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December 21, 2020

Ms. Judith Cash  
Director, State Demonstration Group  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard, Mail Stop S2-26-12  
Baltimore, MD 21244-1850

Re: Request to Amend Wisconsin's Section 1115 BadgerCare Reform Demonstration Project

Dear Ms. Cash:

I am submitting Wisconsin's Section 1115 Demonstration Waiver Amendment application to add a Health Savings Account component to the BadgerCare Reform Demonstration Project. The Centers for Medicare & Medicaid Services originally approved Wisconsin's BadgerCare Reform Demonstration Project in December 2013. An amendment to the demonstration project was approved in November 2018.

The original and amended demonstration project permits Wisconsin to provide the Medicaid standard benefit plan to adults without dependent children who have household incomes up to 100 percent of the federal poverty level (FPL). The amended demonstration project included additional initiatives related to promoting healthy behaviors, charging a premium, implementing a community engagement requirement, and requiring a copayment for nonemergent use of the emergency department for the childless adult population. The approved, amended demonstration project also included a waiver of the Institute for Mental Disease exclusion on federal funding for those receiving residential treatment of a substance use disorder for the entire Medicaid and BadgerCare coverage groups.

The Wisconsin Department of Health Services (DHS) is seeking approval to implement policies specific to the childless adult population, as required by Wis. Stat. § 49.45(60), created by 2017 Wisconsin Act 271. This section of the statutes requires DHS to establish and implement a savings account program within the Medicaid and BadgerCare Plus program that is similar in function and operation to health savings accounts. DHS may not require individuals who are elderly, blind, or disabled to participate in the Medicaid Health Savings Account program. The Medicaid Health Savings Account program would only apply to Medicaid adults between 50 and 100 percent of the FPL enrolled in Wisconsin's BadgerCare Plus program.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jim Jones'.

Jim Jones  
Medicaid Director

State of Wisconsin

BadgerCare Reform Demonstration Project

Medicaid Health Savings Account

Section 1115 Demonstration Waiver Amendment Application

December 21, 2020

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## 1.0 Introduction

The Wisconsin Department of Health Services (DHS) is seeking approval to implement policies specific to the childless adult population, as required by Wis. Stat. § 49.45(60), created by 2017 Wisconsin Act 271. This section of the statutes requires DHS to establish and implement a savings account program within the Medicaid/BadgerCare Plus program that is similar in function and operation to health savings accounts (HSAs).

The Medicaid HSA as envisioned in this request would use the premiums that have been paid by BadgerCare Plus childless adults with incomes above 50% of the federal poverty level (FPL), as allowed under the BadgerCare Plus Reform Waiver, for health care expenses after the member leaves the program. Wisconsin is seeking Centers for Medicare & Medicaid Services (CMS) approval of the Medicaid HSA program, to smooth the financial cliff of increased health care-related costs that members face when they leave the Medicaid program due to increased income. When this occurs, funds they have saved in an HSA will help support their transition to the private marketplace.

## 2.0 Background

Prior to the existing demonstration project (BadgerCare Plus Reform Demonstration Project), Wisconsin has a history of successfully providing widespread access to health care to its residents. In 1999, Wisconsin implemented BadgerCare, which provided a health care safety net for low-income families transitioning from welfare to work. In addition, BadgerCare Plus expanded coverage to families at income levels that had not previously been covered under Medicaid.

In 2008, Wisconsin Medicaid-eligible groups included all uninsured children through the age of 18, pregnant women with incomes at or below 300% of the FPL, and parents and caretaker relatives with incomes at or below 200% of the FPL.

In 2009, Wisconsin received approval through a Section 1115 Demonstration Waiver to expand coverage to childless adults with incomes at or below 200% of the FPL. This population became eligible for the BadgerCare Plus Core Plan, which provided a limited set of benefits.

In 2011, Wisconsin submitted and received approval to amend the BadgerCare and BadgerCare Plus Core Plan demonstrations, allowing Wisconsin to require that nonpregnant, nondisabled adult parents and caretaker relatives whose incomes exceed 133% of the FPL pay a monthly premium.

In 2013, CMS approved a five-year Section 1115 Demonstration Waiver known as the Wisconsin BadgerCare Plus Reform Demonstration Project. The waiver became effective January 1, 2014, and expired on December 31, 2018. Under this waiver, Wisconsin was eligible for federal Medicaid matching funds for providing health care coverage for childless adults between the ages of 19 and 64 years old who have income at or below 100% of the FPL. The childless adult population received the standard benefit plan, which is the same benefit plan that covers parents, caretakers, and children.

Additionally, the previous BadgerCare Reform Demonstration Project enabled Wisconsin to test the impact of providing transitional medical assistance to individuals who were paying a premium that aligns with the insurance affordability program in the federal marketplace based on their household income when compared to the FPL.

On June 7, 2017, Wisconsin requested an extension and amendment to the BadgerCare Reform Demonstration Project. On October 21, 2018, CMS approved portions of the waiver amendment request, detailing implementation parameters as negotiated by DHS and CMS in the Special Terms and Conditions (STCs). The waiver provisions expire on December 23, 2023.

In 2020, Wisconsin has implemented the following components of the amendments: a premium requirement (with dollar offsets for healthy behaviors or management of unhealthy behaviors), a mandatory requirement to answer a question regarding substance use disorder (SUD) and treatment for the childless adults' demonstration project, and a copayment requirement for nonemergent use of the emergency department. We continue to work through implementation issues associated with the childless adult community engagement requirement and the implementation of our SUD residential treatment program in our current waiver. Wisconsin has always been a source of Medicaid innovation.

### **3.0 Demonstration Objectives and Summary**

#### **3.1 Project Objectives of the Waiver Amendment**

Wisconsin is committed to the implementation of policies that result in high-quality health coverage for our citizens and leverages the state's tradition of strong health outcomes, innovation, and provision of high-quality health care to do so. Specifically, Wisconsin's overall goals for the Medicaid program are to:

- Ensure that Wisconsin residents with limited financial resources have access to health coverage.
- Provide financial support for BadgerCare Plus childless adult members as they leave the Medicaid program and transition to health coverage in the private marketplace.
- Smooth the financial "cliff" that exists when an individual leaves the BadgerCare Plus program and needs to pay premiums, cost sharing, or other health care costs that are substantially higher than those imposed by the public program.

#### **3.2 Demonstration Project Amendment Overview**

This amendment is prompted by 2017 Wisconsin Act 271, which requires DHS to submit an 1115 Demonstration Project Waiver to CMS that would implement an HSA in the Medicaid/BadgerCare Plus program.

### **3.2.1 Connection to Current Waiver**

This amendment builds on the previously approved BadgerCare Plus Reform 1115 Demonstration Project Waiver, which allowed DHS to include, as a condition of eligibility and enrollment, the payment of a monthly premium for those BadgerCare Plus childless adults with incomes that exceed 50%, but are not greater than 100% of the FPL. BadgerCare Plus childless adults pay a monthly premium of \$8 per month. The waiver also allows DHS to reduce the monthly premium when the individual completes a health survey indicating that they engage in a healthy behavior or are managing an unhealthy behavior. The waiver also requires as a condition of eligibility and enrollment that all childless adults answer a health risk assessment targeted at identifying those suffering from SUD and interested in getting treatment for that condition. Those members who are either engaging in a healthy behavior, managing an unhealthy behavior or answer “Yes” to the health risk assessment question are required to pay a premium of \$4 per month for an individual or \$6 per month for a couple. These changes were all implemented on February 1, 2020.

### **3.2.2 Amended Waiver Overview**

This waiver amendment proposes having DHS deposit the full amount paid by individuals as premiums into a Medicaid HSA. That HSA could then be used by the individual or couple upon their disenrollment from the Medicaid/BadgerCare Plus program to pay for qualifying health expenses. Qualifying health expenses would include all of the following:

- Health insurance premiums available through the commercial market, the Federally Facilitated Marketplace, or employer health plans.
- Cost sharing associated with those health insurance plans.
- Out-of-pocket expenses for those health-related items not covered by the health plan.
- Any health-related expense that is not covered by a health plan, including those where the individual has not enrolled in a health plan.

The BadgerCare Plus childless adults’ premium will total between \$48 and \$96 per person per year, depending on responses to the HRA and the healthy behaviors survey. DHS projects, based upon current enrollment and 100% compliance with the premium requirement, that total annual premium collections will range between \$1.7 million and \$3.3 million, depending upon the amount of premium contributions collected after healthy behavior premium reductions are applied.

Under the existing demonstration project waiver as outlined in the STCs, the federal medical assistance percentages (FMAP) portion of each premium is returned to CMS through an offset to the federal claim from Wisconsin Medicaid. In order to include enough funding to make the HSA viable and meaningful, we propose that CMS forgo the returned FMAP portion of the premium and Wisconsin forgo the nonfederal share of the premium collected being returned to the State’s General Fund.

Promoting and incentivizing healthier lifestyles remains a main focus of Wisconsin’s current demonstration. As such, we reward members who practice healthy behaviors (or are managing unhealthy behaviors) with lower premiums. The demonstration posits that this will help support members to develop the life skills needed to maintain employment or to utilize the employment and

training programs also offered under this proposal. Similarly, the Medicaid HSA allows our members who have left the BadgerCare Plus program to use the funds they paid into their own Medicaid HSA to transition to the private health coverage market.

However, with the reduction in premiums for those members who have chosen a healthier lifestyle, we have also reduced the amount that would be contributed to their Medicaid HSA and would then be available at disenrollment to help them make that transition. In order to “level the playing field” between these two groups, Wisconsin is asking that CMS match the amount available in the HSA with federal money that makes up the difference in premiums for those who have engaged in healthier behaviors and those who have not. For instance, if Person A does not indicate that they have engaged in healthy behaviors and pays a premium, the total amount in their HSA at their disenrollment after two years will be \$192. For Person B, who engages in healthy behaviors and pays their premium, their HSA in two years would be \$96. The proposed approach would mitigate one possible disincentive for healthy behaviors.

### **3.3 Demonstration Population**

The amendment request pertains to nonpregnant, childless adults, ages 19 through 64 years old, with countable income greater than 50% but not exceeding 100% of the FPL who are subject to the BadgerCare Plus monthly premium requirement. Less than 24% of the childless adults enrolled in Wisconsin’s Medicaid program have incomes above 50% of FPL, and DHS estimates that approximately 35,000 childless adults will pay premiums under the policies implemented on February 1, 2020.

### **3.4 Demonstration Project Descriptions**

The approved demonstration’s STCs allow Wisconsin to submit an application for an amendment to the current waiver. Under 2017 Wisconsin Act 271, DHS is required to submit an 1115 Demonstration Project Waiver to CMS that would allow Wisconsin to implement an HSA for Medicaid members. Considering the close association between the BadgerCare Reform Demonstration Project Waiver recently implemented in Wisconsin and the HSA, DHS has determined that an amendment to the current waiver is the most expedient and logical approach.

#### **Current Waiver**

Under the authority of a Section 1115(a) Demonstration Waiver, Wisconsin’s BadgerCare Reform Demonstration Project covers two populations: nonpregnant childless adults between ages 19 and 64 years old and all other Medicaid and BadgerCare members in the group subject to the emergency department copayment requirement.

