

1 ***-1261/5.539*** ***-1267/P1.115*** SECTION 1456. 49.19 (11s) (d) of the statutes is
2 amended to read:

3 49.19 (11s) (d) From the appropriation under s. ~~20.445 (3)~~ 20.437 (2) (a), the
4 department may award grants to county departments under ss. 46.215, 46.22 and
5 46.23 for providing education services relating to family planning, as defined in s.
6 253.07 (1) (a), to persons who are subject to par. (b).

7 ***-1261/5.540*** ***-1267/P1.116*** SECTION 1457. 49.195 (3r) of the statutes is
8 amended to read:

9 49.195 (3r) From the appropriation under s. ~~20.445 (3)~~ 20.437 (2) (L) the
10 department may contract with or employ a collection agency or other person to
11 enforce a repayment obligation of a person who is found liable under sub. (3) who is
12 delinquent in making repayments.

13 ***-1261/5.541*** ***-1267/P1.117*** SECTION 1458. 49.197 (1m) of the statutes is
14 amended to read:

15 49.197 (1m) FRAUD INVESTIGATION. From the appropriations under s. ~~20.445 (3)~~
16 20.437 (2) (dz), (kx), (L), (md), (n), and (nL), the department shall establish a program
17 to investigate suspected fraudulent activity on the part of recipients of aid to families
18 with dependent children under s. 49.19, on the part of participants in the Wisconsin
19 Works program under ss. 49.141 to 49.161, and, if the department of health and
20 family services contracts with the department under sub. (5), on the part of recipients
21 of medical assistance under subch. IV, food stamp benefits under the food stamp
22 program under 7 USC 2011 to 2036, supplemental security income payments under
23 s. 49.77, payments for the support of children of supplemental security income
24 recipients under s. 49.775, and health care benefits under the Badger Care health
25 care program under s. 49.665. The department's activities under this subsection may

1 include, but are not limited to, comparisons of information provided to the
2 department by an applicant and information provided by the applicant to other
3 federal, state, and local agencies, development of an advisory welfare investigation
4 prosecution standard, and provision of funds to county departments under ss.
5 46.215, 46.22, and 46.23 and to Wisconsin Works agencies to encourage activities to
6 detect fraud. The department shall cooperate with district attorneys regarding
7 fraud prosecutions.

8 ***-1261/5.542* *-1267/P1.118* SECTION 1459.** 49.197 (4) of the statutes is
9 amended to read:

10 **49.197 (4) COUNTY AND TRIBAL ERROR REDUCTION.** If the department of health and
11 family services contracts with the department under sub. (5), the department shall
12 provide funds from the appropriation under s. ~~20.445 (3)~~ 20.437 (2) (kx) to counties
13 and governing bodies of federally recognized American Indian tribes administering
14 Medical Assistance under subch. IV, the food stamp program under 7 USC 2011 to
15 2036, the supplemental security income payments program under s. 49.77, the
16 program providing payments for the support of children of supplemental security
17 income recipients under s. 49.775, and the Badger Care health care program under
18 s. 49.665 to offset administrative costs of reducing payment errors in those programs.

19 ***-0905/3.23* SECTION 1460.** 49.22 (2m) (a) of the statutes is amended to read:

20 **49.22 (2m) (a)** The department may request from any person in this state
21 information it determines appropriate and necessary for the administration of this
22 section, ss. 49.141 to 49.161, 49.19, 49.46, 49.468 and, 49.47, and 49.471 and
23 programs carrying out the purposes of 7 USC 2011 to 2029. Unless access to the
24 information is prohibited or restricted by law, or unless the person has good cause,
25 as determined by the department in accordance with federal law and regulations, for

1 refusing to cooperate, the person shall make a good faith effort to provide this
2 information within 7 days after receiving a request under this paragraph. Except
3 as provided in subs. (2p) and (2r) and subject to sub. (12), the department or the
4 county child support agency under s. 59.53 (5) may disclose information obtained
5 under this paragraph only in the administration of this section, ss. 49.141 to 49.161,
6 49.19, 49.46 and, 49.47, and 49.471 and programs carrying out the purposes of 7 USC
7 2011 to 2029. Employees of the department or a county child support agency under
8 s. 59.53 (5) are subject to s. 49.83.

9 ***-0905/3.24* SECTION 1461.** 49.22 (2m) (b) of the statutes is amended to read:
10 49.22 (2m) (b) The department or county child support agency under s. 59.53
11 (5) may issue a subpoena, in substantially the form authorized under s. 885.02, to
12 compel the production of financial information and other documentary evidence in
13 the administration of this section, ss. 49.145, 49.19, 49.46 and, 49.47, and 49.471 and
14 programs carrying out the purposes of 7 USC 2011 to 2029.

15 ***-0905/3.25* SECTION 1462.** 49.22 (2m) (c) 3. of the statutes is amended to
16 read:

17 49.22 (2m) (c) 3. Any other action taken in good faith to comply with this section
18 or a subpoena described in par. (bc) or to comply with a request for information or
19 access to records from the department or a county child support agency under s. 59.53
20 (5) in the administration of this section, ss. 49.145, 49.19, 49.46 and, 49.47, and
21 49.471 and programs carrying out the purposes of 7 USC 2011 to 2029.

22 ***-1261/5.543* *-1261/P3.462* SECTION 1463.** 49.22 (6) of the statutes is
23 amended to read:

24 49.22 (6) The department shall establish, pursuant to federal and state laws,
25 rules and regulations, a uniform system of fees for services provided under this

1 section to individuals not receiving aid under s. 46.261 48.645, 49.19, or 49.47;
2 benefits under s. 49.148, 49.155, or 49.79; foster care maintenance payments under
3 42 USC 670 to 679a; or kinship care payments under s. 48.57 (3m) or long-term
4 kinship care payments under s. 48.57 (3n). The system of fees may take into account
5 an individual's ability to pay. Any fee paid and collected under this subsection may
6 be retained by the county providing the service except for the fee specified in 42 USC
7 653 (e) (2) for federal parent locator services.

8 ***-0905/3.26* SECTION 1464.** 49.22 (6) of the statutes, as affected by 2007
9 Wisconsin Act (this act), is amended to read:

10 49.22 (6) The department shall establish, pursuant to federal and state laws,
11 rules and regulations, a uniform system of fees for services provided under this
12 section to individuals not receiving aid under s. 48.645, 49.19 ~~or~~, 49.47, or 49.471;
13 benefits under s. 49.148, 49.155, or 49.79; foster care maintenance payments under
14 42 USC 670 to 679a; or kinship care payments under s. 48.57 (3m) or long-term
15 kinship care payments under s. 48.57 (3n). The system of fees may take into account
16 an individual's ability to pay. Any fee paid and collected under this subsection may
17 be retained by the county providing the service except for the fee specified in 42 USC
18 653 (e) (2) for federal parent locator services.

****NOTE: This is reconciled s. 49.22 (6). This SECTION has been affected by drafts
with the following LRB numbers: LRB-0905 and LRB-1261.

19 ***-1261/5.544* *-1267/P1.119* SECTION 1465.** 49.22 (7) of the statutes is
20 amended to read:

21 49.22 (7) The department may represent the state in any action to establish
22 paternity or to establish or enforce a support or maintenance obligation. The
23 department may delegate its authority to represent the state in any action to

1 establish paternity or to establish or enforce a support or maintenance obligation
2 under this section to an attorney responsible for support enforcement under s. 59.53
3 (6) (a) pursuant to a contract entered into under s. 59.53 (5). The department shall
4 ensure that any such contract is for an amount reasonable and necessary to assure
5 quality service. The department may, by such a contract, authorize a county to
6 contract with any attorney, collection agency or other person to collect unpaid child
7 support or maintenance. If a county fails to fully implement the programs under s.
8 59.53 (5), the department may implement them and may contract with any
9 appropriate person to obtain necessary services. The department shall establish a
10 formula for disbursing funds appropriated under s. ~~20.445 (3)~~ 20.437 (2) (md) to carry
11 out a contract under this subsection.

12 ***-1523/3.3* SECTION 1466.** 49.24 (1) of the statutes is amended to read:

13 49.24 (1) From the appropriation under s. 20.445 (3) (k) (b), the department
14 shall provide child support incentive payments to counties. Total payments In fiscal
15 year 2007-08, amounts allocated by the department under this subsection may not
16 exceed \$2,750,000, plus any amounts not obligated in the prior fiscal year. Beginning
17 with fiscal year 2008-09, amounts allocated under this subsection may not exceed
18 \$5,690,000 \$5,500,000 per fiscal year, plus any amounts not obligated in the prior
19 fiscal year.

20 ***-1261/5.545* *-1267/P1.120* SECTION 1467.** 49.24 (1) of the statutes, as
21 affected by 2007 Wisconsin Act ... (this act), is amended to read:

22 49.24 (1) From the appropriation under s. ~~20.445 (3)~~ 20.437 (2) (b), the
23 department shall provide child support incentive payments to counties. In fiscal
24 year 2007-08, amounts allocated by the department under this subsection may not
25 exceed \$2,750,000, plus any amounts not obligated in the prior fiscal year. Beginning

1 with fiscal year 2008-09, amounts allocated under this subsection may not exceed
2 \$5,500,000 per fiscal year, plus any amounts not obligated in the prior fiscal year.

****NOTE: This is reconciled s. 49.24 (1). This SECTION has been affected by drafts
with the following LRB numbers: -1261 and -1523.

3 ***-1523/3.4* SECTION 1468.** 49.24 (2) (b) (intro.) of the statutes is amended to
4 read:

5 49.24 (2) (b) (intro.) Subject to the ~~incentive payments limit~~ specified in par.
6 (a), the department shall distribute to counties, in accordance with the formula
7 established under par. (a), all of the following:

8 ***-1523/3.5* SECTION 1469.** 49.24 (2) (d) of the statutes is repealed.

9 ***-1261/5.546* *-1267/P1.121* SECTION 1470.** 49.26 (1) (d) of the statutes is
10 amended to read:

11 49.26 (1) (d) A county department or Wisconsin works Works agency that
12 provides services under this subsection directly shall develop a plan, in coordination
13 with the school districts located in whole or in part in the county, describing the
14 assistance that the county department or Wisconsin works Works agency and school
15 districts will provide to individuals receiving services under this subsection, the
16 number of individuals that will be served and the estimated cost of the services. The
17 county department or Wisconsin works Works agency shall submit the plan to the
18 department of ~~workforce development~~ and the department of public instruction by
19 January 15, annually.

