by January 1, 2015. Beginning January 1, 2015, both scenarios assume the number of childless adults in the MA program increases by 1% per year.

These enrollment scenarios are based on several sources, including the following: (a) U.S. Census Bureau data as reflected in the 2011 American Community Survey and the 2010-11 Current Population Survey; (b) the DHS "Wisconsin Health Insurance Coverage" report for 2010; and (c) enrollment projections developed by the Urban Institute and the University of Minnesota's State Health Access Data Assistance Center. None of those sources provide the basis for definitive estimates. The 125,000 and 175,000 figures used in this analysis reflect a reasonable range of enrollment projections based on those sources. Given the uncertainties inherent in projections of this nature, other reasonable enrollment scenarios could be developed.

Cost per New Enrollee: The cost to cover the childless adults who would enroll under the bill's MA expansion cannot be determined precisely due to uncertainty regarding the new enrollees' health status, their utilization of covered services, and uncertainty about the benefit package they would receive. For projection purposes, this analysis assumes that in 2014, the new enrollees would incur costs approximately equal to the average of the following: (a) the projected per person costs for parents in the BadgerCare Plus Standard Plan; and (b) the projected per person costs for childless adults in the Core Plan, not including participants of the former General Assistance Medical Program that existed in Milwaukee County prior to the creation of the Core Plan. The analysis further assumes those per person costs increase 3% annually thereafter.

Federal Matching Rates: Currently, Wisconsin's standard FMAP is approximately 60%. The ACA provides enhanced federal matching rates starting in 2014 for benefit costs associated with non-pregnant, non-elderly adults with incomes not greater than 133% of the FPL who are not entitled to or enrolled for benefits under Medicare Parts A or B and who would become eligible for MA if a state chooses to expand coverage. As indicated, that enhanced FMAP could either be the "newly eligible" FMAP or the "expansion state" FMAP. Moreover, some childless adults in the bill's new eligibility group arguably might qualify for the "newly eligible" FMAP while others qualify for the "expansion state" FMAP.

DHS has indicated to this office its understanding that childless adults in Wisconsin with incomes not greater than 133% of the FPL who might become eligible for MA under an ACA expansion (including individuals currently enrolled in the Core Plan) would qualify for the ACA's "newly eligible" FMAP. This assumption is incorporated in the cost projections provided in the Attachment. Note that the federal Centers for Medicare and Medicaid Services (CMS) has not yet officially determined what FMAP would apply to an MA expansion in Wisconsin.

Costs and Savings Not Considered in the Analysis: Several other factors that may impact future MA costs were not considered in the analysis, either because they are not directly related to the program changes that would occur under the bill or because additional information is required.

Potential Costs Not Considered. The analysis does not consider the following factors that may increase MA costs going forward:

1. *The "Woodwork Effect":* Some children and their parents are currently eligible for BadgerCare Plus but are not enrolled in the program. Most analyses assume that some of these individuals will enroll in MA starting in 2014 due to such ACA-related factors as increased outreach, the individual insurance mandate, or these individuals learning they are eligible for MA through their interactions with a health insurance exchange. Costs associated with this potential "woodwork effect" are likely to occur regardless of whether the state expands MA and therefore are not included in the analysis.

2. *Administrative Costs:* The increased MA enrollment that would occur under the bill would increase administrative costs to the state and the multi-county income maintenance consortia responsible for making MA eligibility determinations and providing ongoing case management functions. Due to uncertainties regarding the extent of those administrative costs at this time, they are not included in the analysis.

3. *Provider Rate Increases:* Some reports suggest that states will need to increase MA provider reimbursement rates to ensure adequate access to covered services for the larger MA populations that would result from an expansion. The analysis does not include any explicit add-ons for these potential provider rate increases. Instead, the projections assume new enrollees' average per member costs will increase 3% per year, which is consistent with assumptions used by DHS in its 2013-15 biennial budget request.

Potential Savings Not Considered. Studies also identify several areas of potential cost savings states might realize under an MA expansion. Additional research is needed to determine whether, and to what extent, the following factors could reduce future MA program costs if the state expands MA enrollment as provided under the bill.

