

2009 DRAFTING REQUEST

Bill

Received: **11/11/2008**

Received By: **chanaman**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Palchik**

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

Drafter: **chanaman**

May Contact:

Addl. Drafters:

Subject: **Mental Health - miscellaneous**

Extra Copies:

Submit via email: **NO**

Pre Topic:

DOA:.....Palchik, BB0188 -

Topic:

Community Mental Health Services 1915 (i) State Plan Option

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	chanaman 11/11/2008	wjackson 11/12/2008	jfrantze 11/12/2008	_____	mbarman 11/12/2008		
	chanaman 11/12/2008	wjackson 11/13/2008		_____			
/P2	chanaman 01/09/2009	wjackson 01/14/2009	phenry 11/14/2008	_____	cduerst 11/14/2008		
/P3	chanaman 01/16/2009	wjackson 01/17/2009	mduchek 01/14/2009	_____	cduerst 01/14/2009		
/P4			mduchek 01/20/2009	_____	lparisi 01/20/2009		

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/P5	chanaman 01/21/2009	wjackson 01/21/2009	rschluet 01/21/2009	_____	cduerst 01/21/2009		
/P6	chanaman 01/30/2009	nmatzke 01/30/2009	mduchek 01/30/2009	_____	sbasford 01/30/2009		

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/P4		<i>1/5 Wlj 1/21</i>	mduchek 01/20/2009	_____	lparisi 01/20/2009		

[Handwritten signatures and initials are present below the table, including a large signature that appears to be "mduchek" and another that looks like "lparisi".]

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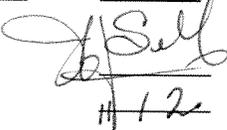
Topic:

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FE Sent For:

<END>

2009-11 Budget Bill Statutory Language Drafting Request

- Topic: Community Mental Health Services – 1915 (i) State Plan Option
- Tracking Code: BB0188
- SBO team: Health and Insurance
- SBO analyst: Laurie Palchik
 - Phone: 266-2214
 - Email: laurie.palchik@wisconsin.gov
- Agency acronym: DHS
- Agency number: 435
- Priority (Low, Medium, High): High

Intent: No current language – create enabling statutory authority to allow implementation of the 1915 (i) state plan option. (See background summary paper attached.)

Community Mental Health Services **[1915(i) State Plan Option]**

Decision Needed

Should the Department request statutory authority for implementation of the 1915(i) state plan option to maximize federal funding for home and community-based services (HCBS) for people with mental illness?

Background

1915(i) State Plan Option

1. Section 6086 of the Deficit Reduction Act of 2005, titled “Expanded Access to Home and Community-Based Services for the Elderly and Disabled” gives states a new option to provide HCBS to Medicaid beneficiaries by adding section 1915(i) to the Social Security Act. The Department may offer this benefit as a State plan option without applying for a demonstration waiver.
2. The section 1915(i) benefit includes many services available through waivers and shares other unique characteristics. According to the CMS proposed rule published April 2008, “States opting to offer State plan HCBS, ..., can continue to provide the full array of community services under section 1915(c) waivers, section 1115 demonstration programs, mandatory State plan home health benefits, and State plan personal care services benefit.” The lack of budget neutrality requirements provides the Department with more flexibility in offering the 1915(i) HCBS. However, the Department may offer only one 1915(i) benefit; it cannot offer multiple benefits with different service packages for different target populations.
3. The Department proposes that psychosocial rehabilitation and habilitation services be offered through the 1915(i) benefit:
 - Habilitation services would include home-based and supported employment services.
 - Home-based habilitation tailors individual supports that assist with the retention and improvement of skills related to living in the community.
 - Supported employment habilitation services are intensive, ongoing supports that enable individuals to perform in a regular work setting.

- Psychosocial rehabilitation services are designed to foster increased independence and skills improvement for individuals in the community and are, unlike habilitation services, not intended to be a permanent support.
4. The 1915(i) benefit is available to Medicaid individuals who are at or below 150% of the federal poverty level (FPL). Additionally, individuals must meet needs-based criteria established by the Department. The needs-based criteria must be less stringent than the institutional level of care and may not limit or target any service based on age, nature or type of disability, disease or condition.
 5. Any HCBS offered through the 1915(i) State plan option may not explicitly target particular populations. This benefit proposal would utilize needs-based criteria to target those with mental illness; additional needs-based criteria would be established for particular services that support those with needs stemming from more severe or chronic mental illness.
 6. Upon request, the Department is required to provide the Center for Medicaid Services (CMS) a projection of the number of individuals to be provided HCBS. In addition, the Department may establish waiting lists, provided policies are published for establishing and maintaining the list.
 7. The Department proposes to retain a portion of the federal funding claimed under the benefit to fund its administrative costs. The remaining revenues would be paid to the county. Because the revenues are earned based on county expenditures, the retained revenues can be used as the non-federal match for federal Medicaid administrative funds to support the administrative costs.
 8. The Department proposes to contract with an outside entity who would review plans of care for the 1915(i) eligible participants to identify outlier plans requiring an additional review by Department staff before approval. The contractor would also randomly sample county providers and service recipients for quality assurance.

Current Language

None.

Proposed Change

Create enabling statutory authority to allow for implementation by counties of the 1915(i) state plan option to maximize federal funding for home and community-based services for people with mental illness. Require counties to provide the non-federal match for the benefit.

Desired Effective Date: July 1, 2009
Agency: DHS
Agency Contact: William Emslie
Phone: 266-5380



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0707/P1

CMH:.....