20 ***-0486/1.2* SECTION 1471.** 49.26 (1) (g) (intro.) of the statutes is amended to
21 read:

22 49.26 (1) (g) (intro.) An individual who is a dependent child in a Wisconsin
23 works Works group that includes a participant under s. 49.147 (3), (3m), (4), or (5)

1 or who is a recipient of aid under s. 49.19 is subject to the school attendance
2 requirement under par. (ge) if all of the following apply:

3 ***-0486/1.3* SECTION 1472.** 49.26 (1) (h) 1s. b. of the statutes is amended to
4 read:

5 49.26 (1) (h) 1s. b. An individual who is a dependent child in a Wisconsin works
6 Works group that includes a participant under s. 49.147 (3), (3m), (4), or (5) and who
7 fails to meet the school attendance requirement under par. (ge) is subject to a
8 monthly sanction.

9 ***-1261/5.547* *-1261/P3.463* SECTION 1473.** 49.27 of the statutes is created
10 to read:

11 **49.27 Legal actions.** The department may sue and be sued.

12 ***-1261/5.548* *-1261/P3.464* SECTION 1474.** 49.273 of the statutes is created
13 to read:

14 **49.273 Research, investigations.** The secretary shall plan for and establish
15 within the department a program of research designed to determine the
16 effectiveness of the treatment, curative, and rehabilitative programs of the various
17 divisions of the department. The secretary may inquire into any matter affecting
18 children and families, hold hearings, subpoena witnesses and make
19 recommendations on those matters to the appropriate public or private agencies.

20 ***-1261/5.549* *-1261/P3.465* SECTION 1475.** 49.275 of the statutes is
21 amended to read:

22 **49.275 Cooperation with federal government.** The department may
23 cooperate with the federal government in carrying out federal acts concerning public
24 assistance under this subchapter and child welfare under ch. 48 and in other matters

1 of mutual concern under this subchapter pertaining to public welfare and under ch.
2 48 pertaining to child welfare.

3 ***-1261/5.550* *-1261/P3.466* SECTION 1476.** 49.32 (1) (a) of the statutes is
4 amended to read:

5 49.32 (1) (a) The Except as provided in s. 49.345 (14) (b) and (c), the department
6 shall establish a uniform system of fees for services provided or purchased under this
7 subchapter and ch. 48 by the department, or a county department under s. 46.215,
8 46.22, or 46.23, except as provided in s. 49.22 (6) and except where when, as
9 determined by the department, a fee is administratively unfeasible or would
10 significantly prevent accomplishing the purpose of the service. A county department
11 under s. 46.215, 46.22 or 46.23 shall apply the fees which that it collects under this
12 program to cover the cost of such those services.

13 ***-1261/5.551* *-1261/P3.467* SECTION 1477.** 49.32 (1) (am) of the statutes is
14 created to read:

15 49.32 (1) (am) Paragraph (a) does not prevent the department from charging
16 and collecting the cost of adoptive placement investigations and child care as
17 authorized under s. 48.837 (7).

18 ***-1261/5.552* *-1261/P3.468* SECTION 1478.** 49.32 (1) (b) of the statutes is
19 amended to read:

20 49.32 (1) (b) Any Except as provided in s. 49.345 (14) (b) and (c), any person
21 receiving services provided or purchased under par. (a) or the spouse of the person
22 and, in the case of a minor, the parents of the person, and, in the case of a foreign child
23 described in s. 48.839 (1) who became dependent on public funds for his or her
24 primary support before an order granting his or her adoption, the resident of this
25 state appointed guardian of the child by a foreign court who brought the child into

1 this state for the purpose of adoption, shall be liable for the services in the amount
2 of the fee established under par. (a).

3 ~~*-1261/5.553* *-1261/P3.469* SECTION 1479.~~ 49.32 (1) (c) of the statutes is
4 amended to read:

5 49.32 (1) (c) The department shall make collections from the person who in the
6 opinion of the department is best able to pay, giving due regard to the present needs
7 of the person or of his or her lawful dependents. The department may bring an action
8 in the name of the department to enforce the liability established under par. (b). This
9 paragraph does not apply to the recovery of fees for the care and services specified
10 under s. 49.345.

11 ~~*-1261/5.554* *-1261/P3.470* SECTION 1480.~~ 49.32 (2) (d) of the statutes is
12 created to read:

13 49.32 (2) (d) The department shall disburse from state or federal funds or both
14 the entire amount and charge the county for its share under s. 48.569.

15 ~~*-1261/5.555* *-1261/P3.471* SECTION 1481.~~ 49.32 (9) (a) of the statutes is
16 amended to read:

17 49.32 (9) (a) Each county department under s. 46.215, 46.22, or 46.23
18 administering aid to families with dependent children shall maintain a monthly
19 report at its office showing the names of all persons receiving aid to families with
20 dependent children together with the amount paid during the preceding month.
21 Each Wisconsin works Works agency administering Wisconsin works Works under
22 ss. 49.141 to 49.161 shall maintain a monthly report at its office showing the names
23 of all persons receiving benefits under s. 49.148 together with the amount paid
24 during the preceding month. Nothing in this paragraph shall be construed to
25 authorize or require the disclosure in the report of any information (names, amounts

1 of aid or otherwise) pertaining to adoptions, or aid furnished for the care of children
2 in foster homes or treatment foster homes under s. ~~46.261~~ 48.645 or 49.19 (10).

3 ***-1261/5.556* *-1267/P1.122* SECTION 1482.** 49.32 (11) of the statutes is
4 renumbered 103.005 (21) and amended to read:

5 103.005 (21) ~~COMMUNITY ACTION AGENCIES.~~ The department shall distribute all
6 of the funds under s. 20.445 (3) (1) (cr) to community action agencies and
7 organizations, including any of the 11 federally recognized tribal governing bodies
8 in this state and limited-purpose agencies, in proportion to the share of funds
9 actually allocated to these entities under 42 USC 1315 and from other federal and
10 private foundation sources that provide funds for job creation and development for
11 individuals with low incomes.

12 ***-1261/5.557* *-1261/P3.472* SECTION 1483.** 49.32 (11m) of the statutes is
13 created to read:

14 49.32 (11m) **CONSOLIDATION OF ALLOCATED TRIBAL FUNDS.** The department may
15 consolidate funds appropriated under s. 20.437 that are authorized or required to be
16 allocated to federally recognized American Indian tribes or bands into a single
17 distribution for each tribe or band in each fiscal year.

18 ***-1261/5.558* *-1261/P3.473* SECTION 1484.** 49.32 (12) of the statutes is
19 amended to read:

20 49.32 (12) **ADMINISTRATIVE HEARINGS AND APPEALS.** Any hearing under s. 227.42
21 granted by the department under this subchapter or ch. 48 may be conducted before
22 the division of hearings and appeals in the department of administration.

23 ***-1261/5.559* *-1261/P3.474* SECTION 1485.** 49.325 (1) (a) of the statutes is
24 amended to read:

1 49.325 (1) (a) Each county department under s. 46.215, 46.22, or 46.23 shall
2 submit its final budget for services directly provided or purchased under this
3 subchapter or ch. 48 to the department by December 31 annually.

4 ***-1261/5.560*** ***-1261/P3.475*** **SECTION 1486.** 49.325 (2) of the statutes is
5 amended to read:

6 49.325 (2) **ASSESSMENT OF NEEDS.** Before developing and submitting a proposed
7 budget for services directly provided or purchased under this subchapter or ch. 48
8 to the county executive or county administrator or the county board, the county
9 departments listed in sub. (1) shall assess needs and inventory resources and
10 services, using an open public participation process.

11 ***-1261/5.561*** ***-1261/P3.476*** **SECTION 1487.** 49.325 (2g) (a) of the statutes
12 is amended to read:

13 49.325 (2g) (a) The department shall annually submit to the county board of
14 supervisors in a county with a single-county department or the county boards of
15 supervisors in counties with a multicounty department a proposed written contract
16 containing the allocation of funds for services directly provided or purchased under
17 this subchapter or ch. 48 and such administrative requirements as necessary. The
18 contract as approved may contain conditions of participation consistent with federal
19 and state law. The contract may also include provisions necessary to ensure uniform
20 cost accounting of services. Any changes to the proposed contract shall be mutually
21 agreed upon. The county board of supervisors in a county with a single-county
22 department or the county boards of supervisors in counties with a multicounty
23 department shall approve the contract before January 1 of the year in which it takes
24 effect unless the department grants an extension. The county board of supervisors
25 in a county with a single-county department or the county boards of supervisors in

1 counties with a multicounty department may designate an agent to approve addenda
2 to any contract after the contract has been approved.

3 ***-1261/5.562* *-1261/P3.477* SECTION 1488.** 49.325 (2g) (c) of the statutes
4 is amended to read:

5 49.325 (2g) (c) The joint committee on finance may require the department to
6 submit contracts between county departments under ss. 46.215, 46.22, and 46.23
7 and providers of services under this subchapter or ch. 48 to the committee for review
8 and approval.

9 ***-1261/5.563* *-1261/P3.478* SECTION 1489.** 49.325 (2r) (a) 1. of the statutes
10 is amended to read:

11 49.325 (2r) (a) 1. For services under this subchapter ~~which~~ or ch. 48 that
12 duplicate or are inconsistent with services being provided or purchased by the
13 department or other county departments receiving grants-in-aid or reimbursement
14 from the department.

15 ***-1261/5.564* *-1261/P3.479* SECTION 1490.** 49.325 (2r) (a) 2. of the statutes
16 is amended to read:

17 49.325 (2r) (a) 2. Inconsistent with state or federal statutes, rules, or
18 regulations, in which case the department may also arrange for provision of services
19 under this subchapter or ch. 48 by an alternate agency. The department may not
20 arrange for provision of services by an alternate agency unless the joint committee
21 on finance or a review body designated by the committee reviews and approves the
22 department's determination.

23 ***-1261/5.565* *-1261/P3.480* SECTION 1491.** 49.325 (3) (a) of the statutes is
24 amended to read:

1 49.325 (3) (a) *Citizen advisory committee.* Except as provided in par. (b), the
2 county board of supervisors of each county or the county boards of supervisors of 2
3 or more counties jointly shall establish a citizen advisory committee to the county
4 departments under ss. 46.215, 46.22 and 46.23. The citizen advisory committee shall
5 advise in the formulation of the budget under sub. (1). Membership on the committee
6 shall be determined by the county board of supervisors in a county with a
7 single-county committee or by the county boards of supervisors in counties with a
8 multicounty committee and shall include representatives of those persons receiving
9 services, providers of services and citizens. A majority of the members of the
10 committee shall be citizens and consumers of services. At least one member of the
11 committee shall be chosen from the governing or administrative board of the
12 community action agency serving the county or counties under s. 49.265, if any. The
13 committee's membership may not consist of more than 25% county supervisors, nor
14 of more than 20% services providers. The chairperson of the committee shall be
15 appointed by the county board of supervisors establishing it. In the case of a
16 multicounty committee, the chairperson shall be nominated by the committee and
17 approved by the county boards of supervisors establishing it. The county board of
18 supervisors in a county with a single-county committee or the county boards of
19 supervisors in counties with a multicounty committee may designate an agent to
20 determine the membership of the committee and to appoint the committee
21 chairperson or approve the nominee.

