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Overlooked Budget Measures Could Cause at Least 29,000 Children to Lose BadgerCare Coverage

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Executive Summary

Almost no attention has been paid to provisions in the Governor's proposed 2013-15 budget that could cause at least 29,000 children to lose their BadgerCare coverage, and many more to lose benefits. These changes are resurrected proposals that the Department of Health Services (DHS) put forward in the fall of 2011. Now, even though most of the changes would not be allowable under federal law until 2019, the proposals are being written into statute.

The proposals would reduce children's access to health coverage in the following ways, if or when the federal government approves their implementation:

- Raising premiums, co-pays, and deductibles to the point where health insurance could be priced out of reach for thousands of Wisconsin families. The premium increase alone could cause more than 12,000 children to lose BadgerCare coverage, according to the estimate made by DHS in 2011.
- Making many children and parents ineligible for affordable coverage by eliminating Transitional Medicaid, by creating a 12-month suspension of eligibility for missing a BadgerCare premium, and by counting as part of family income the income of unrelated adults living in the household (even though they aren't counted for purposes of family size and financial need).
- Reducing the scope of health care services covered by BadgerCare for families over the poverty level, which could affect more than 150,000 children.
- Complicating the process of applying for state or federal health care benefits and other public assistance by using different measures of income, which would substantially increase administrative workload and costs, and make it much more difficult for applicants or participants to get timely assistance from caseworkers.

The following issue brief more fully outlines how implementation of these proposals would negatively impact children's coverage in BadgerCare, leading to more uninsured Wisconsinites and increased cost-shifting.

The proposals have no fiscal impact in this biennium because DHS has no plans at this time to implement any of them. That fact has deterred discussion and debate about how they will affect health care for children and whether they are consistent with the extensive changes for adult and family coverage that take effect next year.

Wisconsin legislators should remove these program changes from the budget bill and have a full discussion of potential changes to children's coverage at a time when changes are actually possible, and after the state has completed its evaluation of the effects of somewhat similar changes for parent coverage that were put into place in July 2012.

Overlooked Budget Measures Could Cause at Least 29,000 Children to Lose BadgerCare Coverage

Introduction

There has been a spirited debate regarding the portions of the budget bill relating to BadgerCare coverage for adults. Yet almost no attention has been paid to the fact that the bill resurrects changes proposed by the Wisconsin Department of Health Services (DHS) in the fall of 2011 that could cause at least 29,000 children to lose BadgerCare coverage, while potentially decreasing benefits for many others.

Most of the proposed changes relating to children are not allowable under federal law until 2019, which is why they were dropped a year ago during negotiations with federal officials about the package of changes to BadgerCare that were implemented in July 2012. When a compromise on the changes was reached last spring, proponents of those changes made much of the fact that they were protecting coverage of children and pregnant women. Nevertheless, the proposals that would adversely affect BadgerCare coverage for kids have been quietly put back on the table.

Because people don't expect changes in children's coverage to be implemented in the next few years (barring a change in the federal law or the approval of a waiver after the 2016 presidential election), their inclusion in the budget has almost completely escaped notice. The lack of attention and debate is very worrisome because these are controversial proposals that don't dovetail with some of the other changes taking effect next year, and they deserve careful scrutiny.

This paper explains how the resurrected BadgerCare changes that were initially proposed in 2011 would affect Wisconsin families, with an emphasis on how they would affect health care for kids.

Background

The 2011 budget adjustment bill and the subsequent biennial budget gave DHS sweeping authority to develop proposals to reduce spending for Medicaid and BadgerCare, without using rulemaking, even if the proposed policy changes conflict with state statutes. There were two checks on that authority. First, any changes that are inconsistent with state statutes or rules need to be approved by the Joint Finance Committee (JFC). Second, changes relating to Medicaid typically require approval of the Centers for Medicare and Medicaid Services (CMS) in the federal Department of Health and Human Services (HHS).

In the fall of 2011, DHS submitted proposals to the Joint Finance Committee that were expected to affect BadgerCare coverage for more than 300,000 Wisconsinites. According to DHS estimates, the initial set of proposals was expected to cause more than 64,000 Wisconsinites, including over 29,000 children, to lose their BadgerCare coverage. Among those expected to remain in BadgerCare, some would have higher premiums, and another part of the DHS proposals was expected to move about 263,000 BadgerCare participants into an "Alternative Benchmark Plan" that would cover fewer services and would have much higher co-pays.

After JFC approved all of the DHS proposals, they were submitted to CMS for consideration. Most of the changes DHS was seeking conflicted with the federal health care reform law, known as the Affordable Care Act (ACA). The ACA includes provisions referred to as "maintenance of effort" (MOE) requirements because they require states to maintain their current levels of eligibility (as well as maintaining other policies, such as premiums, that affect enrollment).

