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**Birth Cost Recovery Update - "The Birth Tax"  
October 5, 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.

**Milwaukee County Board Rejects Resolution – Keeps the Birth Tax**

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 went back before the full County Board of Supervisors on **Thursday, September 24, 2020**. The Resolution appeared before the Board with the **recommendation of rejection** from the Audit Committee. Supervisor Clancy requested the Resolution be called out for separate action so it could be discussed before there was a vote. Supervisor Logsdon was the first to speak on the Resolution, urging the Board to reject the Resolution, in favor of maintaining the Birth Tax and the county based collections process, and keeping the collected money. After discussion, the Resolution was rejected, 14-4. Video of the meeting is [posted](#) – discussion of the resolution begins at 1:45:18.

**Notes on the County Board Discussion:**

The BCR resolution was item #26 on the Board agenda. While the Board was accepting motions to adopt the balance of Committee reports in broad aye or no votes, item #26, the Birth Cost Recovery Resolution, was called out to be set aside for separate action by Supervisor Clancy.

Supervisor Logsdon spoke first, repeating her May statement, that "Birth Cost Recovery is a 'win-win,'" since the County is collecting from people with the ability to pay. She said of the almost \$3 million collected in 2019, the majority of that money helped new recipients of BadgerCare Plus. She repeated her comments about conversations with Child Support Director Jim Sullivan, shared just days prior with the Audit Committee. (Logsdon is not a member of the Audit Committee, nor did she appear on the Committee meeting agenda.) She and Sullivan were critical of former Supervisor Theo Lipscomb, the original author of this Resolution, because he opposed the collections process. She exaggerated her point, without citing any authority, "We have to remember that Child Support was founded on the belief that parents, not taxpayers are responsible for the cost of the birth of their child." She called it a responsibility of parenthood, and repeated the cliché, "It's a win-win situation" before yielding the floor to Supervisor Clancy.

Supervisor Clancy, who opposed the Birth Tax and favored the Resolution during original discussions in the Health and Human Needs Committee, began by saying the policy of charging parents for the birth of a child is a bad one. He disagrees that we should fund child support and BadgerCare on the backs of low income folks. He said he was not convinced of Sullivan's claim that Milwaukee County did not charge the lowest income families. Clancy said he saw "no hard and fast rule" about charging low-income families, and instead claimed it appeared the orders were not fairly or consistently applied.



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Clancy was “frustrated by the lack of data on this.” Clancy clarified that he supported the concept of child support and BadgerCare. But both should not be funded on collections, a practice “banned in other municipalities and states.” “We are behind the curve on this.”

Supervisor Taylor said that as a single woman who is not getting child support regularly, she believes in child support, but she is “fighting against this,” against birth cost recovery, and did not see that the county collections were executed fairly in her community. In talking to males in her community, she has heard that collections do not go by income as Jim Sullivan claimed, and said it was not fairly done, resulting in warrants, loss of drivers’ licenses, and leaving people in a situation where they are not ever able to “catch up.” She gets emails from people treated unfairly. She said she asked for but did not get the demographic data she wanted, and even reached out to the state and Governor’s office to try and get more data, more information. She said the Director of Audit was not asked to audit the resolution. “We need concrete information and data.” She repeated that the practice is not fair and she needs to ask more questions, and she won’t vote without information.

Supervisor Weishan, who vehemently supported collections in Audit Committee discussions, believed he had enough information from Sullivan. “The information provided to the Committee showed clearly that people who are assessed costs are those with the ability to pay. Sullivan discussed a lot of information with us....This policy has been in place for decades.” He added, that it should be incumbent on those wanting to get rid of the practice to prove otherwise, and “the Department has been doing everything right.” He said it wasn’t the Audit Department’s job to research this. He called the comments Taylor was hearing from constituents “anecdotal,” and he trusted the information from the staff in the child support office instead of “those subverting the process.” He said the orders all go before a judge anyway who determines what is appropriate. He’s not going to listen to “people’s complaints” as a basis to reject a policy. (Note: The vast majority of people lack any form of legal representation in the County-run collection process.)

