

1999 DRAFTING REQUEST

Bill

Received: **03/09/2000**

Received By: **kenneda**

Wanted: **As time permits**

Identical to LRB:

For: **Jean Hundertmark (608) 266-3794**

By/Representing: **Jason (aide)**

This file may be shown to any legislator: NO

Drafter: **kenneda**

May Contact:

Ah. Drafters:

Subject: **Health - long-term care
Public Assistance - med. assist.**

Extra Copies: **ISR**

Pre Topic:

No specific pre topic given

Topic:

Use of COP and CIP II funds to provide services in community-based residential facilities

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>Reaired</u>
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/1			haugeca 03/13/2000	_____	gretskl 03/13/2000	lrb_docadmin 03/13/2000	

FE Sent For: 3/15/00

<END>

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Please submit with jacket; please also send E-mail to Jason Rostan

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1?	kenneda	1 cjs 3/13 00 3-13	ck 3-13	ck 3-13 SF			

FE Sent For:

<END>

Kennedy, Debora

From: Rostan, Jason
Sent: Thursday, March 09, 2000 3:29 PM
To: Kennedy, Debora
Subject: CBRF Bill 4208/1



CBRF Memo.doc

Jason Rostan
Legislative Assistant
Representative Jean Hundertmark



JEAN HUNDERTMARK
STATE REPRESENTATIVE
40TH ASSEMBLY DISTRICT

Memorandum

To: Debora Kennedy
From: Representative Jean Hundertmark
Date: Thursday, March 9, 2000
R e : COP Funding for CBRFs

I would like to author a bill relating to the use of community options program funds to provide services in community-based residential facilities. You have actually already created A LRB draft on this issue (LRB 4208/1) for Senator Grobschmidt. I would like to have another LRB draft created with the following modifications as soon as possible for an Assembly Bill.

I anticipate the same request for modifications will be made by Senator Grobschmidt shortly.

A memorandum from DHFS about the original LRB draft and their request for modification is being delivered to your office. It is my intention that the modifications DHFS is requesting be incorporated in the LRB draft. DHFS¹ changes are as follows:

The changes include:

- ✓ 1. Section 1: On page 3, line 2 delete: "Notwithstanding the maximum, however, a county may not deny services under this section to an eligible individual who resides in a community-based residential facility when the individual becomes eligible, solely because the maximum total amount has been reached"
- ✓ 2. Section 5: On page 3, line 20 delete: "Section 5. 46.27(1 1)(c)5p. of the statutes is repealed."
- 3. New Section: Amend CIP II (s.46.277(5)(d)2) size requirements. CIP II must be consistent with COP-Waiver for county ease of administration. (Raise the bed limit to 20 also).

The LRB could receive a hearing as early as next week. Therefore, the need for this to be done in a timely manner is extreme. I apologize for any inconvenience this may cause. If you have any questions, please feel free to call my staff, Jason Rostan, at 266-3794.

By 3:30 TODAY 2/13

D-NOTE

1999 BILL

REGULATORY

and community integration program funds

1 AN ACT to repeal ~~46.27~~ (7b) and 46.27 (11) (c) 5p.; to ~~consolidate~~ **renumber**
 2 **and amend** 46.27 (11) (c) 6. (intro.) and a.; and to **amend** ~~46.27 (3) (f), 46.27~~
 3 ~~(7) (cm) 1. (intro.), 46.27 (7) (cm) 1. c. and 46.27 (11) (c) 6. b.~~ of the statutes;
 4 **relating to:** the use of community options program funds to provide services
 5 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. Numerous restrictions exist on the use of COP-Regular ~~or~~ COP-Waiver 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

or CIP II

INSERT ANAL 1

BILL

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.

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 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. With respect to the requirement that a county annually establish a maximum total amount that may be encumbered in a calendar year for COP services to eligible individuals in C-BRFs, the bill prohibits a county from denying services to an eligible individual in a C-BRF solely because the maximum total amount has been reached. 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:

- 1 **SECTION 1.** 46.27 (3) (f) of the statutes is amended to read:
- 2 46.27 (3) (f) Beginning on January 1, 1996, from the annual allocation to the
- 3 county for the provision of long-term community support services under subs. (7) (b)
- 4 and (11), annually establish a maximum total amount that may be encumbered in
- 5 a calendar year for services for eligible individuals in community-based residential

BILL

1 facilities, unless the department waives the requirement under sub (2) (i) or
2 approves a request for an exception under sub. (6r) (c). Notwithstanding the
3 maximum, however, a county may not deny services under this section to an eligible
4 individual who resides in a community-based residential facility when the
5 individual becomes eligible, solely because the maximum total amount has been
6 reached.

