

HealthWatch Wisconsin

# REPORTER

February 27, 2012

Birth Cost Recovery and the Infant Mortality Puzzle

## In This Issue

Is Birth Cost Recovery a "Missing Piece" of the Infant Mortality Puzzle?  
Background  
Policy  
Open Questions and Need for Further Research  
How YOU Can Help!

ABC for Health, in partnership with HealthWatch Wisconsin, a membership organization that focuses work on maximizing access to care and coverage for the people of Wisconsin, has developed **"The HealthWatch Wisconsin Reporter."**

This special edition newsletter tackles the big issues, providing in-depth analysis and insight into complex public health and health coverage questions.

## Special Report, Analysis & Commentary:

You are receiving this Special Edition Newsletter as a benefit of being a subscriber to the HealthWatch Wisconsin Update Newsletter. Thank you!

### Is Birth Cost Recovery a "Missing Piece" of the Infant Mortality Puzzle?

Infant mortality rates among black infants have remained stubbornly elevated in Wisconsin. Researchers have devoted time and expense to identify and explain factors causing increased deaths for babies in select cities, of select race. Initial findings suggest that black infants in Wisconsin are twice as likely to die as white infants in the first year of life, among the worst rates in the nation. Stress, poverty, and environmental factors play a key role in these poor health outcomes.

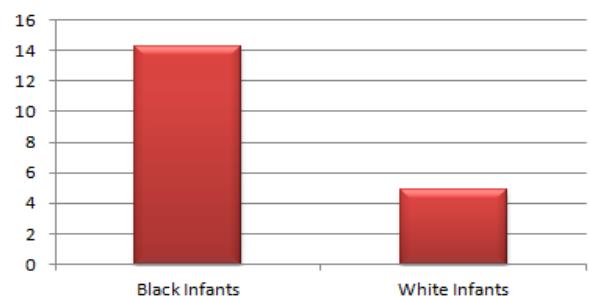
This HealthWatch Reporter examines another possible aspect of infant mortality: Wisconsin's practice of "birth cost recovery," specific to low-income, unmarried families on Medicaid. Wisconsin is one of only a handful of states that prosecutes unmarried fathers to collect birthing costs. Fathers face multiple consequences which could include garnished wages, tax intercepts or perhaps may even include jail time.

Pregnant women that apply for Medicaid must identify the father of their babies or face possible sanctions that include losing health care coverage after the baby is born. In short, women are required to "cooperate" with child support officials. There is a process for women to opt out of requirements to identify fathers called "Good Cause."

However, this process is poorly understood and rarely used in Wisconsin, as we discuss later. Therefore, some women simply fail to begin the BadgerCare or



### WI 2009 Infant Mortality Rate (deaths/1,000 live births)



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Medicaid application to avoid the whole conversation about the father's identity—and hospital-based advocates have told ABC for Health that some full-term women have presented at the emergency room, uninsured, with no prenatal or obstetrics care. The health and safety of the infant is at stake.

Collection of birth costs is now rising after falling off for several years as the result of a combination of a Wisconsin circuit court decision and a decision about Wisconsin's program made by the federal Office of Child Support Enforcement. Wisconsin counties collected over \$18 million dollars last year alone from unmarried fathers—the most in the nation. Counties collect this “child support” money from fathers and process these funds through the state or federal government. Child support agencies take a 15% cut as an incentive to conduct this practice. Now that Wisconsin's new budget cuts state allocations to county offices of child support enforcement in half, ABC for Health is concerned that local offices may seek to recoup lost revenue by becoming more aggressive in their pursuit of birth cost recoveries.

## Background

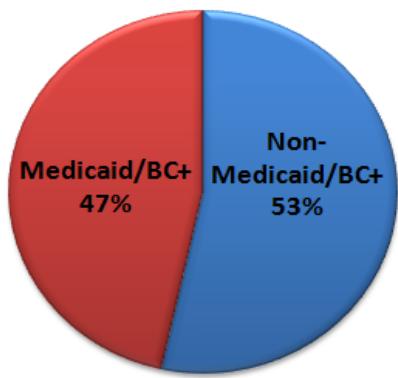
### Defining “Birth Cost Recovery”

Medicaid uses the term “birth cost” (or “lying-in cost”) to describe a pregnant woman’s medical bills and expenses associated with a pregnancy and baby’s birth. Medicaid requires identified fathers to pay these expenses for unmarried women enrolled in Medicaid programs. Medicaid does not require the fathers of married women on Medicaid to pay any birth costs, although local offices and circuit courts do have the discretion to charge a father unmarried at the time of birth even if the father and mother get married later. Information currently available indicates that there were 68,904 deliveries in Wisconsin in 2008 and that 32,082 of those were covered by Medicaid or BadgerCare Plus. 21,594 (67%) of the Medicaid or BadgerCare Plus births were to unmarried women. County child support agencies are responsible for collecting this money from fathers.

