



Date: June 1, 2026

DMS Operations Memo 26-16

To: Income Maintenance Supervisors
Income Maintenance Lead Workers
Income Maintenance Staff
FSET Agencies

Affected Programs:

- | | |
|---|--|
| <input checked="" type="checkbox"/> BadgerCare Plus | <input type="checkbox"/> Caretaker Supplement |
| <input type="checkbox"/> FoodShare | <input type="checkbox"/> FoodShare Employment and Training |
| <input checked="" type="checkbox"/> Medicaid | |
| <input checked="" type="checkbox"/> SeniorCare | |

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Division of Medicaid Services

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Change to Who Can Sign Health Care Applications and Long-Term Care Forms on Behalf of Incapacitated Adults

CROSS-REFERENCE

- Medicaid Eligibility Handbook, [Sections 2.5.1.1 Signatures from Representatives, 20.3.7 Power of Attorney, Guardianship, or Conservator](#), and [22.5 Legal Guardians, Conservators, Power of Attorney, and Other Representatives](#)
- BadgerCare Plus Handbook, [Sections 9.9.5 Power of Attorney, Guardianship, or Conservator, 25.5.1.1 Signatures from Representatives](#), and [Chapter 34 Legal Guardians, Conservators, Power of Attorney, and Other Representatives](#)
- Operations Memo [24-07, Changes to Who Can Sign Health Care Applications and Long-Term Care Forms on Behalf of Incompetent or Incapacitated Adults](#)
- [Medical Determination of Capacity, F-03435](#)
- [Patient's Representative Declaration, F-03436](#)
- Wis. Stat. [§ 50.06](#)
- 42 CFR § [435.907](#)

EFFECTIVE DATE

June 1, 2026

PURPOSE

This memo announces a new category of legally recognized authority that allows someone to sign Medicaid applications, renewals, and forms related to adult home and community based long term care programs on behalf of an incapacitated adult.

BACKGROUND

In [Operations Memo 24-07](#), the Department of Health Services (DHS) announced its policy that only someone with legally recognized authority to make financial decisions on behalf of an incompetent or incapacitated adult can apply for health care on their behalf. Likewise, in April of 2023, DHS issued guidance to Aging and Disability Resource Centers (ADRCs) and Managed Care Organizations (MCOs) that only someone with legally recognized authority to make financial decisions on behalf of an applicant or member can sign forms related to selection of a home and community-based long-term care program (including program enrollment, disenrollment, and transfers).

[2025 Wisconsin Act 115](#) (“Act 115” or the “Act”) changed state law to allow certain “next of kin” to consent to an incapacitated individual’s admission to a nursing home or community-based residential facility directly from a hospital without requiring a petition for guardianship or protective placement. Act 115 refers to individuals with this authority as a “patient’s representative.” A patient’s representative could be, in order of priority, one of the following to the incapacitated individual:

- Spouse or domestic partner
- Adult child
- Parent
- Adult sibling
- Grandparent
- Adult grandchild
- Adult close friend

The Act further allows a patient’s representative who consents to the admission of an incapacitated individual from a hospital to a facility to make health care decisions to the same extent as a guardian of the person and enroll the individual in Medicaid and authorize expenditures related to health care to the same extent as a guardian of the estate. The authority of a patient’s representative ends if any of the following occurs:

- A court appoints a guardian to make decisions for the incapacitated individual,
- The incapacitated individual is discharged to a setting that is not a facility,
- A health care power of attorney that was not identified earlier is identified, or
- The individual is determined to be no longer incapacitated.

Note: The Act includes a provision that this new category of legally recognized authority ends May 31, 2029.

Due to this change in state law, DHS is revising its policy to allow a patient’s representative to sign application and renewal forms and act on the incapacitated individual’s behalf related to Medicaid and BadgerCare Plus as well as enrollment, disenrollment, and changes in adult home and community-based long-term care programs.

POLICY

Effective June 1, 2026, a patient's representative, defined as "an individual under Wis. Stat. § 50.06 who may consent to an incapacitated individual's admission to a nursing home or community-based residential facility from a hospital," can sign Medicaid and BadgerCare Plus applications and renewals on behalf of an incapacitated adult. A patient's representative can also sign forms related to enrollment, disenrollment, and changes in home and community-based long term care programs on behalf of an incapacitated adult.

If an applicant or member has a patient's representative, they do not need to separately appoint them as an authorized representative. A patient's representative has the authority to enroll the individual in Medicaid and authorize expenditures related to health care to the same extent as a guardian of the estate, so they have the same powers an authorized representative would have on a Medicaid case. Unlike a guardian of the estate, however, a patient's representative does not have the authority to act on behalf of the individual regarding non-health care programs, such as FoodShare.

VERIFICATION

When an application, renewal, or form related to enrollment, disenrollment, or a change in an incapacitated individual's home and community-based long term care program is signed by someone claiming to be the applicant or member's patient's representative, or the agency is otherwise contacted by someone claiming to be a patient's representative and seeking to act on behalf of the member, the Income Maintenance (IM) agency must request a copy of the [Patient's Representative Declaration](#) to verify that the person is an authorized patient's representative. If the requested verification is not provided, the IM agency must not grant the person claiming to be the patient's representative access to case information or notices, or the authority to make actions or submit an application, renewal, or long-term care-related forms.

Act 115 does not specify whether banks and other financial institutions must accept this authority for the purpose of allowing access to funds or information about the person's assets. This means that a patient's representative may not be able to provide requested financial verification. In these situations, the IM agency must rely on existing policy, assisting individuals who request help in obtaining verification. This includes using the best information available to process the application or renewal if the applicant or member does not have the power to produce the verification, and if the information cannot be obtained in a timely way with the IM agency's assistance. For more information, see Medicaid Eligibility Handbook, [Section 20.1.4 General Rules](#).

CONTACTS

DHS CARES Problem Resolution Team

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