

**Congress of the United States**  
**Washington, DC 20515**

February 7, 2012

The Honorable Scott Walker  
Governor  
State of Wisconsin  
115 East Capitol  
Madison, WI 53702

Dear Governor Walker:

We write to urge you to swiftly restore full eligibility for Wisconsin's Family Care program, and to express concern that the state's waiting list for individuals without services is now rising rapidly after years of decline, reaching 6,740 individuals as of last November.

It is our understanding that in accordance with the enrollment cap proposed in the biennial state budget and signed into law on June 26, 2011, DHS implemented the enrollment cap on July 1, 2011, while simultaneously seeking to amend the waiver programs that underpin Family Care from the Centers for Medicare and Medicaid Services (CMS). On December 13, 2011, CMS notified the State that its enrollment cap violates the conditions of Wisconsin's current agreement with the federal government. CMS instructed the State to remove its cap and to "identify any individuals not currently enrolled onto the Family Care or Self-Directed Supports waivers since the July 1, 2011 implementation of the newly instituted enrollment caps, and immediately enroll those individuals in the waiver programs." Following this directive, we were pleased that that you announced on December 28, 2011 that the state would comply with this directive.

Yet weeks have since passed and little visible progress has been made. It is beyond dispute that Family Care provides some of our most vulnerable residents the ability to remain independent and to age in place with dignity in their homes or in community settings. The program has also been found to be cost-effective, saving the state tens of thousands of dollars per person per year by keeping individuals out of costly nursing home care.

Until you sign a bill into law that repeals the enrollment cap, thousands of eligible older adults and disabled individuals will continue to be denied Family Care services, contravening CMS' federal directive. The waitlist for Family Care-related services, according to DHS, grew by 1,691 individuals between July and November of 2011, producing a widening gap of Wisconsinites without access to Family Care's supports and services.

Moreover, these delays also put many other families and health care jobs at needless risk by increasing the risk that the federal government may decide to impose a financial penalty in the form of reduced federal funding across all Medicaid programs. As noted by the Legislative Fiscal Bureau (LFB), CMS has a history of withholding federal matching funding from states that fail to comply with binding legal requirements. According to the Bureau, Wisconsin stands to lose \$1.75 billion from 2011 through 2013 in federal funding should the State continue to violate federal law.

We further note that identification of offsets is an administrative matter that is separable from the need to quickly rescind the enrollment cap in legislation. We encourage you to work proactively with the Legislature and DHS to sign a bill into law to repeal the enrollment cap by the end of February. We are troubled by reports that arguments regarding offsets could stall or even block efforts to come back into compliance. Continued delays in legislating an end to enrollment caps will only serve to worsen the situation of thousands more of Wisconsin's most vulnerable families by placing their health in jeopardy.

We look forward to a reply at your earliest convenience.

Sincerely,



Herb Kohl  
U. S. Senator



Tammy Baldwin  
Member of Congress



Ron Kind  
Member of Congress



Gwen Moore  
Member of Congress