

1989 Senate Bill 6

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1989 WISCONSIN ACT 6

AN ACT to amend 49.45 (6m) (ar) 1. cm, 49.45 (6m) (av) 2, 49.45 (6m) (av) 5m and 49.45 (6u) (intro.) of the statutes, relating to: increasing payment for certain facilities that provide care to medical assistance recipients with respect to certain direct care costs, active treatment and operating deficits and making an appropriation.

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

SECTION 2. 49.45 (6m) (ar) 1. cm of the statutes is amended to read:

49.45 (6m) (ar) 1. cm. Funding Notwithstanding the limitations under par. (ag) 8, funding distributed to facilities for the provision of active treatment to residents who are developmentally disabled with a diagnosis of developmental disability shall be distributed in accordance with a method developed by the department which is consistent with a prudent buyer approach to payment for services.

SECTION 3. 49.45 (6m) (av) 2 of the statutes is amended to read:

49.45 (6m) (av) 2. The department shall compile an average payment rate for each facility based on that facility's rates for cost centers described under par. (am) 1 to 4 that were in effect on June 30 of the previous year. The department may develop a method for adjusting the facility's rate for the cost center under par. (am) 1 in compiling the average payment rate under this subdivision.

SECTION 4. 49.45 (6m) (av) 5m of the statutes is amended to read:

49.45 (6m) (av) 5m. The Notwithstanding the limitations under par. (ag) 8, the rate under subd. 1, 4 or 5. b or c may be adjusted by the department to reflect funding for active treatment services payments for the provision of active treatment to facility residents with a diagnosis of developmental disability.

SECTION 5. 49.45 (6u) (intro.) of the statutes is amended to read:

49.45 (6u) (intro.) Except as provided in par. (g), from the appropriation under s. 20.435 (1) (o), for reduction of operating deficits, as defined under criteria developed by the department, incurred by a facility, as defined under sub. (6m) (a) 2., that is established under s. 49.14 (1) or that is owned and operated by a city or village, the department shall allocate \$3,715,000 in fiscal year 1987-88 and \$3,715,000 in fiscal year 1988-89 to these facilities and up to \$1,000,000 ~~\$4,000,000~~ in fiscal year 1988-89, as determined by the department, and shall perform all of the following:

SECTION 6. Nonstatutory provisions; health and social services. (1) FACILITY PAYMENT; WAGE OR HOUR SUPPLEMENT. Notwithstanding the requirement for an annual update of the prospective payment system under section 49.45 (6m) (ag) (intro.) of the statutes and the limitations on facility payment rate increases in section 49.45 (6m) (ag) 8 of the statutes, the following shall apply:

(a) The department of health and social services may, for state fiscal year 1988-89, in order to permit a facility to receive increased payment for direct care wages, fringe benefits or hours for registered nurses, licensed practical nurses and nurse's assistants, supplement facility payment rates under section 49.45 (6m) (av) of the statutes by an amount not to exceed, in the aggregate, 3.5% of total 1987 direct care costs reported by facilities for direct care wages, fringe benefits or hours of regis-

tered nurses, licensed practical nurses and nurse's assistants, except that payment may not be made under this supplement for any costs attributable to increases in the worker's compensation portion of a facility's direct care fringe benefits costs that were incurred by the facility after June 30, 1988, or attributable to increased costs for hours of outside purchased services of registered nurses, licensed practical nurses or nurse's assistants that exceed the average wages and fringe benefits for registered nurses, licensed practical nurses or nurse's assistants employed by the facility that were incurred by the facility after June 30, 1988. If the rate of a facility, because of the supplement under this paragraph, is determined under section 49.45 (6m) (av) 5 of the statutes, the facility is ineligible for the supplement under this paragraph, except for a facility for which the state fiscal year 1988-89 rate under section 49.45 (6m) (av) 1 of the statutes is greater than a 0% increase and less than a 2% increase over the facility's average payment rate on June 30, 1988, under section 49.45 (6m) (av) 2 of the statutes. A facility for which the rate, including the supplement under this paragraph, is determined under section 49.45 (6m) (av) 4 of the statutes, may receive a supplement under this paragraph according to a method which the department shall determine.