The demonstration allows Wisconsin to provide state plan benefits other than family planning services and tuberculosis-related services to childless adults who have household income up to 100% of the FPL. Cost sharing for the childless adult population is the same as that indicated in the Medicaid State Plan. The focus for this population is to improve health outcomes, reduce

unnecessary services, and improve the cost effectiveness of Medicaid services. The current demonstration also allows DHS to:

- Establish monthly premiums.
- Establish lower premiums for members engaged in healthy behaviors or managing unhealthy behaviors.
- Require completion of a health risk assessment.
- Charge an increased copayment for emergency department utilization for childless adults.
- Establish a work component for childless adults.
- Provide full coverage of residential SUD treatment for all BadgerCare Plus and Medicaid members.

All approved provisions in the BadgerCare Reform Demonstration Project will be maintained.

### **Amendment Proposal**

This amendment includes the following policy changes:

1. Establish a Medicaid HSA for any BadgerCare Plus childless adult who has paid a monthly premium as a condition of their eligibility.
2. Allow the individual or couple to use the Medicaid HSA to pay for qualifying health expenses after they disenroll from the program.
3. Use the state and federal share of the premium collected to fund the Medicaid HSA.
4. For those members who have lowered their premium because of their engagement in healthy behaviors (as described in the approved waiver), the federal agency will match the amount contributed to make sure that the amount in the Medicaid HSA upon disenrollment is equivalent to the amount that they would receive if they had not engaged in those healthy behaviors.
5. The Medicaid HSA can only be used when the individual is not enrolled in the Wisconsin Medicaid or BadgerCare Plus programs.
6. Amounts remaining in a Medicaid HSA that has not been used for 24 consecutive months will be returned to CMS and to Wisconsin's General Fund.
7. No amount will be contributed for those BadgerCare Plus childless adults who are exempted from the premium requirement or for those months that the individual or couple are not subject to the premium requirement.
8. Allow DHS to receive FMAP for the administration of the Medicaid HSA.

### **3.5 Implementation**

Wisconsin plans to implement any approved amended provisions at least one year after CMS approval. This time period allows sufficient time to communicate with members the changes in the BadgerCare Plus program and for the state to prepare and implement operational and administrative changes. This will also allow DHS to work to secure the operational funding needed to operate the Medicaid HSA and to procure a vendor that will administer the accounts. Immediately after CMS approval, DHS will work on communication and implementation plans



that outline the timing, content, and methodology in which childless adults will be notified of program changes. Internally, employees will be educated and systems updated to ensure a smooth transition to the new waiver amendments.

## **4.0 Requested Waivers and Expenditure Authorities**

Wisconsin seeks waiver of the following requirements of the Social Security Act:

### **1. Comparability – Section 1902(a)(17)/Section 1902(a)(10)(B)**

To the extent necessary to enable Wisconsin to establish an Medicaid HSA for childless adults who have paid a monthly premium and is not doing so for any other group currently in our State Plan or eligible via waiver, including those who are exempt from the premium obligation.

### **2. Costs Not Otherwise Matchable – Section 1905(a)(29)(B)**

- Wisconsin requests that the FMAP portion of premiums collected for the demonstration population not be an offset within our federal claiming.
- Wisconsin requests that FMAP be available to match the amount in Medicaid HSA for the demonstration project in a manner that does not disincentivize healthy behaviors.
- Wisconsin requests that FMAP be available for nonfederal funding sources used to design, develop, implement, and operate the Medicaid HSA.

## **5.0 Budget Neutrality**

Federal policy requires Section 1115 Waiver Demonstrations be budget neutral to the federal government. This means that a demonstration should not cost the federal government more than what would have otherwise been spent absent the demonstration. Determination of federal budget neutrality for purposes of a Section 1115 Demonstration application must follow a unique process that is distinct from federal and state budgeting and health plan rate setting. The processes, methods, and calculations required to appropriately demonstrate federal budget neutrality are for that express purpose only. Therefore, the budget neutrality model shown here should not be construed as a substitute for budgeting and rate setting or imply any guarantee of any specific payment.

To ensure budget neutrality for each federal fiscal year of this amendment through the current five-year BadgerCare Demonstration, Wisconsin will continue to use a per-member per-month (PMPM) methodology specific to the Wisconsin childless adult population. This calculation has been established in the context of current federal and state law and with the appropriate, analytically sound baselines and adjustments. The demonstration will measure the financial impact to the program.

### **5.1 Budget Neutrality for the BadgerCare Reform Adults Population**

The Demonstration population impacted by the introduction of the Medicaid HSA is the Medicaid Eligibility Group (MEG) known by the Waiver Name: BadgerCare Reform adults. The following

table reflects the October 21, 2018, CMS-approved upper limit for BC Reform Adults for the duration of the Waiver:

| MEG                     | TREND RATE | 2018 DY 5 - PMPM | 2019 DY 6 - PMPM | 2020 DY 7 - PMPM | 2021 DY 8 - PMPM | 2022 DY 9 - PMPM | 2023 DY 10 - PMPM |
|-------------------------|------------|------------------|------------------|------------------|------------------|------------------|-------------------|
| <b>BC Reform Adults</b> | 4.70%      | \$710.95         | \$744.36         | \$779.35         | \$815.98         | \$854.33         | \$894.48          |

## 5.2 Introduction of Medicaid Health Savings Account

Introducing the Medicaid HSA will not impact the current PMPM but will result in decreased enrollment. Under this proposal, Wisconsin will be generating a net savings for the Medicaid program by providing an avenue for members to save for their health care while simultaneously investing in those who engage in healthy behaviors in an effort to facilitate the transition from public to private health coverage. The expectation is that fewer individuals and couples will return to BadgerCare Plus enrollment, reducing the overall churn between public and private coverage.

The HSA does not introduce any new benefits to the program; it is expected that health care costs for enrolled BadgerCare Reform adults will remain the same resulting in no change in the current PMPM. DHS estimates an average annual savings of \$472,000, which assumes that 2.0% of BadgerCare Reform adults who are subject to a premium will transition to private health coverage.

| <b>Health Savings Account Waiver:<br/>Estimated 2% of Households Transition to Private Insurance</b> |          |                 |                 |                 |                 |
|--|----------|-----------------|-----------------|-----------------|-----------------|
|  | 2019     | 2020            | 2021            | 2022            | 2023            |
| Households Successfully Transitioning off Medicaid   |          | 665             | 729             | 733             | 736             |
| Without HSA Amendment PMPM   |          | \$585.92        | \$631.45        | \$680.51        | \$733.39        |
| With HSA Amendment PMPM  |          | \$585.92        | \$631.45        | \$680.51        | \$733.39        |
| With HSA Amendment Savings   |          | (\$389,574 .80) | (\$460,303 .99) | (\$498,551 .55) | (\$539,977 .17) |
| Total PMPM Adjustment due to HSA   |          | \$0.00          | \$0.00          | \$0.00          | \$0.00          |
| Current BC Reform Adults PMPM Upper Limit  | \$744.36 | \$779.35        | \$815.98        | \$854.33        | \$894.48        |
| New PMPM Upper Limit   | \$744.36 | \$779.35        | \$815.98        | \$854.33        | \$894.48        |

\*Note: 2020 only includes 11 months of estimates as the premium was implemented in February. CMS also required Wisconsin Medicaid to halt collection of premiums due to COVID-19 in 2020. This will have an impact any potential savings until temporary COVID-19 policy changes are lifted.

## 6.0 Evaluation Design

Wisconsin will accordingly update the BadgerCare Reform Demonstration Project evaluation design to account for the amendment provisions.

The amended demonstration evaluation will include an assessment of the following hypotheses related to members' personal responsibility in their health care:

- Creation of a Medicaid HSA will incentivize current BadgerCare Plus childless adult members to shorten their enrollment in the program.
- Creation of the Medicaid HSA will incentivize those BadgerCare Plus childless adult members who disenroll from the program to remain in the private market and not return to the BadgerCare Plus or Medicaid programs within 24 months.

The evaluation will analyze how the demonstration impacts access, outcomes, and costs. Comparisons will be examined between the covered childless adult population, prior waiver programs, and other BadgerCare Plus populations. As with the existing demonstration, this amendment will consider policy choices related to the alignment of benefits and the equity of cost share provisions for Medicaid and subsidized health insurance offered through the Federally Facilitated Marketplace.

A detailed evaluation design will be developed for review and approval by CMS. The evaluator will use relevant data from the BadgerCare Plus program and its managed care organizations. This may include eligibility, enrollment, claims, payment, encounter/utilization, chart reviews, and other administrative data. The evaluator may also conduct surveys and focus groups of beneficiaries and providers and other original data collection, as appropriate.

Both interim and final evaluations will be conducted to help inform the state, CMS, stakeholders, and the general public about the performance of the demonstration. All evaluation reports will be made public and posted on the DHS website.

## 7.0 Public Involvement and Public Comment

### 7.1 Public Notice Requirements

DHS followed requirements set forth in the STCs for the currently approved waiver, the Wisconsin BadgerCare Reform Demonstration Project. STC 7 instructs the state on the amendment process, and DHS has accordingly complied with the requirements in Public Notice 42 C.F.R. 431.408. The following describes actions taken by DHS to ensure the public was informed and had the opportunity to provide input on the proposed waiver amendment.

**Public Notice:** On October 26, 2020, DHS published the abbreviated notice in the Wisconsin Administrative Register:

[https://docs.legis.wisconsin.gov/code/register/2020/778B/register/public\\_notices/public\\_notice\\_am](https://docs.legis.wisconsin.gov/code/register/2020/778B/register/public_notices/public_notice_am)

[endment to badgercare reform demonstration waiver/public notice amendment to badgercare reform demonstration waiver.](#)

Additionally, DHS employed several other modes of communication to inform the public of the abbreviated notice:

- Email to ForwardHealth Community Partners, for a total of 8,540 recipients notified.
- Posting in different forums, including:
  - DHS BadgerCare Plus waiver webpage
  - 1 W. Wilson Street (DHS Building)
  - ForwardHealth Community Partners Announcement

Copies of the abbreviated and full public notice are available starting on page 17.

The 30-day public comment period thus began on October 26, 2020, and ended on November 27, 2020.

**Webpage:** DHS created a public webpage that includes the public notice, the public input process, scheduled public hearings, the draft amendment application, and a link to the Medicaid.gov webpage on Section 1115 demonstrations. Additionally, DHS provided presentations in English, Spanish, and Hmong to further provide the public with clarity on the proposed amendments. The webpage, which is updated as the amendment process moves forward, can be found at [www.dhs.wisconsin.gov/badgercareplus/waivers-cla.htm](http://www.dhs.wisconsin.gov/badgercareplus/waivers-cla.htm).

**Public Hearings:** As required by Section 1115 of the Social Security Act, DHS conducted two public hearings.

Due to the public health emergency related to the COVID-19 pandemic, the state could not conduct in-person meetings as part of the public notice process for this waiver amendment application. CMS has discretion to exempt the state from completing any aspect of the public notice process, including exemption from conducting any public notice when the state demonstrates to CMS the existence of unforeseen circumstances, such as the COVID-19 public health emergency that directly threatens human lives that warrant an exception to the normal public notice process. Accordingly, the state used two webinars in lieu of in-person hearings.

