



2003 ASSEMBLY BILL 241

April 8, 2003 – Introduced by Representatives KRUSICK, BALOW, BERCEAU, BLACK, COGGS, COLON, HAHN, MORRIS, SINICKI and YOUNG, cosponsored by Senator CARPENTER. Referred to Committee on Aging and Long-Term Care.

1 **AN ACT** *to renumber* 49.498 (7) (a); *to amend* 49.498 (6) (a) and 49.498 (7) (b)
2 (intro.); and *to create* 46.27 (11) (c) 9., 46.275 (5) (b) 8., 46.277 (5) (g), 49.498
3 (7) (ag), 49.498 (7) (am) 6. and 49.498 (7) (am) 7. of the statutes; **relating to:**
4 admission, denial of admission, provision of services, transfer, and discharge
5 for individuals by nursing facilities and community-board residential facilities
6 that are providers of Medical Assistance.

Analysis by the Legislative Reference Bureau

Under current law, nursing homes that are certified to provide care that is reimbursed by the Medical Assistance Program (MA) must meet numerous requirements and are prohibited from taking certain actions with respect to admissions. Nursing homes also must have identical policies and practices for transfer, discharge, and service provision for all nursing home residents, regardless of payment.

This bill requires MA-certified nursing homes to establish and maintain identical policies and practices for admission of all persons regardless of source of payment. The bill prohibits these nursing homes from considering the available source of payment when deciding to admit or expedite the admission of a person who is or will be entitled to MA. Further, the bill requires that these nursing homes provide notice, in writing, to an applicant or to his or her guardian or agent within five days of deciding to admit or deny or delay the admission of the applicant. If the

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applicant is denied or his or her admission is delayed, the notice must include a statement of the reason for the denial or delay. Lastly, the bill clarifies that a nursing home must establish identical policies and practices concerning transfer, discharge, and provision of services for all persons regardless of the source of their payment.

Under current law, MA may be used to reimburse a community-based residential facility (C-BRF) for services provided to a resident of the facility under the Long-Term Support Community Options Program (COP), under the Community Integration Program for Residents of State Centers (for persons relocated from the State Centers for the Developmentally Disabled), and under the Community Integration Program for Persons Relocated or Meeting Reimbursable Levels of Care (for persons relocated from institutions other than the State Centers for the Developmentally Disabled or who meet MA-reimbursable standards of care). Numerous requirements apply to C-BRFs that receive the MA reimbursement.

The bill prohibits a county, private nonprofit agency, or aging unit from using MA funds under COP or either community integration program to provide services in a C-BRF unless the C-BRF establishes and maintains identical policies and practices for admission, transfer, discharge, and service provision for all individuals regardless of source of payment; refrains from considering an applicant's available source of payment when deciding to admit the applicant or expedite his or her admission; and provides to an applicant, in writing, notice of a decision by the C-BRF to admit, deny, or delay the applicant's admission, within five days of the decision.

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 (11) (c) 9. of the statutes is created to read:
- 2 46.27 (11) (c) 9. No county, private nonprofit agency, or aging unit may use
- 3 funds received under this subsection to provide services in a community-based
- 4 residential facility unless the community-based residential facility does all of the
- 5 following:
- 6 a. Establishes and maintains identical policies and practices regarding
- 7 admission, transfer, discharge, and service provision for all individuals regardless
- 8 of source of payment.

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1 b. Refrains from considering an applicant's available source of payment when
2 deciding to admit or expedite the admission of an applicant who is or will be entitled
3 to Medical Assistance for services of a community-based residential facility.

4 c. Provides to an applicant or his or her guardian or agent, in writing, within
5 5 days of a decision by the community-based residential facility to admit, deny, or
6 delay the admission of the applicant, notice of the decision. If the community-based
7 residential facility has decided to deny or delay admission of the applicant, the notice
8 shall include a statement of the reason for the denial or delay.

9 **SECTION 2.** 46.275 (5) (b) 8. of the statutes is created to read:

10 46.275 (5) (b) 8. Provide services in a community-based residential facility
11 unless the community-based residential facility does all of the following:

12 a. Establishes and maintains identical policies and practices regarding
13 admission, transfer, discharge, and service provision for all individuals regardless
14 of source of payment.

15 b. Refrains from considering an applicant's available source of payment when
16 deciding to admit or expedite the admission of an applicant who is or will be entitled
17 to Medical Assistance for services of a community-based residential facility.

18 c. Provides to an applicant or his or her guardian or agent, in writing, within
19 5 days of a decision by the community-based residential facility to admit, deny, or
20 delay the admission of the applicant, notice of the decision. If the community-based
21 residential facility has decided to deny or delay admission of the applicant, the notice
22 shall include a statement of the reason for the denial or delay.

23 **SECTION 3.** 46.277 (5) (g) of the statutes is created to read:

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1 46.277 (5) (g) No county or private nonprofit agency may use funds received
2 under this subsection to provide services in a community-based residential facility
3 unless the community-based residential facility does all of the following:

4 1. Establishes and maintains identical policies and practices regarding
5 admission, transfer, discharge, and service provision for all individuals regardless
6 of source of payment.

7 2. Refrains from considering an applicant's available source of payment when
8 deciding to admit or expedite the admission of an applicant who is or will be entitled
9 to Medical Assistance for services of a community-based residential facility.

10 3. Provides to an applicant or his or her guardian or agent, in writing, within
11 5 days of a decision by the community-based residential facility to admit, deny, or
12 delay the admission of the applicant, notice of the decision. If the community-based
13 residential facility has decided to deny or delay admission of the applicant, the notice
14 shall include a statement of the reason for the denial or delay.

15 **SECTION 4.** 49.498 (6) (a) of the statutes is amended to read:

16 49.498 (6) (a) A nursing facility shall establish and maintain identical policies
17 and practices regarding transfer, discharge and the provision of services required
18 under the approved state medicaid plan for all individuals regardless of source of
19 payment.

20 **SECTION 5.** 49.498 (7) (a) of the statutes is renumbered 49.498(7)(am).

21 **SECTION 6.** 49.498 (7) (ag) of the statutes is created to read:

22 49.498 (7) (ag) A nursing facility shall establish and maintain identical policies
23 and practices regarding admission for all individuals regardless of source of
24 payment.

25 **SECTION 7.** 49.498 (7) (am) 6. of the statutes is created to read:

