



DATE: August 9, 2017

SUBJECT: Birth Cost Recovery in Milwaukee County

TO: The Honorable Chris Abele
Milwaukee County Court House
901 N. 9th Street, Room 306
Milwaukee, WI 53233

FROM: ABC for Health
Center for Family Policy and Practice
Community Advocates Public Policy Institute
End Domestic Abuse Wisconsin
Kids Forward
Milwaukee Jewish Federation
Planned Parent Advocates of Wisconsin
Wisconsin Alliance for Women's Health
Wisconsin Association of Local Health Departments and Boards
Wisconsin Coalition Against Sexual Assault
Wisconsin Faith Voices for Justice
Wisconsin Public Health Association
9to5 Wisconsin



Dear County Executive Abele:

The above referenced organizations collectively express our concern over Milwaukee County Office of Child Support Services practices that implement the recovery of Medicaid-paid pregnancy and birth related expenses from unwed or non-custodial fathers. On March 17, 2017, you received correspondence from Bobby Peterson of ABC for Health related to concerns with Milwaukee County Birth Cost Recovery (BCR) efforts that fail to serve the best interests of the mother and encourage paternal involvement in the family. We share Mr. Peterson's concerns and support his efforts to seek more family friendly BCR policies.

In 2016, the state of Wisconsin had the largest black vs. white infant mortality disparity in the nation. As you know, these disparities are acute in Milwaukee County. In 2015, a black infant born in Milwaukee County was over 2 ½ times more likely to die in his/her first year of life than a white infant.

We are aware of your office's admirable efforts to proactively address and reduce racial disparities that exist within many different systems in Milwaukee County. We maintain that discussions regarding Milwaukee County's approach to BCR enforcement and recovery will contribute to continuing and reinforcing this longstanding commitment to reducing racial disparities in Milwaukee County.

We worry that the local implementation of BCR, which largely flies under the radar in Wisconsin, may unintentionally contribute to Milwaukee County's racial infant mortality disparities. Unmarried mothers considering a BadgerCare Plus application for pregnancy may fear that the state's requirement to identify the father for birth cost recovery purposes could lead to physical, emotional or financial consequences. This may lead to delayed applications, late prenatal care, while contributing to maternal and paternal stressors and poor birth outcomes.



While “Good Cause Exemptions” for not identifying the child’s father exist under state law and administrative rules, these exceptions are buried in the bureaucratic weeds and appear to be rarely used. Many point of contact service providers are not aware of these exceptions and fail to communicate important information to pregnant applicants. This is problematic because moms who refuse or cannot meet the burden of proving the eligibility for an exemption risk losing access to Medicaid, FoodShare and other resources while their babies are only 2 months old. We maintain that training of relevant county and other non-county service provider staff could at least partially address this problem and we would appreciate if ABC for Health staff were provided with the opportunity to discuss this possibility with appropriate Milwaukee County departmental staff.

Because of the demographic reality of pregnant women who apply for BadgerCare coverage, BCR enforcement actions disproportionately target low income, minority mothers. In 2015, 91% of black women receiving BadgerCare in Milwaukee County were unmarried at the time of delivery.

BCR recoveries often saddle low-income fathers with debt and payment obligations that may serve as a disincentive for positive paternal involvement and support for the newborn’s family. Research suggests that paternal absence widens the black-white gap in infant mortality almost four-fold. This is particularly problematic in cases where the father is financially contributing to mother and infant since, unlike child support, the funds collected through BCR do not go toward support of the newborn infant or family. Instead, the county retains 15% of the resources collected with the balance flowing back to the State MA program. As a result, the County should (at a minimum) exercise the wise discretion not to pursue BCR in cases where seeking BCR enforcement would remove money from the mother and infant and clearly would not be in the best interests of the mother and baby. We seek the opportunity to discuss with the appropriate County departmental staff about developing and promoting policy that could be created and consistently applied to pregnant unmarried women.

Research suggests that Wisconsin is an outlier on this issue, as it is 1 of only 9 states that still practice and implements this form of BCR policy. Most states have abandoned the practice of BCR as “not in the best interest of the mother and baby.”



