

1999 DRAFTING REQUEST

Bill

Received: 01/13/2000

Received By: kenneda

Wanted: As time permits

Identical to LRB:

For: Richard Grobschmidt (608) 266-7505

By/Representing: John Wagnitz (aide)

This file may be shown to any legislator: NO

Drafter: kenneda

May Contact:

Alt. Drafters:

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

Extra Copies: **ISR**

Pre Topic:

No specific pre topic given

Topic:

Permit use of COP funds to provide services in CBRFs with up to 20 beds

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>Required</u>
/1	kenneda 02/09/2000	csicilia 02/09/2000	martykr 02/10/2000	_____	lrb_docadmin 02/10/2000	lrb_docadminS&L 02/14/2000	
/2	kenneda 03/14/2000	csicilia 03/14/2000	martykr 03/14/2000	_____	lrb_docadmin 03/14/2000	lrb_docadminS&L 03/14/2000	

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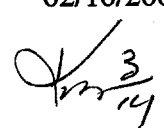
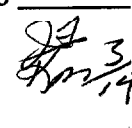
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FE Sent For:




 1/2 cjs 3/14
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1?	kenneda	1 gjs	2/9 Km2 oo	H# 2 2/11			

FE Sent For:

<END>

Kennedy, Debora

Senator Grobowski's Office

From: Wagnitz, John
Sent: Thursday, January 13, 2000 9:30 AM
To: Kennedy, Debora
Subject: FW: <no subject>

Dear Debora,

If you have further questions for me, I can be reached at 6-7505.
John Wagnitz

-----Original Message-----

From: Forbes McIntosh [mailto:mcintosh@inxpress.net]
Sent: Wednesday, January 12, 2000 4:39 PM
To: John.Wagnitz@legis.state.wi.us
Subject: <no subject>

Hello John.

Sorry for the wait, but here are the drafting instructions regarding CBRFs and COP funding. Please let the LRB drafting attorney know that DHFS recently modified their COP-Waiver with HCFA. Under the new waiver (as I understand it), the 8 bed limit was removed and replaced with a reference to Wisconsin statute. This is why we need the bill-to change the statutory reference.

If you have any questions, please contact me on my cell phone at 209-9316.

*255-0566
Boyderrick*

USE OF COP FUNDS IN CBRFS WITH MORE THAN EIGHT BEDS

Specify that counties, private nonprofit agencies or aging units could use COP-R and COP-W funds to provide services in CBRFs with up to 20 beds, rather than eight beds, without the need to obtain a variance from the Department. Prohibit counties from denying COP-R or COP-W funding to a person residing in a CBRF when the individual becomes eligible solely because the maximum total COP allocation amount has been reached. }?

Also, specify that persons who are receiving COP funding shall not lose that funding when moving between residence settings (i.e. moving from a home care setting into a CBRF setting).

*2/9/00:
Forbes:
Leave
out*

*McIntosh:
Not sure this
should be left
in.*

Questions to ask John Wagnity:

① ~~Should~~ fix 46.27 (4) (i) (intro.) ~~is contradicted~~
by 5r (intro.)

② ? Should fix 5p.a. - allows co (w/ DHS approval)
to impose more restrictive conditions than 5m.?

Yes

③ Amend limit under 46.27 (1) (c) 6. ; repeal 6.a.

* Keep group home at 4 beds?

Yes

WCB

Utg?

✓ ④ Amend 46.27 (7) (cm) 1. (intro.)

ok * ✓ ⑤ Repeal Chippewa Co. pilot program? 46.27 (7b) Yes

* ✓ ⑥ look at 46.27 (7) (cm) 1.c. - how to amend?
 Will ask Senator

Utg to decide

✓ ⑦ What is "max. total COP alloc. amt" ?
(Refers to 46.27 (3) (f))

Will find out

██████████
BROYDRICK
&
ASSOCIATES
██████████

Public Affairs

DAK
→

Memorandum

To: Deborà Kennedy
From: Forbes McIntosh
Date: Tuesday, February 8, 2000
Re: COP Funding for CBRFs

As per our phone conversation of Thursday, February 3, 2000, I have included more specific information regarding the issue of increasing the bed limit for CBRFs to receive COP funding. I believe this should answer all the questions you raised.