The public notice and the webpage announced that the public could review the official waiver amendment request and provide comments for a 30-day period, as well as through written or verbal statements made at the public hearing webinars listed below. Comments from the two public hearings relevant to this waiver amendment request are summarized in the following subsection, and a copy of the presentation provided during the public hearings is also available on the webpage and is included and starts on page 28.

- **November 5, 2020**, 9:30–11:30 a.m.:  
<https://dhs.wi.zoom.us/j/97333792716?pwd=R09lcUJnK3hMUVEvcmhqMVdGVExSdz09>
- **November 12, 2020**, 9:30–11:30 a.m.:  
<https://dhs.wi.zoom.us/j/98225524316?pwd=Mk5zMUt4bWh1MTBBTFIwS0d0K0dvZz09>

**Tribal Consultation:** Following 42 C.F.R. 431.408, DHS consulted with representatives of the federally recognized tribes located in Wisconsin during the regularly scheduled Wisconsin DHS/Tribal Health Directors meeting. That meeting was held on November 18, 2020, from 10 a.m. to 12 p.m. Due to COVID-19, that meeting was conducted by webinar rather than in person. Tribal notice was sent to tribal government leadership on October 19, 2020. Copies of the notices sent start on page 48. A copy of the Tribal Health Director meeting agenda is included and starts on page 46. A copy of the presentation as provided during the consultation is included and starts on page 72. A comment summary is provided in the following subsection.

**Availability of Waiver Materials and Comment Mechanisms:**

The webpage and public notice state clearly that a copy of the waiver amendment document, including the final waiver amendment application once complete, could be obtained from DHS at no charge by downloading the documents from [www.dhs.wisconsin.gov/badgercareplus/waivers-cla.htm](http://www.dhs.wisconsin.gov/badgercareplus/waivers-cla.htm) or by contacting DHS via regular mail, telephone, fax, or email. The webpage and public notice further explained that public comments were welcome and were accepted for 30 days (from October 26, 2020, through November 27, 2020). Written comments on the changes could be sent via fax, email, or regular mail to the Division of Medicaid Services. The fax number listed was 608-266-1096, and the email address was [dhswisconsin1115clawaiver@dhs.wisconsin.gov](mailto:dhswisconsin1115clawaiver@dhs.wisconsin.gov).

**Public Comment Availability:** A summary of the comments received through the various modes are available on the webpage for public view. In summary DHS received two (2) comments through email, one (1) comment at a public hearing, and one (1) comment at tribal consultation, for a total of 4 comments. Note that one of the comments received via email was also submitted via fax. The two comments received through email were formal letters from organizations. The subsection that follows provides a summary of comments received from all comment mechanisms.

## 7.2 Summary of Public Comments and DHS Response

As stated in public hearings and documents, DHS gave all comments received through the various mechanisms the same consideration. To comprehensively address public input, comments are summarized by theme and are followed by a DHS response.

### Opposition to the Passage of Act 271

**Comment Summary:** One commenter noted complaints about the manner in which Act 271 was rushed through the legislature. They note that the short special session for this legislation did not allow for adequate public input or legislative deliberation. They highlight experiences in other states, where HSAs have led to administrative burdens and significant member confusion, as examples of why groups opposed this legislation when it was initially passed. Their comments then indicate that, while they do not support HSA and premium requirements, they do generally support DHS's recommendations for how to implement the HSA if necessary.

**DHS Response:** State law requires DHS to submit an 1115 Demonstration Project Waiver application for Medicaid Health Savings Account. DHS attempted to address many of the concerns that had been discussed during the legislative session and sought advice from the University of Wisconsin-Institute for Research on Poverty. We attempted to devise a plan that took full advantage of the monthly premium that DHS was required by state law to implement for childless adults with the goal to ease the transition from BadgerCare Plus to private insurance.

## **Impact of Premiums**

**Comment Summary:** Commenters raised concerns that the premium requirement would cause individuals to lose access to health care. For example, one comment cited evidence from Indiana showing that, between 2015 and 2017, Indiana dropped 25,000 people from health care coverage for failure to pay into their health savings account. Comments noted that premium requirements would be particularly concerning in light of the economic damage and health needs caused by COVID-19. Furthermore, one commenter noted that individuals who lose coverage due to failure to pay premiums are likely to forgo medically necessary care and treatments, which in turn decreases health and increases healthcare costs. Comments stress that this loss of health care can have especially significant consequences for people living with HIV (PLWH), and that maintaining coverage for medically frail populations and PLWH has financial advantages. For example, successful HIV treatment and medical care of an HIV-positive individual could save the system up to \$1.79 million by preventing further transmission to others. One suggestion provided, to help mitigate the potential negative impacts of premium payments for vulnerable populations, would be to exempt people living with HIV (PLWH) from premium payments and the HSA provision.

**DHS Response:** This 1115 waiver application is focused on the Medicaid Health Savings Account and not on premiums being imposed and paid by BadgerCare Plus childless adults. DHS attempted to mitigate the negative impacts of the premium on childless adults in the implementation of those provisions in February 2020 within the scope allowed under the state law and the waiver submitted and approved during the tenure of the previous administration by only allowing termination at the annual renewal and providing many opportunities for the individual or couple to pay premiums owed.

## **24-Month Transfer Policy**

### ***a. Starting point for 24-month time period***

**Comment Summary:** A commenter asked for additional clarification about when the 24-month time period begins: When an individual disenrolls from BadgerCare Plus or when the premium is deposited into the HSA while the member is enrolled in BadgerCare Plus. The individual(s) raising this concern did request that a second public comment period take place once this element of the policy was clarified.

**DHS Response:** The 24-month time period begins on the first of the month after eligibility is lost.

**b. *Flow of funding after 24-month time period***

**Comment Summary:** One commenter requested that funds be transferred back to the BadgerCare Plus program, not transferred to the WI General Fund, if unused after the 24-month time period. Additionally, they questioned why CMS should match funding for individuals that pay a reduced premium due to reporting healthy behaviors if this match from CMS would then be directed back to the WI General Fund if the HSA funds were not used within 24 months. The comment challenged the appropriateness of this flow of funding and instead suggested that the program should be budget neutral and not funded with federal dollars.

**DHS Response:** All of BadgerCare Plus is funded using a combination of federal and state funds. The request for CMS to fund the difference with federal funds is meant to address the inequity created with the healthy behaviors reduction in premium amount. The waiver request puts forth a budget neutrality approach, as required by CMS for 1115 waivers, but only as it relates to federal funds.

**c. *Member Churn***

**Comment Summary:** A commenter asked how this policy would account for the considerable enrollment churn for Medicaid programming. Specifically, the commenter asked what would happen to the HSA funds for individuals who make HSA contributions, disenroll from BadgerCare Plus for a period of time, and then reenroll in BadgerCare Plus less than 24 months later.

**DHS Response:** If a member reenrolls in BadgerCare Plus, DHS would reset the 24-month clock and freeze the HSA. If the member is subject to the BadgerCare Plus childless adults premium and pays it, those premiums would then be added to the existing HSA.

**Stakeholder Experience**

**Comment Summary:** Commenters raised concerns about the experience of members utilizing the HSA. Comments indicate that other states implementing HSA saw considerable public confusion about health savings accounts. One comment suggested stakeholder communication be instituted to notify members before the 24-month term for utilizing the HSA comes to an end so that members can be sure to use these funds.

**DHS Response:** DHS reviewed all of the different approaches to Medicaid HSAs across many states, both those that are still operating and those that ceased operations, and attempted to devise a Wisconsin-specific HSA plan that avoided those pitfalls. DHS is in agreement with the comment that communication with members at the time they leave BadgerCare Plus until the funds have been exhausted or returned to the General Fund is key to the success of the program and its utility by members.

## **Administration**

**Comment Summary:** A commenter inquired about which entity(ies) would administer the HSA for the state.

**DHS Response:** DHS would be responsible for the administration of the HSA but would procure a vendor to handle the operations of the HSA.

### **7.2.1 Tribal Government Comment Summary**

Comments received during the Tribal Consultation on November 18, 2020, along with comments received throughout the 30-day public comment period from Tribal Governments, are summarized below.

**Tribal Government Comment Summary:** A commenter expressed appreciation for the budget neutrality model proposed by the state.

**DHS Response:** Thank you.

### **7.2.2 Consideration of Public Comments in Final Waiver**

As stated in the previous subsection, each comment that was submitted to DHS through either public hearings, email, or fax was reviewed as the final waiver amendment submission was developed. We appreciate all of the comments that were submitted. However, DHS is making no policy changes or clarifications in the final waiver submitted to CMS.

## **8.0 Demonstration Administration**

Wisconsin's point of contact for this demonstration waiver amendment is as follows:

Name and title: Jim Jones, Medicaid Director

Phone: 608-266-5151

Email: [jamesd.jones@dhs.wisconsin.gov](mailto:jamesd.jones@dhs.wisconsin.gov)



**Wisconsin Department of Health Services**  
**Section 1115 BadgerCare Reform Demonstration Project Waiver Amendment**  
**Medicaid Health Savings Account (HSA)**

**Overview**

The Department of Health Services (DHS) intends to submit an application to the Centers for Medicare and Medicaid Services (CMS) on December 21, 2020 requesting an amendment to certain provisions of its Section 1115 Demonstration Waiver, known as the BadgerCare Reform Demonstration Waiver. DHS is seeking approval to implement policies specific to the childless adult population, as required by section 49.45(60) of the Wisconsin statutes, created under 2017 Wisconsin Act 271. This section of the statutes requires the Department to establish and implement a savings account program within the Medicaid/BadgerCare Plus program that is similar in function and operation to health savings accounts (HSAs). DHS must obtain approval from CMS before this change can take effect.

Specific proposed changes to the childless adult (CLA) population include:

**Medicaid Health Savings Account**

The Medicaid Health Savings Account as envisioned in this request would use the premiums that have been paid by BadgerCare Plus childless adults with incomes above 50% FPL, as allowed under the BadgerCare Plus Reform waiver, for health care expenses after the member leaves the program. Wisconsin is seeking CMS approval of the Medicaid Health Savings Account program, to smooth the financial cliff of increased health care-related costs that members face when they leave the Medicaid program due to increased income. When this occurs, funds they have saved in a health savings account will help support their transition to the private marketplace.

**Public Comment**

Providing information and obtaining input on changes from the public is of high importance for the State as we prepare to submit the amendment request. By law, you have the opportunity to review the official waiver amendment application and to provide comments for 30 days starting on October 26, 2020, and ending on November 27, 2020. You may also provide comments through written or verbal statements made during public hearings (see below). Public comments will be included in the waiver request submitted to CMS on December 21, 2020, and will be available on DHS's web site at the address listed below.

**Public Hearings**

As required by Section 1115 of the Social Security Act, the Department will conduct two public hearings.

