



Merchants of Debt: Wisconsin Counties & The Birth Tax

December 2022

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Birth Tax Workgroup & Report Contributors:

Brynne McBride, JD, Robert Peterson, JD; Dani Wetter; Sam Schmitt; Tim Hennigan, JD; & Mike Rust

About ABC for Health:

ABC for Health is a Wisconsin based nonprofit public interest law firm dedicated to health equity & social justice. 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 services.

Executive Summary

The holiday season should be one of joy and happiness for Wisconsin families, not a season rife with worry about medical debt and collections. Yet, merchants of debt, including certain counties, zealously seek payments. For some families, collections are due to an archaic child support policy we call "the Birth Tax." The Birth Tax is not child support, but rather a medical collections process coordinated by state agencies and run by counties to recover birth expenses for unmarried people on Wisconsin Medicaid. **Wisconsin counties hold \$106 million of medical debt judgments for the birth of a baby over these unmarried parents enrolled in Medicaid.**¹

Not all counties vigorously pursue unmarried parents, but many in our most racially diverse regions pursue legal judgments against parents ill equipped to fight back. Many county child support agencies, the designated collectors, have aggressively pursued these orders for many years, even during the COVID pandemic. Over several decades, certain counties like Milwaukee and Dane insist the revenue is essential to support Child Support Agency staff and attorneys, and reimburse the state Medicaid program.

Even as the state shows a current budget surplus of over \$6.5 billion, the judgments continue in most counties.² Happy Holidays indeed!



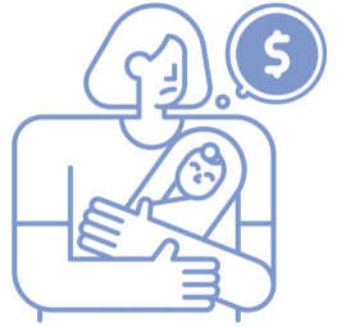
Data Highlights^{3,4}

- In WI, there are **78,549** birth tax judgments for families where the pregnant person was enrolled in Medicaid at the time of the child's birth.
- These medical debt collections actions total **\$106 million**. Milwaukee County alone is collecting \$69.2 million; Dane County: \$6.8 million
- In Wisconsin in 2020, 30,703 of the 58,871 deliveries, or **52%** of deliveries were covered by Medicaid.
- Of these births, **66%** were to unmarried persons, meaning 66% of all Medicaid-supported births are subject to the Birth Tax.
- Black families are subject to more collections actions than white families.
- **88% of Medicaid deliveries** to black persons were unmarried; 85% of deliveries to American Indian/Alaskan Native persons were unmarried (as opposed to 58% of deliveries to white persons)

Merchants of Debt

Introduction

In this report, ABC for Health reviews the Birth Tax policy, the outstanding judgments, the inequity of the legal process against unmarried parents, and collection practices during the COVID pandemic. We pay special attention to Dane County, where with much fanfare the County Executive announced that as of January 1, 2020 the county would not engage in any new collection actions, citing the racial disparities and inequities of the practice.⁵ Unfortunately, the data shows Dane County, too, continued collecting and in fact *accelerated* aggressive actions on older judgments.⁶ Finally, we make recommendation for systems change.



Background

Birth cost recovery (the “Birth Tax”) is a collections process directed by the State of Wisconsin and implemented by County-based Child Support Agencies (CSAs).⁷ Wisconsin is one of the few states that pursues this policy and is by far the most aggressive. Wisconsin CSA’s collect Medicaid-supported birthing costs from unmarried, often non-custodial fathers. Most states in the nation have abandoned this practice concluding that it is not in the best interest of infants, parents, and families. The Birth Tax is **NOT** child support, as **none of the money collected supports the direct care or protection of the child**. It is instead put toward federal and county government budgets. The policy diverts resources and money that could otherwise go to the baby and custodial parent to the state, and the counties keep at least 15% of what they collect as a bounty payment.

