

1999 ASSEMBLY BILL 880

March 15, 2000 – Introduced by Representatives HUNDERTMARK, SUDER, LA FAVE, AINSWORTH, JESKEWITZ, LADWIG, MONTGOMERY, BRANDEMUEHL, MUSSER, F. LASEE, BALOW, LEIBHAM, STEINBRINK, JOHNSRUD, MEYER, MEYERHOFER, SCHOOFF, RHOADES, PLOUFF, STONE, PLALE, POWERS, PORTER, WAUKAU, BOYLE, HANDRICK, J. LEHMAN, SPILLNER and KELSO, cosponsored by Senators GROBSCHMIDT, ERPENBACH and HUELSMAN. Referred to Committee on Health.

1 **AN ACT to repeal** 46.27 (7b); **to consolidate, renumber and amend** 46.27 (11)
 2 (c) 6. (intro.) and a.; **to amend** 46.27 (3) (f), 46.27 (7) (cm) 1. (intro.), 46.27 (7)
 3 (cm) 1. c., 46.27 (11) (c) 6. b., 46.277 (5) (d) 1m. (intro.), 46.277 (5) (d) 1n. (intro.)
 4 and 46.277 (5) (d) 2. (intro.); **to repeal and recreate** 46.277 (5) (d) 2. a.; and
 5 **to create** 46.277 (5) (d) 4. of the statutes; **relating to:** the use of community
 6 options program funds and community integration program funds to provide
 7 services in community-based residential facilities.

Analysis by the Legislative Reference Bureau

Currently, home and community-based long-term care is provided to persons who are elderly, physically or developmentally disabled, chronically mentally ill or chemically dependent as a benefit under the long-term support community options program (COP). COP provides assessments of functionality and home and community-based care as an alternative to institutionalized care; one part of COP (commonly referred to as “COP-Regular”) is funded by state general purpose revenues and the other part (commonly referred to as “COP-Waiver”) is funded by the joint federal-state program of medical assistance, under a waiver of federal medicaid laws. Also under a waiver of federal medicaid laws, a community integration program (commonly referred to as “CIP II”) provides home and community-based services and continuity of care for persons who meet medical

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assistance eligibility requirements and are relocated from certain institutions or meet requirements for medical assistance reimbursement in nursing homes. Numerous restrictions exist on the use of COP-Regular, COP-Waiver or CIP II funds to provide eligible individuals with services in community-based residential facilities (C-BRFs). Among these restrictions is the requirement that a county annually establish a maximum total amount, from the county's annual allocation, that may be encumbered in a calendar year for COP services to eligible individuals in C-BRFs, unless the department of health and family services (DHFS) grants a hardship exception for an individual or waives the requirement. Other provisions restrict the licensed capacity of a C-BRF in which an individual may reside and receive COP services. Under COP-Regular, a county, non-profit agency or aging unit may not use funds to provide services in a C-BRF that has more than eight beds, unless DHFS approves service provision in a C-BRF that was licensed on July 29, 1995, or is licensed for 20 or fewer beds and meets certain standards; or unless the C-BRF entirely consists of independent apartments and the residents are aged or physically disabled and eligible for COP-Regular. Under COP-Waiver, a county, nonprofit agency or aging unit may not use funds to provide services in a C-BRF that has more than four beds, unless DHFS approves service provision in a C-BRF that entirely consists of independent apartments with residents who are aged or physically disabled and eligible for COP-Waiver; or in a C-BRF that has five to eight beds. Subject to DHFS approval, a county may establish more restrictive conditions than these on the provision of services to a person in a C-BRF. CIP II restrictions with respect to C-BRFs are similar to those under COP-Waive.

Under 1999 Wisconsin Act 9 (the biennial budget act), DHFS must establish a pilot project in Chippewa County under which that county, in determining the cost effectiveness of a placement for COP-Regular services in a C-BRF, must consider all state and federal funds needed for all options considered. Further, in that county, the county, a private nonprofit agency or an aging unit may use COP-Regular funds to provide services in any C-BRF that has 20 or fewer beds, but must meet certain restrictions for provision of services in a C-BRF with more than 20 beds.

This bill eliminates the eight-bed restriction under COP-Regular and the four-bed restriction under COP-Waiver and CIP II for provision of services in a C-BRF and limits service provision to 20-bed C-BRFs, unless otherwise approved by DHFS under current standards. Lastly, the bill eliminates the COP-Regular pilot project in Chippewa County.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

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1 46.27 (3) (f) Beginning on January 1, 1996, from the annual allocation to the
2 county for the provision of long-term community support services under subs. (7) (b)
3 and (11), annually establish a maximum total amount that may be encumbered in
4 a calendar year for services for eligible individuals in community-based residential
5 facilities, unless the department waives the requirement under sub (2) (i) or
6 approves a request for an exception under sub. (6r) (c).