While you have no control of state law, we maintain that it is important for Milwaukee County to take some proactive measures on this issue, as Milwaukee County leads Wisconsin counties in pursuing BCR. From the period 2011 through 2016, Milwaukee County recovered a total of \$21,394,127 in BCR enforcement actions. Think of the difference these resources could make if policy were revised to encourage their use toward the health and well-being of Milwaukee County's low-income, disadvantaged newborns.

In closing, it appears that the agreement between the Wisconsin Department of Children and Families and County Child Support Agencies provides significant discretion to the County Corporation Counsel in the implementation of BCR policy and determination of BCR obligations. We seek an opportunity for ABC for Health staff to sit down with representatives of your office and the Milwaukee County Office of Child Support Services to explore approaches to addressing birth cost recovery in a way that encourages paternal involvement and support and eliminates a potential risk factor for racial and ethnic birth outcome disparities within Milwaukee County. Thank you for your consideration.



JOHN P. HAYES CENTER • CHILD SUPPORT SERVICES

Milwaukee County

JAMES SULLIVAN • Director

JANET NELSON
Legal Counsel Administrator

AGNES MARCINOWSKI
Operations Manager

JETAUNNE RICHARDSON
Program & Grants Manager

SANDRA STEVENS
Interim Fiscal & Budget Manager

October 2, 2017

To: ABC for Health,
Co-signing agencies

Re: Birth Cost Recovery

From: Jim Sullivan
Director, Child Support Services

A month ago, Milwaukee County Executive Chris Abele received a letter from ABC for Health, listing several additional, well-intentioned organizations, expressing concerns regarding birth cost recovery for Medicaid (MA) involved births. County Executive Abele has asked me to respond to ABC for Health's criticisms of Milwaukee County CSS' Birth Cost Recovery (BCR) policies.

BCR policy is a relatively minor part of child support law. Our attorneys seek a BCR order as an add-on to establishing a core order for financial and medical support, but it's an add-on reflecting sound public policy. The BCR orders are minor, a very small fraction of actual birth costs, a fraction of actual support going to custodial parent and child, and BCR is literally the last dollar paid, as the child support payment hierarchy pays current support first, followed by arrears, followed by state owed arrears, followed by birth cost recovery. Unfortunately, many may not be as aware of how the child support program and BCR works.

The problem here is that ABC for Health has imputed a world of harm from a relatively insignificant, but in fact, beneficial public policy and expounds from that grain of an idea to a world of harm and disparity. ABC for Health has argued that everything from domestic violence, to poor prenatal care, to low birth rates, infant mortality, all the way to generational economic and racial injustice, all of these harms, to ABC for Health, all of these are driven by child support agencies and birth cost recovery. The relationship of such broad societal harm to a relatively minor policy within the child support program is tangential and unsupported by the reality of the policy.

The Department of Child Support Services, through the utilization of community resources, promotes family stability, creating a better quality of life for the children of Milwaukee County.

COURTHOUSE, ROOM 101 • 901 NORTH 9TH STREET • MILWAUKEE, WISCONSIN 53233 • TELEPHONE (414) 615-2593 • FAX (414) 223-1865

Child Support attorneys seek birth cost recovery orders for a number of basic reasons. Like the Child Support program itself, BCR as an element of public policy stems from the notion that parents should be the ones responsible for their kids, before the taxpayers are. It's also the law, not to mention a basic element of our culture that every child has the right to two parents, and the paternity establishment function is a key part of the services child support agencies provide. While the notion that every child deserves the love and support of two parents is well established, it is by no means universal. There are some who will always consider child support to be an undue burden on some men. Unfortunately, child support, and indeed parenting, and accountability itself, are never going to be universally accepted. Even more unfortunate, the good intentions that ABC for Health or other altruistically motivated individuals may have, ultimately results in the argument that this particular group of fathers is incapable, that responsibility is too much for them. The very thing that we expect of men and fathers, to be responsible, to support their kids, to pass on their values to their kids and teach them to be responsible as well, somehow that burden is too much for these men, we can't expect them to pay child support, we can't expect them to participate in the cost of the birth of their child. Unfortunately, the net effect of that argument is to view this group of men, a largely poor, less educated, and African American group of men as less capable, as less than full men. It diminishes and infantilizes them. However well-intentioned the argument against accountability and parental responsibility may be, its reality is both racially discriminatory and family destroying.