Due to the public health emergency related to the COVID-19 pandemic, the state will not be conducting in-person meetings as part of the public notice process for this waiver amendment application. CMS has discretion to exempt the state from completing any aspect of the public notice process, including exemption from conducting any public notice when the state demonstrates to CMS the existence of unforeseen circumstances, such as the COVID-19 public health emergency

that directly threatens human lives that warrant an exception to the normal public notice process. Accordingly, the state will use two webinars in lieu of in-person hearings.

- **November 5, 2020, 9:30 A.M. – 11:30 A.M.**
  - <https://dhswi.zoom.us/j/97333792716?pwd=R09lcUJnK3hMUVEvcmhqMVdGVExSdz09>
    - Passcode: 110520
  - Join by phone:
    - US: +1 301 715 8592 or
    - +1 312 626 6799 or
    - +1 646 558 8656 or
    - +1 253 215 8782 or
    - +1 346 248 7799 or
    - +1 669 900 9128
    - Toll Free: 844-708-2568
    - Webinar ID: 973 3379 2716
    - International numbers available: <https://dhswi.zoom.us/u/acVqIIPVdS>
  
- **November 12, 2020, 9:30 A.M. – 11:30 A.M.**
  - <https://dhswi.zoom.us/j/98225524316?pwd=Mk5zMUt4bWh1MTBBTFIwS0d0K0dvZz09>
    - Passcode: 111220
  - Join by phone:
    - US: +1 312 626 6799 or
    - +1 646 558 8656 or
    - +1 301 715 8592 or
    - +1 346 248 7799 or
    - +1 669 900 9128 or
    - +1 253 215 8782
    - Toll-Free: 844-708-2568
    - Webinar ID: 982 2552 4316
    - International numbers available: <https://dhswi.zoom.us/u/ado7KHbQdc>

### **Copies of Waiver Documents**

Copies of waiver documents, including the full public notice, which will be posted on October 26, 2020, and the final waiver amendment application once complete, may be obtained from DHS at no charge by downloading the documents at <https://www.dhs.wisconsin.gov/badgercareplus/waivers-cla.htm> or by contacting Laura Brauer at:

Mail:

Laura Brauer  
Division of Medicaid Services  
P.O. Box 309  
Madison, WI 53707-0309

Phone: 608-266-5368

Fax: 608-266-1096, Attn: Laura Brauer

Email: [DHSDMSSPAPublicFeedback@dhs.wisconsin.gov](mailto:DHSDMSSPAPublicFeedback@dhs.wisconsin.gov)

### **Written Comments**

Written comments on the proposed changes are welcome and will be accepted from October 26, 2020, through November 27, 2020. Written comments may be sent to the Division of Medicaid Services at:

Fax: 608-266-1096

Email: [Wisconsin1115CLAWaiver@dhs.wisconsin.gov](mailto:Wisconsin1115CLAWaiver@dhs.wisconsin.gov)

Mail: Department of Health Services, Division of Medicaid Services, Attn: Wisconsin 1115 HSA Waiver Amendment, P.O. Box 309, Madison, WI 53707-0309

**PUBLIC NOTICE**  
**Wisconsin Department of Health Services**  
**Section 1115 BadgerCare Reform Demonstration Project Waiver Amendment**  
**Medicaid Health Savings Account**

**I. Overview**

In accordance with federal law, the State of Wisconsin, Department of Health Services (DHS) must notify the public of its intent to submit to the Centers for Medicare & Medicaid Services (CMS) any new 1115 demonstration waiver project, extension or amendment of any previously approved demonstration waiver project, or ending of any previously approved expiring demonstration waiver project and must provide an appropriate public comment period prior to submitting to CMS the new, extended, or amended 1115 demonstration waiver application.

This notice serves to meet these federal requirements and to notify the public that the State of Wisconsin intends to submit a request for a Medicaid Health Savings Account (HSA) amendment to the BadgerCare Reform Demonstration Project Waiver to CMS on December 21, 2020. You can review the official waiver amendment request and provide comments for the next 30 days (see below), as well as provide written or verbal statements at the required public hearings.

Due to the public health emergency related to the COVID-19 pandemic, the state will not be conducting in-person meetings as part of the public notice process for this waiver amendment application. CMS has discretion to exempt the state from completing any aspect of the public notice process, including exemption from conducting any public notice when the state demonstrates to CMS the existence of unforeseen circumstances, such as the COVID-19 public health emergency that directly threatens human lives that warrant an exception to the normal public notice process. Accordingly, the state will use two webinars in lieu of in-person hearings.

- **November 5, 2020, 9:30–11:30 a.m.**
  - Join online at [https://dhs.wi.zoom.us/j/97333792716?pwd=R09lcUJnK3hMUVEvcmhqMVdGVExSdz09\\_and\\_use\\_passcode\\_110520](https://dhs.wi.zoom.us/j/97333792716?pwd=R09lcUJnK3hMUVEvcmhqMVdGVExSdz09_and_use_passcode_110520).
  - Join by phone using one of the following numbers:
    - US:
      - 301-715-8592
      - 312-626-6799
      - 646-558-8656
      - 253-215-8782
      - 346-248-7799
      - 669-900-9128
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    - Webinar ID: 973 3379 2716
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- Join online at <https://dhswi.zoom.us/j/98225524316?pwd=Mk5zMUt4bWh1MTBBTFIwS0d0K0dvZz09, and use passcode 111220.>
- Join by phone:
  - US:
    - 312-626-6799
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    - 346-248-7799
    - 669-900-9128
    - 253-215-8782
  - Toll-free: 844-708-2568
  - Webinar ID: 982 2552 4316

International numbers: <https://dhswi.zoom.us/u/ado7KHbQdc>

Comments will be considered to determine if changes should be made to the waiver request but will not impact proposed or enacted state and federal law. In addition, all public comments will be communicated to HHS as part of the final waiver amendment application.

## Accessibility

### English

DHS is an equal opportunity employer and service provider. If you need accommodations because of a disability or need an interpreter or translator, or if you need this material in another language or in an alternate format, you may request assistance to participate by contacting Laura Brauer at 608-266-5368. You must make your request at least 7 days before the activity.

### Spanish

DHS es una agencia que ofrece igualdad en las oportunidades de empleo y servicios. Si necesita algún tipo de acomodaciones debido a incapacidad o si necesita un interprete, traductor o esta información en su propio idioma o en un formato alterno, usted puede pedir asistencia para participar en los programas comunicándose con Kim Reniero al número 608-267-7939. Debe someter su petición por lo menos 7 días de antes de la actividad.

### Hmong

DHS yog ib tus tswv hauj lwm thiab yog ib qhov chaw pab cuam uas muab vaj huam sib luag rau sawv daws. Yog koj xav tau kev pab vim muaj mob xiam oob qhab los yog xav tau ib tus neeg pab txhais lus los yog txhais ntaub ntawv, los yog koj xav tau cov ntaub ntawv no ua lwm hom lus los yog lwm hom ntawv, koj yuav tau thov kev pab uas yog hu rau Laura Brauer ntawm 608-266-5368 608-267-6848. Koj yuav tsum thov qhov kev pab yam tsawg kawg 7 hnub ua ntej qhov hauj lwm ntawd.

## II. Background

The State of Wisconsin reimburses providers for services provided to Medical Assistance recipients under the authority of Title XIX of the Social Security Act and Chapter 49 of the Wisconsin

Statutes. This program, administered by the State's Department of Health Services, is called Medical Assistance (MA) or Medicaid. In addition, Wisconsin has expanded this program to create the BadgerCare Plus program under the authority of Title XIX and Title XXI of the Social Security Act and Chapter 49 of the Wisconsin Statutes. Federal statutes and regulations require that a state plan be developed that provides the methods and standards for reimbursement of covered services. A plan that describes the reimbursement system for the services (methods and standards for reimbursement) is now in effect.

Section 1115 of the Social Security Act provides the Secretary of HHS broad authority to authorize Research & Demonstration Projects, which are experimental, pilot, or demonstration projects likely to assist in promoting the objectives of the Medicaid statute. Flexibility under section 1115 is sufficiently broad to allow states to test substantially new ideas of policy merit. In 2013, Wisconsin requested and received approval of the BadgerCare Reform Demonstration Project Waiver from the HHS Secretary. Effective January 1, 2014, Wisconsin was authorized to provide coverage to adults without dependent children who have attained the age of 19 and have not yet attained the age of 65 years with Medicaid coverage so long as their family income does not exceed 100% of the federal poverty level (FPL). Additionally, Wisconsin began requiring a monthly premium for parents and caretakers' relatives who qualify for transitional medical assistance.

The approved demonstration's Special Terms and Conditions (STC) permits Wisconsin to submit a waiver amendment request. Accordingly, under the direction of Wis. Stat. § 49.45(60), created by 2017 Wisconsin Act 271, DHS is required to submit to the federal HHS an amendment to the existing demonstration waiver that authorizes DHS to establish and implement a savings account program within the Medicaid and BadgerCare Plus programs that is similar in function and operation to HSAs.

### **III. Project Goals**

Wisconsin is committed to the implementation of policies that result in high quality health coverage for our citizens and leverages the state's tradition of strong health outcomes, innovation, and provision of high quality health care to do so. Specifically, Wisconsin's overall goals for the Medicaid program are to:

- Ensure that those Wisconsin residents with limited financial resources have access to health coverage.
- Provide financial support for those BadgerCare Plus childless adult members as they leave the Medicaid program and transition to health coverage in the private marketplace.
- Smooth the financial "cliff" that exists when an individual leaves the BadgerCare Plus program and needs to pay premiums, cost sharing, or other health care costs that are substantially higher than those imposed by the public program.

### **IV. Project Description**

This amendment is prompted by the Wisconsin 2017-2019 Biennial Budget (Act 271), which requires DHS to submit an amendment to the BadgerCare Reform Demonstration Project in order to

establish and implement a savings account program within the Medicaid/BadgerCare Plus program that is similar in function and operation to HSAs. Wisconsin seeks to demonstrate that building on private sector healthcare models and implementing innovative initiatives will lead to better quality care at a sustainable cost for the childless adult population while promoting individual responsibility.

## **V. Childless Adults Eligibility and Coverage**

Outlined below are the current Medicaid eligibility and coverage standards for childless adults that describe the specific proposed changes sought for this demonstration population through this waiver amendment request.

**Current Program:** Under the authority of an 1115(a) demonstration waiver, Wisconsin's BadgerCare Reform Demonstration Project covers the non-pregnant childless adults between ages 19 and 64 with an effective income that does not exceed 100 percent of FPL. These individuals are not pregnant or do not qualify for any other Medicaid or Medicare program or the Children's Health Insurance Program.

The waiver demonstration allows Wisconsin to provide state plan benefits other than family planning services and tuberculosis-related services to childless adults who have household incomes up to 100% of the FPL. Cost sharing for the childless adult population is the same as that indicated in the Medicaid state plan. The focus for this population is to improve health outcomes, reduce unnecessary services, and improve the cost-effectiveness of Medicaid services.

