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TO: Members, Senate Committee on Health
Members, Assembly Committee on Health, Aging & Long-Term Care

FROM: Ann Zenk, Senior Vice President Workforce & Clinical Practice
Kyle O'Brien, Senior Vice President Government Relations

DATE: March 12, 2025

RE: WHA Requests Modifications to CR 24-025 Related to Newborn Screening

Wisconsin's newborn screening program is currently funded through fees assessed on Wisconsin hospitals and providers that are *intended* to be recouped through commercial insurance companies and the Medicaid program (managed care and fee for service), but hospitals and providers are often left to negotiate the recoupment of these government-imposed fee increases with health insurance companies.

Essentially, Wisconsin health care providers have become tax collectors for the state's newborn screening program, leaving hospitals at-risk for the total cost of newborn screening when they are unable to recoup costs from unwilling insurance companies. With the recent closure of several labor and delivery units, including those in some of your own legislative districts, we need to carefully examine any new regulatory or financial burden placed on those who are caring for new moms and babies in Wisconsin.

In 2011 the legislature adopted, and the Governor signed, a change in state law requiring newborn screening fee increases to be promulgated by rule rather than simply imposed by government agencies. This was done to ensure the legislature had oversight on fees being charged to the state's hospitals and health care providers for newborn screening.

In the last state budget, the legislature authorized the Wisconsin Department of Health Services (DHS) to increase the state's newborn screening fee from $109 to $159.25 to cover increased costs associated with newborn screening at the Wisconsin State Lab of Hygiene (WSLH). Additionally, the legislature's action in the last state budget attempted to ensure that DHS did not absorb this increase but, instead, specifically passed this increase onto the WSLH through their contract to provide newborn screening services.

Rather than accepting the legislature's proposed increase, the Governor struck the first "5", the period, and the "2" from $159.25 to require that DHS have a fee no less than $195. This veto instantly provided nearly $2 million in additional annual funding (and fees on hospitals) that the legislature did not authorize. Additionally, this veto removed the requirement that the legislature's increase be passed through to the WSLH.

Now, the Department is asking the legislature to approve a rule (CR 24-025) that increases the state's newborn screening fee to $223 per card, a $3.5 million annual increase from what the legislature authorized in the last budget bill, **along with** an automatic inflationary increase that avoids legislative oversight. This fee being imposed by DHS in CR 24-025 exceeds the fiscal needs stated to the legislature during the 2023-2025 budget process.

The Department's own analysis of their rule states that while their fee increase is $28 per card on top of the amount enacted through the Governor's veto, the costs associated with screening for two new conditions (also being added via CR 24-025) amount to only $12. If this rule is adopted as-is, fees paid by hospitals for newborn screening will have increased by 105% in the last two years alone and **will increase into perpetuity with no legislative oversight.**

Note: Amounts determined using DHS' projected estimate of screening cards sold in FY 2024, 2025 and 2026 at 55,000. Source: CR 24-025 Rule Summary

As WHA stated to the Department during the rulemaking process (attached), the need that appears to exist, based on the GPR request in the previous Governor's budget, is the equivalent of a $184 all-in fee. Yet, the fee currently being imposed (following the Governor's veto action) is already $195.

WHA believes that this program should be funded through other sources, like general purpose revenue, rather than forcing hospitals, and ultimately patients and employers, to be the state's fee collector.

The Wisconsin Hospital Association respectfully asks that the Committee take a vote to request modifications to CR 24-025 that eliminates the automatic fee increase in this proposed rule and reduces the newborn screening fee to $195 per card.

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April 29, 2024

Tami Horzewski
Wisconsin Newborn Screening Program Coordinator
UW-Madison, State Laboratory of Hygiene
Wisconsin Department of Health Services
Division of Public Health
P.O. Box 2659
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Sent via Public Comment Form at:
https://docs.legis.wisconsin.gov/feedback/agencyform?cite=cr/2024/25

Subject: Comments on CR 24-025
Proposed permanent rules
DHS 115 Screening of Newborns for Congenital Disorders

Dear Ms. Horzewski:

On behalf of our over 150 member hospitals and integrated health systems, the Wisconsin Hospital Association (WHA) appreciates the opportunity to comment on CR 24-025, the proposed permanent rules from the Wisconsin Department of Health Services (DHS) related to DHS 115, Screening Newborns for Congenital Disorders.