ABC incorrectly equates the requirement that pregnant, unwed mothers seeking public assistance name a father, with birth cost recovery. They are, in reality, two separate issues. Wisconsin's cooperation requirement supports good public policy: under the law every child is entitled to have two parents. Without this policy, as implemented through Wisconsin's 'father for every child' law [Wis. Stat. §767.80(6m)], many fathers of children born outside of marriage may not have the wherewithal to establish their paternity, many children may never experience the benefits of having their fathers' paternity established and many mothers may not have the opportunity to include the fathers in their children's lives.

ABC creates a scenario that pregnant mothers may delay seeking medical benefits for fear of having to name the father and for fear that he will be made to repay birth expenses. In actuality, pregnant mothers seeking medical assistance are specifically exempted from the cooperation requirement during pregnancy and up to 60 days after birth.

After 60 days, the good cause exemption is available, and at CSS that exemption is not "buried in the weeds", as ABC describes it. At every paternity interview the mother is asked about any safety concerns she may have, and she is given a printed copy of Wisconsin's Good Cause Notice. Any questions she may have about the exemption are answered. If the mother chooses to claim good cause, she is given time to file the necessary paperwork. If good cause is granted, her cooperation is no longer required.

As to the separate issue of birth cost recovery, Wisconsin Statute § 767.89(3)(e)1 provides the foundation for the potential contribution of the father toward a mother's birth expenses: it requires that paternity judgments address the fathers' obligation to contribute to the reasonable expenses of the mother's pregnancy and birth expenses and whether periodic payments are due on the obligation, based on the father's ability to pay. If the mother paid her own birth costs, the father can be ordered to repay her; if Medicaid paid for the birth, he can be ordered to repay the State of Wisconsin.

The court's authority to order repayment, however, is limited by Wisconsin Department of Children and Families (DCF) regulation. DCF 150.05(2) specifies that a father may be ordered to reimburse up to one-half of the actual and reasonable birth expenses for his child, but the order must not exceed 5% of the father's current monthly income multiplied by 36 (the equivalent of 5% of three years' income). For a father earning \$20,000 per year, his greatest potential liability for one-half of birth expenses under this regulation is \$3,000. It also says that if the father's current income is between 75% and 150% of the federal poverty guidelines (currently \$754 to \$1,508 per month for one person), the court may use a reduced sliding scale that limits the father's contribution to birth expenses to a lower percentage of the father's three-year income. At an income of \$754 per month, the order limit is 3.30% of monthly income x 36, or \$896. Finally, if the father's income is less than 75% of federal poverty guidelines, an order for birth expenses must be set in an amount appropriate to his total economic circumstances.

In practical application, CSS is not saddling fathers with exorbitant birth costs. On average, one-quarter of fathers on new Milwaukee County paternity cases are ordered to make no contribution whatsoever to the birth expenses incurred on behalf of their children. Such zero orders are common when the father has no work history or is incarcerated. The most common birth expense order is \$500, payable at a rate of \$1 per week, for fathers who earn between \$1,000 and \$2,000 per month. When a father's income exceeds \$2,000 per month, birth expenses are generally set between \$1,000 and \$2,000, and are payable at a rate of \$25 per month or less. Depending upon the circumstances of each particular case (other obligations the father may have, fluctuating employment, etc.) birth expense orders of \$100, \$250, \$300, etc. are not unusual. Such orders in Milwaukee County are always set based upon the fathers' ability to pay, and they never exceed the DCF limits.

Note that interest is not charged on birth costs, so fathers do not accrue additional debt as they pay the low weekly or monthly rates set in these cases.

Additionally, Wisconsin has a hierarchy of how payments are applied to support debts. Based upon this hierarchy, any current support or support arrears owed to the family are always paid ahead of payments to the State for birth costs. As a result, on many cases nothing is actually paid on the birth expenses until after the emancipation of the child.

