

1999 SENATE BILL 397

February 16, 2000 – Introduced by HEALTH, UTILITIES, VETERANS AND MILITARY AFFAIRS. Referred to Health, Utilities, Veterans and Military Affairs.

1 **AN ACT** *to renumber and amend* 49.45 (6t); and *to create* 49.45 (6t) (b) and
2 49.45 (24p) of the statutes; **relating to:** designating personal care shortage
3 areas, reimbursement for losses in the provision of personal care services,
4 providing a supplement for hourly medical assistance reimbursement rates for
5 in-home personal care services workers, providing an exemption from
6 emergency rule procedures, requiring the exercise of rule-making authority
7 and making appropriations.

Analysis by the Legislative Reference Bureau

This bill requires the department of health and family services (DHFS) to designate personal care shortage areas in the state and to reimburse providers of personal care services in those areas, from general program revenues, at 125% of the medical assistance reimbursement rate for the provision of personal care services in areas of the state that are not designated as personal care shortage areas. The bill requires DHFS to specify criteria, by rule, for the designation of areas as personal care shortage areas and authorizes DHFS to promulgate the rules as emergency rules without providing evidence of necessity for the preservation of the public peace, health, safety or welfare and without providing a finding of emergency.

Under current law, as affected by 1999 Wisconsin Act 9 (the biennial budget act), the hourly medical assistance reimbursement rate for workers providing

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in-home personal care services is \$12.25. The bill increases the reimbursement rate by \$3.25, to \$15.50 per hour.

Under current law, county departments of social services, human services and community programs and local health departments provide certain services, including personal care services, to medical assistance recipients. DHFS distributes to these county departments and local health departments up to \$4,500,000 of federal medicaid moneys in each fiscal year, under a method developed by DHFS, to reduce losses incurred by the county departments and local health departments in providing the services. The bill requires that DHFS annually distribute general purpose revenues to supplement by 15% each of those distributions, in order to additionally reimburse county departments and local health departments for a portion of losses incurred in providing personal care services to medical assistance recipients after December 31, 1999.

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.** 49.45 (6t) of the statutes, as affected by 1999 Wisconsin Act 9, is
2 renumbered 49.45 (6t) (a), and 49.45 (6t) (a) 2. (intro.), 3. and 4., as renumbered, are
3 amended to read:

4 49.45 **(6t)** (a) 2. (intro.) Based on the amount estimated to be available under
5 ~~par. (a) subd. 1.~~, develop a method, which need not be promulgated as rules under
6 ch. 227, to distribute this allocation to the individual county departments under s.
7 46.215, 46.22, 46.23 or 51.42 or to local health departments that have incurred
8 operating deficits that shall include all of the following:

9 3. Except as provided in ~~par. (d) subd. 4.~~, distribute the allocation under the
10 distribution method that is developed.

11 4. If the federal department of health and human services approves for state
12 expenditure in a fiscal year amounts under s. 20.435 (4) (o) that result in a lesser
13 allocation amount than that allocated under this subsection or disallows use of the

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1 allocation of federal medicaid funds under ~~par. (c) subd. 3.~~, reduce allocations under
2 this subsection and distribute on a prorated basis, as determined by the department.

3 **SECTION 2.** 49.45 (6t) (b) of the statutes is created to read:

4 49.45 **(6t)** (b) From the appropriation under s. 20.435 (5) (b), the department
5 shall annually distribute moneys for reduction of operating deficits, as determined
6 under criteria developed under par. (a) 2. a., incurred by a county department under
7 s. 46.215, 46.22, 46.23 or 51.42 or by a local health department, as defined in s. 250.01
8 (4), for services provided under s. 49.46 (2) (b) 6. j. The department shall distribute
9 the moneys specified in this paragraph as a supplement of 15% to each distribution
10 made under the method specified under par. (a) 2., for services provided under s.
11 49.46 (2) (b) 6. j. after December 31, 1999.

12 **SECTION 3.** 49.45 (24p) of the statutes is created to read:

13 49.45 **(24p)** PERSONAL CARE SHORTAGE AREAS. (a) The department shall
14 designate as a personal care shortage area any area that meets criteria that the
15 department specifies by rule. From the appropriation under s. 20.435 (5) (b), the
16 department shall reimburse providers of personal care services under s. 49.46 (2) (b)
17 6. j. in personal care shortage areas at 125% of the reimbursement for the provision
18 of personal care services in areas of the state that are not designated as personal care
19 shortage areas.

20 (b) The department shall by rule specify criteria for the designation of an area
21 as a personal care shortage area, including a criterion concerning the maximum
22 number of personal care workers per area population.

23 (c) If an area designated as a personal care shortage area under par. (a) no
24 longer meets criteria specified under par. (b), the department shall dissolve the
25 designation.

SENATE BILL 397**SECTION 4****SECTION 4. Nonstatutory provisions.****(1) PERSONAL CARE SHORTAGE AREAS; RULES.**

(a) The department of health and family services shall submit in proposed form the rules required under section 49.45 (24p) (b) of the statutes, as created by this act, to the legislative council staff under section 227.15 (1) of the statutes no later than the first day of the 4th month beginning after the effective date of this paragraph.

(b) Using the procedure under section 227.24 of the statutes, the department of health and family services may promulgate rules required under section 49.45 (24p) (b) of the statutes, as created by this act, for the period before the effective date of the rules submitted under paragraph (a), but not to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b) and (3) of the statutes, the department is not required to provide evidence that promulgating a rule under this paragraph as an emergency rule is necessary for the preservation of the public peace, health, safety or welfare and is not required to provide a finding of emergency for a rule promulgated under this paragraph.

SECTION 5. Appropriation changes.

(1) PERSONAL CARE SHORTAGE AREAS. In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of health and family services under section 20.435 (5) (b) of the statutes, as affected by the acts of 1999, the dollar amount is increased by \$-0- for fiscal year 1999-00 and the dollar amount is increased by \$-0- for fiscal year 2000-01 to provide increased medical assistance reimbursement for the provision of personal care services in personal care shortage areas.