1. *Limited-Benefit Programs:* The state currently uses general purpose revenues (GPR) to support several limited-benefit programs such as the family planning only services program. To the extent individuals served by those programs become eligible for MA under the bill, federal matching funds could replace those GPR costs.

2. *Uncompensated Care:* States may realize savings under an MA expansion by reducing state expenditures for uncompensated care. In some states, savings could be realized by reducing or eliminating the state's share of MA disproportionate share hospital (DSH) payments. Wisconsin currently uses virtually all of its MA DSH funding to support Core Plan expenditures. Because the bill would repeal the Core Plan effective January 1, 2014, the analysis does incorporate the elimination of the state-supported share of those DSH payments.

Studies also suggest that an ACA-style MA expansion may reduce hospitals' uncompensated care, thereby reducing costs currently borne by hospitals and potentially reducing the shift of some of those costs to other payers in the system. The degree to which this would occur as a result of the bill and how, if at all, it would impact state expenditures is uncertain.

3. *Prisoner Inpatient Hospital Costs:* While federal law does not generally allow states to claim federal MA matching funds for prisoners' medical costs, there is an exception for inpatient hospital costs provided outside the correctional facility. Wisconsin does not currently claim these federal matching funds. To the extent additional prisoners become eligible for MA under the bill, the state might be able to claim additional federal matching funds for their inpatient hospital costs, thereby replacing GPR costs incurred by the Department of Corrections. The amount of these potential savings has not been determined.

4. *MA-Covered Service Costs Incurred by Local Units of Government:* Local units of government currently expend their own funds to provide healthcare services to individuals who are not eligible for MA but who might become eligible under the bill's expansion. Such costs could be reduced to the extent some of those individuals would become eligible for MA under the bill.

5. *Enhanced Federal Matching for CHIP:* The ACA extended the current reauthorization for the CHIP program through federal fiscal year 2015 and increased the already-enhanced FMAP for children eligible for CHIP funding by 23 percentage points for the four-year period starting October 1, 2015. In Wisconsin, this would increase the CHIP FMAP to approximately 95% during those four years. Those additional federal funds, which would offset GPR costs for those enrollees, are not reflected in the analysis because they are not related to the MA enrollment changes that would occur under the bill.

Projections: The Attachment shows preliminary benefit cost estimates associated with expanding MA coverage to non-pregnant, non-elderly childless adults with income not greater than 133% of the FPL for the period January 1, 2014, through June 30, 2020. Based on indications from DHS, the projections assume those benefit costs would qualify for the ACA's "newly eligible" FMAP, although CMS has not yet announced that final determination. As noted, the projections do not include any increase in administrative costs that would result from the bill's expansion of MA eligibility.

Baseline Costs for Childless Adults. The Attachment compares the projected costs of expanding MA as provided under the bill to the estimated "baseline" costs for childless adults in the Core Plan. Those baseline costs reflect estimates DHS used in its 2013-15 agency budget

request. Those budget assumptions were then projected forward for succeeding years. As indicated, the current Core Plan waiver expires December 31, 2013. Whether the waiver will be renewed in some form at that time is not known.

The purpose in showing these baseline costs is to enable a comparison between the projected expansion costs under the bill to the projected costs of the existing Core Plan. Those baseline costs assume the state would not receive an enhanced FMAP under the ACA if it simply maintains the existing Core Plan. The expansion costs, on the other hand, assume that current Core Plan enrollees with incomes not greater than 133% of the FPL are included within the 125,000 or 175,000 enrollment projections, and that the state would receive the ACA's "newly eligible" FMAP for their costs. The projected GPR savings during the first several years' of the expansion occur because the bill terminates the Core Plan in its entirety as of January 1, 2014, thereby eliminating all GPR expenditures for that program. To the extent those current Core Plan enrollees would enroll in MA on January 1, 2014 as a result of the bill, the analysis assumes their benefit costs would be financed by a 100% FMAP until 2017.