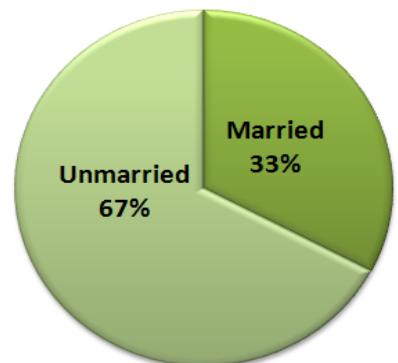
### Calculating Birth Cost:

Determining who will pay and what they pay for birth costs varies from county to county. Wisconsin and federal statutes specify the *maximum* amount of birth cost which may be collected from the unmarried father. Federal law limits recovery of birth costs to the amount Medicaid paid for the cost of pregnancy and delivery.

WI Deliveries 2008



WI Medicaid/BC+ Covered Deliveries 2008



## ***Miss the Annual Conference?***

Madison was the place to be this spring! As a Presidential primary approaches and "recall fever" is in the air, we gathered elected officials, candidates, experts and more to discuss our featured topic "Waive Goodbye to Medicaid? *Not if we can help it!*"

There's still time to hear the perspectives on the future of health coverage in Wisconsin!

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The actual amount charged depends on several factors:

- Whether the delivery is uncomplicated, is a cesarean section, or has other complications;
- Whether the mother is a member of a Medicaid/BC+ Health Maintenance Organization (HMO);
- Whether the county includes charges for infants who require neo-natal care;
- Whether other insurance pays all or part of the pregnancy and birth expenses; and
- The father's income.

County child support agencies can provide more information specific to their agency's policies regarding the collection of birth costs. Documentation from the Wisconsin Department of Children and Families notes that child support agencies must ask the court to set the *lower* amount of the following:

1. Approximately five percent of the father's monthly income over a 36-month period
2. Half the regional average amount for birth costs
3. Half the actual birth costs up to the full regional average amount

If either the mother or father had private insurance which covered some of the birth costs, the birth cost amount charged to the father should be reduced by the amount paid by insurance, but the parent with the insurance must show proof of payment.

### **Not Cooperating:**

Birth cost recovery issues may cause pregnant women to be reluctant to apply for Medicaid or BadgerCare Plus. If the mother fails to cooperate in establishing paternity for her child, she will not be eligible for other Medicaid or BadgerCare programs after the child is born. (Note: this will not affect continuing or future coverage for her child.) Exceptions to this policy called "Good Cause" exist, but are not well known and are rarely used in Wisconsin. See more under "Policy" below.

### **Exceptions to Paying Birth Costs**

According to current Child Support Bureau policy, an unmarried father **might** not have to repay birth costs if: the couple previously had another child together; and the couple informed the Medicaid agency that the father was living in the home before the new baby was born. Finally, and most importantly, if there is a good cause reason for not cooperating, the mother does not have to disclose the name of the father. A mother afraid that she or her children may be harmed physically or emotionally by a baby's father as a result of birth cost recovery should talk to her economic support worker about a "Good Cause Claim" exemption form. A woman who qualifies for a "good cause exemption" will continue to receive benefits as long as she is otherwise financially eligible.

## **Share your BadgerCare and Medicaid Story:**

In Wisconsin, about 1.2 million people rely on BadgerCare and Medicaid programs to provide essential, affordable, and effective health care services. And the impact of these programs reaches thousands more--our friends, neighbors, grandparents, colleagues, and health care providers large and small in every county of Wisconsin. Tell your BadgerCare or Medicaid Story! Why is BadgerCare or Medicaid important to you and your family? What would happen if BadgerCare or Medicaid ended? [\*\*CLICK HERE\*\*](#) to complete a story form!

## **HealthWatch Public Hearings: The Human Impact of Medicaid/BadgerCare Cuts in Wisconsin**

HealthWatch Wisconsin has posted the complete video footage of public testimony on the impact of proposed BadgerCare+ and Medicaid cuts that will affect 1.2 million Wisconsinites covered by these programs. Please [\*\*CLICK HERE\*\*](#) to view these HealthWatch Wisconsin public hearings.