This amendment builds on the previously approved BadgerCare Reform 1115 Demonstration Project waiver, which allowed DHS to include, as a condition of eligibility and enrollment, the payment of a monthly premium for those BadgerCare Plus childless adults with incomes that exceed 50%, but are not greater than 100% of the FPL. BadgerCare Plus childless adults pay a monthly premium of \$8 per month. The waiver also allows DHS to reduce the monthly premium when the individual completes a health survey indicating that they engage in a healthy behavior or are managing an unhealthy behavior. The waiver also requires as a condition of eligibility and enrollment that all childless adults answer a health risk assessment targeted at identifying those suffering from substance use disorder and interested in getting treatment for that condition. Those members who are either engaging in a healthy behavior, managing an unhealthy behavior, or answer "Yes" to the health risk assessment question, allow BadgerCare Plus childless adults who are required to pay a premium of \$4 per month for an individual or \$6 per month for a couple. These changes were all implemented on February 1, 2020.

**Amendment Proposal:** Through a waiver amendment, Wisconsin proposes having the DHS deposit the full amount paid by individuals as premiums into an HSA. That HSA could then be used by the individual or couple upon their disenrollment from the Medicaid/BadgerCare Plus program to pay for qualifying health expenses. Qualifying health expenses would include:

- Health insurance premiums available through the commercial market, the Federally Facilitated Marketplace, or employer health plans.

- Cost sharing associated with those health insurance plans.
- Out-of-pocket expenses for those health-related items not covered by the health plan.
- Any health-related expense that is not covered by a health plan, including those where the individual has not enrolled in a health plan.

Under the existing demonstration project waiver as outlined in the STCs, the Federal Medicaid Assistance Percentages (FMAP) portion of each premium is returned to CMS through an offset to Wisconsin's Medicaid federal claim. In order to include enough funding to make the HSA viable and meaningful, we propose that CMS forgo the returned FMAP portion of the premium and Wisconsin forgo the nonfederal share of the premium collected being returned to the State's General Fund.

This amendment includes the following policy changes:

1. Establish a Medicaid HSA for any BadgerCare Plus childless adult who has paid a monthly premium as a condition of their eligibility.
2. Allow the individual or couple to use the Medicaid HSA to pay for qualifying health expenses after they disenroll from the program.
3. Use the state and federal share of the premium collected to fund the Medicaid HSA.
4. For those members who have lowered their premium because of their engagement in healthy behaviors (as described in the approved waiver), the federal agency will match the amount contributed to make sure that the amount in the Medicaid HSA upon disenrollment is equivalent to the amount that they would receive if they had not engaged in those healthy behaviors.
5. The Medicaid HSA can only be used when the individual is not enrolled in the Wisconsin Medicaid or BadgerCare Plus programs.
6. Amounts remaining in a Medicaid HSA that has not been used for 24 consecutive months will be returned to CMS and to Wisconsin's General Fund.
7. No amount will be contributed for those BadgerCare Plus childless adults who are exempted from the premium requirement or for those months that the individual or couple are not subject to the premium requirement.
8. Allow DHS to receive FMAP for the administration of the Medicaid HSA.

The benefit package and delivery system for the demonstration population would remain the same.

## **VI. Budget and Cost Effectiveness Analysis**

### **Approach to Ensuring Federal Budget Neutrality**

Federal policy requires section 1115 waiver demonstrations be budget neutral to the federal government. This means that a demonstration should not cost the federal government more than what would have otherwise been spent absent the demonstration. Particulars, including methodologies, are subject to negotiation between DHS submitting the demonstration application and CMS.



To ensure budget neutrality for each federal fiscal year of this amendment to the current five-year BadgerCare demonstration, Wisconsin will continue to use a per-member per-month (PMPM) methodology specific to the Wisconsin childless adult population with income under 100% of the FPL, in the context of current federal and state law and with the appropriate, analytically sound baselines and adjustments. The demonstration will measure the financial impact to the program independent of enrollment fluctuations.

In establishing the baseline PMPM, historic enrollment and expenditure experience related to childless adults (managed care and fee-for-service) will be evaluated. This evaluation will accurately represent the primary baseline costs associated with this population and will include payments made under the actuarially sound, CMS-approved capitation rates.

### **Introduction of Medicaid Health Savings Account**

Introducing the Medicaid HSA will not impact the current PMPM but will result in decreased enrollment. Under this proposal, Wisconsin will be generating a net savings for the Medicaid program by providing an avenue for members to save for their health care while simultaneously investing in those who engage in healthy behaviors in an effort to facilitate the transition from public to private health coverage. The expectation is that fewer individuals and couples will return to BadgerCare Plus enrollment, reducing the overall churn between public and private coverage.

The HSA does not introduce any new benefits to the program; it is expected that health care costs for enrolled BadgerCare Plus Reform Adults will remain the same resulting in no change in the current PMPM. DHS estimates an average annual savings of \$472,000, which assumes that 2.0% of BadgerCare Plus Reform Adults, who are subject to a premium, will transition to private health coverage.

## **VII. Hypothesis and Evaluation Parameters**

Wisconsin will accordingly update the BadgerCare Reform Demonstration Project evaluation design to account for the amendment provisions.

The amended demonstration evaluation will include an assessment of the following hypotheses related to members' personal responsibility in their health care:

- Creation of a Medicaid HSA will incentivize current BadgerCare Plus childless adult members to shorten their enrollment in the program.
- Creation of the Medicaid HSA will incentivize those BadgerCare Plus childless adult members who disenroll from the program to remain in the private market and not return to the BadgerCare Plus or Medicaid programs within 24 months.

The evaluation will analyze how the demonstration impacts access, outcomes, and costs. Comparisons will be examined between the covered childless adult population, prior waiver programs, and other BadgerCare Plus populations. As with the existing demonstration, this amendment will consider policy choices related to the alignment of benefits and the equity of cost share provisions for Medicaid and subsidized health insurance offered through the Federally Facilitated Marketplace.

A detailed evaluation design will be developed for review and approval by CMS. The evaluator will use relevant data from the BadgerCare Plus program and its managed care organizations. This may include eligibility, enrollment, claims, payment, encounter/utilization, chart reviews, and other administrative data. The evaluator may also conduct surveys and focus groups of beneficiaries and providers and other original data collection, as appropriate.

Both interim and final evaluations will be conducted to help inform the state, CMS, stakeholders, and the general public about the performance of the demonstration. All evaluation reports will be made public and posted on the DHS website.

### **VIII. Specific Waiver and Expenditure Authorities**

Wisconsin seeks waiver of the following requirements of the Social Security Act:

#### **1. Comparability – Section 1902(a)(17)/Section 1902(a)(10)(B)**

- To the extent necessary to enable Wisconsin to establish a Medicaid HSA for childless adults who have paid a monthly premium and is not doing so for any other group currently in our State Plan or eligible via waiver, including those who are exempt from the premium obligation.

#### **2. Costs Not Otherwise Matchable – Section 1905(a)(29)(B)**

- Wisconsin requests that the FMAP portion of premiums collected for the demonstration population not be an offset within our federal claiming.
- Wisconsin requests that FMAP be available to match the amount in the Medicaid HSA for the demonstration project in a manner that does not dis-incentivize healthy behaviors.
- Wisconsin requests that FMAP be available for nonfederal funding sources used to design, develop, implement and operate the Medicaid HSA.

### **IX. Copies of Demonstration Project Waiver Documents**

Copies of waiver documents, including the final waiver amendment application once complete, may be obtained from DHS at no charge by downloading the documents at [www.dhs.wisconsin.gov/badgercareplus/waiverscla.htm](http://www.dhs.wisconsin.gov/badgercareplus/waiverscla.htm) or by contacting Laura Brauer at:

Laura Brauer  
Division of Medicaid Services  
PO Box 309  
Madison, WI 53707-0309  
Phone: 608-266-5368  
Fax: 608-266-1096, Attn: Laura Brauer  
Email: [DHSDMSSPAPublicFeedback@dhs.wisconsin.gov](mailto:DHSDMSSPAPublicFeedback@dhs.wisconsin.gov)

### **X. Written Comments**

Written comments on the proposed changes are welcome and will be accepted from October 26, 2020, through November 27, 2020. Written comments may be sent to:

Department of Health Services, Division of Medicaid Services  
Attn: Wisconsin 1115 HSA Waiver Amendment  
PO Box 309  
Madison, WI 53707-0309  
Fax: 608-266-1096  
Email: [DHSwisconsin1115clawaiver@dhs.wisconsin.gov](mailto:DHSwisconsin1115clawaiver@dhs.wisconsin.gov)

Public comments will be included in the waiver request submitted to CMS on December 21, 2020, will be available on the DHS website at [www.dhs.wisconsin.gov/badgercareplus/waiverscla.htm](http://www.dhs.wisconsin.gov/badgercareplus/waiverscla.htm).



## Section 1115 BadgerCare Reform Demonstration Project Waiver Amendment

### Public Hearing

November 5, 2020

November 12, 2020

Wisconsin Department of Health Services



## Join the Public Hearing

November 5, 2020, 9:30–11:30 a.m.

- [Join online through Zoom](#), and use passcode 110520.
- Join by phone using any of the following numbers, and use webinar ID 973 3379 2716:
  - 301-715-8592
  - 312-626-6799
  - 646-558-8656
  - 253-215-8782
  - 346-248-7799
  - 669-900-9128
  - Toll-free: 844-708-2568
  - [International numbers](#)

2



## Join the Public Hearing

November 12, 2020, 9:30–11:30 a.m.

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  - 346-248-7799
  - 669-900-9128
  - 253-215-8782
  - Toll-free: 844-708-2568
  - [International numbers](#)

3



## Special Considerations Due to the COVID-19 Pandemic

- Due to the public health emergency related to the COVID-19 pandemic, the state will not be conducting in-person meetings as part of the public notice process for this waiver amendment application.
- The Centers for Medicare & Medicaid Services (CMS) has discretion to exempt the state from completing any aspect of the public notice process, including exemption from conducting any public notice when the state demonstrates to CMS the existence of unforeseen circumstances, such as the COVID-19 public health emergency that directly threatens human lives, that warrant an exception to the normal public notice process.
- Accordingly, the state will use two webinars in lieu of in-person hearings.

4



## Presentation Outline

- Purpose of Hearing
- Current Waiver
- Waiver Amendment Project Objectives
- Overview of Waiver Amendment Proposal
- Budget Neutrality
- Timeline
- Comments

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## Purpose of the Hearing

- Thank you for your attendance today.
- The purpose of this hearing is to gather comments from the public on the proposed Medicaid Health Savings Account amendment to the Wisconsin BadgerCare Reform Section 1115 Demonstration Waiver regarding the childless adult population.
- At the end of this presentation, you may ask questions and/or provide your comments. Please hold all comments until that time.

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## Current 1115 BadgerCare Reform Waiver: Premium



The current BadgerCare Reform Waiver allows the Wisconsin Department of Health Services (DHS) to require as a condition of eligibility the payment of an \$8 monthly premium for those BadgerCare Plus childless adults with incomes that exceed 50% of the federal poverty level (FPL) but are not greater than 100% of the FPL.

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## Current 1115 BadgerCare Reform Waiver: Reward for Healthy Behavior



- Promoting and incentivizing healthier lifestyles remains a focus of Wisconsin's current demonstration.
- As such, the current waiver also allows members who complete a health survey indicating that they engage in healthy behaviors or manage unhealthy behaviors to receive lower premiums.

