

2001 DRAFTING REQUEST

Bill

Received: **09/08/2000**

Received By: **kenneda**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget 266-2288**

By/Representing: **Fossum**

This file may be shown to any legislator: **NO**

Drafter: **kenneda**

May Contact: **DHFS**

Alt. Drafters:

Subject: **Health - long-term care**

Extra Copies: **ISR**

Pre Topic:

DOA:.....Fossum -

Topic:

Family care hospital referrals

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	kenneda 09/22/2000	hhagen 09/22/2000	martykr 09/25/2000	_____	lrb_docadmin 09/25/2000		S&L
/2	kenneda 02/07/2001	hhagen 02/07/2001	kfollet 02/07/2001	_____	lrb_docadmin 02/07/2001		S&L

FE Sent For:

<END>

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kyl 2/2 lgt/lif 2/7

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1/?	kenneda	11 hmb 9/22/00 1/1 jld 9/22	dm 7/25	dm 7/25			

FE Sent For:

<END>

Title: Hospital Discharge Referrals to Family Care Resource Centers

Current Language

50.36 Rules and standards.

(2) (c) The department shall promulgate rules that require that a hospital, before discharging a patient who is aged 65 or older or who has developmental disability or physical disability and whose disability or condition requires long-term care that is expected to last at least 90 days, refer the patient to the resource center under s. 46.283. The rules shall specify that this requirement applies only if the secretary has certified under s. 46.281 (3) that a resource center is available for the hospital and for specified groups of eligible individuals that include persons seeking admission to or patients of the hospital.

50.38 Forfeitures. (1) Whoever violates rules promulgated under s. 50.36 (2) (c) may be required to forfeit not more than \$500 for each violation.

(2) The department may directly assess forfeitures provided for under sub. (1). If the department determines that a forfeiture should be assessed for a particular violation, the department shall send a notice of assessment to the hospital. The notice shall specify the amount of the forfeiture assessed, the violation and the statute or rule alleged to have been violated, and shall inform the hospital of the right to a hearing under sub. (3).

(3) A hospital may contest an assessment of a forfeiture by sending, within 10 days after receipt of notice under sub. (2), a written request for a hearing under s. 227.44 to the division of hearings and appeals created under s. 15.103 (1). The administrator of the division may designate a hearing examiner to preside over the case and recommend a decision to the administrator under s. 227.46. The decision of the administrator of the division shall be the final administrative decision. The division shall commence the hearing within 30 days after receipt of the request for a hearing and shall issue a final decision within 15 days after the close of the hearing. Proceedings before the division are governed by ch. 227. In any petition for judicial review of a decision by the division, the party, other than the petitioner, who was in the proceeding before the division shall be the named respondent.

(4) All forfeitures shall be paid to the department within 10 days after receipt of notice of assessment or, if the forfeiture is contested under sub. (3), within 10 days after receipt of the final decision after exhaustion of administrative review, unless the final decision is appealed and the order is stayed by court order. The department shall remit all forfeitures paid to the state treasurer for deposit in the school fund.

(5) The attorney general may bring an action in the name of the state to collect any forfeiture imposed under this section if the forfeiture has not been paid following the exhaustion

of all administrative and judicial reviews. The only issue to be contested in any such action shall be whether the forfeiture has been paid.

Proposed Change

50.36 (2) (c) is amended to read:

(c) ~~The department shall promulgate rules that require that a hospital, before discharging a patient who is aged 65 or older or who has developmental disability or physical disability and whose disability or condition requires long term care that is expected to last at least 90 days, refer the patient to the~~ A hospital shall participate in developing plans required under s. 46.283 (4) (e) for making appropriate referrals of persons likely to be eligible for and to benefit from the family care benefit under s. 46.286 to a resource center under s. 46.283. This requirement applies only if the secretary has certified under s. 46.281 (3) that a resource center is available for the hospital and for specified groups of eligible individuals that include persons seeking admission to or patients of the hospital.

and implementing? D-Note
Participate Only in developing a plan?

50.38 is repealed.

46.282 (3) (a) 1. e. is created to read:

e. Review a resource center's plan under s. 46.283 (4) (e) and provide nonbinding recommendations for ensuring cooperation and coordination between the resource center and hospitals serving the geographic area served by the resource center.

46.283 (4) (e) is created to read:

(e) After considering recommendations of the local long term care council under 46.282 (2) and in cooperation with hospitals serving the geographic area served by the resource center annually implement a plan for coordinating appropriate referrals of individuals being discharged from those hospitals who are likely to be eligible for and to benefit from the family care benefit under s. 46.286.