22 *-1261/5.566* *-1261/P3.481* SECTION 1492. 49.34 (1) of the statutes is
23 amended to read:

24 49.34 (1) All services under this subchapter and ch. 48 purchased by the
25 department or by a county department under s. 46.215, 46.22, or 46.23 shall be

1 authorized and contracted for under the standards established under this section.
2 The department may require the county departments to submit the contracts to the
3 department for review and approval. For purchases of \$10,000 or less the
4 requirement for a written contract may be waived by the department. No contract
5 is required for care provided by foster homes or treatment foster homes that are
6 required to be licensed under s. 48.62. When the department directly contracts for
7 services, it shall follow the procedures in this section in addition to meeting
8 purchasing requirements established in s. 16.75.

9 *~~1261/5.567~~* *~~1261/P3.482~~* SECTION 1493. 49.34 (2) of the statutes is
10 amended to read:

11 49.34 (2) All services purchased under this subchapter and ch. 48 shall meet
12 standards established by the department and other requirements specified by the
13 purchaser in the contract. Based on these standards the department shall establish
14 standards for cost accounting and management information systems that shall
15 monitor the utilization of the services, and document the specific services in meeting
16 the service plan for the client and the objective of the service.

17 *~~1261/5.568~~* *~~1261/P3.483~~* SECTION 1494. 49.34 (4) (a) of the statutes is
18 amended to read:

19 49.34 (4) (a) Except as provided in this subsection, maintain a uniform double
20 entry accounting system and a management information system which are
21 compatible with cost accounting and control systems prescribed by the department.
22 The department shall establish a simplified double-entry bookkeeping system for
23 use by family-operated group homes. Each purchaser shall determine whether a
24 family-operated group home from which it purchases services shall use the
25 double-entry accounting system or the simplified system and shall include this

1 determination in the purchase of service contract. In this paragraph,
2 “family-operated group home” means a group home licensed under s. 48.66 (1) (a) for
3 which the licensee is one or more individuals who operate not more than one group
4 home.

5 ***-1261/5.569* *-1261/P3.484* SECTION 1495.** 49.34 (4) (c) of the statutes is
6 amended to read:

7 49.34 (4) (c) Unless waived by the department, biennially, or annually if
8 required under federal law, provide the purchaser with a certified financial and
9 compliance audit report if the care and services purchased exceed \$25,000. The audit
10 shall follow standards that the department prescribes. A purchaser may waive the
11 requirements of this paragraph for any family-operated group home, as defined in
12 par. (a), from which it purchases services.

13 ***-1261/5.570* *-1261/P3.485* SECTION 1496.** 49.34 (5m) (a) 1. of the statutes
14 is amended to read:

15 49.34 (5m) (a) 1. “Provider” means a nonstock corporation organized under ch.
16 181 that is a nonprofit corporation, as defined in s. 181.0103 (17), and that contracts
17 under this section to provide client services on the basis of a unit rate per client
18 service or a county department under s. 46.215, 46.22, 46.23, 51.42, or 51.437 that
19 contracts under this section to provide client services on the basis of a unit rate per
20 client service.

21 ***-1261/5.571* *-1261/P3.486* SECTION 1497.** 49.34 (5m) (b) 1. of the statutes
22 is amended to read:

23 49.34 (5m) (b) 1. Subject to subds. 2. and 3. and par. (em), if revenue under a
24 contract for the provision of a rate-based service exceeds allowable costs incurred in
25 the contract period, the provider may retain from the surplus generated by that

1 rate-based service up to 5% of the contract amount. A provider that retains a surplus
2 under this subdivision shall use that retained surplus to cover a deficit between
3 revenue and allowable costs incurred in any preceding or future contract period for
4 the same rate-based service that generated the surplus or to address the
5 programmatic needs of clients served by the same rate-based service that generated
6 the surplus.

7 ***-1261/5.572* *-1261/P3.487* SECTION 1498.** 49.34 (5m) (b) 2. of the statutes
8 is amended to read:

9 49.34 (5m) (b) 2. Subject to subd. 3. and par. (em), a provider may accumulate
10 funds from more than one contract period under this paragraph, except that, if at the
11 end of a contract period the amount accumulated from all contract periods for a
12 rate-based service exceeds 10% of the amount of all current contracts for that
13 rate-based service, the provider shall, at the request of a purchaser, return to that
14 purchaser the purchaser's proportional share of that excess and use any of that
15 excess that is not returned to a purchaser to reduce the provider's unit rate per client
16 for that rate-based service in the next contract period. If a provider has held for 4
17 consecutive contract periods an accumulated reserve for a rate-based service that
18 is equal to or exceeds 10% of the amount of all current contracts for that rate-based
19 service, the provider shall apply 50% of that accumulated amount to reducing its unit
20 rate per client for that rate-based service in the next contract period.

21 ***-1261/5.573* *-1261/P3.488* SECTION 1499.** 49.34 (5m) (em) of the statutes
22 is created to read:

23 49.34 (5m) (em) Notwithstanding par. (b) 1. and 2., a county department under
24 s. 46.215, 51.42, or 51.437 providing client services in a county having a population
25 of 500,000 or more or a nonstock, nonprofit corporation providing client services in

1 such a county may not retain a surplus under par. (b) 1. or accumulate funds under
2 par. (b) 2. from revenues that are used to meet the maintenance-of-effort
3 requirement under the federal temporary assistance for needy families program
4 under 42 USC 601 to 619.

5 ***-1261/5.574* *-1261/P3.489* SECTION 1500.** 49.345 of the statutes is created
6 to read:

7 **49.345 Cost of care and maintenance; liability; collection and**
8 **deportation counsel; collections; court actions; recovery.** (1) Liability and
9 the collection and enforcement of such liability for the care, maintenance, services,
10 and supplies specified in this section are governed exclusively by this section, except
11 in cases of child support ordered by a court under s. 48.355 (2) (b) 4., 48.357 (5m) (a),
12 or 48.363 (2) or ch. 767.

13 (2) Except as provided in sub. (14) (b) and (c), any person, including but not
14 limited to a person placed under s. 48.345 (3) or 48.357 (1) or (2m), receiving care,
15 maintenance, services, and supplies provided by any institution in this state, in
16 which the state is chargeable with all or part of the person's care, maintenance,
17 services, and supplies, and the person's property and estate, including the
18 homestead, and the spouse of the person, and the spouse's property and estate,
19 including the homestead, and, in the case of a minor child, the parents of the person,
20 and their property and estates, including their homestead, and, in the case of a
21 foreign child described in s. 48.839 (1) who became dependent on public funds for his
22 or her primary support before an order granting his or her adoption, the resident of
23 this state appointed guardian of the child by a foreign court who brought the child
24 into this state for the purpose of adoption, and his or her property and estate,
25 including his or her homestead, shall be liable for the cost of the care, maintenance,

1 services, and supplies in accordance with the fee schedule established by the
2 department under s. 49.32 (1). If a spouse, widow, or minor, or an incapacitated
3 person may be lawfully dependent upon the property for his or her support, the court
4 shall release all or such part of the property and estate from the charges that may
5 be necessary to provide for the person. The department shall make every reasonable
6 effort to notify the liable persons as soon as possible after the beginning of the
7 maintenance, but the notice or the receipt thereof is not a condition of liability.

8 (3) After investigation of the liable persons' ability to pay, the department shall
9 make collection from the person who in the opinion of the department under all of
10 the circumstances is best able to pay, giving due regard to relationship and the
11 present needs of the person or of the lawful dependents. However, the liability of
12 relatives for maintenance shall be in the following order: first, the spouse of the
13 person; then, in the case of a minor, the parent or parents.

14 (4) (a) If a person liable under sub. (2) fails to make payment or enter into or
15 comply with an agreement for payment, the department may bring an action to
16 enforce the liability or may issue an order to compel payment of the liability. Any
17 person aggrieved by an order issued by the department under this paragraph may
18 appeal the order as a contested case under ch. 227 by filing with the department a
19 request for a hearing within 30 days after the date of the order.

20 (b) If judgment is rendered in an action brought under par. (a) for any balance
21 that is 90 or more days past due, interest at the rate of 12 percent per year shall be
22 computed by the clerk and added to the liable person's costs. That interest shall
23 begin on the date on which payment was due and shall end on the day before the date
24 of any interest that is computed under s. 814.04 (4).

1 (c) If the department issues an order to compel payment under par. (a), interest
2 at the rate of 12 percent per year shall be computed by the department and added
3 at the time of payment to the person's liability. That interest shall begin on the date
4 on which payment was due and shall end on the day before the date of final payment.

5 (5) If any person named in an order to compel payment issued under sub. (4)

6 (a) fails to pay the department any amount due under the terms of the order, and no
7 contested case to review the order is pending, and the time for filing for a contested
8 case review has expired, the department may present a certified copy of the order to
9 the circuit court for any county. The circuit court shall, without notice, render
10 judgment in accordance with the order. A judgment rendered under this subsection
11 shall have the same effect and shall be entered in the judgment and lien docket and
12 may be enforced in the same manner as if the judgment had been rendered in an
13 action tried and determined by the circuit court.

14 (6) The sworn statement of the collection and deportation counsel, or of the
15 secretary, shall be evidence of the fee and of the care and services received by the
16 person.

17 (7) The department shall administer and enforce this section. It shall appoint
18 an attorney to be designated "collection and deportation counsel" and other
19 necessary assistants. The department may delegate to the collection and
20 deportation counsel such other powers and duties as it considers advisable. The
21 collection and deportation counsel or any of the assistants may administer oaths,
22 take affidavits and testimony, examine public records, and subpoena witnesses and
23 the production of books, papers, records, and documents material to any matter of
24 proceeding relating to payments for the cost of maintenance. The department shall

1 encourage agreements or settlements with the liable person, having due regard to
2 ability to pay and the present needs of lawful dependents.

3 (8) The department may do any of the following:

4 (a) Appear for the state in any and all collection and deportation matters
5 arising in the several courts, and may commence suit in the name of the department
6 to recover the cost of maintenance against the person liable therefor.

7 (b) Determine whether any person is subject to deportation, and on behalf of
8 this state enter into reciprocal agreements with other states for deportation and
9 importation of persons who are public charges, upon such terms as will protect the
10 state's interests and promote mutual amicable relations with other states.

11 (c) From time to time investigate the financial condition and needs of persons
12 liable under sub. (2), their present ability to maintain themselves, the persons legally
13 dependent upon them for support, the protection of the property and investments
14 from which they derive their living and their care and protection, for the purpose of
15 ascertaining the person's ability to make payment in whole or in part.

