

## Comparison of Medicaid Policy Making Changes in Act 10 and the Biennial Budget Bill

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Thanks to the Supreme Court’s June 14th ruling, Act 10 is now taking effect and grants the Department of Health Services (DHS) sweeping power to change Medicaid and BadgerCare policies – even if the policy changes conflict with state statutes. However, after the Governor signs the biennial budget bill and it becomes law, the Medicaid policymaking changes that Act 10 created will be repealed, and similar provisions in the budget bill will take effect.

The table below compares the Medicaid decision-making authority granted to DHS by Act 10 with the provisions of the biennial budget bill. In most respects the two pieces of legislation are the same, but there is one extremely important difference – Act 10 requires DHS policy changes that conflict with the statutes to be made by rule, which would provide public notice, public hearings and citizen involvement in the process. The budget bill eliminates the rulemaking requirement in Act 10, thereby eliminating the only opportunity for a public hearing and testimony.

By delegating so much legislative policy-making authority to DHS, the biennial budget bill (like Act 10) substantially reduces the ability of the public to provide meaningful input into these policy decisions.

WCCF has also released a more [detailed paper](#) on the full effect of this transfer of legislative authority to DHS.

Provision	Act 10 Medicaid provisions (until repealed by budget bill)	Amended Budget Bill
Transfer legislative authority for changes to Medicaid to DHS, until January 2015.	Yes	Yes
Require a vote of the entire legislature when policy changes conflict with state statutes.	No	No
Require rule-making when policy changes conflict with state statutes.	Yes	No -- repeals the rulemaking requirement in Act 10
Provide opportunity for legislative oversight by health committees.	Yes – proposed rules would be referred to a standing committee in each house for review.	No
Provide opportunity for oversight by Joint Finance Committee when policy changes conflict with state statutes.	No – instead requires rule-making process for changes superseding state statutes	Yes – Joint Finance 14 day passive review process
Provide public hearings on policy changes conflicting with state statutes.	Yes	No
Direct DHS to seek waivers that allow the state to make changes that conflict with federal law, including a waiver of “Maintenance of Eligibility” (MOE) requirements.	Yes	Yes
Require DHS to reduce eligibility of adults to 133% of the federal poverty level in July 2012 if DHS doesn’t get an MOE waiver by 12/31/11	Yes	Yes