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) 5p. of the statutes is repealed.~~

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

23 46.27 (11) (c) 6. a. No county, private nonprofit agency or aging unit may use
24 funds received under this subsection to provide residential services in any
25 ~~community-based residential facility, as defined in s. 50.01 (1g), or a~~ group home, as

BILL

5

1 defined in s. 48.02 (7), that has more than ~~4~~ beds, unless ~~one of the following applies:~~

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

4 SECTION 7. 46.27 (11) (c) 6. b. of the statutes is amended to read:

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

14 ~~_____~~ (END)

BILL

1 services to a person who does not live in his or her own home or apartment if the
2 services are provided to the person in a community-based residential facility and the
3 county department or aging unit has determined that all of the following conditions
4 have been met:

5 **SECTION 4.** 46.27 (11) (c) 6. (intro.) of the statutes is amended to read:

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

10 **SECTION 5.** 46.27 (11) (c) 6. a. of the statutes is repealed and recreated to read:

11 46.27 (11) (c) 6. a. The requirements of sub. (7) (cm) 1. a. or c. are met.

12 **SECTION 6.** 46.27 (11) (c) 6g. of the statutes is created to read:

13 46.27 (11) (c) 6g. No county, private nonprofit agency or aging unit may use
14 funds received under this subsection to provide residential services in a group home,
15 as defined in s. 48.02 (7), that has more than 5 beds, unless the department approves
16 the provision of services in a group home that has 6 to 8 beds.

17 **SECTION 7.** 46.277 (5) (d) lm. (intro.) of the statutes is amended to read:

18 46.277 (5) (d) lm. (intro.) No county may use funds received under this section
19 to provide services to a person who does not live in his or her own home or apartment
20 unless, subject to the limitations under subds. 2. ~~and~~, 3. ~~and~~ 4. and par. (e), one of
21 the following applies:

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

23 46.277 (5) (d) 1n. (intro.) A county may also use funds received under this
24 section, subject to the limitations under subds. 2. ~~and~~, 3. ~~and~~ 4. and par. (e), to provide
25 services to a person who does not live in his or her own home or apartment if the

BILL

1 services are provided to the person in a community-based residential facility and the
2 county department or aging unit has determined that all of the following conditions
3 have been met:

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

5 46.277 (5) (d) 2. (intro.) No county may use funds received under this section
6 to provide residential services in any community-based residential facility, as
7 defined in s. 50.01 (lg), ~~or group home, as defined in s. 48.02 (7), that has more than~~
8 ~~4 beds~~, unless one of the following applies:

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

10 46.277 (5) (d) 2. a. The requirements of s. 46.27 (7) (cm) 1. a. or c. are met.

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

12 46.277 (5) (d) 4. No county may use funds received under this section to provide
13 residential services in a group home, as defined in s. 48.02 (7), that has more than
14 5 beds, unless the department approves the provision of services in a group home that
15 has 6 to 8 beds.

16 SECTION 12. 46.286 (1) (a) 2. (intro.) of the statutes, as created by 1999
17 Wisconsin Act 9, is amended to read:

18 46.286 (1) (a) 2. (intro.) The person has a condition that is expected to last at
19 least 90 days or result in death within 12 months after the date of application &&&
20 does not meet the level specified under subd. 1. a. or b.; the person first applies for
21 eligibility for the family care benefit within 36 months after the date on which the
22 family care benefit is initially available in the person's county of residence; and, on
23 the date that the family care benefit became available in the person's county of
24 residence, the person was a resident in a nursing home or had been receiving for at

(End)

D-NOTE

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4724/?ins

.....

no 9

INSET ANAL 1

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 assistance eligibility requirements and are relocated from certain institutions or meet requirements for medical assistance reimbursement in nursing homes.

no 9

INSERT ANAL 2

CIP II restrictions with respect to C-BRFs are similar to those under COP-Waiver.

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

LRB-4724/¹?dn

DAK:.....

js

To Representative Hundertmark:

Please note that I amended s. 46.27 (11) (c) 6. a., stats., as affected by this bill, to refer to a group home that has more than 5 (rather than more than 4) beds. This is a technical change. Under the definition of "group home" in s. 48.02 (7), stats., the size of the facility begins at 5, rather than 4, beds. I also made this change in creating s. 46.277 (5) (d) 4., stats. Please contact me if you have questions about this matter.

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137

**DRAFTERS NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4724/1dn
DAK:cjs:ch

March 13, 2000

To Representative Hundertmark:

Please note that I amended s. 46.27 (11) (c) 6. a., stats., as affected by this bill, to refer to a group home that has more than 5 (rather than more than 4) beds. This is a technical change. Under the definition of "group home" in s. 48.02 (7), stats., the size of the facility begins at 5, rather than 4, beds. I also made this change in creating s. 46.277 (5) (d) 4., stats. Please contact me if you have questions about this matter.

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Managing Attorney
Phone: (608) 266-0137