WLj

DOA:.....Palchik, BB0188 - Community Mental Health Services 1915 (i)
State Plan Option

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

don't you cut

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

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

2 SECTION 1. 46.22 (1) (b) 1. L. of the statutes is created to read:

3 46.22 (1) (b) 1. L. To implement the state plan option under section 1915 (i) of

4 the ^{federal} Social Security Act and

5 SECTION 2. 46.495 (1) (d) of the statutes is amended to read:

6 46.495 (1) (d) From the appropriations under s. 20.435 (7) (b) and (o), the

7 department shall distribute the funding for social services to county departments

8 under ss. 46.215, 46.22, and 46.23 as provided under s. 46.40. County matching

1 funds are required for the distributions under ~~s.~~ ss. 46.22 (1) (b) 1. L. and 46.40 (2),
2 (8), and (9) (b). Each county's required match for the distribution under ~~s.~~ ss. 46.22
3 (1) (b) 1. L. and 46.40 (2) shall be specified in a schedule established annually by the
4 department. Each county's required match for the distribution under s. 46.40 (8) for
5 a year equals 9.89% of the total of the county's distributions under s. 46.40 (8) for that
6 year for which matching funds are required plus the amount the county was required
7 by s. 46.26 (2) (c), 1985 stats., to spend for juvenile delinquency-related services from
8 its distribution for 1987. Each county's required match for the distribution under s.
9 46.40 (9) (b) for a year equals 9.89% of that county's amounts described in s. 46.40
10 (9) (ar) (intro.) for that year. Matching funds may be from county tax levies, federal
11 and state revenue sharing funds, or private donations to the county that meet the
12 requirements specified in s. 51.423 (5). Private donations may not exceed 25% of the
13 total county match. If the county match is less than the amount required to generate
14 the full amount of state and federal funds distributed for this period, the decrease
15 in the amount of state and federal funds equals the difference between the required
16 and the actual amount of county matching funds.

17 **History:** 1995 a. 27 ss. 3129, 3132, 3135 to 3139; 1995 a. 289, 404; 1997 a. 3, 27, 252; 1999 a. 9; 2001 a. 16; 2003 a. 318; 2005 a. 25 ss. 883, 884, 2502, 2510; 2007 a. 20.

(END)



State of Wisconsin
2009 - 2010 LEGISLATURE

p2
LRB-0707/PT
CMH:wlj:jf
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stays

note

DOA:.....Palchik, BB0188 - Community Mental Health Services 1915 (i)
State Plan Option

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15 in the amount of state and federal funds equals the difference between the required
16 and the actual amount of county matching funds.

17 (END)

LRB-0707/P202
cmH:

Laurie --

This draft corrects a cross-reference.

cmH

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0707/P2dn
CMH:wlj:ph

November 14, 2008

Laurie:

This draft corrects a cross-reference.

Cathlene Hanaman
Legislative Attorney
Phone: (608) 267-9810
E-mail: cathlene.hanaman@legis.wisconsin.gov

1915(i) STATE PLAN SERVICES – WI LEGISLATION

49.46(2)(b)6.Lr. is created to read:

49.46(2)(b)6.Lr. Subject to the limitations under s. 49.45(30h), community recovery services.

49.45(30h) is created to read:

49.45(30h) Community Recovery Services.

(a) When services are reimbursable. Services under s. 49.46 (2) (b) 6. Lr. provided to an individual are reimbursable under the medical assistance program only if all of the following conditions are met:

1. Reimbursement for the services under s. 49.46 (2) (b) 6. Lr. in the manner provided under this subsection is permitted pursuant to an approved amendment to the state medical assistance plan submitted pursuant to 42 USC s. 1396n(i).
2. The county in which the individual resides elects to provide the services under s. 49.46 (2) (b) 6. Lr. through the medical assistance program.
3. The individual, services and provider meet any other condition set forth in an amendment to the state medical assistance plan under par. (a)1.

(b) Amount of reimbursement. For services reimbursable under par. (a), the department shall reimburse the county that portion of the federal share of allowable charges for the community recovery services provided by the county that exceeds the administrative costs incurred by the department in reimbursing and monitoring the services under this subsection.

(c) Maintenance of Effort. 1. Funds that are distributed to counties under par. (b) may not be used to supplant funding from any other source.

2. No county that elects to provide services under s. 49.46 (2) (b) 6. Lr. may contribute less funding for community mental health services as reported under mental health for children and adults on the Human Service Revenue Reporting form than the county contributed for such services in the full calendar year prior to the first calendar year in which the county elects to provide services under s. 49.46 (2) (b) 6. Lr.

3. The provisions of this section may be enforced by the department through contract remedies pursuant to s. 46.031 (2g) and (2r) or by community aids payment adjustment pursuant to s. 46.40(9)(d)1.b.

46.40(9)(d) is amended to read:

46.40(9)(d) Payment adjustments for certain Medical Assistance services.

1. The department may decrease a county's allocation under sub. (2) from the appropriation account under s. 20.435 (7) (b) by any of the following amounts:

a. ~~The~~ the amount of any payment adjustments under s. 49.45 (52) made for that county ~~from the appropriation account under s. 20.435 (7) (b).~~

b. The amount by which the department determines a county failed to comply with the maintenance of effort requirement set forth in s. 49.45(30h)(c).

2. The total amount of the decrease for a county under this paragraph during any fiscal year may not exceed that part of the county's allocation under sub. (2) that derives from the appropriation account under s. 20.435 (7) (b) for that fiscal year.