This approach to birth cost recovery is consistent with CSS' mission is to promote family stability and create a better quality of life for the children of Milwaukee County. Our focus supports mothers, children *and* fathers: from its fatherhood services (Pathways to Responsible Fatherhood, New Pathways for Families and Fathers), to its coordination with employment services (Children First, Trial Employment Match Program, Transitional Milwaukee Jobs), to its ongoing partnership with the Milwaukee Justice Center to facilitate voluntary custody, placement and support agreements between parents, CSS has put its money where its mouth is in regard to serving the financial stability of all family members. The allegations of ABC notwithstanding, this includes CSS practices on seeking reasonable orders for low-income fathers to contribute to their children's birth costs.

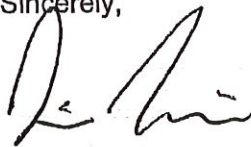
ABC states in its letter that from 2011 to 2016, that Milwaukee County collected \$21,394,127 in BCR orders. ABC also clearly objects to the fact that 15% of BCR payments are retained by the child support program, noting "Think of the differences these resources could make if policy were revised to encourage their use toward the health and well-being of Milwaukee County's low-income, disadvantaged newborns". If \$21,395,127

in birth costs were recovered in Milwaukee County between 2011 and 2016, that means that thousands of paternities were established, thousands of fathers gained legal rights to their children, thousands of kids secured the right to financial and medical support from both parents, and that \$18,185,007 went directly to support the Badger Care system, where that money was used, among other things, to provide care for "the health and well-being of Milwaukee County's low income, disadvantaged newborns". It also means that \$3,209,119 remained with the Child Support program, allowing Child Support to serve hundreds of thousands of Wisconsin families. If you believe, as I do, that parents should support their kids before the taxpayers do, then that's a very good thing. On the other hand, if you're opposed to BCR, and the 15% retained under federal law to encourage local agency participation, then the resulting question is whether one would prefer to cut millions of dollars from the Child Support and Badgercare programs, or to raise taxes by millions of dollars on Wisconsin taxpayers.

ABC has requested the opportunity to meet with Milwaukee County staff to continue to press the case for their theory about how this one bit of public policy engenders a cascade of social harms. I believe this letter has addressed enough effort to this matter to answer the needs of ABC, and their frequent questions directed at Milwaukee County on this issue. Our BCR policies are in compliance with state and federal law, laws that exist for sound public policy reasons. Moreover, those laws provide for significant discretion on the part of the courts and the Child Support system to take into account ability to pay, discretion Milwaukee Child Support attorneys and courts use effectively every day. The law also provides for a good cause opt out for expectant mothers to avoid naming a father when that cause is warranted, and that option is offered to expectant mothers in Milwaukee County throughout the process.

Milwaukee County will continue to operate BCR policies in compliance with state and federal law. If ABC for Health continues to have significant concerns related to the law around BCR, the appropriate venue for that concern is to contact either the Wisconsin Legislature, or the Department of Children and Families, or to seek a change in federal law by contacting your congressional representatives.

Sincerely,



Jim Sullivan

Cc: Milwaukee County Executive Chris Abele
Center for Family Policy and Practice
Community Advocates Public Policy Institute
End Domestic Abuse Wisconsin
Kids Forward
Milwaukee Jewish Federation
Planned Parenthood Advocates of Wisconsin
Wisconsin Alliance for Women's Health
Wisconsin Association of Local Health Departments and Boards
Wisconsin Coalition Against Sexual Assault
Wisconsin Faith Voices for Justice
Wisconsin Public Health Association
9to5 Wisconsin



October 24, 2017

Jim Sullivan
Director, Child Support Services
John P. Hayes Center
901 North 9th Street
Courthouse – Room 101
Milwaukee, WI 53233

Dear Mr. Sullivan:

On October 2, 2017, ABC for Health, Inc. (ABC) received your letter in response to our August 9, 2017 request for a discussion with Milwaukee County Child Support Services (CSS) about Birth Cost Recovery (BCR) policies. We are disappointed regarding the tone and content of your response letter. You dismissed our organization and the co-signing agencies as “well-intentioned” but go on over several pages to suggest that we are ill-informed as to BCR. This letter is from ABC alone, but we intend to meet with and continue a process of dialogue with our partners.