In reference to your question regarding the inclusion of group homes; the discussions about this issue have been focused on CBRFs only, therefore I do not believe it appropriate to include group homes at this time. Also, the provisions of this draft are to affect all CBRFs, therefore this LRB draft will affect more than just elderly CBRF residents.

During the 1999 budget debate this issue was included in both a senate and assembly amendment. Attached for your review is a copy of the related sections of Assembly Amendment 2, to Assembly Substitute Amendment 1 to 1999 Assembly Bill 133.

If you should have any additional questions regarding this matter, please feel free to contact me at (608) 255-0566.

Thank you.

Goals of the Legislation:

- 1) Increase the bed limit for CBRFs to receive COP funding from 8 beds to 20 beds.
- 2) Allow the department to approve the provision of services in a CBRF that is licensed with more than 20 beds if the CBRF meets standards established under 46.27(7)(cm)2.
- 3) Prohibit counties from denying COP funding to a person residing in a CBRF when the individual becomes eligible solely because the maximum total COP allocation amount has been reached.

Goal 1: Increase the bed limit for CBRFs to receive COP funding from 8 beds to 20 beds.

- ✓ **Section 46.27(7)(cm)1.** ^(intro.) Of the statutes is amended to read:
46.27(7)(cm)1.(intro.) Beginning on January 1, 1996, no county, private nonprofit agency or aging unit may use funds received under par. (b) to provide services in any community-based residential facility that has more than 8 20 beds, unless one of the following applies:
- ✓ **Section 46.27(7b)** of the statutes is repealed.

Goal 2: Allow the department to approve the provision of services in a CBRF that is licensed with more than 20 beds if the CBRF meets standards established under 46.27(7)(cm)2.

- ✓ **Section 46.27(7)(cm)1c.** Of the statutes is amended to read:
46.27(7)(cm)1c. The department approves the provision of services in a community-based residential facility that is initially licensed after July 29, 1995, that is licensed for ~~20 or fewer~~ more than 20 beds and that meets standards established under subd.2.

Goal 3: Prohibit counties from denying COP funding to a person residing in a CBRF when the individual becomes eligible solely because the maximum total COP allocation amount has been reached

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

1 report is approved by each county board, the joint committee shall purchase the site
2 and cause the buildings to be erected in accordance with the plans and specifications.

3 **SECTION 1003w.** 46.20 (8) of the statutes is repealed.

4 **SECTION 1003x.** 46.20 (10) of the statutes is repealed.”.

5 **436.** Page 559, line 24: delete the material beginning with “, 252.11 (7)” and
6 ending with “(c)” on line 25 and substitute “, and 252.11 (7) and 253.07 (3) (e)”.

7 **437.** Page 561, line 8: delete the material beginning with “, 253.07” and
8 ending with “(c)” on line 9 and substitute “, 253.07 (3) (e)”.

9 **438.** Page 563, line 18: delete the material beginning with “, 253.07” and
10 ending with “(c)” on line 19 and substitute “, 253.07 (3) (e)”.

11 **439.** Page 564, line 25: delete the material beginning with “, 253.07” and
12 ending with “(c)” on page 565, line 1, and substitute “, 253.07 (3) (e)”.

13 **440.** Page 566, line 6: after that line insert:

14 **“SECTION 1032m.** 46.27 (3) (f) of the statutes is amended to read:

15 46.27 (3) (f) Beginning on January 1, 1996, from the annual allocation to the
16 county for the provision of long-term community support services under subs. (7) (b)
17 and (11), annually establish a maximum total amount that may be encumbered in
18 a calendar year for services for eligible individuals in community-based residential
19 facilities. Notwithstanding the maximum, however, a county may not deny services
20 under this section to an eligible individual who resides in a community-based
21 residential facility when the individual becomes eligible, solely because the
22 maximum total amount has been reached.”.