Hanaman, Cathlene

From: Palchik, Laurie A - DOA [laurie.palchik@wisconsin.gov]
Sent: Friday, January 09, 2009 1:22 PM
To: Hanaman, Cathlene
Subject: 1915i - Community Recovery Services - WI stat lang (2).doc
Importance: High
Attachments: 1915i - Community Recovery Services - WI stat lang (2).doc

Hi Cathlene,

I just sent you an email with some changes for LRB-0707/P2. Additionally I sent the attached word document over, in paper copy by Inter-D, but am resending now just to make sure you have all the requested changes and can incorporate them into the draft. Please amend LRB-0707/P2 with the attached word document changes and the language in the email below.

Thank you.

This should be added to Section 1 of the draft:

46.22(1)(b)1.L. To implement the state plan option under 42 USC 1396n(j).

Counties that elect to provide these services and meet all requirements of the department of health services related to the provision of these services will be reimbursed by the department of health services 90% of the federal share of allowable charges in state fiscal year 2010 and 98% of the federal share of allowable charges in state fiscal year 2011 and thereafter. The remaining federal share of allowable charges will be deposited into appropriation 20.435(5)(kx).

Laurie Palchik
266-2214

1915(i) STATE PLAN SERVICES – WI LEGISLATION

20.435(4)(o) is amended to read:

(o) *Federal aid; medical assistance.* All federal moneys received for meeting costs of Medical Assistance administered under ss. 46.284 (5) and 49.665 and subch. IV of ch. 49, to be used for those purposes and for transfer to the Medical Assistance trust fund, for those purposes, and for transfer to the appropriation under s.20.435(5)(kx) for administrative needs as specified under 49.45(30h)(b).

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2. The county in which the individual resides elects to provide the services under s. 49.46 (2) (b) 6. Lr. through the medical assistance program.
3. The individual, services and provider meet any other condition set forth in an amendment to the state medical assistance plan under par. (a)1.

(b) Amount of reimbursement. For services reimbursable under par. (a), the department shall reimburse the county that portion of the federal share of allowable charges for the community recovery services provided by the county that exceeds \$600,000 in state fiscal year 2010 and 95% of those allowable charges in each state fiscal year thereafter for the administrative costs incurred by the department in reimbursing and monitoring the services under this

subsection. The portion of the federal share of allowable charges not reimbursed to counties shall be transferred to s.20.435(5)(kx).

(c) Maintenance of Effort. 1. Funds that are distributed to counties under par. (b) may not be used to supplant funding from any other source.

2. No county that elects to provide services under s. 49.46 (2) (b) 6. Lr. may contribute less funding for community mental health services as reported under mental health for children and adults on the Human Service Revenue Reporting form than the county contributed for such services in the full calendar year prior to the first calendar year in which the county elects to provide services under s. 49.46 (2) (b) 6. Lr.

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State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0707/P2
CMH:wlj:ph

P3

stays

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redo for list

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- 2 SECTION 1. 46.22 (1) (b) 1. L. of the statutes is created to read:
- 3 46.22 (1) (b) 1. L. To implement the state plan option under 42 USC 1396n (i).
- 4 SECTION 2. 46.495 (1) (d) of the statutes is amended to read:
- 5 46.495 (1) (d) From the appropriations under s. 20.435 (7) (b) and (o), the
- 6 department shall distribute the funding for social services to county departments
- 7 under ss. 46.215, 46.22, and 46.23 as provided under s. 46.40. County matching
- 8 funds are required for the distributions under s. 46.22 (1) (b) 1. L. and 46.40 (2),

INS 1-2

1 (8), and (9) (b). Each county's required match for the distribution under ~~s.~~ ss. 46.22
2 (1) (b) 1. L. and 46.40 (2) shall be specified in a schedule established annually by the
3 department. Each county's required match for the distribution under s. 46.40 (8) for
4 a year equals 9.89% of the total of the county's distributions under s. 46.40 (8) for that
5 year for which matching funds are required plus the amount the county was required
6 by s. 46.26 (2) (c), 1985 stats., to spend for juvenile delinquency-related services from
7 its distribution for 1987. Each county's required match for the distribution under s.
8 46.40 (9) (b) for a year equals 9.89% of that county's amounts described in s. 46.40
9 (9) (ar) (intro.) for that year. Matching funds may be from county tax levies, federal
10 and state revenue sharing funds, or private donations to the county that meet the
11 requirements specified in s. 51.423 (5). Private donations may not exceed 25% of the
12 total county match. If the county match is less than the amount required to generate
13 the full amount of state and federal funds distributed for this period, the decrease
14 in the amount of state and federal funds equals the difference between the required
15 and the actual amount of county matching funds.

16 (END)

INS
2-14

1 Insert A

✓
HEALTH AND HUMAN SERVICES

✓
MENTAL ILLNESS AND DEVELOPMENTAL DISABILITIES

This bill specifies that DHS may implement through the Medical Assistance program the state plan option under the federal Social Security Act, which gives federal funding for home and community-based services for people with mental illness.

provides

2

3 Insert 1-16

4 ~~SECTION 46.40~~ (9) (d) of the statutes is renumbered 46.40 (9) (d) 1. (intro.)