Specifically, ABC is perplexed about your professed mission of promoting the health and well-being of children and families, yet your unwillingness to engage in a dialogue about BCR that is crucial to our common interests. Our intent in sending the letter was to request a productive dialogue with CSS staff to discuss how BCR related training and enforcement actions could be more family friendly. We also seek to learn how BCR policy persists in the face of abandonment of the approach by most states across the nation.

At a minimum, we seek to clarify aspects of your letter. You stated that BCR is a policy that collects an insignificantly small amount of money and that “BCR orders are minor, a very small fraction of actual birth costs.” In fact, current Wisconsin law authorizes the recovery of up to “one-half of the actual and reasonable cost of the mother's pregnancy and child's birth.”¹ As you note, the minimum amount of a birth cost judgment under the low-income payer guidelines is \$896.² For 2017, the birth cost amount paid by Wisconsin Medicaid to a BadgerCare HMO serving Milwaukee County is \$5,214.67.³ Thus, unless CSS applies a different methodology for establishing the amount of a birth cost order, the typical birth cost judgment can be expected to account for a minimum of 17% up to a (presumed) maximum of 50% of “actual birth costs”.

¹ Wis. Admin. Code § DCF 150.05(2)(b)

² Wis. Admin. Code ch. DCF 150, Appx. D

³ Including a 7% “kick payment” for administrative costs and profit margin in addition to the base projected delivery cost of \$4,849.64.

You stated that, "in practical application, CSS is not saddling fathers with exorbitant birth costs." While they may seem minor to the CSS – a judgement against an economically challenged dad is very significant and might be the difference between supporting the family and not. Furthermore, prospective unmarried parents cannot anticipate any particular BCR outcome with any certainty whatsoever. The published rules from the Department of Families and Children suggest non-recovery in certain circumstances, but leaves discretion for that decision to the county or the court. The HMO Regional Averages that govern the cost-based portion of the recovery formula are not available to parents online or any place else that they could reasonably be able to learn what to expect.

You stated that birth cost judgments represent "a fraction of actual support going to custodial parent and child." That may be true when a court order requires a non-custodial parent to reimburse a custodial parent for actual out-of-pocket birth related expenses. In this context, however, we identify concerns exclusively related to Medicaid BCR. In those cases, birth cost judgments represent zero support going to the custodial parent and child. The entire amount repaid, as you are aware, flows directly to county, state, and federal government agencies. BCR is NOT child support.

You further indicate, "[t]he most common birth cost order is \$500, payable at a rate of \$1 per week, for fathers who earn between \$1,000 and \$2,000 per month." While we appreciate that CSS takes into consideration a father's ability to pay, we question how it benefits a child or society at large to deprive a father earning \$12,000 per year – the federal poverty line for a single person household – of 4.2% of his income when zero dollars of that garnished income will go to the mother for the support of the child. **From 2010-2015, Milwaukee County collected \$21,394,127 in BCR judgments, and the county retained \$3,209,119.**

The type of discretion that your organization purports to apply to BCR actions and judgements is exactly what we seek from CSS. We request an opportunity to discuss the guidelines and discretion your office applies to judgement amounts to ensure that your approach to BCR does not represent an undue burden to non-custodial fathers in difficult economic circumstances. In cases in which the father resides in the same household and contributes to the support of the mother and child, a birth cost order directly deprives the child of support that would otherwise be available from the father's income. We presume that CSS would not seek child support payments from a father under those circumstances. Would the county nonetheless seek to establish a birth cost judgment and a monthly repayment order?

We also emphasize the important distinction between the total amount of the birth cost judgment and the monthly repayment order. Although a court may order no monthly payment at all based upon a father's current ability to pay, that circumstantial reprieve does not obviate the adverse impact of an outstanding civil judgment amount. You state that "in many cases" the father's ability to pay is limited to current child support obligations or current obligations plus arrearages with the result that "nothing is actually paid on birth expenses until after the emancipation of the child." Not only does this highlight the fact that BCR is not child support, but it further illustrates the fact that repayment of birth costs is simply untenable as a practical

matter for the majority of affected fathers. You describe a situation in which the birth cost judgment hangs as a yoke around the father's neck for at least 18 years. Again, we fail to see how this policy contributes to promoting family stability and creating a better quality of life for a child.

