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**Birth Cost Recovery Update - "The Birth Tax"  
September 23, 2020**

Hello Partners,

ABC for Health continues to track birth cost recovery policy in Wisconsin. We call the policy the "birth tax," due to the harsh and often unexpected financial impact on unmarried pregnant women and families seeking BadgerCare Plus in Wisconsin. Counties have certain flexibility in implementing this policy and recently some, like Dane County, have abolished the practice. Others, like Milwaukee County, continue to debate the inequities and practice of collecting the Birth Tax.

**NEW: Resolution To End the Birth Tax Goes to the Milwaukee County Board Sept. 24**

The [Resolution](#) requesting the Milwaukee County Department of Child Support Services discontinue the discretionary practice of pursuing birth cost recovery collections in child support cases in Milwaukee County goes back before the full County Board of Supervisors on **Thursday, September 24, 2020 at 9:30am**. The Resolution is item #26 on the [Board's Agenda](#). This meeting will be live-streamed on the [County Legislative Information Center](#).

The Resolution appears before the Board with the **recommendation of rejection** from the Audit Committee.

Recall the dynamic history of this Resolution before County Board Committees – when initially before the Health and Human Needs Committee, the Resolution passed. The Resolution failed in the Finance and Audit Committees. Both Committees invited Milwaukee County Director of Child Support Jim Sullivan to present the Resolution and answer questions, nobody else. Sullivan is, of course, vehemently against the Resolution.

**Summary of Audit Committee Discussion**

The Resolution failed in the Audit Committee by a 3-2 vote (with Supervisors Moore Omokunde and Taylor voting against rejecting the Resolution.) Perhaps most surprising was the lack of data before the Audit committee. Supervisor Taylor, the Committee Chair, repeated said she thought it was the Committee's responsibility to do its "due diligence" and collect more data, maybe get the County Comptroller - Audit Services to look into the data, but the Committee rejected that idea (her motion to layover the Resolution was rejected.) Interestingly, the Milwaukee County Director of Audits, Jennifer Folliard was in the meeting, and when asked what data her department had on the Office of Child Support, Folliard replied there was "no prior work done in this area," and she did not have anything to offer. Instead, the Committee simply looked at what appeared to be cherry-picked data that Sullivan provided in a "[supplemental report](#)." Not once was a mother enrolled in Medicaid or a new baby even mentioned when discussing the impact of the birth tax. We know from our conversations with pregnant women and young families that women do not apply for Medicaid/BadgerCare Plus because of potential medical cost collection issues for the family or the father. She knows that may be the start of a collection action that is not child support – no money from the collection supports the cost of raising that child. We received anecdotal reports of women who skip prenatal care because of the policy. Instead, Sullivan kept the conversation to "dads who should take responsibility," and we shouldn't "cut a break" for these "dads who have income and should contribute" to the cost of the



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birth of their child. Other perspectives on the policy, from mothers, fathers, and public health could provide the Committee and the Board a fuller understanding of the impact of the policy, but no other perspectives were invited to the Committee.

Sullivan said twice during the meeting, "Birth cost recovery does an awful lot of good for an awful lot of people in need in our community...especially people of color." (Sullivan) The deceptive statement, contradicted by public health evidence, was unchallenged by the Committee each time.

Also unmentioned during the meeting was COVID. Child Support touted their collections activities over the past several months – at a period of time when its community is mired by pandemic, and most other medical debt collections activities have, at least temporarily, ceased. The only reference to COVID was in the context of not wanting to reduce county revenues at a time when the County Budget was hurting. Sullivan said, "In the fiscal crisis we are in, this is a bad time for us to change course on a policy decision that will have such a fiscal impact."

#### **Additional Notes on Audit Committee Discussion**

Supervisor Weishan made the motion to reject the Resolution. He spoke frequently during the discussion, praising Sullivan and saying the only people this Resolution helps are those "with the means to pay," and that it was "important to hold these people accountable." He said it was "clear that low-income people are not subject to these orders," and that the "judiciary has the discretion to evaluate the order." He reiterated that point several times, later saying "the judiciary can review a case and determine if someone has the ability to pay. It doesn't need us to step in and tell them how to do their job." "Let the judiciary have the discretion to do what is right." He said a third time, "The fact is, the judiciary looks at ability to pay. It is inappropriate to step in and short circuit this." (Of course, Weishan failed to mention the overwhelming majority of individuals are not represented by an attorney in these legal proceedings, if they appear for their hearing at all.) Weishan also restated that "only those with substantial income are subject to these orders." Like Sullivan, he spoke to the financial impact to Milwaukee County should this Resolution pass, using Sullivan's numbers, that the County would lose \$325,000 in collections and BadgerCare would lose \$2 million. Sullivan presented this amount as one that would be devastating to the stability of BadgerCare, and harming the "actual low income people" enrolled in the program. (Wisconsin's Medicaid budget is well over \$8 billion, combined state and federal money. The Governor's own Budget advocated for the repeal of Birth Cost Recovery, a provision removed by Joint Finance.)