23 **441.** Page 569, line 25: delete “whether or not the person is a private pay
24 admittee at the time of admission.” and substitute “~~whether or not the person is a~~

1 ~~private pay admittee at the time of admission. except that a person seeking~~
2 ~~admission or about to be admitted on a private pay basis may waive the assessment,~~
3 ~~unless the person will be eligible for medical assistance within 6 months of~~
4 ~~assessment.”.~~

5 **442.** Page 570, line 4: after that line insert:

6 “SECTION 1045g. 46.27 (7) (cL) of the statutes is created to read:

7 46.27 (7) (cL) No county department or aging unit may deny services to a
8 person under par. (cj) who refused to have an assessment completed as required
9 under par. (cj) 3. a. before the effective date of this paragraph [revisor inserts
10 date].”.

11 **443.** Page 570, line 4: after that line insert:

12 “SECTION 1045c. 46.27 (7) (cj) 3. e. of the statutes is amended to read:

13 46.27 (7) (cj) 3. e. The county department or aging unit determines that
14 placement in the community-based residential facility is cost-effective compared to
15 other options, including home care and nursing home care. In making that
16 determination, the county shall consider all state and federal funds needed for all
17 options considered.

18 SECTION 1045d. 46.27 (7) (ck) 1. of the statutes is amended to read:

19 46.27 (7) (ck) 1. Subject to the approval of the department, and except as
20 provided in sub. (3) (f), a county may establish and implement more restrictive
21 conditions than those imposed under par. (cj) on the use of funds received under par.
22 (b) for the provision of services to a person in a community-based residential facility.
23 A county that establishes more restrictive conditions under this subdivision shall
24 include the conditions in its community options plan under sub. (3) (cm).

1 **SECTION 1045e.** 46.27 (7) (cm) 1. (intro.) of the statutes is amended to read:

2 46.27 (7) (cm) 1. (intro.) Beginning on January 1, 1996, no county, private
3 nonprofit agency or aging unit may use funds received under par. (b) to provide
4 services in any community-based residential facility that has more than 8 20 beds,
5 unless one of the following applies:

6 **SECTION 1045f.** 46.27 (7) (cm) 1. c. of the statutes is repealed.”.

7 **444.** Page 574, line 8: after that line insert:

8 **“SECTION 1056r.** 46.27 (11) (c) 5q. of the statutes is created to read:

9 46.27 (11) (c) 5q. No county department or aging unit may deny services to a
10 person under subd. 5n. who refused to have an assessment completed as required
11 under subd. 5n. a. before the effective date of this subdivision [revisor inserts
12 date].”.

13 **445.** Page 574, line 23: delete “whether or not the person is a private pay
14 admittee at the time of admission.” and substitute “~~whether or not the person is a~~
15 ~~private pay admittee at the time of admission.~~ except that a person seeking
16 admission or about to be admitted on a private pay basis may waive the assessment,
17 unless the person will be eligible for medical assistance within 6 months of
18 assessment.”.

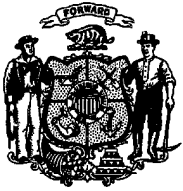
19 **446.** Page 576, line 3: delete “whether or not the person is a private pay
20 admittee at the time of admission.” and substitute “~~whether or not the person is a~~
21 ~~private pay admittee at the time of admission.~~ except that a person seeking
22 admission or about to be admitted on a private pay basis may waive the assessment,
23 unless the person will be eligible for medical assistance within 6 months of
24 assessment.”.

Questions re McIntosh's 2/8 memo:

From Forbes McIntosh 2/9/00:

① The language proposed affects only 46.27(7) (COP-R);
do they still want to affect COP-W (46.27(11))? Yes

② Is language about COP recipients moving between
residence settings in or out? Out



BY FRIDAY 12/11

State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-4208/1

DAK6:1:...