D-Note filed 3/21/01

Effect of the Change

Original Family Care statutes created a requirement that a hospital, prior to discharging a patient who is a member of the Family Care target group and who is in need of long term care, make a referral to the Family Care Resource Center. The statute also created a penalty of \$500 per violation for failures to make such referrals. The proposed change eliminates this requirement and penalties for failure to comply, and replaces it with a requirement for hospitals to participate annually in joint planning with Resource Centers to coordinate appropriate referrals from hospitals, and for the Local LTC Council to review this plan.

Rationale for the Change

It is desirable for hospitals to make appropriate referrals upon discharging patients who can benefit from the services of the Resource Center. However, the combination of the threat of stiff penalties and a shortage of hospital discharge staff have resulted in most hospitals simply

referring every discharged patient over the age of 65. Resource Centers are not funded for and do not have the staff capacity to respond to the flood of mostly inappropriate referrals. As an alternative, hospitals and Resource Centers are required to jointly plan to achieve more appropriate referrals. In addition, the Department intends to amend its contracts with Resource Centers to require them to plan for linkages with hospital discharge planners, including

- Providing hospital discharge planners with training about Family Care, the Family Care target group and how discharged patients might benefit from Family Care.
- Providing informational materials about Family Care that hospitals can give to patients at discharge.
- Developing, with hospital discharge planners, guidelines for making appropriate referrals to Resource Centers.

Desired Effective Date: Upon enactment
Agency: DHFS
Agency Contact: Charles Jones
Phone: 266-0991

Q for Charles Jones

-0200

Proposal doesn't work

46.282(3)(a) i.e. (should probably not be there, but, instead, in 46.282(3)(a)16., bec. it doesn't seem to appropriately be part of the county's initial plan, but should be a duty) requires that the council review the resource's center plan under 46.283(4)(e) + provide recommendations

But

46.283(4)(e) (should be (j)) requires the rc to consider the council's recommendations + implement a plan

From Charles

Yes

9/22/00

Do they want the rc to develop a plan, then consider the council's recommendations, then implement it?

or Do they want the rc to develop a plan after considering the council's recommendations + then implement it?



SOON - In editing 9/12/2
State of Wisconsin
2001 - 2002 LEGISLATURE
 D. NOTE

LRB-0200/1

DAK...
 hmk
 +
 jld

DOA:.....Fossum – Family care hospital referrals

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

Do Not Gen.

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

✓ HEALTH AND HUMAN SERVICES ✓

✓ LONG TERM CARE; FAMILY CARE ✓

Currently, under family care, a county resource center, as reviewed by a local long-term care council, must provide persons with services in obtaining long-term care. DHFS must promulgate rules requiring a hospital to refer to a resource center patients being discharged who have developmental disability or a physical disability requiring long-term care for at least 90 days or who are aged 65 or older. The rules must specify that the requirement applies only if the secretary of health and family services has certified that a resource center is available for the hospital and for individuals that include the hospital's patients. Hospitals violating the rules must forfeit up to \$500 for each violation.

years of age

(secretary)

This bill eliminates the requirement that DHFS promulgate rules requiring a hospital to refer patients to a resource center and eliminates the forfeitures applicable to violations of those rules. The bill, instead, requires that a resource center annually develop and provide to the local long-term care council for review a tentative plan for coordinating appropriate referrals of individuals who are discharged from hospitals in the area served by the resource center and who are likely to be eligible for a family care benefit. The local long-term care council must review the tentative plan and provide to the resource center nonbinding plan recommendations, if any, for ensuring cooperation and coordination between the

resource center and hospital. In turn, the resource center must consider the recommendations and cooperate with hospitals in the geographic area served by the resource center in developing and implementing the plan. Hospitals, under the bill, must participate in the plan development and implementation if the secretary ~~of health and family services~~ has certified that a resource center is available for the hospital and for individuals that include the hospital's patients.

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:

SECTION 1. 50.36 (2) (c) of the statutes is amended to read:

50.36 (2) (c) ~~The department shall promulgate rules that require that a hospital, before discharging a patient who is aged 65 or older or who has developmental disability or physical disability and whose disability or condition requires long term care that is expected to last at least 90 days, refer the patient to the~~ A hospital shall participate in developing and implementing plans required under s. 46.283 (4) (j) for making appropriate referrals of person likely to be eligible for and to benefit from the family care benefit under s. 46.286 to a resource center under s. 46.283. The rules shall specify that this This requirement applies only if the secretary has certified under s. 46.281 (3) that a resource center is available for the hospital and for specified groups of eligible individuals that include persons seeking admission to or patients of the hospital.