(b) In order to assure that a supplement provided to a facility under paragraph (a) was expended for the purpose specified in paragraph (a), the department of health and social services shall review the facility's cost reports following provision of the supplement and shall recover from the facility any part of the supplement that was not expended in accordance with paragraph (a) and based on the following criteria:

1. If a facility's allowable direct care costs as established under section 49.45 (6m) (ar) 1 of the statutes for the facility's state fiscal year 1988-89 rates exceed the standards of payment specified under section 49.45 (6m) (ar) 1. a of the statutes, absent the supplement, recovery may be made of the amount, up to the amount of funding received by the facility under paragraph (a), by which revenues exceed expenditures for purposes permitted under paragraph (a) for the period after June 30, 1988, and before July 1, 1989.

2. If a facility's allowable direct care costs as established under section 49.45 (6m) (ar) 1 of the statutes for the facility's state fiscal year 1988-89 rates, are less than the standards of payment specified under section 49.45 (6m) (ar) 1. a of the statutes, absent the supplement, recovery may be made of the following:

a. If the facility incurred direct care costs after June 30, 1988, and before January 1, 1989, that are greater than the amount calculated by the department under section 49.45 (6m) (ar) 1. b of the statutes, the amount, up to the amount of funding received by the facility under paragraph (a), by which revenues exceed expenditures for

purposes permitted under paragraph (a) for the period after June 30, 1988, and before July 1, 1989.

b. If the facility incurred direct care costs after June 30, 1988, and before January 1, 1989, that are less than or equal to the amount calculated by the department under section 49.45 (6m) (ar) 1. b of the statutes, the amount, up to the amount of funding received by the facility under paragraph (a), by which revenues exceed expenditures for purposes permitted under paragraph (a) for the period after December 31, 1988, and before July 1, 1989.

(c) In calculating a facility's payment rate for state fiscal year 1989-90, the department of health and social services shall include in the facility's base rate the amount of any supplement provided to the facility under paragraph (a), less any recovery made from the facility under paragraph (b).

(2) REPORT ON FACILITY PAYMENT SUPPLEMENT. By December 31, 1989, the department of health and social services shall submit to the chief clerk of each house of the legislature for distribution under section 13.172 (2) of the statutes a report concerning the amounts of payment made under the supplement under subsection (1). The report shall include both a cumulative statewide total and shall separately indicate the payment amounts made for registered nurses, licensed practical nurses and nurse's assistants and, within these separate categories, the separate payment amounts made for direct care wages, fringe benefits or hours for all of the following:

(a) Each facility in the state for which payment was made.

(b) Each facility ownership type, whether proprietary; nonprofit; county-owned; or other-government-owned, including municipally owned or the Wisconsin veterans home at King.

(c) The owner of each facility for which payment was made under paragraph (a).

SECTION 7. Appropriation changes; health and social services. (1) FACILITY MEDICAL ASSISTANCE PAYMENT. The dollar amount in the schedule under section 20.005 (3) of the statutes for the appropriation to the department of health and social services under section 20.435 (1) (b) of the statutes, as affected by the acts of 1987 and 1989, is increased by \$3,740,000 for fiscal year 1988-89 to permit the supplement provided under SECTION 6 (1) (a) of this act and to increase funding for the provision of active treatment for the developmentally disabled by facilities receiving initial certification, after June 30, 1988, as intermediate care facilities for the mentally retarded.

(2) COMMUNITY OPTIONS PROGRAM SUPPLEMENT. The dollar amounts in the schedule under section 20.005 (3) of the statutes for the appropriation to the department of health and social services under section 20.435 (4) (bd) of the statutes, as affected by the acts of 1987 and 1989,

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are increased by \$558,400 for fiscal year 1988–89 to increase funding to provide services under section 46.27 of the statutes to individuals who have received assessments under section 46.27 (6) of the statutes but have not received services under section 46.27 of the statutes. Of the amount appropriated under this subsection, \$390,900

is designated for services to eligible individuals under section 46.27 (11) of the statutes and \$167,500 is designated for services to eligible individuals under section 46.27 (5) (b) of the statutes.

SECTION 8. Effective date. This act takes effect on January 1, 1989.