5 and amended to read:

6 46.40 (9) (d) 1. (intro.) The From the appropriation account under s. 20.435 (7)
7 (b), the department may decrease a county's allocation under sub. (2) by the any of
8 the following amounts:

9 a. The amount of any payment adjustments under s. 49.45 (52) made for that
10 county from the appropriation account under s. 20.435 (7) (b). ~~(b)~~ ^{STET}

11 2. The total amount of the decrease for a county under this paragraph
12 subdivision during any fiscal year may not exceed that part of the county's allocation
13 under sub. (2) that derives from the appropriation account under s. 20.435 (7) (b) for
14 that fiscal year.

History: 1987 a. 27, 399, 405; 1989 a. 31, 122, 336; 1991 a. 6, 39, 189, 269, 275, 315; 1993 a. 16, 437, 446; 1995 a. 27, 275, 303, 404; 1997 a. 27, 35, 237, 292; 1999 a. 9, 185; 2001 a. 16; 2003 a. 33, 318; 2005 a. 25 ss. 879, 2501, 2510; 2007 a. 20 ss. 1096 to 1104g, 9121 (6) (a).

15 ~~SECTION 46.40~~ (9) (d) 1. b. of the statutes is created to read:

16 46.40 (9) (d) 1. b. The amount by which the department determines a county
17 failed to comply with the maintenance of effort requirement under s. 49.45 (30g) (c)

18 3. ✓

19 ~~SECTION 49.45~~ (30g) of the statutes is created to read:

1 **49.45 (30g) COMMUNITY RECOVERY SERVICES.** (a) *When services are reimbursable.*

2 Community recovery services under s. 49.46 (2) (b) 6. Lo. provided to an individual
3 are reimbursable under the medical assistance program only if all of the following
4 conditions are met:

5 1. An approved amendment to the state medical assistance plan submitted
6 under 42 USC 1396n (i) permits reimbursement for the services under s. 49.46 (2)
7 (b) 6. Lo. in the manner provided under this subsection.

8 2. The county in which the individual resides elects to provides the community
9 recovery services under s. 49.46 (2) (b) 6. Lo. through the medical assistance
10 program.

11 3. The individual, the community recovery services, and the community
12 recovery services provider meet any condition set forth in the approved amendment
13 to the medical assistance plan submitted under 42 USC 1396n (i).

14 (b) *Limit on the amount of reimbursement.* If the community recovery services
15 are reimbursable under par. (a), the department shall reimburse the county for the
16 portion of the federal share of allowable charges for the community recovery services
17 provided by the county that exceeds ~~the administrative costs incurred by the~~
18 department in reimbursing and monitoring the community recovery services.

19 (c) *Maintenance of effort.* 1. Any funds used to reimburse counties under par.
20 (b) may not be used to supplant funding from any other source.

21 2. No county providing community recovery services under this subsection may
22 report less funding for community mental health services under mental health for
23 children and adults on the human service revenue reporting form than the county
24 reported in the year prior to the year in which the county elected to provide
25 community recovery services under s. 49.46 (2) (b) 6. Lo.

allow for charges in each fiscal year
with funding for 2010-11 for

~~INS 0707A 2010-11 part of year~~

1 3. The department may enforce this subsection using contract remedies under
2 s. 46.031 (2g) or (2r) or by adjusting community aids payment⁵ under s. 46.40 (9) (d)

3 1. b.

as provided

4 **SECTION 4** 49.46 (2) (b) 6. Lo. of the statutes is created to read:

5 49.46 (2) (b) 6. Lo. Subject to the limitation⁵ under s. 49.45 (30g), community
6 recovery services.

as provided

1 Insert 1-2

2 SECTION ~~5~~ 20.435 (4) (o) of the statutes is amended to read:

3 20.435 (4) (o) *Federal aid; medical assistance.* All federal moneys received for
4 meeting costs of Medical Assistance administered under ss. 46.284 (5) and 49.665
5 and subch. IV of ch. 49, to be used for those purposes and, for transfer to the Medical
6 Assistance trust fund, for those purposes, and for transfer to the appropriation
7 account under sub. (5) (kx) for the purposes specified under sub. (5) (kx).

History: 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (g); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293; 1999 a. 5, 9, 32, 52, 84, 103, 109, 113, 133, 185, 186; 2001 a. 16, 69, 103, 105; 2003 a. 33, 139, 186, 318, 320, 326, 327; 2005 a. 15, 22; 2005 a. 25 ss. 299 to 331, 2498 to 2500, 2510; 2005 a. 74, 107, 199, 228, 264, 388, 406, 434; 2007 a. 20 ss. 331 to 422, 9121 (6) (a); 2007 a. 39, 88, 107, 111, 130; s. 13.92 (2) (i).

8 SECTION ~~6~~ 20.435 (5) (kx) of the statutes is created to read:

9 20.435 (5) (kx) *Community recovery services administration.* All moneys
10 transferred under s. 49.45 (30h) (b) for the department's administrative costs
11 incurred for reimbursing and monitoring community recovery services.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

END OF INSERT 1-2

13 Insert 0707A (to insert 216)

14 Not \$600,000 in fiscal year 2010-2011 and for 95 percent of the federal share of
15 allowable charges for the community recovery services provided by the county in
16 each fiscal year thereafter. The portion of the federal share of allowable charges not
17 reimbursed to counties shall be transferred to s. 20.435 (5) (kx).

the appropriation account under



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0707/P3

CMH:wlj:md

STAYS

DOA:.....Palchik, BB0188 - Community Mental Health Services 1915 (i)
State Plan Option

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

MENTAL ILLNESS AND DEVELOPMENTAL DISABILITIES

This bill specifies that DHS may implement through the Medical Assistance program the state plan option under the federal Social Security Act, which provides federal funding for home and community-based services for people with mental illness.