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## Legislation

Under 2017 Wisconsin Act 271, DHS is required to submit to CMS an 1115 Demonstration Waiver to allow Wisconsin to implement a health savings account for Medicaid members.

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## Amendment to Current 1115 BadgerCare Reform Waiver

Due to the close association between the current BadgerCare Reform Demonstration Project Waiver and the Medicaid health savings account, DHS decided that an amendment to the current 1115 waiver is the best option.

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## Objectives of the Waiver Amendment



DHS goals for the Medicaid health savings account waiver amendment are to:

- Ensure that Wisconsin residents with limited financial resources have access to quality health care coverage.
- Provide financial support to childless adult members when they leave the BadgerCare Plus and Medicaid programs and transition to health care coverage in the private marketplace.

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## Objectives of the Waiver Amendment, continued



- Smooth the financial “cliff” of increased health care-related costs that members face when they leave the BadgerCare Plus program due to increased income.

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## Waiver Amendment Overview

This amendment includes the following policy changes:

- A Medicaid health savings account will be established for any BadgerCare Plus childless adult who has paid a monthly premium as a condition of their eligibility.
- The individual or couple will be allowed to use the Medicaid health savings account to pay for qualifying health expenses after they disenroll from the program.

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## Waiver Amendment Overview, continued

- The state and federal share of the premium collected will be used to fund the Medicaid health savings account.
- For members who have lowered their premium because of their engagement in healthy behaviors, the federal agency will match the amount contributed to ensure that the amount in the Medicaid health savings account upon disenrollment is equivalent to the amount that they would receive had they not participated in the healthy behavior.

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## Waiver Amendment Overview, continued



- The Medicaid health savings account can only be used when the individual is not enrolled in the Wisconsin Medicaid or BadgerCare Plus programs.
- Amounts remaining in a Medicaid health savings account that have not been used for 24 consecutive months will be returned to CMS and to Wisconsin's General Fund.

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## Waiver Amendment Overview, continued



- No amount will be contributed for those BadgerCare Plus childless adults who are exempted from the premium requirement or for those months that the individual or couple are not subject to the premium requirement.
- It would allow DHS to receive the Federal Medical Assistance Percentage (FMAP) for the administration of the Medicaid health savings account.

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## Medicaid Health Savings Account Qualifying Expenses



Qualifying health care expenses include:

- Health insurance premiums for coverage available through the commercial market, Federally Facilitated Marketplace, or employer-sponsored health plans.
- Cost sharing associated with those health insurance plans.
- Out-of-pocket expenses for those health-related expenses not covered by the health plan.
- Any health care-related expense not covered by a health plan even if an individual has not enrolled in a health plan.

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## Premium Collection Estimate



- Premiums for childless adults would total between \$48 and \$96 per person depending on if they engage in healthy behaviors.
- DHS anticipates that total annual premium collection would range from between \$1.7 million to \$3.3 million.

18

## Request for CMS Matching Funds



- As mentioned, DHS is also asking that CMS “level the playing field” by matching the difference for those engaging in healthy behaviors who pay less in premiums.
- This approach mitigates one possible disincentive for healthy behaviors.

19

## Demonstration Population



The waiver amendment request pertains to nonpregnant, childless adults, ages 19 to 64 years old, who have countable income above 50% of the FPL but not exceeding 100% of the FPL and who are subject to the BadgerCare Plus monthly premium requirement.

20



## Population Numbers

- Less than 24% of the childless adults enrolled in the BadgerCare Plus and Medicaid programs have incomes above 50% of the FPL.
- DHS estimates that approximately 35,000 childless adults will pay premiums under the policies implemented in February 2020.

21



## Budget Neutrality

- Federal policy requires Section 1115 Demonstration Waivers be budget neutral to the federal government.
- Wisconsin will continue to use a per-member per-month (PMPM) methodology specific to the childless adult population to determine and achieve budget neutrality.
- The demonstration will measure the financial impact to the program.

22

## Budget Neutrality Expectations



- The Medicaid Health Savings Account amendment does not introduce any new benefits.
- Health care costs for the demonstration population are expected to remain the same.
- DHS expects that fewer individuals will return to the BadgerCare Plus and Medicaid programs because the availability of Medicaid health savings account funds will smooth their transition to private coverage.
- Therefore, DHS expects no increase to the current PMPM.

23

## Net Savings



DHS estimates the plan would create a net savings of \$472,000 per year for Medicaid, assuming that nearly 2% of those subject to the premium will transition to private coverage every year.

24



## Timeline

| Major Milestone  | Date                                    |
|--|---|
| Tribal Notice  | October 19, 2020                        |
| Public Notice and Draft Waiver Application Posted to DHS Website | October 26, 2020                        |
| Public Hearings  | November 5, 2020, and November 12, 2020 |
| Tribal Consultation  | November 18, 2020                       |
| Public Comment Period  | October 26, 2020–November 27, 2020      |
| Final Waiver Amendment Application Submitted to CMS              | December 21, 2020                       |
| CMS Approval   | Summer or fall 2021                     |
| Implementation   | At least one year from CMS approval     |

25



## Comments

- At the conclusion of this presentation, we will provide instructions on how you can provide your comments orally and in writing on the webinar today.
- Comments may be submitted through any of the following:
  - Email: [dhswisconsin1115clawaiver@dhs.wisconsin.gov](mailto:dhswisconsin1115clawaiver@dhs.wisconsin.gov)
  - Fax: 608-266-1096, Attn: Laura Brauer
  - Mail:

Department of Health Services, Division of Medicaid Services  
 Attn: Wisconsin 1115 HSA Waiver Amendment  
 PO Box 309  
 Madison, WI 53707-0309

26





## Comments, continued

- Comments will be collected through the end of the public comment period on November 27, 2020.
- All comments that are properly submitted will be given equal weight regardless of the method in which they are submitted.

27



## Language Assistance

- This presentation will be available in English, Spanish, and Hmong at <https://www.dhs.wisconsin.gov/badgercareplus/waivers-cla.htm>.
- If you would like to see this presentation in your desired language, email [dhsdmsspapublicfeedback@dhs.wisconsin.gov](mailto:dhsdmsspapublicfeedback@dhs.wisconsin.gov).

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## **Description of the Application for the Health Savings Account (HSA) Amendment to the BadgerCare Reform Demonstration Waiver**

### **Introduction**

In 2013, the Centers for Medicare and Medicaid Services (CMS) approved Wisconsin's requested Section 1115 Demonstration Waiver, also known as BadgerCare Reform. This waiver allows states the flexibility to design and improve their Medicaid programs by removing certain federal rules. An amendment to the demonstration project was approved in November 2018.

The original and amended demonstration project permits Wisconsin to provide the Medicaid standard benefit plan to adults without dependent children who have household incomes up to 100 percent of the federal poverty level. The amended demonstration project included additional initiatives related to promoting healthy behaviors, charging a premium, implementing a community engagement requirement, and requiring a copayment for non-emergent use of the emergency department for the childless adult population. The approved, amended demonstration project also included a waiver of the Institute for Mental Disease (IMD) exclusion on federal funding for those receiving residential treatment of a substance use disorder for the entire Medicaid and BadgerCare coverage groups.

The Wisconsin Department of Health Services is seeking approval to implement policies specific to the childless adult population, as required by section 49.45(60) of the Wisconsin Statutes, created by 2017 Wisconsin Act 271. This section of the statutes requires the Department to establish and implement a savings account program within the Medicaid/BadgerCare program that is similar in function and operation to health savings accounts. DHS may not require individuals who are elderly, blind, or disabled to participate in the Medicaid Health Savings Account program. The MHSA would only apply to Medicaid adults between 50-100 percent of the Federal Poverty Level (FPL) enrolled in Wisconsin's BadgerCare program.

### **Connection to Current Waiver**

This amendment builds on the previously approved BadgerCare Plus Reform 1115 Demonstration Project waiver, which allowed the Department to include, as a condition of eligibility and enrollment, the payment of a monthly premium for those BadgerCare Plus childless adults with incomes that exceed 50%, but are not greater than 100% of the federal poverty guidelines. BadgerCare Plus childless adults pay a monthly premium of \$8 per month.

### **Waiver Amendment Overview**

This waiver amendment proposes having the Department deposit the full amount paid by individuals as premiums into a Medicaid Health Savings Account. That MHSA could then be used by the individual or couple upon their disenrollment from the Medicaid/BadgerCare program to pay for qualifying health expenses. Qualifying health expenses would include:

- Health insurance premiums available through the commercial market, the Federally Facilitated Marketplace or employer health plans.
- Cost-sharing associated with those health insurance plans.
- Out-of-pocket expenses for those health-related items not covered by the health plan; and,
- Any health-related expense that is not covered by a health plan, including those where the individual has not enrolled in a health plan.

### **Waiver Amendment Proposed Policy Changes**

This amendment includes the following policy changes:

1. Establish a Medicaid HSA for any BadgerCare Plus childless adult who has paid a monthly premium as a condition of their eligibility.
2. Allow the individual or couple to use the Medicaid HSA to pay for qualifying health expenses after they disenroll for the program.
3. Use the state and federal share of the premium collected to fund the Medicaid HSA.
4. For those members who have lowered their premium because of their engagement in healthy behaviors (as described in the approved waiver), the federal agency will match the amount contributed to make sure that the amount in the Medicaid HSA upon disenrollment is equivalent to the amount that they would receive if they had not engaged in those healthy behaviors.
5. The Medicaid HSA can only be used when the individual is not enrolled in the Wisconsin Medicaid or BadgerCare Plus programs.
6. Amounts remaining in an Medicaid HSA that has not been used for 24 consecutive months will be returned to CMS and to Wisconsin's General Fund.
7. No amount will be contributed for those BadgerCare Plus childless adults who are exempted from the premium requirement or for those months that the individual or couple are not subject to the premium requirement.
8. Allow Wisconsin DHS to receive FMAP for the administration of the Medicaid HSA.

### **Exempt Populations**

Beneficiaries with household income up to 50 percent of the FPL are exempt from paying monthly premiums. AI/AN who are eligible to receive or who have received an item or services furnished by an Indian health care provider or through referral under contract health services are also exempt from the monthly premiums outlined above, consistent with section 1916(j) of the Act and with 42 CFR 447.56. Accordingly, these populations will not be subject to the proposed Medicaid HAS.

### **Implementation**

DHS plans to implement any approved amended provisions at least one year after CMS approval. This time period allows sufficient time to communicate with members the changes in

the BadgerCare program and for the state to prepare and implement operational and administrative changes.