## **Policy**

### **A. Concerns Regarding the Policy**

Birth cost recovery policies have multiple implications for the health and well-being of low-income families and pregnant women. We address three significant concerns. First of all, Wisconsin birth cost recovery policies may discourage unmarried pregnant mothers from getting timely prenatal care services. For example, a pregnant woman may have concerns that identification of the father could lead to possible physical/emotional harm. Some fathers may be very involved with the pregnant mother but may feel burdened if they face significant financial obligations from the state. Other times after identification to child support, fathers may decrease emotional and financial support to her and her unborn child. Consequently, after years of this policy in Wisconsin and thousands of sanctions imposed, community level responses from fathers cause certain pregnant women to delay BC+ applications.

A pregnant woman cannot be denied BadgerCare Plus services for non-cooperation while pregnant but her services will end sixty days after the birth of the child. Notices sent to pregnant women requiring them to cooperate with Child Support Enforcement typically do not inform these women that they cannot lose their coverage while they are still pregnant. Moreover women may not realize that sanctions must be removed during a subsequent pregnancy. Poor birth outcomes such as prematurity are higher for women that experience these complications during previous pregnancies, and access to adequate health care services becomes even more important. Therefore we recommend eliminating these birth cost recovery policies in Wisconsin in order to promote better birth outcomes for low income and high risk women.

Secondly, birth cost recovery policy takes money away from high risk and needy low-income families. Studies consistently link poverty and rates of prematurity as well as rates of infant mortality. The presumed goal of child support is to ensure that an unmarried father financially support the mother and child. However, how does birth cost debt owed to the state constitute "child support," since these funds do not directly support the child but rather pay off a state debt? Even more shocking are situations where the unmarried father and mother are living together and sharing finances. Here, birth cost recovery policy directly removes money from the household of the mother, essentially violating federal law which guarantees the entitlement for the mother. This is especially true if the father is unemployed or has very low income but is still required to make payments according to what the state considers his potential earnings.

Finally, why are child support agencies allowed to keep a portion of recovered birth costs in this era of budget cuts? In the 2011-2013 Biennial Budget, Governor Walker maintained funding to child support agencies at \$4.25 million of general purpose revenue per year, which is matched with federal funds, and leads to a total of \$12.5 million in funds disbursed per year. However, due to recent changes in percentage of federal matching funds, the total amount disbursed this year is much lower than previous disbursements. Child support agencies have reported that these reductions in funding will result in staff cut-backs and decreased child support collections. A reduction in general child support collections would negatively impact low-income

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mothers and children living apart from fathers. However, because Wisconsin's birth cost recovery policy allows counties to keep 15% of any birth cost collections for their own use, we believe certain counties will step up their birth cost recovery efforts to make up for state/federal funding short-falls.

## B. The Practically Non-Existent "Good Cause Exemption"

When an unmarried pregnant woman applies for BadgerCare Plus services, she is asked to identify the father of the child. This information gets forwarded to county child support enforcement agencies who can then contact the father for birth cost payment as well as other child support obligations. Per Wisconsin policy, she cannot be denied enrollment in BadgerCare Plus while she is pregnant if she refuses to identify the father, but she can be sanctioned for non-cooperation after the pregnancy and can be removed from the rolls of BadgerCare Plus at that time. (She will also not be eligible for other forms of public assistance such as Wisconsin Shares, SSI Caretaker Supplement, or W-2 benefits.)

If she refuses to identify the father because she is concerned this may lead to violence towards herself or her children, she can apply for a good cause exemption. Women who have received good cause exemptions are not sanctioned for non-cooperation and continue to receive public assistance benefits for which they qualify financially. Initial determination about Good Cause Claims is made by the Economic Support Specialist who is managing the pregnant woman's application. While any particular Economic Support Worker may have a background that makes him or her well-qualified for this task, publicly available position descriptions do not highlight any specific requirements that would match what you might expect for such a decision-making position. Based on the Annual Report to Congress made by the US Department of Health and Human Services, Administration for Children and Families (Office of Child Support Enforcement) in all of 2009, **only 20 good cause exemptions were granted in the State of Wisconsin**. Conversely, during that same year, **over 572 women were sanctioned** for non-cooperation with Child Support and prohibited from using health coverage. In 2011, **records show** only 44 good cause *applications* were submitted for the entire state (and only 5 good cause requests were made for Milwaukee). Data on the number of requests honored by the State in 2011 are not yet available.