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

2 SECTION 1. 20.435 (4) (o) of the statutes is amended to read:

3 20.435 (4) (o) *Federal aid; medical assistance.* All federal moneys received for
4 meeting costs of Medical Assistance administered under ss. 46.284 (5) and 49.665
5 and subch. IV of ch. 49, to be used for those purposes and, for transfer to the Medical

1 Assistance trust fund, for those purposes, and for transfer to the appropriation
2 account under sub. (5) (kx) for the purposes specified under sub. (5) (kx).

3 SECTION 2. 20.435 (5) (kx) of the statutes is created to read:

4 20.435 (5) (kx) Community recovery services administration. All moneys
5 transferred under s. 49.45 (30g) (b) for administrative costs incurred for reimbursing
6 and monitoring community recovery services.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

→ *NOTE: This SECTION adds text to s. 20.435 (5) (kx), which is created in 09-0247/10. If that draft is not included, this section will need to be changed or redrafted.*

7 SECTION 3. 46.40 (9) (d) of the statutes is renumbered 46.40 (9) (d) 1. (intro.)
8 and amended to read:

9 46.40 (9) (d) 1. (intro.) The From the appropriation account under s. 20.435 (7)
10 (b), the department may decrease a county's allocation under sub. (2) by the any of
11 the following amounts:

12 a. The amount of any payment adjustments under s. 49.45 (52) made for that
13 county from the appropriation account under s. 20.435 (7) (b).

14 2. The total amount of the decrease for a county under this paragraph
15 subdivision during any fiscal year may not exceed that part of the county's allocation
16 under sub. (2) that derives from the appropriation account under s. 20.435 (7) (b) for
17 that fiscal year.

18 SECTION 4. 46.40 (9) (d) 1. b. of the statutes is created to read:

19 46.40 (9) (d) 1. b. The amount by which the department determines a county
20 failed to comply with the maintenance-of-effort requirement under s. 49.45 (30g) (c)

21 3.

22 SECTION 5. 49.45 (30g) of the statutes is created to read:

1 49.45 (30g) COMMUNITY RECOVERY SERVICES. (a) *When services are reimbursable.*
2 Community recovery services under s. 49.46 (2) (b) 6. Lo. provided to an individual
3 are reimbursable under the Medical Assistance program only if all of the following
4 conditions are met:

5 1. An approved amendment to the state medical assistance plan submitted
6 under 42 USC 1396n (i) permits reimbursement for the services under s. 49.46 (2)
7 (b) 6. Lo. in the manner provided under this subsection.

8 2. The county in which the individual resides elects to provides the community
9 recovery services under s. 49.46 (2) (b) 6. Lo. through the medical assistance
10 program.

11 3. The individual, the community recovery services, and the community
12 recovery services provider meet any condition set forth in the approved amendment
13 to the medical assistance plan submitted under 42 USC 1396n (i).

14 (b) *Limit on the amount of reimbursement.* If community recovery services are
15 reimbursable under par. (a), the department shall reimburse the county for the
16 portion of the federal share of allowable charges for the community recovery services
17 provided by the county that exceeds \$600,000 in fiscal year 2010-2011 and for 95
18 percent of the federal share of allowable charges for the community recovery services
19 provided by the county in each fiscal year thereafter. The portion of the federal share
20 of allowable charges not reimbursed to counties shall be transferred to the
21 appropriation account under s. 20.435 (5) (kx).

22 (c) *Maintenance of effort.* 1. Any funds used to reimburse counties under par.
23 (b) may not be used to supplant funding from any other source.

24 2. No county providing community recovery services under this subsection may
25 report less funding for community mental health services under mental health for

other

1 children and adults on the human service revenue reporting form than the county
2 reported in the year prior to the year in which the county elected to provide
3 community recovery services under s. 49.46 (2) (b) 6. Lo.

4 3. The department may enforce this subsection using contract remedies under
5 s. 46.031 (2g) or (2r) or by adjusting community aids payments as provided under s.
6 46.40 (9) (d) 1. b.

7 **SECTION 6.** 49.46 (2) (b) 6. Lo. of the statutes is created to read:

8 49.46 (2) (b) 6. Lo. Subject to the limitations under s. 49.45 (30g), community
9 recovery services.

10

(END)

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

1 **SECTION 58.** 20.435 (5) (kb) of the statutes is renumbered 20.435 (1) (kb).

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

2 **SECTION 59.** 20.435 (5) (ke) of the statutes is renumbered 20.435 (1) (ke).

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

3 **SECTION 60.** 20.435 (5) (kx) of the statutes is created to read:

4 20.435 (5) (kx) *Interagency and intra-agency programs.* All moneys received
5 from other state agencies and all moneys received by the department from the
6 department for the administration of programs or projects relating to mental health
7 and alcoholism or other drug abuse services, for the purposes for which received.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

8 **SECTION 61.** 20.435 (5) (ky) of the statutes is amended to read:

9 20.435 (5) (ky) *Interagency and intra-agency aids.* All Except as provided in
10 pars. (kc), (kg), (kL), and (km), all moneys received from other state agencies and all
11 moneys received by the department from the department ~~not directed to be deposited~~
12 under sub. (6) (k) for aids to individuals and organizations relating to mental health
13 and alcoholism or other drug abuse services, for the purposes for which received.