In Wisconsin, there are about 85 hospitals that deliver babies, several fewer than just five years ago. Since 2017, the state has lost at least 10 percent of its OB beds, in part due to reduced OB patient volumes, increased costs for hospitals, and below cost reimbursement from Medicaid, a significant payer of OB services. For services covered by commercial payers, hospitals are finding the insurers ever more disinclined to negotiate increased reimbursement rates based on increased hospital costs, like the increased cost of the Newborn Screening program (NBS) blood collection card. We believe it is important to note that the additional costs for hospitals DHS proposes in CR 24-025 and that we discuss below oftentimes would be borne by hospitals with low or negative margins working to provide crucial services in their communities. Note that for births occurring outside of hospitals, the fee schedule posted by the Medicaid program shows Medicaid continues to reimburse those providers $115 for the cost of the card, significantly below the current $195 card fee. **Contrary to representations made by some proponents of the program, providers generally do not recoup the increased costs of the NBS card fees from payers, even when the payer is in the same state agency as the NBS program.**

WHA welcomed and supported the Administration's proposal in the SFY 2024-2025 budget that would have provided General Purpose Revenue (GPR) for NBS instead of increasing NBS card fees for hospitals. While this funding was not approved by the state legislature, WHA continues to believe that GPR funding for NBS is appropriate – particularly as commercial insurance companies are making it more difficult for hospitals to recoup their costs through negotiated rates.

In CR 24-025, DHS proposes several changes to the current NBS rule, including the addition of conditions to the newborn screening panel, a higher fee charged to hospitals for the NBS blood collection cards, and a new automatic biennial fee increase equal to the average three-year Medicare Economic Index. WHA objects to DHS's proposal to increase the fee to $223, which would be a 105 percent increase since SFY 2023 and **would establish the fee as one of the highest NBS fees in the country**, and its proposal to create an ongoing automatic fee increase.

As DHS notes in its proposal, the statutes allow DHS to impose a fee sufficient to pay for services under its contract with the University of Wisconsin State Lab of Hygiene (WSLH) and for certain specified services provided by DHS. According to material provided by the WSLH during the recent state budget process, WSLH needed an additional $2.2 million annually for its increased costs related to testing the blood sample cards and other NBS services. The Administration indicated that DHS needed an additional $1.7 million annually to fund its ongoing costs under the program. The combined funding increase needed to fund the program, based on the information provided by DHS and WSLH, was about $3.9 million (requiring an NBS card fee of approximately $184 based on 52,000 births).

During the biennial budget process, the Legislature provided a fee increase intended to support NBS testing at WSLH (increasing the fee from $109 to $159.25 per card). DHS, however, received an annual increase of over $4.6 million in the budget due to a line-item veto by the Governor that changed the Legislature's proposed increase by striking the first five, a decimal point and the two in $159.25, resulting in an even higher fee of $195.

DHS now proposes a fee through CR 24-025 that would increase revenue by over $6 million ($223 per card), reflecting the sizable increase in the budget and providing more than $2 million in extra funding beyond what DHS and the WSLH said is needed. The statute does not authorize and WHA strongly objects to fees that generate revenue in excess of specified program costs.

DHS states that part of the proposed increase, $12 per card or about $660,000, is related to the addition of X-ALD and MPS I to the NBS test panel. According to the NBS website, however, the program started testing for X-ALD about a month after the program received the more than $4.6 million annual increase in the state budget and presumably determined it had sufficient funding for the test.

WHA believes the card fee should be aligned with the actual cost of the NBS program which, according to DHS and WSLH, would be about $184 per card instead of the current $195 fee, the amount DHS and WSLH have implemented as a statutory mandate. Because DHS is receiving annually about $700,000 more than the Administration said DHS needed for NBS (*see 2023-*

2025 Biennial Budget Legislative Fiscal Bureau Paper #436), WHA requests that the fee increase in CR 24-025 be removed.

WHA also objects to the DHS proposal to create an automatic fee increase equal to the average three-year Medicare Economic Index, an index that even the Medicare program does not use to automatically increase physician reimbursement fees and which the American Medical Association describes as covering, among other things, redistributive costs from other programs and investments in medical practices. These are not costs related to the NBS program and are not the program costs the statute authorizes DHS to include as part of the fee. According to LFB, special dietary treatment accounts for most of DHS' costs, which are not similar to the costs included in the MEI. DHS writes that the automatic increase would cover the added costs of new conditions, but DHS does not know how many or whether any new conditions might be approved for the panel.

WHA believes any proposed increase, but especially an automatic increase, in the NBS card fee that does not reflect specified program costs and that avoids ongoing scrutiny by both the Administration and the Legislature through the administrative rule process is not only bad public policy but also conflicts with current state law and the legislative intent of the rulemaking requirements.

DHS explains that the automatic fee increase will avoid future deficits in the administration of the program. But DHS also can avoid future deficits by controlling program costs or, when needed, proposing a fee increase through the rule process, better ensuring the Administration and the Legislature are aware of and can exercise the required oversight over program decisions and costs, as provided for in the statute.

Thank you for the opportunity to comment on CR 24-025.

Sincerely,

Laura Leitch
Policy Counsel