



1995 ASSEMBLY BILL 772

January 4, 1996 - Introduced by Representatives BALDWIN, MEYER, NOTESTEIN, LA FAVE, CARPENTER, R. POTTER, BOCK, PLACHE, ROBSON, HANSON, MURAT, TURNER, RYBA, BALDUS, DUEHOLM, WILDER, TRAVIS, REYNOLDS, WIRCH, R. YOUNG, PLOMBON, BLACK, KRUSICK, COGGS, WASSERMAN, KRUG, KREUSER, RILEY, HUBER, SPRINGER, CULLEN, L. YOUNG, KUNICKI, VANDER LOOP, GRONEMUS, LINTON, BOYLE, MORRIS-TATUM and BELL, cosponsored by Senators MOEN, JAUCH, DECKER, BURKE, ANDREA, WINEKE, BRESKE, C. POTTER, RISSER, CLAUSING, GEORGE, SHIBILSKI, CHVALA, MOORE, ADELMAN and GROBSCHMIDT. Referred to Joint committee on Finance.

1 **AN ACT to repeal** 46.27 (7) (b) 1r., 46.27 (11) (c) 3m., 49.45 (8e), 49.45 (8f) and
2 49.45 (4z); and **to amend** 49.45 (8m) (intro.), 49.46 (2) (a) 4. d. and 49.46 (2) (b)
3 6. j. of the statutes; **relating to:** eliminating certain limitations on medical
4 assistance reimbursement for home health services, personal care and
5 private-duty nursing services and eliminating certain limitations on
6 reimbursement for long-term community support services provided under the
7 long-term support community options program.

Analysis by the Legislative Reference Bureau

Under current law, the medical assistance program pays certified providers for a range of benefits provided on behalf of medical assistance recipients. These benefits include certain home health, personal care and private-duty nursing services. Prior to enactment of 1995 Wisconsin Act 27 (the budget act), a per-patient-visit limit existed for reimbursement for certain home health services provided under the medical assistance program. Under the budget act, an additional limitation on medical assistance reimbursement for personal care and private-duty nursing services, as well as home health services, was added, under which reimbursement for these services that are provided to a medical assistance recipient in a month may not exceed the average monthly cost of nursing home care, as determined by the department of health and social services (DHSS). This monthly limit does not apply to a medical assistance recipient under the age of 22; to a ventilator-dependent individual; if DHSS determines that the cost of providing an individual with nursing home care would exceed the cost of providing the individual with the home health, personal care and private-duty nursing services; or if DHSS

determines that nursing home care is not available for the individual. In addition, DHSS may require, as a condition of reimbursement, that the provider charge the lesser of the amount that the federal medicare program reimburses for a service, the provider's usual and customary charge or a maximum reimbursement rate that is determined by DHSS. These limitations do not apply, however, to rates for reimbursement for respiratory care services for ventilator-dependent individuals. Also under the budget act, additional limitations were placed on the provision of personal care services that require that the provider of the personal care services receive prior authorization from DHSS for all personal care services that exceed 50 hours in a calendar year that are provided to an individual and that the individual be ineligible to receive home health aide services under the medicare program.

Under current law, the long-term support community options program provides long-term community support services that serve as alternatives to institutional care for individuals in nursing homes. The part of the program that is funded under state general purpose revenue is frequently termed "regular COP"; and the part of the program that, for medical assistance recipients, is funded under state general purpose revenue and federal funds as a waiver to federal medicaid laws is frequently termed "COP waiver". Under current law as affected by the budget act, reimbursement for long-term community support services provided to an individual under both the regular COP and COP waiver parts of the long-term support community options program is limited to the average monthly cost of nursing home care, as determined by DHSS. This limitation does not apply to individuals under the age of 22; ventilator-dependent individuals; individuals for whom DHSS determines that the cost of providing nursing home care would exceed the cost of providing the individual with care in the community; individuals for whom nursing home care is not available; and individuals for whom public funding is not available for their institutional care.

This bill eliminates the limitations on provision of, and reimbursement for, home health services, personal care and private-duty nursing services that were enacted under the budget act. Further, the bill eliminates the limitations on reimbursement for long-term community support services provided to individuals under the long-term support community options program that were enacted under the budget act.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 46.27 (7) (b) 1r. of the statutes, as created by 1995 Wisconsin Act
2 27, is repealed.

1 **SECTION 2.** 46.27 (11) (c) 3m. of the statutes, as created by 1995 Wisconsin Act
2 27, is repealed.

3 **SECTION 3.** 49.45 (8e) of the statutes, as created by 1995 Wisconsin Act 27, is
4 repealed.

5 **SECTION 4.** 49.45 (8f) of the statutes, as created by 1995 Wisconsin Act 27, is
6 repealed.

7 **SECTION 5.** 49.45 (8m) (intro.) of the statutes, as affected by 1995 Wisconsin Act
8 27, is amended to read:

9 49.45 **(8m)** RATES FOR RESPIRATORY CARE SERVICES. (intro.) Notwithstanding the
10 limits a determination by the department of a maximum rate under sub. sub. (8),
11 ~~(8e) and (8f)~~, the rates under sub. (8) and rates charged by providers under s. 49.46
12 (2) (a) 4. d. that are not home health agencies, for reimbursement for respiratory care
13 services for ventilator-dependent individuals under ss. 49.46 (2) (b) 6. m. and 49.47
14 (6) (a) 1., shall be as follows:

15 **SECTION 6.** 49.45 (4z) of the statutes, as created by 1995 Wisconsin Act 27, is
16 repealed.

17 **SECTION 7.** 49.46 (2) (a) 4. d. of the statutes, as affected by 1995 Wisconsin Act
18 27, is amended to read:

19 49.46 **(2)** (a) 4. d. Home health services, subject to the limitations under s. 49.45
20 (8), ~~(8e) and (8f)~~, or, if a home health agency is unavailable, nursing services, ~~subject~~
21 ~~to the limitations under s. 49.45 (8e) and (8f).~~

22 **SECTION 8.** 49.46 (2) (b) 6. j. of the statutes, as affected by 1995 Wisconsin Act
23 27, is amended to read:

1 49.46 (2) (b) 6. j. Personal care services, ~~subject to the limitations under s. 49.45~~

2 ~~(8e), (8f) and (42).~~

3 **(END)**