# WISCONSIN TRIBAL HEALTH DIRECTORS MEETING AGENDA

November 18, 2020  
10am-12:00pm

## **Web and Teleconference Access Information On the Next Page:**

- 10:00 a.m. Welcome and Roll Call
- Tribal Health Director Updates
- Division of Medicaid Services, Division of Medicaid Services, Jim Jones, Medicaid Administrator
- Health Savings Account-Jim Jones
  - Children's Long Term Services-State Plan Amendment, Deb Rathermel, Bureau of Children's Service's Director
  - Telehealth Questionnaire and Pulse Survey-Hannah Stevens
  - EVV Update-Betsy Genz
  - Long Term Care Strategy Virtual Meetings with Tribes, Denise Pommer
  - Residential SUD Benefit/ Hub and Spoke Model Update, Pam Lano
  - SeniorCare Waiver Amendment, Pam Appleby
- 11:10a.m. DHS- COVID Vaccine Planning-Kimberly Cox, Briana Godin
- DHS-DPH-GIS Team, COVID Data Release by Jurisdiction, Mireille Perzan, Andrew Swartz, Ben Anderson, Sarah Clifford
- Great Lakes Inter-Tribal Epidemiology Center Update,  
Great Lake Area Tribal Health Board Update, Will Funmaker
- Bemidji Area Indian Health Services, Dan Frye, BAIHS Director,  
Chris Poole, Lead Negotiator
- Announcements  
2021 Meetings
- Adjourn

(Date, Tribe scheduling the meeting)  
2<sup>nd</sup> Wednesdays

~~January 8, 2020-Menominee~~

~~March 11, 2020-Red Cliff~~

~~\*May 13, 2020-Skype~~

~~July 8, 2020-Skype~~

~~September 9, 2020-Skype~~

November 18, 2020-

\* Department tribal consultation meeting scheduled this month

Toll-free access: (844) 561-6590

---

## [Join Skype Meeting](#)

Trouble Joining? [Try Skype Web App](#)

### Join by phone

[Madison : \(608\) 316-9000](#) (Madison)

English (United States)

[Find a local number](#)

Conference ID: 52127922

[Forgot your dial-in PIN?](#) | [Help](#)

---

Tony Evers  
Governor



Andrea Palm  
Secretary

State of Wisconsin  
Department of Health Services

DIVISION OF MEDICAID SERVICES

1 WEST WILSON STREET  
PO BOX 309  
MADISON WI 53701-0309

Telephone: 608-266-8922  
Fax: 608-266-1096  
TTY: 711

October 19, 2020

Joseph Wildcat, Sr., President  
Lac du Flambeau Band of Lake Superior Chippewa Indians  
PO Box 67  
Lac du Flambeau, WI 54538

RE: Notification: Application for the Health Savings Account (HSA) Amendment to the BadgerCare Reform Demonstration Waiver

Dear President Wildcat:

This letter is to inform you that the State of Wisconsin Department of Health Services (DHS) is preparing an application to the Centers for Medicare and Medicaid Services (CMS) requesting an amendment to certain provisions of its Section 1115 Demonstration Waiver, known as the "BadgerCare Reform Demonstration Waiver."

DHS is seeking approval to implement policies specific to the childless adult population, as required by section 49.45(60) of the Wisconsin statutes, created under 2017 Wisconsin Act 271. This section of the statutes requires the Department to establish and implement a savings account program within the Medicaid/BadgerCare Plus program that is similar in function and operation to health savings accounts (HSAs).

DHS must obtain approval from CMS before this change can take effect. Attached to this letter is a document that provides a summary of the provisions included in the amendment application.

We are committed to providing Wisconsin tribes with information about the application for the amendment to the BadgerCare Reform Demonstration Waiver application and how to submit comments through the following meeting schedule and website:

- The complete amendment application will be posted on the Department's website for comment on or around October 26, 2020. (We will send out an email update to let you know when the application has been posted and to provide a link to the application on our website).
- Representatives from the Department, including myself, the Medicaid Director, will be attending the Wisconsin Tribal Health Director meeting via webinar on November 18, 2020 for consultation.
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[www.dhs.wisconsin.gov](http://www.dhs.wisconsin.gov)



Due to the public health emergency related to the COVID-19 pandemic, the state will not be conducting in-person meetings as part of the public notice process for this waiver amendment application. CMS has discretion to exempt the state from completing any aspect of the public notice process, including exemption from conducting any public notice when the state [NAME NEEDED]

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October 19, 2020

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DHS anticipates that this amendment will have no impact to tribes and tribal members since under federal law, tribal members are exempt from the requirement to pay premiums in the Medicaid program.

The Department anticipates submitting the waiver amendment application at the end of December, 2020. If any additional changes are required to the amendment to the BadgerCare Reform Demonstration Waiver, the Department will assess the impact of these changes on the waiver amendment timeline and inform you accordingly.

The waiver amendment application will be on the agenda for the Wisconsin Tribal Health Director meeting on November 18, 2020, and I look forward to meeting with you at that time to discuss this proposal.

Sincerely,



Jim Jones

Medicaid Director/Administrator

Enclosures

1. Description of the Application for the Amendment to the BadgerCare Reform Demonstration Waiver

cc: Tribal Health Directors  
DHS Tribal Affairs Office

Tony Evers  
Governor



Andrea Palm  
Secretary

State of Wisconsin  
Department of Health Services

DIVISION OF MEDICAID SERVICES

1 WEST WILSON STREET  
PO BOX 309  
MADISON WI 53701-0309

Telephone: 608-266-8922  
Fax: 608-266-1096  
TTY: 711

October 19, 2020

Lyle A. Ignace, M.D, Executive Director  
Gerald L. Ignace Indian Health Center  
930 W. Historic Mitchell Street  
Milwaukee, WI 53204

RE: Notification: Application for the Health Savings Account (HSA) Amendment to the BadgerCare Reform Demonstration Waiver

Dear Dr. Ignace:

This letter is to inform you that the State of Wisconsin Department of Health Services (DHS) is preparing an application to the Centers for Medicare and Medicaid Services (CMS) requesting an amendment to certain provisions of its Section 1115 Demonstration Waiver, known as the "BadgerCare Reform Demonstration Waiver."

DHS is seeking approval to implement policies specific to the childless adult population, as required by section 49.45(60) of the Wisconsin statutes, created under 2017 Wisconsin Act 271. This section of the statutes requires the Department to establish and implement a savings account program within the Medicaid/BadgerCare Plus program that is similar in function and operation to health savings accounts (HSAs).

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Jim Jones  
Medicaid Director/Administrator

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DHS Tribal Affairs Office

Tony Evers  
Governor



Andrea Palm  
Secretary

**State of Wisconsin**  
Department of Health Services

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1 WEST WILSON STREET  
PO BOX 309  
MADISON WI 53701-0309

Telephone: 608-266-8922  
Fax: 608-266-1096  
TTY: 711

October 19, 2020

Tehassi Hill, Chairman  
Oneida Nation  
Oneida Business Committee  
PO Box 365  
Oneida, WI 54155

RE: Notification: Application for the Health Savings Account (HSA) Amendment to the BadgerCare Reform Demonstration Waiver

Dear Chairman Hill:

This letter is to inform you that the State of Wisconsin Department of Health Services (DHS) is preparing an application to the Centers for Medicare and Medicaid Services (CMS) requesting an amendment to certain provisions of its Section 1115 Demonstration Waiver, known as the "BadgerCare Reform Demonstration Waiver."

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Medicaid Director/Administrator

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cc: Tribal Health Directors  
DHS Tribal Affairs Office

Tony Evers  
Governor



Andrea Palm  
Secretary

State of Wisconsin  
Department of Health Services

DIVISION OF MEDICAID SERVICES

1 WEST WILSON STREET  
PO BOX 300  
MADISON WI 53701-0300

Telephone: 608-266-8022  
Fax: 608-266-1098  
TTY: 711

October 19, 2020

Marlon WhiteEagle, President  
Ho Chunk Nation  
P. O. Box 667  
Black River Falls, WI 54615

RE: Notification: Application for the Health Savings Account (HSA) Amendment to the BadgerCare Reform Demonstration Waiver

Dear President WhiteEagle:

This letter is to inform you that the State of Wisconsin Department of Health Services (DHS) is preparing an application to the Centers for Medicare and Medicaid Services (CMS) requesting an amendment to certain provisions of its Section 1115 Demonstration Waiver, known as the "BadgerCare Reform Demonstration Waiver."

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Medicaid Director/Administrator

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DHS Tribal Affairs Office

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Governor



Andrea Palm  
Secretary

State of Wisconsin  
Department of Health Services

DIVISION OF MEDICAID SERVICES

1 WEST WILSON STREET  
PO BOX 309  
MADISON WI 53701-0309

Telephone: 608-266-8922  
Fax: 608-266-1096  
TTY: 711

October 19, 2020

Louis Taylor, Chairman  
Lac Courte Oreilles Band of Lake Superior Chippewa  
13394 W. Trepania Road  
Hayward, WI 54843-2186

RE: Notification: Application for the Health Savings Account (HSA) Amendment to the BadgerCare Reform Demonstration Waiver

Dear Chairman Taylor:

This letter is to inform you that the State of Wisconsin Department of Health Services (DHS) is preparing an application to the Centers for Medicare and Medicaid Services (CMS) requesting an amendment to certain provisions of its Section 1115 Demonstration Waiver, known as the "BadgerCare Reform Demonstration Waiver."

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Medicaid Director/Administrator

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cc: Tribal Health Directors  
DHS Tribal Affairs Office

Tony Evers  
Governor



**State of Wisconsin**  
Department of Health Services

Andrea Palm  
Secretary

**DIVISION OF MEDICAID SERVICES**

1 WEST WILSON STREET  
PO BOX 309  
MADISON WI 53701-0309

Telephone: 608-266-8922  
Fax: 608-266-1096  
TTY: 711

October 19, 2020

Michael Wiggins, Jr., Chairman  
Bad River Band of Lake Superior Chippewa Indians  
PO Box 39  
Odanah, WI 54861

RE: Notification: Application for the Health Savings Account (HSA) Amendment to the BadgerCare Reform Demonstration Waiver

Dear Chairman Wiggins:

This letter is to inform you that the State of Wisconsin Department of Health Services (DHS) is preparing an application to the Centers for Medicare and Medicaid Services (CMS) requesting an amendment to certain provisions of its Section 1115 Demonstration Waiver, known as the "BadgerCare Reform Demonstration Waiver."

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Sincerely,



Jim Jones  
Medicaid Director/Administrator

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Tony Evers  
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Andrea Palm  
Secretary

State of Wisconsin  
Department of Health Services

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1 WEST WILSON STREET  
PO BOX 309  
MADISON WI 53701-0309

Telephone: 608-266-8922  
Fax: 608-266-1096  
TTY: 711

October 19, 2020

Shannon Holsey, President  
Stockbridge-Munsee Community  
N8476 Mo-He-Co-Nuck Road  
Bowler, WI 54416

RE: Notification: Application for the Health Savings Account (HSA) Amendment to the BadgerCare Reform Demonstration Waiver

Dear President Holsey:

This letter is to inform you that the State of Wisconsin Department of Health Services (DHS) is preparing an application to the Centers for Medicare and Medicaid Services (CMS) requesting an amendment to certain provisions of its Section 1115 Demonstration Waiver, known as the "BadgerCare Reform Demonstration Waiver."