The BadgerCare changes approved by CMS one year ago and implemented by DHS last July do not apply to children and pregnant women, or to adults below 133% of the federal poverty level (FPL). CMS concluded that it could not waive the MOE requirements in the ACA, which protect coverage of children until 2019 and coverage of adults until either January 2014 or when the new insurance exchange is operational (whichever comes later). However, CMS said that states like Wisconsin that have certified they have a deficit do not have to wait until 2014 to reduce or eliminate coverage of non-pregnant, non-disabled adults over 133% of FPL. Therefore, CMS approved all of the requested Medicaid plan amendments that apply to that segment of BadgerCare participants.

Changes in the 2013-15 budget bill that would affect children

Almost all of the changes that were rejected last year by federal officials or withdrawn by the state have been included in the Governor's budget bill, although some have been modified. The recycled proposals that would affect children are summarized below. (This document does not examine new changes relating to children, such as the proposal to eliminate the option for families over 300% of FPL to buy BadgerCare coverage for a child without a subsidy).

Many of the proposed BadgerCare changes are inconsistent with current statutes. Although the last biennial budget gave DHS the highly unusual authority to make changes that conflict with state law, that delegation of the legislature's responsibility expires in January 2015. Rather than extending that authority, the 2013-15 budget bill proposes to statutorily codify most of the changes approved in 2011 by the Joint Finance Committee (regardless of the fact that a number of the proposals were subsequently withdrawn by the state from its waiver proposal or were rejected by CMS).

Denying BadgerCare coverage to children in families with offers of employer insurance

Many low-wage workers may be offered employer-sponsored insurance, but it's often unaffordable. The Governor's budget proposes changes in the current standards for determining when an offer of employer coverage is deemed affordable and therefore makes an individual ineligible for BadgerCare.

The budget bill follows the Affordable Care Act (ACA) in deeming employer coverage "affordable" if the premium for an employee-only plan costs less than 9.5 percent of family income. However, the budget measure differs from the federal law by allowing DHS (subject to federal approval) to apply the new, more restrictive eligibility standard to children in families with incomes as low as 133% of FPL and to adults with incomes as low as 100% of FPL. The federal law excludes adults who have offers of "affordable" employer coverage from eligibility for premium tax credits through the new insurance marketplace if their income is over the poverty level, but it does not apply that affordability standard to Medicaid eligibility of low-income adults or children with offers of employer coverage. In fact, the ACA's maintenance of effort requirement protects the current Medicaid eligibility standards for children.[1]

DHS estimated in 2011 that the proposed change in the affordability standard would result in 11,274 children (and 16,588 parents or caretakers) losing their eligibility for BadgerCare.

Making coverage unaffordable for many families

Many of the proposed changes will increase BadgerCare premiums, particularly for families who only need coverage for their children. Researchers have found that premium increases cause a sharp drop in

[1] That's very important because a glitch in the ACA definition of affordability bases the standard on the cost of an employee-only plan, rather than family coverage, which will have the unintended result of excluding some spouses and children from eligibility for subsidized coverage through the exchange.

insurance coverage, leading many people to rely on emergency rooms as a primary source of care and causing an increase in cost shifting to people with insurance. In addition to the change noted above, relating to families that have offers of employer coverage, other policy changes that will significantly increase premiums include the following:

- *Extending premiums to children between 150% and 200% of the poverty level* – BadgerCare premiums currently start at 200% of FPL for children and 133% of for parents. If a family below 200% of FPL has employer coverage for the parent(s) but not for the child or children, the child is eligible for BadgerCare without a premium. The budget bill would allow DHS (subject to federal approval) to impose a premium for children over 150% of FPL, in an amount determined by the department.

- *Expanding the definition of family income* – One DHS proposal would include in a family's income the earnings of all adults residing in the household for at least 60 days (except grandparents who aren't applying of Medicaid), regardless of whether those adults are eligible for coverage or are related to the family members eligible for coverage. However, although their income would be counted, the proposal would not extend to including the financial needs of other adults as it pertains to household size. This change would make BadgerCare much less affordable for some families by increasing the measure of household income and thereby increasing premiums, regardless of whether the newly-counted income is available to the family, and even though the additional adults wouldn't be counted in family size for purposes of determining the family need. The proposal is inconsistent with federal requirements in the Affordable Care Act and, if implemented, would thoroughly undermine efforts to integrate eligibility determinations in 2014 and thereafter for BadgerCare and the subsidized coverage in the new exchange.