16 (d) After due regard to the case and to a spouse and minor children who are
17 lawfully dependent on the property for support, compromise or waive any portion of
18 any claim of the state or county for which a person specified under sub. (2) is liable,
19 but not any claim payable by an insurer under s. 632.89 (2) or (2m) or by any other
20 3rd party.

21 (e) Make an agreement with a person who is liable under sub. (2), or who may
22 be willing to assume the cost of maintenance of any person, providing for the
23 payment of such costs at a specified rate or amount.

24 (f) Make adjustment and settlement with the several counties for their proper
25 share of all moneys collected.

1 (g) Pay quarterly from the appropriation under s. 20.437 (1) (gg) the collection
2 moneys due county departments under ss. 46.22 and 46.23. Payments shall be made
3 as soon after the close of each quarter as is practicable.

4 (9) Any person who willfully testifies falsely as to any material matter in an
5 investigation or proceeding under this section shall be guilty of perjury. Banks,
6 employers, insurers, savings banks, savings and loan associations, brokers, and
7 fiduciaries, upon request of the department, shall furnish in writing and duly
8 certified, full information regarding the property, earnings, or income or any funds
9 deposited to the credit of or owing to any person liable under sub. (2). That certified
10 statement shall be admissible in evidence in any action or proceeding to compel
11 payment under this section, and shall be evidence of the facts stated in the certified
12 statement, if a copy of the statement is served upon the party sought to be charged
13 not less than 3 days before the hearing.

14 (10) The department shall make all reasonable and proper efforts to collect all
15 claims for maintenance, to keep payments current, and periodically to review all
16 unpaid claims.

17 (11) (a) Except as provided in par. (b), in any action to recover from a person
18 liable under this section, the statute of limitations may be pleaded in defense.

19 (b) If a person who is liable under this section is deceased, a claim may be filed
20 against the decedent's estate and the statute of limitations specified in s. 859.02 shall
21 be exclusively applicable. This paragraph applies to liability incurred on or after
22 July 20, 1985.

23 (14) (a) Except as provided in pars. (b) and (c), liability of a person specified in
24 sub. (2) or s. 49.32 (1) for care and maintenance of persons under 18 years of age in
25 residential, nonmedical facilities such as group homes, foster homes, treatment

1 foster homes, subsidized guardianship homes, and residential care centers for
2 children and youth is determined in accordance with the cost-based fee established
3 under s. 49.32 (1). The department shall bill the liable person up to any amount of
4 liability not paid by an insurer under s. 632.89 (2) or (2m) or by other 3rd-party
5 benefits, subject to rules that include formulas governing ability to pay established
6 by the department under s. 49.32 (1). Any liability of the person not payable by any
7 other person terminates when the person reaches age 18, unless the liable person has
8 prevented payment by any act or omission.

9 (b) Except as provided in par. (c), and subject to par. (cm), liability of a parent
10 specified in sub. (2) or s. 49.32 (1) for the care and maintenance of the parent's minor
11 child who has been placed by a court order under s. 48.355 or 48.357 in a residential,
12 nonmedical facility such as a group home, foster home, treatment foster home,
13 subsidized guardianship home, or residential care center for children and youth
14 shall be determined by the court by using the percentage standard established by the
15 department under s. 49.22 (9) and by applying the percentage standard in the
16 manner established by the department under par. (g).

17 (c) Upon request by a parent, the court may modify the amount of child support
18 payments determined under par. (b), subject to par. (cm), if, after considering the
19 following factors, the court finds by the greater weight of the credible evidence that
20 the use of the percentage standard is unfair to the child or to either of the parents:
21 1. The needs of the child.
22 2. The physical, mental, and emotional health needs of the child, including any
23 costs for the child's health insurance provided by a parent.

- 1 3. The standard of living and circumstances of the parents, including the needs
- 2 of each parent to support himself or herself at a level equal to or greater than that
- 3 established under 42 USC 9902 (2).
- 4 4. The financial resources of the parents.
- 5 5. The earning capacity of each parent, based on each parent's education,
- 6 training, and work experience and based on the availability of work in or near the
- 7 parent's community.
- 8 6. The need and capacity of the child for education, including higher education.
- 9 7. The age of the child.
- 10 8. The financial resources and the earning ability of the child.
- 11 9. The needs of any person, including dependent children other than the child,
- 12 whom either parent is legally obligated to support.
- 13 10. The best interests of the child, including, but not limited to, the impact on
- 14 the child of expenditures by the family for improvement of any conditions in the home
- 15 that would facilitate the reunification of the child with the child's family, if
- 16 appropriate, and the importance of a placement that is the least restrictive of the
- 17 rights of the child and the parents and the most appropriate for meeting the needs
- 18 of the child and the family.
- 19 11. Any other factors that the court in each case determines are relevant.
- 20 (cm) 1. Except as provided in subd. 2., if a parent who is required to pay child
- 21 support under par. (b) or (c) is receiving adoption assistance under s. 48.975 for the
- 22 child for whom support is ordered, the amount of the child support payments
- 23 determined under par. (b) or (c) may not exceed the amount of the adoption assistance
- 24 maintenance payments under s. 48.975 (3) (a). If an agreement under s. 48.975 (4)
- 25 is in effect that provides for a payment of \$0 under s. 48.975 (3) (a), the payment of

1 \$0 shall be considered to be an adoption assistance maintenance payment for
2 purposes of this subdivision.

3 2. Subdivision 1. does not apply if, after considering the factors under par. (c)
4 1. to 11., the court finds by the greater weight of the credible evidence that limiting
5 the amount of the child support payments to the amount of the adoption assistance
6 maintenance payments under s. 48.975 (3) (a) is unfair to the child or to either of the
7 parents.

8 (d) If the court finds under par. (c) that use of the percentage standard is unfair
9 to the minor child or either of the parents, the court shall state in writing or on the
10 record the amount of support that would be required by using the percentage
11 standard, the amount by which the court's order deviates from that amount, its
12 reasons for finding that use of the percentage standard is unfair to the child or the
13 parent, its reasons for the amount of the modification, and the basis for the
14 modification.

15 (e) 1. An order issued under s. 48.355 (2) (b) 4., 48.357 (5m) (a), or 48.363 (2)
16 for support determined under this subsection constitutes an assignment of all
17 commissions, earnings, salaries, wages, pension benefits, benefits under ch. 102 or
18 108, and other money due or to be due in the future to the county department under
19 s. 46.22 or 46.23 in the county where the order was entered or to the department,
20 depending upon the placement of the child as specified by rules promulgated under
21 subd. 5. The assignment shall be for an amount sufficient to ensure payment under
22 the order.

23 2. Except as provided in subd. 3., for each payment made under the assignment,
24 the person from whom the payer under the order receives money shall receive an

1 amount equal to the person's necessary disbursements, not to exceed \$3, which shall
2 be deducted from the money to be paid to the payer.

3 3. Benefits under ch. 108 may be assigned and withheld only in the manner
4 provided in s. 108.13 (4). Any order to withhold benefits under ch. 108 shall be for
5 an amount certain. When money is to be withheld from these benefits, no fee may
6 be deducted from the amount withheld and no fine may be levied for failure to
7 withhold the money.

8 4. No employer may use an assignment under this paragraph as a basis for the
9 denial of employment to a person, the discharge of an employee, or any disciplinary
10 action against an employee. An employer who denies employment or discharges or
11 disciplines an employee in violation of this subdivision may be fined not more than
12 \$500 and may be required to make full restitution to the aggrieved person, including
13 reinstatement and back pay. Except as provided in this subdivision, restitution shall
14 be in accordance with s. 973.20. An aggrieved person may apply to the district
15 attorney or to the department of workforce development for enforcement of this
16 subdivision.

17 5. The department shall promulgate rules for the operation and
18 implementation of assignments under this paragraph.

19 (f) If the amount of the child support determined under this subsection is
20 greater than the cost for the care and maintenance of the minor child in the
21 residential, nonmedical facility, the assignee under par. (e) 1. shall expend or
22 otherwise dispose of any funds that are collected in excess of the cost of such care and
23 maintenance in a manner that the assignee determines will serve the best interests
24 of the minor child.

1 **(16)** The department shall delegate to county departments under ss. 46.22 and
2 46.23 or the local providers of care and services meeting the standards established
3 by the department under s. 49.34 the responsibilities vested in the department under
4 this section for collection of fees for services other than those provided at state
5 facilities, if the county departments or providers meet the conditions that the
6 department determines are appropriate. The department may delegate to county
7 departments under ss. 46.22 and 46.23 the responsibilities vested in the department
8 under this section for collection of fees for services provided at the state facilities if
9 the necessary conditions are met.

10 ***-1261/5.575*** ***-1261/P3.490*** **SECTION 1501.** 49.35 (1) (a) of the statutes is
11 amended to read:

12 49.35 (1) (a) The department shall supervise the administration of programs
13 under this subchapter and ch. 48. The department shall submit to the federal
14 authorities state plans for the administration of programs under this subchapter and
15 ch. 48 in such form and containing such information as the federal authorities
16 require, and shall comply with all requirements prescribed to ensure their
17 correctness.

18 ***-1261/5.576*** ***-1261/P3.491*** **SECTION 1502.** 49.35 (1) (b) of the statutes is
19 amended to read:

20 49.35 (1) (b) All records of the department and all county records relating to
21 programs under this subchapter and ch. 48 and aid under s. 49.18, 1971 stats., s.
22 49.20, 1971 stats., and s. 49.61, 1971 stats., as affected by chapter 90, laws of 1973,
23 shall be open to inspection at all reasonable hours by authorized representatives of
24 the federal government. Notwithstanding ss. 48.396 (2) and 938.396 (2), all county
25 records relating to the administration of the services and public assistance specified

1 in this paragraph shall be open to inspection at all reasonable hours by authorized
2 representatives of the department.

3 ***-1261/5.577* *-1261/P3.492* SECTION 1503.** 49.35 (2) of the statutes is
4 amended to read:

5 49.35 (2) The county administration of all laws relating to programs under this
6 subchapter and ch. 48 shall be vested in the officers and agencies designated in the
7 statutes.

8 ***-0486/1.4* SECTION 1504.** 49.36 (2) of the statutes is amended to read:

9 49.36 (2) The department may contract with any county, tribal governing body,
10 or Wisconsin Works agency to administer a work experience and job training
11 program for parents who are not custodial parents and who fail to pay child support
12 or to meet their children's needs for support as a result of unemployment or
13 underemployment. The program may provide the kinds of work experience and job
14 training services available from the program under s. 49.193, 1997 stats., or s. 49.147
15 (3), (3m), or (4). The program may also include job search and job orientation
16 activities. The department shall fund the program from the appropriations under
17 s. 20.445 (3) (dz) and (k).

18 ***-1261/5.578* *-1267/P1.123* SECTION 1505.** 49.36 (2) of the statutes, as
19 affected by 2007 Wisconsin Act ... (this act), is amended to read:

20 49.36 (2) The department may contract with any county, tribal governing body,
21 or Wisconsin Works agency to administer a work experience and job training
22 program for parents who are not custodial parents and who fail to pay child support
23 or to meet their children's needs for support as a result of unemployment or
24 underemployment. The program may provide the kinds of work experience and job
25 training services available from the program under s. 49.193, 1997 stats., or s. 49.147

1 (3), (3m), or (4). The program may also include job search and job orientation
2 activities. The department shall fund the program from the appropriations under
3 s. ~~20.445 (3)~~ 20.437 (2) (dz) and (k).

****NOTE: This is reconciled s. 49.36 (2). This SECTION has been affected by drafts
with the following LRB numbers: -0486 and -1261.

4 ***-0905/3.27* SECTION 1506.** 49.45 (2) (a) 1. of the statutes is amended to read:
5 49.45 (2) (a) 1. Exercise responsibility relating to fiscal matters, the eligibility
6 for benefits under standards set forth in ss. 49.46 to 49.47 49.471, and general
7 supervision of the medical assistance program.

8 ***-0905/3.28* SECTION 1507.** 49.45 (2) (a) 3. of the statutes is amended to read:
9 49.45 (2) (a) 3. Determine the eligibility of persons for medical assistance,
10 rehabilitative, and social services under ss. 49.46, 49.468, and 49.47, and 49.471 and
11 rules and policies adopted by the department and may, under a contract under s.
12 49.78 (2), delegate all, or any portion, of this function to the county department under
13 s. 46.215, 46.22, or 46.23 or a tribal governing body.

14 ***-0892/11.22* SECTION 1508.** 49.45 (2) (a) 17. of the statutes is amended to
15 read:

16 49.45 (2) (a) 17. Notify the governor, the joint committee on legislative
17 organization, the joint committee on finance and appropriate standing committees,
18 as determined by the presiding officer of each house, if the appropriation accounts
19 under s. 20.435 (4) (b) and ~~(gp)~~ (xd) are insufficient to provide the state share of
20 medical assistance.

21 ***-0905/3.29* SECTION 1509.** 49.45 (2) (b) 3. of the statutes is amended to read:

22 49.45 (2) (b) 3. Audit all claims filed by any contractor making the payment of
23 benefits paid under ss. 49.46 to 49.47 49.471 and make proper fiscal adjustments.

SECTION 1510

1 ***-0905/3.30*** SECTION 1510. 49.45 (2) (b) 7. (intro.) of the statutes is amended
2 to read:

3 49.45 (2) (b) 7. (intro.) Require, as a condition of certification under par. (a) 11.,
4 all providers of a specific service that is among those enumerated under s. 49.46 (2)
5 or, 49.47 (6) (a), or 49.471 (11), as specified in this subdivision, to file with the
6 department a surety bond issued by a surety company licensed to do business in this
7 state. Providers subject to this subdivision provide those services specified under s.
8 49.46 (2) or, 49.47 (6) (a), or 49.471 (11) for which providers have demonstrated
9 significant potential to violate s. 49.49 (1) (a), (2) (a) or (b), (3), (3m) (a), (3p), (4) (a),
10 or (4m) (a), to require recovery under par. (a) 10., or to need additional sanctions
11 under par. (a) 13. The surety bond shall be payable to the department in an amount
12 that the department determines is reasonable in view of amounts of former
13 recoveries against providers of the specific service and the department's costs to
14 pursue those recoveries. The department shall promulgate rules to implement this
15 subdivision that specify all of the following:

16 ***-0330/P6.40*** SECTION 1511. 49.45 (3) (ag) of the statutes is amended to read:
17 49.45 (3) (ag) Reimbursement shall be made to each entity contracted with
18 under s. ~~46.281 (1) (e)~~ 46.283 (2) for functional screens screenings performed by the
19 entity.

20 ***-0905/3.31*** SECTION 1512. 49.45 (3) (b) 1. of the statutes is amended to read:
21 49.45 (3) (b) 1. The contractor, if any, administering benefits or providing
22 prepaid health care under s. 49.46, 49.465, 49.468 or, 49.47, or 49.471 shall be
23 entitled to payment from the department for benefits so paid or prepaid health care
24 so provided or made available when a certification of eligibility is properly on file
25 with the contractor in addition to the payment of administrative expense incurred

1 pursuant to the contract and as provided in sub. (2) (a) 4., but the contractor shall
2 not be reimbursed for benefits erroneously paid where no certification is on file.

3 ***-0905/3.32* SECTION 1513.** 49.45 (3) (b) 2. of the statutes is amended to read:

4 49.45 (3) (b) 2. The contractor, if any, insuring benefits under s. 49.46, 49.465,

5 49.468 or, 49.47, or 49.471 shall be entitled to receive a premium, in an amount and

6 on terms agreed, for such benefits for the persons eligible to receive them and for its

7 services as insurer.

8 ***-0905/3.33* SECTION 1514.** 49.45 (3) (dm) of the statutes is amended to read:

9 49.45 (3) (dm) After distribution of computer software has been made under

10 1993 Wisconsin Act 16, section 9126 (13h), no payment may be made for home health

11 care services provided to persons who are enrolled in the federal medicare program

12 and are recipients of medical assistance under s. 49.46 or, 49.47, or 49.471 unless the

13 provider of the services has in use the computer software to maximize payments

14 under the federal medicare program under 42 USC 1395.

15 ***-0905/3.34* SECTION 1515.** 49.45 (3) (f) 2. of the statutes is amended to read:

16 49.45 (3) (f) 2. The department may deny any provider claim for reimbursement

17 which cannot be verified under subd. 1. or may recover the value of any payment

18 made to a provider which cannot be so verified. The measure of recovery will be the

19 full value of any claim if it is determined upon audit that actual provision of the

20 service cannot be verified from the provider's records or that the service provided was

21 not included in s. 49.46 (2) or 49.471 (11). In cases of mathematical inaccuracies in

22 computations or statements of claims, the measure of recovery will be limited to the

23 amount of the error.

24 ***-0905/3.35* SECTION 1516.** 49.45 (3) (L) 2. of the statutes is amended to read:

1 49.45 (3) (L) 2. The department may not pay a provider for a designated health
2 service that is authorized under this section or s. 49.46 or, 49.47, or 49.471, that is
3 provided as the result of a referral made to the provider by a physician and that,
4 under 42 USC 1396b (s), if made on behalf of a beneficiary of medicare under the
5 requirements of 42 USC 1395nn, as amended to August 10, 1993, would result in the
6 denial of payment for the service under 42 USC 1395nn.

7 ***-0905/3.36* SECTION 1517.** 49.45 (3) (m) of the statutes is amended to read:

8 49.45 (3) (m) To be certified under sub. (2) (a) 11. to provide transportation by
9 specialized medical vehicle, a person must have at least one human service vehicle,
10 as defined in s. 340.01 (23g), that satisfies the requirements imposed under s. 110.05
11 for a vehicle that is used to transport a person in a wheelchair. If a certified provider
12 uses 2 or more vehicles to provide transportation by specialized medical vehicle, at
13 least 2 of the vehicles must be human service vehicles that satisfy the requirements
14 imposed under s. 110.05 for a vehicle that is used to transport a person in a
15 wheelchair, and any 3rd or additional vehicle must be a human service vehicle to
16 which the equipment required under s. 110.05 for transporting a person in a
17 wheelchair may be added. The department shall pay for transportation by
18 specialized medical vehicle under s. 49.46 (2) (b) 3. or 49.471 (11) (m) that is provided
19 in a human service vehicle that is not equipped to transport a person in a wheelchair
20 if the person being transported does not use a wheelchair. The reimbursement rate
21 for transportation by specialized medical vehicle provided in a vehicle that is not
22 equipped to accommodate a wheelchair shall be the same as for transportation by
23 specialized medical vehicle provided in a vehicle that is equipped to accommodate a
24 wheelchair.

1 ***-0892/11.23* SECTION 1518.** 49.45 (5m) (am) of the statutes is amended to
2 read:

3 49.45 (5m) (am) Notwithstanding sub. (3) (e), from the appropriation accounts
4 under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), and (xd), the department shall distribute not
5 more than \$2,256,000 in each fiscal year, to provide supplemental funds to rural
6 hospitals that, as determined by the department, have high utilization of inpatient
7 services by patients whose care is provided from governmental sources, and to
8 provide supplemental funds to critical access hospitals, except that the department
9 may not distribute funds to a rural hospital or to a critical access hospital to the
10 extent that the distribution would exceed any limitation under 42 USC 1396b (i) (3).

11 ***-0905/3.37* SECTION 1519.** 49.45 (6c) (d) 1. of the statutes is amended to read:

12 49.45 (6c) (d) 1. No payment may be made under sub. (6m) to a facility or to
13 an institution for mental diseases for the care of an individual who is otherwise
14 eligible for medical assistance under s. 49.46 ~~or~~, 49.47, or 49.471, who has
15 developmental disability or mental illness and for whom under par. (b) or (c) it is
16 determined that he or she does not need facility care, unless it is determined that the
17 individual requires active treatment for developmental disability or active
18 treatment for mental illness and has continuously resided in a facility or institution
19 for mental diseases for at least 30 months prior to the date of the determination. If
20 that individual requires active treatment and has so continuously resided, he or she
21 shall be offered the choice of receiving active treatment for developmental disability
22 or active treatment for mental illness in the facility or institution for mental diseases
23 or in an alternative setting. A facility resident who has developmental disability or
24 mental illness, for whom under par. (c) it is determined that he or she does not need
25 facility care and who has not continuously resided in a facility for at least 30 months

1 prior to the date of the determination, may not continue to reside in the facility after
2 December 31, 1993, and shall, if the department so determines, be relocated from the
3 facility after March 31, 1990, and before December 31, 1993. The county department
4 shall be responsible for securing alternative residence on behalf of an individual who
5 is required to be relocated from a facility under this subdivision, and the facility shall
6 cooperate with the county department in the relocation.

7 ***-0905/3.38* SECTION 1520.** 49.45 (6c) (d) 2. of the statutes is amended to read:

8 49.45 (6c) (d) 2. Payment may be made under sub. (6m) to a facility or
9 institution for mental diseases for the care of an individual who is otherwise eligible
10 for medical assistance under s. 49.46 ~~or~~ 49.47, or 49.471 and who has developmental
11 disability or mental illness and is determined under par. (b) or (c) to need facility care,
12 regardless of whether it is determined under par. (b) or (c) that the individual does
13 or does not require active treatment for developmental disability or active treatment
14 for mental illness.

