

February 2014 | Fact Sheet

# Wisconsin's BadgerCare Program and the ACA

## SUMMARY

Prior to the Affordable Care Act (ACA), states could only cover childless adults and receive federal Medicaid funds by obtaining a Section 1115 waiver which allowed states to operate their Medicaid programs in ways not otherwise allowed under federal laws to promote the objectives of the program. In Wisconsin, BadgerCare was originally created in 1999 as a way to provide a health care safety net for low-income families transitioning from welfare to work. In 2008, BadgerCare Plus was created to expand Medicaid coverage to all uninsured children (through age 18), pregnant women with incomes below 300% of the Federal Poverty Level (FPL), and parents and caretaker relatives with incomes below 200% FPL. In 2009, childless adults with incomes below 200% FPL were also included; however, enrollment was capped. In 2012, parents and caretakers with incomes above 133% FPL were required to pay a monthly premium.

The ACA expands Medicaid to adults with significant federal funding so states do not need waivers for this purpose. While most states with waiver coverage in place prior to the ACA are transitioning this coverage to new coverage under the ACA, Wisconsin sought and received approval to continue coverage of childless adults through a waiver. As a result of Wisconsin's higher eligibility levels prior to the enactment of the ACA, Wisconsin is restricting Medicaid eligibility for parents and some childless adults to 100% FPL, but also expanding coverage to make it available to nearly all non-elderly childless adults with incomes below 100% FPL (without an enrollment cap). Because coverage is limited to 100% FPL this is considered a partial expansion and is not eligible for enhanced federal matching funds provided in the ACA. There is no gap in coverage that is typical in other states not implementing the Medicaid expansion because individuals with incomes above 100% are eligible for tax credits to purchase coverage in the Marketplaces. For more information on how the ACA affects Wisconsin's uninsured population, please read [How Will the Uninsured in Wisconsin Fare Under the Affordable Care Act?](#).

This brief provides an overview of the BadgerCare Plus and how the waiver relates to the ACA.

## BACKGROUND

As enacted, the ACA called for an expansion of Medicaid for nearly all non-disabled adults with incomes at or below 138% of the Federal Poverty Level (FPL) that is largely funded with federal dollars. However, as a result of the Supreme Court ruling on the ACA, the Medicaid expansion is effectively a state option. Prior to the enactment of the ACA, a number of states used Section 1115 Medicaid Demonstration Waivers to expand coverage to adults and to operate Medicaid programs in ways not otherwise allowed under federal rules. In states moving forward with the Medicaid expansion, many of adults covered through 1115 waivers will transition to new coverage under the ACA and states will receive enhanced matching funds for this coverage. A few states with waiver coverage in place prior to the ACA are not implementing the ACA in 2014 like Wisconsin. Wisconsin received approval of a new waiver to provide coverage to childless adults up to 100% FPL, but this coverage is not eligible for enhanced ACA matching funds.

## BADGERCARE PRE-ACA

In Wisconsin, BadgerCare was originally created in 1999 as a way to provide a health care safety net for low-income families transitioning from welfare to work. In 2008, BadgerCare Plus was created to expand Medicaid coverage to all uninsured children (through age 18), pregnant women with incomes below 300% of the Federal Poverty Level (FPL), and parents and caretaker relatives with incomes below 200% FPL. In 2009, childless adults with incomes below 200% FPL were also included; however, enrollment was capped. In 2012, parents and caretakers with incomes above 133% FPL were required to pay a monthly premium. As approved in 2012, BadgerCare Plus covered the following populations: uninsured children regardless of income;

pregnant women through 300% FPL; parents and caretakers through 200% FPL; childless adults through 200% FPL; and Transitional Medical Assistance (TMA) families FPL.