ABC for Health’s ongoing research and investigation illustrates that the Birth Tax policy in Wisconsin

systemically hinders statewide efforts to promote improved prenatal care and birth outcomes for pregnant persons and reduce infant mortality.⁸

The Birth Tax creates unnecessary and dangerous stress during a pregnancy by forcing the pregnant person to choose between potentially forgoing Medicaid for themselves or triggering a Birth Tax action against the other parent of the child. The Birth Tax policy drives families further into poverty and discourages unmarried fathers from playing an important, supportive role in their child’s life.⁹ Throughout the pandemic, and despite COVID related disruptions, the evidence suggests that many Wisconsin counties, like Dane, maintained or even increased aggressive collection actions.

What is The Birth Tax?

The Birth Cost Recovery Policy

- Collects a portion of the cost of birth & delivery from the father of a baby
- If the parent is enrolled in Medicaid
- And the couple was unmarried at the time of the birth
- There is no collection action if the couple is married

Of black Wisconsinites, 88% of Medicaid deliveries were to unmarried families. All of their families are potentially subject to the Birth Tax.

Wisconsin Counties & The Birth Tax

Findings¹⁰

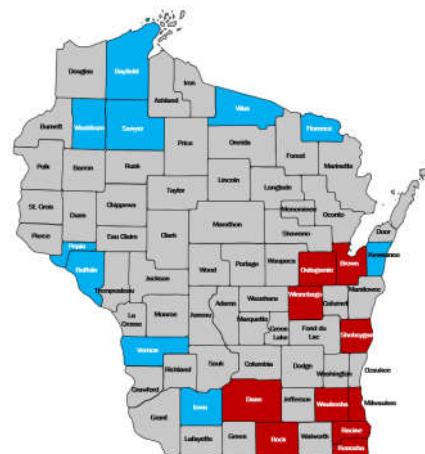
As of June 30, 2022, there were 78,549 birth tax judgments against Wisconsin families, totaling \$105,932,772.12 in debt obligations. Although this covered all 72 counties in Wisconsin, the birth cost judgments were largely concentrated in the most racially and ethnically diverse areas of Wisconsin: Milwaukee, Dane, Racine, and Kenosha Counties. Together, these four counties represent nearly 80% of all birth tax judgments in Wisconsin resulting in \$82,972,055.90 of debt to certain Wisconsin families. The four counties only account for around 31.5% of the state's population yet **disproportionately** reflect the number of birth cost judgments in Wisconsin.

Milwaukee County is by far the biggest collector of birth tax judgments against families. Milwaukee County has 52,578 outstanding birth tax judgments totaling \$69,196,562.70, about 65% of the total judgments. (While Milwaukee is the largest County in the state, it does not hold 65% of the population). Milwaukee has pursued birth tax judgments for decades, some notably active years including 1995 (4,124 judgments), 1985 (660 judgments), and 1975 (137 judgments). Additionally, 26 of the 30 most expensive judgments in Wisconsin are in Milwaukee County. The most expensive remaining judgment is for \$36,978.41. Milwaukee has the highest number and percentage of the state's Black/African American population. Some counties choose not to pursue the Birth Tax or collect only in rare cases. In fact, Florence County has only 2 outstanding judgments, Bayfield County has only 5.

The Birth Tax and the Impacts on Birth Outcomes in Wisconsin:

Sadly, Wisconsin leads the nation in these one-sided collection actions, causing stress and potentially more serious consequences to predominantly low-income and minority pregnant persons and their families.¹¹ Moreover, the CDC continues to identify Wisconsin's mortality rate for infants of non-Hispanic black persons as one of the highest in the nation. In the recently released national report card, the March of Dimes grades the city of Milwaukee as an "F" for its poor health outcomes for expectant mothers and babies.¹² Their report also names Wisconsin as one of the states with the highest racial and ethnic disparities in preterm birth.