14 **SECTION 62.** 20.435 (5) (kz) of the statutes is amended to read:

15 20.435 (5) (kz) *Interagency and intra-agency local assistance.* All Except as
16 provided in par. (kc), all moneys received from other state agencies and all moneys
17 received by the department from the department ~~not directed to be deposited under~~
18 sub. (6) (k) for local assistance relating to mental health and alcoholism or other drug
19 abuse services, for the purposes for which received.

****NOTE: Section 20.435 (5) (kz) should be added to the ch. 20 schedule.

Hanaman, Cathlene

From: Palchik, Laurie A - DOA [laurie.palchik@wisconsin.gov]
Sent: Wednesday, January 21, 2009 8:15 AM
To: Hanaman, Cathlene
Subject: FW: LRB Draft: 09-0707/P4 Community Mental Health Services 1915 (i) State Plan Option
Attachments: 09-0707P4.pdf

One additional change on the Community Mental Health Services 1915i draft.

Laurie A. Palchik
Executive Policy and Budget Analyst
Division of Executive Budget and Finance
Department of Administration
608-266-2214 (w); 608-267-0372 (f)

From: Emslie, William P - DHS
Sent: Wednesday, January 21, 2009 7:48 AM
To: Palchik, Laurie A - DOA
Cc: Moore, Donna J - DHS
Subject: RE: LRB Draft: 09-0707/P4 Community Mental Health Services 1915 (i) State Plan Option

Laurie,

The Department has one revision to the 09-0707P4 (1915i) draft language:

Section 5 : 49.45(30g) (b), Lines 18-21 current draft:

“ ... the department shall reimburse the county for the portion of the federal share of allowable charges for the community recovery services provided by the county that exceeds \$600,000 in fiscal year 2010–2011 ...”

The \$600K deduction for the Department's administrative costs applies to total reimbursement of all participating counties, but this language refers to reimbursement of “the county.” This seems to suggest the \$600K will be deducted from one particular county, which of course is not the intent. Perhaps the language could be changed to something like :

“... the department shall reimburse each participating county for the portion of the federal share of allowable charges for the community recovery services provided by the county that exceeds that county's proportionate share of \$600,000 in fiscal year 2010–2011...”

Thank you.

Will Emslie
Budget & Policy Analyst
Department of Health Services
(608) 266-5380



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0707/P4
CMH:wlj:md

PS

stays
rmp

DOA:.....Palchik, BB0188 - Community Mental Health Services 1915 (i)
State Plan Option

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT *don't you*; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

MENTAL ILLNESS AND DEVELOPMENTAL DISABILITIES

This bill specifies that DHS may implement through the Medical Assistance program the state plan option under the federal Social Security Act, which provides federal funding for home and community-based services for people with mental illness.

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

2 SECTION 1. 20.435 (4) (o) of the statutes is amended to read:
3 20.435 (4) (o) *Federal aid; medical assistance.* All federal moneys received for
4 meeting costs of Medical Assistance administered under ss. 46.284 (5) and 49.665
5 and subch. IV of ch. 49, to be used for those purposes and, for transfer to the Medical

1 Assistance trust fund, for those purposes, and for transfer to the appropriation
2 account under sub. (5) (kx) for the purposes specified under sub. (5) (kx).

3 SECTION 2. 20.435 (5) (kx) of the statutes is created to read:

4 20.435 (5) (kx) *Interagency and intra-agency programs.* All moneys received
5 from other state agencies and all moneys received by the department from the
6 department for the administration of programs or projects relating to mental health
7 and alcoholism or other drug abuse services, for the purposes for which received, and
8 all moneys transferred under s. 49.45 (30g) (b) for administrative costs incurred for
9 reimbursing and monitoring community recovery services.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

****NOTE: This SECTION adds text to s. 20.435 (5) (kx), which is created in 09-0247/1. If that draft is not included or redrafted, this section will need to be changed.

10 SECTION 3. 46.40 (9) (d) of the statutes is renumbered 46.40 (9) (d) 1. (intro.)
11 and amended to read:

12 46.40 (9) (d) 1. (intro.) The From the appropriation account under s. 20.435 (7)
13 (b), the department may decrease a county's allocation under sub. (2) by the any of
14 the following amounts:

15 a. The amount of any payment adjustments under s. 49.45 (52) made for that
16 county ~~from the appropriation account under s. 20.435 (7) (b).~~

17 2. The total amount of the decrease for a county under this paragraph
18 subdivision during any fiscal year may not exceed that part of the county's allocation
19 under sub. (2) that derives from the appropriation account under s. 20.435 (7) (b) for
20 that fiscal year.

21 SECTION 4. 46.40 (9) (d) 1. b. of the statutes is created to read:

1 46.40 (9) (d) 1. b. The amount by which the department determines a county
2 failed to comply with the maintenance-of-effort requirement under s. 49.45 (30g) (c)
3 3.

4 **SECTION 5.** 49.45 (30g) of the statutes is created to read:

5 49.45 (30g) COMMUNITY RECOVERY SERVICES. (a) *When services are reimbursable.*
6 Community recovery services under s. 49.46 (2) (b) 6. Lo. provided to an individual
7 are reimbursable under the Medical Assistance program only if all of the following
8 conditions are met:

9 1. An approved amendment to the state medical assistance plan submitted
10 under 42 USC 1396n (i) permits reimbursement for the services under s. 49.46 (2)
11 (b) 6. Lo. in the manner provided under this subsection.

12 2. The county in which the individual resides elects to provide the community
13 recovery services under s. 49.46 (2) (b) 6. Lo. through the medical assistance
14 program.