The cost projections presented in the Attachment do not assume any changes to the current MA program other than those envisioned under the bill. It should be noted that when the ACA's maintenance of effort (MOE) requirement for adults expires (assumed date of January 1, 2014), the state could pursue other MA eligibility changes rather than, or in addition to, those reflected in the bill. For example, the state could realize GPR savings by terminating MA eligibility for BadgerCare Plus parents and caretaker relatives with incomes above 133% of the FPL (or less, subject to federal minimum eligibility requirements). Under that scenario, those adults with incomes between 100% and 400% of the FPL may be able to obtain coverage through the exchange and qualify for the ACA's premium assistance tax credits and cost-sharing reductions.

EP/sas
Attachment

ATTACHMENT

Preliminary Cost Estimate of MA Expansion in Wisconsin ($ in Millions)
See Text of Memorandum for Assumptions and Limitations of Model

Enrollment Assumption of 125,000 "Newly Eligible" Individuals

Fiscal Year	GPR			FED			Total		
	Projected Baseline Core Plan Expenditures, Without Bill	Projected MA Expansion Expenditures, Under Bill	Difference	Projected Baseline Core Plan Expenditures, Without Bill	Projected MA Expansion Expenditures, Under Bill	Difference	Projected Baseline Core Plan Expenditures, Without Bill	Projected MA Expansion Expenditures, Under Bill	Difference
Jan.-June 2014	$15.9	$0.0	-$15.9	$22.9	$146.9	$124.0	$38.8	$146.9	$108.1
2014-15	27.8	0.0	-27.8	40.1	458.5	418.4	67.9	458.5	390.6
2015-16	22.2	0.0	-22.2	32.0	513.3	481.3	54.2	513.3	459.1
2016-17	18.0	13.6	-4.4	25.9	520.4	494.5	43.9	534.0	490.1
2017-18	14.5	30.6	16.1	20.9	525.0	504.1	35.4	555.6	520.2
2018-19	11.7	37.6	25.9	16.9	540.4	523.5	28.6	578.0	549.4
2019-20	9.5	51.3	41.8	13.7	550.0	536.3	23.2	601.3	578.1
Total	**$119.6**	**$133.1**	**$13.5**	**$172.4**	**$3,254.5**	**$3,082.1**	**$292.0**	**$3,387.6**	**$3,095.6**

Enrollment Assumption of 175,000 "Newly Eligible" Individuals

Fiscal Year	GPR			FED			Total		
	Projected Baseline Core Plan Expenditures, Without Bill	Projected MA Expansion Expenditures, Under Bill	Difference	Projected Baseline Core Plan Expenditures, Without Bill	Projected MA Expansion Expenditures, Under Bill	Difference	Projected Baseline Core Plan Expenditures, Without Bill	Projected MA Expansion Expenditures, Under Bill	Difference
Jan.-June 2014	$15.9	$0.0	-$15.9	$22.9	$205.7	$182.8	$38.8	$205.7	$166.9
2014-15	27.8	0.0	-27.8	40.1	642.3	602.2	67.9	642.3	574.4
2015-16	22.2	0.0	-22.2	32.0	718.6	686.6	54.2	718.6	664.4
2016-17	18.0	19.0	1.0	25.9	728.6	702.7	43.9	747.6	703.7
2017-18	14.5	42.8	28.3	20.9	735.0	714.1	35.4	777.8	742.4
2018-19	11.7	52.7	41.0	16.9	756.5	739.6	28.6	809.2	780.6
2019-20	9.5	71.8	62.3	13.7	770.1	756.4	23.2	841.8	818.6
Total	**$119.6**	**$186.3**	**$66.7**	**$172.4**	**$4,556.8**	**$4,384.4**	**$292.0**	**$4,743.1**	**$4,451.1**

Notes:
Estimates shown are for benefit expenditures only. Other potential costs and savings are discussed in the memo.
Estimates assume that all childless adults with income under 133% of the FPL qualify for the newly eligible FMAP that begins at 100% and declines to 90% by 2020. CMS has not yet determined the FMAP that would apply to an MA expansion in Wisconsin.
Projected Baseline costs for the Core Plan reflect estimates under current policy of capped and declining enrollment.