Supervisor Haas originally made a motion to refer the issue to the Audit and Research Divisions of the County for more information. Weishan questioned the appropriateness of this request with the Clerk and repeated that Audit was too busy to do this. The Clerk clarified that the Audit Committee could receive the referral and invite Audit and Research into the process. The Corporation Counsel participating in the meeting spoke up and said that such a request (from the Audit Committee to the Audit Division) would be well within the scope of work of the Audit Division, as the scope of their work includes issues “related to the impact and effectiveness of the policies the County has with respect to racial equity. She added, that if something appeared equal on its face, it may indeed have a disparate impact. (This was a refreshing clarification, and the first time the Board was reminded about the racial equity issue here.) Haas ultimately withdrew his motion, after Logsdon said it was only lobbying interests that wanted to get rid of birth cost recovery. More on that, later.

Supervisor Czarnezki said the Resolution had already been reviewed by 3 Committees with ample opportunity for review. Clancy agreed that there had been ample time to ask questions, but was disappointed with the answers. He said he was concerned the information presented from Sullivan was “cherry-picked data.” Clancy asked for demographic data on equal application on racial equity, especially knowing that Birth Cost Recovery was rejected by colleagues across the country as inherently inequitable in practice.



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Supervisor Logsdon repeated that the only people subject to the policy are those who can afford it. She then said, “This all started with a lobbyist group out of Madison who brought this up to Chris Abele, brought up by fathers who didn’t want to pay.”<sup>1</sup> And for the third time in the meeting used the cliché, “This is a win-win for Milwaukee County.”

Supervisor Johnson Jr said that he thought the resolution had a lot of moving parts, but was persuaded by the updated information from Sullivan. (Before the Audit Committee meeting, Sullivan provided in a [“supplemental report.”](#)) Johnson, Jr. said he will not vote to eliminate child support jobs, even though he acknowledged “concerns with the information,” but the bottom line for him was “that he did not want child support to lose positions.”

When Supervisor Haas withdrew his motion for information from Audit and Research, Supervisor Taylor offered her own motion to refer the Resolution back to her own Audit Committee. Haas said that would yield no new information. Taylor disagreed and said she wanted more answers, and that the talk of Sullivan losing child support positions in his department appeared to be a “push to vote for this.” Taylor said “I advocate for fathers taking responsibility. But I am awaiting answers and trying to do our due diligence.”

Supervisor Sumner spoke for the first time and said that there are no racial equity concerns. She said Sullivan’s data showed that collections were from mostly white males. **No one on the Board corrected her blatant misreading of the data that was before them, which indeed showed the opposite.**

Taylor’s motion to refer the Resolution back to the Audit Committee failed 7-11. **Voting to refer to the Audit Committee were:** Taylor (2<sup>nd</sup>), Clancy (4<sup>th</sup>), Chair Nicholson (5<sup>th</sup>), Moore Omokunde (10<sup>th</sup>), Haas (14<sup>th</sup>), Cullen (15<sup>th</sup>), & Goodwin (18<sup>th</sup>). **Voting against:** Sumner (1<sup>st</sup>), Wasserman (3<sup>rd</sup>), Rolland (6<sup>th</sup>), Martin (7<sup>th</sup>), Shea (8<sup>th</sup>), Logsdon (9<sup>th</sup>), Czarnezki (11<sup>th</sup>), Ortiz-Velez (12<sup>th</sup>), Johnson, Jr. (13<sup>th</sup>), Weishan, Jr. (16<sup>th</sup>), & Staskunas (17<sup>th</sup>).

The roll was then called on the motion to reject the Resolution. The Resolution to abolish the Birth Tax failed, 14-4. **Voting Aye, to Reject the Resolution:** Sumner (1<sup>st</sup>), Wasserman (3<sup>rd</sup>), Rolland (6<sup>th</sup>), Martin (7<sup>th</sup>), Shea (8<sup>th</sup>), Logsdon (9<sup>th</sup>), Czarnezki (11<sup>th</sup>), Ortiz-Velez (12<sup>th</sup>), Johnson, Jr. (13<sup>th</sup>), Haas (14<sup>th</sup>), Cullen (15<sup>th</sup>), Weishan, Jr. (16<sup>th</sup>), Staskunas (17<sup>th</sup>), & Goodwin (18<sup>th</sup>). **Voting No:** Taylor (2<sup>nd</sup>), Clancy (4<sup>th</sup>), Chair Nicholson (5<sup>th</sup>), & Moore Omokunde (10<sup>th</sup>).