Although many factors including racism and poverty affect these birth outcomes, we see the correlation between this data and the Birth Tax policy that disproportionately affects black, indigenous, and Latinx families.¹³



County	Outstanding Judgments
Milwaukee	\$69.2 million
Dane	\$6.8 million
Racine	\$3.7 million
Kenosha	\$3.3 million
Brown	\$2.9 million
Waukesha	\$2.4 million
Outagamie	\$2.1 million
Rock	\$1.8 million
Winnebago	\$1.2 million
Sheboygan	\$1.2 million
State Total:	\$106 million

Top 10 most aggressive collecting counties as of 6/30/22 (red on map)

County	Outstanding Judgments
Florence	\$4,575
Bayfield	\$5,881
Iowa	\$15,758
Buffalo	\$15,832
Pepin	\$16,836
Vilas	\$18,263
Sawyer	\$19,792
Vernon	\$21,705
Kewaunee	\$22,527
Washburn	\$22,628

10 least aggressive collecting counties as of 6/30/22 (blue on map)

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Misrepresentation By Dane County:

After the urging of ABC for Health and the Dane County Health Watch Coalition, among other community stakeholders, Dane County **eliminated** new Birth Tax collection actions. In his 2020 budget, County Executive Joe Parisi wrote that “the racial disparities in Birth Cost Recovery are stark,” and announced the elimination of the policy effective January 1, 2020.¹⁴ The move was celebrated as a major step toward reducing racial health and income disparities in Dane County.¹⁵

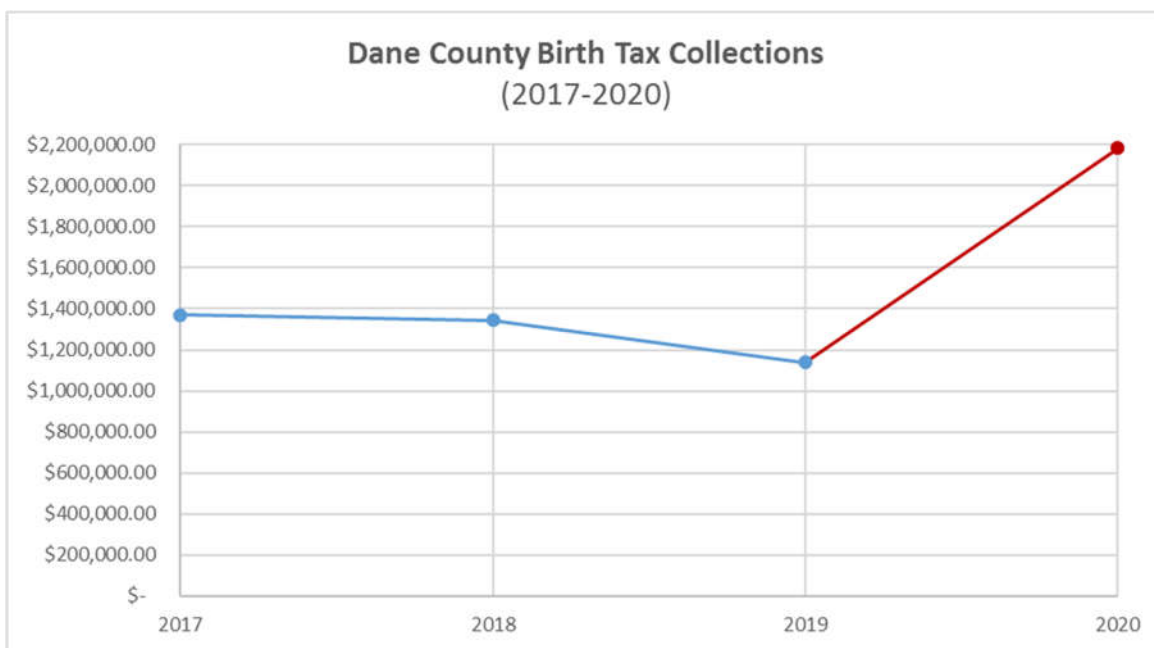
We know there is a lot more to these bigger conversations about equity and racial disparities in health care. Eliminating the birth tax in Dane County was just one issue, one stressor in a young family’s life. But it was one we could actually do something about. In March 2020, County Executive Parisi was honored (*pictured at right*) with an award for his action to promote equity by removing these collection actions from Dane County households.