Moreover, what limited research we have in Wisconsin on the impact of BCR practices indicates that the imposition of a birth cost judgment corresponds to a decline in child support compliance and an increase in arrearages.⁴ The birth cost judgment itself is a contributing factor to the cycle you describe in which the payor father never really makes any progress toward paying down the underlying obligation until he has fulfilled the one responsibility that all parties agree is of primary importance – contributing to the financial support of the child. How is that interest advanced by a policy that encumbers a father's income, creditworthiness, and overall economic liberty during (and potentially beyond) the very time when the most desired outcome is his meaningful and reliable contribution to child support?

While you acknowledge that BCR disproportionately impacts low-income and minority fathers, you simultaneously assert that if we opt against pursuing legal judgements against absent parents to repay the state for Medicaid expenses authorized and funded by state and federal elected representatives for pregnant women children and families, we in some capacity "diminish and infantilize" these fathers. To be crystal clear: ABC never implied any opposition to the establishment of paternity or the right of a child to parental support. Your conflation of BCR – which is unquestionably "taxpayer support" as opposed to "child support" – goes to the very heart of the problem at issue. You perceive a father's repayment of public medical assistance to represent an exercise of the responsibility and values "that we expect of men." ABC supports a commitment to maternal and child health, the economic welfare of families, and the integrity of paternal familial relationships. We ask that our elected officials and administrations cease to diminish and infantilize already economically disadvantaged fathers by conscripting them into debt service to the state.

We maintain that it is especially important to reconsider the impact of BCR upon custodial fathers and fathers that contribute to the household. You stated that, "ABC has argued that everything from domestic violence, to poor prenatal care . . . are driven by child support agencies and BCR." There is broad scientific agreement that racial infant mortality disparities are caused by a very complex set of underlying conditions – many of which are not completely understood. Yet a growing body of evidence suggests that BCR may contribute to disparities in infant mortality. Furthermore, the fact is that the vast majority of states recognize that BCR is not in the best interest of mothers, infants and families, or may violate constitutional equal protection requirements and do not pursue BCR. ABC is concerned that BCR contributes to the "broad societal harm" suggested in your letter. We have never claimed that BCR is the cause. ABC merely argues that BCR **is one of many factors that**

⁴ Bartfeld, J., ARREARAGES, LYING-IN ORDERS AND CHILD SUPPORT COMPLIANCE AMONG FATHERS OF W-2 CHILDREN IN WISCONSIN, Institute for Research on Poverty, Wisconsin Dept. of Workforce Development Contract C-680, Feb. 2005.

contributes to these harms and is one of the few factors that the county has some direct control over.

When it comes to the harms against mothers and children we impute to this misguided policy, it requires no exercise of imagination at all to correlate the chilling effect of BCR upon certain pregnant women with poor prenatal care and a higher risk of adverse health outcomes. We know this to be “the reality of the policy” because we hear it from mothers and public health nurses who talk about disenrollment from Medicaid or mothers that forego Medicaid enrollment due to BCR concerns and the imposition of BCR orders. The reasons for their concerns typically center on beliefs that the birth cost obligation will strain the relationship between father and family, and will result in less support actually provided to mother and child. We do not hear the same expressions of concern with respect to actual child support obligations. Pregnant mothers go without prenatal care, in some cases seriously jeopardizing their own health and the health of their babies. This is not a scenario created by ABC; this is a scenario created by bad public policy largely abandoned across the country and by some counties in Wisconsin.

Federal Medicaid law requires the state to extend coverage to pregnant women during and up to 60 days after their pregnancy regardless of cooperation with child support enforcement. Unfortunately, many at-risk mothers do not understand this provision of federal law. In fact, our experience suggests that the predominating beliefs about state Medicaid policy arise most commonly through word of mouth – from friends and neighbors who share their own misunderstandings derived from their own adverse experiences. The “Good Cause Notice” ostensibly provided to mothers involved in paternity actions offers a prime example of how misinformation thrives while effective communication and outreach efforts languish. The “Good Cause Notice” is typically provided in English unless specifically requested in a different language. In its English language version, the notice is written at a twelfth grade reading level. This is not a good example of how to communicate with the audiences most likely to be impacted by BCR and Medicaid policies.