## C. Significant Financial Recoveries

By definition pregnant women that qualify for Medicaid have limited financial resources. Often times, fathers can also have limited financial means. We analyzed data from the Wisconsin Legislative Fiscal Bureau and the Wisconsin Department of Children and Families and identified that birth cost recovery funds collected from low-income families totaled from \$17 million to \$23 million per year over the past five years.

In addition, the total amount of birth costs recovered from low-income families statewide from 2006 through 2010 was \$99.1 million. We know that counties keep 15% of collections to use at their own discretion. Thus birth cost recovery from some of the poorest people in Wisconsin generated \$14.8 million for county GPR from 2006-2010.

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**ABC for Health, Inc.** is a Wisconsin-based, nonprofit public interest law firm dedicated to linking children and families, particularly those with special health care needs, to health care benefits and services. ABC for Health's mission is to provide information, advocacy tools, legal services, and expert support needed to obtain, maintain, and finance health care coverage and services.



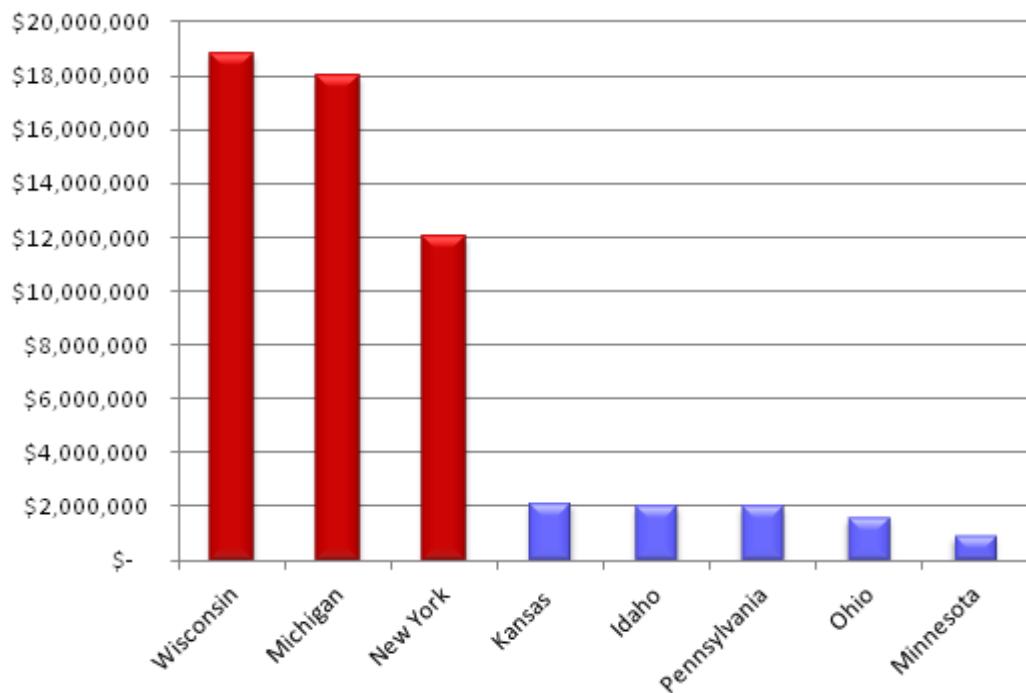
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The US Federal Office of Child Support Enforcement identified Wisconsin as a dubious national leader in birth cost collection efforts. The vast majority of states do not collect birth cost. In fact, only Wisconsin and nine other states continue the practice of birth cost recovery.

The following graphic depicts the amounts collected in 2010 by eight of these states (Hawaii, which practices BCR but doesn't report the amount collected, is excluded):

**BCR Collection by State in 2009 or 2010  
(NCCSD 2010 Survey)**



As noted above, Wisconsin, Michigan, and New York are easily the most aggressive states in birth cost recovery collections.

**Open Questions and Need for Further Research**

We continue to research how counties approach birth cost recovery collections. Do some counties approach collection efforts more aggressively than others? Do collection activities correlate to infant mortality rates? What is the impact of BCR policy on rates of incarceration of non-custodial parents for non-payment of child support? What are the reports from mothers, fathers, and families who have struggled to negotiate through the ins and outs of this policy?