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Jim Jones  
Medicaid Director/Administrator

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cc: Tribal Health Directors  
DHS Tribal Affairs Office

Tony Evers  
Governor



State of Wisconsin  
Department of Health Services

DIVISION OF MEDICAID SERVICES

1 WEST WILSON STREET  
PO BOX 309  
MADISON WI 53701-0309

Telephone: 608-266-8922  
Fax: 608-266-1096  
TTY: 711

Andrea Palm  
Secretary

October 19, 2020

Susan Lowe, Chairwoman  
St. Croix Chippewa Indians of Wisconsin  
24663 Angeline Ave.  
Webster, WI 54893

RE: Notification: Application for the Health Savings Account (HSA) Amendment to the BadgerCare Reform Demonstration Waiver

Dear Chairwoman Lowe:

This letter is to inform you that the State of Wisconsin Department of Health Services (DHS) is preparing an application to the Centers for Medicare and Medicaid Services (CMS) requesting an amendment to certain provisions of its Section 1115 Demonstration Waiver, known as the "BadgerCare Reform Demonstration Waiver."

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Fax: 608-266-1096  
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October 19, 2020

Garland T. McGeshick, Chairman  
Sokaogon Chippewa Community  
3051 Sand Lake Road  
Crandon, WI 54520

RE: Notification: Application for the Health Savings Account (HSA) Amendment to the BadgerCare Reform Demonstration Waiver

Dear Chairman McGeshick:

This letter is to inform you that the State of Wisconsin Department of Health Services (DHS) is preparing an application to the Centers for Medicare and Medicaid Services (CMS) requesting an amendment to certain provisions of its Section 1115 Demonstration Waiver, known as the "BadgerCare Reform Demonstration Waiver."

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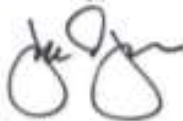
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**State of Wisconsin**  
Department of Health Services

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PO BOX 309  
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Fax: 608-266-1096  
TTY: 711

October 19, 2020

Richard Peterson, Chairman  
Red Cliff Band of Lake Superior Chippewa  
88385 Pike Road, Hwy 13  
Bayfield, WI 54814

RE: Notification: Application for the Health Savings Account (HSA) Amendment to the BadgerCare Reform Demonstration Waiver

Dear Chairman Peterson:

This letter is to inform you that the State of Wisconsin Department of Health Services (DHS) is preparing an application to the Centers for Medicare and Medicaid Services (CMS) requesting an amendment to certain provisions of its Section 1115 Demonstration Waiver, known as the "BadgerCare Reform Demonstration Waiver."

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October 19, 2020

Ned Daniels, Jr., Chairman  
Forest County Potawatomi Community  
PO Box 340  
Crandon, WI 54520

RE: Notification: Application for the Health Savings Account (HSA) Amendment to the BadgerCare Reform Demonstration Waiver

Dear Chairman Daniels:

This letter is to inform you that the State of Wisconsin Department of Health Services (DHS) is preparing an application to the Centers for Medicare and Medicaid Services (CMS) requesting an amendment to certain provisions of its Section 1115 Demonstration Waiver, known as the "BadgerCare Reform Demonstration Waiver."

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October 19, 2020

Joan Delabreau, Chairwoman  
Menominee Indian Tribe of Wisconsin  
PO Box 910  
Keshena, WI 54135-0910

RE: Notification: Application for the Health Savings Account (HSA) Amendment to the BadgerCare Reform Demonstration Waiver

Dear Chairwoman Delabreau:

This letter is to inform you that the State of Wisconsin Department of Health Services (DHS) is preparing an application to the Centers for Medicare and Medicaid Services (CMS) requesting an amendment to certain provisions of its Section 1115 Demonstration Waiver, known as the "BadgerCare Reform Demonstration Waiver."

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## Section 1115 BadgerCare Reform Demonstration Project Waiver Amendment

**Tribal Consultation**  
November 18, 2020

Wisconsin Department of Health Services



## Special Considerations Due to the COVID-19 Pandemic

- Due to the public health emergency related to the COVID-19 pandemic, the state will not be conducting in-person meetings as part of the public notice process for this waiver amendment application.
- The Centers for Medicare & Medicaid Services (CMS) has discretion to exempt the state from completing any aspect of the public notice process, including exemption from conducting any public notice when the state demonstrates to CMS the existence of unforeseen circumstances, such as the COVID-19 public health emergency that directly threatens human lives, that warrant an exception to the normal public notice process.
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2





## Presentation Outline

- Purpose of Tribal Consultation
- Current Waiver
- Waiver Amendment Project Objectives
- Overview of Waiver Amendment Proposal
- Budget Neutrality
- Timeline
- Comments

3



## Purpose of Tribal Consultation

- Thank you for your attendance today!
- Tribal consultation is designed to solicit comments and recommendations from Indian Tribal Governments on DHS initiatives such as this 1115 Waiver Amendment.
- Tribal consultation is required under federal law as part of the public comment process for 1115 waiver applications.
- DHS welcomes your feedback and supports ongoing dialogue with Tribes.
- Please let us know if you would like the opportunity for further consultation on this topic.

4

## Current 1115 BadgerCare Reform Waiver: Premium



The current BadgerCare Reform Waiver allows the Wisconsin Department of Health Services (DHS) to require as a condition of eligibility the payment of an \$8 monthly premium for those BadgerCare Plus childless adults with incomes that exceed 50% of the federal poverty level (FPL) but are not greater than 100% of the FPL.

5

## Current 1115 BadgerCare Reform Waiver: Reward for Healthy Behavior



- Promoting and incentivizing healthier lifestyles remains a focus of Wisconsin's current demonstration.
- As such, the current waiver also allows members who complete a health survey indicating that they engage in healthy behaviors or manage unhealthy behaviors to receive lower premiums.

6



## Legislation

Under 2017 Wisconsin Act 271, DHS is required to submit to CMS an 1115 Demonstration Waiver to allow Wisconsin to implement a health savings account for Medicaid members.

7



## Amendment to Current 1115 BadgerCare Reform Waiver

Due to the close association between the current BadgerCare Reform Demonstration Project Waiver and the Medicaid health savings account, DHS decided that an amendment to the current 1115 waiver is the best option.

8

## Objectives of the Waiver Amendment



DHS goals for the Medicaid health savings account waiver amendment are to:

- Ensure that Wisconsin residents with limited financial resources have access to quality health care coverage.
- Provide financial support to childless adult members when they leave the BadgerCare Plus and Medicaid programs and transition to health care coverage in the private marketplace.

9

## Objectives of the Waiver Amendment, continued



- Smooth the financial “cliff” of increased health care-related costs that members face when they leave the BadgerCare Plus program due to increased income.

10



## Waiver Amendment Overview

This amendment includes the following policy changes:

- A Medicaid health savings account will be established for any BadgerCare Plus childless adult who has paid a monthly premium as a condition of their eligibility.
- The individual or couple will be allowed to use the Medicaid health savings account to pay for qualifying health expenses after they disenroll from the program.

11



## Waiver Amendment Overview, continued

- The state and federal share of the premium collected will be used to fund the Medicaid health savings account.
- For members who have lowered their premium because of their engagement in healthy behaviors, the federal agency will match the amount contributed to ensure that the amount in the Medicaid health savings account upon disenrollment is equivalent to the amount that they would receive had they not participated in the healthy behavior.

12

## Waiver Amendment Overview, continued



- The Medicaid health savings account can only be used when the individual is not enrolled in the Wisconsin Medicaid or BadgerCare Plus programs.
- Amounts remaining in a Medicaid health savings account that have not been used for 24 consecutive months will be returned to CMS and to Wisconsin's General Fund.

13

## Waiver Amendment Overview, continued



- No amount will be contributed for those BadgerCare Plus childless adults who are exempted from the premium requirement or for those months that the individual or couple are not subject to the premium requirement.
- It would allow DHS to receive the Federal Medical Assistance Percentage (FMAP) for the administration of the Medicaid health savings account.

14

## Medicaid Health Savings Account Qualifying Expenses



Qualifying health care expenses include:

- Health insurance premiums for coverage available through the commercial market, Federally Facilitated Marketplace, or employer-sponsored health plans.
- Cost sharing associated with those health insurance plans.
- Out-of-pocket expenses for those health-related expenses not covered by the health plan.
- Any health care-related expense not covered by a health plan even if an individual has not enrolled in a health plan.

15

## Premium Collection Estimate



- Premiums for childless adults would total between \$48 and \$96 per person depending on if they engage in healthy behaviors.
- DHS anticipates that total annual premium collection would range from between \$1.7 million to \$3.3 million.

16

## Request for CMS Matching Funds



- As mentioned, DHS is also asking that CMS “level the playing field” by matching the difference for those engaging in healthy behaviors who pay less in premiums.
- This approach mitigates one possible disincentive for healthy behaviors.

17

## Demonstration Population



- The waiver amendment request pertains to nonpregnant, childless adults, ages 19 to 64 years old, who have countable income above 50% of the FPL but not exceeding 100% of the FPL and who are subject to the BadgerCare Plus monthly premium requirement.
- Because tribal members are exempt from paying premiums under federal law, tribal members will not be impacted by the Medicaid Health Savings Account.

18





## Population Numbers

- Less than 24% of the childless adults enrolled in the BadgerCare Plus and Medicaid programs have incomes above 50% of the FPL.
- DHS estimates that approximately 35,000 childless adults will pay premiums under the policies implemented in February 2020.

19



## Budget Neutrality

- Federal policy requires Section 1115 Demonstration Waivers be budget neutral to the federal government.
- Wisconsin will continue to use a per-member per-month (PMPM) methodology specific to the childless adult population to determine and achieve budget neutrality.
- The demonstration will measure the financial impact to the program.

20

## Budget Neutrality Expectations



- The Medicaid Health Savings Account amendment does not introduce any new benefits.
- Health care costs for the demonstration population are expected to remain the same.
- DHS expects that fewer individuals will return to the BadgerCare Plus and Medicaid programs because the availability of Medicaid health savings account funds will smooth their transition to private coverage.
- Therefore, DHS expects no increase to the current PMPM.

21

## Net Savings



DHS estimates the plan would create a net savings of \$472,000 per year for Medicaid, assuming that nearly 2% of those subject to the premium will transition to private coverage every year.

22



## Timeline

| Major Milestone  | Date                                    |
|--|---|
| Tribal Notice  | October 19, 2020                        |
| Public Notice and Draft Waiver Application Posted to DHS Website | October 26, 2020                        |
| Public Hearings  | November 5, 2020, and November 12, 2020 |
| Tribal Consultation  | November 18, 2020                       |
| Public Comment Period  | October 26, 2020–November 27, 2020      |
| Final Waiver Amendment Application Submitted to CMS              | December 21, 2020                       |
| CMS Approval   | Summer or fall 2021                     |
| Implementation   | At least one year from CMS approval     |

23



## Providing Comments

- Comments will be collected through the end of the public comment period on November 27, 2020.
- Comments may be submitted through any of the following:
  - Email: [dhswisconsin1115clawaiver@dhs.wisconsin.gov](mailto:dhswisconsin1115clawaiver@dhs.wisconsin.gov)
  - Fax: 608-266-1096, Attn: Laura Brauer
  - Mail:

Department of Health Services, Division of Medicaid Services  
 Attn: Wisconsin 1115 HSA Waiver Amendment  
 PO Box 309  
 Madison, WI 53707-0309

24