



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2005 Wisconsin Act 47
[2005 Assembly Bill 296]

**Developmental Disability
Community-Based Care Exception
for Insufficient County Funds**

2005 Wisconsin Act 47 creates an exception to the general statutory prohibition against placing an individual with a developmental disability in a more restrictive (or less “integrated”—see below) institutional setting than needed by the individual, to allow such placement if a court finds that the county of residence of the individual does not have sufficient funds available to reasonably be able to provide the individual with community-based care in accordance with a statutorily-required plan.

Background Information

Wisconsin operates several programs to provide home-based and community-based care services to reduce the number of individuals who receive long-term care services in nursing homes and institutions. Enactment of 2003 Wisconsin Act 33, the 2003-2005 Biennial Budget Bill, created a general prohibition (which does not apply to specified emergency or temporary placements) against placing an individual with a developmental disability in the following institutional settings:

- A nursing facility, if determined from a screening that the individual requires active treatment for developmental disability, *unless* it is determined from the screening that the individual’s need for care cannot fully be met in an intermediate care facility for the mentally retarded or under a statutorily-required plan for home-based or community-based care. [s. 46.279 (3), Stats.]
- An intermediate care facility for the mentally retarded (other than one of the three state centers for the developmentally disabled), *unless* a court finds, after considering a statutorily-required plan for home-based or community-based care, that such placement “is the most integrated setting that is appropriate to the needs of the individual, taking into account information presented by all affected parties.” [s. 46.279 (2), Stats.] “Most integrated setting” is defined as “a setting that enables an individual to interact with persons without developmental disabilities to the fullest extent possible.” [s. 46.279 (1) (bm), Stats.]

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.state.wi.us/>.

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In addition to the exceptions beginning with “unless” in the previous two bullets, 2005 Wisconsin Act 47 creates an alternative exception that allows placement or continued placement of an individual with a developmental disability in either of the institutional settings identified in the previous two bullets if a court finds “that the county of residence of the individual would not reasonably be able to provide community-based care in accordance with the plan within the limits of available state and federal funds and county funds required to be appropriated to match state funds.”

Effective Date: The Act takes effect on October 28, 2005.

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