- *Eliminating Transitional Medicaid* – The department proposes eliminating the Transitional Medical Assistance (TMA) category of eligibility, which is a welfare reform initiative that enables children and parents below the poverty level to remain in the same category of BadgerCare coverage for 12 months after their income increases above the poverty level. DHS estimated in 2011 that eliminating it would cause more than 2,500 children to lose their BadgerCare coverage (as well as more than 4,100 adults). A much larger number of children who retain eligibility (moving from TMA to BadgerCare) would have increases in premiums and co-pays. Although federal officials rejected the proposal made in 2011 to eliminate TMA, they did allow the state to impose premiums on parents in TMA above 133% of FPL (but not for children). We are particularly concerned that eliminating it could cause interruptions in coverage for families who have brief spikes in income or child support.

The compounded effects of all of the proposed changes are likely to cause very substantial increases in premiums – thereby pricing coverage out of reach for thousands of children and parents.

<u>*Locking children out of BadgerCare for 12 months if a parent misses a premium payment*</u>

Under current BadgerCare policy, if a family misses a premium payment, eligibility of children is suspended for 6 months and eligibility of adults is suspended for 12 months. However, the suspension is only imposed upon family members for whom the premium applies, and since there currently isn't a premium for children under 200% of FPL, their coverage isn't affected; only the adults lose their eligibility. The proposed changes would apply premiums to all children above 150% of FPL and would increase the lock-out period to 12 months. As a result, the DHS proposals could result in 12-month terminations of coverage among the more than 58,000 children in BadgerCare whose families have incomes between 150% and 300% of the poverty level.

In light of the other changes that will increase premiums and co-pays, far more families are likely to occasionally miss a premium payment and have their coverage suspended, and the number of children who lose their eligibility will increase dramatically.

Creating administrative inefficiency and hurdles for enrollment

Several of the proposed changes will make the enrollment process much more cumbersome and will reverse the progress Wisconsin has made in creating an efficient online enrollment system. These changes are likely to suppress enrollment in BadgerCare and other public benefit programs. Two of the changes that would significantly increase work for caseworkers and create delays and inefficiency include:

- *Changing the family unit* – The expansion of the family unit to include the income of unrelated adults in the household will generate much more work for caseworkers and will exacerbate differences in how family income is defined for purposes of determining eligibility for health care and other benefits (creating significant administrative inefficiencies). And as noted previously, it could also create huge administrative headaches by applying different definitions of family income for purposes of eligibility for BadgerCare and the exchanges.
- *Eliminating express enrollment for children* – Express enrollment expedites the process of getting children and pregnant women into BadgerCare and Medicaid. Eliminating it for children might not increase administrative costs, but it will create delays in enrolling children and getting them the health care they need when they need it (while also resulting in an increase in uncompensated care for providers). This will become a greater problem as the other changes noted above significantly slow enrollment.

Reducing covered services and increasing cost-sharing

Another change that DHS proposed in 2011 that has not been approved by federal officials is moving all families above the poverty level into an “alternative benchmark” plan that covers a narrower range of health care services and requires greater cost-sharing. The budget bill would allow but not require DHS to seek federal approval for such a plan, which would apply to families and individuals above the poverty level. This change could reduce covered services and increases costs for more than 150,000 children.

Conclusion

Implementation of the proposed changes would adversely affect children in many ways. Thus far, there hasn’t been a new estimate of how many children could lose their coverage, but the estimate in the fall of 2011 was that the proposals would result in a drop of more than 29,000 children in BadgerCare, and the cost-sharing would be much higher for many of the children remaining in BadgerCare.

Some of the less direct effects of the proposed changes might be even worse. We are particularly concerned about the widespread effects of the proposed change in how family income is measured (i.e., counting the income of unrelated adults in a household, even though the additional adults wouldn’t be counted in family size for purposes of determining family need). In addition to making fewer children and adults eligible for BadgerCare, that change would thwart efforts to integrate eligibility determinations for BadgerCare and exchange coverage, and would undo all the progress the state has made in coordinating applications for BadgerCare and other forms of public assistance.

If or when the proposals that are being resurrected would actually be implemented is unclear; DHS has not indicated what their plans are, and we know that the Obama Administration does not plan to waive the “maintenance of effort” requirement that would be violated by most of the changes that would affect children. Since the proposals wouldn’t affect spending or revenue in the 2013-15 budget, and perhaps not even in the 2015-17 biennium, these measures are more akin to “non-fiscal policy.” Those facts have kept the proposals from getting attention and the sort of scrutiny needed to avoid serious problems if or when they do take effect. And thus far there has been no consideration of the implications of the state’s ongoing evaluation of the effects of BadgerCare changes affecting adults, which took effect in July 2012 and may have important lessons for similar proposals that would affect children.

Because the proposals have no fiscal effect in the 2013-15 biennium, there is no reason to adopt them now. It would make far more sense to consider them in a subsequent bill, once we can draw upon the lessons learned from the pending evaluation of last year’s BadgerCare changes and from the early implementation of the numerous changes taking effect in 2014.

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