15 ***-0892/11.24* SECTION 1521.** 49.45 (6m) (ag) (intro.) of the statutes is
16 amended to read:

17 49.45 (6m) (ag) (intro.) Payment for care provided in a facility under this
18 subsection made under s. 20.435 (4) (b), ~~(gp)~~, (o), (pa), ~~or~~ (w), or (xd) shall, except as
19 provided in pars. (bg), (bm), and (br), be determined according to a prospective
20 payment system updated annually by the department. The payment system shall
21 implement standards that are necessary and proper for providing patient care and
22 that meet quality and safety standards established under subch. II of ch. 50 and ch.
23 150. The payment system shall reflect all of the following:

24 ***-0647/3.2* SECTION 1522.** 49.45 (6m) (ar) 1. a. of the statutes is amended to
25 read:

1 49.45 (6m) (ar) 1. a. The department shall establish standards for payment of
2 allowable direct care costs under par. (am) 1. bm., for facilities that do not primarily
3 serve the developmentally disabled, that take into account direct care costs for a
4 sample of all of those facilities in this state and separate standards for payment of
5 allowable direct care costs, for facilities that primarily serve the developmentally
6 disabled, that take into account direct care costs for a sample of all of those facilities
7 in this state. The standards shall be adjusted by the department for regional labor
8 cost variations. The department shall treat as a single labor region the counties of
9 Dane, Iowa, Columbia, and Sauk, and Rock. For facilities in Douglas, Pierce, and St.
10 Croix counties, the department shall perform the adjustment by use of the wage
11 index that is used by the federal department of health and human services for
12 hospital reimbursement under 42 USC 1395 to 1395ggg.

13 ***-1181/9.19* SECTION 1523.** 49.45 (6m) (br) 1. of the statutes is amended to
14 read:

15 49.45 (6m) (br) 1. Notwithstanding s. 20.410 (3) (cd), (ko), or (r), 20.435 (4) (bt)
16 or (7) (b), or 20.445 (3) (dz), the department shall reduce allocations of funds to
17 counties in the amount of the disallowance from the appropriation account under s.
18 20.435 (4) (bt) or (7) (b), or the department shall direct the department of workforce
19 development to reduce allocations of funds to counties or Wisconsin works agencies
20 in the amount of the disallowance from the appropriation account under s. 20.445 (3)
21 (dz) or direct the department of corrections to reduce allocations of funds to counties
22 in the amount of the disallowance from the appropriation account under s. 20.410 (3)
23 (cd), (ko), or (r) in accordance with s. 16.544 to the extent applicable.

24 ***-1261/5.579* *-1267/P1.124* SECTION 1524.** 49.45 (6m) (br) 1. of the
25 statutes, as affected by 2007 Wisconsin Act ... (this act), is amended to read:

1 49.45 (6m) (br) 1. Notwithstanding s. 20.410 (3) (cd), (ko), or (r), 20.435 (4) (bt)
2 or (7) (b) or ~~20.445 (3)~~ 20.437 (2) (dz), the department shall reduce allocations of funds
3 to counties in the amount of the disallowance from the appropriation account under
4 s. 20.435 (4) (bt) or (7) (b), or the department shall direct the department of ~~workforce~~
5 ~~development~~ children and families to reduce allocations of funds to counties or
6 Wisconsin ~~works~~ Works agencies in the amount of the disallowance from the
7 appropriation account under s. ~~20.445 (3)~~ 20.437 (2) (dz) or direct the department of
8 corrections to reduce allocations of funds to counties in the amount of the
9 disallowance from the appropriation account under s. 20.410 (3) (cd), (ko), or (r) in
10 accordance with s. 16.544 to the extent applicable.

****NOTE: This is reconciled s. 49.45 (6m) (br) 1. This SECTION has been affected by
drafts with the following LRB numbers: -1181 and -1261.

11 ***-0266/3.1* SECTION 1525.** 49.45 (6m) (m) of the statutes is created to read:
12 49.45 (6m) (m) To hold a bed in a facility, the department may pay the full
13 payment rate under this subsection for up to 30 days for services provided to a person
14 during the pendency of an undue hardship determination, as provided in s. 49.453
15 (8) (b) 3.

16 ***-0892/11.25* SECTION 1526.** 49.45 (6v) (b) of the statutes is amended to read:
17 49.45 (6v) (b) The department shall, each year, submit to the joint committee
18 on finance a report for the previous fiscal year, except for the 1997-98 fiscal year, that
19 provides information on the utilization of beds by recipients of medical assistance in
20 facilities and a discussion and detailed projection of the likely balances,
21 expenditures, encumbrances and carry over of currently appropriated amounts in
22 the appropriation accounts under s. 20.435 (4) (b), ~~(gp)~~, and ~~(o)~~, and (xd).

23 ***-0892/11.26* SECTION 1527.** 49.45 (6x) (a) of the statutes is amended to read:

1 49.45 (6x) (a) Notwithstanding sub. (3) (e), from the appropriation accounts
2 under s. 20.435 (4) (b), (~~gp~~), (o), and (w), and (xd), the department shall distribute not
3 more than \$4,748,000 in each fiscal year, to provide funds to an essential access city
4 hospital, except that the department may not allocate funds to an essential access
5 city hospital to the extent that the allocation would exceed any limitation under 42
6 USC 1396b (i) (3).

7 ***-0892/11.27* SECTION 1528.** 49.45 (6y) (a) of the statutes is amended to read:

8 49.45 (6y) (a) Notwithstanding sub. (3) (e), from the appropriation accounts
9 under s. 20.435 (4) (b), (~~gp~~), (o), and (w), and (xd), the department shall may
10 distribute funding in each fiscal year to provide supplemental payment to hospitals
11 that enter into a contract under s. 49.02 (2) to provide health care services funded
12 by a relief block grant, as determined by the department, for hospital services that
13 are not in excess of the hospitals' customary charges for the services, as limited under
14 42 USC 1396b (i) (3). If no relief block grant is awarded under this chapter or if the
15 allocation of funds to such hospitals would exceed any limitation under 42 USC
16 1396b (i) (3), the department may distribute funds to hospitals that have not entered
17 into a contract under s. 49.02 (2).

***NOTE: This is reconciled s. 49.45 (6y) (a). This SECTION has been affected by
drafts with the following LRB numbers: -0892/9 and -1521/5.

18 ***-0892/11.28* SECTION 1529.** 49.45 (6y) (am) of the statutes is amended to
19 read:

20 49.45 (6y) (am) Notwithstanding sub. (3) (e), from the appropriation accounts
21 under s. 20.435 (4) (b), (h), (~~gp~~), (o), and (w), and (xd), the department shall distribute
22 funding in each fiscal year to provide supplemental payments to hospitals that enter
23 into contracts under s. 49.02 (2) with a county having a population of 500,000 or more

1 to provide health care services funded by a relief block grant, as determined by the
2 department, for hospital services that are not in excess of the hospitals' customary
3 charges for the services, as limited under 42 USC 1396b (i) (3).

4 ***-0994/P2.2* SECTION 1530.** 49.45 (6z) (a) (intro.) of the statutes is amended
5 to read:

6 49.45 (6z) (a) (intro.) Notwithstanding sub. (3) (e), from the appropriation
7 accounts under s. 20.435 (4) (b), ~~(gp)~~, (o), and (w), and (xd), the department shall may
8 distribute funding in each fiscal year to supplement payment for services to hospitals
9 that enter into ~~a contract under s. 49.02 (2) to provide health care services funded~~
10 by a relief block grant under this chapter indigent care agreements, in accordance
11 with the approved state plan for services under 42 USC 1396a, with relief agencies
12 that administer the medical relief block grant under this chapter, if the department
13 determines that the hospitals serve a disproportionate number of low-income
14 patients with special needs. If no medical relief block grant under this chapter is
15 awarded or if the allocation of funds to such hospitals would exceed any limitation
16 under 42 USC 1396b (i) (3), the department may distribute funds to hospitals that
17 have not entered into ~~a contract under s. 49.02 (2)~~ indigent care agreements. The
18 department may not distribute funds under this subsection to the extent that the
19 distribution would do any of the following:

****NOTE: This is reconciled s. 49.02 (6) (a) (intro.). This paragraph has been
affected by drafts with the following LRB numbers: -0892/9, -0994/P1, and -1521/5.

20 ***-0905/3.39* SECTION 1531.** 49.45 (8) (a) 4. of the statutes is amended to read:

21 49.45 (8) (a) 4. "Patient care visit" means a personal contact with a patient in
22 a patient's home that is made by a registered nurse, licensed practical nurse, home
23 health aide, physical therapist, occupational therapist, or speech-language

1 pathologist who is on the staff of or under contract or arrangement with a home
2 health agency, or by a registered nurse or licensed practical nurse practicing
3 independently, to provide a service that is covered under s. 49.46 or, 49.47, or 49.471.
4 "Patient care visit" does not include time spent by a nurse, therapist, or home health
5 aide on case management, care coordination, travel, record keeping, or supervision
6 that is related to the patient care visit.

7 ***-0892/11.29* SECTION 1532.** 49.45 (8) (b) of the statutes is amended to read:

8 49.45 (8) (b) Reimbursement under s. 20.435 (4) (b), (gp), (o), and (w), and (xd)
9 for home health services provided by a certified home health agency or independent
10 nurse shall be made at the home health agency's or nurse's usual and customary fee
11 per patient care visit, subject to a maximum allowable fee per patient care visit that
12 is established under par. (c).

13 ***-0905/3.40* SECTION 1533.** 49.45 (9) of the statutes is amended to read:

14 49.45 (9) FREE CHOICE. Any person eligible for medical assistance under ss. s.
15 49.46, 49.468 and, 49.47, or 49.471 may use the physician, chiropractor, dentist,
16 pharmacist, hospital, skilled nursing home, health maintenance organization,
17 limited service health organization, preferred provider plan or other licensed,
18 registered or certified provider of health care of his or her choice, except that free
19 choice of a provider may be limited by the department if the department's alternate
20 arrangements are economical and the recipient has reasonable access to health care
21 of adequate quality. The department may also require a recipient to designate, in any
22 or all categories of health care providers, a primary health care provider of his or her
23 choice. After such a designation is made, the recipient may not receive services from
24 other health care providers in the same category as the primary health care provider
25 unless such service is rendered in an emergency or through written referral by the

1 primary health care provider. Alternate designations by the recipient may be made
2 in accordance with guidelines established by the department. Nothing in this
3 subsection shall vitiate the legal responsibility of the physician, chiropractor,
4 dentist, pharmacist, skilled nursing home, hospital, health maintenance
5 organization, limited service health organization, preferred provider plan or other
6 licensed, registered or certified provider of health care to patients. All contract and
7 tort relationships with patients shall remain, notwithstanding a written referral
8 under this section, as though dealings are direct between the physician, chiropractor,
9 dentist, pharmacist, skilled nursing home, hospital, health maintenance
10 organization, limited service health organization, preferred provider plan or other
11 licensed, registered or certified provider of health care and the patient. No physician,
12 chiropractor, pharmacist or dentist may be required to practice exclusively in the
13 medical assistance program.