SECTION 2. 46.282 (3) (a) 16. of the statutes is created to read:

46.282 (3) (a) 16. Review a tentative plan under s. 46.283 (4) (j) and provide to a resource center any nonbinding recommendations for ensuring cooperation and coordination between the resource center and hospitals serving the geographic area served by the resource center.

244
MOVE to page 2, line 7

History: 1971 c. 211; 1975 c. 383 s. 4; 1975 c. 413 ss. 4, 18; 1975 c. 421; Stats. 1975 s. 50.36; 1977 c. 29; 1979 c. 34; 1981 c. 135; 1985 a. 340; 1989 a. 37; 1991 a. 129; 1993 a. 16, 30, 270; 1995 a. 27 ss. 3245, 3246, 9116 (5); 1997 a. 175; 1999 a. 9.

1 SECTION 3. 46.283 (4) (j) of the statutes is created to read:

2 46.283 (4) (j) Annually develop a tentative plan for coordinating appropriate
3 referrals of individuals who are discharged from ~~those~~ hospitals and who are likely
4 to be eligible for and to benefit from the family care benefit. After considering any
5 recommendations of the local long-term care council under s. 46.282 (3) (a) 16. and
6 in cooperation with ^{those} hospitals ~~in the geographic area served by the resource~~
7 ~~center~~, develop in final form and implement the plan.

→ Insert from page 1

8 SECTION 4. 50.38 of the statutes is repealed.

9

(END)

D-NOTE

Serving the geographic area served by the resource center

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0200/1dn

DAK...
hmb
+
jld

Deadline

To Charles Jones and Gretchen Fossum:

I have made several changes to this bill from the material proposed. After speaking with Charles, I revised the duty of the local long-term care council to be that of reviewing a resource center's *tentative* plan and providing nonbinding recommendations (if any) to the resource center; this sequence of events seems to work more smoothly than the proposal. Additionally, I required that a hospital both participate in developing *and implementing* the plan; without the requirement that the hospital perform some such action, the plan could be meaningless. Please review.

Among other things,

Debra A. Kennedy
Managing Attorney
Phone: (608) 266-0137
E-mail: debora.kennedy@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0200/1dn
DAK:hmh&jld:km

September 25, 2000

To Charles Jones and Gretchen Fossum:

I have made several changes to this bill from the material proposed. Among other things, after speaking with Charles, I revised the duty of the local long-term care council to be that of reviewing a resource center's *tentative* plan and providing nonbinding recommendations (if any) to the resource center; this sequence of events seems to work more smoothly than the proposal. Additionally, I required that a hospital both participate in developing *and implementing* the plan; without the requirement that the hospital perform some such action, the plan could be meaningless. Please review.

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Managing Attorney
Phone: (608) 266-0137
E-mail: debora.kennedy@legis.state.wi.us



(TODAY)
State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0200/22

DAK:hmh&jld:km

D-NOTE

stays

DOA:.....Fossum – Family care hospital referrals

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 *Donotgen*
AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

LONG-TERM CARE; FAMILY CARE

Currently, under family care, a county resource center, as reviewed by a local long-term care council, must provide persons with services in obtaining long-term care. DHFS must promulgate rules requiring a hospital to refer to a resource center patients being discharged who have developmental disability or a physical disability requiring long-term care for at least 90 days or who are 65 years of age or older. The rules must specify that the requirement applies only if the secretary of health and family services (secretary) has certified that a resource center is available for the hospital and for individuals that include the hospital's patients. Hospitals violating the rules must forfeit up to \$500 for each violation.

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

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 6 admission to or patients of the hospital.

INSERT 3-6

SECTION 4. 50.38 of the statutes is repealed.

8

(END)

(a)

D-NOTE

**2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0200/2ins
DAK:hmh&jld:km

INSERT 3-6

***NOTE: This is reconciled s. 50.36 (2)(c). This SECTION has been affected by drafts with the following LRB numbers: LRB-0200/1 and LRB-0203/1.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0200/2dn
DAK:hmh/

Date

To Gretchen Fossum:

✓

This draft changes the treatment of s. 50.36 (2) (c). The draft reconciles LRB-0200/1 and LRB-0203/1. Both LRB-0200 and LRB-0203 should continue to appear in the compiled bill.

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DRAFTER'S NOTE
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LRB-0200/2dn
DAK:hmh:kjf

February 7, 2001

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State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0200/2
DAK:hmh&jld:kjf

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