Enrollment for childless adults has been capped since October 2009 due to budget neutrality maintenance requirements. As such, average enrollment for this population steadily decreased between State Fiscal Year 2010 and 2013 from 50,627 enrollees to 17,791 (in June 2013). In August 2013, there were 157,259 individuals from the childless adult populations on the wait list. Numerous studies from 2009 and 2010 found that the eligibility expansion of BadgerCare increased access to coverage and enrollment among low-income Wisconsinites among both the previously and newly eligible populations.<sup>1,2,3,4</sup>

In 2012, Wisconsin received approval to apply premium payments to TMA adults above 138%FPL with a 12-month restrictive re-enrollment policy as a penalty for failure to pay premiums. In 2012, the Wisconsin Department of Health Services (DHS) studied the effects of the increased and expanded premiums implemented on TMA individuals above 138% FPL. This study found that between July 2012, when the premium provision was implemented, and December 2012 over two thirds (69%) of the 18,544 individuals between 133% and 150% FPL had left the program. About one in five (21%) of that population lost coverage due to failure to pay within the initial six months.<sup>5</sup>

## KEY ELEMENTS OF BADGERCARE REFORM WAIVER

**The BadgerCare Reform waiver will cover childless adults with incomes up to 100% FPL with no enrollment cap.** Compared to the previous waiver, the BadgerCare Reform waiver will decrease BadgerCare Plus eligibility levels from 200% FPL to 100% FPL for childless adults and current enrollees with income greater than 100% FPL will be transitioned to coverage in the Marketplace as of April 1, 2014.<sup>6</sup> In states not expanding Medicaid, individuals with incomes between 100 and 138% FPL are eligible for tax credits to help purchase coverage through the new Marketplaces. Unlike the original waiver, childless adults will not be limited by an enrollment cap. Wisconsin estimates that approximately 99,000 childless adults will enroll in BadgerCare in 2014 (an increase of approximately 83,000 individuals) and that nearly 5,000 individuals will transition to the federal Marketplace.<sup>7</sup> TMA adults with incomes above 100% FPL who completed their time-limited TMA will be reviewed first for Medicaid eligibility and then assessed for Marketplace eligibility. In addition, Wisconsin intends to make corresponding changes through a State Plan Amendment (SPA) to limit Medicaid coverage for parents and caretaker relatives to 100% FPL beginning April 1, 2014.

**The 2014 waiver approval allows the state to require premiums to adults who qualify for Medicaid through TMA with incomes above 100% FPL (previously at 138%).** The sliding scale premiums under the demonstration will align with Marketplace premium levels (i.e. 2% of income for individuals with incomes between 100 and 133% FPL).<sup>8</sup> The demonstration permits the state to charge premiums to TMA adults with incomes above 133% FPL from the date of TMA enrollment and to TMA adults with incomes between 100 and 138% FPL after 6 months of TMA coverage. Failure to pay premiums after a 30-day grace period may result in loss of eligibility for 3 months before an individual may re-enroll (without a requirement to repay the owed premium).

**The BadgerCare Reform provides more comprehensive benefits to childless adults compared to the previous waiver.** Under the previous waiver, childless adults were covered by a separate, less comprehensive benefits plan called the BadgerCare Plus Core Plan. The BadgerCare Reform waiver eliminates that plan and provides all individuals with benefits through the BadgerCare Plus Standard Plan, which is more comprehensive. Childless adults will not be offered family planning services or tuberculosis-related services. Additionally, both childless adults and TMA adults will not receive pregnancy related services, but will be assessed for pregnancy related Medicaid coverage. All BadgerCare beneficiaries will be required to enroll in a Medicaid Managed Care Organization (MCO).

**The waiver approval requires demonstration of public notice and tribal consultation as a condition for amendments to the waiver.** The ACA required the Department of Health and Human Services to issue regulations designed to ensure that the public has meaningful opportunities to provide input into the Section 1115 waiver approval process. The rules, issued in February 2012, require public notice and comment periods at the state and federal levels before waivers are approved by CMS. The rules apply to new Section 1115 waivers and extensions of existing waivers.<sup>9</sup> The waiver approval requires demonstration of public notice and tribal consultation as a condition for amendments to the waiver.