14 ***-0905/3.41* SECTION 1534.** 49.45 (18) (ac) of the statutes is amended to read:
15 49.45 (18) (ac) Except as provided in pars. (am) to (d), and subject to par. (ag),
16 any person eligible for medical assistance under s. 49.46, 49.468, or 49.47, or for the
17 benefits under s. 49.46 (2) (a) and (b) under s. 49.471 shall pay up to the maximum
18 amounts allowable under 42 CFR 447.53 to 447.58 for purchases of services provided
19 under s. 49.46 (2). The service provider shall collect the specified or allowable
20 copayment, coinsurance, or deductible, unless the service provider determines that
21 the cost of collecting the copayment, coinsurance, or deductible exceeds the amount
22 to be collected. The department shall reduce payments to each provider by the
23 amount of the specified or allowable copayment, coinsurance, or deductible. No
24 provider may deny care or services because the recipient is unable to share costs, but

1 an inability to share costs specified in this subsection does not relieve the recipient
2 of liability for these costs.

3 ***-0905/3.42* SECTION 1535.** 49.45 (18) (am) of the statutes is amended to read:

4 49.45 (18) (am) No person is liable under this subsection for services provided
5 through prepayment contracts. This paragraph does not apply to a person who is
6 eligible for the benefits under s. 49.46 (2) (a) and (b) under s. 49.471.

7 ***-0268/2.1* SECTION 1536.** 49.45 (18m) of the statutes is created to read:

8 49.45 (18m) MEDICARE PART B ENROLLMENT AND PREMIUM PAYMENT. (a) The
9 department may require an individual who is eligible for Medicare Part B under 42
10 USC 1395j to 1395L and who also is eligible for any of the following medical
11 assistance services under any of the following to enroll in Medicare Part B as a
12 condition of receiving those medical assistance services:

13 1. Medical assistance services under s. 49.46, 49.47, or 49.472.

14 2. Health care coverage under the Badger Care health care program under s.
15 49.665.

16 3. Services under s. 46.27 (11), 46.275, 46.277, 46.278, or 46.2785.

17 4. Medical assistance services provided as part of a family care benefit, as
18 defined in s. 46.2805 (4).

19 5. Services provided under a waiver requested under 2001 Wisconsin Act 16,
20 section 9123 (16rs), or 2003 Wisconsin Act 33, section 9124 (8c).

21 6. Services provided under the program of all-inclusive care for persons aged
22 55 or older authorized under 42 USC 1396u-4.

23 7. Services provided under the demonstration program under a federal waiver
24 authorized under 42 USC 1315.

1 (b) If the department requires an individual specified in par. (a) to enroll in
2 Medicare Part B, the department shall pay the monthly premiums for the coverage
3 under Medicare Part B.

4 ***-0905/3.43* SECTION 1537.** 49.45 (18m) (a) 1. of the statutes, as created by
5 2007 Wisconsin Act (this act), is amended to read:

6 49.45 (18m) (a) 1. Medical assistance services under s. 49.46, 49.47, 49.471, or
7 49.472.

****NOTE: This is reconciled s. 49.45 (18m) (a) 1. This SECTION has been affected
by drafts with the following LRB numbers: -0268 and -0905.

8 ***-1521/6.4* SECTION 1538.** 49.45 (23) of the statutes is created to read:

9 49.45 (23) ASSISTANCE FOR CHILDLESS ADULTS DEMONSTRATION PROJECT. (a) The
10 department shall request a waiver from the secretary of the federal department of
11 health and human services to permit the department to conduct a demonstration
12 project to provide health care coverage for basic primary and preventive care to
13 adults who are under the age of 65, who have family incomes not to exceed 200
14 percent of the poverty line, and who are not otherwise eligible for medical assistance
15 under this subchapter, the Badger Care health care program under s. 49.665, or
16 Medicare under 42 USC 1395 et seq. Any individual who had coverage under the
17 Health Insurance Risk-Sharing Plan under subch. II of ch. 149 within 6 months
18 before applying for the project under this subsection is not eligible to participate in
19 the project under this subsection.

20 (b) If the waiver is granted and in effect, the department may promulgate rules
21 defining the health care benefit plan, including more specific eligibility
22 requirements and cost-sharing requirements. Notwithstanding s. 227.24 (3), the
23 plan details under this subsection may be promulgated as an emergency rule under

1 s. 227.24 without a finding of emergency. If the waiver is granted and in effect, the
2 demonstration project under this subsection shall begin on January 1, 2009, or on
3 the effective date of the waiver, whichever is later.

4 ***-0905/3.44* SECTION 1539.** 49.45 (24g) of the statutes is repealed.

5 ***-0892/11.30* SECTION 1540.** 49.45 (24m) (intro.) of the statutes is amended
6 to read:

7 49.45 (24m) (intro.) From the appropriation accounts under s. 20.435 (4) (b),
8 (gp), (o), and (w), and (xd), in order to test the feasibility of instituting a system of
9 reimbursement for providers of home health care and personal care services for
10 medical assistance recipients that is based on competitive bidding, the department
11 shall:

12 ***-1333/1.1* SECTION 1541.** 49.45 (24r) of the statutes is amended to read:

13 49.45 (24r) FAMILY PLANNING DEMONSTRATION PROJECT. The department shall
14 request a an amended waiver from the secretary of the federal department of health
15 and human services to permit the department to conduct a demonstration project to
16 provide family planning services, as defined in s. 253.07 (1) (b) (a), under medical
17 assistance to any woman or man between the ages of 15 and 44 whose family income
18 does not exceed 185% 200 percent of the poverty line for a family the size of the
19 woman's or man's family. If The department shall implement any waiver granted
20 and, if the amendment to the waiver is granted and in effect, the department shall
21 implement the amended waiver no later than July 1, 1998 January 1, 2008, or on the
22 federally approved effective date of the amended waiver, whichever is later.

23 ***-0905/3.45* SECTION 1542.** 49.45 (29) of the statutes is amended to read:

1 49.45 (29) HOSPICE REIMBURSEMENT. The department shall promulgate rules
2 limiting aggregate payments made to a hospice under ss. 49.46 and, 49.47, and
3 49.471.

4 *-0930/2.1* SECTION 1543. 49.45 (31) of the statutes is repealed.

5 *-0905/3.46* SECTION 1544. 49.45 (35) of the statutes is repealed.

6 *-1261/5.580* *-1267/P1.125* SECTION 1545. 49.45 (40) of the statutes is
7 amended to read:

8 49.45 (40) PERIODIC RECORD MATCHES. If the department contracts with the
9 department of workforce development children and families under s. 49.197 (5), the
10 department shall cooperate with the department of workforce development children
11 and families in matching records of medical assistance recipients under s. 49.32 (7).

12 *-0905/3.47* SECTION 1546. 49.45 (42m) (a) of the statutes is amended to read:

13 49.45 (42m) (a) If, in authorizing the provision of physical or occupational
14 therapy services under s. 49.46 (2) (b) 6. b. or 49.471 (11) (i), the department
15 authorizes a reduced duration of services from the duration that the provider
16 specifies in the authorization request, the department shall substantiate the
17 reduction that the department made in the duration of the services if the provider
18 of the services requests any additional authorizations for the provision of physical
19 or occupational therapy services to the same individual.

20 *-0905/3.48* SECTION 1547. 49.45 (48) of the statutes is amended to read:

21 49.45 (48) PAYMENT OF MEDICARE PART B OUTPATIENT HOSPITAL SERVICES
22 COINSURANCES. The department shall include in the state plan for medical assistance
23 a methodology for payment of the medicare part B outpatient hospital services
24 coinsurance amounts that are authorized under ss. 49.46 (2) (c) 2., 4., and 5m., 49.468
25 (1) (b), and 49.47 (6) (a) 6. b., d., and f., and 49.471 (6) (j) 1.

1 ***-0905/3.49* SECTION 1548.** 49.45 (49m) (c) 1. of the statutes is amended to
2 read:

3 49.45 (49m) (c) 1. A list of the prescription drugs that are included as a benefit
4 under s. ss. 49.46 (2) (b) 6. h. and 49.471 (11) (a) that identifies preferred choices
5 within therapeutic classes and includes prescription drugs that bear only generic
6 names.

7 ***-0892/11.31* SECTION 1549.** 49.45 (52) of the statutes is amended to read:

8 49.45 (52) PAYMENT ADJUSTMENTS. Beginning on January 1, 2003, the
9 department may, from the appropriation account under s. 20.435 (7) (b), make
10 Medical Assistance payment adjustments to county departments under s. 46.215,
11 46.22, 46.23, or 51.42, or 51.437 or to local health departments, as defined in s. 250.01
12 (4), as appropriate, for covered services under s. 49.46 (2) (a) 2. and 4. d. and f. and
13 (b) 6. b., c., f., fm., g., j., k., L., Lm., and m., 9., 12., 12m., 13., 15., and 16. Payment
14 adjustments under this subsection shall include the state share of the payments.
15 The total of any payment adjustments under this subsection and Medical Assistance
16 payments made from appropriation accounts under s. 20.435 (4) (b), (~~gp~~), (o), and (w),
17 and (xd) may not exceed applicable limitations on payments under 42 USC 1396a (a)
18 (30) (A).

19 ***-0905/3.50* SECTION 1550.** 49.45 (53) of the statutes is amended to read:

20 49.45 (53) PAYMENTS FOR CERTAIN SERVICES. Beginning on January 1, 2003, the
21 department may, from the appropriation account under s. 20.435 (7) (b), make
22 Medical Assistance payments to providers for covered services under s. ss. 49.46 (2)
23 (a) 4. d. and (b) 6. j. and m. and 49.471 (11) (f).

24 ***-1022/3.2* SECTION 1551.** 49.45 (54) of the statutes is created to read:

1 49.45 (54) MANAGED CARE PILOT PROGRAM FOR LONG-TERM CARE OF CHILDREN WITH
2 DISABILITIES. The department shall seek waivers of federal medical assistance
3 statutes and regulations from the federal department of health and human services
4 necessary to implement, in at least 3 pilot sites, a program of managed care for the
5 long-term care of children with disabilities.

6 *-0266/3.2* SECTION 1552. 49.453 (1) (a) of the statutes is amended to read:
7 49.453 (1) (a) "Assets" has the meaning given in 42 USC 1396p (e) (h) (1).

8 *-0266/3.3* SECTION 1553. 49.453 (1) (ar) of the statutes is created to read:
9 49.453 (1) (ar) "Community spouse" means the spouse of either the
10 institutionalized person or the noninstitutionalized person.

11 *-0266/3.4* SECTION 1554. 49.453 (1) (d) of the statutes is amended to read:
12 49.453 (1) (d) "Income" has the meaning given in 42 USC 1396p (e) (h) (2).