But now, after receiving data on 2020 collection actions - the first year of the Dane Counties moratorium on new collection orders - ABC for Health questions Parisi’s comments and commitment to equity and ending Birth Tax disparities.

Dane County, in fact, doubled down on old collection actions in 2020. We sought answers on why, as illustrated in the graph below, there was such a significant increase in Dane County Birth Tax collection actions in 2020.

The county attributed this dramatic increase in collections to the intercept of COVID 19 stimulus checks and unemployment bonuses the first year of the pandemic.¹⁶



Wisconsin Counties & The Birth Tax

Dane County, Continued

Dane County has the 2nd highest Birth Tax debt held against parents in the state, with 4,678 outstanding judgments as of June 30, 2022, that total \$6,800,596.54 for Dane County families.¹⁷ ABC reached out to the County Executive's office and Corporation Counsel twice in the summer of 2022 in hopes of initiating a conversation before the drafting of the Dane County budget. They never responded to our inquiry. With support from a Dane County Board Supervisor, ABC set up a meeting to talk directly to the Dane County Child Support Agency. This conversation and related email exchanges shed more light on debt collection actions from 2017-2020.

The pandemic relief money authorized by Congress was intended to ease family burdens in a time of economic turmoil, instability, and uncertainty. It could have helped support new moms and babies or helped non-custodial parents find stable housing and employment. It was instead intercepted by the County Child Support Agencies, who kept 15% as a bounty payment and returned the rest to the state/federal Medicaid programs.¹⁸ Even at a time when there were efforts by state and federal officials to provide flexible eligibility for Medicaid, ACA Marketplace Coverage, and certain COBRA requirements, throughout the pandemic, and despite COVID related disruptions, we believe many Wisconsin counties maintained aggressive collection actions. Dane County was no exception.

The Process:

- Fathers receive a notice of a hearing from a local Child Support Agency
- A County Court Commissioner will determine child support and/or a birth cost recovery judgment
- Failure to show can result in a default judgment
- CSAs begin collecting
- Collecting in full, establishing a payment plan, garnishing wages, or intercepting funds

The Role of the Courts

Researching collection data, policies, and practices has revealed new questions, such as the role of the courts in this inequitable practice. In ABC's conversation with Dane County Child Support (DCCS), we learned that the child support agency, by cooperative agreement, reimburses the court commissioner for certain DCCS case expenses.¹⁹ The agency is essentially paying the court to make its impartial decisions. Most families lack any legal representation during the process.

We suspect many of these hearings were "default judgments" or in cases where families were present for the hearing, likely appeared without legal representation. The County said they don't track this type of data.

We will also continue to press county executives on the inequity of the policy, not just new collection actions, but old judgments that the county continues to aggressively pursue.

Finally, the state of Wisconsin just announced a \$6.5 billion budget surplus, a large portion likely attributed to a surplus in the state Medicaid budget.²⁰ Equity would suggest these birth tax dollars are better used to support families caught in debt traps by Birth Tax judgments.

Merchants of Debt

The Toxic Impact of the Birth Tax

The Birth Tax itself is another toxic stressor in a single pregnant woman's life. Research demonstrates that maternal stress is directly linked to poorer birth outcomes.²¹ Additionally, this paternalistic policy ignores the changing dynamic of a modern family, instead projecting a "marriage-first" platform to Medicaid enrollees.²² Even worse, Medicaid is used as leverage to force these new parents to disclose private information that leads to more stress and even the potential for violence. Not cooperating with Child Support means sanctions and termination from Medicaid 60 days postpartum.²³ Postpartum care for a new mother is crucial to prevent or catch serious, sometimes life-threatening, physical, and emotional conditions. It also impacts birth outcomes and infant mortality. Maintaining access to health insurance means continued care, professional support, and services for both mother and baby. While the collection action is technically against the baby's father, in many cases the burden is shifted to the pregnant person, who is forced to decide whether to keep Medicaid to receive postpartum healthcare or refer the child's father to the CSA for a Birth Tax collection action.