9/95

1999 BILL

ger

1 AN ACT...; relating to: the use of community options program funds to provide
2 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. 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 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 8 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

the department of health and family services

eight

BILL

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 ~~8~~ 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 ~~8~~ to ~~8~~ 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 ~~8~~-bed restriction under COP-Regular and the ~~4~~-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
 6 facilities, unless the department waives the requirement under sub (1) (i) or
 7 approves a request for an exception under sub. (6r) (c). Notwithstanding the

↑
WFO: underscore this period

four
eight

five

four

eight

BILL

1 maximum, however, a county may not deny services under this section to an eligible
2 individual who resides in a community-based residential facility when the
3 individual becomes eligible, solely because the maximum total amount has been
4 reached. ← w/PO: make this period plain.

gas affected by 1999 Wisconsin Act 9,

History: 1981 c. 20; 1983 a. 27; 1983 a. 189 s. 329 (5); 1983 a. 192, 239; 1985 a. 29 ss. 876s to 896am, 3200 (56); 1985 a. 120, 176; 1987 a. 27, 399; 1989 a. 31, 77, 336, 359; 1991 a. 32, 39, 235, 274; 1993 a. 16, 27, 437; 1995 a. 27; 1997 a. 13, 27, 39, 79, 237; 1999 a. 9.

5 **SECTION 2.** 46.27 (7) (cm) 1. (intro.) of the statutes is amended to read:

6 46.27 (7) (cm) 1. (intro.) ~~Except as provided sub. (7b),~~ Beginning on
7 January 1, 1996, no county, private nonprofit agency or aging unit may use funds
8 received under par. (b) to provide services in any community-based residential
9 facility that has more than § 20 beds, unless one of the following applies:

✓

History: 1981 c. 20; 1983 a. 27; 1983 a. 189 s. 329 (5); 1983 a. 192, 239; 1985 a. 29 ss. 876s to 896am, 3200 (56); 1985 a. 120, 176; 1987 a. 27, 399; 1989 a. 31, 77, 336, 359; 1991 a. 32, 39, 235, 274; 1993 a. 16, 27, 437; 1995 a. 27; 1997 a. 13, 27, 39, 79, 237; 1999 a. 9.

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

11 46.27 (7) (cm) 1. c. The department approves the provision of services in a
12 community-based residential facility that is initially licensed after July 29, 1995,
13 that is licensed for more than 20 or fewer beds and that meets standards established
14 under subd. 2.

✓

as created by 1999 Wisconsin Act 9,

History: 1981 c. 20; 1983 a. 27; 1983 a. 189 s. 329 (5); 1983 a. 192, 239; 1985 a. 29 ss. 876s to 896am, 3200 (56); 1985 a. 120, 176; 1987 a. 27, 399; 1989 a. 31, 77, 336, 359; 1991 a. 32, 39, 235, 274; 1993 a. 16, 27, 437; 1995 a. 27; 1997 a. 13, 27, 39, 79, 237; 1999 a. 9.

15 **SECTION 4.** 46.27 (7b) of the statutes is repealed.

16 **SECTION 5.** 46.27 (11) (c) 5p. of the statutes is repealed.

✓

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

18 46.27 (11) (c) 6. (intro.) No county, private nonprofit agency or aging unit may
19 use funds received under this subsection to provide residential services in any
20 community-based residential facility, as defined in s. 50.01 (1g), that has more than
21 20 beds, or in any group home, as defined in s. 48.02 (7), that has more than 4 beds,
22 unless one of the following applies:

History: 1981 c. 20; 1983 a. 27; 1983 a. 189 s. 329 (5); 1983 a. 192, 239; 1985 a. 29 ss. 876s to 896am, 3200 (56); 1985 a. 120, 176; 1987 a. 27, 399; 1989 a. 31, 77, 336, 359; 1991 a. 32, 39, 235, 274; 1993 a. 16, 27, 437; 1995 a. 27; 1997 a. 13, 27, 39, 79, 237; 1999 a. 9.

