

1993 Assembly Bill 405

Date of enactment: April 20, 1994

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1993 WISCONSIN ACT 380

AN ACT to repeal 46.036 (5m) (c) and 46.036 (5m) (d); to renumber and amend 46.036 (5m) (a); to amend 46.037 (title), 46.037 (1), 46.037 (2) and 46.037 (3); to repeal and recreate 46.036 (5m) (b); and to create 46.036 (5m) (a) 2, 46.036 (5m) (f) and 46.037 (1m) of the statutes, relating to: rates charged by residential child care centers and licensed, incorporated group homes and permitting nonprofit corporations that contract to provide services for the department of health and social services or for a county department of human services, social services, community programs or developmental disabilities services to retain a certain percentage of the contract amount.

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

SECTION 1d. 46.036 (5m) (a) of the statutes is renumbered 46.036 (5m) (a) (intro.) and amended to read:

46.036 (5m) (a) (intro.) In this subsection, “residential provider”:

1. “Provider” means a group home under s. 48.02 (7) or a community-based residential facility under s. 50.01 (1g) nonprofit, nonstock corporation organized under ch. 181 that contracts under this section to provide client services on the basis of a unit rate per client service.

SECTION 1g. 46.036 (5m) (a) 2. of the statutes is created to read:

46.036 (5m) (a) 2. “Rate-based service” means a service or a group of services, as determined by the department, that is reimbursed through a prospectively set rate and that is distinguishable from other services or groups of services by the purpose for which funds are provided for that service or group of services and by the source of funding for that service or group of services.

SECTION 1m. 46.036 (5m) (b) of the statutes is repealed and recreated to read:

46.036 (5m) (b) 1. Subject to subds. 2 and 3, if revenue under a contract for the provision of a rate-based service exceeds allowable costs incurred in the contract period, the provider may retain from the surplus generated by that rate-based service up to 5% of the contract

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

2. Subject to subd. 3, a provider may accumulate funds from more than one contract period under this paragraph, except that, if at the end of a contract period the amount accumulated from all contract periods for a rate-based service exceeds 10% of the amount of all current contracts for that rate-based service, the provider shall, at the request of a purchaser, return to that purchaser the purchaser’s proportional share of that excess and use any of that excess that is not returned to a purchaser to reduce the provider’s unit rate per client for that rate-based service in the next contract period. If a provider has held for 4 consecutive contract periods an accumulated reserve for a rate-based service that is equal to or exceeds 10% of the amount of all current contracts for that rate-based service, the provider shall apply 50% of that accumulated amount to reducing its unit rate per client for that rate-based service in the next contract period.

3. If on December 31 of the year of the effective date of this subdivision ... [revisor inserts date], the amount accumulated by a provider from all contract periods ending on or before that date for all rate-based services pro-

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vided by the provider exceeds 10% of the provider's total contract amount for all rate-based services provided by the provider in the year of the effective date of this subdivision [revisor inserts date], the provider shall, at the request of a purchaser, return to that purchaser the purchaser's proportional share of that excess.

SECTION 1p. 46.036 (5m) (c) of the statutes is repealed.

SECTION 1q. 46.036 (5m) (d) of the statutes is repealed.

SECTION 1r. 46.036 (5m) (f) of the statutes is created to read:

46.036 (5m) (f) All providers that are subject to this subsection shall comply with any financial reporting and auditing requirements that the department may prescribe.

Those requirements shall include a requirement that a provider provide to any purchaser and the department any information that the department needs to claim federal reimbursement for the cost of any services purchased from the provider and a requirement that a provider provide audit reports to any purchaser and the department according to standards specified in the provider's contract and any other standards that the department may prescribe.

SECTION 1t. 46.037 (title) of the statutes is amended to read:

46.037 (title) Rates for residential child care centers and group homes.

SECTION 2. 46.037 (1) of the statutes is amended to read:

46.037 (1) ~~Each~~ Subject to sub. (1m), each residential child care center and each group home, as defined in s. 48.02 (7), that is licensed under s. 48.625 and incorporated under ch. 180, 181 or 185 shall establish a per client rate for its services and shall charge all purchasers the same rate.

SECTION 3. 46.037 (1m) of the statutes is created to read:

46.037 (1m) Notwithstanding sub. (1), a county department under s. 46.215, 46.22, 46.23, 51.42 or 51.437 or a group of those county departments and a residential child care center or group home, as described in

sub. (1), may negotiate a per client rate for the services of that residential child care center or group home, if that county department or the county departments in that group of county departments agree to place 75% or more of the residents of that residential child care center or group home during the period for which that rate is effective. A residential child care center or group home that negotiates a per client rate under this subsection shall charge that rate to all purchasers of its services.

SECTION 4. 46.037 (2) of the statutes is amended to read:

46.037 (2) A residential child care center or a group home, as described in sub. (1) or (1m), shall notify ~~submit~~ to the department of the rate it charges and of any change in that rate before a charge is made to any purchaser. The department shall provide forms and instructions for the submission of rates and changes in rates under this subsection and a residential child care center or a group home that is required to submit a rate or a change in a rate under this subsection shall submit that rate or change in a rate using those forms and instructions.

SECTION 5. 46.037 (3) of the statutes is amended to read:

46.037 (3) The department may require an audit of any residential child care center or group home, as described in sub. (1) or (1m), for the purpose of collecting federal funds.

SECTION 5m. Initial applicability. (1) RATE-BASED SERVICE CONTRACTS. The treatment of section 46.036 (5m) (a), (b), (c), (d) and (f) of the statutes and the creation of section 46.036 (5m) (a) 2 of the statutes first apply to contracts under which a provider, as defined in section 46.036 (5m) (a) 1. of the statutes, as affected by this act, commences performance on the effective date of this subsection.

SECTION 5p. Effective dates. This act takes effect on the day after publication, except as follows:

(1) The treatment of section 46.036 (5m) (a), (b), (c), (d) and (f) of the statutes, the creation of section 46.036 (5m) (a) 2. of the statutes and SECTION 5m of this act take effect on the first January 1 after publication.