Maria's Story

When 5 months pregnant, Maria* got a formal notice in the mail from her county Child Support Agency (CSA) requiring she disclose the father of her baby or receive sanctions and face Medicaid termination. Maria could not understand the confusing notice and set it aside. Only a week after welcoming their new baby into the world, a second notice arrived. This one said Maria missed her chance to claim a "good cause exemption" from the Birth Tax, and that the collection action would proceed. That's when she reached out to ABC for Health. In an interview with a Health Benefits Advocate, ABC learned that while unmarried, Maria and her boyfriend both helped care for and financially support their new baby. Wisconsin's Administrative Code clearly advises child support agencies that birth cost orders should not be sought in cases involving cohabiting parents. This family will have to appear at a child support hearing to protest the CSA's inappropriate actions. Otherwise, they are at risk of receiving a judgment against the father for the Birth Tax if they comply with the CSA, or at risk of Maria losing her Medicaid if they don't comply.

**Name changed to protect privacy.*

Wisconsin's pernicious Birth Cost Recovery practices harvest resources from already financially strapped families and discourages some fathers from family engagement and support. Worse yet, the policy creates family stress and may deter pregnant persons from securing timely Medicaid benefits and critical prenatal care. We know the devastating results of delayed prenatal care that lead to poor birth outcomes and even increased infant mortality. Demographic data further supports the conclusion that Medicaid Birth Cost Recovery disproportionately affects Wisconsin's most vulnerable families, including members of racial minorities or in economically challenged rural areas.

Wisconsin Counties & The Birth Tax

Conclusion & Next Steps

The pandemic has exposed racial and social justice issues that include unequal access to health care, coverage, and services, including prenatal services impacting birth equity across races, ethnicities, and classes. Birth Cost Recovery policies administered by County Child Support Offices negatively impact pregnant persons and families seeking health care and coverage. Throughout the pandemic, and despite COVID related disruptions, many WI counties maintained aggressive collection actions asking low-income families to repay Medicaid-supported birth expenses. Some pregnant persons have in fact decided to forego prenatal care to avoid the financial impact of these collections on the household.

The misguided, chief concern of local child support agencies became securing office revenue instead of support for persons and families. Sadly, counties harvested this revenue off the backs of some of the poorest families in Wisconsin. Most families had no idea how to challenge the process or how to untangle Birth Cost actions from other child support related activities. They instead received default judgments and had wages garnished or taxes intercepted. COVID made a bad situation for families much worse and the prenatal stress for pregnant persons only increased! With enhanced community support, education, and outreach, we can work with our targeted communities to foster community-driven policy change.

More work needs to be done to reduce avoidable health disparities for primarily black/African American, unmarried, pregnant persons across Wisconsin. ABC for Health, along with the Dane County HealthWatch Coalition, encourages families and stakeholders in Dane County and across Wisconsin to get involved!

Wisconsin needs to end this archaic policy and work on strategies to keep families together and lessen the stressors for pregnant persons. We will continue our work to mobilize stakeholders across Wisconsin toward the just response families need and deserve.

What's Next:

- Push for systems change
- Spread awareness of the Birth Tax with increased community education efforts
- Demand legal support for families ensnared by the Birth Tax, process, and judgments
- Push Dane County to cease *all* collections efforts on all outstanding judgments
- Encourage the most aggressive collectors – like Milwaukee County, to eliminate the practice
- Grow our list of interested community stakeholders and partners to keep our diverse community updated and involved on the Birth Tax