↓

Q Section #. 46.27 (11) (c) 6. ^{(intro.) and a.} of the statutes ^{are} consolidated, renumbered 46.27 (11) (c) 6. a. and amended to read:

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

No A a. ^{The} The department approves the provision of services in a ~~community-based residential facility~~ or group home that has 5 to 8 beds.

b. The department approves the provision of services in a community-based residential facility that entirely consists of independent apartments, each of which has an individual lockable entrance and exit and individual separate kitchen, bathroom, sleeping and living areas, to individuals who are eligible under this subsection and are physically disabled or are at least 65 years of age.

History: 1981 c. 20; 1983 a. 27; 1983 a. 189 s. 329 (5); 1983 a. 192, 239; 1985 a. 29 ss. 876s to 896am, 3200 (56); 1985 a. 120, 176; 1987 a. 27, 399; 1989 a. 31, 77, 336, 359; 1991 a. 32, 39, 235, 274; 1993 a. 16, 27, 437; 1995 a. 27; 1997 a. 13, 27, 39, 79, 237; 1999 a. 9.



Section #. 46.27 (11) (c) 6. b. of the statutes is amended to read:

46.27 (11) (c) 6. b. ~~The~~ department approves the provision of services in a community-based residential facility that entirely consists of independent apartments, each of which has an individual lockable entrance and exit and individual separate kitchen, bathroom, sleeping and living areas, to individuals who are eligible under this subsection and are physically disabled or are at least 65 years of age.

History: 1981 c. 20; 1983 a. 27; 1983 a. 189 s. 329 (5); 1983 a. 192, 239; 1985 a. 29 ss. 876s to 896am, 3200 (56); 1985 a. 120, 176; 1987 a. 27, 399; 1989 a. 31, 77, 336, 359; 1991 a. 32, 39, 235, 274; 1993 a. 16, 27, 437; 1995 a. 27; 1997 a. 13, 27, 39, 79, 237; 1999 a. 9.

No county, private nonprofit agency or aging unit may use funds received under this subsection to provide residential services in a community-based residential facility, as defined in s. 50.01(1^g), that has more than 20 beds, unless the

(End)

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 02/10/2000

To: Senator Grobschmidt

Relating to LRB drafting number: LRB-4208

Topic

Permit use of COP funds to provide services in CBRFs with up to 20 beds

Subject(s)

Health - long-term care, Public Assistance - med. assist.

1. **JACKET** the draft for introduction _____
in the Senate or the Assembly _____ (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____.
A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.
If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Debra A. Kennedy, Managing Attorney
Telephone: (608) 266-0137

Kennedy, Debora

From: Wagnitz, John
Sent: Monday, March 13, 2000 4:25 PM
To: Kennedy, Debora
Subject: FW: CO-SPONSORSHIP MEMO

Debora,
could you please draft an identical bill for sen. Grobschmidt.
Thank you.

John Wagnitz
Office of Senator Richard Grobschmidt
104 South, State Capitol
Telephone:(608) 266-7505
Fax: (608) 266-7483

-----Original Message-----

From: Hundertmark, Jean
Sent: Monday, March 13, 2000 3:59 PM
To: *Legislative All Assembly; *Legislative All Senate
Subject: CO-SPONSORSHIP MEMO

DEADLINE IS TOMMORROW, MARCH 14th AT 5:00 P.M.



CBRF Co-Sponsorship
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1100 TODAY 3/14

1999 - 2000 LEGISLATURE

LRB-4208/E 2

DAK:cjs:km

D-NOTE

1999 BILL

community integration
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 and 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

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or CIP II

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

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. *and CIP II*
~~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

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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~~

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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)

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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:



1999 - 2000 LEGISLATURE

LRB-4724/1

DAK:cjs:ch

1999 BILL

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:

1 SECTION 1. 46.27 (3) (f) of the statutes is amended to read:

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(cont.)

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

4208/2 dn
LRB-4724/1 dn
DAK(cjs:cs)

March 13, 2000

Senator Grobchmidt
To ~~Representative Hundermark~~:

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.

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

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

LRB-4208/2dn
DAK:cjs:km

March 14, 2000

To Senator Grobschmidt:

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.

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