7 **SECTION 2.** 46.27 (7) (cm) 1. (intro.) of the statutes, as affected by 1999
8 Wisconsin Act 9, is amended to read:

9 46.27 (7) (cm) 1. (intro.) ~~Except as provided sub. (7b), beginning~~ Beginning on
10 January 1, 1996, no county, private nonprofit agency or aging unit may use funds
11 received under par. (b) to provide services in any community-based residential
12 facility that has more than 8 20 beds, unless one of the following applies:

13 **SECTION 3.** 46.27 (7) (cm) 1. c. of the statutes is amended to read:

14 46.27 (7) (cm) 1. c. The department approves the provision of services in a
15 community-based residential facility that is initially licensed after July 29, 1995,
16 that is licensed for more than 20 ~~or fewer~~ beds and that meets standards established
17 under subd. 2.

18 **SECTION 4.** 46.27 (7b) of the statutes, as created by 1999 Wisconsin Act 9, is
19 repealed.

20 **SECTION 5.** 46.27 (11) (c) 6. (intro.) and a. of the statutes are consolidated,
21 renumbered 46.27 (11) (c) 6. a. and amended to read:

22 46.27 (11) (c) 6. a. No county, private nonprofit agency or aging unit may use
23 funds received under this subsection to provide residential services in any
24 ~~community-based residential facility, as defined in s. 50.01 (1g), or a group home, as~~
25 ~~defined in s. 48.02 (7), that has more than 4~~ 5 beds, unless ~~one of the following~~

ASSEMBLY BILL 880**SECTION 5**

1 applies: a.—The the department approves the provision of services in a
2 ~~community-based residential facility or group home~~ that has 5 ~~6~~ to 8 beds.

3 **SECTION 6.** 46.27 (11) (c) 6. b. of the statutes is amended to read:

4 46.27 **(11)** (c) 6. b. The No county, private nonprofit agency or aging unit may
5 use funds received under this subsection to provide residential services in a
6 community-based residential facility, as defined in s. 50.01 (1g), that has more than
7 20 beds, unless the department approves the provision of services in a
8 community-based residential facility that entirely consists of independent
9 apartments, each of which has an individual lockable entrance and exit and
10 individual separate kitchen, bathroom, sleeping and living areas, to individuals who
11 are eligible under this subsection and are physically disabled or are at least 65 years
12 of age.

13 **SECTION 7.** 46.277 (5) (d) 1m. (intro.) of the statutes is amended to read:

14 46.277 **(5)** (d) 1m. (intro.) No county may use funds received under this section
15 to provide services to a person who does not live in his or her own home or apartment
16 unless, subject to the limitations under subds. 2. ~~and~~ 3. and 4. and par. (e), one of
17 the following applies:

18 **SECTION 8.** 46.277 (5) (d) 1n. (intro.) of the statutes is amended to read:

19 46.277 **(5)** (d) 1n. (intro.) A county may also use funds received under this
20 section, subject to the limitations under subds. 2. ~~and~~ 3. and 4. and par. (e), to provide
21 services to a person who does not live in his or her own home or apartment if the
22 services are provided to the person in a community-based residential facility and the
23 county department or aging unit has determined that all of the following conditions
24 have been met:

25 **SECTION 9.** 46.277 (5) (d) 2. (intro.) of the statutes is amended to read:

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1 46.277 (5) (d) 2. (intro.) No county may use funds received under this section
2 to provide residential services in any community-based residential facility, as
3 defined in s. 50.01 (1g), ~~or group home, as defined in s. 48.02 (7), that has more than~~
4 ~~4 beds,~~ unless one of the following applies:

5 **SECTION 10.** 46.277 (5) (d) 2. a. of the statutes is repealed and recreated to read:

6 46.277 (5) (d) 2. a. The requirements of s. 46.27 (7) (cm) 1. a. or c. are met.

7 **SECTION 11.** 46.277 (5) (d) 4. of the statutes is created to read:

8 46.277 (5) (d) 4. No county may use funds received under this section to provide
9 residential services in a group home, as defined in s. 48.02 (7), that has more than
10 5 beds, unless the department approves the provision of services in a group home that
11 has 6 to 8 beds.

12

(END)