



## Advocacy & Benefits Counseling for Health, Inc.

32 North Bassett St. Madison, WI 53703-2606

P: 608.261.6939 F: 608.261.6938 [www.abcforhealth.org](http://www.abcforhealth.org)

### Birth Cost Recovery Update March 12, 2019

Hello Partners,

As you know, ABC for Health is engaged in a process to review **the Birth Tax** (aka Birth Cost Recovery) policies in Wisconsin. In the past, you expressed interest in partnering with us on BCR policy change. This email serves as an update on our progress and an opportunity for further partner engagement.

**2019-2021 Budget:** Governor Evers' budget proposal for the 2019-2021 biennium eliminates the practice of birth cost recovery. As summarized in the full budget bill, [SB59](#):

This bill eliminates the requirement that a court include in a judgment or order relating to paternity an order for a father to pay for a portion of pregnancy and birth expenses. Under current law, a court is required to include in a paternity order an order for the father to repay a portion of pregnancy and birth expenses, taking into account the father's income and ability to pay. This bill eliminates orders relating to pregnancy and birth expenses. The bill also expressly prohibits the state from seeking recovery of birth expenses. Under current law, if the mother of a child was enrolled in a health maintenance organization or other prepaid health care plan under the Medical Assistance program at the time of the child's birth, the state could seek to recover from the father the birth expenses incurred by the health maintenance organization or other prepaid health care plan.

More information, including the "Budget in Brief" summary and fiscal estimates (which include increasing funding for child support agencies in lieu of birth cost as a revenue tool), are available from the Department of Administration here: <https://doa.wi.gov/Pages/StateFinances/2019-21-Executive-Budget.aspx>

**Legislative Council Study Committee:** On February 11, Bobby Peterson testified before the Legislative Council's study committee on physical placement and child support obligations. A point of concern for our work is that despite the governor's proposal to eliminate birth cost recovery, the committee may still direct Legislative Council drafting attorneys to develop legislation to repeal the modest DCF rule change that protects intact families. Bobby's testimony, which attempts to address this concern and others, is available via the [WisEye Morning Minute](#).

In addition to an ABC for Health [press release](#), several other stories appeared in the media following Bobby's testimony:



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- Daily Cardinal – [Proposal to roll back tax on unmarried pregnant women creates controversy](#)
- Wisconsin Public Radio – [Why Some Wisconsin Fathers Have to Pay Back Costs of Their Child's Birth to Medicaid](#)

The committee's agendas and other documents are available on the Committee's website at <https://docs.legis.wisconsin.gov/misc/lc/study/2018/1785>.

**Legal Services:** This winter, ABC for Health represented another Dane County father in birth cost recovery proceedings. Although "Dan" and his wife had been married in a cultural ceremony for nearly a decade, Wisconsin does not formally recognize their marriage – a barrier for many immigrant families and families who celebrate different cultural traditions.

When their fourth child together was born in early 2018, Dan's work to support his wife and children kept him out of the home for weeks at a time. Believing him not to be present in the home, the county began birth cost recovery proceedings. At initial hearings, it came clear that the child support agency had applied the old standard of whether his income had been considered in the benefits application to support its decision to pursue birth costs, rather than determining whether he was part of an intact family and supporting his children. With our help, Dan was able to successfully demonstrate that he met the correct standard, and avoided a birth cost judgment.

**Media Outreach:** ABC for Health Managing Attorney Rich Lavigne's article "**Medicaid Birth Cost Recovery: New Rules Affect Unmarried Parents,**" appears in the [March 2019 edition](#) of *Wisconsin Lawyer*, the State Bar of Wisconsin's periodical. The article is aimed at attorneys who may run across birth cost recovery issues in the course of their practice.

**Funding update:** ABC for Health will continue to explore other funding and partnership opportunities to support our advocacy work on birth cost recovery and birth outcomes disparities.

We look forward to a continued partnership and any involvement your organization is interested in offering. Please email Polly if you have any recommendations for future projects or any contacts you think would be beneficial to reach out to.

Thank you,

Polly Shoemaker  
ABC for Health, Inc.