Moreover, the circumstances that would support a good cause exemption from cooperation with child support enforcement do not reflect the concerns about BCR identified by mothers whose behavior is influenced by the policy. These mothers are not expressing concerns about rape, incest, or risks of domestic abuse. They are expressing concerns about how the added burden of a birth cost judgment will affect the father’s willingness and ability to make financial and parenting contributions toward the welfare of the child. Whether those concerns are justified or not, and regardless of how we may feel toward fathers whose behavior bears out those concerns, this is the reality of the policy.

Furthermore, we note that the fiscal merits of Medicaid BCR practices are not as apparent to us as those you described in response to our initial inquiry. We do believe that state support of child support services agencies should promote the mission of ensuring a fair contribution by non-custodial parents to the financial support of children in the primary care of a custodial parent. However, based upon the practices of other states, we strongly question whether the abolishment of Medicaid BCR practices would result in having to choose whether

“to cut millions of dollars from the Child Support and BadgerCare programs, or to raise taxes by millions of dollars on Wisconsin taxpayers.”

States are required by federal Medicaid law to implement programs to recover Medicaid program expenditures from legally liable third parties. Wisconsin stands among a small handful of states that interpreted third party liability to extend to the fathers of babies born with Medicaid funds. When Wisconsin successfully recovers Medicaid birth expenses from any liable third party, including a father, the amount of that recovery is deducted from the state's next quarterly disbursement of federal Medicaid reimbursement funding.⁵ As a result, to the best of our understanding, there is no net increase in the state Medicaid budget and there is no change in taxpayer liability for the state's share of Medicaid program services. The amount of federal taxes paid by Wisconsin residents does not change relative to BCR amounts. As such, although the abolishment of Medicaid BCR might necessitate consideration of alternative funding sources for county child support agencies, it does not appear that any additional taxpayer contribution would result or be required to continue funding Wisconsin's BadgerCare program.

Concerns about recovering pregnancy and child birth costs paid by Medicaid did not originate with ABC. The Medical Child Support Working Group reported in 2000 that BCR runs counter to two important public policy goals: 1) encouraging mothers to seek prenatal care, and 2) encouraging fathers to establish paternity.⁶ That report also cited two studies on low birth weight and infant mortality in support of its conclusion that the child support cooperation requirement within the Medicaid program was a barrier to eligibility and to access to prenatal care. The Congressional response – in a clear declaration of public policy – was to eliminate the cooperation requirement for pregnant women. As regards this policy, ABC is not out of step with federal preferences – Wisconsin is.

ABC will continue our advocacy on this issue. In fact, we will include our research in a new HealthWatch Wisconsin Reporter, under development, which discusses BCR, with a special focus on Dane and Milwaukee counties. In short, this issue will not go away.

This response from ABC for Health, Inc. addresses many of the points raised in your letter, but not all. We hope you reconsider the opportunity to discuss our concerns about improving BCR policy to better support these critical goals. BCR policy merits ongoing dialogue. It is our hope that a discussion will facilitate an understanding that will further the goal of both ABC for Health, Inc. and Milwaukee County: to better serve the low-income newborns, mothers, fathers, and families of Wisconsin.

⁵ 42 U.S.C. § 1396(d)(2)(B)

⁶ The Medical Child Support Working Group, *21 Million Children's Health: Our Shared Responsibility* (June 2000), available at <https://aspe.hhs.gov/system/files/pdf/139346/FullReport.pdf>.

Respectfully,



Bobby Peterson
ABC for Health, Inc.

Cc: Milwaukee County Executive Chris Abele
Center for Family Policy and Practice
Community Advocates Public Policy Institute
End Domestic Abuse Wisconsin
Kids Forward
Milwaukee Jewish Federation
Planned Parenthood Advocates of Wisconsin
Wisconsin Alliance for Women's Health
Wisconsin Coalition Against Sexual Assault
Wisconsin Faith Voice for Justice
Wisconsin Public Health Association
9to5 Wisconsin
