

**2005 DRAFTING REQUEST**

**Bill**

Received: **09/30/2004**

Received By: **dkennedy**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget 6-8593**

By/Representing: **Milioto**

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

Drafter: **dkennedy**

May Contact: **DHFS**

Addl. Drafters:

Subject: **Health - medical assistance**

Extra Copies: **RLR**

Submit via email: **NO**

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**Pre Topic:**

DOA:.....Milioto, BB0054 -

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**Topic:**

Use of Medical Assistance waiver funds for new construction

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**Instructions:**

See Attached

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**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>
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FE Sent For:

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/?	dkennedy 10/04/2004	kfollett 10/22/2004		_____			S&L
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DAK BB0054  
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## 2005-07 Budget Bill Statutory Language Drafting Request

- Topic: DD Waiver Funds for New Construction Home Modifications
- Tracking Code:
- SBO team: Health and Insurance
- SBO analyst: Steve Milioto
  - Phone: 266-8593
  - Email: steve.milioto@doa.state.wi.us
- Agency acronym: DHFS
- Agency number: 435

## DD Waiver Funds for New Construction Home Modifications

### Current Language

46.275(5)(b)(1)

No county, or department under sub. (3r), may use funds received under this section to do any of the following:

1. Purchase land or construct buildings.

### Proposed Change

Modify the current statute to allow waiver funds under ~~the CIP 1A, CIP 1B, Brain Injury, and Children's Long Term Support~~ waivers to pay for new construction if done as part of an approved home modification. This change will reflect the updates to the home and community based waivers.

46.275(5)(b)(1)

No county, or department under sub. (3r), may use funds received under this section to do any of the following:

1. Purchase land or construct buildings except as is determined necessary by the Department.

### Effect of the Change

The state will be in compliance with the current federal policy for Medicaid home and community based waivers. In addition, the Department will be able to capture 60% of federal reimbursement for costs that previously had to be funded with 100% state GPR funding.

### Rationale for the Change

This change updates the state statutes to reflect new federal policy for the current CIP 1, Brain Injury and Children's waivers. The modification to the statutes is necessary to keep the Department in compliance with the terms and conditions of the federal home and community based waivers. As of January 1, 2004, these waivers are now permitted to cover the costs of new construction home modifications, provided it meets certain criteria, which are set forth by the Department in the Interim BDDS Waiver Manual. All other available funding sources must have been pursued and proven not available or not feasible for this to be allowed under the

*Note: Can't apply to Children's Long Term Support waivers b.c. is not statutory; does not have these prohibitions*

waiver. This modification will have no GPR cost to the Department since any home modifications would have to fit within the current waiver budget.

This change to the existing waivers was originally prompted by an ADA complaint received by the Department. The complaint was resolved when it was determined that constructing a new bathroom was the preferred way to effectively provide coverage under the home modification waiver service. An accessible bathroom was needed by a young woman to ensure her health and safety in the community. Adding accessible features to the existing home was not feasible in this situation. The bathroom was determined by the Office of Civil Rights to be a reasonable accommodation under ADA so the Department was required to fund the new construction. Because the Medicaid waivers and state statutes had the provision barring the use of waiver funds for new construction, this home modification had to be funded with COP funds and was not eligible for federal match funds. As part of the waiver renewal process, CMS approved using federal funds for building additions if it is determined that there is no other feasible way to provide the client with the needed home modification and all other available funding sources have been pursued and proven not feasible. The Department has laid out very specific criteria in the waiver manual to explain when new construction may be allowed.

**Desired Effective Date:** Upon Passage  
**Agency:** DHFS  
**Agency Contact:** Erin Warner  
**Phone:** 266-9363



SOON - In edit 10/4

State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-0350/21  
DAK: [signature]

DOA:.....Milioto, BB0054 - Use of Medical Assistance waiver funds for new construction

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

Do Not Gen

1 AN ACT ...; relating to: the budget (o)

X

*Analysis by the Legislative Reference Bureau*

**HEALTH AND HUMAN SERVICES**

**MEDICAL ASSISTANCE**

Currently, under waivers of federal Medicaid laws, ~~the Department of Health and Family Services (DHFS)~~ administers community integration programs under which Medical Assistance (MA) recipients who reside in state centers for the developmentally disabled or other institutions or who meet certain levels of care are relocated into their communities and provided home and community-based services. These services are provided by counties and are reimbursed by DHFS from general purpose revenue, federal Medicaid moneys and the MA trust fund. Counties are prohibited from using the moneys to do several things including purchasing land or constructing buildings.

X

This bill permits counties to use funding for home and community-based services provided to MA recipients, under the community integration waiver programs, to purchase land or construct buildings if the purchase or construction is determined necessary by DHFS.





State of Wisconsin  
2005 – 2006 LEGISLATURE

LRB-0350/1

DAK:.....

DOA:.....Milioto, BB0054 – Use of Medical Assistance waiver funds for new construction

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This bill permits counties to use funding for home and community-based services provided to MA recipients, under the community integration waiver programs, to purchase land or construct buildings if the purchase or construction is determined necessary by DHFS.

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

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