15 3. The individual, the community recovery services, and the community
16 recovery services provider meet any condition set forth in the approved amendment
17 to the medical assistance plan submitted under 42 USC 1396n (i).

18 (b) *Limit on the amount of reimbursement.* If community recovery services are
19 reimbursable under par. (a), the department shall reimburse ^{each participating} the county for the
20 portion of the federal share of allowable charges for the community recovery services
21 provided by the county that exceeds ^{that county's proportionate share of} \$600,000 in fiscal year 2010-2011 and for 95
22 percent of the federal share of allowable charges for the community recovery services
23 provided by the county in each fiscal year thereafter. The portion of the federal share
24 of allowable charges not reimbursed to counties shall be transferred to the
25 appropriation account under s. 20.435 (5) (kx).



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0707/P5

CMH:wjfrs

P6
Enwn

d-note

pmr

DOA:.....Palchik, BB0188 - Community Mental Health Services 1915 (i)
State Plan Option

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ^{don't gen.} ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

MENTAL ILLNESS AND DEVELOPMENTAL DISABILITIES

This bill specifies that DHS may implement through the Medical Assistance program the state plan option under the federal Social Security Act, which provides federal funding for home and community-based services for people with mental illness.

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

2 SECTION 1. 20.435 (4) (o) of the statutes is amended to read:

3 20.435 (4) (o) ~~Federal aid; medical assistance.~~ All federal moneys received for
4 meeting costs of Medical Assistance administered under ss. 46.284 (5) and 49.665
5 and subch. IV of ch. 49, to be used for those purposes and, for transfer to the Medical

1 Assistance trust fund, for those purposes, and for transfer to the appropriation
2 account under sub. (5) (kx) for the purposes specified under sub. (5) (kx).

3 SECTION 2. 20.435 (5) (kx) of the statutes is created to read:

4 20.435 (5) (kx) *Interagency and intra-agency programs.* All moneys received
5 from other state agencies and all moneys received by the department from the
6 department for the administration of programs or projects relating to mental health
7 and alcoholism or other drug abuse services, for the purposes for which received, and
8 all moneys transferred under s. 49.45 (30g) (b) for administrative costs incurred for
9 reimbursing and monitoring community recovery services.

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

***NOTE: This SECTION adds text to s. 20.435 (5) (kx), which is created in 09-0247/1. If that draft is not included or that SECTION is redrafted, this SECTION will need to be changed.

10 SECTION 3. 46.40 (9) (d) of the statutes is renumbered 46.40 (9) (d) 1. (intro.)

11 and amended to read:

12 46.40 (9) (d) 1. (intro.) The From the appropriation account under s. 20.435 (7)
13 (b), the department may decrease a county's allocation under sub. (2) by the any of
14 the following amounts:

15 a. The amount of any payment adjustments under s. 49.45 (52) made for that
16 county ~~from the appropriation account under s. 20.435 (7) (b).~~

17 2. The total amount of the decrease for a county under this paragraph
18 subdivision during any fiscal year may not exceed that part of the county's allocation
19 under sub. (2) that derives from the appropriation account under s. 20.435 (7) (b) for
20 that fiscal year.

21 SECTION 4. 46.40 (9) (d) 1. b. of the statutes is created to read:

Handwritten note: This is recorded s. 20.435 (5)(kx). This section has been affected by drafts with the following LRB numbers: LRB-0707/P5 and LRB-0247/10

1 46.40 (9) (d) 1. b. The amount by which the department determines a county
2 failed to comply with the maintenance-of-effort requirement under s. 49.45 (30g) (c)
3 3.

4 **SECTION 5.** 49.45 (30g) of the statutes is created to read:

5 49.45 (30g) COMMUNITY RECOVERY SERVICES. (a) *When services are reimbursable.*
6 Community recovery services under s. 49.46 (2) (b) 6. Lo. provided to an individual
7 are reimbursable under the Medical Assistance program only if all of the following
8 conditions are met:

9 1. An approved amendment to the state medical assistance plan submitted
10 under 42 USC 1396n (i) permits reimbursement for the services under s. 49.46 (2)
11 (b) 6. Lo. in the manner provided under this subsection.

12 2. The county in which the individual resides elects to provide the community
13 recovery services under s. 49.46 (2) (b) 6. Lo. through the Medical Assistance
14 program.

15 3. The individual, the community recovery services, and the community
16 recovery services provider meet any condition set forth in the approved amendment
17 to the medical assistance plan submitted under 42 USC 1396n (i).

18 (b) *Limit on the amount of reimbursement.* If community recovery services are
19 reimbursable under par. (a), the department shall reimburse each participating
20 county for the portion of the federal share of allowable charges for the community
21 recovery services provided by the county that exceeds that county's proportionate
22 share of \$600,000 in fiscal year 2010-2011 and for 95 percent of the federal share of
23 allowable charges for the community recovery services provided by the county in
24 each fiscal year thereafter. The portion of the federal share of allowable charges not

1 reimbursed to counties shall be transferred to the appropriation account under s.
2 20.435 (5) (kx).

3 (c) *Maintenance of effort.* 1. Any funds used to reimburse counties under par.
4 (b) may not be used to supplant funding from any other source.

5 2. No county providing community recovery services under this subsection may
6 report less funding for other community mental health services under mental health
7 for children and adults on the human service revenue reporting form than the county
8 reported in the year prior to the year in which the county elected to provide
9 community recovery services under s. 49.46 (2) (b) 6. Lo.