#### **Do our Due Diligence**

Supervisor Taylor said the Audit Bureau has not examined the Resolution, and she felt the Audit Committee had a responsibility to do its due diligence, and that included have the Audit staff look into the resolution. She said she reached out to offices of elected officials and the Governor's Milwaukee office to learn more about the impact of Birth Cost Recovery and felt it was pertinent to wait until we could get more answers before the Committee voted on the Resolution. She said she had heard from fathers who did not get the \$0 order like Sullivan suggested (a statement echoed later in the meeting by Moore Omokunde saying he, too, had heard from low-income fathers who were subject to collections.) Taylor said she wanted to "do right by the constituents in her community. Her motion to



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lay over the Resolution for one meeting was rejected by a 2-3 vote (Taylor and Moore Omokunde voting for; Sumner, Weishan and Martin voting against.)

### **Thanks for the mention, Logsdon**

In a strange move, Supervisor Logsdon, not a member of the Audit Committee, joined the virtual meeting and took the floor. She said she wanted to thank Sullivan for his time and research and said she did some of her own research as to why the County would get rid of something that was a “win-win.” She said her research was to talk to Sullivan about where the Resolution came from. Sullivan said it was from former Supervisor Lipscomb. She said, with disdain, “and there are outside groups...out of Madison...one is called ABC...that advocate for this.” Logsdon said “Director Sullivan, you did an awesome job. We aren’t collecting from people, only from those with the means.” She said Child Support was founded on the principle that the “families, not the taxpayer, would be the ones to pay for the cost of raising a child.” Logsdon then exited the meeting.

### **Consistent Information?**

Supervisor Moore Omokunde said he supported Taylor’s motion to lay over the Resolution to a future meeting as he was not as secure that the “information has been consistent,” and would like another opinion.

Supervisor Weishan, again, took the floor saying the Resolution was already before multiple committees and to lay over the Resolution would only serve to delay the inevitable, while “saddling a department [audit] with another task when they’re clearly already overburdened.” Weishan later said if the committee waits, he will personally think of 5 more reasons “not to do this,” and “I can give you 1000 other reasons we don’t have the money to do this.” He finished with “in 2 months, you will acknowledge [there is] no new information provided and see the follow of this exercise.”

Taylor agreed the Resolution had been moved a lot but said “it is our job to do our due diligence and see the impact it may have on our constituents.”

Moore Omokunde said he was concerned that the narrative from Child Support kept changing. He said now we’re talking about the budget impact, before it was child support jobs, and “perhaps perspectives are missing.” He said “we need the missing information and one, solid narrative moving forward.”

As mentioned, the motion to lay over the Resolution until a future meeting failed, and the motion to reject the Resolution passed. Sullivan thanked the committee for its consideration.

### **Final Thoughts**

Unfortunately, Supervisor Taylor is correct. Her Committee, and the ones meeting before hers, did not do their due diligence owed to their constituents. There has been only one voice, one perspective on the Resolution, that of the Director of Child Support. He has repeatedly presented cherry-picked data to Committees, misrepresenting the collection amounts, who is subject to collections, and the race and ethnicities of those most impacted by the policy. He has directly correlated birth costs as child support, when it is the opposite of child support. No money collected go to the support of the child or family. He has wrongfully concluded that the County and the State Medicaid program would be dramatically damaged should the policy be eliminated.



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The Committees did not even invite the Milwaukee Health Department to comment on why it advocated for eliminating Birth Cost Recovery in its Fetal Infant Mortality Review. Nor did they present or review ANY of the research that exists on Birth Cost Recovery. We even compiled sources, publicly, on our website: <https://safetyweb.org/healthwatchwi/birth-tax.html> and gave examples from others states that agreed the practice was not in the best interest of pregnant women and families. In fact, most states in the nation have abandoned this practice – or never started collecting - concluding that it is not in the best interest of infants, parents and families. And even when Committee members with personal knowledge contradicted statements from Sullivan about birth cost collection actions, the Committee still failed to rise up and seek information from the mothers, the fathers, or the constituents themselves. Not one mother told her story of working an extra job after giving birth to pay a birth tax collection on behalf of her boyfriend. Not one father, married to his spouse in a cultural marriage, was invited to share how his marriage was not recognized by the State and he was therefore subject to collection. Not one mother was asked if she rejected enrolling in Medicaid, during a pandemic, for fear of a collection action against her baby’s father should she identify him on the Medicaid application. We listen to these stories, and so should the Committee.

We hope the Milwaukee County Board will do the right thing and recognize the significant inequities inherent in the Birth Tax. In this difficult economic time, they should understand the importance of supporting low-income Wisconsin families, instead of supporting medical debt collections work in low-income communities.

This update is for informational purposes only.

Regards,

[Brynne McBride](#)

ABC for Health, Inc.