References

- 1 Data received from the Wisconsin Department of Children and Families October 24, 2022, after a Records Request. Data is available upon request.
- 2 Revenue Estimates from the State of Wisconsin, Nov. 21, 2022, available at: <https://www.documentcloud.org/documents/23345151-wisconsin-department-of-administration-2023-25-agency-budget-requests-and-revenue-estimates-20221121>
- 3 *Supra* note 1.
- 4 Wisconsin Medicaid 101 Refresh, Medicaid Advisory Meeting (MAC) July 6, 2022, by Lisa Olson of Wisconsin Department of Health Services
- 5 Memo to accompany the Dane County 2020 Budget, “New Decade, Continued Commitment to Our People and Places—Dane County, Wisconsin.” “With this budget I am ending the controversial practice known as “birth cost recovery collections.” Currently, the federal government permits child support agencies to re-coup costs for Medicaid funded births. These dollars are collected after child support payments are made and counties retain a portion of the proceeds for the administration of this collection. We can forgo this revenue and give these parents one less expense while many of them struggle to make ends meet. The racial disparities in Birth Cost Recovery are stark, with these parents being asked to reimburse the federal government hundreds of dollars each year for many years in some cases.” October 1, 2019, Page 11, available at: <https://exec.countyofdane.com/documents/pdf/2020-Budget-Memo.pdf>
- 6 Data shared by email exchange between ABC for Health’s COO Brynne McBride and Dane County Child Support Agency Legal Director Vue Yang. Emails are available upon request.
- 7 Federal Social Security Act, Title IV, Part D. and See, e.g., 42 U.S.C. § 1396a(25)(H)
- 8 Amina Alio, et. al., 29 May 2010. Assessing the Impact of Paternal Involvement on Racial/Ethnic Disparities in Infant Mortality Rates. *Journal of Community Health*. See also, Meghan Pesko. May 17, 2012. Wisconsin’s Birth Cost Recovery Policy: Implications for Health Disparities in Infant Mortality. University of Wisconsin School of Medicine and Public Health.
- 9 See Judy Bartfeld, February 2005, Arrearages, Lying-in Orders, and Child Support Compliance among Fathers of W-2 Children in Wisconsin. Wisconsin Institute for Research on Poverty. See also, National Conference of State Legislatures. 9/17/2012. How the Child Support System Affects Low Income Fathers, available at: www.ncls.org/research/human-services/how-child-support-affects-low-income-fathers.aspx.
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- 11 Emmanuel M. Ngui et al., Relationship of Paternity Status, Welfare Reform Period, and Racial/Ethnic Disparities in Infant Mortality, 9 *Am. J. Men’s Health* 350, 356 (2015). See also, Thomas Schlenker et al., The Effect of Prenatal Support on Birth Outcomes in an Urban Midwestern County, 111 *WMJ* No. 6, 267, 272 (Dec. 2012); Meghan Pesko et al., Birth Cost Recovery and the Infant Mortality Puzzle, *HealthWatch Wis. Reporter* (Feb. 27, 2012).
- 12 2022 March of Dimes Report Card for the United States, available at: <https://www.marchofdimes.org/peristats/reports/united-states/report-card>. See also, “Racial, ethnic disparities in maternal and infant health outcomes remain wide in Wisconsin,” *WPR*, December 6, 2022, available at: <https://www.wpr.org/racial-disparities-maternal-infant-health-preterm-birth-rate-wisconsin-march-of-dimes>
- 13 Richard Lavigne, Medicaid Birth Cost Recovery: New Rules Affect Unmarried Parents, *Wisconsin Lawyer Magazine*, March 12, 2019, available at: <https://www.wisbar.org/NewsPublications/WisconsinLawyer/Pages/Article.aspx?Volume=92&Issue=3&ArticleID=26891>
- 14 *Supra* note 5.
- 15 Celebrating the Elimination of Birth Cost Recovery in Dane County at the HealthWatch Wisconsin Awards Ceremony, available at: <https://www.safetyweb.org/healthwatchwi/pdfs/Celebrating-Elimination-BCR-HWW-Awards.pdf>
- 16 *Supra* note 6.
- 17 *Supra* notes 1 & 6.
- 18 42 C.F.R. § 433.153.
- 19 *Supra* note 6.
- 20 *Supra* note 2.
- 21 *Supra* notes 8 & 9.
- 22 Gretchen Livingston, The Changing Profile of Unmarried Parents, Pew Research Center, April 25, 2018
- 23 Wis. Dept. of Health Services, BadgerCare Plus Eligibility Handbook § 5.2.3; Medicaid Eligibility Handbook § 8.2.2.