10 3. The department may enforce this subsection using contract remedies under
11 s. 46.031 (2g) or (2r) or by adjusting community aids payments as provided under s.
12 46.40 (9) (d) 1. b.

13 **SECTION 6.** 49.46 (2) (b) 6. Lo. of the statutes is created to read:

14 49.46 (2) (b) 6. Lo. Subject to the limitations under s. 49.45 (30g), community
15 recovery services.

16 (END)

D-note

Date

LRB-0707/P6dn

CMH:nwn:

In addition to the reconciliation indicated in the embedded note, this draft also reconciles LRB-0707/P5[✓] and LRB-1542/1[✓]. Both LRB-0707 and LRB-1542 should continue to appear in the compiled bill.[✓]

CMH

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0707/P6dn
CMH:wj:rs

Date

nwn

↑
This draft reconciles LRB-0707, LRB-1542 and LRB-0247. All of these drafts should continue to appear in the compiled bill.

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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0707/P6dn
CMH:nwn:md

January 30, 2009

This draft reconciles LRB-0707, LRB-1542, and LRB-0247. All of these drafts should continue to appear in the compiled bill.

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State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0707/P6
CMH:wlj&nwn:md

DOA:.....Palchik, BB0188 - Community Mental Health Services 1915 (i)
State Plan Option

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

MENTAL ILLNESS AND DEVELOPMENTAL DISABILITIES

This bill specifies that DHS may implement through the Medical Assistance program the state plan option under the federal Social Security Act, which provides federal funding for home and community-based services for people with mental illness.

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

2 SECTION 1. 20.435 (5) (kx) of the statutes is created to read:

3 20.435 (5) (kx) *Interagency and intra-agency programs.* All moneys received
4 from other state agencies and all moneys received by the department from the
5 department for the administration of programs or projects relating to mental health

SECTION 1

1 and alcoholism or other drug abuse services, for the purposes for which received, and
2 all moneys transferred under s. 49.45 (30g) (b) for administrative costs incurred for
3 reimbursing and monitoring community recovery services.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

****NOTE: This is reconciled s. 20.435 (5) (kx). This SECTION has been affected by drafts with the following LRB numbers: LRB-0707/P5 and LRB-0247/1.

4 **SECTION 2.** 46.40 (9) (d) of the statutes is renumbered 46.40 (9) (d) 1. (intro.)
5 and amended to read:

6 46.40 (9) (d) 1. (intro.) The From the appropriation account under s. 20.435 (7)
7 (b), the department may decrease a county's allocation under sub. (2) by the any of
8 the following amounts:

9 a. The amount of any payment adjustments under s. 49.45 (52) made for that
10 county ~~from the appropriation account under s. 20.435 (7) (b).~~

11 2. The total amount of the decrease for a county under this ~~paragraph~~
12 subdivision during any fiscal year may not exceed that part of the county's allocation
13 under sub. (2) that derives from the appropriation account under s. 20.435 (7) (b) for
14 that fiscal year.

15 **SECTION 3.** 46.40 (9) (d) 1. b. of the statutes is created to read:

16 46.40 (9) (d) 1. b. The amount by which the department determines a county
17 failed to comply with the maintenance-of-effort requirement under s. 49.45 (30g) (c)
18 3.

19 **SECTION 4.** 49.45 (30g) of the statutes is created to read:

20 49.45 (30g) COMMUNITY RECOVERY SERVICES. (a) *When services are reimbursable.*
21 Community recovery services under s. 49.46 (2) (b) 6. Lo. provided to an individual

1 are reimbursable under the Medical Assistance program only if all of the following
2 conditions are met:

3 1. An approved amendment to the state medical assistance plan submitted
4 under 42 USC 1396n (i) permits reimbursement for the services under s. 49.46 (2)
5 (b) 6. Lo. in the manner provided under this subsection.

6 2. The county in which the individual resides elects to provide the community
7 recovery services under s. 49.46 (2) (b) 6. Lo. through the Medical Assistance
8 program.

9 3. The individual, the community recovery services, and the community
10 recovery services provider meet any condition set forth in the approved amendment
11 to the medical assistance plan submitted under 42 USC 1396n (i).

12 (b) *Limit on the amount of reimbursement.* If community recovery services are
13 reimbursable under par. (a), the department shall reimburse each participating
14 county for the portion of the federal share of allowable charges for the community
15 recovery services provided by the county that exceeds that county's proportionate
16 share of \$600,000 in fiscal year 2010-2011 and for 95 percent of the federal share of
17 allowable charges for the community recovery services provided by the county in
18 each fiscal year thereafter. The portion of the federal share of allowable charges not
19 reimbursed to counties shall be transferred to the appropriation account under s.
20 20.435 (5) (kx).

21 (c) *Maintenance of effort.* 1. Any funds used to reimburse counties under par.
22 (b) may not be used to supplant funding from any other source.

23 2. No county providing community recovery services under this subsection may
24 report less funding for other community mental health services under mental health
25 for children and adults on the human service revenue reporting form than the county

1 reported in the year prior to the year in which the county elected to provide
2 community recovery services under s. 49.46 (2) (b) 6. Lo.

3 3. The department may enforce this subsection using contract remedies under
4 s. 46.031 (2g) or (2r) or by adjusting community aids payments as provided under s.
5 46.40 (9) (d) 1. b.

6 **SECTION 5.** 49.46 (2) (b) 6. Lo. of the statutes is created to read:

7 49.46 (2) (b) 6. Lo. Subject to the limitations under s. 49.45 (30g), community
8 recovery services.

9 (END)