## CONCLUSION

Prior to the ACA, states could only cover childless adults and receive federal Medicaid funds by obtaining a Section 1115 waiver; however, the ACA expands Medicaid to adults with significant federal funding so states do not need waivers for this purpose. While most states with waiver coverage in place prior to the ACA are transitioning this coverage to new coverage under the ACA, Wisconsin sought and received approval to continue coverage of childless adults through a waiver. As a result of Wisconsin's higher eligibility levels prior to the enactment of the ACA, Wisconsin is restricting Medicaid eligibility for parents and some childless adults to 100% FPL, but also expanding coverage to make it available to nearly all non-elderly childless adults with incomes below 100% FPL (without an enrollment cap). Because coverage is limited to 100% FPL this is considered a partial expansion and is not eligible for enhanced federal matching funds provided in the ACA. There is no gap in coverage that is typical in other states not implementing the Medicaid expansion because individuals with incomes above 100% are eligible for tax credits to purchase coverage in the Marketplaces.

## ENDNOTES

<sup>1</sup> Katherine Wigert, *BadgerCare Plus: Medicaid and Subsidies Under One Umbrella* (Princeton, NJ: Robert Wood Johnson Foundation and the National Academy for State Health Policy, August 2009), <http://www.rwjf.org/en/research-publications/find-rwjf-research/2009/08/badgercare-plus.html>

<sup>2</sup> Thomas DeLiere, Donna Frieddam, Lara Dague, Daphne Kuo, Lindsey Leininger, Sarah Meier, Kristen Voskuil, "Has Wisconsin Achieved the Policy Goal of 98% Access to Health Insurance Coverage?," in Evaluation of Wisconsin's BadgerCare Plus Health Care Coverage Program, December 2010, <http://uwphi.pophealth.wisc.edu/publications/other/badgercare-plus-6-98-percent.pdf>.

<sup>3</sup> Thomas Deleire, Laura Dague, Lindsey Leininger, Kristen Voskuil, Donna Friedsam, "Wisconsin Experience Indicates that Expanding Public Insurance to Low-Income Childless Adults Has Health Care Impacts," *Health Affairs* vol. 32 no. 6(June 2013): 1037-1045, doi: 10.1377/hlthaff.2012.1026, <http://content.healthaffairs.org/content/32/6/1037.abstract>

<sup>4</sup> Wisconsin Department of Health Services, *BadgerCare Plus 1115 Demonstration Project Application* (Madison, Wisconsin: Wisconsin Department of Health Services, August 15, 2013), <http://www.dhs.wisconsin.gov/badgercareplus/waiver081513.pdf>.

<sup>5</sup> "DHS Submits BadgerCare Waiver to Change Adult Coverage," Jon Peacock, Wisconsin Council on Children and Families, <http://www.wiskids.blogspot.com/2013/08/dhs-submits-badgercare-waiver-to-change.html#more>, August 12, 2013.

<sup>6</sup> The waiver was intended to be in effect as of January 1, 2014, but Wisconsin extended coverage for individuals above 100% until April 1, 2014 due to issues enrolling in the federal marketplace.

<sup>7</sup> Centers for Medicare and Medicaid Services, Special Terms and Conditions for BadgerCare, <http://www.dhs.wisconsin.gov/badgercareplus/pubs/stc.pdf>, last accessed on January 16, 2014.

<sup>8</sup> 100-132.9%FPL is 2% of income; 133-139.9% FPL is 3% of income; 140-149.9% FPL is 3.5% of income; 150-159.9% FPL is 4% of income; 160-169.9% FPL is 4.5% of income; 170-179.9% FPL is 4.9% of income; 180-189.9% FPL is 5.4% of income; 190-199.9% FPL is 5.8% of income; 200-209.9% FPL is 6.3% of income; 210-219.9% FPL is 6.7% of income; 220-229.9% FPL is 7% of income; 230-239.9% FPL is 7.4% of income; 240-249.9% FPL is 7.7% of income; 250-259.9% FPL is 8.05% of income; 260-269.9% FPL is 8.3% of income; 270-279.9% FPL is 8.6% of income; 280-289.9% FPL is 8.9% of income; 290-299.9% FPL is 9.2% of income; and 300% and above is 9.5% of income.

<sup>9</sup> *The New Review and Approval Process Rule for Section 1115 Medicaid and CHIP Demonstration Waivers*. Kaiser Commission on Medicaid and the Uninsured, May 2012. <http://kff.org/health-reform/fact-sheet/the-new-review-and-approval-process-rule/>