13 *-0266/3.5* SECTION 1555. 49.453 (1) (e) of the statutes is amended to read:
14 49.453 (1) (e) "Institutionalized individual" has the meaning given in 42 USC
15 1396p (e) (h) (3).

16 *-0266/3.6* SECTION 1556. 49.453 (1) (f) (intro.) of the statutes is amended to
17 read:

18 49.453 (1) (f) (intro.) "Look-back date" means ~~for a covered individual, either~~
19 of the following:

20 1m. For transfers made before February 8, 2006, the date that is 36 months
21 before, or with respect to payments from a trust or portions of a trust that are treated
22 as assets transferred by the covered individual under s. 49.454 (2) (c) or (3) (b) the
23 date that is 60 months before:

24 *-0266/3.7* SECTION 1557. 49.453 (1) (f) 1. of the statutes is renumbered
25 49.453 (1) (f) 1m. a.

1 ***-0266/3.8* SECTION 1558.** 49.453 (1) (f) 2. of the statutes is renumbered
2 49.453 (1) (f) 1m. b.

3 ***-0266/3.9* SECTION 1559.** 49.453 (1) (f) 2m. of the statutes is created to read:
4 49.453 (1) (f) 2m. For all transfers made on or after February 8, 2006, the date
5 that is 60 months before the dates specified in subd. 1m. a. and b.

6 ***-0266/3.10* SECTION 1560.** 49.453 (1) (fm) of the statutes is amended to read:
7 49.453 (1) (fm) "Noninstitutionalized individual" has the meaning given in 42
8 USC 1396p (e) (h) (4).

9 ***-0266/3.11* SECTION 1561.** 49.453 (1) (i) of the statutes is amended to read:
10 49.453 (1) (i) "Resources" has the meaning given in 42 USC 1396p (e) (h) (5).

11 ***-0266/3.12* SECTION 1562.** 49.453 (3) (a) of the statutes is renumbered 49.453
12 (3) (a) (intro.) and amended to read:

13 49.453 (3) (a) (intro.) The period of ineligibility under this subsection begins
14 on either of the following:

15 1. In the case of a transfer of assets made before February 8, 2006, the first day
16 of the first month beginning on or after the look-back date during or after which
17 assets have been transferred for less than fair market value and that does not occur
18 in any other periods of ineligibility under this subsection.

19 ***-0266/3.13* SECTION 1563.** 49.453 (3) (a) 2. of the statutes is created to read:
20 49.453 (3) (a) 2. In the case of a transfer of assets made on or after February
21 8, 2006, the first day of a month beginning on or after the look-back date during or
22 after which assets have been transferred for less than fair market value, or the date
23 on which the individual is eligible for medical assistance and would otherwise be
24 receiving institutional level care described in sub. (2) (a) 1. to 3. based on an approved
25 application for the care but for the application of the penalty period, whichever is

1 later, and that does not occur during any other period of ineligibility under this
2 subsection.

3 ***-0266/3.14* SECTION 1564.** 49.453 (3) (b) (intro.) of the statutes is amended
4 to read:

5 49.453 (3) (b) (intro.) The Subject to par. (bc), the department shall determine
6 the number of months of ineligibility as follows:

7 ***-0266/3.15* SECTION 1565.** 49.453 (3) (bc) of the statutes is created to read:

8 49.453 (3) (bc) In determining the number of months of ineligibility under par.
9 (b), with respect to asset transfers that occur after February 8, 2006, the department
10 may not round down the quotient, or otherwise disregard any fraction of a month,
11 obtained in the division under par. (b) 3.

12 ***-0266/3.16* SECTION 1566.** 49.453 (4) (a) of the statutes is renumbered 49.453
13 (4) (ag).

14 ***-0266/3.17* SECTION 1567.** 49.453 (4) (ac) of the statutes is created to read:

15 49.453 (4) (ac) In this subsection, "transaction" means any action taken by an
16 individual that changes the course of payments to be made under an annuity or the
17 treatment of the income or principal of an annuity, including all of the following:

- 18 1. An addition of principal.
- 19 2. An elective withdrawal.
- 20 3. A request to change the distribution of the annuity.
- 21 4. An election to annuitize the contract.
- 22 5. A change in ownership.

23 ***-0266/3.18* SECTION 1568.** 49.453 (4) (am) of the statutes is amended to read:

1 49.453 (4) (am) Paragraph (a) (ag) 1. does not apply to a variable annuity that
2 is tied to a mutual fund that is registered with the federal securities and exchange
3 commission.

4 ***-0266/3.19* SECTION 1569.** 49.453 (4) (b) of the statutes is amended to read:

5 49.453 (4) (b) The amount of assets that is transferred for less than fair market
6 value under par. (a) (ag) is the amount by which the transferred amount exceeds the
7 expected value of the benefit.

8 ***-0266/3.20* SECTION 1570.** 49.453 (4) (c) of the statutes is amended to read:

9 49.453 (4) (c) The department shall promulgate rules specifying the method to
10 be used in calculating the expected value of the benefit, based on 26 CFR 1.72-1 to
11 1.72-18, and specifying the criteria for adjusting the expected value of the benefit
12 based on a medical condition diagnosed by a physician before the assets were
13 transferred to the annuity, or transferred by promissory note or similar instrument.
14 In calculating the amount of the divestment when a transfer to an annuity, or a
15 transfer by promissory note or similar instrument, is made, payments made to the
16 transferor in any year subsequent to the year in which the transfer was made shall
17 be discounted to the year in which the transfer was made by the applicable federal
18 rate specified under par. (a) (ag) on the date of the transfer.

19 ***-0266/3.21* SECTION 1571.** 49.453 (4) (cm) of the statutes is created to read:

20 49.453 (4) (cm) Paragraphs (ag) to (c) apply to annuities purchased before
21 February 8, 2006, for which no transaction has occurred on or after February 8, 2006.

22 ***-0266/3.22* SECTION 1572.** 49.453 (4) (d) of the statutes is created to read:

23 49.453 (4) (d) For purposes of sub. (2), the purchase of an annuity by an
24 institutionalized individual or his or her community spouse, or anyone acting on

1 their behalf, shall be treated as a transfer of assets for less than fair market value
2 unless any of the following applies:

3 1. The state is designated as the remainder beneficiary in the first position for
4 at least the total amount of medical assistance paid on behalf of the institutionalized
5 individual.

6 2. The state is named as a beneficiary in the 2nd position after the community
7 spouse or a minor or disabled child and is named in the first position if the community
8 spouse or a representative of the minor or disabled child disposes of any remainder
9 for less than fair market value.

10 3. The annuity satisfies the requirements under par. (e) 1. or 2.

11 *-0266/3.23* SECTION 1573. 49.453 (4) (e) of the statutes is created to read:

12 49.453 (4) (e) For purposes of sub. (2), the purchase of an annuity by or on behalf
13 of an annuitant who has applied for medical assistance for nursing facility services
14 or other long-term care services described in sub. (2) is a transfer of assets for less
15 than fair market value unless either of the following applies:

16 1. The annuity is either an annuity described in section 408 (b) or (q) of the
17 Internal Revenue Code of 1986 or purchased with proceeds from any of the following:

18 a. An account or trust described in section 408 (a), (c), or (p) of the Internal
19 Revenue Code of 1986.

20 b. A simplified employee pension, within the meaning of section 408 (k) of the
21 Internal Revenue Code of 1986.

22 c. A Roth IRA described in section 408A of the Internal Revenue Code of 1986.

23 2. All of the following apply with respect to the annuity:

24 a. The annuity is irrevocable and nonassignable.

1 b. The annuity is actuarially sound, as determined in accordance with actuarial
2 publications of the office of the chief actuary of the social security administration.

3 c. The annuity provides for payments in equal amounts during the term of the
4 annuity, with no deferral and no balloon payments made.

5 ***-0266/3.24* SECTION 1574.** 49.453 (4) (em) of the statutes is created to read:

6 49.453 (4) (em) Paragraphs (d) and (e) apply to all of the following:

7 1. Annuities purchased on or after February 8, 2006.

8 2. Annuities purchased before February 8, 2006, for which a transaction has
9 occurred on or after February 8, 2006.

10 ***-0266/3.25* SECTION 1575.** 49.453 (4c) of the statutes is created to read:

11 49.453 (4c) PURCHASE OF NOTE, LOAN, OR MORTGAGE. (a) For purposes of sub. (2),
12 the purchase by an individual or his or her spouse of a promissory note, loan, or
13 mortgage after February 8, 2006, is a transfer of assets for less than fair market
14 value unless all of the following apply with respect to the note, loan, or mortgage:

15 1. The repayment term is actuarially sound.

16 2. The payments are to be made in equal amounts during the term of the loan,
17 with no deferral and no balloon payment.

18 3. Cancellation of the balance upon the death of the lender is prohibited.

19 (b) The value of a promissory note, loan, or mortgage that does not satisfy the
20 requirements under par. (a) 1. to 3. is the outstanding balance due on the date that
21 the individual applies for medical assistance for nursing facility services or other
22 long-term care services described in sub. (2).

23 ***-0266/3.26* SECTION 1576.** 49.453 (4m) of the statutes is created to read:

24 49.453 (4m) PURCHASE OF LIFE ESTATE. For purposes of sub. (2), the purchase
25 by an individual or his or her spouse of a life estate in another individual's home after

1 February 8, 2006, is a transfer of assets for less than fair market value unless the
2 purchaser resides in the home for at least one year after the date of the purchase.

3 ***-0266/3.27* SECTION 1577.** 49.453 (8) of the statutes is renumbered 49.453
4 (8) (a) (intro.) and amended to read:

5 49.453 (8) (a) (intro.) Subsections (2) and (3) do not apply to transfers of assets
6 if the any of the following applies:

7 1. The assets are exempt under 42 USC 1396p (c) (2) or if the (A), (B), or (C).

8 2. The department determines under the process under par. (b) that application
9 of this section would work an undue hardship. The department shall promulgate
10 rules concerning the transfer of assets exempt under 42 USC 1396p (c) (2).

11 ***-0266/3.28* SECTION 1578.** 49.453 (8) (b) of the statutes is created to read:

12 49.453 (8) (b) The department shall establish a hardship waiver process that
13 includes all of the following:

14 1. The department determines that undue hardship exists if the application of
15 subs. (2) and (3) would deprive the individual of medical care to the extent that the
16 individual's health or life would be endangered, or would deprive the individual of
17 food, clothing, shelter, or other necessities of life.

18 2. A facility in which an institutionalized individual who has transferred assets
19 resides is permitted to file an application for undue hardship on behalf of the
20 individual with the consent of the individual or the individual's authorized
21 representative.

22 3. The department may, during the pendency of an undue hardship
23 determination, pay the full payment rate under s. 49.45 (6m) for nursing facility
24 services for up to 30 days for the individual who transferred assets, to hold a bed in
25 the facility in which the individual resides.