### **Final Thoughts**

Birth cost recovery is not child support. The policy does not support children; rather it takes money out of households, away from children, and supports child support offices. At the core, it is a collections

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<sup>1</sup> We can only assume that Logsdon was referring to ABC for Health as the group working to eliminate the Birth Tax. ABC for Health, as you know, is a non-profit, public interest law firm dedicated to ensuring health care access for children and families. We identified the Birth Tax as a racial justice and health equity issue many years ago, and served on numerous state and local committees that reviewed the discriminatory policy and practice. In our case experience, the policy impacts the health of low income, pregnant women and their babies, especially those that are black and Latino. ABC would have been happy to speak with former County Executive Chris Abele about this practice, but no such conversations occurred. We would welcome a conversation with new County Executive David Crowley.



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process directed by the State of Wisconsin and implemented by County Child Support Agencies that aggressively pursue the recovery of Medicaid supported birthing costs from unmarried, often non-custodial fathers, keeping 15% of the recovery. In practice, it systemically hinders statewide efforts to promote improved birth outcomes, reduce infant mortality, and even hinders the County's ability to collect actual child support payments!

Unfortunately, the County Board left on the blinders supplied by Child Support Director Jim Sullivan as their only invited representative on the issue of birth cost recovery. Recall back in May, Sullivan characterized the practice of Birth Cost Recovery before the Board as a "user fee" on these more or less wealthy dead beat dads. He planted that seed, and through committee meeting after committee meeting, nurtured that story. Sullivan showed the Board two different sets of manipulated data, comprised of cherry-picked collection amounts, who is subject to collections, and the race and ethnicities of those most impacted by the policy, that supported the narrative Sullivan was telling.

The Board lacked the information, curiosity, and in some instances, common sense to see the bigger picture of the policy before them. While a handful of Supervisors like Clancy and Taylor correctly asked to see all the facts, the majority of the Board was satisfied hearing only from the Sullivan, the county debt collector himself, not from the families, health care providers, advocates, nor even their own public health departments which, on multiple occasions, attributed these collections as contributing to the infant mortality crisis in Milwaukee County. They did not seek out other opinions nor other data, like data from the Pew Research Centers and National Conference of State Legislatures that show large birth cost judgments as compromising participation in child support. Or data from Dr. Meghan Pesko's research that suggested birth cost recovery delayed entry into prenatal care for women asked to participate in this process. Or state Medicaid data that shows how many births in Milwaukee County are to unmarried, black women enrolled in Medicaid.

There was no curiosity as to why Wisconsin was one of the only few states that still followed this practice. Or to question the statement that "not collecting and sending the state \$2 million would significantly harm the Medicaid budget," a budget that is well over \$8 billion dollars and running a \$230 million surplus this year. Not one Supervisor asked why such collections continued during the COVID pandemic, when County citizens were dislocated from work, housing, food, and health care. A simple Google search would have opened a Pandora's Box of data, reports, family stories, constitutional challenges, legal research, and recommendations from local, state, and federal officials to eliminate this discriminatory policy.

Finally, there was a lack of common sense as complaints levied by low-income constituents subject to collections and facing garnished wages were dismissed as mere "anecdotes." There was a lack of common sense as nobody asked how the policy impacted mothers, babies, or families. Common sense would tell you that the practice originates when there is a birth. It's in the title. But the Board majority could not connect the mother and baby to the conversation on collections at all. When a mother knows her partner will be subject to a court process, collections, garnished wages, bad credit score, debt or worse, this creates, at the very least, stress in that family. At most, it keeps the mother from identifying that partner in the first place, meaning she either skips enrolling in Medicaid, or she is sanctioned and terminated from her health coverage for non-cooperation. The stress or the coverage



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disruptions impacts her health and that of her baby. In the months of debate about the Resolution, not once was the word “mother” even mentioned.

The County Board should be embarrassed. Supervisor Taylor was correct. They did not do their due diligence on this issue, nor did they appear to be acting in the best interest of their constituents. Perhaps it’s time for the Audit Division to visit Sullivan’s child support office and get some actual data on the policy. And as the Corporate Counsel instructed, ask the Audit team to perform a racial equity impact analysis within the scope of their review. Hopefully, County Executive Crowley will follow Dane County Executive Joe Parisi’s lead and include the elimination of the policy in his next County Budget.

We had hoped the Milwaukee County Board would rise up to 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 that mostly lack access to legal help. The discussion, overall, left a feeling of helplessness, lack of transparency, and lack of accountability in the County child support office, but also in the County Board’s ability to show leadership on issues impacting the lives of their constituents. They choose, instead, to protect their own bureaucracy.

This update is for informational purposes only.

Regards,

[Brynne McBride](#)

ABC for Health, Inc.