

State of Wisconsin  
BadgerCare Reform Demonstration Project

Medicaid Health Savings Account

Draft Section 1115 Demonstration Waiver Amendment  
Application

October 26, 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 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 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: Estimated 2% of Households Transition to Private Insurance</b>					
	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
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

This section is reserved for completion following the public comment process on this draft application.

Following completion of the public comment period, this section will describe in detail the state's public comment process (including public notice, website, and public meetings) and describe the comments received through the various means offered.

Providing information and obtaining input on changes from the public is of high importance for DHS as we prepare to submit the amendment request. By law, individuals and organizations will have the opportunity to review the official waiver amendment application and provide comments for 30 days starting on October 26, 2020, and ending on November 27, 2020. Individuals and

organizations 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 or around December 21, 2020, and will be available on the DHS website.

## 7.1 Public Notice Requirements

DHS will follow the 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 will accordingly comply with the requirements in Public Notice 42 C.F.R. 431.408.

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

**Tribal Consultation:** DHS will conduct tribal consultation in accordance with the DHS consultation process 60 days prior to submitting this demonstration amendment application.

**Availability of Waiver Materials and Comment Mechanisms:** Waiver materials and comment mechanisms will be available on the DHS website at [www.dhs.wisconsin.gov/badgercareplus/waivers-cla.htm](http://www.dhs.wisconsin.gov/badgercareplus/waivers-cla.htm).

**Public Comment Availability:** DHS will initiate the required 30-day public comment period.

**Copies of Waiver Documents:** Copies of waiver documents, including the full public notice, will be available on the DHS website at [www.dhs.wisconsin.gov/badgercareplus/waivers-cla.htm](http://www.dhs.wisconsin.gov/badgercareplus/waivers-cla.htm). The final waiver amendment application, once complete, may be obtained from DHS at no charge by downloading the documents from the DHS website at [www.dhs.wisconsin.gov/badgercareplus/waivers-cla.htm](http://www.dhs.wisconsin.gov/badgercareplus/waivers-cla.htm) or by contacting Laura Brauer:

- Mail:

Laura Brauer  
Division of Medicaid Services  
PO Box 309  
Madison, WI 53707-0309

- Phone: 608-266-5368
- Fax: 608-266-3205
- Email: [laura.brauer1@dhs.wisconsin.gov](mailto:laura.brauer1@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: [dhswisconsin1115clawaiver@dhs.wisconsin.gov](mailto:dhswisconsin1115clawaiver@dhs.wisconsin.gov)
- Mail:

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

## **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)